TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: May 10, 2022
RE: Zoning Board of Adjustment May 17, 2022

OLD BUSINESS

1. 189 Gates Street – Request for Rehearing
2. 138 Maplewood Avenue – Request for Extension
2. 1 Congress Street - Appeal of Administrative Decision/Variance – REQUEST TO POSTPONE TO JULY 19 MEETING
3. 635 Sagamore Avenue
4. 77 Meredith Way - WITHDRAWN
5. 64 Vaughan Street

NEW BUSINESS

1. 96 Sparhawk Street
2. 411 South Street
3. 129 Aldrich Road
4. 213 Jones Avenue
5. 9 Schurman Avenue
6. 80 Fields Road
7. 462 Lincoln Ave Unit 4

OLD BUSINESS

1.

Request of **Devan Quinn and James Butler,** pursuant to RSA 677:2, request a rehearing of 189 Gates Street. Said property is located on Assessor Map 103 Lot 6 and lies within the General Residence B (GRB) and Historic Districts.

On Tuesday, March 15, 2022, the Board heard the below request for relief:

The Nerbonne Family Revocable Trust (Owner), for property located 189 Gates Street whereas relief is needed for conversion of the existing garage into a Garden Cottage with a 12' x 16' addition and 6' x 14' deck which requires the following: 1) Variances from Section 10.521 to allow a) 35.5% building coverage where 30% is the maximum allowed; and b) a 1' right side yard where 10' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. **The Board granted the request with the stipulation that the right side yard be 4' and the deck removed, resulting in 31% building coverage**.

A request for rehearing has been filed by the direct abutters within 30 days of the Board's decision and the Board must consider the request within 30 days. The Board must vote to grant or deny the request or suspend the decision pending further consideration. If the Board votes to grant the request, the rehearing will be scheduled for the next month's Board meeting or at another time to be determined by the Board.

The decision to grant or deny a rehearing request must occur at a public meeting, but this is not a public hearing. The Board should evaluate the information provided in the request and make its decision based upon that document. The Board should grant the rehearing request if a majority of the Board is convinced that some error of procedure or law was committed during the original consideration of the case

2.

Petition of the **Donna Pantelakos Revocable Trust, Owner** for property located at **138 Maplewood Avenue** wherein relief is needed from the Zoning Ordinance to create a new dwelling unit by constructing a second floor addition over an existing garage which requires the following; 1) A Variance from Section 10.521 to allow: a) a lot area per dwelling unit of 2,616 where 3,000 is required; and b) a 1' right side yard where 5' is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 124 Lot 6 and lies within the Character District 4-L1 (CD4-L1) District.

The above variances were granted on June 16, 2020 and the applicant has not obtained a building permit to vest the variances. A request for a one year extension. The Ordinance allows for a one-time, one year extension if the request is made prior to the expiration date.

3.REQUEST TO POSTPONE TO JULY 19, 2022

Request of **Francis X. Bruton, (Attorney for Appellants),** for Appeal of Administrative decision that the merged lot at **1 Congress** is not subject to the height allowances (2 stories, 4th short, 45 feet in height) pursuant to Map 10.5A21B and as permitted pursuant to Section 10.5A21.22(a) & (c) of the Zoning Ordinance. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District.

The appellants are appealing an administrative decision made by the Planning Director with regard to the proposed development on the recently merged parcels at 1 Congress Street. Below is the email from the Planning Director to the applicant stating that Section 10.5A21.22(c) does apply to this portion of the property and a variance is needed to allow the additional story and height. Additionally, a sketch showing how the height would be applied to this portion, showing the 50 foot setback from both High Street and Haven Court. The original request for the variance is the second item on the agenda and will be heard if the appeal is denied. If the appeal is granted, the applicant should withdraw the variance request, as it will not be needed if the decision of the Planning Director is overturned.

Reply Reply All Forward

Wed 2/23/2022 3:14 PM

Beverly M. Zendt

RE: 1 Congress Street

To FX Bruton; Nicholas J. Cracknell

Cc Mark McNabb; Peter M. Stith

Message RE: Tax Map 117, Lot 15 and Tax Map 117, Lot 14 Case: LU-22-12 (282 KB)

Exhibit 1 - 1 Congress Street.pdf (532 KB)

Good afternoon,

In response to your subsequent request for further consideration of our interpretation of Section 10.5A21.22 – Building Height Standards - and the applicability of the Building Height Standards shown under Map 10.5A21B to your client's merged lot at 1 Congress Street, we continue to conclude that your characterization of the current ownership status of Haven Court – being a private way owned in fee by your client with no public interest in property - as well as your interpretation of how the building height standards are applied on a "corner" or "through lots" to be incorrect.

As shown on the "Verra Plan" (11/22/05) that you provided, portions of Haven Court appear to be owned in fee by the city and it is unclear whether the area labelled as a "private way" on the plan is accurate. Map 10.5A21B shows the building height standards for both High Street and the full length of Haven Court. As such, the application of the building height standards are based on the "front lot line(s)", "street" or "water body" that fronts along the property. The Zoning Ordinance defines a "front lot line" follows:

Lot line, front

A boundary of lot that separates the lot from a street or public place. In the case of a corner lot or waterfront lot, the front lot line shall be the line bordering the street on which the lot has its address. A corner lot or a through lot shall have two front lot lines.

Given we believe that your client's merged lot fronts on three public streets, we agree that Section 10.5A21.22(C) allows for an increase in building height on the merged lot but importantly, it also restricts the increased height allowance to areas more than 50 feet from a front lot line(s). Thus, as shown in the attached Exhibit, a dimensional variance would be required for any increase in the maximum building height within 50 feet of High Street or Haven Court.

In closing, even if Haven Court was deemed not to qualify as a "street" or "public place", thereby potentially nullifying its building height designation on Map 10.5A21B, the presence of the lower height standard along High Street would still prevent a new building from being taller than 3 stories or 40' within 50 feet of High Street due to the corner lot provisions of the definition of front lot line stated above. Thus, regardless of the ownership status of Haven Court, we continue to support the need for a dimensional variance for your proposed project as currently designed.

Please contact me if I can provide any additional information.

Best Regards,

Beverly Mesa-Zendt AICP
Director | Planning Department
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

(603) 610-7216
Bmz@cityofportsmouth.com
Planning Department | City of Portsmouth

Exhibit A – 1 Congress Street Project – Maximum Building Height (# Stories / Feet)*

**Assumes Haven Court qualifies as a public street or public place*

4. REQUEST TO POSTPONE TO JULY 19, 2022

Request of **One Market Square LLC (Owner),** for the property located at **1 Congress Street** whereas relief is needed to construct a 3 story addition with a short 4th story and building height of 44'-11" which requires the following: 1) A Variance from Section 10.5A.43.31 and Map 10.5A21B to allow a 3-story addition with a short 4th and building height of 44'-11" where 2 stories (short 3rd) and 40' is the maximum allowed. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District.

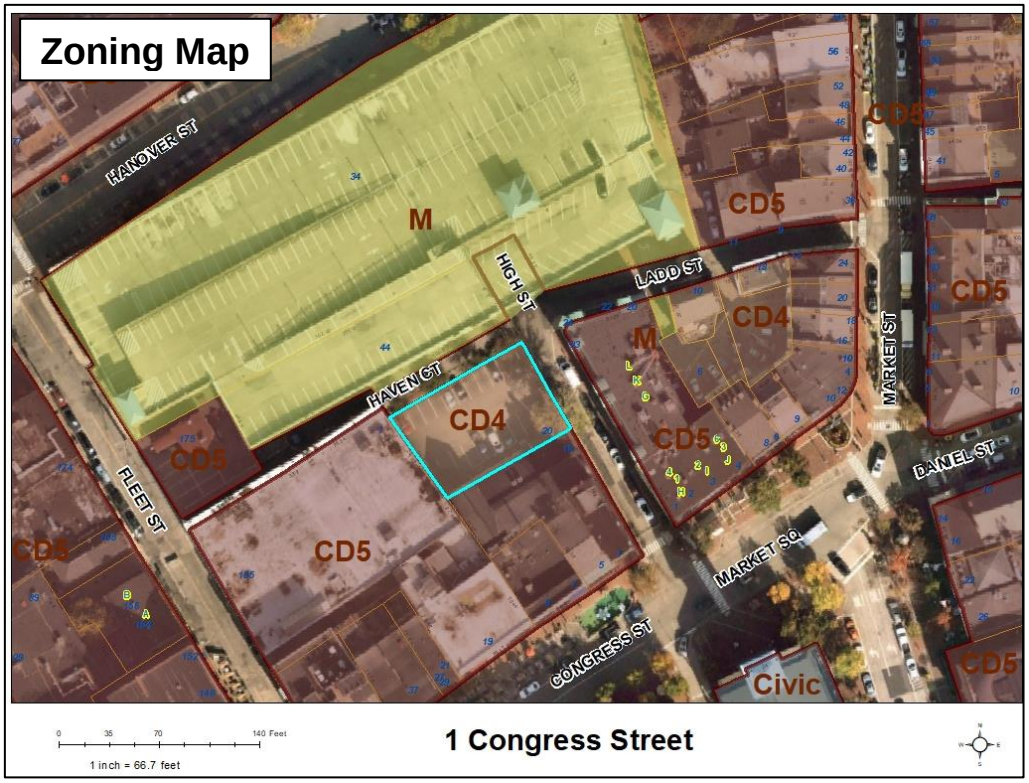
Existing & Proposed Conditions

TABLE IS FOR CD4 ZONING	Existing	Proposed	Permitted / Required	
Land Use:	Mixed use/parking lot	4 story addition	Primarily mixed uses	
Primary Front Yard (ft.):	NA	1'6"	15	max.
Right Yard (ft.):	NA	15	NR	
Left Yard (ft.):	NA	0	NR	
Rear Yard (ft.):	NA	10	Greater of 5' from rear lot line or 10' from CL of alley	min.
Height (ft.):	NA	**3 stories (short 4th), 44'-11"**	2-3 stories, 40'	max.
Building Coverage (%):	0	67	90	max.
Open Space Coverage (%):		32	10	min.
Parking:	18	19	4 space credit for Residential/ 0 required for commercial use in DOD	
Estimated Age of Structure:	1800	Variance request(s) shown in red.		

Other Permits/Approvals Required

Planning Board/TAC – Site Review and Conditional Use Permit for Parking
Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

March 29, 2012 – Relief from Zoning Ordinance including:

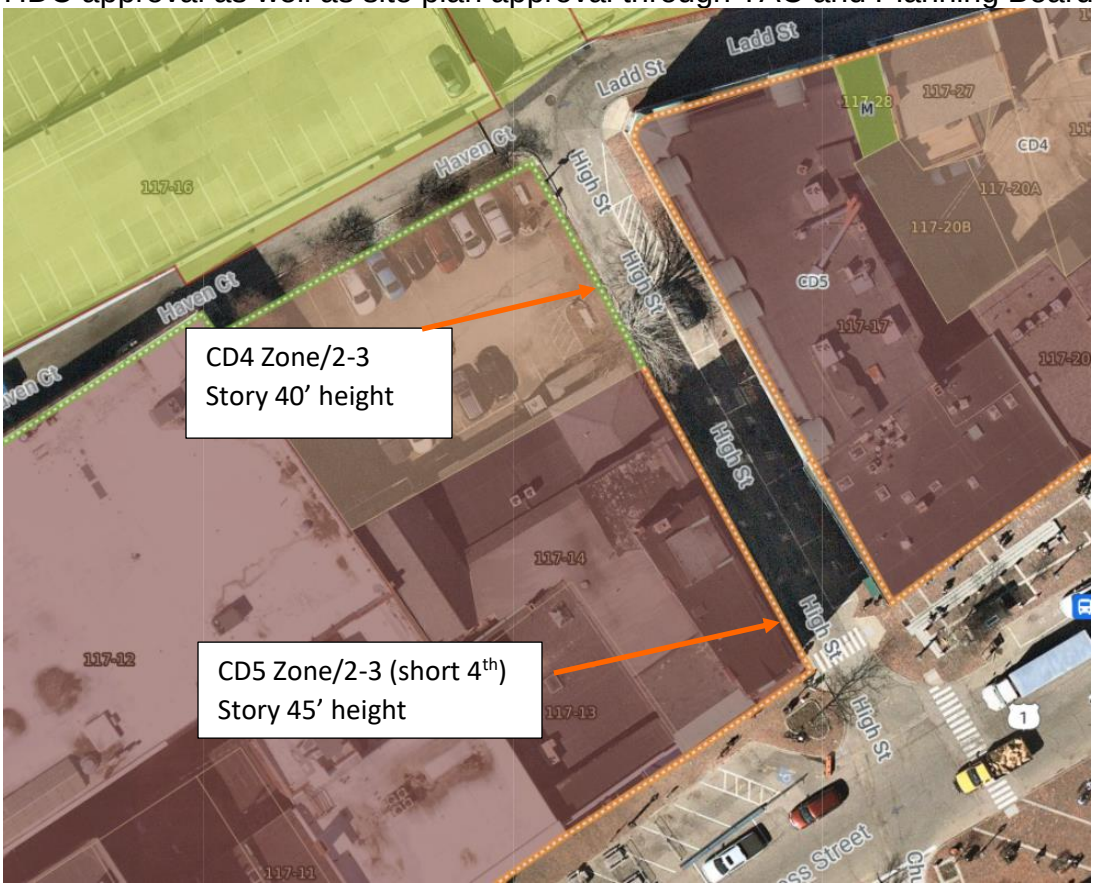
1. Variance from Section 10.1115.20 and the requirements of 10.1115.30 to allow no off-street parking spaces to be provided where 1 space per 100 s.f. Gross Floor Area is required.

2. Special Exception under Section 10.1113.112 to allow 6 off-street parking spaces to be provided on another lot in the same ownership and within 300' of the property line of the lot in question.

The Board voted to **grant** the Variance as presented. With the granting of the Variance the Board determined the Special Exception would not be required.

Planning Department Comments

The applicant is seeking to merge the two properties and construct a 3-story addition with a short 4th, which requires a variance to do so. The two parcels are zoned differently, one CD4 and one CD5 and both have separate height requirements as shown on the map below. All other dimensional requirements are met with the proposal. The project will need HDC approval as well as site plan approval through TAC and Planning Board.



Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

5.

Request of **635 Sagamore Development LLC (Owner),** for property located at **635 Sagamore Avenue** whereas relief is needed to remove existing commercial structure and construct 5 new single-family dwellings which requires the following: 1) A Variance from Section 10.513 to allow 5 principal structures on a lot where only 1 is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 22,389 square feet where 1 acre per dwelling is required. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District

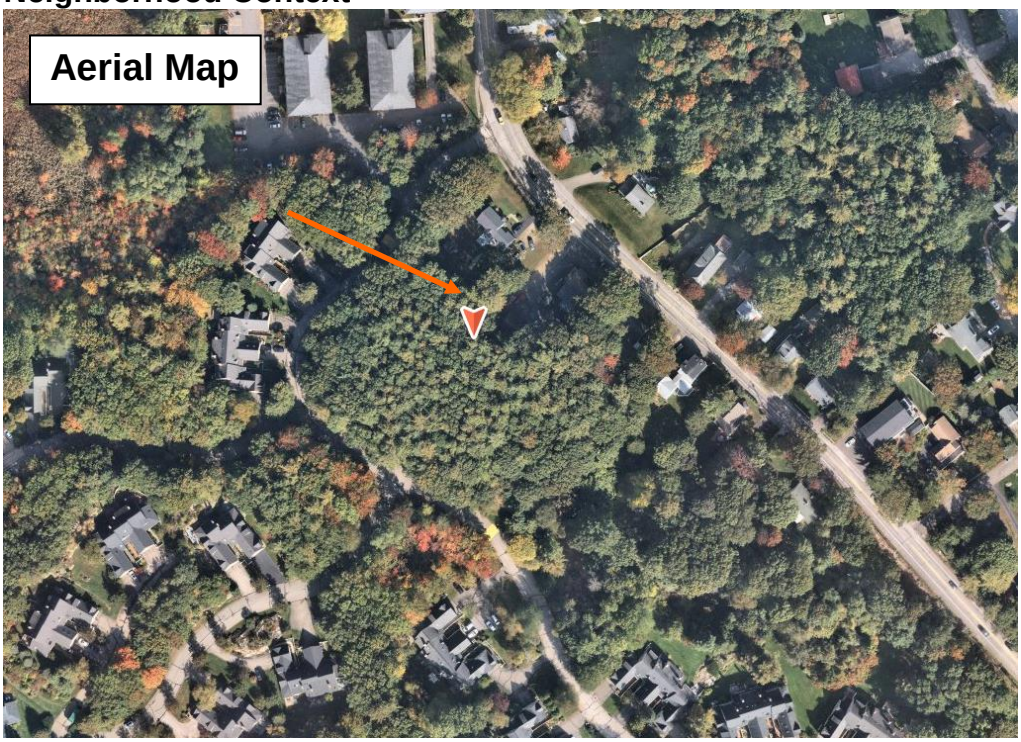
Existing & Proposed Conditions

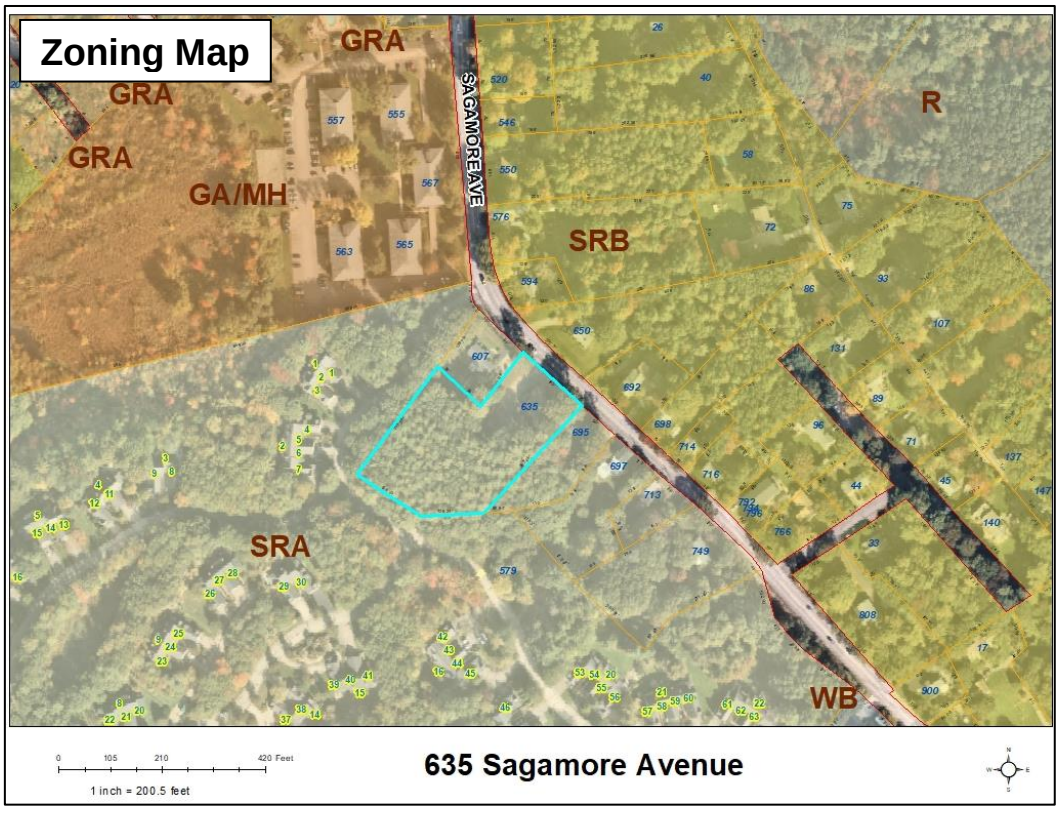
	Existing	Proposed	Permitted / Required	
Land Use:	Commercial w/ 1 apartment	5 single family dwellings	Primarily residential	
Lot area (sq. ft.):	84,795	84,795	43,560	min.
Lot Area per Dwelling Unit (sq. ft.):	84,795	**16,959**	43,560	min.
Lot depth (ft):	358	358	200	min.
Street Frontage (ft.):	160	160	150	min.
Primary Front Yard (ft.):	28	>30	30	min.
Right Yard (ft.):	60	>20	20	min.
Left Yard (ft.):	30	21	20	
Rear Yard (ft.):	219	>40	40	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	4	9.6	10	max.
Open Space Coverage (%):	>50	78	50	min.
Parking:	4+	20	8	
Estimated Age of Structure:	1950	Variance request(s) shown in red.		

Other Permits/Approvals Required

TAC/Planning Board – Site Plan Review

Neighborhood Context





Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing structures and construct 5 free standing single family dwellings. The SRA zone requires 1 acre per dwelling unit and only allows 1 principal structure on a single lot. With 5 dwellings, the proposed lot area per dwelling will be 16,959, where 43,560 is required. With the exception of the density, all other dimensional requirements are in compliance with the proposed layout. This will require site plan review before TAC and Planning Board if the variances are granted.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

6.

Request of **64 Vaughan Mall LLC (Owner),** for property located at **64 Vaughan Street** whereas relief is needed for the addition of a rooftop penthouse which requires the following: 1) A Variance from Section 10.5A43.30 and Map 10.5A21B to allow a building height of 51'6" where 42' is the maximum allowed for a penthouse. 2) A Variance from Section 10.1530 to allow a penthouse with a 9.5' setback from the edge of the roof where 15 feet is required. Said property is shown on Assessor Map 126 Lot 1 and lies within the Character District 5 (CD-5) and Downtown Overlay and Historic Districts.

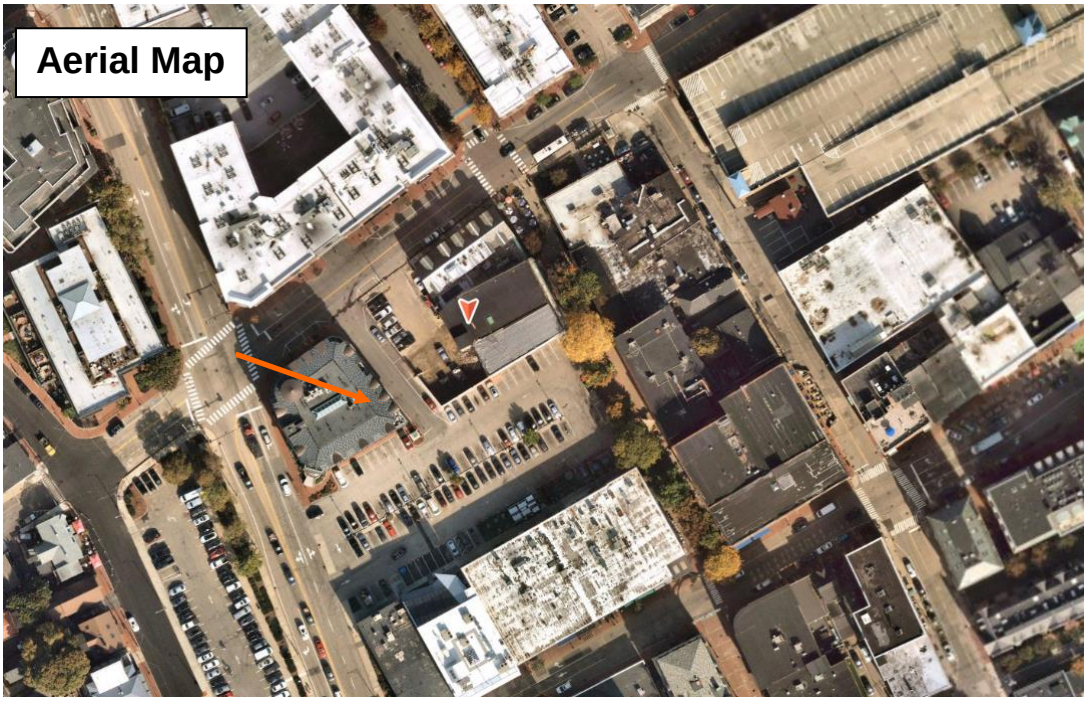
Existing & Proposed Conditions

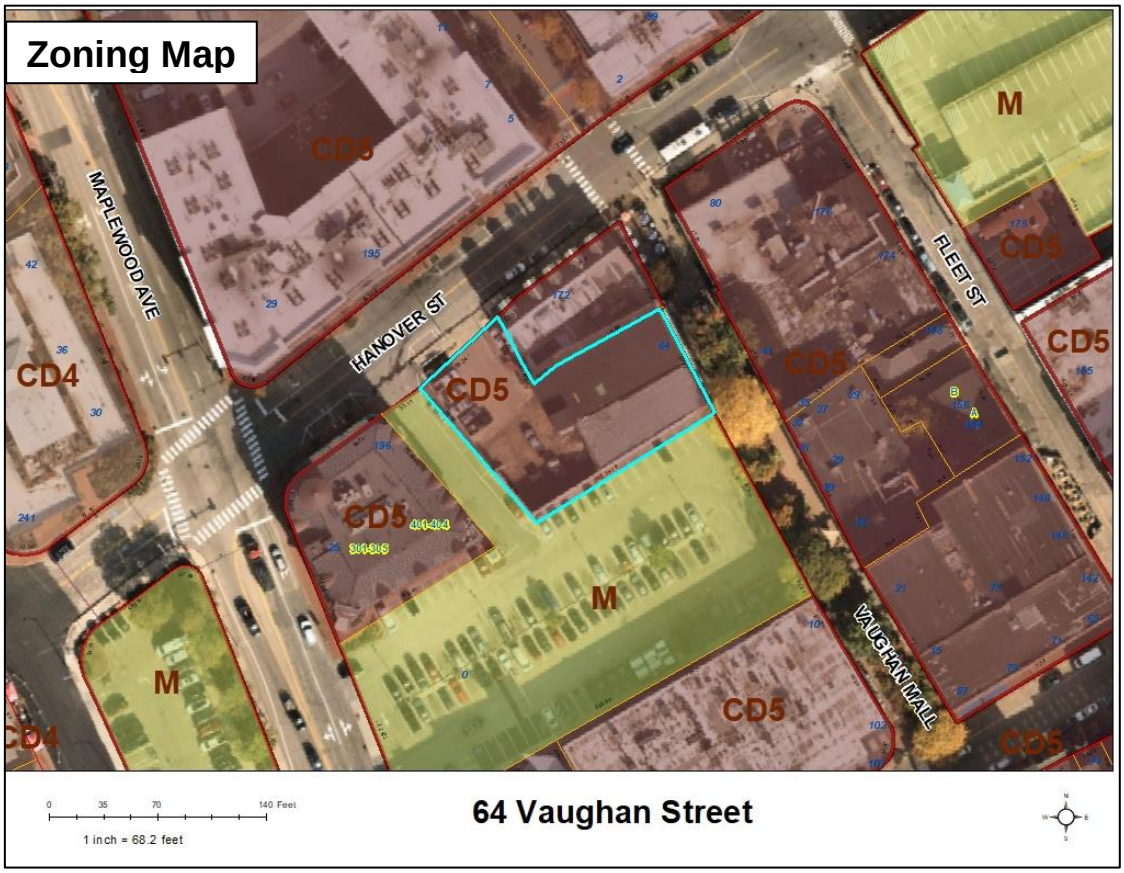
	Existing	Proposed	Permitted / Required	
Land Use:		Professional office	Primarily mixed use	
Lot area (sq. ft.):	13,964	13,964	NR	min.
Penthouse Setback (ft.):	NA	**9.5'**	15' from edge	min.
Height (ft.):	40	**51'6"**	3 stories or 40' Extra 2' for penthouse (42')	max.
Building Coverage (%):	70	89	95	max.
Open Space Coverage (%):	0	5	5	min.
Parking:	0	20	No requirement	
Estimated Age of Structure:	New construction	Variance request(s) shown in red.		

Other Permits/Approvals Required

Historic District Commission
Planning Board/TAC – Amended Site Plan

Neighborhood Context





Previous Board of Adjustment Actions

October 4, 1977 – the Board **granted** the following:
To construct a storage and loading addition to existing building with a single story, where two stories are required for new construction in the Central Business District.

March 23, 2021 – the Board **denied** the following:
Request for an addition of fourth story as part of redevelopment of the existing structure which requires 1) A Variance from Section 10.5A41.100 to allow a secondary front yard of 50.2 feet where 5 feet is the maximum. 2) A Variance from Section 10.5A41.100 to allow a building height of 52.5 feet and four stories where 40 feet and three stories is the maximum allowed.

Planning Department Comments

The applicant was before the Board in March of 2021 seeking relief for a fourth story and building height of 52.5'. That request was denied and at that time the use of the building was going to be mixed use with 14 residential units. The new owner will use the building for professional office space only and is proposing a penthouse. Staff feels this is a significant enough change that would not evoke Fisher v. Dover, but the Board may want to consider whether Fisher vs. Dover is applicable before this application is considered.

"When a material change of circumstances affecting the merits of the applications has not occurred or the application is not for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the board of adjustment, the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan." Fisher v. Dover, 120 N.H. 187, (1980).

The applicant is seeking to add a penthouse that would result in a height of 51'6" where 42 feet is the maximum allowed. The definition of a penthouse is below from Article 15.

Penthouse
A habitable space within the uppermost portion of a **building** above the **cornice** which is set back at least 15 feet from all edges of the roof and the total floor area of which does not exceed 50% of the area of the **story** below. For internal courtyards at least 40 feet from a **street** or vehicular right-of-way or easement, the **penthouse** shall be setback at least 8 feet from the edge of the roof of the **story** below.

There is a portion of the penthouse that does not meet the required 15 foot setback from the edge of the roof and the applicant is seeking relief to allow a penthouse that does not meet the required 15' setback from all edges of the roof. Since the project is still going through the Historic District Commission review, if the Board grants approval the following stipulation should be considered:

The design of the penthouse may change according to final review and approval by the HDC.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

NEW BUSINESS

1.

The request of **Adam Fitzpatrick and Emily Smith (Owners),** for property located at **96 Sparhawk Street** whereas relief is needed to add an addition on the existing dwelling and an addition to a shed which requires the following: 1) Variances from Section 10.521 to allow a) a 4 foot right side yard where 10' is required; and b) an 8 foot front yard where 15 feet is required. 2) Variances from Section 10.573.20 to allow a) a 4 foot right side yard where 9.5 feet is required; and b) a 7 foot rear yard where 9.5 feet is required. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 159 Lot 16 and lies within the General Residence A (GRA) District.

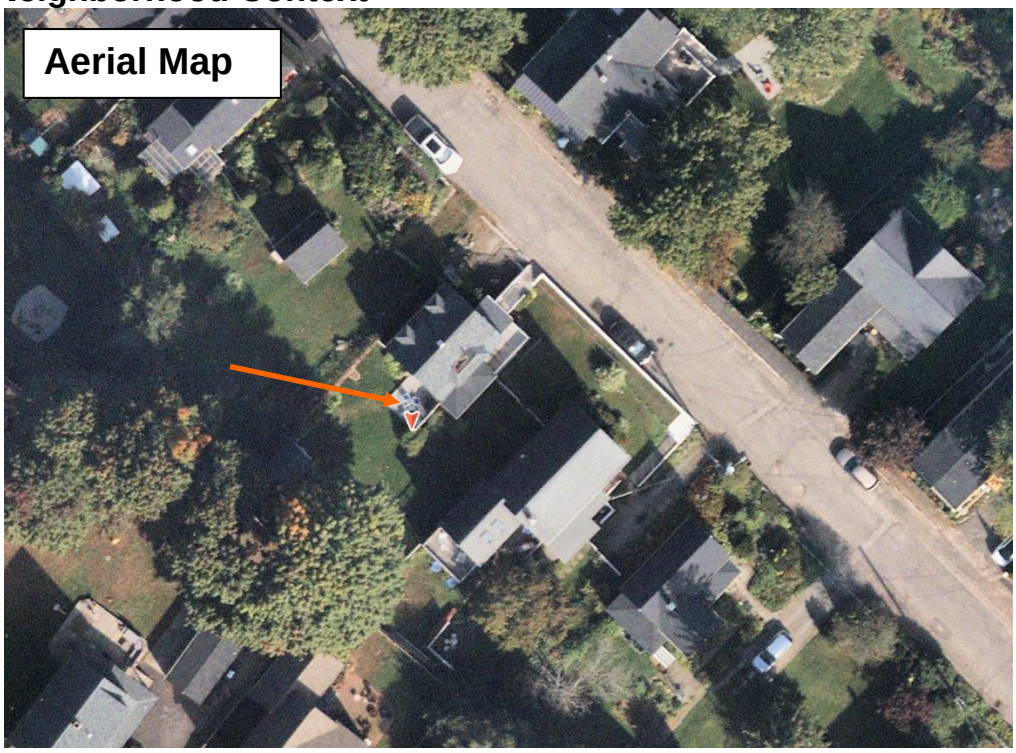
Existing & Proposed Conditions

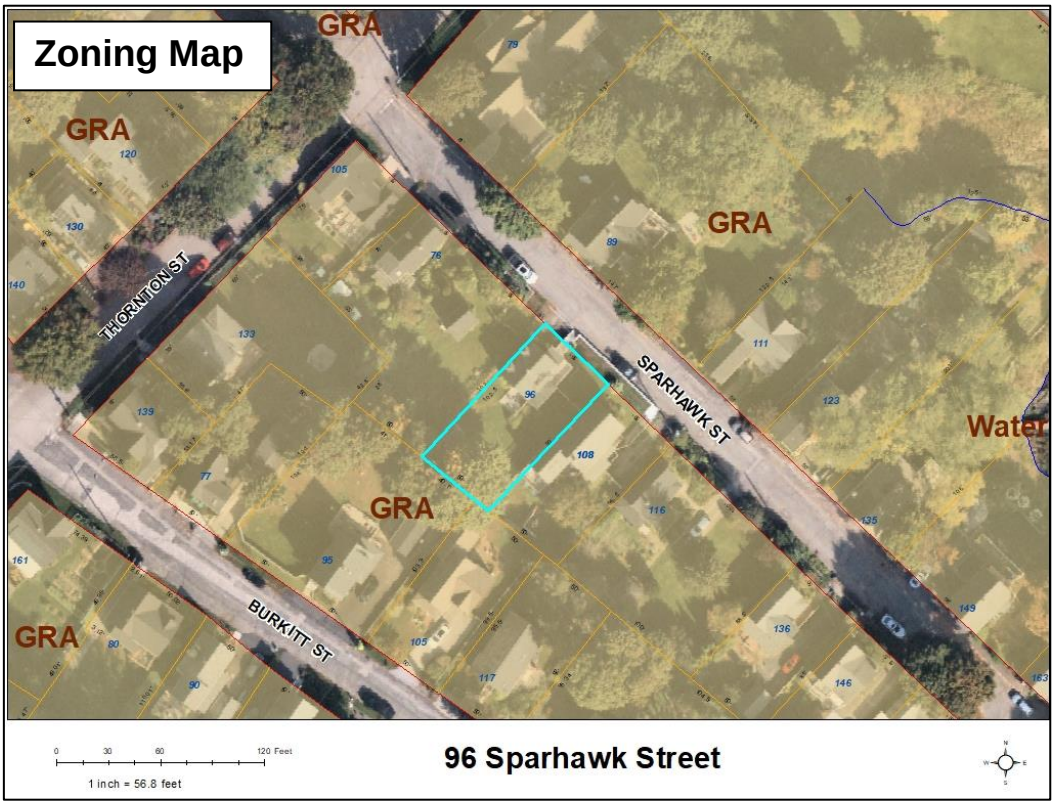
	Existing	Proposed	Permitted / Required	
Land Use:	Single family	House addition & shed addition	Primarily residential uses	
Lot area (sq. ft.):	5,204	5,204	7,500	min.
Lot Area per Dwelling Unit (sq. ft.):	5,204	5,204	7,500	min.
Lot depth (ft):	50	50	70	min.
Street Frontage (ft.):	100	100	100	min.
Primary Front Yard (ft.):	8	**8**	15	min.
Right Yard (ft.):	4	**4** (shed) **4** (house)	10 9.5 (shed)	min.
Left Yard (ft.):	18	18	10	min.
Rear Yard (ft.):	13	**7** (shed)	20 9.5 (shed)	min.
Height (ft.):	<35	<35 9.5 (shed)	35	max.
Building Coverage (%):	17.5	24.6	25	max.
Open Space Coverage (%):	>30	>30	30	min.
Parking:	2	2	2	
Estimated Age of Structure:	1915	Variance request(s) shown in red.		

Other Permits/Approvals Required

None

Neighborhood Context





Previous Board of Adjustment Actions

May 17, 1994 – Relief from Zoning Ordinance:

1) Variance from Article III, Section 10-302 to allow:
    a) 8’ high garden shed to remain with a 2’ side yard where a 10’ rear yard is required.

The Board voted the request be **granted** as presented and advertised

Planning Department Comments

The applicant is seeking relief to add a rear addition and an addition onto an existing shed that is located in the back corner of the property.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
    (a)The property has special conditions that distinguish it from other properties in the area.
    AND
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    OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

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2.

Request of **The Lonzoni Family Revocable Trust (Owner),** for property located at **411 South Street** whereas relief is needed to demolish existing garage and construct new attached garage which requires the following: 1) Variance from Section 10.521 to allow a 6 foot rear yard where 20 feet is required. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the Ordinance. Said property is shown on Assessor Map 112 Lot 55 and lies within the General Residence A (GRA) District.

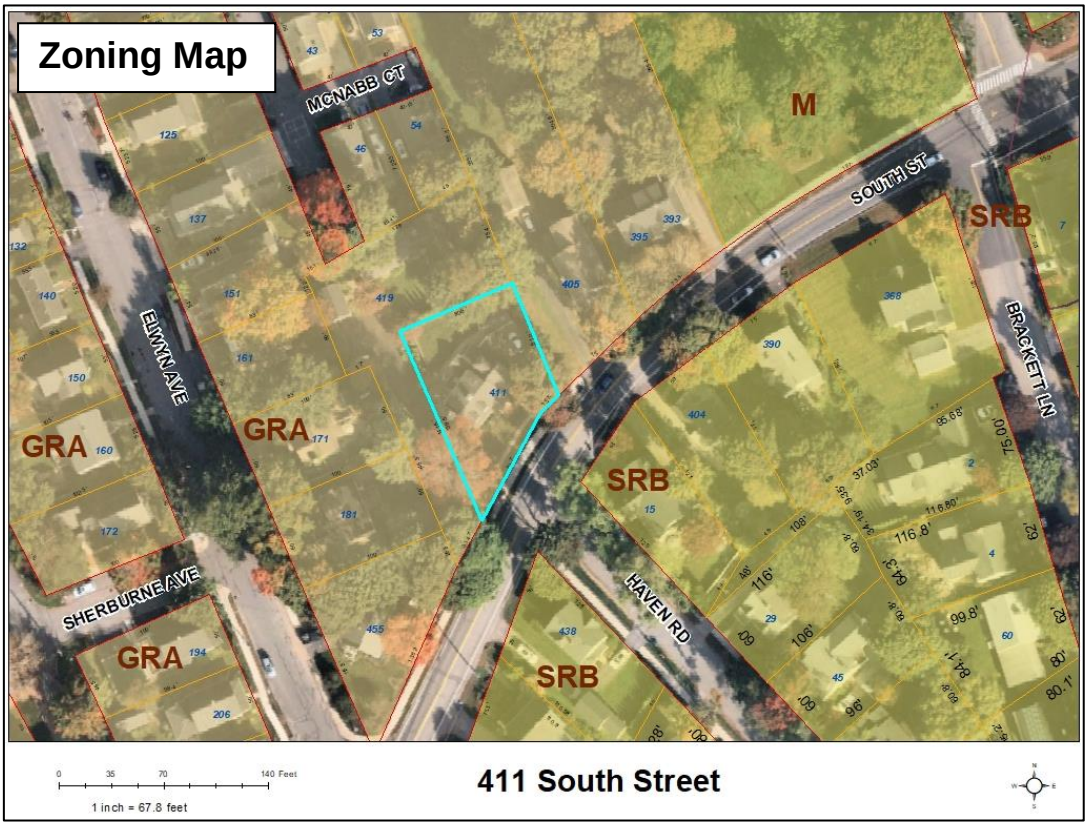
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Demo garage/construct new garage	Primarily residential	
Lot area (sq. ft.):	8,581	8,581	7,500	min.
Lot Area per Dwelling Unit (sq. ft.):	8,581	8,581	7,500	min.
Lot depth (ft):	102	102	70	min.
Street Frontage (ft.):	99	99	100	min.
Primary Front Yard (ft.):	15	15	15	min.
Right Yard (ft.):	6	14	10	min.
Left Yard (ft.):	5	5	10	
Rear Yard (ft.):	6	**6**	20	min.
Height (ft.):	<35	17	35	max.
Building Coverage (%):	24	25	25	max.
Open Space Coverage (%):	>30	>30	30	min.
Parking:	2	2	2	
Estimated Age of Structure:	1955	Variance request(s) shown in red.		

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

October 17, 2017 – Relief from Zoning Ordinance:

1) Variance from Section 10.521 to allow:
    a) 8.1' ± rear yard setback where 20' is required
    b) 9.3' ± right yard setback where 10' is required
    c) 26.4% ± building coverage where 25% is required
2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance

The Board voted the request be **deny** as presented and advertised.

Planning Department Comments

The applicant is proposing to demolish the existing garage and construct a new attached garage. As shown in the history and indicated in the current application, variances were denied in 2017 to construct a new garage with ADU above. The new proposal does not include an ADU and is not as tall as what was previously proposed in 2017.

Staff feels this is a significant enough change that would not evoke Fisher v. Dover, but the Board may want to consider whether Fisher vs. Dover is applicable before this application is considered.

"When a material change of circumstances affecting the merits of the applications has not occurred or the application is not for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the board of adjustment, the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan." Fisher v. Dover, 120 N.H. 187, (1980).

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
    (a)The property has special conditions that distinguish it from other properties in the area.
    AND
    (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
    OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

3.

Request of **Andrea Hurwitz (Owner),** for property located at **129 Aldrich Road** whereas relief is needed for a second floor addition with rear addition and deck which requires the following: 1) Variance from Section 10.521 to allow a 5.5 foot left side yard where 10 feet is required. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 153 Lot 35 and is located within the Single Residence B (SRB) District.

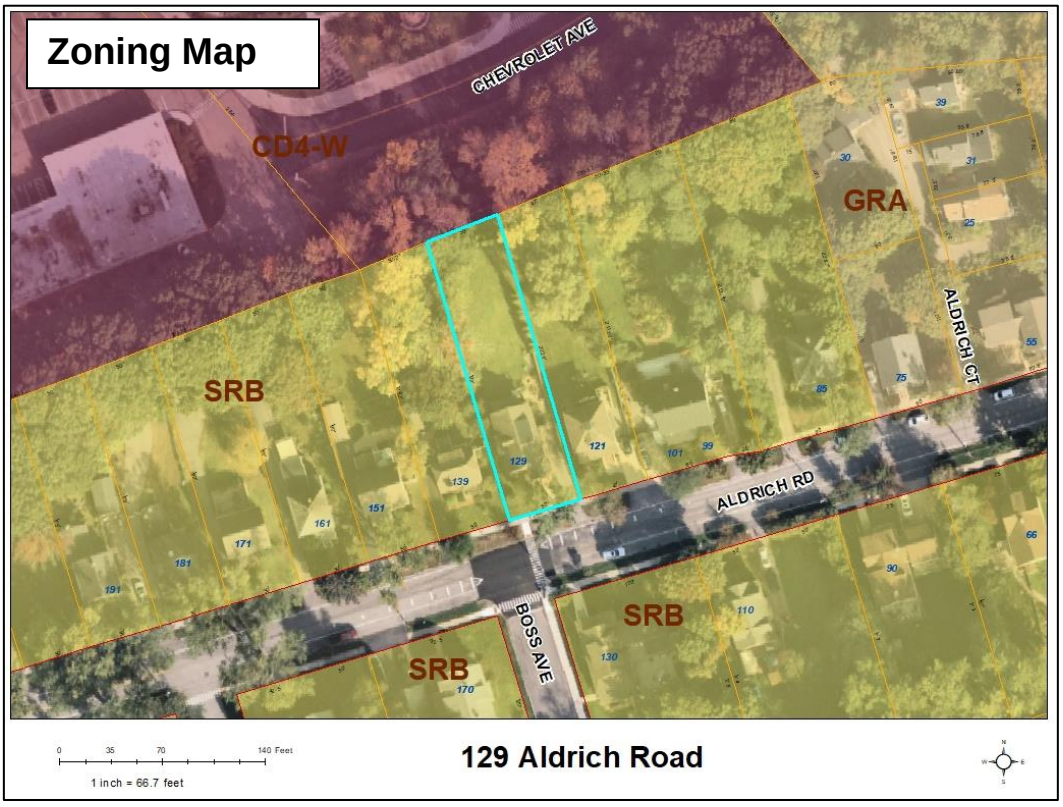
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Rear addition with deck	Primarily residential	
Lot area (sq. ft.):	10,018	10,018	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	10,018	10,018	15,000	min.
Lot depth (ft):	200	200	100	min.
Street Frontage (ft.):	50	50	100	min.
Primary Front Yard (ft.):	15	15	30	min.
Right Yard (ft.):	10.5	10.5	10	min.
Left Yard (ft.):	5.5’	**5.5’**	10	
Rear Yard (ft.):	114	92	30	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	13	20	20	max.
Open Space Coverage (%):	>40	>40	40	min.
Parking:	2	2	2	
Estimated Age of Structure:	1920	Variance request(s) shown in red.		

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing a rear addition and upward expansion of the existing dwelling. The current location is nonconforming on the left side. The upward expansion will not encroach further into the side yard then what currently exists, but the vertical expansion within the setback requires relief.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

4.

Request of **Donald Lowell Stickney III (Owner),** for property located at **213 Jones Avenue** whereas relief is needed for the addition of a second driveway which requires the following: 1) Variance from Section 10.1114.31 to allow a second driveway on a lot where only one driveway is allowed. Said property is located on Assessor Map 222 Lot 69 and lies within the Single Residence B (SRB) District.

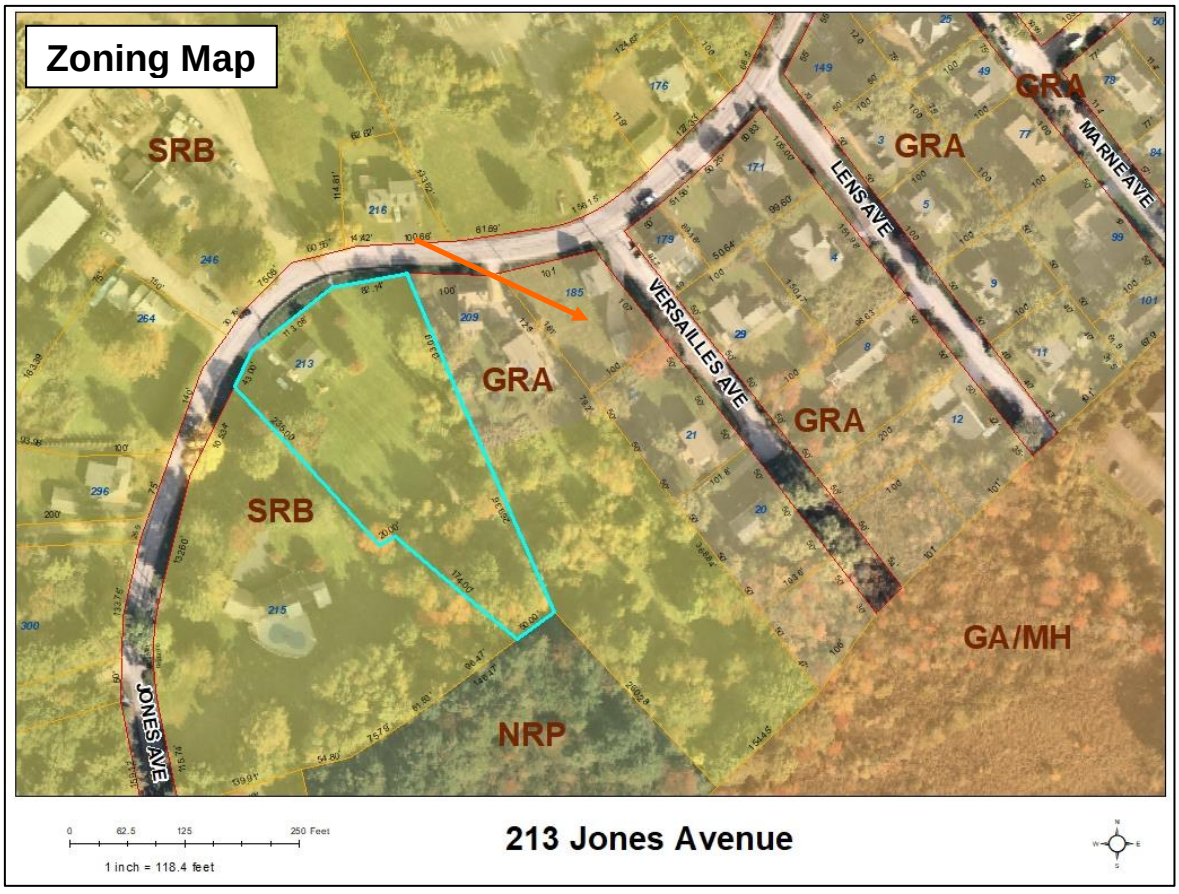
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	**Second driveway**	Primarily residential	
Lot area (sq. ft.):	62,528	62,528	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	62,528	62,528	15,000	min.
Lot depth (ft):	405	405	100	min.
Street Frontage (ft.):	238	238	100	min.
Primary Front Yard (ft.):	33	30	30	min.
Right Yard (ft.):	>10	>10	10	min.
Left Yard (ft.):	>10	22	10	
Rear Yard (ft.):	>150	>150	30	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	<20	<20	20	max.
Open Space Coverage (%):	>40	>40	40	min.
Parking:	4	4	3	
Estimated Age of Structure:	1951	Variance request(s) shown in red.		

Other Permits/Approvals Required

Planning Board – Wetland CUP & CUP for Accessory Dwelling Unit
Conservation Commission –Wetland CUP (recommended approval 3/9/22)

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is seeking to construct a new dwelling on the lot and has an application before the Planning Board to convert the existing dwelling into a Detached Accessory Dwelling Unit (DADU). A wetland CUP is also required and received a recommendation of approval from the Conservation Commission in March. As part of the proposal, a second driveway is proposed to access the new principal dwelling. Only one driveway per lot is permitted per the Ordinance, thus the request before the Board.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

5.

Request of **Ann Genevieve Becksted Trust of 2004 (Owner),** for property located at **9 Schurman Avenue** whereas relief is needed to add a 6' x 25' two story addition and side porch which requires the following. 1) A Variance from Section 10.521 to allow a 22 foot front yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 260 Lot 158 and lies within the Single Residence B (SRB) District.

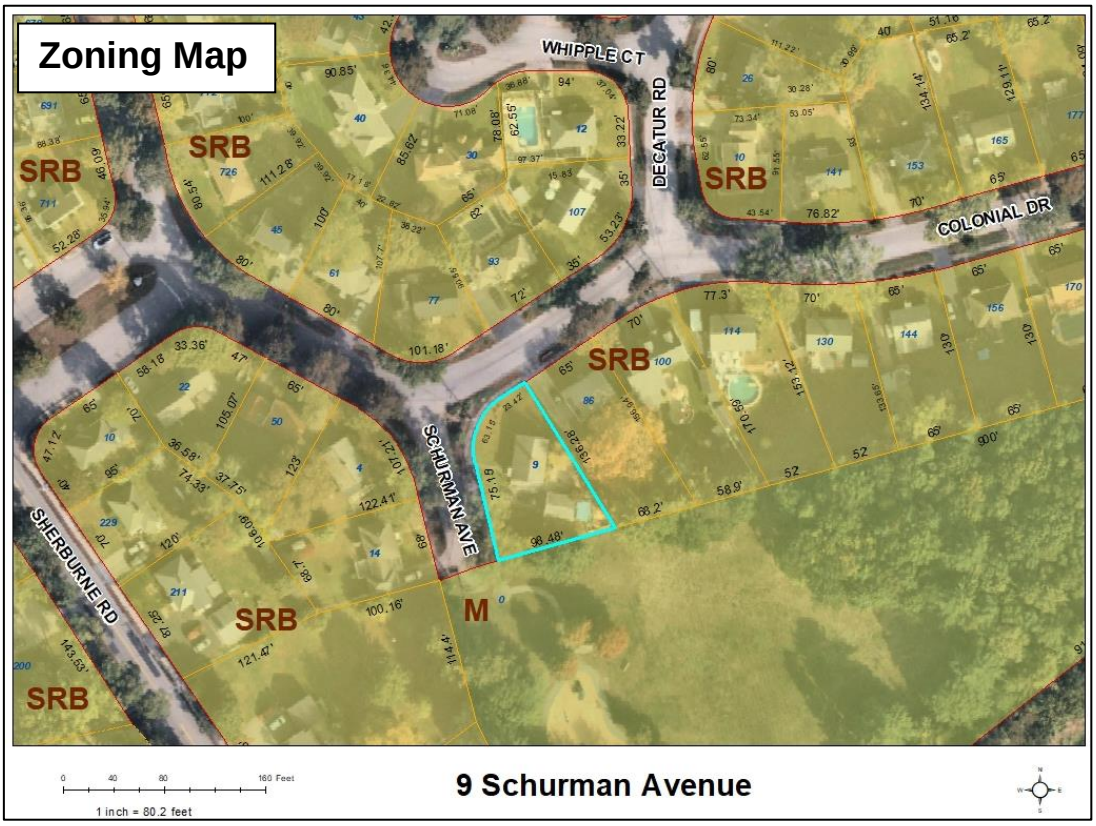
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Two story addition	Primarily residential	
Lot area (sq. ft.):	9,147	9,147	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	9,147	9,147	15,000	min.
Lot depth (ft):	117	117	100	min.
Street Frontage (ft.):	161	161	100	min.
Primary Front Yard (ft.):	24	**22**	30	min.
Right Yard (ft.):	48	42	10	min.
Left Yard (ft.):	7	7	10	
Rear Yard (ft.):	54	54	30	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	14	17	20	max.
Open Space Coverage (%):	>40	>40	40	min.
Parking:	2	2	2	
Estimated Age of Structure:	1940	Variance request(s) shown in red.		

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is seeking to add a two-story side addition, covered front porch and small deck on the rear of the existing dwelling. The two-story addition will encroach into the front yard. The rear deck will be under 18", therefore it does not need to conform to setbacks or coverage requirements.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

6.

Request of **Andrew DiPasquale (Owner),** for property located at **80 Fields Road** whereas relief is needed to Construct rear addition and enclose existing carport to create sunroom with front porch which requires the following: 1) Variances from Section 10.521 to allow a) a 26 foot rear yard where 30 feet is required; b) a 9 foot right side yard where 10 feet is required; c) a 9 foot left side yard where 10 feet is required; d) a 23 foot front yard where 30 feet is required; and e) 29% building coverage where 20% is the maximum allowed. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 171 Lot 8 and lies within the Single Residence B (SRB) District.

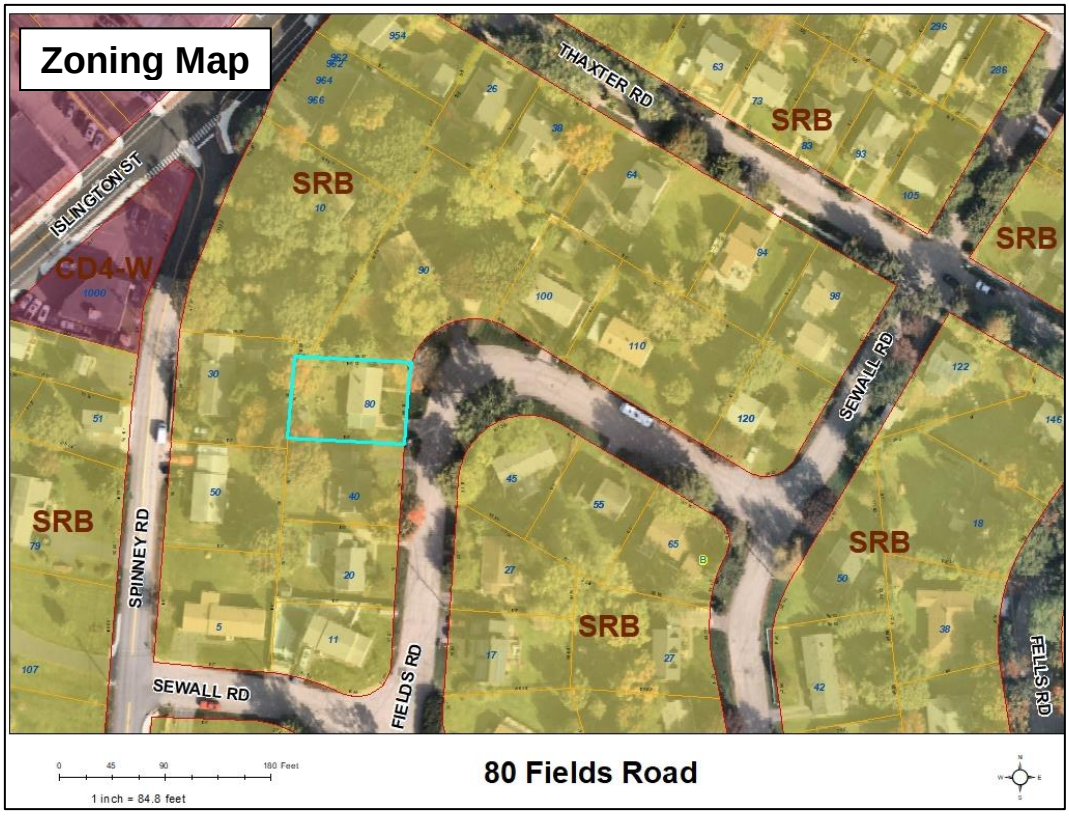
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Rear addition	Primarily residential	
Lot area (sq. ft.):	6,969	6,969	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	6,969	6,969	15,000	min.
Lot depth (ft):	100	100	100	min.
Street Frontage (ft.):	70	70	100	min.
Primary Front Yard (ft.):	28.5	**23**	30	min.
Right Yard (ft.):	9	**9**	10	min.
Left Yard (ft.):	9	**9**	10	
Rear Yard (ft.):	50	**26**	30	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	20.5	**29**	20	max.
Open Space Coverage (%):	>40	>40	40	min.
Parking:	2	2	2	
Estimated Age of Structure:	1957	Variance request(s) shown in red.		

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

Mar 16, 2021 – Relief from Zoning Ordinance:
to remove an existing shed and construct a new 12' x 16' shed which requires the following:

1) Variance from Section 10.521 to allow:
   a) a 3 foot rear yard where 9 feet is required
   b) a 3 foot left side yard where 9 feet is required
   c) to allow 20.5% building coverage where 20% is the maximum allowed.
2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance

The Board voted the request be **granted** as presented and advertised.

Planning Department Comments

The applicant is proposing to demolish the existing carport and construct a new addition in its place and add a rear addition on the right side of the existing dwelling. The house is currently nonconforming to the front and both side yards. The additions on both sides will not encroach further than what currently exists.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

7.

Request of **Pamela J. Katz Revocable Trust (Owner),** for property located at **462 Lincoln Ave, Unit 4** whereas relief is needed to install a generator which requires the following: 1) A Variance from Section 10.515.14 to allow a 6 foot setback where 10 feet is required and to allow the generator to be closer to the street that the principal structure. Said property is located on Assessor Map 133 Lot 20-4 and lies within the General Residence A (GRA) District.

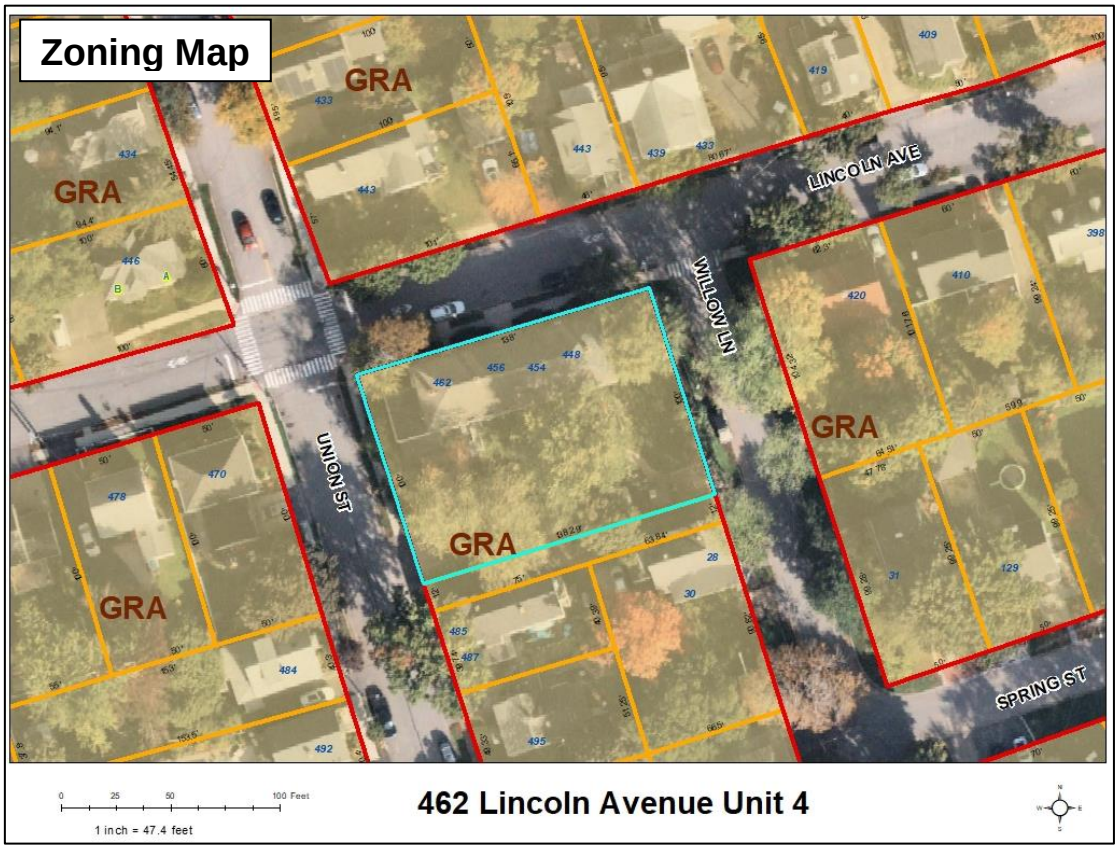
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	4 unit condo	Generator	Primarily residential	
Lot area (sq. ft.):	13,949	13,949	7,500	min.
Lot area per dwelling (sq. ft.):	3,487	3,487	7,500	min.
Lot depth (ft):	100	100	70	min.
Street Frontage (ft.):	238	238	100	min.
Primary Front Yard (ft.):	9.5	9.5	15	min.
Secondary Front Yard (ft.):	10	**6**	15	min.
Left Yard (ft.):	24	24	10	
Rear Yard (ft.):	57	57	20	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	26.5	26.5	25	max.
Open Space Coverage (%):	>30	>30	30	min.
Parking:	8	8	6	
Estimated Age of Structure:	1875	Variance request(s) shown in red.		

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

April 19, 2016 – Relief from Zoning Ordinance:

Construct a 6.5'± x 16.75' ± one-story addition and a 13.5' ± x 20' ± two story addition on the right side of existing building which requires:

1) Variance from Section 10.521 to allow:
   a) 10.1'± secondary front yard setback where 15' is required.
2) Variance from Section 10.521 to allow:
   a) 26.5'± building coverage where 25% is the maximum allowed.

The Board voted the request be **granted** with the following stipulation:

Full screening to be provided for the condensers proposed to be relocated

Planning Department Comments

The applicant is seeking to add a generator for Unit 4. The lot is a corner lot with frontage on Lincoln and secondary frontage on Union. The location will be closer to the street and in front of the building on the Union side, with a proposed setback feet 6 feet.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
   (a)The property has special conditions that distinguish it from other properties in the area.
   AND
   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.
   OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

REGULAR MEETING*
BOARD OF ADJUSTMENT
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

Members of the public also have the option to join the meeting over Zoom
*(See below for more details)**

7:00 P.M. **May 17, 2022**

AGENDA

PLEASE NOTE: ITEMS H THROUGH Q WILL BE HEARD AT THE MAY 24, 2022 BOARD OF ADJUSMENT MEETING.

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meetings of April 19, 2022.

II. OLD BUSINESS

A. 189 Gates Street – Request for Rehearing (LU-22-30)

B. George and Donna Pantelakos - 138 Maplewood Avenue request a 1-Year extension to the BOA approval of the garage renovation and expansion granted on June 16, 2020. (LU-20-71)

C. REQUEST TO POSTPONE The request of **Francis X. Bruton, (Attorney for Appellants),** for Appeal of Administrative decision that the merged lot at **1 Congress** is not subject to the height allowances (2 stories, 4th short, 45 feet in height) pursuant to Map 10.5A21B and as permitted pursuant to Section 10.5A21.22(a) & (c) of the Zoning Ordinance. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. **REQUEST TO POSTPONE** (LU-22-12)

D. REQUEST TO POSTPONE The request of **One Market Square LLC (Owner),** for the property located at **1 Congress Street** whereas relief is needed to construct a 3 story addition with a short 4th story and building height of 44'-11" which requires the

following: 1) A Variance from Section 10.5A.43.31 and Map 10.5A21B to allow a 3-story addition with a short 4th and building height of 44'-11" where 2 stories (short 3rd) and 40' is the maximum allowed. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. **REQUEST TO POSTPONE** (LU-22-12)

E. The request of **635 Sagamore Development LLC (Owner),** for property located at **635 Sagamore Avenue** whereas relief is needed to remove existing commercial structure and construct 5 new single-family dwellings which requires the following: 1) A Variance from Section 10.513 to allow 5 principal structures on a lot where only 1 is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 22,389 square feet where 1 acre per dwelling is required. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. (LU-22-57)

F. WITHDRAWN The request of **Randi and Jeff Collins (Owners),** for property located at **77 Meredith Way** whereas relief is needed to construct a second free-standing dwelling which requires the following: 1) A Variance from Section 10.513 to allow a second principal structure on a lot. 2) A Variance from Section 10.1114.31 to allow 2 driveways on a lot where only 1 is allowed. Said property is shown on Assessor Map 162 Lot 16 and lies within the General Residence A (GRA) District. **WITHDRAWN** (LU-22-61)

G. The request of **64 Vaughan Mall LLC (Owner),** for property located at **64 Vaughan Street** whereas relief is needed for the addition of a rooftop penthouse which requires the following: 1) A Variance from Section 10.5A43.30 and Map 10.5A21B to allow a building height of 51'6" where 42' is the maximum allowed for a penthouse. 2) A Variance from Section 10.1530 to allow a penthouse with a 9.5' setback from the edge of the roof where 15 feet is required. Said property is shown on Assessor Map 126 Lot 1 and lies within the Character District 5 (CD-5) and Downtown Overlay and Historic Districts. (LU-22-65)

NEW BUSINESS

A. The request of **Adam Fitzpatrick and Emily Smith (Owners),** for property located at **96 Sparhawk Street** whereas relief is needed to add an addition on the existing dwelling and an addition to a shed which requires the following: 1) Variances from Section 10.521 to allow a) a 4 foot right side yard where 10' is required; and b) an 8 foot front yard where 15 feet is required. 2) Variances from Section 10.573.20 to allow a) a 4 foot right side yard where 9.5 feet is required; and b) a 7 foot rear yard where 9.5 feet is required. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 159 Lot 16 and lies within the General Residence A (GRA) District. (LU-22-42)

B. The request of **The Lonzoni Family Revocable Trust (Owner),** for property located at **411 South Street** whereas relief is needed to demolish existing garage and construct new attached garage which requires the following: 1) Variance from Section 10.521 to allow a 6 foot rear yard where 20 feet is required. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the Ordinance. Said property is shown on Assessor Map 112 Lot 55 and lies within the General Residence A (GRA) District. (LU-22-67)

C. The request of **Andrea Hurwitz (Owner),** for property located at **129 Aldrich Road** whereas relief is needed for a second floor addition with rear addition and deck which requires the following: 1) Variance from Section 10.521 to allow a 5.5 foot left side yard where 10 feet is required. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 153 Lot 35 and is located within the Single Residence B (SRB) District. (LU-22-71)

D. The request of **Donald Lowell Stickney III (Owner),** for property located at **213 Jones Avenue** whereas relief is needed for the addition of a second driveway which requires the following: 1) Variance from Section 10.1114.31 to allow a second driveway on a lot where only one driveway is allowed. Said property is located on Assessor Map 222 Lot 69 and lies within the Single Residence B (SRB) District. (LU-22-34)

E. The request of **Ann Genevieve Becksted Trust of 2004 (Owner),** for property located at **9 Schurman Avenue** whereas relief is needed to add a 6' x 25' two story addition and side porch which requires the following. 1) A Variance from Section 10.521 to allow a 22 foot front yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 260 Lot 158 and lies within the Single Residence B (SRB) District. (LU-22-84)

F. The request of **Andrew DiPasquale (Owner),** for property located at **80 Fields Road** whereas relief is needed to Construct rear addition and enclose existing carport to create sunroom with front porch which requires the following: 1) Variances from Section 10.521 to allow a) a 26 foot rear yard where 30 feet is required; b) a 9 foot right side yard where 10 feet is required; c) a 9 foot left side yard where 10 feet is required; d) a 23 foot front yard where 30 feet is required; and e) 29% building coverage where 20% is the maximum allowed. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 171 Lot 8 and lies within the Single Residence B (SRB) District. (LU-22-76)

G. The request of **Pamela J. Katz Revocable Trust (Owner),** for property located at **462 Lincoln Ave, Unit 4** whereas relief is needed to install a generator which requires the following: 1) A Variance from Section 10.515.14 to allow a 6 foot setback where 10 feet

is required and to allow the generator to be closer to the street that the principal structure. Said property is located on Assessor Map 133 Lot 20-4 and lies within the General Residence A (GRA) District. (LU-22-77)

THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, MAY 24, 2022

H. The request of **Joseph Ricci (Applicant),** for property located at **225 Banfield Road** whereas relief is needed to demolish existing building and construct new 5 unit commercial building and 60 unit residential building with underground parking which requires the following: 1) A Variance from Section 10.521 to allow a 45 foot front yard where 70 feet is required. 2) A Variance from Section 10.440 to allow a 60 unit residential building where residential uses are not permitted in the Industrial district. Said property is located on Assessor Map 254 Lot 1 and lies within the Industrial (I) District. (LU-22-91)

I. The request of **Thomas Hammer (Applicant),** for property located at **219 Sagamore Road** whereas relief is needed to demolish the existing garage and deck and construct new garage and entryway which requires the following: 1) A Variance from Section 10.521 to allow 30.5% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.573.20 to allow a 2.5 foot rear yard where 15 feet is required. 3) A Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal structure. 4) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 221 Lot 19 and lies within the General Residence A (GRA) District. (LU-22-26)

J. The request of **2422 Lafayette Road Associates LLC (Owner),** for property located at **2454 Lafayette Rd, Unit 5** whereas relief is needed for a proposed veterinary urgent care clinic which requires the following: 1) A Special Exception from Section 10.440 Use #7.50 to allow a Veterinary Care use where the use is allowed by Special Exception. Said property is located on Assessor Map 273 Lot 3-5 and lies within the Gateway Corridor (G1) District. (LU-22-93)

K. The request of **Nicole Giusto (Applicant),** and **Cooper Malt LLC (Owner),** for property located at **650 Islington St, Unit C** whereas relief is needed for a proposed veterinary care clinic which requires the following: 1) A Special Exception from Section 10.440 Use #7.50 to allow a Veterinary Care use where the use is allowed by Special Exception. Said property is located on Assessor Map 155 Lot 5-C1 and lies within the Character District 4-B (CD4W) and the Historic District. (LU-22-92)

L. The request of **Thomas and Lindsey Vickery (Owners),** for property located at **37 Orchard Street** whereas relief is needed for a proposed addition which requires the

following: 1) A Variance from Section 10.521 to allow 26.5% building coverage where 25% is the maximum allowed. Said property is located on Assessor Map 149 Lot 9 and lies within the General Residence A (GRA) District. (LU-22-95)

M. The request of **London Bridge South Inc. (Owner),** for the property located at **114 Saratoga Way** whereas relief is needed to amend a previously approved application to merge two lots and demo existing structures in order to construct a 4 unit multi family dwelling which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,736 square feet where 5,000 square feet is the minimum required; and 2) A Special Exception from Section 10.440 Use #1.51 to allow 4 dwelling units where the use is allowed by a special exception. Said property is shown on Assessor Map 212 Lot 112 and lies within the General Residence B District. (LU-20-164)

N. The request of **Katherine Nolte and Angela Davis (Owners),** for property located at **276 Aldrich Road** whereas relief is needed to remove existing mudroom and construct covered front porch which requires the following: 1) Variances from Section 10.521 to allow a) 33% building coverage where 20% is the maximum allowed; b) 7.5 foot left side yard where 10 feet is required; and c) 7.5 foot secondary front yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 166 Lot 14 and lies within the Single Residence B (SRB) District. (LU-22-97)

O. The request of **Joel St. Jean and Mariele Chambers (Owners),** for property located at **108 Burkitt Street** whereas relief is needed to demolish existing garage and construct new 13' x 30' garage which requires the following: 1) A Variance from Section 10.573.20 to allow a 1 foot left side yard where 10 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 159 Lot 30 and lies within the General Residence A (GRA). (LU-22-89)

P. The request of **Thomas J. and Angela Mita (Owners),** for property located at **81 Taft Road** whereas relief is needed to construct a 235 square foot addition which requires the following: 1) A Variance from Section 10.521 to allow a 17.5 foot secondary front yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.. Said property is located on Assessor Map 247 Lot 87 and lies within the Single Residence B (SRB) District. (LU-22-98)

Q. The request of **One Hundred Forty West Road Condos (Owner),** for property located at **140 West Road** whereas relief is needed to convert existing structure into a private indoor recreation facility which requires the following: 1) A Variance from Section 10.440 Use #4.30 to allow and indoor recreation use where the use is not permitted. 2) A Variance

from Section 10.1113.41 to allow parking to be located 2 feet from the front lot line where 50 feet is required. Said property is located on Assessor Map 252 Lot 2-13 and lies within the Industrial (I) District. (LU-22-99)

III. OTHER BUSINESS

IV. ADJOURNMENT

**Members of the public also have the option to join this meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_mEGg2czRR9OO8ifXHLn_Tw

MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

7:00 P.M. **April 19, 2022**

MEMBERS PRESENT: Arthur Parrott, Chair; Jim Lee, Vice Chair; David MacDonald; Beth Margeson; Thomas Rossi; Paul Mannle; Phyllis Eldridge

MEMBERS EXCUSED: None

ALSO PRESENT: Peter Stith, Planning Department

Chairman Parrott called the meeting to order at 7:00 p.m.

I. APPROVAL OF MINUTES

A) Approval of the minutes of the March 15, 2022 meeting.

The March 15, 2022 minutes were **approved** as presented.

II. OLD BUSINESS

A. Lancen and **Sophie LaChance - 11 Fletcher Street** request a 1-year extension to the variances granted on April 21, 2020. (LU-20-42)

DECISION OF THE BOARD

*Mr. Lee moved to **grant** the request for a one-year extension.*

Mr. Lee said a first one-year extension was routinely granted. Ms. Margeson agreed and said there was a recommendation from the City Staff that the Board, in granting the extension, acknowledge that the plans were slightly modified due to the change in ownership and that a stipulation be placed on the approval stating that the drainage evaluation for the new modified plans be would be done prior to the issuance of the building permit.

Mr. Lee amended his motion. *He moved to **grant** the request for a one-year extension, with the following **stipulation**:*

1. *The drainage evaluation for the modified plans shall be done prior to the issuance of the building permit.*

*Ms. Margeson seconded the motion. The motion **passed** by unanimous vote, 7-0.*

B. Maple Masjid - 686 Maplewood Avenue request a 1-year extension to the special exception and variances granted on April 21, 2020. (LU-20-37)

DECISION OF THE BOARD

*Mr. Mannle moved to **grant** the request for a one-year extension, seconded by Mr. Rossi.*

Mr. Mannle said it was reasonable for the applicant to request an extension, given what had happened over the last two years with the pandemic.

*The motion **passed** by unanimous vote, 7-0.*

C. REQUEST TO POSTPONE The request of **Francis X. Bruton, (Attorney for Appellants),** for Appeal of Administrative decision that the merged lot at **1 Congress** is not subject to the height allowances (2 stories, 4th short, 45 feet in height) pursuant to Map 10.5A21B and as permitted pursuant to Section 10.5A21.22(a) & (c) of the Zoning Ordinance. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. **REQUEST TO POSTPONE** (LU-22-12)

DECISION OF THE BOARD

Ms. Margeson asked if Attorney Bruton and the City Attorney were trying to clarify the status of Haven Court. Chairman Parrott said the City Attorney said more time was needed due to the complexity of the issue.

*Ms. Eldridge moved to **grant** the request to postpone the appeal, seconded by Ms. Margeson.*

Ms. Eldridge said it was a routine but complicated issue. Ms. Margeson concurred and said it if was resolved, perhaps it wouldn't have to come back to the Board.

*The motion **passed** by unanimous vote, 7-0.*

D. REQUEST TO POSTPONE The request of **One Market Square LLC (Owner),** for the property located at **1 Congress Street** whereas relief is needed to construct a 3 story addition with a short 4th story and building height of 44'-11" which requires the following: 1) A Variance from Section 10.5A.43.31 and Map 10.5A21B to allow a 3-story addition with a short 4th and building height of 44'-11" where 2 stories (short 3rd) and 40' is the maximum allowed. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. **REQUEST TO POSTPONE** (LU-22-12)

DECISION OF THE BOARD

*Mr. Mannle moved to **grant** the request to postpone the petition to a future meeting, seconded by Mr. Rossi.*

Mr. Mannle said it was the second request and that the petition could be heard at a later meeting.

*The motion **passed** by unanimous vote, 7-0.*

At this point in the meeting, Chairman Parrott noted that there was also a request to postpone Item F, 635 Sagamore Development LLC, and asked for a motion.

*Mr. Mannle moved to **grant** the request to postpone the petition to a future meeting, seconded by Ms. Eldridge.*

Mr. Mannle said the applicant's attorney didn't have the time to respond to a number of comments made by the public, so granting the postponement would be fair and reasonable.

*The motion **passed** by a vote of 6-0, with Mr. Rossi abstaining from the vote.*

III. NEW BUSINESS

A. The request of **Charles Dudas (Owner),** for property located at **32 Monteith Street** whereas relief is needed for the demolition of the existing shed and construction of a 2-story attached garage with accessory dwelling unit which requires the following: 1) Variance from Section 10.521 to allow an 8' right side yard where 10' is required. Said property is shown on Assessor Map 143 Lot 22 and lies within the General Residence A (GRA) district. (LU-22-44)

SPEAKING TO THE PETITION

The applicant Chuck Dudas said he applied for a wetlands Conditional Use Permit (CPU) in May 2020 and an extension in 2021. He said the project was currently the same as it was then, with the exception of a slightly enlarged garage footprint encroaching on the side setback. He explained that the project had to be done in phases due to construction costs and that the existing garage and driveway had already been demolished and that he wanted to build a new garage with an attached ADU and a shed. He said the need for bollards for the gas meter drove the variance request so that there would be more room to get the car in and out of the garage. He said the ADU wasn't part of the original wetlands CPU but that the footprint within the wetland buffer had not changed. He reviewed the criteria and said they would be met.

Mr. Mannle said the variance request was for an 8-ft right side yard setback but that the information the Board had was for an 8-ft front yard setback where the standard was 32 feet. Mr. Stith said the current right yard setback was 32 feet.

Chairman Parrott opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chairman Parrott closed the public hearing.

DECISION OF THE BOARD

*Mr. Mannle moved to **grant** the variance as presented, seconded by Mr. Rossi.*

Mr. Mannle said granting the variance would not be contrary to the public interest, and the spirit of the ordinance would be observed. He said substantial justice would be done because the request was only for two feet, and the values of surrounding properties would not be diminished at all. He said literal enforcement of the ordinance would result in an unnecessary hardship. Mr. Rossi concurred and said the property had special conditions including the location of the gas meter and the wetlands setback that made the proposed location of the garage appropriate. Ms. Margeson said the actual variance request was for a right yard setback of eight feet where 10 feet was required by the ordinance, so it was a de minimis request and she would support it.

*The motion **passed** by unanimous vote, 7-0.*

B. The request of **Frederick J. Baily III (Owner),** for the property located at **212 Woodbury Avenue** whereas relief is needed for a lot line adjustment on four lots to create 3 conforming lots with the existing dwelling and demolition of one existing dwelling and construction of 2 duplexes and 4 single family dwellings on one lot which requires the following: 1) Variance from Section 10.513 to allow more than one free-standing principal structure on a lot. Said property is shown on Assessor Map 175 Lot 1 and lies within the General Residence A (GRA) District. (LU-22-52)

SPEAKING TO THE PETITION

Attorney Tim Phoenix was present on behalf of the applicant. The proposed buyer and developer Mike Garrepy was also present. Attorney Phoenix reviewed the petition, noting that the property was at the corner of Woodbury Avenue and Boyd Road. He said the intent was to change the lot lines so that the three buildings at the corners would remain on zone-compliant lots and the remainder of the lot would have an 8-unit condominium complex built on it consisting of two duplexes and four standalone units. He said the Woodbury Avenue curb cut would be eliminated in favor of the curb cut on Boyd Road to access all the units. He said only one variance was needed because the petition met all the other requirements. He noted that the petition would go before the Technical Advisory Committee (TAC) and the Planning Board for review. He showed a photo of the building on Boyd Road that would be demolished and said all the other houses would be rehabilitated. He reviewed the criteria in full and said they would be met.

Mr. Mannle asked whether 214 and 216 Woodbury Avenue should also be included on the application. Mr. Garrepy said they were there to discuss 212 Woodbury Avenue as reconfigured per their plan and still had to go before the Planning Board for a lot line adjustment and so on.

He said 6 Boyd Road and 214 and 216 Woodbury Avenue did not require relief from zoning, but as they went forward through the Planning Board, all three lots would be on record. Mr. Stith that when the subdivision application came through, it would include all the parcels. It was further discussed. Ms. Margeson said the property would be subdivided into lots and thought that would require a variance. Attorney Phoenix said if they tried to subdivide them into lots holding a combination of single-family or duplexes on their own lots, then they would need a variance, He said the lot met all the zoning density requirements but was landlocked and due to its location, there was no way to create cookie-cutter lots. Chairman Parrott confirmed that it would be a condominium association project. Ms. Margeson asked if it was a homeowners or condo association. Attorney Phoenix said it would be a condo association. He said the Planning Board and City Staff would require condominium documents for their review and approval in order to get the project approved.

Mr. Mannle said relief was needed for a lot line adjustment for four lots to create three confirming lots. He said there would be two duplexes and four single homes on one lot, and the only variance sought was the one for the proposed condo lot. Attorney Phoenix agreed. Mr. Mannle asked whether the process would have the lot cut by the Planning Board first. Attorney Phoenix said the Planning Board would require approved variances first. Chairman Parrott said there was no required sequence as to how many boards the applicant had to see, and it was further discussed. Mr. Rossi asked what the basis was for stating that the project would provide moderate cost housing. Attorney Phoenix said housing in Portsmouth was very expensive, especially close to downtown, and the proposed project would sell for a more moderate price due to the traffic circle and surrounding mixed-use businesses and residential housing. Mr. Rossi asked if the other two houses on the property were occupied. Attorney Phoenix said they were and that the one to be demolished was not.

Chairman Parrott opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

John Baldassare of 121 Boyd Road said he was an abutter and had watched the home decline for nine years. He said the project would bring positive value to the neighborhood and would fit in with the surrounding mixed-use properties. He said the Woodbury Bridge construction that added extra traffic to Boyd Road wasn't that disruptive and was more traffic than the proposed project would cause. He said the current property was an eyesore.

SPEAKING IN OPPOSITION TO THE PETITION

Sharon Moylan of 55 Boyd Road said she had owned her property since 1967 and knew that the corner of Boyd Road and Woodbury Avenue once had a beautiful duplex but the family let it deteriorate. She said no one from 6 Boyd Road or 214 or 216 Woodbury Avenue would oppose the project because they were renters. She said she didn't like the funnel onto Boyd Road because the road had no sidewalks and would be across from Manor Drive, where there was housing for the elderly and disabled and they would have to deal with more traffic. She said she was against demolishing one duplex and putting in two as well as splitting up single-family

homes to make them into condos. She said the neighborhood always had single-family homes except for the duplex, and the proposed project would change the values of surrounding homes.

Phyllis Randell of 99 Boyd Road said she didn't think anything would be better than what currently existed at 212 Woodbury Avenue, nor did she agree that the project was a good fit because of the multi-units at Manor Drive. She said the neighborhood had suffered for years from having a lovely property neglected to the point of being derelict, and she asked where the owner's consideration toward it had been all that time. She said she was concerned about the placement of the access onto Boyd Road because the turn from Woodbury Avenue was tight. She said the project was too much, despite its claims that it fit the density.

Martin Ryan of 221 Woodbury Avenue said he owned the house directly across the street from the property and had lived there since 1996, when 212 Woodbury Avenue was a beautiful home. He said he had seen it neglected and abandoned. He said he was glad the property would be revitalized but couldn't support what was proposed because it was out of character and the proposed buildings were subpar catalog-style architecture. He said he hoped the project could be tabled so that a better solution could be thought of. He said he was an architect and would be willing to offer suggestions about what would be appropriate on the property. He said it wasn't the density or intensity of the development that upset him but that it was the quality of construction, and he asked that the owner find something that worked for the neighborhood.

Chairman Parrott asked if the 212 Woodbury Avenue home was occupied in 1996. Mr. Ryan agreed but said it hadn't been occupied for over a decade. Mr. Mannle asked Mr. Ryan if he would be happy if the development could be done with six new units and the mansard rehabilitated into a duplex. Mr. Martin said that would be very suitable. Mr. Mannle said the cost of rehabbing the house would probably be a lot more than building a new one. Mr. Martin said the lot deserved a grand house reminiscent of the original one.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney Phoenix said he had heard the comments about the current owners and how they treated their properties, but the applicant was trying to rescue the property. He said many of the neighbors' concerns would be vetted by TAC and the Planning Board. He said the applicant was willing to speak with Mr. Ryan but would not rehab the house due to the expense.

Mr. Rossi asked Attorney Phoenix to review the rationale for not subdividing the property into a number of lots that could have one structure per lot. Attorney Phoenix said the developer was in business to earn a living and to develop property and that the costs for one structure per lot wasn't worth doing. He said it was a unique circumstance because there was an area big enough to support the project in terms of lot area, density, and so on, but there wasn't the street frontage to create a new subdivision for all those lots. Mr. Rossi said if there were separate lots, there would be additional side yard setbacks that would spread the units out more. Attorney Phoenix said if it was a big square lot surrounded by streets that had 7,500 square feet per lot with the required frontage, they might be spread out more, but condos were closer together. He said the Board had approved similar developments in the past, and the plan was to have 30 feet between

each unit, with some having 20 or 24 feet which wasn't unusual in condo ownership. Mr. Rossi noted that there was a weird point traffic-wise if one went out Boyd Road toward the hotel. Attorney Phoenix said the traffic and the effect of the number of cars and so on was a Planning Board issue but thought that most of the eight homes would turn toward Woodbury Avenue and that adding seven more residences to the area wouldn't pose a significant traffic impact. He said the duplexes and single-family homes would be around 2,400 square feet.

Ms. Margeson asked if the existing building could be rehabbed if the applicant was willing to spend the money. Attorney Phoenix said anything was possible but that it would probably have to be taken down to the foundation. Mr. Garrepy said they didn't evaluate the structural integrity of the residence but did inspect the other three homes and that they were in good shape and just needed some care. Ms. Margeson said she hated to lose the 212 Woodbury Avenue building and thought the applicant could have spoken to the neighbors about it and just developed the rest of the property. Mr. Garrepy said he wasn't opposed to working with the neighbors and the architect to make something look more similar to what existed there now.

No one else spoke, and Chairman Parrott closed the public hearing.

DISCUSSION OF THE BOARD

Mr. Mannle asked Mr. Stith if the developer had the leeway to rehab 212 Woodbury Avenue into a duplex even though it was already a duplex. He noted that the applicant was only asking to have multiple units on that proposed lot. Mr. Stith said a stipulation could be added to clarify it. Chairman Parrott asked if it was legally a duplex. Attorney Phoenix said it was a single-family home according to the tax records. Mr. Rossi said he saw the benefit of doing something in that location but felt that it was cramming too much into a small space. Ms. Eldridge said that although the project was a huge change of the property, it wasn't a huge change for the neighborhood because it was a mix of single and multi-family units that would be built on legal lots approved for homes. She thought it would be more out of the norm to put one home on 60,000 square feet in that neighborhood. She said she understood the concern about traffic but said the mansard building couldn't be brought back and the architecture wasn't something the Board could influence, so she was in favor of the project.

Ms. Margeson said it was one of the most difficult projects she'd had as a Board member, and she regretted the loss of the mansard and wished there was a way the developer could rehab it and then do the rest of the project. She said the property did have special conditions and that she was aware of the project's impact on the neighborhood but that multi-family dwellings were allowed in the General Residence A District and the variance was about having multiple dwellings on one lot. She said she also couldn't say that the property couldn't be used with a single-family dwelling on it. She said the zoning was very clear that it wasn't supposed to be a marked departure from the ordinance. Mr. MacDonald said he was struck by the need to do something that benefits the city overall and thought that rehabbing a property like that one was exactly what the city needed. He said there were other steps in the review process before a final decision was made that should be allowed to run their course and that there would be public

input throughout that would hopefully bring the project to where it needs to be. For those reasons he said he would support a motion to approve. Mr. Lee said there came a point in a house's life where it was gone too far to economically refurbish it, and that it made sense to repurpose the lots into a small condo project, with ample space between the units or air and light and so on.

Chairman Parrott said the project was one of the more difficult ones before the Board. He said it was unfortunate that the owners neglected the beautiful mansard structure and that it would be demolished. He said the proposal was a bit too ambitious for the property but that it met the letter of the law as proposed. He said further action would be required by TAC and the Planning Board that he hoped would refine some of the issues. He noted that the Board wasn't in charge of appearances or architecture and that the zone permitted multiple family homes in a mixed-use area. He said he would approve granting the variances for the project.

Mr. Stith said if the Board was in favor of the applicant working on different architectural designs, there was a section in the ordinance about features of proposed structures that could be deemed conditions of the approval and that some language could be added to the motion to allow the applicant to change the design of the buildings. It was further discussed.

DECISION OF THE BOARD

*Mr. Lee moved to **grant** the variance for the petition as presented, seconded by Mr. Mannle.*

Mr. Lee said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said it was a complicated project that was fairly well thought out and that he understood the need for the applicant to do what they were doing to make the project economically feasible. He said substantial justice would be done and that, as a real estate broker, he knew the eight new units would not diminish the values of surrounding properties but would enhance them greatly. He said literal enforcement of the ordinance would result in a hardship to the applicant due to special conditions of the property, and the property couldn't be used in a reasonable way if the variances were not approved. He noted that the applicant was asked to work with the neighbors to get their inputs about modifications and whether it would be feasible economically incorporate those into the project.

Mr. Mannle concurred. He asked if stipulations could be added regarding the representations cited in Section 10.235 of the ordinance relating to proposed buildings, parking issues, and demolition. He said if the public opposed the demolition, the applicant would go to the Demolition Review Committee for approval to demolish the building.

*Mr. Lee **amended** his previous motion and moved to **grant** the variance with the following **stipulations**:*

1. *The Board shall allow any changes made through TAC and the Planning Board during their review processes.*

2. *The Demolition Committee shall review the petition if anyone objects to the mansard building's demolition.*
3. *The applicant shall be allowed to make modifications based on any discussion with the abutters.*

*The motion **passed** by a vote of 4-3, with Mr. Rossi, Ms. Margeson, and Chairman Parrott voting in opposition.*

C. The request of **Amanda Blanchette (Owner),** for the property located at **240 Hillside Drive** whereas relief is needed to extend the existing deck which requires the following: 1) Variance from Section 10.521 to allow 22% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Map 231 Lot 43 and lies within the Single Residence B (SRB) District. (LU-22-1)

SPEAKING TO THE PETITION

The applicant Amanda Blanchette was present to review the petition. She said she wanted to extend the deck over the area that had the former underground pool for safety purposes and to make the lot more usable. She reviewed the criteria and said they would be met.

In response to Mr. Mannle's questions, the applicant said the pool had been filled in and the deck would be extended over the area where the pool used to be, and the deck's level would remain on the same plane. She said the pool was removed in 2019 before the pandemic. Mr. Mannle verified with Mr. Stith that an in-ground pool was not considered building coverage.

Chairman Parrott opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chairman Parrott closed the public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the variance as presented, seconded by Mr. Mannle.*

Mr. Rossi said granting the variance would be in the spirit of the ordinance and not contrary to the public interest, noting that it wouldn't create any crowding because it was close to the ground. He said substantial justice would be done and the values of surrounding properties would not be affected because the deck wouldn't be seen by the neighbors or anyone else and wouldn't have a negative impact on surrounding properties. He said the neighborhood was consistent with that type of proposal, and literal enforcement of the zoning ordinance would create a hardship of a safety issue and an aesthetic of the property that wouldn't be justified. Mr. Mannle concurred and had nothing to add.

*The motion **passed** by unanimous vote, 7-0.*

D. The request of **Sandra L. Smith-Weise (Owner),** for property located at **138 Gates Street** whereas relief is needed for construction of a one-story rear mudroom and 1/2 bath addition which requires the following: 1) Variance from Section 10.521 to allow 36% building coverage where 30% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on assessor Map 103 Lot 54 and lies within the General Residence B (GRB) and Historic Districts. (LU-22-55)

SPEAKING TO THE PETITION

Architect Anne Whitney was present on behalf of the applicant to review the petition. She gave a handout to the Board indicating that the two abutters had approved the project. She said the addition was hard to see from Gates Street. She said the entry would be recreated into a mudroom and a half-bath would be added to replace the tiny one near the kitchen so that the kitchen could be expanded. She reviewed the criteria and noted that the special condition was the nonconformity of the existing residence and the lot.

The Board had no questions. Chairman Parrott opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

The owner Rick Weiss of 138 Gates Street said he and his wife wanted an expanded entryway or mudroom to give their dogs a place to dry off. He said that moving the tiny bathroom into the addition would allow more space and that all the abutters were fine with the project.

SPEAKING IN OPPOSITION TO THE PETITION OR SPEAKING TO, FOR, OR AGAINST THE PETITION

No one else spoke, and Chairman Parrott closed the public hearing.

DECISION OF THE BOARD

*Mr. MacDonald moved to **grant** the variances as presented, seconded by Mr. Rossi.*

Mr. MacDonald said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because the project wouldn't change any pedestrian or vehicular patterns, narrow down any streets, or do anything outside of the lot boundaries. He said substantial justice would be done and the values of surrounding properties would not be diminished by such a project, otherwise the neighbors would oppose it. He said literal enforcement of the ordinance would result in unnecessary hardship due to the special conditions of the property that distinguished it from others in the area, and that there was no fair and

substantial relationship between the general and public purposes of the ordinance and its specific application to the property. He said the applicant proposed an extremely limited increase in square footage, and what was asked for wouldn't spill over onto anyone else's property. He said adding a small addition to improve the usability of the property and also adding facilities and space to the house to accommodate the owners' lifestyle satisfied the special conditions for a hardship. He said the use was a reasonable one and that it should be approved.

Mr. Rossi concurred. He said he normally would not be in favor of a variance of that magnitude for building coverage, but since it was only a one-story height addition, it wouldn't crowd or encroach on anyone's light and air. Ms. Margeson said she struggled with the building coverage aspect of the variance request because it was a fairly significant increase for an undersized lot, but she didn't think the public would be harmed by it.

*The motion **passed** by unanimous vote, 7-0.*

E. The request of **Trisha and Kevin Anderson (Owners),** for property located at **328 Aldrich Road** whereas relief is needed to demolish existing garage and construct new 12' x 16' shed which requires the following: 1) Variance from Section 10.573.20 to allow a 5' left side yard where 10' is required. Said property is shown on Assessor Map 166 Lot 49 and is located within the Single Residence B (SRB) District. (LU-22-56)

SPEAKING TO THE PETITION

The applicant Trisha Anderson was present to speak to the petition. She said the garage was falling apart and posed a safety concern for her children. She said the driveway was oversized because the house was formerly a two-family one, so the garage sort of sat in the middle of the backyard. She said she wanted to demolish the garage and replace it with a shed that matched the look of her home and that she wanted to cut back the driveway to give her kids additional play space. She said the new shed would be placed closer to the abutting 312 Aldrich Road property and that the abutters were in support. She reviewed the criteria and said they would be met.

Mr. Mannle said he drove by the property and saw a green shed by a large tree. He asked who owned that shed, and the applicant said she did and that it was only temporary.

Chairman Parrott opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chairman Parrott closed the public hearing.

DECISION OF THE BOARD

*Mr. Mannle moved to **grant** the variance as presented, seconded by Mr. Rossi.*

Mr. Mannle said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance and do substantial justice. He said the values of surrounding properties would not be diminished but would only be enhanced, and literal enforcement of the ordinance would result in unnecessary hardship. Mr. Rossi concurred and had nothing to add.

*The motion **passed** by unanimous vote, 7-0.*

F. REQUEST TO POSTPONE The request of **635 Sagamore Development LLC (Owner),** for property located at **635 Sagamore Avenue** whereas relief is needed to remove existing commercial structure and construct 5 new single-family dwellings which requires the following: 1) A Variance from Section 10.513 to allow 5 principal structures on a lot where only 1 is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 22,389 square feet where 1 acre per dwelling is required. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. **REQUEST TO POSTPONE** (LU-22-57)

DECISION OF THE BOARD

*It was moved, seconded, and passed by a vote of 6-0 (Mr. Rossi abstained) to **postpone** the petition to a future meeting.*

G. The request of **Savannah Mary Fodero** and **Tyler Jacob Forthofer (Owners),** for property located at **629 Broad Street** whereas relief is needed for upward expansion of existing garage which requires the following: 1) Variance from Section 10.521 to allow a 2' front yard where 15' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown Assessor Map 221 Lot 13 and lies within the General Residence A (GRA) District. (LU-22-53)

SPEAKING TO THE PETITION

The applicant Tyler Forthofer was present to review the petition. He said the garage was currently eight feet tall and 400 square feet, with half of it within the setback. He said the roof leaked and that he wanted to replace it with an asphalt roof and do other repairs to bring the garage up to code. He said the proposed new height was 12 feet. He reviewed the criteria.

There were no questions from the Board. Chairman Parrott opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chairman Parrott closed the public hearing.

DECISION OF THE BOARD

*Mr. Mannle moved to **grant** the variances as presented, seconded by Mr. Lee.*

Mr. Mannle said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said substantial justice would be done and the values of surrounding properties would not be diminished. He said literal enforcement of the ordinance would result in an unnecessary hardship. He noted that he had been inside the house many times when the house was owned by someone else and that the house was very nice but that he hadn't liked the garage and suspected that it was added on. Ms. Margeson said there really was no increase in the variance request because the existing secondary front yard was already two feet, so it was really just allowing a nonconforming structure to be reconstructed.

*The motion **passed** by unanimous vote, 7-0.*

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting was adjourned at 9:37 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

DTC Lawyers
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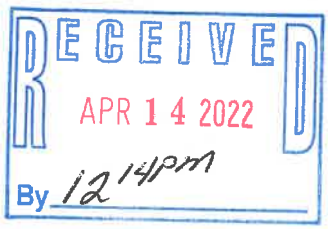

Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, New Hampshire 03801

Re: Request for Rehearing
Application for Variance
Nerbonne Family Revocable Trust – 189 Gates Street (Tax Map 103, Lot 6)

Dear Members of the Zoning Board of Adjustment:

I represent Devan Quinn and James Butler, who reside at and own the property located at 199 Gates Street (Tax Map 103, Lot 7) (also referred to as the "Butler/Quinn Property"), which is the property to the immediate east of 189 Gates Street (Tax Map 103, Lot 6) (also referred to as the "Nerbonne Property"), which is owned by the petitioners, Judy and Patrick Nerbonne ("the Nerbonnes"). Pursuant to RSA chapter 677, I hereby submit this Request for Rehearing on behalf of Mr. Butler and Ms. Quinn regarding the ZBA's March 15, 2022 grant of a variance related to the Nerbonne Property.

I. INTRODUCTION AND EXECUTIVE SUMMARY

The Nerbonnes applied for variance relief from the dimensional restrictions set forth in Section 10.520 and Table 10.521 of the Zoning Ordinance, establishing a 10' side setback and a 30% building coverage limitation, and Section 10.320 of the Zoning Ordinance, prohibiting the expansion of a pre-existing, non-conforming structure. The Nerbonnes represent that the variances are necessary to expand their existing garage as part of the garage's conversion to a "garden cottage" in accordance with Section 10.815 of the Zoning Ordinance.

The Zoning Board of Adjustment ("ZBA") held a hearing on the Nerbonnes application on March 15, 2022, at which the Nerbonnes submitted and presented a modified plan prepared by Architect Anne Whitney. The ZBA granted the requests for a variance.

In doing so, the ZBA did not accurately apply the criteria for the grant of a variance pursuant to RSA 674:33. Specifically, the ZBA overlooked or misapprehended that: (1) the grant of the variance would be contrary to the public interest, (b) the spirit of the ordinance is not being observed by the grant of the variance, (c) substantial justice would not be done, (d) the value of Butler/Quinn Property would be diminished, and (e) literal enforcement of the Zoning Ordinance would not result in unnecessary hardship to the Nerbonnes. In light of these errors, the ZBA should grant this Request for Rehearing.

The remainder of this Request for Rehearing is organized into two sections. The first section provides a brief factual background regarding the property and the proposal. The second section provides a detailed discussion on why the record does not support the satisfaction of the above-referenced criteria, nor the grant of a variance.

II. THE PROPERTY AND FACTUAL BACKGROUND

The Nerbonne Property and the Butler/Quinn Property are located in the South End on Gates Street, which is located in the General Residence B Zone. Like other neighborhoods in the South End, Gates Street is a tightly built residential area, consisting largely of wooden houses, with many structures from the 18th and 19th centuries. The lots on Gates Street are small, with few lots exceeding .15 acres in size and with none (to our knowledge) exceeding .20 acres. The Nerbonne Property is a .12-acre lot and has a single-family residence which was constructed circa 1860s.

There are few detached accessory dwelling units or garden cottages located in the neighborhood. However, for each of the limited properties with detached accessory dwelling units or garden cottages, those structures are all located to the rear of the lot and are not in close proximity to residences on neighboring parcels.

The Quinn/Butler Property is .10 acres. Ms. Quinn and Mr. Butler are newlyweds that purchased their property in May of 2020 with the intent to have children and to start and raise their family in Portsmouth. They specifically purchased their property because the property has a large, deep backyard, with access to open space and light that would be ideal for small children to play in and to raise a family. If it was not for this backyard and the light and air that it offers, Ms. Quinn and Mr. Butler would not have made the considerable investment that they did in purchasing it and moving to Portsmouth.

When Ms. Quinn and Mr. Butler purchased their property they immediately made improvements to their home to make it more suitable for a young family. They put a patio in the backyard with pervious pavers, installed a French drain to address previous drainage issues, and sodded the lawn. The cost associated with these improvements was approximately $35,000.00. While the sod and drain improved the drainage issues on the Butler/Quinn Property, the property still experiences issues with drainage.

The detached garage that the Nerbonnes propose to convert to a garden cottage is located on the property line between the Butler/Quinn Property and the Nerbonne Property. The 2008 survey of 199 Gates Street submitted by the Nerbonnes with their application shows just how close the garage is to the Butler/Quinn Property and shows that the existing garage to be converted is on the property line. Due to the small lot sizes, the garage is located within 10' of the Ms. Quinn and Mr. Butler's residence.

The existing garage is 19' 8" long by 18' wide and is 354 square feet in size. The existing garage is approximately 22.5' feet high at its peak. The roof is pitched toward the Butler/Quinn Property, such that the drip edge of the existing garage is on or over the property line.

The topography of the Nerbonne Property gradually slopes downhill from the front to the property's rear, such that the floor of the entry of the Nerbonnes garage is at grade, but the floor toward the garage's rear is approximately 4' above grade. The topography further slopes downhill moving from the Nerbonne Property to the Quinn/Butler Property such that floor to the garage's rear is approximately 2' higher when measured from grade on the Quinn/Butler Property.

The Nerbonnes seek to add an addition (the plans for which were revised in or around March 14, 2022) onto the existing garage that is 10.5' long and 14.5' wide, which would expand the existing garage by approximately 60 %. The addition would add approximately 152.25 square feet to the the existing garage, which per the plans submitted would be associated with the addition of a living room to the "garden cottage" capable of sitting a sectional couch and two chairs.

The addition's roof would be approximately 15.5' high and would be similarly pitched toward the Quinn/Butler Property. The easterly façade of the addition would align with the existing easterly façade of the garage, making the addition set slight further back from the property line than the existing garage by approximately 4.5' feet.[1] The Nerbonnes no longer seek to install the deck previously proposed on the rear of the addition.

The ZBA granted the Nerbonnes' application of a variance. In doing so, the ZBA did not discuss the specific requirements for the grant of a variance pursuant to RSA 674:33 and made no specific findings that those criteria were satisfied, although individual members made reference to the "property values" criteria. Instead, the ZBA voted to grnat the three variances as modified, excluding the deck, as a block.

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[1] The Nerbonne Property is burdened with a fence easement for the benefit of the Butler/Quinn Property, which extends between 1' and 1.82' onto the Nerbonne Property in the area immediately to the rear of the existing garage. Therefore, while the proposed addition will only be 4.5' from the boundary line, it will be 3.5' from the area of the fence easement associated with the Butler/Quinn Property. That fence easement is found at Rockingham County Registry of Deeds at Book 5040, Page 1907, a copy of which is enclosed with this Request for Rehearing.

III. LEGAL ARGUMENT

RSA 674:33, I(a)(2) establishes the necessary criteria each of which must be satisfied for the grant of a variance. Those criteria are:

(A) The variance will not be contrary to the public interest;
(B) The spirit of the ordinance is observed;
(C) Substantial justice is done;
(D) The values of surrounding properties are not diminished; and
(E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

RSA 674:33 defines "unnecessary hardship" as follows: "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 and (B) the proposed use is a reasonable one." If the above-referenced standard for "unnecessary hardship" cannot be established, RSA 674:33 allows for the "unnecessary hardship" criteria to be satisfied "if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it."

a. The variance will be contrary to the public interest and the spirit of the ordinance is not observed.

The ZBA's grant of a variance was in error because the ZBA failed to properly consider the spirit and intent of the ordinance, the unique circumstances of the subject and surrounding properties, and the adverse impacts that will likely arise out of the grant of the variance.

The Supreme Court has previously stated that the public interest and spirit of the ordinance criteria should considered together. See Chester Rod & Gun Club, Inc. v. Town of Chester, 152 N.H. 577, 581 (2005). The Supreme Court has further explained:

> The requirement that the variance not be contrary to the public interest is related to the requirement that it be consistent with the spirit of the ordinance. The first step in analyzing whether granting the variance would not be contrary to the public interest and would be consistent with the spirit of the ordinance is to examine the applicable ordinance. As the provisions of the ordinance represent a declaration of public interest, any variance would in some measure be contrary thereto. Accordingly, to adjudge whether granting a variance is not contrary to the public interest and is consistent with the spirit of an ordinance, we must determine whether

> to grant the variance would unduly and in a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives. Thus for a variance to be contrary to the public interest and inconsistent with the spirit of the ordinance, its grant must violate the ordinance's basic zoning objectives.

Harborside Assocs. v. Parade Residence Hotel, 162 N.H. 508, 514 (2011) (emphasis added).

First, the Nerbonnes' proposal fails to satisfy the "public interest" and "spirit of the ordinance" criteria because the Nerbonnes proposal is effectively a detached accessory dwelling unit ("ADU") masquerading as a "garden cottage." Under Section 10.815 of the Zoning Ordinance, a garden cottage is the conversion of an existing building to a dwelling use. By the terms of Section 10.830, a "garden cottage" is not intended to involve the expansion of an existing structure, except a garden cottage may involve the construction of a front entryway of not more than 50 square feet or a rear deck not to exceed 300 square feet. Under Section 10.830, the Planning Board can "modify a specific dimensional or parking standard," which means that the Planning Board can allow for a front entry way larger than 50 square feet or a rear deck larger than 300 square feet in limited circumstances. (Emphasis added.)

The ordinance was not intended to permit, however, an expansion of an outbuilding as part of a garden cottage to simply expand the enclosed living space – such as the case here where the proposed addition is intended to house a living room. As such, the applicant's requests for a variance to allow for an expansion of the enclosed space associated with the existing garage for a living room is contrary to the spirit of Section 10.830. The construction or expansion of existing structures is supposed to be considered in the context of detached ADUs, which involves stricter dimensional requirements than "garden cottages." This variance application, which seeks to circumvent the criteria associated with detached ADUs, therefore, is contrary to the spirit of the ordinance and contrary to the public interest.

The ZBA also erred because the Nerbonnes' application fails to satisfy the "public interest" and "spirit of the ordinance" criteria because the ZBA failed to give adequate consideration to the underlying purpose behind the Zoning Ordinance's dimensional requirements. As the Supreme Court held in Nine A, LLC v. Town of Chesterfield, 157 N.H. 361 (2008), zoning boards must consider the underlying purpose of dimensional restrictions in the zoning ordinance. In that case, the Supreme Court considered a variance application related to lot sizes, frontage, and building coverage near a lake. Nine-A, LLC, 157 N.H. at 362-63. The Supreme Court determined that the purposes of such requirements was to reduce density, overcrowding, traffic, and the ecological impacts associated with increased density, and that the ZBA properly considered these goals in Ndetermining that the "public interest" and "spirit of the ordinance" criteria were not met. Id. at 368-69; see also Biggs v. Sandwich, 124 N.H. 421, 425 (1984) (holding that denial of variance related to septic system was appropriate where setback existed to protect water quality).

Here, the City's Zoning Ordinance restrictions related to side setbacks and the expansion of pre-existing non-conforming structures exist to protect, preserve, and maintain existing access to adequate light and air amongst dwelling units. Those setbacks also exist to ensure that there is adequate privacy between dwelling structures and distance to mitigate the risk of fire. While the structures and residences in the South End are in close proximity to one another that is not a valid or adequate basis to determine that what space does exist may be intruded upon. Indeed, the residential structures in the South End predate the City's Zoning Ordinance by decades (if not centuries) and yet the Zoning Ordinance *still* designated this area as part of the General Residence B Zone and *still* imposed a 10-foot side setback limitation – clearly reflecting the intent that there should be a preservation of available space, air, and light in the South End. The conversion of the existing garage to a separate dwelling unit, the extension of that dwelling unit along the property line by 10' (resulting in a 30% increase in the square footage within th setback), is contrary to these basic zoning objectives.

This conclusion is further bolstered by the fact that the purpose of the GRB Zone is to provide for residential uses "at moderate to high densitites (ranging from approximately 5 to 12 dwelling units per acre)." See Section 10.410 of the Zoning Ordinance. Presently, there are 13 individual dwelling units within the 1-acre area on Gates Street near the Nerbonne Property. The addition of an additional dwelling unit, which would be located in a detached structure immediately on the property line will exceed the intended density of the GRB Zone. The ZBA did not consider the underlying purpose and intent of the GRB Zone and this density parameter when granting the variance. However, considering that the grant of the variance would result in the establishment of a new dwelling unit on the property line is contrary to these underlying purposes for which the subject provisions of the zoning ordinance was intended to protect.

Lastly, the grant of the various related to setbacks and impervious cover is also contrary to the spirit of the zoning ordinance and the public interest because the proposed use will cause drainage issues on the Butler/Quinn Property. As discussed during the ZBA hearing, the Butler/Quinn Property already exerpiences drainage-related issues, which required Mr. Butler and Ms. Quinn to construct a French drain to mitigate those issues. The extension of the garage, which will include additional impervious cover within the setback, where the property slopes downward toward the Butler/Quinn Property, will exacerbate those drainage issues. During the hearing, members of the ZBA opined that the variance from the impervious cover requirement was only to allow a 1% exceedance, but that comment ignores the interrelation of the side setback variance and the impervious cover variance. A 1% impervious cover exceedance may be de minimis if the impervious cover is located in the center of a lot. However, when, as is the case here, that

additional impervious cover is located within the side setback, even a 1% exceedance can result in adverse impacts, and that is likely to happen here.[2]

For these reasons, the ZBA should grant this Request for Rehearing because the Nerbonnes is not capable of satisfying the "spirit of the ordinance" or the "public interest" criteria for the grant of a variance.

b. Substantial justice is not done by the grant of the variance.

The ZBA should grant this Request for Rehearing because the ZBA overlooked or misapprehended the fact that the substantial justice criteria cannot be met under these circumstances.

The Supreme Court has said that "the only guiding rule on this factor is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." Harborside, 162 N.H. at 515. To apply the standard, it is necessary for the ZBA to determine whether the general public would realize an appreciable gain from the denial of the variance that outweighs the benefits that would be gained by the applicant by the issuance of the variance. Id. The Supreme Court has found the substantial justice criteria has been satisfied when a project is "appropriate for the area and does not harm its abutters, or the nearby wetlands," because, under those circumstances, "the general public will realize no appreciable gain from denying the variance." See Malachy Glen Assocs. v. Town of Chichester, 155 N.H. 102, 104 (2007).

Here, the denial of the Nerbonnes variance request would not result in a significant loss because the Nerbonnes have other viable alternatives for the construction of an additional dwelling unit on their property.[3] The most obvious is that the Nerbonnes can make use of the existing footprint of their garage without the addition. The existing garage is identified as having a height of 22.5' at its peak, which provides sufficient room for a loft area, which would open up room on the first floor of the garage for a living room, eat-in kitchen, and bathroom. The Nerbonnes can also consider making use of the existing primary dwelling on their property to house an attached ADU. The Nerbonne Property has 3,756 of gross living space, of which only 1,842 is designated

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[2] While the Applicant agreed to install gutters with a dry-well or a rain garden on their property, the issue then becomes how the Applicant will be able to maintain that gutter system given the close proximity of the addition to the property line and the limited space to perform maintenance.

[3] During the March 15, 2022 hearing, the Nerbonnes' representative stated to the effect that this proposal is the "most feasible" plan. However, this is not accurate. Certainly, the most feasible plan – one that would not require any variance or modification relief from the Planning Board – would be to construct an attached ADU within the existing primary dwelling or to place the dwelling unit within the confines of the existing garage without expansion. A proposal that involves constructing a 60% expansion on a non-conforming structure, within an established setback, to accommodate a living room, is not what could be reasonably understood as "the most feasible plan."

as living area; the Nerbonnes can seek to convert existing gross living space within their home to allow for caregivers. The Nerbonnes could also consider reconfiguring the sizeable deck to the property's rear to allow for additional space for an ADU. Ms. Quinn and Mr. Butler provide this non-exhaustive list to demonstrate that the Nerbonnes will not experience a significant loss in the denial of the variance.

To the contrary, however, Ms. Quinn and Mr. Butler will experience a significant loss as a result of the expansion of the pre-existing non-conforming structure within the side setback. As reflected above, Ms. Quinn and Mr. Butler will experience a considerable loss of access to air and light. During the hearing, members of the ZBA referenced that the 10' foot addition to the rear of the existing garage would not adversely impact Ms. Quinn and Mr. Butler's available air and light on their property. However, this statement ignores that, at present, there is approximately 44' in length of back yard on Ms. Quinn and Mr. Butler's property. The construction of a 10' long addition will create an impediment to access to air and light along approximately 25% of that backyard. Indeed, the photographs that Ms. Quinn and Mr. Butler submitted at the ZBA's hearing reflect the shadow caused by the existing garage; the expansion of that garage by an additional ten feet along the property line will all but ensure that the patio installed on the Butler/Quinn Property and a significant portion of Ms. Quinn and Mr. Butler's back yard will be denied access to light.

Lastly, the grant of the variance allows for the existing garage to be converted to a dwelling unit that will be in close proximity to the Ms. Quinn and Mr. Butler's residence. One of the benefits and adders to the value of Ms. Quinn and Mr. Butler's property is its distance from other dwelling units – a considerable benefit for a residence in the South End. The construction of another dwelling unit located approximately 10' of the Butler/Quinn Property will result in a loss of privacy and a reduction in the value of their property.

In short, substantial justice will not be done by the grant of the variance, and the ZBA should grant this Request for Rehearing. The Nerbonnes have other viable alternatives and will not experience a significant loss in the denial of this variance, whereas Ms. Quinn and Mr. Butler will retain the value of their property and the full use of their property by the denial of the variance. Additionally, the public will benefit from the denial of this variance as well. As the ZBA learned during the hearing on this application, residents in the South End are closely watching the ZBA's adjudication of this variance application, as other residents have similar proposals to the Nerbonnes. The grant of this variance will establishe a precedent that allows for the considerable expansion and conversion of non-conforming structures in close proximity to other residences in a manner that may limit available open space and light, to the detriment of the character of the neighborhood.

c. The value of Ms. Quinn and Mr. Butler's property will be diminished by this variance.

The ZBA should also grant this Request for Rehearing because the grant of the variance will diminish the value of Ms. Quinn and Mr. Butler's property. As reflected above, Ms. Quinn and Mr. Butler purchased this property in 2020 due to the unique and specific attributes of 199 Gates Street, namely its larger-than-average backyard and its open access to air and light. The grant of the variance, however, will adversely impact that access to light and air, will create a visual obstruction along a significant portion of the backyard, and will cause drainage issues on the property. Indeed, as Ms. Quinn stated during the ZBA hearing, had the garage addition existed at the time they were in the market for a home, they would not have purchased 199 Gates Street. This opinion is one that is shared by other real estate professionals in the community, as Ms. Quinn and Mr. Butler contacted professionals who opined that the Nerbonnes proposal was so unique for the neighborhood that it would be difficult just to ascertain comparables within the area.

The only evidence of property value submitted by the Nerbonnes was the lone statement by Ms. Whitney that the property values will not be impacted because the real estate market is "hot" right now. However, the test is not whether someone would pay an attractive price for the property. Rather, the test is whether someone would offer a lower price if the variance were granted. Based on the foregoing, the answer to that test is certainly yes. A willing buyer, duly motivated, would not pay the same price for 199 Gates Street after the construction of the Nerbonnes' addition that they would pay prior to the addition. The loss of access to air and light, the reduction in privacy, and the exacerbation of drainage related issues assures a diminution in property value for Ms. Quinn and Mr. Butler.

During the hearing, one member of the ZBA, looking at the pictures of the property taken from Point of Graves Burial Ground to opine that he "could not fathom" how the Nerbonnes' proposal would adversely impact property values. However, pictures from the vantage point of Point of Graves Burial Ground do not impart the close proximity of the existing garage, the property's access to air and light, and the change in topography between the Nerbonnes and the Butler/Quinn property that will cause the so-called garden cottage to loom over Ms. Quinn and Mr. Butler's property.

For the reasons set forth above, the ZBA should grant this request for rehearing because the grant of the variance will diminish the value of Mr. Butler and Ms. Quinn's property.

d. No unnecessary hardship exists under these circumstances.

The ZBA should grant this Request for Rehearing because the Nerbonnes cannot satisfy the unnecessary hardship criteria set forth in RSA 674:33. the analysis of unnecessary hardship arises from the property itself, not from individual circumstances, as understandable as those

individual circumstances may be. Rather, an "unnecessary hardship" exists when "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 and (B) the proposed use is a reasonable one." If this standard cannot be met, the "unnecessary hardship" criteria can still be satisfied "if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it." See RSA 674:33.

Stated simply, to satisfy the "unnecessary hardship" test, the ZBA must find that (1) there are special conditions on the property that distinguish from other properties in the area, (2) that, because of those special circumstances there is no fair and substantial relationship between the general public purposes of the ordinance provision and its application to the property, and (3) the proposed use is reasonable. None of these criteria can be satisfied here.

Here, there are no special conditions on the Nerbonne Property that distinguish it from other properties in the area. Lot sizes in the neighborhood range between .07 and .15 acres in size. The Nerbonnes' Property is .12 acres in size. The parcels in the neighborhood are, like the Nerbonne Property, improved with residential dwelling structures that comprise of much of the available lot area. Most parcels within the neighborhood are regularly shaped, and so is the Nerbonne Property. The Nerbonne Property is not impacted by significant steep slopes or wetlands. In short, there are no "special conditions" on the Property. For this reason alone, this application is incapable of satisfying the "unnecessary hardship" criteria.

Ms. Whitney, speaking for the Nerbonnes implied that the "special condition" of the property was the existing garage located in close proximity to the property line. However, this does not distinguish the Nerbonne Property from other properties in the neighborhood. A review of the Tax Map for the South End immediately reflects that the garage's proximity to the property line is not a distinguishing characteristic: numerous properties in the South End have garages and other outbuildings located in close proximity to the property line. The ZBA can review the Tax Map enclosed with this Request for Rehearing to confirm that the Nerbonne Property is not unique.

The Nerbonnes' proposal also cannot satisfy the "fair and substantial relationship" prong of the "unnecessary hardship" criteria because there is a fair and substantial relationship between the purposes of the Zoning Ordinance for which a variance is sought and its application to the Nerbonne Property. As reflected above, side setback requirements are intended to control density, ensure adequate access to air and light, ensure safe distances between dwellings, and preserve privacy. The extension of the garage within the side setback as part of the conversion of the garage to a so-called "garden cottage" implicates each of these purposes. The variance will adversely impact privacy, reduce access to air and light, will place another dwelling unit within close proximity to an existing dwelling unit, and increase the neighrbohood's density in excess of what the Ordinance expressly intended for the GRB Zone.

Similarly, impervious cover provisions exist to ensure that is adequate open and pervious space on a property to allow for adequate management of runoff and stormwater. The placement of additional impervious cover within the side setback is contrary to these purposes, as it will cause

additional stormwater to flow onto the Bulter/Quinn Property, which is already experiencing drainage-related difficulties, without adequate pervious space to allow for the infiltration of runoff.

Lastly, the proposed use, while for a laudable and understandable purpose is not reasonable considering the fact that numerous alternatives exist that the Nerbonnes could pursue that would not require variance relief.

For these reasons, the Nerbonnes cannot satisfy the primary "unnecessary hardship" definition. For similar reasons, the Nerbonnes cannot satisfy the alternative "unnecessary hardship" definition, particularly where the Nerbonne Property is presently capable of being used in conformity with the Zoning Ordinance. The ZBA should grant this Request for Rehearing and determine that the unnecessary hardship criteria has not been satisfied.

IV. CONCLUSION

The ZBA should grant this Request for Rehearing because the Nerbonnes application is incapable of satisfying the necessary criteria for a grant of a variance under RSA 674:33.

Ms.Quinn and Mr. Butler appreciate the ZBA's time and consideration in advance.

Very truly yours,

DONAHUE, TUCKER & CIANDELLA, PLLC

Eric A. Maher, Esq.
emaher@dtclawyers.com

EAM/lmh
Enclosures
cc: Devan Quinn
James Butler

South End - Density Around 189 Gates Street

Property Information

Property ID	0103-0018-0000
Location	180 GATES ST
Owner	ORLANDO FRED

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 3/9/2022
Data updated 3/9/2022

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

MAIL TO

Return to:
Dwyer, Donovan & Pendleton,
461 Middle Street
Portsmouth, NH 03801

STATE OF NEW HAMPSHIRE
DEPARTMENT OF REVENUE ADMINISTRATION
REAL ESTATE TRANSFER TAX
XX THOUSAND XX HUNDRED AND 40 DOLLARS
MO. DAY YR. 873592 AMOUNT
080609 $ 40.00
VOID IF ALTERED

BK 5040 PG 1906

C/H
L-CHIP
ROA044602

* of 199 Gates Street, Portsmouth, NH 03801

2009 AUG -6 PM 2:01

039644

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

EASEMENT DEED

NOW COMES, M. Judy Nerbonne, Trustee and G. Patrick Nerbonne, Trustee of the M. Judy Nerbonne Revocable Trust, hereafter the "Grantors" of 189 Gates Street, Portsmouth, Rockingham County, New Hampshire, do hereby grant unto Joseph A. Capobianco, Jr., as Trustee of the Joseph A. Capobianco, Jr. Revocable Trust, and Judith A. Capobianco, as Trustee of the Judith A. Capobianco Revocable Trust, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledge, the right and privilege to exclusive use of the limited portion of a parcel of land located at 189 Gates Street, Portsmouth, New Hampshire, Tax Map 103, Lot 6, the total lot being further described by deed recorded in the Rockingham County Registry of Deeds at Book 3107, Page 1856, executed on June 29, 1995. The easement area being further defined herein as follows:

A certain tract of land located northerly but not adjacent to Gates Street, Portsmouth, Rockingham County, New Hampshire, depicted as "Proposed Fence Easement in Favor of Tax Map 103 Lot 7" on a plan entitled "Standard Property Survey & Proposed Easement Plan for property at 199 Gates Street, Portsmouth, Rockingham County, New Hampshire owned by Joseph A. Capobianco, Jr. Revocable Trust & Judith A. Capobianco Revocable Trust ", prepared by North Easterly Surveying, Inc., dated June 10, 2004, last revised June 18, 2009, which will be recorded in the Rockingham County Registry of Deeds contemporaneously with this easement, as Plan No. D-36016 and being more particularly described as follows:

> Beginning at an iron rod at the northwesterly corner of land of said Capobianco Trust (Grantee), also being the northeasterly corner of land of the M. Judy Nerbonne Revocable Trust (Grantor); thence running S 08° 54' 46" W along land of said Grantee a distance of 45.37 feet to a point; thence running N 82° 07' 14" W through land of said Grantor a distance of 1.00 foot to a point; thence running N 07° 52' 46" E through land of said Grantor a distance of 45.53 feet to a point at land of the City of Portsmouth, Graves Burying Ground; thence running S 76° 59' 05" E along land of said City of Portsmouth a distance of 1.82 feet to the point of beginning, containing 64 square feet of land (hereinafter the "Proposed Fence Easement").

The purpose of the Proposed Fence Easement is to allow the Grantee exclusive use of the limited portion of the Grantors' lot for lawn, driveway or garden and to allow the Grantors and Grantees to jointly maintain, upgrade and replace the current wooden fence in its current location on that portion of the Proposed Fence Easement abutting the remainder of the Grantors Premises, with the understanding that the Grantee is contemporaneously granting an exclusive right to

Grantor by separate easement deed for the Grantor to have exclusive use of the area shown on the Plan and titled "Proposed Driveway Easement."

Meaning and intending to describe an easement over the within the described land of Grantor for the purposes described above for the benefit of the property of Grantee identified as Portsmouth Tax Map 103, Lot 7 as shown on the above referenced plan. Said Grantee property further described by deed recorded in the Rockingham County Registry of Deeds at Book 3107, Page 1856.

The easements, rights, and privileges granted by this instrument are perpetual and shall run with the land and are for the benefit of the within described Grantee.

The use of this easement shall be limited to the benefited property and may not be expanded.

IN WITNESS WHEREOF, M. Judy Nerbonne, Trustee and G. Patrick Nerbonne, Trustee of the M. Judy Nerbonne Revocable Trust, have caused this Easement Deed to be executed this 28th day of July, 2009.

M. Judy Nerbonne Revocable Trust

By: M. Judy Nerbonne
M. Judy Nerbonne

M. Judy Nerbonne Revocable Trust,

By: G. Patrick Nerbonne
G. Patrick Nerbonne

STATE OF NEW HAMPSHIRE
COUNTY OF Rockingham

On this the 28th day of July, 2009 before me, the undersigned officer, personally appeared M. Judy Nerbonne, who acknowledged himself to be the Trustee of the M. Judy Nerbonne Revocable Trust, and acknowledged that she, as such officer, being authorized so to do, executed the same on behalf of said Trust for the purposes therein contained.

Justice of the Peace/Notary Public
My commission expires:

JOHN T. PENDLETON
MY COMMISSION EXPIRES SEPT. 8, 2009
NOTARY PUBLIC
NEW HAMPSHIRE

STATE OF NEW HAMPSHIRE
COUNTY OF Rockingham

On this the 28th day of July, 2009 before me, the undersigned officer, personally appeared G. Patrick Nerbonne, who acknowledged himself to be the Trustee of M. Judy Nerbonne Revocable Trust, and acknowledged that he, as such officer, being authorized so to do, executed the same on behalf of said Trust for the purposes therein contained.

Justice of the Peace/Notary Public
My commission expires:

JOHN T. PENDLETON
MY COMMISSION EXPIRES SEPT. 8, 2009
NOTARY PUBLIC
NEW HAMPSHIRE

ANNE WHITNEY ARCHITECT

5/10/22

Zoning Board of Adjustment
City Of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801

Re: BOA Extension 138 Maplewood Ave.

Dear Commission,

I am writing on behalf of George & Donna Pantelakos to request a one year extension to the June 17th, 2020 BOA Approval for the Garage Renovation & Expansion at 138 Maplewood Ave.. Their Builder has projected a late fall 2022 or spring 2023 start.

Sincerely,

Anne Whitney
Architect

cc: George & Donna Pantelakos

9 Sheafe Street
Portsmouth
NH 03801
603.427.2832
archwhit@aol.com

FRANCIS X. BRUTON, III
CATHERINE A. BERUBE
JOSHUA P. LANZETTA

OF COUNSEL
JAMES H. SCHULTE

Bruton & Berube, PLLC

ATTORNEYS AT LAW

601 Central Avenue
Dover, NH 03820

TEL (603) 749-4529
(603) 743-6300
FAX (603) 343-2986

www.brutonlaw.com

May 6, 2022

VIA ELECTRONIC MAIL pmstith@cityofportsmouth.com
Peter Stith, AICP
Principal Planner
Planning Department
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: Application for Variance & Appeal of Administrative Decision
Owner/Applicant: One Market Square, LLC
Property: High Street and 1 Congress Street, Portsmouth, NH
Tax Map 117, Lot 15 and Tax Map 117, Lot 14
Zoning Districts: CD4 and CD5

Dear Mr. Stith:

The Applicant for Case LU-22-12, One Market Square, LLC, is schedule for a hearing before the ZBA on May 17th on its application for a variance. In addition, the Applicant is scheduled on the same day to be heard on its Appeal of Administrative Decision (Case LU-22-12).

As the Board members may recall, these matters have been continued on the agenda as the City Attorney had indicated that additional time was needed by that office in terms of its review of the status of Haven Court as a public or private way/street. The City Attorney and the Applicant are now in discussions regarding the matter. The status of Haven Court is relevant to both the variance request and the Appeal of Administrative decision.

In addition to the above, at the Planning Board workshop meeting on May 5th, zoning changes were introduced by the Planning Department staff. One of the changes presented would affect the lot subject to the above referenced requests for variance and Appeal of Administrative Decision. This change, if passed as presented, would likely make these applications moot. We understand from the presentation, and based upon Planning Board and City Council procedure, that the zoning changes may be approved by the City Council by July 11th.

In light of these recent developments, and as the Appeal of Administrative Decision cannot be withdrawn until the zoning changes are approved, the Applicant respectfully requests that these

matters be continued to the ZBA meeting of **July 19th**. Assuming the zoning changes are adopted as presented, it is likely that these two applications will then be withdrawn.

Please thank the Board for its consideration of the above.

Sincerely,

Francis X. Bruton, III, Esquire
E-mail: fx@brutonlaw.com

FXB/mas

cc: One Market Square, LLC
Ambit Engineering, Inc.
ARCove, LLC

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC
ATTORNEYS AT LAW

127 Parrott Avenue, P.O. Box 4480 | Portsmouth, NH, 03802-4480
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

March 29, 2022

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

Re: 635 Sagamore Development, LLC, Owner/Applicant
Project Location: 635 Sagamore Avenue
Tax Map 222, Lot 19
General Residence A (GRA Zone)

Dear Mr. Stith and Zoning Board Members:

On behalf of 635 Sagamore Development, LLC, applicant, enclosed please find the following documents in support of a request for zoning relief:

- Portsmouth Land Use Application uploaded to Viewpoint today.
- Owner Authorization.
- 3/29/22 Memorandum and exhibits in support of zoning relief.

Very truly yours,

R. Timothy Phoenix
Kevin Baum

KMB:pcb
Enclosures

cc 635 Sagamore Development, LLC
Jones & Beach Engineers, Inc.
Artform Architecture, Inc.

DANIEL C. HOEFLE
R. TIMOTHY PHOENIX
LAWRENCE B. GORMLEY
STEPHEN H. ROBERTS
R. PETER TAYLOR
KIMBERLY J.H. MEMMESHEIMER
KEVIN M. BAUM
GREGORY D. ROBBINS
MONICA F. KIESER
SAMUEL HARKINSON
JACOB J.B. MARVELLEY
DUNCAN A. EDGAR
AMANDA M. FREDERICK
OF COUNSEL:
SAMUEL R. REID
JOHN AHLGREN

MEMORANDUM

To: Portsmouth Zoning Board of Adjustment ("ZBA")
From: Kevin Baum, Esq.
R. Timothy Phoenix Esq.
Date: March 29, 2022
Re: 635 Sagamore Development, LLC, Owner/Applicant
Project location: 635 Sagamore Avenue
Tax Map 222, Lot 19
General Residence A (GRA) Zone

Dear Chairman Parrott and Zoning Board Members:

On behalf of 635 Sagamore Development, LLC ("Sagamore" or "Applicant") we are pleased to submit this memorandum and the attached exhibits in support of zoning relief to be considered by the ZBA at its April 19, 2022 meeting.

I. Exhibits

1. Plan Set – by Jones and Beach Engineers
    a. C1 – Existing Conditions Plan
    b. C2 – ZBA Site Plan
    c. C3 – Topographic Site Plan
2. Architectural Elevations and Floor Plans-by ArtForm Architecture, Inc.
    a. Sea Watch (Buildings 1-2)
    b. Sweet Peekaboo (Buildings 3-5)
3. Site photographs
4. Tax Assessors Card
5. City GIS Map – identifying nearby zoning districts and surrounding area

II. Property/Project

The subject property is located at 635 Sagamore Avenue (the "Property") in the GRA Zoning District. It is currently developed as the Luster King auto detailing shop, with an existing two story building towards the front of the lot and a service garage to the rear. **Exhibit 1.a.** The frontmost building also contains a residential apartment on the second floor, currently utilized by the former owner and operator of the Luster King business. The existing commercial buildings are non-conforming as to use, and with respect to primary commercial building, also non-conforming as to the front setback. Id. The buildings are generally in disrepair and incongruous with the surrounding residential area. **Exhibit 3.**

The Applicant proposes to remove the existing commercial building and garage and redevelop the Property with five new single-family homes with access via a private driveway from Sagamore Avenue. **Exhibit 1.b; Exhibit 2.** The proposal removes the long non-conforming commercial use and will create five new residences, consistent with the surrounding neighborhood. **Exhibit 3 (aerial photo); Exhibit 5.** Nearby properties include the 144 unit Sagamore Court Condominium to the north and the 122 unit Tidewatch Condominium, which directly abuts the Property to the west. Id. Other nearby abutters are largely developed with single family residences with similar density as the proposed project. The Property is currently served by septic, it is the Applicant's intention to tie into the municipal sewer system upon completion of the Sagamore Avenue Sewer Extension Project, as has been previously discussed with the Public Works Department.

The proposal meets all use and dimensional requirements of the Portsmouth Zoning Ordinance ("PZO") with the exception of Section 10.513 allowing no more than one free-standing dwelling per lot and Section 10.521 requiring a one acre lot area per dwelling unit. The proposal includes five dwelling units on a ±1.947 acre lot, or 2.57 units/acre (1 unit per 16,959 square feet). As noted, this density is consistent with surrounding lots, including the more densely developed Sagamore Court Condominium (144 units/15.01 acre = 9.59 units per acre) to the north and similarly dense Tidewatch Condominium (122 units/53.59 acre = 2.27 units per acre) directly to the west. Notably, the SRB Zone, located across Sagamore Avenue, permits a lot area of 15,000 square feet per dwelling unit or approximately 2.9 units per acre. The proposal at 16,959 square feet per unit is slightly less dense. Thus, in addition to cleaning up a long distressed and non-conforming site, the proposal creates a natural transition between the GRB Zone and existing multi-building condominium developments to the north and west (rear) of the Property. The Applicant has spoken with several abutters who are in favor of the proposed five unit development.

III. Relief Required

The proposed project meets setback, lot coverage and open space requirements. **Exhibit 1.b.** However, limited relief is required to allow the proposed structures on a single lot and for lot area per dwelling unit. Required relief is as follows:

- PZO§10.513 permitting one freestanding dwelling per lot, where five freestanding single-family units are proposed.

- PZO§10.521 (Table of Dimensional Standards) permitting one dwelling unit per acre, five dwelling units on ±1.947 acres or 2.57 dwelling units per acre is proposed.

IV. Variance Requirements

1. **The variance will not be contrary to the public interest**
2. **The spirit of the ordinances observed**

The first step in the ZBA's analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc v. Town of Chichester, 155 NH 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinances basic zoning objectives." Id. "Mere conflict with the ordinance is not enough." Id.

The Portsmouth Zoning Ordinance was enacted for the general purpose (PZO§10.121) of promoting the health, safety and welfare in accordance with the Master plan by regulating:

1. The use of land, buildings and structures for business, industrial, residential and other purposes- The Property currently houses a non-conforming commercial auto detailing business and service garage. **Exhibit 3**. The proposal would replace those buildings with brand new, to code, residences consistent with surrounding uses.

2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space- The proposal complies with building coverage, height, yards and open space requirements. The proposed five new dwellings on a single lot, at 2.57 dwelling units per acre is consistent with surrounding properties and less than the density permitted by right across Sagamore Avenue.

3. The design of facilities for vehicular access, circulation, parking and loading- The Project will be served by a private driveway from Sagamore Avenue. **Exhibit 1.b**. There is currently no defined curb cut on the property so the redevelopment will improve driveway distances, site lines and overall traffic safety from the Property. **Exhibit 3**. The driveway will undergo further review as part of the Planning Board and NHDOT review processes.

4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding- The Property is currently used as a commercial auto detailing facility in the middle of a residential area. *Id.* The proposal will convert the Property to residential use with lighting, noise and other conditions more appropriate for the neighborhood. Stormwater runoff will be improved over the current development which is significantly

paved and will discontinue the use of cleaning and other commercial chemicals on the site.

5. The preservation and enhancement of the visual environment- The removal of the distressed commercial structures and addition of five new tastefully designed homes will preserve/enhance the visual environment.

6. The preservation of historic districts buildings and structures of historic or architectural interest-The property is not in the historic district. The existing structures to be removed are of no known historic or architectural interest.

7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality- The Project will have no negative effect on these purposes. It will remove a commercial use, including associated cleaning solutions and other chemicals used onsite. The Project will be further vetted by the Planning Board.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinances basic zoning objectives." Malachy Glen, supra, the New Hampshire Supreme Court also held:

> One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality. Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (Emphasis Added)

The Property is located in a densely developed residential area. While there are some other nearby commercial properties, they are located closer to Sagamore Creek in the Waterfront Business Zone, are largely less impactful and are more buffered from nearby residences than the current business operations on the Property. The proposal would convert a long non-conforming commercial use that is grossly incongruent with the character of the locality and impacts the health, safety and welfare to residential use. The proposed new homes are consistent with the residential character of the neighborhood and the construction of five brand new, to code, residences will greatly improve the public health, safety and welfare over Luster King's existing commercial use. Sagamore Avenue can easily support the additional five dwelling units. The density is consistent with nearby properties, which include two large condominium developments and creates a natural transition between these developments and the adjoining GRB zone. Thus, permitting five code compliant, single-family buildings on ±1.947 acres does

not alter the essential character of the locality nor will it threaten the public health, safety or welfare.

3. Granting the variances will not diminish surrounding property values

The commercial buildings currently located on the Property are distressed, incongruent with the surrounding residential neighborhood and frankly an eyesore. The proposal would clean up the site by removing the commercial buildings/uses and replacing them with brand new tastefully designed residences. The proposal will improve the area significantly, thus greatly improving the overall value of surrounding properties.

4. Denial of the variances results in an unnecessary hardship

a. Special conditions distinguish the property/project from others in the area-

The Property at ±1.947 acre is larger than most lots in the area. **Exhibit 5.** Two notable exceptions are the Tidewatch and Sagamore Creek Condominiums, which are more or similarly dense with 122 and 144 units, respectively. Id.; see also Walker v. City of Manchester, 107 N.H. 382, 386 (1966) (hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect on the neighborhood). Additionally, the Property is non-conforming with respect to both its commercial use and front setback. The parcel size, location near other densely developed residential parcels and longstanding non-conformity of the current use combine to create special conditions.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

The purpose of the requirements for one free standing dwelling per lot and lot area per dwelling unit is to prohibit overcrowding, allow for air, light, and separation between neighbors, and to permit stormwater treatment. The proposal meets all lot area, building and open space coverage, height and external setback requirements. Additionally, the proposal provides for voluntary setbacks between each of the five new buildings of at least 20 feet, consistent with the side setback requirement for the district. Thus, adequate area for air, light, separation between neighbors and stormwater treatment is provided. The proposed density is also consistent with the surrounding area, which includes many smaller sized lots with homes located in relatively

close proximity. **Exhibit 5**. Moreover, granting the requested variances will significantly improve the Property and surrounding area by removing two blighted, non-conforming commercial structures and replacing them with five brand new, needed homes. The entire area will be upgraded, thus it follows that there is no reason to apply the strict requirements of the ordinance. This transitional location, located near and adjoining two densely development condominiums and across Sagamore Avenue from the GRB Zone is well suited for the proposed five building single-family development.

c. The proposed use is reasonable

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson,151 NH 747 (2005). The proposal is a residential use in a residential zone and thus is reasonable.

5. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." Malachy Glen, supra at 109.

"The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it*. Burrows v. City of Keene, 121 N.H. 590, 597 (1981) (emphasis added). Sagamore is constitutionally entitled to the use of the lot as it sees fit subject only to the effect of the development with respect to zoning. In this instance, granting approval not only protects the rights of the Owner/Applicant but renders the Property more conforming, to the benefit of the surrounding property owners as well.

Granting approval removes blighted buildings and non-conforming commercial use while adding needed residential housing within Portsmouth. Thus, there will be no gain to the public from denying the variances and no harm to the public by granting the variances. Conversely, denial of the variances cause great harm to Sagamore and its abutters by continuing the commercial use of the property. Accordingly, substantial justice dictates that the requested variances be granted.

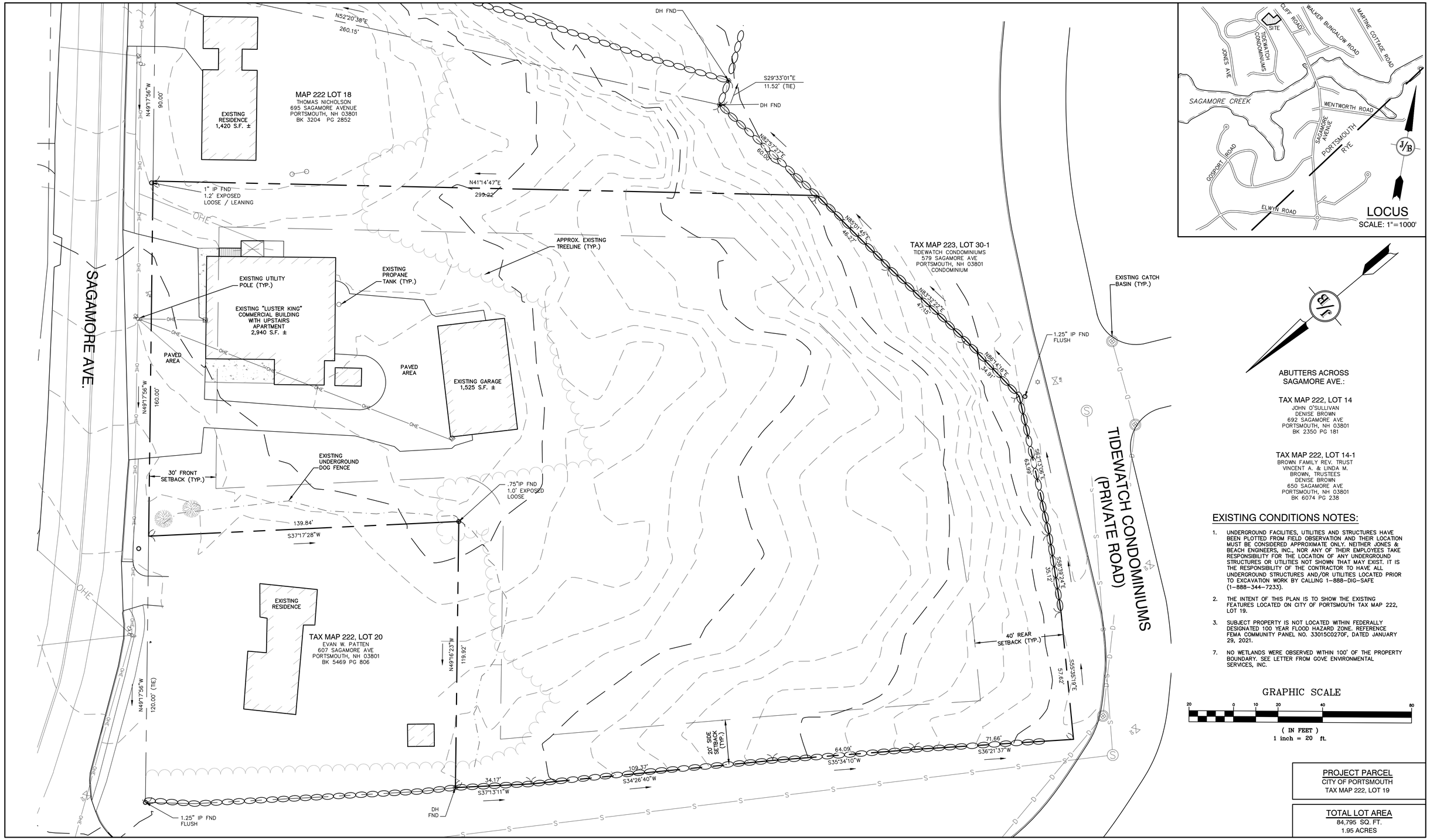
V. Conclusion

For all of the reasons herein stated, Sagamore respectfully requests that the Portsmouth Zoning of Adjustment grant the requested variances.

Respectfully submitted,
635 Sagamore Development, LLC

By: _____
Kevin Baum, Esq.
R. Timothy Phoenix, Esq.

EXHIBIT 1



ABUTTERS ACROSS SAGAMORE AVE.:

TAX MAP 222, LOT 14
JOHN O'SULLIVAN
DENISE BROWN
692 SAGAMORE AVE
PORTSMOUTH, NH 03801
BK 2350 PG 181

TAX MAP 222, LOT 14-1
BROWN FAMILY REV. TRUST
VINCENT A. & LINDA M.
BROWN, TRUSTEES
DENISE BROWN
650 SAGAMORE AVE
PORTSMOUTH, NH 03801
BK 6074 PG 238

EXISTING CONDITIONS NOTES:

1. UNDERGROUND FACILITIES, UTILITIES AND STRUCTURES HAVE BEEN PLOTTED FROM FIELD OBSERVATION AND THEIR LOCATION MUST BE CONSIDERED APPROXIMATE ONLY. NEITHER JONES & BEACH ENGINEERS, INC., NOR ANY OF THEIR EMPLOYEES TAKE RESPONSIBILITY FOR THE LOCATION OF ANY UNDERGROUND STRUCTURES OR UTILITIES NOT SHOWN THAT MAY EXIST. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO HAVE ALL UNDERGROUND STRUCTURES AND/OR UTILITIES LOCATED PRIOR TO EXCAVATION WORK BY CALLING 1-888-DIG-SAFE (1-888-344-7233).
2. THE INTENT OF THIS PLAN IS TO SHOW THE EXISTING FEATURES LOCATED ON CITY OF PORTSMOUTH TAX MAP 222, LOT 19.
3. SUBJECT PROPERTY IS NOT LOCATED WITHIN FEDERALLY DESIGNATED 100 YEAR FLOOD HAZARD ZONE. REFERENCE FEMA COMMUNITY PANEL NO. 33015C0270F, DATED JANUARY 29, 2021.
7. NO WETLANDS WERE OBSERVED WITHIN 100' OF THE PROPERTY BOUNDARY. SEE LETTER FROM GOVE ENVIRONMENTAL SERVICES, INC.

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

PROJECT PARCEL
CITY OF PORTSMOUTH
TAX MAP 222, LOT 19

TOTAL LOT AREA
84,795 SQ. FT.
1.95 ACRES

Design: JAC	Draft: DJM	Date: 12/07/2021
Checked: JAC	Scale: AS NOTED	Project No.: 18134.1
Drawing Name: 18134-CONCEPT-8.dwg		

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.

REV.	DATE	REVISION	BY
3	3/21/22	REVISED CONCEPTUAL LAYOUT	DJM
2	2/10/22	REVISED CONCEPTUAL LAYOUT	DJM
1	2/4/22	REVISED CONCEPTUAL LAYOUT	DJM
0	1/6/22	ISSUED FOR REVIEW	DJM

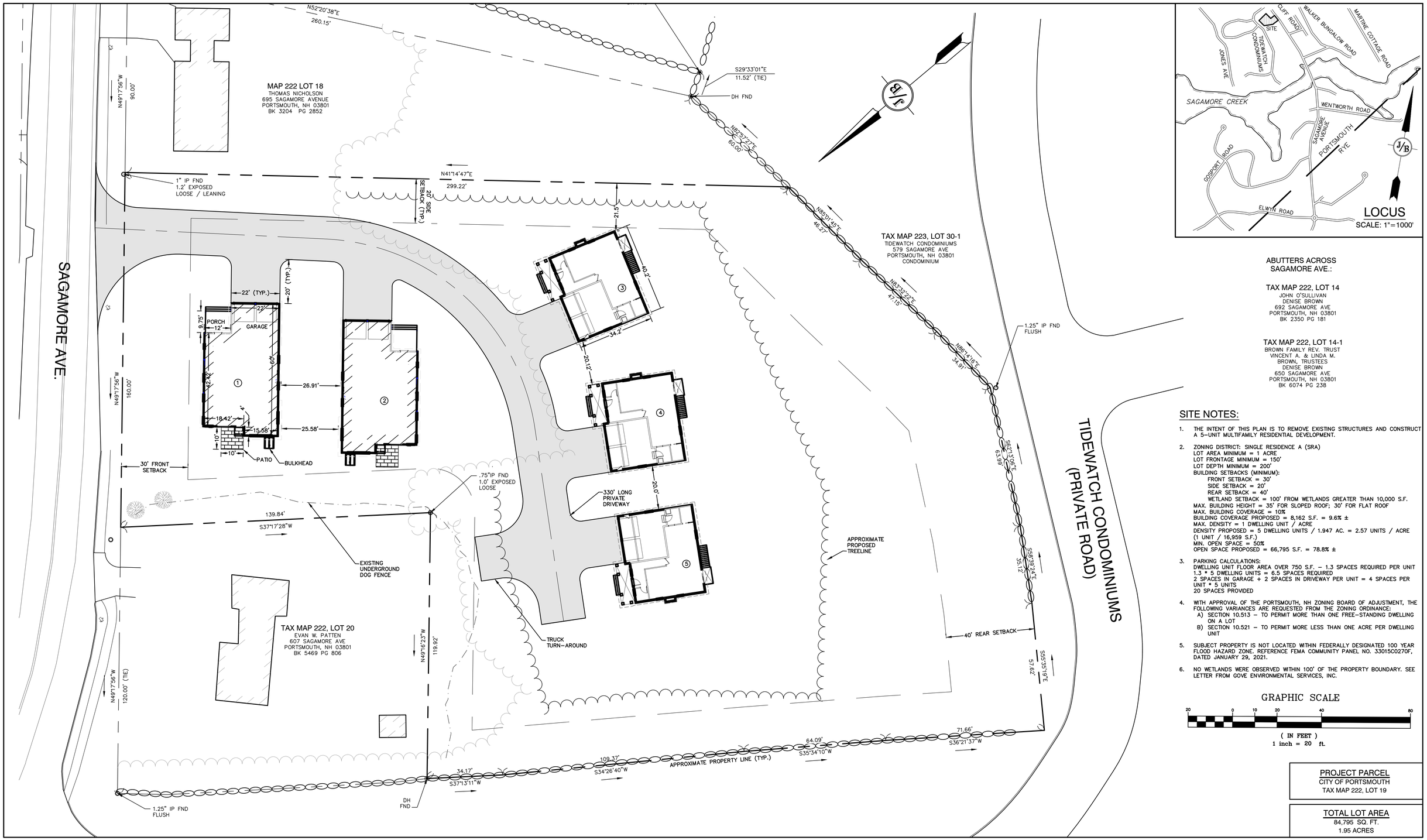
Designed and Produced in NH
Jones & Beach Engineers, Inc.
85 Portsmouth Ave.
PO Box 219
Stratham, NH 03885
Civil Engineering Services
603-772-4746
FAX: 603-772-0227
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name: EXISTING CONDITIONS PLAN

Project: 5-UNIT RESIDENTIAL SITE
635 SAGAMORE AVE., PORTSMOUTH, NH

Owner of Record: 635 SAGAMORE DEVELOPMENT, LLC
3612 LAFAYETTE RD., DEPT 4, PORTSMOUTH, NH 03801 BK 6332 PG 1158

DRAWING No.
C1
SHEET 1 OF 3
JBE PROJECT NO. 18134.1



ABUTTERS ACROSS SAGAMORE AVE.:

TAX MAP 222, LOT 14
JOHN O'SULLIVAN
DENISE BROWN
692 SAGAMORE AVE
PORTSMOUTH, NH 03801
BK 2350 PG 181

TAX MAP 222, LOT 14-1
BROWN FAMILY REV. TRUST
VINCENT A. & LINDA M.
BROWN, TRUSTEES
DENISE BROWN
650 SAGAMORE AVE
PORTSMOUTH, NH 03801
BK 6074 PG 238

SITE NOTES:

1. THE INTENT OF THIS PLAN IS TO REMOVE EXISTING STRUCTURES AND CONSTRUCT A 5-UNIT MULTIFAMILY RESIDENTIAL DEVELOPMENT.
2. ZONING DISTRICT: SINGLE RESIDENCE A (SRA)
   LOT AREA MINIMUM = 1 ACRE
   LOT FRONTAGE MINIMUM = 150'
   LOT DEPTH MINIMUM = 200'
   BUILDING SETBACKS (MINIMUM):
   FRONT SETBACK = 30'
   SIDE SETBACK = 20'
   REAR SETBACK = 40'
   WETLAND SETBACK = 100' FROM WETLANDS GREATER THAN 10,000 S.F.
   MAX. BUILDING HEIGHT = 35' FOR SLOPED ROOF; 30' FOR FLAT ROOF
   MAX. BUILDING COVERAGE = 10%
   BUILDING COVERAGE PROPOSED = 8,162 S.F. = 9.6% ±
   MAX. DENSITY = 1 DWELLING UNIT / ACRE
   DENSITY PROPOSED = 5 DWELLING UNITS / 1.947 AC. = 2.57 UNITS / ACRE
   (1 UNIT / 16,959 S.F.)
   MIN. OPEN SPACE = 50%
   OPEN SPACE PROPOSED = 66,795 S.F. = 78.8% ±
3. PARKING CALCULATIONS:
   DWELLING UNIT FLOOR AREA OVER 750 S.F. – 1.3 SPACES REQUIRED PER UNIT
   1.3 * 5 DWELLING UNITS = 6.5 SPACES REQUIRED
   2 SPACES IN GARAGE + 2 SPACES IN DRIVEWAY PER UNIT = 4 SPACES PER UNIT * 5 UNITS
   20 SPACES PROVIDED
4. WITH APPROVAL OF THE PORTSMOUTH, NH ZONING BOARD OF ADJUSTMENT, THE FOLLOWING VARIANCES ARE REQUESTED FROM THE ZONING ORDINANCE:
   A) SECTION 10.513 – TO PERMIT MORE THAN ONE FREE-STANDING DWELLING ON A LOT
   B) SECTION 10.521 – TO PERMIT MORE LESS THAN ONE ACRE PER DWELLING UNIT
5. SUBJECT PROPERTY IS NOT LOCATED WITHIN FEDERALLY DESIGNATED 100 YEAR FLOOD HAZARD ZONE. REFERENCE FEMA COMMUNITY PANEL NO. 33015C0270F, DATED JANUARY 29, 2021.
6. NO WETLANDS WERE OBSERVED WITHIN 100' OF THE PROPERTY BOUNDARY. SEE LETTER FROM GOVE ENVIRONMENTAL SERVICES, INC.

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

PROJECT PARCEL
CITY OF PORTSMOUTH
TAX MAP 222, LOT 19

TOTAL LOT AREA
84,795 SQ. FT.
1.95 ACRES

Design: JAC	Draft: DJM	Date: 12/07/2021	
Checked: JAC	Scale: AS NOTED	Project No.: 18134.1	
Drawing Name: 18134-CONCEPT-8.dwg			

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.

REV.	DATE	REVISION	BY
3	3/21/22	REVISED CONCEPTUAL LAYOUT	DJM
2	2/10/22	REVISED CONCEPTUAL LAYOUT	DJM
1	2/4/22	REVISED CONCEPTUAL LAYOUT	DJM
0	1/6/22	ISSUED FOR REVIEW	DJM

Designed and Produced in NH
Jones & Beach Engineers, Inc.
85 Portsmouth Ave.
PO Box 219
Stratham, NH 03885
Civil Engineering Services
603-772-4746
FAX: 603-772-0227
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	ZBA SITE PLAN
Project:	5-UNIT RESIDENTIAL SITE 635 SAGAMORE AVE., PORTSMOUTH, NH
Owner of Record:	635 SAGAMORE DEVELOPMENT, LLC 3612 LAFAYETTE RD., DEPT 4, PORTSMOUTH, NH 03801 BK 6332 PG 1158

DRAWING No.
C2
SHEET 2 OF 3
JBE PROJECT NO. 18134.1

PROJECT PARCEL
CITY OF PORTSMOUTH
TAX MAP 222, LOT 19

TOTAL LOT AREA
84,795 SQ. FT.
1.95 ACRES

Design: JAC	Draft: DJM	Date: 12/07/2021	
Checked: JAC	Scale: AS NOTED	Project No.: 18134.1	
Drawing Name: 18134-CONCEPT-8.dwg			

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REV.	DATE	REVISION	BY
3	3/21/22	REVISED CONCEPTUAL LAYOUT	DJM
2	2/10/22	REVISED CONCEPTUAL LAYOUT	DJM
1	2/4/22	REVISED CONCEPTUAL LAYOUT	DJM
0	1/6/22	ISSUED FOR REVIEW	DJM

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PO Box 219
Stratham, NH 03885
Civil Engineering Services
603-772-4746
FAX: 603-772-0227
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	ZBA TOPOGRAPHIC SITE PLAN
Project:	5-UNIT RESIDENTIAL SITE 635 SAGAMORE AVE., PORTSMOUTH, NH
Owner of Record:	635 SAGAMORE DEVELOPMENT, LLC 3612 LAFAYETTE RD., DEPT 4, PORTSMOUTH, NH 03801 BK 6332 PG 1158

DRAWING No.
C3
SHEET 3 OF 3
JBE PROJECT NO. 18134.1

1/27/2022

Sea Watch

419.126.v14 GL (1/27/2022)

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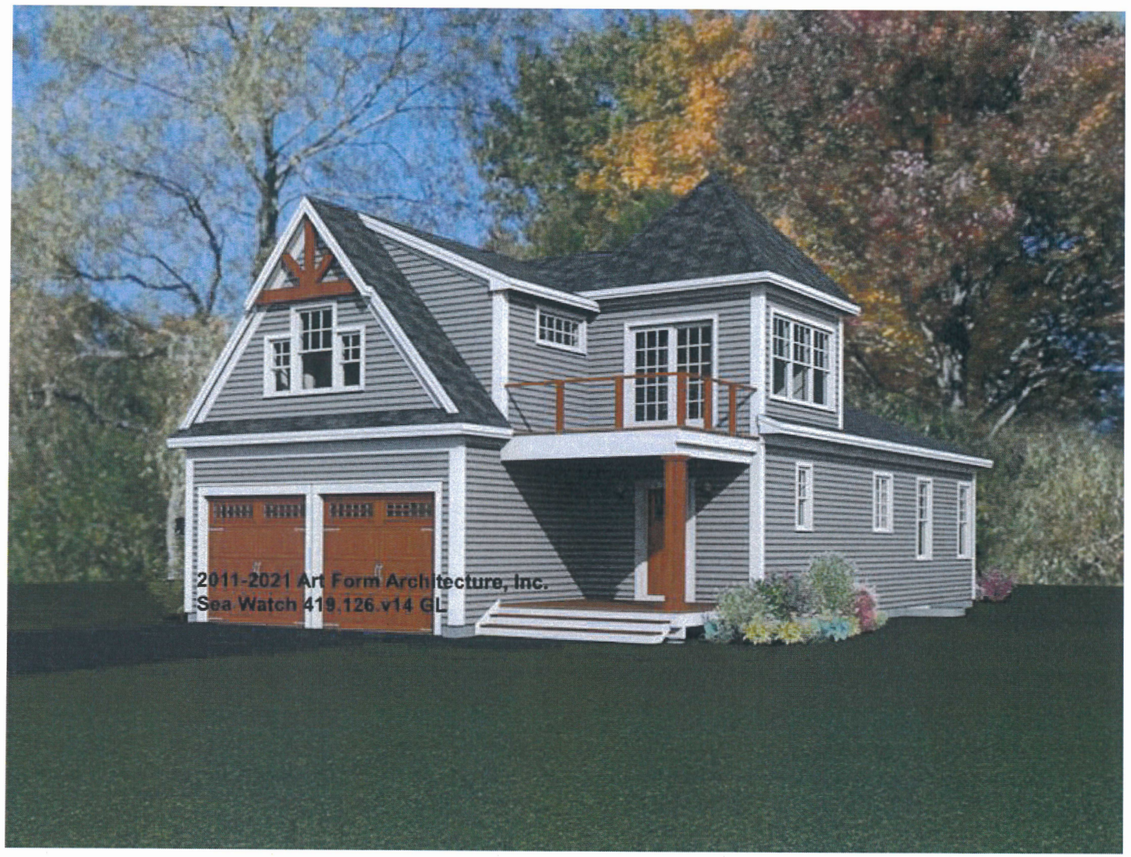
Artform Home Plans
603-431-9559



Dear Builders and Home Buyers,

In addition to our Terms and Conditions (the "Terms"), please be aware of the following:

This design may not yet have Construction Drawings (as defined in the Terms), and is, therefore, only available as a Design Drawing (as defined in the Terms and together with Construction Drawings, "Drawings'). It is possible that during the conversion of a Design Drawing to a final Construction Drawing, changes may be necessary including, but not limited to, dimensional changes. Please see Plan Data Explained on www.ArtformHomePlans.com to understand room sizes, dimensions and other data provided. We are not responsible for typographical errors.

Artform Home Plans ("Artform") requires that our Drawings be built substantially as designed. Artform will not be obligated by or liable for use of this design with markups as part of any builder agreement. While we attempt to accommodate where possible and reasonable, and where the changes do not denigrate our design, any and all changes to Drawings must be approved in writing by Artform. It is recommended that you have your Drawing updated by Artform prior to attaching any Drawing to any builder agreement. Artform shall not be responsible for the misuse of or unauthorized alterations to any of its Drawings.

Facade Changes:

- To maintain design integrity, we pay particular attention to features on the front facade, including but not limited to door surrounds, window casings, finished porch column sizes, and roof friezes. While we may allow builders to add their own flare to aesthetic elements, we don't allow our designs to be stripped of critical details. Any such alterations require the express written consent of Artform.
- Increasing ceiling heights usually requires adjustments to window sizes and other exterior elements.

Floor plan layout and/or Structural Changes:

- Structural changes always require the express written consent of Artform
- If you wish to move or remove walls or structural elements (such as removal of posts, increases in house size, ceiling height changes, addition of dormers, etc), please do not assume it can be done without other additional changes (even if the builder or lumber yard says you can).

1/27/2022

Sea Watch

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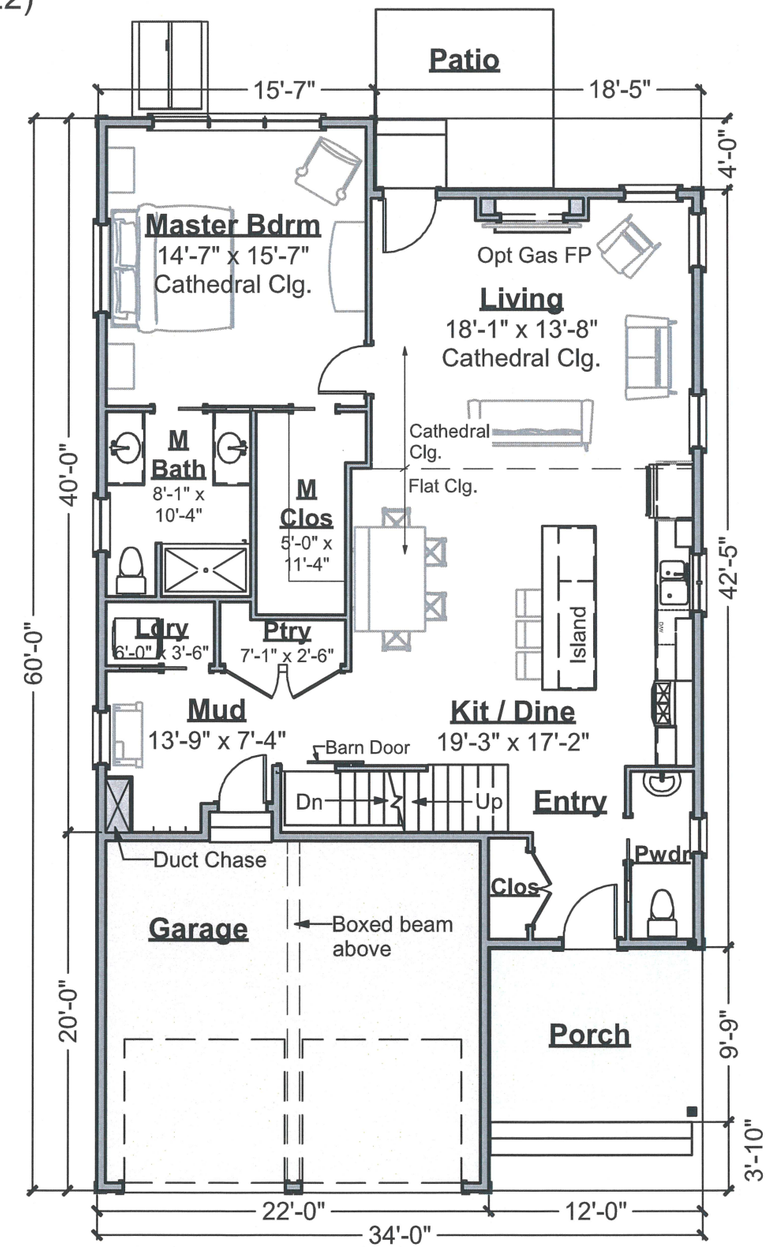

Living Area This Floor: 1370 sq ft

9 ft Ceilings, unless noted otherwise

First Floor Plan

Scale: 3/32" = 1'-0"

1/27/2022

Sea Watch

419.126.v14 GL (1/27/2022)

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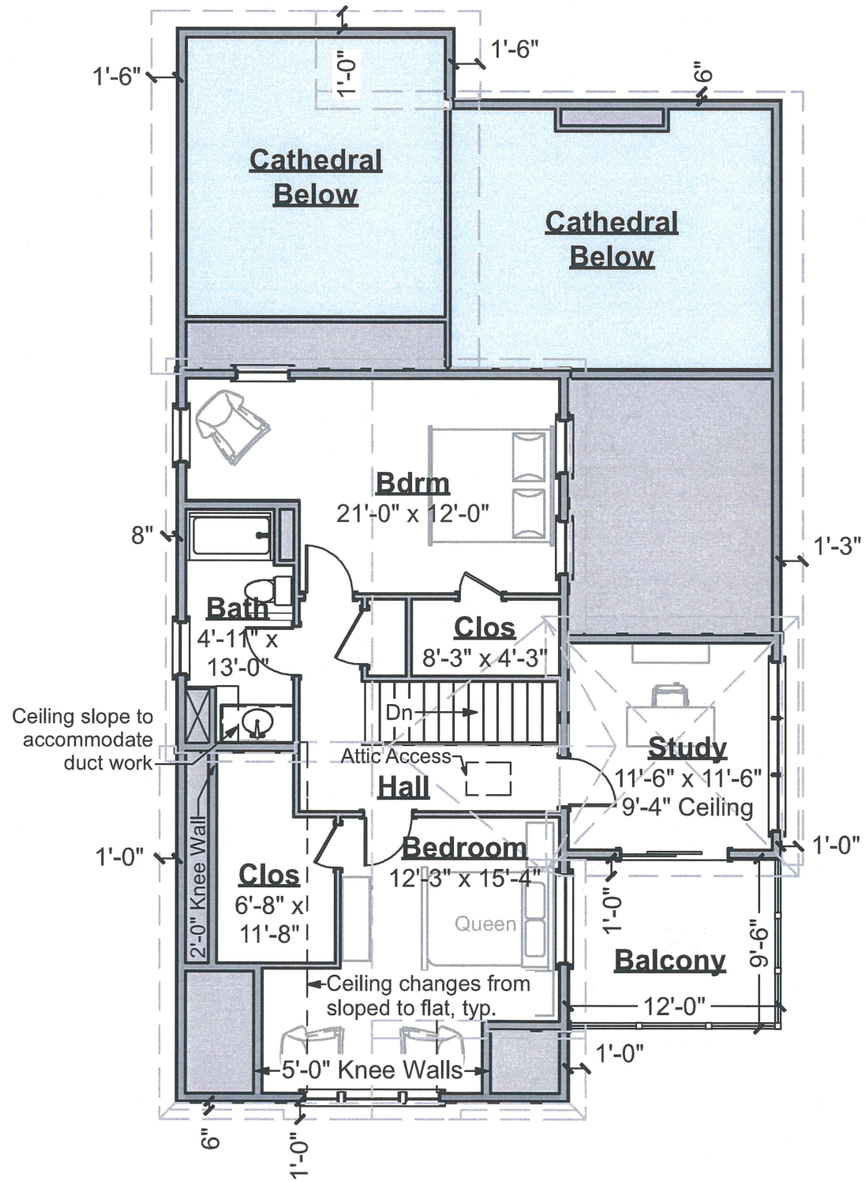
Artform Home Plans
603-431-9559

Living Area This Floor: 979 sq ft

8 ft Ceilings, unless noted otherwise



Second Floor Plan

Scale: 3/32" = 1'-0"

1/27/2022

Sea Watch

419.126.v14 GL (1/27/2022)

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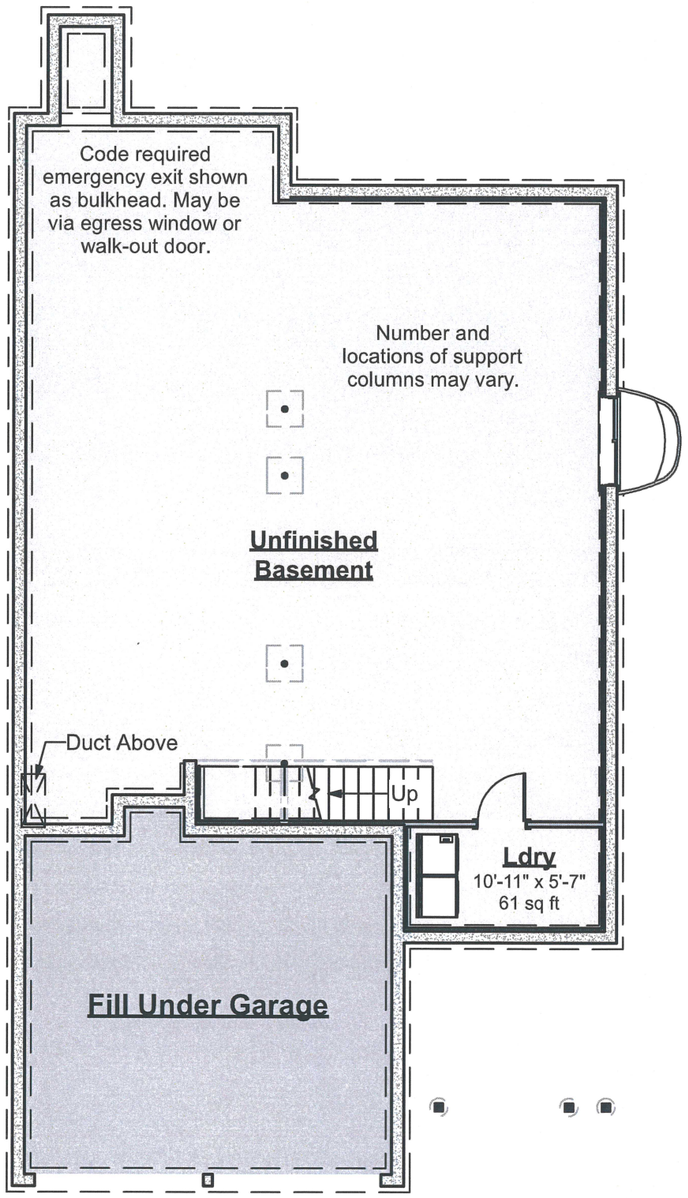

Foundation Plan

Scale: 3/32" = 1'-0"

1/27/2022

Sea Watch

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Artform Home Plans
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Front Elevation

Scale: 1/8" = 1'-0"

1/27/2022

Sea Watch

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Artform Home Plans
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Right Elevation

Scale: 1/8" = 1'-0"

1/27/2022

Sea Watch

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Rear Elevation

Scale: 1/8" = 1'-0"

1/27/2022

Sea Watch

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Artform Home Plans
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Left Elevation

Scale: 1/8" = 1'-0"

1/27/2022

Sea Watch

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Artform Home Plans
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Interior Views

3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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Artform Home Plans

603-431-9559

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3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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3/4/2022

Sweet Peekaboo

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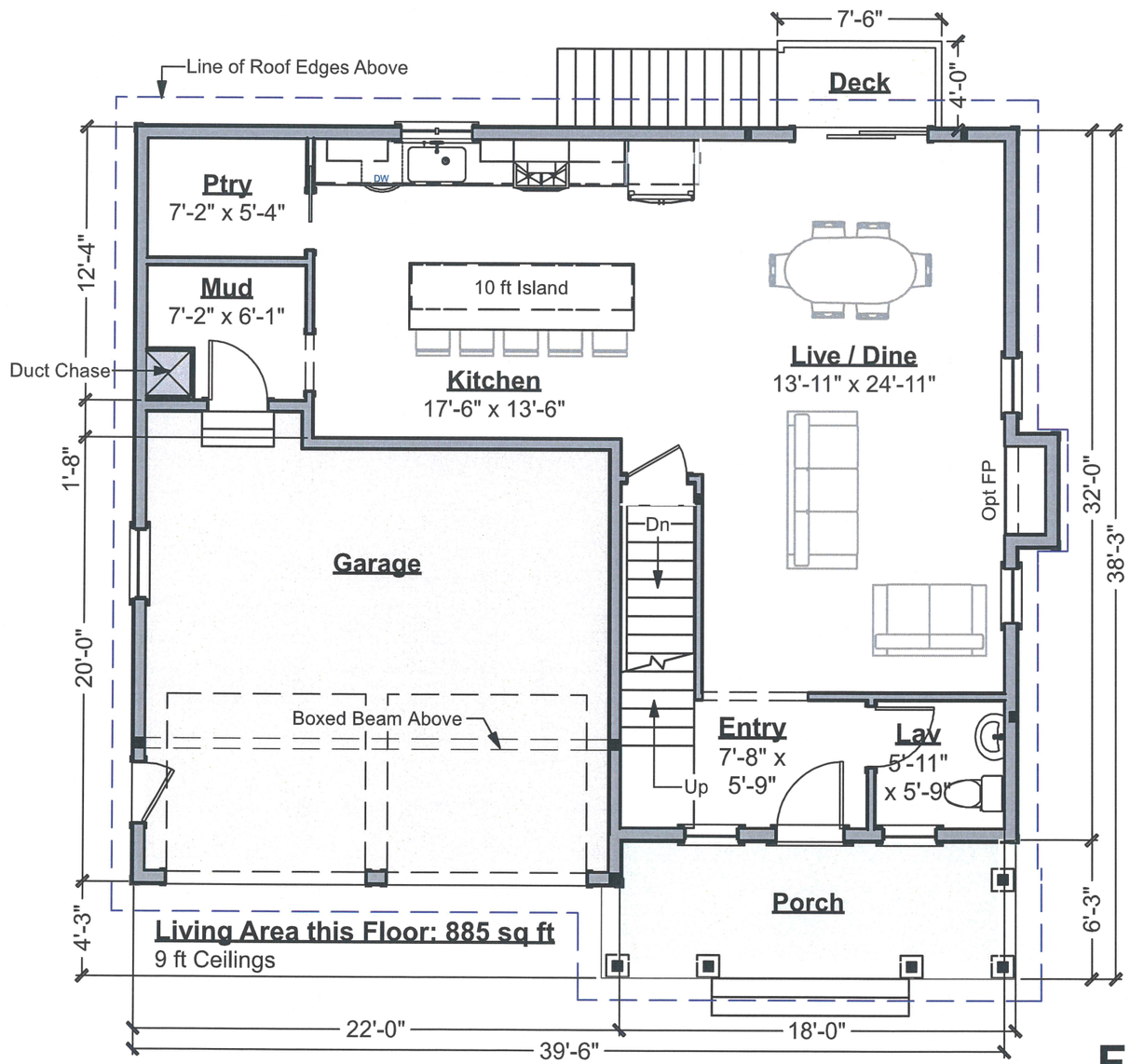

First Floor Plan

Scale: 1/8" = 1'-0"

3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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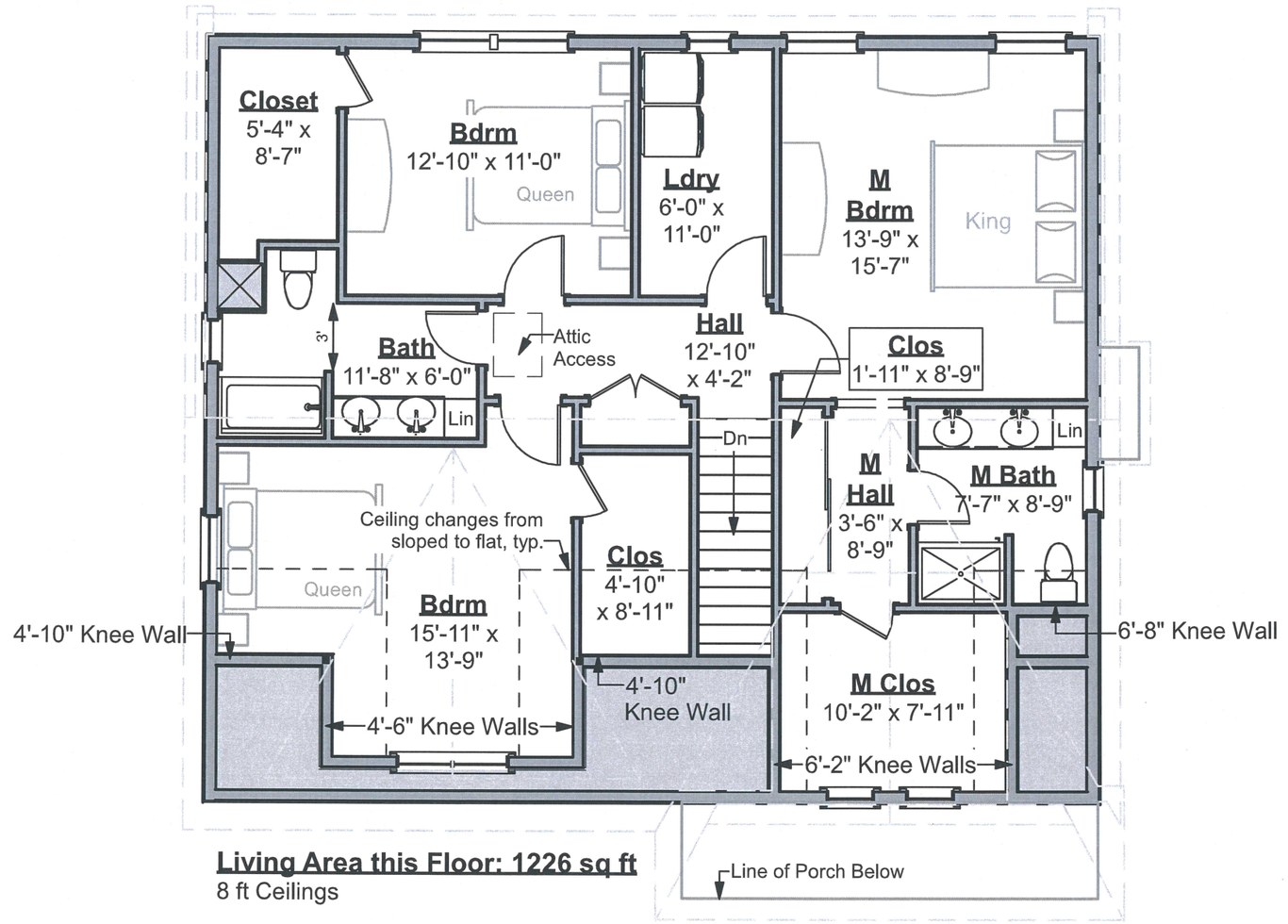
Artform Home Plans
603-431-9559



Living Area this Floor: 1226 sq ft
8 ft Ceilings

Second Floor Plan

Scale: 1/8" = 1'-0"

3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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Artform Home Plans
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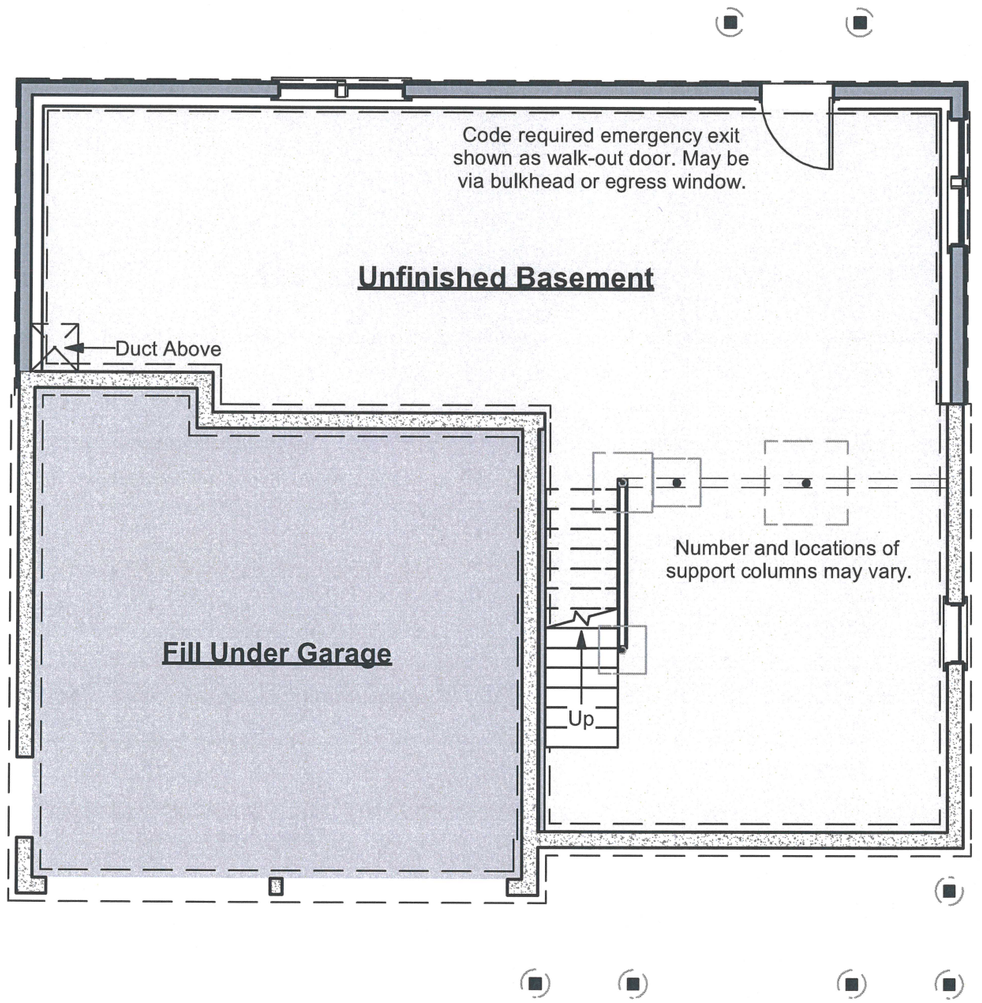

Foundation Plan

Scale: 1/8" = 1'-0"

3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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Artform Home Plans
603-431-9559

Front Elevation

Scale: 1/8" = 1'-0"

3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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Artform Home Plans
603-431-9559

Right Elevation

Scale: 1/8" = 1'-0"

3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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Artform Home Plans
603-431-9559

Rear Elevation

Scale: 1/8" = 1'-0"

3/4/2022

Sweet Peekaboo

418.124.v13 GL (3/4/2022)

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Artform Home Plans
603-431-9559

Left Elevation

Scale: 1/8" = 1'-0"

Aerial view of Property

Front View of Property (Sagamore Ave)

EXHIBIT 3

Front View of Property

EXHIBIT 3

Front View of Property

EXHIBIT 3

Side View of Property

EXHIBIT 3

View of Service Garage and Shed

EXHIBIT 3

Rear View of Property

Exhibit 4

635 SAGAMORE AVE

Location	635 SAGAMORE AVE	**Mblu**	0222/ 0019/ 0000/ /
Acct#	35416	**Owner**	635 SAGAMORE DEVELOPMENT LLC
PBN		**Assessment**	$682,800
Appraisal	$682,800	**PID**	35416
Building Count	2		

Current Value

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2020	$407,600	$275,200	$682,800
Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2020	$407,600	$275,200	$682,800

Owner of Record

Owner	635 SAGAMORE DEVELOPMENT LLC	**Sale Price**	$387,133
Co-Owner		**Certificate**	
Address	3612 LAFAYETTE RD DEPT 4 PORTSMOUTH, NH 03801	**Book & Page**	6332/1158
		Sale Date	09/24/2021

Ownership History

Ownership History				
Owner	**Sale Price**	**Certificate**	**Book & Page**	**Sale Date**
635 SAGAMORE DEVELOPMENT LLC	$387,133		6332/1158	09/24/2021
HINES FAMILY REVO TRUST	$0		4885/1538	02/11/2008

Building Information

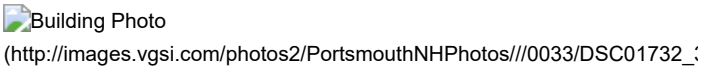
Building 1 : Section 1

Year Built:	1950
Living Area:	4,477

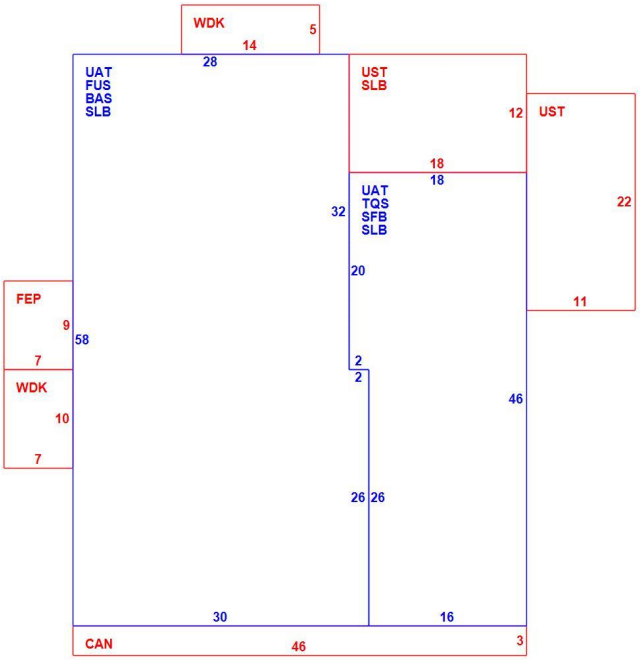
Replacement Cost: $513,721
Building Percent Good: 54
Replacement Cost Less Depreciation: $277,400

Building Attributes	
Field	**Description**
Style:	Retail/Apartment
Model	Commercial
Grade	C
Stories:	2
Occupancy	3.00
Residential Units	
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	Pre-Fab Wood
Roof Structure	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Floor 1	Inlaid Sht Gds
Interior Floor 2	Carpet
Heating Fuel	Oil
Heating Type	Hot Water
AC Type	Unit/AC
Bldg Use	PRI COMM
Total Rooms	
Total Bedrms	
Total Baths	
Kitchen Grd	
Heat/AC	NONE
Frame Type	WOOD FRAME
Baths/Plumbing	AVERAGE
Ceiling/Wall	CEIL & WALLS
Rooms/Prtns	AVERAGE
Wall Height	10.00
% Comn Wall	
1st Floor Use:	
Class	

Building Photo



Building Layout



(ParcelSketch.ashx?pid=35416&bid=35416)

Building Sub-Areas (sq ft)			Legend
Code	**Description**	**Gross Area**	**Living Area**
BAS	First Floor	1,676	1,676
FUS	Upper Story, Finished	1,676	1,676
TQS	Three Quarter Story	776	582
SFB	Base, Semi-Finished	776	543
CAN	Canopy	138	0
FEP	Porch, Enclosed	63	0
SLB	Slab	2,668	0
UAT	Attic	2,452	0
UST	Utility, Storage, Unfinished	458	0
WDK	Deck, Wood	140	0
		10,823	4,477

Building 2 : Section 1

Year Built: 2000
Living Area: 1,650
Replacement Cost: $153,450

Building Percent Good: 84

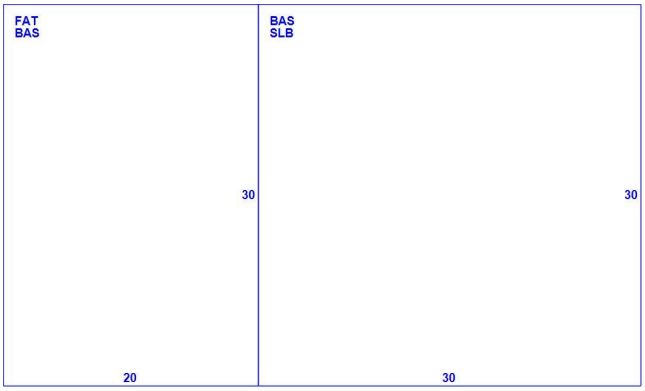
Replacement Cost Less Depreciation: $128,900

Building Attributes : Bldg 2 of 2	
Field	**Description**
Style:	Service Shop
Model	Commercial
Grade	C
Stories:	1
Occupancy	1.00
Residential Units	
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Floor 1	Concr-Finished
Interior Floor 2	Carpet
Heating Fuel	Oil
Heating Type	Hot Water
AC Type	None
Bldg Use	AUTO S S&S
Total Rooms	
Total Bedrms	
Total Baths	
Kitchen Grd	
Heat/AC	NONE
Frame Type	WOOD FRAME
Baths/Plumbing	AVERAGE
Ceiling/Wall	CEIL & WALLS
Rooms/Prtns	AVERAGE
Wall Height	12.00
% Comn Wall	
1st Floor Use:	
Class	

Building Photo

Building Photo
(http://images.vgsi.com/photos2/PortsmouthNHPhotos///0033/DSC01731_

Building Layout



(ParcelSketch.ashx?pid=35416&bid=40140)

Building Sub-Areas (sq ft)			Legend
Code	**Description**	**Gross Area**	**Living Area**
BAS	First Floor	1,500	1,500
FAT	Attic	600	150
SLB	Slab	900	0
		3,000	1,650

Extra Features

Extra Features	Legend

No Data for Extra Features

Land

Land Use

Use Code	0310
Description	PRI COMM
Zone	SRA
Neighborhood	306
Alt Land Appr	No
Category	

Land Line Valuation

Size (Acres)	1.93
Frontage	
Depth	
Assessed Value	$275,200
Appraised Value	$275,200

Outbuildings

Outbuildings						Legend
Code	**Description**	**Sub Code**	**Sub Description**	**Size**	**Value**	**Bldg #**
PAV1	PAVING-ASPHALT			1344.00 S.F.	$1,200	1
SHD1	SHED FRAME			96.00 S.F.	$100	1

Valuation History

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2020	$418,400	$275,200	$693,600
2019	$418,400	$275,200	$693,600
2018	$391,100	$254,800	$645,900

Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2020	$418,400	$275,200	$693,600
2019	$418,400	$275,200	$693,600
2018	$391,100	$254,800	$645,900

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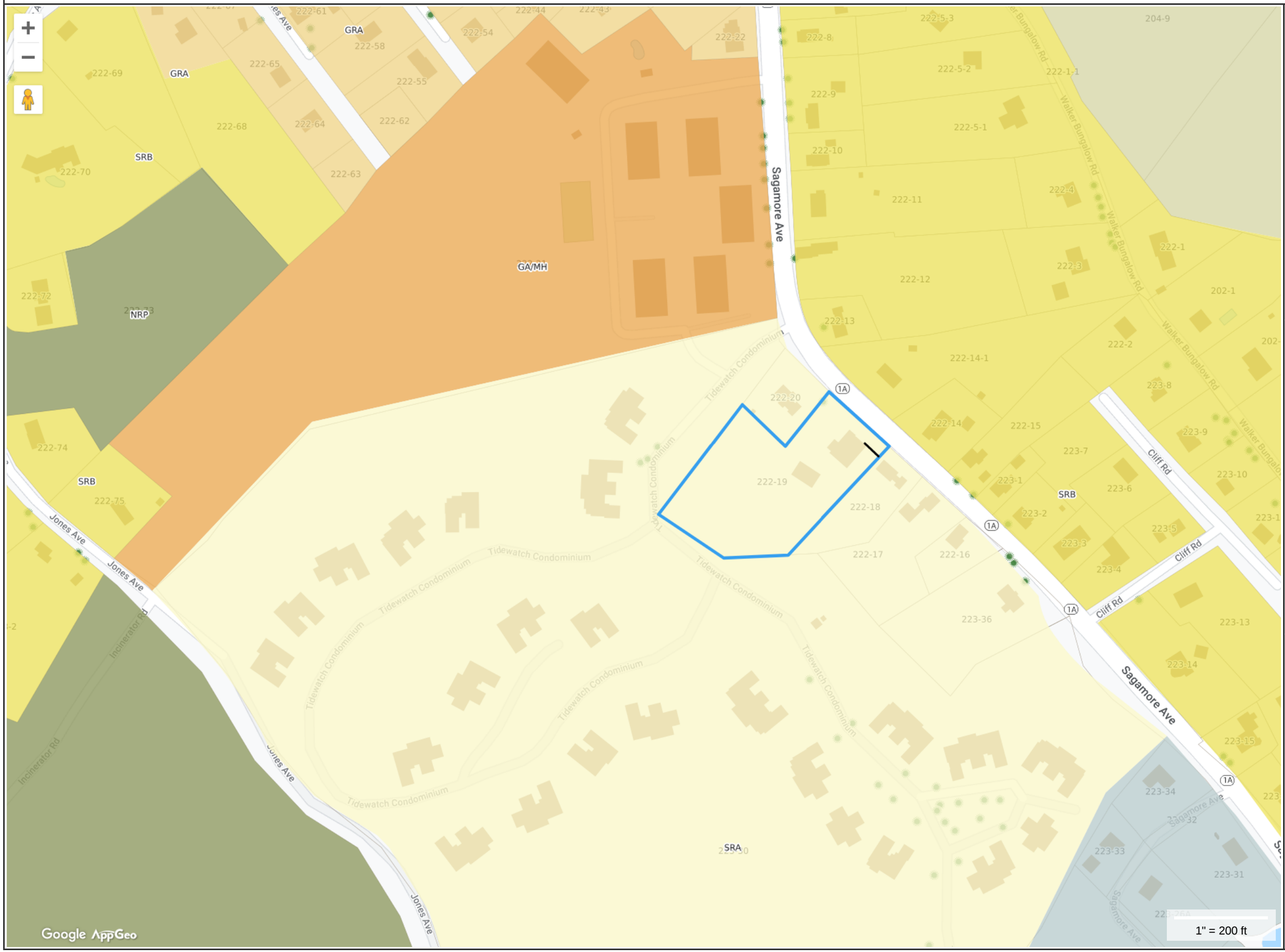
635 Sagamore Avenue



Property Information

Property ID	0222-0019-0000
Location	635 SAGAMORE AVE
Owner	635 SAGAMORE DEVELOPMENT 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 3/9/2022
Data updated 3/9/2022

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

Exhibit 5

Map Theme Legends

Zoning

City of Portsmouth

BOSEN & ASSOCIATES, P.L.L.C.

ATTORNEYS AT LAW

John K. Bosen
Admitted in NH & MA

Christopher P. Mulligan
Admitted in NH & ME

Molly C. Ferrara
Admitted in NH & ME

Austin Mikolaities
Admitted in NH

Bernard W. Pelech
1949 - 2021

May 11, 2022

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

RE: 77 Meredith Way; Map 162, Lot 16
LU - 22 - 61
WITHDRAWAL

Dear Mr. Parrott:

Please accept this correspondence as our withdrawal, without prejudice, of the above-referenced variance application presently scheduled for the Board's May 17, 2022 meeting.

Thank you for your attention. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Christopher P. Mulligan

CPM/

cc: Jeff and Randi Collins
TFMoran, Inc.

CITY OF PORTSMOUTH

ZONING BOARD OF ADJUSTMENT

64 VAUGHAN STREET, PORTSMOUTH, NEW HAMPSHIRE

Tax Map 126 Lot 1

NOVOCURE, INC.

APPLICANT'S NARRATIVE

THE APPLICANT

The Applicant, Novocure Inc., acquired the property at 64 Vaughan Street, formerly the home of Cabot Furniture, in December, 2021. Novocure is a global oncology company focused on treating some of the most aggressive cancers. Novocure has begun renovations of the historic property to house its North American Flagship operations. Novocure intends to occupy the entire building which will be used for executive offices and a training and development center where doctors and other health care professionals will be introduced to Novocure's products and technologies. Novocure expects 200 to 250 employees to be based at this facility.

THE PROPERTY

The lot is irregularly shaped, with approximately 75' of frontage on the pedestrian Vaughan Mall and 68' of frontage on Hanover Street and it abuts the rear alley connecting Hanover Street to the Worth Parking Lot. The existing structure dominates the site and is built up to or very close to the lot lines on Vaughan Mall and the Worth Lot. The property was previously approved for a mixed-use renovation including the addition of approximately 2,480 square feet of building footprint in 2021. The building addition brings the structure forward to approximately 5 feet from its Hanover Street frontage. The exterior design has been fully approved by the Historic District Commission.

Built in the late 19th century as a 3-story brick and heavy timber structure with a flat roof and full basement, the main building was originally owned and occupied by the Margeson Bros. Furniture Co. Early in the 20th century, the building was more than doubled in size with an addition constructed of essentially the same materials and form on the Worth Lot side. A single story "modern" block addition with a shed roof was added mid-century toward the rear facing Hanover Street which was used as a loading dock for shipping and receiving. In 1993, artist Robert Wyland received the owner's permission to install a mural on the side of the building facing the Worth Lot, which became a landmark of sorts referred to as the "Whaling Wall." Unfortunately, through inappropriate preparation and application of paints, over time the mural has significantly degraded along with the facade of the building.

The previously approved redevelopment of the property ameliorates several adverse conditions on the site. Substandard utility and mechanical systems including water, sewer, drainage, HVAC and fire protection all will be upgraded to meet modern standards. Pedestrian connectivity around the building to Vaughan Mall from Maplewood Avenue, Hanover Street or the rest of downtown to the West, South and East will be enhanced via improvements to the building façade and to the Worth Lot. Underground parking will be constructed, where none exists and none is required for this office use in the Downtown Overlay District.[1] The redevelopment revives and restores this historic structure and integrates it into the surrounding community. As noted, the design was enthusiastically approved by the Historic District Commission.

THE PROPOSED PROJECT

Novocure's acquisition of the property and it's intended use changes the mixed-use aspect of the development as now no residential, retail or restaurants will be incorporated into the site. The intended use will be professional office, which use is permitted by right. The building will host a daily influx of professionals that may at times exceed 300 people, including employees and visitors. Given Novocure's unique mission and its intention to convene visiting medical professionals, scientists and other partners for training, seminars and conferences, it desires to construct dedicated assembly space to accommodate such use. The convening space will not be dedicated to any type of permanent office space for Novocure employees. The convening space will provide employees and guests access to outdoor space where there is no other such space available on or near the property.

The existing flat rubber membrane roof on top the main, historic structure is the logical location to locate such a convening space with outdoor access. Accordingly, we are proposing to add an additional 11 feet, 6 ¼" of height to that portion of the building to accommodate the recessed, semi-transparent penthouse shown on the submitted plans. The penthouse will provide approximately 2,500 square feet of functional space, along with an outdoor patio and seating also shown on the plans. The proposed structure is designed to shield the necessary rooftop mechanical units.

It should be noted that, even with the additional proposed height, the building will be shorter than many of its recently renovated or constructed neighbors. The buildings across Hanover Street are 5-6 stories and 45'-70' tall. The neighboring mixed-use building at 25 Maplewood has a tower, skylight and mechanical appurtenances all of which are higher than what is proposed. Jimmy's Jazz Club across the Worth Lot is higher. Rooftop appurtenances on the building itself are permitted to a height of ten feet. Accordingly, the massing and scale of the proposed addition will not be out of place and will not in any manner dominate its surroundings. In fact, due to the siting of the proposed addition recessed from the building's edge, there are few ground-level locations where it will be visible at all. In any event, the project, if approved by this Board, will also require approval from the HDC.

[1] Please note that the site plan submitted herewith represents the plan previously approved by the Planning Board for a mixed-use development. The final amount of underground parking to be provided with this project has yet to be determined. No off street parking at all is required for this use. 10.1115.21.

In addition to the Historic District, the property is in the CD-5 zone and the Downtown Overlay District.

The project as proposed requires a variance from Section 10.5A43.30 and Map 10.5A21.B to permit the following:

> - building height of 54' at the peak, 51' 6 1/8" to midpoint where 40 feet plus 2 feet for penthouse level is the maximum allowed.

Due to the unique shape of the lot and building, at the edge of the chamfered parapet the exterior face of the penthouse is 9'-9 3/4" from the parapet edge of the roof, thus a variance from section 10.1530 is also required, to permit a penthouse with a setback from the roof edge of 9'-9 3/4" where 15 feet is required.

VARIANCE CRITERIA

The Applicant believes that this project meets the criteria necessary for granting the requested variances.

Granting the requested variances will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The "public interest" and "spirit and intent" requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

In this case, were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. The property is a very visible "cornerstone" of downtown where similar heights are not uncommon. The health, safety and welfare of the public will not be negatively impacted in any fashion, as the introduction of the proposed penthouse will eliminate the existing, environmentally deleterious flat, membrane roof and replace it with activated space that will allow Novocure's employees and guests an outdoor space in which to congregate, each lunch, etc.

The essentially urban character of the neighborhood will not be altered in any fashion by this project, nor will the health, safety or welfare of the public be threatened by granting the relief requested, as what is proposed is entirely consistent with the mass and scale of neighboring buildings. The project must obtain further approval from the HDC so the interest of the public will be more than adequately protected.

Substantial justice would be done by granting the variances. Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the

hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. The proposed added height will in no way detract from any neighboring properties, many of which are taller than what is proposed. The proposed penthouse adds functionality to the space where otherwise an unattractive flat roof would exist. It shields the rooftop mechanicals and provides the building's occupants with access to outdoor space that is not available anywhere else on or near the site.

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner.

The values of surrounding properties will not be diminished by granting the variances. The proposed penthouse addition is not visible from most ground level locations near the site. The surrounding properties and those in the vicinity have similar or taller heights than proposed here. The penthouse will sit entirely within the footprint of the existing building.

The values of the surrounding properties will not be negatively affected in any way.

There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship. The main building is an historic structure dating back to the late 19th century. The property has frontage on two rights of way, Vaughan Mall and Hanover Street, and borders the Worth Lot which does not meet the definition of a "street" under the ordinance, but has many of the same characteristics of one – i.e., regular vehicular circulation throughout the site. There is no open, outdoor space on site in which the applicant's employees and guests can congregate, eat lunch, etc. The building's use as entirely office with no ground floor retail or other use is unusual in this vicinity. This is an irregular, L-shaped lot with a similar L-shaped building.

The use is a reasonable use. The proposed use is accessory to the office use which is permitted in this zone.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The additional height requested is necessary to create functional space that adds to the environment. The additional height will not in any manner dominate or be out of scale with any of the neighboring properties. There is no fair and substantial relationship between the purposes of the height requirements and their application to this property.

The requested penthouse setback relief is driven by the irregular L-shaped lot and building. The purpose of the 15-foot penthouse setback presumably is to limit its visibility. As noted above, the proposed penthouse is not visible from almost all ground level locations, and certainly not in the area where relief is necessary.

I. Conclusion.

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

DATE: April 7, 2022

Christopher P. Mulligan

Christopher P. Mulligan, Esquire

Property Information

Property ID 0126-0001-0000
Location 64 VAUGHAN ST
Owner 64 VAUGHAN MALL 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 3/9/2022
Data updated 3/9/2022

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

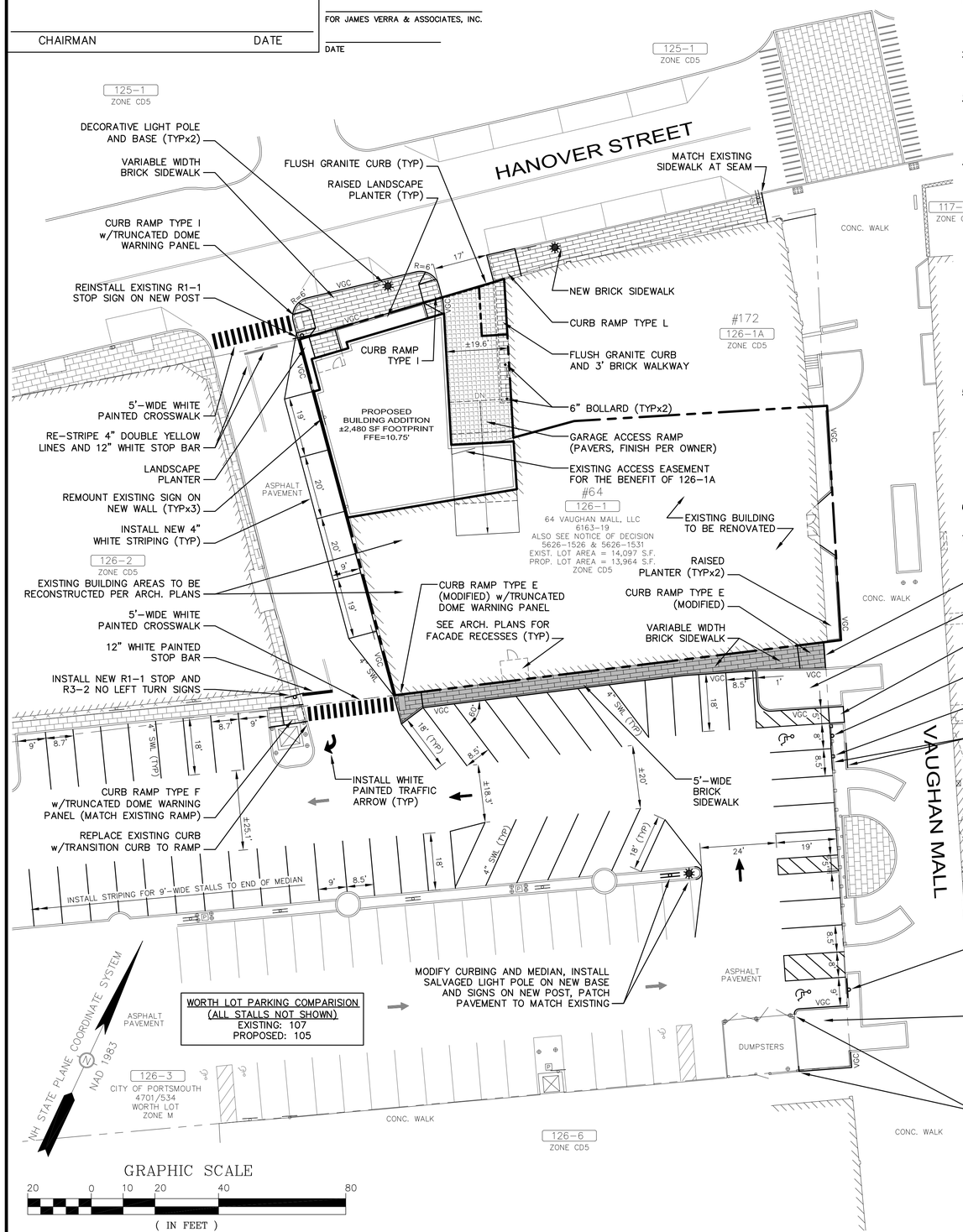
APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN DATE

THE SOLE PURPOSE OF THIS PLAN IS TO DEPICT THE LOCATION OF EXISTING AND PROPOSED IMPROVEMENTS ON THE SITE. RECORDING OF THIS PLAN WAS A REQUIREMENT OF THE PORTSMOUTH PLANNING BOARD AS PART OF THEIR APPROVAL.

FOR JAMES VERRA & ASSOCIATES, INC.

DATE

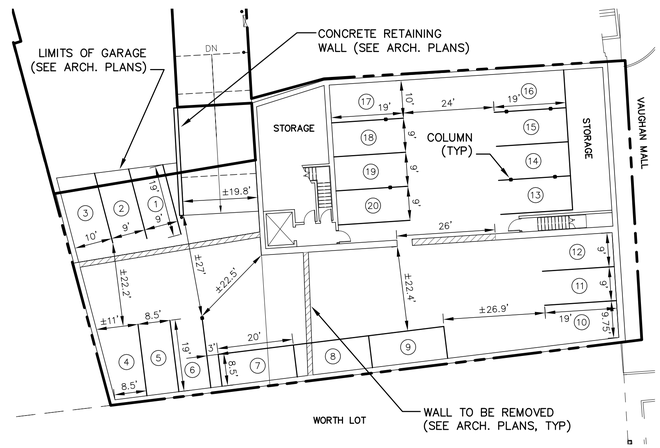


NOTES

1. DESIGN INTENT – THIS PLAN IS INTENDED TO DEPICT THE RETROFIT OF THE EXISTING BUILDING TO INCLUDE AN ADDITION, UNDERGROUND PARKING GARAGE, RETAIL SPACE AND 14 RESIDENTIAL UNITS ALONG WITH A SIDEWALK, MODIFIED PARKING SPACES AND LANDSCAPE ISLANDS ON THE ABUTTING WORTH LOT.
2. THE BASE PLAN USED HERE WAS DEVELOPED FROM "EXISTING CONDITIONS PLAN, 64 VAUGHAN MALL, PORTSMOUTH, NH" BY JAMES VERRA AND ASSOCIATES, INC., DATED FEBRUARY 3, 2020.
3. ZONE: CD5 (CHARACTER 5)
   M (MUNICIPAL) FOR OFFSITE IMPROVEMENTS ON WORTH LOT
   OVERLAY: DOWNTOWN OVERLAY DISTRICT
   HISTORIC OVERLAY DISTRICT
   FACADE: STOREFRONT
4. DIMENSIONAL REQUIREMENTS:

		EXISTING	PROPOSED
FRONT YARD:	5' MAX.	4.3'	SAME
SECONDARY FRONT YARD:	5' MAX.	58.1'	5'
SIDE YARD:	NR	0'	SAME
REAR YARD:	5'	0.15'	SAME
FRONT LOT LINE BUILDOUT:	80% WIDTH MIN.	100%	SAME
SECONDARY BUILDOUT:	80% WIDTH MIN.	0%	80% (47')
MAX. BUILDING BLOCK:	225'		
MAX. FACADE MODULATION:	100'		
MAX. ENTRANCE SPACING:	50'		
MAX. BUILDING COVERAGE:	95%	70.0%	89.4%
MAX. BUILDING FOOTPRINT:	20,000 S.F.	10,008 S.F.	12,488 S.F.
MIN. LOT AREA:	NR	14,097 S.F.	13,964 S.F.
MIN. LOT AREA/DWELLING:	NR		
MIN. OPEN SPACE:	5%	0% (0 SF)	5% (698 SF)
		(349 S.F. (VAUGHAN) + 349 S.F. (HANOVER) = 698 S.F.)	
MAX. GND. FLR. GFA/USE:	15,000 S.F.	±10,014 S.F.	12,476 S.F.
MAX. BUILDING HEIGHT:	3 STORIES or 40'	±40'	40'
MAX. GROUND FLOOR FFE:	SIDEWALK GRADE +3'		

5. PARKING REQUIREMENTS:
   DWELLING UNITS: 1.3 SPACES / DWELLING UNIT OVER 750 S.F.
   14 UNITS x 1.3 = 18.2 SPACES REQUIRED
   VISITOR PARKING: 1 SPACE / 5 DWELLING UNITS (FOR LOT w/OVER 4 UNITS)
   14 UNITS / 5 = 2.8 SPACES REQUIRED
   NON-RESIDENTIAL USE: NR
   DOWNTOWN OVERLAY: SUBTRACT 4 SPACES/LOT
   TOTAL PARKING REQUIRED: 17 SPACES
   TOTAL PARKING PROVIDED: 20 SPACES (UNDERGROUND)
6. ALL BONDS AND FEES SHALL BE PAID/POSTED PRIOR TO INITIATING CONSTRUCTION.
7. ALL CONDITIONS OF THIS APPROVAL SHALL REMAIN IN EFFECT IN PERPETUITY PURSUANT TO THE REQUIREMENTS OF THE SITE PLAN REVIEW REGULATIONS.
8. ALL CONSTRUCTION SHALL MEET THE MINIMUM CONSTRUCTION STANDARDS OF THE CITY OF PORTSMOUTH & NHDOT'S STANDARD SPECIFICATIONS FOR ROAD & BRIDGE, LATEST EDITION. THE MORE STRINGENT SPECIFICATION SHALL GOVERN.
9. CLEAN AND COAT VERTICAL FACE OF EXISTING PAVEMENT AT SAWCUT LINE WITH RS-1 IMMEDIATELY PRIOR TO PLACING NEW BITUMINOUS CONCRETE.
10. THE CONTRACTOR SHALL VERIFY ALL BENCHMARKS AND TOPOGRAPHY IN THE FIELD PRIOR TO CONSTRUCTION.
11. AREA OF DISTURBANCE IS UNDER 43,560 SF, COVERAGE UNDER EPA NPDES PHASE II CONSTRUCTION GENERAL PERMIT IS NOT REQUIRED.
12. PAVEMENT MARKINGS SHALL BE CONSTRUCTED USING WHITE, YELLOW, OR BLUE TRAFFIC PAINT (WHERE SPECIFIED) MEETING THE REQUIREMENTS OF AASHTO M248, TYPE F OR EQUAL. PAINTED ISLANDS AND LOADING ZONES SHALL BE 4"-WIDE DIAGONAL WHITE LINES 3'-0" O.C. BORDERED BY 4"-WIDE WHITE LINES. PARKING STALLS SHALL BE SEPARATED BY 4"-WIDE WHITE LINES. SEE DETAILS FOR HANDICAP SYMBOLS, SIGNS AND SIGN DETAILS. PAVEMENT MARKINGS SHALL BE INSTALLED AT LEAST 14-DAYS AFTER INSTALLATION OF WEARING COURSE PAVEMENT. CONTRACTOR SHALL APPLY TWO (2) COATS OF ALL PAVEMENT MARKINGS.
13. PAVEMENT MARKINGS AND SIGNS SHALL CONFORM TO THE REQUIREMENTS OF THE "MANUAL ON UNIFORM TRAFFIC DEVICES," "STANDARD ALPHABETS FOR HIGHWAY SIGNS AND PAVEMENT MARKINGS" AND THE AMERICANS WITH DISABILITIES ACT (ADA), LATEST EDITIONS.
14. UNLESS OTHERWISE NOTED, ALL NEW CURBING SHALL BE VERTICAL GRANITE WITH A MINIMUM RADIUS OF 4'.
15. THE CONTRACTOR SHALL VERIFY ALL BUILDING DIMENSIONS WITH THE ARCHITECTURAL AND STRUCTURAL DRAWINGS PRIOR TO CONSTRUCTION. ANY AND ALL DISCREPANCIES SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF BOTH THE ARCHITECT AND CIVIL ENGINEER FOR RESOLUTION.
16. ALL CONDITIONS ON THIS PLAN SHALL REMAIN IN EFFECT IN PERPETUITY PURSUANT TO THE REQUIREMENTS OF THE SITE PLAN REVIEW REGULATIONS.
17. ALL IMPROVEMENTS SHOWN ON THIS SITE PLAN SHALL BE CONSTRUCTED AND MAINTAINED IN ACCORDANCE WITH THE PLAN BY THE PROPERTY OWNER AND ALL FUTURE PROPERTY OWNERS. NO CHANGES SHALL BE MADE TO THIS SITE PLAN WITHOUT THE EXPRESS APPROVAL OF THE PORTSMOUTH PLANNING DIRECTOR
18. THIS SITE PLAN SHALL BE RECORDED IN THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.
19. SITEWORK CONTRACTOR SHALL PREPARE A STAMPED AS-BUILT SITE PLAN STAMPED BY A LICENSED LAND SURVEYOR (LLS) & PROVIDE A DIGITAL (CAD FORMAT) COPY FOR THE CITY'S G.I.S. DATA BASE.
20. TRASH AND RECYCLING SHALL BE STORED INSIDE BUILDING.
21. THIS DEVELOPMENT IS SUBJECT TO LICENSING AGREEMENTS w/THE PORTSMOUTH CITY COUNCIL.
22. RESTAURANTS SHALL NOT OCCUPY BUILDING WITHOUT THE INSTALLATION OF A GREASE TRAP MEETING CITY CODE.
23. ALL SIDEWALKS TO BE CONSTRUCTED WITHIN PROJECT LIMITS SHALL BE BRICK. CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING PORTSMOUTH DPW TO CONFIRM BRICK SPECIFICATIONS.
24. STREET ADDRESSES FOR EACH USE SHALL BE DETERMINED BY PORTSMOUTH FIRE DEPARTMENT & DPW.
25. SNOW SHALL BE STORED AT THE EDGE OF PAVEMENT, IN AREAS SHOWN ON THE PLAN, OR TRUCKED OFF SITE.
26. BUILDING USES BY FLOOR (BY FOOTPRINT, ACTUAL SPACE MAY VARY):
    BASEMENT: ±9,326 S.F. PARKING
    FLOOR 1: ±12,334 S.F. RETAIL
    FLOORS 2-4: ±12,488 S.F. RESIDENTIAL
    TOTAL: ±59,124 S.F.



BASEMENT GARAGE PARKING LAYOUT

ALTUS ENGINEERING, INC.
133 Court Street Portsmouth, NH 03801
(603) 433-2335 www.altus-eng.com

NOT FOR CONSTRUCTION

ISSUED FOR: PLANNING BOARD

ISSUE DATE: NOVEMBER 18, 2021

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	TAC WORK SESSION	EBS	05/05/20
1	TAC WORK SESSION	EBS	07/07/20
2	TAC	EBS	10/19/20
3	PB CONSULTATION	EBS	11/02/20
4	REV. BLDG. HEIGHT	EBS	01/26/21
5	TAC	EBS	03/22/21
6	REV. FOOTPRINT FOR HDC	EBS	04/08/21
7	TAC	EBS	04/19/21
8	TAC	EBS	05/19/21
9	TAC	EBS	06/21/21
10	PLANNING BOARD	EBS	07/28/21
11	REV. VAUGHAN ENTRANCE	EBS	11/18/21

DRAWN BY: EBS

APPROVED BY: EDW

DRAWING FILE: 5042-SITE.dwg

SCALE: 22"x34" 1" = 20'
11"x17" 1" = 40'

OWNER:

64 VAUGHAN MALL, LLC

41 INDUSTRIAL DRIVE
EXETER, NH 03833

APPLICANT:

HAMPSHIRE DEVELOPMENT CORP.

41 INDUSTRIAL DRIVE
EXETER, NH 03833

PROJECT:

64 VAUGHAN MALL BUILDING RESTORATION

TAX MAP 126, LOT 1

64 VAUGHAN MALL
PORTSMOUTH, NH 03801

TITLE:

SITE PLAN

SHEET NUMBER:

C-3

P5042

NOVOCURE FLAGSHIP

64 VAUGHAN MALL, PORTSMOUTH, NH

COVER SHEET

64 Vaughan Mall

04/11/2022

SCALE:

JSA

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PLANNERS

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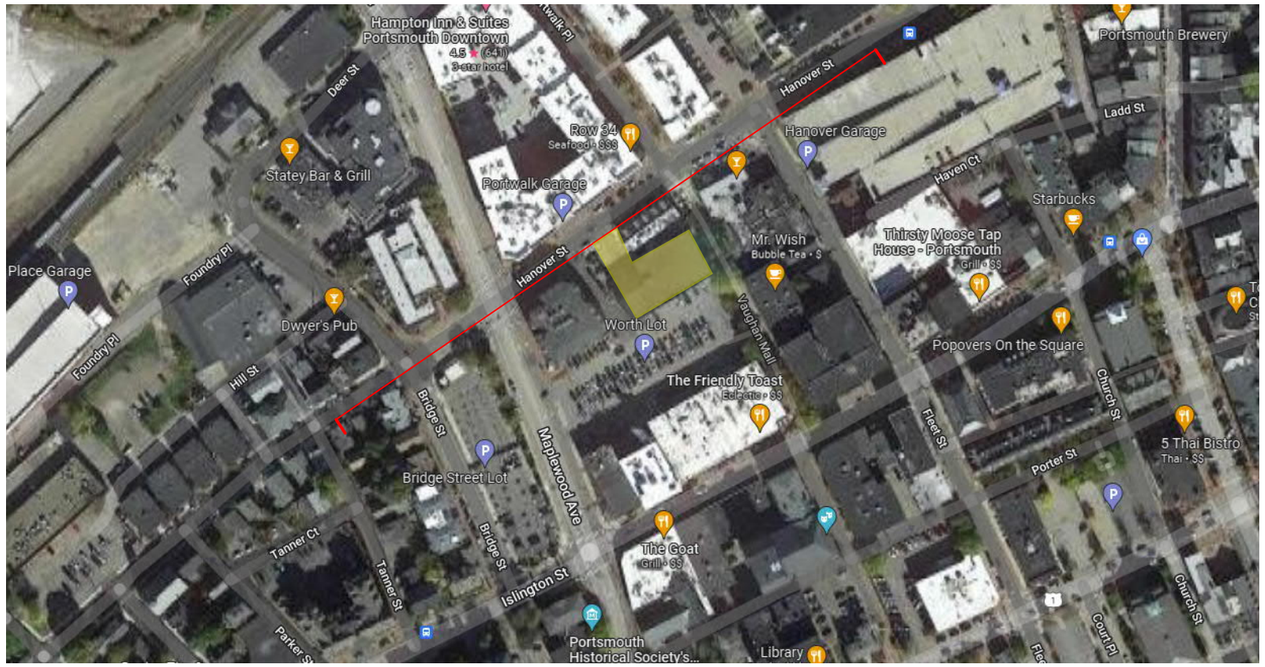
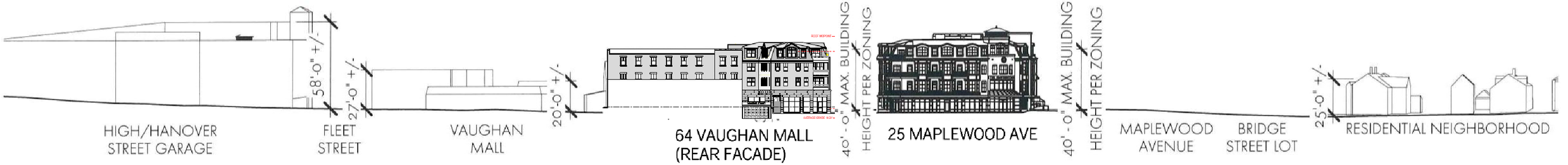


LOCUS PLAN

CITY OF PORTSMOUTH 3D MODEL EXISTING CONDITIONS



SITE SECTION ALONG HANOVER STREET AS APPROVED

SITE SECTION ALONG HANOVER STREET WITH PENTHOUSE ADDED

SPACE & MASSING DIAGRAM

64 Vaughan Mall

04/11/2022

SCALE: 1/64" = 1'-0"

SHEET 1 OF 17

JSA ARCHITECTS INTERIORS PLANNERS

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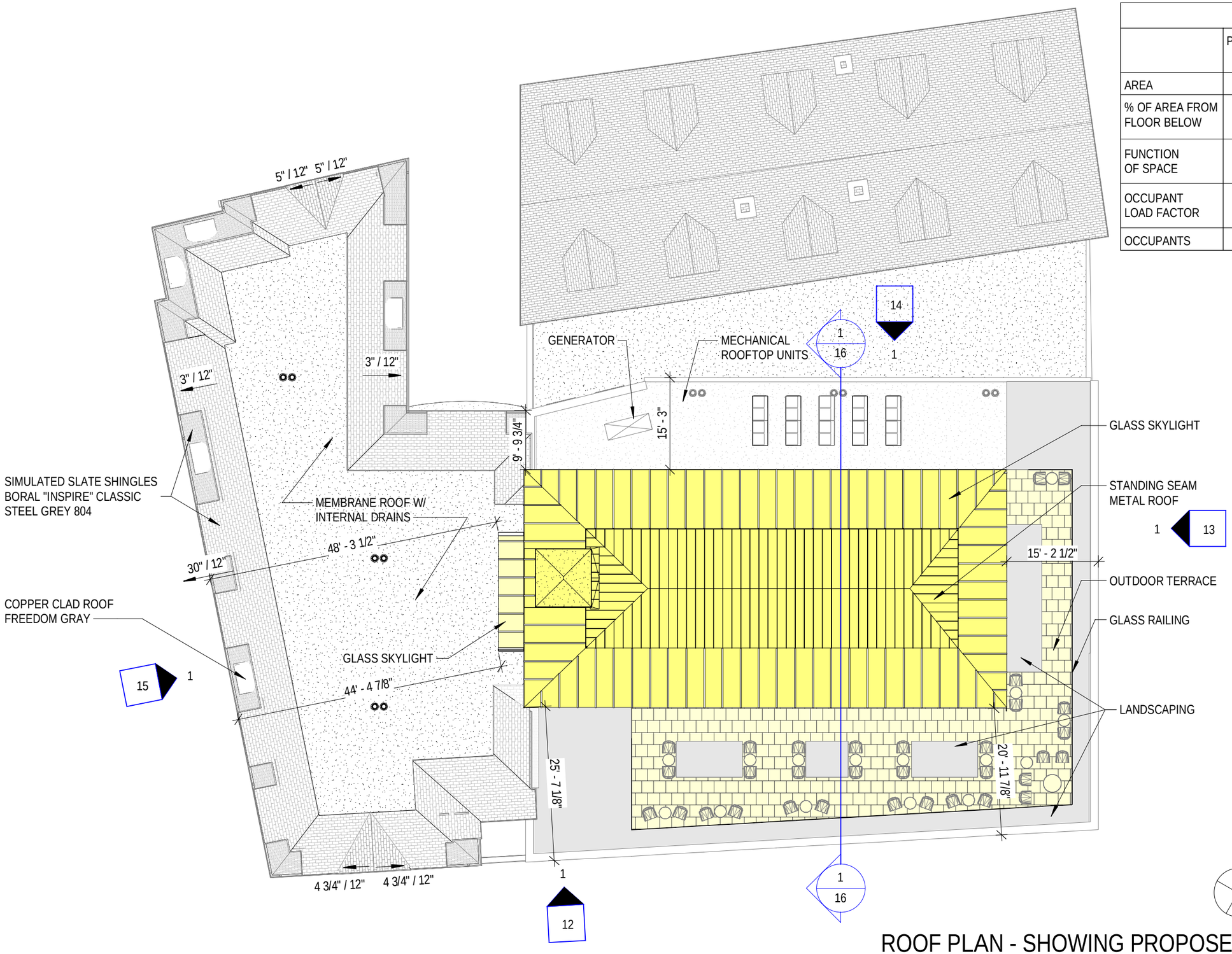
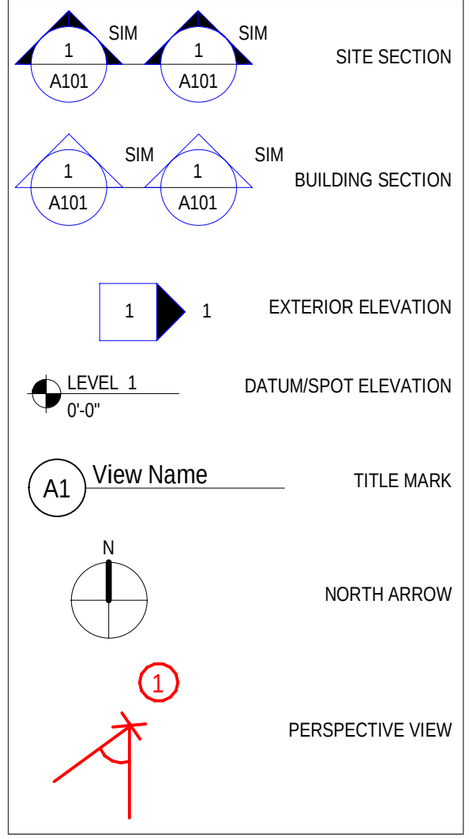
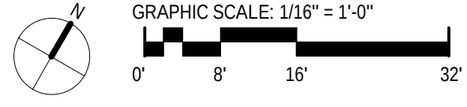


AREA CALCULATION TABLE

	PROPOSED PENTHOUSE INTERIOR SPACE	PROPOSED PENTHOUSE EXTERIOR TERRACE	EXISTING 3RD FLOOR BELOW
AREA	2501 SQ. FT. (NET)	1440 SQ. FT. (NET)	6346 SQ. FT. (GROSS)
% OF AREA FROM FLOOR BELOW	40%	23%	N/A
FUNCTION OF SPACE	ASSEMBLY - UNCONCENTRATED	ASSEMBLY - UNCONCENTRATED	BUSINESS AREA
OCCUPANT LOAD FACTOR	15 SQ. FT. NET/ OCCUPANT	15 SQ. FT. NET/ OCCUPANT	100 SQ. FT.GROSS/ OCCUPANT
OCCUPANTS	166 OCCUPANTS	96 OCCUPANTS	63 OCCUPANTS

DRAFTING SYMBOLS KEY





ROOF PLAN - SHOWING PROPOSED GLASS PENTHOUSE

64 Vaughan Mall

04/11/2022

SCALE: As indicated

SHEET 2 OF 17

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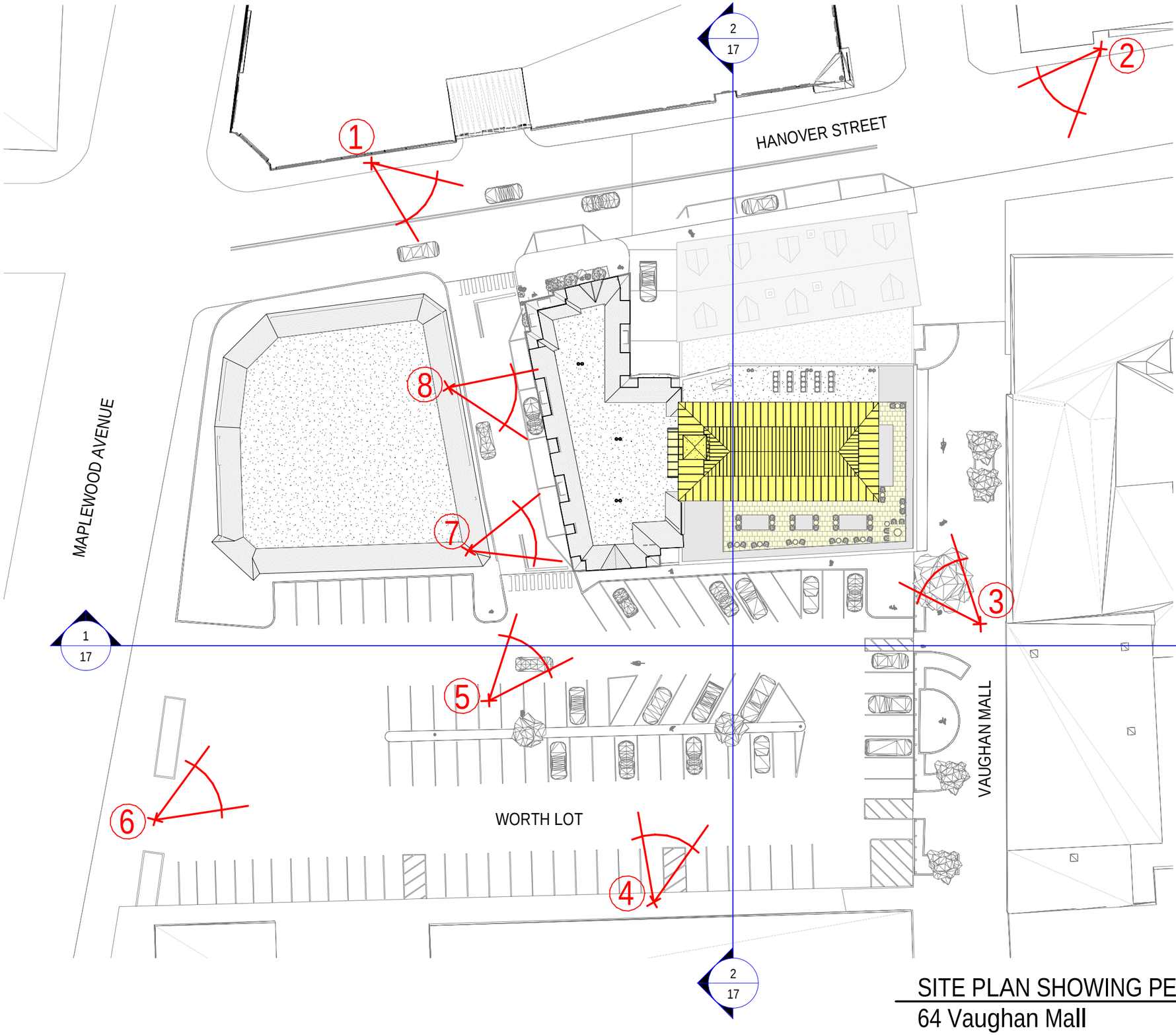

DRAFTING SYMBOLS KEY

SIM 1 A101 SIM 1 A101 — SITE SECTION

SIM 1 A101 SIM 1 A101 — BUILDING SECTION

1 1 — EXTERIOR ELEVATION

LEVEL 1 0'-0" — DATUM/SPOT ELEVATION

A1 View Name — TITLE MARK

N — NORTH ARROW

1 — PERSPECTIVE VIEW

N

GRAPHIC SCALE: 1" = 40'-0"

0' 20' 40' 80'

SITE PLAN SHOWING PERSPECTIVES

64 Vaughan Mall

04/11/2022

SCALE: As indicated

SHEET 3 OF 17

JSA ARCHITECTS INTERIORS PLANNERS

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AS APPROVED

0 HANOVER STREET VIEW 01 - HDC APPROVED SUBMISSION 11/19/2021

WITH PENTHOUSE ADDED

1 HANOVER STREET VIEW 01

1 HANOVER STREET VIEW 01

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 4 OF 17

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AS APPROVED

0 HANOVER STREET VIEW 02 - HDC APPROVED SUBMISSION 11/19/2021

WITH PENTHOUSE ADDED

2 HANOVER STREET VIEW 02

3 HANOVER STREET VIEW 02

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 5 OF 17

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AS APPROVED

0 VAUGHAN MALL VIEW - HDC APPROVED SUBMISSION 11/19/2021

WITH PENTHOUSE ADDED

3 VAUGHAN MALL VIEW

2 VAUGHAN MALL VIEW

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 6 OF 17

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AS APPROVED

0 WORTH LOT VIEW 01 - HDC APPROVED SUBMISSION 11/19/2021

WITH PENTHOUSE ADDED

4 WORTH LOT VIEW 01

4 WORTH LOT VIEW 01

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 7 OF 17

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AS APPROVED

0 WORTH LOT VIEW 02 - HDC APPROVED SUBMISSION 11/19/2021

WITH PENTHOUSE ADDED

5 WORTH LOT VIEW 02

5

WORTH LOT VIEW 02

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 8 OF 17

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AS APPROVED

WORTH LOT

0 WORTH LOT VIEW 03 - HDC APPROVED 11/19/2021

WITH PENTHOUSE ADDED

WORTH LOT

6 WORTH LOT VIEW 03

6 WORTH LOT VIEW 03

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 9 OF 17

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AS APPROVED

0 ADJACENT BUILDING FOURTH FLOOR DECK VIEW 01 - HDC APPROVED SUBMISSION 11/19/2021

WITH PENTHOUSE ADDED

7 ADJACENT BUILDING FOURTH FLOOR DECK VIEW 01

7 ADJACENT BUILDING FOURTH FLOOR DECK VIEW 01

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 10 OF 17

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AS APPROVED

0 ADJACENT BUILDING FOURTH FLOOR DECK VIEW 02

WITH PENTHOUSE ADDED

8 ADJACENT BUILDING FOURTH FLOOR DECK VIEW 02

8 ADJACENT BUILDING FOURTH FLOOR DECK VIEW 02

64 Vaughan Mall

04/11/2022

SCALE:

SHEET 11 OF 17

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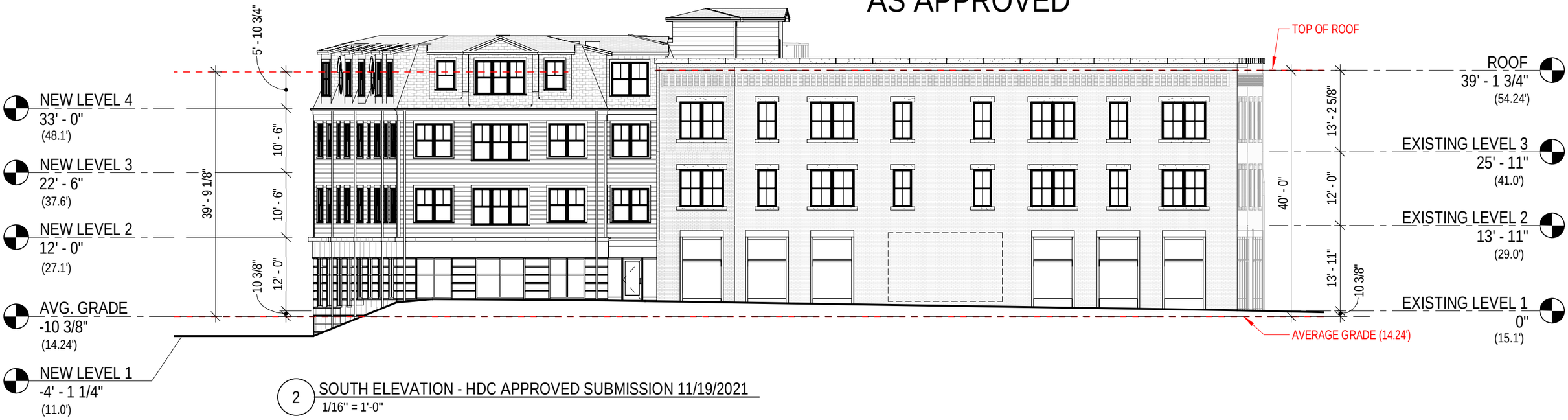
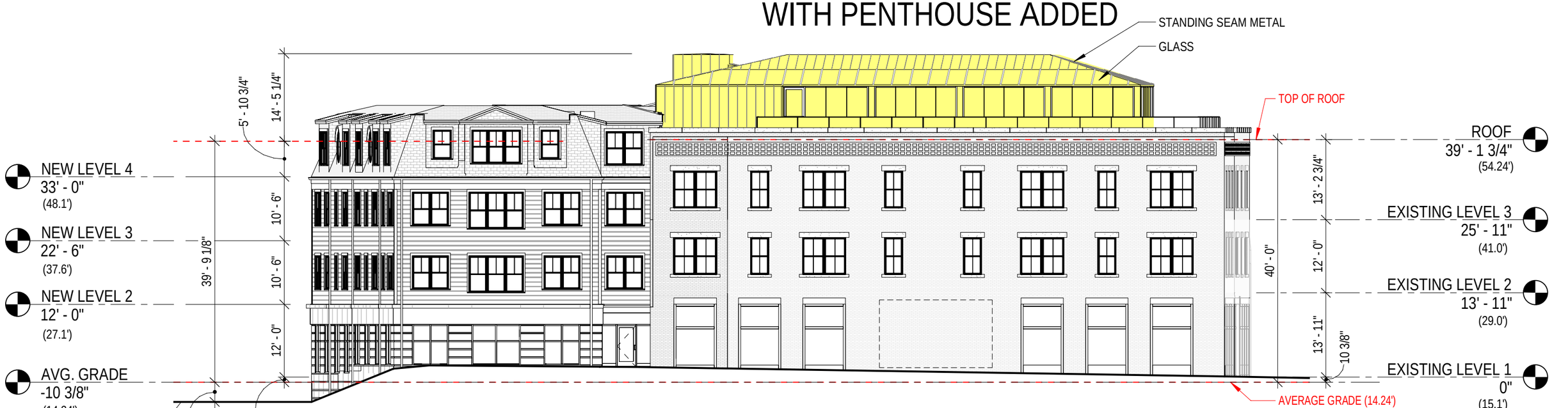


2 SOUTH ELEVATION - HDC APPROVED SUBMISSION 11/19/2021
1/16" = 1'-0"

WITH PENTHOUSE ADDED



1 SOUTH ELEVATION
1/16" = 1'-0"

GRAPHIC SCALE: 1/16" = 1'-0"
0' 8' 16' 32'

EXTERIOR ELEVATIONS
64 Vaughan Mall
04/11/2022
SCALE: 1/16" = 1'-0"

SHEET 12 OF 17

JSA
ARCHITECTS
INTERIORS
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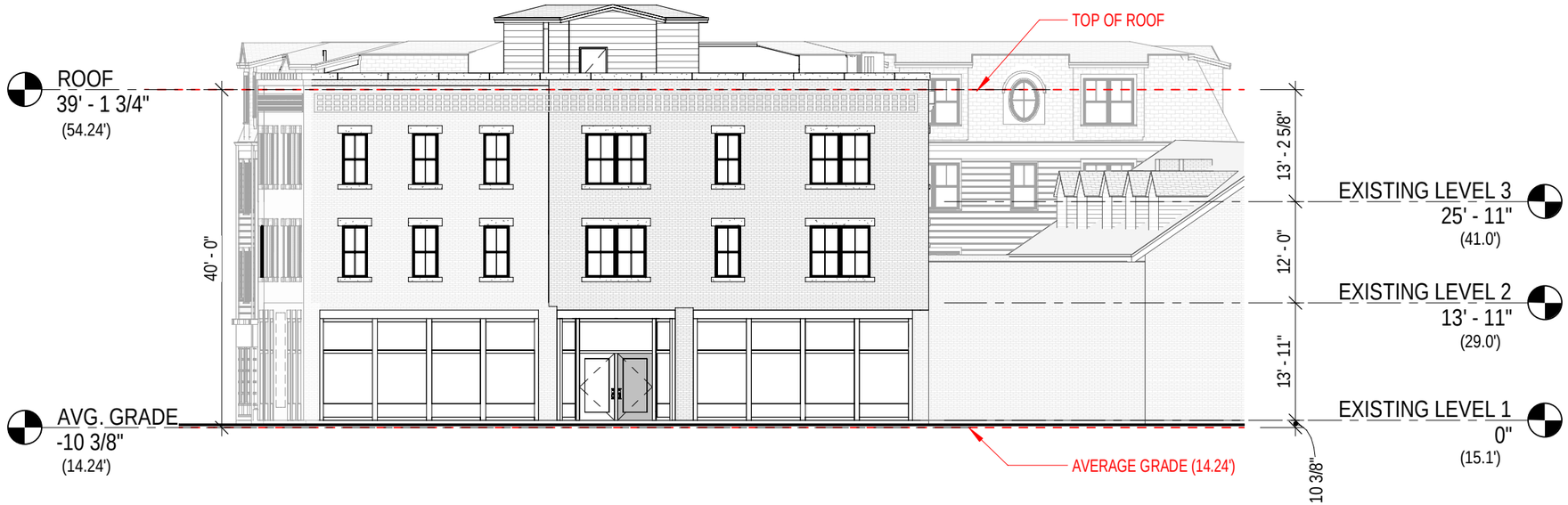

2 EAST ELEVATION - HDC APPROVED SUBMISSION 11/19/2021
1/16" = 1'-0"

WITH PENTHOUSE ADDED

1 EAST ELEVATION
1/16" = 1'-0"

GRAPHIC SCALE: 1/16" = 1'-0"
0' 8' 16' 32'

EXTERIOR ELEVATIONS
64 Vaughan Mall
04/11/2022
SCALE: 1/16" = 1'-0"

SHEET 13 OF 17

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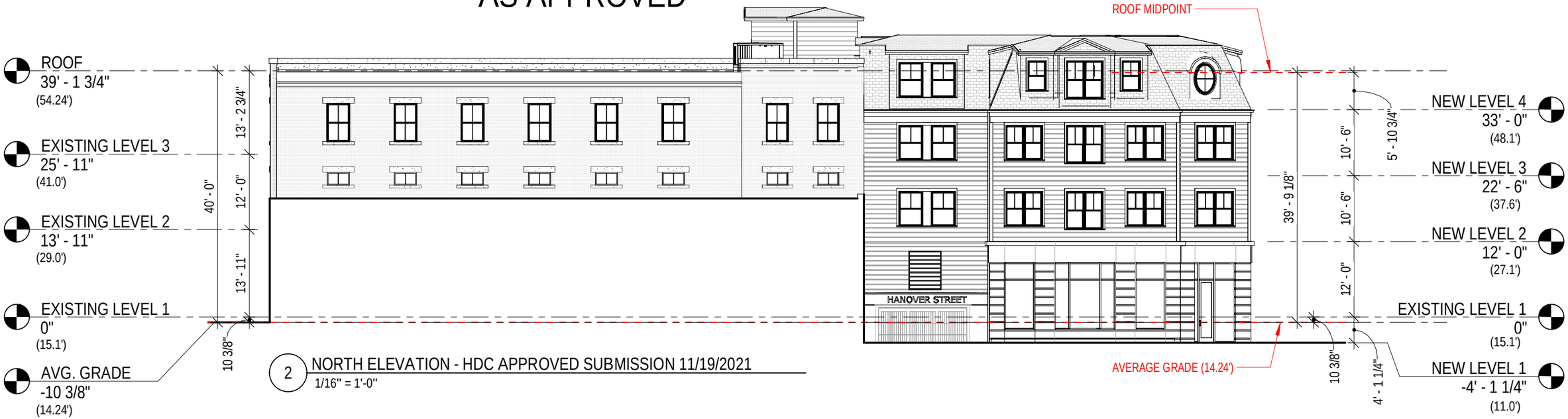

2 NORTH ELEVATION - HDC APPROVED SUBMISSION 11/19/2021
1/16" = 1'-0"

WITH PENTHOUSE ADDED

1 NORTH ELEVATION
1/16" = 1'-0"

GRAPHIC SCALE: 1/16" = 1'-0"
0' 8' 16' 32'

EXTERIOR ELEVATIONS

64 Vaughan Mall
04/11/2022
SCALE: 1/16" = 1'-0"

SHEET 14 OF 17

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2 WEST ELEVATION - HDC APPROVED SUBMISSION 11/19/2021

1/16" = 1'-0"

1 WEST ELEVATION

1/16" = 1'-0"

GRAPHIC SCALE: 1/16" = 1'-0"

0' 8' 16' 32'

EXTERIOR ELEVATIONS

64 Vaughan Mall

04/11/2022

SCALE: 1/16" = 1'-0"

SHEET 15 OF 17

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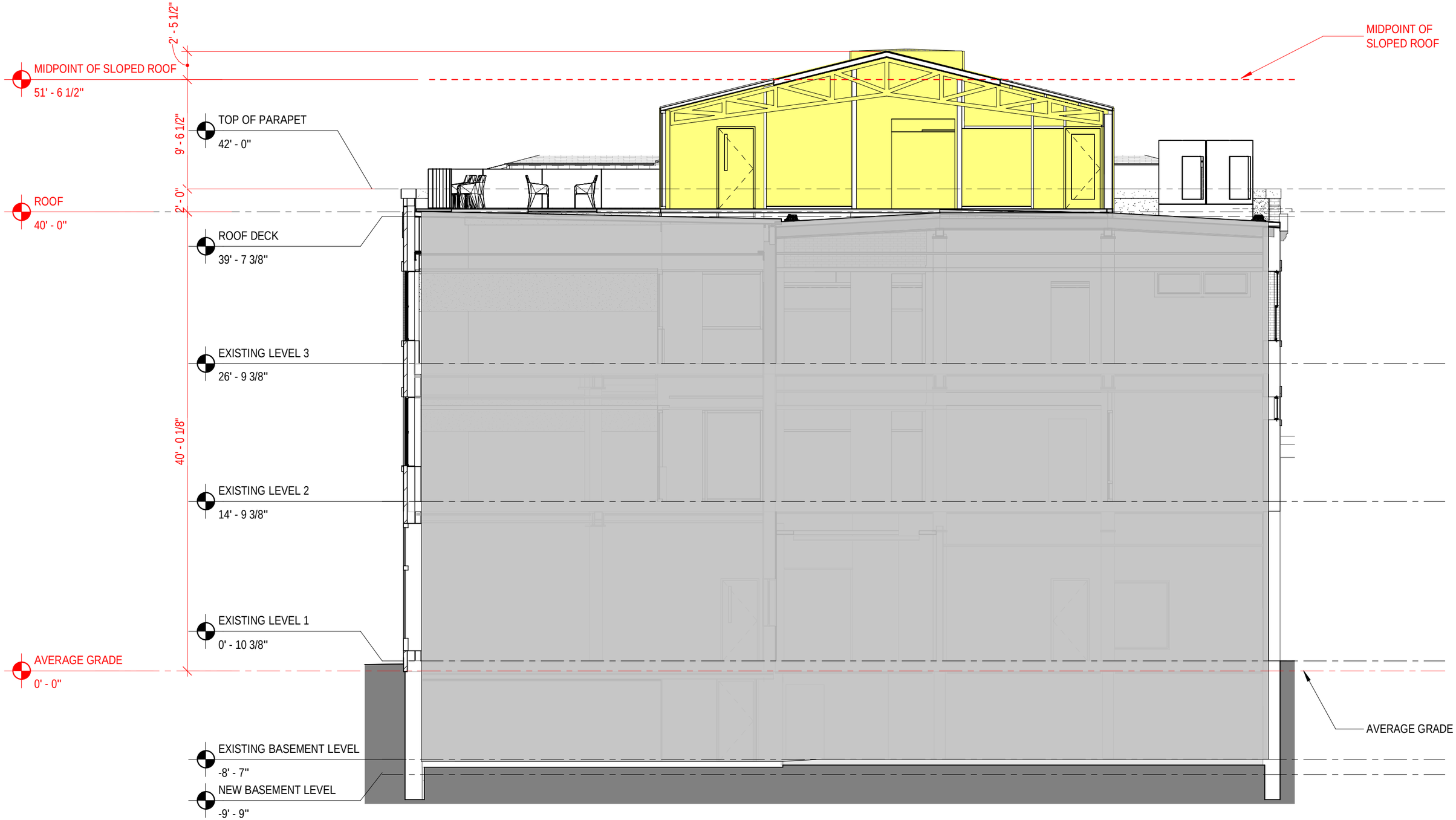

GRAPHIC SCALE: 1/8" = 1'-0"

0' 4' 8' 16'

BUILDING SECTION

64 Vaughan Mall

04/11/2022

SCALE: 1/8" = 1'-0"

SHEET 16 OF 17

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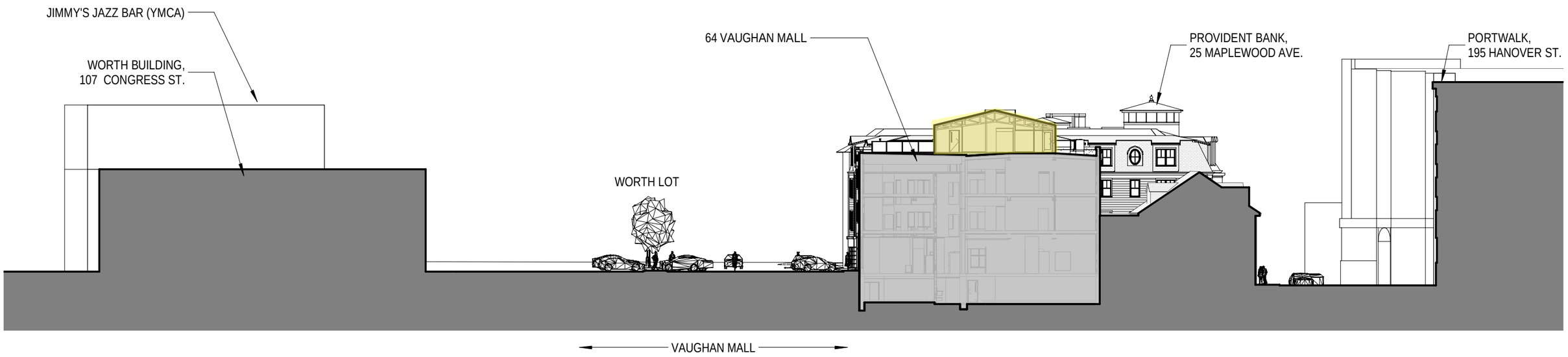
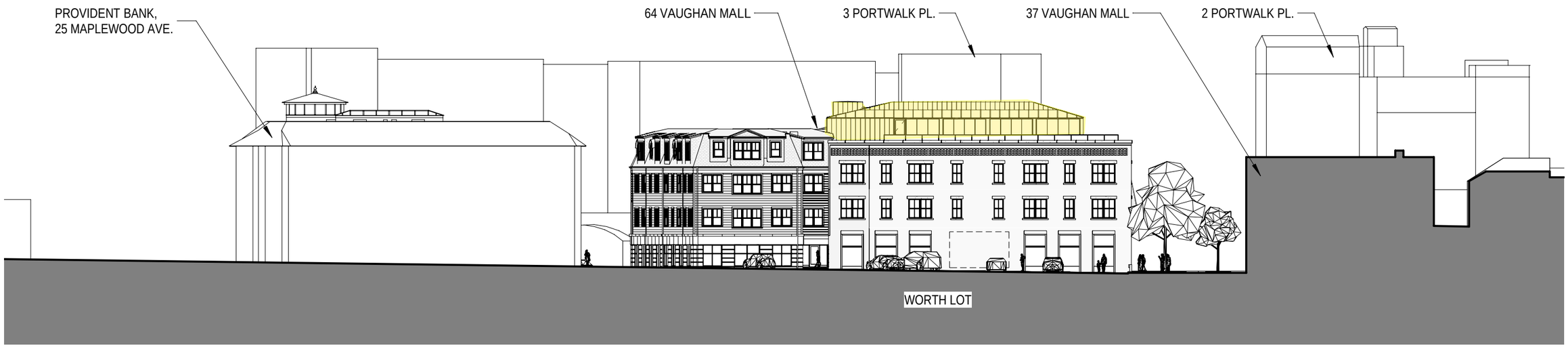


2 SITE SECTION - 02
1/32" = 1'-0"



1 SITE SECTION - 01
1/32" = 1'-0"

SITE SECTIONS
64 Vaughan Mall
04/11/2022
SCALE: 1/32" = 1'-0"

SHEET 17 OF 17

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96 Sparhawk Street

Proposed Addition

Emily and Adam Fitzpatrick

LOT MAP - 96 SPARHAWK STREET

MAP-LOT: 0159-0016-0000

LOT SIZE: 0.12 ACRES

ZONING: GRA

PROJECT OVERVIEW – 96 SPARHAWK STREET

- PROPOSED ADDTION TO SINGLE FAMILY HOME
  - CURRENTLY 3 BEDROOM, 1.5 BATH HOME; APPROX. 1250 SQ. FT.
  - PROPOSAL FOR 4 BEDROOM, 2.5 BATH HOME; APPROX. 1900 SQ. FT.
  - ADDITION TO REAR OF EXSITING SHED IN REAR YARD

PROJECT OVERVIEW – 96 SPARHAWK STREET

The project consists of an addition to the existing structure at 96 Sparhawk Street

- Exterior changes as follows
  - Remove existing rear deck and add 12’ addition to rear of structure, full width
  - Remove existing front deck and convert to structure with partial basement access underneath
  - Add nearly full-length dormer to southeast portion of the building
  - Remove and replace all existing siding, windows, roofing and doors
  - Add rear addition to existing shed structure in rear yard
- Interior changes as follows
  - Open existing first floor living space to new 12’ rear addition.
  - Relocate existing first floor half bath from current location to front of new structure
  - Remove and replace existing stairs to bring into compliance with current codes
  - Replace existing second floor bathroom with laundry room
  - Add to the second floor: 2 bedrooms, 2 bathrooms, 2 closets
  - Add pull down access to attic space for potential storage use
- Systems changes as follows
  - Replace existing clay sewer line with new
  - Replace existing galvanized water line with new
  - Expand use of existing forced hot air furnace to new first floor area and second floor
  - Replace existing oil tank with new
  - Replace existing 100A electrical panel with new 200A electrical panel
  - Update plumbing and electrical as needed
  - Add two new mini-splits for heating and cooling of first and second floor

PROJECT VARIANCE REQUESTS – 96 SPARHAWK STREET

Addition to primary dwelling – Side yard setback

1) Request 4 Ft setback in side yard where 10 Ft is required.

This allows alignment with existing primary structure and will not greatly impact the adjoining property visually or otherwise.

Addition to primary dwelling – Front yard setback

2) Request 8 Ft setback in front yard where 15 Ft is required.

This replaces existing wood deck with primary structure. No relief is needed beyond the existing location of wood deck. Examining other structures along Sparhawk St., this is not out of character concerning street alignment.

Addition to rear yard shed – Side yard and rear yard setback

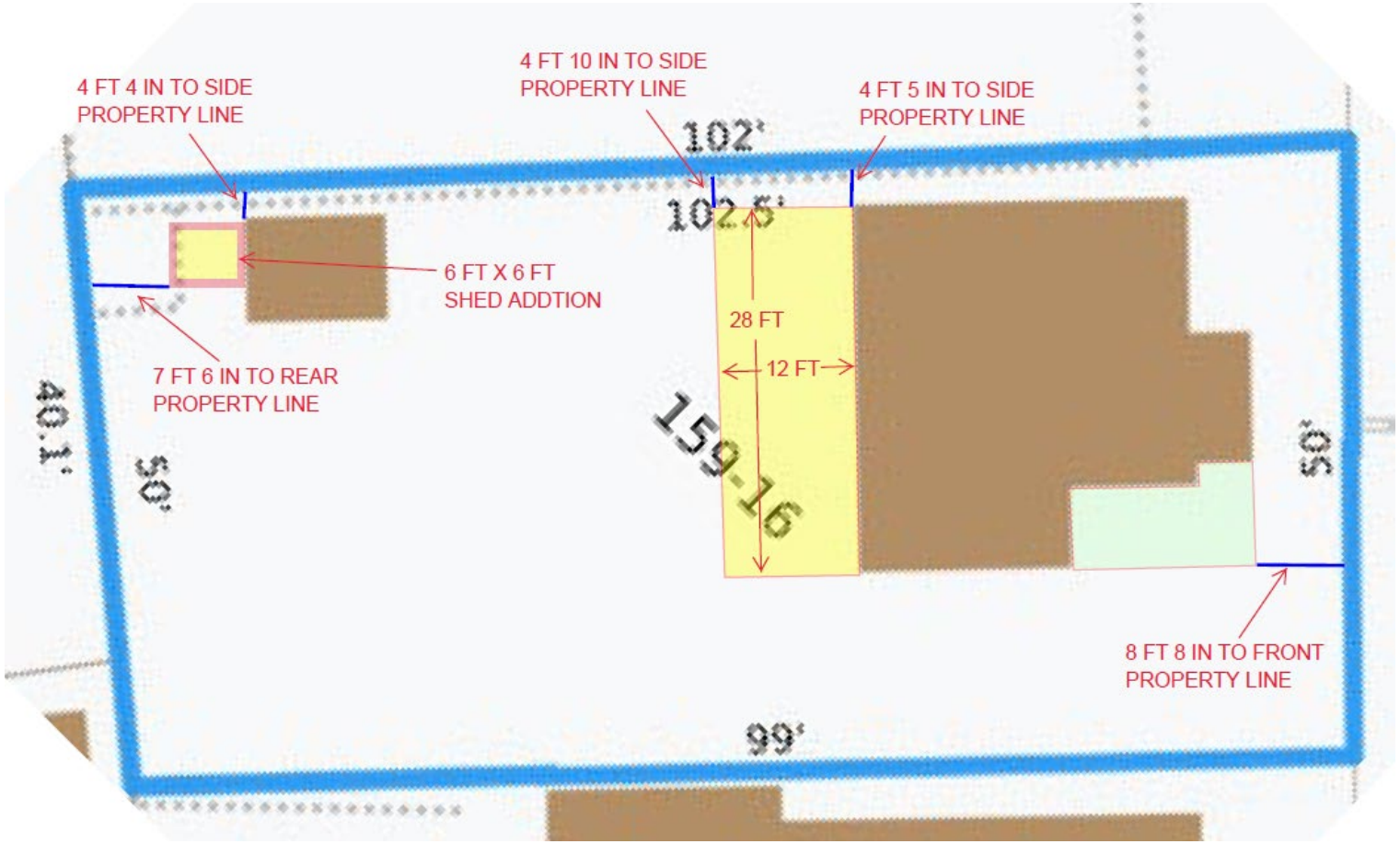
3) Request 4 Ft setback in side yard where 9.5 Ft (building height) is required.

This allows for alignment with existing shed structure and because of the location, will not greatly impact adjoining property visually or otherwise.

4) Request 7 Ft setback in rear yard where 9.5 Ft (building height) is required.

This allows expansion of existing shed into area of limited use and because of the location, will not greatly impact adjoining property visually or otherwise.

BUIILDING LAYOUT ON LOT – 96 SPARHAWK STREET



LOT COVERAGE:

CURRENT CONDITIONS:

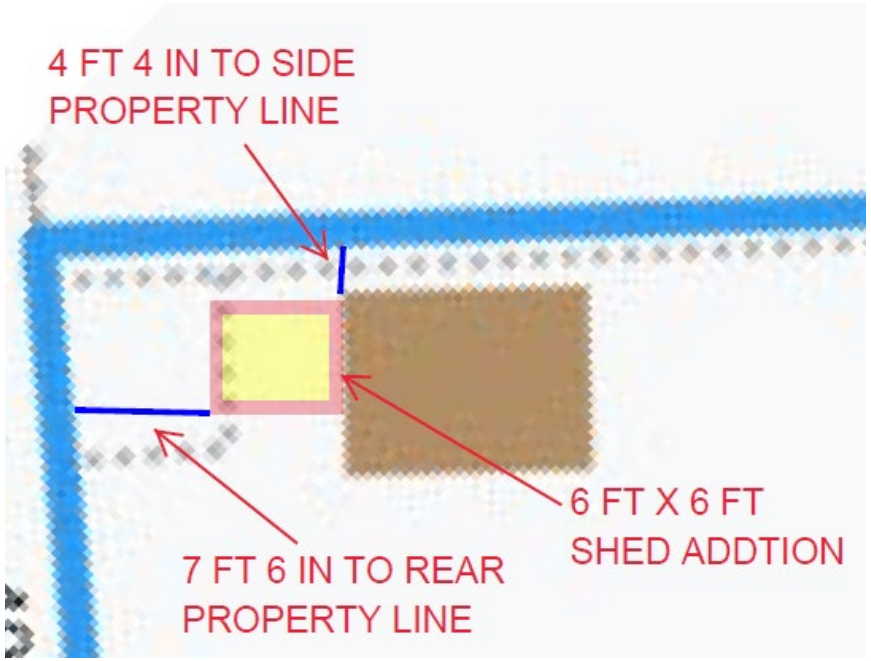
HOUSE = (28' x 31') - (11' x 5') = 813 sq ft
SHED = (8' x 12') = 96 sq ft
TOTAL = 909 sq ft
LOT COVERAGE = 909/5204 = 17.5%

PROPOSED CONDITIONS:

HOUSE = (28' x 43') - (11' x 5') = 1139 sq ft
SHED = (8' x 12') + (6' x 6') = 132 sq ft
TOTAL = 1281 sq ft
LOT COVERAGE = 1281/5204 = 24.6%

- Existing Structure
- Existing Front Deck Replaced with Structure
- Addition to Existing Structure
- Addition to New Shed

SHED ADDITION – REAR YARD – 96 SPARHAWK STREET



- PROPOSED ADDTION 8x12 SHED
  - FOR USE AS GARDEN SHED
  - BASEMENT AND ATTIC CURRENTLY UNSUABLE FOR STORAGE
  - EXISTING SHED TO PROVIDE STORAGE SPACE
  - REAR ROOF TO STEP DOWN FROM EXISTING SHED ROOF

SHED ADDITION – REAR YARD – 96 SPARHAWK STREET

c

Rear View

Shed Location

CRITERIA FOR THE VARIANCE – 96 SPARHAWK STREET

1) The variances are not contrary to the public interest and **2) the variances are consistent with the spirit of the ordinance** in that the proposed changes are consistent with the existing neighborhood. The proposed changes to the primary structure and shed conform to many other single family homes in the neighborhood and do not threaten public health, safety, or welfare, or otherwise injure "public rights." The spirit of the ordinance is not to deter this type of expansion of a single family home.

3) Substantial justice is done in that no harm to the general public or other individuals is created, therefore, any benefits created cannot outweigh that harm.

4) The values of surrounding properties will not be diminished in that many homes in the neighborhood have undergone similar additions and updates and generally, the property values in the neighborhood have continued upward. Expansion of this property will not create any conditions which should tend to lower any property values nearby. Additional value created in this property by improving an older home should add to the value of the neighborhood as a whole.

5) Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship in that the existing location of the structure on the property does not allow reasonable expansion without violation of the current ordinances. The property is a narrow lot (50') compared to the current requirement (70') and relocating a home on the lot is not a practical solution. The project is being proposed in a manner to minimize impacts which do not already exist. Expansion toward the rear maintains the same side yard impacts as already exist. Replacement of the front wood porch with primary structure does not add any setback issue which does not currently exist. An addition to the rear of the shed is consistent with the use of that area of yard currently.

The following pages include references as described

- Images of the current conditions
- Complete lot survey
- Lot markup with proposed new building locations
- Additional views of project plans
- Project floor plans

Existing Condition - Rear View

Existing Condition - Rear View

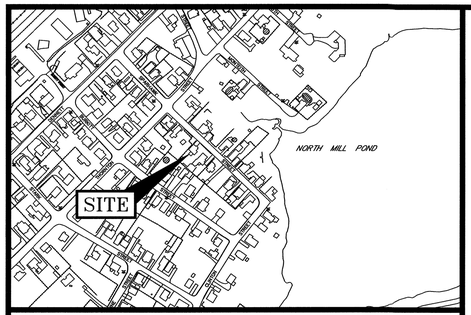
Existing Condition – Northwest Side Yard View

Street View

Approximate Property Boundary

Rear View

Existing Condition - Street View



LOCATION MAP SCALE 1"=300'

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11/21	MAP 11 / LOT 21
	BOUNDARY
	SETBACK
	RAILROAD SPIKE FOUND
	IRON ROD/PIPE FOUND
	DRILL HOLE FOUND
	STONE/CONCRETE BOUND FOUND
	RAILROAD SPIKE SET
	IRON ROD SET
	DRILL HOLE SET
	GRANITE BOUND SET
	EDGE OF PAVEMENT (EP)
	WOODS / TREE LINE
	UTILITY POLE (w/ GUY)
GWE	METER (GAS, WATER, ELECTRIC)
TYP.	TYPICAL
LSA	LANDSCAPED AREA

PLAN REFERENCES:

1) STANDARD BOUNDARY & TOPOGRAPHIC SURVEY TAX MAP 159 – LOTS 7 & 8, OWNER: MICHAEL J. O'CONNOR 163 SPARHAWK STREET CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED NOVEMBER 2019. NOT RECORDED.

2) PLAN OF A TRACT OF LAND IN THE TOWN OF PORTSMOUTH BELONGING TO MR. JOHN MILLER. DATED 1812. R.C.R.D. BOOK 206 PAGE 131.

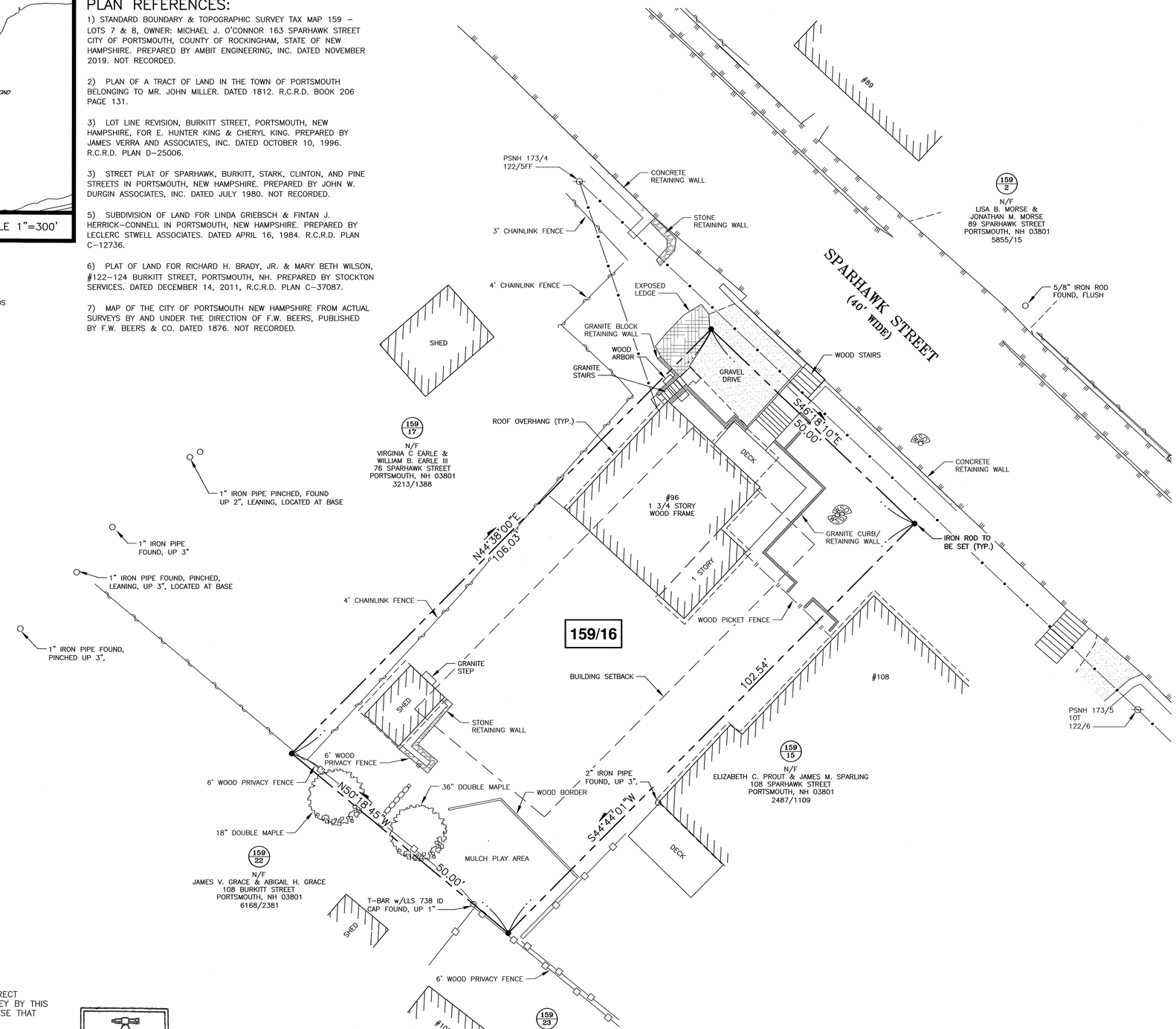
3) LOT LINE REVISION, BURKITT STREET, PORTSMOUTH, NEW HAMPSHIRE, FOR E. HUNTER KING & CHERYL KING. PREPARED BY JAMES VERRA AND ASSOCIATES, INC. DATED OCTOBER 10, 1996. R.C.R.D. PLAN D–25006.

3) STREET PLAT OF SPARHAWK, BURKITT, STARK, CLINTON, AND PINE STREETS IN PORTSMOUTH, NEW HAMPSHIRE. PREPARED BY JOHN W. DURGIN ASSOCIATES, INC. DATED JULY 1980. NOT RECORDED.

5) SUBDIVISION OF LAND FOR LINDA GRIEBSCH & FINTAN J. HERRICK–CONNELL IN PORTSMOUTH, NEW HAMPSHIRE. PREPARED BY LECLERC STWELL ASSOCIATES. DATED APRIL 16, 1984. R.C.R.D. PLAN C–12736.

6) PLAT OF LAND FOR RICHARD H. BRADY, JR. & MARY BETH WILSON, #122–124 BURKITT STREET, PORTSMOUTH, NH. PREPARED BY STOCKTON SERVICES. DATED DECEMBER 14, 2011, R.C.R.D. PLAN C–37087.

7) MAP OF THE CITY OF PORTSMOUTH NEW HAMPSHIRE FROM ACTUAL SURVEYS BY AND UNDER THE DIRECTION OF F.W. BEERS, PUBLISHED BY F.W. BEERS & CO. DATED 1876. NOT RECORDED.



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 TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

STATE OF NEW HAMPSHIRE LICENSED LAND SURVEYOR No. 1000 PAUL A. DOBBERSTEIN SIGNATURE

PAUL A. DOBBERSTEIN, LLS #1000 — DATE 5/28/2021

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road – Unit 3
Portsmouth, N.H. 03801–7114
Tel (603) 430–9282
Fax (603) 436–2315

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 159 AS LOT 16.

2) OWNER OF RECORD:
ADAM FITZPATRICK &
EMILY FITZPATRICK (f/k/a EMILY SMITH)
96 SPARHAWK STREET
PORTSMOUTH, NH 03801
5561/476

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE DATE JANUARY 29, 2021.

4) EXISTING LOT AREA:
5,204 S.F.
0.1195 ACRES

5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) ZONING DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:		7,500 S.F.
FRONTAGE:		100 FEET
DEPTH		70 FEET
SETBACKS:	FRONT	15 FEET
	SIDE	10 FEET
	REAR	20 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		25%
MINIMUM OPEN SPACE:		30%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULT OF A STANDARD BOUNDARY SURVEY OF ASSESSOR'S MAP 159 LOT 16 IN THE CITY OF PORTSMOUTH.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	5/28/21

REVISIONS

STANDARD BOUNDARY SURVEY
TAX MAP 159 – LOT 16

OWNERS:

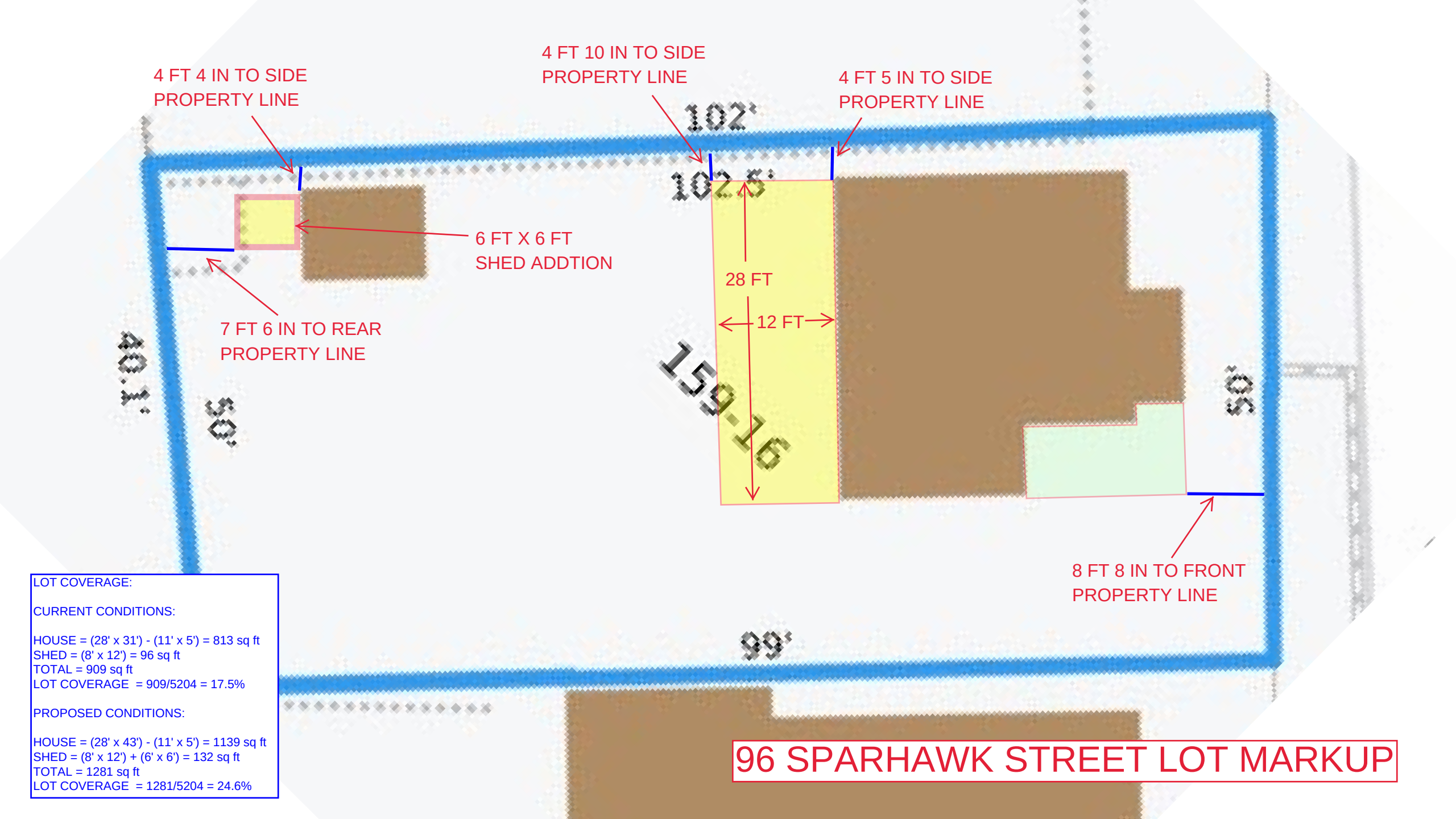
ADAM FITZPATRICK &
EMILY FITZPATRICK
(f/k/a EMILY SMITH)

96 SPARHAWK STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

SCALE 1"=10' MAY 2021

FB 201 PG 71 — 3314

J:\JOBS\PLAN 3300\3315\3315 Survey\Panel & Specs\Dwg\3314 Boundary 2021.dwg, BNORTH, 5/28/2021 3:24:05 PM



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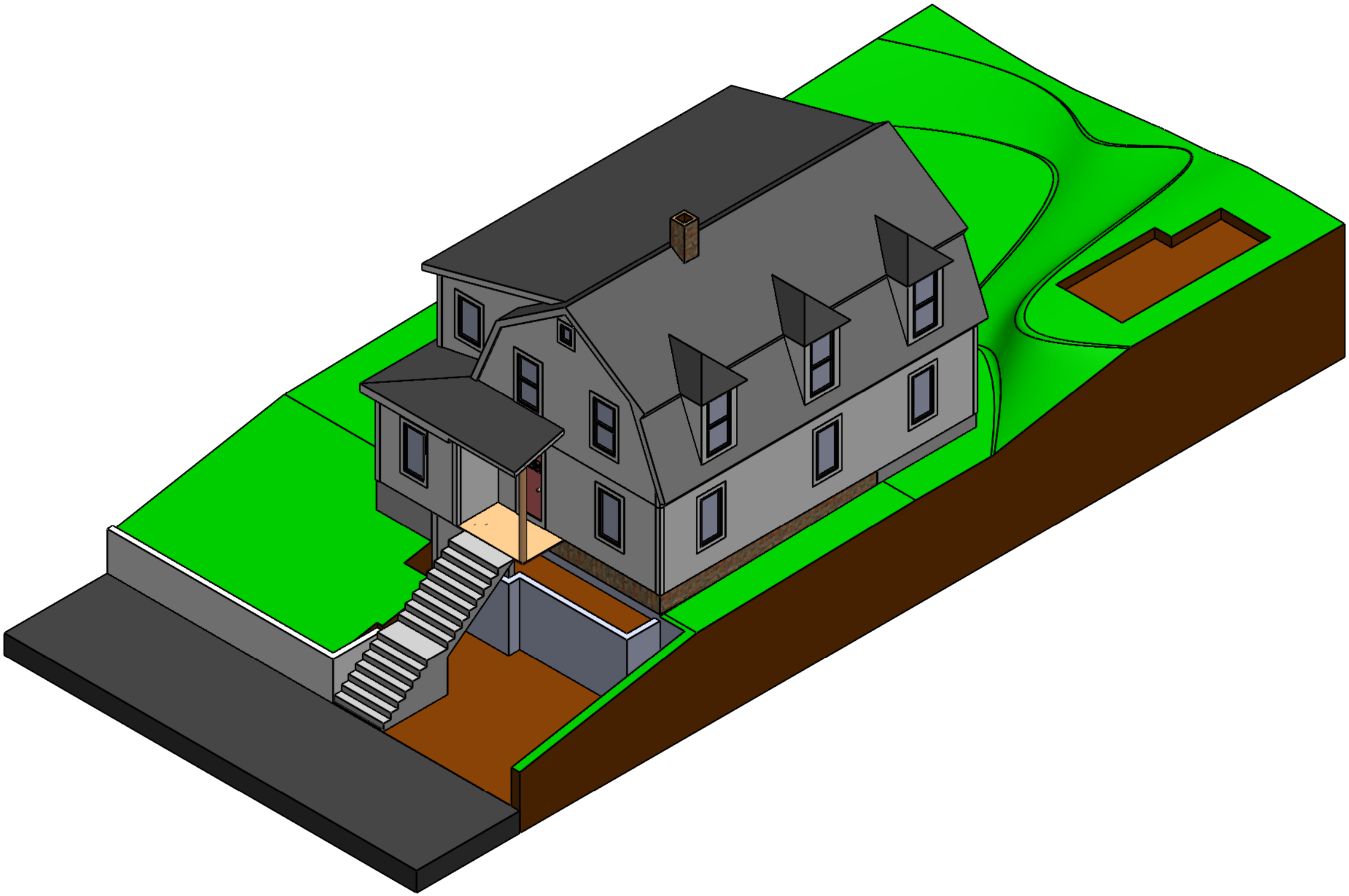
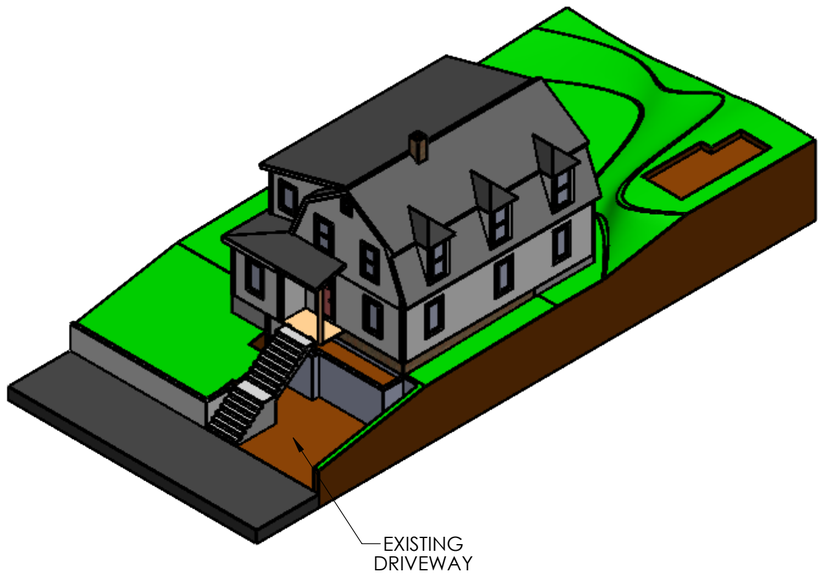
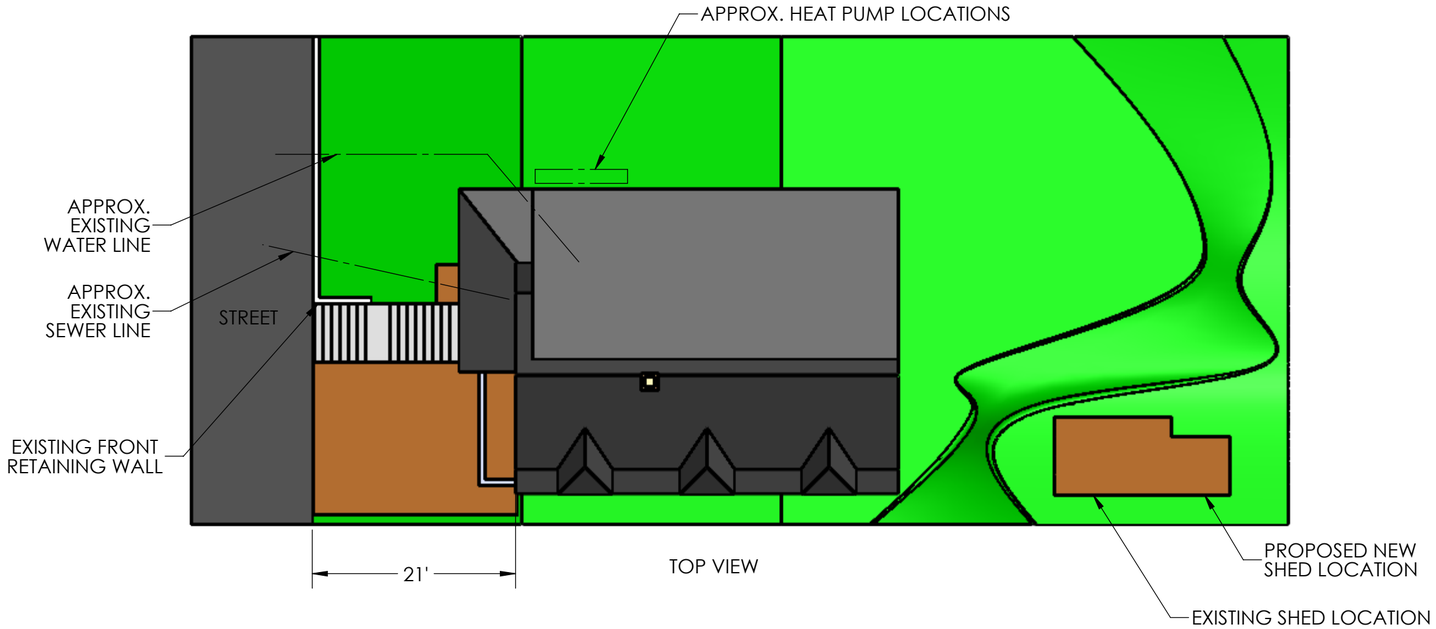


SIZE		REV.
C	PROPOSED ADDITION 96 SPARHAWK STREET	03
SCALE: 1:192	DRAWN A. FITZPATRICK	SHEET 5

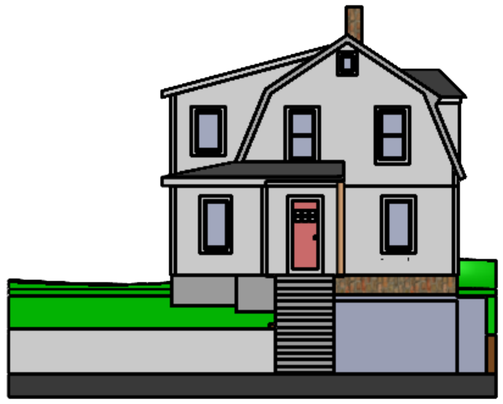
THIRD ANGLE PROJ.

SOLIDWORKS FILENAME: HOUSE ON LOT_AF_NEW

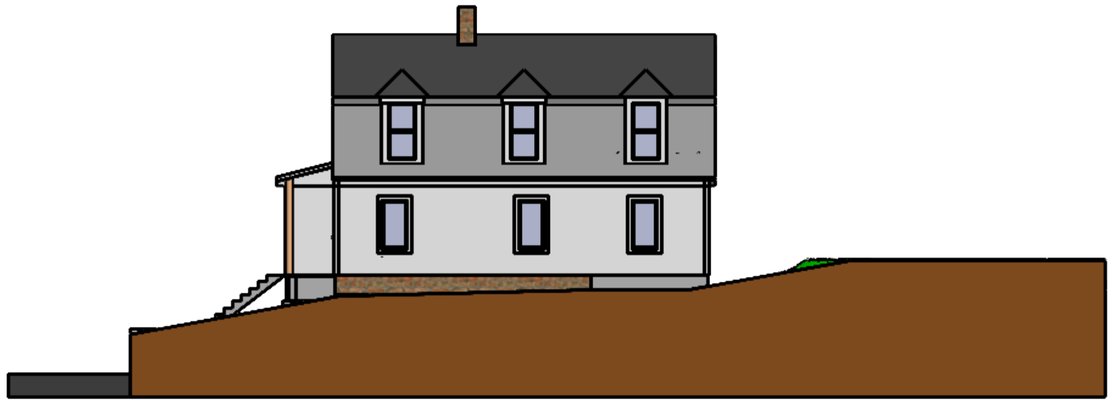




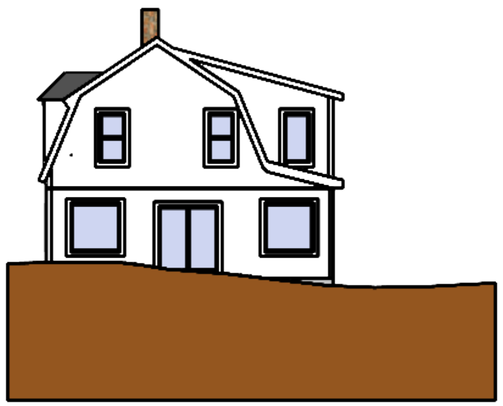
TOP VIEW



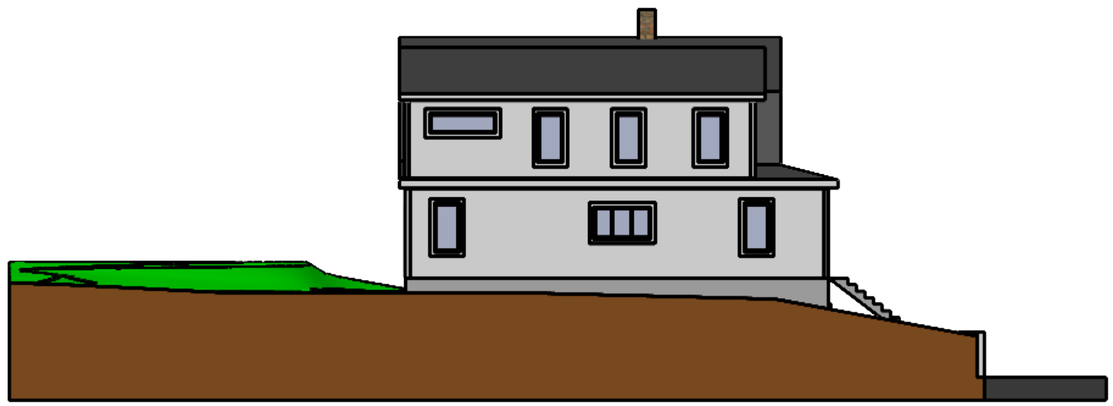
STREET VIEW



NORTHWEST VIEW



REAR VIEW

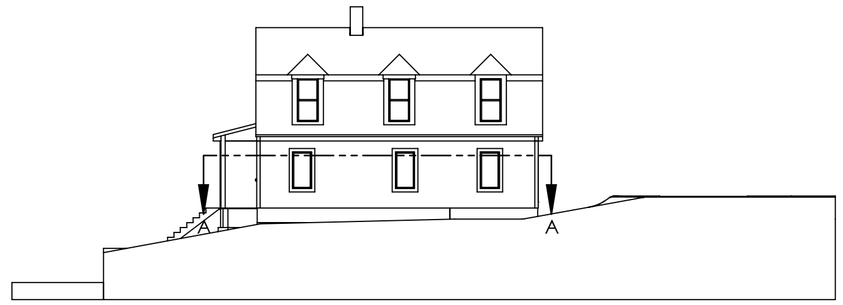


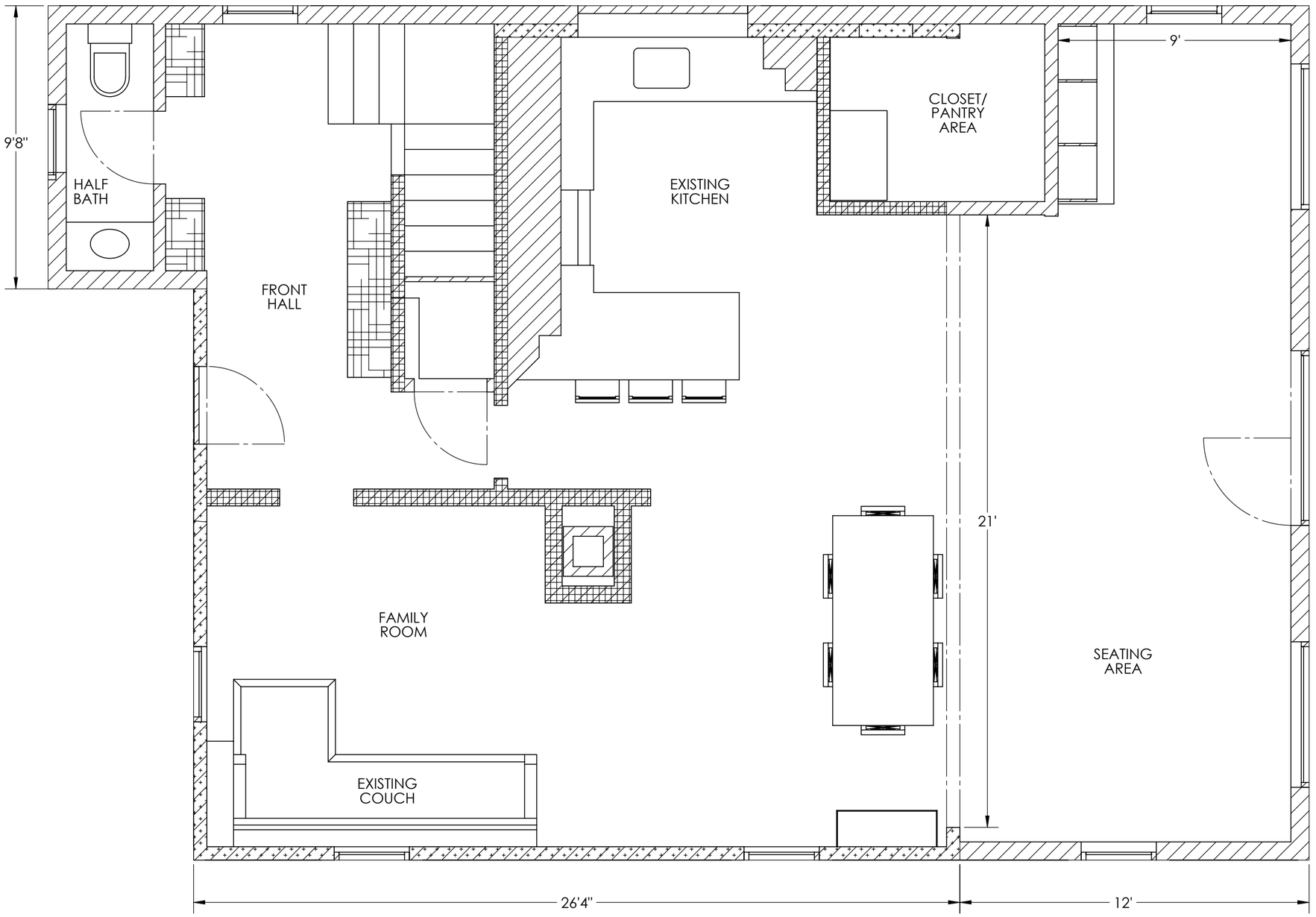
SOUTHEAST VIEW

THIRD ANGLE PROJ.

SIZE		REV.
C	PROPOSED ADDITION 96 SPARHAWK STREET	03
SCALE: 1:144	DRAWN A. FITZPATRICK	SHEET 8

SOLIDWORKS FILENAME: HOUSE ON LOT_AF_NEW

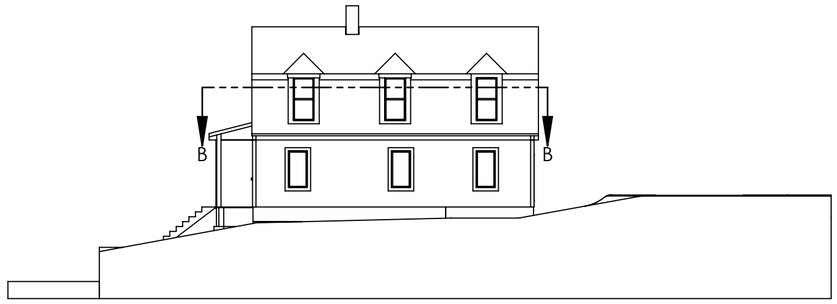


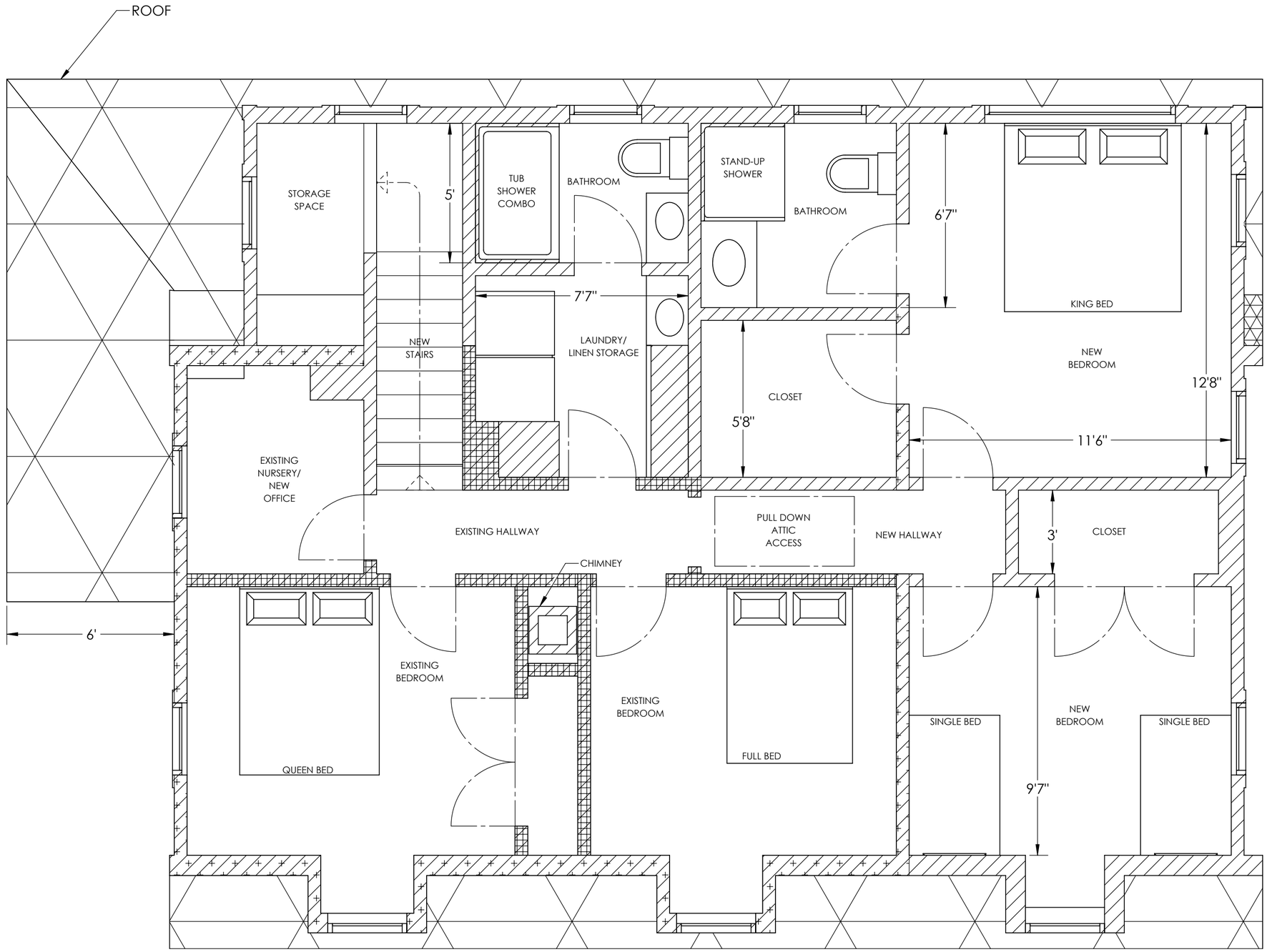


THIRD ANGLE PROJ.

SIZE		REV.
C	PROPOSED ADDITION 96 SPARHAWK STREET	03
SCALE: 1:192	DRAWN A. FITZPATRICK	SHEET 9

SOLIDWORKS FILENAME: HOUSE ON LOT_AF_NEW





THIRD ANGLE PROJ.

SIZE		REV.
C	PROPOSED ADDITION 96 SPARHAWK STREET	03
SCALE: 1:192	DRAWN A. FITZPATRICK	SHEET 10

SOLIDWORKS FILENAME: HOUSE ON LOT_AF_NEW

Portsmouth Zoning Board of Adjustment

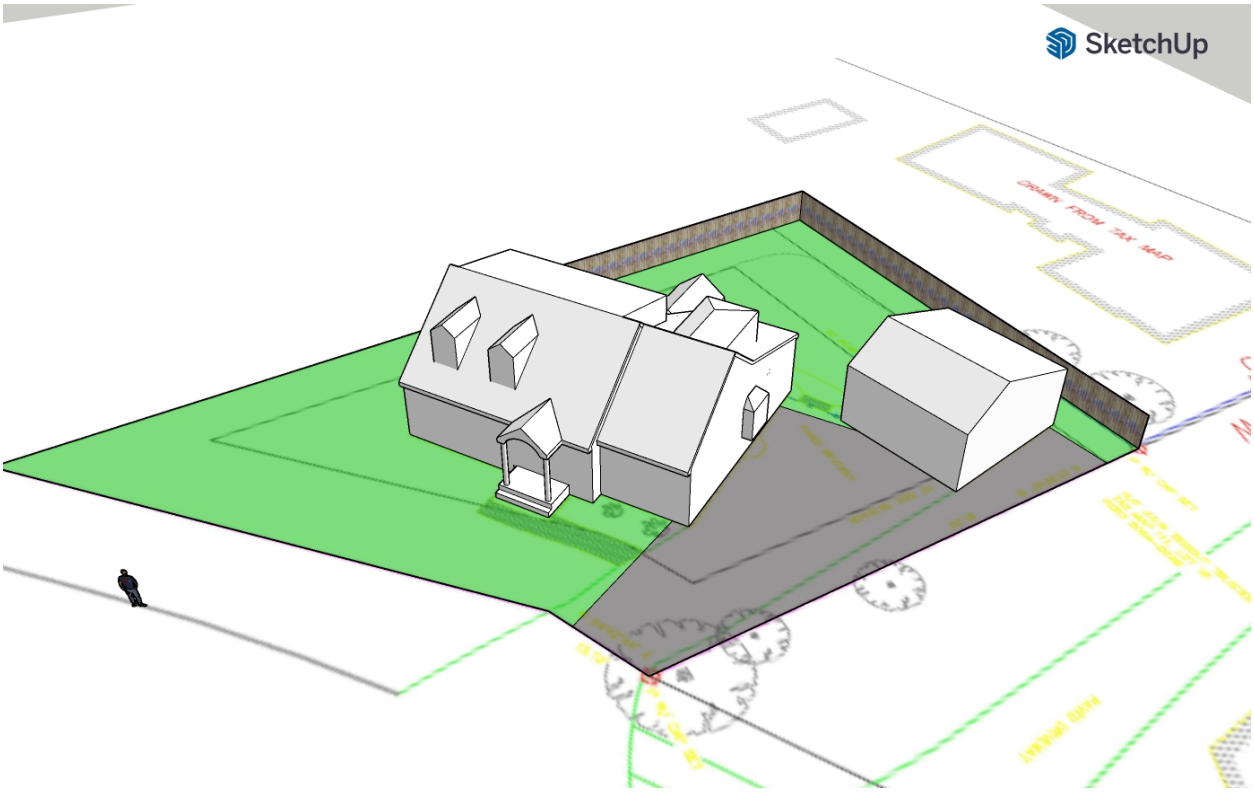
Variance Application Package

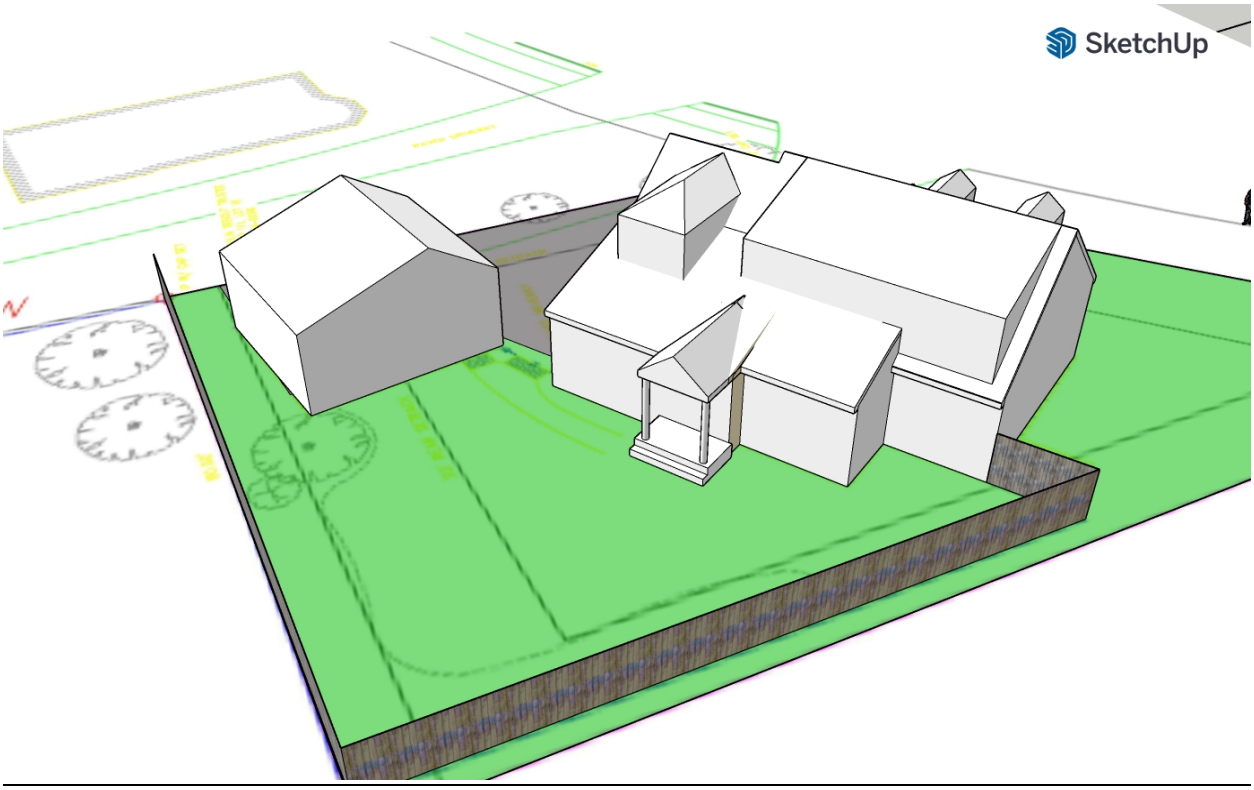
411 South Main Street

Property Info and Proposed Project

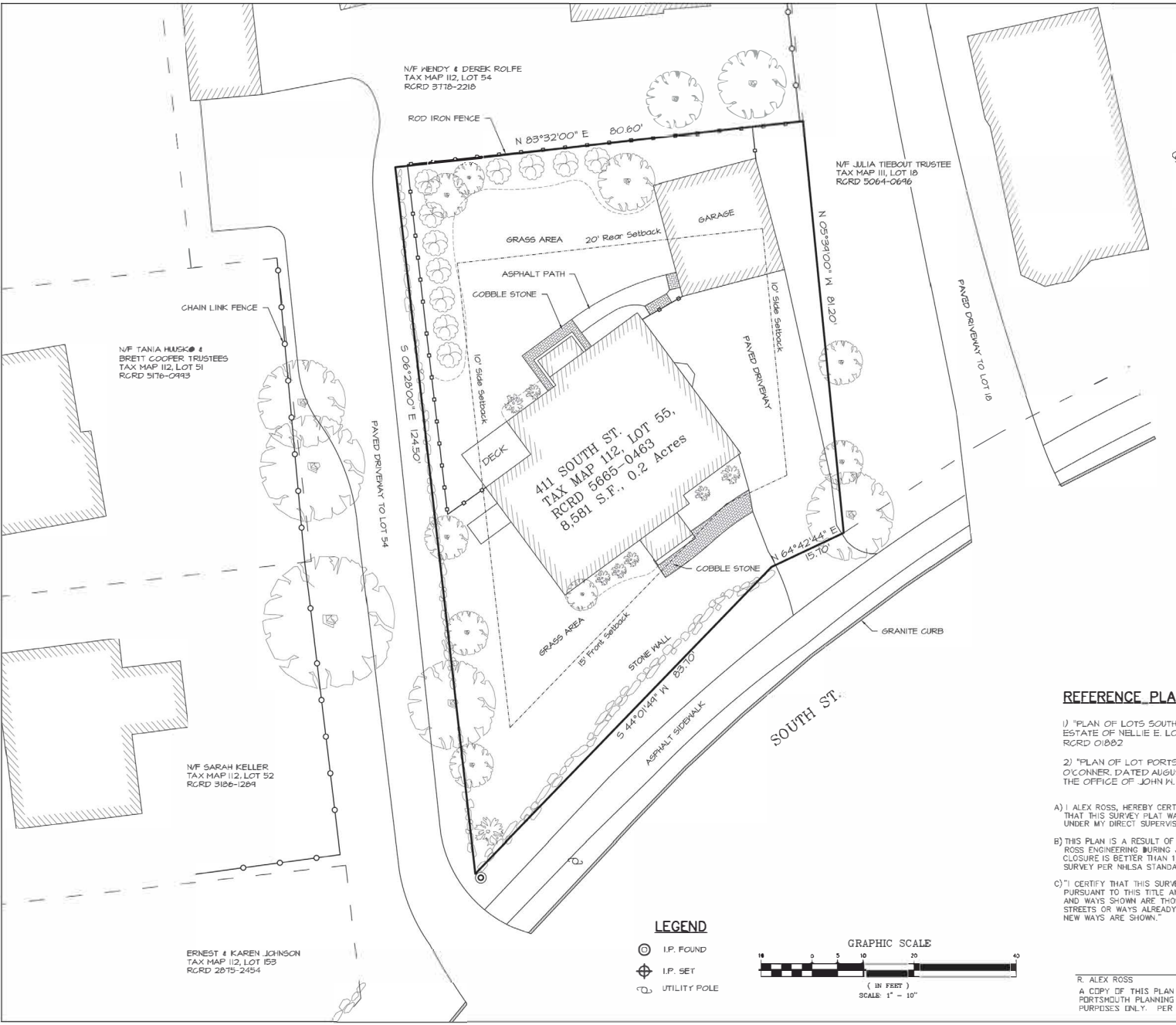
The property located at 411 South Street is .2-acre parcel with a single-family home (1955) and detached garage owned by Paul and Janice Lanzoni. The Lanzoni's would like to demolish their existing garage and build a new garage attached to the house via an interior breezeway. This configuration will provide more flexibility and efficiency of use.

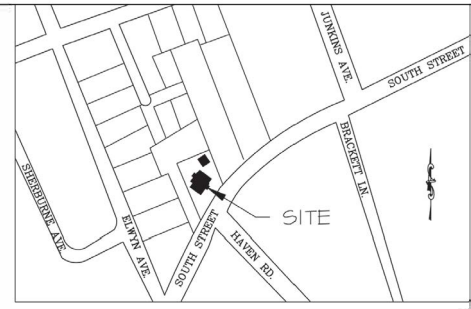
The Lanzoni's have considered a renovation to their garage in the past, but that was a much more intensive project that included a second story with dormers above the garage that housed an Accessory Dwelling Unit (ADU). With this current project we propose to remove the existing garage and rebuild a single-story new garage that connects to the main house via a small breezeway and is also resituated on the site to be parallel to the main house. The juxtaposition of the existing garage to the main house and to South Street causes a cumbersome site circulation that the Lanzoni's are trying to improve upon. We feel that this reorientation and modernization of the existing garage will bring a significant benefit towards the use of the property without impeding on abutters.





Existing House and Garage





LOCUS PLAN
N.T.S.

NOTES

1) OWNER OF RECORD:
PAUL & JANICE LANZONI
TAX MAP 112, LOT 55
411 SOUTH ST.
PORTSMOUTH, NH 03801
AREA: 8,561 SF, 0.20 ACRES

2) PARCEL IS IN GENERAL RESIDENCE A

MINIMUM LOT AREA	7,500 SF
MIN. LOT AREA PER DWELLING UNIT	7,500 SF
MINIMUM FRONTAGE	100 FT
MINIMUM DEPTH	70 FT
SETBACKS:	
FRONT	15 FT
SIDE	10 FT
REAR	20 FT
MAXIMUM BUILDING HEIGHT:	
SLOPED ROOF	35 FT
FLAT ROOF	30 FT
MAXIMUM BUILDING COVERAGE	25%
MINIMUM OPEN SPACE	30%

3) COVERAGES:
BUILDING COVERAGE

EXISTING BUILDING COVERAGE	
2.5 STORY HOUSE	1,560 SF
1 STORY GARAGE	467 SF
BULK HEAD AREA >18"	17 SF
EXISTING STRUCTURE	2044 SF = 23.8%

4) OPEN SPACE

EXISTING OPEN SPACE	
BUILDING COVERAGE	2044 SF
STEPS + DECK <18"	125 SF
ASPHALT DRIVEWAY	1233 SF
TOTAL LOT COVERAGE	3,402 SF
EXISTING OPEN SPACE = 8,561SF - 3,402SF	5174 SF
EXISTING OPEN SPACE = 60.3%	

REFERENCE PLANS

1) "PLAN OF LOTS SOUTH ST. & ELMYN AVE." ESTATE OF NELLIE E. LOWE. DATED OCT. 1951. RCRD 01882

2) "PLAN OF LOT PORTSMOUTH, N.H." FRANK O'CONNER. DATED AUGUST 1983. PREPARED BY THE OFFICE OF JOHN W. DURGIN ASSOCIATES, INC.

A) I ALEX ROSS, HEREBY CERTIFY: THAT THIS SURVEY PLAT WAS PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION.

B) THIS PLAN IS A RESULT OF FIELD SURVEY PERFORMED BY ROSS ENGINEERING DURING JULY OF 2017. THE ERROR OF CLOSURE IS BETTER THAN 1/15,000. SURVEY PER NHLSA STANDARDS; CATEGORY 1, CONDITION 1.

C) "I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUB-DIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN."

R. ALEX ROSS DATE

A COPY OF THIS PLAN HAS BEEN SUBMITTED TO THE PORTSMOUTH PLANNING BOARD FOR INFORMATION PURPOSES ONLY. PER RSA 676:18 IV.

SEAL

LEGEND
- I.P. FOUND
- I.P. SET
- UTILITY POLE

GRAPHIC SCALE
10 0 5 10 20 40
(IN FEET)
SCALE: 1" = 10'

ISS.	DATE	DESCRIPTION OF ISSUE
1	JULY 28, 2017	PRELIMINARY

SCALE 1" = 10'
CHECKED A.R.
DRAWN A.B.G.
CHECKED A.R.

ROSS ENGINEERING
Civil/Structural Engineering & Surveying
989 Islington St.
Portsmouth, NH 03801
(603) 433-7560

CLIENT
Paul & Janice Lanzoni
411 South St.
Portsmouth, NH 03801

TITLE
Boundary Survey & Existing Conditions
for
411 South St.
Portsmouth, NH, 03801
Tax Map 112, Lot 55
Portsmouth, NH

JOB NUMBER	SHEET NO.	ISSUE
17-096	1 OF 1	1

Previous Proposal – October 2017

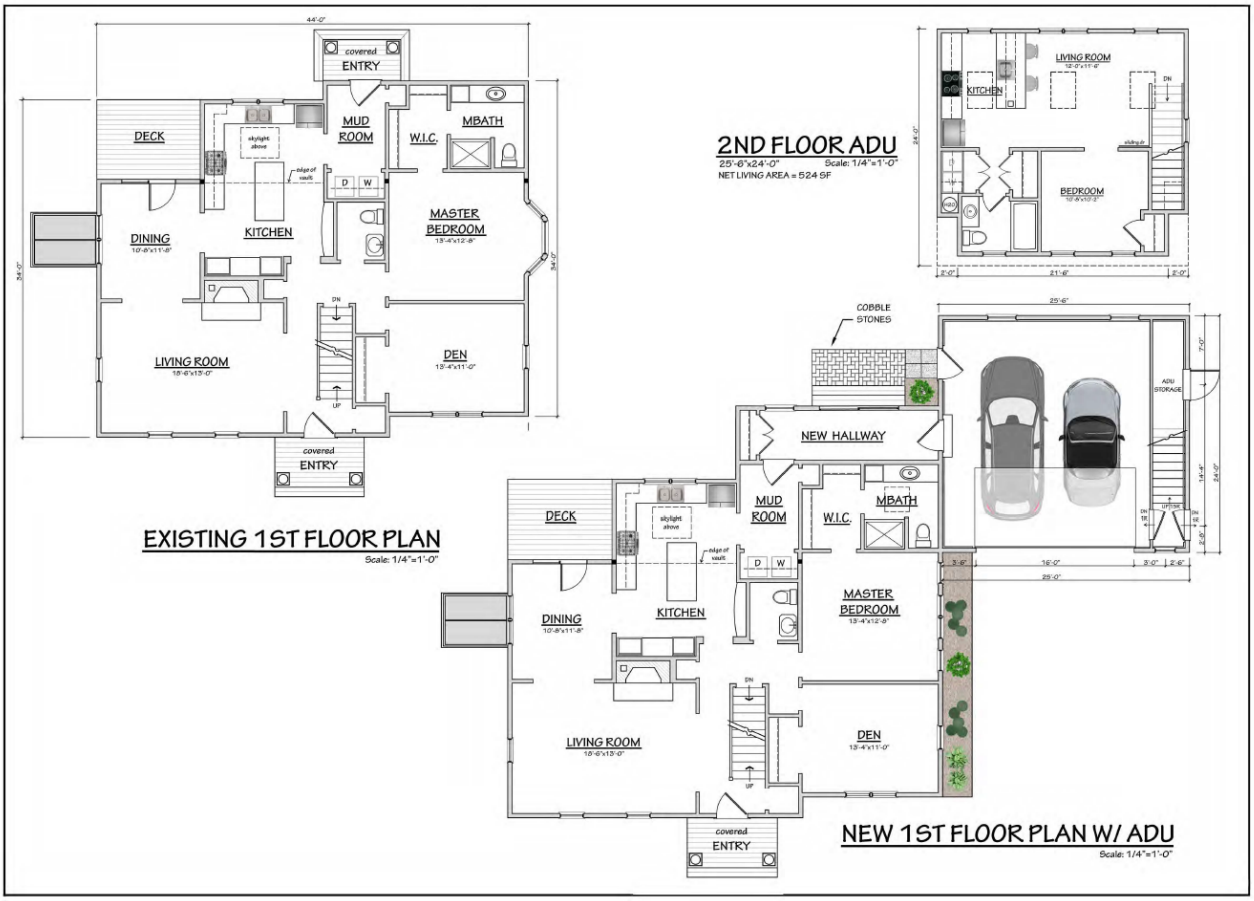
The 2017 application proposed removing the existing garage and constructing a dormered two-story garage connected to the main house with a hallway/sunroom addition. The second story of the garage would act as a standalone Accessory Dwelling Unit *(See P4 + P5 Below).* The new garage would be 25'-0" wide x 24'-0" long with a 22'-9" ridge height. Four variances were required to be able to construct the proposed design.

Variances

- Section 10.521:
    1. Right Yard = 10'-0" Min. Required
    2. Rear Yard = 20'-0" Min. Required
    3. Building Coverage = 25% Max. Allowed
- Section 10.321:
    4. Non-Conforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the ordinance

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single Family	Garage addition w/ AADU	Primarily Residential Uses	
Lot area (sq. ft.):	8,581	8,581	7,500	min.
Lot Area per Dwelling Unit (sq. ft.):	8,581	8,581	7,500	min.
Street Frontage (ft.):	ok	ok	100	min.
Lot depth (ft.):	ok	ok	70	min.
Primary Front Yard (ft.):	>15	>15	15	min.
Right Yard (ft.):	6	**9.3**	10	min.
Left Yard (ft.):	>10	>10	10	min.
Rear Yard (ft.):	6.2	**8.1**	20	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	23.8	**26.4**	25	max.
Open Space Coverage (%):	60.3	37.3	30	min.
Estimated Age of Structure:	1955	Variance request shown in red.		



P5

Fullerton Associates, Inc
281 Atlantic Avenue
North Hampton, NH 03862
www.fullertonassociates.net
603-964-7093

REVISIONS
8.12.17
9.25.17

LANZONI RESIDENCE
411 South Street • Portsmouth • NH

NORTH ELEVATION
Scale: 1/4"=1'-0"

NEW ELEVATIONS W/ GARAGE & ADU

EAST ELEVATION
Scale: 1/4"=1'-0"

SOUTH ELEVATION
Scale: 1/4"=1'-0"

P4

Fullerton Associates, Inc
281 Atlantic Avenue
North Hampton, NH 03862
www.fullertonassociates.net
603-964-7093

REVISIONS
8.12.17
8.15.17
9.25.17

LANZONI RESIDENCE
411 South Street • Portsmouth • NH

Previous Proposal – October 2017

Application Denied

Feedback from abutters:

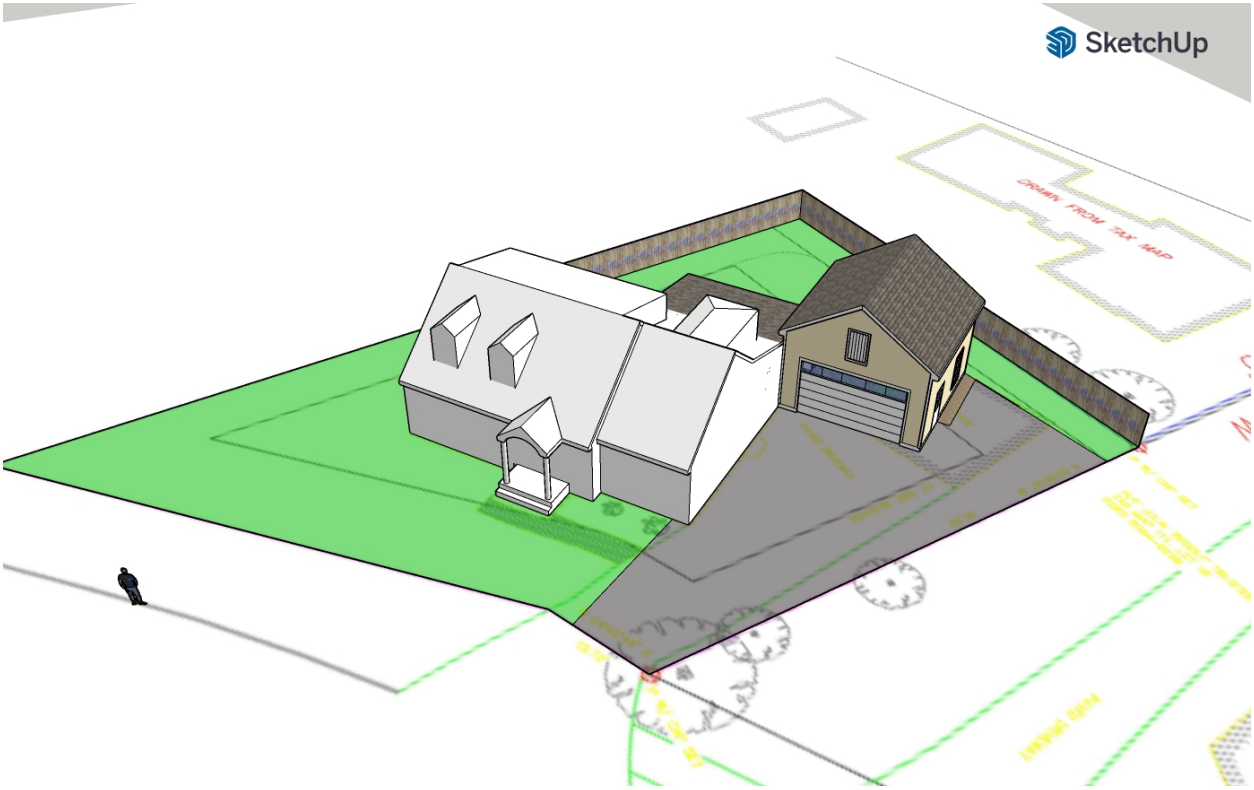
- Windows and occupied level above garage and would invade privacy of adjacent yards
- New exterior lights would shine into neighboring windows
- Garage was too tall

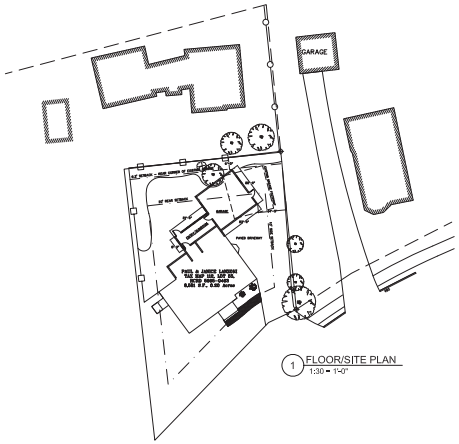
The application was denied by the City of Portsmouth Zoning Board for the following reasons:

- It intruded on adjacent property which diminished potential property value
- The size of the addition was quite large and didn't observe the spirit of the ordinance
- The benefit of removing and replacing a small usable garage outweighed by harm created to general public

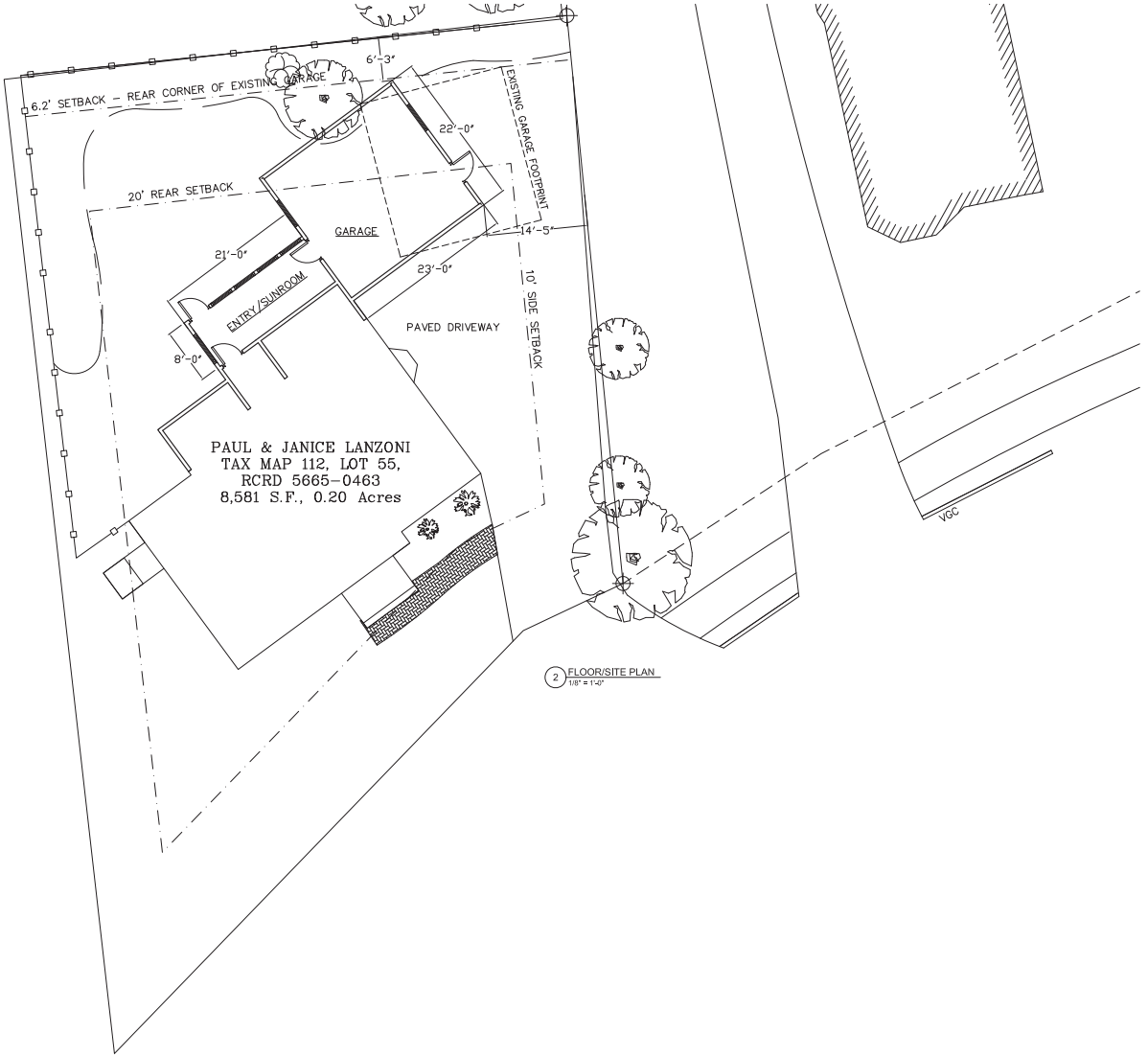
Current Proposal – May 17, 2022

The application in this packet proposes to remove the existing garage, and then reconstruct a new single story two car garage with no other additional uses. This new design will only require two variances rather than the previous approval's four. One variance is to add to or reconstruct an existing non-compliant building, and the other variance if for a rear yard setback that is proposed to match the setback of the garage that exists on site today.





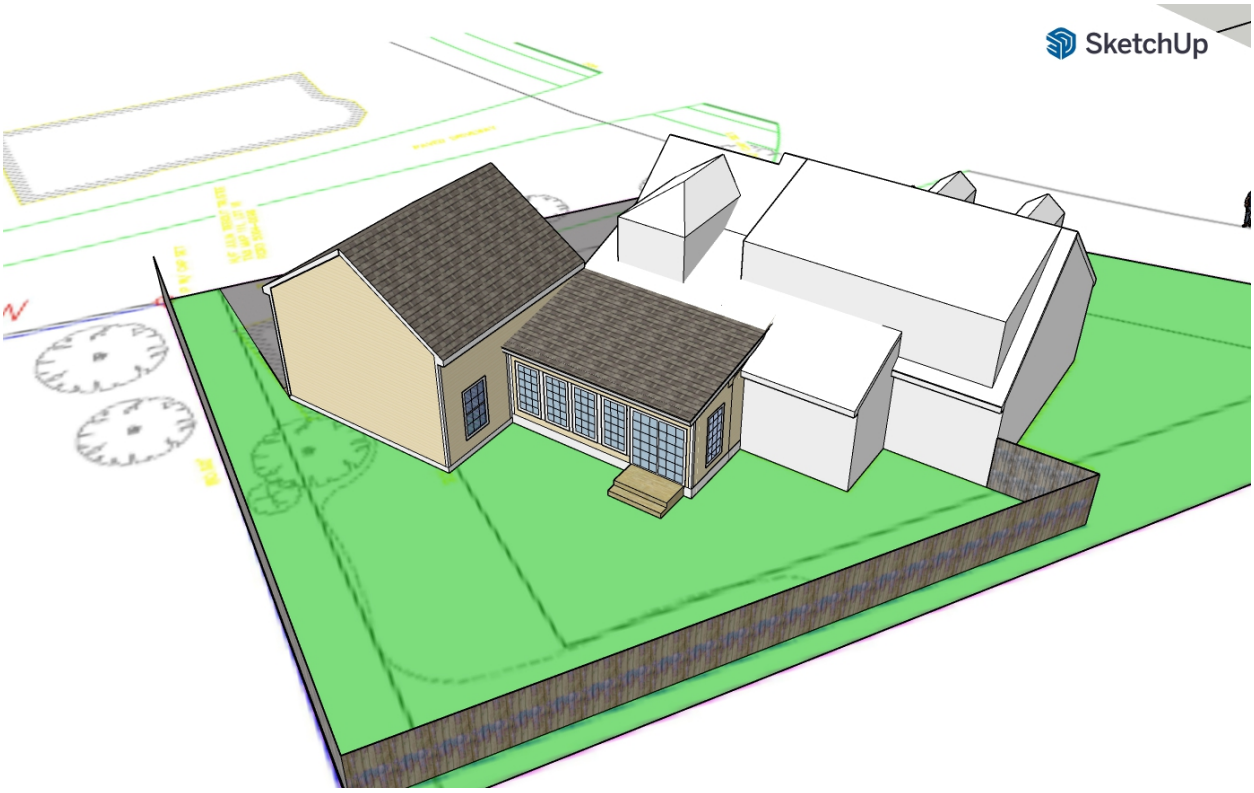
1 FLOOR/SITE PLAN
1:30 = 1'-0"



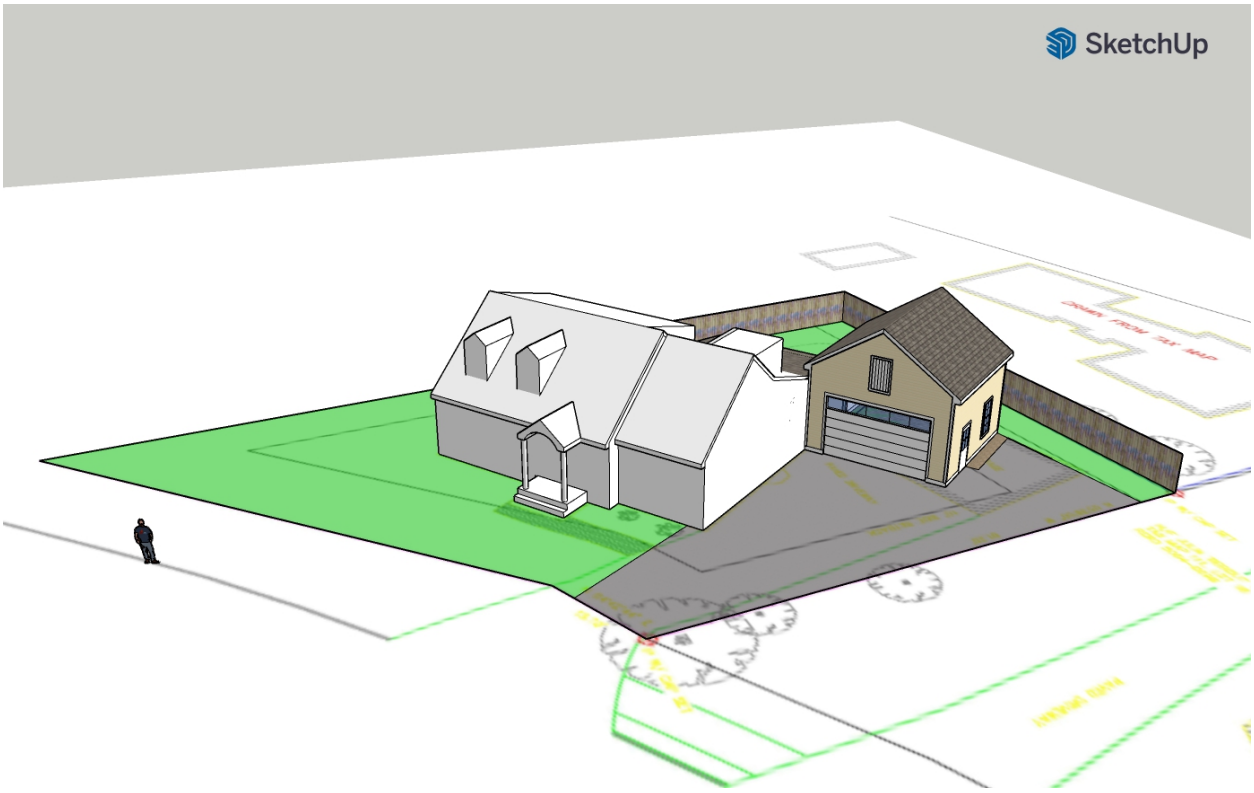
2 FLOOR/SITE PLAN
1/8" = 1'-0"

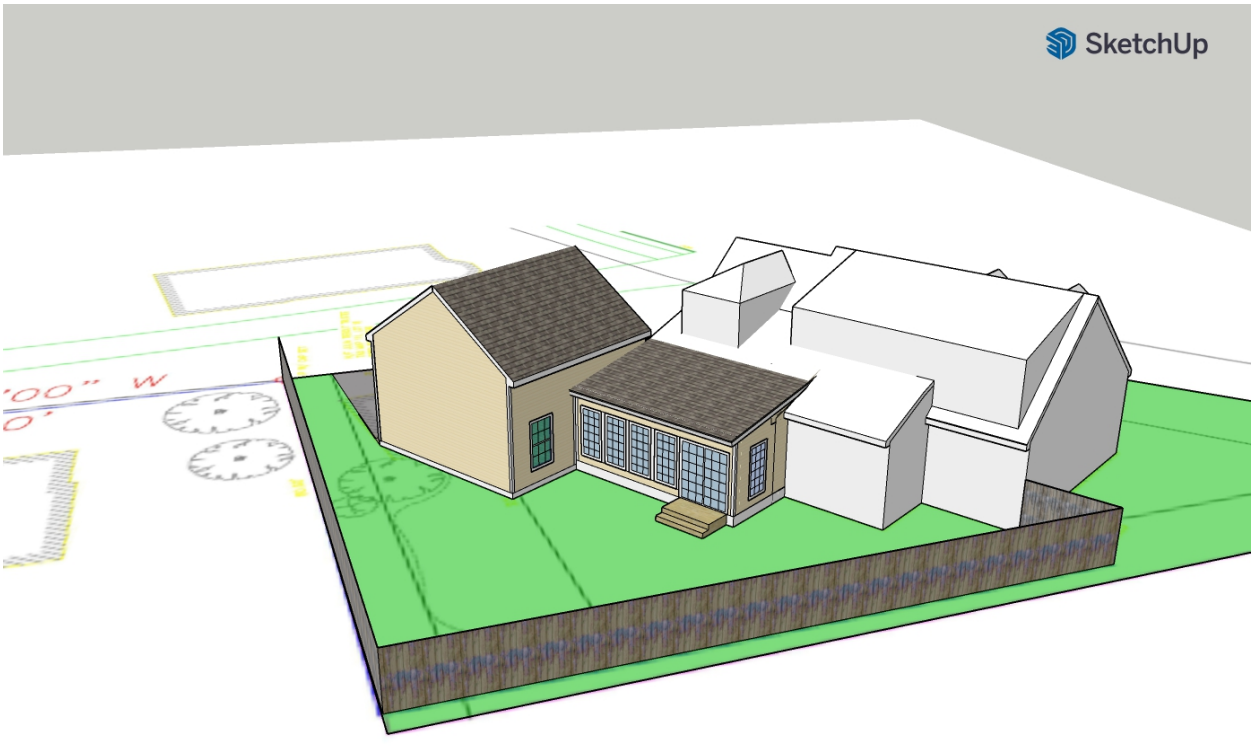
PRINTED AT 1/2 SCALE ON 11X17 PAPER

LANZONI RESIDENCE ADDITION 411 SOUTH STREET PORTSMOUTH, NH 03801	FLOOR/SITE PLAN	02/XX/2022 studio j	A1

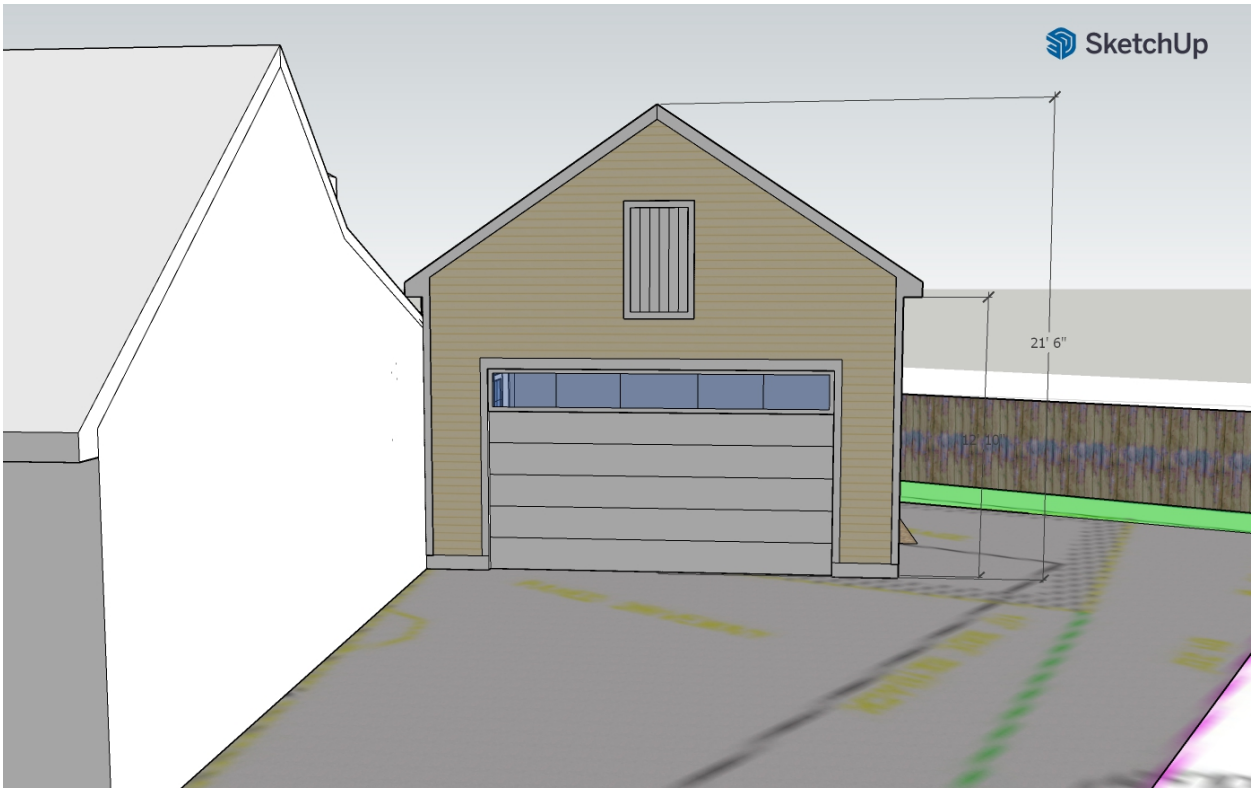


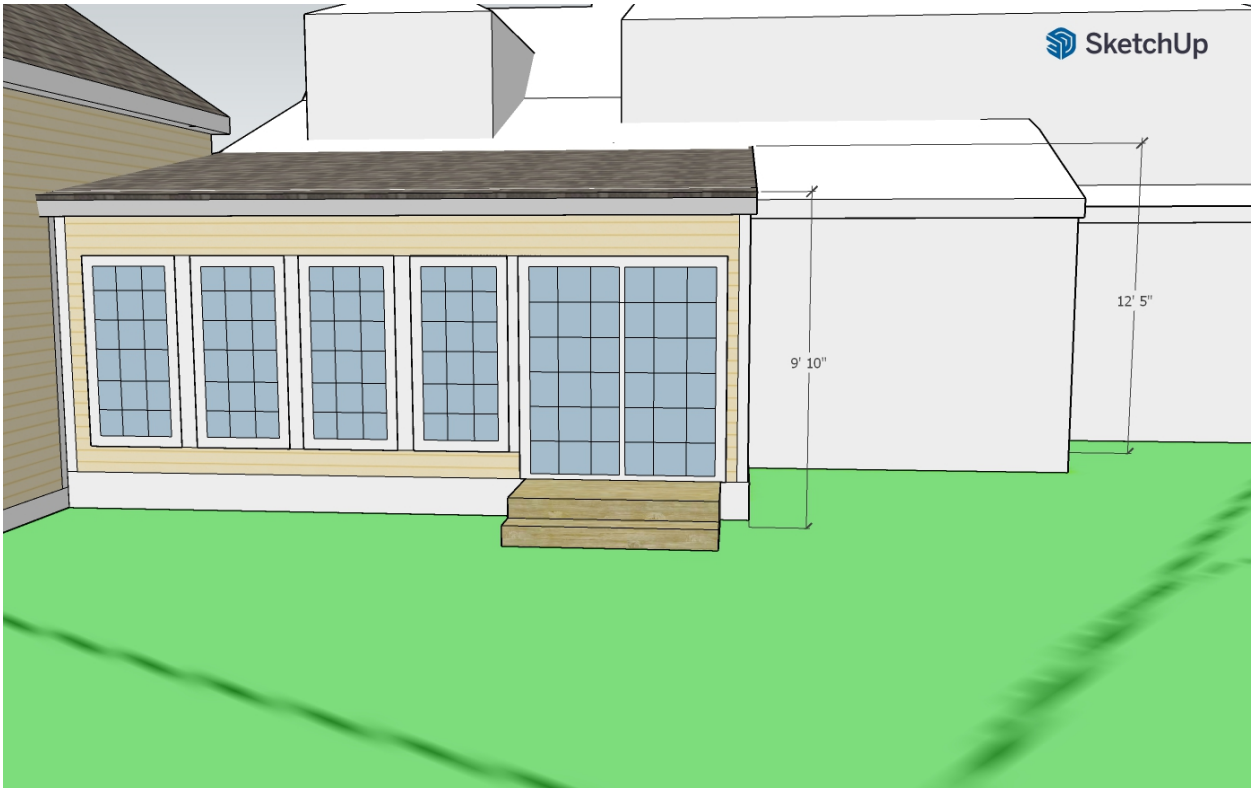
Perspective Views – May 2022





Perspective Views – May 2022





Vertical Dimensions – May 2022

PHOTO #1

PHOTO #2

PHOTO #3

PHOTO #4

PHOTO #5

PHOTO #6

LANZONI RESIDENCE - 411 SOUTH ST., PORTSMOUTH

PHOTO #7

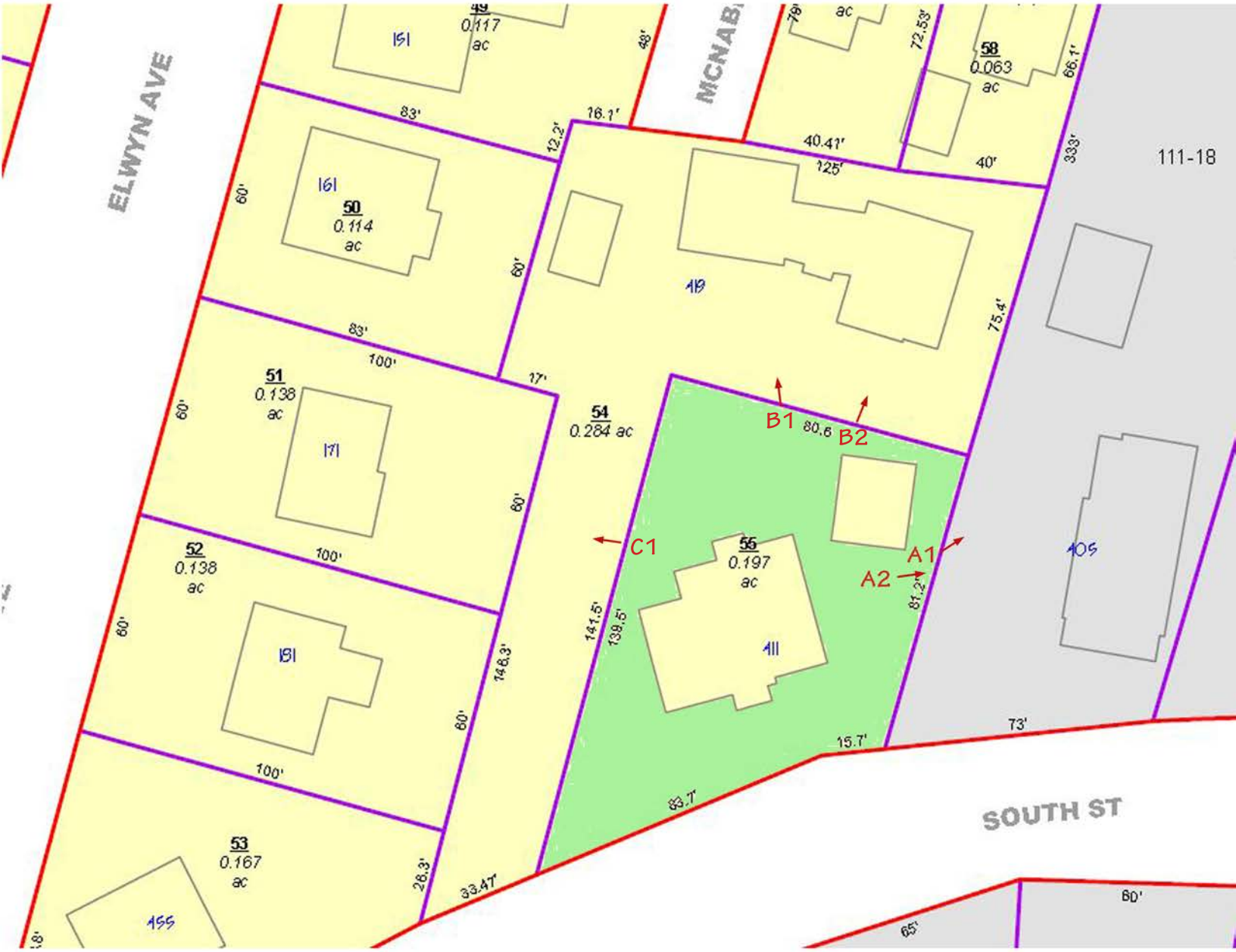
PHOTO #8

PHOTO #9

PHOTO #10

PHOTO #11

LANZONI RESIDENCE
411 SOUTH ST.
PORTSMOUTH, NH



LANZONI RESIDENCE

411 SOUTH ST.

PORTSMOUTH, NH

PHOTO A1

PHOTO A2

PHOTO B1

PHOTO B2

PHOTO C1

411 SOUTH ST. PORTSMOUTH, NH ABUTTING PROPERTIES

Existing & Proposed Conditions – May 2022

	Existing	Previously Proposed	Required	New Proposal
Right Yard	6’	9.3’	10’	14.4’
Rear Yard	6.2’	8.1’	20’	6.2’
Building Coverage (%)	23.8	26.4	25	24.9

Red Highlight = Variance Required

The above table shows a comparison of the three-dimensional variances that were requested with the previous proposal in October 2017. The new proposal has eliminated the need for two of these variances and requests that the rear setback for the new garage match the same setback that has existed on site for many years. It also proposes to bring the right yard setback dimension into compliance by exceeding the required setback of 10’-0” – with the existing garage the setback is currently 6’-0”.

Design Intent

We feel that the proposed design is modest in scale and responds well to the surrounding site context. It provides appropriate parking for two modern sized vehicles and creates a weather protected connection from the garage to the Mud Room and Kitchen. Since the previous application the garage has been rotated 90 degrees in orientation to reduce the visual impact on side and rear abutters. A 6’ tall perimeter fence has also been installed to increase privacy and assist with visual impact. Lastly, the previous roof dormers and garage second floor have been removed to keep the impact of the project on the project as minimal as possible.

We appreciate your time in reviewing the attached materials, and hope that you agree that the proposed project will be a tasteful addition to the neighborhood. We ask that you approve our variance requests as presented in this package.

Variance Criteria

1. The variance is not contrary to the public interest.
2. The spirit of the ordinance is observed.
   Upon completion of this project the use and intensity of the property will be the same as it is today. A single-family home and garage use in the General Residence A district aligns with the purpose of the ordinance and the character of the surrounding neighborhood. The addition of a small breezeway to the rear of the existing house will produce no perceived detriment to abutting properties, and the variance request for a rear yard setback will not affect the health, safety, or welfare of the rear yard abutters. Since the setback will remain the same for the proposed garage as it is for the existing garage one could argue there is proof of concept already in action on the site.

3. Substantial justice is done.
   The benefit of modernizing their garage and connecting to the main house to the applicant is not outweighed by any perceived harm to the abutters and general public. As stated above, what's being proposed is a modest addition that is sited to match an existing non-conforming rear yard setback and rectifies and existing non-conforming right yard setback.

4. The values of surrounding properties are not diminished.
   The replacement of a dated secondary structure with a new garage that is built to a modern scale and attached breezeway will not diminish the values of surrounding properties. The new addition will add some value to the Lanzoni's property, and will either cause a neutral, or slightly increased, value to abutting properties.

5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship means:
   Because of special conditions of the property that distinguish it from other properties in the area:
   a. There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property; and
   b. The proposed use is a reasonable one.

   There are a few special conditions that create a hardship when comparing this property to the zoning ordinance requirements.

   - The lot has a unique shape
   - The curved path of South Street as it passes in front of the property has created a situation where the orientation of the existing house to face the street is contrary to the orientation of the property itself. Therefore, the relationship of the house to the property boundaries is skewed with many awkward angles. This makes the use of the property less efficient and carves out some relatively unusable triangular shapes around the house that would otherwise be buildable.
   - The property is situated almost as an island carved out between the abutters to each side. The left side property wraps around to the rear of 411 South Street and creates a somewhat awkward backyard relationship dissimilar to others in the neighborhood.

When comparing these features to the requested rear yard setback relief there is no diminishment to the purpose and intent of the setback requirement which is light, air, security, privacy, and the proposed use remaining as a single-family home with associated garage is a reasonable one.

Respectfully Submitted,

Jeremiah Johnson, AIA

On Behalf of Paul and Janice Lanzoni

Gmail paul lanzoni <paul.lanzoni@gmail.com>

Fwd: garage plans

1 message

paul lanzoni <paul.lanzoni@gmail.com> Wed, Apr 20, 2022 at 5:06 PM
To: studio _j <studio_j@comcast.net>

one more ... Haven road person - directly across the street

---------- Forwarded message ---------
From: **Laurie McCray** <lauriemccray@myfairpoint.net>
Date: Wed, Apr 20, 2022 at 11:58 AM
Subject: garage plans
To: Paul Lanzoni <paul.lanzoni@gmail.com>, Janice Lanzoni <janicelanzoni@gmail.com>

Hi Janice and Paul,

Thanks for sharing your garage and sunroom plans with me. I love them and think they will be a functional and attractive addition to your home.

As for the black truck in my driveway that you may have noticed, it belongs to Mark Troy. You will get a chance to meet your new neighbor soon!

Laurie

--
Senior Paulo Lanzoni

Gmail paul lanzoni <paul.lanzoni@gmail.com>

Fwd: Proposed Garage/Breezeway Project

1 message

paul lanzoni <paul.lanzoni@gmail.com> Fri, Apr 15, 2022 at 9:03 AM
To: studio _j <studio_j@comcast.net>

One more. Still waiting on the back neighbor.

---------- Forwarded message ---------
From: **Brandon Seppa** <brandon.seppa@gmail.com>
Date: Fri, Apr 15, 2022 at 9:02 AM
Subject: Proposed Garage/Breezeway Project
To: <paul.lanzoni@gmail.com>, <janicelanzoni@gmail.com>

Janice and Paul,
My name is Brandon Seppa. I live with my wife and young children at 151 Elwyn Ave. I wanted to take a moment to reach out to say that while we don't have an opinion on the specifics of the proposed project, we're sincerely grateful for the extent to which you've gone *out of your way* to proactively and comprehensively inform your neighbors regarding your plans.

Thank you,
Brandon
--
Senior Paulo Lanzoni

Gmail paul lanzoni <paul.lanzoni@gmail.com>

Fwd: Garage

1 message

paul lanzoni <paul.lanzoni@gmail.com> Tue, Apr 12, 2022 at 12:38 PM
To: studio _j <studio_j@comcast.net>

FYI

These are the folks on Elwyn that had negative comments about the project.

---------- Forwarded message ---------
From: **tania porticofinetile.com** <tania@porticofinetile.com>
Date: Tue, Apr 12, 2022 at 12:34 PM
Subject: Garage
To: Paul.lanzoni@gmail.com <Paul.lanzoni@gmail.com>
CC: janicelanzoni@gmail.com <janicelanzoni@gmail.com>

Hi Paul and Janice,

Brett and I are fine with your garage/breezeway plan.

Have a good day,

Tania

Tania Huusko

Portico Fine Tile and Design

611 Breakfast Hill Rd. #6

Greenland, NH

03840

Phone: 603-964-3383

Fax: 603-964-3382

Family Owned and Operated

Est.2000

www.porticofinetile.com

--
Senior Paulo Lanzoni

Gmail paul lanzoni <paul.lanzoni@gmail.com>

Re: 411 garage plans

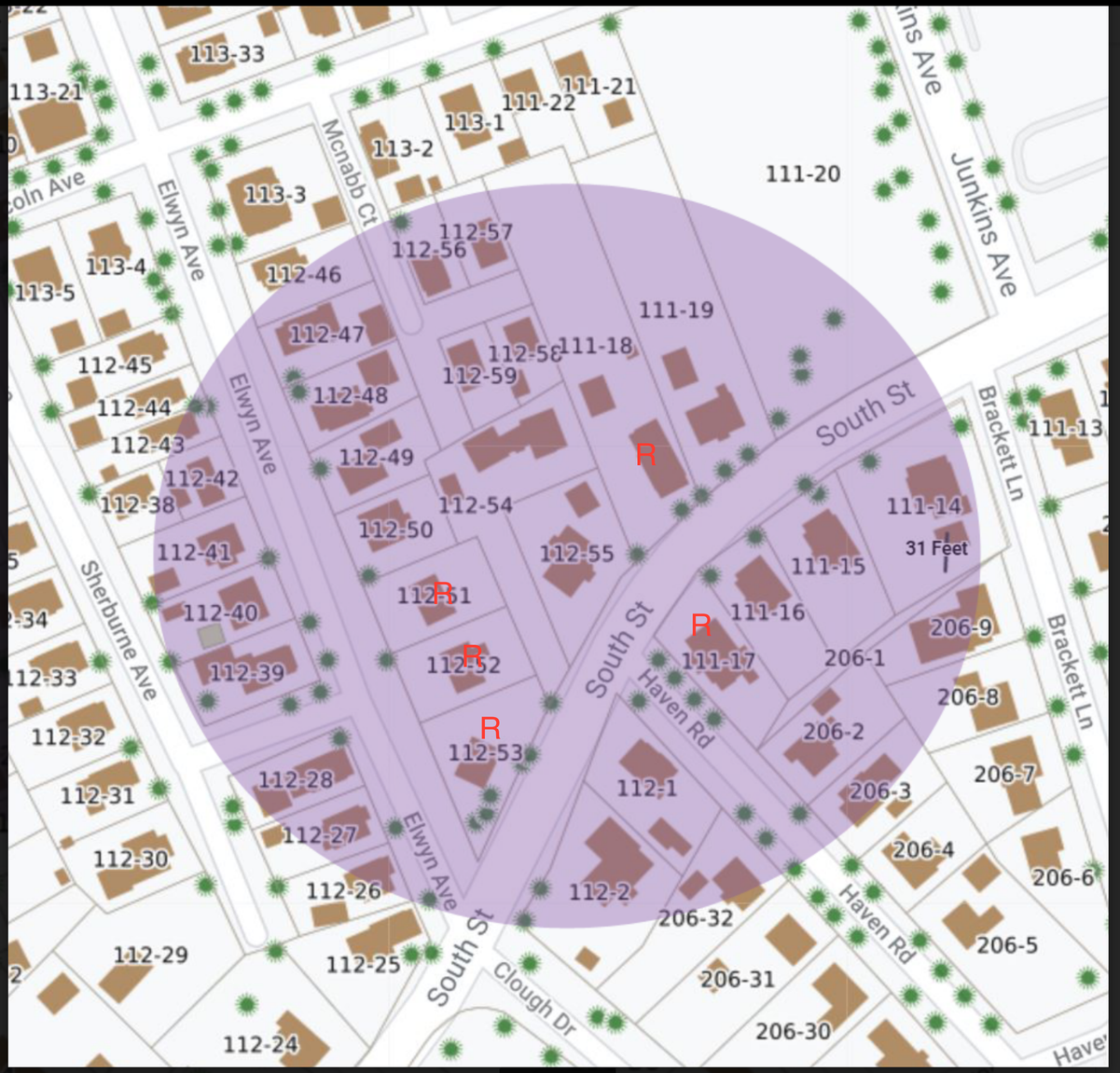
1 message

Julie R <julierobb405@gmail.com> Tue, Mar 15, 2022 at 12:02 PM
To: Jeremiah Johnson <studio_j@comcast.net>
Cc: paul lanzoni <paul.lanzoni@gmail.com>

Thank you for your response.
It is an odd lot, having been divided from the Nellie Lowe house behind it in 1955 or so. My aunt bought the property, swung the chain link fence 90 degrees and had an amazing flower garden all along it. The spot next to the garage was the best vegetable garden spot. Her tomatoes adored the heat and protection there!
Julie

On Tue, Mar 15, 2022 at 11:52 AM Jeremiah Johnson <studio_j@comcast.net> wrote:

> Hi Julie,
> Thank you so much for reaching out and for your feedback.
> We were thinking the area adjacent to the garage would be crushed stone rather than pavement.
> Out intention would be to have no affect on the lilacs - they are beautiful!
> I don't believe Paul and Janice have decided yet for sure, but we were thinking either a simple fence or some privacy bushes in that area.
>
> Thanks again and please don't hesitate to reach out with any other questions/concerns.
>
> Thanks,
> Jeremiah
>
> > On 03/14/2022 5:08 PM Julie R <julierobb405@gmail.com> wrote:
> >
> > Paul, Janice and Jeremiah,
> >
> > I received your packet regarding the relocation of your garage and new glassed-in enclosure connecting it to your home.
> > This plan seems less impactful than the previous design, though you do lose more of your backyard.
> > It isn't clear to me if the relocation will allow a parking space or be paved in the area between our yards at the back corner of the garage. Could you clarify that for me? Are you considering a fence?
> > Would either of these situations be in keeping with the requested variance?
> > I want to preserve the 100 year old+ lilac that is in that vicinity and I feel it is on my property. I won't, however, miss the nasty blackberry canes and thorns that are near there.
> >
> > Regards,
> > Julie Robb
> > 405 South St, Portsmouth, NH 03801


113-33
113-21
111-21
111-22
113-1
113-2
111-20
Junkins Ave
Mcnabb Ct
Elwyn Ave
113-3
112-57
112-56
113-4
112-46
113-5
111-19
112-47
112-58
111-18
112-45
112-59
112-48
South St
Brackett Ln
112-44
112-43
112-49
R
112-42
112-54
111-14
112-38
112-50
112-55
31 Feet
112-41
111-15
Sherburne Ave
112-51
111-16
112-40
R
206-9
R
111-17
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112-39
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Haven Rd
206-8
112-33
206-2
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206-3
112-31
112-27
206-4
206-6
112-30
112-26
112-2
206-32
206-5
112-29
112-25
206-31
Clough Dr
206-30
112-24

Paul & Janice Lanzoni
411 South St
PORTSMOUTH, NH 03801

Thanks so much
sharing this infor
It looks like
good luck wi

002071

KELLER SARAH E
181 ELWYN AVE
PORTSMOUTH, NH 03801-4419

Page 1 / 1

April 4, 2022

Paul Lanzoni

411 South Street

Portsmouth, NH 03801

To Whom it May Concern:

Please allow Jeremiah Johnson to submit and present information, on my behalf, in support of a variance application to the Zoning Board of Adjustment for my property, located at 411 South Street.

Sincerely,

Paul Lanzoni

411 South Street

Portsmouth, NH - Board of Adjustment
Variance Statement for: 129 Aldrich Street

Date:

Chairman of the Board of Adjustment
C/O Planning Department City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801

To The Chairman of the Board of Adjustment,

Please find this statement as addressing the requirements for a variance on the proposed project located at 129 Aldrich Street.

Overview: The existing single-family structure was purchased by the current owners, Andrea and Matt Srebnik on 11.06.17 as a home in our community. The renovated home will remain single-family with some much-needed additional square footage for their growing family.

Per Section 10.322 – In order to comply to current building codes, we are not able to build the structure without expanding the gross footprint. We are proposing an addition off the back of 16'-0", a cantilevered addition of 2/-3" to the right side office, a garbage shed and a shed off the back of the property. The bulkhead will be relocated to the left side of the house off the proposed new deck.

Per Section 10.322 – We are proposing that we will be removing the existing roofline and raise the ridge height to 23" with dormers. This will allow us to maintain a tall bungalow-style home, true to Portsmouth architecture in the 1920's, while gaining living square feet on the 2nd floor.

Keeping in mind the 5 Criteria:

1. The new structure would be staying within the character of the neighborhood.
    a. The houses in the neighborhood are a mix of Bungalows, New Englanders, capes and multi-family therefore staying in character with the neighborhood.
2. It would improve the safety and health of the homeowners and neighborhood.
    a. Currently the structure has two bedrooms and one bath on the 2nd floor accessed by a very steep staircase. The staircase will be rebuilt to meet code and the bedrooms will also sit farther away from the staircase providing more safety.
3. Substantial justice is done.
    a. No harm will be done to the neighborhood or community should this application be granted

4. The values of the surrounding properties are not diminished.
    a. The neighborhood would improve with this proposed structure introduced into the neighborhood. This neighborhood has slowly been renovating over the last 10 years and 129 would be joining a large amount of homes that have renovated improving curb-appeal, function and safety in our community. Note: This home is located right at the new speed bump on Aldrich and they do appreciate the slower traffic.
5. Literal enforcement of the ordinance would result in unnecessary hardship
    a. The existing structure is small modest home located on an equally small non-conforming lot; therefore, conforming to setbacks would eliminate the functional use of any space. The backyard is still maintained as a perfect space for children, dogs and adults alike to play.
    b. The existing structure is not large enough for their growing family. With the housing prices and lack of inventor in Portsmouth, they are willing to invest in the home in order to stay and raise their familyin Portsmouth and not have to leave our community.

We encourage the Portsmouth Board of Adjustment to grant the variance to the Srebnik Residence.

Submitted respectfully,

Amy Dutton
Amy Dutton Home
9 Walker Street
Kittery, Maine 03904
amy@amyduttonhome.com
207-337-2020

PHOTOS OF EXISTING PROPERTY:

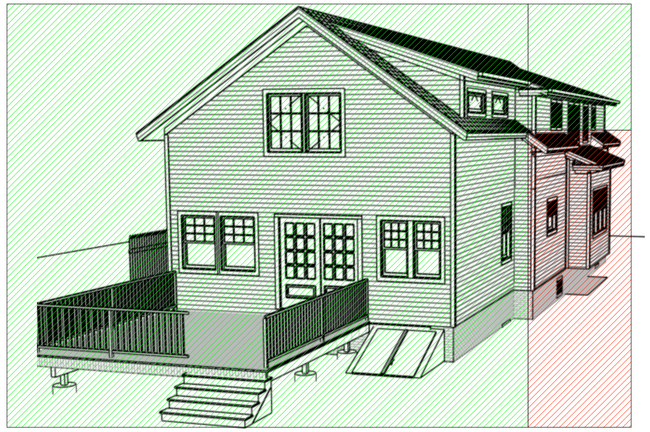
FRONT ELEVATION

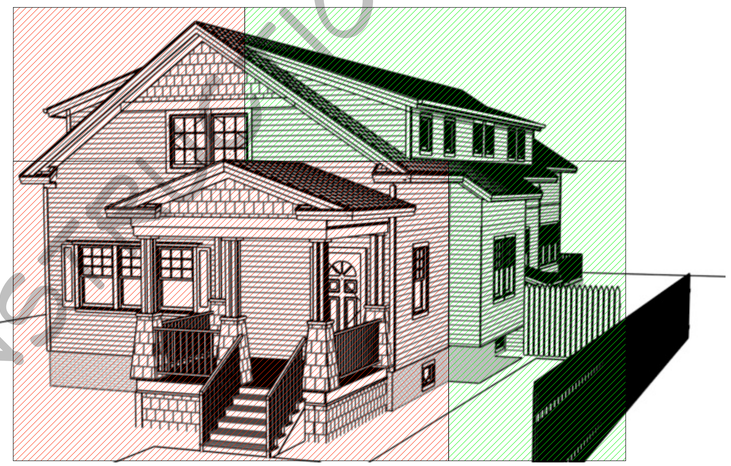
EAST SIDE ELEVATION

BACK ELEVATION

BACK SIDE PERSPECTIVE (showing the 4sf to be filled in)

WEST SIDE ELEVATION





PRELIMINARY - NOT FOR CONSTRUCTION USE

OVERVIEW

SCALE: NTS

SPECIFICATIONS + NOTES

*ROOFING MATERIAL: ASPHALT
*ALL TRIM PACKAGE: PVC OR BORAL
*SIDING: ALL NEW
*BRACKETS:ProWood Market - Bracket 02T9 - P 32", H:42", T: 5.5" (Ptd: WHITE)
*COLUMNS:
*STAIR SYSTEM:
_EXTERIOR:
*BROSCO: Liberty Extruded Rail System
*RISER: AZEC- WHITE
*TREAD: SELECTWOOD, ZURI "Weathered Grey"
_INTERIOR:
*NEWEL
*HANDRAIL
*BALUSTERS
*RISER FINISH
*TREAD
*WINDOWS:
_MANUFRACTURER: MARVIN ELEVATE OR EQ.
_EXT. FINISH:
_INT. FINISH:
*DOORS:
_MANUFRACTURER:
_EXT. FINISH:
_INT. FINISH:
*BATHROOMS:
_FLOORING
_TUB DESIGN
_SHOWER FLOOR
_SHOWER WALLS
_SHOWER HEADS
_SHOWER NICHE VS. SHELVES
_SHOWER DOOR
_NOTE: MAJOR PLUMBING CHANGES

*FLOORING:
_1ST FLOOR:
_2ND FLOOR:
_HEATED FLOOR:
_REFINISH AREAS:
*KITCHEN:
_CABINETRY NOTES: Specs to be prepared on 11 x 17 doc.
_BUILT-IN NOTES:
_APPLIANCES
*MANTLE:
*FIREPLACE:
_GAS
_WOOD: INT. FIREBOX: RED BRICK VS. YELLOW BRICK
_HEARTH: RAISED VS. FLUSH
*MATERIAL:

NOTES:
*CEILING HEIGHTS: 1ST FLOOR: _____| 2ND FLOOR: _____
*CORNER BOARDS: 6" TYP
*WATER TABLE: 10" W/ COPPER FLASHING TYP.
*RAKE BOARD: 8" TYP. PVC OR BORAL. (FILLED & PAINTED)
*SOFFIT - BEADBOARD AZEC OR EQ.
*ROOF VENT - RIDGE VENT VS. BROSCO LOUVERED VENT VS. SOFFIT VENT
*ARCHITECTURAL DETAIL:
*WINDOW TRIM: 4-1/2" TYP. PVC

TOTAL SQUARE FOOTAGE:
_NEW
_RENOVATED SF
_TOTAL

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DRAWINGS USED EXPRESSIVELY FOR DESIGN ONLY FOR NOTED CLIENT. ALL STRUCTURAL ENGINEERING PROVIDED BY OTHER.

FINAL CD SET DATE: 04.13.22

EXISTING LIVING AREA

MAIN FLOOR	1197 sqft
SECOND FLOOR	673 sqft
TOTAL	1870 sqft
FRONT PORCH	120 sqft

PROPOSED LIVING AREA

MAIN FLOOR	1425 sqft
SECOND FLOOR	1240 sqft
TOTAL	2665sqft
FRONT PORCH	120 sqft
GARAGE	196 sqft

DIM DISCLAIMER

BUILDING CONTRACTOR/HOME OWNER TO REVIEW AND VERIFY ALL DIMENSIONS, SPECS, AND CONNECTIONS BEFORE CONSTRUCTION BEGINS.

WALL LEGEND

= ADDITION

= EXISTING

Layout Page Table

Label	Title
R-1	RENOVATION PLAN
O-1	OVERVIEW
S-1	PLOT PLAN
R-2	RENOVATION PLAN
G-1	GENERAL NOTES
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A-1	FOUNDATION
A-2	FIRST FLOOR
A-3	SECOND FLOOR
A-4	ROOFS
A-5	WINDOW AND DOOR SCHEDULE
A-6	WINDOW AND DOOR SCHEDULE
A-7	ELEVATIONS
A-8	ELEVATIONS
A-9	ELEVATIONS
A-10	SECTIONS
A-11	SECTIONS
F-1	FRAMING
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D-1	DETAILS
E-1	ELECTRICAL
P-1	PLUMBING
C-1	KITCHEN CABINETRY
C-2	BATH CABINETRY
C-3	CABINETRY
L-1	LANDSCAPE PLAN

Revision Table

Number	Date	Description

OVERVIEW

CLIENT:
SREBNIK RESIDENCE
124 ALDRICH RD
PORTSMOUTH, NH

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.337.2020

DATE:
4/19/2022

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
O-1

CALCULATIONS

Map- Lot: 0153-0035-0000
Vision Account: 34831
Local District: SRB
ZONING MAXIMUMS:
front setback: 30' (17' w/ 10.516.10 Exception)
rear setback: 30'
side setbacks: 10'
building coverage: 20%

EXISTING CONDITIONS:
LOT SIZE: 0.23
ANTICIPATED DISTURBED AREA: 649 SF
FRONT/REAR HEIGHT: 22' - 6"

LIVABLE SF:	1444 SF
FIRST FLOOR	1076 SF
3-QUARTER	368 SF
BASEMENT	0
GROSS SF:	3429 SF
FIRST FLOOR	1076 SF
3-QUARTER	1050 SF
BASEMENT	1050 SF
ATTIC	0 SF
GARAGE	0 SF
PORCH, OPEN	120 SF
PORCH, Encl.	133 SF
AREA OF FOOTPRINT:	1329 SF
EXISTING SETBACKS:	
FRONT:	15'- 0" | 24' -10"
REAR:	114' -6"
LEFT:	5' -7"
RIGHT:	13'-0"

EXISTING LOT COVERAGE: 13.3%
EXISTING PARCEL AREA: 0.23 ACRES (10018.8 SF)

PROPOSED CONDITIONS:
FRONT/REAR HEIGHT: 24'-5"

LIVABLE SF:	2890 SF
FIRST FLOOR	1477 SF
3-QUARTER	1413 SF
BASEMENT	0
GROSS SF:	4808 SF
FIRST FLOOR	1477 SF
3-QUARTER	1413 SF
BASEMENT	1419 SF
ATTIC	0 SF
GARAGE	0 SF
DECK	248 SF
PORCH, Encl	133 SF
GARBAGE shed	18 SF
SHED	100 SF
AREA OF FOOTPRINT:	1976 SF
PROPOSED SETBACKS:	
FRONT:	15'- 0" | 24' -10'
REAR:	92'-3"
LEFT:	5'-7"
RIGHT:	10'-9"

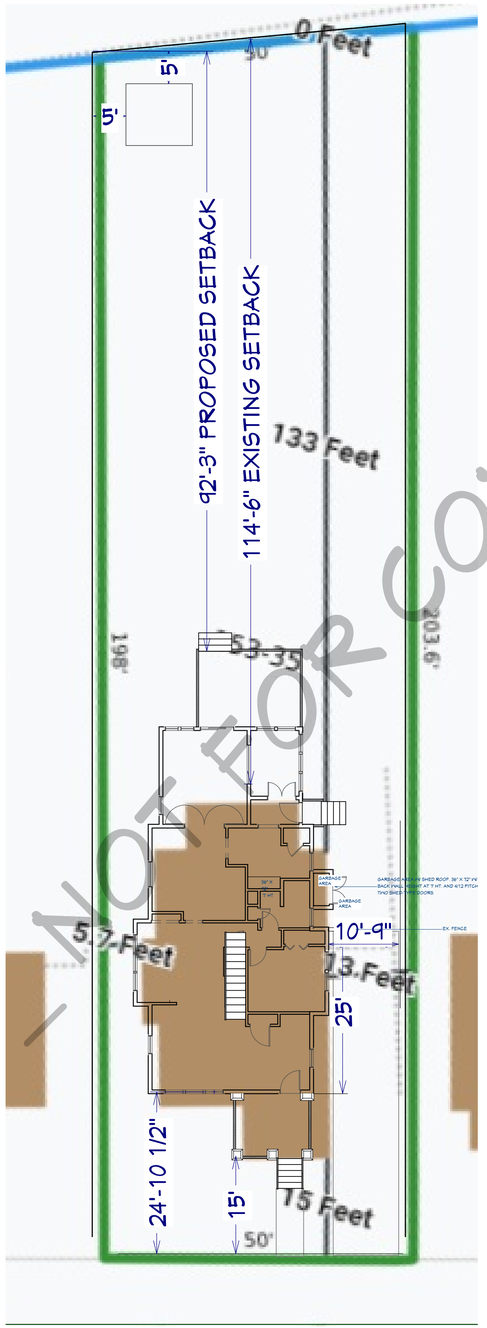
PROPOSED LOT COVERAGE: 19.7%
EXISTING PARCEL AREA: .23 AC | 10,018.8 SF

CAD BLOCK GUIDE

EXISTING FOOTPRINT (1329 SQFT)

PROPOSED ADDITION (647SQFT)

PROPOSED DECK AND SHED (348 SQFT)



SITE PLAN

SCALE: 1" = 12'-0"

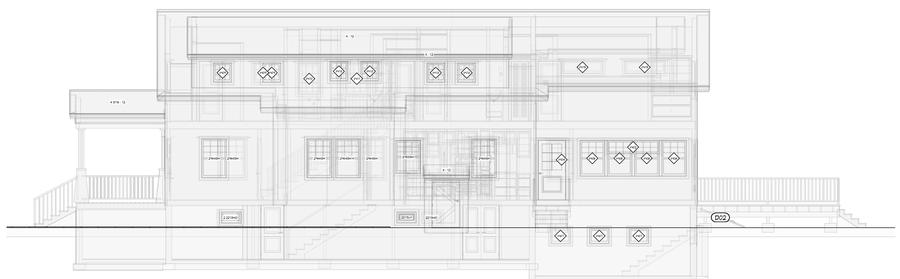
GIS INFO.

SCALE: 1/8" = 1'-0"

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,076	1,076
EAF	Attic Expansion	1,050	368
FEP	Porch, Enclosed	133	0
FOP	Porch, Open	120	0
UBM	Basement, Unfinished	1,050	0
		3,429	1,444

VISION APPRAISAL INFO.

SCALE: 1/8" = 1'-0"



GLASS HOUSE ELEVATION FROM EAST

SCALE: 1/8" = 1'-0"

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

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PLOT PLAN

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DATE:
4/19/2022

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
S-1

DEMOLITION NOTES

GENERAL NOTES

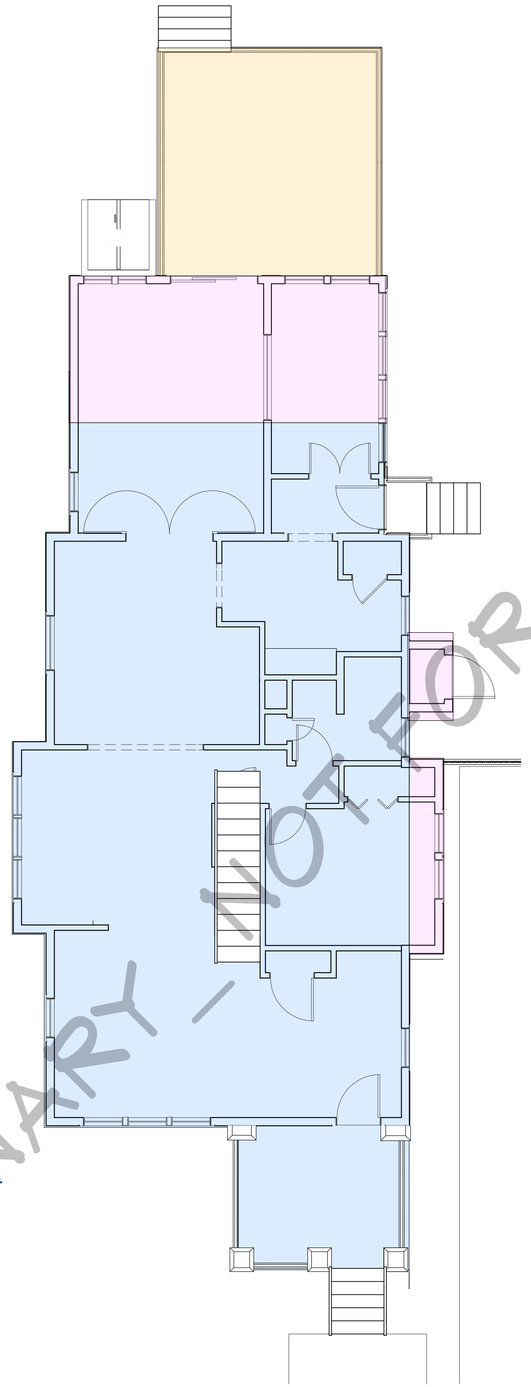
1. PROVIDE SELECTIVE DEMOLITION TO REMOVE EX. FLOOR, WALLS, CEILING, WINDOWS AND ROOF SYSTEMS IDENTIFIED. CONFIRM EXACT LOCATION W/ DESIGNER AND CIVIL ENGINEER PRIOR TO SELECTIVE DEMOLITION COMMENCEMENT. CONSULT WITH DESIGN PROFESSIONAL FOR ALL REQUIRED TEMPORARY SHORING AND SUPPORTS.

2. CUT EXISTING FOUNDATION TO LOCATION IDENTIFIED AND PREPARE FOR NEW FOUNDATION WALL.

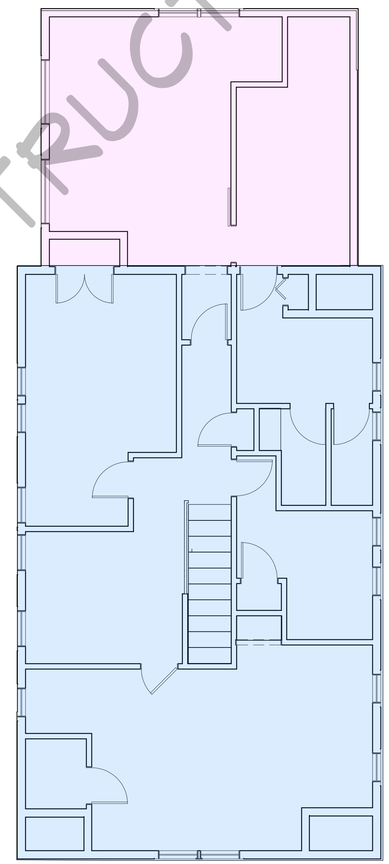
3. EXISTING FOUNDATION WALL TO BE CUT AND REMAIN IN PLACE. REMOVE SILL PLATES OR OTHER LUMBER AND CUT BACK ANCHOR BOLTS TO TOP OF WALL. FILL VOID WITH SAND AND/ OR SOILS CONSISTENT WITH SURROUNDING MATERIALS.

CAD BLOCK GUIDE

- EXISTING FOOTPRINT (1329 SQFT)
- PROPOSED ADDITION (647 SQFT)
- PROPOSED DECK AND SHED (348 SQFT)



FIRST FLOOR PLAN



SECOND FLOOR PLAN

RENOVATION PLAN

SCALE: 1/5" = 1'-0"

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

RENOVATION PLAN

CLIENT:
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4/19/2022

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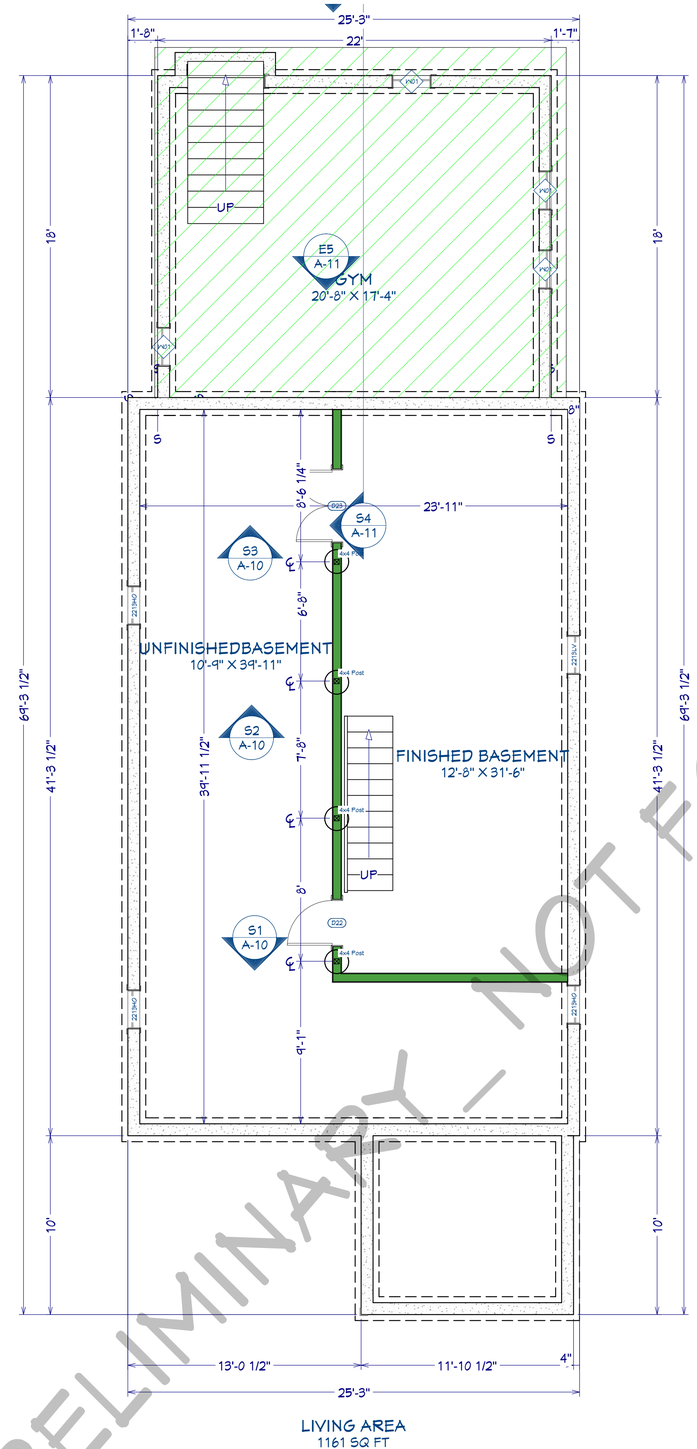
SCALE:
SEE SCALE ON DRAWINGS

SHEET:
R-2

EXISTING FOUNDATION PLAN

SCALE: 1/8" = 1'-0"

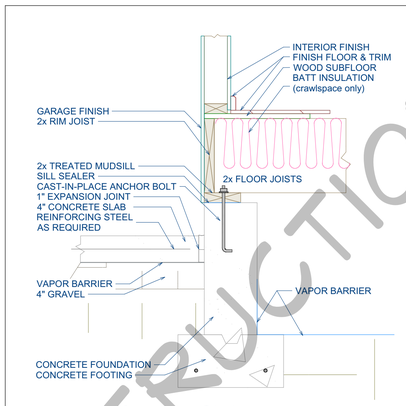


LIVING AREA
1161 SQ FT

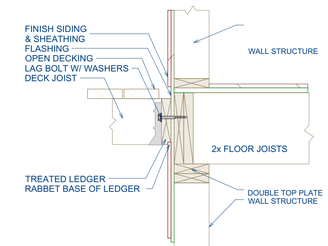
PROPOSED FOUNDATION PLAN

SCALE: 1/8" = 1'-0"

NOTE:
1. ALL DIMENSIONS ARE FROM FRAMING TO FRAMING
2. ALL BOTTOM OF HEADERS TO BE HUNG 80"



Garage Slab at House



Deck Anchored to Wood Wall: Ledger to Wall

FOUNDATION DETAIL - 96" BASEMENT FOUNDATION WALL

SCALE: NOT TO SCALE

WALL LEGEND

- = EXTERIOR WALL (2 x 6)
- = INTERIOR 6 (2X6)
- = INTERIOR 4 (2X4)
- = NEW WALL
- = DEMO WALL
- = GLASS TOP TILE BOTTOM PONY WALL
- = GLASS SHOWER WALL

** NOTE: WALLS BETWEEN GARAGE & HABITABLE SPACE TO BE FIRE-RATED PER LOCAL CODE

WALL LEGEND

- = ADDITION
- = EXISTING

FOUNDATION NOTES:
* FOUNDATION WALL: 8-10" CONT. FOUR
(2)#4 BAR HORIZONTA (TOP& BOTTOM)
(1) #6 BAR VERTIAL @ 48" OC
LAP CORNERS & SPLICES OF REBAR PER CODE
SECURE SILL TO FOUNDATION W/ 1/2"D. ANCHOR BOLTS
THAT EXTEND 7" INTO CONCRETE
TIGHTEN W/ NUT & WASHER @ 6' OC & MAX 12" FROM CORNER
* FOOTING: 10-12" X 20-24"
(2) #4 HORIZONTAL (BOTTOM)
(1)#4 DOWEL BAR @ 48" OC
* LALLY COLUMN PAD: 30"X 30" X 12"
(2) #4 EACH WAY (BOTTOM)

* FOUNDATION WALL TO BE 7'-10" HIGH (TYP. WHEN POSSIBLE)
*MAINTAIN CONTINUOUS 4'-0" FROST DEPTH
* 1/2" CTR. ANCHOR BOLD @ 4'-0" OC - 3 EA. CORNER / 2 EA. JOINT)

PORCH FOUNDATION
* 12" CTR. CONCRETE FILLED SONOTUBE
(1) #6 BAR VERTICAL @ CTR
SPREAD FOOTINGS & ANCHOR BOLD
ELEVATED 4X4 OR 6X6 POST BASE
*POSTS UNDER DECK CAN BE SOLID 4X4 UP TO 48" IN HEIGHT, SOLID 6X6 PT FOR HIGHER DECKS.
*PRECAST BELL OR POURED FOOTINGS @ PORCH, 20" BASE TO FROST WITH 8" SONOTUBE

DECK + PORCH
*BOLT / SCREW CONNECTION : R502.2.2.1
*LATERAL CONNECTION: R502.2.2.3

CONCRETE NOTES:
*3,0000 PSI @ 28 DAY MINIMUM
* STEEL REINFORCING: GRADE 40MIN.
*MIN. LAP LENGTH: 40 BAR DIMETERS
*1/8" PER FOOT SLOPE FROM BACK OF GARAGE TO DOORS

BULKHEAD NOTES:
*BILCO CLASSIC SIZE C DOOR SHOWN
*55"W X 72"L X 19.5" H (67" X 48" OPENING)
*CONTRACTOR TO CONFIRM SIZE & LOCATION

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

FOUNDATION

CLIENT:
SREBNIK RESIDENCE
124 ALDRICH RD
PORTSMOUTH, NH

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207.337.2020

DATE:
4/19/2022

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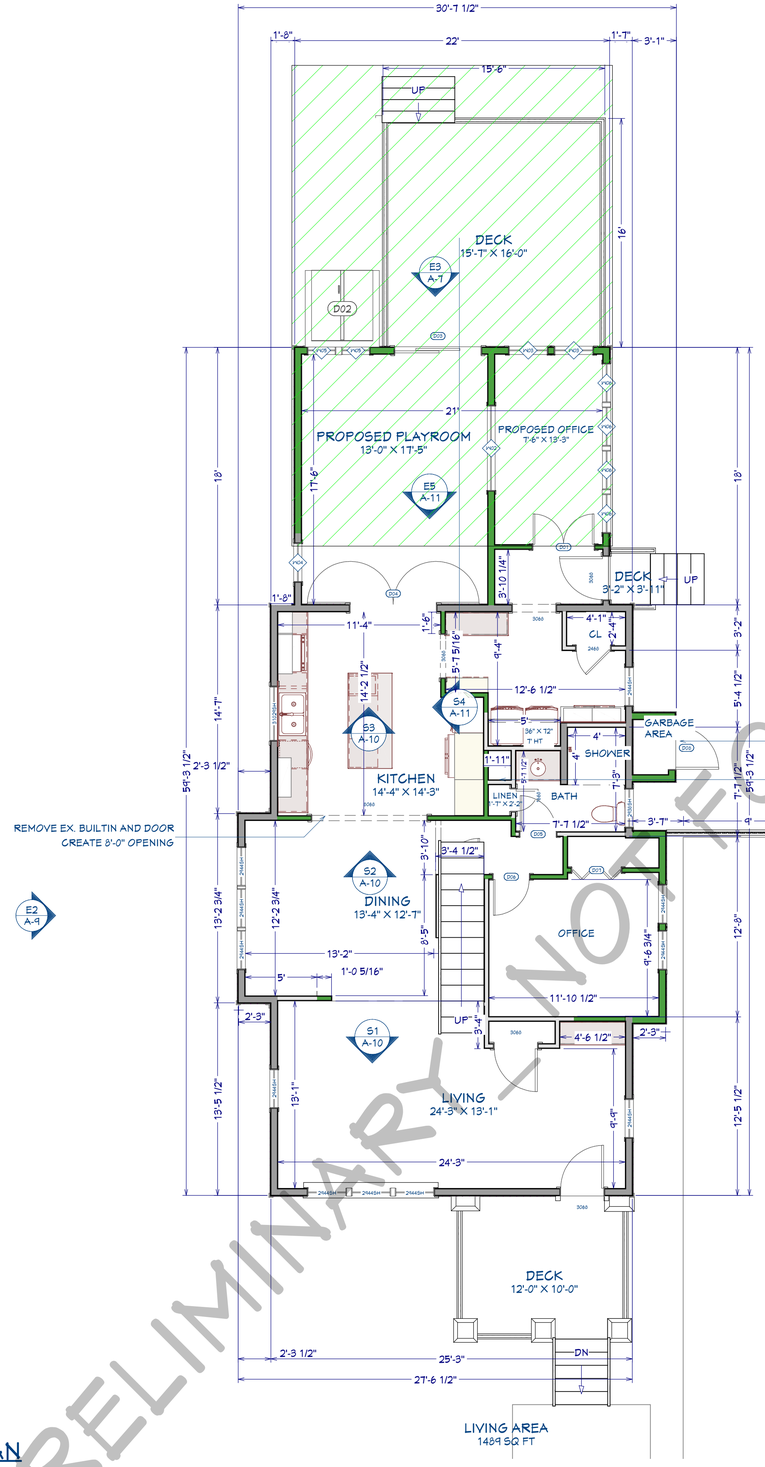
SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-1

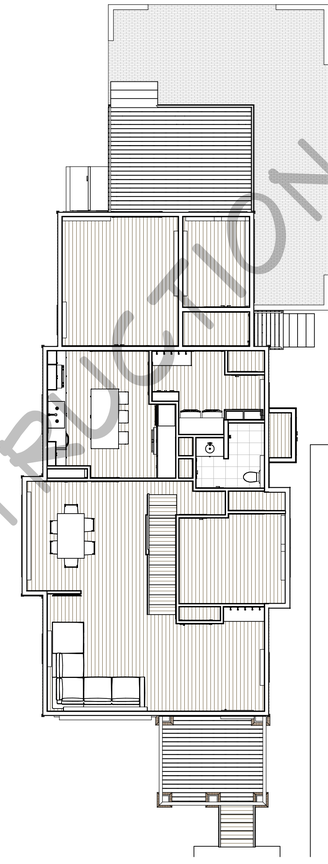


EXISTING FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

PROPOSED FIRST FLOOR PLAN

SCALE: 1/5" = 1'-0"



PERSPECTIVE VIEW

SCALE: NTS

DIMENSIONS:
DIMENSIONS ARE TO FACE OF STUD, UNLESS NOTED OTHERWISE.
CLOSETS ARE 24" CLEAR INSIDE, UNLESS DIMENSIONED OTHERWISE.

SQUARE FOOTAGES:

1. Square foot numbers are interior to room and use in calculating finishes.

2. Cabinet and fixtures are not subtracted.

3. Add for doorways when floor finishes run through.

NOTES:

1. Exterior walls 2x6 wood stud @ 16" oc. Provide insulation and vapor barrier conforming to state and local codes. Interior sheathing 1/2" gypsum board. Provide 1/2" exterior rated sheathing, house wrap with drainage pland and siding. Provide step flashing at walls adjacent to roof planes.

2. Interior walls 2x4 stud @ 16" oc, unless noted otherwise.

3. Roof - see structural for rafter sizes. provede 5/8" exterior rated roof sheathing 15# roofing felt, ice & water shield at eaves and valleys, aluminum drip edge and asphalt shinges or metal roofing. Structure not calculated to support slate or tile. Polish all penetrations. Provide cricket at any added chimneys.

4. Provide roof and / or ceiling insulation per code. Provide soffit and ridge vents where required for insulation strategy. (Verify with code office - closed cell spray foam or dense-pack cellulose installed at rafters and filling ridge and eaves generally contra-indicated venting, batt insulation always requires venting.)

5. Provide smoke detectors where shown, where required by code and where required by local authorities.

6. Provide fire resistive materials where required by code, including but not limited to, firestopping at penetrations, 1/2" drywall on walls and 5/8" drywall on ceilings to separate garage (where garage present in design) from dwelling, and separation of dwellings (where more than one dwelling present in design), and protection of flammable insulation material.

7. Confirm bottom of window openings relative to frame. Adjust head heights as required to conform to IRC 2015 or provide code approved guards.

8. Compliance with code requirements for room size and clearances (hallway widths, room sizes, etc) assume 1/2" drywall on walls and 1/2"drywall on 3/4" strapping on ceilings. Adjust as required if materials differ.

9. Some windows must be installed with a head height greater or lesser than the standard 80" or 82-1/2" to provide clearance at kitchen counters, to meet code sill height or to clear roofs. Where aprox. 84" head height is called for, install 2x10 header tight to the double top plate, frame, window RO tight to header.

10. Shear is only called out where Continuous Portal Frame will not suffice. See IRC 2015 code.

WALL LEGEND

- = EXTERIOR WALL (2 x 6)
- = INTERIOR 6 (2X6)
- = INTERIOR 4 (2X4)
- = NEW WALL
- = DEMO WALL
- = GLASS TOP TILE BOTTOM PONY WALL
- = GLASS SHOWER WALL

** NOTE: WALLS BETWEEN GARAGE & HABITABLE SPACE TO BE FIRE-RATED PER LOCAL CODE

WALL LEGEND

- = ADDITION
- = EXISTING

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

FIRST FLOOR

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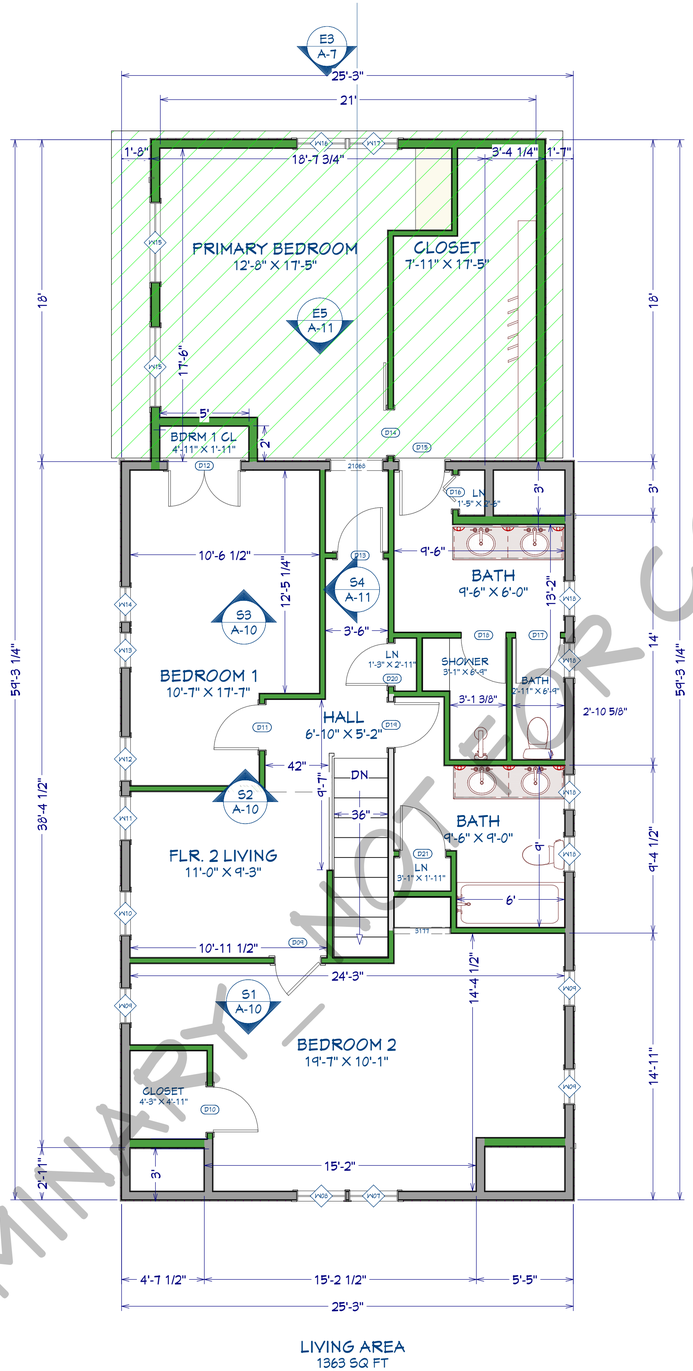
SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-2

EXISTING SECOND FLOOR PLAN

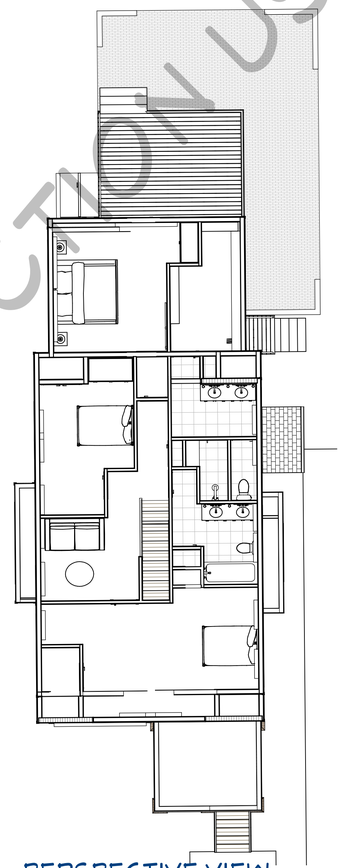
SCALE: 1/8" = 1'-0"



LIVING AREA
1363 SQ FT

PROPOSED SECOND FLOOR PLAN

SCALE: 1/4" = 1'-0"



PERSPECTIVE VIEW

SCALE: NTS

WALL LEGEND

- = ADDITION
- = EXISTING

WALL LEGEND

- = EXTERIOR WALL
- = INTERIOR 6
- = INTERIOR 4
- = NEW WALL
- = DEMO WALL
- = GLASS TOP TILE BOTTOM PONY WALL
- = GLASS SHOWER WALL

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

SECOND FLOOR

CLIENT:
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129 ALDRICH RD
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DATE:
4/19/2022

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SCALED FOR:
24" X 36"

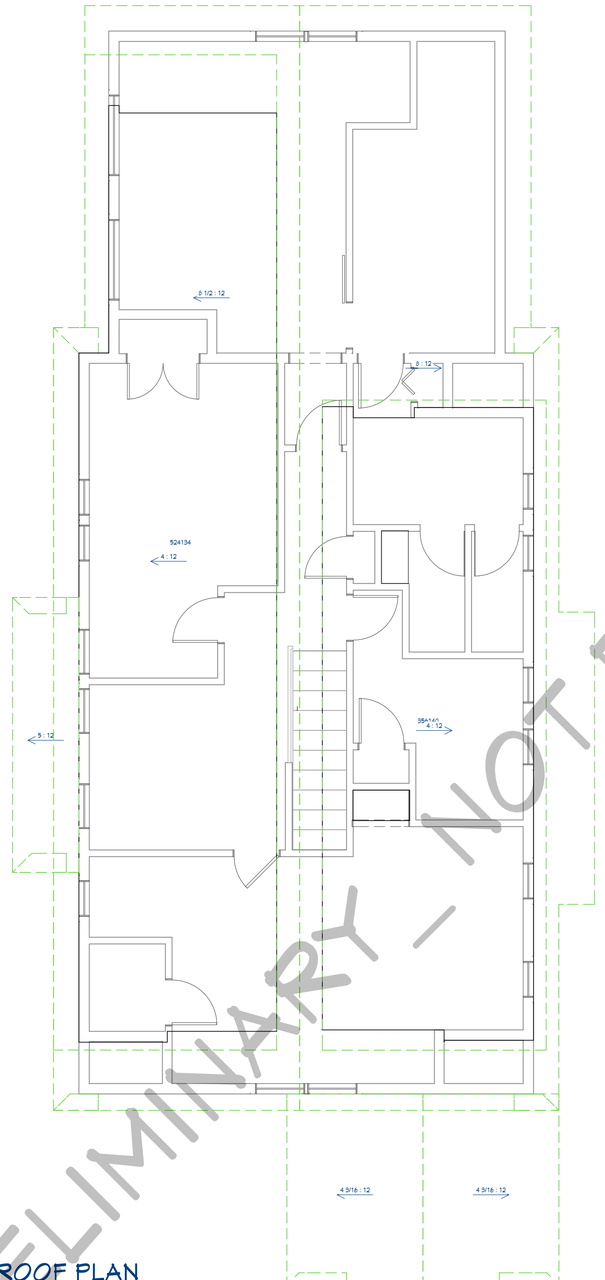
SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-3

NOTES:
1. PROVE 2 X 10 FLOOR JOISTS AT 16" o.c. TYPICAL
2. INTERIOR NON-BEARING STUD WALLS ARE 2 X 4 AT 16"o.c.
3. INTERIOR BEARING WALLS ARE 2 X 6 AT 16" o.c. #S-2 OR BETTER
4. HEADERS FOR DOORS AND WINDOWS UP TO 6 FEET ARE (2) 2 X 10's
5. ENGINEERED FLOOR BEAM TO BE DESIGNED AND SUBMITTED PRIOR TO CONSTRUCION BY STRUCTURAL ENGINEER.
6. CEILING JOISTS FOR THE SECOND FLOOR ARE 2X6.
7. WALLS ARE GREY
8. ROOF PLANES ARE GREEN

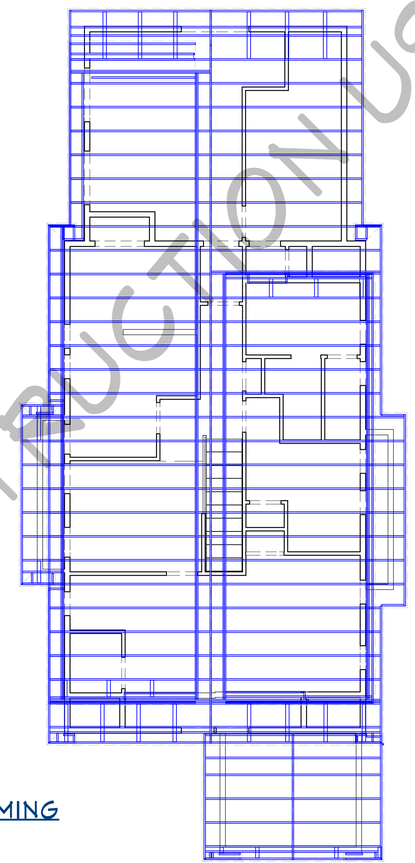
EXISTING ROOF PLAN

SCALE: 1/8" = 1'-0"



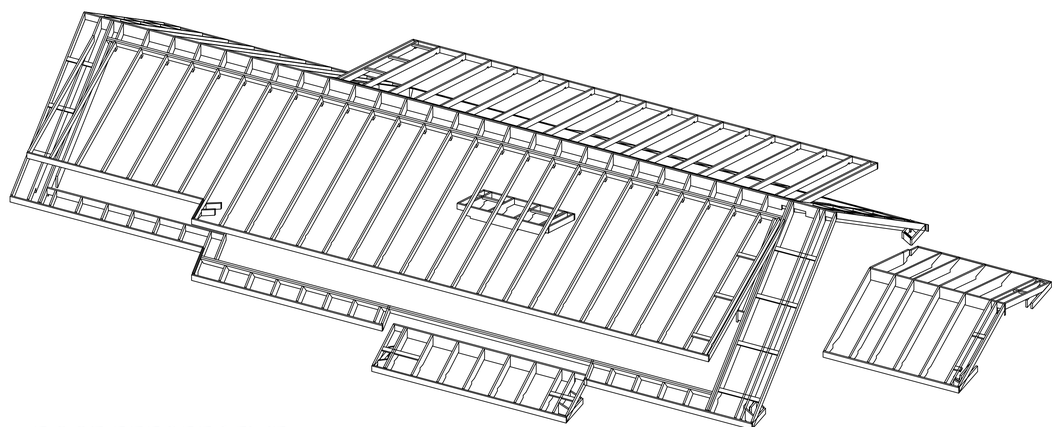
PROPOSED ROOF PLAN

SCALE: 1/4" = 1'-0"



PROPOSED ROOF FRAMING

SCALE: NTS



ROOF PERSPECTIVE

SCALE: NTS

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

ROOFS

CLIENT:
SREBNIK RESIDENCE
129 ALDRICH RD
PORTSMOUTH, NH

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amydutonhome.com
207.337-2020

DATE:
4/19/2022

COPYRIGHT @ ABRIGO HOME 2022

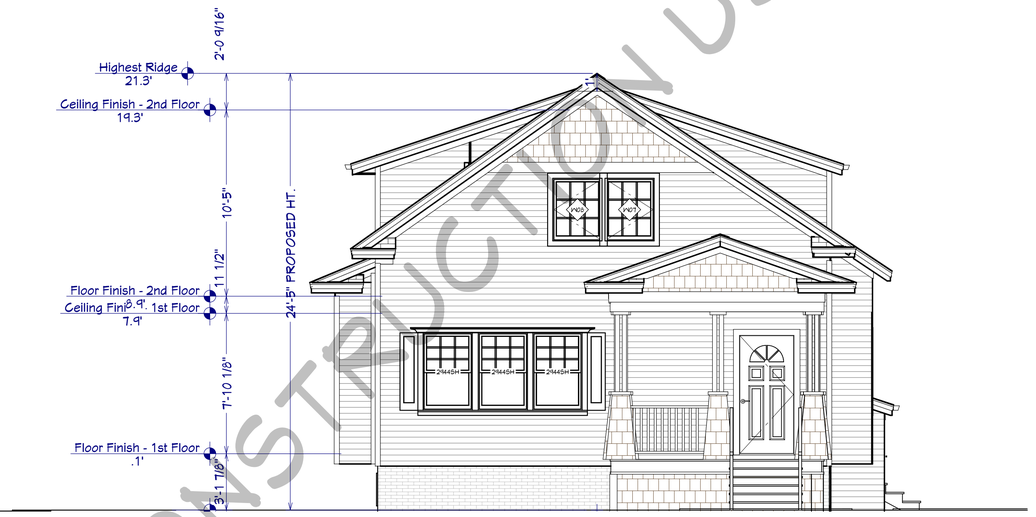
SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-4

NORTH ELEVATION EXISTING| FRONT VIEW

SCALE: 1/4" = 1'-0"



NORTH ELEVATION PROPOSED| FRONT VIEW

SCALE: 1/4" = 1'-0"

SOUTH ELEVATION EXISTING | REAR VIEW

SCALE: 1/4" = 1'-0"

SOUTH ELEVATION PROPOSED| REAR VIEW

SCALE: 1/4" = 1'-0"

ELEVATIONS

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

ELEVATIONS

CLIENT:
SREBNIK RESIDENCE
124 ALDRICH RD
PORTSMOUTH, NH

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.337-2020

DATE:
4/19/2022

COPYRIGHT @ ABRIGO HOME 2022

SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-7

TYPICAL NOTES:

ASPHALT SHINGES, TYP.
RIDGE VENT, TYP.
VINYL RAKE AND SHADOW TRIM BOARDS, TYP
VINYL TRIM BOARDS, TYP
PVS RAILING SYSTEMS, TYP.
PLATINUM SIDING ON SHEATHING
NEW WINDOWS AND DOORS PER SCHEDULE
FOUNDATION MATERIAL-CONCRETE
NEW FOUNDATION WALL

EAST ELEVATION EXISTING| SIDEVIEW

SCALE: 1/4" = 1'-0"

EAST ELEVATION PROPOSED| SIDEVIEW

SCALE: 1/4" = 1'-0"

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

ELEVATIONS

CLIENT:
SREBNIK RESIDENCE
124 ALDRICH RD
PORTSMOUTH, NH

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.337-2020

DATE:
4/19/2022

COPYRIGHT @ ABRIGO HOME 2022

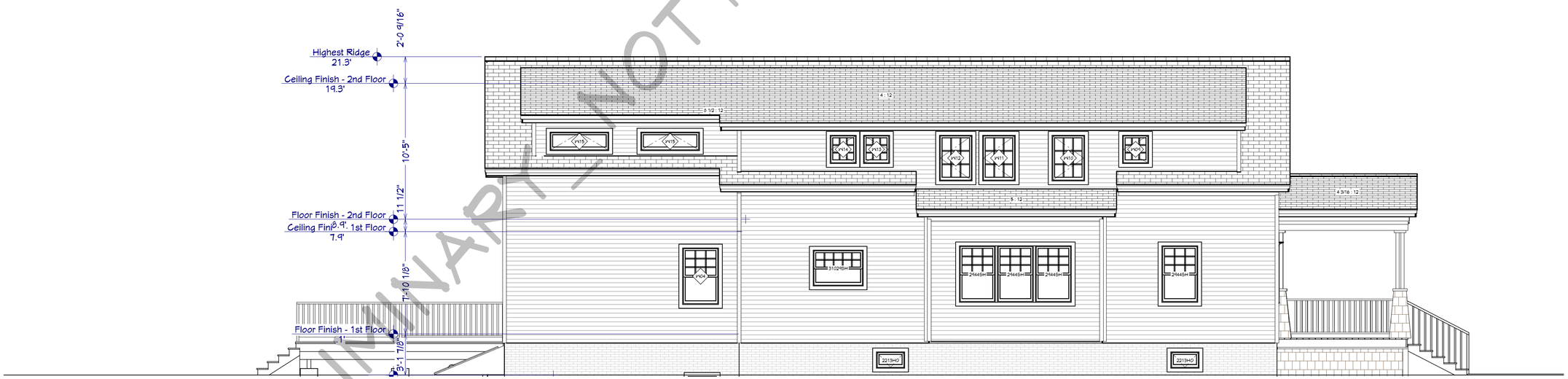
SCALED FOR:
24" X 36"

SCALE:
1/4" = 1'-0"
SEE SCALE ON DRAWINGS

SHEET:
A-8
ELEVATIONS

WEST ELEVATION EXISTING | SIDEVIEW

SCALE: 1/4" = 1'-0"



WEST ELEVATION PROPOSED | SIDEVIEW

SCALE: 1/4" = 1'-0"

PRELIMINARY - NOT FOR CONSTRUCTION USE

Revision Table

Number	Date	Description

ELEVATIONS

CLIENT:
SREBNIK RESIDENCE
124 ALDRICH RD
PORTSMOUTH, NH

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.337-2020

DATE:
4/19/2022

COPYRIGHT @ ABRIGO HOME 2022

SCALED FOR:
24" X 36"

SCALE:
1/4" = 1'-0"
SEE SCALE ON DRAWINGS

SHEET:
A-9
ELEVATIONS

Hello,

This letter authorizes Amy Dutton to submit the application pertaining to 129 Aldrich Road. Thank you.

Regard,

Matt & Annie Srebnik

APPLICATION OF DONALD L. STICKNEY, III
213 Jones Avenue, Portsmouth
Map 222, Lot 69

APPLICANT'S NARRATIVE

I. THE PROPERTY:

The applicants, Donald L. Stickney, seeks a variance from Section 10.1114.31, incorporating section 3.3.2.3 of the Site Plan Review Regulations, to permit a second driveway on a lot to accommodate a proposed detached accessory dwelling unit. A conditional use permit for the ADU is pending before the Planning Board. A copy of that application is submitted herewith.

The applicant's intention is to construct a new principle dwelling on the property and convert the existing dwelling into the ADU. According to city tax records, the existing dwelling was built in 1951 and contains 864 square feet of living space. While the house is unusually small, the lot itself is almost one and one half acres, which far exceeds the minimum lot size and lot size per dwelling unit of 15,000 square feet in the Single Residence B zone. It is an irregular, pie-shaped lot that fronts Jones Avenue at a bend in the road where it has 238 feet of frontage and tapers to fifty feet in width at the rear of the property. The property is burdened by wetlands in the rear.

In order to adaptively re-use the existing dwelling, a new, modern primary dwelling is proposed on the eastern portion of the front of the property. The existing driveway serving the existing home is located to the west of the home. The home has direct access from the driveway to the kitchen and reconfiguring that access to accommodate a shared driveway located between the two dwellings serving both would require either access through a bedroom or a significant interior floor plan modification, neither of which is necessary or desirable. In any event, a shared driveway in that location is not feasible as the proposed new septic system must be in that location.

The amount of frontage on Jones Avenue can safely accommodate two driveways, rather than a reconfigured, shared driveway. The proposed new driveway would require final approval from the Department of Public Works.

II. CRITERIA:

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variance.

Granting the requested variance will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The "public interest" and "spirit and intent" requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a

variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

In this case, were the variance to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. An accessory dwelling unit on this property is entirely appropriate and consistent with the existing residential neighborhood. A second driveway will in no way alter the neighborhood. Thus, the essentially residential character of the neighborhood will not be altered.

The proposal will result in the replacement of the existing septic system which predates current New Hampshire DES approval with a modern, state of the art system. The ADU must be approved by the Planning Board, and the new driveway by the Department of Public Works, so the health, safety and welfare of the public will be adequately protected.

Substantial justice would be done by granting the variance. Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. The shape of the lot and the existing dwelling and driveway configuration all counsel for allowing a second driveway on this property.

In this case, there is no benefit to the public in denying the variance that is not outweighed by the hardship upon the owner.

The values of surrounding properties will not be diminished by granting the variance. A newly constructed, fully code-compliant home with appropriate landscaping, vegetation and screening will increase property values in the neighborhood. The existing dwelling will be upgraded and its exterior renovated to be consistent with the proposed new construction. A new, state of the art septic system will be installed. The values of the surrounding properties will not be negatively affected in any way by the relief requested.

There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship. The property in question is located at a bend in Jones Avenue where it has more than twice the required frontage. It has more than four times the required lot area per dwelling for the SRB zone. It is an irregularly shaped lot that tapers to a narrow 50 feet in width in the rear. It is burdened by a 100 foot wetlands buffer which limits the developable area to the front of the property. These are special conditions that distinguish it from others in the area.

The use is a reasonable use. The proposed relief is to accommodate a purely residential use in a residential zone

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The size and shape of this property and the amount of frontage it has on Jones Avenue can accommodate a second driveway with no negative effects on the public. A shared driveway is not possible for the reasons set forth above. Thus, there is no fair and substantial relationship between the purpose of the restriction and its application to this property.

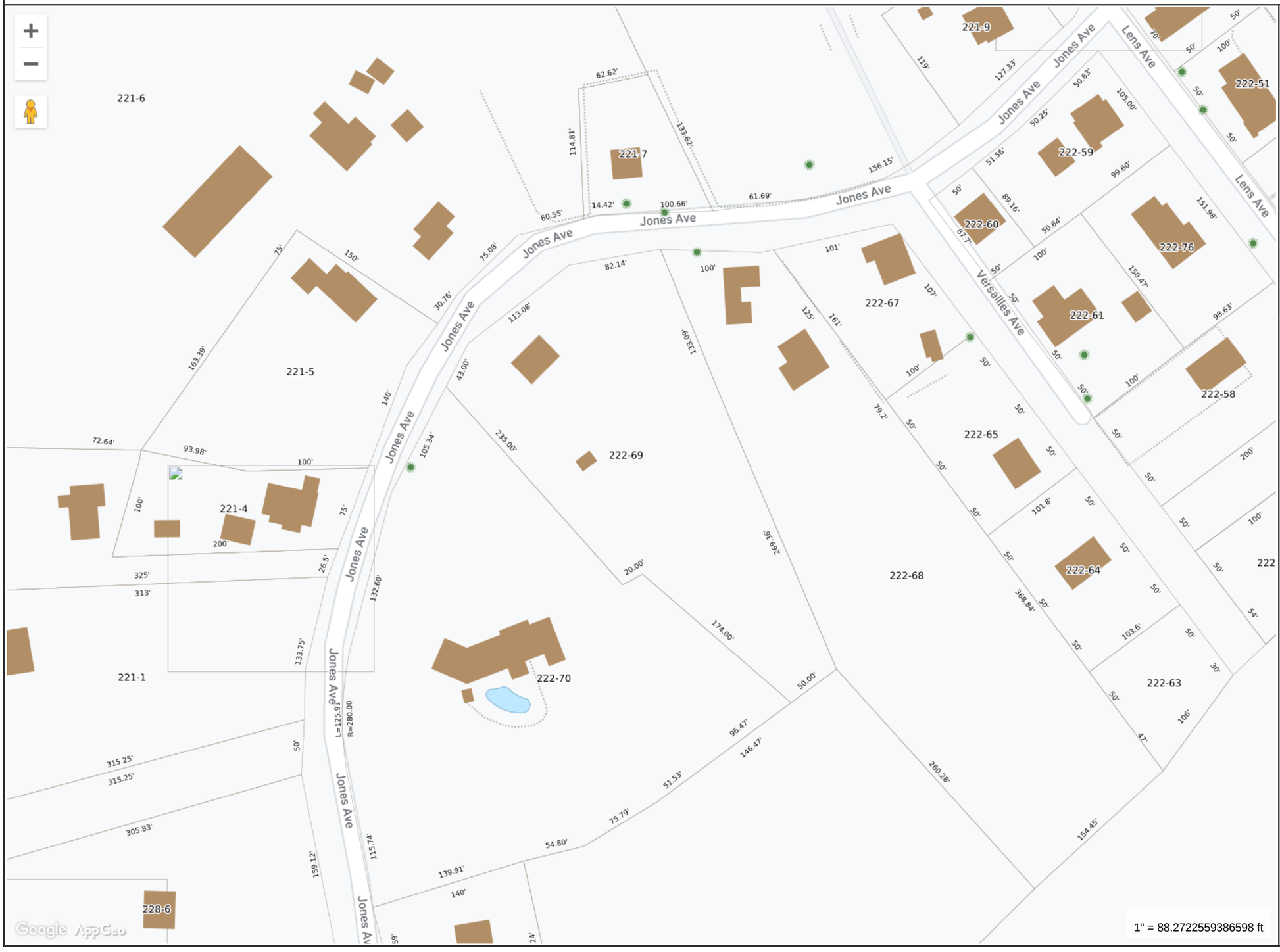
III. Conclusion.

For the foregoing reasons, the applicant respectfully requests the Board grant the variance as requested and advertised.

Respectfully submitted,

Dated: 4-13-2022

By: *Christopher P. Mulligan*
Christopher P. Mulligan, Esquire



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 3/9/2022
Data updated 3/9/2022

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

City of Portsmouth **Planning Board**

Donald L Stickney, III
Application for a Detached ADU

213 Jones Avenue, Portsmouth

Applicant's Narrative

Donald Stickney is the owner of the property at 213 Jones Avenue.

The property is situated at a bend in Jones Avenue and is on its southern side, across from the metal yard. Lot size is 62,528 square feet. The 100 foot wetlands buffer encumbers a significant portion of the southern portion of the lot.

The existing structure on the property is a 36' x 24' single story dwelling with two bedrooms. It sits just over 33 feet from the front lot line on Jones Avenue.

Mr. Stickney is seeking a conditional use permit in order to construct a new, modern single family residence on the eastern side of the property and to convert the existing dwelling into a Detached Accessory Dwelling Unit (DADU). The property would be kept in common ownership with the Applicant occupying one of the dwelling units as his primary place of residence. Open space, building coverage, parking and setbacks are all compliant with the zoning ordinance under this proposal.

No changes to the existing structure are proposed with the exception of updates to the existing façade with siding and window treatments with material to match the new, primary dwelling. This satisfies the requirement that the exterior design be consistent with the primary dwelling (10.814.61).

The site plan provides for a second driveway to service the new primary residence, and proposes 90.9% open space where the zoning ordinance requires 40%. This satisfies the requirements of 10.814.62.

The proposed DADU is a stand alone structure which already exists, thus, its compatibility with adjacent properties in terms of location, design, parking layout, and privacy is satisfied (10.814.63) and it will not in any manner result in excessive noise, traffic or parking congestion (10.814.64). The proposed new structure is fully compliant with zoning.

Because the applicant is seeking to take advantage of the existing conditions and built environment of the property by converting the existing dwelling into the DADU, the following waivers pursuant to 10.814.70 are being sought:

10.814.52 to exceed 750 square feet floor area (886 s.f. exists);

10.814.531 to exceed 40% combined façade (42% proposed); and

10.814.55 to permit the DADU to be set back less than 10 feet further from the front lot line than the primary dwelling (3.2 feet proposed).

Again, the existing conditions drive the need for the requested waivers. The existing dwelling, built in 1951 according to city tax records, is extremely small by modern standards, but is slightly larger than the maximum permitted for a DADU (although it does comply with the two bedroom requirement). It cannot be set back more than ten feet from the proposed primary dwelling without that dwelling violating the front yard setback requirement.

The Applicant meets all the requirements of the ordinance for the granting of a conditional use permit for the DADU.

Respectfully Submitted,

Date: February 22, 2022

Christopher P. Mulligan

Christopher P. Mulligan, Esquire
Attorney for the Applicant

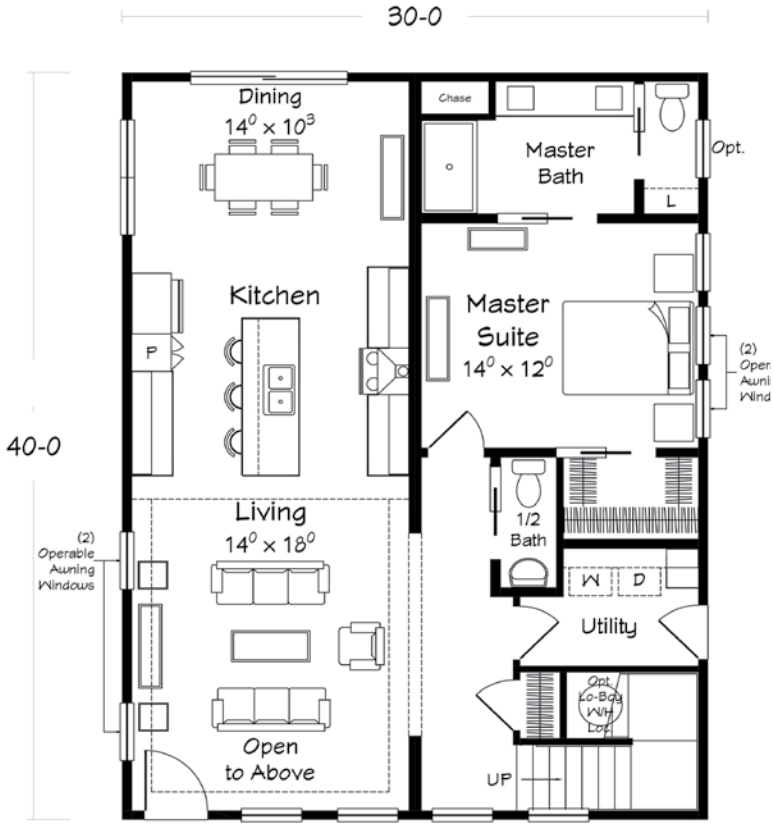
213

Modern Living Series

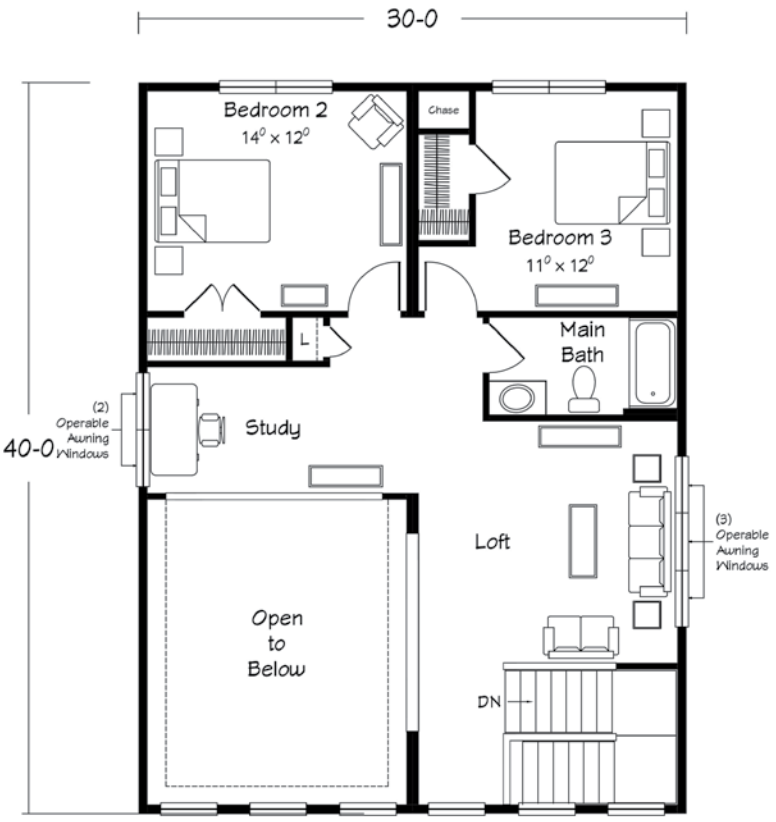
Aries Two Story

3 bedrooms and 2.5 baths • 2,148 SQ. FT.

3/12/4.5/12 sawtooth roof pitch; vaulted ceilings in Living Room. Open loft style floorplan.



First Floor



Second Floor

Artists renderings depict buildings as can be built on a typical site. Rendering may include optional or site installed features. Refer to Ritz-Craft's Modern Living Benchmark Series Specifications for standard included features.

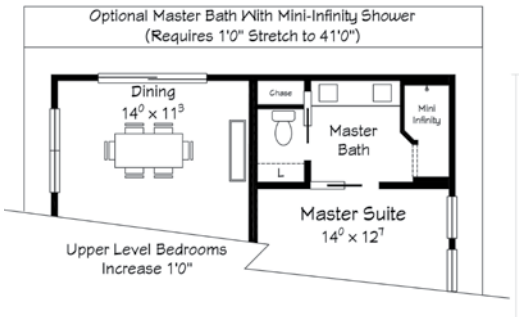
Ritz-Craft
Custom Building Simplified™

Ritz-Craft
Custom Building Simplified

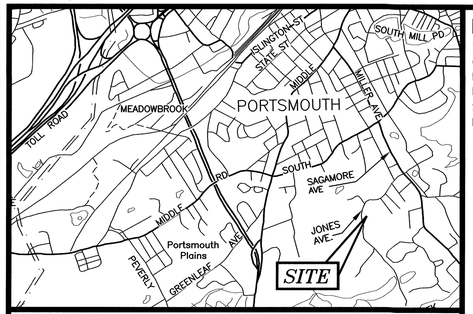
Aries Two Story

- 2-Story vaulted ceiling in Living Room
  Large galley style kitchen with island/bar
- Open floorplan with kitchen open to adjacent dining and living areas
- All family areas face the rear yard

- Nicely sized bedrooms with plenty of closet space
- Large master bedroom with private bath featuring double bowl vanities, private toilet area and 60” shower base with tiled walls



Interior views may include optional features. Refer to standard specifications for included items.



LOCATION MAP SCALE: 1" = 2,000'

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
RR SPK	RAILROAD SPIKE
(11/21)	MAP 11/LOT 21
○ IR FND	IRON ROD FOUND
○ IP FND	IRON PIPE FOUND
● IR SET	IRON ROD SET
◉ DH FND	DRILL HOLE FOUND
○ DH SET	DRILL HOLE SET
▣ NHHB	NHDOT BOUND FOUND
▣ TB	TOWN BOUND
▣ BND w/DH	BOUND WITH DRILL HOLE
▣ ST BND w/DH	STONE BOUND WITH DRILL HOLE

WETLAND NOTES:

1) WETLAND LINE DELINEATED BY STEVEN D. RIKER, CWS ON 8/25/21 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:

A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL. TECHNICAL REPORT Y-87-1 (JAN. 1987). AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.

B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.2, USDA-NRCS, 2018 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4. NEIWPCC WETLANDS WORK GROUP (2019).

C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1). USFWS (MAY 1988).

D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFW MANUAL FWS/OBS-79/31 (1997).

E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.

2) WETLAND FLAGS WERE FIELD LOCATED BY AMBIT ENGINEERING, INC.

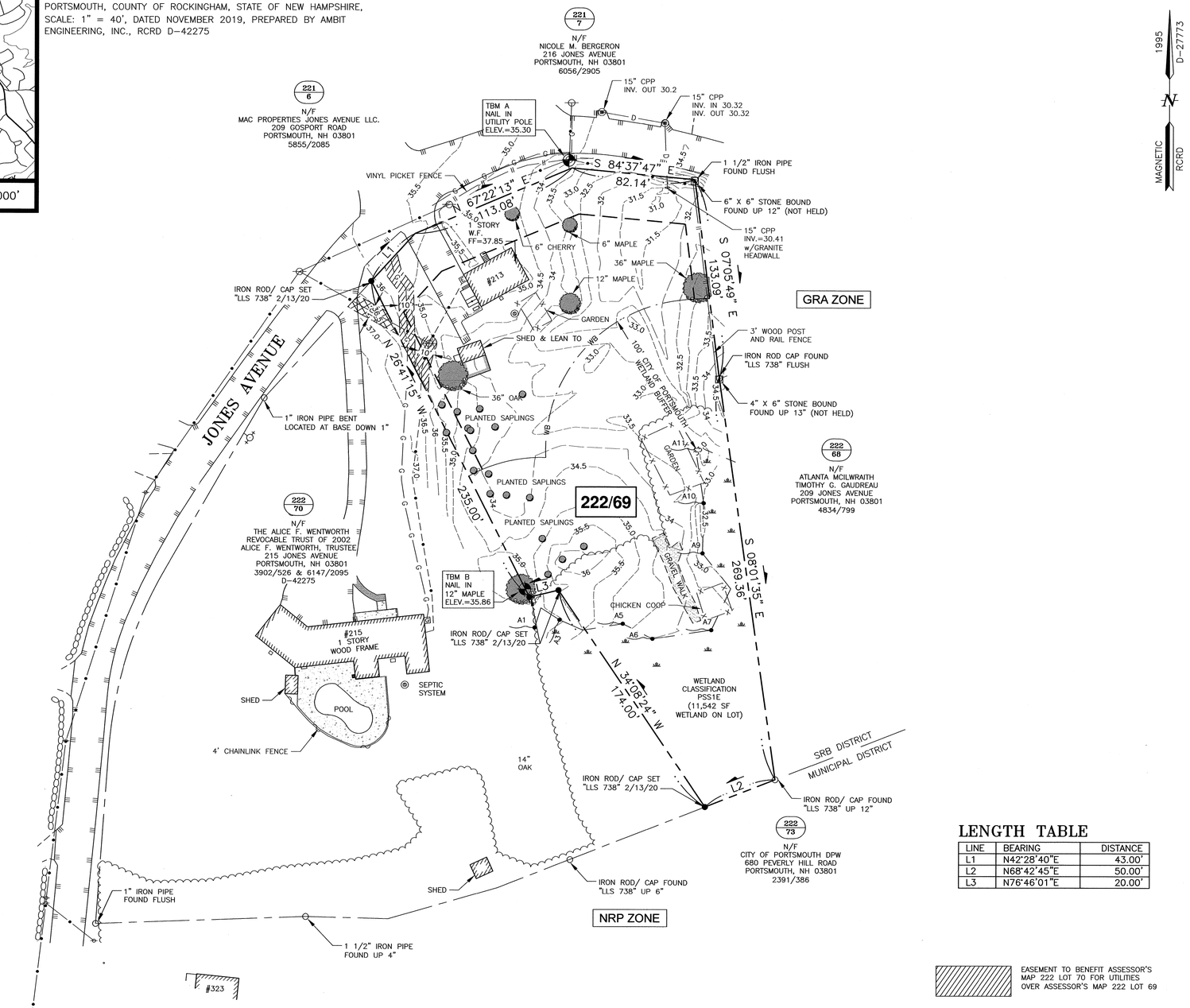
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

2.11.22

JOHN R. CHAGNON, LLS DATE

REFERENCE PLAN:

1) LOT LINE RELOCATION PLAN TAX MAP 222 – LOTS 69 & 70, OWNERS: THE ALICE F. WENTWORTH REVOCABLE TRUST OF 2002 & DONALD LOWELL STICKNEY III, 213 & 215 JONES AVENUE, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 40', DATED NOVEMBER 2019, PREPARED BY AMBIT ENGINEERING, INC., RCRD D-42275



LENGTH TABLE

LINE	BEARING	DISTANCE
L1	N42°28'40"E	43.00'
L2	N68°42'45"E	50.00'
L3	N76°46'01"E	20.00'

EASEMENT TO BENEFIT ASSESSOR'S MAP 222 LOT 70 FOR UTILITIES OVER ASSESSOR'S MAP 222 LOT 69

GRAPHIC SCALE

40 30 20 10 0 50 100 150 FEET
10 5 0 10 20 30 40 50 METERS

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 222 AS LOTS 69.

2) OWNER OF RECORD:
DONALD LOWELL STICKNEY III
213 JONES AVENUE
PORTSMOUTH, NH 03801
5754/2748 & 6147/2092
D-42275

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0270F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA:
62,528 S.F.
1.4354 ACRES

5) PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:	15,000 S.F.
FRONTAGE:	100 FEET
SETBACKS:	
FRONT	30 FEET
SIDE	10 FEET
REAR	30 FEET
MAXIMUM STRUCTURE HEIGHT:	35 FEET
MAXIMUM BUILDING COVERAGE:	20%
MINIMUM OPEN SPACE:	40%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 222 LOT 69 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

STICKNEY RESIDENCE
213 JONES AVENUE
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
2	TBM A	2/11/22
1	FF, INVERTS	1/4/22
0	ISSUED FOR COMMENT	9/23/21

REVISIONS

SCALE: 1" = 40' SEPTEMBER 2021

EXISTING CONDITIONS PLAN

C1

FB 324 PG 60

531.01

J:\JOBS\JN500s\JN530s\JN5311\2021 ADU\Plans & Specs\Site\531.01 Existing Conditions2021.dwg, 2/23/2022 8:33:56 AM, Canon TX-3000.pc3

IMPERVIOUS SURFACE AREAS
TO PROPERTY LINE

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
BUILDING	886	886+1,824
STAIRS/STEPS	24+8	24+8
SHED	360	360
DECK & PATIOS	0	264
PORCH	51	51
BULKHEAD	37	37
PAVED DRIVE	1396	1396
GRAVEL APRON	0	79
TOTAL	2762	4929
LOT SIZE	62528	62528
% LOT COVERAGE	4.4%	7.9%

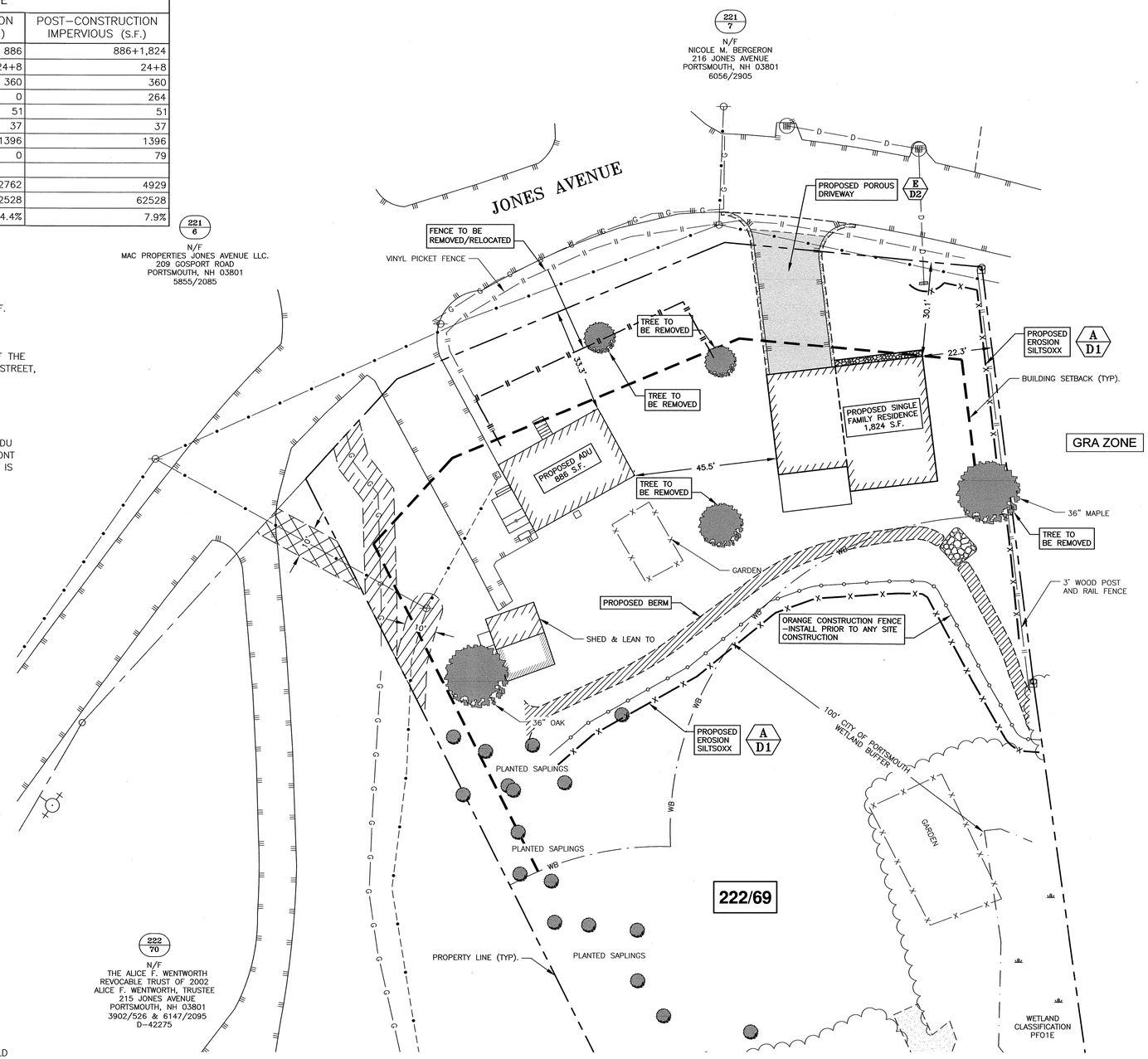
PROPOSED WAIVERS:

WAIVER FROM SECTION 10.814.52 TO PERMIT 886 S.F. TOTAL GROSS FLOOR AREA WHERE 750 S.F. IS THE MAXIMUM ALLOWED.

WAIVER FROM SECTION 10.814.53 TO PERMIT 42% OF THE COMBINED VISIBLE FAÇADE AREAS FACING THE SAME STREET, WHERE 40% IS THE MAXIMUM ALLOWED.

DADU FACADE: 36.4'
PRIMARY STRUCTURE FACADE: 50.0'

WAIVER FROM SECTION 10.814.55 TO PERMIT THE DADU FRONT WALL TO BE SET BACK 3.2 FT FROM THE FRONT SETBACK OF THE PRIMARY STRUCTURE WHERE 10 FT IS THE MINIMUM ALLOWED.



GRAPHIC SCALE
10 0 20 40 60 80 FEET
5 0 5 10 15 20 25 METERS

"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 TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

3.20.22
JOHN R. CHAGNON, LLS DATE

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN DATE

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

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5754/2748 & 6147/2092
D-42275

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4) EXISTING LOT AREA:
62,528 S.F.
1.4354 ACRES

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MIN. LOT AREA:	15,000 S.F.
FRONTAGE:	100 FEET
SETBACKS:	
FRONT	30 FEET
SIDE	10 FEET
REAR	30 FEET
MAXIMUM STRUCTURE HEIGHT:	35 FEET
MAXIMUM BUILDING COVERAGE:	20%
MINIMUM OPEN SPACE:	40%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED SITE DEVELOPMENT ON ASSESSOR'S MAP 222 LOT 69 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

PROPOSED DADU
213 JONES AVENUE
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
1	ADD BERM; ELIMINATE POND	3/20/22
0	ISSUED FOR COMMENT	2/11/22

REVISIONS

JOHN R. CHAGNON NO. 7651 LICENSED PROFESSIONAL ENGINEER - STATE OF NEW HAMPSHIRE

SCALE: 1" = 20' FEBRUARY 2022

CUP DADU SITE PLAN

C2

FB 324 PG 60

531.01

J:\JOBS\JN500s\JN530s\JN531\2021 ADU\Plans & Specs\Site\531.01 SITE 2022.dwg, 3/29/2022 12:53:39 PM, Canon TX-3800.pc3

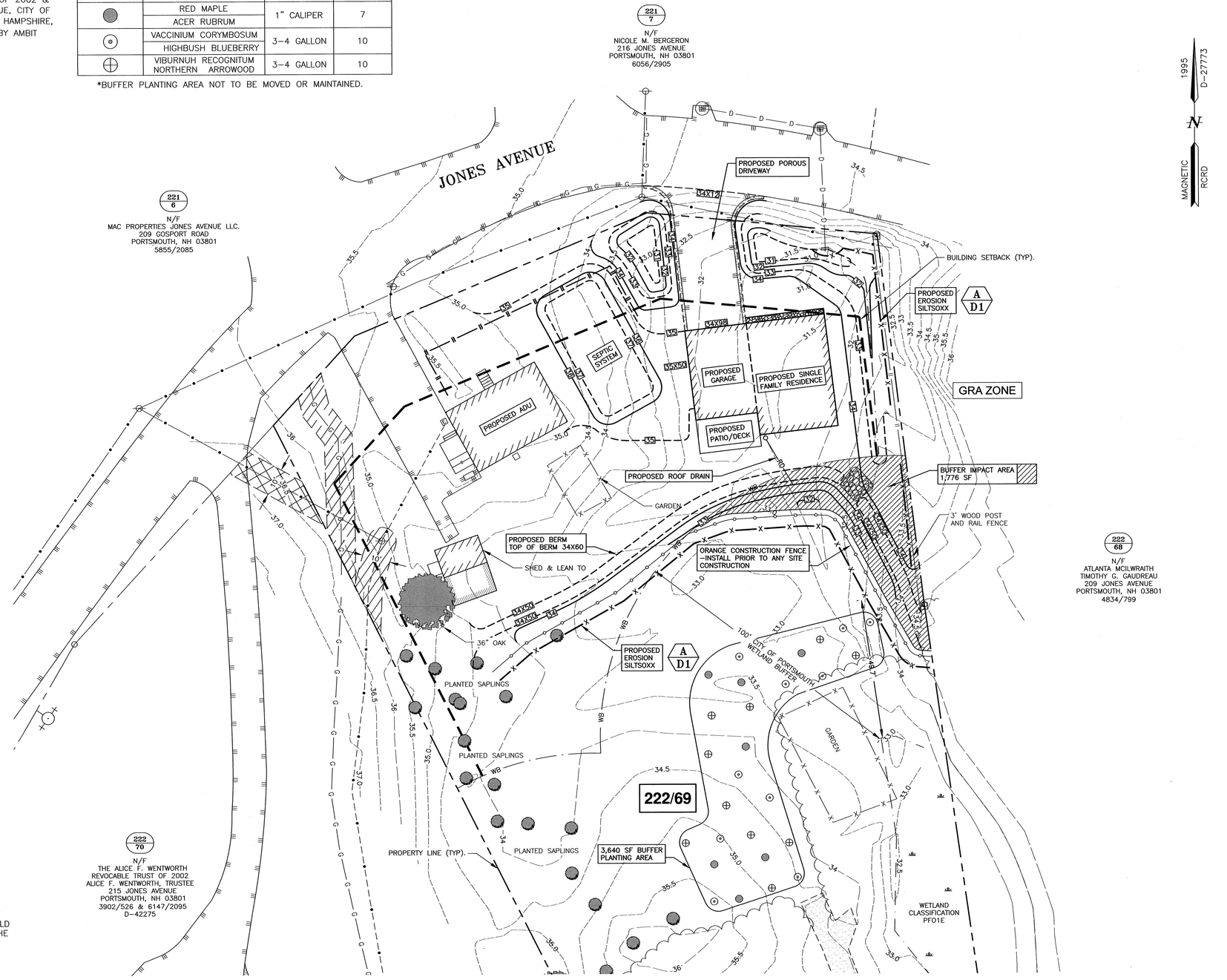
REFERENCE PLAN:

1) LOT LINE RELOCATION PLAN TAX MAP 222 – LOTS 69 & 70, OWNERS: THE ALICE F. WENTWORTH REVOCABLE TRUST OF 2002 & DONALD LOWELL STICKNEY III, 213 & 215 JONES AVENUE, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 40', DATED NOVEMBER 2019, PREPARED BY AMBIT ENGINEERING, INC., RCRD D–42275

BUFFER PLANTING SCHEDULE

SYMBOL	ITEM	SIZE	QTY
●	RED MAPLE	1" CALIPER	7
	ACER RUBRUM		
⊙	VACCINIUM CORYMBOSUM	3–4 GALLON	10
	HIGHBUSH BLUEBERRY		
⊕	VIBURNUH RECOGNITUM NORTHERN ARROWOOD	3–4 GALLON	10

*BUFFER PLANTING AREA NOT TO BE MOVED OR MAINTAINED.



GRAPHIC SCALE

10 0 20 40 60 80 FEET
5 0 5 10 15 20 25 METERS

STATE OF NEW HAMPSHIRE LICENSED LAND SURVEYOR
NO. 738
JOHN R. CHAGNON
SIGNATURE

"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 TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

3.30.22

JOHN R. CHAGNON, LLS — DATE

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN — DATE

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road – Unit 3
Portsmouth, N.H. 03801–7114
Tel (603) 430–9282
Fax (603) 436–2315

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 222 AS LOTS 69.

2) OWNER OF RECORD:
DONALD LOWELL STICKNEY III
213 JONES AVENUE
PORTSMOUTH, NH 03801
5754/2748 & 6147/2092
D–42275

3) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1–888–DIG–SAFE (1–888–344–7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY.

4) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.

5) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION. (NHDES DECEMBER 2008).

6) PLANTING AND MAINTENANCE SHALL BE IN ACCORDANCE WITH NOFA STANDARDS FOR ORGANIC LAND USE.

7)THE PURPOSE OF THIS PLAN IS TO SHOW THE WETLAND BUFFER IMPACT ON ASSESSOR'S MAP 222 LOT 69 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS. (CONTOUR INTERVAL 0.5')

PROPOSED DADU
213 JONES AVENUE
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
1	ADD BERM, BUFFER PLANTING AREA	3/30/22
0	ISSUED FOR COMMENT	2/11/22

REVISIONS

STATE OF NEW HAMPSHIRE
JOHN R. CHAGNON
No. 7851
LICENSED
PROFESSIONAL ENGINEER

SCALE: 1" = 20'

CUP WETLANDS SITE PLAN

C3

FB 324 PG 60

531.01

J:\JOBS\JN500s\JN539s\JN531\2021 ADU\Plans & Specs\Site\531.01 SITE 2022.dwg, 3/29/2022 1:44:08 PM, Canon TX-3000.pc3

BECKSTED ASSOCIATES
Construction & Design
1395 Islington Street, Portsmouth, NH 03801
(603) 431-1587

JOB 9 SHURMAN AVE
SHEET NO. 1 OF
CALCULATED BY RB DATE
CHECKED BY DATE
SCALE

9 SHURMAN AVE MAP 260 LOT 158

ZONING: SINGLE RESIDENCE B
30' FRONT / REAR SET BACK

LOT SIZE: 9,147.6 SQ. FT.

MAXIMUM LOT COVERAGE (20%) 1,829.52 SQ

EXISTING LOT COVERAGE 1,271.52 SQ FT. *

AVAILABLE LOT COVERAGE INCREASE 588 SQ FT

AS SKETCH CLEARLY SHOWS, THE LOT FOLLOWING EXISTING ZONING IS UNBUILDABLE

PROPOSED CHANGE: ADD A SECOND STORY TO EXISTING HOUSE. ADD A 6' x 25' TWO STORY ADDITON (ELIMINATING THE 7' x 20' DECK BUILT BY A PREVIOUS OWNER, APARENTLY WITHOUT A PERMIT.

ADD A COVERED, OPEN SIDED PORCH TO FRONT OF HOUSE; AND AN UNCOVERED SMALL DECK TO REAR. ALL ADDITIONS WILL BE LESS THAN THE 588 AVAILABLE SQ FT. LOT COVERAGE.

*NOT INCLUDING A 7' x 20' DECK (BY PREVIOUS OWNER) BUILT WITHOOT PRMIT. TO BE ELIMINATED BY ADDITON.

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JOB 9 SHERMAN AVE
SHEET NO. 3 OF
CALCULATED BY RB DATE
CHECKED BY DATE
SCALE

THIS CHANGE IS IN KEEPING WITH A NUMBER OF HOUSES IN THE NEIGBORHOOD THAT HAVE ALSO ADDED A SECOND STORY.

NOT ONLY WILL THIS NOT NEGATIVELY AFFECT NEIGBORHOOD VALUES, IT WILL IN FACT INCREASE SIGNIFICANTY THE VALUE OF THIS HOUSE; THUS INCREASING THE DESIRABILITY OF ALL.

A TOUR THRU THE NEIGBORHOOD WILL REVEAL A NUMBER OF HOMES ON SMALL LOTS; MOST OF WHICH DO NOT MEET THE 30' SETBACK.

APROVAL OF THIS REQUEST WILL THERFORE BE COMPATABLE WITH WHAT IS AND HAS BEEN THE PHYSICAL HISTORY OF THIS NEIGBORHOOD

WWW.BECKSTEDASSOCIATES.COM
Rbecksted1@yahoo.com

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1395 Islington Street, Portsmouth, NH 03801
(603) 431-1587

JOB 9 SHURMAN AVE
SHEET NO. ____ OF ____
CALCULATED BY RB DATE ____
CHECKED BY ____ DATE ____
SCALE ____

1. THIS VARIANCE WOULD NOT BE CONTRARY TO THE PUBLIC INTEREST IN THAT IT WOULD ALLOW THE APLICANT TO IMPROVE HER HOME IN A MANNER SIMILAR TO MANY OF HER NEIGHBORS, ENHANCE HER (AND THUS HER NEIGBORS) HOME VALUE, MAINTAIN HER PROPERTY AS A "NON-CONFORMING" BUILDING, THUS MAINTAING THE VALUE OF THE ENTIRE NEIGHBORHOOD.

2. THE SPIRIT OF THE ORDINANCE IS OBSERVED BY MAINTAINING THE VALUE OF A CLOSE KNIT RESIDENTAL NEIGHBORHOOD.

3. THIS VARIANCE WOULD ENSURE THAT SUBSTANTIAL JUSTICE IS DONE BY ALLOWING THE APLICANT TO IMPROVE HER HOME IN THE EXACT SAME MANNER AS MANY OF HER NEIGHBORS HAVE ALREADY DONE (I.E. ADD A SECOND STORY).

4. THE VALUE OF SURROUNDING PROPERTY WILL NOT BE DIMINISHED. IN FACT THIS VARIANCE, IN ALLOWING IMPROVEMENT OF THE APLICANT'S HOME TO INCREASE IT'S VALUE, WHILE STILL BLENDING WITH THE NEIGHBORHOOD, WILL ENHANCE THE DESIRABILITY AND VALUE OF ALL.

5. LITERAL ENFORCEMENT OF THE ORDINANCE (I.E. 30' FRONT/REAR SETBACKS WOULD MAKE THIS PROPERTY UNBUILDABLE.

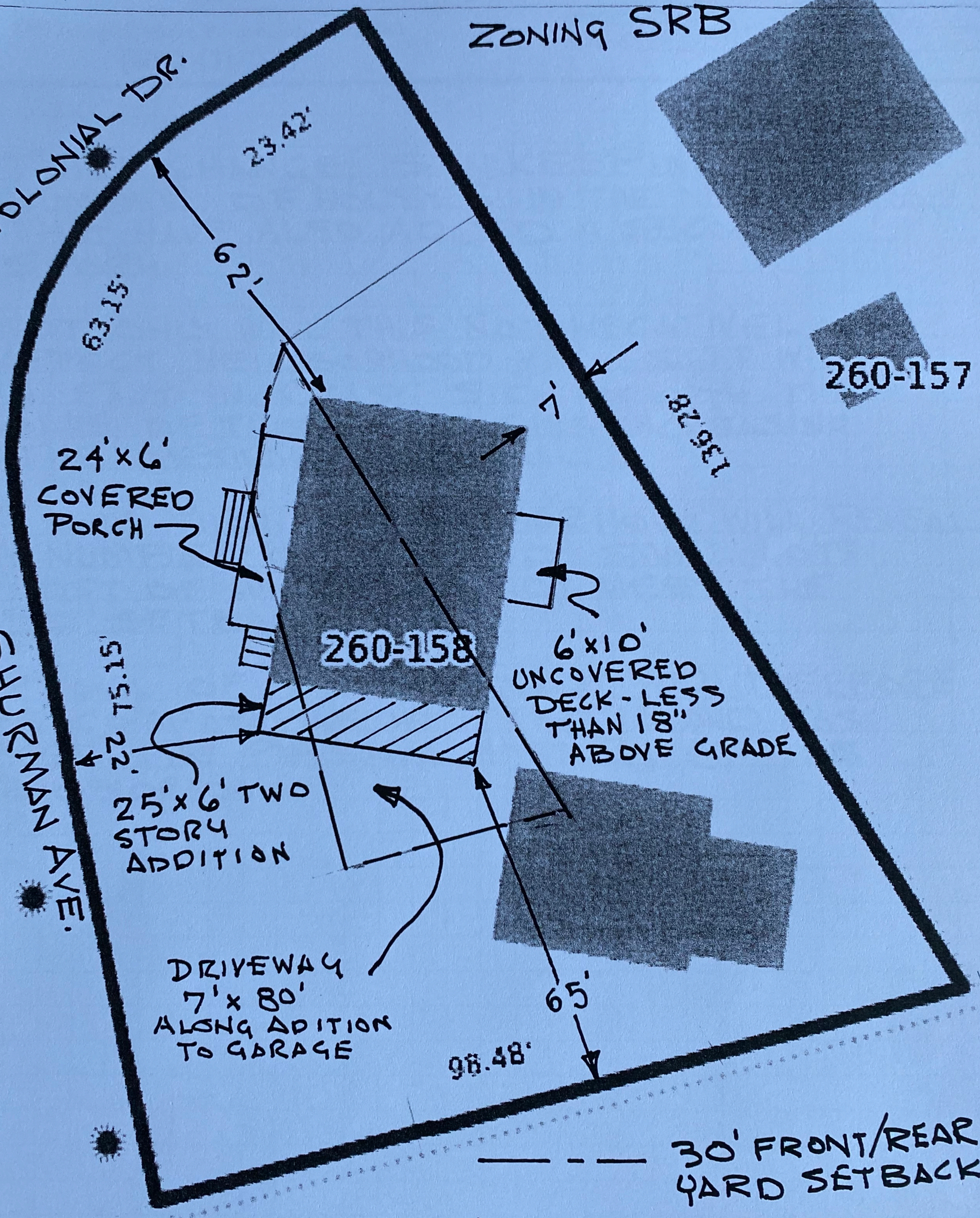
ADITIONALLY, ALLOWING A COVERED FRONT PORCH WILL HELP MITIGATE BASEMENT WETNESS BY MOVING ROOF EAVES. FURTHER FROM THE FOUNDATION

WWW.BECKSTEDASSOCIATES.COM
Rbecksted1@yahoo.com

SHEET 2

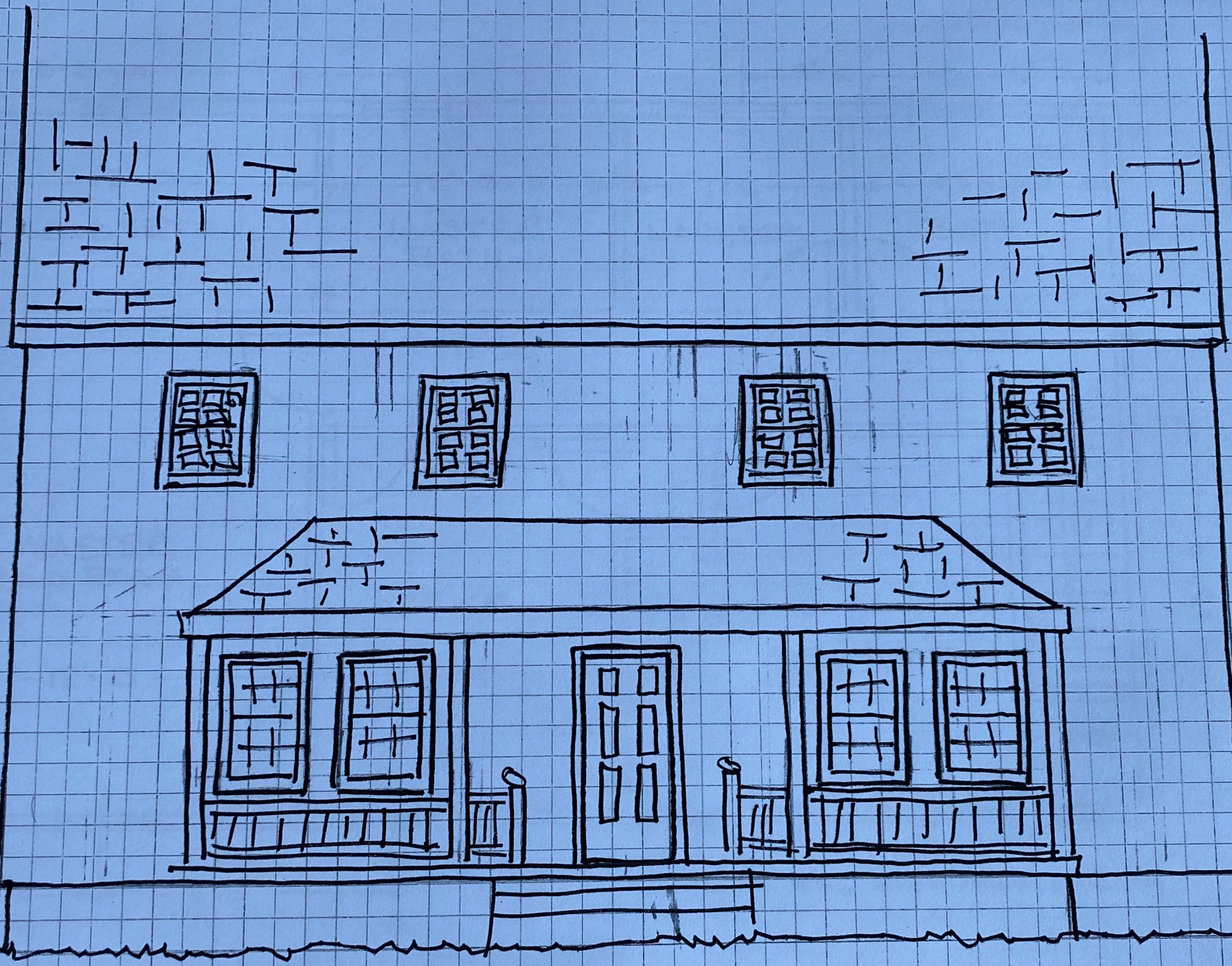
9 SHURMAN AVE MAP 260 LOT 158

ZONING SRB



——— 30' FRONT/REAR YARD SETBACK

LOT SIZE 9,147.6 SQ.FT.
EXISTING COVERAGE 1,271.52 SQ.FT.
MAXIMUM COVERAGE (20%) 1,829.52



FRONT ELEVATION

BECKSTED ASSOCIATES
Construction & Design
P.O. Box 5154
PORTSMOUTH, NH 03802
(603) 431-1587

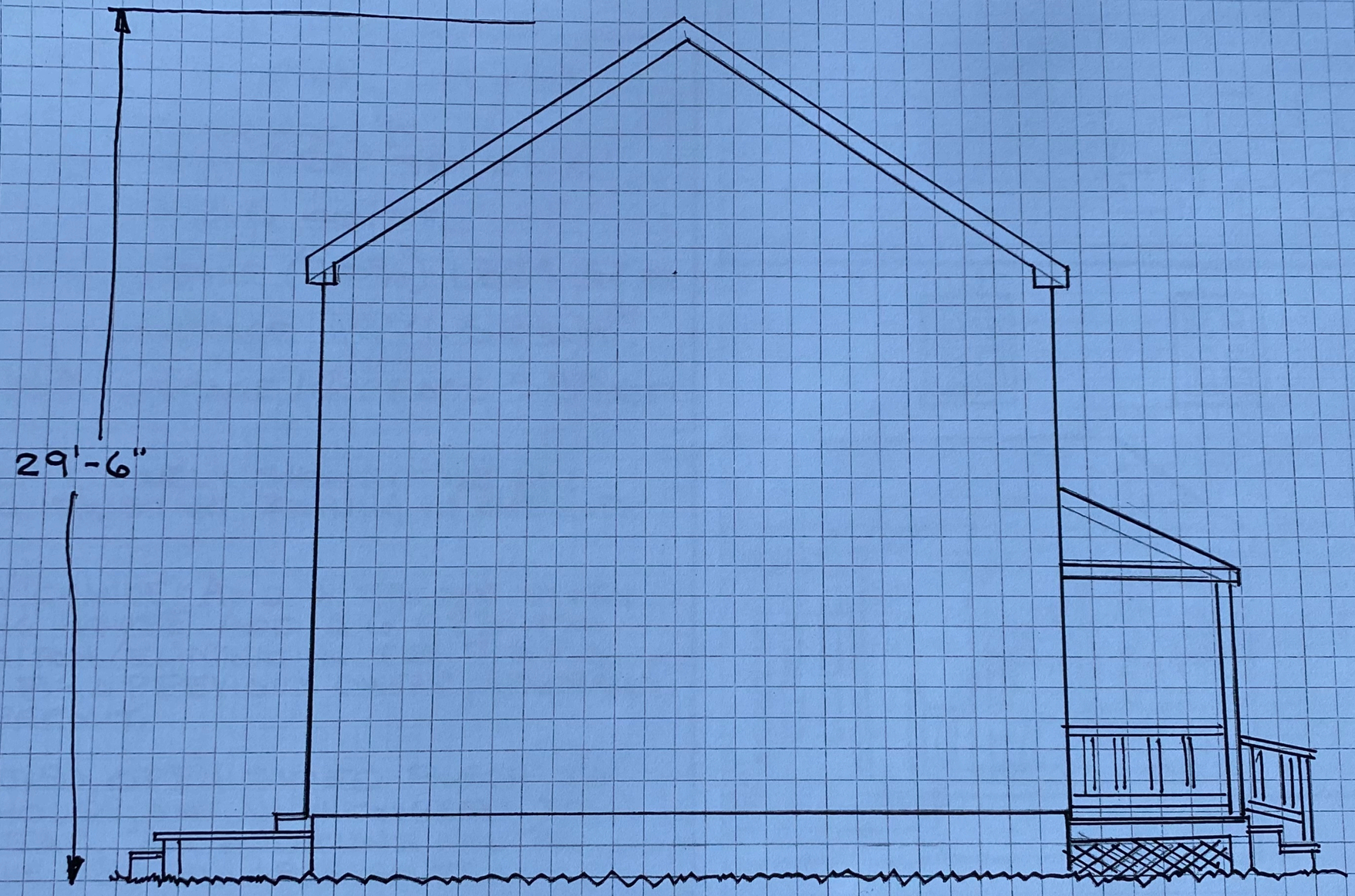
JOB 9 SHURMAN AVE

SHEET NO. _____ OF _____

CALCULATED BY R.B. DATE _____

CHECKED BY _____ DATE _____

SCALE 1/4" = 1'-0



LEFT SIDE

BECKSTED ASSOCIATES
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(603) 431-1587

JOB 9 SHURMAN AVE

SHEET NO. _____ OF _____

CALCULATED BY R.B. DATE _____

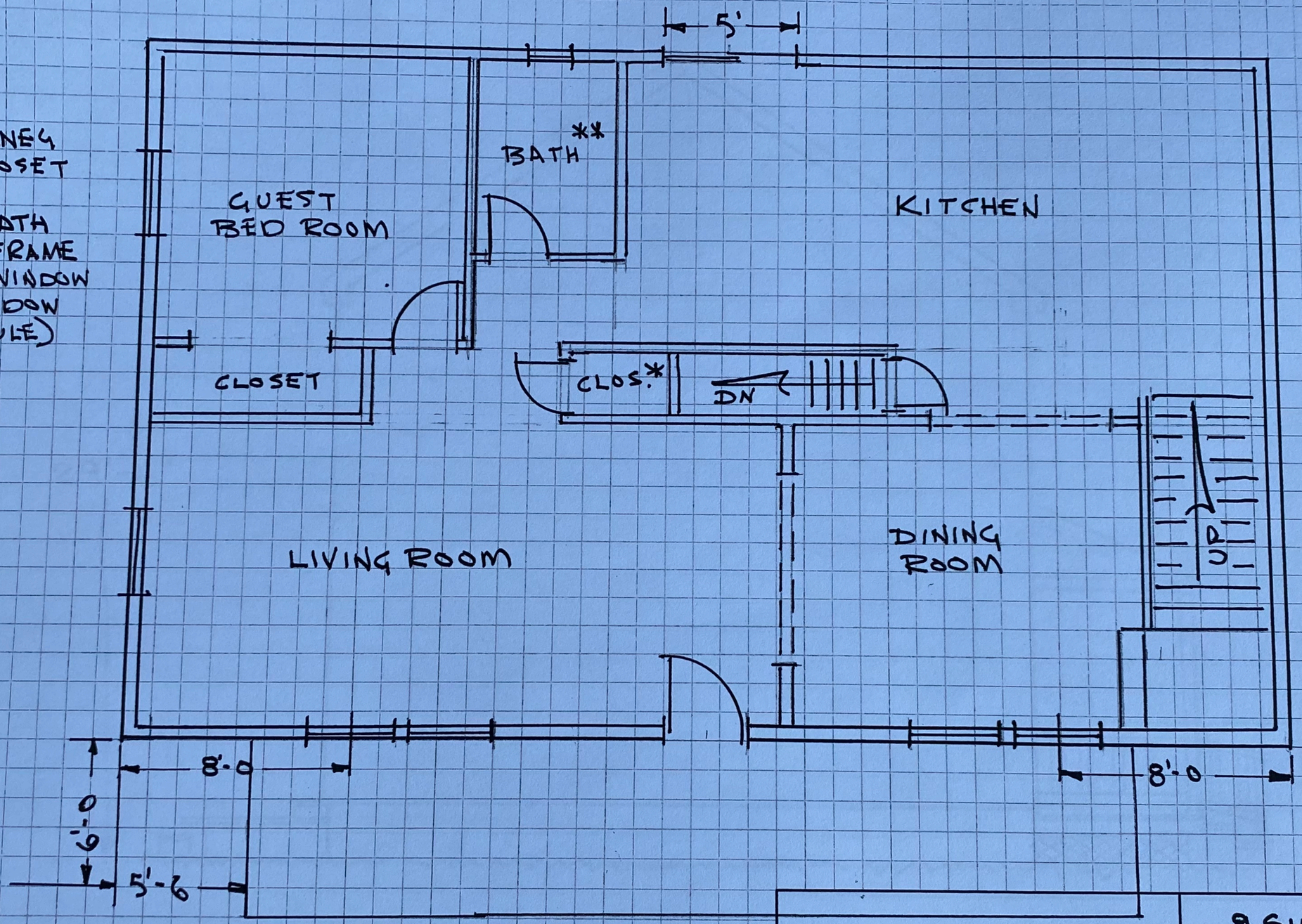
CHECKED BY _____ DATE _____

SCALE 1/4" = 1'-0

-1 (PADDED 11" EDGE) PRODUCT 706-1 (PADDED 17" EDGE) C

* DEMO CHIMNEY & FRAME CLOSET

** DEMO BATH WALL TO FRAME REFRAME WINDOW (SEE WINDOW SCHEDULE)



KITCHEN WINDOW SIZE/LOCATION T.B.D. BY KITHEN LAYOUT

FIRST FLOOR

BECKSTED ASSOCIATES
Construction & Design
P.O. Box 5154
PORTSMOUTH, NH 03802
(603) 431-1587

JOB 9 SHURMAN AVE

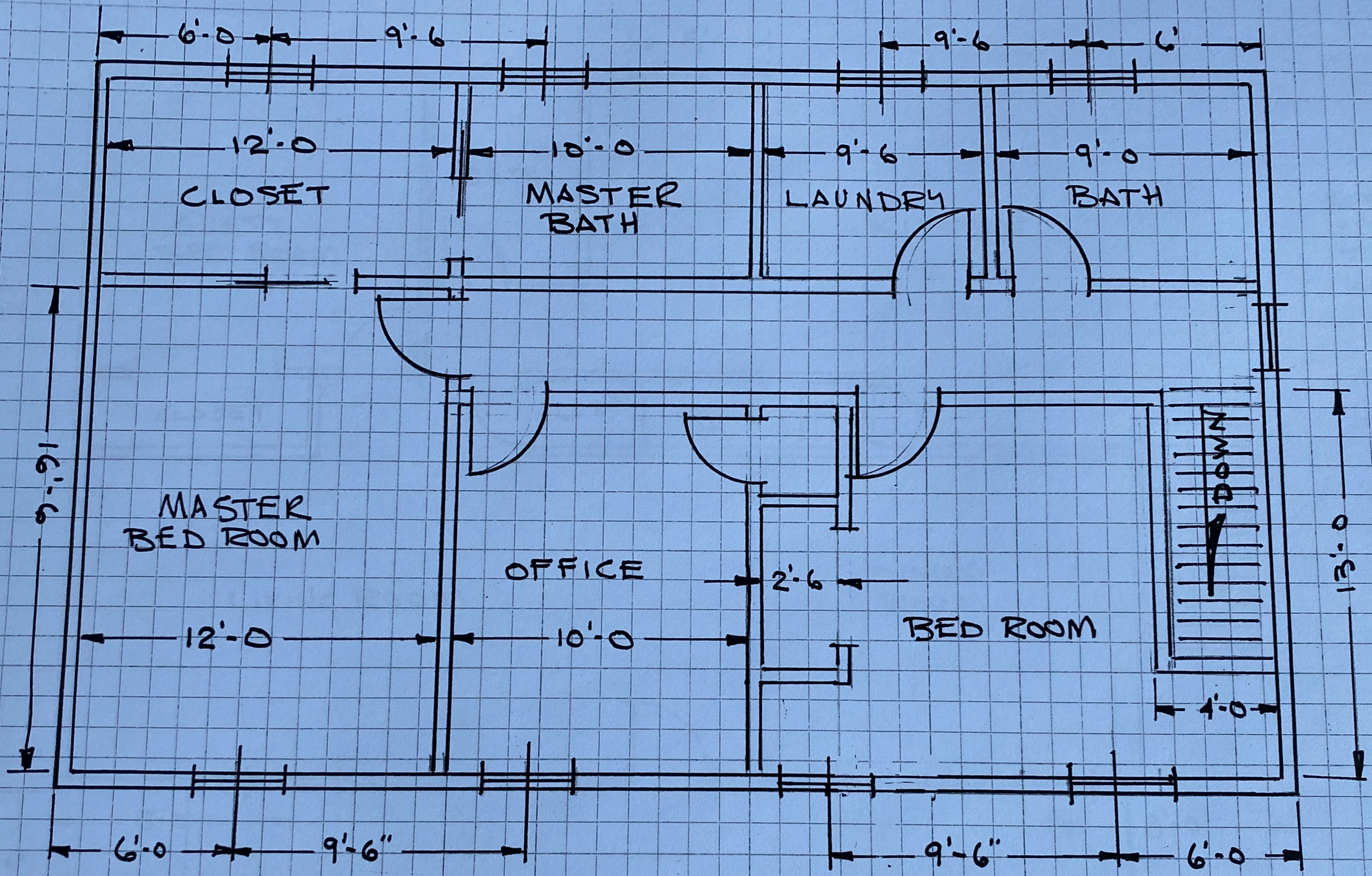
SHEET NO. _____ OF _____

CALCULATED BY R.B. DATE _____

CHECKED BY _____ DATE _____

SCALE 1/4" = 1'-0

704-1 (PADDED 11" EDGE) PRODUCT 706-1 (PADDED 17" EDGE) C



SECOND FLOOR

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(603) 431-1587

JOB 9 SHURMAN AVE

SHEET NO. _____ OF ____

CALCULATED BY R.B. DATE

CHECKED BY _____ DATE

SCALE 1/4" = 1'-0

DDED 17" EDGE) C

Nine

This report is to formally request a variance on an addition to add a primary bedroom and bathroom, and to renovate the carport into a sunroom at 80 Fields Rd. Portsmouth NH 03801 Report created by and for owners Katy and Andrew DiPasquale 80 Fields Rd. Portsmouth NH 03801

- Total Number of Dwelling Units (for residential projects)
    - 1 Dwelling Units will be Renovated (House and Carport)
        - Existing/Renovating House
            - Existing/Renovating Carport (carport is attached to existing home and we're converting it to sunroom/mudroom)
        - Existing/Remaining shed (no new construction here)
- Lot area
    - .16 Acres or 6969.6 SF
- Description of proposed project
    - Our family is growing and we're expecting our first born child in September. Our current home is not adequate for multi-generations of family members living with and visiting us. We also work from a home office due to the pandemic and need office space. We are proposing to add a Primary Bed and Bath addition and convert the existing carport into a sunroom/mudroom for 4 season living. Our request is a variance on the following:
        - Relief on the overage for the maximum building coverage (20% for my neighborhood)
        - Relief for setbacks on 4 sides of the home
            - Relief on 10' setback on **left** and **right** of home where currently 9' exists and will be existing with addition
            - Relief on 30' setback on **rear** of home where addition would be 26'
            - Relief on 30' setback on **front** of home where addition would be 23'
    - The net SF of the addition as planned is 1820.75 SF including it's covered surfaces. The planned total building coverage with our shed and planned addition of a bed, bath, office and sunroom would put us at **2012.75 SF or ~29% of building coverage.**

Responding to section 10.233

- 10.233.21 The variance will not be contrary to the public interest;
    - We are keeping with the neighborhood aesthetic and improving the value of our home which will increase the values of our fellow neighbor's homes.
- 10.233.22 The spirit of the Ordinance will be observed;
    - We're requesting that our addition plans stay in line with the current home lines (i.e. initial foot print lines). Otherwise addition plans would need to be offset

slightly, creating poor drainage, increased cost with added corners, and poor aesthetic.

- 10.233.23 Substantial justice will be done;
    - By allowing the building coverage exception and setback relief, my family can have room to live and grow in, my wife and I will have adequate space for working from home and we will not have to spend more money on finding other remote work locations or have to put family members up in hotels.
- 10.233.24 The values of surrounding properties will not be diminished;
    - The design style is commiserate with modern ranch/1-story homes and as such will improve the value of surrounding properties.
- 20.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
    - Without building an addition, my family will not be able to stay in this house. Given the state of housing and prices rapidly increasing, to get a home of this size, character and location, we would need to spend well over our budget and frankly be in the $800k-1mil price range. Our lot is on the smaller side for the neighborhood and would also be commensurate with most of the buildings in our neighborhood by expanding/adding square footage to accommodate a modern family and their needs. If we are unable to expand the building coverage, our family would need to leave this city that we love and contribute to. Furthermore, without setback relief, we would be incurring substantial additional costs by adding additional, unnecessary corners to construction, also creating poor drainage, and poor aesthetic. We're currently expecting our first child and need to create additional living space for our growing family and multi-generational visits.

- Description of existing land use
    - This is a single family home with an existing shed and carport. The home is our primary residence and home.
- Project representatives – names and contact information
    - Andrew (Drew) and Katy DiPasquale
- Description and dimensions of existing and proposed buildings (including building footprint, total gross floor area, and height)
    - Old home - gable style ranch
        - 40x24 with 276 sf Carport attached
    - Renovated home with planned addition
        - 1820.75 SF
            - Carport to Sunroom/mudroom addition = 12' x 29'6" (includes 5'6" x 12' covered porch)
            - Primary bed/bath/office/closet addition = 24'x21' (includes 8'x5' covered porch)

- Existing and proposed front, side and rear setback / yard dimensions (this is the distance from a structure to the lot line)
    - Total Lot is (front to back) 100’x (left to right) 70’
    - Existing setbacks house
        - Rear - 50’; Left - 9’; Right - 9’ ; Front - 42’
    - Proposed setbacks for house
        - Rear - 26’; Left - 9’; Right - 9’; Front - 36’
- Site Plan(s) showing existing and proposed conditions including:
- CURRENT

PROPOSED - Note that SFs include covered porch areas on both proposed additions:

- Abutting street(s) and street names
  - Spinney and Fields
- Driveways / accessways
  - Front and ~240 SF
- Dimensions (size and height) of structures
  - Existing Home - 1 story, 960 SF
  - Existing Carport - 1 story, 276 SF
  - Existing Shed - 9' tall, 192 SF
  - Proposed bed/bath addition - 13'6"' tall, 504 SF (includes 40 sf covered porch)

        - Proposed Carport convert to sunroom addition - 13’6”’ tall, 354 SF (includes 66 sd covered porch)
        - TOTAL SF of home with new additions 1820.75 s.f.
        - TOTAL SF with all outbuildings (+ shed) 2012.75 s.f.
    - Dimensions and location of parking spaces
        - Same as driveways (driveway would be reduced by 6’ to accommodate the porch)
- Scale of all drawings and plans (the scale is the ratio of the drawing’s size relative to the actual size)

    - See submitted PDF of architectural drawings and plans
- Labeled photo(s) of existing conditions
  Front

Front Left

Front Right

Back right

Back Left

Rear

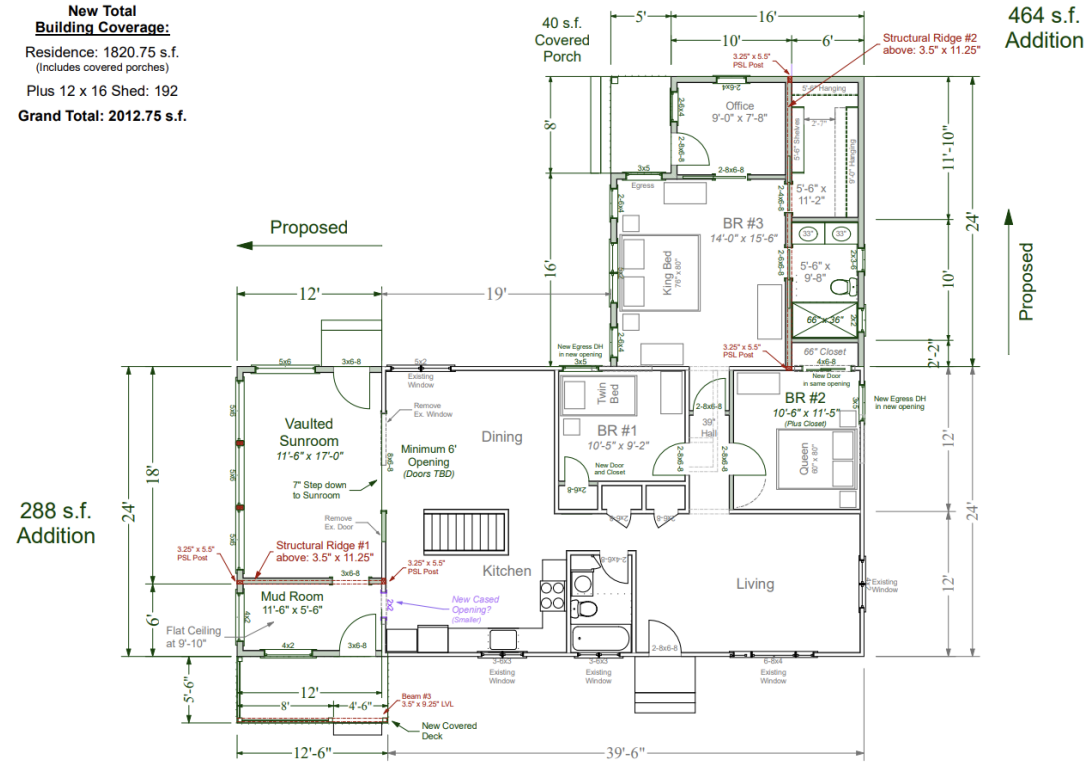
- Building plans and elevations of any proposed structures or additions. Please see submitted plans for full details. Included here are pertinent images of plans for interior floor plan, and demo schedule

New Total
Building Coverage:

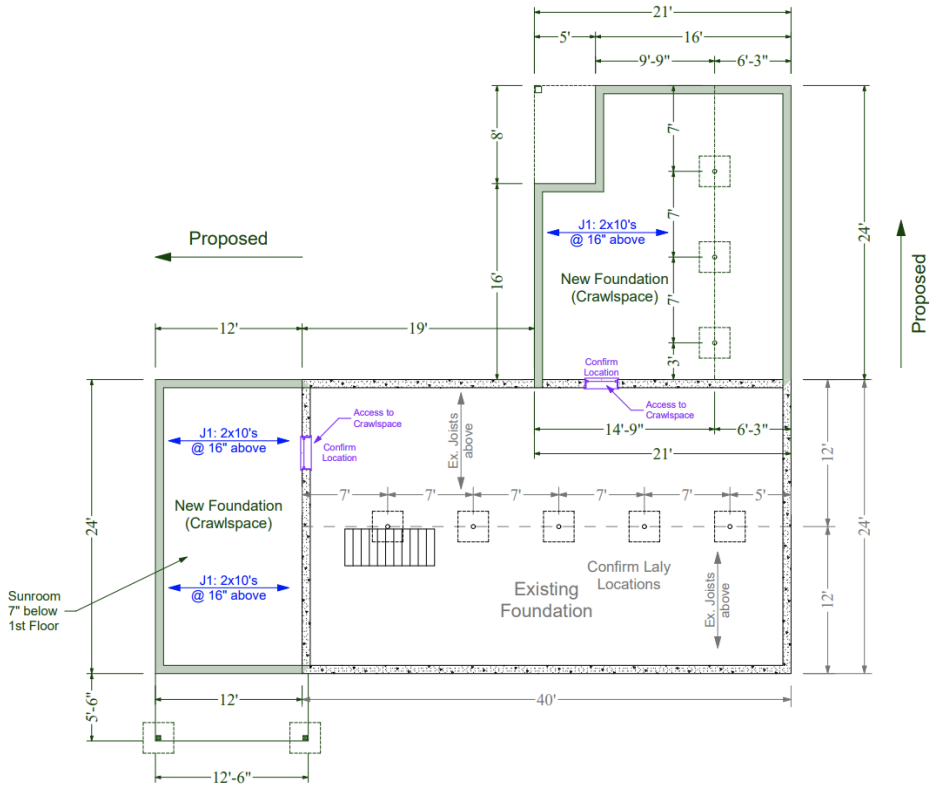
Residence: 1820.75 s.f.
(Includes covered porches)

Plus 12 x 16 Shed: 192

Grand Total: 2012.75 s.f.



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com 6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT: Drew and Katy Dipasquale Residence	SITE: 80 Fields Road Portsmouth, NH 03801	ISSUED FOR: Price Review ISSUE DATE: March 1, 2022	SCALE: 1" = 10'-0" (Letter)	TITLE: Proposed First Floor	SHEET: **P1**



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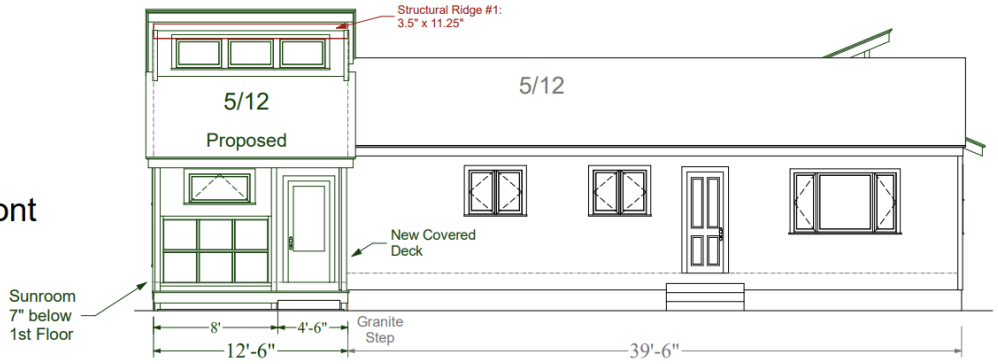
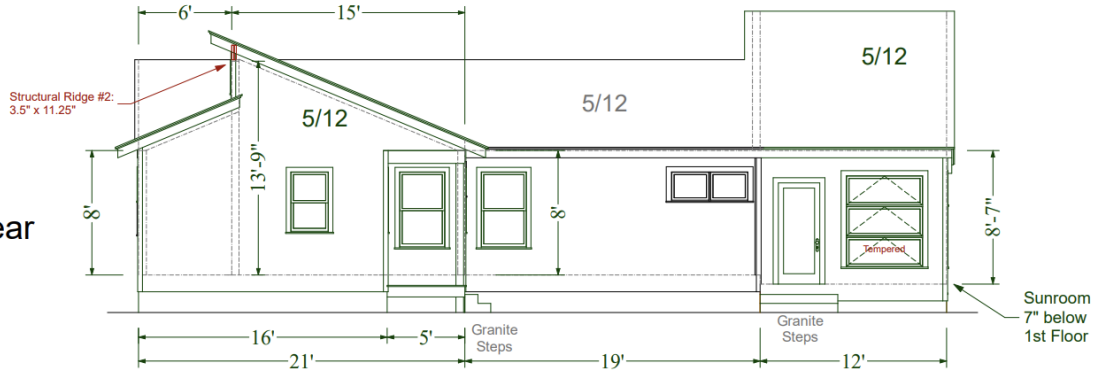
Front



Rear



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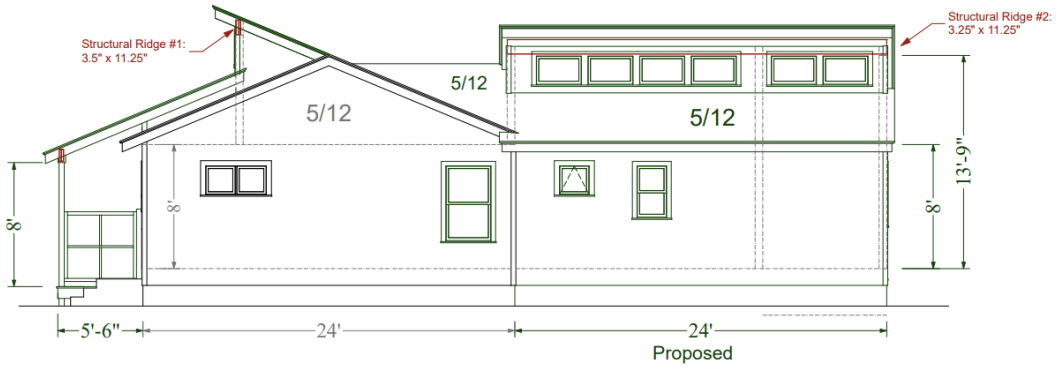
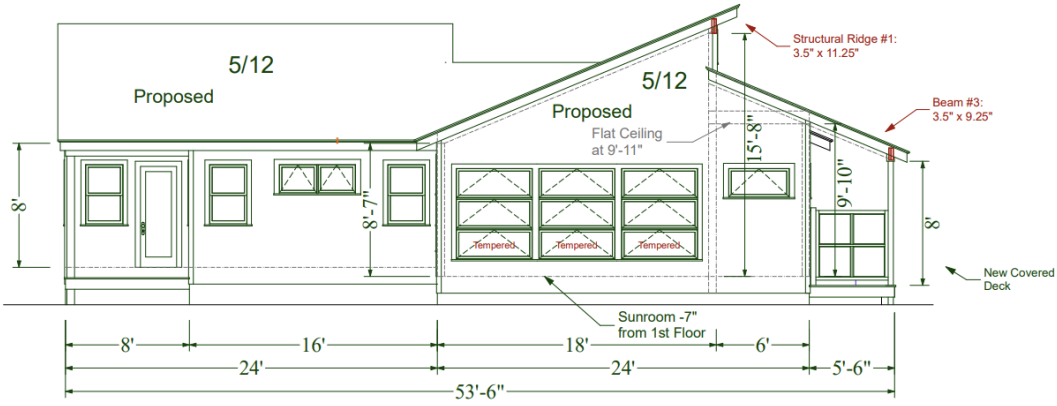
Right



Left



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Typical Foundation:
Foundation walls to be 8" thick
with (2) #4 Rebar longitudinal top.\
and #6 @ 48". PerT 404.1.2(1).
Footings to be 10" x 16"
with (2) #4 longitudinal bottom
& (1) #4 anchor @ 48".
Maintain continuous 4' frost protection
1/2" Anchor Bolts @ 6'-0" O.C.
(2 @ Each Corner / 2 @ Each Joint)
Laly pads to be 2'-6" x 2'-6" (continuous)
with (3) #4 bottom.
Perimeter drains stone shall extend
a minimum of 6" above the top of the
footing (Section R 405.1)

Typical Floor:
L/360, 40 LL + 15 DL
J1: 2x10's @ 16" o.c.
(Max unsupported span 15'-3")
J2: PT 2x8's @ 16" o.c. (Decks)
(Max unsupported span 12'-3")
3/4" T&G Plywood Subfloor
(Nailed and Glued)

Typical Exterior Wall
Cedar or Vinyl Siding
1/2" OSB Sheathing
Typar or equiv house wrap
2x6 Studs @ 16" O.C.
2x6 Sill and (2) 2x6 Top Plate
R21 Batt insulation
1/2" Drywall

Typical New Frame Roof
Architectural Shingles
5/8" OSB Sheathing or 1/2" Fir Plywood
2x12 Ridge
2x10 Rafters @ 16" o.c.
2x6 Collar ties @ 32" o.c.
Ice and Snow barrier
Vented Soffit or Ridge Vent
R49 Batt Insulation

Headers:
Deflection criteria of L/360 Live Load
and L/240 Total Load

Typical door and windows:
For openings not exceeding 6'-4":
(3) 2x10's with two Jack Studs

Beams:
Deflection criteria of L/360 Live Load
and L/240 Total Load

Beam #1: Structural Ridge
(2) 1.75" x 11.25" x 12'-0"
Versa-Lam 2.0 3100 SP

Beam #2: Structural Ridge
(2) 1.75" x 11.25" x 12'-0"
Versa-Lam 2.0 3100 SP

Beam #3: Supports Porch Roof
(2) 1.75" x 9.25" x 12'
Versa-Lam 2.0 3100 SP

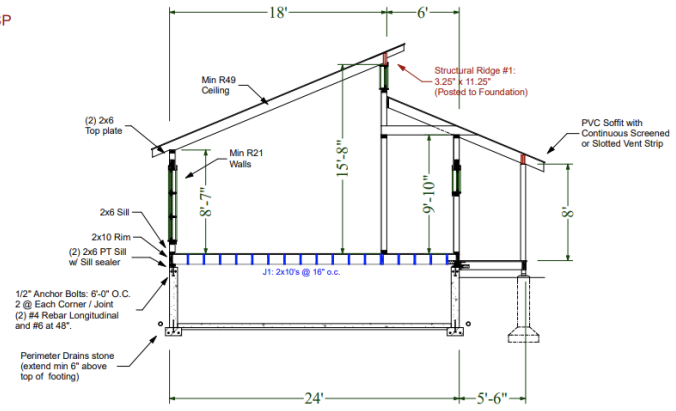
Porch Foundation:
12" Concrete filled Sonotube with
spread footing and Anchor Bolt and
Elevated 4x4 Post Base

Deck / Porch:
Connection bolt / screw per R502.2.2.1
Lateral connection per R502.2.2.3

Windows
Egress windows to have minimum
clear openable width of 20", clear
openable height of 24", and clear
openable area of 5.7 s.f. / 2nd Floor
sills to be a minimum of 24" from floor.

Stair notes:
Handrail height above nose: 34"
Balluster spacing: Max 4" clear
Min (3) 2 x12 Stringers
Rise: Min 7 1/4" Max 7 3/4"
Run: 10" nosing to nosing
Finish tread 11 1/4"
Min 36" wide with 6'-8" Headroom

Note: Smoke / CO2 detectors in all bedrooms, and to code throughout.



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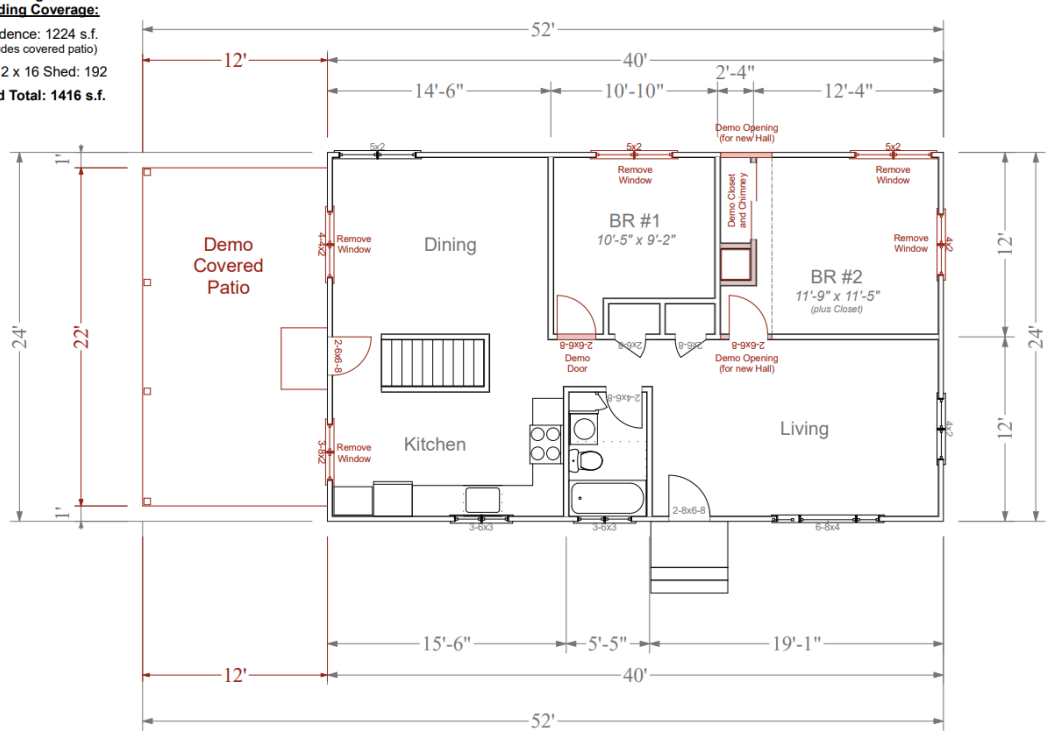
Existing Total
Building Coverage:

Residence: 1224 s.f.
(Includes covered patio)

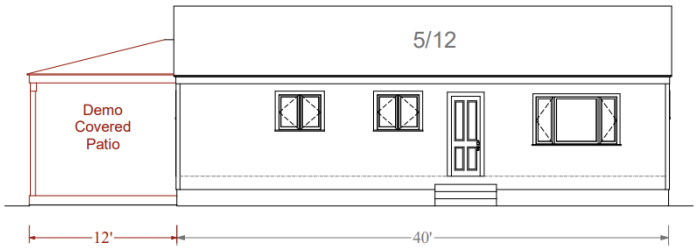
Plus 12 x 16 Shed: 192

Grand Total: 1416 s.f.



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT: Drew and Katy Dipasquale Residence	SITE: 80 Fields Road Portsmouth, NH 03801	ISSUED FOR: Price Review DATE: March 1, 2022	SCALE: 1/8" = 1'-0" *(Letter)*	TITLE: Existing 8' First Floor	SHEET: **E1**

Front



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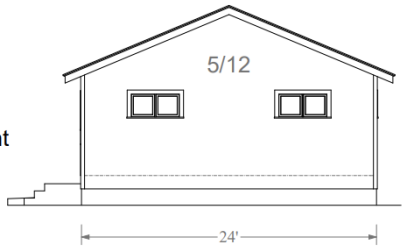
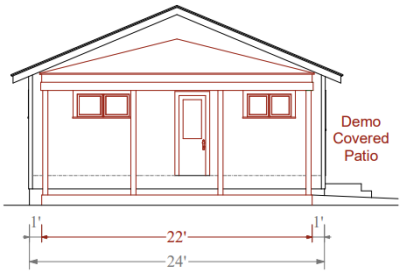
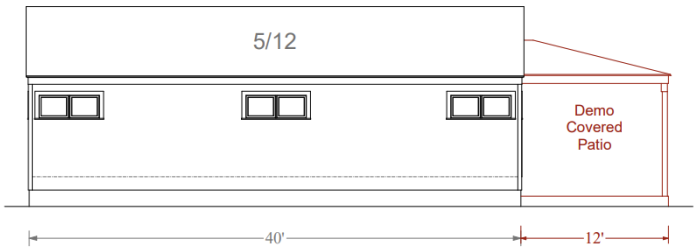




Left

Rear



Michelle Shields Design Smart Creative Architecture 6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623 www.MichelleShieldsDesign.com	PROJECT: Dipasquale Residence	SITE: 80 Fields Road Portsmouth, NH 03801	ISSUED FOR: Price Review ISSUE DATE: March 1, 2022	SCALE: 1" = 10'-0" (Letter)	TITLE: Existing Elevations	SHEET: **E3**

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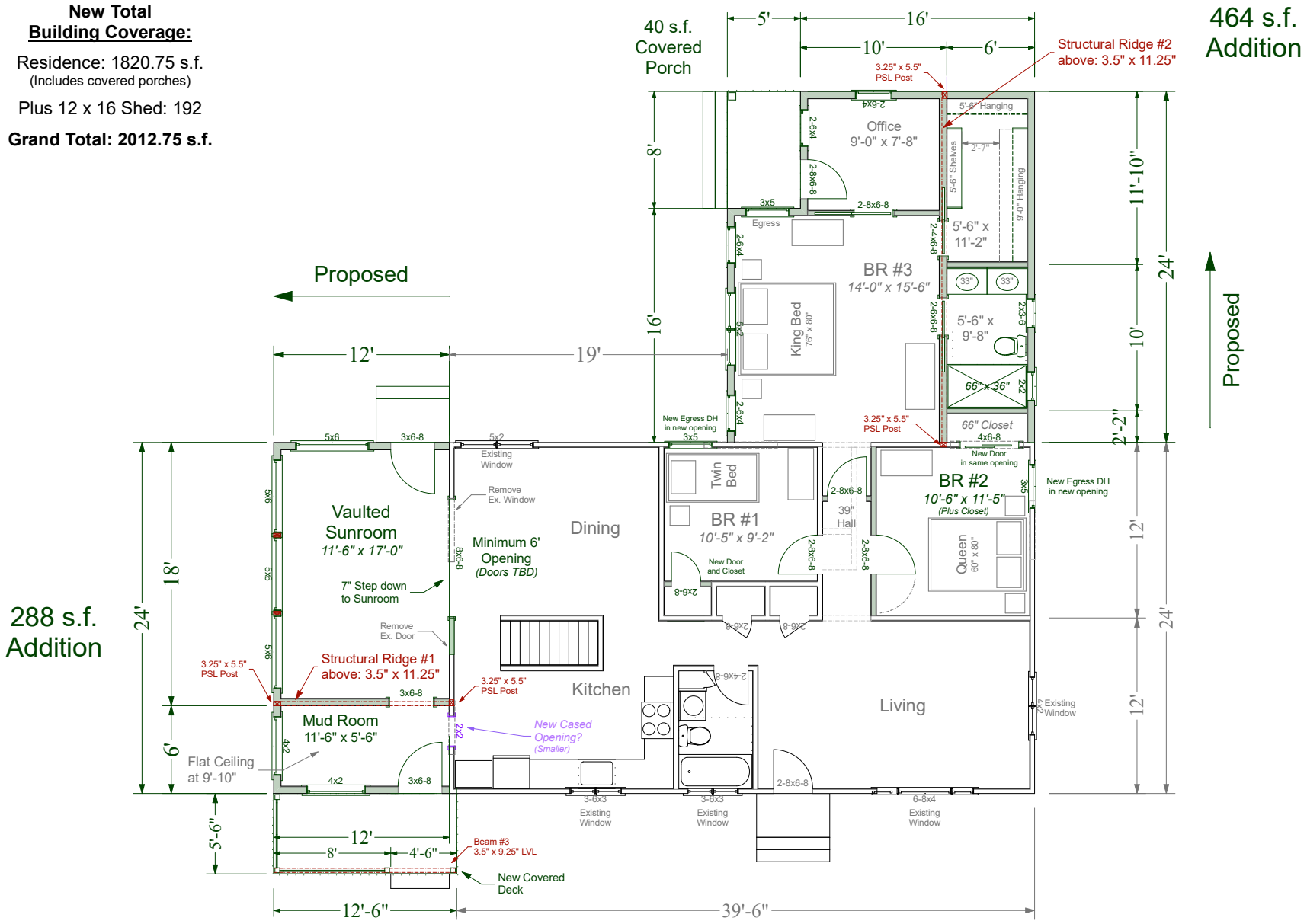
New Total
Building Coverage:

Residence: 1820.75 s.f.
(Includes covered porches)

Plus 12 x 16 Shed: 192

Grand Total: 2012.75 s.f.



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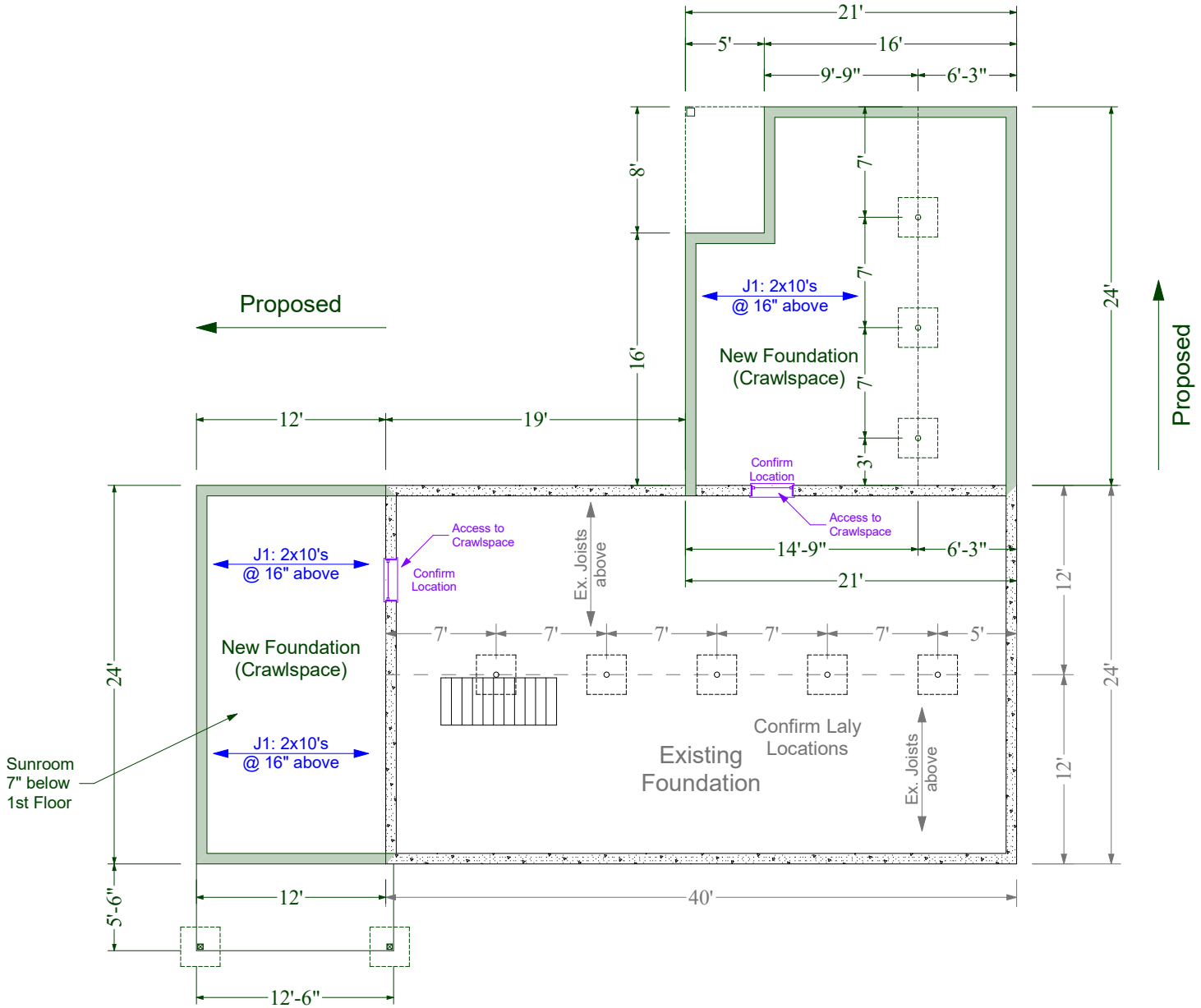

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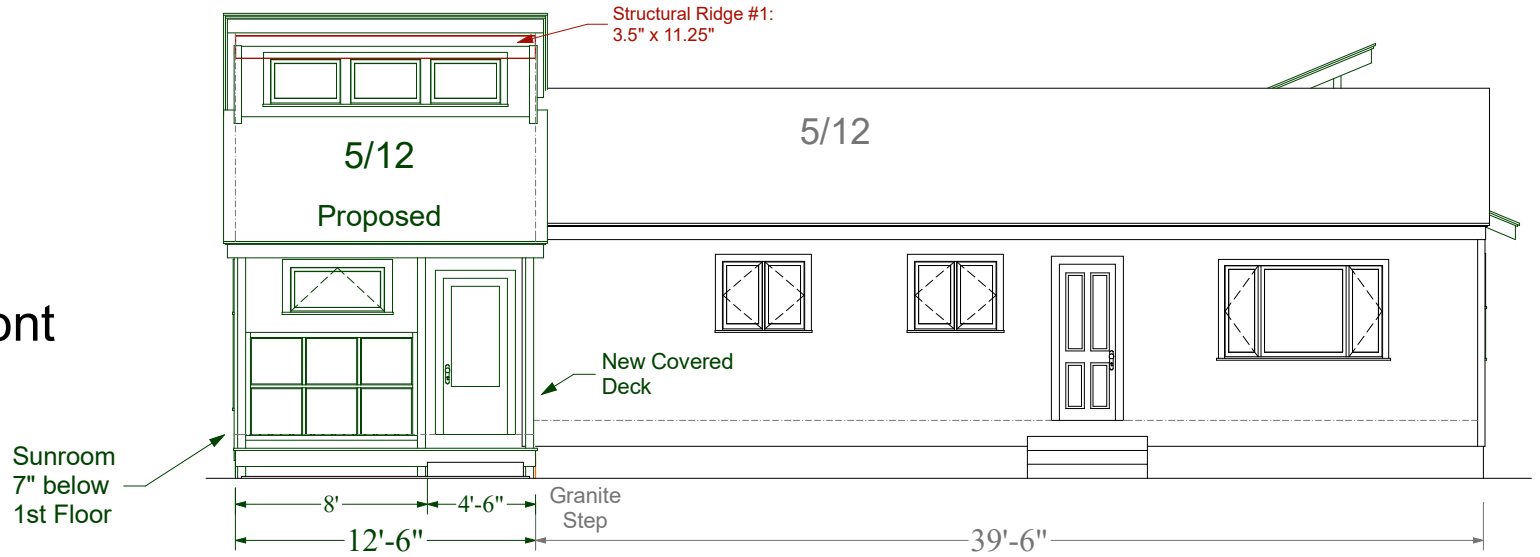
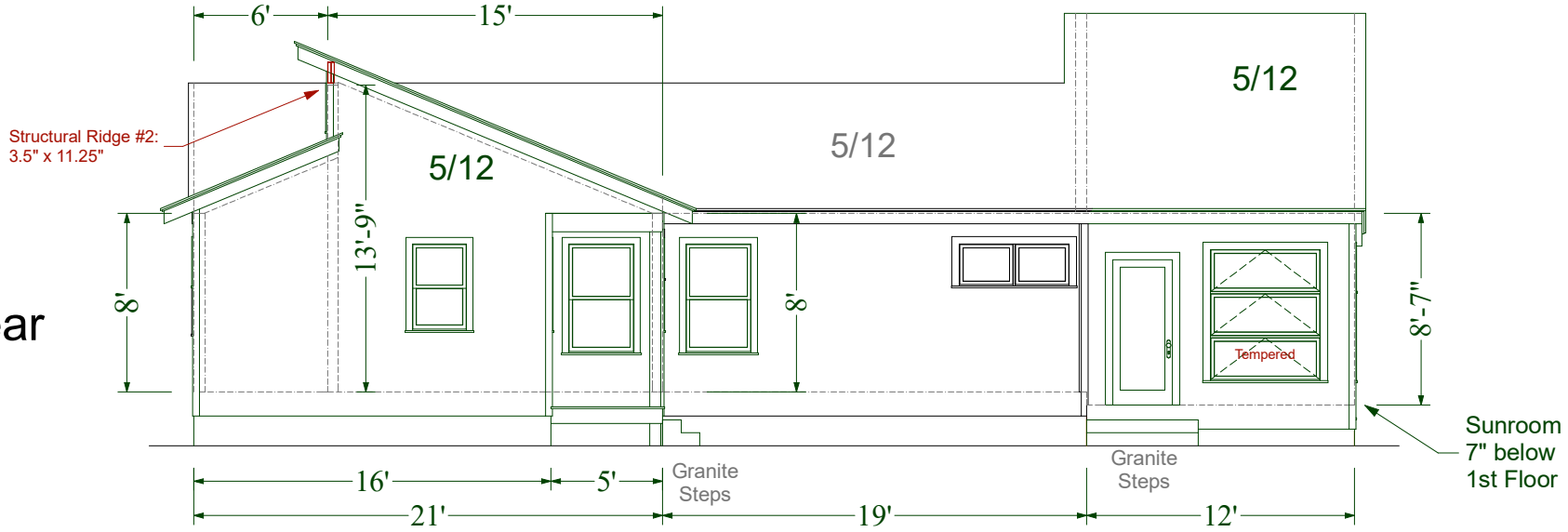
Front



Rear



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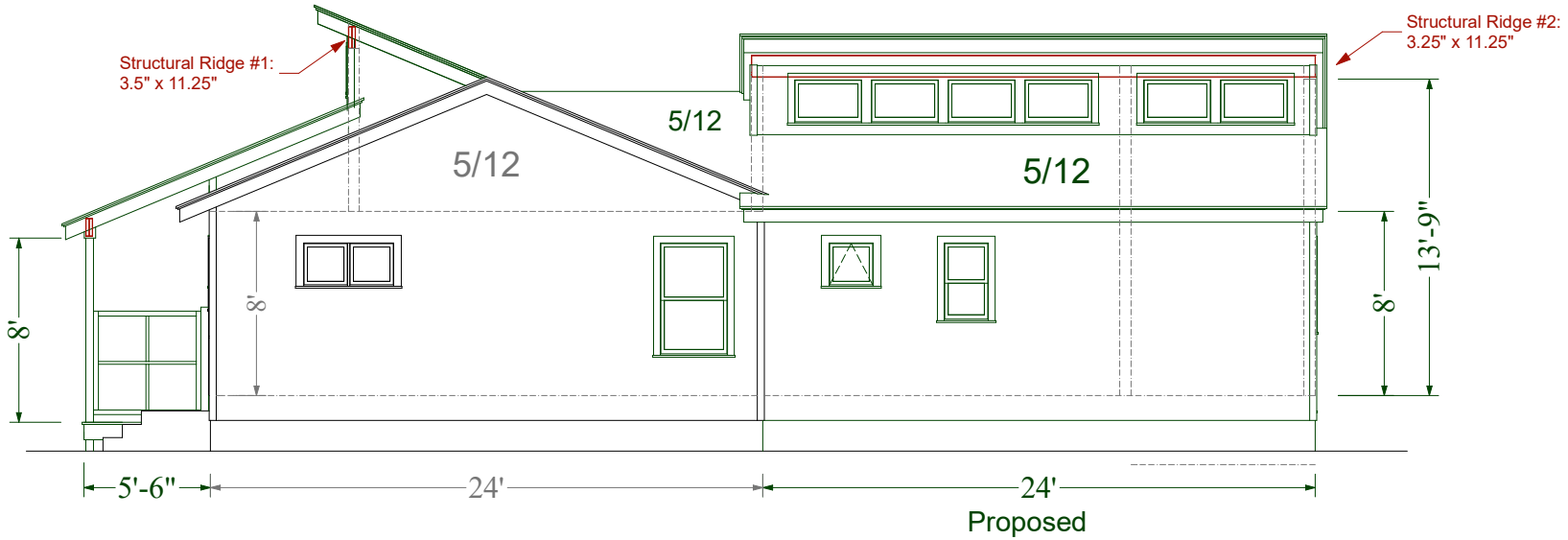
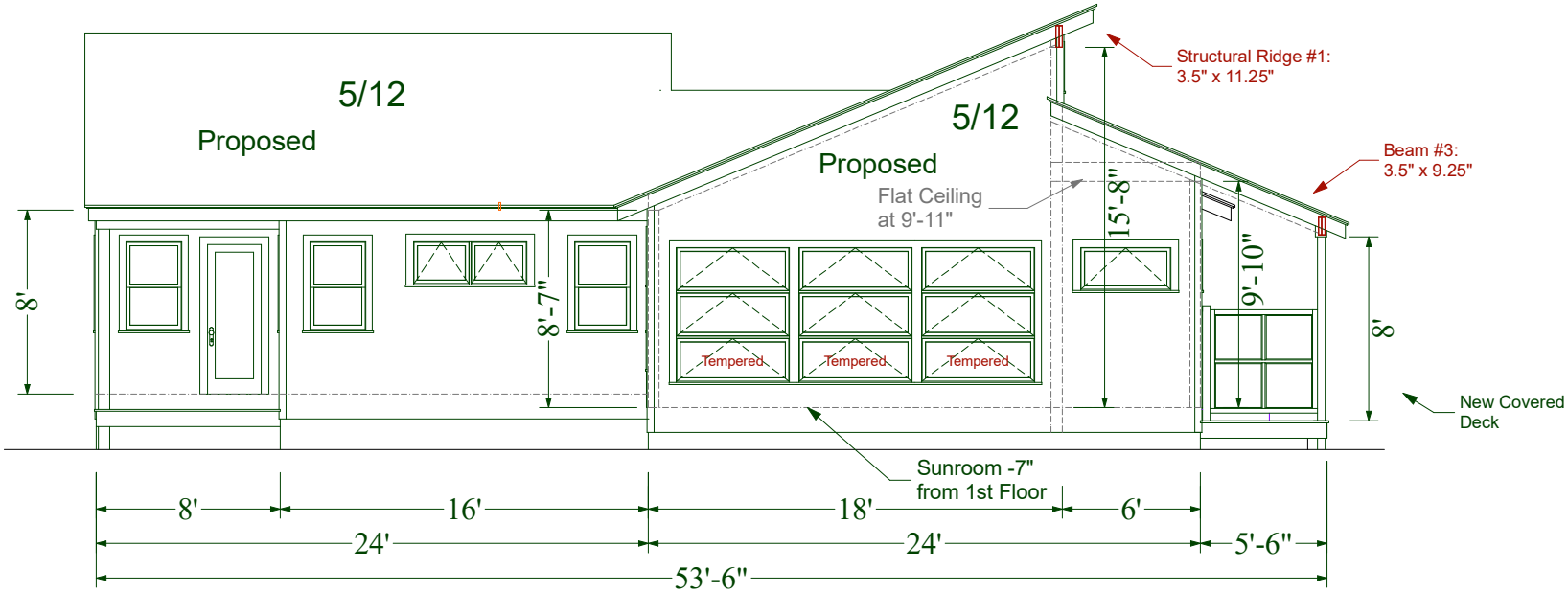
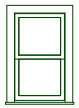
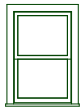
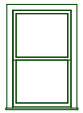
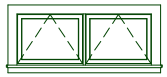
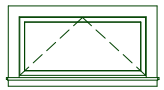
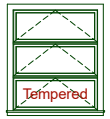
Right

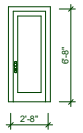
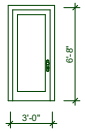
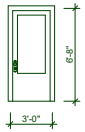


Left



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com 6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT: Drew and Katy Dipasquale Residence	SITE: 80 Fields Road Portsmouth, NH 03801	ISSUED FOR: Price Review DATE: March 1, 2022	SCALE: 1/8" = 1'-0" *(Letter)*	TITLE: Proposed Elevations	SHEET: **P4**

White Vinyl Windows			
ID	Qty	ELEVATION	DIMENSIONS
2442	1		2'-0" X 3'-6"
3048	4		2'-6" X 4'-0"
E3660 *(Egress)*	3		3'-0" X 5'-0"
A2424	1		2'-0" X 2'-0"
A3024-2	1		5'-0" X 2'-0"
A4824	2		4'-0" X 2'-0"
A6024 3High *Lower Sash Tempered*	4		5'-0" X 6'-0"
3624 Fixed	9		3'-0" X 2'-0"

New Exterior Doors			
ID	Qty	ELEVATION	DIMENSIONS
2868R *(Office MBR Deck)*	1		2'-8" X 6'-8"
3068L *(Sunroom Rear)*	1		3'-0" X 6'-8"
3068R *(Mudroom Front)*	1		3'-0" X 6'-8"

Solid Core Interior Doors *(Style TBD)*		
ID	Qty	DIMENSIONS
2068	1	2'-0" X 6'-8"
2468 Pkt	1	2'-4" X 6'-8"
2668 Pkt	1	2'-6" X 6'-8"
2868	3	2'-8" X 6'-8"
2868 Pkt	1	2'-8" X 6'-8"

Michelle Shields Design
Smart Creative Architecture
6 Rudolph Avenue
Kittery, Maine 03904
207-438-9829
Cell: 207-752-7623
www.MichelleShieldsDesign.com

PROJECT: Drew and Katy Dipasquale Residence

SITE: 80 Flelds Road Portsmouth, NH 03801

ISSUED FOR: Price Review

DATE: March 1, 2022

SCALE: None *(Letter)*

TITLE: New Windows and Doors

SHEET: P5

Typical Foundation:
Foundation walls to be 8" thick
with (2) #4 Rebar longitudinal top.\
and #6 @ 48". PerT 404.1.2(1).
Footings to be 10" x 16"
with (2) #4 longitudinal bottom
& (1) #4 anchor @ 48".
Maintain continuous 4' frost protection
1/2" Anchor Bolts @ 6'-0" O.C.
(2 @ Each Corner / 2 @ Each Joint)
Laly pads to be 2'-6" x 2'-6" (continuous)
with (3) #4 bottom.
Perimeter drains stone shall extend
a minimum of 6" above the top of the
footing (Section R 405.1)

Typical Floor:
L/360, 40 LL + 15 DL

J1: 2x10's @ 16" o.c.
(Max unsupported span 15'-3")

J2: PT 2x8's @ 16" o.c. (Decks)
(Max unsupported span 12'-3")

3/4" T&G Plywood Subfloor
(Nailed and Glued)

Typical Exterior Wall
Cedar or Vinyl Siding
1/2" OSB Sheathing
Typar or equiv house wrap
2x6 Studs @ 16" O.C.
2x6 Sill and (2) 2x6 Top Plate
R21 Batt insulation
1/2" Drywall

Typical New Frame Roof
Architectural Shingles
5/8" OSB Sheathing or 1/2" Fir Plywood
2x12 Ridge
2x10 Rafters @ 16" o.c.
2x6 Collar ties @ 32" o.c.
Ice and Snow barrier
Vented Soffit or Ridge Vent
R49 Batt Insulation

Headers:
Deflection criteria of L/360 Live Load
and L/240 Total Load

Typical door and windows:
For openings not exceeding 6'-4":
(3) 2x10's with two Jack Studs

Beams:
Deflection criteria of L/360 Live Load
and L/240 Total Load

Beam #1: Structural Ridge
(2) 1.75" x 11.25" x 12'-0"
Versa-Lam 2.0 3100 SP

Beam #2: Structural Ridge
(2) 1.75" x 11.25" x 12'-0"
Versa-Lam 2.0 3100 SP

Beam #3: Supports Porch Roof
(2) 1.75" x 9.25" x 12'
Versa-Lam 2.0 3100 SP

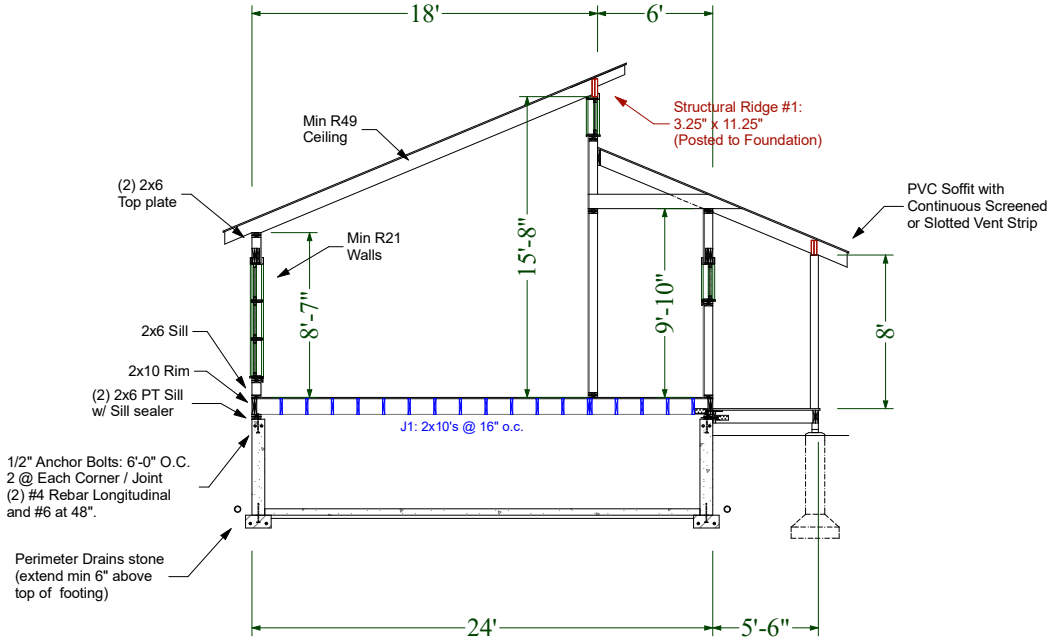
Porch Foundation:
12" Concrete filled Sonotube with
spread footing and Anchor Bolt and
Elevated 4x4 Post Base

Deck / Porch:
Connection bolt / screw per R502.2.2.1
Lateral connection per R502.2.2.3

Windows
Egress windows to have minimum
clear openable width of 20", clear
openable height of 24", and clear
openable area of 5.7 s.f. / 2nd Floor
sills to be a minimum of 24" from floor.

Stair notes:
Handrail height above nose: 34"
Balluster spacing: Max 4" clear
Min (3) 2 x12 Stringers
Rise: Min 7 1/4" Max 7 3/4"
Run: 10" nosing to nosing
Finish tread 11 1/4"
Min 36" wide with 6'-8" Headroom

Note: Smoke / CO2 detectors in all bedrooms, and to code throughout.



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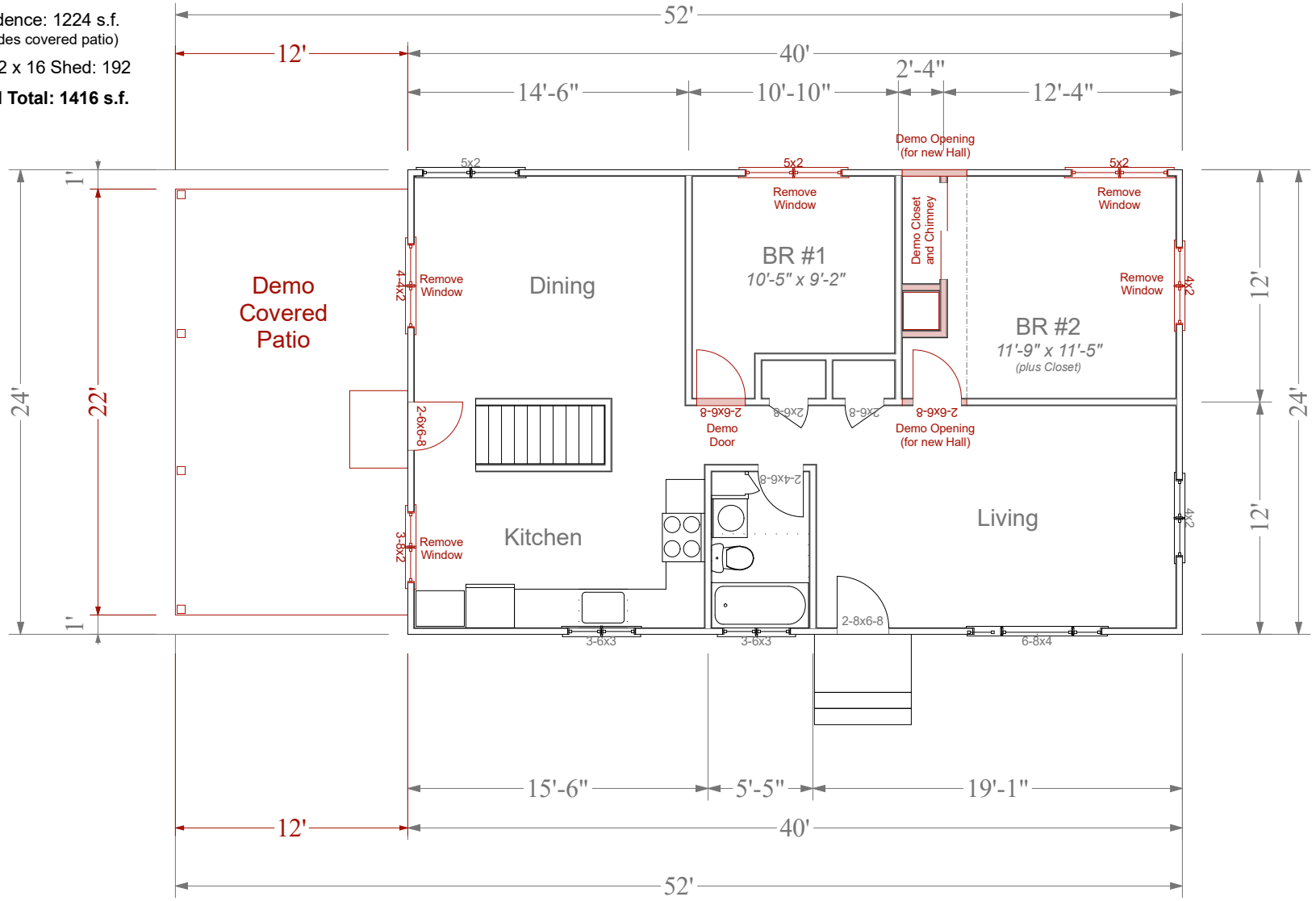
Existing Total
Building Coverage:

Residence: 1224 s.f.
(Includes covered patio)

Plus 12 x 16 Shed: 192

Grand Total: 1416 s.f.



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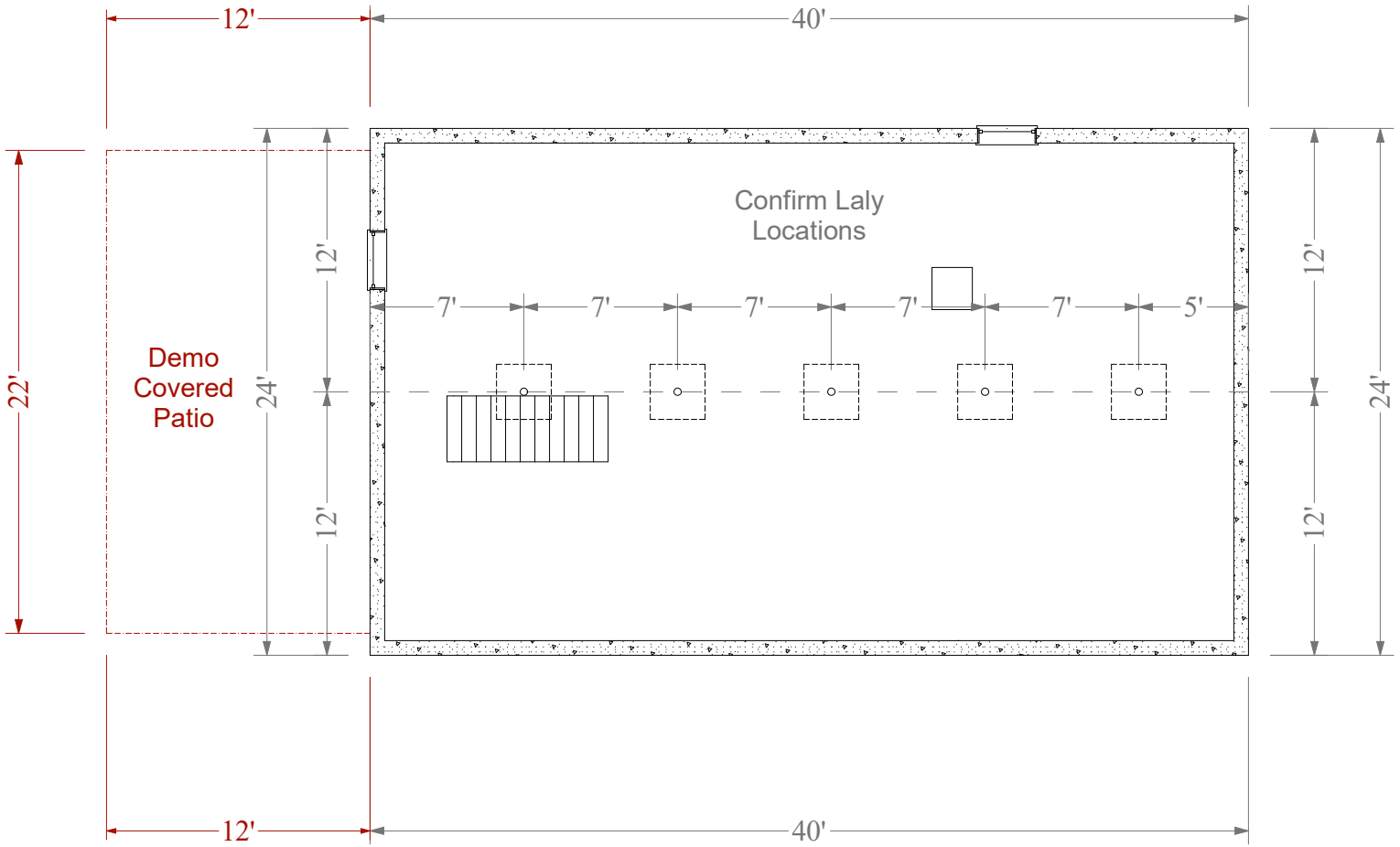

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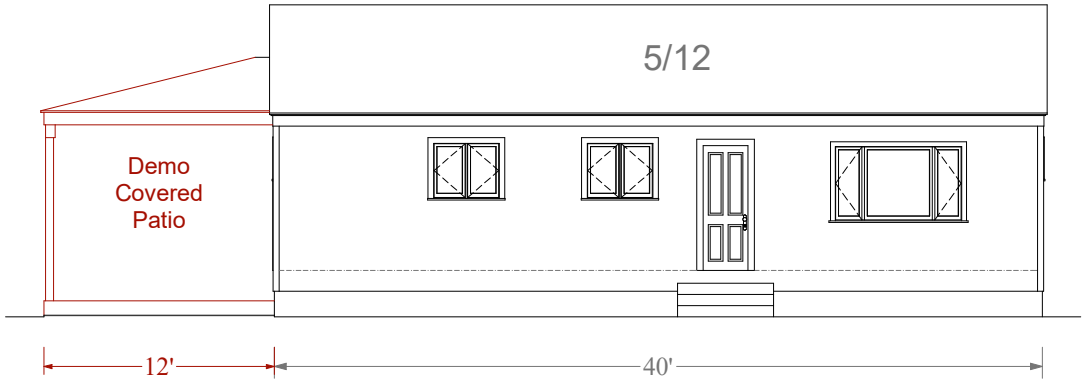
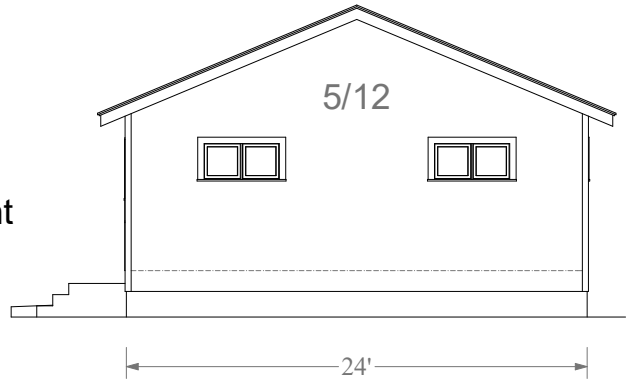
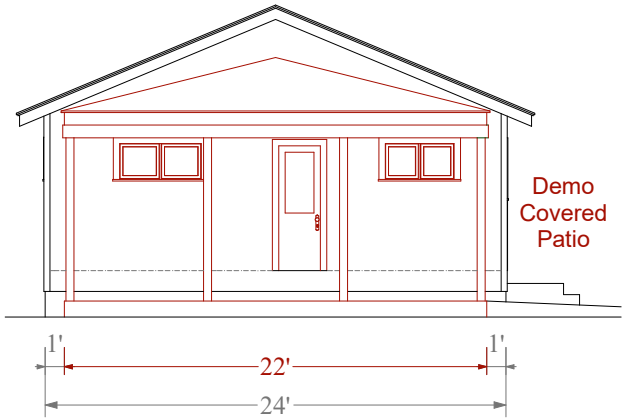
Front



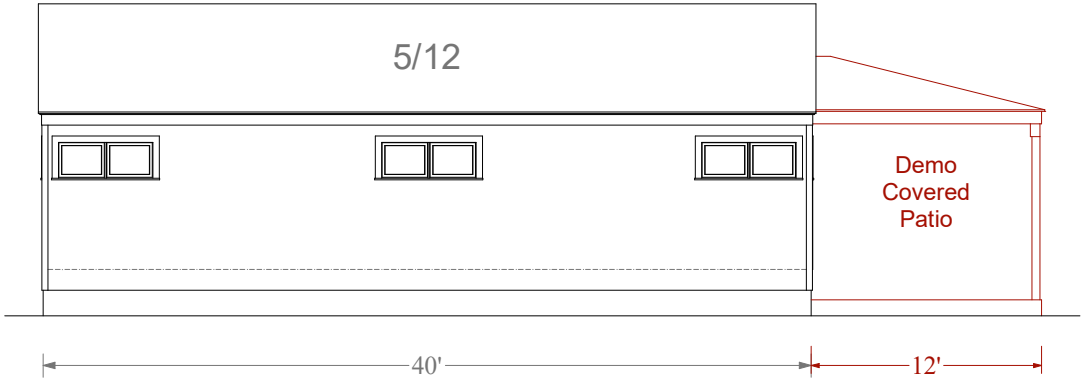
Right



Left



Rear



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com 6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT: Dipasquale Residence	SITE: 80 Fields Road Portsmouth, NH 03801	ISSUED FOR: Price Review ISSUE DATE: March 1, 2022	SCALE: 1" = 10'-0" (Letter)	TITLE: Existing Elevations	SHEET: E3

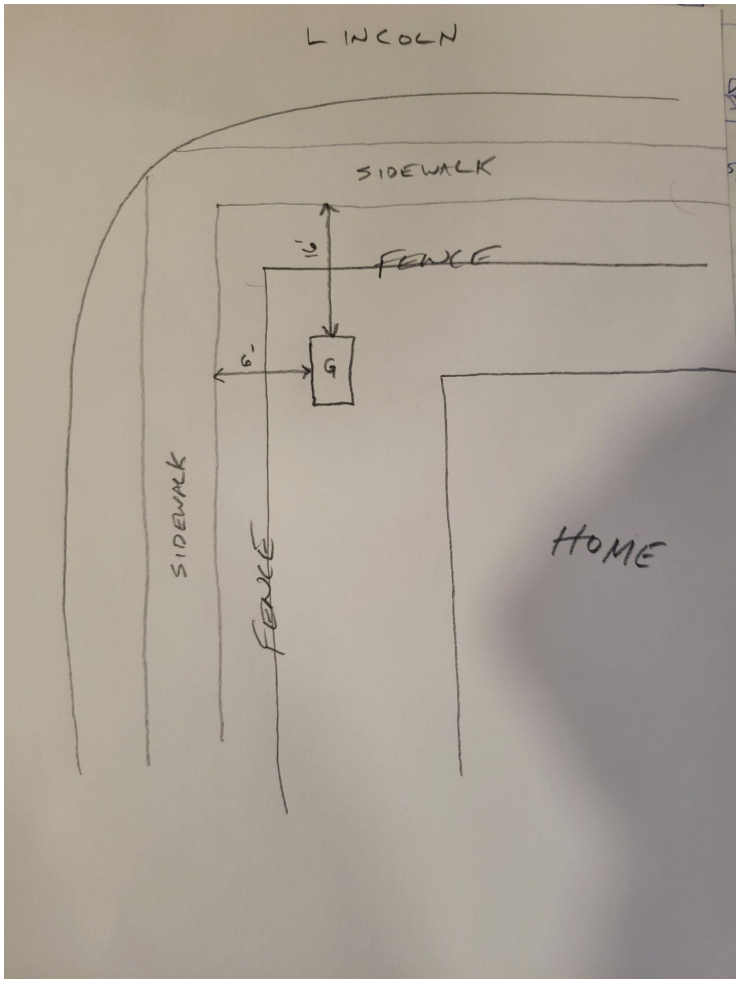
Request for Variance (area) for Generator installation
462 Lincoln Avenue Unit 4, Portsmouth, NH

- Valuation of New Construction (for non-residential projects)
    - N/A
- Total Number of Dwelling Units (for residential projects)
    - Unchanged - single family dwelling.
- Lot area
    - 462 Lincoln avenue, unit 4

- Description of proposed project
    - This document outlines the request for a variance or exception - the project is the installation of a natural gas powered generator on the property. The property owner (Pamela Katz) is required to be on oxygen full time and is fearful of a power outage event negating the ability of her oxygen machine to run.
    - Generator will be installed on a 3x5 pad in the top left corner (northwest corner?) of the property, inside an existing fence.
    - Philbrick's Generators (Madbury, NH) will be performing all aspects of the permitting and installation. They currently have a building permit request in with the town for this project: BLGD-22-213.

- Description of existing land use
    - Single family dwelling
- Project representatives – names and contact information
    - Chris Adams, 2 Goss Road, North Hampton NH, 03862 (603.801.4531)
    - Son of property owner.
- Description and dimensions of existing and proposed buildings (including building footprint, total gross floor area, and height)
    - Generator will be installed on a 3x5 pad in the yard.
- Existing and proposed front, side and rear setback / yard dimensions (this is the distance from a structure to the lot line)

- Site Plan(s) showing existing and proposed conditions including:



- Scale of all drawings and plans (the scale is the ratio of the drawing's size relative to the actual size)

- Labeled photo(s) of existing conditions

STOP

-
- Written statement explaining how the request complies with the requirements of the Zoning Ordinance as provided in Article 2 (see Section 10.233.20 for Variances, Section 10.232.20 for Special Exceptions).
    - 10.233.21 The variance will not be contrary to the public interest;
        - Due to the minimal nature of the change to the property (the installation of the generator), there should be no effect on the public interest. The size of the generator is 46.5L x 26.8W x 28.4H. The generator will be in the same area of the yard as other existing mechanical equipment (air conditioning condensers). The generator should be completely silent when in standby mode, and while providing power to the unit the dBA rating is listed in the product documentation as 65dBA Low Idle / 68dBA Normal Operating Sound.
    - 10.233.22 The spirit of the Ordinance will be observed;
        - Owing to the minimal impact of this change, the spirit of the Ordinance is being observed. In the documentation, these points are raised as to the purpose/intent of the Ordinance:
            - 1. The use of land, buildings and structures for business, industrial, residential and other purposes;
                - **Change has no impact on this point.**
            - 2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space;
                - **Change has no impact on this point.**
            - 3. The design of facilities for vehicular access, circulation, parking and loading;
                - **Change has no impact on this point.**

- 4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding;
    - **Noise is the only potential impact a generator could have regarding this point; however:**
        - **The rare occurrences of power loss in the city mitigate this impact.**
        - **This permanent, natural gas powered generator is likely quieter than temporary, gas powered generators that are frequently used by city residents.**
- 5. The preservation and enhancement of the visual environment;
    - **The generator is of minimal size, as mentioned previously in this document. Additionally, as the resident is an avid gardener (evidenced by her property's landscaping), she will likely enhance the area to the best of her ability with plantings.**
- 6. The preservation of historic districts, and buildings and structures of historic or architectural interest;
    - **No impact on this point.**
- 7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat, and air quality.
    - **Minimal impact; again the device is more likely more efficient than temporary gas powered generators.**

- 10.233.23 Substantial justice will be done;
    - By granting the variance, justice will be done - the spirit of the ordinance is maintained, and the notion of fairness is upheld. It would seem unfair for the resident to have to abandon her home of 20 years for the matter of the generator being several feet outside of the ordinance rules.
- 10.233.24 The values of surrounding properties will not be diminished;
    - It is not obvious how the installation of a small generator could have any impact on the value of any surrounding properties.
- 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
    - Because of the owner's critical (24 hours a day, 7 days a week) reliance upon her oxygen machine, not being able to install the generator would result in an unnecessary hardship for her - her utmost desire is to remain living in her home as long as physically possible. After the death of her husband in 2021, the resident now lives alone; we have made several other alterations to her living space to allow her to remain there, including a stair lift, moving her main living space to a lower floor, and other reorganizations to make her situation more tolerable. The addition of this automatic generator is a clear and reasonable solution to her oxygen issue.

17 & 20 kW

POWERPROTECT™
Standby Generators

BRIGGS & STRATTON®

YOU.POWERED.

Want the power with less weekly noise? We've got you covered with our 17kW[1] and 20kW[1] generators. Sleeker, quieter and more powerful than ever before, these units are designed to keep your whole home powered no matter what's going on outside.

FEATURES

Warranty
6-Year limited warranty of parts, labor, and travel included for the entire term. The industry's most comprehensive warranty over time.[2]

Highest Rated Power Output in Its Class
Designed to provide the most power in their class on natural gas installations.[3]

Assembled and Engineered in USA
Briggs & Stratton generators are designed and assembled in the USA.[4]

Commercial-Grade Vanguard® Engine
Powerful engine built in the USA for commercial applications providing power for electronics.

Quiet Weekly Test Mode
Over 65% quieter during weekly test mode.[5]

Flexible Installation & Maintenance
Approved for installation as close as 18" to a building[6] with easy toolless panel removal for serviceability and maintenance.

Power Management System (optional)
Customizable to your home's power needs, Symphony® II and Amplify™ Power Management systems offer prioritized whole house power with a more affordable standby generator.

Corrosion Resistant Enclosure & Base
Automotive-grade galvanneal steel base and aluminum enclosure to resist rust, and powder-coated paint for years of protection against chips and abrasions.

17 & 20 kW

POWERPROTECT™ Standby Generators

Generator Set Rating		
Model Name	PP17	PP20
Model Number	040661	040662
Running Watts (Liquid Propane/Natural Gas) kW[1]	17 / 17	20 / 20
Running Amperage (Liquid Propane/Natural Gas) Amps	70.8 / 70.8	83.3 / 83.3
Voltage	120 / 240	
Circuit Breaker Amps	80	100

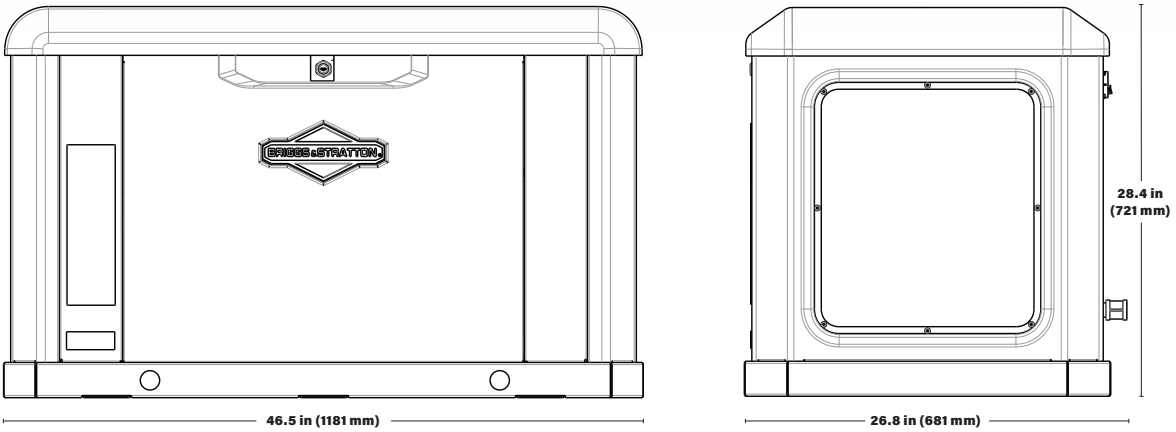
Engine	
Manufacturer	Vanguard®
Frequency Regulation Steady State	+/- 1.0%

Sound Rating[7]	
Low Idle Mode Sound	65 dBA
Normal Operating Sound[7]	68 dBA

Fuel Consumption[8]	PP17	PP20
No Load (BTU/hr)	NG - 99,000 / LP - 100,000	NG - 99,000 / LP - 100,000
Half Load (BTU/hr)	NG - 170,000 / LP - 185,000	NG - 187,000 / LP - 208,000
Full Load (BTU/hr)	NG - 248,000 / LP - 295,000	NG - 260,000 / LP - 338,000

Available Accessories	
Engine Oil Heater	6840
Maintenance Kit	6872
Fuel Regulator Warmer	6845
Surge Protector	6631
Amplify Gateway	6520
UPS	6581
InfoHub™ Universal - Cellular	6574
Gateway Range Extender	6839

Product Dimensions	
Overall Dimensions (in / mm)	46.5 x 26.8 x 28.4 / 1181 x 681 x 721
Assembled Weight (lbs / kg)	435 / 200
Packaged Dimensions (in / mm)	48.8 x 30.5 x 50.5 / 1240 x 775 x 1283
Packaged Weight (lbs / kg)	520 / 240



[1] This generator is rated in accordance with UL (Underwriters Laboratories) 2200 (stationary engine generator assemblies) and CSA (Canadian Standards Association) standard C22.2 No. 100-14 (motor and generators).

[2] See operator's manual or BRIGGSandSTRATTON.com for complete warranty details.

[3] On natural gas in its named class.

[4] Of global and U.S. parts.

[5] Compared to full load based on lowest microphone at 7 meters.

[6] The installation manual contains specific instructions related to generator placement in addition to NFPA 37, including the requirement that carbon monoxide detectors be installed and maintained in your home or business.

[7] Per ISO 3744. Sound level measurement at other locations around generator may differ depending on installation, based on lowest microphone at 7m. Normal operation based on average household usage.

[8] Fuel consumption rates are estimated based on normal operating conditions. Generator operation may be greatly affected by elevation and the cycling operation of multiple electrical appliances — fuel flow rates may vary depending on these factors.

Briggs & Stratton has a policy of continuous product improvement and reserves the right to modify its specifications at any time and without prior notice.

This standby generator is not for Prime Power applications.

Published July 2021. Please visit BRIGGSandSTRATTON.com for the latest information.

BS1298 - 7/21

BRIGGS & STRATTON
POST OFFICE BOX 702
MILWAUKEE, WI 53201 USA

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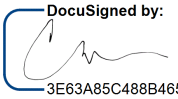
April 11, 2022

RE: Lincoln Avenue Townhouse Association
Pamela Katz
462 Lincoln Ave, unit 4
Portsmouth, NH 03801

To Whom it May Concern,

The Lincoln Avenue Townhouse Association agrees to the installation of a generator at 462 Lincoln Ave, Unit 4.

Thank you,

DocuSigned by:

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Cori McGrath
Association President
(603) 661-1177

Pamela Katz
462 Lincoln avenue, unit 4
Portsmouth, NH 03862

To whom it may concern,

I, Pamela Katz, name my son Chris Adams as the principal contact and agent for the variance application with the town of Portsmouth. This variance request is for a generator installation at my home at 462 Lincoln avenue, unit 4.

Thank you,

Pamela Katz