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. **July 19, 2022**

AGENDA

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meetings of June 22, 2022.

II. OLD BUSINESS

A. 470 Lincoln Avenue – 1 year Extension Request

B. 225 Banfield Road – Rehearing Request (LU-22-91)

C. 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. (LU-22-12)

D. 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. (LU-22-12)

E. 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) District. (LU-22-89)

F. The request of **James William Woods** and **Anna Roeline Meinardi (Owners)**, for property located at **1 Walton Alley** whereas relief is needed to construct a 1 story, 12' x 18' detached garage which requires the following: 1) Variances from Section 10.573.20 to allow a) a 1.5' side yard where 10' is required; and b) a 5' rear yard where 13'10" is required. Said property is located on Assessor Map 103 Lot 27 and lies within the General Residence B (GRB) and Historic Districts. (LU-22-124)

III. NEW BUSINESS

G. The request of **Jay Anthony Clark (Owner)**, for property located at **64 Haven Road** whereas relief is needed to demolish existing garage and porch and construct new garage and addition which requires the following: 1) Variance from Section 10.521 to allow a 5' left side yard where 10' is required. 2) A Variance from Section 10.515.14 to allow a 7.5' setback for 2 mechanical units where 10' is required for each. 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 located on Assessor Map 206 Lot 30 and is located within the Single Residence B (SRB) District. (LU-22-121)

H. The request of **Stephen E. Chaloner (Owner)**, for property located at **217 Myrtle Avenue** whereas relief is needed to construct a 6' x 8' deck with stairs which requires the following: 1) A Variance from Section 10.521 to allow a 12' secondary front yard where 30' 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 220 Lot 92 and is located within the Single Residence B (SRB) District. (LU-22-115)

I. The request of **Emily Alati (Owner)**, for property located at **47 Lovell Street** whereas relief is needed to construct a rear addition and detached garage with apartment which requires the following: 1) Variances from Section 10.521 to allow a) a 5' right side yard where 10' is required; b) a 5' rear yard where 20' is required; c) a 6.5' left side yard where 10' is required; d) a lot area per dwelling unit of 2,178 where 3,500 per dwelling is required; and e) a 6' 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. Said property is located on Assessor Map 146 Lot 14 and is located within the General Residence C (GRC) District. (LU-22-120)

J. The request of **404 Islington Street LLC (Owner)**, for property located at **404 Islington Street** whereas relief is needed for the expansion of use to an Inn with 10 rooms which requires the following: 1) A Special Exception for an Inn from Use #10.30 where the use is only allowed by Special Exception. Said property is shown on Assessor Map 145 as Lot 33 and lies within the Character District 4-L2 (CD4-L2) and Historic Districts. (LU-22-74)

K. The request of **Safely Family Revocable Trust Agreement (Owner)**, for property located at **1121 South Street** whereas relief is needed to demolish the existing garage and construct a new garage and deck which requires the following: 1) A Variance from Section 10.521 to allow a 3.5' left side yard where 10' 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 150 Lot 20 and is located within the General Residence A (GRA) District. (LU-22-137)

L. The request of **531 Islington Street Portsmouth LLC (Owner)**, for property located at **531 Islington Street** whereas relief is needed to replace the existing menu board which requires the following: 1) A Variance from Section 10.835.31 to allow a menu board to be 26 feet from the rear lot line and 40 feet from the side lot line where 50 feet is required for each. 2) A Variance from Section 10.1261.30 to allow direct lighting in the Historic District where external illumination is the only type of illumination allowed. Said property is located on Assessor Map 157 Lot 5 and is located within the Character District 4-L2 (CD4-L2). (LU-22-38)

M. The request of **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** whereas relief is needed to construct a 718 square foot garage addition with living space and deck above which requires the following: 1) A Variance from Section 10.521 to allow a 15.5' front yard where 30' 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 207 Lot 59 and is located within the single residence B (SRB) District. (LU-22-139)

IV. OTHER BUSINESS

V. 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_YH_ijGuxRY-Hm6dpxlAKJg

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

7:00 P.M. **June 22, 2022**

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

MEMBERS EXCUSED: Phyllis Eldridge

ALSO PRESENT: Peter Stith, Planning Department

Chairman Parrott called the meeting to order at 7:00 p.m. He stated that Old Business Items A and B for One Congress Street and Item C, 108 Burkett Street, were requested to postpone to the July 19 meeting. He said Item D, 635 Sagamore Street, was withdrawn by the applicant.

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meetings of April 26, 2022; May 17, 2022 & May 24, 2022.

Mr. Rossi moved to **approve** the April 26 minutes as submitted, seconded by Mr. Mannle. Mr. Rossi said the minutes were an accurate reflection of the Board's discussion.

Ms. Margeson moved to **approve** the May 17 minutes as **amended**, noting that the sentence on page 7 should read that 'it was clear that the ordinance didn't want the building to go past 40 feet'. Mr. MacDonald seconded and concurred.

Ms. Margeson moved to **approve** the May 24 minutes as **amended**. She said the term 'community campus' should be capitalized, and she clarified that the sentence on page 3 saying 'the Community Campus wasn't part of the applicant's property' should be deleted. Mr. MacDonald seconded. Both agreed that the minutes should be approved as amended.

*The three sets of minutes were **approved** by unanimous vote, 6-0.*

Mr. Mannle requested that New Business Item J, 1 Walton Alley, and Item K, 111 State Street, be taken out of order and voted upon.

Chairman Parrott read Item J, 1 Walton Alley, into the record. *Mr. Mannle moved to **postpone** the item to a time determined by the applicant, seconded by Vice-Chair Lee.* Mr. Mannle said the applicant would return when they were ready, and Vice-Chair Lee concurred.

*The motion **passed** by unanimous vote, 6-0.*

Chairman Parrott read Item K, 111 State Street, into the record. He said it was withdrawn by the applicant and that the process would start anew if the applicant so desired.

II. OLD BUSINESS

A. POSTPONED TO JULY 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. **POSTPONED TO JULY** (LU-22-12)

DECISION OF THE BOARD

The petition was **postponed** to the July 19 meeting.

B. POSTPONED TO JULY 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. **POSTPONED TO JULY** (LU-22-12)

DECISION OF THE BOARD

The petition was **postponed** to the July 19 meeting.

C. POSTPONED TO JULY 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) District. **POSTPONED TO JULY** (LU-22-89)

DECISION OF THE BOARD

The petition was **postponed** to the July 19 meeting.

D. WITHDRAWN 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. **WITHDRAWN** (LU-22-57)

The petition was **withdrawn** by the applicant.

III. NEW BUSINESS

A. The request of **Michael Lucas (Owner)**, for property located at **45 Coffins Court** whereas relief is needed for renovation of the existing structure including new dormers, second story bathroom over an existing one story addition, and a new second story open porch which requires the following: 1) Variances from Section 10.521 to allow a) a 1' rear yard where 20' is required; b) a 0' right side yard where 10' is required; c) an 8' left side yard where 10' is required; d) a 3' front yard where 5' is required; and e) 57% building coverage where 35% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 135 Lot 55 and lies within the General Residence C (GRC) District. (LU-22-94)

SPEAKING TO THE PETITION

Herb Lloyd of 5 Ruth Street was present on behalf of the applicant Michael Lucas. He said he was the applicant's friend and had done a lot of work on the project. He noted that Mr. Lucas received a survey after the application was submitted determining that there's a 2'setback on the right side yard and that the left side yard has a 6' setback instead of an 8' setback. He reviewed the petition in detail. He reviewed the criteria and said they would be met. He said the applicant would live in one of the duplex units and rent the other one out, and that the adjacent neighbors were in support of the project and their approvals were included in the packet.

Mr. Rossi asked why the 2-ft roof ridge height increase required a variance. Mr. Stith said it was because it was within the setback. The Board had no other questions.

Chairman Parrott opened the public hearing.

SPEAKING IN FAVOR OF OR IN OPPOSITION TO THE PETITION

No one spoke.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Lisa McMahon via Zoom said she owned the 179 Union Street property. She asked the Board to comment on the encroachment on the left side of her property, noting that the area was the border between her property and the encroachment area was the stairway at 45 Coffins Court. She said the existing stairs were not addressed and that she was concerned about the porch.

Mr. Lloyd said the existing stairs would be removed and the new stairs would go from the door out to the street. Ms. Margeson verified that Mr. Lloyd had stated that the new structure would be 6 feet from the left side yard. Mr. Lloyd agreed and said the bumpout on the left side of the building would be removed. Ms. Margeson asked if the survey showed that there was any encroachment on the neighbor's yard. Mr. Lloyd said he wasn't that familiar with the survey but knew that the stairs would be removed.

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

DECISION OF THE BOARD

*Ms. Margeson moved to **grant** the variances for the petition, seconded by Mr. Mannle, with the following **stipulation**:*

1. *The right side yard shall be two feet and the left side yard shall be six feet.*

Ms. Margeson explained that there was a modification to the variance request and that it would therefore be stipulated that the right side yard is two feet and the left side yard is six feet. She said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance as to setbacks. She said the side setbacks are for the circulation of light and air and for emergency egress to yards, and although they were less than what is required, they are within the existing footprint. She said the building coverage is larger but the lot area of the house is smaller than minimally required. She said substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the public. She said granting the variances would not diminish the values of surrounding properties because their values would be increased by the upgrade and the condition of the duplex house. She said the hardship test was that the applicant has to prove there are special conditions that distinguish the property from others in the area, and owing to those special conditions, a fair and substantial relationship does not exist between the general public purposes of the ordinance's provisions and their specific application to the property. She noted that the property was much smaller than its abutting properties and had a smaller lot area, so it had special conditions that differed from the abutting properties, and there was no fair and substantial relationship between the side yard setbacks, given how tight the lot was and the purposes of the zoning. She said the proposed use is a reasonable one because the applicant is seeking to expand an existing structure and retain it as a duplex structure, and this use is allowed by right in the General residence C zone. Mr. Mannle concurred and had nothing to add.

*The motion **passed** by unanimous vote, 6-0.*

B. The request of **Portsmouth Savings Bank/Bank of NH (Owner)**, for property located at **333 State Street** whereas relief is needed to alter existing internally illuminated wall signs which require the following: 1) A Variance from Section 10.11261.30 to allow signs in the Historic District to be internally illuminated where only external illumination is allowed. 2) A Variance from Section 10.1144.63 to allow luminaires used for sign illumination to be higher than 25 feet where 25 feet is the maximum allowed. 3) A Variance from Section 10.1281 to allow a nonconforming sign to be altered, reconstructed, replaced or relocated without conforming to the Ordinance. Said property is located on Assessor Map 116 Lot 5 and lies within the Character District 4 (CD4), Historic and Downtown Overlay Districts (LU-22-73)

SPEAKING TO THE PETITION

Brandon Currier of Barlow Signs was present on behalf of the applicant. He reviewed the petition, noting that TD Bank's brand update had specific guidelines to ensure consistency among the national brand. He said they proposed to replace the two internally-illuminated sign cabinets on the drive-thru building in kind. He said the cabinets would be slightly larger to eliminate ghosting and existing damage from the mounting. He said the current neighbors were all businesses, so there would be no issues with light pollution into homes. He said it would be detrimental if the two signs were removed and relocated lower to fit into the 25-ft height restriction because the shadow and holes would be seen by the public. He said they would replace the wall sign on the main building in kind, replace the awnings, and repair and paint the green band that wrapped around the building. He reviewed the criteria in full.

Ms. Margeson said the Historic District Commission was stricter with signs in the Historic District and did not allow for illumination, and she asked what the hardship to the property was that required illuminated signs when the abutters did not have any. Mr. Currier said they wanted to be consistent and keep the wayfinding ability to attract new customers. He said the lighting would also help separate the drive-thru area from the main offices. Ms. Margeson said the bank wasn't open at night, however, and that internally-illuminated light created more light pollution than externally. She said the Historic District was stricter in order to eliminate that light. Mr. Currier said he felt that there would be more light pollution on the building itself than having just a smaller portion on the sign projecting a low luminance of light through that TD section.

Mr. MacDonald asked why the applicant was before the BOA, which heard appeals, and whether the applicant had been denied by another board or commission. Mr. Currier said his program manager said they would have to come before the BOA due to the height restriction and the illumination and that he had not been before any other boards.

Chairman Parrott opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DISCUSSION OF THE BOARD

Mr. Rossi referred to Ms. Margeson's comments and said he didn't see how the application met the unnecessary hardship test. He said it was a corporate mandate from some other location far distant from Portsmouth that had no bearing on the Historic District or the character of the area, and he didn't see that it was an unnecessary hardship to prioritize the needs of Portsmouth over that. Vice-Chair Lee agreed. He said the ordinance was black and white about allowing only external illumination. Chairman Parrott noted that there were residential properties pretty close to the bank, which wasn't the case with most commercial properties.

DECISION OF THE BOARD

*Mr. Rossi moved to **deny** the request for variances, seconded by Mr. Mannle.*

Mr. Rossi said the request did not meet the unnecessary hardship test for the reasons discussed. Mr. Mannle concurred and said he didn't see the hardship of the bank needing more illuminated signs. He said it wasn't like anyone in town didn't know where the bank was, and the sign didn't need to be lit at night when the bank was closed. Chairman Parrott said he had the same concern and felt that there wasn't any hardship. He said it was a corporate dictate but it didn't mean that it fit in well in that particular location downtown. He said it wasn't on a highway where the branding had to catch people's eyes.

*The motion **passed** by unanimous vote, 6-0.*

Mr. Mannle **recused** himself from the following petition. Chairman Parrott stated that there would only be five members voting and that four positive votes were needed to approve the application. He asked the applicant if he wished to postpone, but the applicant declined.

C. The request of **Michael J. Fregeau (Owner)**, for property located at **1474 Islington Street** whereas relief is needed to construct an 8' x 12' shed which requires the following: 1) Variance from Section 10.573.10 to allow a) A 2' left side yard where 5' is required: and b) a 2' rear yard where 5' is required. 2) A Variance from Section 10.521 to allow 22% building coverage where 20% is the maximum allowed. Said property is located on Assessor Map 233 Lot 107 and lies within the Single Residence B (SRB) District. (LU-22-109)

SPEAKING TO THE PETITION

The applicant Michael Fregeau was present and said he wanted to site the proposed 8'x12'shed in the back rear corner of the lot. He said the shed was 7 feet high and 9 feet to the peak and that it needed a variance because it exceeded the lot coverage limit. He said it would be installed within the 5-ft setbacks. He reviewed the criteria, noting that the shed would not encroach on or impact the three abutters' properties and that they had verbally approved the shed plan. He said the hardship was due to the property's small lot and that the setback requirement would place the

shed almost directly behind the house and in the middle of the yard. He noted that he purchased a used shed and that it would be difficult to alter it.

Ms. Margeson said the property was fairly large and that, for only another three feet, the shed would be in the left and rear yard setbacks. She asked why the applicant couldn't meet that requirement. Mr. Fregeau said he would lose five feet on the side yard and five feet on the rear and there would be a lot of space behind the shed and between the fence and the shed and the fence in the rear yard. He said he had a nice rectangular yard and if he were to move the shed out, it would take up a lot of property and would be in square view looking out the bedroom window, whereas it could be tucked into the corner instead. Ms. Margeson said that's what rear yard setbacks are, and she asked what the hardship was in not being able to get outside of the 5-ft yard setback. Mr. Fregeau said he just thought it was a reasonable use of the space.

Mr. MacDonald said there was two feet of clearance setback on two of the lot's boundaries, and one of the reasons for the setback requirements was emergency access. He asked what would be stored in the shed and whether it would be propane or such. Mr. Fregeau said he would store yard equipment and nothing hazardous. He said there was a fence along both sides of the shed as well. Mr. MacDonald asked if the applicant got input from the Fire Department before doing the application, and Mr. Fregeau said he didn't think it was an issue. Mr. MacDonald said he could stipulate that the application would be approved only if the Fire Department were asked for an opinion on the shed's installation and that their decision had to be followed.

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 said he was concerned about the setback and suggested granting the variances for the lot coverage and setback separately. He said none of the adjacent properties had anything encroaching on the setback, so it would set a new precedent if approved.

*Mr. Rossi moved to **grant** the variance for the lot coverage, seconded by Vice-Chair Lee.*

Mr. Rossi said it was a minor variance and very close to within the limits and that granting it would not be contrary to the public interest and would observe the spirit of the ordinance because the shed would not overcrowd the property. He said it would do substantial justice and would not diminish the values of surrounding properties. He said the special condition was that the shed was already built, so it was reasonable to utilize what was available and it would be an unnecessary hardship to require the applicant to build a new shed just because of a percentage or so of lot coverage. Vice-Chair Lee concurred and had nothing to add.

*The motion **passed** by unanimous vote, 5-0.*

Chairman Parrott asked about the motion for the setback. Vice-Chair Lee commented that the Board had approved several variances for sheds, garages, decks, and so on that had even smaller setbacks than two feet. He said the objective of having a setback was to be able to access the property around the shed, and from looking at the photos of the shed and its location, it made common sense to locate the shed in that tucked-away position to enjoy the remainder of the yard.

*Vice-Chair Lee moved to **grant** the variance as presented with a 2-ft setback. No one seconded. The motion **failed**.*

*Mr. MacDonald moved to **grant** the variance for the setbacks as presented, with the following **stipulation**:*

1. *The applicant shall seek and abide by the Fire Department's referral regarding public safety and the shed's location specifically set back from the property line of the shed.*

Vice-Chair Lee seconded.

Mr. MacDonald said the shed could be moved if the Fire Department found the location not suitable for public safety access reasons. He said it might spoil the backyard but that the yard would be worse if the shed caught on fire. He said it was hard to see a hardship in a structure that didn't presently exist in that proposed location. He said granting the variance would be a bit contrary to the public interest and would depend on whether the Fire Department told the applicant to change the location or not. He said the ordinance was intended to promote public safety, and the shed's proposed location didn't observe the spirit of the ordinance based on what the Board knew. As far as substantial justice being done, he said there was no challenge to right or wrong or justice or anything else, so it was hard to see how substantial justice is done. He said the proposed shed would not diminish the values of surrounding properties, but it would if it caught fire. He said the use was a reasonable one because a lot of people had sheds in their backyards, but the applicant's shed just needed to have a few of its physical attributes tuned up to allow public safety officials responsible for putting out fires to approve it. He said if all those conditions were met, then the project could be approved.

Vice-Chair Lee noted that the Board recently approved a variance for a house with a 2-ft setback, so it seemed inconsistent to deny this 2-ft setback on a shed, but he said he would support the motion. Chairman Parrott said the fact that the shed was proposed to be put in a corner were there were two substantial board fences was significant and he felt that it would not cause anyone any hardship if the shed were to be placed in the proposed location. He said he would support the motion. Mr. Stith said the Fire Department would typically not review any sort of permit such as this because it was an uninhabited structure and they probably would not have any issue with its location. He said the Fire Department didn't review permits for sheds or things of that nature, but if the stipulation was included, he was sure the Fire Department would not have an issue with it. He said they couldn't overturn the Board's decision anyway. Chairman Parrott agreed that it shouldn't be presented to the Fire Department as a review of the permit. Ms. Margeson said she would not support the motion as stated for the same reasons Mr. Stith brought up, noting that the BOA could not defer to the Fire Department when making a decision.

She said she would also not support it as a variance application because there was no hardship. She said the lot was fairly substantial and it was another three feet to take the shed out of the side yard and rear and left yard setbacks.

*The motion technically passed by a vote of 3-2, with Mr. Rossi, Ms. Margeson voting in opposition, but it **failed** because the required positive vote of 4 out of 5 was not achieved.*

Mr. Mannle resumed his voting seat for the following petition and Mr. Rossi recused himself. Chairman Parrott told the applicant's representative that there were only five voting members, but the applicant's representative said she would proceed.

D. The request of **Karen Butz Webb Revocable Living Trust (Owner)**, for property located at **910 Sagamore Avenue** whereas relief is needed to remove an existing 150 s.f. addition and construct a new 512 s.f. addition with deck and stairs which requires the following: 1) A Variance from Section 10.531 to allow a 20.5' side yard where 30' is required. 2) A Variance from Section 10.331 to allow a nonconforming use to be expanded. 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 located on Assessor Map 223 Lot 26A and lies within the Waterfront Business (WB) District. (LU-22-114)

SPEAKING TO THE PETITION

Attorney Monica Kaiser was present on behalf of the applicant, along with the project engineer Alex Ross. Attorney Kaiser said the project received approvals from the Planning Board and the Conservation Commission as well as New Hampshire DES approval. She reviewed the petition and said the proposed expansion was approved by people in the neighborhood and the hardship was due to the special conditions of the small lot burdened by two fronts and subject to buffers and the fact that the existing home was located off-kilter on the lot. She said the addition would not encroach on the side setback in any way to undermine the abutters' access to air, light and separation, and the stormwater would be managed. Mr. Ross said they spent a lot of time with the Conservation Commission, Planning Board, and the State Shoreland Wetland Permitting and that the proposed addition would be further from the side line setback than the house.

Ms. Margeson said the home has been there since 1978 and is in the Waterfront Business District, which means that the intention of the zoning ordinance is that as uses retire, you want the use of the way it's zoned now to take its place. She said she didn't see that happening here. She said there were some businesses and three other homes besides the applicant's, and the intention was for residential uses within the Waterfront Business District to more or less expire on their own. Attorney Kaiser said in the number of years that she had lived in Portsmouth, there had been substantial improvements to some of the waterfront properties in the same zone on that side of Sagamore Avenue that were redeveloped into more expansive, fancy residential homes. She said she didn't know how long it had been zoned Waterfront Business District but thought it was strange because as Portsmouth had become more developed, that particular real estate had

been prime for residential use. She said it was residential across the street and behind the property. She referred to a case where there was an area that already had nonconforming uses and the ordinance looked at that in the context of hardship and said other nonconforming uses in the area could almost be a hardship and that it would support a request for expanding. She said the applicant needed the variance because it was an expansion of a nonconforming use, and she thought it was reasonable in that context. She said the expansion would not adversely impact the few businesses that were there and said the abutters didn't have concerns it.

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

Vice-Chair Lee said he would support the motion. He said he lived across the hill from the area and that it was a unique enclave of small to very large homes, and he thought the project would be an improvement to that area. Ms. Margeson said she would also support the project.

*Vice-Chair Lee moved to **grant** the variances as requested, seconded by Mr. Mannle.*

Vice-Chair Lee said the applicants had been through a lot of bureaucracy to get where they were. He said granting the variances would not be contrary to the public interest in any way and the spirit of the ordinance would be observed. He said substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the public. He said an improvement like that would not diminish the values of surrounding properties and that the special conditions of the property that distinguished it from others was the area. He said the proposed use was reasonable. Mr. Mannle concurred and noted that many parcels in Portsmouth were nonconforming and the project would make that property less nonconforming.

*The motion **passed** by unanimous vote, 5-0.*

Mr. Rossi resumed his voting seat.

E. The request of **Blus O'Leary Family Living Trust (Owner)**, for property located at **225 Wibird Street** whereas relief is needed to construct a detached accessory dwelling unit which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 6,412 where 7,500 square feet is required for each dwelling. Said property is located on Assessor Map 133 Lot 54 and lies within the General Residence A (GRA) District. (LU-22-116)

SPEAKING TO THE PETITION

Arilda Dench was present on behalf of the applicant. She reviewed the petition and said the property was larger than others in the area and fronted on two streets. She said the ADU was proposed to be located in the most out-of-the-way place to keep the backyard as open as possible for the neighborhood and would not impose on any setback lines. She noted that the back neighbor was concerned about the two trees along the fence but that the contractor wouldn't dig there. She said the addition would be used as a home for the owner's mother, with handicap access. She reviewed the criteria and said they would be met.

Mr. Rossi said it looked like there was less space between the property line where it met Wibird Street and Hawthorne Street versus the sidewalk and Hawthorne Street. He said that looking at the site, one would think the property line went along the edge of the sidewalk but it didn't, and that was kind of a special condition of the lot that made it technically measure out smaller than what it really looked like. Ms. Margeson said the applicant wasn't asking for a variance for the ADU because it was a Conditional Use Permit (CUP). Ms. Dench agreed and said it was for the lot area requiring the 7500 square feet per dwelling unit, and they would have two units, so they were a little under that total. Ms. Margeson thought that should be made clear because Ms. Dench was mixing up the ADU with the lot area in reviewing the criteria. She clarified that the detached ADU was outside of the Board's purview.

Chairman Parrott opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

No one spoke.

SPEAKING IN OPPOSITION TO THE PETITION

Mike Anderson and Robin Silva of 25 Hawthorne Street said they were direct abutters and thought the lot was too small and the proposed structure was too big. Mr. Anderson said the building was excessive and was compounded by the size of the proposed ADU, which was a 750-sf two-bedroom house and more than half the size of his own house in square footage. He said there wasn't sufficient hardship to justify a variance of that magnitude. He said he was worried that the ADU would eventually become a rental property. He said the scale of the house combined with the impact of a future rental with such close proximity to his property would negatively impact his property's value.

Leslie Brenner of 34 Hawthorne Street said her house faced the property. She said the applicant told her at first that he had a plan for a small structure for his elderly mother. When she saw the plans later on, she said she was stunned by how tall and large the structure was and how out of line it was compared to traditional ADUs. She said it seemed that the house would eventually become a rental property or even a short-term rental. She also lamented the loss of greenspace, which was part of the neighborhood's charm. She said there wasn't sufficient hardship.

Juliet Grant of 243 Wibird Street said he lived across from the applicant but his driveway was on Hawthorne Street. He agreed with Ms. Brenner that there would be very little open space left and

the loss of the backyard would have a huge impact on other neighbors. He said he didn't see the benefit of adding a new separate structure to a house that was already fairly large and could be modified to have the mother reside there. He said it was a lot of construction, investment, time, and change that could be dealt with in a different way.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DISCUSSION OF THE BOARD

Mr. Mannle asked Mr. Stith if the applicant would need a variance if the ADU was attached, and Mr. Stith said they would not. Ms. Margeson said it was a difficult petition to analyze and noted that there was a prohibition in the zoning ordinance stating that one couldn't have two dwelling units per lot. She said she realized the proposal was for a detached ADU but wondered how it wasn't another dwelling unit. Mr. Stith said there were specific requirements for ADUs and they had to comply with the ordinance, including that they couldn't be separate ownership and had to live in one of the units. Vice-Chair Lee asked what would happen if the ADU were built and the owner moved out and the new owner didn't live in one of the units. Mr. Stith said if both units were rented, it would nullify the CUP and the owner would be in violation and would have to return for a variance request for a second dwelling or do something else to make it a legal situation. He said short-term rentals were also not permitted, so the ADU could not be used as an Airbnb. Vice-Chair Lee said the only variance the applicant was asking for was the lot area per dwelling, which was modest at less than 1,000 square feet, and that the Board had approved that in the past. Ms. Margeson said it was confusing to her that the zoning ordinance would allow a detached ADU in an area of low-to-moderate densities in the GRA District, but the ordinance had stated that it could be done with a CUP, so the applicant had to demonstrate a hardship that they have a smaller lot than what is required by the zoning ordinance. Mr. Stith said that section of the ordinance stated that, for detached ADUs, the applicant must comply with the lot area per dwelling unit in the GRA District. It was further discussed. Mr. Rossi said the lot had an oddly shaped property line that didn't follow the contours of the sidewalk. Vice-Chair Lee said the only variance requested was for the lot area. He said a 750-sf structure wasn't large, so he didn't think the applicant was basically plopping another house down on the lot but was looking for a variance on the lot area by a little more than 1,000 feet. He said it was a large lot on two streets, so he thought it was a reasonable request. Ms. Margeson said it was allowed in the GRA zone as long as there was sufficient lot area, and it didn't have that by 1,100 feet. She said it was a small neighborhood and the applicant's lot was larger than the other lots but it may not be quite enough, given the surrounding context. Chairman Parrott said the additional unit would look very much like another house. He said the lot wasn't much bigger than his own lot and he had trouble picturing the structure in his backyard. Mr. Stith said the proposed house was 16 feet to the midpoint. Chairman Parrott said it would be the size of a traditional Cape Cod and that it would look like the lot had two houses, with one in the backyard of the other house, and that it wasn't replicated anywhere else in the area. It was further discussed.

DECISION OF THE BOARD

*Ms. Margeson moved to **deny** the request for variances, seconded by Vice-Chair Lee.*

Ms. Margeson said she moved to deny on the first two criteria, that granting the variances would be contrary to the public interest and would not observe the spirit of the ordinance. She said it was clear that the City Council, when amending the ordinance, meant for detached ADUs to be allowed by a CUP in the GRA District, but the lot size was a minimum of 7500 square feet. She said the fact that the applicant proposed having two structures on the lot, neither one of which would meet the minimal lot area, was against the spirit and intent of the ordinance. She also said there would be a benefit to the public by not granting the variance because there was a character to the neighborhood that the proposed detached ADU may change.

Vice-Chair Lee concurred and said that even though the Board denied the variance, there was still a path for the applicant to make it happen. Chairman Parrott agreed. He said he had a problem with Criteria 1 and 2, particularly with the character of the neighborhood, which was a well-established and well-loved one. He said the project could be a major change and believed that the lot would look overburdened because the structure was too ambitious for it. He said there were alternatives that would be more compatible with the area and the neighbors, and he thought the neighbors had rights to expect that anything done would be consistent with the rest of the well-established neighborhood. He said he didn't see any hardship.

*The motion **passed** by unanimous vote, 6-0.*

F. The request of **WSS Lafayette Properties LLC (Owner)**, for property located at 1**900 Lafayette Rd** whereas relief is needed for an Ambulatory Surgical Center use which requires the following: 1) A Special Exception from Section 10.440, Use #6.40 to allow an Ambulatory Surgical Center where the use is permitted by Special Exception. Said property is located on Assessor Map 267 Lot 8 and lies within the Office Research (OR) District. (LU-22-117)

SPEAKING TO THE PETITION

Attorney Tom Hildreth as present on behalf of the applicant and suggested that the Board make a decision that no special exception was required because in the OR zone, medical office buildings were permitted by right, as were outpatient clinics. He said the ordinance had a use category named 'ambulatory surgical center' that would require a special exception, although it had no definition, but he said the definition supplied by the Ambulatory Surgical Center stated that Ambulatory Surgical Centers (ASCs) are modern health care facilities focused on providing same-day surgical care, including diagnostics and preventive procedures. He said the definition almost matched the ordinance's definition of outpatient clinic. He said they got site plan approval in 2019 but they now wanted to clarify the use issue because a prospective buyer wanted to purchase the real estate and was aware that the ordinance called it out.

Ms. Margeson said the Board should deal with the special exception for purposes of clarity and simplicity, and Chairman Parrott agreed. Attorney Hildreth referred to his special exception criteria review that he submitted earlier to the Board, and he briefly reviewed them.

The Board had no questions, and 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

*Vice-Chair Lee moved to **grant** the special exception as requested, and Mr. Rossi seconded.*

Vice-Chair Lee said the standards for a special exception were that there could be no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials; no detriment to property values in the vicinity or change to the essential character of the area including residential neighbors, businesses, industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, smoke, gas, dust and other pollutants, noise, glare, and unsightly outdoor storage of vehicles; no creation of a traffic safety hazard or potential increase in the level of traffic; no excessive demand on municipal services; and no significant increase of stormwater runoff onto adjacent properties. He said the surgery center had been employed in this use for several months and that it probably didn't even need a special exception but thought the Board should make an effort to grant one to make sure all the I's were dotted. Mr. Rossi concurred and had nothing to add.

The vote ***passed*** by unanimous vote, 6-0.

G. The request of **Peter V. Ward (Owner)**, for property located at **15 Central Avenue** whereas relief is needed for vertical expansion of existing dwelling and garage which requires the following: 1) Variances from Section 10.521 to allow a) a 6' front yard where 30' is required; and b) a 4' side yard where 10' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 209 Lot 4 and is located within the Single Residence B (SRB) District. (LU-22-123)

SPEAKING TO THE PETITION

Attorney Derek Durbin was present on behalf of the applicant. He reviewed the petition, noting that the property was unique in that it was large but bound to the north by a paper street presumably owned by the City and bound on the other side by land that the applicant also owned. He said the land shown as the paper street had been fenced in for many years and incorporated as the owner's right side yard. He said the interest that the City had in the paper street was released after a period of 20 years if it wasn't used, but there was no deed or City Council vote releasing

the City's rights. He said he was calculating a right side yard setback as if the applicant didn't own it. He said the owner proposed to vertically expand the home and garage, and he explained why the variances were needed. He reviewed the criteria and said they would be met. He said the garage would be turned into an ADU that would comply with all requirements.

The Board had no questions. 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. Rossi.*

Mr. Mannle agreed that the lot was unique and said the variance requests were minimal and would not be contrary to the public interest or to the spirit of the ordinance. He said granting the variances would do substantial justice and that the values of surrounding properties would not be diminished and would in fact be enhanced. He said literal enforcement of the ordinance would result in an unnecessary hardship. Mr. Rossi concurred and had nothing to add.

*The motion **passed** by unanimous vote, 6-0.*

H. The request of **English and Hopkins LLC (Owner),** for property located at **57 Sherburne Avenue** whereas relief is needed to construct a new single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) 34% building coverage where 25% is the maximum allowed; b) a 16' rear yard where 20' is required; and c) a 5.5' front yard where 15' is required. Said property is located on Assessor Map 113 Lot 22-1 and lies within the General Residence A (GRA) District. (LU-22-122)

SPEAKING TO THE PETITION

Attorney Derek Durbin was present on behalf of the applicant. He reviewed the petition, noting that it was another unique property. He said the property was reviewed and granted several variances in 2019 to allow for the creation of the lot, which was undersized within the GRA zoning district and was part of 60 Elwyn Avenue that abutted it to the rear. He said that, following the approval, the subdivision approval was received, creating the 2,943-s.f. lot. He said what made the property unique was that the 2019 plans showed a 917-s.f. building envelope for a single-family home. He said a notation on that plan indicated 31.2 percent was approved for the proposed building coverage, but no building coverage was applied for. He said he thought it was because the design hadn't been finalized. He said the same building footprint was proposed except for the added staircase, which drove the need for a 4-ft variance in the rear yard setback. He said the property was then sold to his client. He said there was also a garden shed proposed that wasn't in the 2019 plan. He said he didn't believe a front yard setback variance was needed

due to the average alignment. He said the lot was so tight that there was no reasonable way to build a single-family home without a variance. He reviewed the criteria in detail.

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

Mr. Rossi said the project would be consistent with the public interest. He said an increase in housing stock was needed in Portsmouth and that the applicant's project would help satisfy that need, keeping it in the spirit of the ordinance in terms of the density of that zoning district. He said substantial justice would be done because there would be no harm to the public that would outweigh the benefit to the property owner. He said granting the variances would not diminish the values of surrounding properties, given the character of the neighborhood and nearby homes. He said the hardship was that the new owners purchased the property with the reasonable expectation that minor adjustments to the square footage of the planned structure would not be an encumbrance to the development that was already set in motion by previous actions. Mr. Mannle concurred and noted that 30 percent building coverage had already been granted in the past, so the extra four percent for the stairs was minor.

*The motion **passed** by unanimous vote, 6-0.*

I. The request of **Randi and Jeff Collins (Owners),** for property located at **77 Meredith Way** whereas relief is needed to subdivide one lot into two lots which requires the following: 1) A Variance from Section 10.521 to allow 73 feet of frontage for Lot A and 31 feet of frontage for Lot B where 100 feet is required for both. Said property is located on Assessor Map 162 Lot 16 and lies within the General Residence A (GRA) District. (LU-22-61)

SPEAKING TO THE PETITION

Attorney Chris Mulligan was present on behalf of the applicant. He said the variances were needed to build a single-family dwelling on the GRA District lot. He said the owners bought the property in March and determined that the existing dwelling was substandard and could not be renovated, so they wanted to replace it with a more modern and amenable one. He said they also wanted to subdivide the property to add a single-family home on a new lot. He said the parcel was unusually large and almost three times the required lot area for the GRA District and was at the end of a dead-end street. He explained that the street ended about 31 feet into the Collins' property and a paper street extended all the way back to Stark Street and abutted a partially built paper street, and there was a public park across from the paper street. He said the City's position on a partially-built paper street was that the unbuilt portion didn't count as street frontage, but

the existing lot was shown on a plan that predated 1966, so the lot was deemed compliant with the frontage requirements. He said the applicant could build a two-family dwelling with up to 15 percent building coverage by right but felt that it would be less in character with the neighborhood than subdividing the lot and complying with all the dimensional requirements other than continual street frontage. He said they proposed to extend Meredith Way from its current terminus to have 73 feet of frontage on the first lot and 31 feet of frontage on the second lot. He said the applicant had a Technical Advisory Committee (TAC) work session and would require further approval from the Planning Board. He said the Staff Report proposed a stipulation acknowledging that the final design may change as the applicant moved through the TAC process but the amount of street frontage and lot coverage proposed would not exceed what was proposed in the plans. He said the subdivision plans dated back well before 1966, and Meredith Way was not fully built as originally laid out because a proposed bridge was never built, which was a special condition of the property. He reviewed the criteria and said the Board received letters from abutters who were concerned with stormwater and drainage, but he emphasized that the relief requested was for frontage relief and not lot coverage or setback to build closer to the affected properties that had drainage concerns. He said mitigation effects were proposed at the TAC work session and rain gardens were proposed for the rear of the second lot and toward the front of the second lot, which were the low points. He said the map indicated that the water runoff should run toward Meredith Way and not toward the rear of the property. He said the special conditions that prevented property enjoyment were that the property was at the end of a dead-end street and partially on the unbuilt paper street and abutted the undevelopable park land. He said two lots with a single-family home on each would be more appropriate than a duplex that accomplished the same amount of density.

Mr. Mannle confirmed that Meredith Way ended 31 feet into the applicant's property. He said on paper, it went for another 100 feet on the applicant's property and another 100 feet on the property behind the applicant. He asked how the property shown in the picture accessed their property. Attorney Mulligan said that was the subject of relief before the Board ten years ago. He said it had a driveway off of Pine Street and the neighbor went across the paper street and park to get to Pine Street. In response to further questions from Mr. Mannle, Attorney Mulligan said the people who sent in a letter stating that they didn't want the extension of Meredith Way lived on the other side. He said the variances would still be requested in spite of Meredith Way because they still wouldn't have 100 feet of continuous street frontage for each lot. Ms. Margeson said street frontage provided uniformity, which was the reason the City required it. She said it was hard to see how that applied to the area, given how irregular Meredith Way was. Attorney Mulligan said there were only two properties that actually accessed Meredith Way, and the drive would only be the third active driveway if it was approved.

Chairman Parrott opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

David Chapnick of 97 Meredith Way said he was in support but had a few concerns. He requested that a stipulation be added on the deed that there would not be separate pairs of multi-family homes or additional in-law apartments in the future so that the consistent residential

density on Meredith Way was maintained. He said he also noticed in the application that two different home sizes were requested, 1500 square feet and 2400 square feet, and he wanted the 1500 s.f. one to be granted. He said he didn't support extending Meredith Way because it would remove a lot of trees and vegetation. He asked that the driveway be created with Meredith Way in place. He also noted that there were significant water issues on Meredith way and hoped the project wouldn't create additional impervious surface. Ms. Margeson said those issues were Planning Board ones and that the Board could not put stipulations on deeds. She said the variance request was limited and was for less street frontage than was required by zoning, and that was what the Board was asked to consider. She asked if the large structure shown in the photo to the right of the existing building was a single-family one. Attorney Mulligan agreed and said it was a photo of 55 Pine Street. Ms. Margeson concluded that it wasn't like there weren't any other large structures in the area.

Donna Splaine of 299 Bartlett Street phoned in via Zoom and said she was an abutter. She said she parked on Meredith Way and thought it used to be a dirt road that went onto Pine Street but wasn't maintained by the City. She said she didn't know where Attorney Mulligan got the diagram showing a paper street in the back of the Collins' property. She said the Collins bought the property in back of 77 Meredith Way and tore down the house and built a large house, and she didn't want that to happen on Meredith Way again. She said conditions could be put on a property that would be accessed as a driveway, and she asked that the Board grant the variance for the new driveway so that the property could be subdivided but that they put a condition in writing that the approved variances would be based on the existing driveway only to serve the existing single-family home. She asked that it also state that each driveway would service only one single-family home and no mother-in-law apartments. Chairman Parrott said many of Ms. Splaine's requests were beyond the scope of the Board and that they only dealt with issues defined on the agenda, like the frontage on Lots A and B.

Aaron Long of 255 Thornton Street said he had lived in his house for only a few months before he learned about the water issues, and he thought if Meredith Way was extended, it would allow more water that wouldn't soak into the ground.

SPEAKING IN OPPOSITION TO THE PETITION

No one spoke.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney Mulligan said most of the concerns stated were Planning Board issues. Regarding the extension of Meredith Way impacting runoff to the rear of a speaker's property, he said Meredith Way was at the low point of the property and that it would not run off on Thornton Avenue, so the extension of the road itself would have no impact. He said they were proposing some mitigation and the Planning Board would review the proposed rain gardens and determine what had to be done to keep the runoff on the applicant's property. He said they weren't asking for relief from lot coverage and that they would not build any closer to the other properties.

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

DECISION OF THE BOARD

*Vice-Chair Lee moved to **grant** the variances as requested, seconded by Mr. Rossi.*

Vice-Chair Lee said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the purpose of frontage was to influence the density of neighborhoods, and he thought the property's location at a dead-end street with a park across it was sort of an irrelevant factor in this case. He said substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the general public. He said the surrounding properties would not be diminished by the addition of two new code-compliant homes, and literal enforcement of the ordinance would result in unnecessary hardship. He said the applicant's representative established that the property was burdened by a zoning restriction that was distinct from other similarly situated properties.

Mr. Stith reminded Vice-Chair Lee of the request for a stipulation in the Staff Memo. Vice-Chair Lee **amended** his motion as follows:

*Vice-Chair Lee moved to **grant** the variances as requested, seconded by Mr. Rossi, with the following **stipulation**:*

1. *The proposed house plans are conceptual and may change from what was presented to the Board as long as they conform to the requirements of the zoning ordinance.*

Mr. Rossi concurred and had nothing to add. Ms. Margeson said the street frontage was really for uniformity and not to control density, and she thought it was less applicable in this situation.

*The motion **passed** by unanimous vote, 6-0.*

J. REQUEST TO POSTPONE The request of **James William Woods** and **Anna Roeline Meinardi (Owners)**, for property located at **1 Walton Alley** whereas relief is needed to construct a 1 story, 12' x 18' detached garage which requires the following: 1) Variances from Section 10.573.20 to allow a) a 1.5' side yard where 10' is required; and b) a 5' rear yard where 13'10" is required. Said property is located on Assessor Map 103 Lot 27 and lies within the General Residence B (GRB) and Historic Districts. **REQUEST TO POSTPONE** (LU-22-124)

DECISION OF THE BOARD

The petition was **postponed** to a future meeting.

K. WITHDRAWN The request of **Coventry Realty LLC (Owner)**, for property located at **111 State Street** requesting an appeal of the administrative decision that variances are required from Section 10.521 for the proposed additions to provide code compliant egress or Variances from Section 10.521 to allow a) 93% building coverage where 90% is the

maximum allowed; and b) 3.5% open space where 10% is the minimum 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 107 Lot 50 and lies within the Character District 4 (CD4), and the Historic and Downtown Overlay Districts. **WITHDRAWN** (LU-22-125)

The petition was **withdrawn** by the applicant.

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

1.

Petition of **Sean Murphy, Owner**, for property located at **470 Lincoln Avenue** wherein relief is needed from the Zoning Ordinance for renovation of existing home which includes the following: A Variance from Section 10.521 to allow a) a 4' right side yard where 10' is required: b) an 11' front yard where 15' is required; and c) 30% building coverage where 25% is the maximum allowed. 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 133 Lot 45 and lies within the General Residence A (GRA) District.

The above referenced variances were granted on July 21, 2020 and a building permit has not been issued for the project. The applicant has submitted a request for an extension which the Ordinance allows for a one-time, one-year extension if the request is acted on prior to the expiration date.

RECEIVED
JUL 08 2022
By

Sean Murphy
470 Lincoln Avenue
Portsmouth, NH 03801

July 6, 2022

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

RE: Board of Adjustment request for property located at 470 Lincoln Avenue

To Whom It May Concern,

At it's regularly scheduled meeting of **Tuesday, July 21, 2020**, the Zoning Board of Adjustment voted to grant the request for 1) Variances from Section 10.521 to allow a) a 4' right side yard where 10' is required: b) an 11' front yard where 15' is required; and c) 30% building coverage where 25% is the maximum allowed. 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 133 Lot 45 and lies within the General Residence A (GRA) District. (see attachment)

At this time, I am respectfully requesting an extension in accordance with Section 10.236 of the Zoning Ordinance for one year up until **July 21, 2023**.

Respectfully,

Sean and Liz Murphy
Homeowners

CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801

(603) 610-7216

ZONING BOARD OF ADJUSTMENT

July 23, 2020

Sean Murphy
470 Lincoln Avenue
Portsmouth, NH 03801

RE: **Board of Adjustment request for property located at 470 Lincoln Avenue**

Dear Mr. Murphy:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 21, 2020**, considered your application for renovation of existing home which includes the following: 1) Variances from Section 10.521 to allow a) a 4' right side yard where 10' is required: b) an 11' front yard where 15' is required; and c) 30% building coverage where 25% is the maximum allowed. 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 133 Lot 45 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to grant the request as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

2.

Request of **Pike Industries, Inc., appellant** for the property located at **225 Banfield Road**, is requesting a rehearing pursuant to RSA 677:2. Said properties are shown on Assessor Map 266 Lot 1 and Map 254 Lot 1 and lie within the Character District 4-L2 (CD4-L2).

On Tuesday, May 24, 2022, the Board granted the following variances to allow a 60 unit residential building and to encroach into the front yard setback for an industrial building as detailed below: 1) A Variance from Section 10.521 to allow a 45 foot front yard where 70 feet is required. 2) A Variance from Section 10.440.1 to allow a 60 unit residential building where residential uses are not permitted in the Industrial district.

The direct abutter, Pike Industries, Inc. is requesting a rehearing of the Board's decision to grant a variance to construct a 60-unit apartment building.

A request for rehearing has been filed 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 or the presentation of new information that was not available at the time of the initial decision.

CLEVELAND, WATERS AND BASS, P.A.
ATTORNEYS AT LAW

RECEIVED
JUN 22 2022
By 2:30 pm

JEFFREY C. CHRISTENSEN, ESQUIRE
(603) 224-7761 EXT. 1070
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TWO CAPITAL PLAZA, P.O. BOX 1137
CONCORD, NEW HAMPSHIRE 03302-1137

June 22, 2022

HAND-DELIVERED

Arthur Parrott, Chair
City of Portsmouth, ZBA
1 Junkins Ave., 3rd Floor
Portsmouth, NH 03801

RE: In the Matter of the Variance Application of JRDEV, LLC
225 Banfield Road, Portsmouth, NH (Tax Lot: 266-1 & 254-1)

Dear Mr. Parrott:

Enclosed is a Motion for Rehearing with regard to the above. Thank you for your attention to this matter.

Sincerely,

Jeffrey C. Christensen

JCC/sm
Enclosure
cc: Pike Industries, Inc.
Peter Stith, Principal Planner

4895-8524-8806, v. 1

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT
APPLICATION NO. LU-22-91

In the Matter of the Variance Application of JRDEV, LLC
225 Banfield Road, Portsmouth, NH (Tax Lot: 266-1 & 254-1)

MOTION FOR REHEARING

Pike Industries, Inc. ("Pike" or the "Abutter"), by and through its attorneys, Cleveland, Waters, and Bass, P.A., respectfully moves, pursuant to RSA 677:2 and the City of Portsmouth Zoning Ordinance (the "Ordinance"), for a rehearing of the May 24, 2022 decision of the City of Portsmouth Zoning Board of Adjustment (the "Board") granting the request for a variance in connection with the real property located at 225 Banfield Road (Tax Map and Lot 266-1 and 254-1; the "Ricci Property") to construct a 60-unit apartment building (the "Residential Building") in the Industrial Zoning District where such uses are broadly and expressly prohibited pursuant to Section 10.440.1 of the Ordinance. In support thereof, the Abutter states as follows:

BACKGROUND AND INTRODUCTION

1. The Ordinance identifies several different residential uses, all of which are expressly prohibited in the Industrial District where the Ricci Property lies. See Ordinance, §10.440.1. Nevertheless, the applicant, JRDEV, LLC, on behalf of the property owner, Ricci Construction Co., Inc. (collectively, the "Applicant"), proposes to construct sixty (60) residential dwellings on the Ricci Property in violation of those provisions. Pike owns the abutting property located at 650 Peverly Hill Road (Tax Map and Lot 254-7, the "Pike Property") whereupon Pike operates a construction aggregate recycling and distribution yard, hot mix asphalt pavement plant, and equipment repair facility which has served the construction materials needs of the seacoast area since the 1930's. Attached hereto as Exhibit 1 are photographs of the Pike Property

and the activities that will be adjacent to this residential development. The construction of multiple residential dwellings adjacent to the Pike Property will have significant detrimental impacts on Pike's operations and the value of the Pike Property.

2. The purpose of creating zoning districts is to provide space for uses and structures which are compatible with each other, combining compatible uses into a district, and separating each class of use into its appropriate geographic area. See 3 Arden H. Rathkopf, et al., *Rathkopf's The Law of Zoning and Planning* §10.1 (4th ed. 2017). There are various benefits to the segregation of incompatible uses, such as "promotion of the health and security from injury of children and others by separating dwelling houses from territory devoted to trade and industry; … the enforcement of street traffic regulations and other general welfare ordinances; aiding the health and safety of the community, by excluding from residential areas the confusion and danger of fire, contagion, and disorder, which in greater or less degree attach to the location of stores, shops, and factories" and because "the construction and repair of streets may be rendered easier and less expensive, by confining the greater part of the heavy traffic to the streets where business is carried on." Vill. of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365, 391 (1926).

3. In short, segregating residential and industrial uses from each other is to the benefit of both. Residents of the City can safely enjoy their homes without risk of safety concerns, while industrial businesses can operate without the burdens created by residential neighbors, such as complaints about the noise and or the safety of children wandering just outside their backyard into an industrial area. Similarly, the City is saved from trying to accommodate the needs of residential uses, such as fire safety and emergency access, in an area where risks may be heightened due to industrial uses and access may be occasionally blocked by the movement of industrial vehicles.

4. Additionally, designating territory for specific uses reserves land for necessary but perhaps less profitable uses. It is necessary for the orderly functioning of a city and the provision of supplies for there to be local, accessible uses of all sorts. Pike, for example, provides necessary construction materials to the seacoast area, without which construction and maintenance needs would become more burdensome due to the expense and delay inherent in shipping materials from elsewhere. If the City does not reserve and protect space for such industrial uses, it risks vital resources becoming crowded out by more individually profitable uses, at a loss to the public.

5. Variances are intended to be an "escape hatch" or "safety valve" designed to avoid unjust applications of general zoning regulations. See 2P. Salkin, *Anderson's American Law of Zoning*, §13:1 (5th ed.). As such, it should be limited to cases where unusual or exceptional circumstances exist to justify deviation from otherwise applicable zoning laws. Id. Absent such circumstances, allowing a single parcel to engage in a use different from that of the rest of the zoning district for the benefit of the owner of that parcel can constitute impermissible "spot zoning". Id., §6.12.

6. As discussed below, however, the Board's decision to grant the Applicant's variance is contrary to the applicable law. Accordingly, the Board should reconsider and rehear the Applicant's request for a variance from Section 10.440 of the Ordinance. Upon doing so, for the reasons set forth below, the Board should find that the Applicant is not entitled to a variance.

DISCUSSION

7. To be granted a variance, an applicant must show that: "(1) the variance will not be contrary to the public interest; (2) special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship; (3) the variance is consistent with the spirit of the

ordinance; (4) substantial justice is done; and (5) granting the variance will not diminish the value of surrounding properties" Nine A, LLC v. Town of Chesterfield, 157 N.H. 361, 365 (2008); RSA 674:33, I. The applicant, not the abutters nor anyone else, bears the sole burden of presenting evidence to support each and every one of the five variance criteria. Nine A, 157 N.H. at 365. If an applicant fails to meet any single criterion, the variance must be denied. Id.

I. There is no unnecessary hardship.

8. A variance may only be granted when, among other criteria, "literal enforcement of the ordinance would result in an unnecessary hardship." RSA 674:33, I(a)(2)(E). "Unnecessary hardship" means that, "owing to the special conditions of the property that distinguish it from other properties in the area: (i) 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 (ii) the proposed use is a reasonable one." Id. "Generally, a use variance requires a greater showing of hardship than an area variance because of the potential impact on the overall zoning scheme." Harrington v. Town of Warner, 152 N.H. 74, 80 (2005). "Use variances pose a greater threat to the integrity of a zoning scheme because the fundamental premise of zoning laws is the segregation of land according to uses." Id.

A. There is nothing unique about the Ricci Property that makes a residential use reasonable.

9. "The reasonable use factor is the critical inquiry for determining whether unnecessary hardship has been established." Garrison v. Town of Henniker, 154 N.H. 26, 32 (2006) (internal quotations omitted). "The reasonable use factor requires a determination of whether the hardship is a result of the unique setting of the property." Id. (internal quotations omitted). "The applicant must show that the hardship is a result of specific conditions of the property and not the area in general." Id. (internal quotations omitted). A use is presumptively

reasonable only if it is otherwise permitted by the Ordinance. See Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007). If, as is the case here, the proposed use is not otherwise permitted, the variance may be denied if the Board disagrees with using the Ricci Property for residential purposes. See id.

10. The Applicant identified several allegedly unusual characteristics of the Ricci Property: the fact that it comprises two lots containing wetlands, and has frontage on Banfield Road in two different locations. These factors, however, are unrelated to the proposed development of a sixty-unit residential building. For example, although the Ricci Property has frontage on Banfield Road in two different locations, the proposed residential use would use the same frontage and the same driveway as the existing commercial or industrial uses of the Ricci Property. Nor does the construction of sixty residential dwellings protect the nearby wetlands. It is not enough that the Ricci Property be different or unique compared to other properties, but the hardship must arise out of that difference. See Garrison, 154 N.H. at 32. Here, regardless of whether these conditions are unique, they do not create a hardship.

11. The Applicant also identifies the proximity of the Community Campus and other recreational opportunities as unique conditions of the Ricci Property. Several properties in the area abut the Community Campus. Proximity to nearby recreation is true for the entire area. The Ricci Property is not meaningfully closer to recreational opportunities than the other nearby properties. The Applicant's hardship must arise as a "result of specific conditions of the property and not the area in general." Garrison, 154 N.H. at 32. They do not. Arguments, such as raised by the Applicant, that this area is generally suitable for residential use or is evolving beyond its designated industrial purpose are not applicable to an application for a variance. This Board does not have the authority to rezone the district or "spot zone" the Applicant's property. Unless the

City rezones the area, the Applicant must establish that the hardship arises directly from the specific and unique conditions of the Ricci Property itself.

12. Additionally, the Applicant identifies no reason why the proposed residential portion of the Ricci Property could not be used for any of the permitted uses in the Industrial District. It appears that the reason to instead insert a residential use into the Ricci Property is simply because it would be more profitable and as stated by Ricci, more expedient than seeking to have the area rezoned. Monetary advantage, however, is insufficient to qualify for a variance. See Rowe v. Town of N. Hampton, 131 N.H. 424, 428 (1989) ("The uniqueness of the land, not the plight of the owner, determines whether a hardship exists"). There is nothing unique about the Ricci Property that makes it more suitable to a residential use than the other nearby properties in the Industrial District. There is no hardship.

B. Residential use of the Ricci Property is contrary to the purposes of the Ordinance.

13. The general purpose of the Industrial District is to "accommodate industrial, wholesale, and storage uses". See Ordinance, §10.410. As mentioned above, the purpose of creating zoning districts in general is to provide space for compatible uses, while protecting such spaces from incompatible uses. See 3 Arden H. Rathkopf, et al., *Rathkopf's The Law of Zoning and Planning* §10.1 (4th ed. 2017).

14. Inserting a large-scale residential building into an industrial zone is directly contradictory to those purposes. It will likely be detrimental to both the residents and to the neighboring industrial uses. As the Supreme Court has recognized, there are several good reasons to separate residential and industrial uses. Vill. of Euclid, 272 U.S. at 391. Among these reasons are the "promotion of the health and security from injury of children and others by separating dwelling houses from territory devoted to trade and industry" and "aiding the health

and safety of the community, by excluding from residential areas the confusion and danger of fire, contagion, and disorder, which in greater or less degree attach to the location of stores, shops, and factories." Id. Children who wish to play outside the newly created sixty residential dwellings, or who are traveling by foot to the nearby Community Campus, risk inadvertently wandering into the surrounding industrial areas where children are unexpected and at risk. Similarly, residents of all ages in the new sixty dwellings would be at risk from the spread of fire or other hazards from adjacent properties.[1]

15. At the same time, isolating industrial uses is beneficial to industry as well as to residents. Property owners in an industrial district benefit by being able to operate without the likelihood of children wandering into the area from next door, without residential neighbors complaining of the noise, and without the other burdens of having neighbors of incompatible uses. Inserting sixty dwellings next door to the Pike Property and its facility means there will be sixty families who will be expecting Pike to operate as if it were in a residential neighborhood. This situation will be to nobody's benefit.

16. The Applicant identifies no reason why the Ricci Property could not be used entirely for any of the permitted uses in the Industrial District and should instead be used for residential purposes. It appears that the reason to instead seek to insert a residential use into the Property is because it would be more profitable. Allowing the Industrial District to be used for residential purposes, in direct contradiction to the Ordinance, simply because it is more profitable risks crowding industrial uses out of the area entirely. As a direct result, landowners in the Industrial District will seek to repurpose their land, reducing the supply of industrial space in

[1] The chance of these hazards spreading across Banfield Road are much lower than spreading to adjacent properties without the barrier and separation of the street. For this reason, a residential use inside the Industrial District cannot be compared to residential uses on the other side of Banfield Road. It may be reasonable to have residential uses in a residentially zoned development across the street but not in a property next door without such a clear separation.

the City. Those that do not will experience conflicts with their new residential neighbors that will require City resources and potential litigation for all parties. The proximity and commingling of residential uses will further disincentive industrial uses in the area, further driving out industrial uses and making the industrial zone less attractive and marketable for resale in this City. This is contrary to one of the reasons for creating a zoning district, to reserve space for uses, like industrial uses, which are meaningful and necessary for the City and the surrounding area, but should not be commingled with other uses. See Harrington, 152 N.H. at 81 ("because the fundamental premise of zoning laws is the segregation of land according to uses, the impact on the character of the neighborhood is central to the analysis of a use variance").

17. There are good, valid, and legitimate reasons residential uses are prohibited from the Industrial District. There is nothing unique about the Ricci Property that makes those reasons inapplicable. There is no undue hardship justifying the Applicant's variance.

II. The variance will diminish nearby property values.

18. A variance must not diminish the value of surrounding properties. See RSA 674:33, I(a)(D). As discussed above, commingling industrial and residential uses creates burdens on the industrial businesses, not only on the residents. These burdens, or the possibility of these burdens, will reduce the value of the remaining properties in the Industrial District. For example, if Pike were to market the Pike Property and the industrial facility thereon for sale, the proximity of sixty residential dwellings next door would be a significant impairment. Potential buyers would be concerned that, if they were to run industrial equipment at night, they would receive complaints from sixty families in the morning. They would be concerned about the increased safety costs of having to operate so close to residential uses where children may inadvertently wander onto the Pike Property. Anyone considering purchasing the Pike Property for

redevelopment would be concerned about sixty-residential abutters opposing any redevelopment that is inconsistent with what would be, in those residents' minds, a residential space. Reduction of risk and leveraging certainty are hallmarks of sound business decision strategy. This proposal will increase risk and uncertainty for any potential buyer in the future, negatively impacting Pike's ability to sell and value of the Pike Property or other nearby properties.

19. All of these concerns would lead potential purchasers to prefer industrial properties that are not commingled with residential uses and all of the complications that come with having sixty neighbors just over the boundary. As Pike indicated at the original hearing on this matter, if there had been a sixty-unit residential building next door prior to Pike's ownership of the Pike Property, that would have deterred Pike from purchasing it in the first place. See Roy v. State, 104 N.H. 513, 517 (1963) (holding that a landowner is qualified to offer evidence as to the value of their own property). Instead, Pike purchased the Pike Property relying upon the Ordinances express prohibition on residential uses in the Industrial District. As a result of this variance, the market value of the Pike Property and other nearby properties in the Industrial District will be diminished.

III. The variance is contrary to the public interest and the spirit of the ordinance.

20. An applicant is not entitled to a variance if the proposal is contrary to the public interest or inconsistent with the spirit of the ordinance. RSA 674:33, I(a)(2)(A)-(B). The requirement that the variance not be "contrary to the public interest" is "related to the requirement that the variance be consistent with the spirit of the ordinance." See Nine A, supra, 157 N.H. at 366. A variance is contrary to the public interest when it unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives. Id. There are two methods for determining whether a variance would violate an ordinance's basic

zoning objectives: (1) "whether granting the variance would alter the essential character of the neighborhood" or (2) "whether granting the variance would threaten the public health, safety or welfare". Harborside Assocs., L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011).

21. The proposal to add sixty residential dwellings to the Industrial District would alter its essential character. While the Applicant points to nearby residential uses on the other side of Banfield Road, those are in the Single Residence A Zoning District, and separated from the Industrial District. There is a material difference between having a single-family residential development nearby and having a sixty-unit residential building right next door. The single-family development here is well set back off Banfield Road and enjoys a forested buffer from the Industrial District, so even those homes that are closest to the Industrial Zone are protected. This proposal, however, places all sixty dwellings directly adjacent to a shared property line with a heavy construction aggregates facility. Residences separated by a street and trees are less likely to result in problems, such as those discussed above, than residences next door. Likewise, residences built in a residential district do not crowd out industrial uses from the Industrial District, as this variance threatens to do. This alteration of the essential character of the neighborhood will have a detrimental impact on the utility and value of the neighboring industrial properties.

22. The variance also threatens the public health, safety, and welfare. As discussed above, there are certain inherent risks associated with industrial uses, such as fire and other hazards. This is one of the reasons for isolating residential uses from industrial uses, as recognized by the Supreme Court. See Vill. of Euclid, 272 U.S. at 391. Those engaged in industrial activities are aware of and prepared for those risks. Residential tenants are, frequently, not so informed or prepared.

23. Moreover, industrial activities often involve large equipment and vehicles that could be an impediment to emergency vehicle access, especially where the residential building shares a driveway with other commercial or industrial uses. Industrial equipment or commercial vehicles are often in positions that are more difficult or slower to move out of the way of emergency vehicles than traffic associated with residential use. A large construction vehicle in the driveway could impair emergency access much more significantly than the ordinary traffic of cars going into an apartment building. This problem is compounded when such impairments impact sixty different residential dwellings.

IV. The variance is not consistent with substantial justice.

24. A variance must do substantial justice to be granted. RSA 674:33, I(a)(2)(C). The "substantial justice" element of a variance is guided by two rules: that any loss to the individual that is not outweighed by a gain to the general public is an injustice, and whether the proposed development was consistent with the area's present use. Malachy Glen, 155 N.H. at 109. As discussed above, the proposed development of a sixty-unit residential building is not consistent with the present use of the Industrial District. Separately, there is a public interest that outweighs the loss to the Applicant by denying the development of the Apartment building.

25. As discussed above, there is a need for industrial uses in the City of Portsmouth and surrounding area. These uses are beneficial to and support all of the other uses and development in the area. There is a reason why the City deemed it necessary to dedicate space to industrial uses and specifically designate a district for the purpose of "accommodate[ing] industrial, wholesale, and storage uses". See Ordinance, §10.410. Allowing such space to be converted to residential use will crowd out industrial uses, both by reducing the amount of land available for such use, and discouraging the use of adjacent land that is now less desirable due to

the close proximity of incompatible uses. It further signals to other potential developers that they cannot rely upon the City's Ordinance when it excludes incompatible uses. This will reduce the feasibility of industrial uses in the area, harming the public that depends on those uses. If the public cannot rely on local industrial suppliers, all personal and business activity that depends on those uses will bear the increased costs and delays of relying on industries at a distance (especially given the current dramatic increase in fuel costs and supply chain disruptions). These costs outweigh the loss to the Applicant, which is merely the inability to use the Ricci Property for a use that was known to be prohibited and for which the Applicant has alternatives. As discussed above, there is no evidence presented that alternative, non-residential uses of the Ricci Property are unavailable or impractical; the only benefit to the Applicant is monetary. The Applicant's individual financial gain does not outweigh the impact to the overall zoning scheme. See Harrington, 152 N.H. at 80.

26. The Applicant has argued that the proposal creates a public benefit by increasing the housing supply. While increasing the housing supply is generally a legitimate goal, the housing supply should be increased by development in appropriate areas, not inserted into an Industrial District that is ill-suited to residential use and will surely render adverse repercussions for all parties. The new residential development in the residential zone on the other side of Banfield Road demonstrates that there are appropriate areas for residential development in the City. The Industrial District is not one of them. Accordingly, the variance is not consistent with the principles of substantial justice. See Malachy Glen, 155 N.H. at 109.

CONCLUSION

27. The Applicant did not present sufficient evidence to show that the five elements necessary for a variance were satisfied. The Board should reconsider its decision and, upon a rehearing, deny the requested variance.

WHEREFORE, Pike Industries, Inc. respectfully requests that the Board:

A. Grant the foregoing motion and schedule a rehearing on the variance application; and

B. Upon rehearing, deny the variance.

Respectfully submitted,

PIKE INDUSTRIES, INC.

By its attorneys,
CLEVELAND, WATERS AND BASS, P.A.

Dated: June 22, 2022

By: _____

Philip M. Hastings, Esq. (NH Bar #10003)
Jeffrey C. Christensen, Esq. (NH Bar #265308)
Two Capital Plaza
P.O. Box 1137
Concord, NH 03302-1137
(603) 224-7761

K LINE

3.

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.

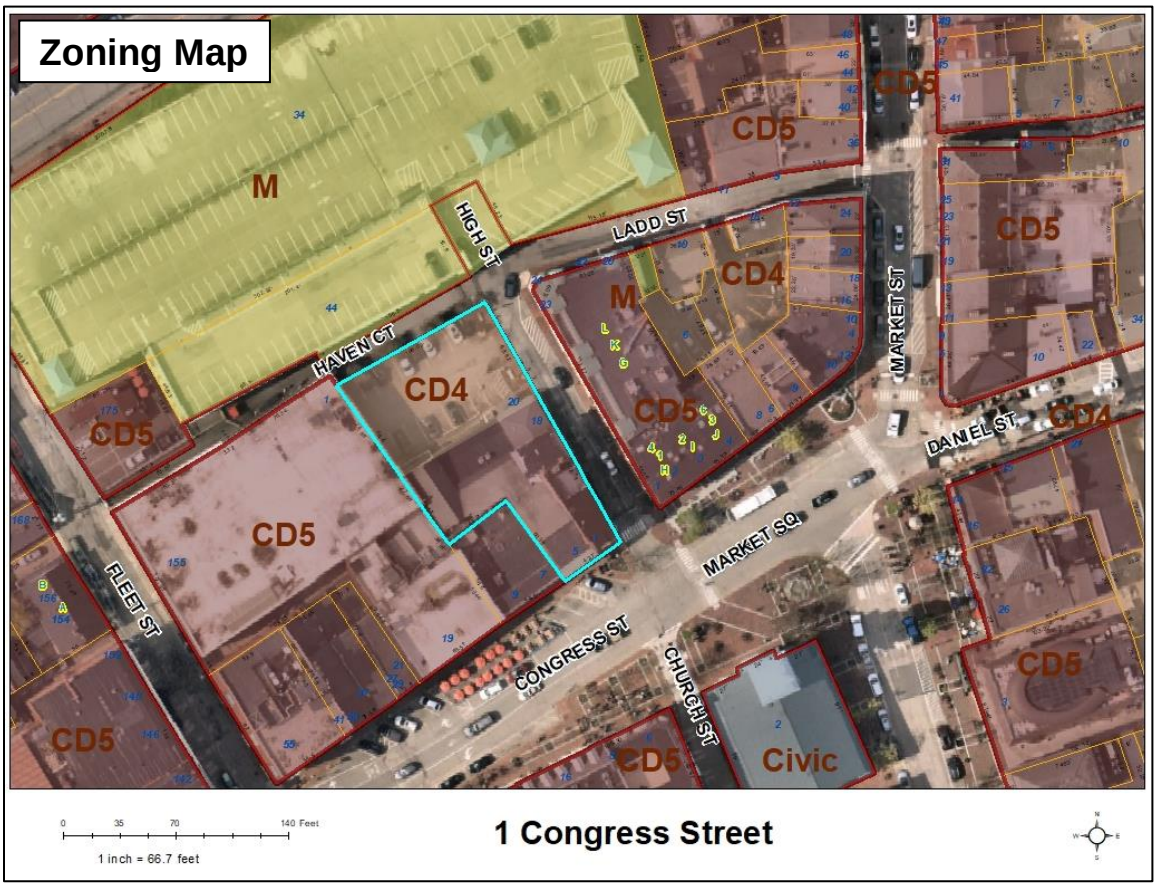
Existing & Proposed Conditions

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, 44'-11" (advertised)** **42'9 1/2" (proposed)**	2-3 stories, 40'	max.
Building Coverage (%):	0	67	90	max.
Open Space Coverage (%):		32	10	min.
Parking:	18	19	0 required for commercial use in Downtown Overlay	
Estimated Age of Structure:	1800	Variance request(s) shown in red.		

Other Permits/Approvals Required

Planning Board/TAC – Site Review
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.

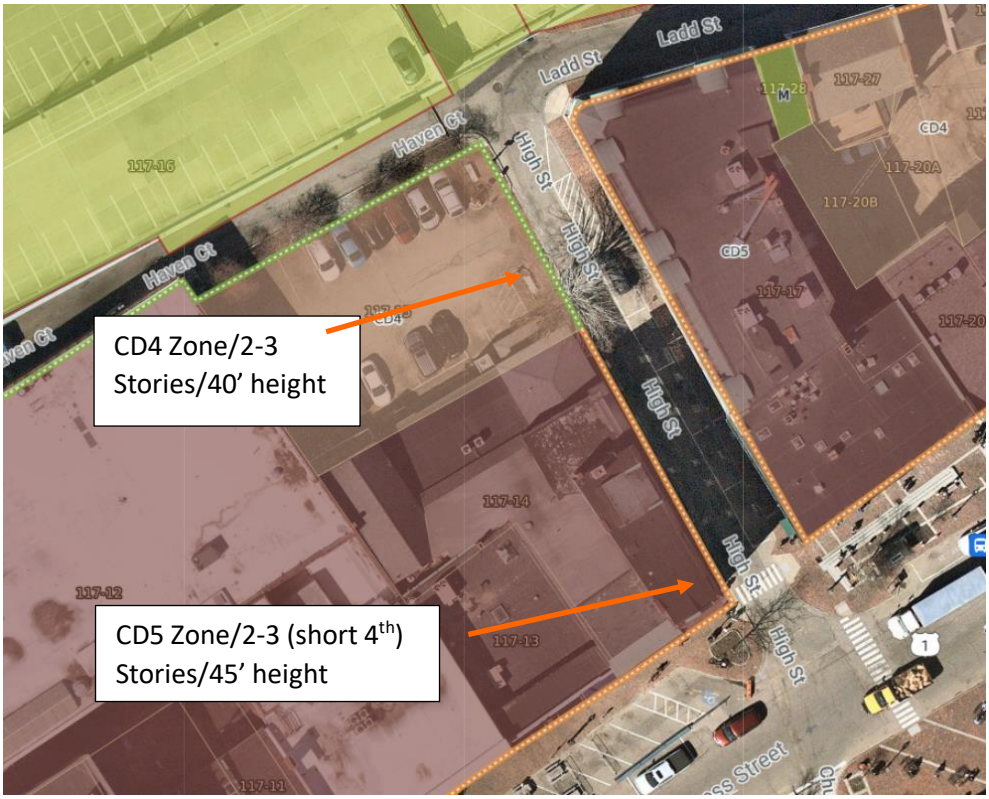
2. Special Exception under Section 10.1113.112 to allow 6 off-street parking spaces to be provided on another lot in the same ownership and within 300' of the property line of the lot in question.

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 merged the two properties in February 2022 and plans to construct a 3-story addition with an attic, which requires a variance for the building height requirements. The newly merged lot has two zoning districts, CD4 and CD5 which both have different height requirements as shown on the map below. The existing zoning reflects prior ownership and land use patterns as two individual lots. The abutting buildings along High Street and Haven Court have building heights ranging from 44 feet to 48 feet. The original advertisement was based on the applicant's request for a short fourth, however it is staff's opinion that it is actually an attic because it is within the roof. The proposed building height will allow access to all floors of the existing historic buildings along Congress and High Streets. The project will need HDC approval as well as site plan approval through TAC and Planning Board. Since the initial filing in February, and working with the HDC, the applicant has submitted revised drawings, showing a reduced height just under 43' (42' 9 1/2"). On Sheet H5.16, the applicant shows the average grade plane based on the whole building and also segregated into 3 separate areas. If vertical fire wall separations are proposed between the areas A, B, and C, staff would agree the building height could be calculated at 42' 2". However, this has not been verified and staff would suggest the Board use the average grade plane of the entire building and the height of 42' 9 ½". If granted approval, staff recommends the following stipulations:

1. **Final design may change due to review and approval by the HDC.**
2. **The height shall be 42' 9 1/2" as presented.**


Ladd St
Ladd St
Haven Ct
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High St
High St
High St
High St
117-16
117-28
117-27
CD4
117-20A
117-20B
CD5
117-17
117-14
117-12
117-13
117-11
CD4 Zone/2-3 Stories/40’ height
CD5 Zone/2-3 (short 4th) Stories/45’ height

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.

DRAWING INDEX

H5.01 COVER
H5.10 SITE PLAN
H5.11 DEMOLITION PLAN
H5.12 DEMOLITION ELEVATIONS
H5.13 ROOF PLAN
H5.14 FIRST FLOOR PLAN
H5.15 BASEMENT PLAN

H5.16 AVERAGE GRADE PLANE CALCULATIONS
H5.17 ROOF AREAS CALCULATIONS

H5.20 ROOF HEIGHT DETAIL - HAVEN CT
H5.21 ELEVATION - CONGRESS STREET
H5.22 ELEVATION - HIGH STREET
H5.23 ELEVATION - HAVEN COURT
H5.24 ELEVATION - REAR (WEST) ALLEY

H5.31 AXONOMETRIC
H5.32 VINGNETTE - CONGRESS STREET
H5.33 VINGNETTE - HIGH ST FROM CONGRESS ST
H5.34 VINGNETTE - HIGH ST FROM STARBUCKS
H5.35 VINGNETTE - HAVEN CT FROM LADD ST
H5.36 VINGNETTE - HIGH ST AT LADD ST & HAVEN CT
H5.37 VINGNETTE - HAVEN COURT AT NEWBERRY'S

H4.41 DETAILS

H5.50 MATERIALS - WINDOWS
H5.51 MATERIALS - FENESTRATION
H5.52 MATERIALS - ARCADE FENESTRATION
H5.53 MATERIALS - CLADDING
H5.54 MATERIALS - CLADDING

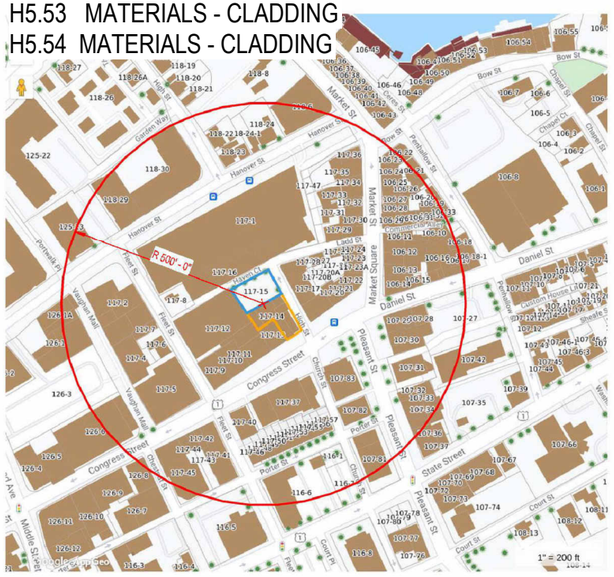
PROJECT NARRATIVE

REHABILITATION AND ADAPTIVE REUSE OF EXISTING HISTORIC STRUCTURES WITH A NEW ADJACENT STRUCTURE ON REAR SURFACE PARKING LOT.

USES INCLUDE A FULL SERVICE RESTAURANT AT FIRST FLOOR, A BOUTIQUE HOTEL ABOVE, AND ONE LEVEL OF UNDERGROUND PARKING. OFFSITE IMPROVEMENTS WILL BE A FUTURE AND SEPARATE APPLICATION IN COLLABORATION WITH THE CITY OF PORTSMOUTH.

PROJECT UPDATES SINCE LAST HDC WORKSESSION:

A. ADJUSTED ROOFS AND NEW DORMER AT 3 CONGRESS STREET.
B. ADDITIONAL DETAILS AND PROFILE SECTIONS
C. FINE TUNED STOREFRONT FENESTRATION
D. EXTERIOR MATERIALS PRODUCT CUT SHEETS



ONE CONGRESS STREET
RENOVATION & ADDITION

ONE MARKET SQUARE, LLC

ZONING BOARD OF ADJUSTMENT
JULY 12, 2022

H5.01 **COVER**
1 CONGRESS STREET
SCALE:
7/12/2022

ARCOVE ARCHITECTS

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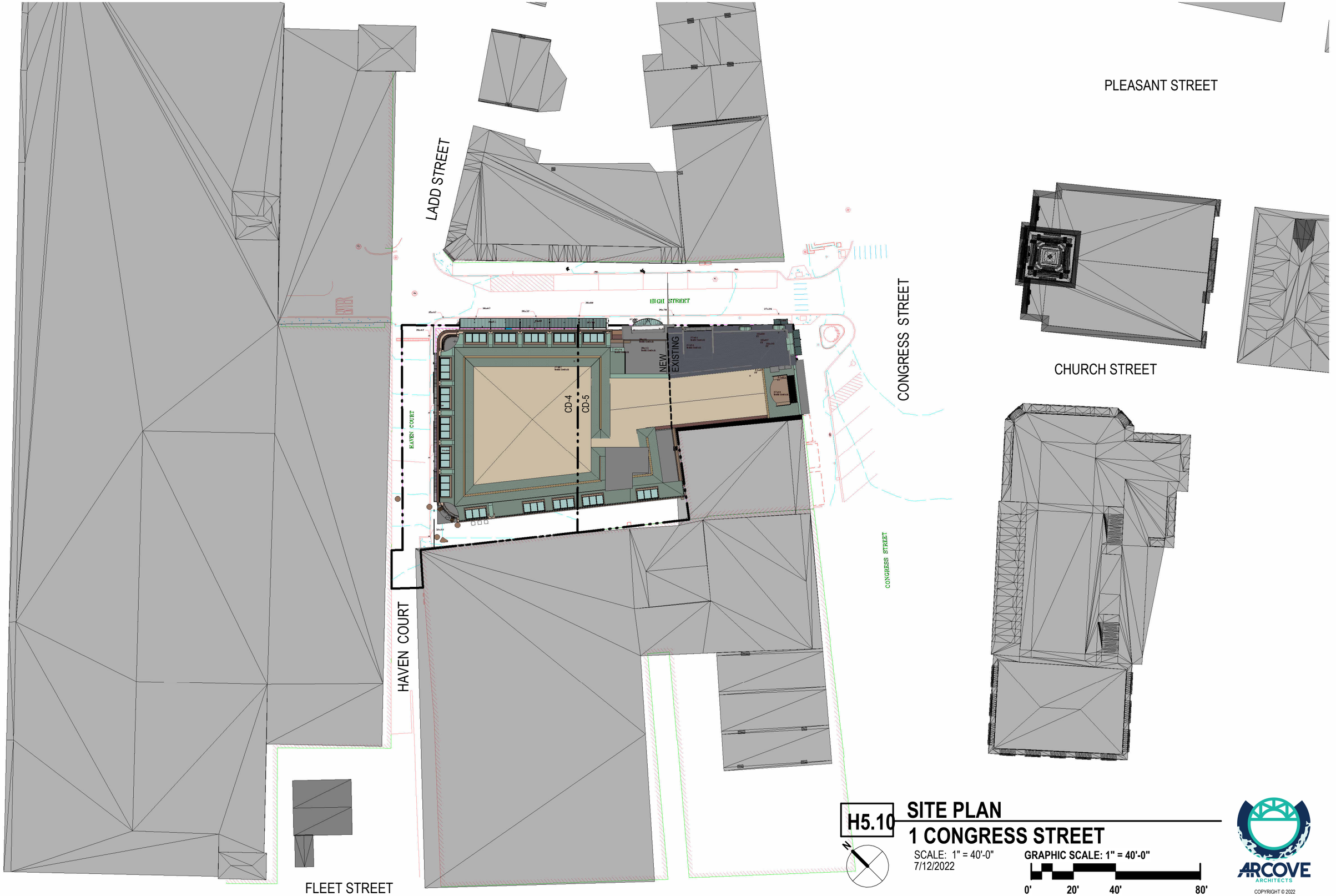

H5.10 SITE PLAN
1 CONGRESS STREET

SCALE: 1" = 40'-0"
7/12/2022

GRAPHIC SCALE: 1" = 40'-0"
0' 20' 40' 80'

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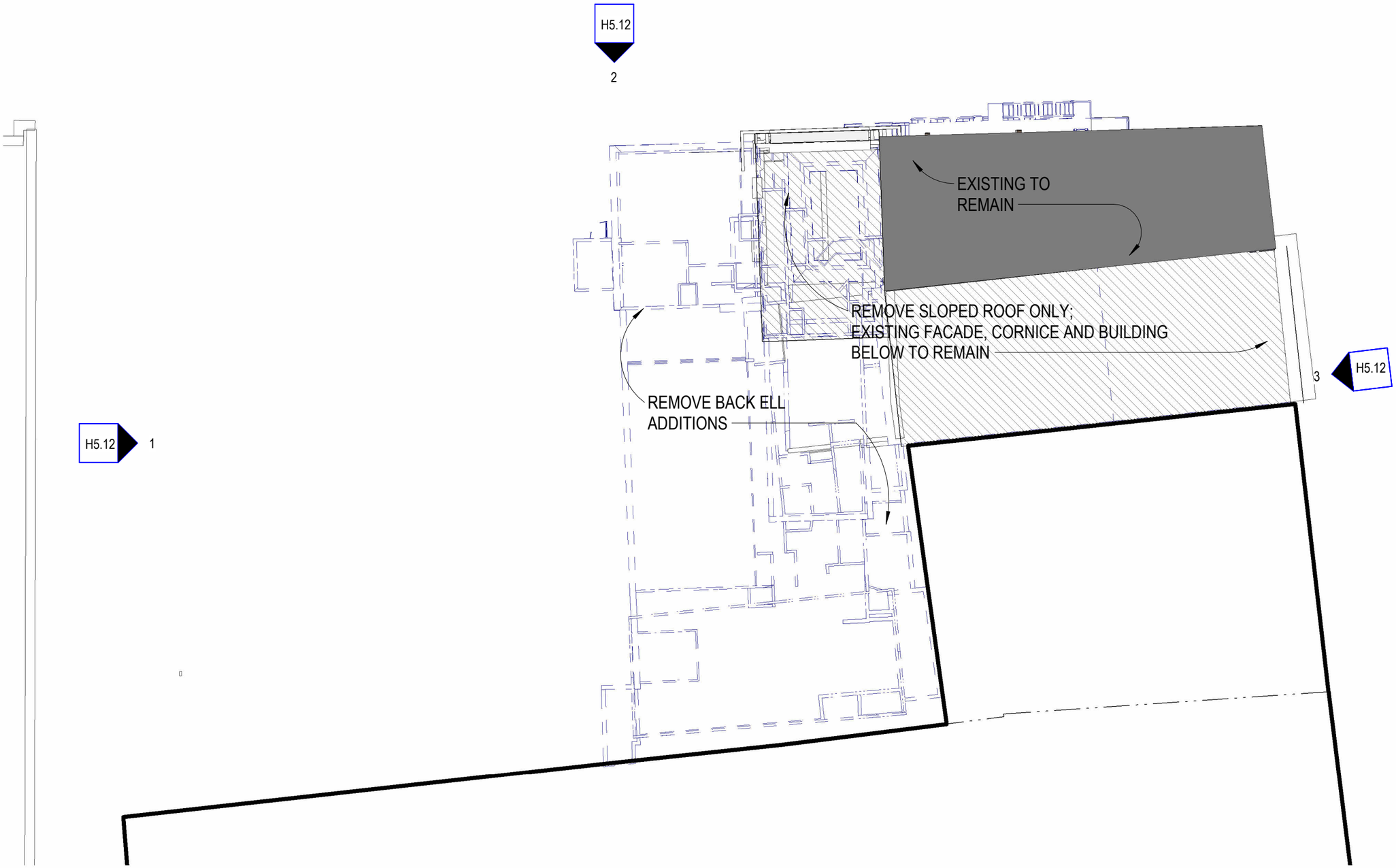

H5.11 DEMOLITION PLAN

1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

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

0' 8' 16' 32'

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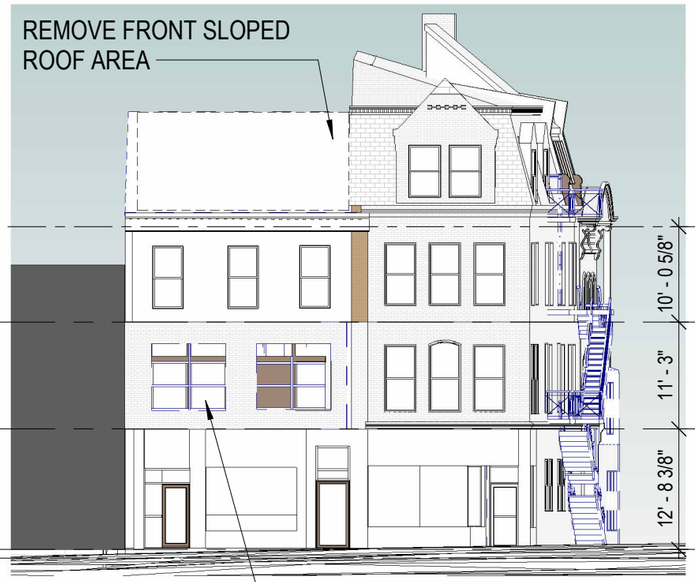
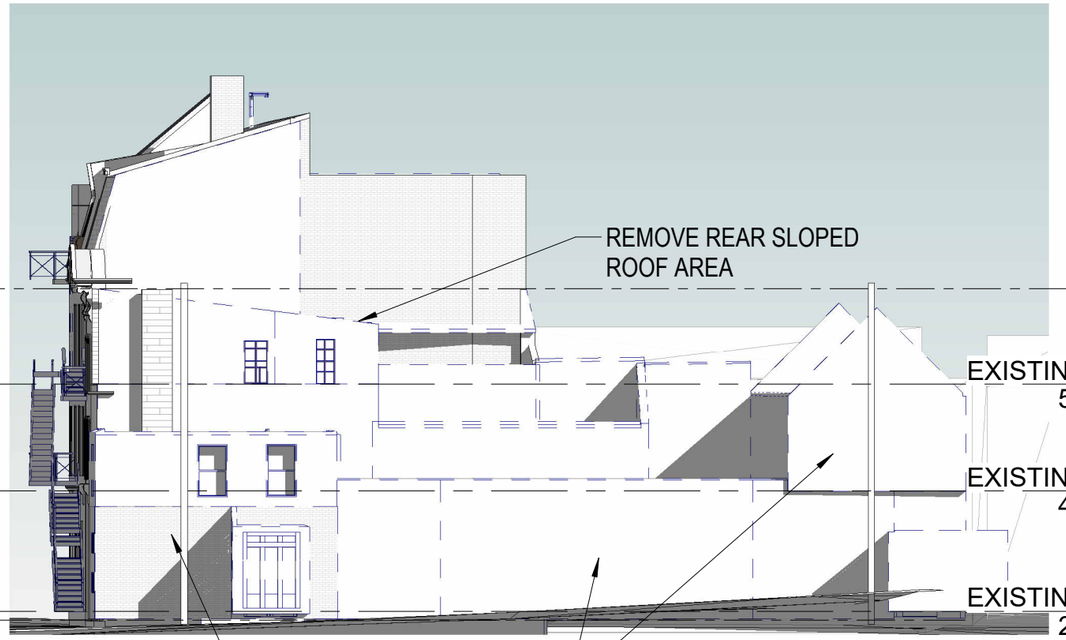
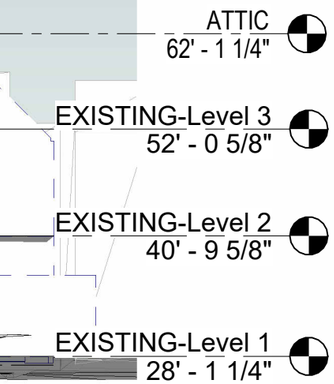
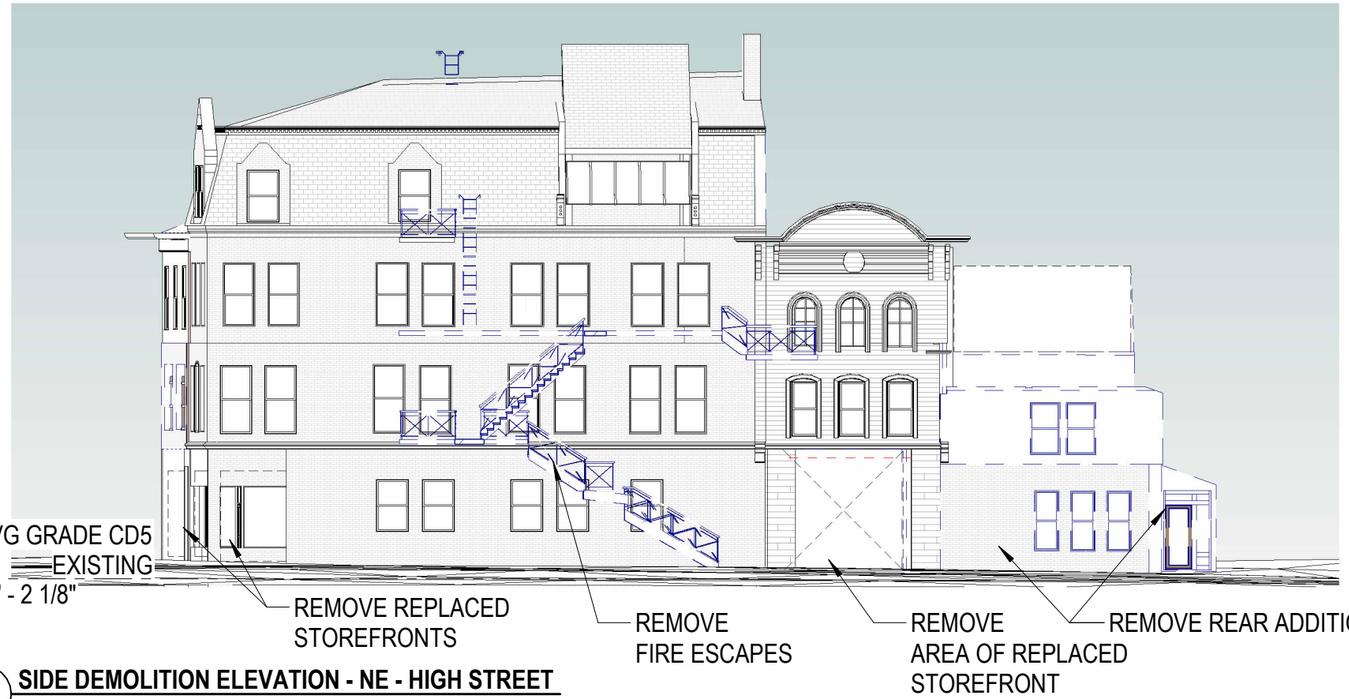






3 **PROPOSED ELEVATION - CONGRESS ST**
1/16" = 1'-0"

1 **REAR DEMOLITION ELEVATION - NW - HAVEN COURT**
1/16" = 1'-0"



2 **SIDE DEMOLITION ELEVATION - NE - HIGH STREET**
1/16" = 1'-0"

H5.12

DEMOLITION ELEVATIONS
1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

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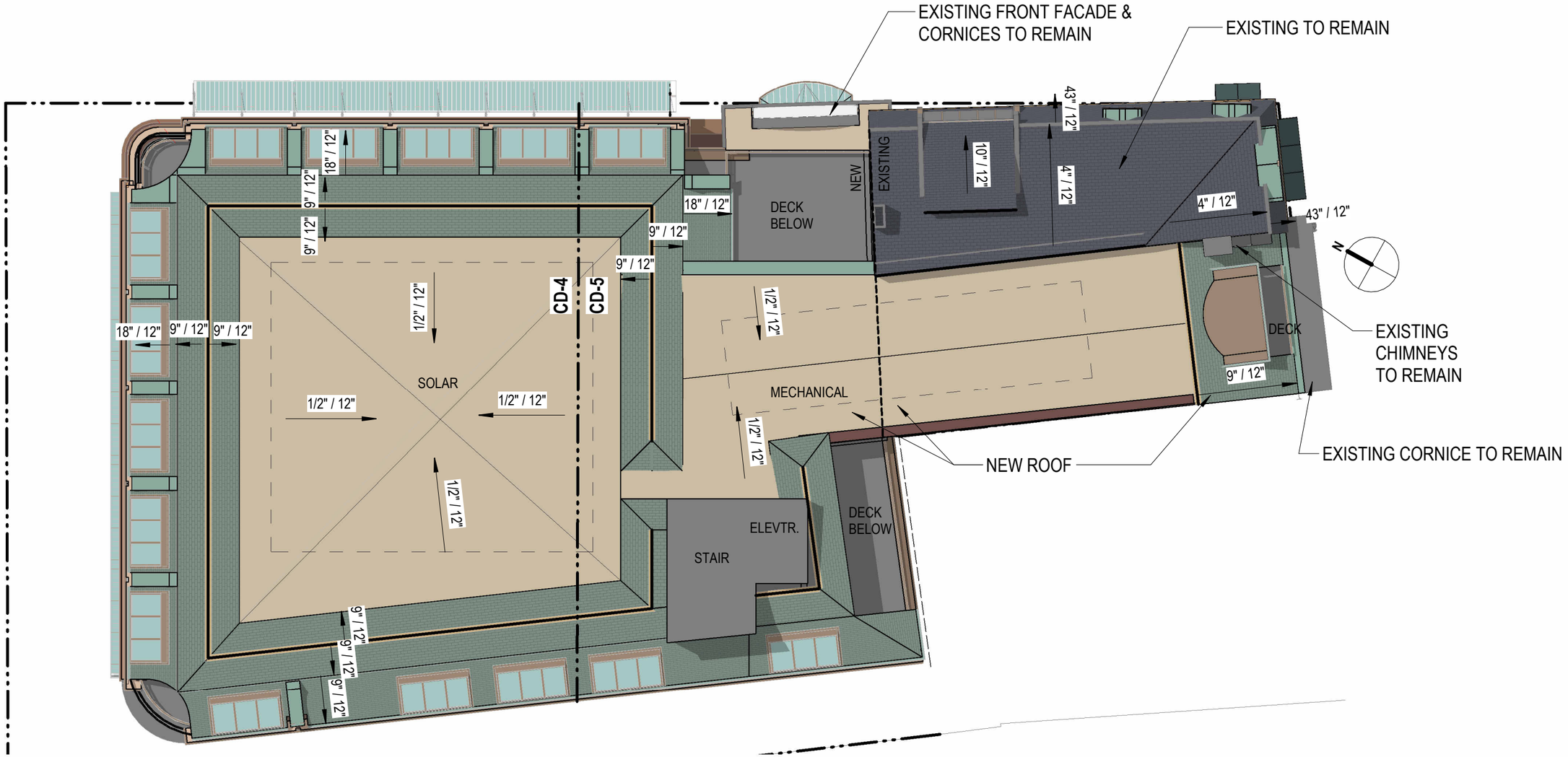

H5.13 ROOF PLAN

1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

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

0' 8' 16' 32'

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HIGH STREET

89' - 9 15/16"

78' - 6 7/8"

84' - 1 9/16"

108' - 1 5/46"

42' - 6 1/8"

11' - 0"

8' - 5 7/8"

10' - 10 9/16"

DROP-OFF

RESTAURANT

ENTRANCE / LOBBY

RESTAURANT

RESTAURANT

SUPPORT

VEHICLE ELEVATOR 100

117/15

117/14

CD-4

CD-5

DN

H5.23

H5.22

H5.41

B1.0

SERPENTINE PAVING

MOVEABLE PLANTERS

MURALS (TBD)

18" PLANTING

SITTING STONES

ARCH (TBD)

HAVEN COURT

40 FT 30 20

H5.14 FIRST FLOOR PLAN

1 CONGRESS STREET

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

7/12/2022

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

0' 8' 16' 32'

S STREET

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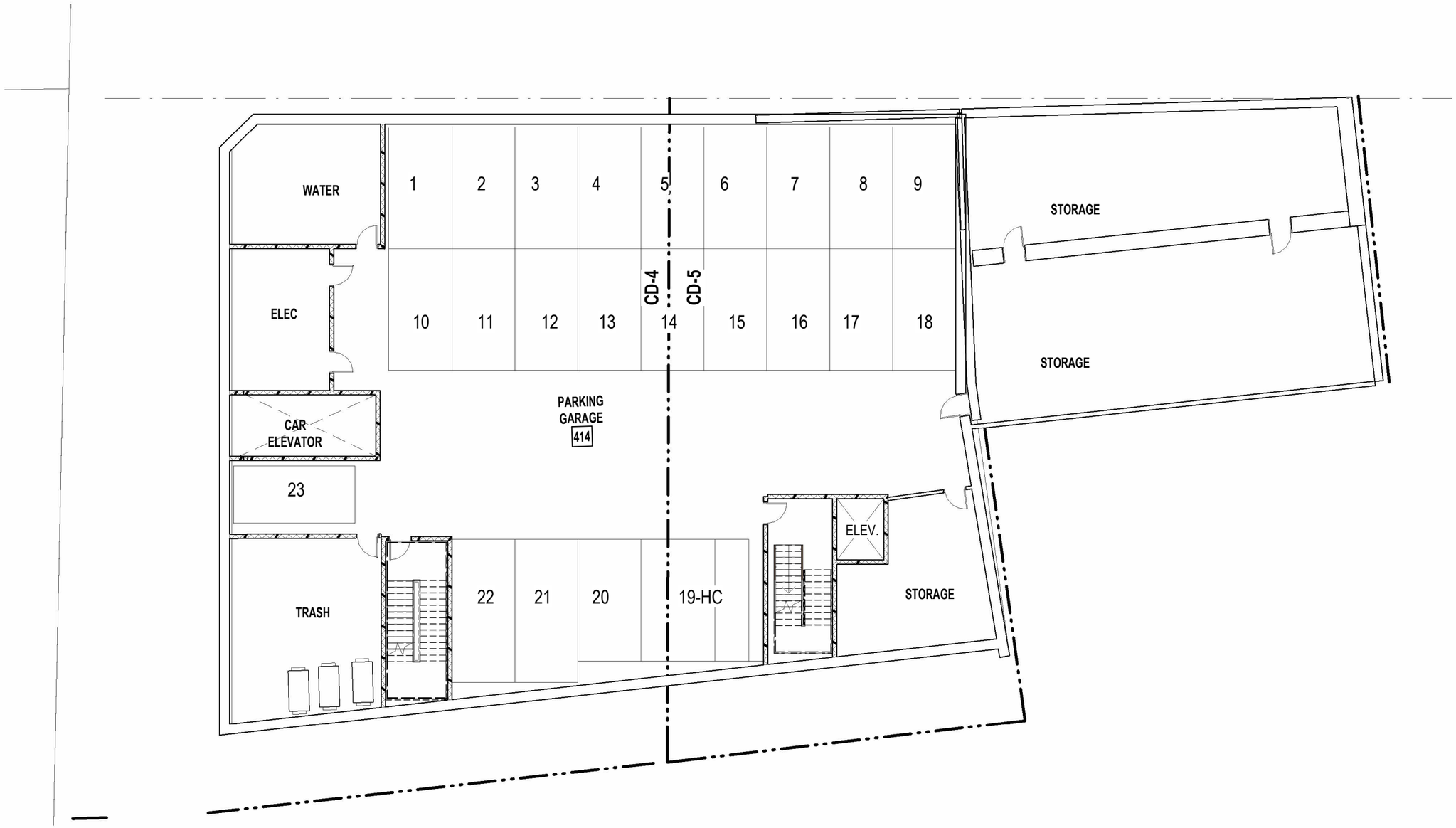

H5.15

BASEMENT PLAN
1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

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

0' 8' 16' 32'

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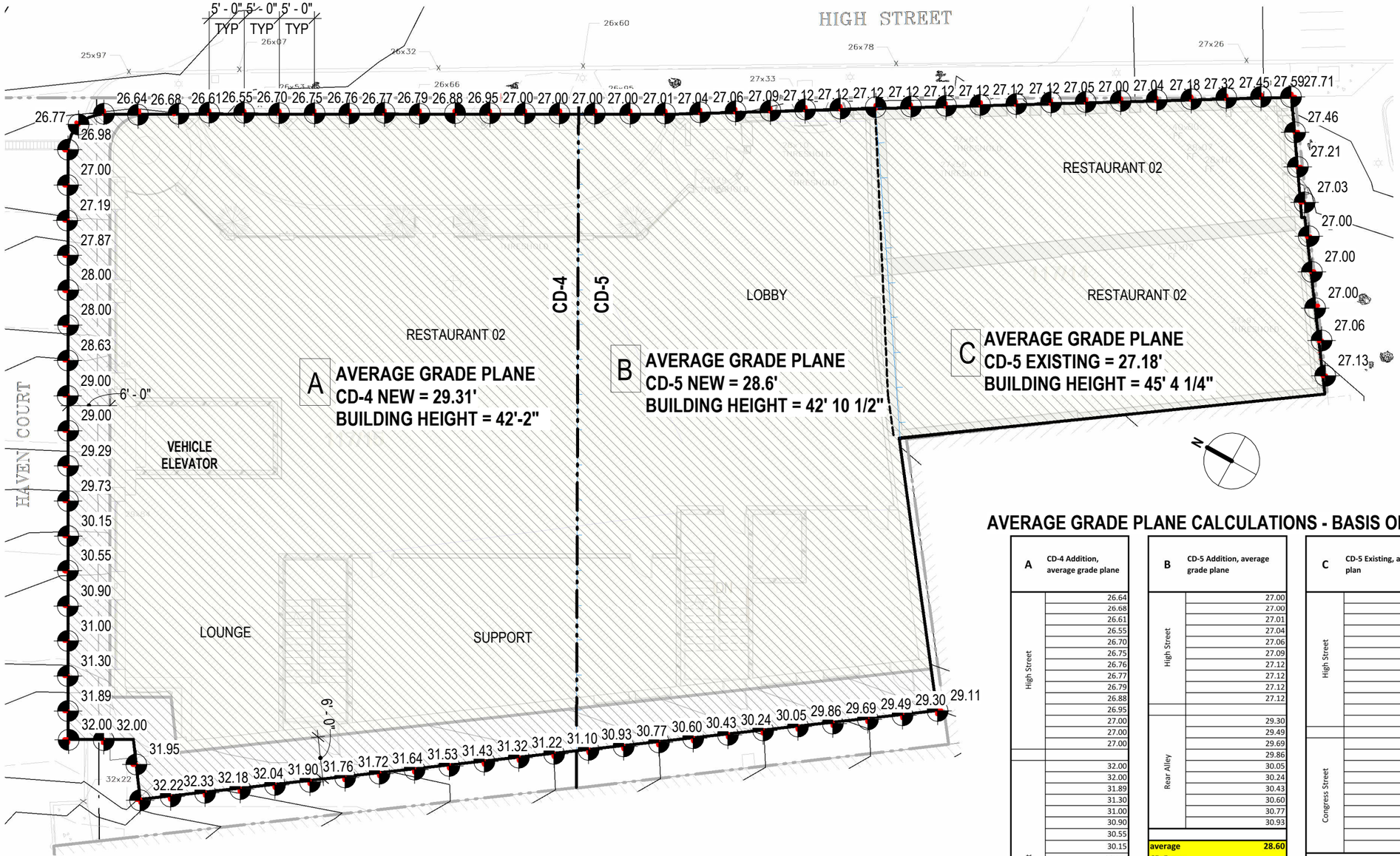

1 AVERAGE GRADE PLANE CALCULATION PLAN

1/16" = 1'-0"

AVERAGE GRADE PLANE CALCULATIONS - BASIS OF DESIGN

A	CD-4 Addition, average grade plane
High Street	26.64
	26.68
	26.61
	26.55
	26.70
	26.75
	26.76
	26.77
	26.79
	26.88
	26.95
	27.00
	27.00
	27.00
Haven Court	32.00
	32.00
	31.89
	31.30
	31.00
	30.90
	30.55
	30.15
	29.73
	29.29
	29.00
	29.00
	28.63
	28.00
	28.00
	27.87
	27.19
	27.00
	26.98
	26.77
Rear Alley	31.10
	31.22
	31.32
	31.43
	31.53
	31.64
	31.72
	31.76
	31.90
	32.04
	32.18
	32.33
	32.22
	31.95
average CD-4 new	29.31

Building Height: 42'-2"

B	CD-5 Addition, average grade plane
High Street	27.00
	27.00
	27.01
	27.04
	27.06
	27.09
	27.12
	27.12
	27.12
	27.12
Rear Alley	29.30
	29.49
	29.69
	29.86
	30.05
	30.24
	30.43
	30.60
	30.77
	30.93
average CD-5 new	28.60

Building Height: 42'-10 1/2"

C	CD-5 Existing, average grade plan
High Street	27.12
	27.12
	27.12
	27.12
	27.12
	27.05
	27.00
	27.04
	27.18
	27.32
	27.45
	27.59
Congress Street	27.71
	27.46
	27.21
	27.03
	27.00
	27.00
	27.00
	27.06
	27.13
	27.17
average CD-5 Existing	27.18

Building Height: 45'-4 1/4"

A,B&C	Combined CD4 & CD5; existing & new - Average Grade Plane
	26.64
	26.68
	26.61
	26.55
	26.70
	26.75
	26.76
	26.77
	26.79
	26.88
	26.95
	27.00
	27.00
	27.00
	27.00
	27.01
	27.04
	27.06
	27.09
	27.12
	27.12
	27.12
	27.12
	27.12
	27.12
	27.12
	27.12
	27.12
	27.12
	27.12
	27.05
	27.00
	27.04
	27.18
	27.32
	27.45
	27.59
	27.71
	27.46
	27.21
	27.03
	27.00
	27.00
	27.00
	27.06
	27.13
	29.11
	29.30
	29.49
	29.69
	29.86
	30.05
	30.24
	30.43
	30.60
	30.77
	30.93
	31.10
	31.22
	31.32
	31.43
	31.53
	31.64
	31.72
	31.76
	31.90
	32.04
	32.18
	32.33
	32.22
	31.95
	32.00
	32.00
	31.89
	31.30
	31.00
	30.90
	30.55
	30.15
	29.73
	29.29
	29.00
	29.00
	28.63
	28.00
	28.00
	27.87
	27.19
	27.00
	26.98
	26.77
Average - CD4 &CD5 combined	28.69

Building Height: 42'-9 1/2"

AVERAGE GRADE PLANE CALCULATIONS - TOTAL BUILDING

H5.16

AVERAGE GRADE PLANE
1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

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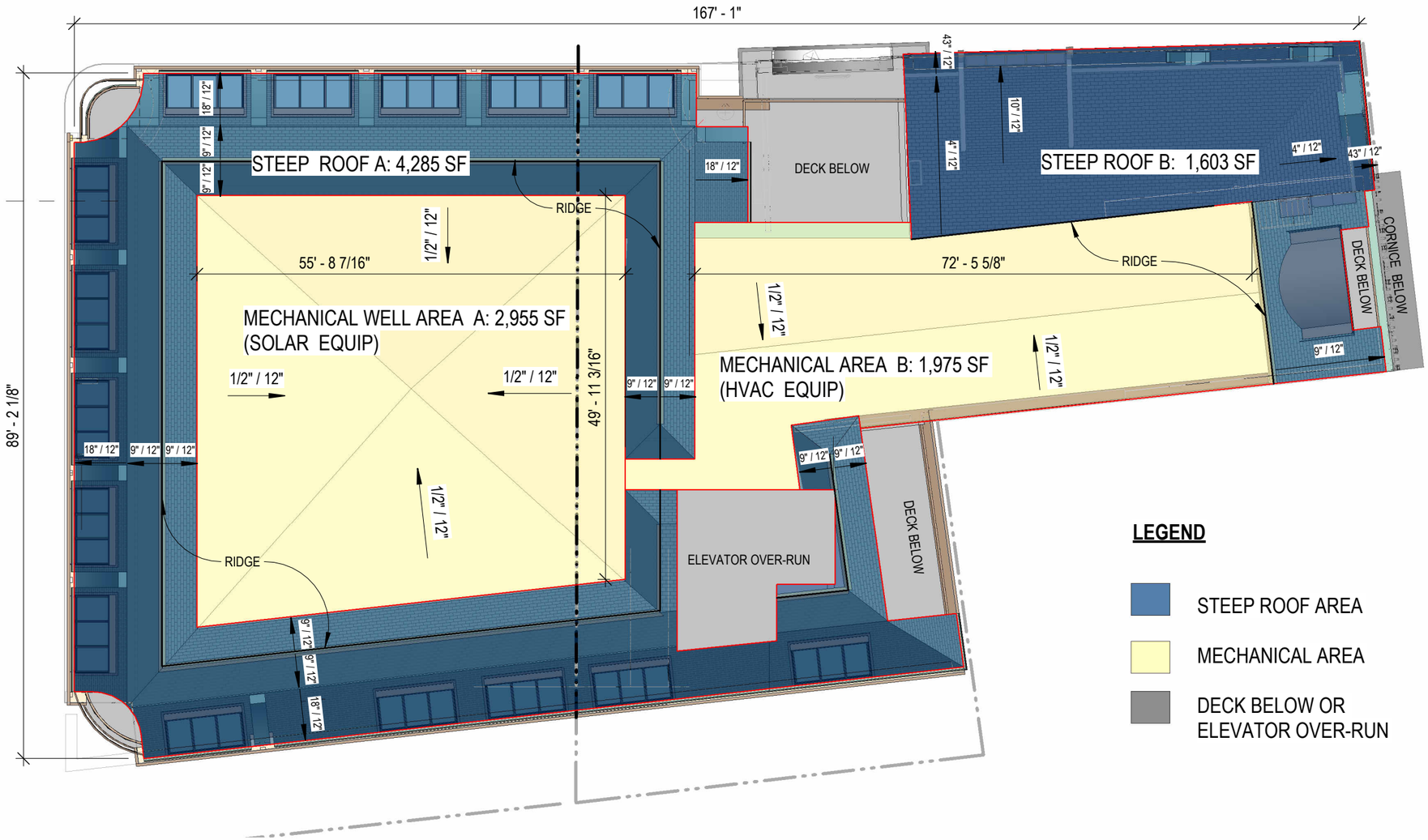

LEGEND

- STEEP ROOF AREA
- MECHANICAL AREA
- DECK BELOW OR ELEVATOR OVER-RUN

SLOPED ROOF AREAS	7/7/2022
STEEP ROOF AREA A	4,285
STEEP ROOF AREA B	1,603
Total	5,888
MECHANICAL AREA A	2,955
MECHANICAL AREA B	1,975
Total	4,930
TOTAL ROOF AREA	10,818
Slope roof % of total	54.43%
Flat roof % of total	**45.57%**

N

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

0' 8' 16' 32'

H5.17

ROOF AREA CALCULATIONS
1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

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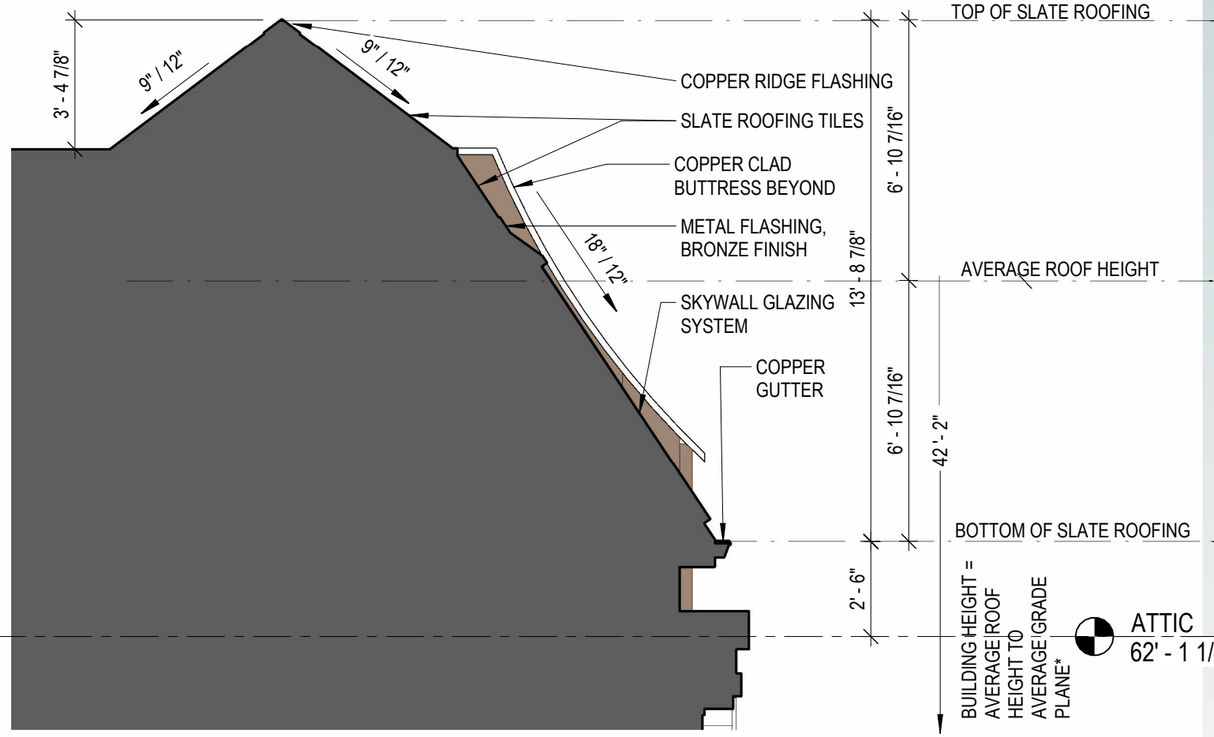
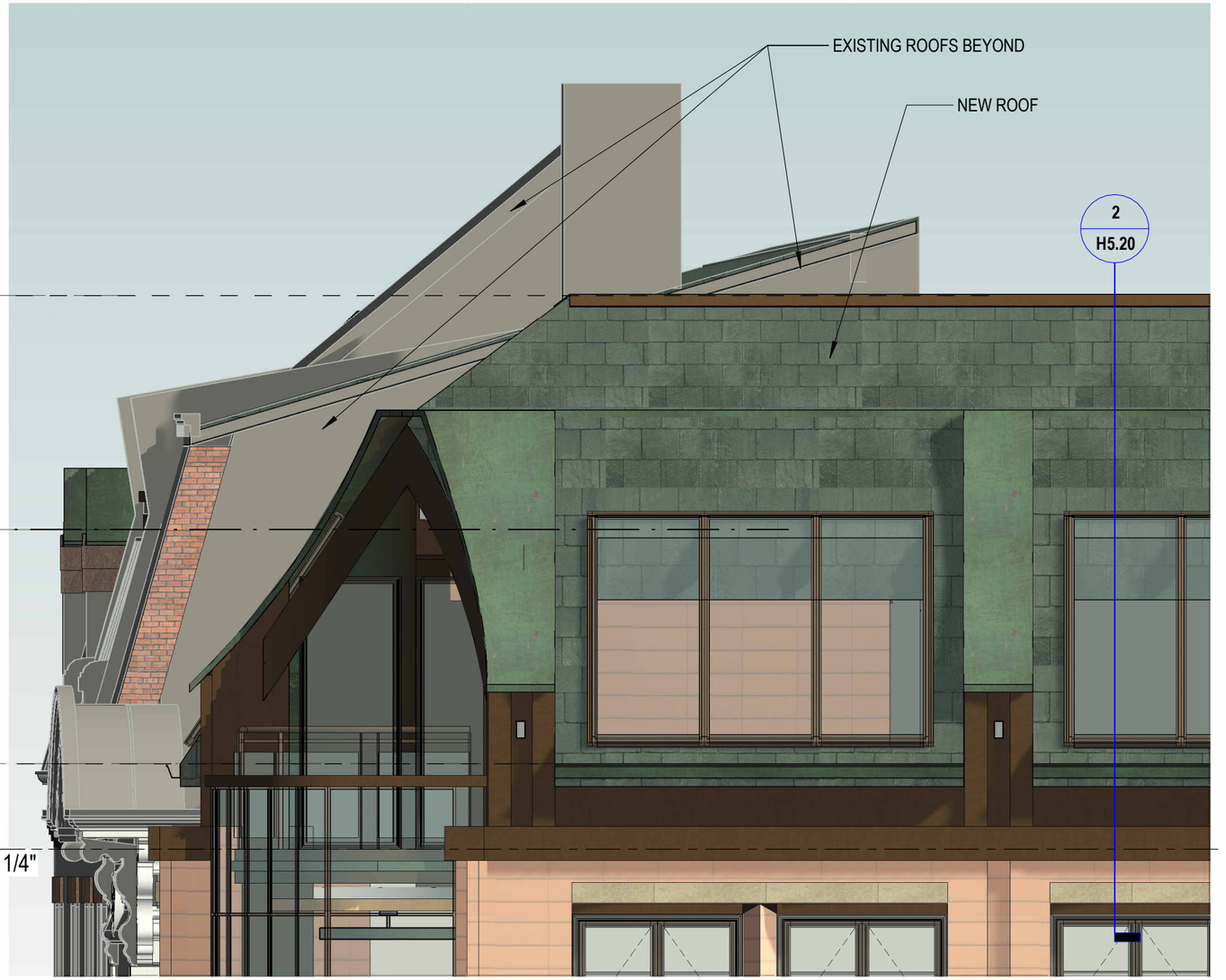


2 **SKYWALL DETAIL**
1/4" = 1'-0"



1 **PROPOSED ELEVATION - NW HAVEN COURT**
1/4" = 1'-0"

H5.20 **ROOF HEIGHT DETAIL - HAVEN CT**
1 CONGRESS STREET
SCALE: 1/4" = 1'-0"
7/12/2022

* FOR AVERAGE GRADE PLANE OF TOTAL BUILDING SEE SHEET H5.16

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1 PROPOSED ELEVATION - CONGRESS STREET

3/32" = 1'-0"

2 PROPOSED ELEVATION - CONGRESS STREET

1/8" = 1'-0"

H5.21 ELEVATION - CONGRESS STREET
1 CONGRESS STREET

SCALE: As indicated
7/12/2022

* FOR AVERAGE GRADE PLANE OF TOTAL BUILDING SEE SHEET H5.16

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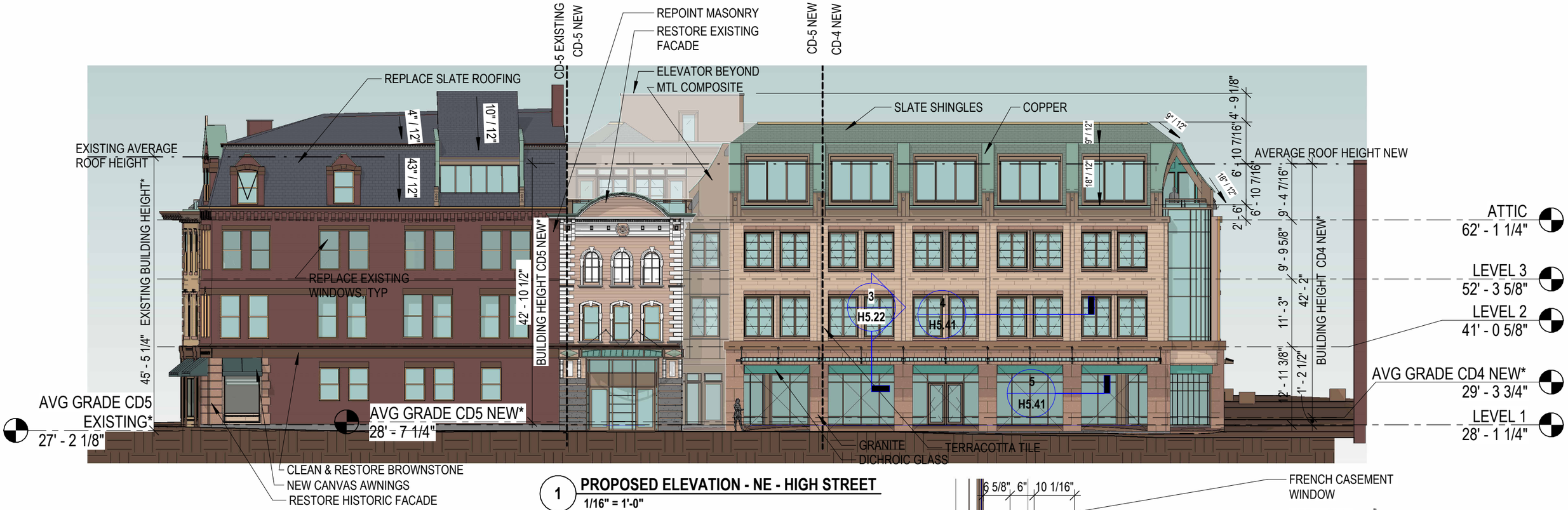


1 PROPOSED ELEVATION - NE - HIGH STREET
1/16" = 1'-0"

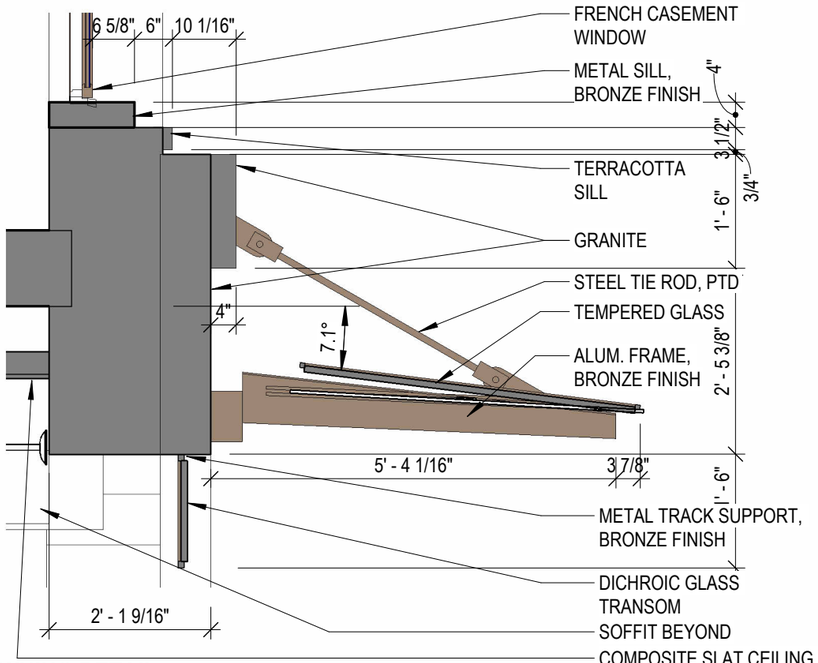
REPAIR & RESTORE
WOOD TRIM ELEMENTS AND SIDING

NEW METAL FRAMED MARQUIS
WITH GLASS INSERTS & CANOPY

RECREATE ORIGINAL
WOOD BRACKETS

RESTORE/RECREATE
ORIGINAL GRANITE BASE

2 PROPOSED ELEVATION - NE - HIGH STREET
1/8" = 1'-0"



3 HDC AWNING DETAIL
1/2" = 1'-0"

H5.22 ELEVATION - HIGH STREET
1 CONGRESS STREET

SCALE: As indicated
7/12/2022

* FOR AVERAGE GRADE PLANE OF TOTAL BUILDING SEE SHEET H5.16

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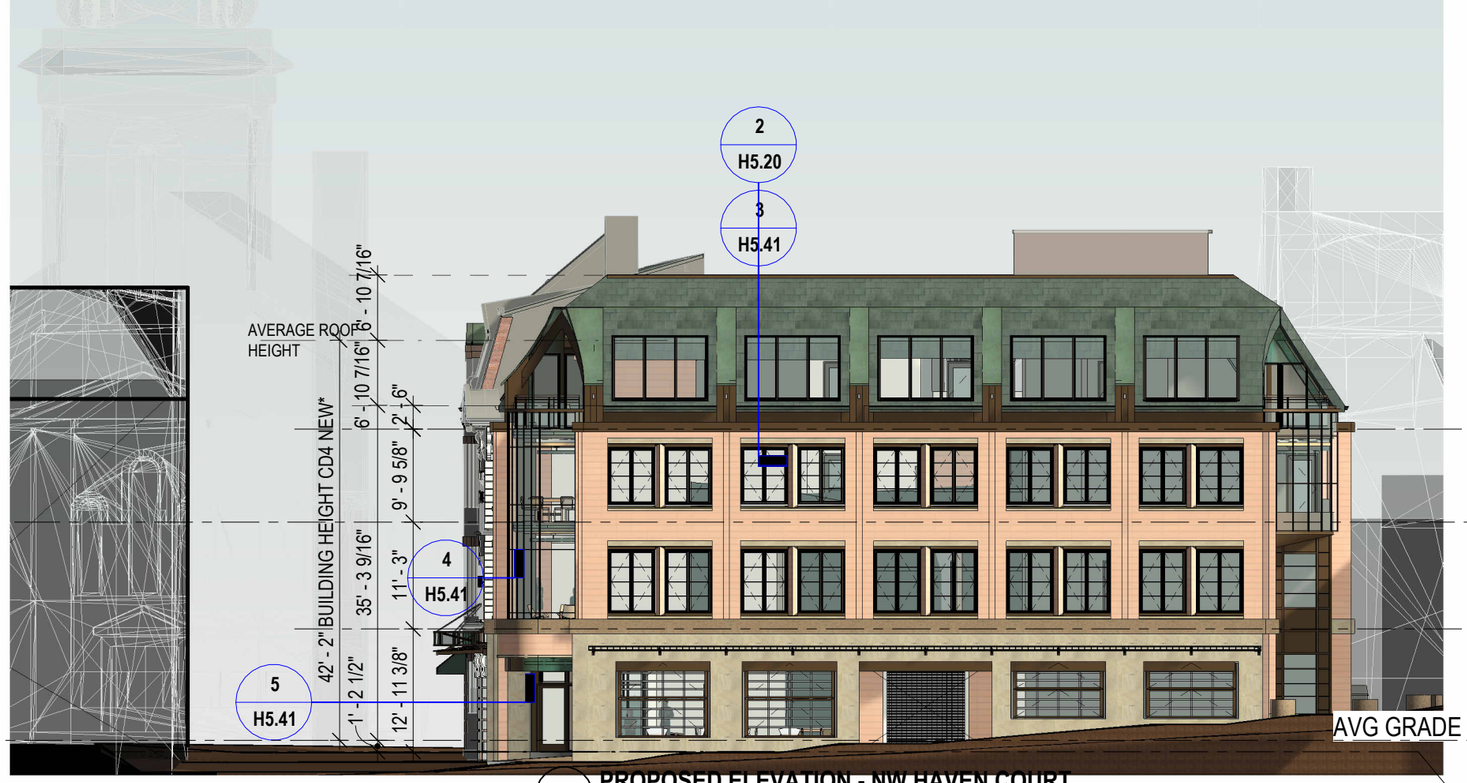
2 **NORTH ELEVATION - HIGH STREET & HAVEN COURT (OBLIQUE)**
1/16" = 1'-0"



1 **PROPOSED ELEVATION - NW HAVEN COURT**
1/16" = 1'-0"

ATTIC
62' - 1 1/4"

LEVEL 3
52' - 3 5/8"

LEVEL 2
41' - 0 5/8"

AVG GRADE CD4 NEW*
29' - 3 3/4"

LEVEL 1
28' - 1 1/4"

H5.23 **ELEVATIONS - HAVEN COURT**

1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

* FOR AVERAGE GRADE PLANE OF TOTAL BUILDING SEE SHEET H5.16

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H5.24 SW ELEVATION - REAR ALLEY

1 CONGRESS STREET

SCALE: 1/16" = 1'-0"
7/12/2022

* FOR AVERAGE GRADE PLANE OF TOTAL BUILDING SEE SHEET H5.16

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H5.31 **BIRDSEYE AXONOMETRIC**
1 CONGRESS STREET
SCALE:
7/07/2022

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H5.32 **VIGNETTE - CONGRESS STREET**

1 CONGRESS STREET

SCALE:
6/17/2022

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H5.33

VIGNETTES - HIGH FROM CONGRESS
1 CONGRESS STREET

SCALE:
6/17/2022

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ARCHITECTS

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H5.34 **HIGH STREET FROM STARBUCKS**
1 CONGRESS STREET

SCALE:
6/17/2022

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H5.35 VIGNETTE - HAVEN CT FROM LADD ST
1 CONGRESS STREET

SCALE:
6/17/2022

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H5.36 **VIGNETTE - HIGH AT LADD & HAVEN**

1 CONGRESS STREET

SCALE:
6/17/2022

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H5.37 **VIGNETTE - HAVEN CT AT NEWBERRY**

1 CONGRESS STREET

SCALE:
6/17/2022

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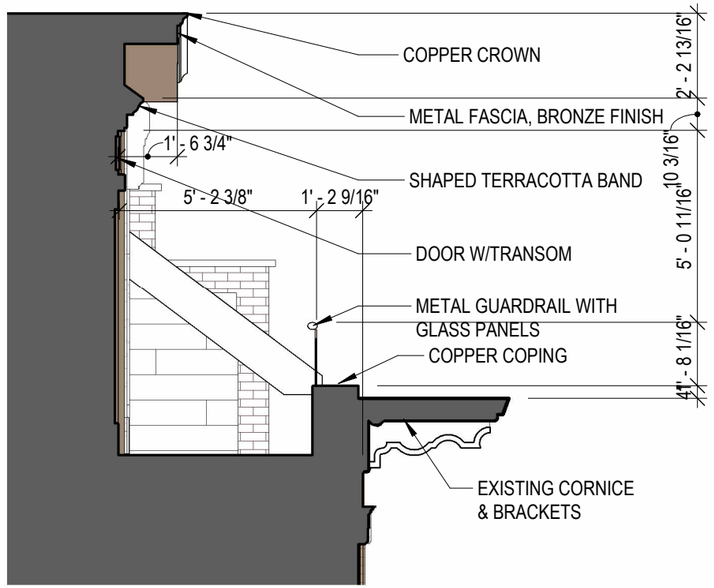
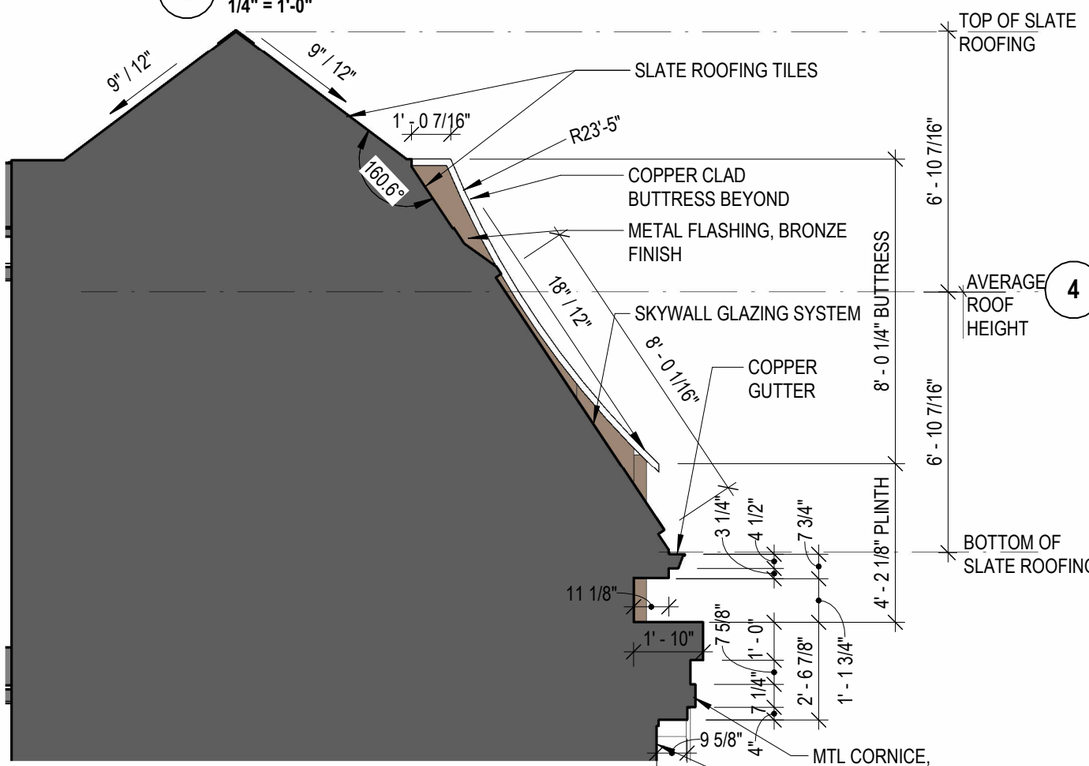
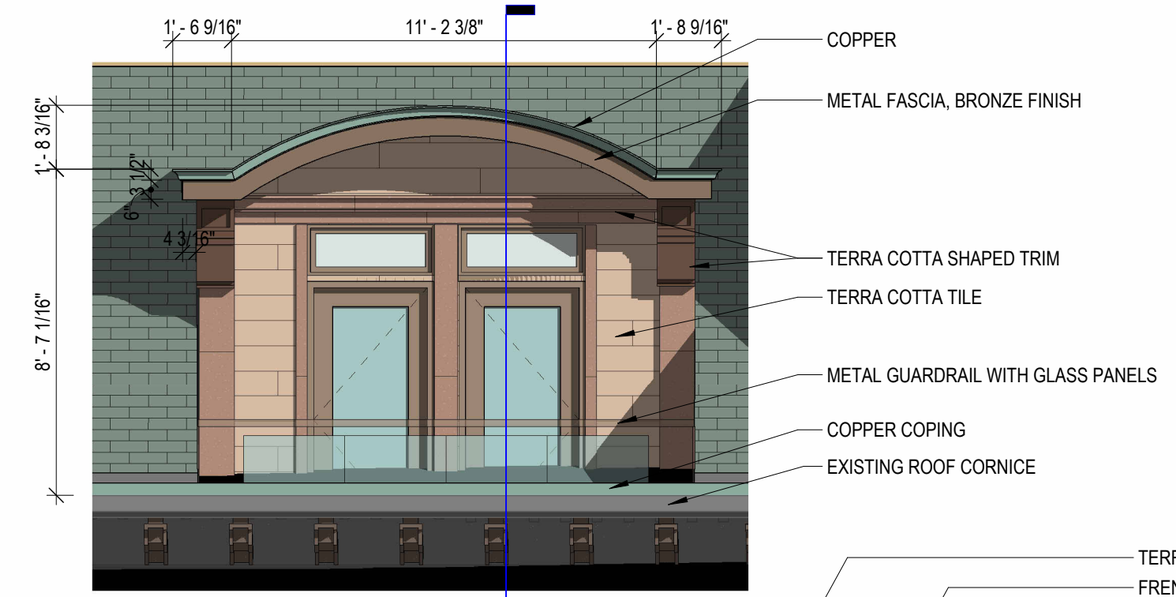


2 HDC DORMER SECTION
1/4" = 1'-0"

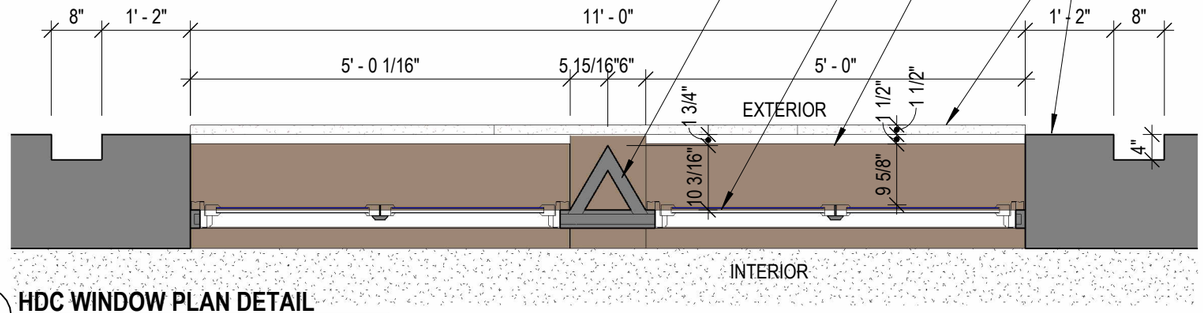


3 HDC SKYWALL DETAIL
1/4" = 1'-0"

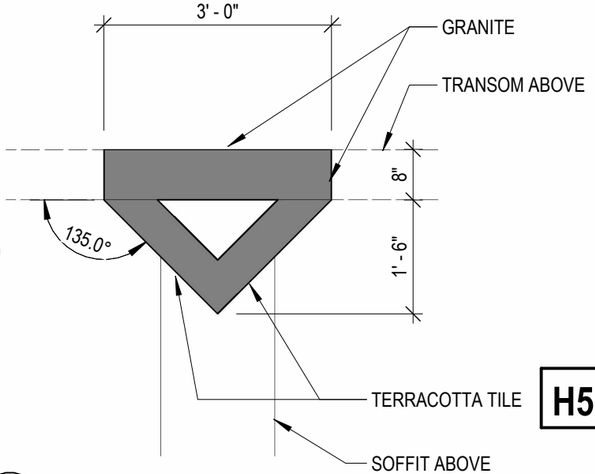


1 HDC DORMER ELEVATION
1/4" = 1'-0"

2
H5.41



4 HDC WINDOW PLAN DETAIL
1/2" = 1'-0"



5 HDC ARCADE PIER DETAIL
1/2" = 1'-0"

H5.41 DETAILS
1 CONGRESS STREET
SCALE: As indicated
7/12/2022

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Pella® Architect Series®

Traditional Wood & Clad/Wood

Expertly crafted wood windows and patio doors with nearly endless possibilities.

Double-Hung Interior

Double-Hung Exterior

- **Designed with distinguished details**
  Crafted with classic aesthetics to make a statement and add architectural interest to your project, inside and out.
- **Enhanced style options and custom capabilities**
  Maximum design flexibility with dramatic sizes, custom colors, finishes, profiles, product types and more.
- **Authentic look of true divided light**
  Pella's Integral Light Technology™ grilles use a metal spacer to create the authentic look of true divided light by casting a more realistic shadow.
- **Interior finish options**
  From light to dark, Architect Series – Traditional wood windows and patio doors are available in an array of classic and on-trend colors. Pine interiors are available in a variety of paint and stain colors.
- **Beautiful hardware**
  Choose from Pella's collection of rich patinas and other timeless finishes.
- **Optional integrated security sensors**
  Built-in security sensors allow homeowners to know when their windows and doors are open or locked, while being virtually invisible when the product is closed.
- **ENERGY STAR® certified[1]**
  Pella products offer energy-efficient options that will meet or exceed ENERGY STAR guidelines in all 50 states. Pella Architect Series – Traditional products with triple-pane glass have been awarded the ENERGY STAR Most Efficient Mark in 2022.[1]
- **Long-lasting durability**
  Aluminum-clad exteriors with EnduraClad® finish is applied in an overlapping fashion on windows for exceptional protection. Pella's exclusive EnduraGuard® wood protection is applied after the pieces have been cut and milled, but prior to final assembly.
- **Best limited lifetime warranty[2]**
  Pella Architect Series – Traditional products are covered by the best limited lifetime warranty in the industry for wood windows and patio doors.[2]
- **Testing beyond requirements**
  At Pella, our products are tested beyond requirements to help ensure they have long-lasting performance and reduce call-backs for you.

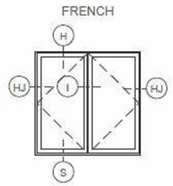
Available in these window and patio door styles:

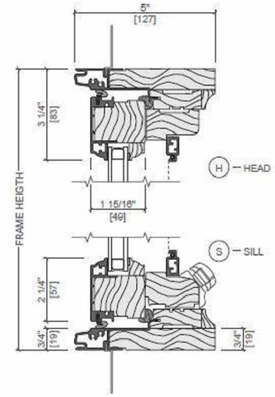
Special shape windows also available.

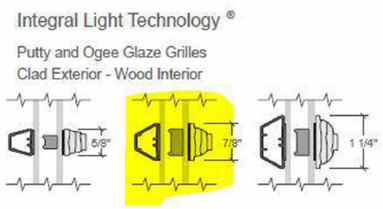
[1,2] See back cover for disclosures.

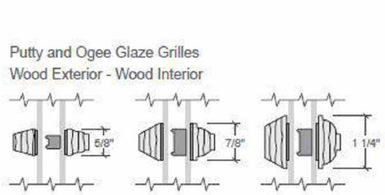
Pella® Reserve™ Out-Swing French Casement Window

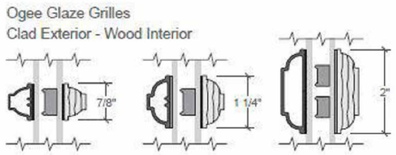
Unit Sections - Aluminum-Clad Exterior

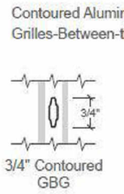


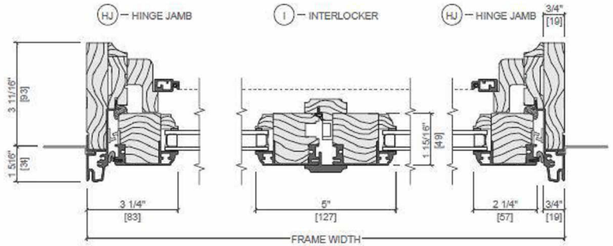






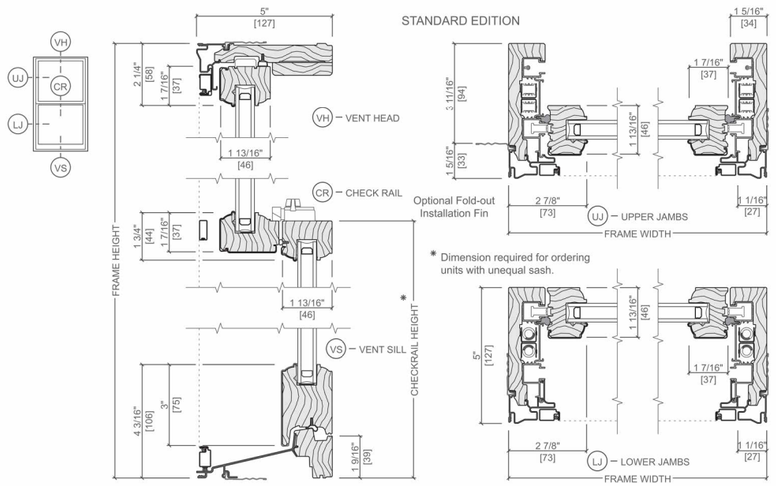






Architect Series® Traditional Hung Window

SE Unit Sections - Aluminum-Clad Ogee Exterior Glazing Profile



Colors

Wood Types

Wood species for complementing your project's interior.

Pine

Prefinished Pine Interior Colors

Custom interior finishes, unfinished or primed and ready-to-paint are also available.

White | **Bright White** | **Linen White** | **Natural Stain** | **Golden Oak Stain** | **Early American Stain** | **Provincial Stain** | **Dark Mahogany Stain**

Red Mahogany Stain | **Espresso Stain** | **Charcoal Stain** | **Black Stain**

Aluminum-Clad Exterior Colors

Our low-maintenance EnduraClad® exterior finish resists fading. Take durability one step further with EnduraClad Plus which also resists chalking and corrosion.[8]

Custom colors are also available.

Black | **White** | **Brown** | **Fossil**

Iron Ore | **Portobello** | **Putty** | **Almond** | **Classic White** | **Brick Red** | **Hartford Green**

H5.50 **MATERIALS - WINDOWS**

1 CONGRESS STREET

SCALE:
6/17/2022

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CROWN LIFTING BIFOLDING DOORS

For additional information, please review our installation video:
https://youtu.be/BdnS8M6_oto

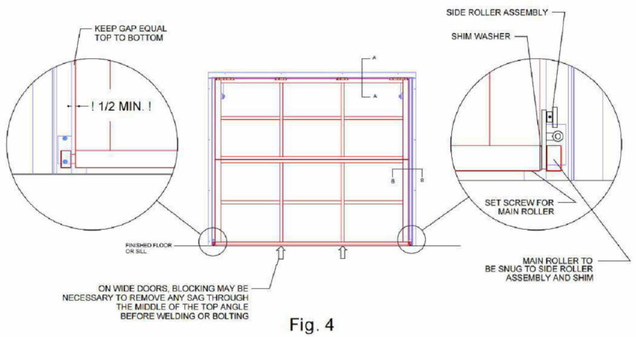


Fig. 4

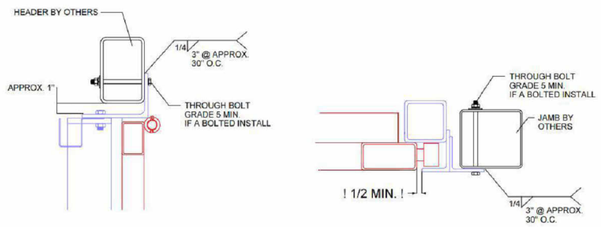


Fig. 5

Northlight 25-90°

Similar to Longlights, Northlights are bands of VELUX Modular Skylights. The characteristic upright design is primarily for installations that are directed towards the northern hemisphere for soft and reflected lighting. Northlight installations are applicable for a pitch of 25 to 90°.

At the bottom, Northlights are mounted on a standard steel profile, 100 mm wide (not a VELUX component) and fixed with clamps holding the skylight in place. At the top, the brackets are fixed to the sub-construction with screws meant for wood.

The prefabricated modular flashing ensures easy integration in the roof surface. All flashings are easily installed. The roof surface underneath the flashing must be appropriate for screw fixation.

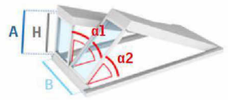
Please observe a max. 10 m wall height above skylight module, when installed in a sloped roof. Take notice that the top flashing changes in size above and below 54°, see sectional drawing page 59.

Sub-construction for Northlight at:
veluxcommercial.com

Defining module size to your project

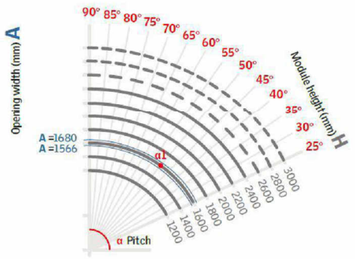
Example:
α1: H = 1600 mm at an installation pitch of 50°

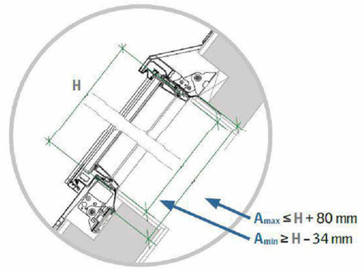
A_{max} = 1680 mm
A_{min} = 1566 mm



H: Module height
α: Installation pitch
A: Opening width
B: Opening length

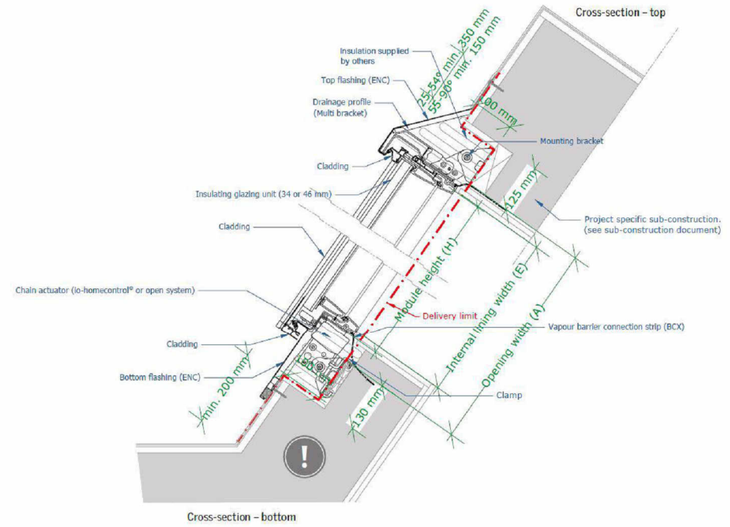
Installation pitch α

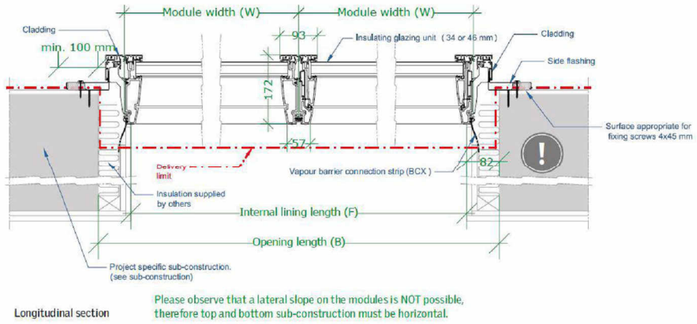




58 — — Not available as venting modules as default.

Sectional drawings





Longitudinal section

Please observe that a lateral slope on the modules is NOT possible, therefore top and bottom sub-construction must be horizontal.

VELUX Commercial 59

ROOF WINDOWS - VELUX "NORTHLIGHT"

H5.51 MATERIALS - FENESTRATION

1 CONGRESS STREET

SCALE:
6/17/2022

ARCOVE ARCHITECTS

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STOREFRONTS

WINDOWS • CURTAIN WALLS • ENTRANCES • STOREFRONTS

XTHERM® EFCO

Series 403X
2" x 4 1/2" Thermal Storefront Framing

CONFIGURATIONS

Shear Block • Screw Spline

This innovative flush glaze storefront framing system utilizes a dual pour and debridge thermal barrier that provides outstanding energy efficiency. Available in either shearblock or screw spline construction, the 403X Series can be used in conjunction with virtually all EFCO entrance systems and V410 vents. A variety of options are available for use with this system, including sunshade mullions and variable sight line horizontals. Steel reinforcement is also available to enhance structural capability.

Features	Benefits
Dual pocket thermal barrier framing	Enhanced thermal performance and reduced energy cost
Screw spline or shearblock construction	Decreases installation labor and cost
	Ability to erect on the job site
The optional Roto-Vent™ ventilator	Allows fresh air into the room, yet maintains security
2-way (90° and 135°) and 3-way corner mullions	Multifaceted elevations for design flexibility
0°-15° and 15°-30° variable mullions	Increased design flexibility
Accommodates up to 1 1/16" glazing	Expands design and energy savings options
Uniform glazing gasket is used for exterior and interior	Allows optimized use of gasket and reduces inventory
	Simplifies ordering and installation
Various height intermediate horizontals and sills	Ability to maintain desired sight line
Accessory line of perimeter anchors, pocket fillers, door adaptors, etc.	Increased product versatility
Anodized or painted finishes available	Multiple options to answer economic and aesthetic concerns

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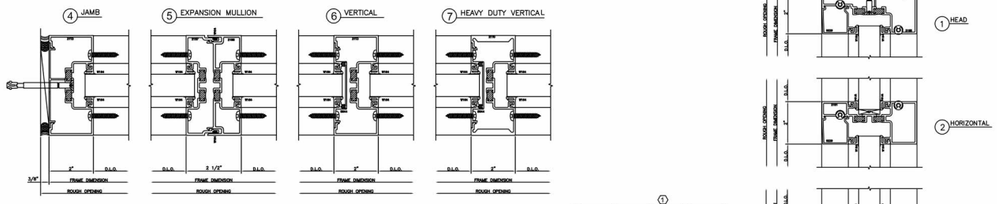
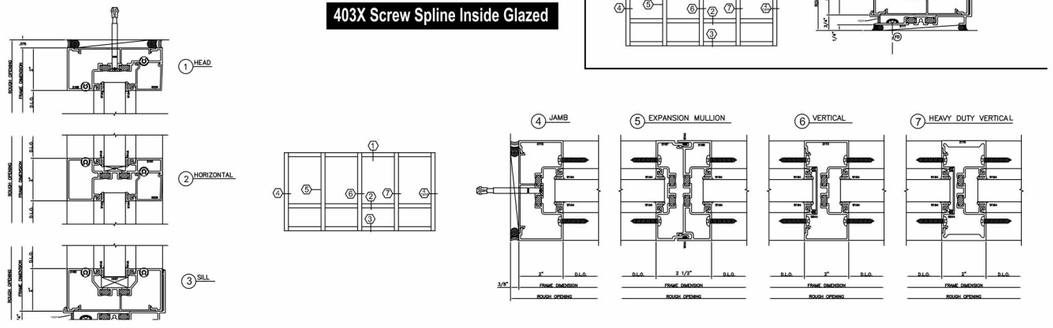
rporation 05/15

403X Screw Spline Outside Glazed Stops Down



403X Screw Spline Inside Glazed



STOREFRONT TRANSOMS

3M™ Dichroic Film for Laminated Glass

Compatible with EVA, SentryGlas® or PVB interlayer adhesives.
Available in gold-blue or copper-bronze colors.

Flexible

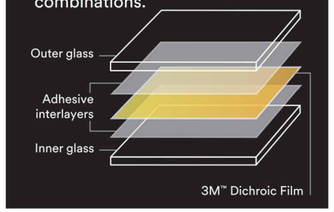
Film can be printed, cut, patterned, bent, or combined with different glass types or interlayer adhesives.

Versatile

Applications include shading fins, balustrades, exterior glass, partition walls, shower doors, artistic glass and furniture.

How is it made?

3M™ Dichroic Film is easily laminated between sheets of adhesive interlayers. It's conformable for bent glass applications and works with different glass and PVB combinations.

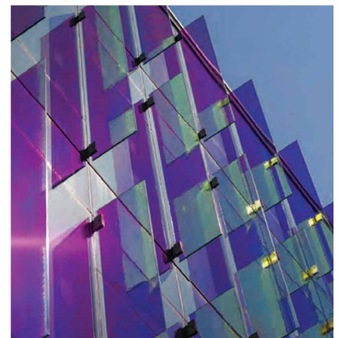


Gold-Blue Dichroic Film

In Transmission (Shown)	In Reflection
Yellow ▶ Magenta ▶ Blue	Gold (straight) Blue (angle)

Copper-Bronze Dichroic Film

In Transmission (Shown)	In Reflection
Magenta ▶ Blue ▶ Aqua	Copper (straight) Bronze (angle)



Solar performance of clear laminated glass

	Reflection Visible	Transmission Visible	Transmitted Energy	Reflected Energy	Absorbed Energy	TSER	SHGC
Gold-Blue Dichroic Glass	89%	11%	56%	29%	15%	39%	0.61
Copper-Bronze Dichroic Glass	29%	71%	55%	29%	17%	41%	0.59

Make an impression at 3M.com/Glass.

Technical Information: The technical information, recommendations and other statements contain ut the
information is not guaranteed.

Product Use: Many factors beyond 3M's control and uniquely within user's knowledge and contro he va
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Warranty, Limited Remedy, and Disclaimer: Unless an additional warranty is specifically stated o prod
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to this warranty, then the sole and exclusive remedy is, at 3M's option, replacement of the 3M pro

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3M

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St. Paul, MN 55144-1000
3M.com/glass

3M is a rcle.
Used u . All
701-

H5.52

MATERIALS - ARCADE FENESTRATION
1 CONGRESS STREET

SCALE:
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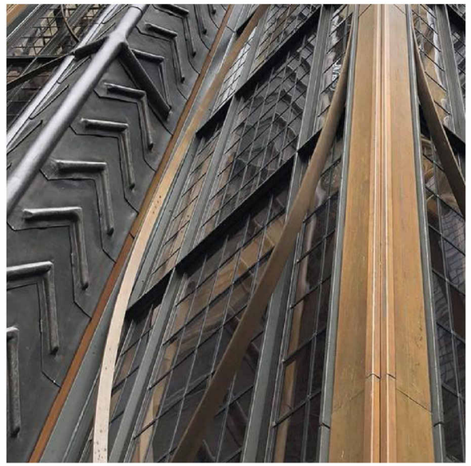
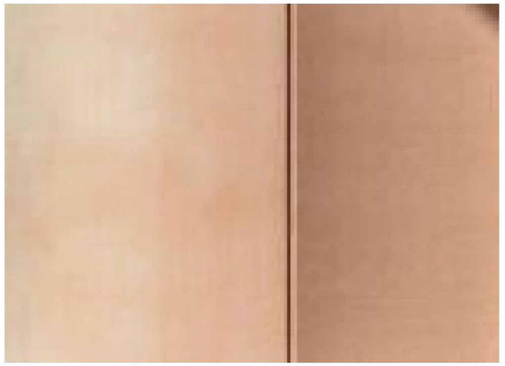


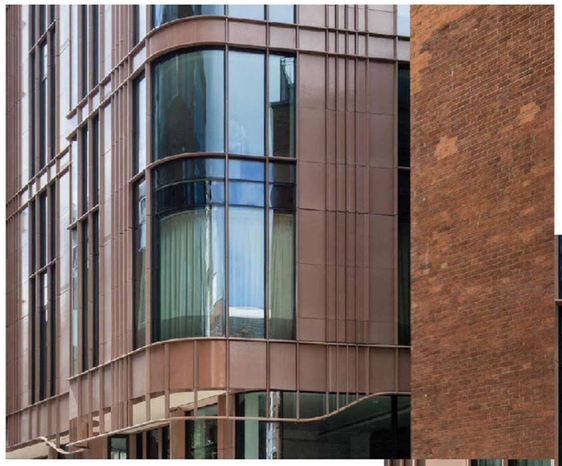
BRONZE FINISH - METAL ACCENTS -
WINDOW & DOOR FRAMES,
AWNINGS, DORMER LEVEL CLADDING.

Upper walls, cladding

Terra Cotta, glazed tile

TERREAL, PITERAK SLIM





Marylebone Lane Mansion
London
Glaze color: Tea with Milk

Lower walls, cladding

Granite

Deer Isle

At restored Facades

Carolina Coral

First floor addition, field color

Autumn Pink

First floor addition - accent color

H5.53 **MATERIALS - CLADDING**
1 CONGRESS STREET
SCALE:
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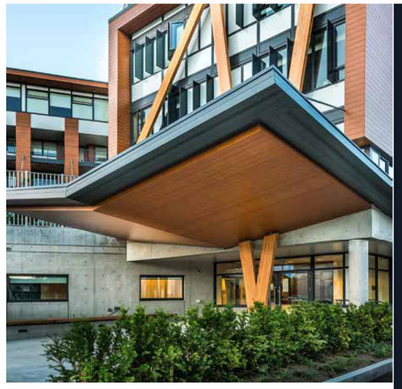
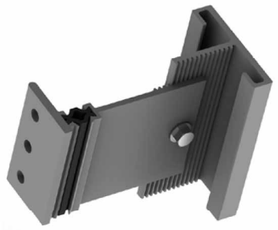
SOFFIT-CEILING AT ARCADE DROP-OFF





- thermally broken
- made of light weight aluminum
- supports continuous insulation
- creates a rain screen
- response time within 24 hours
- supports other cladding up to 8 lbs per sq ft.
- adjustable for sub-wall misalignment
- health product declarations
- support for specifications + drawings
- built for seismic zones

easy to use	quick delivery
solid warranty	durable finishes

longboardproducts.com

LONGBOARD®
INSPIRING FACADES

LONGBOARD®

WOODGRAIN OPTIONS

Our woodgrain options are divided into four categories based on the consistency of the wood grain pattern.

CONSISTENT

COMPOSITE WALL PANELS (ELEVATOR OVER-RUN AND RECESSED ACCENTS)

ALUCOBOND Products

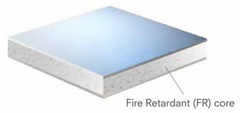
ALUCOBOND®
GIVING SHAPE TO GREAT IDEAS

PROPERTIES AND BENEFITS

- Flatness and Rigidity
- Lightweight
- Durability
- Custom color expertise
- Formability
- Ease of fabrication
- Perforation capabilities
- 89 stocked ACM colors
- Complementary flat aluminum sheet colors
- Can contribute toward LEED points
- 100% recyclable
- Zero VOC's emitted in use
- EPD in compliance with International ISO Standards

ALUCOBOND® PLUS

4mm ACM comprised of two sheets of smooth .020" aluminum thermobonded to a solid, fire retardant core. Developed exclusively to meet fire performance requirements while providing the benefits & versatility of ACM.



Product Properties

Thickness of aluminum skin	0.020" (nominal)
Product thickness	0.157" (4mm nominal)
Weight	1.56 lb/ft²
Standard panel dimension*	62" x 196"
Maximum width**	62"
Maximum length**	400"

ALUCOBOND® AXCENT™

A solid .040" flat aluminum sheet that offers the perfect complement to ALUCOBOND PLUS. AXCENT is excellent for columns, parapet caps, canopies, soffits, and trim.

Product Properties

Product thickness	0.040" (nominal)
Weight	0.56 lb/ft²
Standard width	48"
Standard length	120"

ALUCOBOND® EasyFix™

ALUCOBOND EasyFix is a cost-effective installation method for wood-frame construction in multifamily and mixed-use sectors. The simple installation method utilizes an innovative design for attachment of ALUCOBOND PLUS panels. The design provides an aesthetic solution similar to traditional ACM systems.

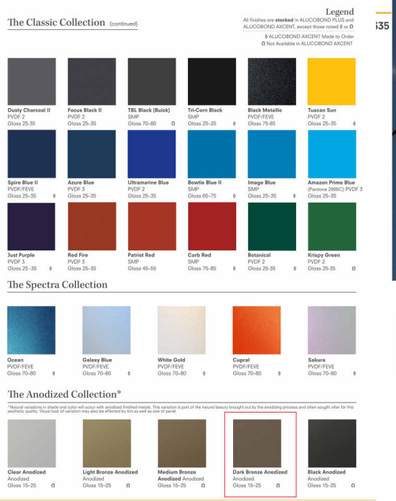
ALUCOBOND EasyFix must be used with:
- ALUCOBOND PLUS
- ALUCOBOND EasyFix: Clips or Rails

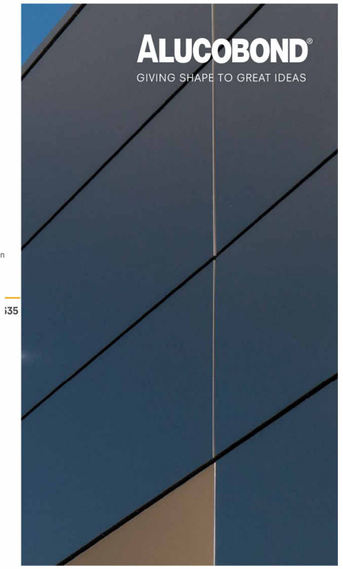
Product Properties

Weight	1.9 lb/ft²
Weight	1.56 lb/ft²
Standard panel dimension*	40" x 196"
Maximum panel width/length	62"/400"
Clip length	3"
Rail length	12'

* Exceptions to standard dimensions include mirror, print, and others. Refer to product range table on next page.
** Sheets will be fabricated to meet custom panel sizes within product range above.

** Sheets may be fabricated to meet custom panel sizes within maximum product range above.





ROOFING - NATURAL SLATE

GRAY-GREEN, SEMI-WEATHERING NATURAL SLATE; VERMONT SLATE

H5.54 **MATERIALS - CLADDING**
1 CONGRESS STREET
SCALE:
6/17/2022

ARCOVE ARCHITECTS

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

OF COUNSEL
JAMES H. SCHULTE

Bruton & Berube, PLLC

ATTORNEYS AT LAW

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Dover, NH 03820

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

www.brutonlaw.com

February 23, 2022

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

RE: 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
Case Number: LU-22-12

Dear Mr. Parrott:

Enclosed please find the following materials in support of the above-named Applicant's request for Variance:

1. Appeal of Administrative Decision. With associated exhibits (11 copies).

Please note that the project being proposed by the Applicant has previously been submitted to the City under other Planning Department applications and, as such, the Applicant has not submitted a new application for the relief from the administrative decision being requested herein, as these requests are associated with the proposed project.

In addition to the above, we understand, by submitting this application today, that this matter will be placed on the board's agenda for its meeting of March 15, 2022.

Should there be any questions regarding this application, please do not hesitate to contact us.

Sincerely,

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

FXB/mas
Enclosures
cc: One Market Square, LLC
Ambit Engineering, Inc.
ARCove, LLC

PORTSMOUTH ZONING BOARD OF ADJUSTMENT

APPEAL OF ADMINISTRATIVE DECISION
OF THE PORTSMOUTH PLANNING DIRECTOR

TAX MAP 117, LOTS 14 & 15

One Market Square, LLC – Applicant

NOW COMES, One Market Square, LLC ("One Market Square"), Applicant, and respectfully requests that the Portsmouth Zoning Board overturn the Planning Director's determination that the merged parcel located at 1 Congress Street, depicted on the city of Portsmouth Tax Maps as Map 117, Lots 14 & 15[1] (hereinafter referred to as the "Lot"), is not subject to the benefit of the height allowances (3 stories, 4th short, 45 feet in height) pursuant to Map 10.5A21B "Building Height Standards," as set forth within the Portsmouth Zoning Ordinance (the "PZO"), and as permitted pursuant to Section 10.5A21.22 (a) & (c) of the PZO.

I. SUPPORTING MATERIALS

A. Correspondence from Francis X. Bruton, Esq., dated January 31, 2022 to Portsmouth Panning staff, including Ms. Beverly M. Zendt, AICP, Portsmouth Planning Director (copy enclosed); and

B. Correspondence from Beverly M. Zendt, AICP, Portsmouth Planning Director to Francis X. Bruton, Esq., dated February 2, 2022, including correspondence from Nicholas J. Cracknell, AICP, Portsmouth Principal Planner to Ms. Zendt dated February 1, 2022 (copy enclosed); and

C. Correspondence from Francis X. Bruton, Esq., dated February 7, 2022 to Portsmouth Panning to Ms. Beverly M. Zendt, AICP, Portsmouth Planning Director and Nicholas J. Cracknell, AICP, Portsmouth Principal Planner (copy enclosed); and

D. Copy of Notice of Voluntary Merger of Contiguous Lots, RCRD Book 6381, Page 1527

E. Copy of Map 10.5A21B (copy enclosed); and

F. Copy of a recorded plan C-34500 in the Rockingham Registry of Deeds; and

G. Copy of a recorded plan D-43095 in the Rockingham Registry of Deeds; and

[1] Pursuant to NH RSA 674:39-a, on or about February 2, 2022, the property located at 1 Congress Street, depicted on the city of Portsmouth Tax Maps as Map 117, Lots 14 & 15 was voluntarily merged as contiguous lots, as approved by the Portsmouth Planning Board. The Notice of Voluntary Merger of Contiguous Lots, signed by the Planning Director on February 7, 2022, is recorded at the Rockingham County Registry of Deeds at Book 6381, Page 1527 (copy enclosed).

H. City's street records, entitled "Accepted City of Portsmouth Street;" and
I. City's street records, entitled "Miscellaneous Street Information."

II. STANDARD OF REVIEW

Pursuant to Section 10.234.30 of the PZO provides that the Portsmouth Zoning Board to hear appeals regarding the decision or a Code Official. Section 10.1530 of the PZO provides that the Planning Director is a Code Official.

Pursuant to RSA 676:5, I, "[a]ppeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 674:33 may be taken by any person aggrieved...by any decision of the administrative officer." As the owner of the Lot, One Market Square, LLC is an aggrieved party.

In hearing appeals of administrative decisions, a zoning board has "all the powers of the administrative official from whom the appeal is taken." RSA 674:33. Thus, the Board undertakes a *de novo* review of the administrative decision. 15 Loughlin, *New Hampshire Practice, Land Use Planning and Zoning* §22.03, at 356-57 (*citing Oullette v. Town of Kingston*, 157 N.H. 604, 609 (2008)). The Board is not limited to determining the reasonableness of the Planning Board's decision. Rather, a *de novo* review requires that the reviewing body "decides the matter anew, neither restricted by nor deferring to decisions made below." *Town of Hinsdale v. Town of Chesterfield*, 153 NH 70, 73 (2005).

III. BACKGROUND

The proposed project will be comprised of the renovation of a portion of the existing historic structure located on former Lot 14[2] and the new construction of an addition to the historic structures on former Lot 14 and a new connected building in the parking lot of former Lot

[2] Reference will be made to "former Lot 14" & "former Lot 15," as the Portsmouth Assessor has not yet assign a lot number to the merged one lot.

15. It is the intent of One Market Square, LLC to create a uniform structure on the merged new lot with a height of less than 45 feet, as calculated by the PZO, and with a 4th short story.

Pursuant to Map 10.5A21B (hereinafter the "Height Map") (relevant portion attached) within the PZO, former Lot 15 is subject to a height restriction of 2-3 stories with a concurrent height limitation of 40' (this designation represents a "green" designation on the Height Map). However, former Lot 14 is subject to a height restriction of 2-3 (4th short) stories with a concurrent height limitation of 45' (this designation represents an "orange" designation on the Height Map).

Originally, One Market Square considered that the project would require a variance given the aforementioned restrictions set forth in the Height Map, as a portion of the merged new lot is designated "green" along former Lot 15. However, One Market Square, LLC asserts that the provisions of Section 10.5A21.22 (a) & (c) of the PZO, referred to the "Building Height Standards," set forth in Map 10.5A21B permits the structure on the entire Lot to benefit from the 4th short-story, 45-foot height allowance.[3]

One Market Square considered the above, and sought consultation from the Ms. Zendt, in order to confirm its understanding as to the permissible story count and height allowances to which the project was subject.

Throughout its request, One Market Square, LLC made it clear its intentions to voluntarily merge the former Lots 14 & 15. One Market Square, LLC took the preliminary step of merging the two lots, which is similar to those situations where a lot line adjustment for lots or a subdivision

[3] Although the Map is referred to as "Building Height Standards," the Map regulates building height as well as the concurrent restrictions as to the numbers of stories for a structure.

of a lot is obtained before a site or subdivision plan is developed in order for that site or subdivision plan to qualify under the applicable zoning ordinance provisions.

IV. DISCUSSION

Section 10.5A21.22 provides in full the follows:

10.5A21.22 When a lot is assigned to more than one building height standard the lot shall be apportioned as follows:

(a) A building height standard designated along the front lot line or street shall apply to the portion of the lot that is 50 feet or less from such lot line or street.

(b) A building height standard designated along a water body shall apply to the portion of the lot that is 100 feet or less from the mean high water line.

(c) More than 50 feet from a front lot line or street and more than 100 feet from a water body, the building height may increase to the highest building height standard designated for the lot.

(d) Where a lot has less depth from the front lot line, street or water body than the required minimum distances stated above, the lowest building height standard for the lot shall be applied to the required linear distance from the lot line, street or water body.

As set forth above, Section 10.5A21.22 (c) specifically provides that a building height, "...**may increase to the highest building height standard designated for the lot.**" As such, One Market Square, LLC asserts that once the two lots were merged, the proposed structure will be permitted a height of 45' with a 4th short story on the entire new lot.

The Planning Director disagreed with the above and indicated, through interpretation made by Mr. Cracknell, that the merged lot would only benefit from a minor "spill over" on the "more restrictive lot" resulting in very little land area of the proposed merged lot having the higher building lot standard under Section 10.5A21.20. Mr. Cracknell provided an illustration of the maximum biding heights permitted on former Lot 15. Mr. Cracknell treated Haven Court as a public street, or "Street" as defined by the PZO, and limited the amount of spill over onto former

Lot 14. Essentially, Mr. Cracknell, and through adoption Ms. Zendt, have determined that spill over on the merged lot is precluded from that portion of a lot that is 50 feet from a front lot line **and** 50 feet from a street (in this instance 50' from High Street and Haven Court).

One Market Square, LLC took exception to the interpretation of Ms. Zendt and Mr. Cracknell, noting that, for the reasons set forth below, Haven Court is not a Street, as defined by the PZO, and more importantly, given Section 10.5A.21.22 (c), the spill over can be measure from the front lot line (Congress Street) **or** a street. When using "and" as a coordinating conjunction both requirements are imposed, but when using "or" as an independent coordinating conjunction, you can use the allowance from one or the other allowances. Most often, one lot would not be in two different height zones. In this case the Lot is, so the ordinance provides use of either of the most permissive allowance for the Lot, measured from the front lot line or a street.

First, as to Haven Court, it is a private way, owned by One Market Square, LLC subject to a certain access easement for an abutter. Attached is a copy of a recorded plan C-34500 in the Rockingham Registry of Deeds entitled, "Subdivision of Assessor's Parcel 117/12 Land of Wenberry Associates, LLC Fleet Street & Haven Court Portsmouth NH for City of Portsmouth, NH." This plan was prepared by licensed land surveyor from James Verra & Associates on 11/22/05 by the request of the city of Portsmouth. This plan identified Haven Court as a private way. In addition, attached is Plan D-43095, prepared by a licensed land surveyor at Ambit Engineering, also showing Haven Court as a private way.

Additionally, review of the City's street records, entitled "Accepted City of Portsmouth Street" (copy attached) reveals a document that is a comprehensive list of public streets generated and maintained by the City. This document does not identify Haven Court as a public street, although it identifies Haven Road as a public street, which is located elsewhere in the City. In

addition, a reviewed of the document entitled "Miscellaneous Street Information" (copy attached), the City again lists Haven Road as a public street, but not Haven Court.

Haven Court does not appear to be an accepted as a public street or laid out as such. Pursuant to Section 10.1530, a Street is defined as a thoroughfare or roadway that is either formally accepted by the City or shown on a subdivision plan and built to City specification. There is no evidence of either for Haven Court. Additionally, it seems that Haven Court would serve no purpose as a public street as the access only goes to the Newbery Building, which has specific rights of access to High Street, with those rights to be incorporated into the development being proposed.

Second, Section 105A21.22 (a) specifically states that the building height allowance applies to that area within 50 feet from a street, however, subsection (c) provides that the highest height and story allowance for the Lot can be measured from a front lot line or street. In this case the Lot's address is 1 Congress Street, and, as such, that is its front lot line. The permissible height at the Lot's front lot line is a 4th story and 45'. As such, the "...building height may be increased to the **highest building height standard designated for the lot**," as provided for in Section 10.5A.21.22 (c) of the PZO. In this case the building height standard for the Lot is a 4th short story and 45 feet in height, as the building height at the front lot line of Congress Street is a 4th short story and 45' in height. Therefore, Section 10.5A.21.22 (a) & (c) allows the height for any buildings going down High Street, within 50 feet from the lot line, to have this spill over height of a 4th short story and 45 feet, as that height is permitted to be similar to that at the front lot line (Congress Street). This also meets the intent of the Zoning Ordinance which is to allow whatever existing building height is present at the front lot line to continue down a city street. The intent of the Zoning Ordinance is to allow the same building height, no less or no more but the same height.

In summary, Section 10.5A.21.22 (a) of the PZO allows the building height to be a 4th short story and 45 feet within 50 feet of the lot line abutting Congress Street and Section 10.5.21.22 (c) of the PZO allows the spill over building height to be a 4th short story and 45 feet for that potion of the lot more than 50 feet from Congress Street and down High Street. Haven Court has no limiting impact on the spill over, as asserted by Mr. Cracknell, as Haven Court is not a "Street," as defined by the PZO.

V. CONCLUSION

For all of the reasons stated above, One Market Square, LLC respectfully requests that this ZBA reverse the Planning Director's decision and find that the new Lot is permitted, in its entirety, to contain a building with a 4th short story, up to 45 feet in height.

Respectfully submitted,

One Market Square, LLC

By its attorneys,
Bruton & Berube, PLLC.

Dated: February 23, 2022

By: _____
Francis X. Bruton, Esq.

FX Bruton

From:	FX Bruton
Sent:	Monday, January 31, 2022 8:09 AM
To:	bmzendt@cityofportsmouth.com; Peter L. Britz (plbritz@cityofportsmouth.com); Nicholas J. Cracknell; Peter M. Stith (pmstith@cityofportsmouth.com)
Cc:	Mark A. McNabb; Tracy Kozak; John Chagnon (jrc@ambitengineering.com); 'Meaghan A. Sherrill'
Subject:	Tax Map 117, Lot 15 and Tax Map 117, Lot 14 Case: LU-22-12

Dear Ms. Zendt,

This office represents Mark McNabb, principal of One Market Square, LLC. On January 26, 2022, this office submitted an application for a variance related to a proposed project located at 1 Congress Street and High Street. The project involves two (2) parcels, depicted on the Portsmouth Tax Maps as Tax Map 117, Lot 15 and Tax Map 117, Lot 14.

The project involves the merger of Lot 14 and Lot 15, with an application for such merger to be submitted shortly. The project will be comprised of the renovation of a portion of the existing historic structures located on Lot 14 and the new construction of an addition to the historic structures on Lot 14 and a new connected building in the parking lot of Lot 15. It is the intent of Mark McNabb to create a uniform structure on the merged new lot with a height of less than 45 feet and with a 4th short story.

Pursuant to Map 10.5A21B (hereinafter the "Height Map") within the Portsmouth Zoning Ordinance, Lot 15 is subject to a height restriction of 2-3 stories with a concurrent height limitation of 40' (this designation represents a "green" designation on the Height Map). However, Lot 14 is subject to a height restriction of 2-3 (4th short) stories with a concurrent height limitation of 45' (this designation represents an "orange" designation on the Height Map).

Originally, we considered that the project would require a variance given the aforementioned restrictions set forth in the Height Map, as a portion of the merged new lot is designated "green" along Lot 15. However, we have considered the provisions of Section 10.5A21.22 (a) & (c) of the zoning ordinance. These provisions specifically refer to "Building Height Standards," set forth in Map 10.5A21B. Although the Map is referred to as "Building Height Standards," the Map regulates building height as well as the concurrent restrictions as to the numbers of stories for a structure.

Section 10.5A21.22 (c) specifically provides that a building height, "...**may increase to the highest building height standard designated for the lot.**" As such, it is our understanding that once the two lots are merged, the proposed structure will be permitted a height of 45' with a 4th short story on the entire new lot, specifically as the merged lot will comply with the definition of "lot," as set forth in the zoning ordinance.

We believe the preliminary step of merger of the two lots is similar to those situations where a lot line adjustment for lots or a subdivision of a lot is obtained before a site plan is developed in order for that site plan to qualify under the applicable zoning ordinance provisions.

As such, and before further developing the design of the structure for the new merged lot, we thought it prudent to obtain an administrative decision seeking support for the proposition that once the lots are merged, the structure on the new merged lot will be permitted a height of 45' with a 4th short story on the entire lot. If so, we seen no need for the recently submitted variance request.

Should there be any questions regarding this request, please do not hesitate to contact us.

Francis X. Bruton, III, Esquire
Bruton & Berube, PLLC
601 Central Avenue
Dover, New Hampshire 03820
p: (603) 749-4529
F: (603) 343-2986

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FX Bruton

From: Beverly M. Zendt <bmzendt@cityofportsmouth.com>
Sent: Wednesday, February 2, 2022 8:24 AM
To: FX Bruton
Cc: Nicholas J. Cracknell
Subject: FW: Tax Map 117, Lot 15 and Tax Map 117, Lot 14 Case: LU-22-12
Attachments: Congress Street 1 - Building Height Standards - revised.pdf

Good morning Mr. Bruton,

Thank you for reaching out for clarification on this standard. Please see the staff response below and illustrated in the attachment.

I believe the applicable section is 10.5A21.22.

10.5A21.22 When a lot is assigned to more than one building height standard the lot shall be apportioned as follows:
(a) A building height standard designated along the front lot line or street shall apply to the portion of the lot that is 50 feet or less from such lot line or street.
(b) A building height standard designated along a water body shall apply to the portion of the lot that is 100 feet or less from the mean high water line.
(c) More than 50 feet from a front lot line or street and more than 100 feet from a water body, the building height may increase to the highest building height standard designated for the lot.
(d) Where a lot has less depth from the front lot line, street or water body than the required minimum distances stated above, the lowest building height standard for the lot shall be applied to the required linear distance from the lot line, street or water body.

I hope this provides some clarification regarding the applicable standards.

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) 610-7296
Bmz@cityofportsmouth.com
Planning Department | City of Portsmouth

Notice of Public Disclosure: This e-mail account is public domain. Any correspondence from or to this e-mail account is a public record. Accordingly, this e-mail, in whole or in part, may be subject to disclosure pursuant to RSA 91-A, regardless of any claim of confidentiality or privilege asserted by an external party.

From: Nicholas J. Cracknell
Sent: Tuesday, February 1, 2022 4:56 PM
To: Beverly M. Zendt <bmzendt@cityofportsmouth.com>
Subject: FW: Tax Map 117, Lot 15 and Tax Map 117, Lot 14 Case: LU-22-12

Beverly,

The building height requirements are clearly depicted on Map 10.5A21B. As shown on the map, these two lots currently have two distinctly different building height standards. The Congress Street lot is colored orange and allows for a short 4th story or 45'; whichever is less. The vacant parking lot along High Street is zoned for a maximum building height of 3 stories or 40 feet; whichever is less. Merging the two lots can and, in this case, does allow the less restrictive building height standard of the two lots (a short 4th story or 45') to "spill over" to the more restrictive lot (3 stories or 40 feet). However, the spillover can only occur at a distance of more than 50 feet from the street edge. As shown in the attached map, very little land area of the proposed merged lot would have the benefit of the higher building height standard under Section 10.5A21.20. Importantly, the ordinance is fashioned this way in order to protect the existing character of the street edge and prevent excessively tall buildings where the prevailing character supports a lower building height. Thus, a dimensional variance would be needed to increase the building height on the High Street lot to a short 4th or 45 feet (whichever is less).

Let me know if you have any questions.

Thanks,

Nick

From: FX Bruton [mailto:fx@brutonlaw.com]
Sent: Monday, January 31, 2022 8:09 AM
To: Beverly M. Zendt <bmzendt@cityofportsmouth.com>; Peter L. Britz <plbritz@cityofportsmouth.com>; Nicholas J. Cracknell <njcracknell@cityofportsmouth.com>; Peter M. Stith <pmstith@cityofportsmouth.com>
Cc: Mark A. McNabb <house@mcnabbgroup.com>; Tracy Kozak <tracyskozak@gmail.com>; John Chagnon (jrc@ambitengineering.com) <jrc@ambitengineering.com>; Meaghan Sherrill <Meaghan@brutonlaw.com>
Subject: Tax Map 117, Lot 15 and Tax Map 117, Lot 14 Case: LU-22-12

Dear Ms. Zendt,

This office represents Mark McNabb, principal of One Market Square, LLC. On January 26, 2022, this office submitted an application for a variance related to a proposed project located at 1 Congress Street and High Street. The project involves two (2) parcels, depicted on the Portsmouth Tax Maps as Tax Map 117, Lot 15 and Tax Map 117, Lot 14.

The project involves the merger of Lot 14 and Lot 15, with an application for such merger to be submitted shortly. The project will be comprised of the renovation of a portion of the existing historic structures located on Lot 14 and the new construction of an addition to the historic structures on Lot 14 and a new connected building in the parking lot of Lot 15. It is the intent of Mark McNabb to create a uniform structure on the merged new lot with a height of less than 45 feet and with a 4th short story.

Pursuant to Map 10.5A21B (hereinafter the "Height Map") within the Portsmouth Zoning Ordinance, Lot 15 is subject to a height restriction of 2-3 stories with a concurrent height limitation of 40' (this designation represents a "green" designation on the Height Map). However, Lot 14 is subject to a height restriction of 2-3 (4th short) stories with a concurrent height limitation of 45' (this designation represents an "orange" designation on the Height Map).

Originally, we considered that the project would require a variance given the aforementioned restrictions set forth in the Height Map, as a portion of the merged new lot is designated "green" along Lot 15. However, we have considered the provisions of Section 10.5A21.22 (a) & (c) of the zoning ordinance. These provisions specifically refer to "Building

Height Standards," set forth in Map 10.5A21B. Although the Map is referred to as "Building Height Standards," the Map regulates building height as well as the concurrent restrictions as to the numbers of stories for a structure.

Section 10.5A21.22 (c) specifically provides that a building height, "...**may increase to the highest building height standard designated for the lot.**" As such, it is our understanding that once the two lots are merged, the proposed structure will be permitted a height of 45' with a 4th short story on the entire new lot, specifically as the merged lot will comply with the definition of "lot," as set forth in the zoning ordinance.

We believe the preliminary step of merger of the two lots is similar to those situations where a lot line adjustment for lots or a subdivision of a lot is obtained before a site plan is developed in order for that site plan to qualify under the applicable zoning ordinance provisions.

As such, and before further developing the design of the structure for the new merged lot, we thought it prudent to obtain an administrative decision seeking support for the proposition that once the lots are merged, the structure on the new merged lot will be permitted a height of 45' with a 4th short story on the entire lot. If so, we seen no need for the recently submitted variance request.

Should there be any questions regarding this request, please do not hesitate to contact us.

Francis X. Bruton, III, Esquire
Bruton & Berube, PLLC
601 Central Avenue
Dover, New Hampshire 03820
p: (603) 749-4529
F: (603) 343-2986

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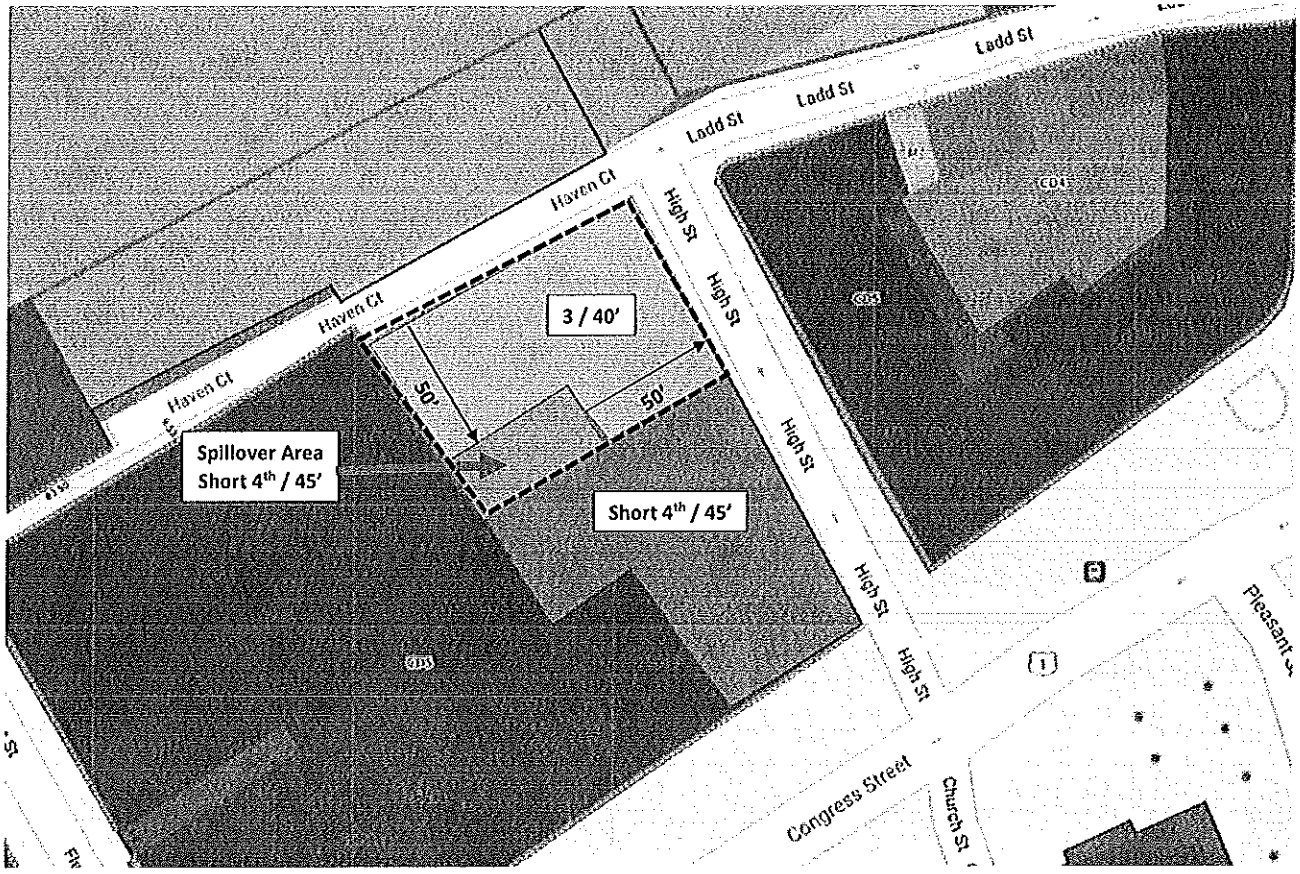

1 Congress Street Project – Maximum Building Height (# Stories / Feet) per 10.5A21.20

FX Bruton

From: FX Bruton
Sent: Monday, February 7, 2022 8:59 AM
To: Beverly M. Zendt
Cc: Nicholas J. Cracknell; Mark A. McNabb; 'Meaghan A. Sherrill'
Subject: RE: Tax Map 117, Lot 15 and Tax Map 117, Lot 14 Case: LU-22-12
Attachments: C-34500 Haven Court Survey.pdf

Beverly,

We are in receipt of your email dated February 2 and an email from Nick Cracknell dated February 1. We believe your interpretation of Section 10.5A21.22 (a) and (c) is not correct.

Attached is a copy of a recorded plan C-34500 in the Rockingham Registry of Deeds entitled, "Subdivision of Assessor's Parcel 117/12 Land of Wenberry Associates, LLC Fleet Street & Haven Court Portsmouth NH for City of Portsmouth, NH." This plan was prepared by licensed land surveyor James Verra & Associates on 11/22/05 by the request of the City of Portsmouth. Our licensed land surveyor, Ambit Engineering, agrees with this survey regarding Haven Court being labeled as a private way. Haven Court has never been accepted by the City of Portsmouth as a street nor has it been subject to a subdivision by the Planning Board and the road built to City standards. Haven Court has never appeared as a street in any historic surveys over the centuries and is not listed on the City's list of public streets. Therefore, Haven Court fails the Zoning Ordinance definition of a street. As such, Section 10.5A21.22 (c) regarding the "spill over" of the height standard goes all the way to Haven Court and not 50 feet from Haven Court.

Section 10.5A.21.22 (a) clearly states the governing height for 50 feet from a street is measured at the Front Lot Line (or street). The definition of "Front Lot Line" in the City of Portsmouth Zoning Ordinance is the primary address, which is 1 Congress Street for the subject lot. The building height at the Front Lot Line is 4 story or 45'. Therefore, Section 10.5A.21.22 (a) & (c) allows the height for any buildings going down High Street, within 50 feet from the lot line, to have this spill over height of 4 stories or 45', as that height is permitted from the Front Lot Line (Congress Street). This also meets the intent of the Zoning Ordinance which is to allow whatever existing building height is present at the Front Lot Line to continue down a city street. The intent of the Zoning Ordinance is to allow the same building height, no less or no more but the same height.

In summary, Section 10.5A.21.22 (a) allows the building height to be 4 stories and 45 feet within 50 feet of the lot line abutting Congress Street and Section 10.5.21.22 (c) allows the spill over building height to be 4 stories and 45 feet for the potion of the lot more than 50 feet from Congress Street and down High Street. Haven Court has no limiting impact on the subject parcel because it is not a "Street."

Should you agree with our interpretation regarding Haven Court and Section 10.5A.21.22 (a) and (c) then we would withdraw our variance request. Should you not agree with our interpretation we would respectfully ask you to get a legal opinion from Robert Sullivan or Suzanne Woodland before we go for an administrative appeal.

Francis X. Bruton, III, Esquire
Bruton & Berube, PLLC
601 Central Avenue
Dover, New Hampshire 03820
p: (603) 749-4529
F: (603) 343-2986

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22006368 02/08/2022 02:26:32 PM
Book 6381 Page 1527 Page 1 of 3
Register of Deeds, Rockingham County

RECORDING 18.00
SURCHARGE 2.00

B07782210
Tx:40655415

(in)
M/c NAbb Properties
3 Pleasant Street, Suite 400
Portsmouth, NH 03801

NOTICE OF VOLUNTARY MERGER OF CONTIGUOUS LOTS

NOW COMES One Market Square, LLC., owner of Map 117 Lot 14 and Map 117 Lot 15 being contiguous parcels of land located at 1 Congress Street and High Street, Portsmouth, County of Rockingham and State of New Hampshire, who wishes to merge said parcels for Municipal regulation and taxation purposes, and does hereby apply to the Planning Board of the City of Portsmouth, or its designee, for approval of said merger and further says that said lots are listed on Assessor's Map 117 as Lot 14 and as Lot 15, and being the same property conveyed to One Market Square, LLC., by deed of Peter H. Jarvis and Sons, LLC., dated December 09, 2022 and recorded at the Rockingham County Registry of Deeds at Book 6363 Page 31.

DATED this 31st day of January 2022.

Mark A. McNabb, Manager
One Market Square, LLC

State of New Hampshire
Rockingham, SS

Acknowledged before me by Mark A. McNabb, duly authorized Manager of One Market Square, LLC, this 31st day of January 2022, on behalf of said Limited Liability Company.

CHRISTINE A. LEBLANC
Notary Public - New Hampshire
My Commission Expires February 20, 2024

CHRISTINE A. LEBLANC NOTARY PUBLIC NEW HAMPSHIRE

Notary Public

APPROVAL OF MERGER

NOW COMES THE Portsmouth Planning Board or its designee and pursuant to RSA 674:39-a approved the merger.

Dated: 2-7-2022

Beverly Mesa-Zendt
Authorized Officer

CONSENT OF LIEN HOLDER

Now comes Kennebunk Savings Bank and herby consents in accordance with NH RSA 674:39-a, II to the voluntary lot merger of lots set forth on the city of Portsmouth Tax Maps as Map 117 Lot 14 & Map 117 Lot 15, said parcels subject to the grant of a mortgage from One Market Square, LLC to Kennebunk Savings Bank, pursuant to a certain Commercial Mortgage, Security Agreement and Assignment of Leases and Rents dated December 9, 2021, and recorded at the Rockingham County Registry of Deeds at Book 6363, Page 31.

Kennebunk Savings Bank

Dated: 2/1/2022

By: _____

Chris Kehl, Executive Vice President

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this, the 31st of January 2022, before me, the undersigned Officer, personally appeared Chris Kehl, who acknowledged themself to be the Executive Vice President of Kennebunk Savings Bank, and that they, as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by themself as Executive Vice President.

SIOBHAN K KENNEALLY NOTARY PUBLIC STATE OF NEW HAMPSHIRE

_____
Notary Public / ~~Justice of the Peace~~
My commission expires 8/18/2026

SIOBHAN K KENNEALLY
NOTARY PUBLIC
State of New Hampshire
My Commission Expires
August 18, 2026

HANOVER ST
TREMONT ST
COURT ST
SCHOOL ST
WASHINGTON ST
CORNHILL
STATE ST
DEVONSHIRE ST
CONGRESS ST
MILK ST
FRANKLIN ST
OLIVER ST
HIGH ST
PURCHASE ST
FEDERAL ST
BATTERYMARCH ST
POST OFFICE SQ
CONGRESS ST

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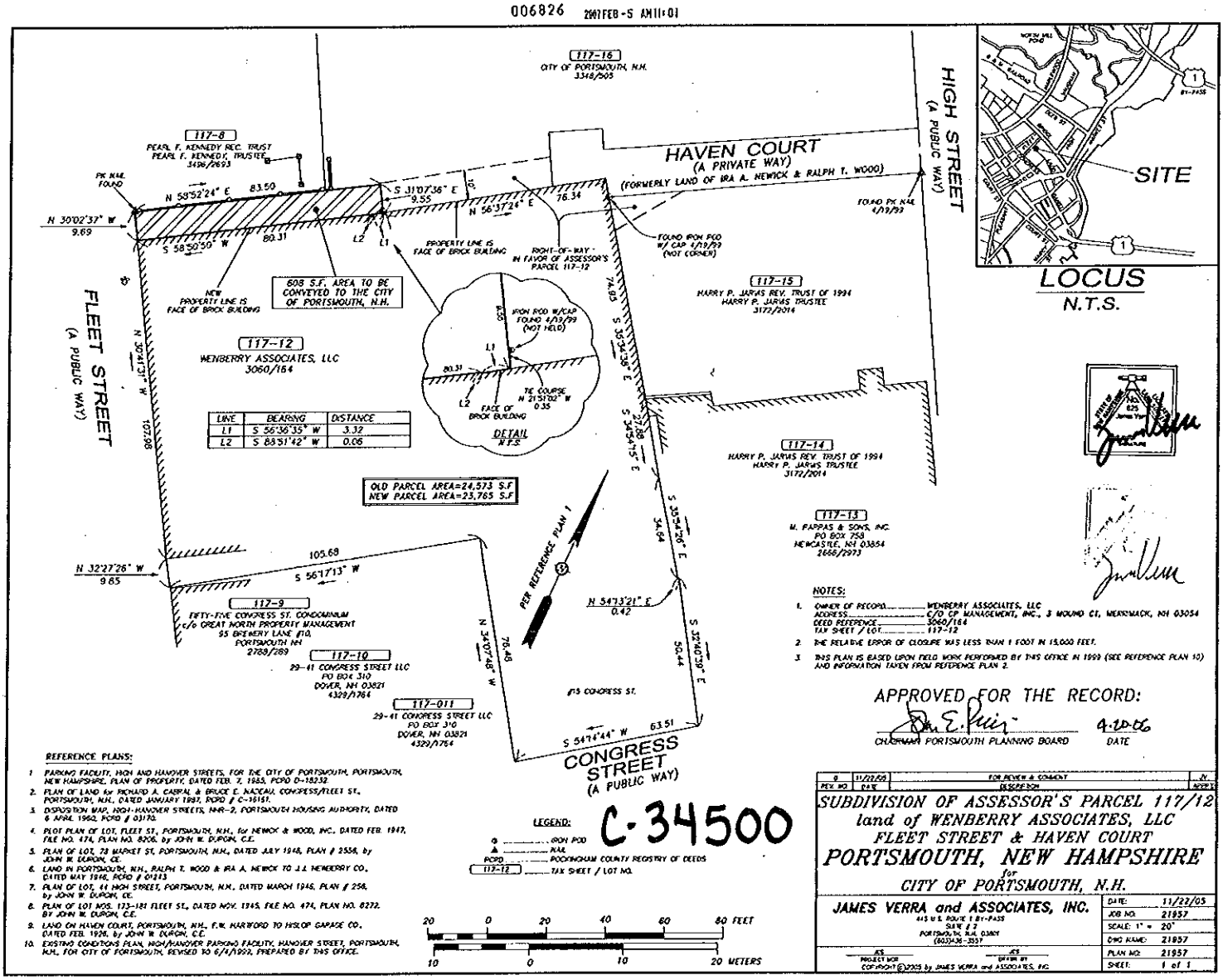

LOCUS
N.T.S.

REFERENCE PLANS:

1. PARKING FACILITY, HIGH AND HANOVER STREETS, FOR THE CITY OF PORTSMOUTH, PORTSMOUTH, NEW HAMPSHIRE, PLAN OF PROPERTY, DATED FEB. 7, 1985, PCRD D-18232.
2. PLAN OF LAND for RICHARD A. CARPAN, & BRUCE E. NICKAU, CONGRESS/FLEET ST., PORTSMOUTH, N.H., DATED JANUARY 1987, PCRD # C-16161.
3. DISPOSITION MAP, HIGH-HANOVER STREETS, NHR-2, PORTSMOUTH HOUSING AUTHORITY, DATED 6 APRIL 1960, PCRD # 03170.
4. PLOT PLAN OF LOT, FLEET ST., PORTSMOUTH, N.H., for NEWICK & WOOD, INC., DATED FEB. 1947, FILE NO. 474, PLAN NO. 8206, by JOHN W. DURGIN, C.E.
5. PLAN OF LOT, 78 MARKET ST, PORTSMOUTH, N.H., DATED JULY 1948, PLAN # 2558, by JOHN W. DURGIN, CE.
6. LAND IN PORTSMOUTH, N.H., RALPH T. WOOD & IRA A. NEWICK TO J.J. NEWBERRY CO., DATED MAY 1948, PCRD # 01213
7. PLAN OF LOT, 44 HIGH STREET, PORTSMOUTH, N.H., DATED MARCH 1945, PLAN # 258, by JOHN W. DURGIN, CE.
8. PLAN OF LOT NOS. 122-131 FLEET ST., DATED NOV. 1945, FILE NO. 474, PLAN NO. 8272, BY JOHN W. DURGIN, C.E.
9. LAND ON HAVEN COURT, PORTSMOUTH, N.H., F.W. HARTFORD TO HISLOP GARAGE CO., DATED FEB. 1926, by JOHN W. DURGIN, C.E.
10. EXISTING CONDITIONS PLAN, HIGH/HANOVER PARKING FACILITY, HANOVER STREET, PORTSMOUTH, N.H., FOR CITY OF PORTSMOUTH, REVISED TO 6/4/1992, PREPARED BY THIS OFFICE.

LEGEND:
- ⊕ ..... IRON PCD
- Δ ..... RAIL
- RCRD ..... ROCKINGHAM COUNTY REGISTRY OF DEEDS
- 117-12 ..... TAX SHEET / LOT NO.

NOTES:
1. OWNER OF RECORD ..... WENBERRY ASSOCIATES, LLC
   ADDRESS ..... C/O CP MANAGEMENT, INC., 3 MOUND CT, MERRIMACK, NH 03054
   DEED REFERENCE 3060/164
   TAX SHEET / LOT 117-12
2. THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
3. THIS PLAN IS BASED UPON FIELD WORK PERFORMED BY THIS OFFICE IN 1999 (SEE REFERENCE PLAN 10) AND INFORMATION TAKEN FROM REFERENCE PLAN 2.

APPROVED FOR THE RECORD:

CHAIRMAN PORTSMOUTH PLANNING BOARD — DATE 4-20-06

C-34500

REV. NO	DATE	DESCRIPTION	INIT.
0	11/22/05	FOR REVIEW & COMMENT	JV

SUBDIVISION OF ASSESSOR'S PARCEL 117/12
land of WENBERRY ASSOCIATES, LLC
FLEET STREET & HAVEN COURT
PORTSMOUTH, NEW HAMPSHIRE
for
CITY OF PORTSMOUTH, N.H.

JAMES VERRA and ASSOCIATES, INC.
445 U.S. ROUTE 1 BY-PASS
SUITE 12
PORTSMOUTH, N.H. 03801
(603)436-3557

DATE: 11/22/05
JOB NO: 21957
SCALE: 1" = 20'
DWG NAME: 21957
PLAN NO: 21957
SHEET: 1 of 1

JS — PROJECT MGR
JCE — DRAWN BY

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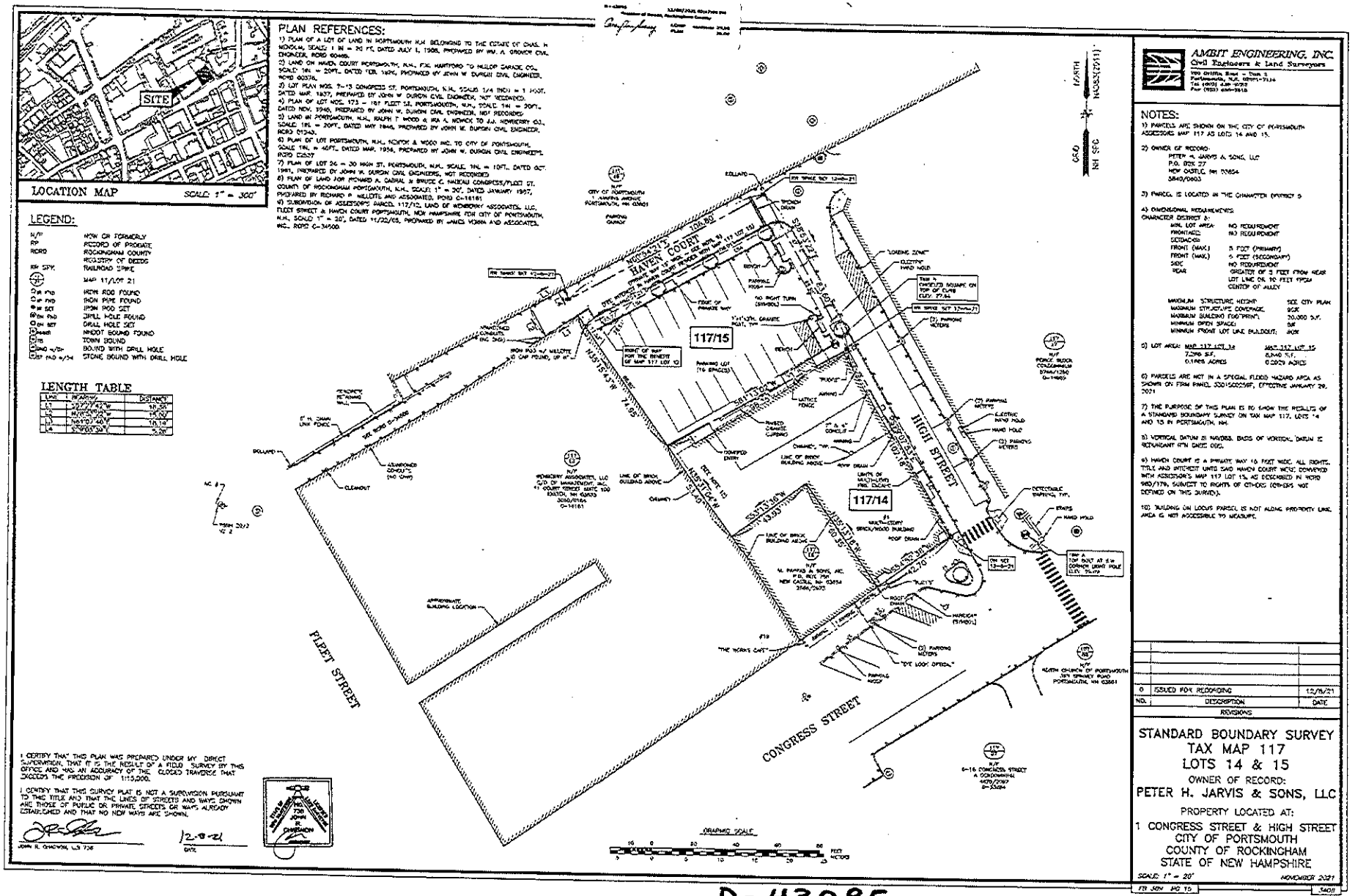

SITE
LOCATION MAP
SCALE: 1" = 300'
PLAN REFERENCES:
1) PLAN OF A LOT OF LAND IN PORTSMOUTH N.H. BELONGING TO THE ESTATE OF CHAS. H. NEWCOMB, SCALE: 1 IN = 20 FT, DATED JULY 1, 1908, PREPARED BY WM. A. GROVER CIVIL ENGINEER, RCRD 60469.
2) LAND ON HAVEN COURT PORTSMOUTH, N.H., FOR HARTFORD TO HILLTOP GARAGE, CO., SCALE 1IN. = 20FT., DATED FEB. 1929, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, RCRD 60376.
3) LOT PLAN NOS. 7-13 CONGRESS ST. PORTSMOUTH, N.H., SCALE 1/4 INCH = 1 FOOT, DATED MAR. 1937, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, NOT RECORDED.
4) PLAN OF LOT NOS. 173 - 187 FLEET ST. PORTSMOUTH, N.H., SCALE 1IN. = 20FT., DATED NOV. 1940, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, NOT RECORDED.
5) LAND IN PORTSMOUTH, N.H., RALPH T. WOOD & IRA A. NOWICK TO J.H. NEWBERRY CO., SCALE 1IN. = 20FT., DATED MAY 1946, PREPARED BY JOHN W. DURGIN CIVIL ENGINEER, RCRD D12-43.
6) PLAN OF LOT PORTSMOUTH, N.H., NOWICK & WOOD INC. TO CITY OF PORTSMOUTH, SCALE 1IN. = 40FT., DATED MAR. 1956, PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, RCRD D2557
7) PLAN OF LOT 24 - 30 HIGH ST. PORTSMOUTH, N.H., SCALE 1IN. = 10FT., DATED OCT. 1981, PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, NOT RECORDED.
8) PLAN OF LAND FOR RICHARD A. CABRAL & BRUCE C. NADEAU CONGRESS/FLEET ST. COUNTY OF ROCKINGHAM PORTSMOUTH, N.H., SCALE: 1" = 20', DATED JANUARY 1987, PREPARED BY RICHARD P. MILLETTE AND ASSOCIATES, RCRD D-16161
9) SUBDIVISION OF ASSESSOR'S PARCEL 117/12, LAND OF NEWBERRY ASSOCIATES, LLC, FLEET STREET & HAVEN COURT PORTSMOUTH, NEW HAMPSHIRE FOR CITY OF PORTSMOUTH, N.H., SCALE 1" = 20', DATED 11/22/65, PREPARED BY JAMES VORRA AND ASSOCIATES, INC., RCRD D-34500
LEGEND:
N/F NOW OR FORMERLY
RP RECORD OF PRIVATE
RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
RR SPK RAILROAD SPIKE
MAP 117/LOT 21
IRON ROD FOUND
IRON PIPE FOUND
IRON ROD SET
DRILL HOLE FOUND
DRILL HOLE SET
NHDOT BOUND FOUND
TOWN BOUND
BOUND WITH DRILL HOLE
STONE BOUND WITH DRILL HOLE
LENGTH TABLE
LINE BEARING DISTANCE
L1 S22°27'42"W 19.05'
L2 N67°32'18"W 14.00'
L3 N67°10'46"W 10.19'
L4 S71°00'34"W 5.20'
HAVEN COURT
PRIVATE WAY
TOB 80'
117/15
117/14
HIGH STREET
FLEET STREET
CONGRESS STREET
NEWBERRY ASSOCIATES, LLC C/O CITY OF PORTSMOUTH
WENTWORTH-DOUGLASS HOSPITAL
NORTH CHURCH OF PORTSMOUTH
GRAPHIC SCALE
NORTH (2011)
NH GRID
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) PARCELS ARE SHOWN ON THE CITY OF PORTSMOUTH ASSESSORS MAP 117 AS LOTS 14 AND 15.
2) OWNER OF RECORD:
PETER H. JARVIS & SONS, LLC
P.O. BOX 27
NEW CASTLE, NH 03854
5840/0603
3) PARCEL IS LOCATED IN THE CHARACTER DISTRICT 5
4) DIMENSIONAL REQUIREMENTS
CHARACTER DISTRICT 5:
MIN. LOT AREA: NO REQUIREMENT
FRONTAGE: NO REQUIREMENT
SETBACKS:
FRONT (MAX.) 5 FEET (PRIMARY)
FRONT (MAX.) 5 FEET (SECONDARY)
SIDE NO REQUIREMENT
REAR GREATER OF 5 FEET FROM REAR LOT LINE OR 10 FEET FROM CENTER OF ALLEY
MAXIMUM STRUCTURE HEIGHT: SEE CITY PLAN
MAXIMUM STRUCTURE COVERAGE: 90%
MAXIMUM BUILDING FOOTPRINT: 20,000 S.F.
MINIMUM OPEN SPACE: 0%
MINIMUM FRONT LOT LINE BUILDOUT: 80%
5) LOT AREA: MAP 117 LOT 14 MAP 117 LOT 15
7,298 S.F. 8,840 S.F.
0.1676 ACRES 0.2029 ACRES
6) PARCELS ARE NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F, EFFECTIVE JANUARY 29, 2021
7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY SURVEY ON TAX MAP 117, LOTS 14 AND 15 IN PORTSMOUTH, NH.
8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS RELEVANT RTN GNSS OBS.
9) HAVEN COURT IS A PRIVATE WAY 16 FEET WIDE. ALL RIGHTS, TITLE AND INTEREST UNTO SAID HAVEN COURT WERE CONVEYED WITH ASSESSOR'S MAP 117 LOT 15, AS DESCRIBED IN RCRD 960/179, SUBJECT TO RIGHTS OF OTHERS (OTHERS NOT DEFINED ON THIS SURVEY).
10) "BUILDING ON LOCUS PARCEL IS NOT ALONG PROPERTY LINE. AREA IS NOT ACCESSIBLE TO MEASURE.
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 TITLE LXIV 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.
JOHN R. CHAGNON, LLS 735
12-8-21
DATE
0 ISSUED FOR RECORDING 12/8/21
NO. DESCRIPTION DATE
REVISIONS
STANDARD BOUNDARY SURVEY
TAX MAP 117
LOTS 14 & 15
OWNER OF RECORD:
PETER H. JARVIS & SONS, LLC
PROPERTY LOCATED AT:
1 CONGRESS STREET & HIGH STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE
SCALE: 1" = 20' NOVEMBER 2021
FB 369 PG 75
5408

D-43095

Paper streets deed
File # 90-06

ACCEPTED CITY OF PORTSMOUTH STREETS

ALBANY STREET - C.R. VOL. 5
1868-1873, Page 373

Street named.

ALDRICH ROAD - C.R. 1917-20
Page 434, 436, 556

Page 434: Aldrich Road accepted.
Page 436: Resolution to accept said street vetoed by Mayor.
Page 556: Street accepted.

See also Page 381 - West Street, Street changed to Aldrich Road.

ALUMNI DRIVE - C.R. 1959, Page 13

Alumni Drive accepted. Portion from Lafayette Road to Circle renamed Andrew Jarvis Drive. Alumni Circle remains.

ANN STREET - T.R. VOL. 6
1833-1864, Page 427

Street renamed Gardner Street.

ANN STREET - C.R. VOL. 3
1856-1864, Page 391

Renamed Langdon Street.

ANTHONY STREET - C.R. VOL. 5
1868-1873, Page 207

Renamed Union Street.

See also Page 192 - Union Street, Renamed Anthony Street.

ARK STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Penhallow Street.

ATKINSON STREET - C.R. 1964
Page 146

Portion - Hearing held on discon-

AUBURN STREET - C.R. VOL. 3
1856-1864, Pages 400-401

Street renamed Richards Avenue.

AUTUMN STREET - C.R. VOL. 8,
1883, 1888, Page 368

Street running from Hill Street to Hanover Street named.

BANFIELD ROAD - C.R. VOL. 1
~~1849-1843~~ 1820-1823, Page 186

Part completed accepted.

BARHELDER'S LANE - T.R. VOL. 6
1833-1844, Page 426

Street renamed Green Street.

BARTLETT STREET - C.R. VOL. 8
1883-1888, Page 368

Name changed from Creek Street & Creek Road to Bartlett Street and Woodbury Avenue. See also C.R. Vol. 6 - Page 257, Mystic & Cambridge Sts. renamed Bartlett Street.

BAYCLIFF ROAD OR CANNEY'S COURT
C.R. 1940-41, Page 134

Street accepted.

BERSUM LANE - C.R. January to June, 1951, Page 98

Street running from Broad Street to Miller Avenue named.

See also page 85: Street running from Broad St. to Miller Avenue named. Referred to City Solicitor and City Manager with power.

Booth Avenue
Renamed Highliner Av 4/4/83

BORTHWICK AVENUE - C.R. 1973, Page 13 2/3/73

Portion of Borthwick Avenue has been completed and shown on plan prepared by McKenna Associates for Liberty Mutual Co. - accepted.

BOSS AVENUE - C.R. 1950, Page 85 (March to Dec.)

Accepted.

BOYAN DRIVE - C.R. 1968, Page 72

Accepted subject to approval of City Attorney.

BOYD ROAD - C.R. Vol. 4 1864-1868, Page 98

Street accepted subject to being furnished with plan.

BOYD ROAD - C.R. 1954, Pages 89 and 97:

Page 89: Closed within perimeter of Pease AFB.

Page 97: Discontinued within perimeter of Pease AFB.

BRACKET ROAD EXTENSION C.R. 1952, Page 201

Accepted.

BREWSTER STREET, T.R. VOL. 6 1833-1844, Page 53

Street accepted to Mill Road.

BROAD STREET - T.R. VOL. 6 1833-1844, Page 426

Street accepted.

BROAD STREET - C.R. VOL. 6 1873-1878, Page 70

Street accepted.

BURKETT STREET - C.R. VOL. 6 1873-1878, Page 257, 261

Street renamed Pitt Street, Pg. 257
Street renamed Burkett St., Pg. 261

CALVIN COURT - C.R. 1954 Page 89 and 97

Page 89: Closed within perimeters of Pease AFB.

Page 97: Discontinued within perimeters of Pease AFB.

CAMBRIDGE STREET - C.R. VOL. 6 1873-1878, Page 257

Renamed Bartlett Street.

CHARLES STREET - C.R. 1964, Page 146

Hearing held on discontinuance - no further action in records.

CHATHAM STREET - C.R. VOL. 3 1856-1864, Page 458

Street accepted.

CLIFF ROAD - C.R. 1952, Page 246

Accepted subject to utilities being constructed and rough grading being done.

CLINTON STREET - C.R. VOL. 9, 1888-1891, Page 108

Accepted.

COACH ROAD Accepted 9/19/88.

COAKLEY ROAD - C.R. 1957, Page 236

Coakley Road accepted from the Coakley Heirs providing deed is given to the City and further providing that road be named Coakley Road.

COLD LANE - T.R. VOL. 6
1833-1844, Page 427

Street renamed Richmond Street.

COLONIAL DRIVE - C.R. 1941-42
Page 100

Accepted.

COLONIAL PINES STREETS - C.R. 1979
Page

Warranty Deed from Bea-Ric Development Co., Inc. for streets in Colonial Pines (off Lafayette Rd.) Robert Avenue, Ricci Avenue, Joan Avenue and Ann Avenue - voted for acceptance.

COLUMBIA COURT - C.R. VOL. 10
1892-97, Page 330

Named and accepted.

COLUMBIA STREET - C.R. VOL. 10
1892-97, Page 119

Street named.

COOLIDGE DRIVE EXTENSION -
C.R. 1957, Page 182

Extension of Coolidge Drive in front of Lots #72 and #74 accepted. (Elwyn Park).

CORNWALL STREET - C.R. VOL. 4
1864-1868, Page 434

Street accepted.

COTTAGE STREET - C.R. 1900-03
Page 457

Accepted.

COURT PLACE - T.R. VOL. 6
1833-1844, Page 426

Street unnamed - named Court Place.

COURT STREET - T.R. VOL. 6
1833-1844, Page 426

Street named Pleasant Street.
See also Jaffrey St. renamed Court S

CREEK STREET & CREEK ROAD -
C.R. VOL. 8, 1883-1888,
Page 368

Renamed Bartlett Street and Woodbury Avenue.

CROP STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Hanover Street.

CUSHING STREET - C.R. 1903-07
Page 146 and 252

Discontinued.

CUTTS ROAD - C.R. 1897-1900
Page 195

Discontinued.

CUTTS STREET - C.R. 1900-03
Page 252

Partial discontinuance.

CHARLES STREET - T.R. VOL. 6
1833-1844, Page 426

Street named Liberty Square - renamed Charles Street.

CHAPEL STREET - T.R. VOL. 6
1833-1844, Page 426

Street named Rosemary Street renamed Chapel Street.

COURT STREET - T.R. VOL. 6
1833-1844, Page 426

Street named Pitt Street renamed Court Street.

CHESTNUT STREET - T.R. VOL. 6
1833-1844, Page 426

Prison Street renamed Chestnut St.

CHAUNCEY STREET - C.R. 1897-1900
Page 70

Wibird Place renamed Chauncey Street.

CANNEY'S COURT - C.R. 1940-41
Page 134

Also named Baycliff Rd.
Street accepted.

CABOT STREET - C.R. VOL. 3
1856-1864, Page 54

Lime Street renamed Cabot Street.

GRANITE STATE AVENUE - C.R. 1900-03
Page 257

Renamed Sagamore Avenue

HIGH STREET - C.R. 1961, Page 343

Portion discontinued as described in records.

* FARM LANE - portion intersecting w/ Spaulding Tnpk discontinued - 9/9/85
1/13/86 - Reopened Farm Ln.

F.W. Wentworth Dr. Phase III 10/6/86

DANIEL STREET - C.R. 1921-24
Page 139

Daniel Street changed to
Daniels Street.

DEARBORN STREET EXTENSION,
C.R. 1942-1944, Page 126

Street accepted from Dennett
Street to a point 100 feet beyond
House #102 on Dearborn St. Extension.

Page 140: Vote to accept street
rescinded. Street accepted to
the southern side of the driveway
at House #102.

DECATUR ROAD - C.R. 1941-42
Page 100

Accepted.

DENNETT STREET - C.R. VOL. 6
1873-1878, Page 257

Street named.

DOCK STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Hancock Street.

DODGE AVENUE EXTENSION - C.R. 1957,
Page 150

Voted to accept provided City is given
deed for fifty feet or roadway.

Page 176: Extension accepted subject
to City receiving deed of fifty foot
strip of land.

DORIS AVENUE - C.R. 1940-41
Page 151

Street accepted for a distance of
330 feet.

DOVER STREET - C.R. VOL. 4
1864-1868, Page 58

Street accepted.

DOWNING STREET - C.R. VOL. 1
1849-1853, Page 249

Street named.

DUPRAY COURT - C.R. 1973,
Page 50

Abandoned.

DUTTON AVENUE - C.R. 1921-24
Page 110

Street leading from State Street
to Memorial Bridge named.

FRANKLIN STREET - C.R. VOL. 1
1849-1853, Page 502

Street accepted.

HUMPHREY'S COURT - C.R. 1903-1907
Page 6

Street accepted.

HUMPHREY'S COURT - C.R. 1908-13
Page 299

Changed to Humphrey's Street
and accepted.

EAST PARK STREET - C.R. VOL. 6
1873-1878, page 82

Street accepted.

ECHO AVENUE - C.R. 1954,
page 89

Closed within perimeter of
Pease AFB.

Page 97: Discontinued
within perimeter of Pease
AFB.

C.R. 1957, Pg. 120-West of Spur Rd.
so-called - discon.

ELM COURT - C.R. VOL. 9
1888-91, page 172

Accepted.

ELM STREET - C.R. VOL. 8
1883-88, page 368

Renamed Maplewood Avenue.

ELM STREET - C.R. 1952,
page 245

Accepted subject to rough
grading and having sewer and
water pipes installed.

ELWYN PARK - C.R. 1957,
page 134

Certain unnamed streets -
acceptance referred to
City Manager with power.

Page 250: List of
streets accepted or
constructed.

CR 1947, Pg. 28 - unnamed Streets Elwyn
Pk - accepted subject to mtng specific.

FAIRVIEW AVENUE - C.R. 1952
page 389

Accepted.

FELLS ROAD - C.R. 1956,
page 95

Accepted.

FERRY WAYS - C.R. VOL. 5
1868-73, page 35

Street discontinued.

FETTER LANE - T.R. VOL. 6
1833-44, page 426

Street renamed Warren Street.

FORE STREET - T.R. VOL. 6
1833-44, page 426

Street renamed Market Street.

FRENCHMAN'S LANE - C.R. 1914-16
page 234

Street discontinued.

FRIEND STREET - C.R. VOL. 10
1892-97, page 468

Named and accepted.

~~ROAD~~ T.J. GAMESTER DRIVE - 3/5/85

GARRETT COURT - C.R. 1973,
page 50

Abandoned.

Gardner Street

GEORGE'S TERRACE - C.R. 1941-42,
page 100

Accepted.

GOSLING ROAD - C.R. 1954,
Pages ~~69~~ and 97

Page ~~69~~ 96 Closed within perimeter
of Pease AFB.

Page 97: Voted to rescind decision
condemning said street due to joint
ownership with Newington.

GRANT AVENUE - C.R. 1973,
Pages 74 and C.R. 1953, Pg. 140

Page 74: Grant Avenue accepted
subject to City Engineer's approval
of Avenue.

Page 140: Accepted 90 feet along
its length.

GREEN STREET - C.R. 1973, Page 50

Between Boston & Maine right-of-way - abandoned.

GREENSIDE AVENUE - C.R. 1940-41 Page 151

Street accepted for a distance of 300 feet.

GREENLEAF WOODS DRIVE Accepted CR 3/28/85

HALL COURT - C.R. 1941-42 Page 100

Accepted.

HANCOCK PLACE - C.R. 1964, Page 146

Hearing held on discontinuance - no further action in records.

HANCOCK STREET - C.R. 1964, Page 146

Hearing held on discontinuance - no further action in records.

W. HARTFORD DRIVE - 3/5/85

HAVEN ROAD - C.R. 1940-41, Page 21

Street accepted.

HIGHLAND STREET - C.R. VOL. 7 C.R. 1878-1883, Page 165

Street accepted.

Page 166: Vote to accept street rescinded.

HILL STREET - C.R. VOL. 4, 1864-1868, Page 381

Street accepted.

HILLCREST DRIVE - C.R. 1956, Page 86

Accepted for distance of 977 feet subject to completion of work.

HILLSIDE DRIVE - C.R. 1940-41, Page 149-150

Street accepted.

HOLLY LANE - C.R. 1954, Page 206 and 223

Page 206: Accepted subject to receiving deed.

Page 223: Deed accepted.

HOOVER DRIVE - C.R. 1979, Page

Deed from Bea-Ric Development Co., Inc. accepted for Hoover Drive (Elwyn Park).

HORSE LANE - T.R. VOL. 6 1833-1844, Page 427

Street renamed Liberty Alley.

HOWARD STREET - C.R. VOL. 1 1849-53, Page 539

Street accepted.

JACKSON STREET - T.R. VOL. 7 1844-1849, Page 230

Street accepted.

JACKSON STREET - C.R. 1970, Page 98

Street discontinued.

JAFFREY STREET - T.R. VOL. 6 1833-1844, Page 426

Street renamed Court Street.

Andrew Jarvis Drive 5/6/91

JEFFERSON STREET - C.R. 1964, Page 146

Hearing held on discontinuance - no further action in records.

JOSHUA STREET - T.R. VOL. 6
1833-44, Page 426

Street renamed Auburn Street.

JUNKINS AVENUE - C.R. VOL. 10
1892-1897, Page 328

Named.

LANGDON STREET - C.R. VOL. 6
1873-1878, Page 78

Renamed Burkett Street.

LIBERTY STREET - C.R. 1964,
Page 146

Hearing held on discontinuance - no further action in records.

LIBERTY SQUARE - T.R. VOL. 6
1833-1844, Page 426

Street renamed Charles Street.

LIME STREET - C.R. VOL. 3
1856-1864, Pages 50 and 54

Page 50: Street accepted from Islington to McDonough Street.

Page 54: Street accepted for whole length; Street renamed Cabot Street.

LITTLE HARBOR ROAD - C.R. VOL. 1
1849-1853, Page 184

Street named.

MADISON STREET - C.R. VOL. 6
1873-1878, Page 40

Street accepted from Austin Street to Middle Street.

MANNING PLACE - C.R. 1964, Page 146

Portion - Hearing held on discontinuance - no further action in records.

MANNING STREET - C.R. 1964,
Page 146

Portion - Hearing held on discontinuance - no further action in records.

MAPLE HAVEN - UNNAMED STREET ADJACENT TO WINCHESTER ST. - C.R. 1960, Page 212

Unnamed street discontinued.

MARGINAL ROAD - C.R. 1903-07
Page 25

Changed to Parrott Avenue.

MARJORIE STREET - C.R. January to June, 1951, Page 2

Street accepted.

MARIETTE DRIVE - C.R. 1958,
Page 469

Mariette Drive or a portion thereof accepted.

Mariner's Village Streets discontinued 3/2/87

MARKET STREET - C.R. 1921-24
Page 250

Discontinuance of part of for Boston & Maine Railroad.

3/1982 Approved extension to Woodbury Av
2/89 Deleted 'Ext' from Market St

MARLBORO STREET - C.R. VOL. 9
1888-1891, Pages 303 and 336

Page 303: Changed to Hanover St.
Page 336: Changed to Hanover St.

MARSTON AVENUE - C.R. 1913,
Page 49

Marston Avenue accepted.

MARSTON STREET - C.R. 1925-27
Page 191

Street accepted.

MASON AVENUE - C.R. 1941-42
Page 100

Accepted.

MASSEY-ACKERMAN STREET -
T.R. VOL. 6, 1833-1844
Page 426

Street renamed Howard Street.

MAST STREET - C.R. 1964,
Page 146

Hearing held on discontinuance -
no further action in records.

McDONOUGH STREET - C.R. VOL. 5
1868-1873, Page 74

Street accepted.

C.R. 1941-42, Page 153:

Accepted.
McGee Drive formerly portion of Circuit Rd. between Market St and Maplewood Avenue renamed 11/18/85

McNABB COURT - C.R. 1952
Page 245

Accepted.

McKINLEY ROAD - C.R. 1955
Page 130; Accepted.

McKINLEY ROAD EXTENSION - C.R. 1955
Page 184: Accepted.

MELCHER STREET - C.R. VOL. 1
1849-1853, Page 539

Street accepted subject to
having plan filed.
Meredith Way - Renamed a portion of Pine St. CC adopted 8/5/91.

MILL STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Vaughan Street.

MILL STREET - C.R. VOL. 1
1849-53, Pages 140, 141

Street renamed Elwyn Street.

MILLER'S AVENUE - C.R. VOL. 5
1868-1873, Pages 192 and
353, 366:

Page 192: Street named.

Page 353: Street renamed
Summer Street.

Page 366: Renamed Miller's Ave.

MOEBUS TERRACE - C.R. 1960,
Page 265

Street accepted.

MONROE STREET - C.R. 1936-38
Page 99

Street accepted.

MORNING STREET - C.R. VOL. 5
1868-73, Page 35

Street accepted.

MT. VERNON STREET - C.R. VOL. 5
1868-1873, Page 219

Street accepted.

MYRTLE STREET - C.R. VOL. 10
1892-97, Page 383

Renamed Myrtle Avenue.

MYSTIC STREET - C.R. VOL. 6
1873-78, Page 257

Renamed Bartlett Street.

NEWCASTLE AVENUE (REAR)
C.R. 1954, Page 27

Changed to Pleasant Point Road
if no legal objections.

NEWTON AVENUE - C.R. 1964, Page 146

Hearing held on discontinuance - no further action in records.

NORTH SCHOOL STREET - C.R. VOL. 1 1849-1853, Page 97

Street renamed Prospect Street.

NORTH AVENUE - C.R. VOL. 8 1883-1888, Page 368

Renamed Maplewood Avenue.

NORTH STREET - C.R. VOL. 8 1883-1888, Page 368

Renamed Maplewood Avenue.

Omne Road. Renamed Arthur F. Brady Jr., Dr. 3/5/90

NORTHWEST STREET - C.R. VOL. 6 1873-1878, Page 550

Street named.

Oakwood Dr (11-17-86)

OXFORD ROAD - C.R. 1957, Page 115

Accepted.

O'Leary Place : cul-de-sac off Fairview Ave 8/15/89

PARADE STREET - T.R. VOL. 6 1833-1844, Page 426

Street renamed Market Square.

PARKER STREET - C.R. VOL. 3 1856-1864, Page 430

Street acceptance referred to committee on streets with power.

PARKER'S STREET - T.R. VOL. 7 1844-1849, Page 104 & 286

Partial discontinuance.

PARTRIDGE STREET - T.R. VOL. 6 1833-1844, Page 426

Street renamed Water Street.

PEARL STREET - T.R. VOL. 6 1833-1844, Page 427

Street accepted.

PEARL STREET - T.R. VOL. 7 1844-1849, Page 104

Part discontinued.

PEARSON STREET - C.R. 1928-32 Page 183

Street accepted.

PEIRUS LANE - T.R. VOL. 6 1833-1844, Page 427

Street renamed Manning Street.

Penhallow Street

PENN STREET - C.R. VOL. 5 1868-1873, Page 219

Street accepted. Street renamed Rockingham Street.

PINE STREET - C.R. VOL. 8 1883-1888, Page 226-227

Accepted.

Portion deeded to Mayo & Cohen 6/4/90.

PINEHURST STREET - C.R. 1933-35 Page 105

Street and deed accepted.

PLEASANT POINT - C.R. 1955 Page 184

Acceptance of Parcel C.

PLEASANT POINT DRIVE - C.R. 1955 Pages 131-132

Acceptance upon completion of works parcels A and B.

PITT STREET - C.R. VOL. 6 1873-1878, Page 261

Renamed Burkett Street.

PITT STREET - T.R. VOL. 6
1833-1844, Pg. 426 - Street renamed Court Street.

POND STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Warren Street.

PRISON STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Chestnut Street.

RAITTS COURT - C.R. 1973,
Page 50

Abandoned.

Richards Street
Richmond St.

ROCK STREET - T.R. VOL. 7
1844-1849, Pages 104 and 286

Pg. 104: Part discontinued.
Pg. 286: Partial discontinuance.

ROCKINGHAM AVENUE - C.R. VOL. 10
1892-97, Page 383

Changed to Myrtle Avenue.

C.R. 1954, Page 97:

Discontinued within perimeter of Pease AFB.

ROCKINGHAM STREET - C.R. 1921-24
Page 173

Portion of Rockingham Street lying between McDonough St. and land of Boston & Maine Railroad is discontinued.

RIDGES COURT - C.R. 1921-24,
Page 170

Street accepted subject to City Solicitor's getting proper plans.

ROCKLAND STREET - C.R. VOL. 10,
1892-97, Page 200

Accepted.

ROSEMARY STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Chapel Street.

RUSSELL STREET - C.R. 1973,
Page 50

Abandoned.

SAGAMORE GROVE - C.R. 1958,
Page 496

Right-of-way on Sagamore Avenue accepted.

SAGAMORE ROAD - C.R. VOL. 1
1849-1853, Pages 168,184,186

Pg. 168: Part completed accepted.
Pg. 184: Street named.
Pg. 186: Part completed accepted.

SAGAMORE ROAD - C.R. 1900-03
Page 43 and 257
Pg. 43: Renamed Granite State Ave. Renamed Sagamore Avenue. (Pg. 257)

SALEM STREET - C.R. VOL. 4
1864-1868, Page 427

Street accepted.

SCOTT STREET - C.R. 1921-24
Page 110

Street leading from Daniel Street to Memorial Bridge is named.

SCHOOL STREET - C.R. 1973.
Page 50

Abandoned.

SHEFFIELD ROAD - C.R. 1957,
Page 137

Portion meeting requirements accepted.

SHERBURNE ROAD - C.R. 1942-44,
Page 82

Discontinuance of part for expansion of Portsmouth Airport.

C.R. 1954, Pg. 97: Discontinued within perimeter of Pease AFB.

SHORT STREET - T.R. VOL. 6
1833-1844, Page 426

Street renamed Vaughan Street.

C.R. VOL. 1, 1849-1853,
Page 140,141:

Renamed Elwyn Street.

SHURMAN AVENUE - C.R. 1941-42
Page 100

Accepted.

SOUTH MILL STREET - C.R. VOL. 9
1888-1891, Page 419

Accepted.

SOUTH ROAD - C.R. VOL. 10,
1892-97, Page 475

Renamed South Street. NO WIDTH

SOUTH SUMMER STREET - C.R. VOL. 5
1868-1873, Page 192

Street accepted.

SPARHAWK STREET - C.R. VOL. 6
1873-78, Page 68

Street accepted.

SPRING STREET - T.R. VOL. 6
1833-1844, Page 427

Street renamed Parker Street.

SPRING STREET - C.R. VOL. 8,
1883-1888 - Page 378

Street running from Miller Ave.
to Broad Street accepted.
Springbrook Circle. 7/7/86 accepted.

STONE CHURCH STREET - C.R. VOL. 1
1849-1853, Page 242

Partial discontinuance.

Succi, Michael Drive
Road from market ST leading to
national Gypsum plant. dl.la1

SUDBURY STREET - T.R. VOL. 1
1844-1849, Page 104

Street discontinued.

SULLIVAN STREET - C.R. VOL. 6
1873-1878, Page 257

Street named.

SUMMER STREET - C.R. VOL. 5
1868-1873, Page 366

Street renamed Miller's Avenue.

SUMMIT AVENUE - C.R. 1938-39
Page 169

Street accepted for distance
of 301 feet.

SUNSET ROAD - C.R. 1953,
Page 216

Accepted.

CR March to December, 1950, Page 85

Accepted.

SUTTON STREET - C.R. 1940-41,
Page 149

Street accepted for a distance
of 330 feet.

TAFT ROAD EXTENSION - C.R. 1979,
Page

Deed from Bea-Ric Development Co.,
Inc. accepted for Taft Rd. Ext.
(Elwyn Park)

THAXTER ROAD - C.R. 1928-32
Page 133

Street accepted for 60 feet
beyond hydrant.

C.R. 1953, Page 216: Accepted.

THORNTON STREET - C.R. VOL. 6
1873-78, Page 257

Street named.

THORNTON STREET EXTENSION -
C.R. 1955, Page 103

Abandoned.

UNION STREET - C.R. VOL. 4
1864-1868, Page 381

Street accepted.

UNION STREET - C.R. VOL. 5
1868-1873, Page 192

Renamed Anthony Street.

UNION STREET - C.R. VOL. 6
1873-1878, Page 70, 470, 481, 461

Pg. 70: Accepted between Lincoln Avenue and Hawthorne Street.

Pg. 470: Work on street finished-street accepted.

Pg. 481: Vote to accept street rescinded until proper deed available.

Pg. 461: Street accepted subject to being finished.

VAUGHAN STREET - C.R. VOL. 1
1849-1853, Page 140

Street renamed Elwyn Street.

C.R. VOL. 9, 1888-1891, Page 482:

Section running from corner near storehouse to Maplewood Avenue renamed Raynes Avenue.

Portion between Deer + Old Russell abandoned 7-1-85

VENUS STREET - C.R. 1963, Page 254

Accepted.

Renamed Omne Road 10/15/84

VERSAILLES AVENUE - C.R. 1961, Page 313.

Versailles Avenue from Jones Avenue 237.7 feet southeasterly, accepted.

VICTORY ROAD - C.R. 1941-42, Page 100

Accepted.

VINE STREET - C.R. 1953, Page 134

Accepted.

WALL STREET - C.R. 1973, Page 50

Abandoned.

WALLACE STREET - C.R. 1903-07, Page 15

Changed to Newton Avenue.

WARREN STREET - C.R. 1897-1900
Page 422

Changed to Porter Street.

WATER STREET - C.R. VOL. 10
1892-97, Page 221

Changed to Marcy Street.

WATER STREET - C.R. 1925-27
Page 83

Street changed to Marcy Street from State Street to Newcastle Avenue.

WENDELL STREET - C.R. 1970, Page 98

Discontinued.

WENTWORTH ACRES, Streets, Water Lines, Sewer Lines, etc. - C.R.1957 Page 177, (Pg. 250 - List of street constructed or accepte

Page 177: Report concerning accept ance of all streets, water, sewer

WENTWORTH STREET - C.R. VOL. 1
1849-53, Page 535

Accepted.
West Road - in the Lafayette Rd. subdivision
accepted 8/5/85

WEST STREET - C.R. VOL. 8
1883-1888, Page 287

Street running from #74 Middle Street named.

WEST STREET - C.R. 1917-20
Page 381

Street changed to Aldrich Road:
West Road - 8/5/85

WHIDDEN PLACE - C.R. 1964,
Page 146

Hearing held on discontinuance-
no further acti9n in records.
White Cedar Boulevard 6/6/88

WHIPPLE COURT - C.R. 1941-42,
Page 100

Accepted.

WHIPPLE STREET - C.R. VOL. 6
1873-78, Page 257

Street named.

WIBIRD PLACE - C.R. 1897-1900
Page 70

Renamed Chauncey Street.

WINCHESTER STREET - C.R. 1958,
Page 434

Winchester Street accepted
subject to approval of
City Attorney as to form of
deed. (Maple Haven)

WINTER STREET - C.R. VOL. 1
1849-53, Page 411

Street accepted subject to
being graded.

C.R. VOL. 4, 1865-68 Page 434:
Street accepted.

WOODBURY AVENUE PORTION -
CR. 1958, Pages 479 & 488

Pg. 479: Portion of Woodbury
Avenue previously discontinued
by State of NH discontinued by
City and abandoned portion quit-
claimed in return for easement
across property of Rockford
Realty, Inc.; this road may have
been partly reconsidered.

Pg. 488: Description of area
discontinued.
Abandoned old section 4/29/91
(West of Durgin Ln.)

WOODBURY STREET - C.R. VOL. 8
1883-1888, Page 368

Renamed Thornton Avenue

WOODLAWN CIRCLE - C.R. 1956,
Page 86

Accepted for 977 feet subjecy
to completion of work.

WORTHEN ROAD - C.R. 1941-42,
Page 100

Accepted.

WRIGHT AVENUE - C.R. 1921-24
Page 110

Street leading from Daniel Street
to State Street named.

MISCELLANEOUS STREET INFORMATION:

UNNAMED STREET CONNECTING MYRTLE AVENUE WITH MAPLEWOOD AVENUE - C.R. 1957, Page 115

Accepted subject to approval of form of deed.

UNNAMED STREET CONNECTING MYRTLE AVENUE AND MAPLEWOOD AVENUE, C.R. 1957, Page 138

City Attorney finds part of deed objectionable; thinks he can resolve.

LIST OF STREETS EITHER ACCEPTED OR CONSTRUCTED - C.R. 1957, Page 250

Meadowbrook Park, Wentworth Acres, Elwyn Park, Woodlawn Circle, Ocean Road, Winchester or Maple Lane, Moulton Development, Pleasant Point Drive, Sheffield Road, Fells Road, Sims Avenue. These streets are contained in Manager's report and are not formal votes.

NEW STREETS UNNAMED - C.R. 1897-1900 Page 306

Street running from Middle Street to Middle Road - accepted.

ROAD ACROSS SOUTH MILL POND - C.R. VOL. 10, 1892-97, Page 128

Discontinued.

STREET UNNAMED - C.R. 1917-20, Page 564

Changed to Ward Place or Ward Street. Street leading from Middle Road to Lafayette School.

STREET UNNAMED - C.R. 1903-07 Page 15

Changed to Scrutin Street.

STREET UNNAMED - C.R. VOL. 9
1888-1891, Page 397

Street running from South Mill Street to Mechanic Street - referred to the Committee on Streets with power.

STREET UNNAMED - C.R. VOL. 8
1883-1888, Page 144

Street leading from Middle Street. Where it leads to is not mentioned. Accepted.

PUBLIC WALKWAY - C.R. 1973,
Page 50

Between Hill & Hanover Streets and between Deer & Raynes Avenue - abandoned.

NEW ROAD UNNAMED - C.R. 1941-42
Page 162

Road running from Sherburne Road to the boundary line between the City of Portsmouth and the Town of Newington - discontinued for purpose of Portsmouth Public Airport.

UNNAMED STREET RUNNING BETWEEN PROPOSED WOODLAWN CIRCLE AND HILLCREST DRIVE (PART OF WOODBURY PARK)
C.R. 1955, Page 165

Discharged.

STREET UNNAMED - C.R. 1950
March to December, Page 142

Street running between Miller Avenue and Broad Street accepted.

SERVICE ROAD (ALONGSIDE SPUR ROAD)
C.R. 1953, Pages 284-85

Accepted subject to receiving deed.

NEW HIGHWAY UNNAMED - C.R. VOL. 4
1864-1868, Page 414

Street discontinued.

HIGHWAY UNNAMED - C.R. VOL. 4
1864-68, Page 423

Street discontinued.

BACKROAD - C.R. 1908-13,
Page 373

Changed to Peverly Hill Road.

Paper Streets deeds
File 7-20-06

1/17/1977

STREETS IN PORTSMOUTH

A
Adams Ave. *
Albany Street *
Aldrich Court
Aldrich Road - v17 p 556 deed *
Artwill Avenue - 4/9/43 p 217
Ash Street * 6/29/72 xx (not accepted per P.B. Recommendation)
Ashland Street
Atkinson Street
1833 - Pg 56 Tour Records → Austin Street - deed 1834 *
Autumn Street
Alumni Drive 7/1/57 - 956
* Anne Avenue 12/5/79

B
Ball Street
Banfield Road p 186 (city) *
Barberry Lane
Bartlett Street
Bay Cliff Road* v25 -p184
Beechwood St.
Benson Street * (need deed)
Bersum Lane *
Birch Street
Blossom St.
Boss Avenue *9/7/1950
Bow Street
Boyd Road *v-4 p98
Brackett Road *6/2/55
Brackett Lane * 6/2/55
Brewster Street
Bridge Street
Broad Street * Burkitt Street
Booth Avenue * → Changed to High Liner Ave. 4/4/83
High Liner Ave. ← Borthwick Avenue * 12/5/73 portion
Burkitt Street

C
Cabot Street
Caldwell Avenue
Calvin Court 11/28/50
Cass Street
Cate Street * portion of Cate St. - 12/6/76
Cedar Street
Central Avenue xx Mun services
Ceres Street discontinued
Chapel Street
Chapel Court
Charles Street
Chatham Street * v3 p 458
Chauncey Street
Chestnut Street
Church Street
Circuit Road * ← Circuit Road Extension Harold Keefe Drive 11/10/85 Corcoran Rd - accepted 9-19-88
Cliff Road xx Mun services
Clinton Street * p 108 part of
Coffin's Court xx
Cleveland Drive *
Clover Lane xx
Coakley Road x (deed needed) 11/25/57

*ACCEPTED STREET

* Colonial Pines Streets - 2/5/79
Colonial Pines Rd.* - part of 12/6/76
Colonial Drive * v26 -P100 & 110
Colonial Street
Columbia Street -
Columbia Court
Commercial Place by Kimball accepted
Concord Way
Congress St. x 10/7/57
Coolidge Dr xx
Coolidge Dr. Ext *
Cornwall Street lot 72-74
Cottage Street * v12 -p457
Court Street -
Court Place * deed L. Pickering 9/15/1843
Custom House Court - named 10/15/79
Cutts Street - 10/15/79
Cut off Myrtle & Maplewood Aves. 7.1/57
all of Penhallow

D
Daniel Street *
Davis Road * 11/8/74
Dearborn Street
Dearborn St. Ext. * v27 p44 275 ft.
Dearborn Place
Decatur Road * v26 P 100 &110
Deer Street
Dennett Street -
Depot Avenue
Dodge Ave * 10/7/57 ext 9/4/52
Doris Avenue * v-25 - p157
Dover Street * v2 p451
Durgin Lane
Dutton Avenue
Diamond 4-134
Denise Street *
Dwight Avenue *
7/1/57

E
Echo Ave-west of Spur Rd. abondaned
Edward Street
Elm Court * v9 p172
Elywn Avenue
Elwyn Road
Essex Avenue *
Exchange Avenue
Elm Street
Edmond Avenue *

Atlantic Heights:
All Streets *

C & A streets in Industrial Park accepted 1/3/77

named 11/10/80 some deeds 1982 See file 7-1
Constitution Ave. accept 8/11/80 # 15:15

*FARM LANE - Portion discontinued (intersection w/ Spaulding Turnpike) 9/9/85

F. W. Hartford Dr. plan 3 10/6/86

STREETS IN PORTSMOUTH (2)

F
Fairview Avenue * 11/6/52
Fairview Drive 11/23/42 p 189
Falkland Way (H)
*Farm Lane * 2/2/50
Fernald Court
Fields Road xx 1/6/58
Fells Road 7/23/56 FLEET ST.
Fletcher Street
Foch Avenue * (deed)
Forest Street
Foss Road
Frame Point
Franklin Street v1 p502 (1853)
Freeman's Point v17 p433
Frenchman's Lane
Friend Street
Filmore Road *

G
Garden Street
Gardner Street T.J. GAMESTER DR. 3/5/85
Garrett's Court
Gates Street *
Georges Terrace * v26 p 100 &110
Gosling Road
Granite Street *
Green Street
Greenland Road *
Greenleaf Avenue GREENLEAF WOODS DR. accepted CR 3/25/81
Greenside Avenue *300 ft-v25-p151
Grant Avenue * 8/6/73 file 4-7
Garfield Road

H
Haig Street * F.W. HARTFORD DR. 3/5/85
Hall Court* v26 P100 & 110
Hancock Street
Hanover Street see Cross St also
Harvard Street
Haven Road * v25 p2
Hawthorne St.
High Street -
Highland St. * v7 p165
Hill Street * v4 p291 xHillcrest Dr 972' to north boundary 7/5/56
Hillside Drive xx-v25 * not wide enough
Holly Street
Holly Lane 10/7/54-deed need correcting
Holmes Court
Howard Street
Humphrey's Court * v14-p299
Hunking Street
Harding Road *
Hillcrest Dr. *
Hayes Place

I
Islington Street *

Deed # 15-40 Heritage Ave (Atlantic) Deed Vol 2274 Pg 1056 2/25/77 Assessors office has copy of deed

*Joan Avenue 2/5/79

J
Jackson Hill
Jackson Street * abondoned 1970 1849 v7-p230
Jefferson Street
Jenkins Avenue
Jewell's Court
Joffre Terrace
Johnson Court
Jones Avenue - xx
Joseph Street
Junkins Avenue *

K
Kearsarge Street *
Kearsarge Way *
Kensington Road
Kent Street

L
Ladd Street
Lafayette Road -
Lang Road *
Langdon Street
Lawrence Street *
Leavitt Avenue
Lens Avenue * (deed) 3/27/25 pg 23 bk 794
Liberty Street
Lincoln Avenue * v5 p 279
Linden Street
Little Harbor Rd.
Livermore Street
Locust Street
Longmeadow Lane xx 100ft from Woodlawn
Lois Street
Lookout Lane
Lovell Street *v10 p339
Leslie Drive 11/1/58

M
Madison Street
Magnolia Street
Mangrove Street *
Manning Place
Manning Street
Maple Street * 2/2/50
Maplewood Avenue
Mariette Dr
Marjorie Street * 1/4/51
Mark Street
Market Street -
Market Square
Marne Avenue * deed - 3/27/25 bk 794 p233
Marston Avenue v15 p49 - v19 - p191
Mason Avenue * v26 p 100 & 110
Mast Street
McClintock Avenue
McDonough Street *
McKinley Road * 10/24/55 (deed)
McNabb Court * 7/14/52

"H" all streets at heights accepted by City

STREETS IN PORTSMOUTH (3)

Meadow Road * 2.2.50
Mechanic Street *
Meeting House Hill
Melbourne Street v11 p443 deed
Melcher Street * vi p539 (1853)
~~Martha Terrace~~ *
Mendum Avenue * 10/18/13 v15 p69 (deed)
Merrimac Street
Middle Road
-MIDDLE ST-
Miller Avenue * v5 -p11
Mirona Road Ext * 1/5/76
Mirona Road * accepted 2/22/71 - 11/23/70
Moffatt Street
Monroe St. * 4/29/27 v23 p99
Monteith Street - WOODSIDE PARK
Morning St. *v5 p35
Mount Vernon St. * v5 p 219
Myrtle Avenue -
Mulberry Street *

N NewCastle Avenue *
Newton Avenue * v12 p453
Noble's Island
North School Street
Northwest Street *

OAKWOOD DR (accepted 11-17-86)

O Oak Street
Ocean Road -
Orange Street
ORCHARD COURT
Orchard Street v10 -p422-426
Oxford Avenue * 7/1/51
OXFORD ROAD 7.1.51

P Park Street * v15-p655-deed 10/3/18
Pamela Street 11/4/57
Parket Street
Parker Place
Parrott Avenue
Partridge Street
Pearl Street * v6 p714
Pearson Street * v20 p183
Pierce Island
Penhallow Street deed 1807 8/20
Peverly Hill Road *
Pickering Avenue
Pickering Street
Pine Street * v8 p226
Pinehurst Rd. *v21 p105 10/4/56
deed 12/20 33-1/12/61
Plains Avenue
Pleasant St. -
Pleasant Pt. "parcel C"
Porpoise Way * 10/24/55 -245' long
Porter St
Pray Street * v6 p608
Preble Way

Post Rd
Deed
Vol 2276
Pg 1056
2/25/11
Deed.
in Assessors
Office

Princeton Street
Profile Avenue *
Prospect Street
Pleasant Pt. Dr. 12/1/55 - 12/28/60

*Ricci Avneue 2/5/79
*Robert Avenue 2/5/79

R Raitt's Court
Raleigh Way * (H)
Rands Court
Regina Road 9/4/64
Ranger Way (H)
Raynes Avenue
Richards Avenue *
Richmond Street
Ridges Court * 3/31/1924
Rock Street
Rockaway Street
Rockhill Avenue *
Rockingham Avenue *
Rockingham Street * v5 p219
Rockland Street * v10 p200
Rogers Street
Russell Court (Alley)
Russell Street -
Rutland Street * v11 p443 deed
Ruby File 4-134
Ruth * file 4-151 3.1.71

S Sagamore Avenue * part vi p168
Sagamore Grove
Salem Street * v4 p429
Salter Street
Saratoga Way * (H)
School Street
Schurman Avenue * v26 -p100 & 110
Scott Avenue
Scruton Avenue 6/24/1903
Sewall Road 1/6/58 xx
Shapleigh Island
Sheafe Street *
Sheffield Road * 10/4/56
Sherburne Avenue
Sherburne Road 6/23/52-leased to Govt-AFB
Sheridan Avenue
Sims Avenue * deed
Snugharbor Avenue
South Street
South Mill Street * v9 p419
South School Street
Sparhawk Street
Spinney Road
Spring Street * v8 p404
Spruce Street

*Accepted Streets
- part of

Stark Street
-State Street -
Sudbury Street *
Summer Street *
Summit Avenue * 301 ft. v 24 p165
Sunset Road * 4/20/53 deed
Sutton Avenue 390 ft v25 p72
Sheffield Road * 10/4/56
~~TxxtxRxadXXXX~~
Sapphire Street 1968 deed 4/134
Suzanne Drive *

T
Tanner Court
Tanner Street 12/13/1927
Thaxter Road * 7/14/52 deed v20-p183
Taylor Lane *
Taft Road *
Taccetta Estate Streets * 1/3/77
Tyler Place -
Thornton Street
Thornton St. Ext. 5/23/55 portion abandoned
Truman Place *

U
Union Street * v6 p470 from Hawthorne to South St.

V
Van Buren Ave 5/17/60
Vaughan Street -
Venus Street 8/29/63-recorded 9/4/63
Verdun Street *deed 12/26/23--pg 235-bk 794
Versailles Avenue *deed 12/26/23-pg 235-bk 794
Victory Road * v26 P 100-110
Vine Street * 5/23/53 50 ' wide not wide enough

W
Walden Street
Walker Bungalow Rd - 4/7/55 xx
Walker Street
Wall Street
Walnut Street
Walton Avenue
Ward Park
Washington Street
Westfield Rd. 7/6/58
Wendell Street abondoned 1970
Wentworth Street * v1 p535 1853
Whidden Place *West Road - 5/5/85
Whidden Street
Whipple Court * v26 P100-110
Whipple Street
Wibird Street *
Willard Avenue *
Willow Lane
Wilson Road 8/17/49

WBBX ROAD (per memo 9/8/80 from Dan Ayer)

Winter Street
Witmer Avenue
Woodbury Avenue formerly Newington Rd
Woodlawn Circle * 12/19/51
Woodworth Avenue
Worthen Road * v26 P100-110
Wright Avenue *deeded 5/26/52
Weald Road *
Wedgewood Road *
Winsor Road *
* Woodworth & Sweatt 9/17/46 Bd. of Sel. comm.
Wilson Road *
Winchester St. *

6/23/52

State St. reconstructed

State Dept: $63,000
City Share: 12,000

Deeds: Home for Aged Women
Rockingham County Jail Bldg.
Snow Plowing etc. $57,571,43
Library Annex (Cohen Estate)
Sand pet-Bach of Sherburne School 6/23/52

STREETS IN PORTSMOUTH

*Anne Avenue 2/5/79
*Adams Ave

A *Albany Street
Aldrich Court
Aldrich Road* V11 P556 deed
Artwill Avenue Bk. 58 Onm 11/9/48 P.217
*Ash Street
Ashland Street
Atkinson Street
*Austin Street - deed - 1954
Autumn Street
Alumni House 7/1/57 1954

B Ball Street
Banfield Road (Rec. V1 P186 (city)
Banberry Lane
Bartlett Street
Bay cliffe Road* V25 P134
Beechwood Street
*Benson Street (Dead end)
*Bersum Lane
Birch Street
Blossom Street
Boss Avenue* 9.7.1950
Bow Street
Boyd Road* V41 P45
6/2/55 - Brackett Road & Lane* 6/2/55*
deed Brewster Street
Bridge Street
Broad Street
- Burkitt *Bursum Lane
*Booth & Borthwick Aves

C Cabot Street
Caldwell Avenue
Calvin Court* 11/25/50
Cass Street
Cato Street — portion of Cato St - accept 12/2/74
Cedar Street
xx Central Avenue Mun. Services
Ceres Street - discontinued
Chapel Street
Chapel Court
Charles Street
Chatham Street* V13 P458
Chauncey Street
Chestnut Street CYA Streets in Industrial Park
Church Street accepted 11/3/77
*Circuit Road
xx Cliff Road - Municipal Services
- Clinton Street* D4 P108 part of
xx Coffin's Court
xx Cleaver Lane *Cleveland Dr.
x Cooley Ln (Dead end) 11/25/57
*Accepted Streets

** Municipal Services

Circuit Term Road Court named by PB 7/7/77 only 111 Peverly Hill Rd

*Colonial Pines St. 2/5/79 V26 P.Index

C Colonial Drive* V26
Colonial Street
- Columbia Street
Columbia Court by Kimball Land
Commercial Place
Concord Way
*Congress Street
xx Coolidge Drive *Coolidge Dr.
Cornwall Street
Cottage Street* V12 P451
- Court Street
*Court Place - deed - Surplus Property
- Cutts Street
7/11/52 Cutts Street Jr. High School Area

D *Daniel Street
Dearborn Street
Dearborn St. Ext. *275 V26 P.Index
Dearborn Place
Decatur Road* V26 P.Index
Deer Street
- Dermott Street
Depot Avenue
4/4/52 - Dodge Avenue* 10/7/57
- Doris Avenue* - Dodge Ave Ext
Dover Street* V2 P451
386/6 V25 P157
Durgin Lane
Dutton Avenue Diamond 1-158
*Daniel
*Dennett Ave

E Echo Avenue - west of Daniel abandoned
Edward Street 7/11/52
Elm Court* V4 P112 Airport Runway
Elwyn Avenue
Elwyn Road
*Essex Avenue - Rotary
Exchange Avenue
ELM ST. -
*Elwood Ave

Atlantic Heights:
All Streets*

Constitution Ave 8/11/58
Accept
named 11/10/80
See amendment 1/82 11/15-75

*** Municipal Services

- off Colonial Pines Rd - accepted 12/4/76

Portion of Farm Lane discontinued 9/9/85 (at intersection of Spaulding Turnpike)

Farm Lane -

Streets in Portsmouth (2)

E
Fairview Avenue* 11/6/57
Fairview Drive* 1st St. Conn. 11/23/42 P189
Falkland Way (1)
Farm Lane* - Jones Road Circle
Fields Road xx 11/6/58
Fleet Street
Fletcher Street
*Foch Avenue (dead)
Forest Street
Foss Road
Fra mo Point
Franklin Street* V1 P233 (1853)
Freeman's Point V11 P433
Frenchman's Lane
Friend Street
*Fillmore Rd.

G
Garden Street
Gardner Street
Garrett's Court
*Gates Street
Georges Terrace* V26 P100 etc
Gosling Road
*Granite Street
Green Street
*Greenland Road
Greenleaf Avenue
Greenside Avenue* 300' - V25 - P157
*Grant Avenue, 90' ROW of 383 accepted 5/26/53
*Heritage Rd.
H
Hall Court* V26 - P100 etc
Hancock Street
Hanover Street
Harvard Street
Haven Road* V25 - P2
Hawthorn Street
High Street
Highland Street* V7 P125
Hill Street*
Hillside Drive*
Holly Street
Holmes Court
Howard Street
Humphrey's Court*
Hunking Street
*Harding Rd.
I
*Islington Street

J
Jackson Hill
Jackson Street* 1849 V4 P280
Jefferson Street
Jenkins Avenue
Jewell's Court

*Joan Avenue 2/5/79
Joffre Terrace
Johnson Court
Jones Avenue xx
Joseph Street
Junkins Avenue*

K
*Kearsarge ST
*Kearsarge Way
Kensington Road
Kent Street

L
Ladd Street
Lafayette Road
*Lang Road
Langdon Street
*Lawrence Street
Leavitt Avenue
*Lens Avenue (dead) V7 P335 - V8 P294
Liberty Street
Lincoln Avenue* V25 P223
Linden Street
Little Harbor Rd.
Livermore Street
Locust Street
Lois Street
Lookout Lane
Lovell Street
Madison Street
Magnolia Street
*Mangrove Street
Manning Place
Manning Street
Maple Street* 2/7/58
Maplewood Avenue
Maroy Street
Marjorie Street*
Mark Street
*Market Street
Market Square
*Marne Avenue (dead) V8 P294 - V9 P235
Marston Avenue* V15 P49 V16 P171
Mason Avenue* V26 P100 etc
Mast Street
McClintock Avenue
McDonough Street*
McKinley Road 10/24/55 - deed
Mellabb Court* 7/24/52
Meadow Road* xx 250
*Mechanic Street
Meeting House Hill
Melbourne Street - V11 P443 Deed
- Melcher Street* V1 P231 (1653)
*MARIETTE DR.
*MARTHA TERR.

*Accepted Streets

"H" All streets at Heights accepted by City

Streets in Portsmouth (3)

*Ricci Avenue 2/5/79
*Robert Avenue 2/5/79

M
Mendum Avenue 10/18/13 V15 P19 (decl.)
Merrimac Street *Murina Rd Ext- 11/5/76
Middle Road
-Middle Street *Murina Rd Accepted 12/22/71
Miller Avenue*(So. Summer St) V5- P11
Moffatt Street
Monroe Street 4/29/37 V23 P99
Monteith Street-Dodge Park
Morning Street* V5- P35
Mount Vernon St.* V5- P219
-Myrtle Avenue
*Mulberry St.

N
New Castle Avenue*
Newton Avenue* V12 P453
Noble's Island
North School Street
Northwest Street *

O
Oak Street
-Ocean Road
Orange Street
Orchard Court
Orchard Street V10 P422-426
*Oxford Avenue
Oxford Road - 7/3/58* 7.1.57

P
Park Street -Pamela Dr.-11/4/57
Parker Street
Parker Place
Parrott Avenue
Partridge Street
Pearl Street* V6 P114
Pearson Street* V20 P163
Pierce Island
Penhallow Street decl 1507 P120
*Peverly Hill Road
Pickering Avenue
Pickering Street
Pine Street* V8 P226
Pinehurst Road* V21 P105- 10/4/56
Plains Avenue
-Pleasant Street *Pleasant St. "Parcel C"
*Porpoise Way ATLANTIC HTS 10/24/55- 245' pt long
Porter Street
Pray Street* V6-P607
Preble Way
Princeton Street
*Profile Avenue Acres
Prospect Street

R
Ranger Way (H)
Raynes Avenue*
-Richards Avenue *
Richmond Street
Ridges Court* 3-31-1921
Rock Street
Rockaway Street
Rockhill Avenue acres 3
Rockingham Avenue*
Rockingham Street* V5- P219
Rockland Street* V10 P204
Rogers Street
Russell Court (Alley)
-Russell Street
Rutland Street * V11 P443 decl.

S
Sagamore Avenue* Plat VI P165
Sagamore Grove
Salem Street* V4 P407
Salter Street
Saratoga Way (H)*
School Street
Schurman Avenue* V&C P107 #10
Scott Avenue
Seruton Avenue 6-24-1903
Sewall Road 11/6/5* XX
Shapleigh Island
Sheafe Street
Shorburne Avenue
Shorburne Road - 6/23/52
Sheridan Avenue
*Sims Avenue decl
Snugharbor Avenue
South Street
South Hill Street* V9 P418
South School Street
Sparhawk Street
Spinney Road
Spring Street* V8 P404
Spruce Street
Stark Street
-State Street
Sudbury Street*
Sumner Street*
-Summit Ave.*
Sutton Ave.*
Swasey Avenue
Sylvester St.

T
Tanner Court
Tanner Street 12-13-1927
Thaxter Road* 7/11/52 decl
*Taylor Lane V20 P183
*Sheffield Rd.
*Taft Rd.
*Suzanne
Shepherd

H
Hall's Court
Raleigh Way (H)*
Rands Court

*Accepted Streets
- pt. I

Taylor & State Scott Accepted 1/3/77

Regina Rd. 4-4-61
Sagamore Ave. Plat VI P165
Sagamore Grove
Salem St. V4 P407
Saratoga Way (H)*
Sheafe Street
Shorburne Road - 6/23/52
Sheridan Avenue
*Sims Avenue decl
Snugharbor Avenue
Summit Ave.* Summit Rd. 4/2/63 decl
Sylvester St.

Post Rd. Deed in Assessor's Office

decl 10/11/13 V15 P55

(decl 12-20-33 1-12-61

Rockhill Ave. acres 3

Rockingham St. V5- P219

Rockland St. V10 P204

Rutland St. V11 P443 decl.

Sagamore Ave. Plat VI P165

Salem St. V4 P407

Sheridan Ave. *Sims Ave. decl

Spring St. V8 P404

Sudbury St.

Sumner St.

Sutton Ave.

Swasey Ave.

Tanner Court

Tanner St. 12-13-1927

Thaxter Rd. 7/11/52 decl

*Taylor Lane V20 P183

*Sheffield Rd.

*Taft Rd.

*Suzanne

Shepherd

1968 Book 1-134

Streets in Portsmouth (4)

Tyler Place
Thornton Street
Thornton St. Ext. 5/23/55 Portion Abandoned
*Trip on Place
U Union St.* V6 P470 (Ann Mauretane to Ann Mullaney - Abutting property
Van Buren Ave 5-17-60 Sister St
V Vaughan Street Vacated - 8/28/63 Recorded 9/4/63
Verdun Street deed - 12/26/23 - bk - 794 - pg 235
Vermillion Ave. deed - 12/26/23 bk - 794 - pg 235
Victory Rd.* V86 P101-110
Vine Street * 5/23/53 (5 of 6 owners) abutters to receive additional land from Redevelopment Authority
W Walden Street
Walker Bungalow Low Rd. - 4/7/55 XX
Walker Street
Wall Street
Walnut Street
Walton Avenue
Ward Park
Washington Street accepted 12/7/57
Abandoned 1970 Wendell Street
Wentworth Street* V1 P235 (1953) West Road (in the Lafayette Rd sub-division) Accepted 8/5/85.
Whidden Place
Whidden Street
Whipple Court* V86 P100-110
Whipple Street
Wibird Street*
Willard Avenue*
Willow Lane Wilson Rd 8/17/49
Winbar Street
Witmer Avenue * Woodbury Avenue to Lafayette Rd
Woodbury Avenue * Formerly Lafayette Rd
Woodworth Avenue
Worthen Road* V86 P100-110
Wright Ave Ext * Deeded - 5/26/52
Wrentham Rd * Wedgewood Rd.
Wilson Rd. 9/17/46 V8-P194 Street accepted from Middle St and Easterly Rds. Baxter Brown
* Wilson Rd. Sweetser & Woodworth accepted by Rec. Sta. Comm.
Winchester St.
12/19/55 * Woodlawn Cir.
Wilson Rd.

6/28/52
State Street Reconstruct
State Dept: $63,000.—
City Share: 12,000.—

Deeds: Home for Aged Women
" Rockingham County Jail Bld - Sewer Planning etc.)
$3757.43
Library Annex (Cohen Estate)
Sand Pit - Back of Aldrich School - 6/23/52

WBBX ROAD (per memo 9/8/80 from Dan Ayer)

5.

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).

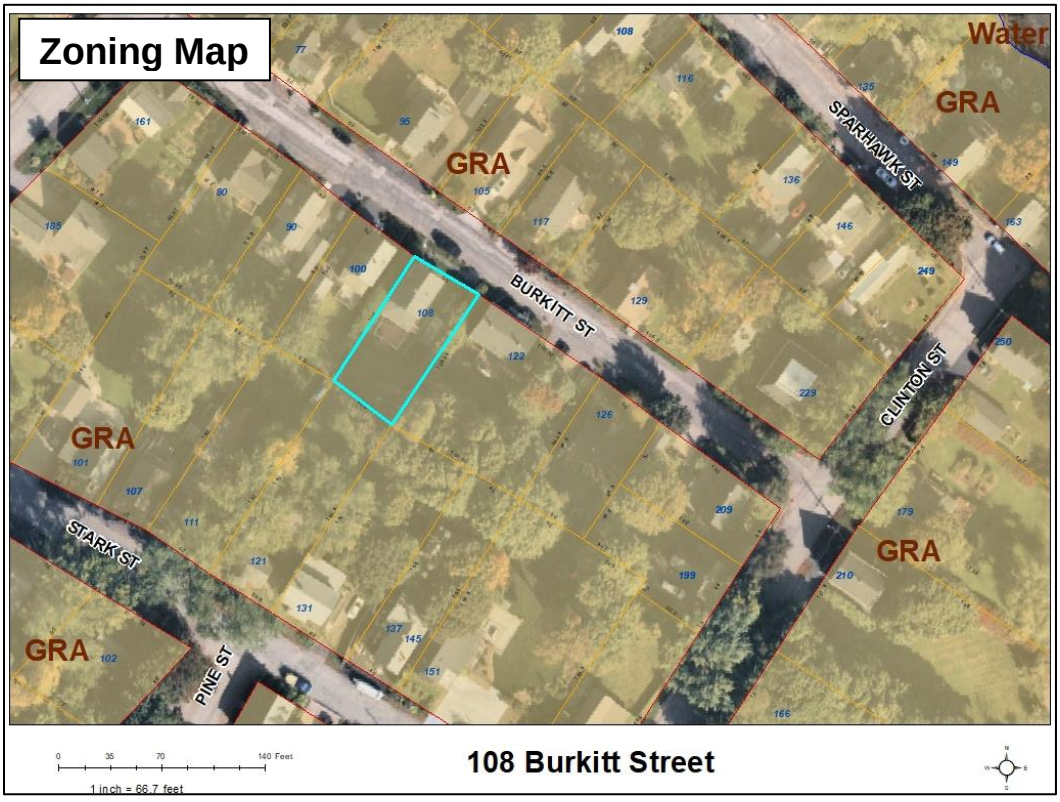
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Demo garage/Construct new garage	Primarily single residence	
Lot area (sq. ft.):	5,227	5,227	7,500	min.
Lot area per dwelling (sq. ft.):	5,227	5,227	7,500	min.
Lot depth (ft):	50	50	70	min.
Street Frontage (ft.):	102	102	100	min.
Primary Front Yard (ft.):	6 (house) 30 (garage)	31	15	min.
Right Yard (ft.):	3	35 (garage)	10	min.
Left Yard (ft.):	0	**1**	10	
Rear Yard (ft.):	50	45	20	min.
Height (ft.):	8.5	12	35	max.
Building Coverage (%):	25	**28**	25	max.
Open Space Coverage (%):	>30	>30	30	min.
Parking:	2	2	2	
Estimated Age of Structure:	1900	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 demolish the existing nonconforming garage and construct a new, 13' x 30' garage in approximately the same location, with a proposed 1 foot left side yard setback. The building coverage with the larger garage will increase to 28%, where 25% is the maximum allowed.

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.

Garage Plans

Joel St. Jean & Mariele Chambers

108 Burkitt St.

Portsmouth, NH

4.25.2022

To The Planning Board of Portsmouth and To Whom It May Concern:

Thank you for taking the time to consider our Land Use Application for variance at 108 Burkitt St.

**10.233.21 The variance will not be contrary to the public interest;

- Because given the age, materials used, and the size of the garage, rebuilding under the new plan will improve the function, use, and safety. Building to modern-day standards will provide the ability to house modern day cars, transportation, and curb appeal.

**10.233.22 The spirit of the Ordinance will be observed;

- Because it does not threaten the health, safety or, welfare of the general public, neighbors. In fact, abating the friable asbestos and lead paint and removing the moldy and mildew covered structure will rid the public and owners of these hazards.

**10.233.23 Substantial justice will be done;

- Because it does not threaten the health, safety or, welfare of the general public, and future and current owners. The building of this new garage will benefit the image and state of the Burkitt St. neighborhoo.

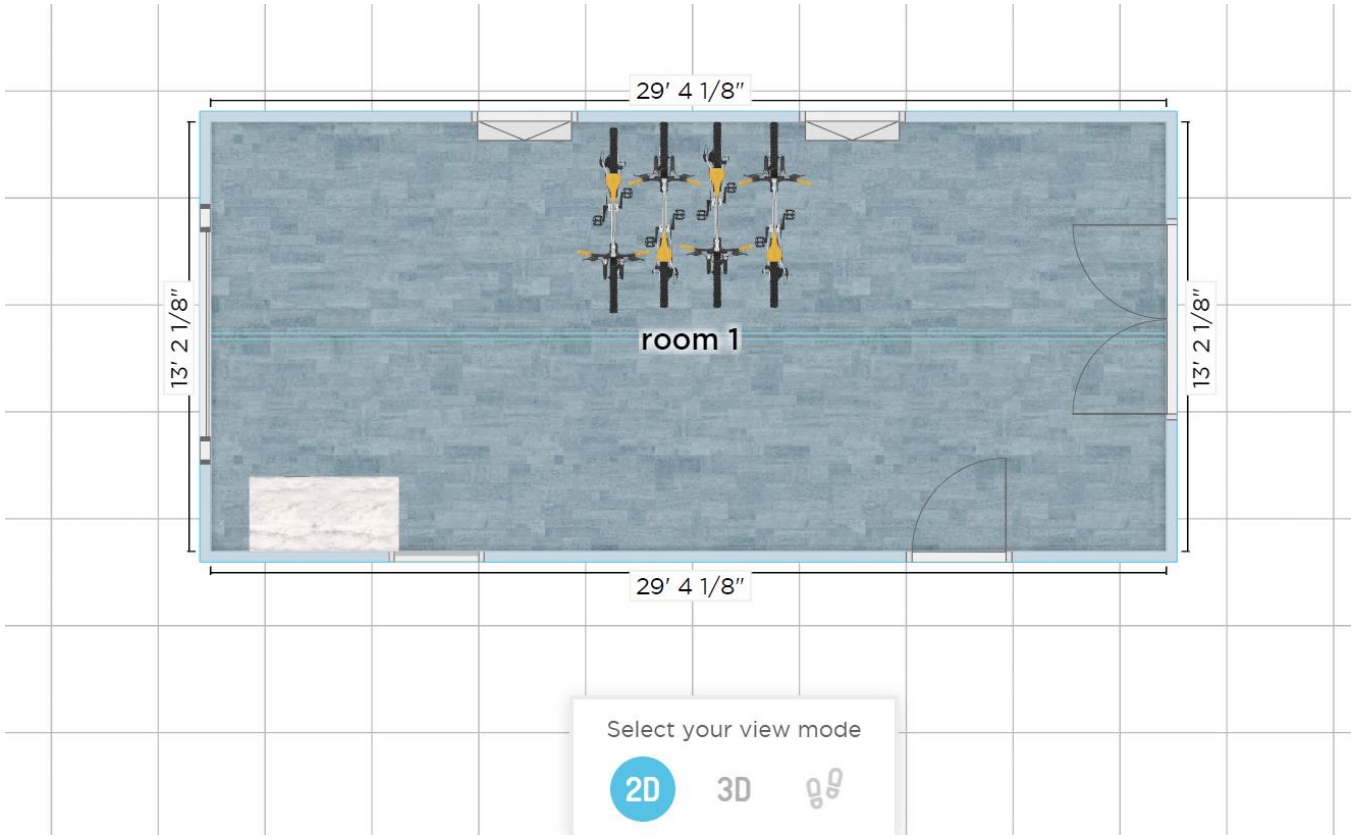
**10.233.24 The values of surrounding properties will not be diminished;

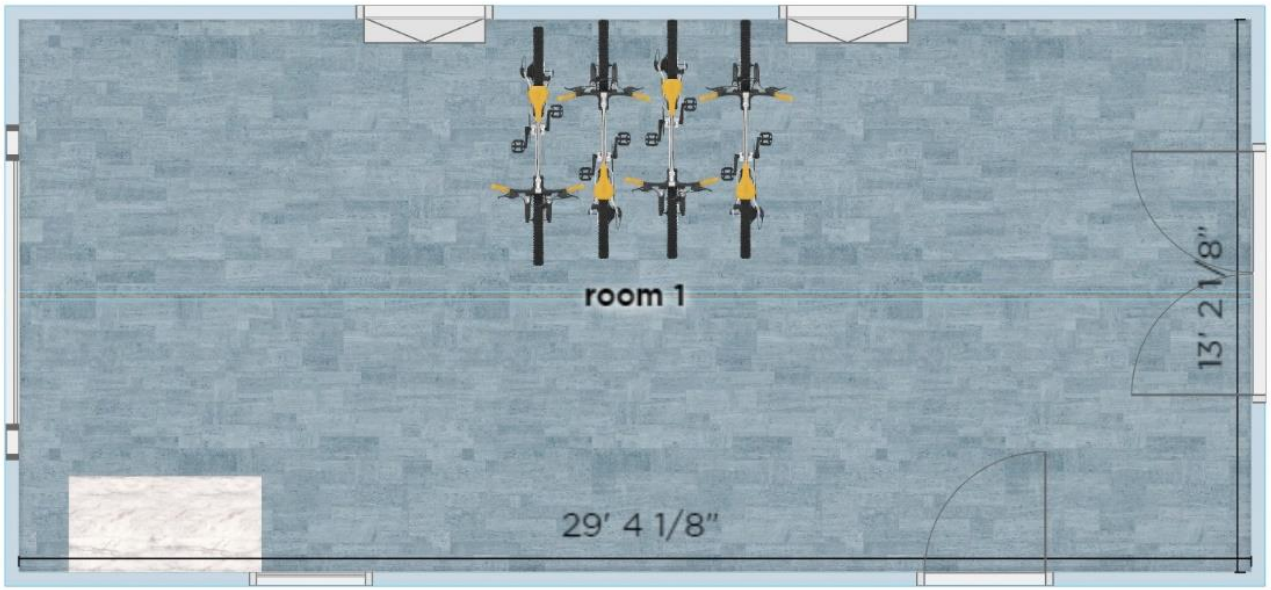
- In fact, the updating to use of modern-day building techniques and materials should only help make the area safer and more appealing.

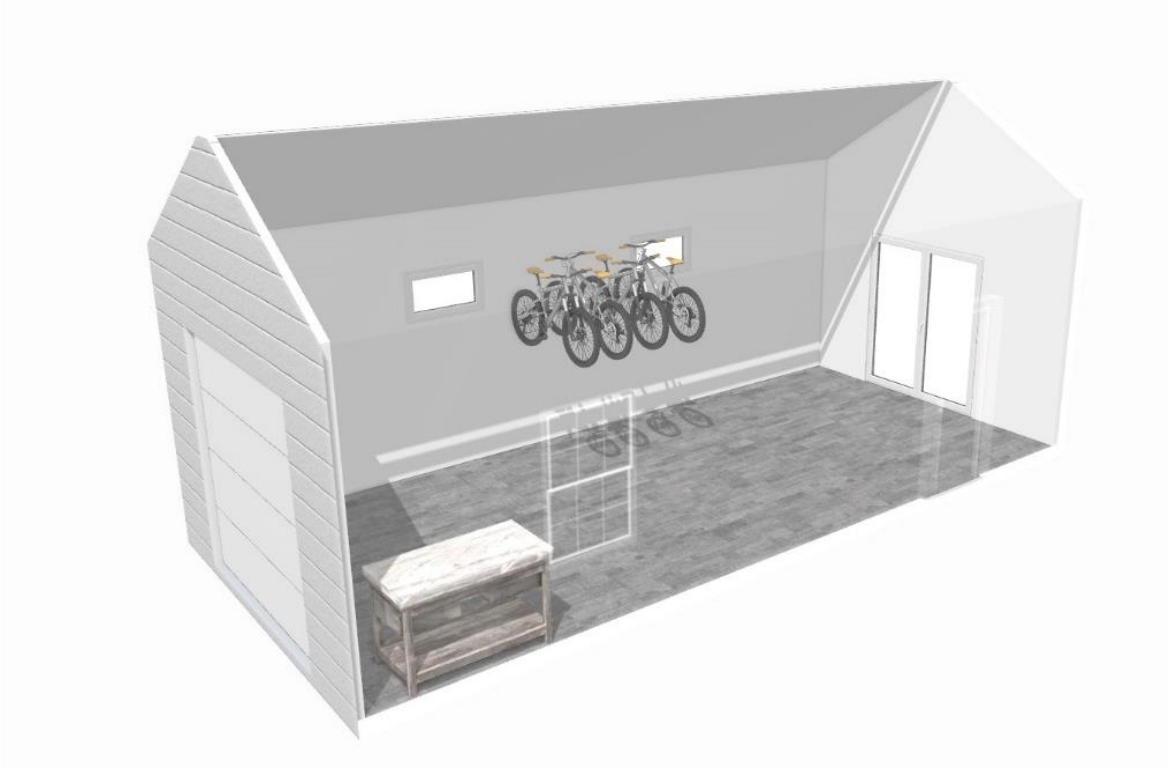
**10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

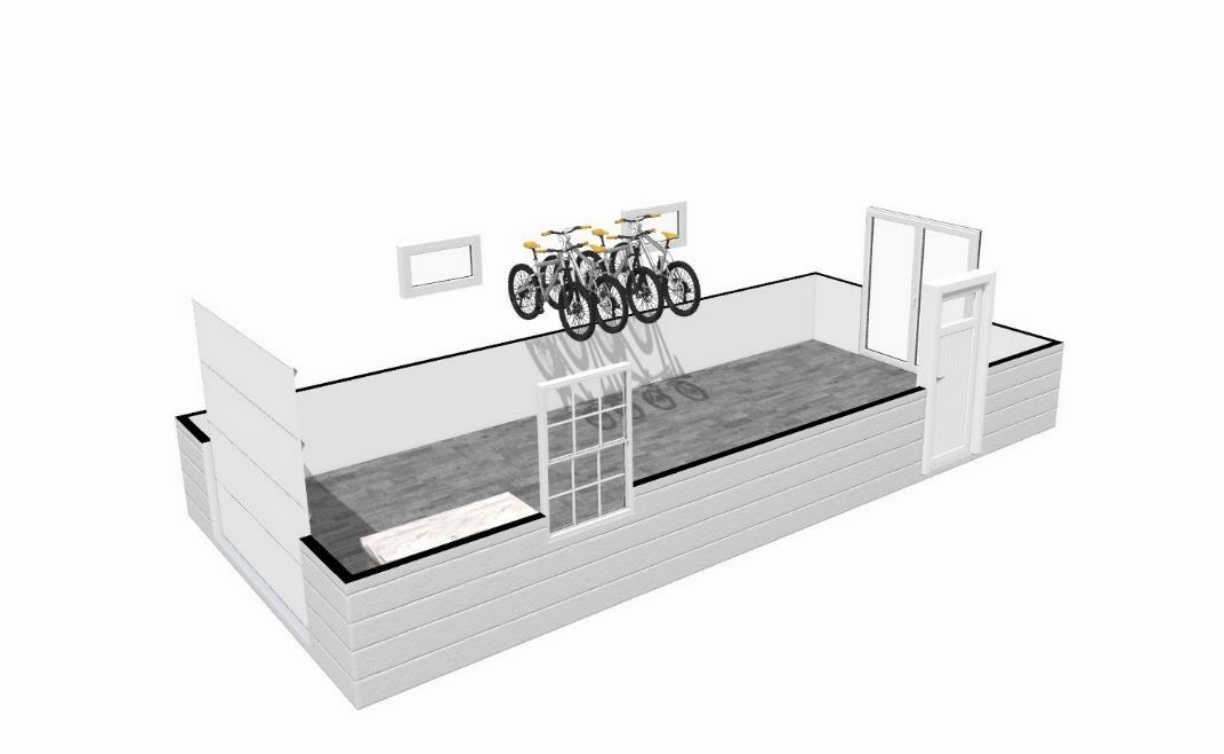
- As it currently stands, water gathers around the foundation, causing flooding, poor drainage, and lack of plant health. It is also causing the rot of the garage door and wooden structure and outer siding. By removing the current garage and placing the new one, the foundation will be fixed to standards which complement the topography of the property. This will appropriately direct water away from the new garage, the current standing main house, and the back yard. Water will not be stagnant nor cause rot.

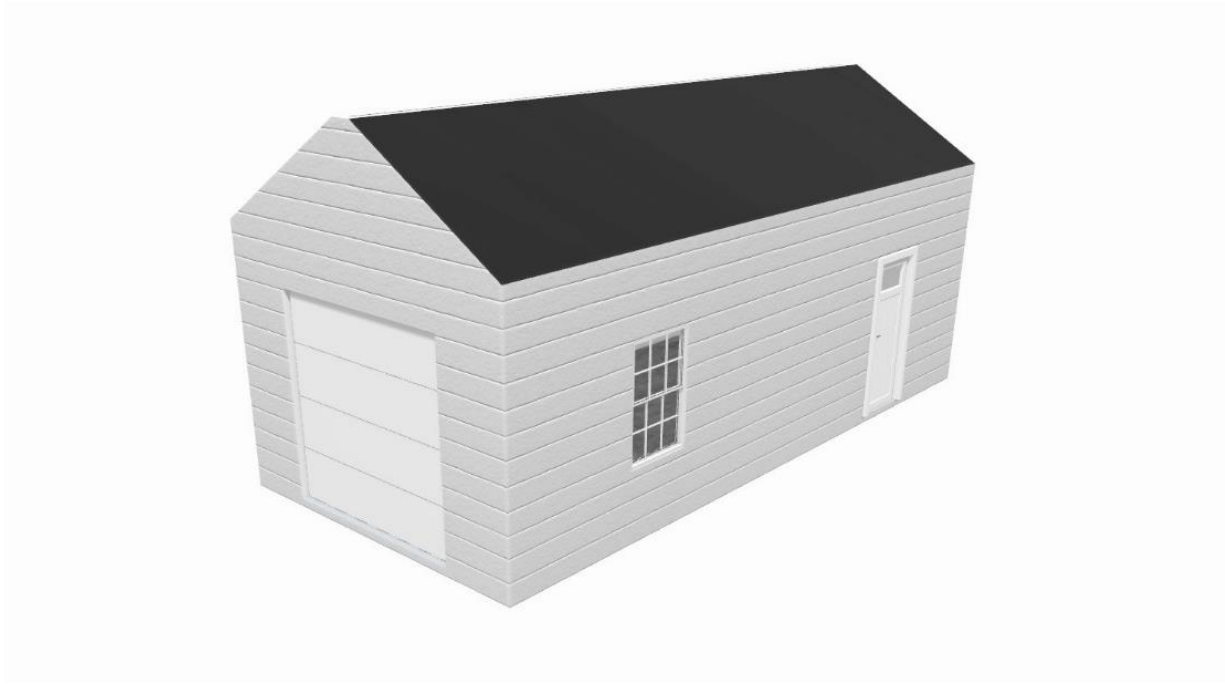
In addition, the use of this garage would significantly improve the quality of life for the current owners, the neighborhood, and immediate neighbors.


29′ 4 1/8″
13′ 2 1/8″
room 1
13′ 2 1/8″
29′ 4 1/8″
Select your view mode
2D
3D


room 1
13' 2 1/8"
29' 4 1/8"







Current State

- Friable asbestos siding (abatement will be needed)
- Damaged roof (aged of garage roof unknown)
- Wood rot in structure and garage door
- Concrete foundation now warped (does not allow for proper water movement/management)

Stairs leading to garage will be removed

Garage Plans

Property Information

Property ID	0159-0030-0000
Location	108 BURKITT ST
Owner	ST JEAN JOEL

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.

6.

Request of **James William Woods** and **Anna Roeline Meinardi (Owners)**, for property located at **1 Walton Alley** whereas relief is needed to construct a 1 story, 12' x 18' detached garage which requires the following: 1) Variances from Section 10.573.20 to allow a) a 1.5' side yard where 10' is required; and b) a 5' rear yard where 13'10" is required. Said property is located on Assessor Map 103 Lot 27 and lies within the General Residence B (GRB) and Historic Districts.

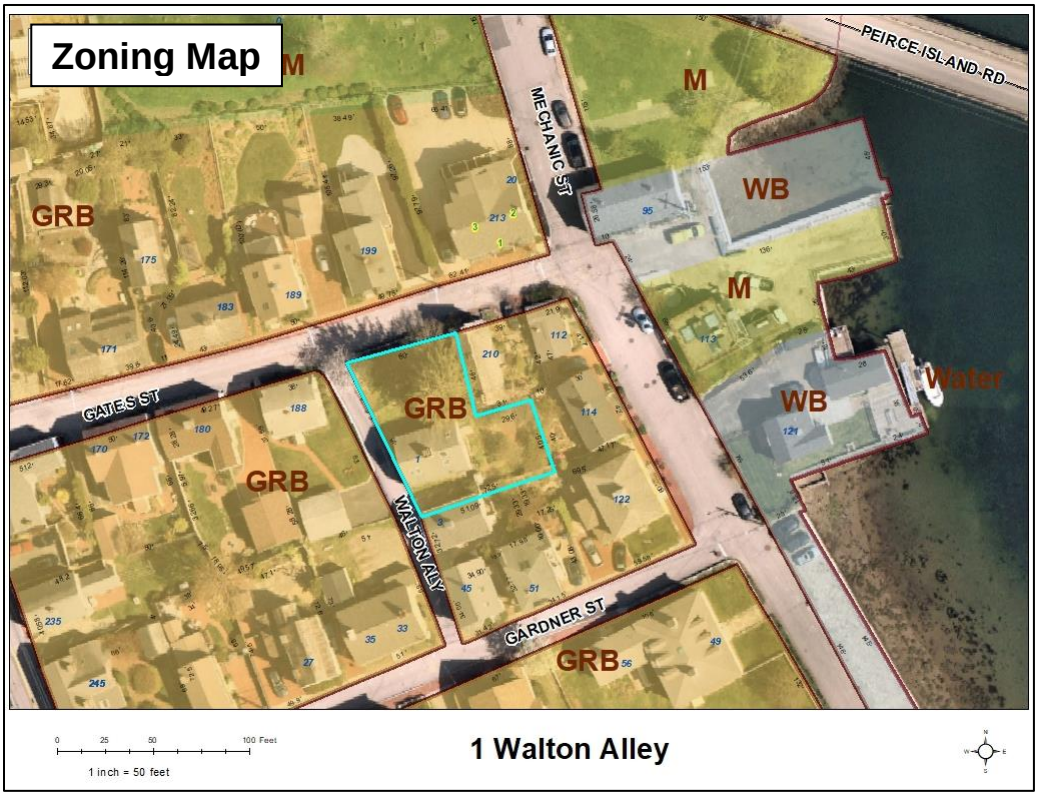
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single Family	Detached Garage	Primarily residential	
Lot area (sq. ft.):	5,672	5,672	5,000	min.
Lot area per dwelling (sq. ft.):	5,672	5,672	5,000	min.
Lot depth (ft):	73	73	60	min.
Street Frontage (ft.):	149	149	80	min.
Primary Front Yard (ft.):	2	2	5	min.
Secondary Front Yard (ft.):	42	42	5	min.
Right Yard (ft.):	14	**1.5'**	10	
Rear Yard (ft.):	39	**9 (5 advertised)**	25/10'2" (garage)	min.
Height (ft.):	<35	10'2" (garage)	35	max.
Building Coverage (%):	16	22	30	max.
Open Space Coverage (%):	67	57	25	min.
Parking:	2	2	3	
Estimated Age of Structure:	1750	Variance request(s) shown in red.		

Other Permits/Approvals Required

Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

July 15, 2003 – Relief from Zoning Ordinance concerning:

1. Article III, Section 10-301(A)(6) Requested to allow picket fence 4' from intersection of Walton Alley and Gates Street where 20' from intersection was the minimum required from the corner.

The Board voted the request be **granted.**

Planning Department Comments

The applicant is seeking to construct a one car garage and extend the existing driveway. A rear addition is proposed on the main dwelling, but does not need any zoning relief. The initial submission requested a 5 foot rear yard and the applicant has moved it forward so that the proposed rear yard is 9 feet. In addition, the height of the garage has been reduced from what was originally advertised, down from 13'10" to the proposed 10'2" height. The project has not received final approval from the HDC. If granted approval, staff would recommend the following for consideration:

1. The rear yard shall be 9 feet.
2. The final design of the garage may change as a result of the HDC review and approval.

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.

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

July 11, 2022

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: James Woods & Anneke Meinardi, Applicants
1 Walton Alley
Tax Map 103/Lot 27
General Residence B ("GRB"), Historic Overlay District

Dear Mr. Stith & Zoning Board Members:

On behalf of James Woods & Anneke Meinardi ("Woods"), enclosed please find the following in support of a request for zoning relief:

- Digital Application submitted 6/1/2022.
- Owner's Authorization.
- 7/11/2022 – Memorandum and exhibits in support of Variance Application

This submission replaces in its entirety the 6/1/22 submission.

We look forward to presenting this application to the Zoning Board at its July 19, 2022 meeting.

Very truly yours,

R. Timothy Phoenix
Monica F. Kieser
Stephanie J. Johnson

Encl.

cc: James Woods and Anneke Meinardi
Ambit Engineering, Inc.
McHenry Architecture

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
STEPHANIE J. JOHNSON
OF COUNSEL:
SAMUEL R. REID
JOHN AHLGREN

OWNER'S AUTHORIZATION

I, James William Woods, Owner/Applicant of 1 Walton Aly, Tax Map 103/Lot 27, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC, to represent me before any and all City of Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date: 26 May 2022

James William Woods

MEMORANDUM

TO:	Portsmouth Zoning Board of Adjustment ("ZBA")
FROM:	R. Timothy Phoenix, Esquire Monica F. Kieser, Esquire Stephanie J. Johnson, Esquire
DATE:	Rev. July 11,2022
Re:	James Woods & Anneke Meinardi, Applicants 1 Walton Alley Tax Map 103/Lot 27 General Residence B ("GRB"), Historic Overlay District

Dear Chairman Parrott and Zoning Board Members:

On behalf of the Applicants, James Woods & Anneke Meinardi ("Woods"), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief to allow construction of a detached garage upon the property at 1 Walton Alley, to be considered by the ZBA at its July 19, 2022 meeting.

I. EXHIBITS

A. Plan Set – issued by Ambit Engineering, Inc.
- C1 - Standard Boundary Survey.
- C2 - Variance Plan

B. Architectural Plans and Plan Set – issued by McHenry Architecture.
- Garage Floor Plan and Elevation
- Architectural Plans and Renderings of Finished Garage and Driveway [1]

C. Site Photos.

D. Photographs of nearby garages.

E. Tax Map 103.

F. Letter of Support, Patrick and Judy Nerbonne, 189 Gates St.

II. PROPERTY/PROJECT

One Walton Alley is a 5,672-s.f. lot containing an 874 s.f. (footprint) two-story single-family residence, large landscaped front garden, gravel driveway, and brick patio ("the Property"). **(Exhibit A)**. As part of a comprehensive overall renovation project, Woods intends to construct a two-story 8 ft. by 14 ft. addition to the rear of the existing home. The first floor will hold a powder room and mudroom, with a full bath on the 2nd floor. The existing gravel driveway will be lengthened and composed of cobblestone/riverstone, leading to a new 12' x 18' x10.17 detached one-story garage with related landscaping improvements located next to an

[1] The rendering is for illustrative purposes. The garage rendering does not show the retaining walls necessitated by existing elevation. Also, the rendered driveway has been amended, see site plan **Exhibit A**)

existing 6 foot stockade fence, which will be replaced with a new fence (the "Project"). **(Exhibits A&B)**. Windows and a door will be placed in the left wall of the garage. No windows or doors will be located on the right side or rear. The exposed concrete foundation of the garage will be covered with a natural stone veneer, improving it aesthetically and more in keeping with the look of historical foundations. While the rear addition to the home is entirely compliant, the garage requires relief from side and rear yard setback requirements.

Aside from the addition and garage, the comprehensive renovation project includes:

- Repair and replace the wood clapboard siding
- Restore the wood double-hung windows on front and left side where possible
- Remove existing skylights in the house roof
- Replace existing asphalt shingles with cedar shingles
- Install cedar shingles on the garage roof
- Renovate home, extend driveway with cobble strips/centered riverstone
- Clean up/landscape the grounds

The only other reasonable location for the garage would be in the open landscaped northwesterly quadrant of the lot at the Gates St., Walton Alley intersection. It is believed that such a garage could be built while meeting all yard setback requirements. The owner, however, considers this a character-defining area both for the existing lot, and the neighborhood. Woods does not want to put the garage in front of the front door, preferring to leave it is a landscaped area. To that end, Woods is willing to, and *offers to place a conservation restriction on this area permanently prohibiting the construction of any building (s) in this area.* Other structures such as walkways, steps, fencing, decorative benches etc. would be permitted.

The surrounding area is mostly residential, with the exception of a couple of small businesses/historic sites. There are numerous homes and/or accessory structures in the area that do not meet side or rear yard requirements. **(Exhibits D & E)**. The Project will significantly improve the aesthetics of the home/property, provide additional needed living space and covered parking/storage while improving/preserving the home's historic nature and the property's large open space with upgraded landscaping.

The garage is placed essentially in the optimal location. Moving it farther away from the right sideline will interfere with vehicular access due to the location of the house. Similarly, moving it forward, away from the rear lot line, will interfere with access to the rear yard.

III. RELIEF REQUIRED

Variance Section	Required	Existing	Proposed
PZO§10.520, Table PZO§10.521[2]			
Left-side setback	10'	N/A	1.6' garage
Rear setback	25'	N/A	9.0' garage

IV. VARIANCE REQUIREMENTS

1. **The variances will not be contrary to the public interest.**
2. **The spirit of the ordinance is observed.**

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

Portsmouth Zoning Ordinance ("PZO") Section 10.121 identifies the general purposes and intent of the ordinance "to promote the health, safety and general welfare of Portsmouth…in accordance with the…Master Plan." These purposes are accomplished by regulating:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The intended use of the property is and will remain residential. The upgrades to the home will significantly improve the stature and historic look via removal of skylights, converting the roof to cedar shingles, restoring rather

[2] See also PZO§10.573 An accessory building or structure more than 10 feet in height or more than 100 square feet in area shall be set back from any lot line at least the height of the building or the applicable yard requirement, whichever is less. Here the applicable setback requirement is 10 feet as the building height slightly exceeds 10 feet.

than replacing windows, and restoring/replacing wood siding as needed. The proposed garage, is small, tastefully designed in keeping with the historic nature of the home, placed in a reasonable location behind the home next to a to-be-replaced six-foot fence. The requested relief will satisfy the need for enclosed parking and storage, similar to several other homes and lots in the area.

2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – A single-family home exists and will remain. The garage is to the rear of the property in a reasonable location, particularly compared to the effect of placing the garage in the northwesterly corner where Woods proposes to permanently remain a landscaped area. The lot is slightly larger than others nearby but "L"shaped, with the existing curb cut and driveway on one side and an open landscaped area facing Gates Street. The use and intensity of use will not change. 21.77%, proposed building coverage is well below the 30% maximum coverage, and open space remains generous at 58% where a minimum of 30% is required. Measured from average grade to the mid-point of the sloped roof, the proposed height of the one-story garage is 10.17 ft., well in-keeping with the size and height of nearby detached garages.
3. The design of facilities for vehicular access, circulation, parking and loading – The garage and extended driveway afford additional off-street parking. Orientation of the garage allows cars to enter it easily, as well as access to the rear yard.
4. The impact on properties on of outdoor lighting, noise, vibration, stormwater runoff and flooding – The proposal sites the garage at the end of the existing driveway at the rear of the residence. The significant open space allows adequate space for stormwater treatment. The slope of the driveway will direct stormwater to the area between the home and garage.
5. The preservation and enhancement of the visual environment – The design of the proposed garage compliments the home, fits with the historical character of the neighborhood. The proposed location nestled in right rear corner of the lot is in keeping with the location of other accessory buildings on nearby lots and maintains open space on the north side and rear of the lot. The nearest neighbors will see only an aesthetically pleasing cedar shingle roof peeking above the six-foot fence. The comprehensive redevelopment plan, including skylight removal, cedar shingle roof on the home, restoration of historic windows, additional landscaping and permanent preservation of the northwesterly corner landscaped area all preserve or enhance the visual environment.
6. The preservation of historic districts and building and structures of historic architectural interest – The comprehensive redevelopment plan, including the small addition and small garage is tasteful, in keeping with the historic character of the existing home and neighborhood. The project has been before the Historic District Commission for preliminary review. Upon information and belief, it was received favorably. Formal Historic District Commission review will proceed upon receipt of relief from the ZBA.

7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – No negative effect.

The intent of the GRB Zone is to "provide areas for single-family, two family and multifamily dwellings, with appropriate accessory uses, at moderate to high densities (ranging from approximately 5 to 12 dwelling units per acre), together with appropriate accessory uses and limited services." PZO §10.410 (emphasis added). At 5672 s.f., this lot falls between 5 (8712 s.f.) and 12 (3630 s.f.) homes per acre. The proposal thus meets the intent of the GRB Zone. It permits the significant and more historical improvement of an existing single-family residence with a density consistent with that of the surrounding area. Many properties in the neighborhood contain a home and/or accessory buildings which do not comply with front, rear, or side setbacks. **(Exhibits D,E)** The small, one-car garage at the end on the existing driveway, placed as far from abutting homes as reasonably possible given the shaped lot, existing home and driveway location, and effort to preserve the open landscaped area at the northwest quadrant. Given these factors, granting the requested variances will not conflict with the basic zoning objectives of the PZO.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives," Malachy Glen, supra, also held:

> One way to ascertain whether granting the variance would violate basic zoning objectives is to determine 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)

There are numerous other properties in the area that are similarly sized and include a home and/or accessory structure within side or rear setbacks. The tax map demonstrates that a number of lots close to the Property, specifically those along Walton Alley, Gates Street, Mechanic Street and Gardner Street, show buildings that encroach on front, side, and/or rear yard setbacks. **(Exhibit D & E)**. A broader view of the surrounding area on Tax Map 103 demonstrates that of 99 properties, approximately 65 (65%) appear to contain main or accessory structures that violate front, side, or rear setbacks. **(Exhibit E)**. Accordingly, this proposal, which adds a small, one-car garage (with no windows or doors on the sides facing the closest neighbors) in the side and rear setbacks while preserving open space is in keeping with the surrounding area. There will also be no threat to the public health, safety, or welfare by granting the requested variances, which will merely permit a detached accessory structure in a location similar to other accessory buildings in

the neighborhood. The Project provides a longer driveway and covered parking in a thickly settled historical neighborhood while permanently preserving open space on the northwest side of the Property. The historic treatment of the existing home and grounds all act to preserve the character of the neighborhood, with density and setbacks consistent with the surrounding area. Clearly, the requested variances neither alter the essential character of the locality nor threaten the public health, safety, or welfare. Accordingly, the variances are not contrary to the public interest and observe the spirit of the ordinance.

3. **Granting the variances will not diminish surrounding property values.**

The Project includes a dimensionally compliant addition and a small 12x18 single car garage only10.17 ft. in height, nestled in the right rear corner next to a six-foot fence. The slightly expanded home, additional parking, garage and grounds, all improve the property, thus its value and matches conditions throughout the South End neighborhood. Given the limited scope of the requests, and Woods' significant efforts to preserve and improve the historical look of the existing home and garage, as well as preserving the open space at the northwest, it is clear that granting the variances will not diminish surrounding property values.

4. **Denial of the variances results in an unnecessary hardship.**

a. Special conditions distinguish the property from others in the area.

The Property, at 5,673 +/- s.f. is small, irregularly "L" shaped, and located in a densely developed historic area with many other homes/accessory structures that do not comply with rear and side yard requirements. The location of the garage is driven by the lot size/shape, location of the existing house and driveway together with the reasonable intention to permanently preserve the existing open space at the northwest corner of the lot. **(Exhibit C)** These circumstances 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 setbacks and building coverage requirements is to prevent overcrowding and overburdening of land, provide sightlines for pedestrians and motorists, ensure adequate light and air circulation, and provide sufficient area for stormwater treatment. None of these purposes are impaired by granting the requested variances. The proposed garage is a single story located at the rear of the property. Building coverage remains well below the permitted 30%, and open space is well over the minimum 30%. The proposed setbacks will afford sufficient

space to treat stormwater on the lot. Moreover, the neighborhood overall is similarly densely developed with multiple nearby parcels non-conforming for setbacks. See 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). See also Belanger v. City of Nashua, 121 N.H. 389 (1981) (Variance proper where ordinance no longer reflects the current character of neighborhood). The location of the garage will likely be unnoticed by the general public given its location tucked at the far rear right corner of the lot. The closest neighbors will not see most of the garage given existing fence lines and vegetation. The most that will be seen is a portion of the roof above the fence. Balancing the clearly *de minimis* effect upon neighbors against the reasonable request to have a garage for parking cars and storage in 21st century Portsmouth, New Hampshire, together with the significant restoration and grounds preservation efforts proposed by Woods, there clearly is no fair and substantial relationship between the purposes of the ordinance side and rear setback requirements and its application in this instance.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential use is permitted in the GRB Zone and includes accessory buildings incidental to the permitted use. The proposed garage is modest, complements the existing residence, and provides covered parking and storage, which is entirely reasonable in New England.

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

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.

Woods is constitutionally entitled to the reasonable use of his land. For all of the reasons previously stated, it is entirely reasonable to place a garage within the side and rear setbacks as proposed given: the lot size and shape; location of the existing home and driveway; significant effort to renovate and preserve the home and grounds in a manner in keeping with the intention of the historic district and zoning; and the character of the surrounding neighborhood . "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).

The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69.

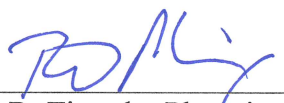
The requested variances allow a tasteful, single story, one-car garage nestled in the right rear corner of the lot, matching the conditions of numerous surrounding properties. The garage will be screened by vegetation and fencing. Accordingly, there is no gain to public from denial of the variances. Conversely, Woods will be greatly harmed by denial of any of the variances because he will be denied a reasonably sized garage, without which the intended overall restoration product project will be unlikely to proceed. Without question, substantial justice will be done by granting the variances, while a substantial injustice will be imposed upon Woods if denied.

V. CONCLUSION

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

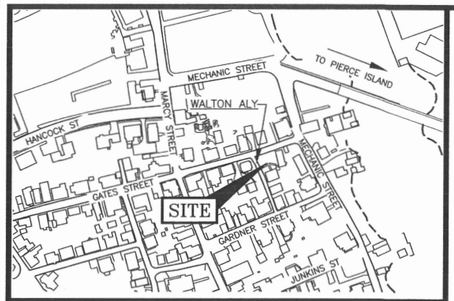
Respectfully submitted,

James Woods and Anneke Meinardi



By: R. Timothy Phoenix
Monica F. Kieser
Stephanie J. Johnson

EXHIBIT A



LOCATION MAP SCALE: 1" = 200'

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11/21	MAP 11 / LOT 21
	BOUNDARY
	SETBACK
○	IRON ROD/PIPE FOUND
	OVERHEAD ELECTRIC/WIRES
	EDGE OF PAVEMENT
Ø	UTILITY POLE
GAS	GAS SHUT OFF
WV	WATER SHUT OFF/CURB STOP
WGV	WATER GATE VALVE
GGV	GAS GATE VALVE
E	ELECTRIC METER
S	SEWER MANHOLE
AC	AIR CONDITIONER UNIT
EL.	ELEVATION
F.F.	FINISHED FLOOR
TYP.	TYPICAL
VGC	VERTICAL GRANITE CURB
LSA	LANDSCAPED AREA

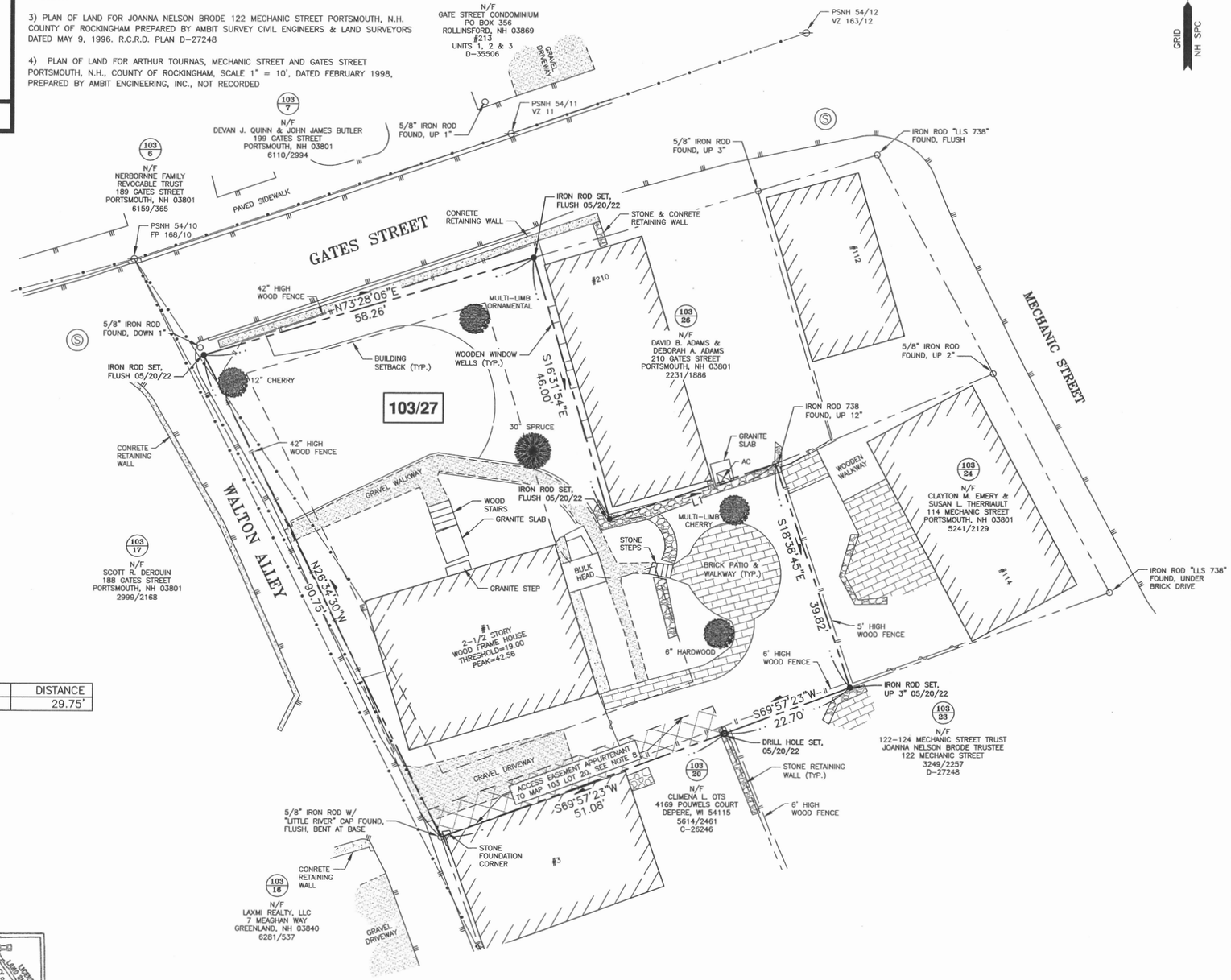
PLAN REFERENCES:

1) LOT LINE ADJUSTMENT SURVEY FOR PROPERTY AT 45 & 51 GARDNER STREET PORTSMOUTH, ROCKINGHAM COUNTY, NEW HAMPSHIRE OWNED BY: JOSEPH D. CIANCARELLI REVOCABLE TRUST & JOYCE W. CIANCARELLI REVOCABLE TRUST 45 GARDNER STREET PORSTMOUTH, NEW HAMPSHIRE 03801 & STEVEN C. WEBB & KAREN A. BUTZ WEBB 51 GARDNER STREET PORSTMOUTH, NEW HAMPSHIRE 03801 PREPARED BY EASTERLY SURVEYING, INC. DATED 3/9/2006. R.C.R.D. PLAN D-33922.

2) BOUNDARY PLAN TAX MAP U-3, LOT 20 PORTSMOUTH, NH. FOR LAUREN F. & HELEN K. OTIS PREPARED BY LITTLE RIVER SURVEY COMPANY DATED APRIL 1998. R.C.R.D. PLAN C-26246.

3) PLAN OF LAND FOR JOANNA NELSON BRODE 122 MECHANIC STREET PORTSMOUTH, N.H. COUNTY OF ROCKINGHAM PREPARED BY AMBIT SURVEY CIVIL ENGINEERS & LAND SURVEYORS DATED MAY 9, 1996. R.C.R.D. PLAN D-27248

4) PLAN OF LAND FOR ARTHUR TOURNAS, MECHANIC STREET AND GATES STREET PORTSMOUTH, N.H., COUNTY OF ROCKINGHAM, SCALE 1" = 10', DATED FEBRUARY 1998, PREPARED BY AMBIT ENGINEERING, INC., NOT RECORDED



GRAPHIC SCALE

10 5 0 10 20 30 40 FEET
3 0 5 10 METERS

LENGTH TABLE

LINE	BEARING	DISTANCE
L1	N71°38'00"E	29.75'

"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."

JOHN R. CHAGNON, LLS #738 DATE 5.25.22

STATE OF NEW HAMPSHIRE — LICENSED LAND SURVEYOR — NO. 738 JOHN R. CHAGNON — SIGNATURE

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 103 AS LOT 27.

2) OWNERS OF RECORD:
JAMES W. WOODS & ANNA R. MEINARDI
1 WALTON ALLEY
PORTSMOUTH, NH 03801
6347/2854

3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259F. DATED 1/29/2021

4) EXISTING LOT AREA:
5,672 S.F.
0.1302 ACRES

5) PARCEL IS LOCATED IN THE GENERAL RESIDENTIAL B (GRB) DISTRICT AND THE HISTORICAL DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:		5,000 S.F.
FRONTAGE:		80 FEET
SETBACKS:	FRONT	5 FEET
	SIDE	10 FEET
	REAR	25 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		30%
MINIMUM OPEN SPACE:		25%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY SURVEY OF ASSESSOR'S MAP 103, LOT 27 IN THE CITY OF PORTSMOUTH.

8) PARCEL IS BURDENED BY AN EASEMENT APPURTENANT TO ASSESSORS MAP 103 LOT 20 FOR THE RIGHT TO ENTER AND PLACE LADDERS, WHEN NECESSARY, TO REPAIR OR PAINT THE DWELLING SITUATED ON MAP 103 LOT 20. SEE RCRD 2234/832.

NO.	DESCRIPTION	DATE
1	MONUMENTS SET	5/25/22
0	ISSUED FOR COMMENT	5/2/22

REVISIONS

STANDARD BOUNDARY SURVEY
TAX MAP 103 – LOT 27

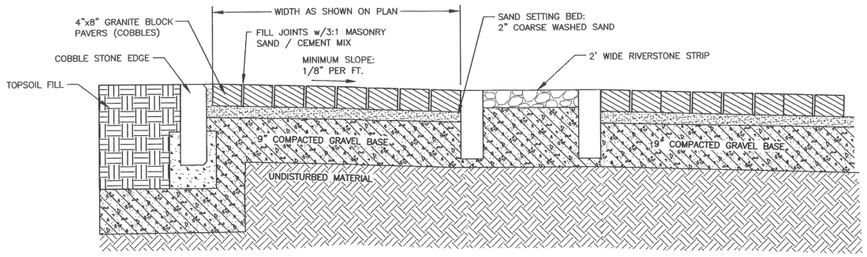
FOR

JAMES W. WOODS & ANNE R. MEINARDI

1 WALTON ALLEY
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

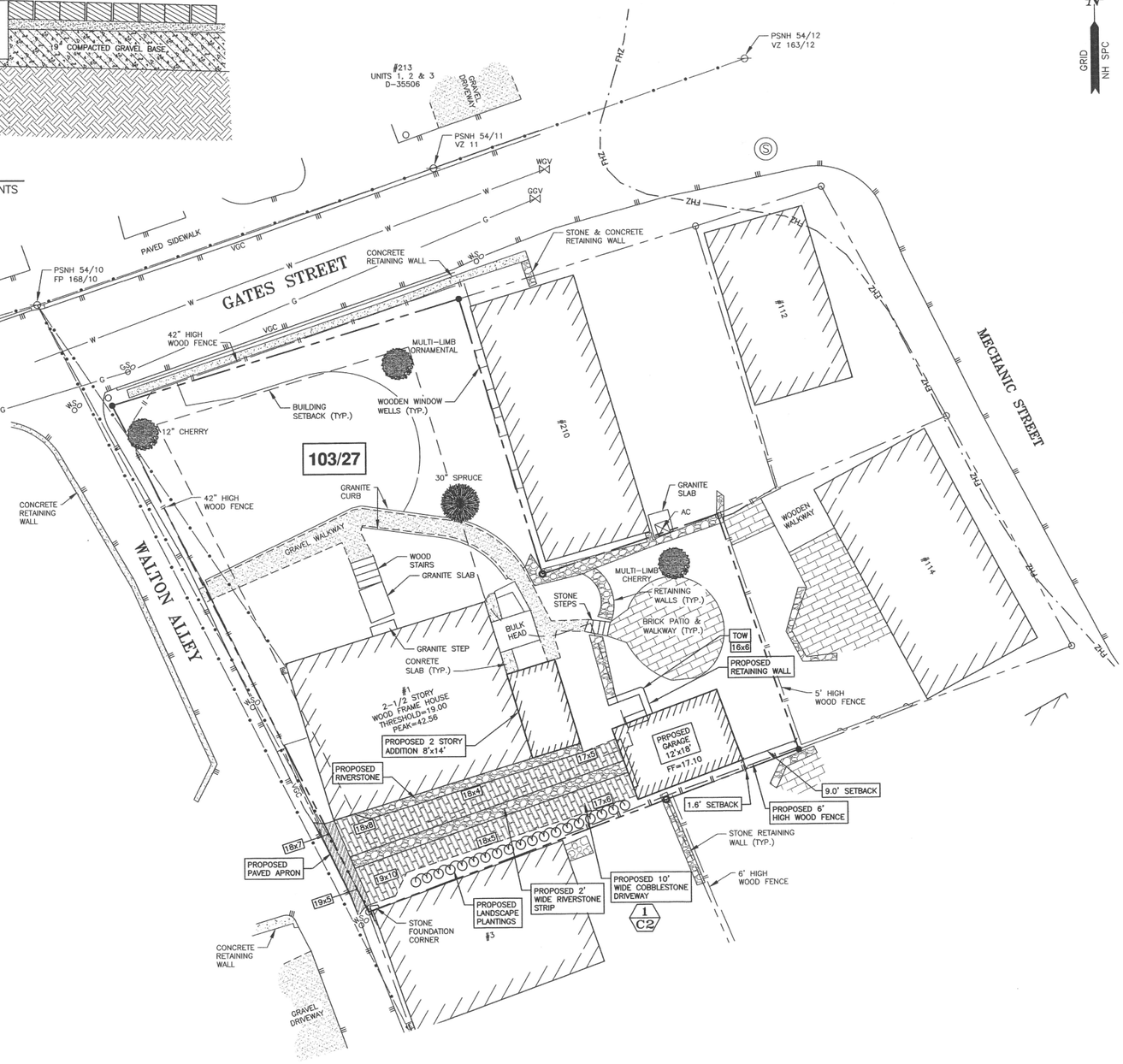
SCALE: 1" = 10' APRIL 2022

FB 308 PG 55 3439



1/C2 COBBLE PAVER SECTION

NTS



GRAPHIC SCALE

10 5 0 10 20 30 40 FEET

3 0 5 10 METERS

IMPERVIOUS SURFACE AREAS
(TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURES	874	986
GARAGE	0	216
GRAVEL DRIVE	217	0
COBBLESTONE DRIVE	0	471
STAIRS & LANDING	29	33
PATIOS & WALKWAYS	612	495
RETAINING WALLS	96	109
CONCRETE	43	15
BULDHEAD	32	32
PAVED APRON	0	28
TOTAL	1,903	2,385
LOT SIZE	5,672	5,672
% LOT COVERAGE	33.6%	42.0%

"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"

7.8.22

JOHN R. CHAGNON, LLS #738 DATE

STATE OF NEW HAMPSHIRE LICENSED LAND SURVEYOR No. 738 JOHN R. CHAGNON SIGNATURE

APPROVED BY THE PORTSMOUTH ZONING 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 103 AS LOT 27.

2) OWNERS OF RECORD:
JAMES W. WOODS & ANNA R. MEINARDI
1 WALTON ALLEY
PORTSMOUTH, NH 03801
6347/2854

3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259F. DATED 1/29/2021

4) EXISTING LOT AREA:
5,672 S.F.
0.1302 ACRES

5) PARCEL IS LOCATED IN THE GENERAL RESIDENTIAL B (GRB) DISTRICT AND THE HISTORICAL DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:		5,000 S.F.
FRONTAGE:		80 FEET
SETBACKS:	FRONT	5 FEET
	SIDE	10 FEET
	REAR	25 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		30%
MINIMUM OPEN SPACE:		25%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED IMPROVEMENTS ON ASSESSOR'S MAP 103, LOT 27 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

SITE IMPROVEMENTS TAX MAP 103 LOT 27 1 WALTON ALLEY PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
4	GARAGE LOCATION	7/8/22
3	ELEVATIONS	6/10/22
2	DETAIL 1	5/31/22
1	ISSUED FOR APPROVAL	5/26/22
0	ISSUED FOR COMMENT	5/20/22

REVISIONS

STATE OF NEW HAMPSHIRE JOHN R. CHAGNON No. 7861 LICENSED PROFESSIONAL ENGINEER

SCALE: 1" = 10' MAY 2022

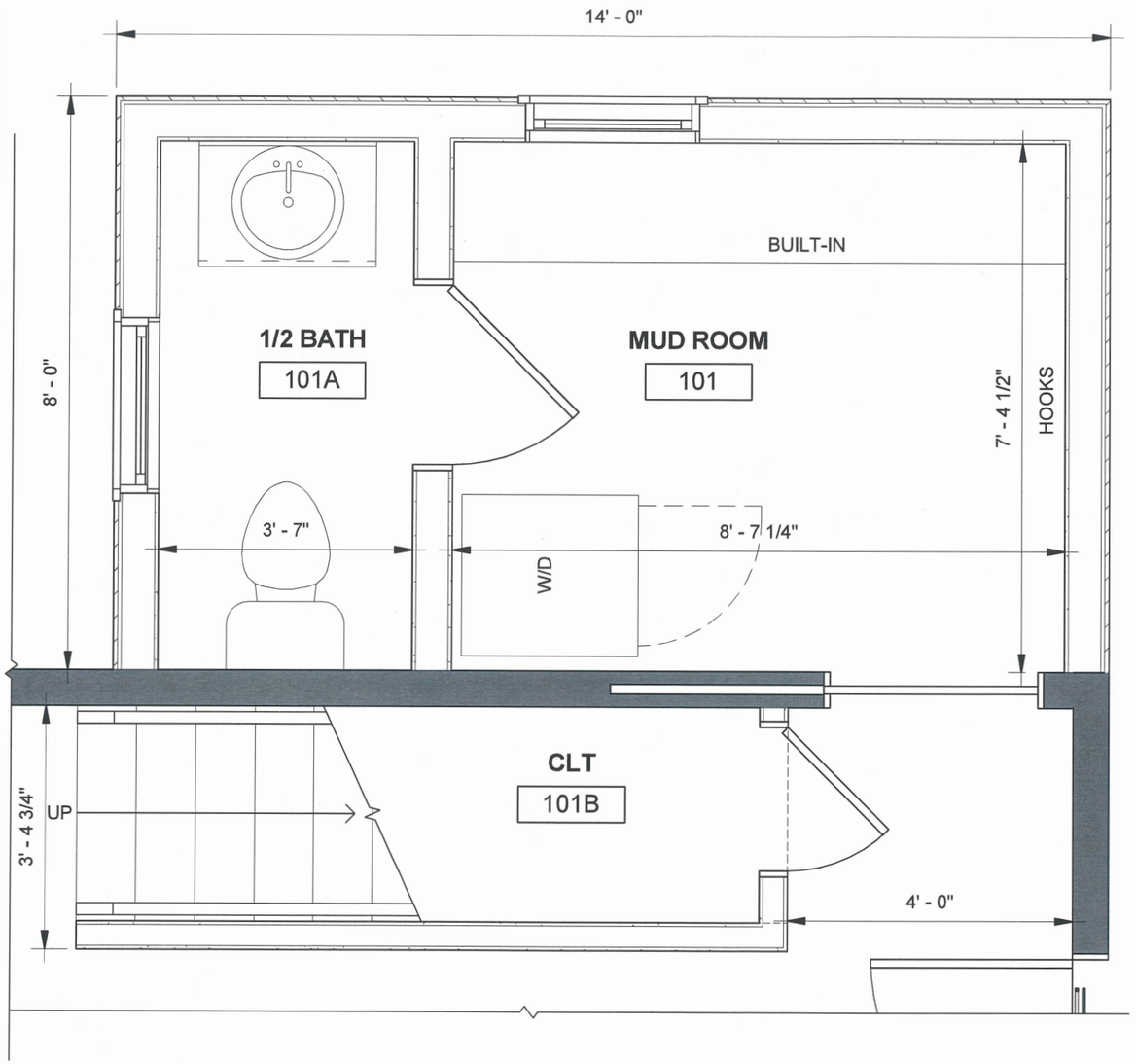
VARIANCE PLAN C2

FB 308 PG 55

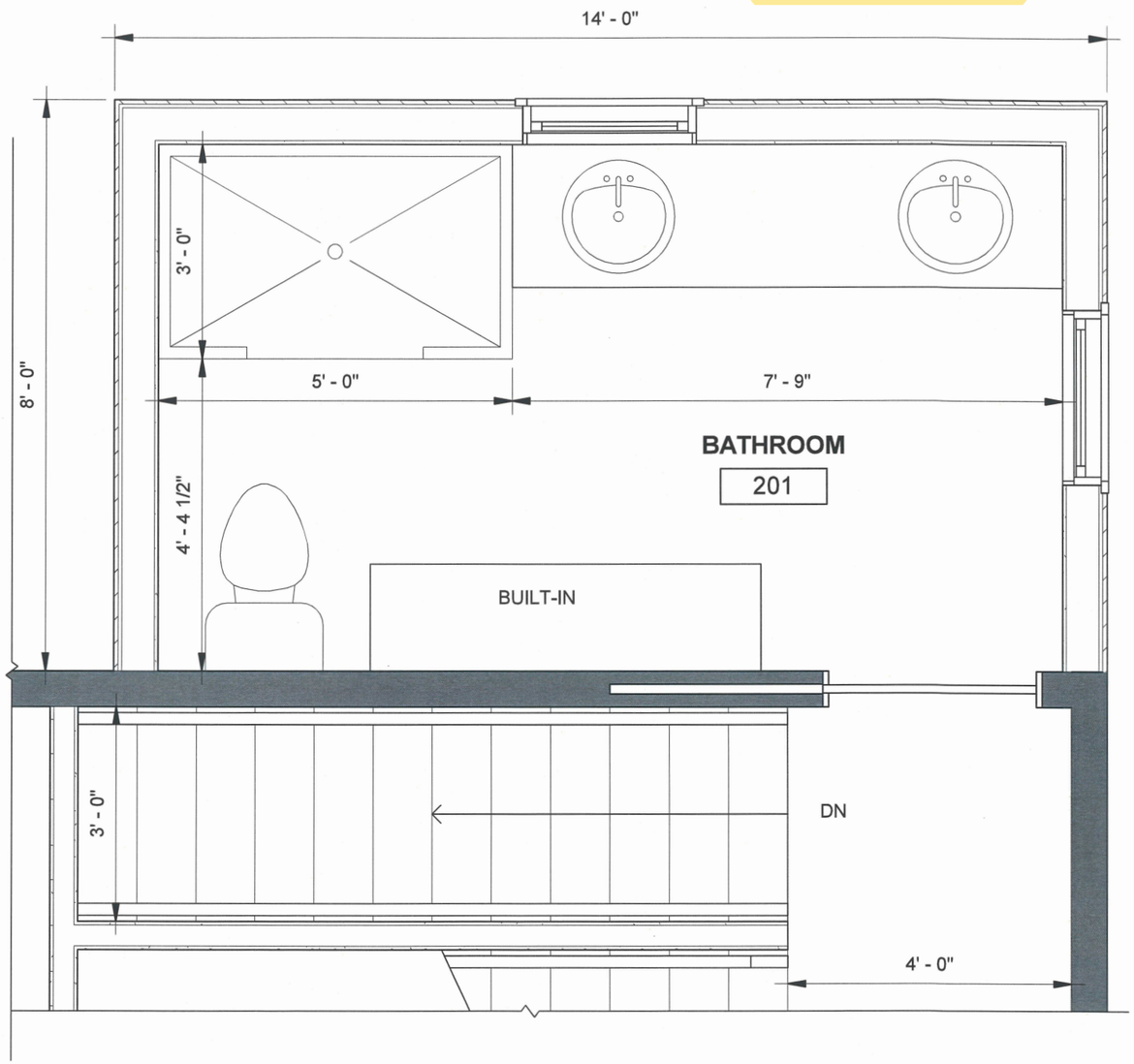
3439

J:\JOBS\JW JOBS\JW JOBS\2022 Surveys\Woods & Steen\DWG\3439 Site 2022.dwg C2 VARIANCE, 7/7/2022 10:33:41 AM

EXHIBIT B



1 FIRST FLOOR
1/2" = 1'-0"



2 SECOND FLOOR
1/2" = 1'-0"

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WALTON ADDITION 1 WALTON ALLEY PORTSMOUTH, NH 03801	ADDITION PLANS SCHEMATIC DESIGN	McHENRY ARCHITECTURE 4 Market Street Portsmouth, New Hampshire	A1	07/8/2022 McHA: RD / MG Scale: 1/2" = 1'-0"

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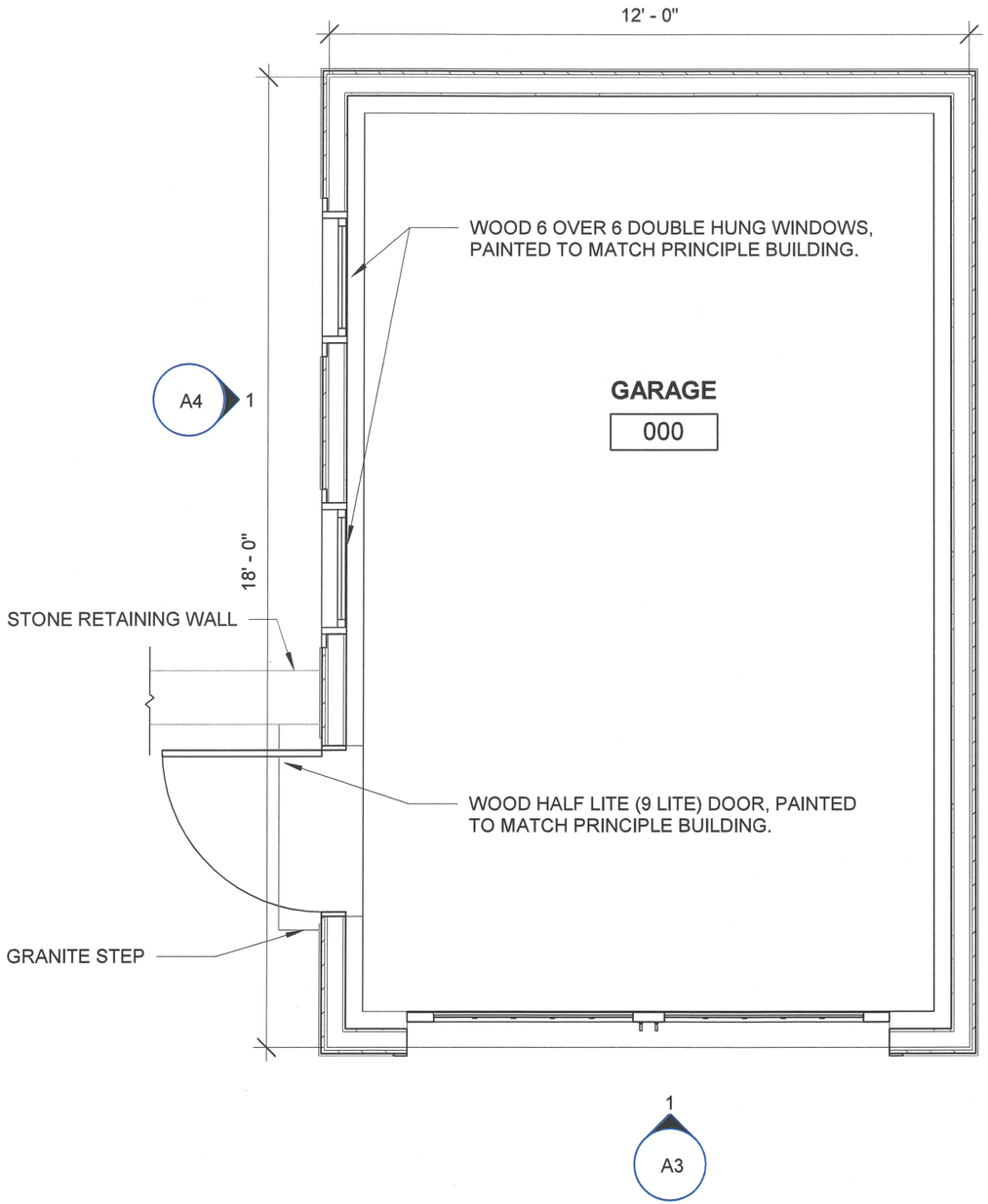
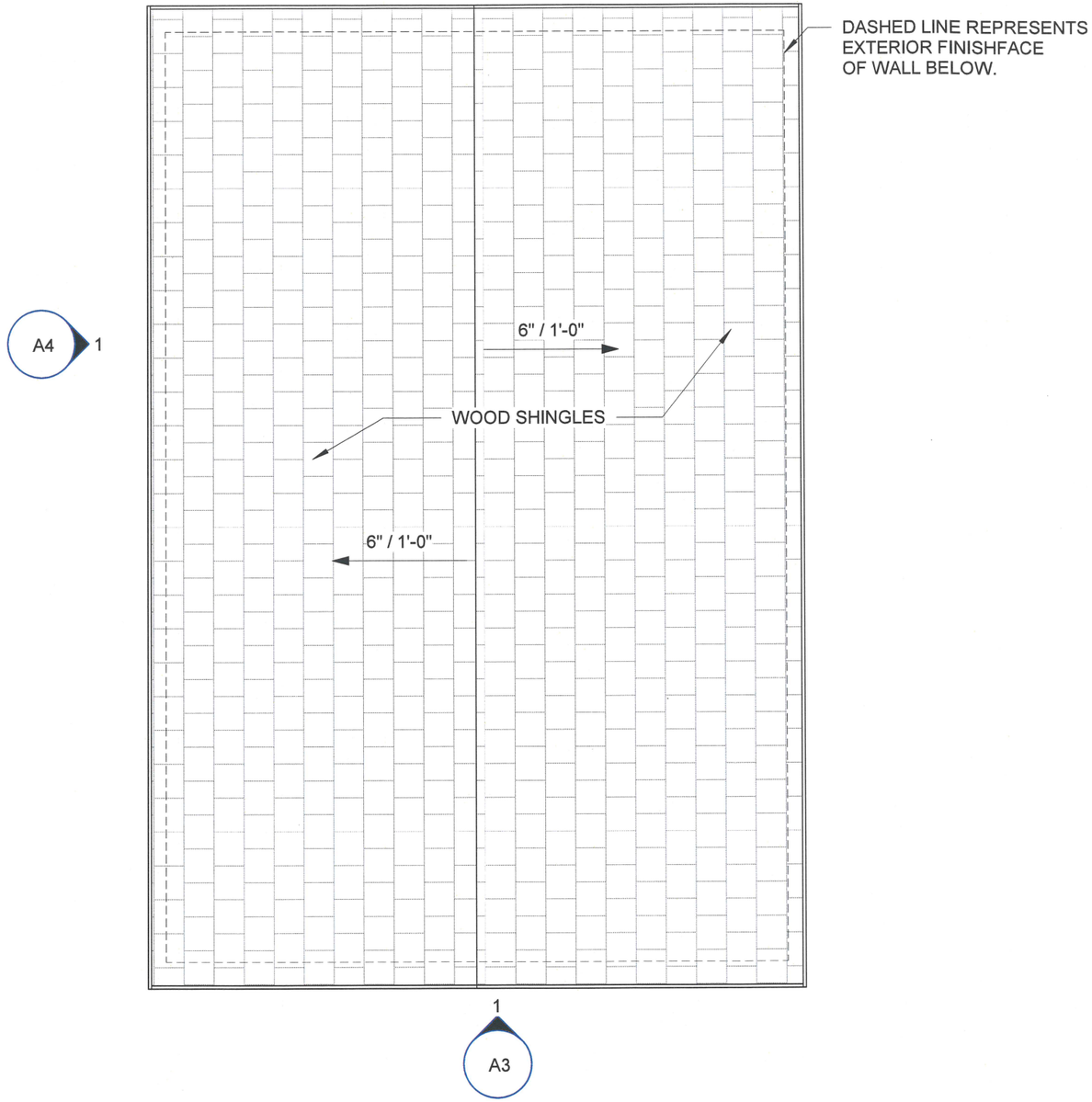


1 FIRST FLOOR - GARAGE
3/8" = 1'-0"



2 ROOF PLAN
3/8" = 1'-0"

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WALTON ADDITION 1 WALTON ALLEY PORTSMOUTH, NH 03801	GARAGE PLANS SCHEMATIC DESIGN	McHENRY ARCHITECTURE 4 Market Street Portsmouth, New Hampshire	A2	07/8/2022 McHA: RD/MG/JD AS INDICATED

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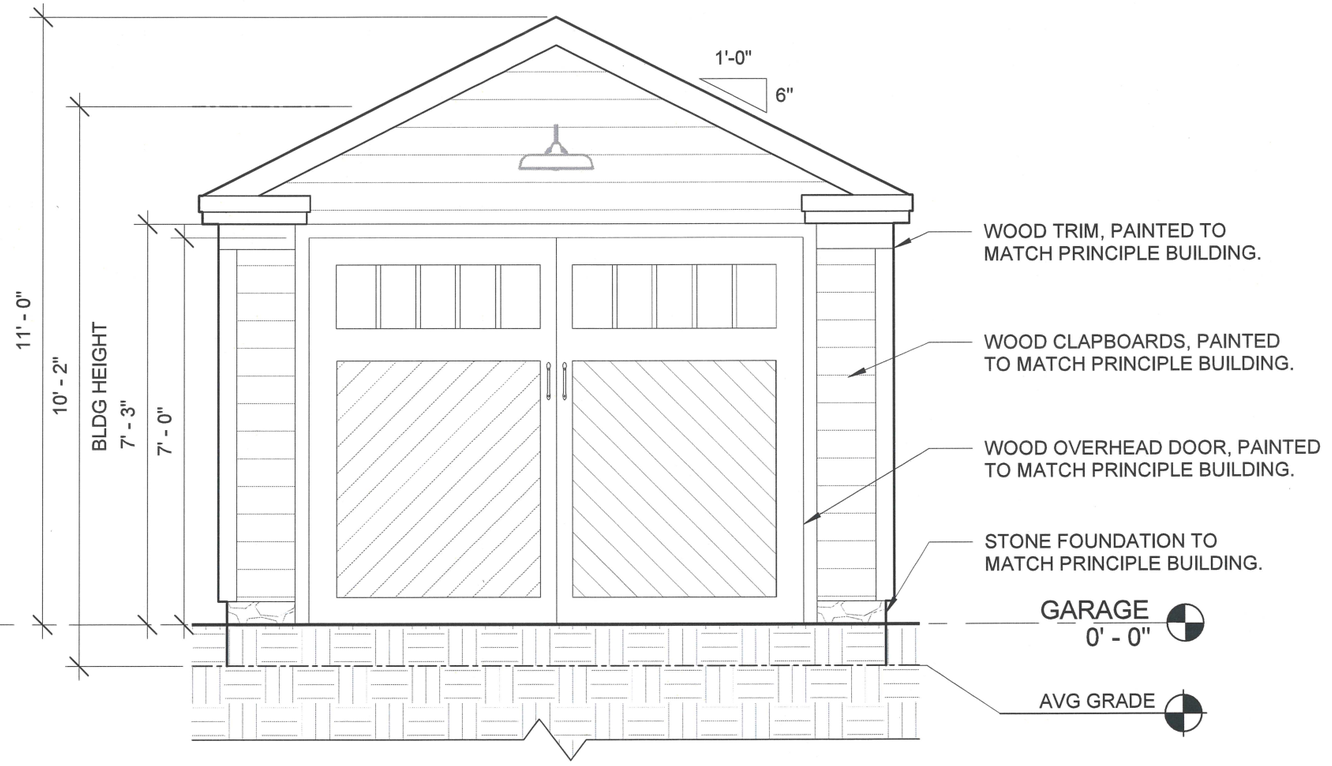

1 WEST ELEVATION
3/8" = 1'-0"

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WALTON ADDITION 1 WALTON ALLEY PORTSMOUTH, NH 03801	GARAGE ELEVATION SCHEMATIC DESIGN	McHENRY ARCHITECTURE 4 Market Street Portsmouth, New Hampshire	A3	07/8/2022 McHA: RD/MG/JD AS INDICATED

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1 NORTH ELEVATION
3/8" = 1'-0"

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WALTON ADDITION

1 WALTON ALLEY
PORTSMOUTH, NH 03801

GARAGE ELEVATION

SCHEMATIC DESIGN

McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

A4

07/8/2022
McHA: RD/MG/JD
AS INDICATED

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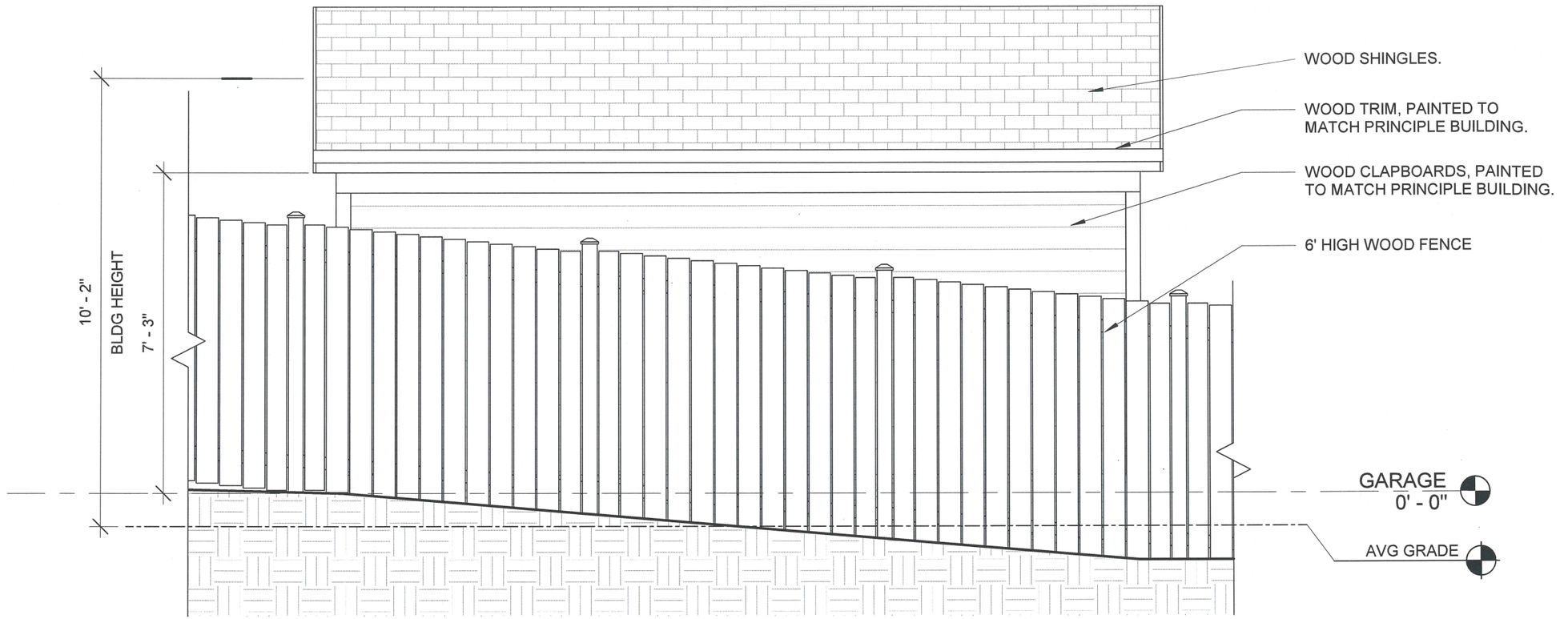

1 SOUTH ELEVATION
3/8" = 1'-0"

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WALTON ADDITION 1 WALTON ALLEY PORTSMOUTH, NH 03801	GARAGE ELEVATION SCHEMATIC DESIGN	McHENRY ARCHITECTURE 4 Market Street Portsmouth, New Hampshire	A5	07/8/2022 McHA: RD/MG/JD AS INDICATED

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REAR YARD VIEW

REAR YARD VIEW

STREET VIEW

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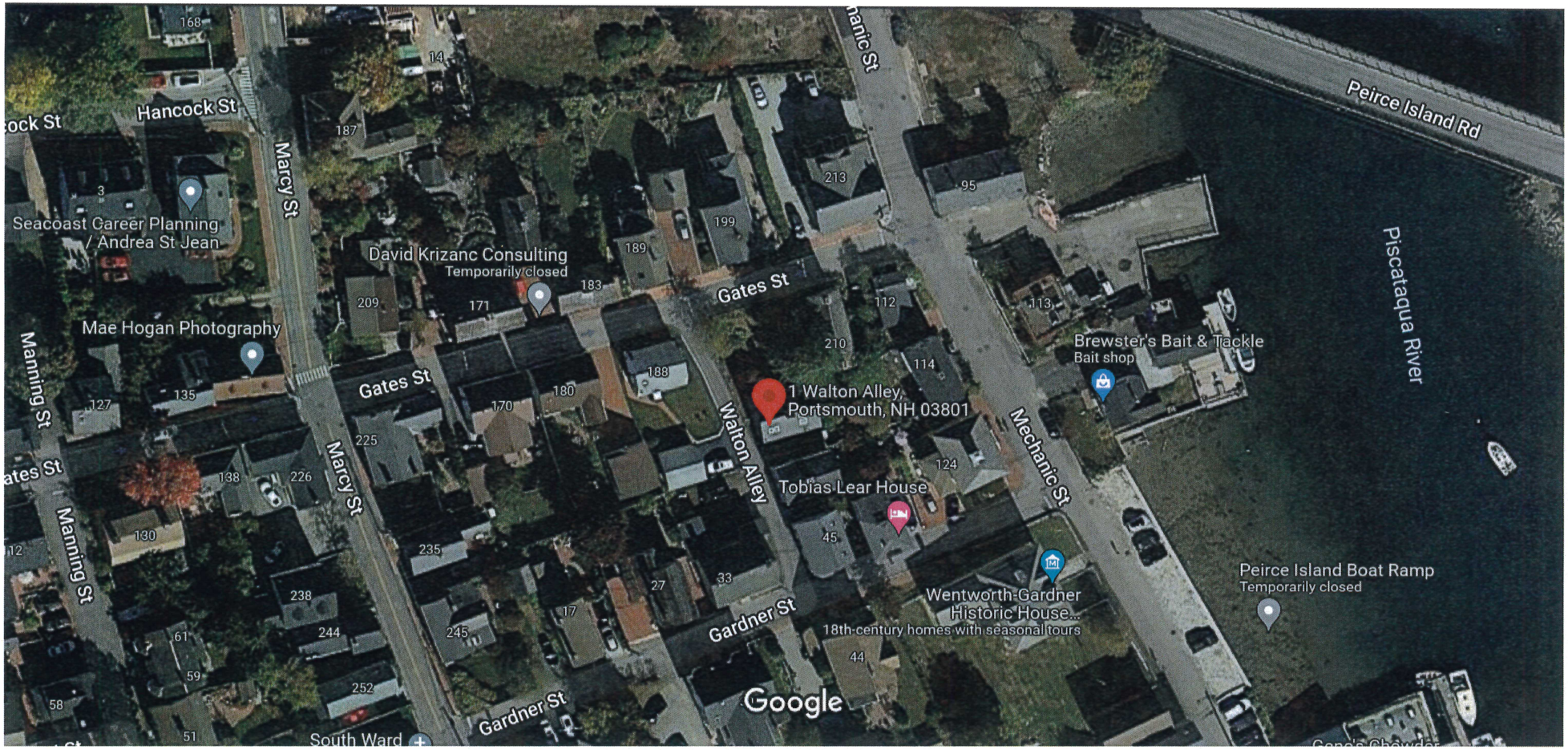
WALTON ADDITION 1 WALTON ALLEY PORTSMOUTH, NH 03801	RENDERED VIEWS SCHEMATIC DESIGN	McHENRY ARCHITECTURE 4 Market Street Portsmouth, New Hampshire	A6	07/8/2022 McHA: MG NOT TO SCALE

Z:\Active Project Files\22041-WALTON ALLEY\Dwgs\2-SD\WALTON ALLEY - SD.rvt

Google Maps 1 Walton Alley



Imagery ©2022 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2022 Google 50 ft

Exhibit C

EXHIBIT D
180 & 188 Gates St.

189 Gates St.

Google Maps 17 Gardner St

Image capture: Sep 2017 © 2022 Google

Portsmouth, New Hampshire

Google

ree View - Sep 2017

267 Marcy St.

Google Maps 35 Gardner St

Image capture: Sep 2017 © 2022 Google

Portsmouth, New Hampshire

Google

ree View - Sep 2017

44 Gardner St.

HANCOCK ST
GATES ST
HOWARD ST
MEETING HOUSE HILL RD
MEETING HOUSE HILL RD
GARDNER ST
HUNKING ST
PICKERING ST
PLEASANT ST
MECHANIC ST
FEIRCE ISLAND RD
WASHINGTON ST
WENTWORTH ST
MELCHER ST
WHIDDEN ST
MANNING ST
MARCY ST
WALTON ALY
Piscataqua River

Partial Legend

See the cover sheet for the complete legend.

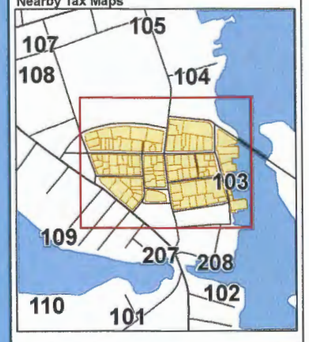
- 7-5A — Lot or lot-unit number
- 2.56 ac — Parcel area in acres (ac) or square feet (sf)
- 25 — Address number
- 233-137 — Parcel number from a neighboring map
- 68' — Parcel line dimension
- SIMS AVE — Street name
- Parcel/Parcel boundary
- Parcel/ROW boundary
- Water boundary
- Structure (1994 data)
- Parcel covered by this map
- Parcel from a neighboring map (see other map for current status)

0 50 100 Feet

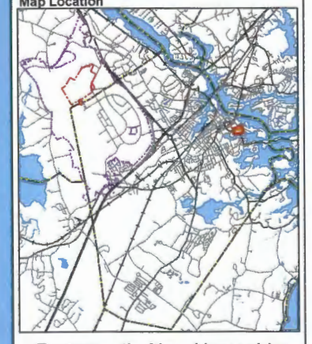
0 20 40 Meters

This map is for assessment purposes only. It is not intended for legal description or conveyance.
Parcels are mapped as of April 1.
Building footprints are 2006 data and may not represent current structures.
Streets appearing on this map may be paper (unbuilt) streets.
Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.

Nearby Tax Maps



Map Location



Portsmouth, New Hampshire
2021

Tax Map 103

Exhibit E

EXHIBIT F

City of Portsmouth
Planning Board
Reference to: 1 Walton Alley
Owners: James William Woods and Anna Roeline Meinardi
1 Walton Alley
Portsmouth, NH 03801

We live at 189 Gates Street and have reviewed the plans for 1 Walton Alley

We approve the plans.

G. Patrick Nerbonne and M. Judy Nerbonne

1.

Request of **Jay Anthony Clark (Owner)**, for property located at **64 Haven Road** whereas relief is needed to demolish existing garage and porch and construct new garage and addition which requires the following: 1) Variance from Section 10.521 to allow a 5' left side yard where 10' is required. 2) A Variance from Section 10.515.14 to allow a 7.5' setback for 2 mechanical units where 10' is required for each. 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 located on Assessor Map 206 Lot 30 and is located within the Single Residence B (SRB) District.

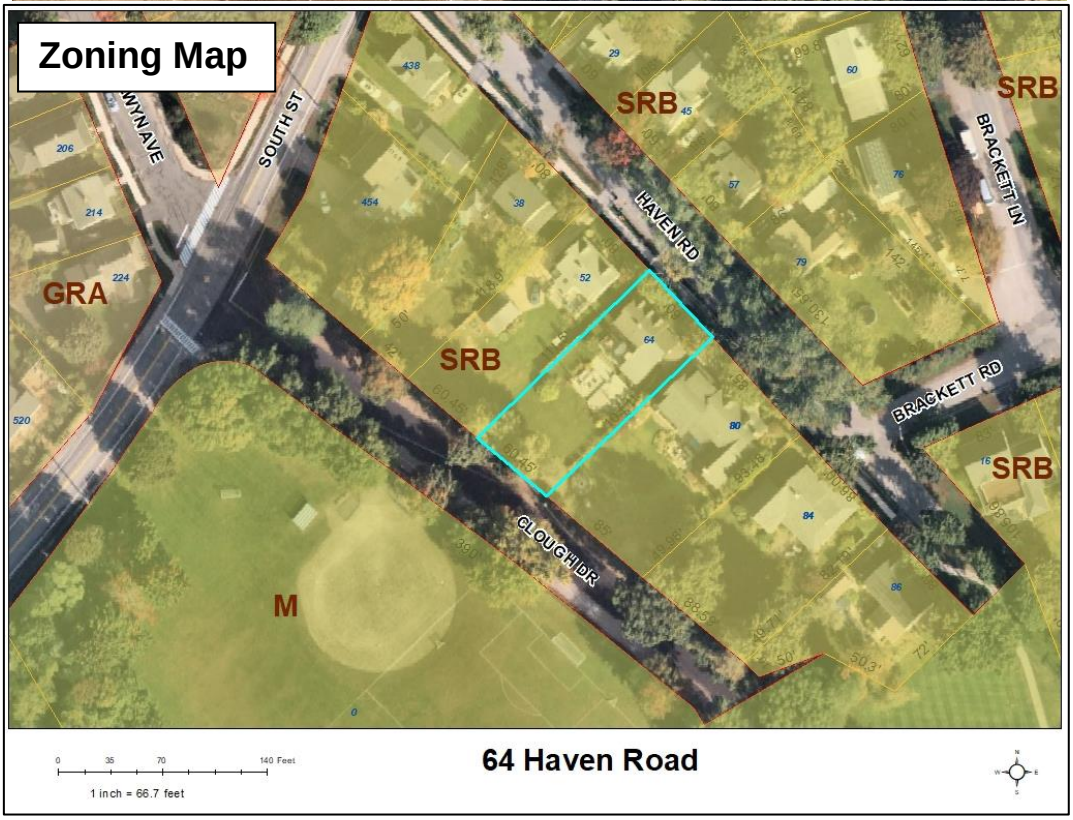
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single-family	Add 10' x 12' shed	Primarily residential	
Lot area (sq. ft.):	9,583	9,583	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	9,583	9,583	15,000	min.
Lot depth (ft):	107	107	100	min.
Street Frontage (ft.):	60	60	100	min.
Primary Front Yard (ft.):	16	16	30	min.
Secondary Front Yard (ft.):	95	95	30	min.
Left Yard (ft.):	3	**5** - addition **7.5'** – HVAC	10	
Right Yard (ft.):	13	10	10	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	17	15	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

December 21, 2021 – The Board of Adjustment considered your application for the property whereas relief is needed from the Zoning Ordinance to construct a 10' x 12' shed which requires the following:

1) A Variance from Section 10.573.20 to allow a 5' side yard where 10' is required; and
2) A Variance from Section 10.571 to allow an accessory structure to be located closer to the street than the principal building.

As a result of said consideration, the Board voted to **grant** the request.

Planning Department Comments

The applicant is proposing to demolish the existing garage and porch and construct a new garage and addition and add two new HVAC units as part of the project. The HVAC units are proposed to be 7.5 feet from the left lot line where 10 feet is required. The new addition will be 5 feet at the closest point.

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.

CONTENTS, BOA APPLICATION FOR PROPOSED REMODEL AND ADDITION AT #64 HAVEN RD., PORTSMOUTH, NH.

***2-Narrative**

***3-Addressing the (5) "criteria" and "unnecessary hardship".**

***4-Plan Set, including Existing and Proposed Site Plans, with Dimensional Table and Proposed Floor Plans and Elevations.**

PROPOSED REMODEL AND ADDITION AT #64 HAVEN RD., PORTSMOUTH, NH.

NARRATIVE

This 1 ¾, Cape style house is in the middle of a well established 1940's neighborhood. An addition has been done to the main structure, likely in the 60's or 70's, over the Garage. The surrounding neighborhood houses are consistently non conforming for the required front yard setback, and this house has a non confirming left side structure (Enclosed Porch) within the left side setback.

It is proposed to preserve the main Cape core of the house, but demolish the Garage and later addition, including the Enclosed Porch. The new addition to replace this to replace this would give greater space to the setback, but allow more volume at 2nd Floor level.

The left side setback would be increased from 3' to 7', with a slight reduction in the actual house area within the setback.

There is a slight increase in lot coverage, but remains below that allowed (20%) at 15%.

ADDRESSING THE (5) "CRITERIA" AND "HARDSHIP", #64 HAVEN RD., PORTSMOUTH, NH.

1: PUBLIC INTEREST.

The existing left side Enclosed Porch is non-conforming to required setbacks. The proposal decreases this set-back non-conformity. The existing appearance will be improved by the new, more stylistically conforming addition. This incorporation into the "look" of the main structure will enhance the essential character of the neighborhood. Through the necessity of meeting code compliance, the buildings will become more-safe, and energy efficient. There does not appear to be any Public Interest contrary to this proposal.

2: SPIRIT OF THE ORDINANCE.

The proposal continues some of the original building's historic non-conforming use, but reduces the level of non-conformity. The re-developed structure will be more in keeping with the intent of the Zoning Ordinance.

3: SUBSTANTIAL JUSTICE.

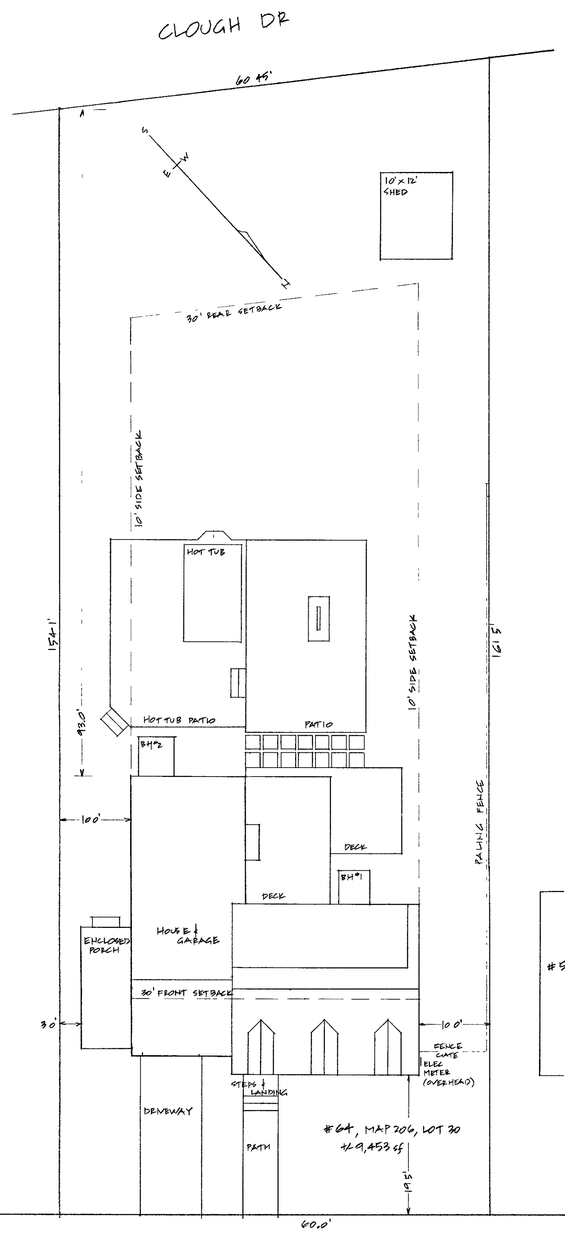
The proposed use does not cause any harm to the general public or other individuals and accommodates substantive and costly renovation and improvements to the property.

4: VALUE OF SURROUNDING PROPERTIES WILL NOT BE DIMINISHED.

The increased investment and preservation of this property will enhance and elevate the value of the properties surrounding it.

5: LITERAL ENFORCEMENT WOULD RESULT IN "UNNECESSARY HARDSHIP".

The property is unique given its period of development and its historic use in its current form. This use predates the implementation of the current zoning ordinance. The proposed use, while continuing some non-conformities, more aligns with the intent of the ordinance. The period nature of this property, and the existing structure, make it a special case to accommodate moderate development in line, and enhancing, existing use.



EXISTING CONDITIONS SITE PLAN

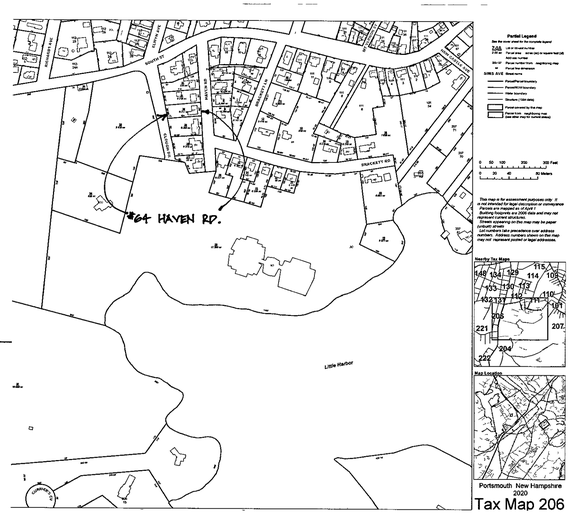
1"=10'

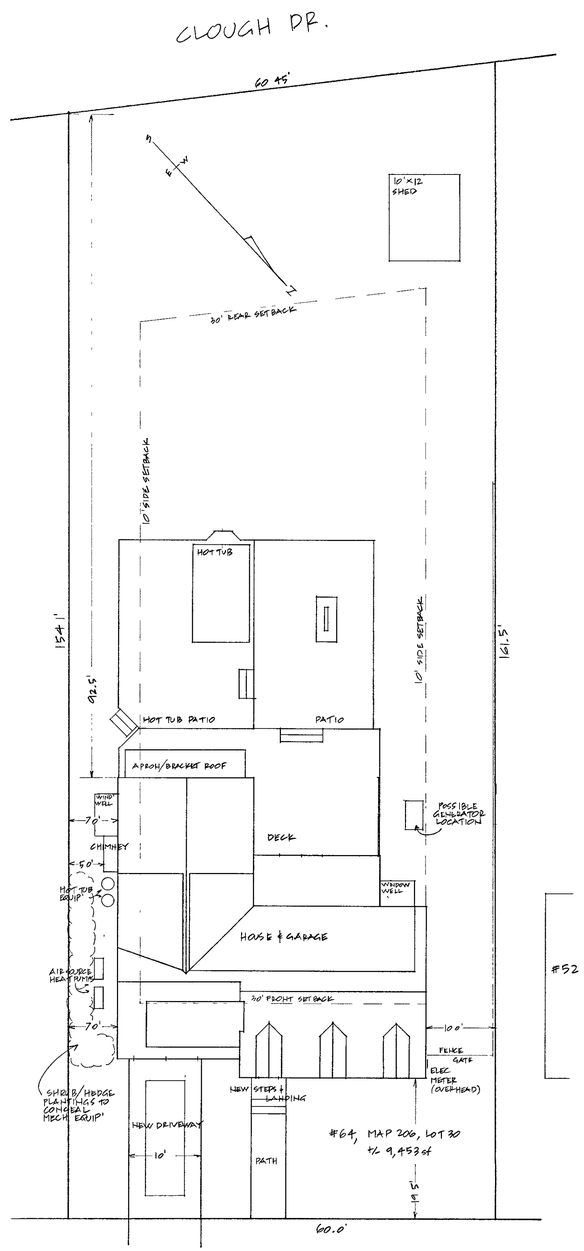
DIMENSIONAL TABLE (SRB)

ITEM	EXISTING	PROPOSED	CHANGE
Lot Area (Req. 15,000sf)	*9,453sf*	*9,453sf*	*0sf*
Height (35' max.)	*25' 9"*	*25' 9"*	*0'*
Front Yard (Req. 10')	*19.5'*	*19.5'*	*0'*
Left Yard (Req. 10')	*3.0'*	*7'*	*+4'*
Left Yard (Req. 10') to chimney	*-*	*5'*	*-*
Right Yard (Req. 10')	*10'*	*10'*	*0'*
Rear Yard (Req. 30')	*93.0'*	*92.5'*	*-0.5'*
Area within Left Yard Setback	*119sf*	*118.5sf*	*-0.5sf*
Garden Shed	*120sf*	*120sf*	*0sf*
House & Garage Area (20% max.)	*1,208sf*	*1,458sf*	*+122sf*
House & Garage % Area	*14%*	*15%*	*+1%*
Enclosed Porch Area	*119sf*	*0sf*	*-119sf*
Deck (less than 18" high)	*348sf*	*418sf*	*+70sf*
Bulkhead #1	*21sf*	*0sf*	*-21sf*
Bulkhead #2	*23sf*	*0sf*	*-23sf*
Hot Tub Patio (less than 18")	*494sf*	*494sf*	*0sf*
Patio	*544sf*	*531sf*	*-13sf*
Front Steps & Landing	*23sf*	*23sf*	*0sf*
Front Path	*63sf*	*63sf*	*0sf*
Driveway	*198sf*	*220sf*	*+22sf*
TOTAL IMPERVIOUS AREA	*3,161sf*	*3,327sf*	*+22sf*
TOTAL IMPERVIOUS AREA %	*33.4%*	*35.2%*	*+2%*
OPEN SPACE %	*66.6%*	*64.8%*	*-2%*

OWNER OF RECORD;
ANTHONY JAY CLARK
64 HAVEN RD.,
PORTSMOUTH, NH
MAP 206, LOT 30

PLAN TAKEN FROM TAX MAP, DEED DESCRIPTION AND FIELD MEASUREMENTS





PROPOSED CONDITIONS SITE PLAN

1"=10'

Brendan McNamara
19 Doe Drive
Eliot, ME 03903
207 439 3521 Phone
BrendanMcNamara.com
Brendan McNamara
RESIDENTIAL ARCHITECTURE

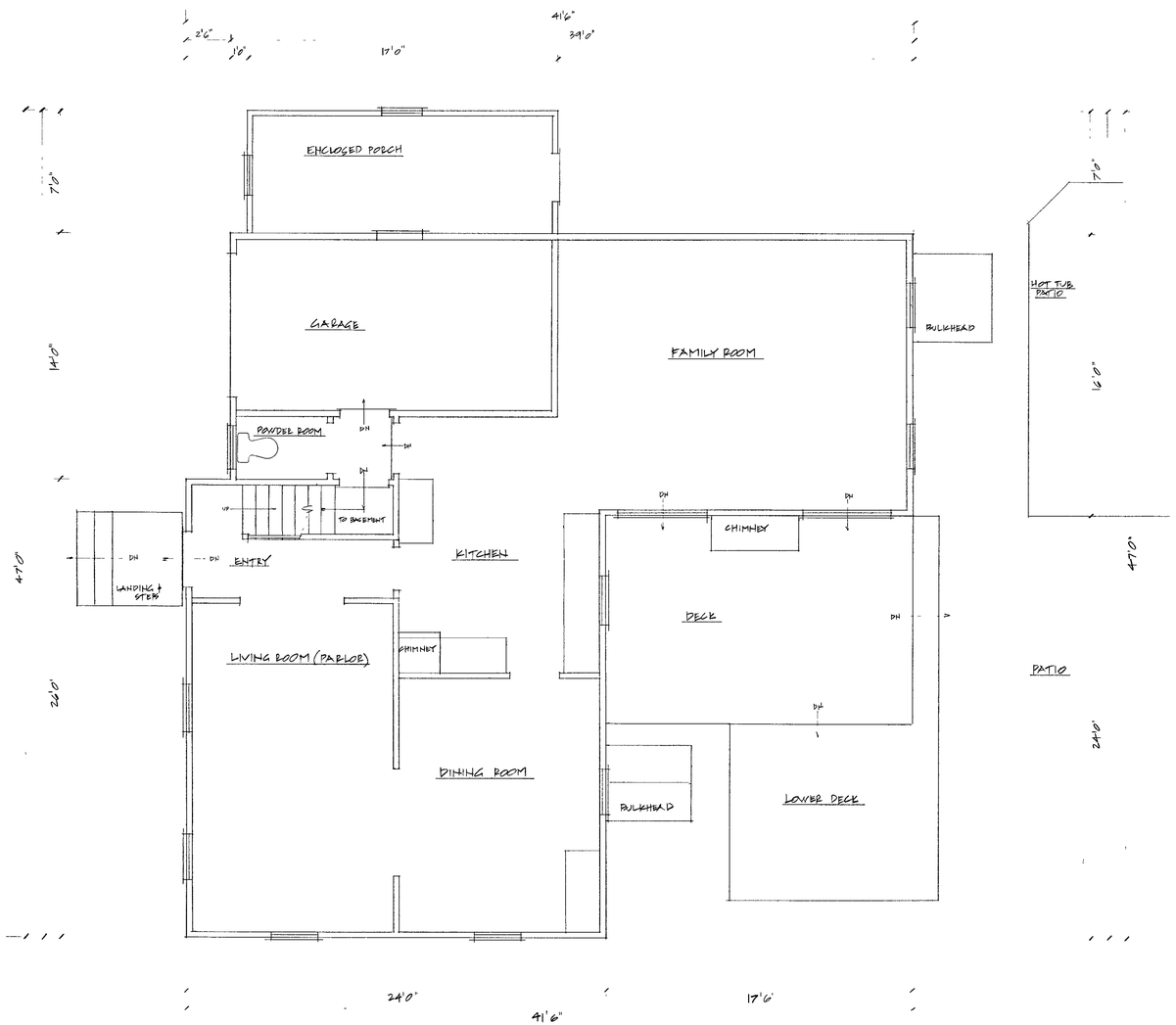
TITLE: SITE PLANS, EXISTING & PROPOSED

SCALE: 1" =10'

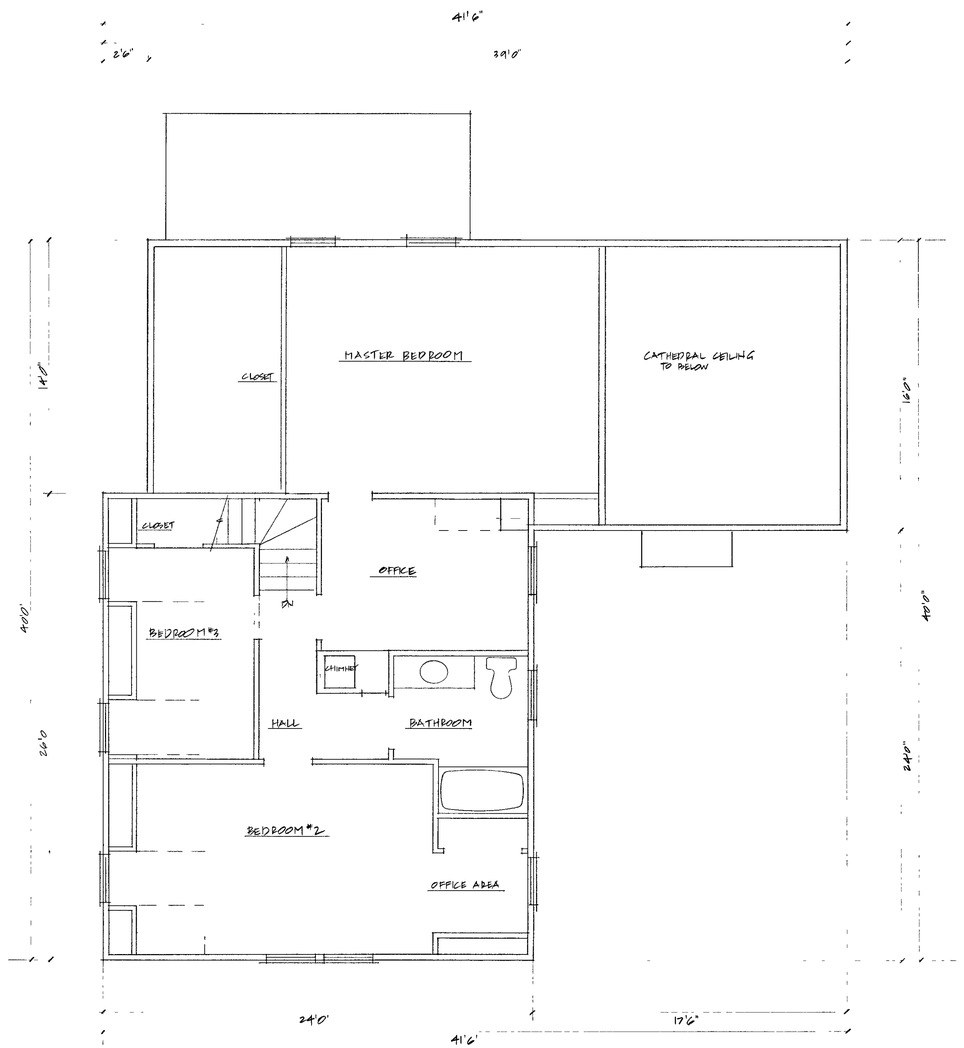
DATE: 4.26.2022

REVISIONS:

REMODEL & ADDITION
at 64 HAVEN Rd.,
PORTSMOUTH, NH



EXISTING FIRST FLOOR PLAN



EXISTING SECOND FLOOR PLAN

TITLE: EXISTING FLOOR PLANS
SCALE 1/4"=1'0"
DATE · 4.26.2022
REVISIONS

REMODEL & ADDITION
at 64 HAVEN Rd,
PORTSMOUTH, NH

FRONT LEFT VIEW

FRONT VIEW

FRONT RIGHT VIEW

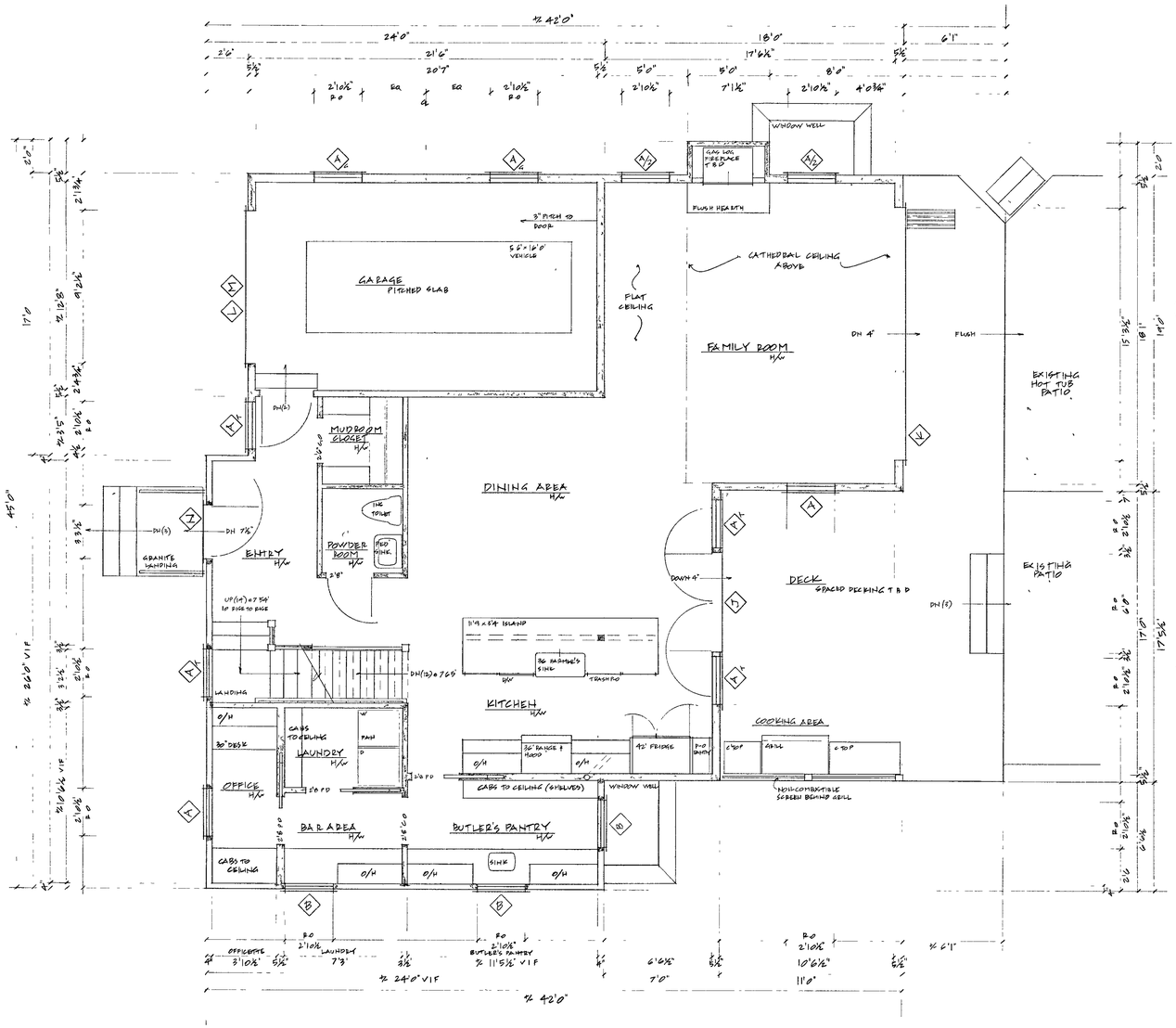
REAR VIEW (FROM RIGHT SIDE)

REAR VIEW

Brendan McNamara
95 Doe Drive
Eliot, ME 03903
207.439.3321 Phone
BrendanMcNamara.com

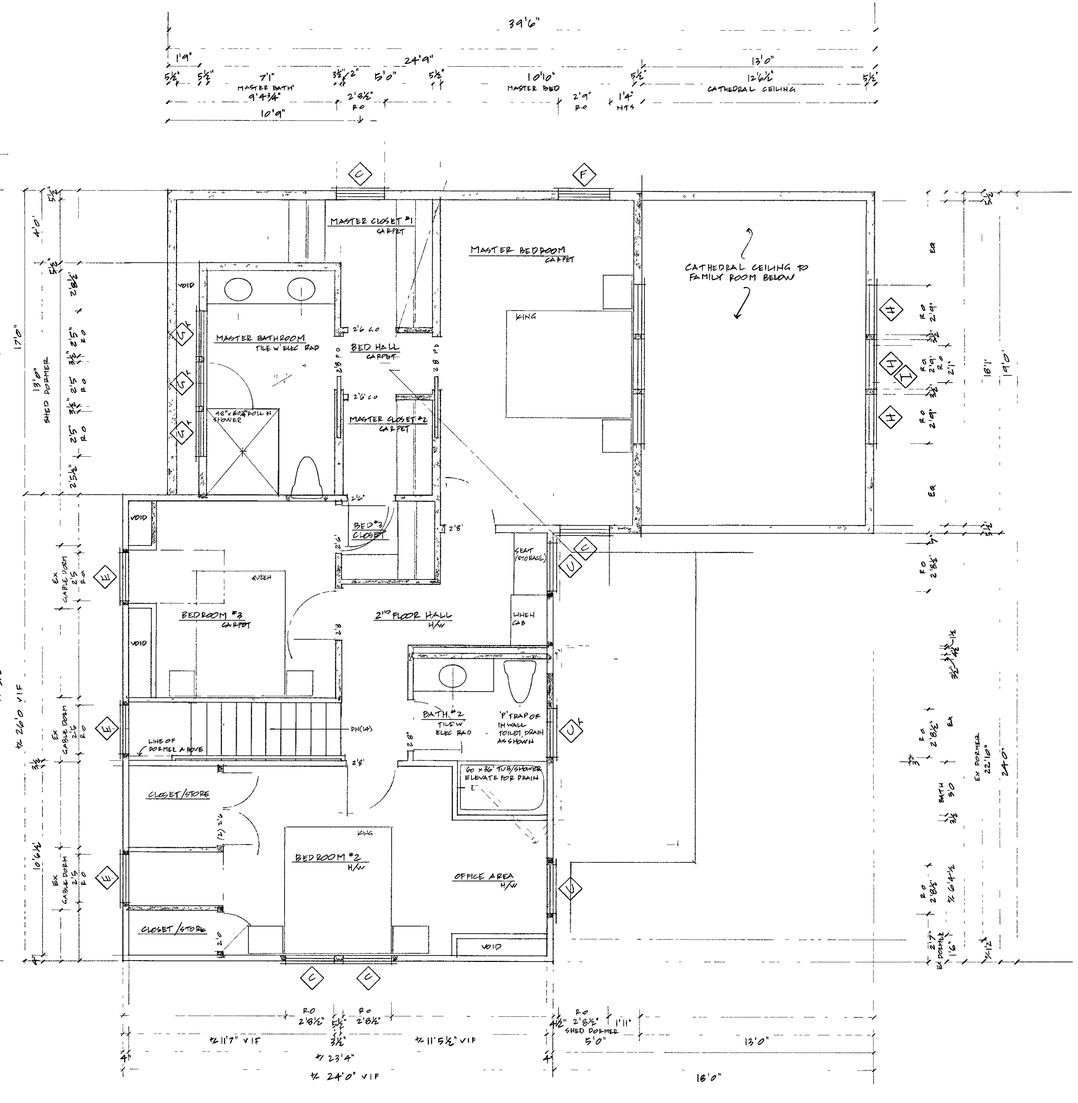
REMODEL + ADDITION
at 64 HAVEN Rd,
PORTSMOUTH, NH

TITLE EXISTING VIEWS
SCALE -
DATE 4.26.2022
REVISIONS



PROPOSED FIRST FLOOR PLAN

HLS = 1,175 sf



PROPOSED SECOND FLOOR PLAN

HLS = ½ 1,055 sf

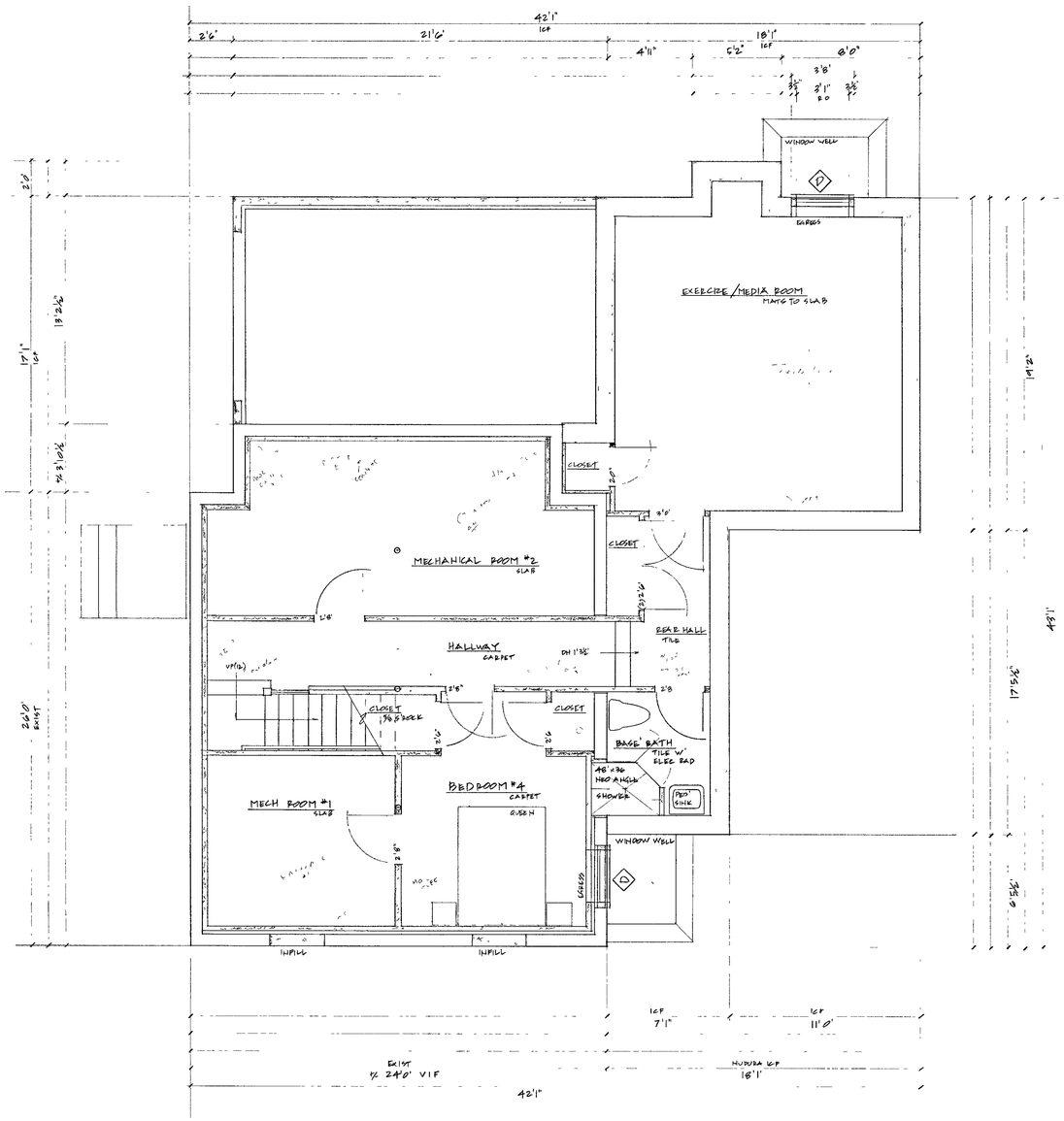
Brendan McNamara
19 Doe Drive
Eliot ME 03903
207 439 3321 Phone
BrendanMcNamara.com

Brendan McNamara
ARCHITECTURAL ASSOCIATES

TITLE: PROPOSED 1ST & 2ND FLOOR PLANS
SCALE: ¼" = 1'0"
DATE · 4 26 2022
REVISIONS.

REMODEL & ADDITION
at 64 HAVEN Rd.,
PORTSMOUTH, NH.

PAGE A4



PROPOSED BASEMENT FLOOR PLAN

Brendan McNamara
19 Dow Drive
Ekwk, ME 03903
207 439 3521 Phone
BrendanMcNamara.com

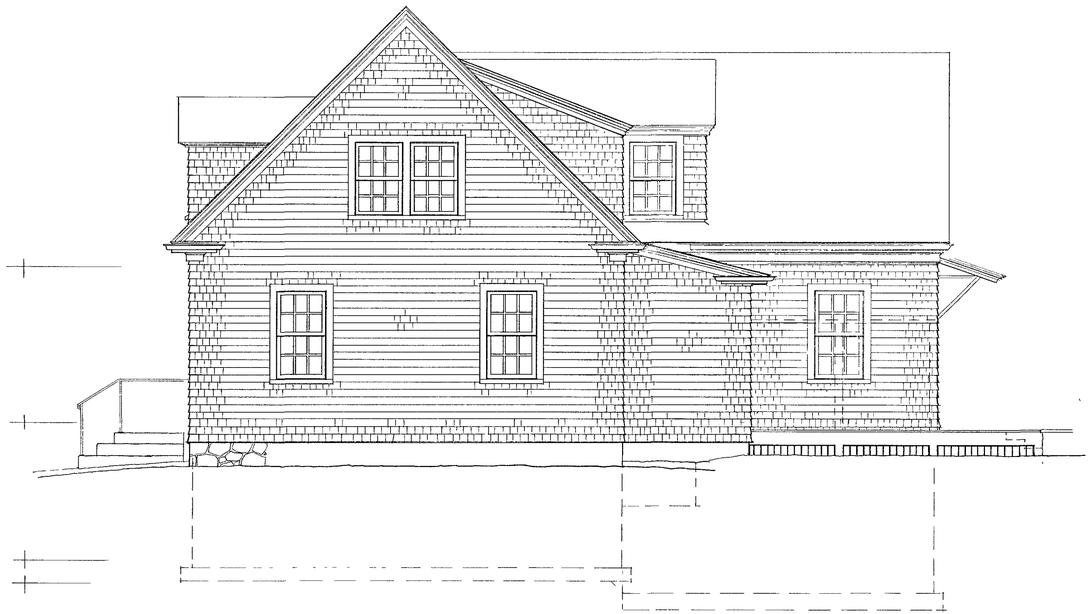
Brendan McNamara
RESIDENTIAL DESIGNER

REMODEL & ADDITION
at 64 HAVEN Rd.,
PORTSMOUTH, NH.

TITLE: PROPOSED BASEMENT & FOUNDATION FLOOR PLANS
SCALE: ¼"=1'0"
DATE 4 26 2022
REVISIONS

PAGE A5.

REAR (WEST) ELEVATION



RIGHT (NORTH) ELEVATION

LEFT (SOUTH) ELEVATION

FRONT (EAST) ELEVATION

Brendan McNamara
19 Dore Drive
Eliot, ME 03903
207 439 3521 Phone
BrendanMcNamara.com

Brendan McNamara
RESIDENTIAL ARCHITECTURE

TITLE: PROPOSED ELEVATIONS
SCALE: 1/4"=1'0"
DATE · 4.26.2022
REVISIONS 5.16.2022

REMODEL & ADDITION
at 64 HAVEN Rd.,
PORTSMOUTH, NH

2.

Request of **Stephen E. Chaloner (Owner)**, for property located at **217 Myrtle Avenue** whereas relief is needed to construct a 6' x 8' deck with stairs which requires the following: 1) A Variance from Section 10.521 to allow a 12' secondary front yard where 30' 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 220 Lot 92 and is located within the Single Residence B (SRB) District.

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use	Single family	Rear deck	Primarily residential	
Lot area (sq. ft.):	6,098	6,098	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	6,098	6,098	15,000	min.
Lot depth (ft):	135	135	100	min.
Street Frontage (ft.):	101	101	100	min.
Primary Front Yard (ft.):	10	10	30	min.
Secondary Front Yard (ft.):	12	**12**	30	min.
Right Yard (ft.):	10	10	10	
Rear Yard (ft.):	>60	>60	30	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	17.5	18.5	20	max.
Open Space Coverage (%):	>40	>40	40	min.
Parking:	2	2	2	
Estimated Age of Structure:	1906	Variance request(s) shown in red.		

Other Permits/Approvals Required

None.

Neighborhood Context

Previous Board of Adjustment Actions

June 27, 2003 – The Board considered request for the following Variance:

1. Article III, Section 10-302(A) to allow construction of a 6' x 26.8' front porch with a 16.5' front yard where 30' was the minimum required.

As a result of such consideration, it was voted that the request be **granted.**

Planning Department Comments

The applicant is proposing to add a 6' x 8' rear deck to the existing dwelling that will not encroach any further into the secondary front yard than what currently exists. The existing dwelling is nonconforming to both the principal and secondary front yards. All other dimensional requirements are compliant with the proposed deck.

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.

1**0.235 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.

Board of Adjustment,

We are applying for consideration in obtaining a variance for a proposed deck addition on our property at 217 Myrtle Ave.

Due to the orientation of our property (corner lot on Myrtle Ave and Emery Street), we have a secondary front yard that does not adhere to the 30’ setback. The main house structure is nonconforming, and our proposed deck will also be nonconforming, though not more so than the current house.

Additionally, our corner lot's secondary front yard (Emery Street) is visually much larger than the property line would indicate due to the city’s land use for drainage and a culvert immediately abutting our property. From the street view and if the property line were normal, the proposed deck would appear to adhere to the setback requirement.

This “deck” is more of a small landing 6’ x 8’, from which we can access our backyard. We currently do not have direct backyard access to our living space.

To address the 5 criteria for the variance:

10.233.21 The variance will not be contrary to the public interest;

We propose a small deck that nests into our current house footprint. It is not any more nonconforming than the house and it is not visible to any of our adjacent neighbors. Also, the public view is comparable to a compliant deck due to the city-owned land abutting the property.

10.233.22 The spirit of the Ordinance will be observed;

We are not proposing a major addition in our use of land, we’ve scaled down our deck so that it is the smallest possible footprint while remaining functional for our needs. Visually, from Emery Street, the deck addition will adhere to the spirit of the Ordinance due to a parcel of city-owned land.

10.233.23 Substantial justice will be done;

Allowing us to have a deck will give us direct access to our backyard, which we eventually intend to fence in, giving us full and unimpeded use of our outdoor living space.

10.233.24 The values of surrounding properties will not be diminished;

The deck is not visible from any direct neighbors and would not negatively impact the value of any adjacent properties. The style of the deck will be visually attractive and will enhance the value of our property and thus our neighbors' property as well.

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

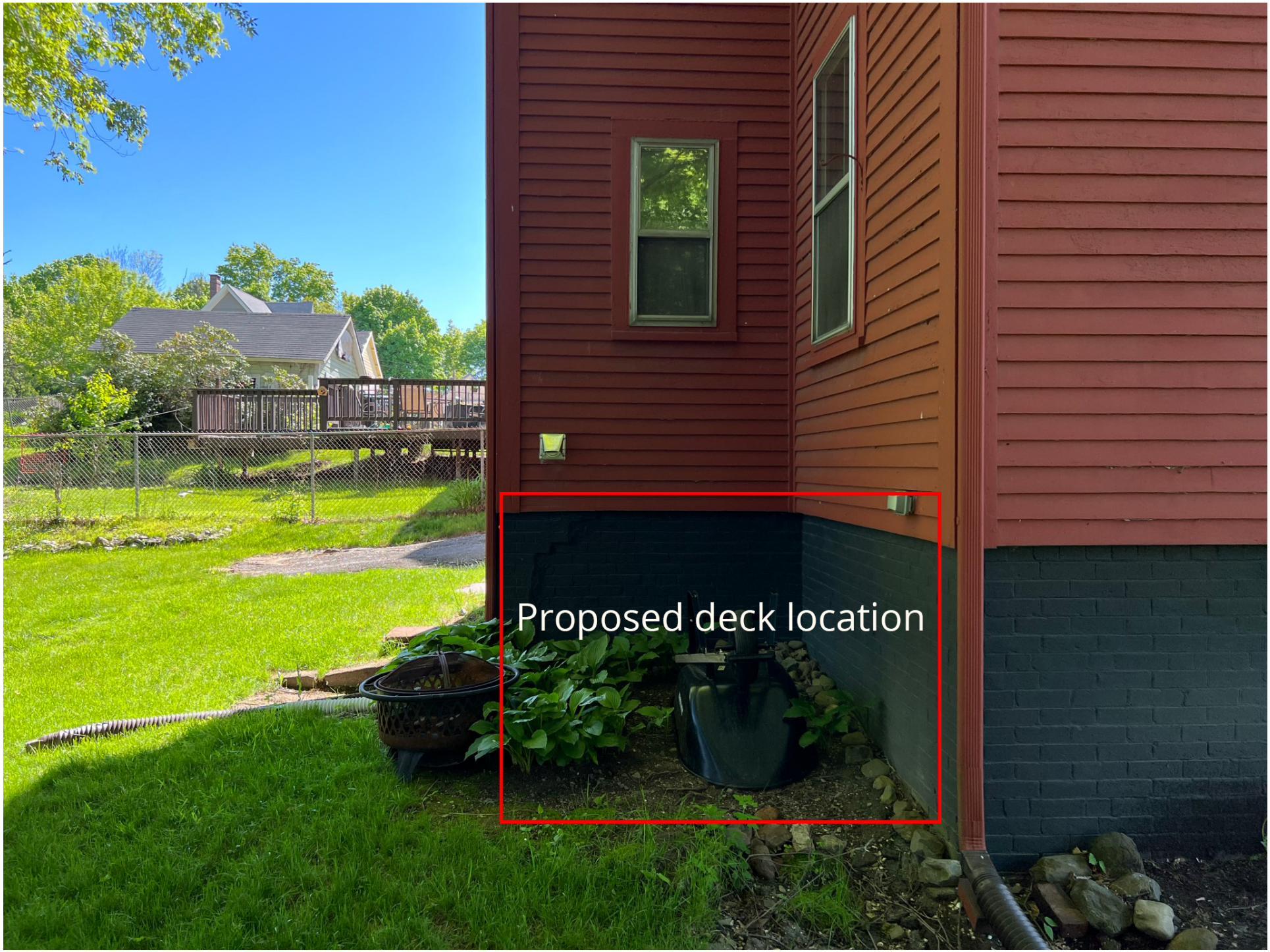
Due to our property's corner lot location, as well as the city's ownership of the majority of our property's former secondary front yard for a drainage culvert, we have a narrow property line that places our entire structure inside the required setbacks.

Our proposed deck design is understated and sized such that it meets our needs without appearing obtrusive, negatively impacting property values, or the quality of life for our neighbors.

Literal enforcement of the Ordinance would be prohibitive to our ability to fully make use of our property and in this unique case, from a public perspective, this deck visually adheres to the spirit of the Ordinance.

Thank you for your consideration.

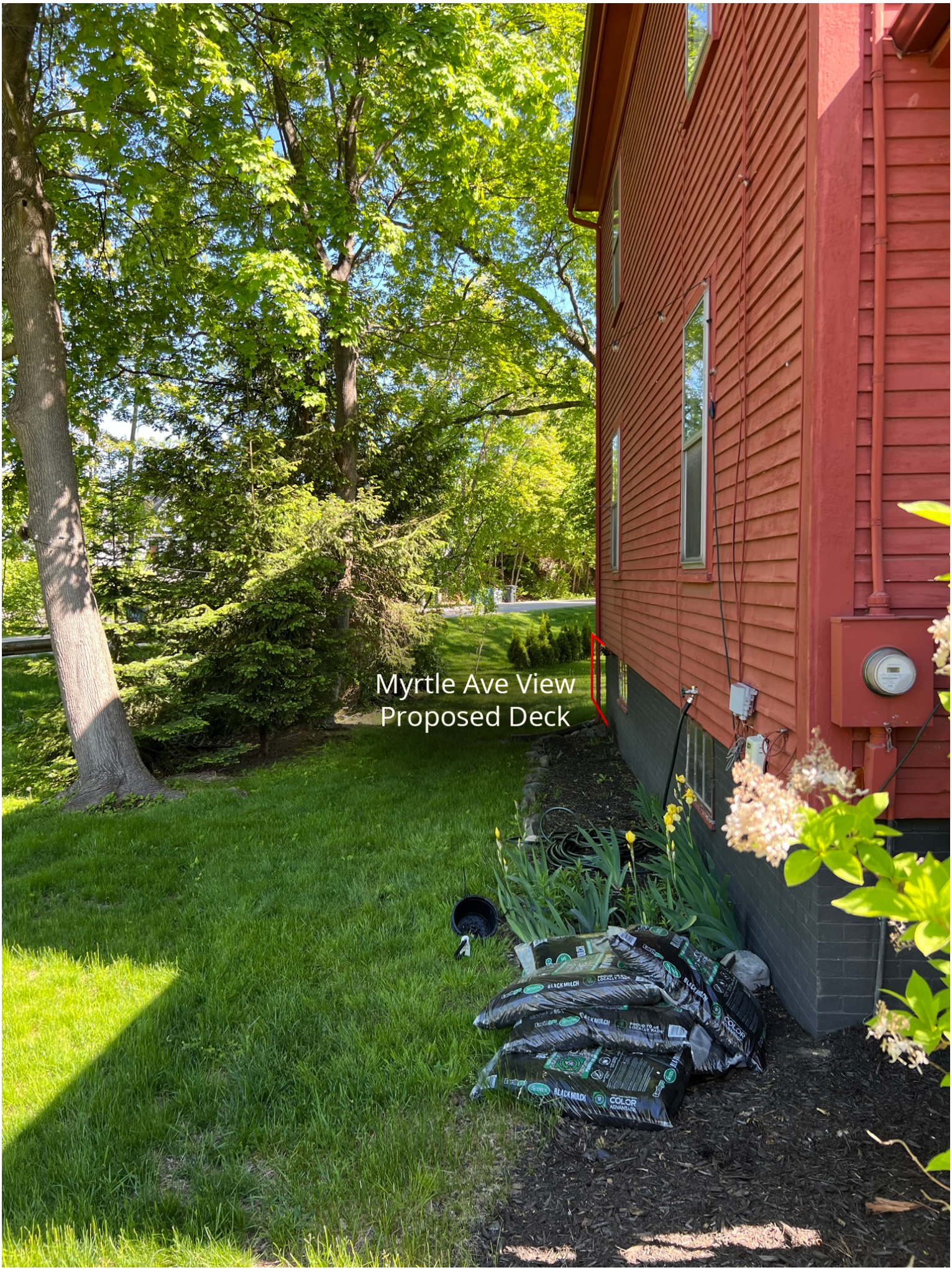
Stephen and Meghan Chaloner


Proposed deck location

Proposed Deck

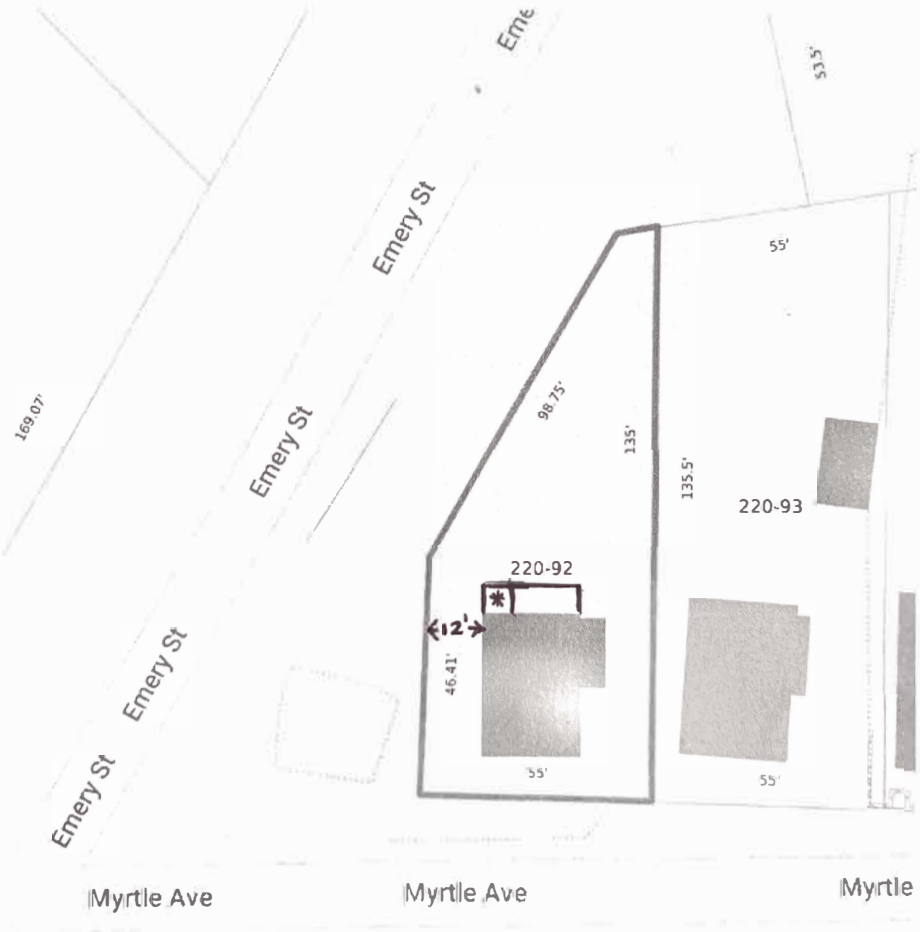
Emery Street View
Proposed Deck

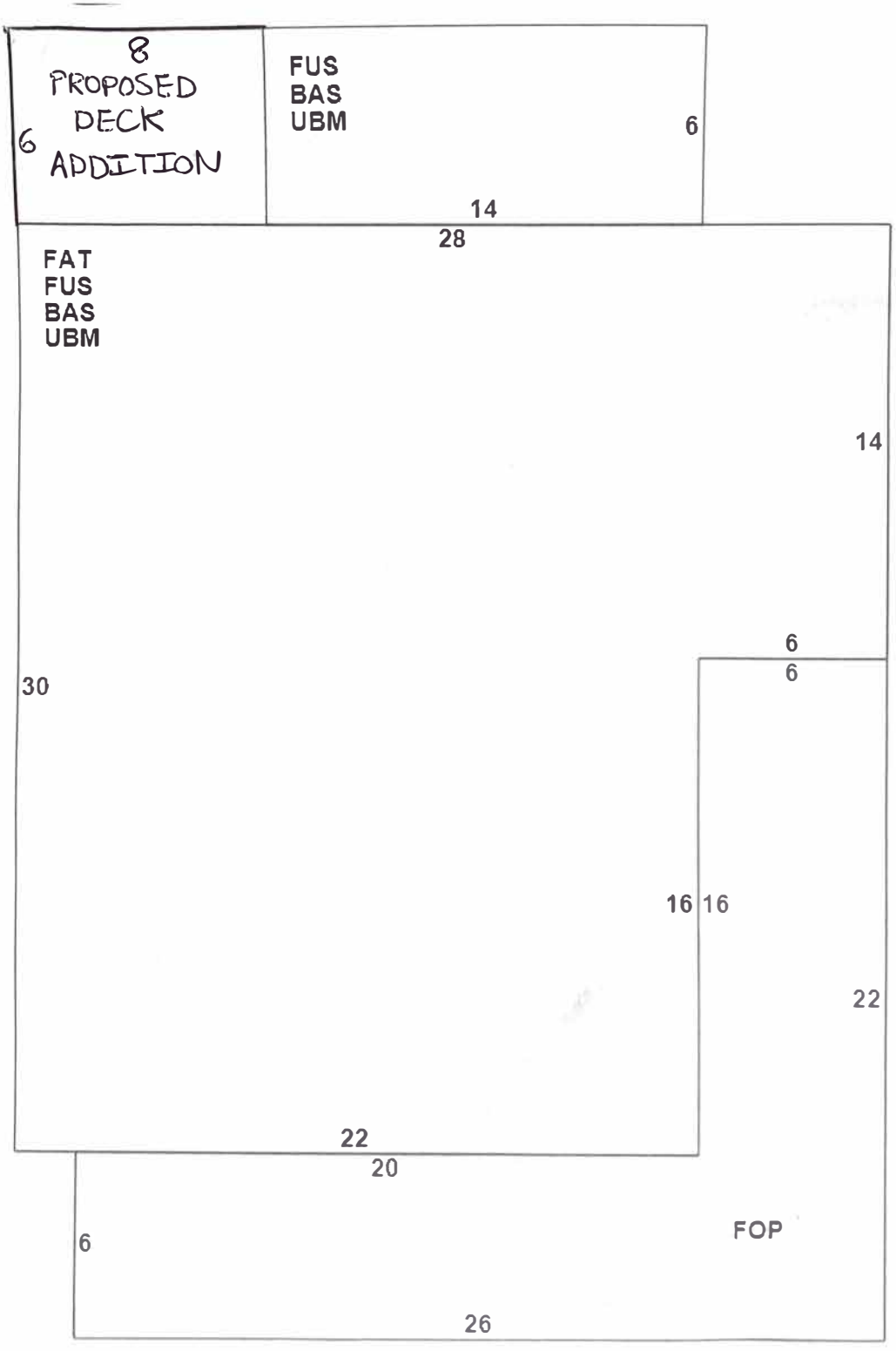
Emery Street View
Proposed Deck Location


Myrtle Ave View
Proposed Deck

* PROPOSED DECK ADDITION (6'x8')

CHALONER RESIDENCE
217 MYRTLE AVE




8
PROPOSED
DECK
ADDITION
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FUS
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UBM
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28
FAT
FUS
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UBM
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16
16
22
22
20
FOP
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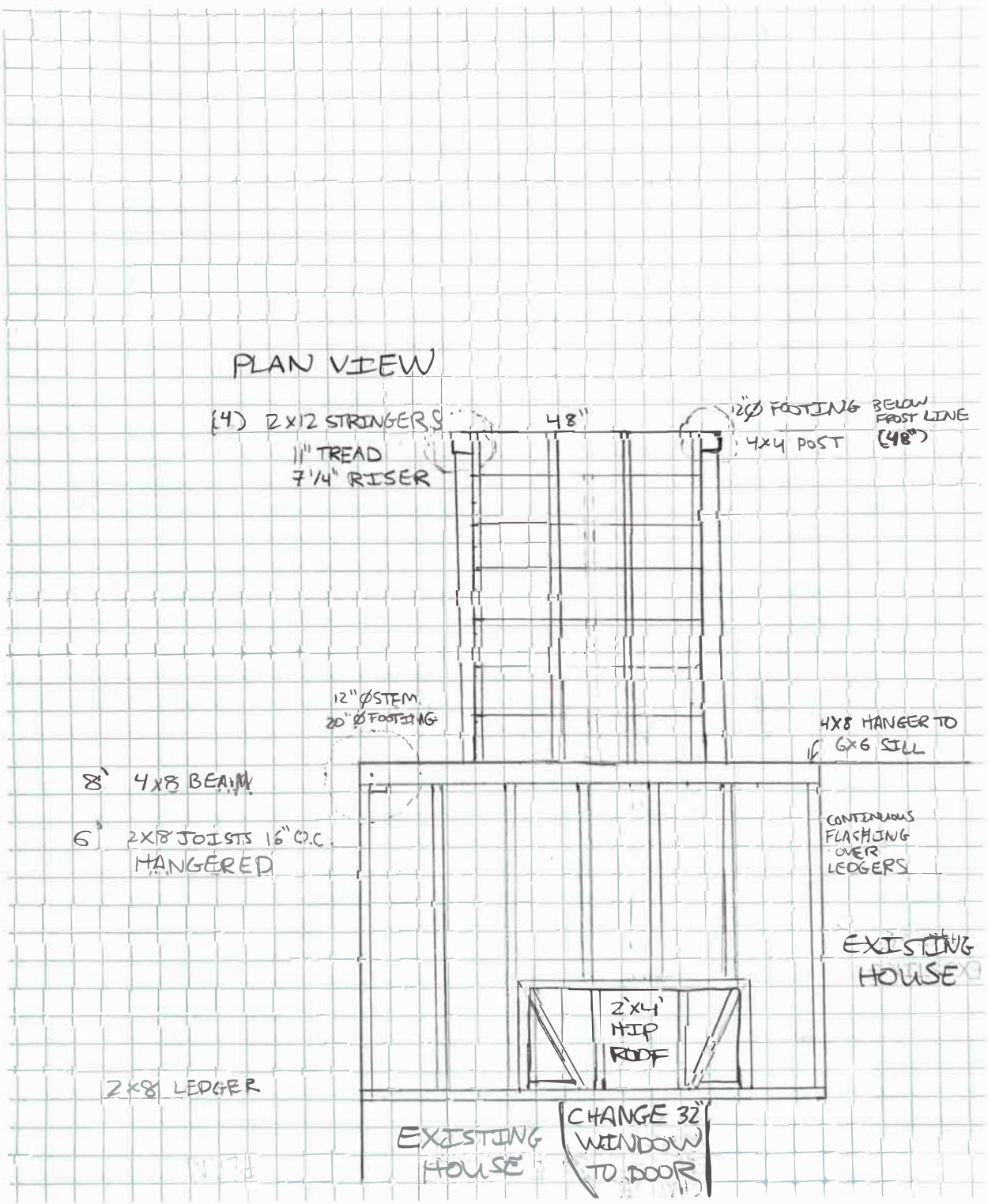
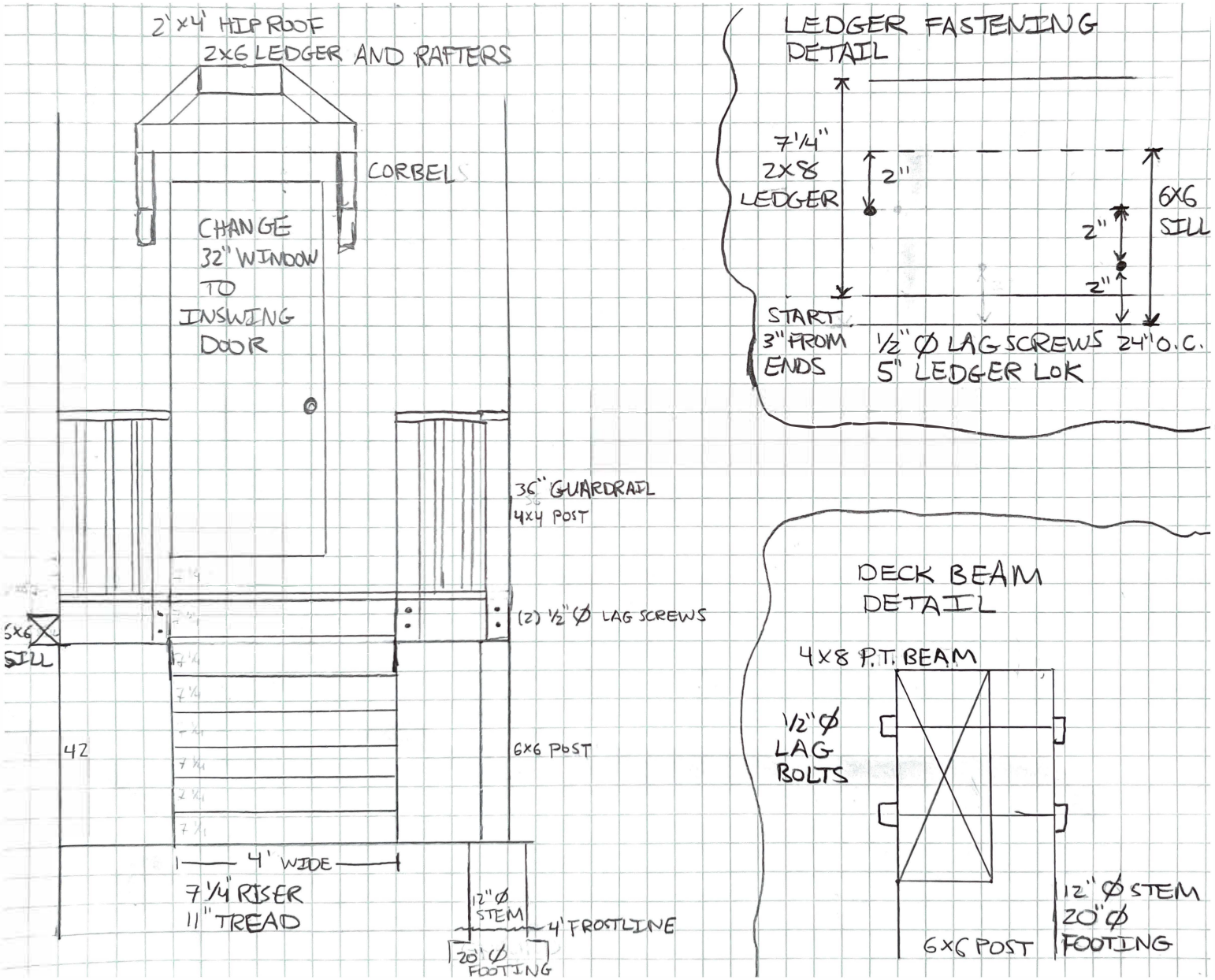
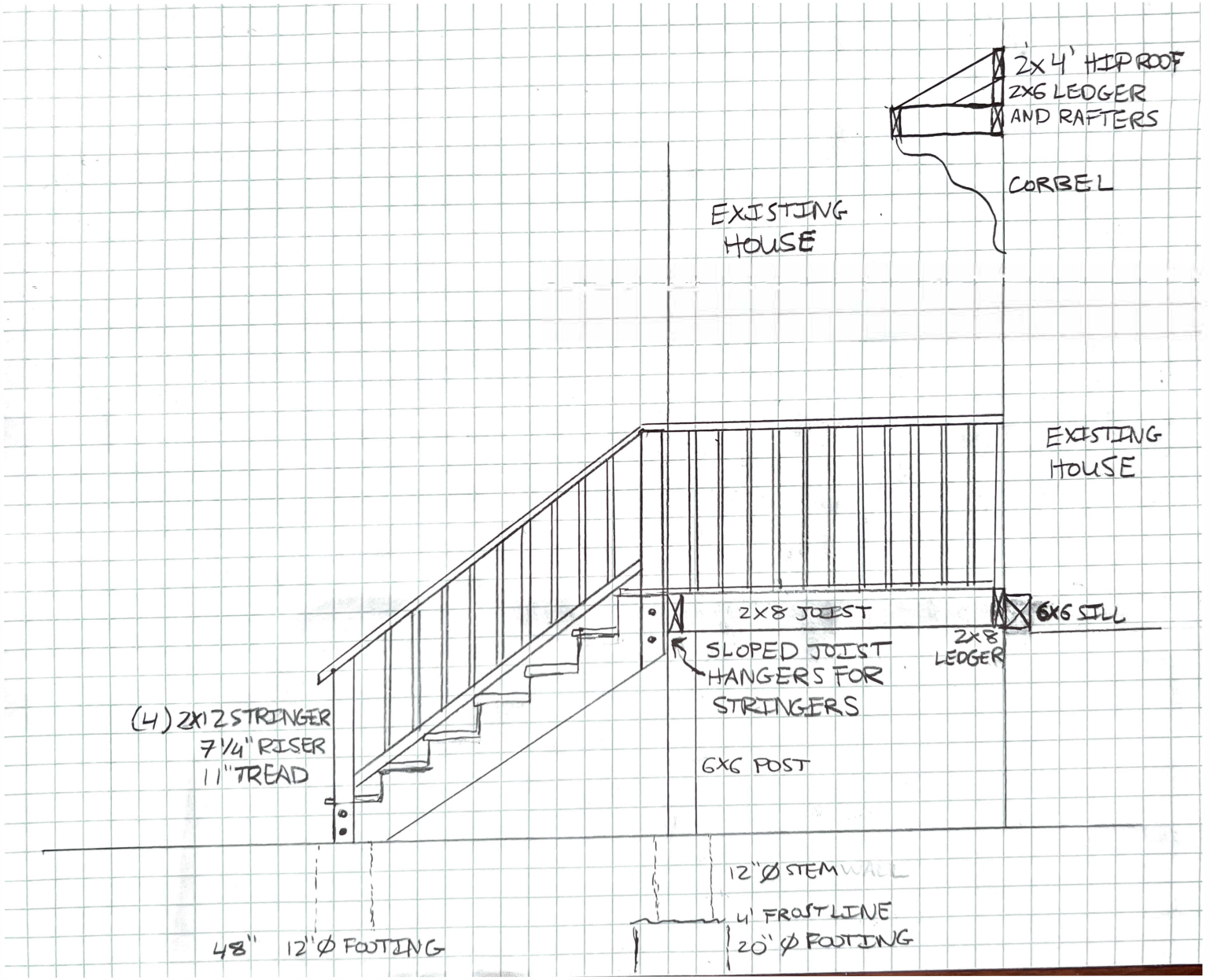
26


PLAN VIEW
(4) 2X12 STRINGERS
11" TREAD
7 1/4" RISER
48"
12"Ø FOOTING BELOW FROST LINE (48")
4X4 POST
12"Ø STEM
20"Ø FOOTING
4X8 HANGER TO 6X6 SILL
8' 4X8 BEAM
6' 2X8 JOISTS 16" O.C. HANGERED
CONTINUOUS FLASHING OVER LEDGERS
EXISTING HOUSE
2X4 HIP ROOF
2X8 LEDGER
EXISTING HOUSE
CHANGE 32" WINDOW TO DOOR


2'x4' HIP ROOF
2x6 LEDGER AND RAFTERS
CORBELS
CHANGE 32" WINDOW TO INSWING DOOR
36" GUARDRAIL
4x4 POST
(2) 1/2" Ø LAG SCREWS
6x6 SILL
42
6x6 POST
4' WIDE
7 1/4" RISER
11" TREAD
12" Ø STEM
4' FROSTLINE
20" Ø FOOTING
LEDGER FASTENING DETAIL
7 1/4" 2x8 LEDGER
2"
2"
2"
6x6 SILL
START 3" FROM ENDS
1/2" Ø LAG SCREWS 24" O.C.
5" LEDGER LOK
DECK BEAM DETAIL
4x8 P.T. BEAM
1/2" Ø LAG BOLTS
12" Ø STEM
20" Ø FOOTING
6x6 POST


2x4' HIP ROOF
2x6 LEDGER
AND RAFTERS
CORBEL
EXISTING
HOUSE
EXISTING
HOUSE
2x8 JOIST
6x6 SILL
2x8
LEDGER
SLOPED JOIST
HANGERS FOR
STRINGERS
(4) 2x12 STRINGER
7 1/4" RISER
11" TREAD
6x6 POST
12" Ø STEM WALL
4' FROST LINE
20" Ø FOOTING
48"
12" Ø FOOTING

3.

The request of **Emily Alati (Owner)**, for property located at **47 Lovell Street** whereas relief is needed to construct a rear addition and detached garage with apartment which requires the following: 1) Variances from Section 10.521 to allow a) a 5' right side yard where 10' is required; b) a 5' rear yard where 20' is required; c) a 6.5' left side yard where 10' is required; d) a lot area per dwelling unit of 2,178 where 3,500 per dwelling is required and e) a 6' 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. Said property is located on Assessor Map 146 Lot 14 and is located within the General Residence C (GRC) District.

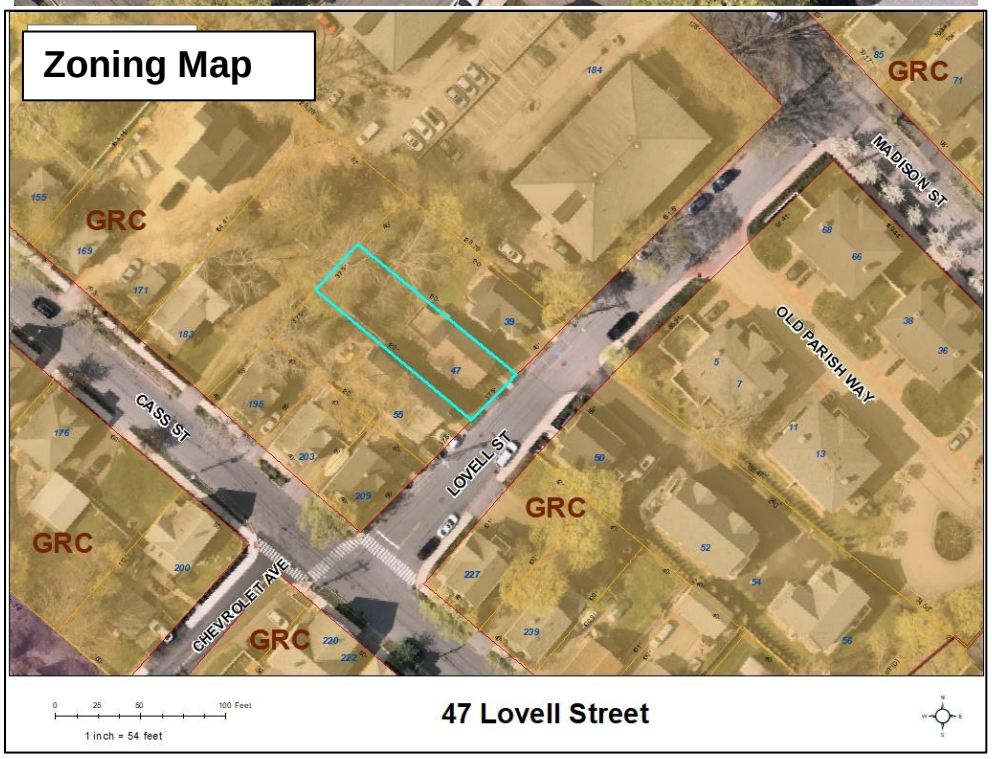
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use	Single family	Rear addition and detached garage with apartment	Primarily residential	
Lot area (sq. ft.):	4,356	4,356	3,500	min.
Lot Area per Dwelling Unit (sq. ft.):	4,356	**2,178**	3,500	min.
Lot depth (ft):	120	120	50	min.
Street Frontage (ft.):	37.5	37.5	70	min.
Primary Front Yard (ft.):	3	3	5	min.
Left Yard (ft.):	8	**6.5** (garage)	10	min.
Right Yard (ft.):	4.5	**5** (garage) **6** (addition)	10	
Rear Yard (ft.):	60	**5**	20	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	24	33.5	35	max.
Open Space Coverage (%):	64	54	20	min.
Parking:	0	4	3	
Estimated Age of Structure:	1925	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 new detached garage with an apartment located at the rear of the property. The proposed garage is 26 feet wide, and with a lot width of 37.5 feet, variances are needed for both side yards. The GRC district allows for more than one freestanding dwelling on a lot, however the lot size does not meet the density for 2 dwellings, thus the request for lot area per dwelling unit. The applicant and direct abutter recently obtained a driveway permit for a shared driveway to provide off-street parking for both lots. The rear addition will require relief for the upward expansion within the setback.

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.

47 Lovell Street House Renovation and Garage narrative
June 29, 2022
Emily Alati (current residence is 653 Greenland Rd, Portsmouth, NH)

Hello, my name is Emily Alati and I have been a Portsmouth resident since 2001 when I came to the region to work for Malden Mills and then Timberland. I have been a single mom for the past 5 years and my kids will soon be out of the house. Last Fall I bought 47 Lovell Street to downsize from my current 4 bedroom home on Greenland Rd in Portsmouth. My plan is to fully renovate the Lovell Street house (1226 sf) while preserving the overall architecture plus add a detached garage with a small apartment above. My mother lives with me in my current home so I'm looking to add an apartment for her separate living space especially since the main house will only be 1328 sf. Attaching the garage to the house was explored with my architect but proved to be non-viable for vehicular access. The new design shows the garage positioned at the far back of the lot (total lot sf is 4356) which allows for ample pull-in/back-out of 2 cars. Please know that I originally worked with my architect (O'Sullivan Architects) and tried to attach the garage and extra living space to the existing structure, but the lot is too narrow to do so. This property is also already deeded with a shared driveway and a permit has already been applied for and granted (DRVE-22-7).
The intent of a garage is to 1) remove parked cars from the narrow street 2) add a living space for my mother above the garage and 3) make use of the extra space in the back of this long narrow lot. As a result of the narrow lots, non-conforming outbuildings seem common in this neighborhood so detaching the garage and extra living space seem to fit within this neighborhood.
My house foundation/footprint is to remain as-is. My goal for this project is to keep the historic look and massing of the house intact from the street view but to add some additional functionality at the back of the house to adapt to my family's needs. The current deck (non-conforming) will be removed. The second floor is proposed to have an addition for a full bathroom, but the footprint remains on the same/current foundation.
The current lot coverage is at 24% or 1038 sf (includes house plus old deck) and the proposed new lot coverage with the detached garage would be 33.5% or 1461 sf and would remain below the required 35% (1581.5 sf maximum for my lot).

<u>Details</u>:
Total number of dwellings - currently 1, proposing 2 with the addition of an apartment above the garage
Lot area – 4356 sf
Land use – current house+deck is 1038 sf/24% land coverage, proposed land use would be 1461 sf/33.5% with detached garage
Building dimensions for existing house and new garage are attached.

<u>Explanation of Criteria per Ordinance 10.233</u>:
1) *The variance will not be contrary to the public interest* – it's in the public's interest and the community to keep this house in its original form to preserve the original aesthetic and massing of what was likely a modest work-force house to support the local Frank Jones

Brew Yard. This property currently relies on street parking only and with the addition of garage/parking, frees up street space for public right-of-way including pedestrian/cyclists/fire apparatus, especially since it is a narrow street with only 1 accessible lane.

2) *The spirit of the Ordinance will be observed* – by preserving this dilapidated property as a single-family dwelling with the addition of an in-law apartment above the garage, the spirit as a residential dwelling will remain but the neighborhood will be improved by this property being completely renovated. This property appears to have had no maintenance in many decades.
3) *Substantial justice will be done* – the improvements to the house and addition of off-street parking will benefit the entire neighborhood and at the same time benefit me and my family and allow us to remain in Portsmouth.
4) *The values of surrounding properties will not be diminished* – by improving the property and adding a garage, it will actually create privacy and a sound barrier from the densely populated neighborhood
5) *Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship* – in order for me to continue to live in Portsmouth, I need to downsize from my existing home otherwise I would need to move out of Portsmouth. Secondly, I wouldn't have enough a living space for my children, nor an affordable living situation for my mother. Lastly, having off-street parking in this particular neighborhood is necessary due to the very narrow street.

Thanks for your consideration!
Best – Emily Alati
603-770-9419

47 Lovell Street

front view

2nd floor bathroom shed dormer

Proposed driveway

RESERVED PARKING
Proposed driveway

3 of 40
Proposed driveway

40 of 40
STOP

47 Lovell Street

back view

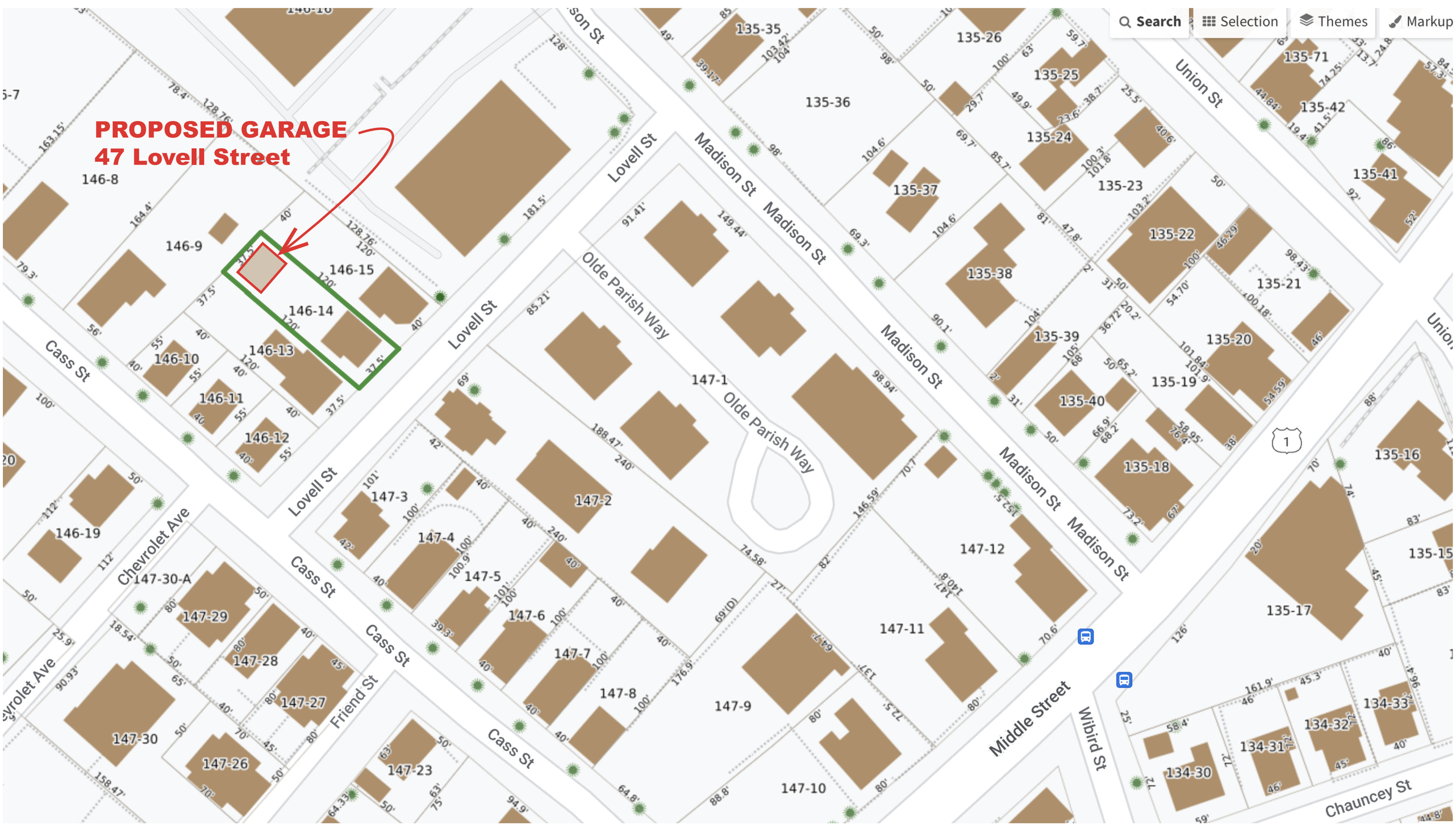
2nd floor addition for full bathroom, to be built on top of existing 1st floor structure

*Oversized/non-conforming deck to be removed

New detached garage to sit at back of property

Backyard – old deck to be removed

Backyard – perspective from back deck


PROPOSED GARAGE
47 Lovell Street
146-8
146-9
146-10
146-11
146-12
146-13
146-14
146-15
146-19
147-1
147-2
147-3
147-4
147-5
147-6
147-7
147-8
147-9
147-10
147-11
147-12
147-23
147-26
147-27
147-28
147-29
147-30
147-30-A
135-35
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135-71
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135-22
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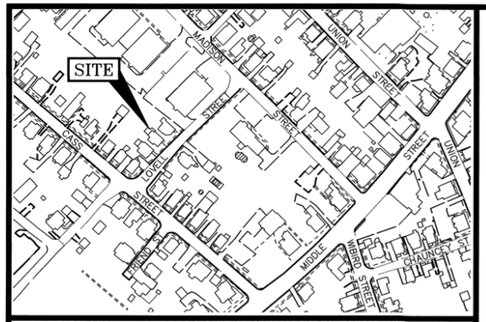
135-20
135-19
135-18
135-17
135-16
134-30
134-31
134-32
134-33
Lovell St
Madison St
Olde Parish Way
Union St
Cass St
Chevrolet Ave
Friend St
Middle Street
Wibird St
Chauncey St
Search
Selection
Themes
Markup



LOCATION MAP SCALE: 1"=200'

PLAN REFERENCES:

1) CONDOMINIUM SITE PLAN TAX MAP 147, LOT 2 50 LOVELL STREET CONDOMINIUM, OWNER & DECLARANT DECM, LLC PROPERTY LOCATED AT: 50 LOVELL STREET CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE 1" = 10', DATED SEPTEMBER 2019 PREPARED BY AMBIT ENGINEERING INC., RCRD D-41780.

2) CONDOMINIUM SITE PLAN TAX MAP 147, LOT 3, 227 CASS STREET CONDOMINIUM FOR STEFANIE LANDERS 227 CASS STREET CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 10', DATED MAY 2006, PREPARED BY AMBIT ENGINEERING INC., RCRD D-35242.

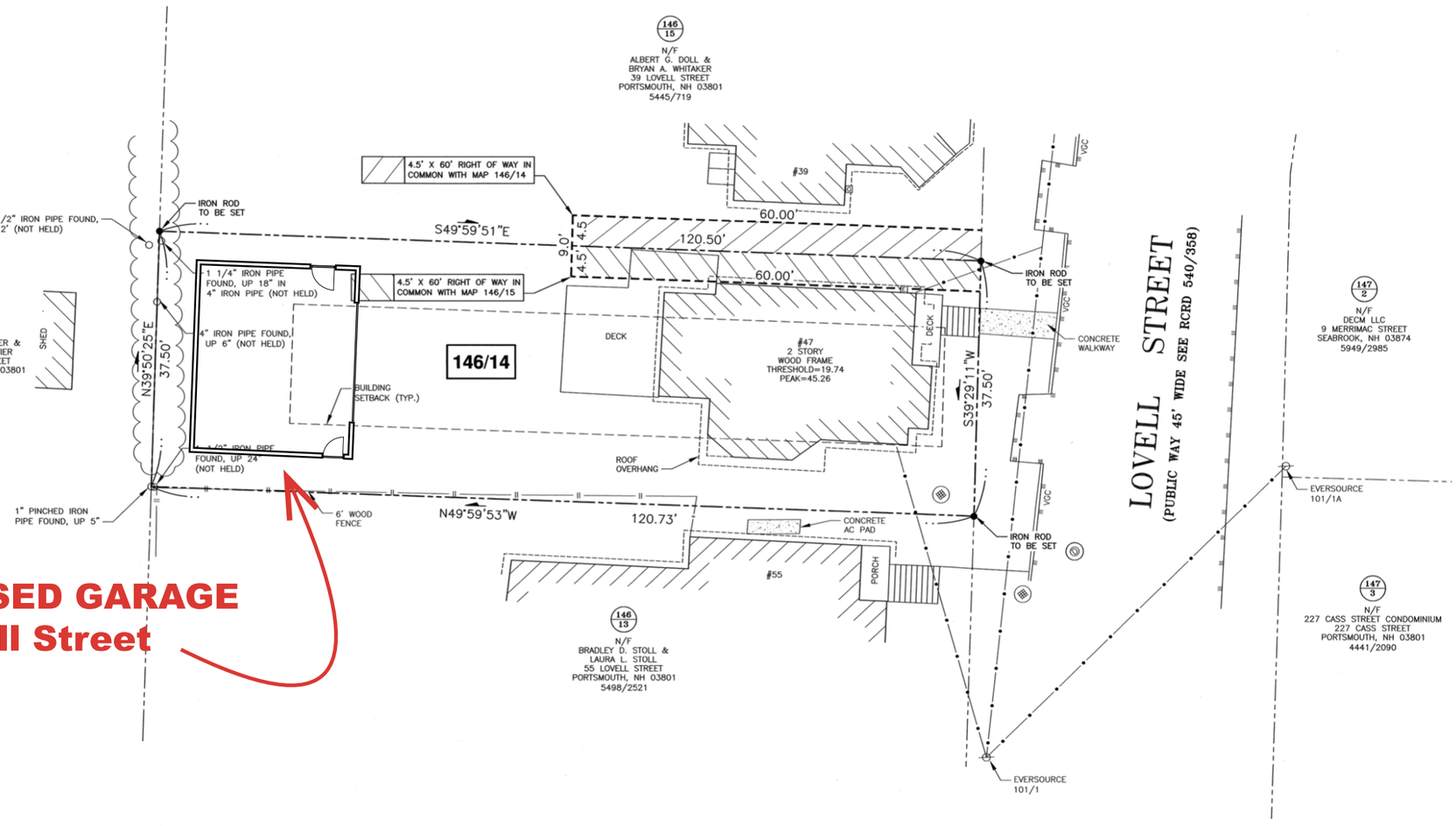
3) STANDARD PROPERTY SURVEY FOR PROPERTY AT 149 CASS STREET ROCKINGHAM COUNTY, PORTSMOUTH, NEW HAMPSHIRE OWNED BY SHERWOOD ROLLINS III & DENISE CLEMENT ROLLINS 149 CASS STREET PORTSMOUTH, NH 03801, SCALE 1" = 20', DATED MAY 10, 2001, PREPARED BY EASTERLY SURVEYING, INC., R.C.R.D. C-29454.

4) SUBDIVISION PLAN OF LAND "LEISURE LIVING COMMUNITY" PORTSMOUTH, N.H. SURVEYED FOR KENNETH L. BARRETT PORTSMOUTH, N.H., SCALE: 1" = 20', DATED AUGUST 1970, PREPARED BY W. ROBERT NOLTE & ASSOCIATES, RCRD PLAN# 2114.

NAD83(2011) NORTH — NHSPC GRID

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11/21	MAP 11 / LOT 21
	BOUNDARY
	EASEMENT
	SETBACK
O	IRON ROD/PIPE FOUND
	OVERHEAD WIRES
	EDGE OF PAVEMENT (EP)
	WOODS / TREE LINE
Ø	UTILITY POLE (w/ GUY)
G E	METER (GAS, ELECTRIC)
TYP.	TYPICAL
LSA	LANDSCAPED AREA
VGC	VERTICAL GRANITE CURB



PROPOSED GARAGE
47 Lovell Street

GRAPHIC SCALE
10 5 0 10 20 30 40 FEET
3 0 5 10 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."

3.11.22

JOHN R. CHAGNON, LLS #738 DATE

STATE OF NEW HAMPSHIRE — NO. 738 — JOHN R. CHAGNON — LICENSED LAND SURVEYOR

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 146 AS LOT 14.

2) OWNERS OF RECORD:
EMILY ALATI
653 GREENLAND ROAD
PORTSMOUTH, N.H. 03801
6330/664

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:
4,523 S.F.
0.1038 ACRES

5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE C (GRC) ZONING DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA:		3,500 S.F.
FRONTAGE:		70 FEET
SETBACKS:	FRONT	5 FEET
	SIDE	10 FEET
	REAR	20 FEET
MAXIMUM STRUCTURE HEIGHT:		35 FEET
MAXIMUM BUILDING COVERAGE:		35%
MINIMUM OPEN SPACE:		20%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY SURVEY ON ASSESSOR'S MAP 146, LOT 14 IN THE CITY OF PORTSMOUTH.

8) PARCEL IS SUBJECT TO A RIGHT OF WAY IN COMMON WITH ASSESSOR'S MAP 114 LOT 15 EXTENDING WESTERLY 60' FROM LOVELL STREET ALONG THE NORTHERLY PROPERTY LINE AND BEING 4.5' IN WIDTH. EASEMENT FIRST DESCRIBED IN RCRD 1013/357.

9) PARCEL IS BENEFITED BY A RIGHT OF WAY IN COMMON WITH AND OVER ASSESSOR'S MAP 114 LOT 15, EXTENDING WESTERLY 60' FROM LOVELL STREET ALONG THE SOUTHERLY PROPERTY LINE OF ASSESSOR'S MAP 114 LOT 15 AND BEING 4.5' IN WIDTH. EASEMENT FIRST DESCRIBED IN RCRD 1013/355.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	3/11/22

REVISIONS

STANDARD BOUNDARY SURVEY
TAX MAP 146 – LOT 14
ALATI RESIDENCE

FOR

EMILY ALATI

47 LOVELL STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

SCALE: 1' = 10' FEBRUARY 2022

FB 285 PG 50 3422

Reading, MA 01867
P: 781-439-6166
F: 781-439-6170
Home Office Phone: 978-733-1554

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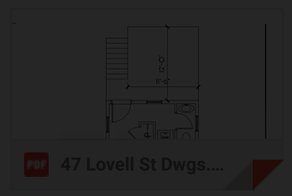
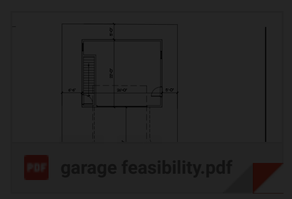


7

Stefanie Good
to me

Here is a garage floor plan, but you will most l…



Emily Alati <emilyalati50@gmail.com>
to Stefanie

Ok thanks! The permit is asking for heights of everyth…

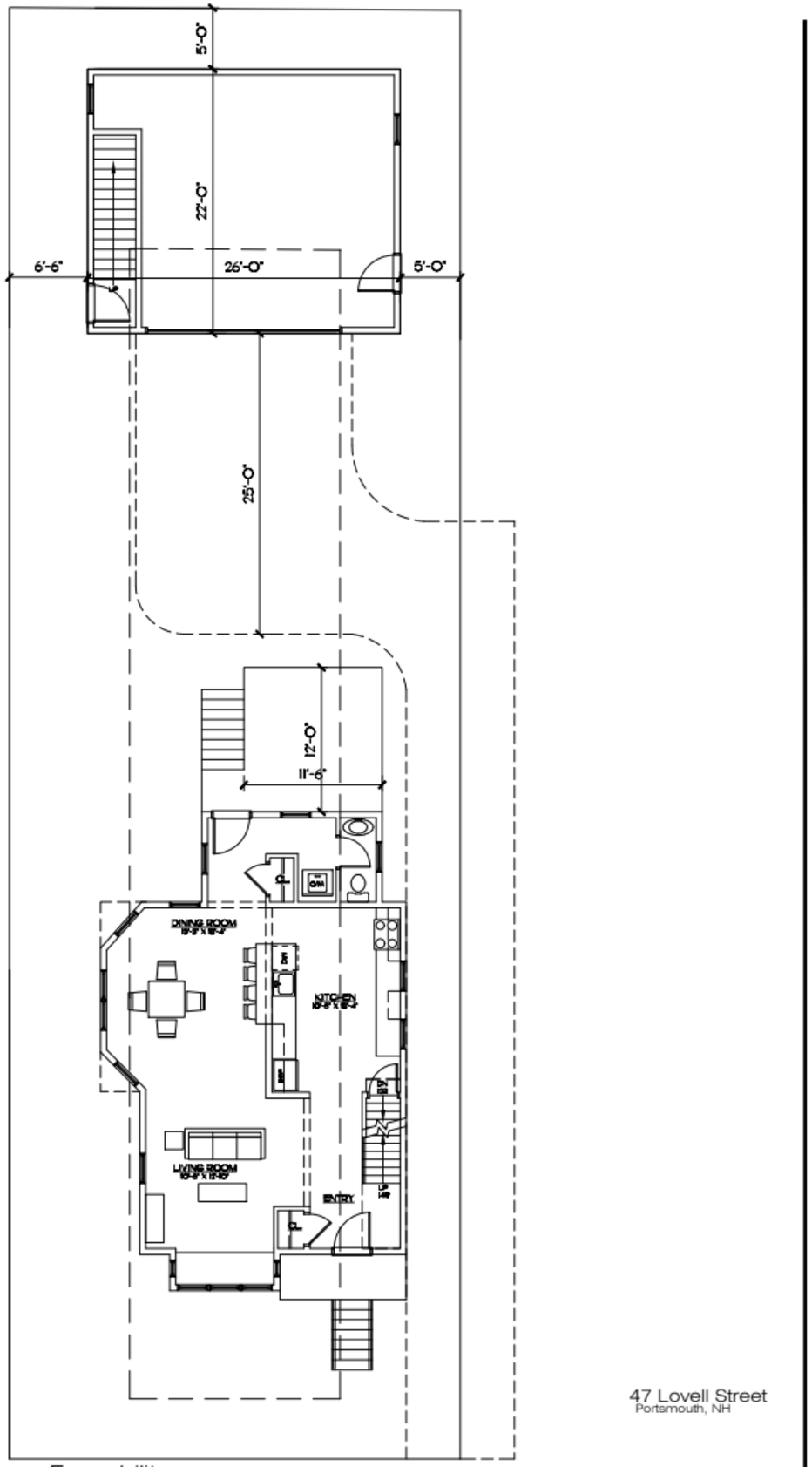
Emily Alati
to alexander_dardinski

Hey, take a look at the garage and let me know what …

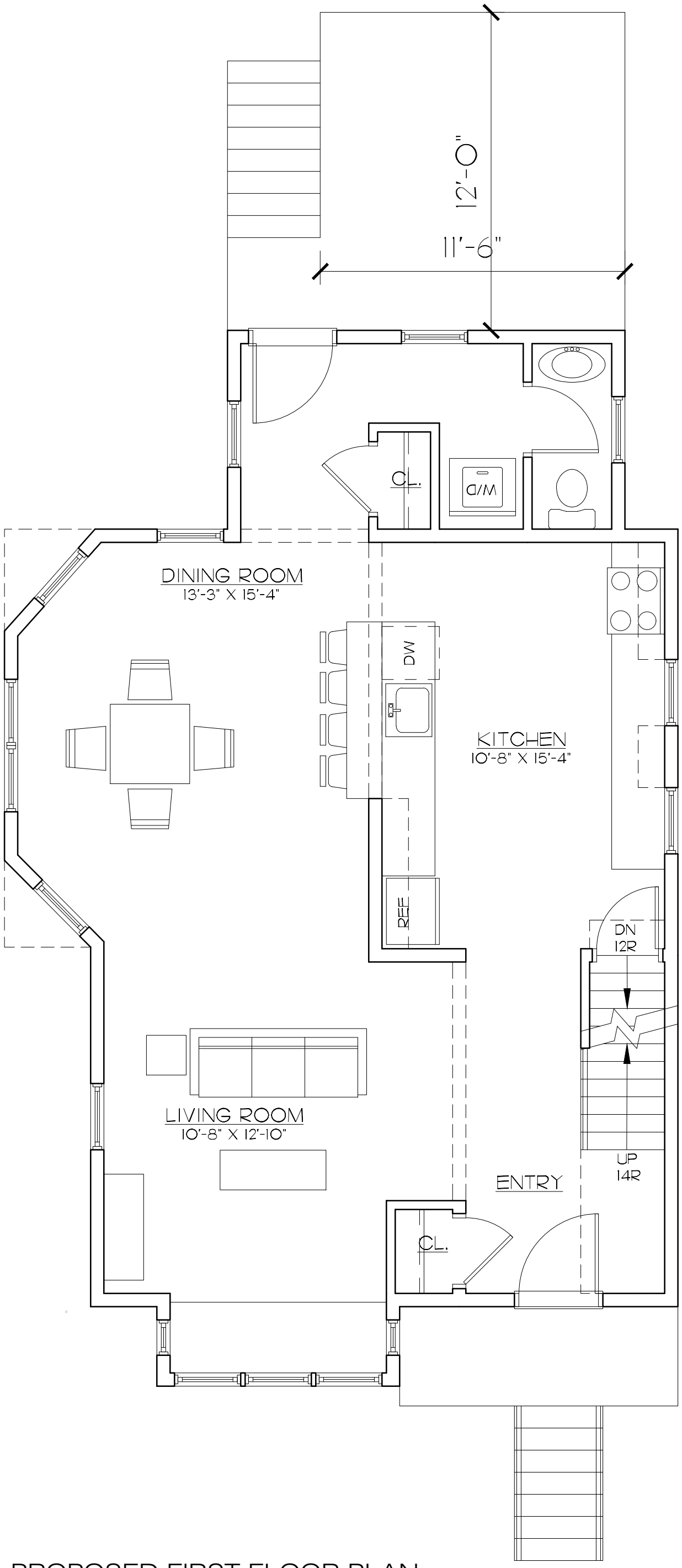
3:57 PM (1 hour ago)

4:02 PM (1 hour ago)

4:32 PM (44 minutes ago)



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



1 PROPOSED FIRST FLOOR PLAN

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

47 Lovell Street
Portsmouth, NH

O'SULLIVAN ARCHITECTS, INC.
ARCHITECTURE ▪ INTERIORS ▪ PLANNING
606 MAIN STREET, SUITE 3001 ▪ READING, MA 01867
Tel: (781) 439-6166 ▪ Fax: (781) 439-6170 ▪ www.osullivanarchitects.com
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ISSUED
01/19/2022

REVISED / REVISED BY

SHEET NUMBER
1 of 2

JOB NO:
21053

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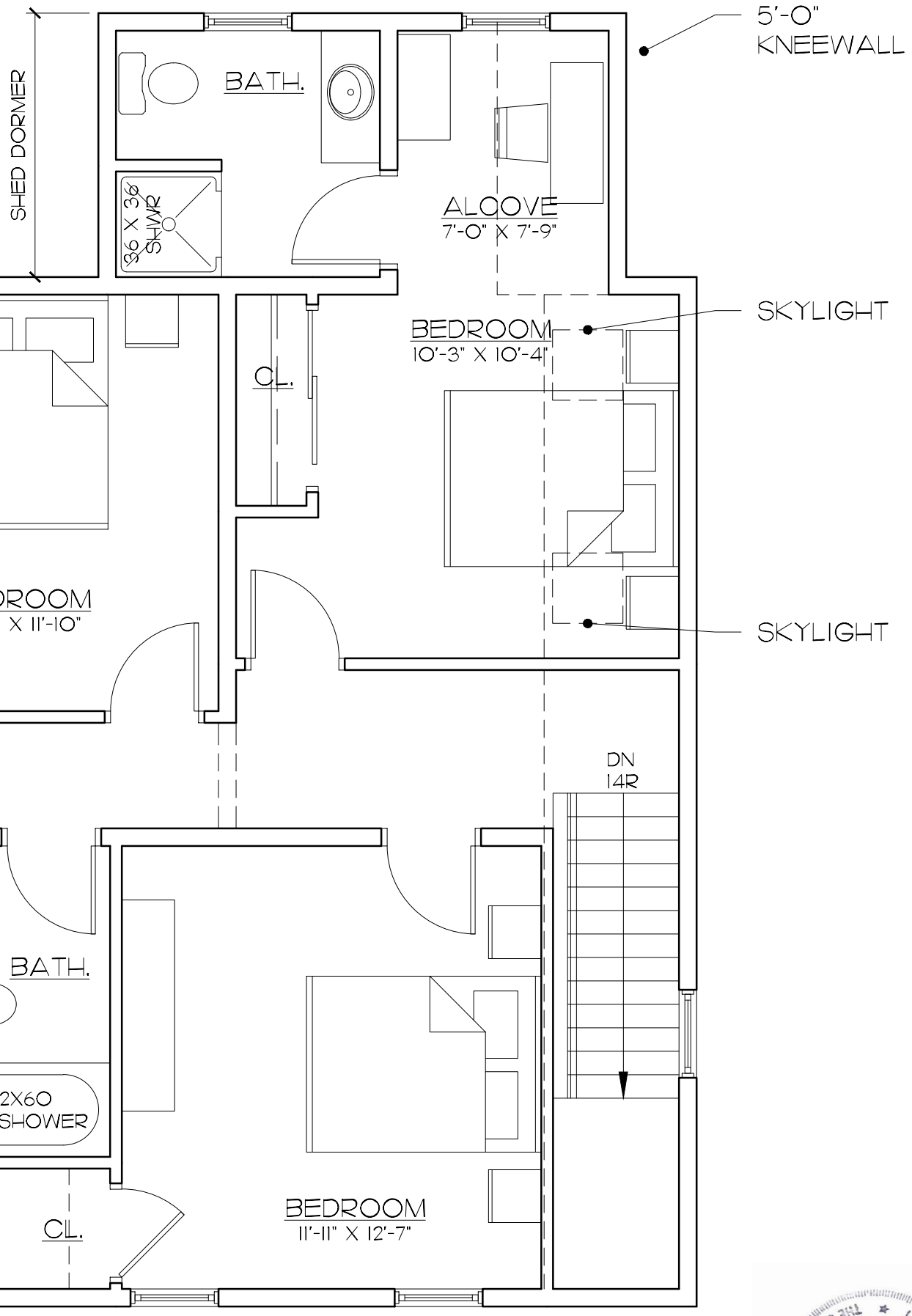

2 SECOND FLOOR PLAN

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

47 Lovell Street
Portsmouth, NH

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SHEET NUMBER
2 of 2

JOB NO:
21053

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1 FRONT ELEVATION

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

2 LEFT ELEVATION

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

LICENSED ARCHITECT
DAVID H. O'SULLIVAN NO. 14965
THE STATE OF NEW HAMPSHIRE

47 Lovell Street

Portsmouth, NH

O'SULLIVAN ARCHITECTS, INC.
ARCHITECTURE ▪ INTERIORS ▪ PLANNING
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Tel: (781) 439-6166 ▪ Fax: (781) 439-6170 ▪ www.osullivanarchitects.com
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01/12/2022

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SHEET NUMBER
1 of 2

JOB NO:
21053

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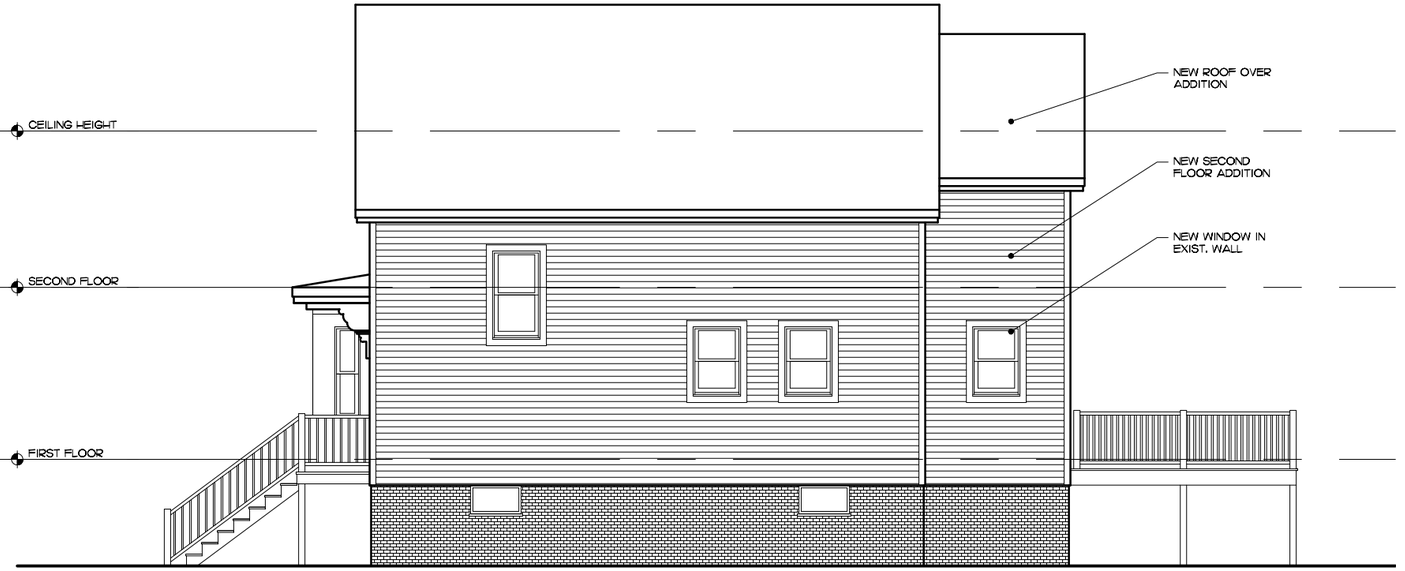
3 REAR ELEVATION

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



4 RIGHT ELEVATION

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

LICENSED ARCHITECT
DAVID H. O'SULLIVAN
NO. 1496
THE STATE OF NEW HAMPSHIRE

47 Lovell Street

Portsmouth, NH

O'SULLIVAN ARCHITECTS, INC.
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606 MAIN STREET, SUITE 3001 ▪ READING, MA 01867
Tel: (781) 439-6166 ▪ Fax: (781) 439-6170 ▪ www.osullivanarchitects.com
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SHEET NUMBER 2 of 2

JOB NO: 21053

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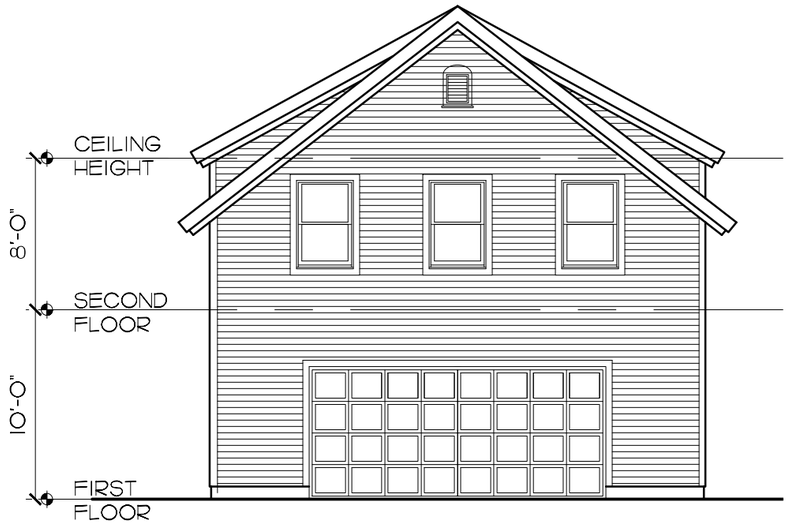
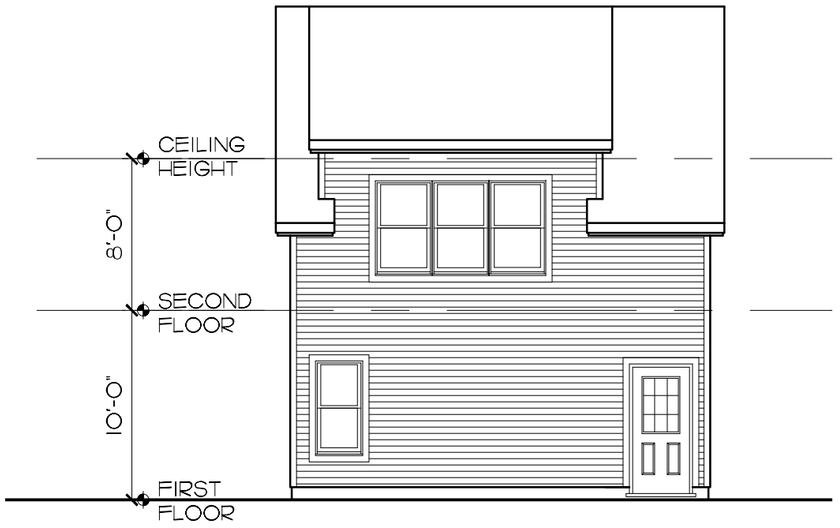
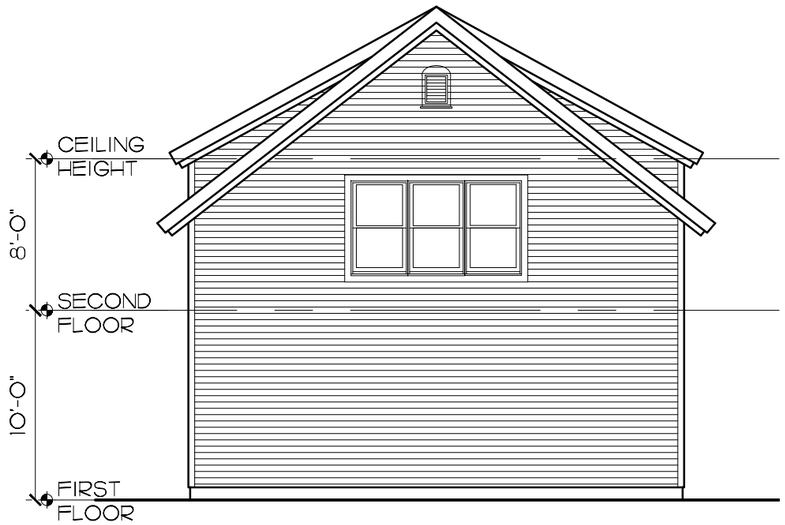


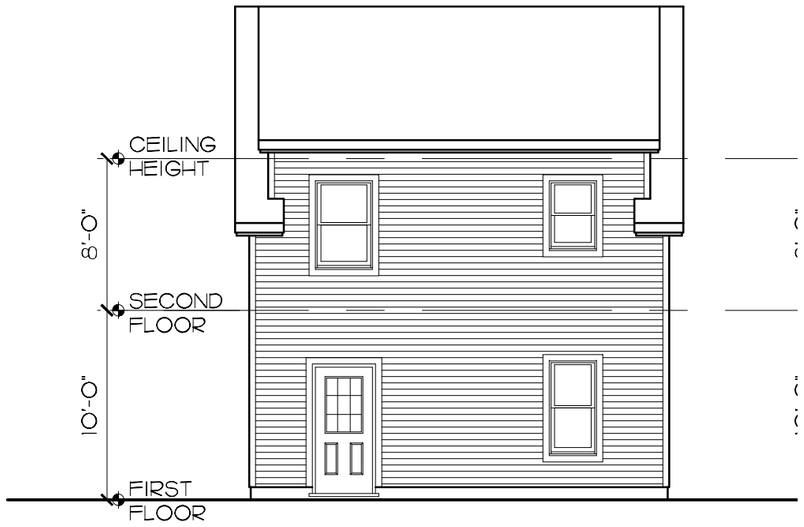
1 FRONT ELEVATION
Scale: 1/8" = 1'-0"



2 LEFT ELEVATION
Scale: 1/8" = 1'-0"



3 REAR ELEVATION
Scale: 1/8" = 1'-0"



4 RIGHT ELEVATION
Scale: 1/8" = 1'-0"

47 Lovell Street
Portsmouth, NH

O'SULLIVAN ARCHITECTS, INC.
ARCHITECTURE ▪ INTERIORS ▪ PLANNING
606 MAIN STREET, SUITE 3001 ▪ READING, MA 01867
Tel: (781) 439-6166 ▪ Fax: (781) 439-6170 ▪ www.osullivanarchitects.com
© 2022 O'Sullivan Architects Inc.

ISSUED	SHEET NUMBER
05/05/2022	2
REVISED / REVISED BY	JOB NO:
	21053

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4.

The request of **404 Islington Street LLC (Owner)**, for property located at **404 Islington Street** whereas relief is needed for the expansion of use to an Inn with 10 rooms which requires the following: 1) A Special Exception for an Inn from Use #10.30 where the use is only allowed by Special Exception. Said property is shown on Assessor Map 145 as Lot 33 and lies within the Character District 4-L2 (CD4-L2) and Historic Districts.

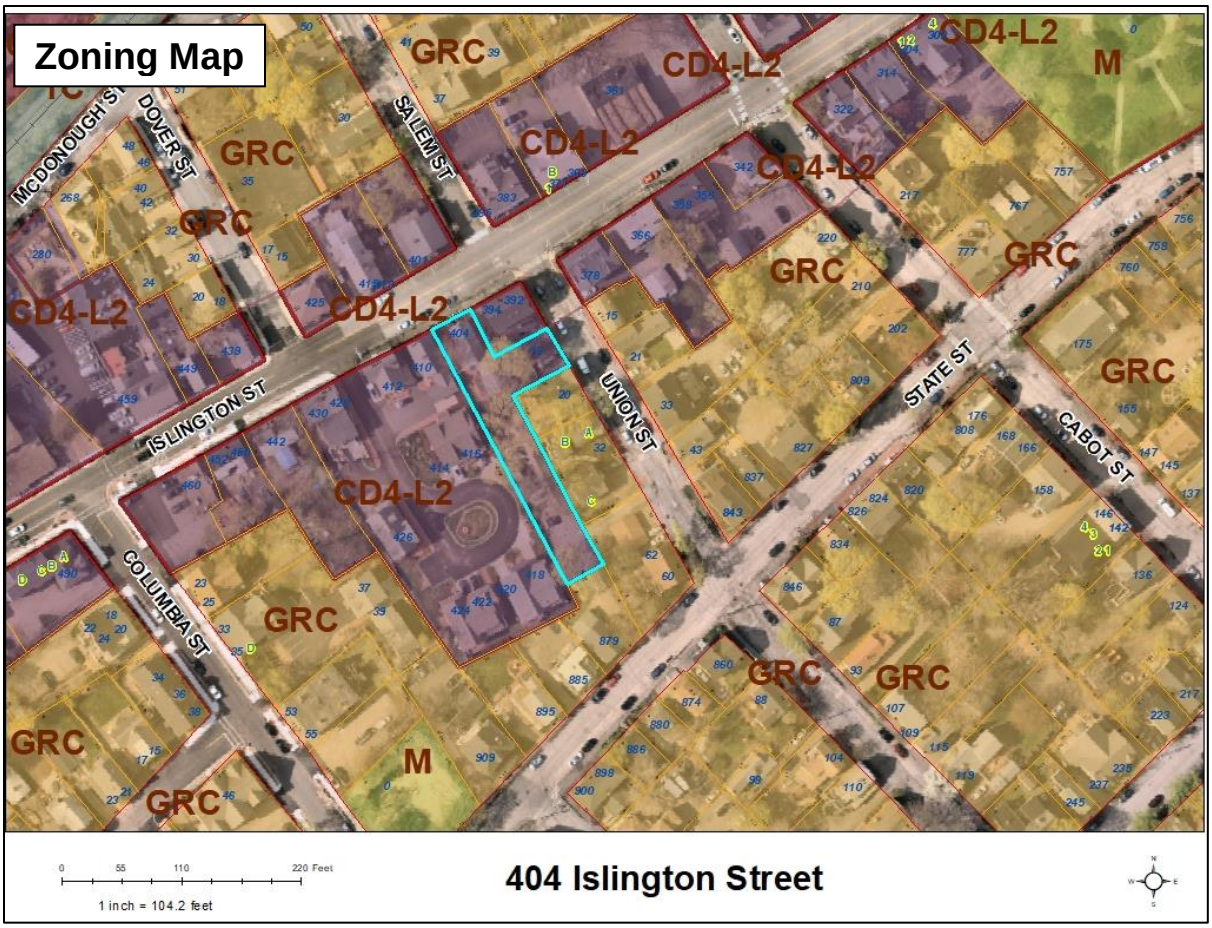
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Inn	Inn	Primarily mixed use/residential
Rooms	8	10	15 max.
Parking:		11	13 (CUP granted June 16)
Estimated Age of Structure:	1815	Special Exception 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 three additional rooms to the existing inn which includes the conversion of an existing caretaker apartment. An inn does not require a caretaker's apartment nor does it have to be occupied by the owner like a bed and breakfast. The expansion of the use requires a Special Exception, as the inn is an existing nonconforming use. The applicant is improving the parking situation, however could not meet the requirement for 13 off-street spaces. The Planning Board granted a conditional use permit on June 16, 2022 to allow 11 spaces where 13 are required.

Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

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.

APPLICATION OF 404 ISLINGTON STREET
404 Islington Street, Portsmouth, New Hampshire
Map 145, Lot 33

APPLICANT'S NARRATIVE

404 Islington Street, LLC seeks a special exception to convert the existing Martin Hill Inn, comprising seven guest units and a caretaker apartment, at the above location into an inn with ten guest units. The property's present, long-standing use as an inn is a non-conforming, grandfathered use. Other than the increase in the number of guest rooms, there are no significant changes to the property proposed beyond the installation of an ADA compliant wheelchair ramp, for which the applicant has already received approval from the Historic District Commission.

The property lies in the CD4-L2 zone, the purpose of which is "to promote the development of walkable, mixed-use, human-scaled places by providing standards for building form and placement and related elements of development." §10.410. The proposed inn use is permitted only by special exception. §10.440.10.30.

The applicant believes the proposal easily meets the criteria for the necessary special exception. Those criteria are set forth in the ordinance at §10.232.20.

First, the use proposed here, "inn," is permitted within this district by special exception, see §10.440 Table of Uses, no. 10.30. §10.232.10.

Second, the proposed use will pose no hazard to the public or adjacent properties on account of potential fire, explosion or release of toxic materials. §10.232.22. No explosives, toxic materials or unusual accelerants will be stored on site.

Third, there will be no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials. §10.232.23. The proposed is entirely consistent with the property's longstanding use as an inn. The building already exists and no new construction, with the minor exception of an ADA compliant wheelchair ramp, is contemplated.

Fourth, there will be no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. §10.232.23. The existing use is comprised of a seven unit inn with caretaker apartment and has functioned within the vicinity without issue for over thirty years. The applicant has 10 parking spaces where 13 are required, and will seek an appropriate conditional use permit from the Planning Board.

Fifth, there will be no excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools. §10.232.24. None of these services will be implicated by this proposal.

Finally, the project will result in no significant increase of stormwater runoff onto adjacent property or streets. §10.232.25. There will be no change to the existing building footprint, with the exception of the proposed addition of an ADA compliant wheelchair ramp, which will require HDC approval.

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

Respectfully submitted,

Dated: 6-14-2022

By: *John K. Bosen*

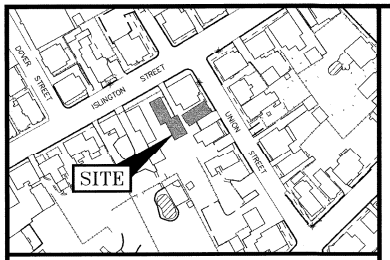
John K. Bosen, Esquire

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.



LOCATION MAP SCALE: 1" = 100'

PLAN REFERENCES:

1) AMENDED CONDOMINIUM SITE PLAN ISLINGTON COMMONS CONDOMINIUM TAX MAP 145 – LOT 34. OWNER / DECLARANT: ISLINGTON COMMONS, LLC, 410–430 ISLINGTON STRET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 20', PREPARED BY AMBIT ENGINEERING, INC., DATED OCTOBER 2019., RCRD D–42502.
2) PROPOSED SITE DEVELOPMENT PLANS 32 UNION STREET PORTSMOUTH, N.H. ASSESSOR'S PARCEL 145–29 RECORDING SITE PLAN, SCALE: 1"=10', PREPARED BY ALTUS ENGINEERING, INC., DATED DECEMBER 6, 2019, RCRD D–41993.

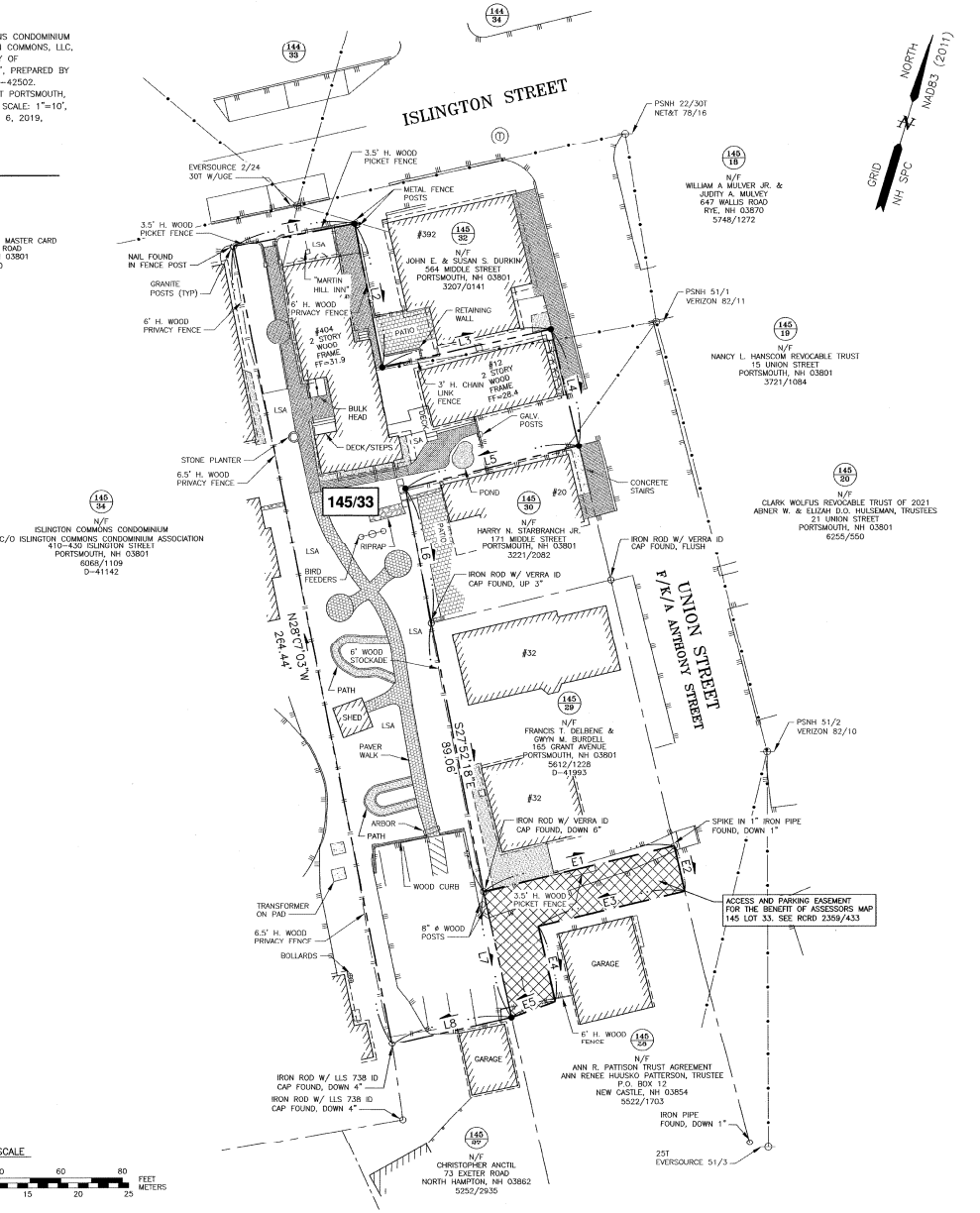
ABUTTERS:

(144/33) N/F
ANTONIOS & CHRISOULI TZORTZAKIS
413 ISLINGTON STREET
PORTSMOUTH, NH 03801
2289/1117

(144/34) N/F
401 OF A KIND CONDOS MASTER CARD
230 LAFAYETTE ROAD
PORTSMOUTH, NH 03801
4609/2720

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
■RR SPK SET	RAILROAD SPIKE SET
▣NHHB	NHDOT BOUND FOUND
▣TB	TOWN BOUND
▣BND w/DH	BOUND WITH DRILL HOLE
▣ST BND w/DH	STONE BOUND WITH DRILL HOLE



LENGTH TABLE

LINE	BEARING	DISTANCE
L1	N62°24'01"E	40.00'
L2	S27°45'24"E	47.60'
L3	N60°12'25"E	56.28'
L4	S30°16'55"E	39.00'
L5	S59°14'36"W	58.05'
L6	S27°45'24"E	44.50'
L7	S29°30'56"E	41.85'
L8	S60°19'34"W	39.82'

EASEMENT LENGTH TABLE

LINE	BEARING	DISTANCE
E1	N59°45'13"E	63.75'
E2	S30°14'47"E	15.00'
E3	S59°45'13"W	48.94'
E4	S29°30'56"E	25.07'
E5	S53°00'51"W	15.13'

EASEMENT AREA: 1,347 S.F.

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.

JOHN R. CHAGNON, LLS 738

3.15.22
DATE

NO. 738 JOHN R. CHAGNON SURVEYOR

GRAPHIC SCALE
10 0 20 40 60 80 FEET
5 0 5 10 15 20 25 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 145 AS LOT 33.

2) OWNER OF RECORD:
404 ISLINGTON STREET, LLC
404 ISLINGTON STREET
PORTSMOUTH, NH 03801
5496/2593

APPLICANT:
CSQ REALTY, LLC
137 P STREET APT. 2
SOUTH BOSTON, MA 02127

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

4) EXISTING LOT AREA.
12,630 S.F.
0.2899 ACRES

5) PARCEL IS LOCATED IN THE CD4–L2 (CHARACTER DISTRICT 4–L2) ZONING DISTRICT.

6) DIMENSIONAL REQUIREMENTS: SEE PORTSMOUTH ORDINANCE FOR REQUIREMENTS.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

9) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY SURVEY ON ASSESSOR'S MAP 145 LOT 33 IN THE CITY OF PORTSMOUTH.

10) PARCEL IS BENEFITED BY A 15' WIDE ACCESS AND PARKING EASEMENT OVER ASSESSOR'S MAP 145 LOT 28 AS RESERVED IN RCRD 2359/433.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	3/15/22

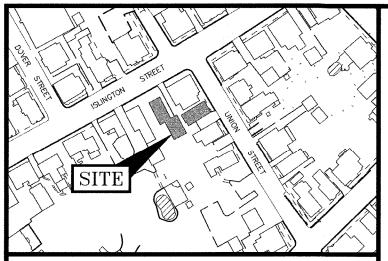
REVISIONS

STANDARD BOUNDARY SURVEY
TAX MAP 145 LOT 33

OWNER OF RECORD:
404 ISLINGTON STREET, LLC
PROPERTY LOCATED AT:
404 ISLINGTON STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

SCALE: 1" = 20' MARCH 2022

FB 404 PG 30 3425



LOCATION MAP SCALE: 1" = 100'

ABUTTERS:

(144/33) N/F
ANTONIOS & CHRISOUL TZORTZAKIS
413 ISLINGTON STREET
PORTSMOUTH, NH 03801
2269/1117

(144/34) N/F
401 OF A KIND CONDOS MASTER CARD
230 LAFAYETTE ROAD
PORTSMOUTH, NH 03801
4609/2720

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
RR SPK	RAILROAD SPIKE
(11/27)	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
■ RR SPK SET	RAILROAD SPIKE SET
▣ NHHB	NHDOT BOUND FOUND
▣ TB	TOWN BOUND
▣ BND w/DH	BOUND WITH DRILL HOLE
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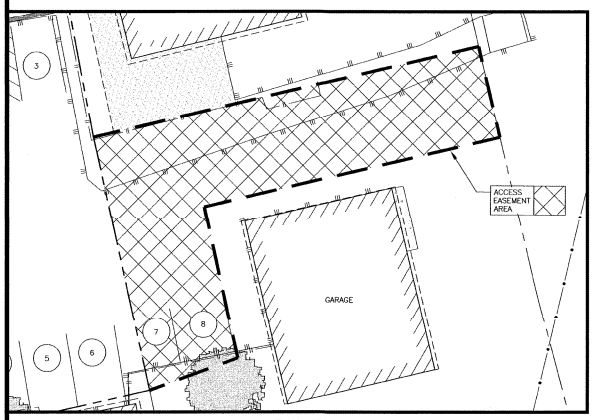
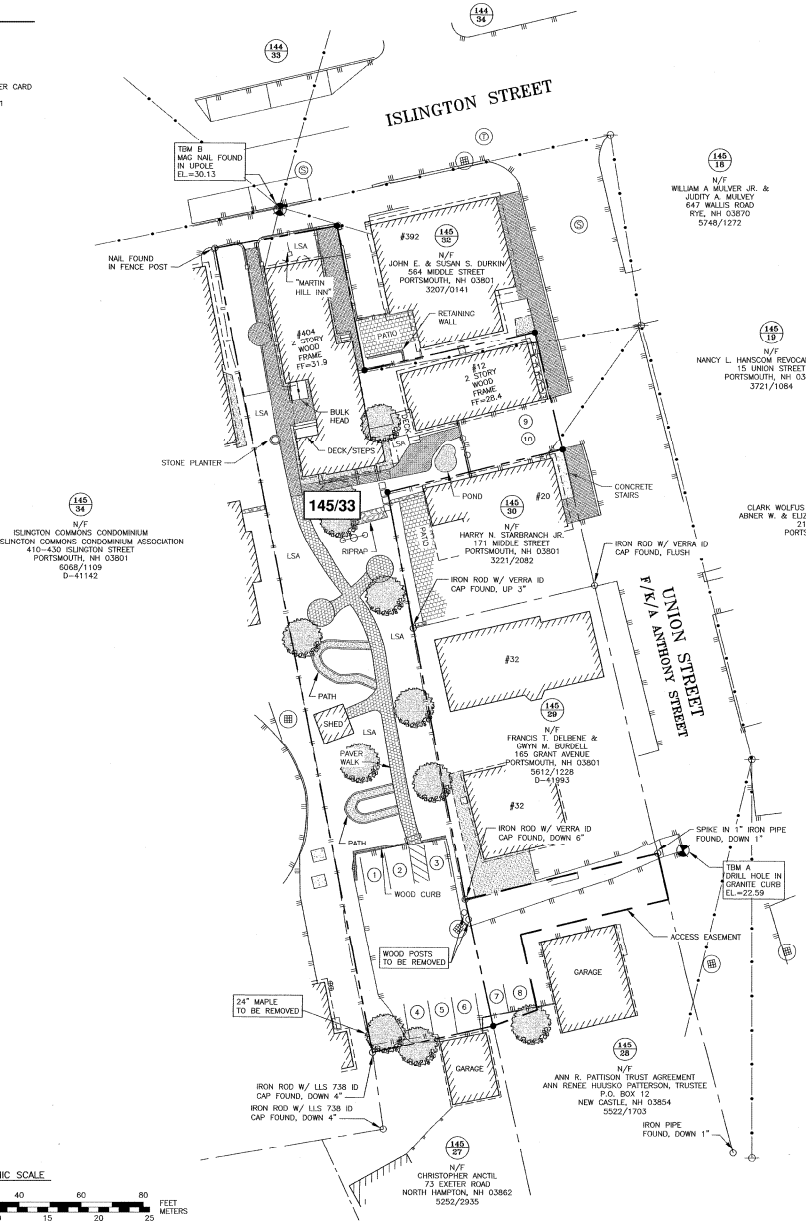


ACCESS EASEMENT
SCALE 1"=10'



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.

JOHN R. CHAGNON, LLS 738

4.18.22
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 145 AS LOT 33.

2) OWNER OF RECORD:
404 ISLINGTON STREET, LLC
404 ISLINGTON STREET
PORTSMOUTH, NH 03801
5496/2593

APPLICANT:
CSQ REALTY, LLC
137 P STREET APT. 2
SOUTH BOSTON, MA 02127

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

4) EXISTING LOT AREA:
12,630 S.F.
0.2899 ACRES

5) PARCEL IS LOCATED IN THE CD4-L2 (CHARACTER DISTRICT 4-L2) ZONING DISTRICT.

6) DIMENSIONAL REQUIREMENTS: SEE PORTSMOUTH ORDINANCE FOR REQUIREMENTS.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

9) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 145 LOT 33 IN THE CITY OF PORTSMOUTH.

CUP PERMIT PLAN
404 ISLINGTON STREET
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	4/18/22

REVISIONS

SCALE: 1" = 20' APRIL 2022

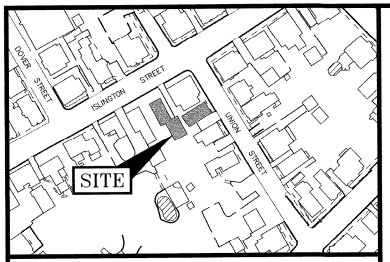
EXISTING CONDITIONS PLAN

C1

FB 404 PG 30

3425

J:\JOBS3\JN 3400\3429\3425\2022 Survey\Plans & Specs\Site\3425 Survey 2022.dwg, 4/18/2022 1:41:50 PM, Canon TX-3000.pc3

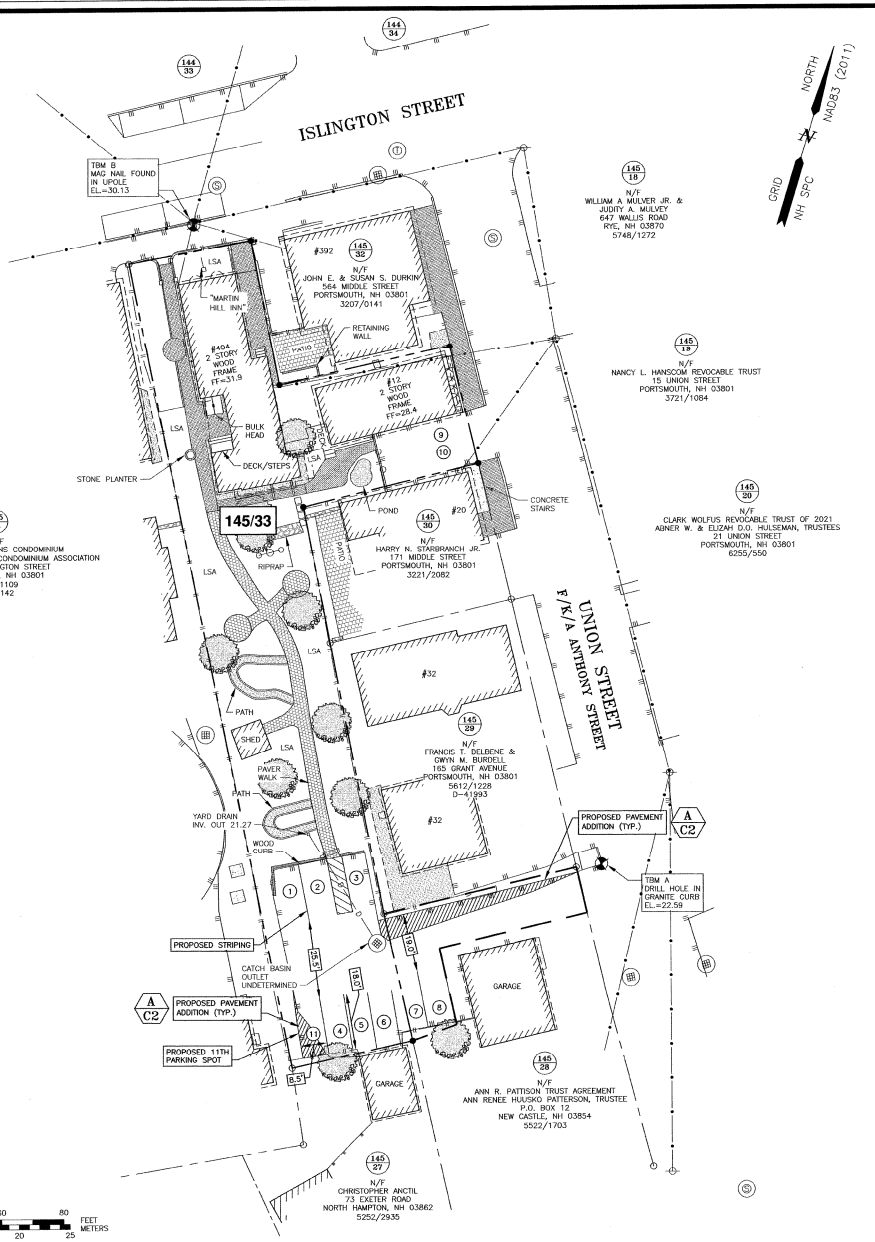


LOCATION MAP SCALE: 1" = 100'

ABUTTERS:

144/33 N/F
ANTONIOS & CHRISOUL TZORTZAKIS
413 ISLINGTON STREET
PORTSMOUTH, NH 03801
2289/1117

144/34 N/F
401 OF A KIND CONDOS MASTER CARD
230 LAFAYETTE ROAD
PORTSMOUTH, NH 03801
4609/2720



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

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
RR SPK	RAILROAD SPIKE
77/21	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
■ RR SPK SET	RAILROAD SPIKE SET
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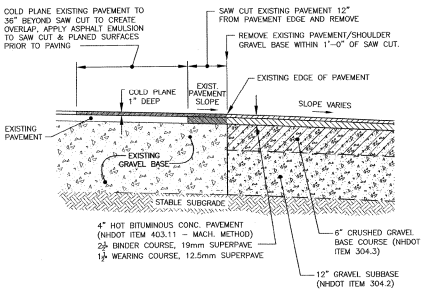


NOTES:
1) PAVEMENT SHALL CONFORM TO NHDOT STANDARD SPECIFICATIONS – SECTION 401.
2) CRUSHED GRAVEL AND GRAVEL SUBBASE SHALL CONFORM TO NHDOT STANDARD SPECIFICATIONS – SECTION 304, TABLE 1E, AND SHALL BE COMPACTED AS INDICATED IN SECTION 304, 3.6 COMPACTION, AND 3.7 DENSITY TESTING, AND CITY OF PORTSMOUTH CONSTRUCTION STANDARDS, SECTION VIII B AND C.

A/C2 PAVEMENT / PAVEMENT JOINT DETAIL
NTS

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.

JOHN R. CHAGNON, LLS 738 — DATE 4.18.22

STATE OF NEW HAMPSHIRE LICENSED LAND SURVEYOR NO. 738 JOHN R. CHAGNON REGISTERED

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-0282
Fax (603) 436-2315

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 145 AS LOT 33.

2) OWNER OF RECORD:
404 ISLINGTON STREET, LLC
404 ISLINGTON STREET
PORTSMOUTH, NH 03801
5496/2593

APPLICANT:
CSQ REALTY, LLC
137 P STREET APT. 2
SOUTH BOSTON, MA 02127

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

4) EXISTING LOT AREA:
12,630 S.F.
0.2899 ACRES

5) PARCEL IS LOCATED IN THE CD4-L2 (CHARACTER DISTRICT 4-L2) ZONING DISTRICT.

6) DIMENSIONAL REQUIREMENTS: SEE PORTSMOUTH ORDINANCE FOR REQUIREMENTS.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

9) THE PURPOSE OF THIS PLAN IS TO SHOW CHANGES TO THE USE AT ASSESSOR'S MAP 145 LOT 33 IN THE CITY OF PORTSMOUTH.

10) PARCEL IS BENEFITED BY A 15' WIDE ACCESS AND PARKING EASEMENT OVER ASSESSOR'S MAP 145 LOT 28 AS RESERVED IN RCRD 2359/433.

11) PROPOSED USE: 10 GUEST ROOM INN.

12) REQUIRED PARKING: 10 GUEST ROOMS X 1.25 SPACES PER GUEST ROOM = 13 SPACES REQUIRED. 11 SPACES PROVIDED.

CUP PERMIT PLAN
404 ISLINGTON STREET
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
1	ADDITIONAL PARKING, TREE REMOVAL	4/18/22
0	ISSUED FOR COMMENT	4/5/22

REVISIONS

STATE OF NEW HAMPSHIRE JOHN R. CHAGNON No. 738 LICENSED PROFESSIONAL ENGINEER

SCALE: 1" = 20' APRIL 2022

SITE PLAN C2

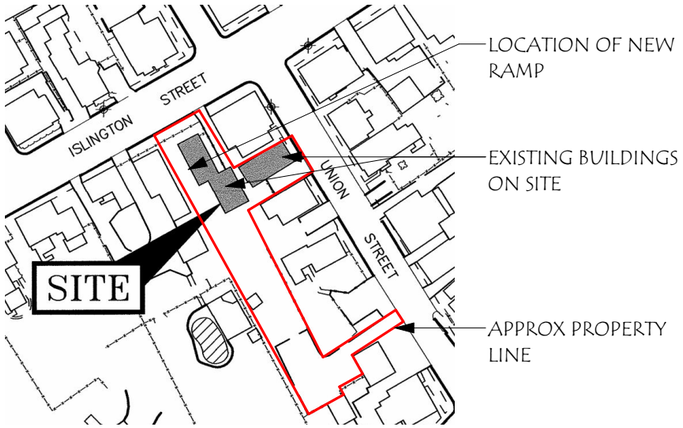
FB 404 PG 30 3425

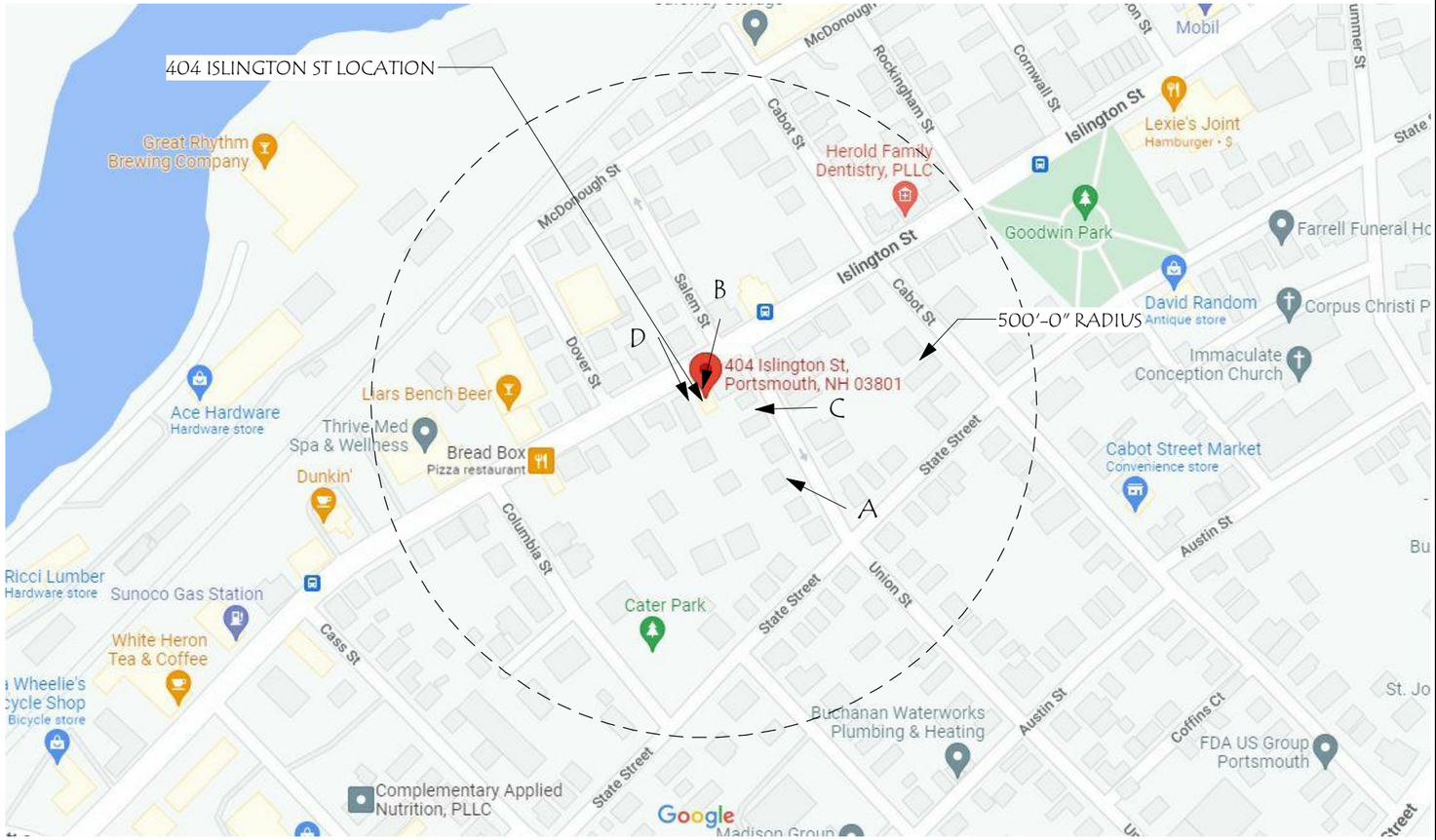
J:\CIVIL\JN 3405\3420's\3425\2022 Survey\Plans & Specs\Site\3425 Survey 2022.dwg, 4/18/2022 3:16:07 PM, Canon TX-3100pc3

404 ISLINGTON STREET

GENERAL PROJECT DESCRIPTION:

THIS PROJECT CONSISTS OF THE ADDITION OF A NEW ACCESSIBLE RAMP TO AN EXISTING STRUCTURE.





ZONING SUMMARY:

ZONING DISTRICT: CD4-L2
LOT SIZE: 12,630 SF
REQUIRED LOT AREA PER DWELLING UNIT:
BUILDING HEIGHT: 35'-0" ALLOWED
GROUND FLOOR ABOVE SIDEWALK: 11'-0" MIN
MIN GROUND STORY HEIGHT: ~8'-6" EXISTING

MARKET SQUARE ARCHITECTS
5121 Rec Cave Road, Suite 106
Austin, TX 78746
PH: 512.350.0350

HISTORIC DISTRIC COMMISSION
WORKSESSION/ PUBLIC HEARING
MAY 2022

MARTIN HILL INN
404 ISLINGTON ST.
PORTSMOUTH, NH, 03801

Revisions: #	Description	Date

SCALE:
DRAWN BY: Author
CHECKED BY: Checker
PROJECT NO.: 2022030
DATE: 05/25/22

TITLE: COVER SHEET

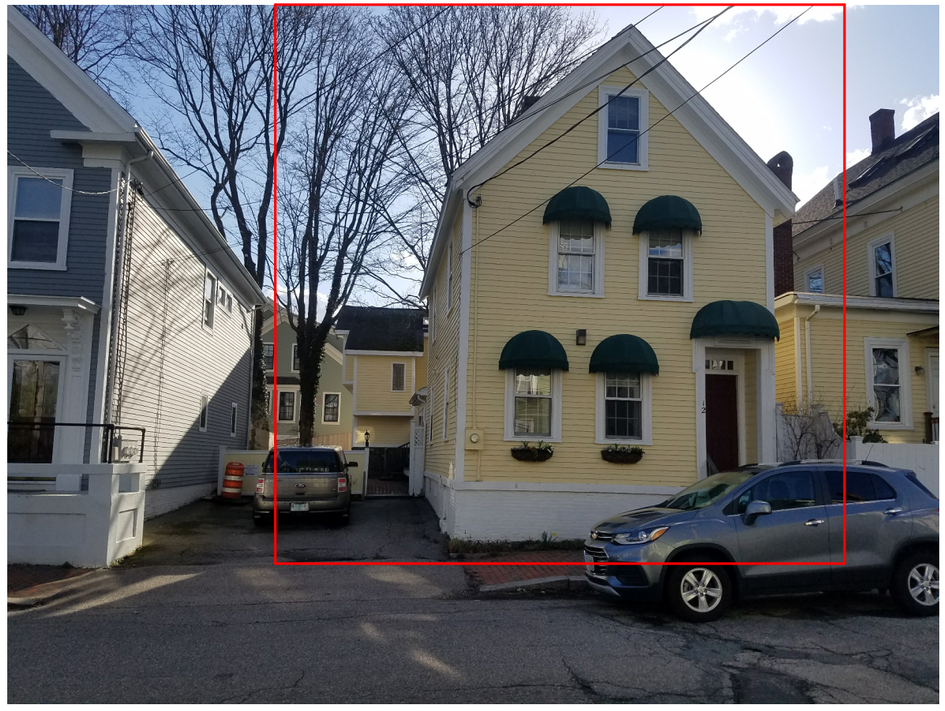
1

* 2022 Market Square Architects 4/14/2022 10:14:02 AM

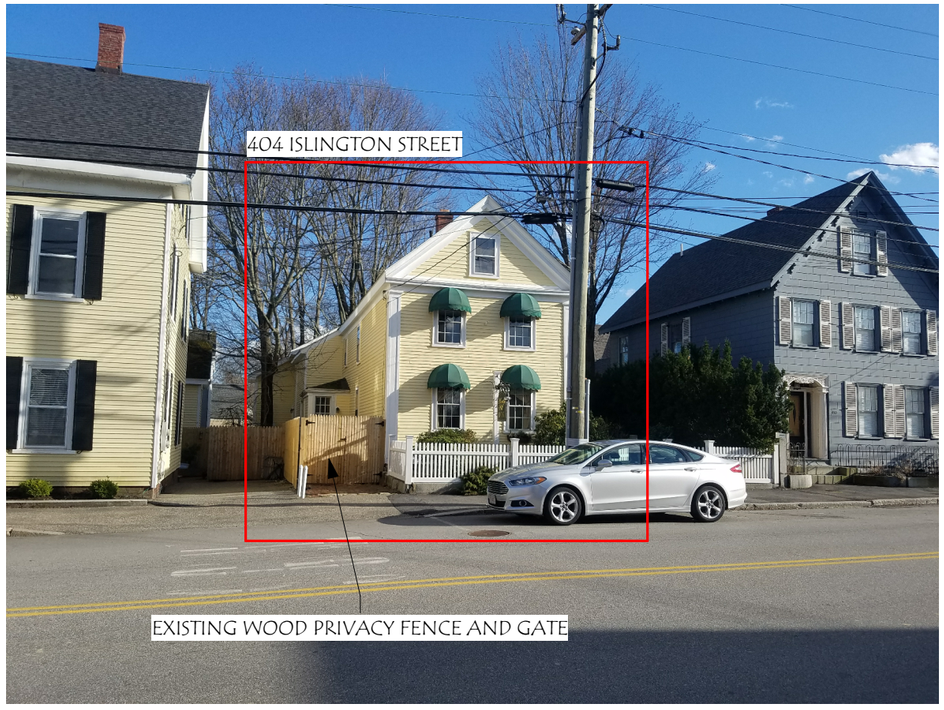
A: UNION STREET

B: ISLINGTON STREET

404 ISLINGTON STREET



C: UNION STREET



D: ISLINGTON STREET

MARKET SQUARE ARCHITECTS
512 Rec Cove Road, Suite 106
Austin, TX 78746
PH: 512.350.0350

HISTORIC DISTRIC COMMISSION
WORKSESSION/ PUBLIC HEARING
MAY 2022

MARTIN HILL INN

404 ISLINGTON ST.
PORTSMOUTH, NH, 03801

Revisions:
Description Date

SCALE:
DRAWN BY: Author
CHECKED BY: Checker
PROJECT NO.: 2022.030
DATE: 05/25/22

TITLE: EXISTING CONTEXT

2

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VIEW A

VIEW B

VIEW C

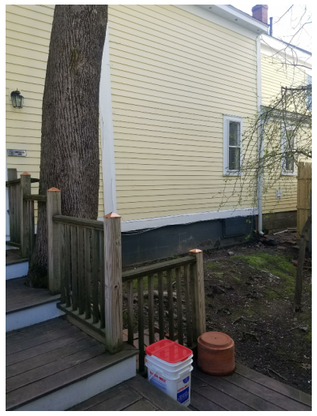
VIEW D

VIEW E

VIEW F

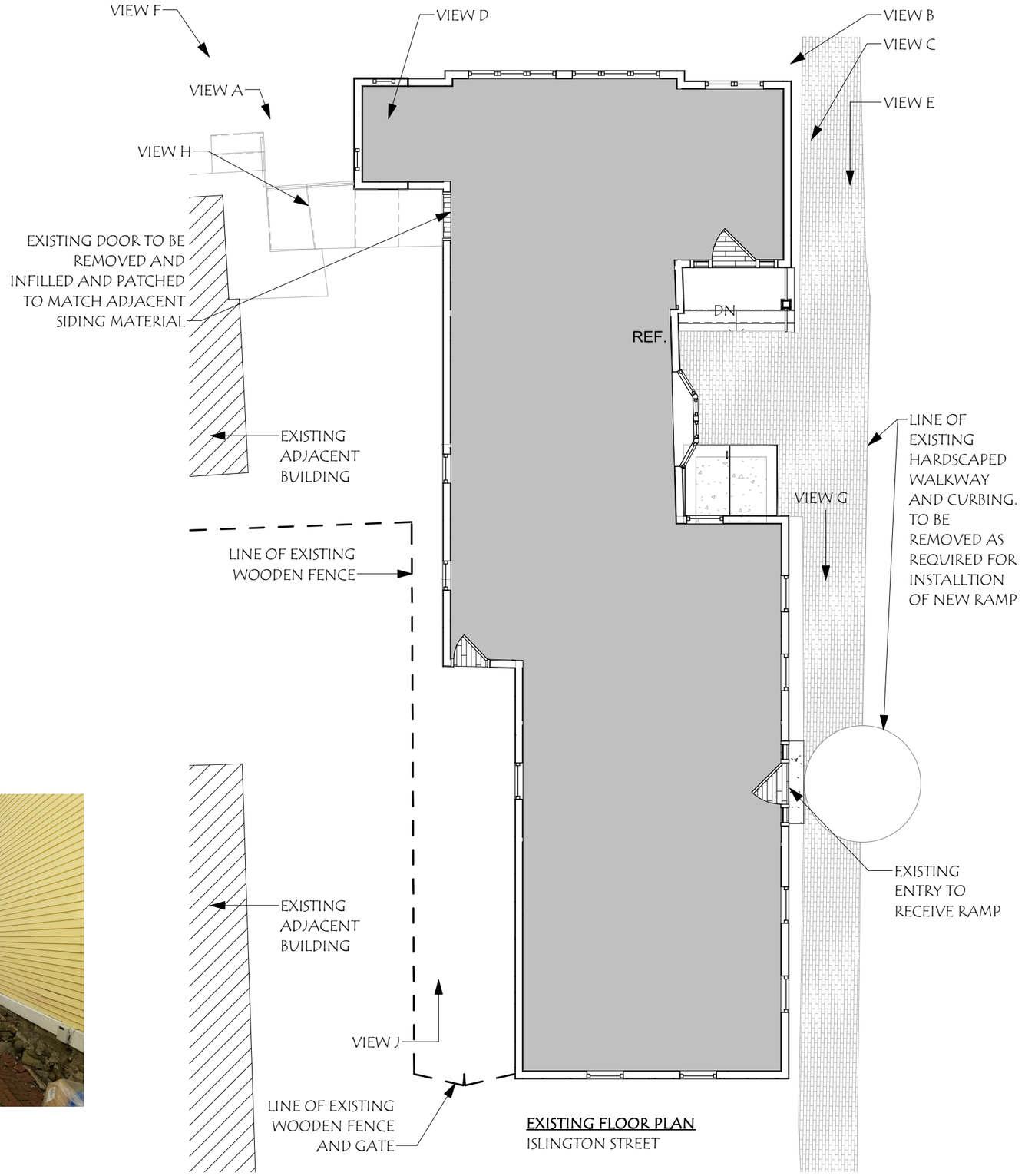
VIEW G

EXISTING ENTRY TO RECEIVE NEW RAMP



VIEW H

VIEW J



EXISTING FLOOR PLAN
ISLINGTON STREET

MARKET SQUARE ARCHITECTS
5121 Rec Cave Road, Suite 106
Austin, TX 78746
PH: 512.350.0330

HISTORIC DISTRIC COMMISSION
WORKSESSION/ PUBLIC HEARING
MAY 2022

MARTIN HILL INN

404 ISLINGTON ST.
PORTSMOUTH, NH, 03801

Revisions:
Description Date

SCALE: 1/8" = 1'-0"
DRAWN BY: SNH
CHECKED BY: RJH
PROJECT NO.: 2022030
DATE: 04/14/22

TITLE: EXISTING PLAN

3

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METAL RAILING EXAMPLE

Trex Enhance® Composite Decking

1" Square Edge Board

Our square edge boards install traditionally like wood–with deck screws.

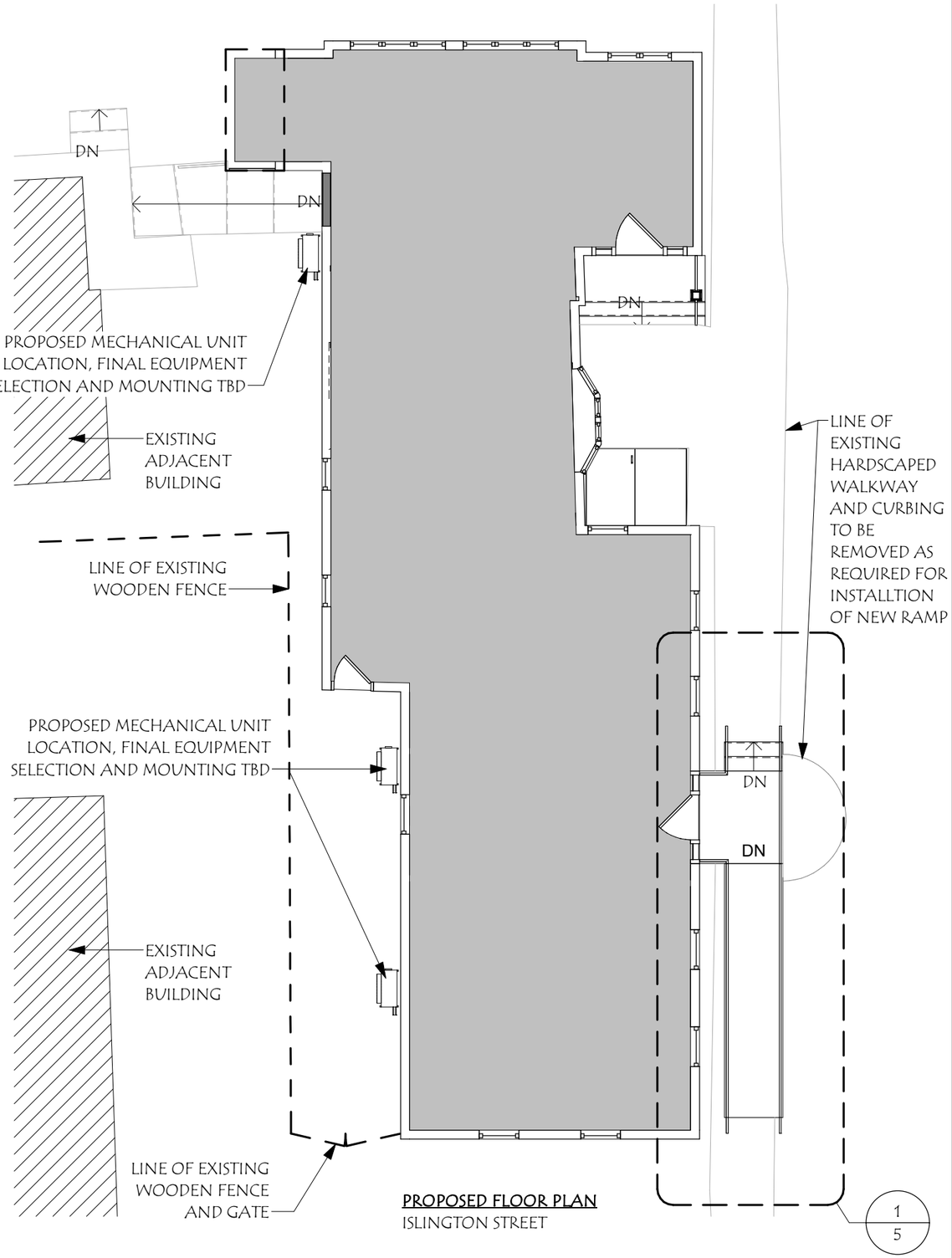
Actual Dimensions
.94 in x 5.5 in x 12 ft (24 mm x 140mm x 365 cm)

.94 in x 5.5 in x 16 ft (24 mm x 140mm x 487 cm)

.94 in x 5.5 in x 20 ft (24 mm x 140mm x 609 cm)

COMPOSITE DECKING OR APPROVED EQUAL
FINAL COLOR TBD

MECHANICAL UNIT EXAMPLE
FINAL SELECTION AND MOUNTING TBD



PROPOSED FLOOR PLAN
ISLINGTON STREET

MARKET SQUARE ARCHITECTS
512 Rec Cove Road, Suite 106
Austin, TX 78746
PH: 512.350.0350

HISTORIC DISTRIC COMMISSION
WORKSESSION/ PUBLIC HEARING
MAY 2022

MARTIN HILL INN

404 ISLINGTON ST.
PORTSMOUTH, NH, 03801

Revisions: #	Description	Date

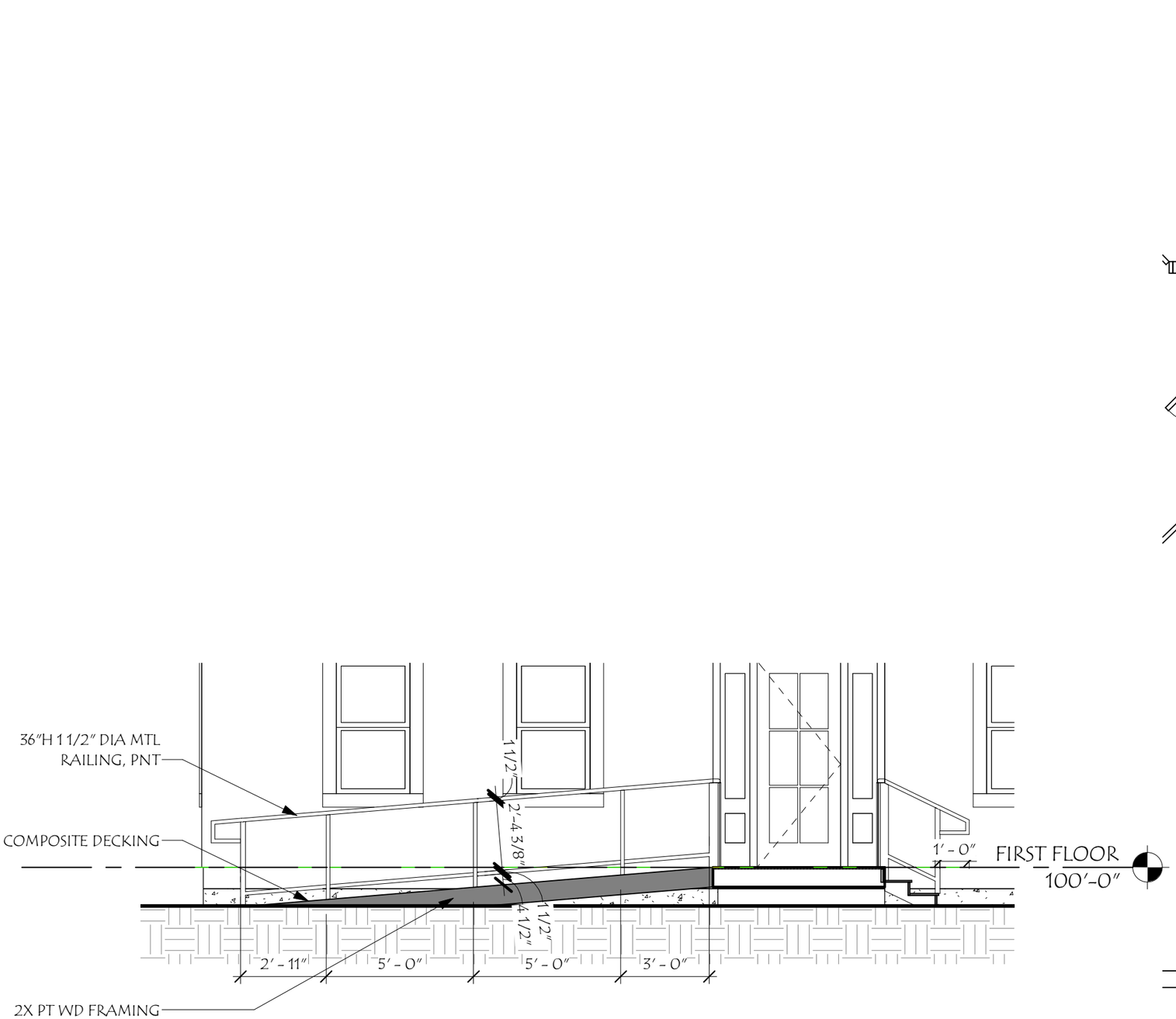
SCALE: 1/8" = 1'-0"
DRAWN BY: Author
CHECKED BY: Checker
PROJECT NO.: 2022030
DATE: 05/25/22

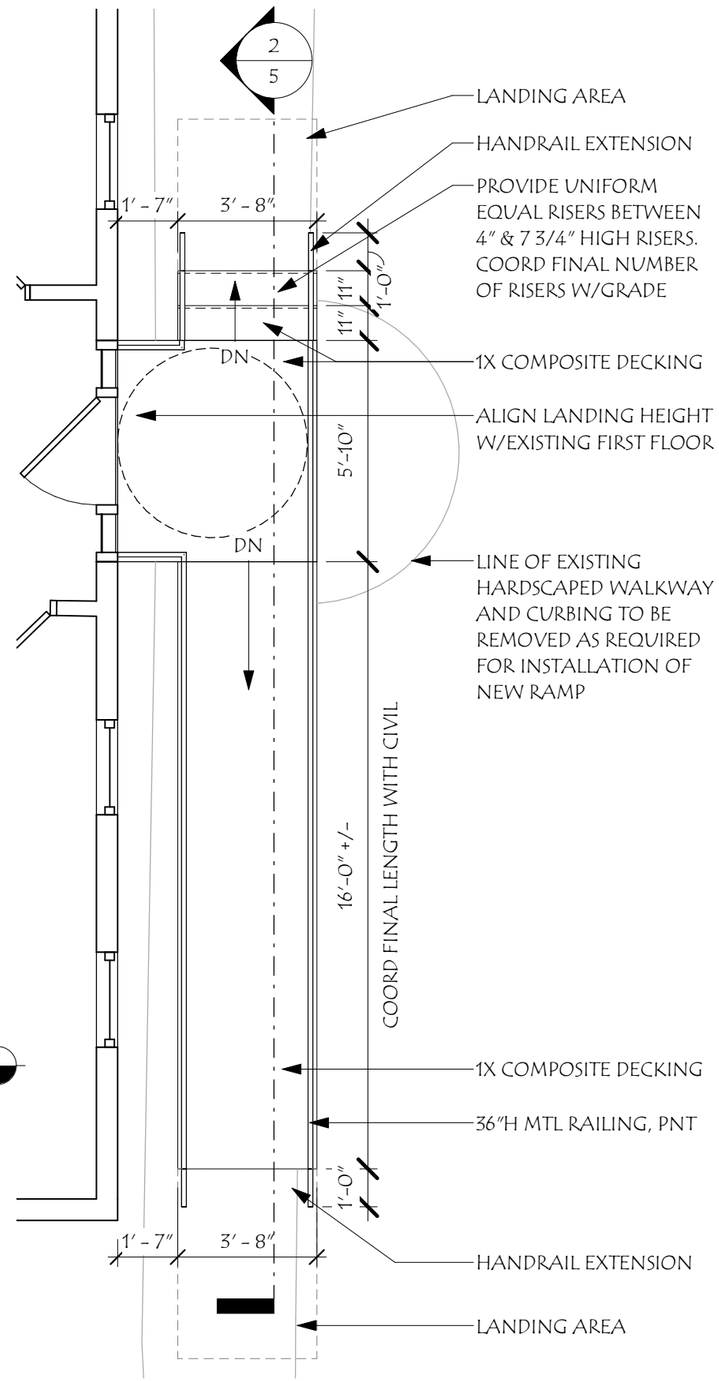
TITLE: PROPOSED

4

* 2022 Market Square Architects

4/14/2022 10:14:06 AM





MARKET SQUARE ARCHITECTS
512 Rec Cave Road, Suite 106
Austin, TX 78746
PH: 512.350.0350

HISTORIC DISTRIC COMMISSION
WORKSESSION/ PUBLIC HEARING
MAY 2022

MARTIN HILL INN

404 ISLINGTON ST.
PORTSMOUTH, NH, 03801

Revisions: #	Description	Date

SCALE:	1/4" = 1'-0"
DRAWN BY:	Author
CHECKED BY:	Checker
PROJECT NO.:	2022050
DATE:	04/11/22

TITLE: PROPOSED

5

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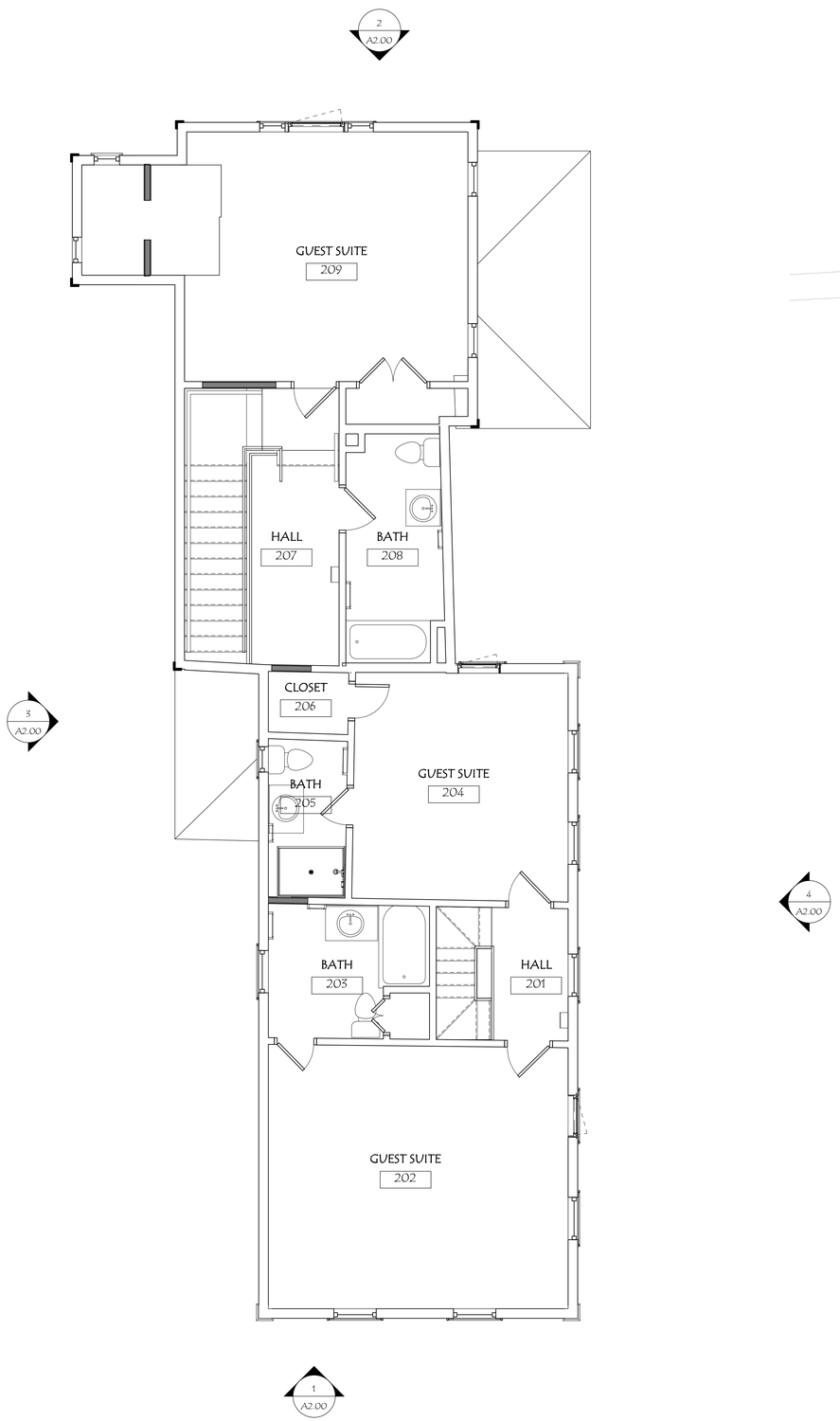
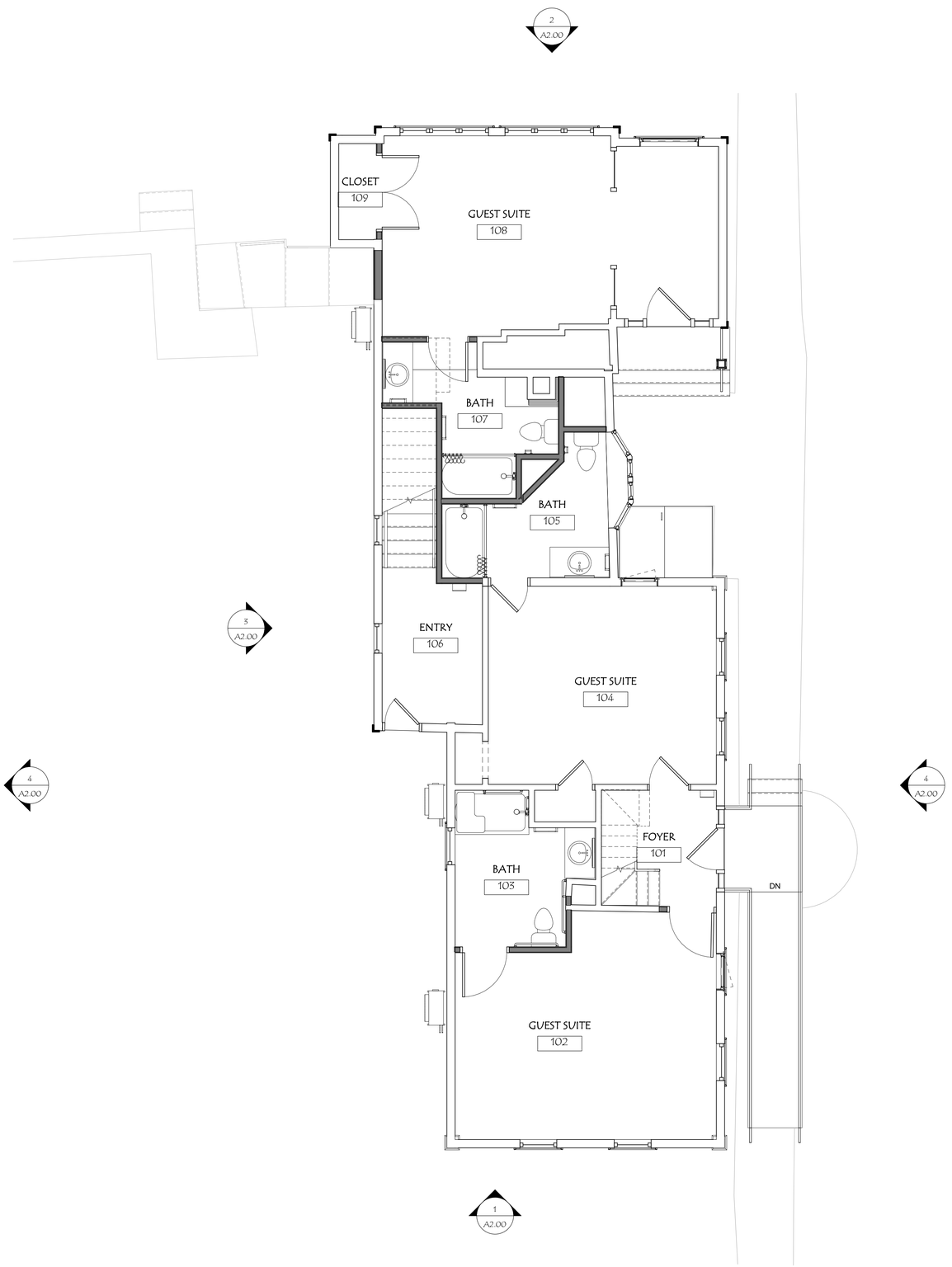
4/14/2022 10:14:06 AM



2 SECOND FLOOR- PLANNING BOARD

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



1 FIRST FLOOR- PLANNING BOARD

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

MARKET SQUARE ARCHITECTS
5721 Bee Cave Road, Suite 104
Austin, TX. 78746
PH: 512.330.0330

MARTIN HILL INN

404 ISLINGTON ST.
PORTSMOUTH, NH, 03801

Revisions:

Description	Date

Scale:	1/4" = 1'-0"
Drawn By:	SNH
Checked By:	RJH
Project No.:	2022030
	CONSTRUCTION DOCUMENTS
Date:	07/05/22

Title: FLOOR PLANS- PLANNING BOARD

A1.00

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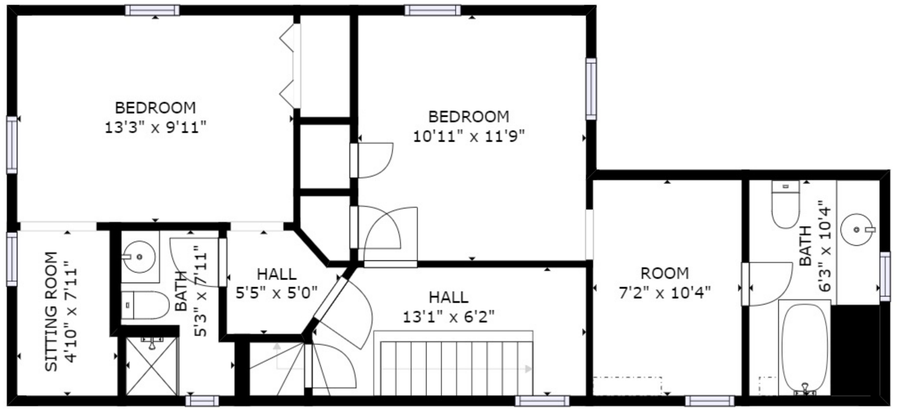
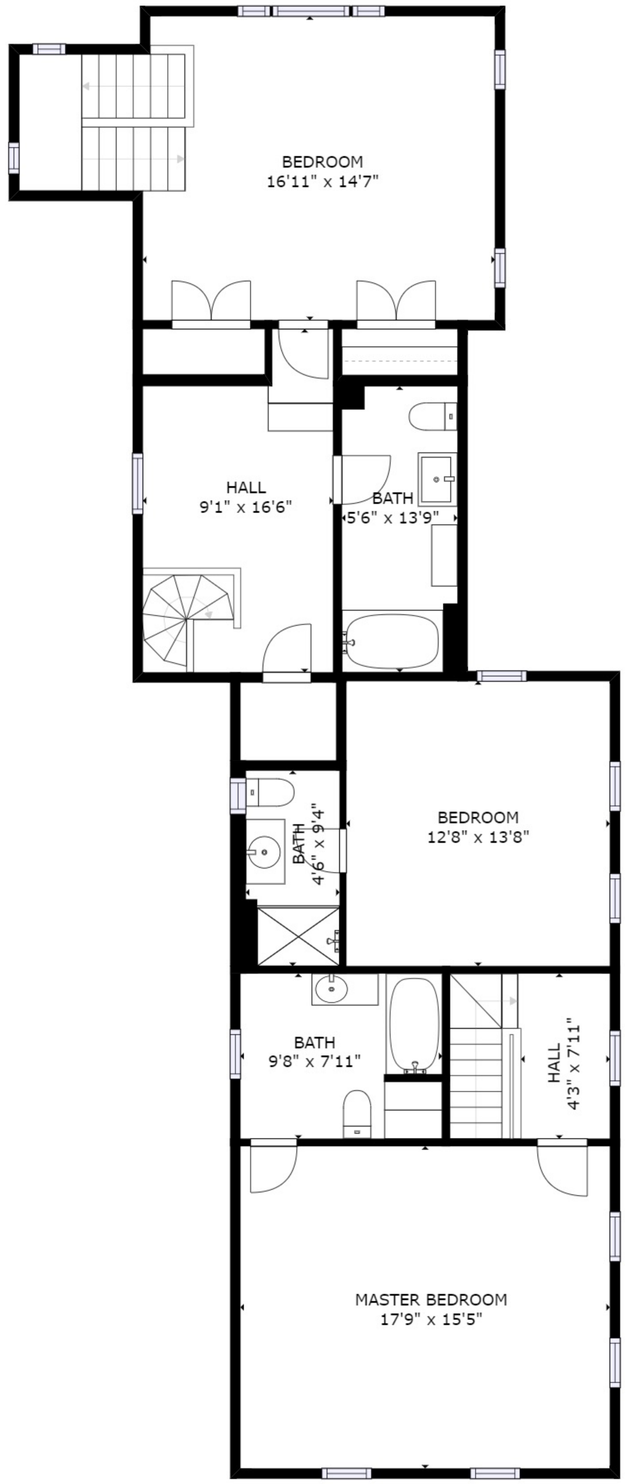
7/15/2022 11:55:51 AM

GROSS INTERNAL AREA
FLOOR 1: 2051 sq. ft, FLOOR 2: 1847 sq. ft
FLOOR 3: 173 sq. ft, EXCLUDED AREAS:
REDUCED HEADROOM BELOW 1.5M: 120 sq. ft
TOTAL: 4071 sq. ft

SIZES AND DIMENSIONS ARE APPROXIMATE, ACTUAL MAY VARY.

Matterport





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FLOOR 3: 173 sq. ft, EXCLUDED AREAS:
REDUCED HEADROOM BELOW 1.5M: 120 sq. ft
TOTAL: 4071 sq. ft
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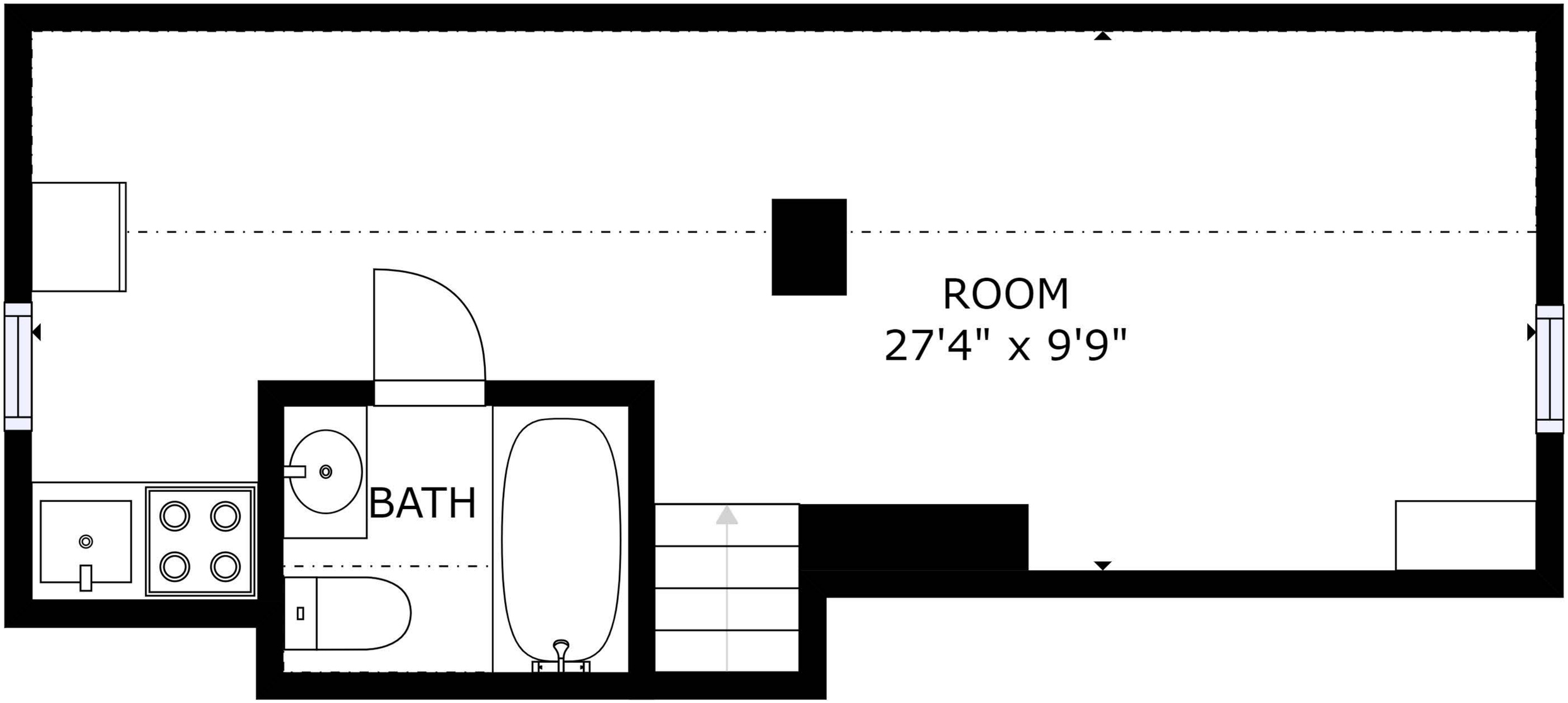
Matterport



GROSS INTERNAL AREA
FLOOR 1: 2051 sq. ft, FLOOR 2: 1847 sq. ft
FLOOR 3: 173 sq. ft, EXCLUDED AREAS:
REDUCED HEADROOM BELOW 1.5M: 120 sq. ft
TOTAL: 4071 sq. ft

SIZES AND DIMENSIONS ARE APPROXIMATE, ACTUAL MAY VARY.

Matterport

Residence Application for Variance

Steve + Natalie Safley
1121 South Street
Portsmouth, New Hampshire

Our Proposal:

- Demolish existing attached single car garage and build new single car garage (attached) utilizing identical footprint with living space above. The existing garage is non-conforming (within 4 feet of property line) and requires dimensional relief. We would also like add a deck adjacent to the new kitchen (8'10" from property line), which would also require dimensional relief.

Variance Application:

- *Variance of Section 10.232.31 requesting dimensional relief for the side yard setback (westward facing) of single family residence.*

Would granting the variance be contrary to the public interest?

- The location of the current garage footprint being snug to the property line is consistent with the surrounding homes in the neighborhood. Rebuilding the structure on the same footprint with living space above has no negative impact on the health, safety or welfare of the general public.

Would denial of the variance result in unnecessary hardship?

- Strict imposition of the zoning laws would interfere with the reasonable use of the property. The existing garage would remain with a large amount of maintenance required for it to function, and the small expansion to the home provided above the garage would not be possible.

Is the proposed use in the spirit of the Ordinance?

- The majority of the lots in this neighborhood do not meet the minimum dimensional requirements, so the proposed use is consistent with the surrounding area.

Would granting the variance do substantial justice?

- Granting the variance allows the homeowner to make modern improvements to the structure to meet modern building and energy codes, while gaining modest living space for their family of four.

Would the new structure diminish surrounding property values?

- The new home improvements will have an increased value and therefore will not diminish the surrounding property values.

5.

The request of **Safely Family Revocable Trust Agreement (Owner)**, for property located at **1121 South Street** whereas relief is needed to demolish the existing garage and construct a new garage and deck which requires the following: 1) A Variance from Section 10.521 to allow a 3.5' left side yard where 10' 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 150 Lot 20 and is located within the General Residence A (GRA) District.

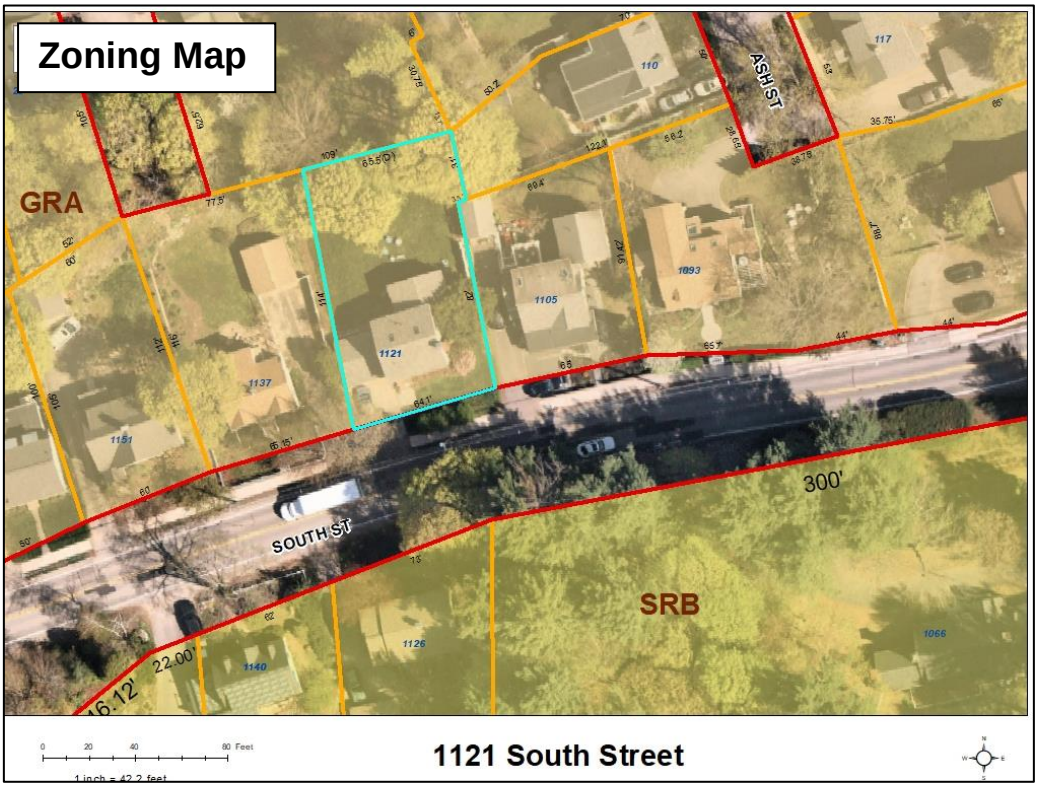
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Demo garage and construct new garage and deck	Primarily residential	
Lot area (sq. ft.):	6,970	6,970	7,500	min.
Lot Area per Dwelling Unit (sq. ft.):	6,970	6,970	7,500	min.
Lot depth (ft):	113.5	113.5	70	min.
Street Frontage (ft.):	64	64	100	min.
Primary Front Yard (ft.):	22	22	15	min.
Right Yard (ft.):	>10	>10	10	min.
Left Yard (ft.):	3.5	**3.5 (garage) 8'10" (deck)**	10	
Rear Yard (ft.):	56.5	56.5	20	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	19.5	22	25	max.
Open Space Coverage (%):	>30	>30	30	min.
Parking:	3	3	2	
Estimated Age of Structure:	1937	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 to demolish the existing nonconforming garage and construct a new garage and deck with the same left yard setback of 3.5'. The proposed deck will be 8'10" from the left side yard, and it appears the majority of it will be less than 18" in height, which would not need to adhere to the setback. The garage will be taller than the existing in order to accommodate additional living space above. The deck setback was not in the legal notice, however as mentioned, only a portion of it is above the 18" height and if granted approval, staff would recommend the Board add the following stipulation if granted approval:

1. The portion of the deck that is above 18" shall be 8' 10".

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.

Direct Abutters to 1121 South Street:

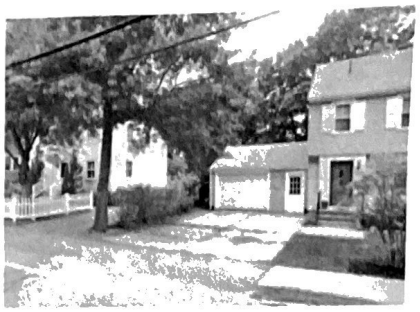
Madelyn Duzinski
1137 South Street
603-828-3393

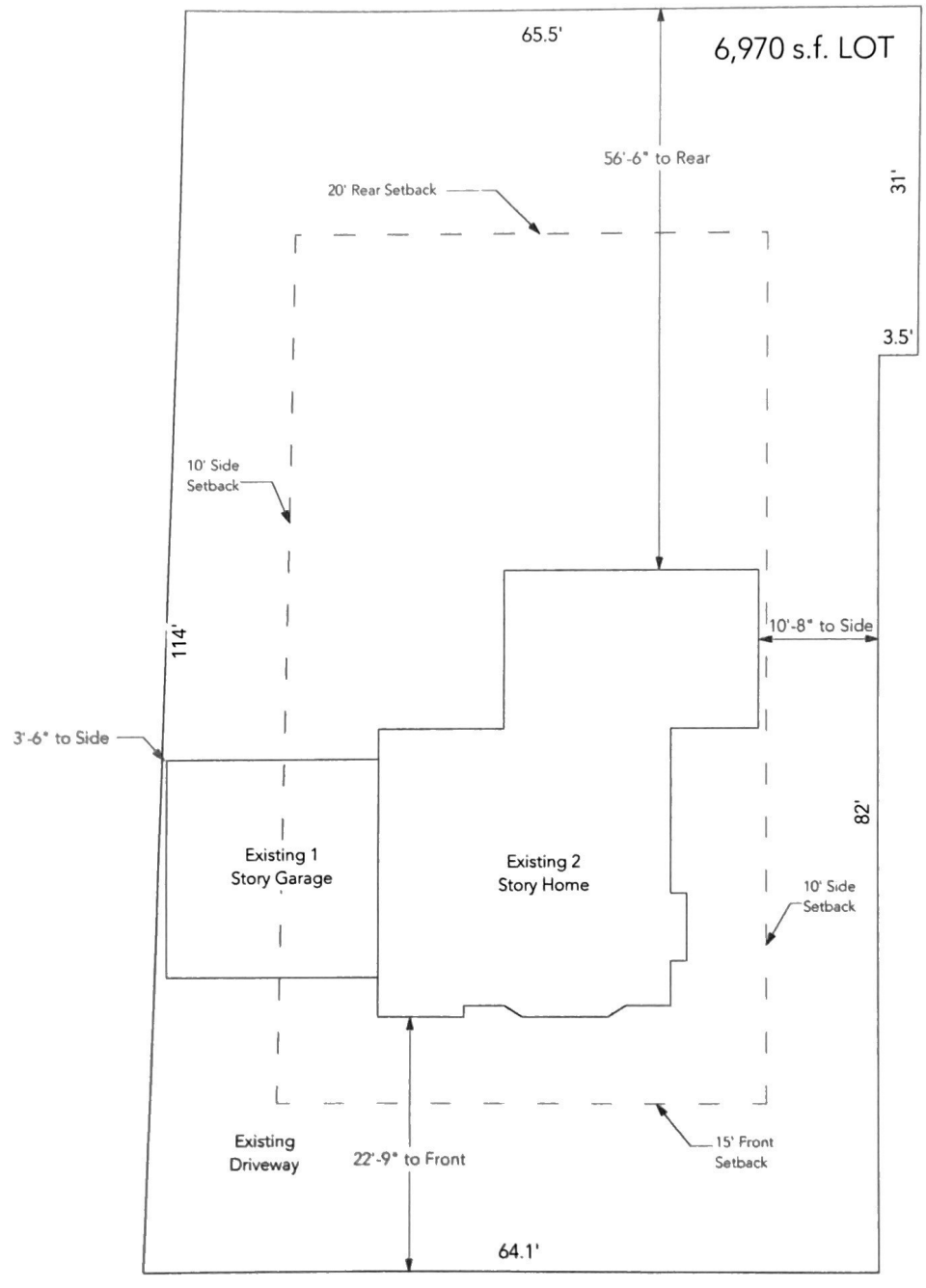
Robert Kalinowski + Barbara Borsa
1126 South Street
603-531-1068

Michelle Vangel
1105 South Street
603-591-4847

Ann + Paul Wheeler
110 Ash Street
603-608-6636

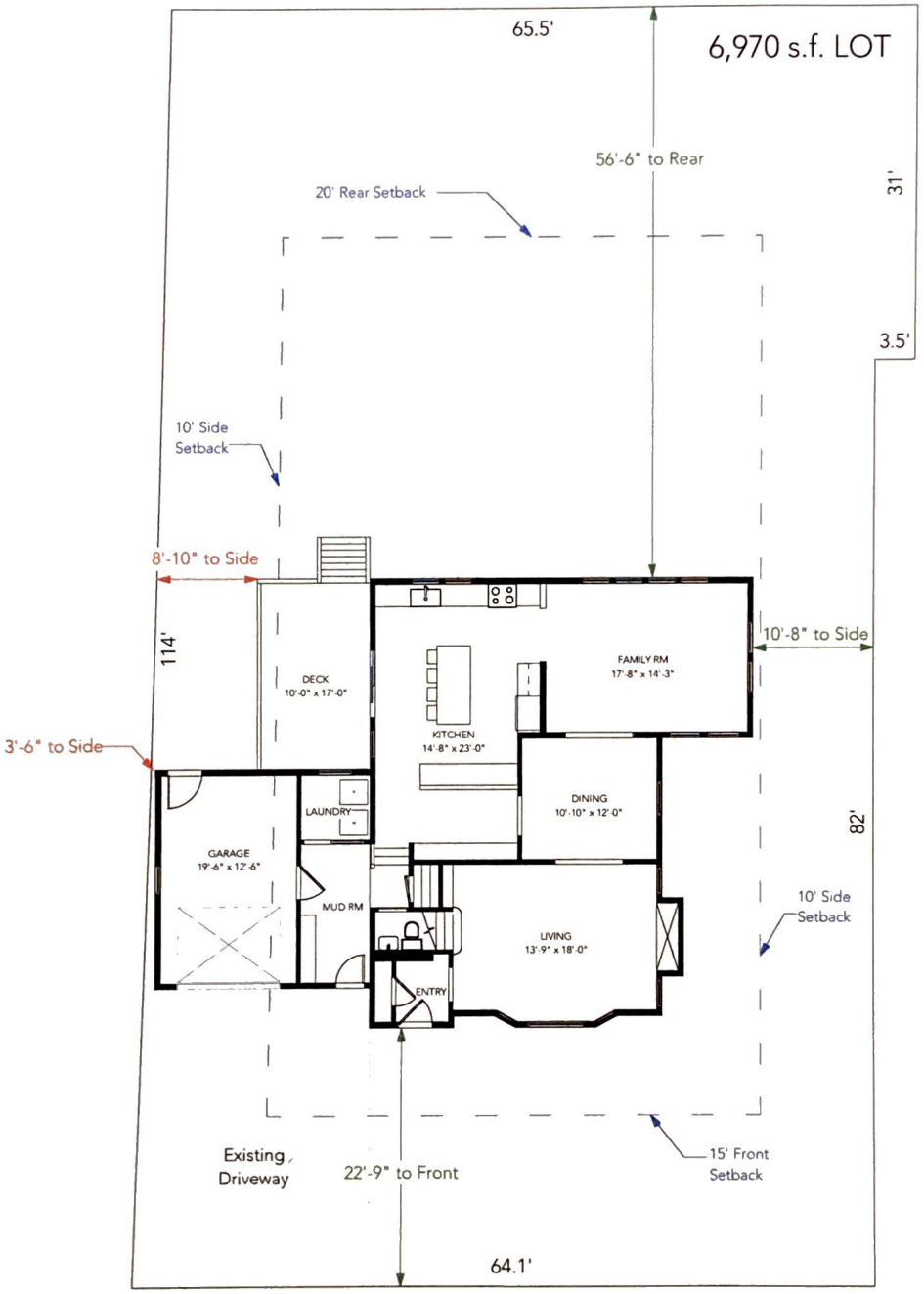
Deborah Audino
28 Orchard St
603-828-8319





South Street

ALICE + BIRD 10 Rudolph Ave. Kittery ME 03904 (207) 752 2305	PROJECT Steve + Natalie Saffey Residence	SITE 1121 South Street Portsmouth, NH 03801	ISSUED FOR ZBA Review ISSUE DATE June 17, 2022	SCALE 1/16" = 1'-0" (Letter)	TITLE Existing Site Plan	SHEET E1



South Street

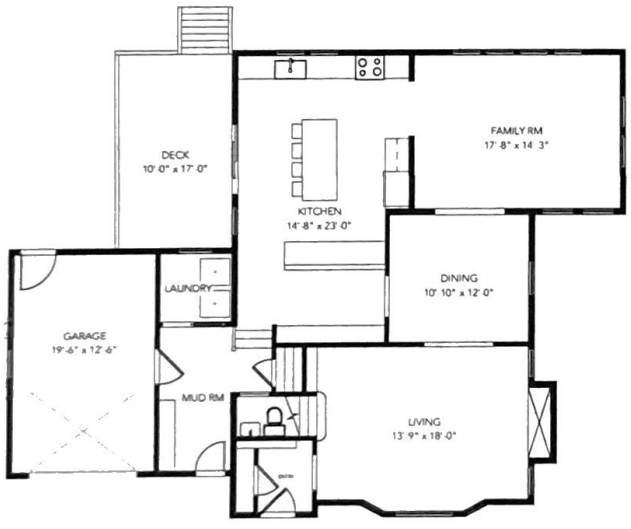
ALICE + BIRD 10 Rudolph Ave Kittery, ME 03904 (207) 752 2305 www.aliceandbirdinteriors.com	PROJECT: Steve + Natalie Salley Residence	SITE: 1121 South Street Portsmouth, NH 03801	ISSUED FOR: ZBA Review ISSUE DATE: June 17, 2022	SCALE: 1/16" = 1'-0" (Letter)	TITLE: Proposed Site Plan	SHEET: P1

Front Elevation

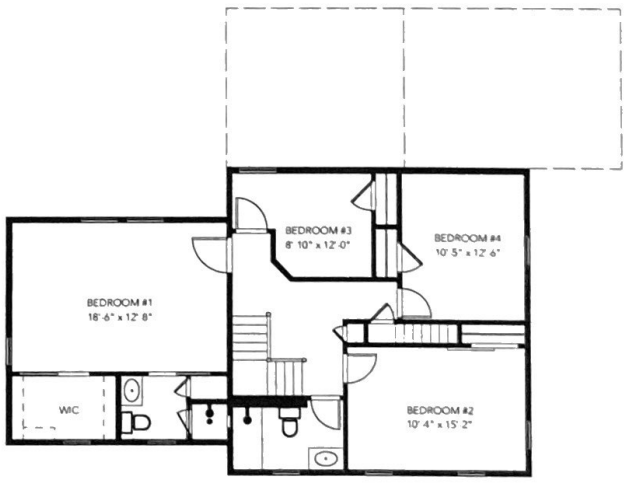
Right Elevation

Rear Elevation

Left Elevation



1271 s.f. 1st Floor
(32' x 39' +/-)



1055 s.f. 2nd Floor
(45' x 26' +/-)

ALICE + BIRD 10 Rudolph Ave Kittery, ME 03904 (207) 752 2305 www.aliceandbirdinteriors.com	PROJECT: Steve + Natalie Safley Residence	SITE: 1121 South Street Portsmouth, NH 03801	ISSUED FOR: ZBA Review ISSUE DATE: June 17, 2022	SCALE: 1/16" = 1'-0" (Letter)	TITLE: Proposed New Home	SHEET: P2

6.

The request of **531 Islington Street Portsmouth LLC (Owner)**, for property located at **531 Islington Street** whereas relief is needed to replace the existing menu board which requires the following: 1) A Variance from Section 10.835.31 to allow a menu board to be 26 feet from the rear lot line and 40 feet from the side lot line where 50 feet is required for each. 2) A Variance from Section 10.1261.30 to allow direct lighting in the Historic District where external illumination is the only type of illumination allowed. Said property is located on Assessor Map 157 Lot 5 and is located within the Character District 4-L2 (CD4-L2).

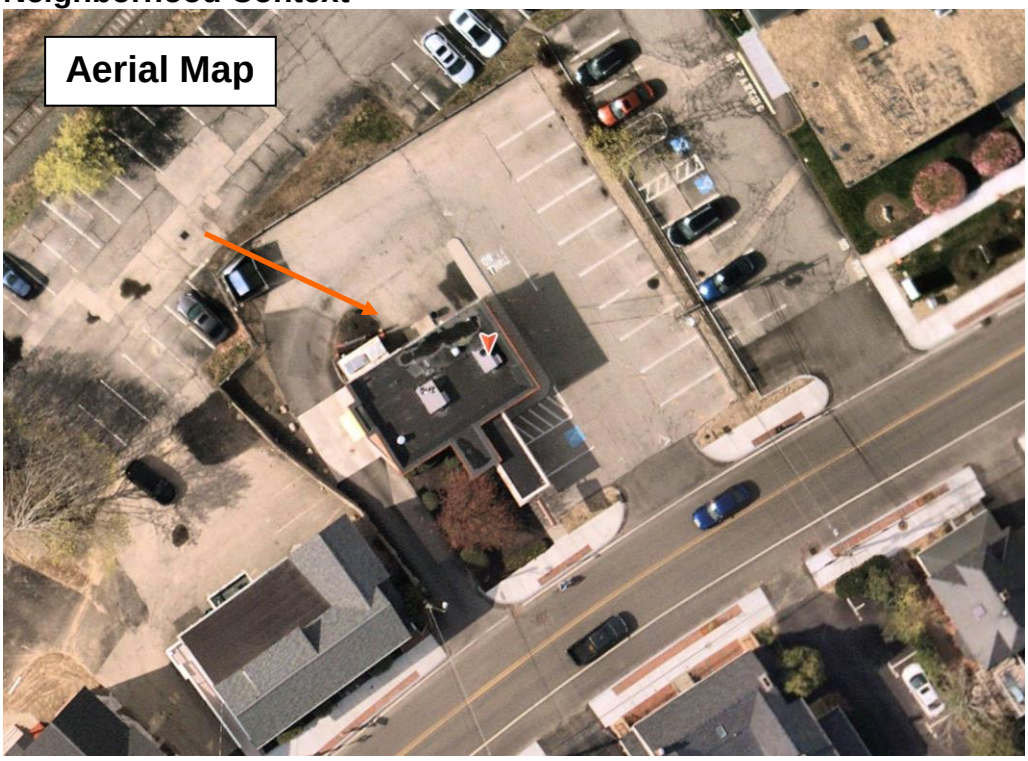
Existing & Proposed Conditions

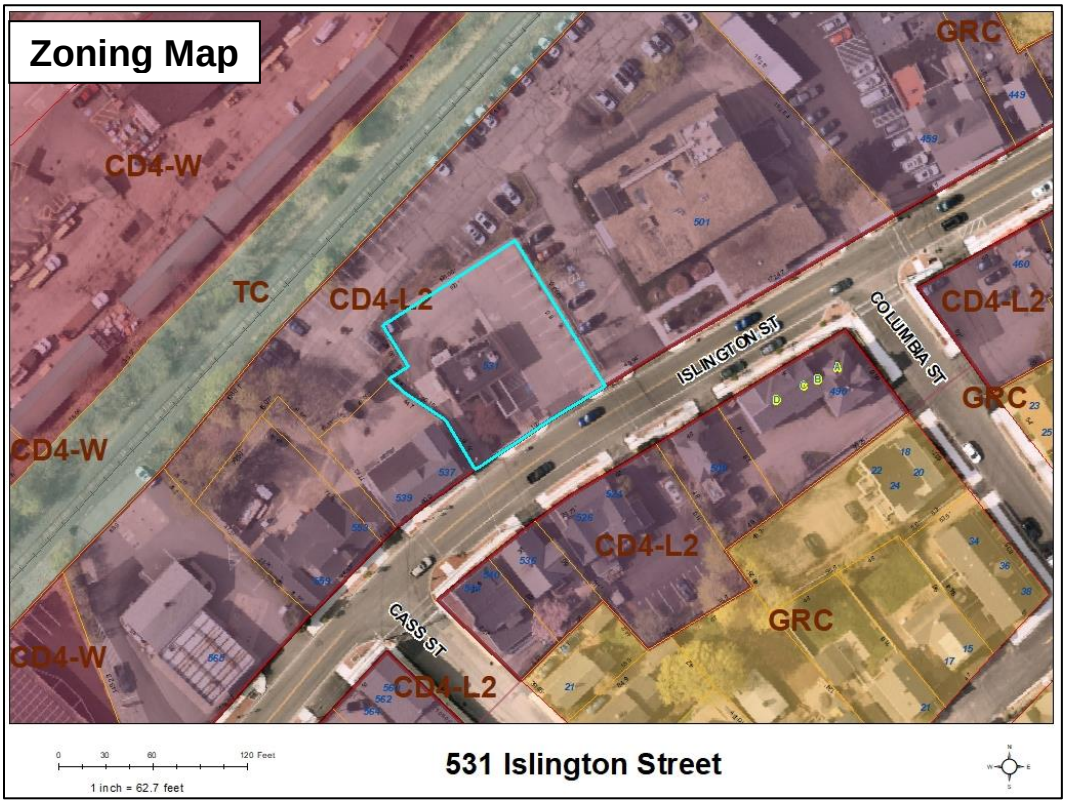
	Existing	Proposed	Permitted / Required
Land Use:	Dunkin' Donuts	Replace drive-thru menu board	Primarily Mixed Uses
Lot area (sq. ft.):	11,325	11,325	3,000 min.
Right Side Yard (ft.):	74	>50	50 min.
Left Side Yard (ft.):	23	**40**	50 min.
Rear Yard (ft.):	30	**26**	50 min.
Illumination Type:	Internal	**Internal**	External only in HDC
Estimated Age of Structure: 1999	Variance requests shown in red.		

Other Permits/Approvals Required

Historic District Commission

Neighborhood Context





Previous Board of Adjustment Actions

March 16, 1999 – The Board considered request for the following Variance:

1. Article XII, Section 10-1204 Table 15 to allow 19 parking spaces to be provided where 21 parking spaces are required.

As a result of such consideration, it was voted that the request be **granted** as advertised and presented.

April 20, 1999 – The Board considered a Request for Rehearing by Robert D Ciandella, Esquire representing the Portsmouth Advocates of Portsmouth. It was voted that the request for rehearing be **denied**. We found there was no new evidence being presented nor did the Board err in their decision made at the March 16 1999 meeting.

Planning Department Comments

The applicant is in the process of updating all of the signage on the property and is currently working through the HDC process. The existing menu board is nonconforming with respect to lighting and location per the requirements of the Ordinance. The only type of lighting permitted in the HDC is external illumination and the existing menu board is direct illumination and the proposed will be direct as well. The existing menu board is approximately 23 feet from the left side and 30 feet from the rear where 50 is required for each. The proposed menu board will move to a more central location at the rear of the building and will result in a 40 side yard, but will be slightly closer to the rear yard at 26 feet. The abutting property to the rear is the railroad and beyond that is Ricci Lumber. The abutter to the left is 3 unit condo and where the existing menu board may be visible from this property, the proposed menu board will not be visible.

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.

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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.

DTC Lawyers
Dedicated to Clients

CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

LIZABETH M. MACDONALD
JOHN J. RATIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
CHRISTOPHER D. HAWKINS
VASILIOS "VAS" MANTHOS
ELAINA L. HOEPPNER
WILLIAM K. WARREN

RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. AESCHLIMAN

HAND DELIVERED

June 29, 2022

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

RE: 531 Islington Street, Tax Map 157, Lot 5

Dear Chair Parrott and Board Members:

Enclosed please find supporting materials to accompany the information submitted via the City's on-line permitting system for variance relief regarding the proposed signage at the above referenced property.

We respectfully request that this matter be placed on the Board's July 19, 2022 agenda. In the meantime, if you have any questions or require additional information do not hesitate to contact me.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers

Sharon Cuddy Somers
SCS/sac
Enclosures

cc: 531 Islington Street Portsmouth, LLC

P:\SALEMA - Islington St 2022\ZBA Materials\Submission Materials\2022 06 28 zba letter.docx

531 ISLINGTON STREET PORTSMOUTH, LLC
531 Islington Street

The Applicant requests variances from Article 8, Section 10.835.31 and Article 12, Section 10.1261.30 to erect an illuminated menu board and speaker tower to assist in ordering food and drink at the Dunkin Donuts location at 531 Islington Street. The property is depicted on Exhibit 1 and the proposed menu board and speaker tower are depicted on Exhibits 2 and 3.

INTRODUCTION

The property contains a "Dunkin Donuts" and has been in operation since approximately 1989. Like many, if not all Dunkin Donuts, the business contains a drive through service in which the customer orders food and drink from a menu board and speaker and then collects the selection from a drive-up window. (See Exhibits 9 & 10)

The business model for Dunkin Donuts requires that each franchisee operating a store must periodically update and renovate the store, both to keep up with current business objectives and to ensure that the appearance of the store is of the highest quality. One such renovation was scheduled to occur at the property this spring. However, upon submitting the permit applications, and upon review by the City, it was determined that the exterior renovations are now subject to Historic District Commission review as the property has been included in the Historic District since the last renovation. The Historic District Commission review of the renovation proposal is ongoing, however, the City determined that one of the signs, namely the menu board, requires variance relief because it has direct lighting which is not allowed in the Historic District.

In a similar fashion, the proposed speaker tower is now subject to Article 8 of the ordinance which regulates various aspects of drive through services, and which did not exist when the Dunkin Donuts first came into operation. Since it is a new speaker, it requires relief from the setback requirements to the lot lines.

Set forth below are the arguments which support why each of the variance criteria are met for both of the ordinance provisions, along with reference to relevant exhibits. Following your review of our submitted materials, we respectfully request that both variances be granted as presented.

Section I
Speaker Tower and Menu Board Setback
Variance from Article 8, Section 10.835.31

The applicant proposes to replace an existing speaker tower and menu board with a new speaker tower with canopy and menu board located 26+/- feet from the rear property line and 40+/- feet from the westerly side property line where 50 feet is required.

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

Granting the variance will not be contrary to the public interest. To be contrary to the public interest, the variance must unduly and to a marked degree violate the relevant ordinance's basic zoning objectives. Determining whether the basic objective of the ordinance is violated can be measured by whether the variance will alter the essential character of the locality, or by whether it would threaten public health, safety of welfare.

Here the basic objective of the zoning ordinance is to establish a series of guidelines for accessory drive through uses, including setbacks. Specifically, Article 8, Section 10.835.31 requires that all outdoor service facilities, including menu boards and speakers, be at least 50' from any lot line. The objective for the setback is arguably to provide some buffer for abutting properties to avoid any detrimental impacts associated with such service facilities. This objective in turn must be examined to determine whether the grant of the variance will alter the essential character of the locality. The property is located in the CD4-L2 district and is surrounded on three sides by either Islington Street or commercial properties or a mixed commercial and residential building. Of greater significance is the rear of the property, which is the only side of the property from which the menu board and speaker tower will be visible to any great extent. The rear of the property abuts vacant land occupied by a parking lot and railroad tracks. Further in the distance are the warehouses for Ricci Lumber, although the distance between the speaker tower and menu board and the warehouses is so significant that the speaker tower and menu board will barely be visible. (See Exhibits 4 & 5)

Additionally, Dunkin Donuts has been in operation at this location since 1989, and the existing menu board and associated speaker have been in operation since approximately the same time. The replacement of the existing menu board and speaker with a newer, more attractive version of these services, including a taller speaker tower with canopy, will not alter the essential character of the locality since a menu board and speaker are already present and have been present for decades. If anything, the new menu board and speaker tower will improve the appearance of the rear of the property. (See Exhibits 6, 7 & 8)

The presence of the new menu board and speaker tower will not threaten public health, safety or welfare. The intent of the new menu board and speaker tower is, in fact, to encourage better and safer traffic flow on site.

2. **The spirit of the ordinance is observed.**

Under New Hampshire law, this variance criteria is essentially merged with the "public interest "criteria. As stated above, the spirit of the ordinance is to provide a buffer between the service facilities associated with a drive through use, and the abutting properties. For the reasons stated above, the spirit of the ordinance will be observed if the variance is granted.

3. **The values of surrounding properties are not diminished.**

Granting the variance to allow a new menu board and a new speaker tower in the rear of the property will not diminish property values. The existing equipment has been on site for many years, and it faces the rear of the property which is abutted only by a parking lot and railroad track. The new equipment, to the extent it is visible from the rear of the property will, together with the general exterior renovation work on the building, greatly improve the entire property. As a result, no property values will be diminished, and the improved appearance of the exterior of the building will keep stable or improve the property values of surrounding properties.

The applicant is not aware of any information or evidence that would suggest that the location of the proposed menu board and speaker will decrease the value of the surrounding properties.

4. **Substantial justice**

The relevant analysis under this element of the variance criteria is whether the benefit to the applicant of granting this variance will be outweighed by a detriment or loss to the individual or to the public at large. Here, the benefit to the applicant is that long overdue exterior renovations can proceed. The applicant is a franchisee of Dunkin Donuts and is subject to contractual obligations to perform periodic renovations of the property in accordance with designated guidelines. These contractual obligations predate the property's inclusion in the Historic District and predate the adoption of the setbacks for drive throughs. One such dedicated guideline which is not readily subject to negotiation is the proposed menu board, which must be of a certain size and have a certain lighting scheme. The proposed renovations, which include the menu board and speaker tower, have already received extensions as a result of Covid, and the scope of work and budget for same is predicated on the improvements as shown.

In short, the benefit to the applicant in granting the variance is to allow a small business owner to maintain a stable economic relationship with its corporate sponsor and not risk any negative push back. By contrast, there is absolutely no known detriment to the public or to any individual from granting a variance to continue to have service equipment for the drive through in the rear of the property in a substantially similar manner to that which has been in operation for decades.

5. Unnecessary hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

This property is distinguished from other properties in the area in that it has operated as a Dunkin Donuts with a drive through window since approximately 1989 and the existing menu board and speaker are nonconforming as to the setback requirements of Article 8, Section 10.835.31. The size of the lot and the location of the existing building does not allow for the placement of the menu board and speaker tower in virtually any spot that would conform with the setback requirements, and this condition is exacerbated by the fact that the menu board and speaker tower need to be placed to the rear of the existing building near the flow of traffic in order to allow patrons in their cars to efficiently and effectively place their orders before traveling to the pickup window.

B. 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 because:

Denying the variance for the location of the proposed replacement menu board and speaker will not advance the general public purpose of the ordinance. The proposed equipment will face outward toward the rear of the property and will overlook only a parking lot and railroad track, not other structures. The need for the protection afforded by setback requirements might make sense if the equipment faced the street or some other area from which it would be highly visible but that is simply not the case here.

C. **The proposed use is a reasonable one because**:

The overall impact from the proposed equipment is only felt by the property abutting the rear side of the property, if at all, and that property is occupied by a parking lot. The existing location of the menu board and speaker are non-conforming as to the westerly side of the property which is abutted by a structure containing a commercial and residential use. The proposed location of the menu board and speaker tower, while non-conforming, will be a similar amount of non-conformity and will face the side of the building where the least amount of interruption will be felt.

Section II
Illuminated Signage in Historic District
Variance from Article 12, Section 10.1261.30

The applicant proposes to replace an existing menu board with internal lighting with a new menu board with direct lighting in the Historic District where the only type of lighting which is allowed is external lighting.

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

Here, the zoning ordinance in question requires that any illuminated signage within the Historic District be externally illuminated. The definition of "external illumination" is "A sign that is illuminated by a light source that is not contained within, or on the surface of, the sign itself". The basic zoning objective of this ordinance appears to be to limit the type of lighting for any sign within the historic district as part of the design regulation and constraints associated with the exterior of properties in the Historic District.

The signage which is the subject of the variance request is a menu board with direct illumination located on the rear of the building, and which is not plainly visible to any abutting property except the property to the rear. The existing menu board predates the inclusion of the subject property into the Historic District and is considered non-conforming, however, because it is being replaced with a new menu board, it now needs to comply with the provisions of the zoning ordinance. The proposed menu board will contain more modern technology and will be lit by LED lighting which will produce an equivalent amount of light to two TV screens. Because the new menu board is on the rear of the building and faces away from the street and the two abutting properties to either side, the effect of the lighting of the new menu board will only be experienced by the property to the rear of the building which is occupied only by a parking lot and the railroad tracks, with Ricci Lumber warehouses in the distance.

The essential character of the locality will not be altered by a menu board with a new form of illumination since it will not have any greater impact than the menu board which has been on site for decades, and the new menu board will continue to face the rear property which is not occupied by any structures. The proposed menu board with new illumination will not threaten the public health, safety or welfare and, in fact, the proposed lighting for the new menu board is designed to increase the safety of patrons travelling through the drive through service.

2. **The spirit of the ordinance is observed.**

Under New Hampshire law, this variance criteria is essentially merged with the "public interest" criteria. As stated above, the spirit of the ordinance is to limit the type of lighting which can be used for signage in the historic district as part of the regulation of the exterior of properties within the historic district. For the reasons stated above, the spirit of the ordinance will be observed if the variance is granted.

3. **The values of surrounding properties are not diminished.**

Granting the variance to allow a menu board with lighting other than external illumination will not diminish the value of surrounding properties. An existing menu board with internal illumination has been on site since approximately the late 1980s. The proposed menu board with LED lighting will also face the rear of the property where there are no structures and the amount of light emitted will not affect surrounding properties to any appreciable degree. Moreover, the proposed menu board is a component of a package of improvements to the exterior of the building, the net effect of which will be to stabilize values of surrounding properties or to possibly have a beneficial effect on the value of such properties.

The applicant is not aware of any information or evidence that would suggest that the TV screen lighting of the proposed menu board, rather than external lighting, will decrease the value of the surrounding properties.

4. **Substantial justice**

For the reasons set forth in Section I, the setback variance, the benefit to the applicant in having the variances for setback and sign lighting granted will not be outweighed by any detriment to the general public or any individual.

5. **Unnecessary hardship**

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

The property is distinguished from other properties in the area in that it has operated as a Dunkin Donuts with drive through service since 1989 where orders are placed in the rear of the building and collected on the west side of the building. The menu board from which the orders are made has been internally lit for decades. The very nature of a menu board requires that it have lighting, and lighting of the highest quality so that the menu is clearly visible to patrons ordering from their cars. The LED lighting, rather than external lighting, will provide this quality of light. Under Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 NH 508 2011, the unique nature of the property can make a sign itself a reasonable use of the property. Here, the longstanding operation of the property as a drive through food service makes it unique relative to other properties in the area, and denial of the variance to allow the most effective lighting to assist ordering at the drive through would contribute an unnecessary hardship.

B. 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 because:

The general public purpose of the ordinance provision is to regulate the lighting associated with signage in the historic district, with particular attention to visibility from other properties and the street. The proposed signage faces the rear of the property, and the abutting property to the rear contains a parking lot and a railroad track. Likewise, the amount of light emitted will not have any greater impact on abutting properties than what is there already. As a result, there is no substantial relationship between the purpose of prohibiting certain signage lighting within the historic district and the application to the lighting associated with the menu board on the rear of the building facing the rear of the property.

C. **The proposed use is a reasonable one.**

The lighting associated with the proposed menu board is part of the menu board configuration mandated by the Dunkin Donuts franchise corporation and the applicant is required to use this configuration of menu board. Given that an illuminated menu board has been on the property since approximately 1989 and given that the new menu board will be more attractive and will not generate an amount or type of light that will have greater visibility to other properties than what is presently there, then the proposed use is reasonable.

P:\SALEMA - Islington St 2022\ZBA Materials\Submission Materials\2022 06 29 variance narrative final.docx

Exhibit 1

Property Information

Property ID	0157-0005-0000
Location	531 ISLINGTON ST
Owner	531 ISLINGTON ST PORTSMOUTH 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.

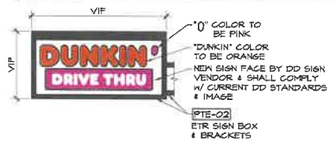
Geometry updated 3/9/2022
Data updated 3/9/2022

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

Exhibit 2

BLADE SIGN NOTES

1) FACE TO BE FORMED CLEAR POLYCARBONATE, DECORATED SECOND SURFACE VINYL.
2) VINYL COLORS TO BE: DD ORANGE 3M #3630-3129; DD MAGENTA 3M #3630-1574.
3) ILLUMINATION: EXISTING INTERNALLY ILLUMINATED. SIGN VENDOR TO VERIFY IF LIGHTING IS LED & REPLACE W/ LEDs AS REQUIRED.
4) SEE NATIONAL ACCOUNTS FOR ORDERING INFORMATION.
5) SEE A7.2 & A7.3 FOR FINISH INFORMATION.

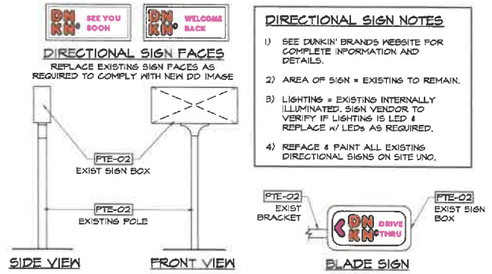


9 / A0.2 BLADE SIGN DETAIL
SCALE: 1/4" = 1'-0"

DIRECTIONAL SIGN NOTES

1) SEE DUNKIN' BRANDS WEBSITE FOR COMPLETE INFORMATION AND DETAILS.
2) AREA OF SIGN = EXISTING TO REMAIN.
3) LIGHTING = EXISTING INTERNALLY ILLUMINATED. SIGN VENDOR TO VERIFY IF LIGHTING IS LED & REPLACE W/ LEDs AS REQUIRED.
4) REFACE & PAINT ALL EXISTING DIRECTIONAL SIGNS ON SITE UNO.

DIRECTIONAL SIGN FACES
REPLACE EXISTING SIGN FACES AS REQUIRED TO COMPLY WITH NEW DD IMAGE



8 / A0.2 DIRECTIONAL SIGN DETAILS
SCALE: 1/2" = 1'-0"

SITE NOTES

1) CLEAN & PREP ALL SURFACES AS REQD PER PAINT MANUF SPECIFICATIONS PRIOR TO PAINTING. VERIFY CONDITION OF EXISTING MATERIALS - REPAIR / REPLACE MATERIALS TO MATCH EXISTING AS REQD. APPLY PAINT IN STRICT ACCORDANCE WITH PAINT MANUF SPECIFICATIONS.
2) SITE & SIGN DETAILS SHOWN ARE SCHEMATIC ONLY. COORDINATE LOCATIONS IN FIELD WITH FRANCHISEE.
3) CUT/PATCH/REPAIR EXISTING PAVEMENT AS REQUIRED. COORDINATE WITH FRANCHISEE FOR EXTENT OF WORK.
4) SEALCOAT & RESTRIPE EXISTING PARKING LOT. SEE 7/A0.2 FOR STRIPING DETAILS.
5) POWERWASH EXISTING SIDEWALKS, CURBS & CONC PADS. CLEAN, WEED & REMULCH ANY EXISTING LANDSCAPING.
6) PROVIDE NEXTGEN BOLLARD COVERS ON ALL ETR BOLLARDS ON SITE. COORD W/ NATIONAL ACCOUNTS FOR ORDERING. GC TO ENSURE ALL ETR BOLLARDS ARE PROPERLY SET & CONSULT WITH FRANCHISEE IF ADDITIONAL WORK IS REQUIRED.

SITE / BUILDING SIGN SCHEDULE

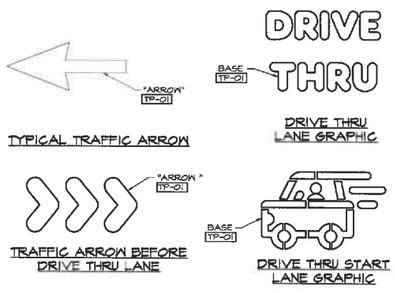
QTY	LOCATION	OVERALL DIMENSIONS	LETTERS	AREA
1	X BLADE SIGN	VERIFY IN FIELD	VIF	VIF
2	SITE (DIRECTIONAL)	VERIFY IN FIELD	VIF	VIF
1	X BUILDING (DIRECTIONAL)	VERIFY IN FIELD	VIF	VIF

KEYED PLAN NOTES

1. 18"X54" GROUND LOOP W/ 1" PVC CONDUIT, HOME RUN CONDUIT TO DRIVE THRU TIMER MONITOR ADJACENT TO DRIVE THRU WINDOW. REFER TO SITE PLAN, DETAILS & ELECT DRAWINGS FOR CONDUIT SIZE REQUIREMENTS. MULTIPLE GROUND LOOP WIRING MUST BE IN SEPARATE CONDUITS TO AVOID INTERFERENCE.
2. 20'x10'x6" THICK CONC PAD W/ REINFORCING. TOP OF SLAB SHALL BE FLUSH WITH ADJACENT PAVEMENT. CONTOUR CONC PAD TO MATCH THE ADJACENT CONC CURBING AS REQ'D. SEE 4/A0.2.
3. SIGN VENDOR TO PROVIDE "WELCOME BACK" FACE ON ETR DIRECTIONAL SIGN. SEE 8/A0.2.
4. SIGN VENDOR TO PROVIDE "SEE YOU SOON" FACE ON ETR DIRECTIONAL SIGN. SEE 8/A0.2.
5. DRIVE THRU HEIGHT LIMIT BAR. SEE 6/A0.2.
6. CONCRETE FILLED STEEL BOLLARD. SEE 5/A0.2.
7. "DRIVE THRU LANE GRAPHIC". SEE 7/A0.2.
8. "TRAFFIC ARROW BEFORE D/T LANE" [TP-01]. SEE 7/A0.2.
9. "DRIVE THRU START LANE GRAPHIC". SEE 7/A0.2.
10. "TYPICAL TRAFFIC ARROW" [TP-01] SEE 7/A0.2.
11. LINE STRIPING - [TP-01].
12. D/T STACK & MENU BOARD CAMERA MTD TO BUILDING. COORD FINAL LOCATION W/ OWNER.
13. ETR DRIVE THRU WINDOW LOCATION.
14. SIGN VENDOR TO PROVIDE NEW FACE ON ETR BLADE SIGN SIGN. SEE 9/A0.2.
15. PROVIDE NEW VINYL SLATS FOR ETR CHAIN LINK FENCE AROUND ETR DUMPSTER. COLOR TO BE GRAY.
16. DIGITAL MENU BOARD - SEE 3/A0.2.
17. ORDER CANOPY W/ BUILT-IN CONFIRMATION DISPLAY & SPEAKER. SEE 3/A0.2.
18. PATCH / REPAIR ALL SITE AS REQ'D TO MATCH EXIST IN ALL AREAS OF DEMOLITION. COORD W/ D.I.
19. NEW CURBING TO ACCOMMODATE NEW DT MENU BOARD LOCATION.
20. ETR CONCRETE PAD & GROUND LOOP.
21. SIGN VENDOR TO PROVIDE "DRIVE THRU" FACE ON ETR DIRECTIONAL SIGN. SEE 8/A0.2.

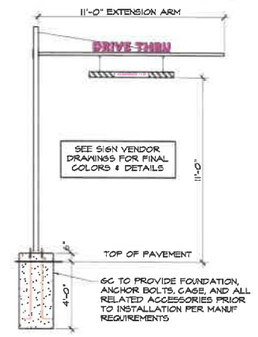
SITE GRAPHIC & STRIPING NOTES

1) PROPERLY PREP THE ASPHALT BEING PAINTED VIA PRESSURE WASH BEFORE PAINTING ALL DIRECTIONAL GRAPHICS.
2) COORDINATE WITH FRANCHISEE ON FINAL LOCATIONS OF ALL GRAPHICS & DIRECTIONALS.
3) SEE FINISH SCHEDULES FOR TRAFFIC STRIPING INFORMATION.
4) PAINT TEMPLATE FOR SITE GRAPHIC AVAILABLE THROUGH PAVEMENT STENCIL COMPANY - SEE NATL. ACCOUNTS.

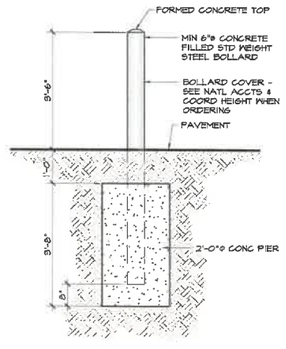


7 / A0.2 TRAFFIC STRIPING DETAILS
SCALE: 1/4" = 1'-0"

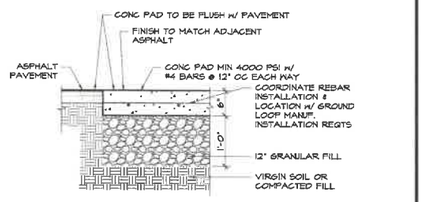
LIMIT BAR NOTE:
GC & FRANCHISEE TO FIELD VERIFY FINAL HEIGHT OF D/T HEIGHT LIMIT BAR W/ PRE-FAB CANOPY & SPEAKER TOWER CANOPY PRIOR TO START OF CONSTR. MAINTAIN 6" FROM BOT PRE-FAB CANOPY & SPEAKER TOWER CANOPY TO HEIGHT LIMIT BAR "CRASH TUBE" FROM HIGHEST POINT OF PAVEMENT AT D/T WINDOW.



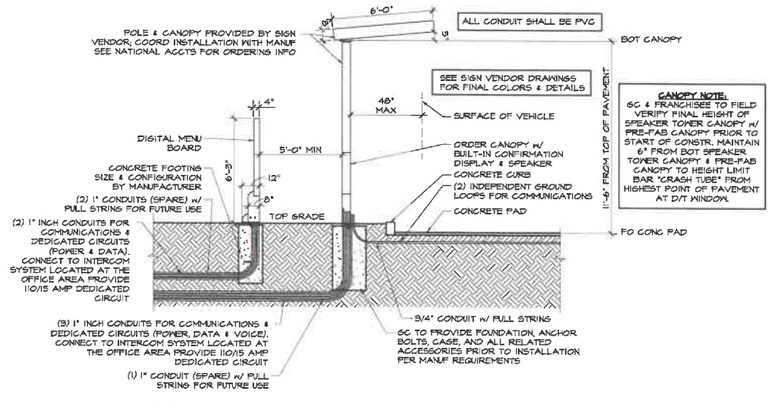
6 / A0.2 LIMIT BAR DETAIL
SCALE: 1/4" = 1'-0"



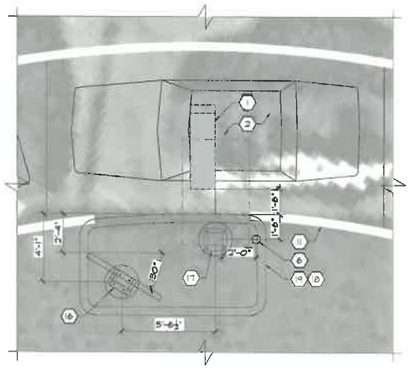
5 / A0.2 BOLLARD DETAIL
SCALE: 1/2" = 1'-0"



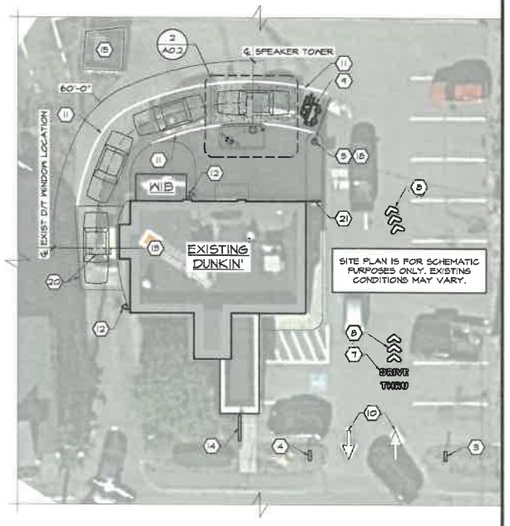
4 / A0.2 SECTION @ CONC PAD
SCALE: 3/4" = 1'-0"



3 / A0.2 MENU BOARD & SPEAKER TOWER DETAIL
NOT TO SCALE



2 / A0.2 MENU BOARD LOCATION
SCALE: 1/4" = 1'-0"



1 SCHEMATIC SITE PLAN
SCALE: 1/16" = 1'-0"
PLAN

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REVISIONS

NUMBER	REMARKS	DATE

FOR CONSTRUCTION

PROJECT TITLE
DUNKIN'®
PC# 307396
IMAGE: NEXTGEN WARM PALETTE

531 ISLINGTON STREET
PORTSMOUTH, NH 03801
Rockingham County

DRAWING TITLE
SCHEMATIC SITE PLAN, SCHEDULE & DETAILS

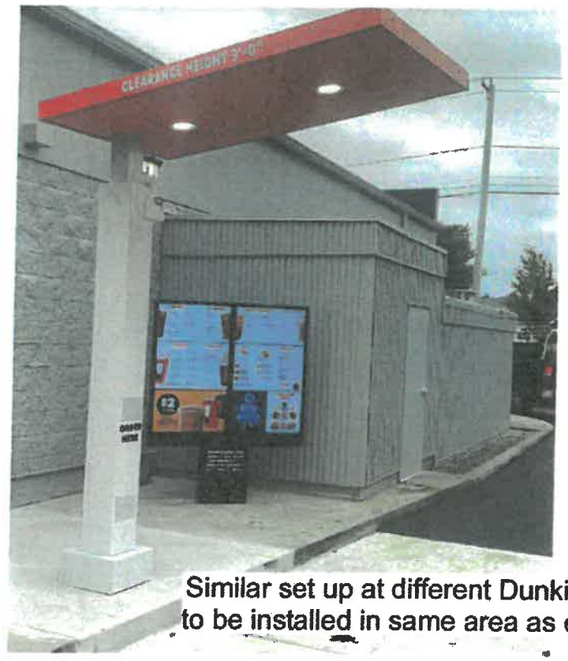
DATE	PROJ NO
NOV 19, 2021	21057
DRAWN BY	CHECKED BY
ZRA	AH

DRAWING NUMBER
A0.2

Exhibit 3

Existing Menuboard and speaker tower

Proposed Digital Menuboard with Speaker Canopy



Similar set up at different Dunkin store to be installed in same area as existing

DASCO SIGNS
654 County Road
Acton, ME 04001
207-477-2956

Existing vs Proposed Menuboard and speaker set up

Location: 531 Islington St
Portsmouth NH
Layout by: MS
Layout: menu set up
Date: 4/27/22

Notes:
These drawings are the exclusive property of Dasco Signs and are the result of the original work of its employees. All rights to its use, or duplication in any manner without express written permission of Dasco Signs is prohibited.

This is a sketch only-field measurements may or may not need to be verified.

The accuracy of this color rendering is limited by media and output devices and is intended for representational use only. Actual manufacturing/graphic colors also vary depending on processes and materials used. 100% color matches of submitted specifications cannot be guaranteed.

If an electric sign, compliance with the National Electric Code, Underwriters Laboratory, and/or local codes will be adhered to, including proper grounding and bonding of the sign.

Exhibit 4

Exhibit 5

Exhibit 6

AMERICA RUNS
ON DUNKIN'
SPRING SIPPIN'
THE CHARLI COLD FOAM
TOASTY & TEMPTIN'
BETTER TOGETHER
ORDER HERE
PartnersBank

Exhibit 7

Exhibit 8

Exhibit 9

Exhibit 10

LETTER OF AUTHORIZATION

I, Jose F. Salema, Manager of 531 Islington Street Portsmouth, LLC, owner of property depicted on Tax Map 157, Lot 5, do hereby authorize Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the City of Portsmouth and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: 6/22/22

531 ISLINGTON STREET PORTSMOUTH, LLC

Jose F. Salema, Manager

P:\SALEMA - ISLINGTON ST 2022\ZBA MATERIALS\LETTER OF AUTHORIZATION.DOCX

7.

The request of **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** whereas relief is needed to construct a 718 square foot garage addition with living space and deck above which requires the following: 1) A Variance from Section 10.521 to allow a 15.5' front yard where 30' 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 2074 Lot 59 and is located within the single residence B (SRB) District.

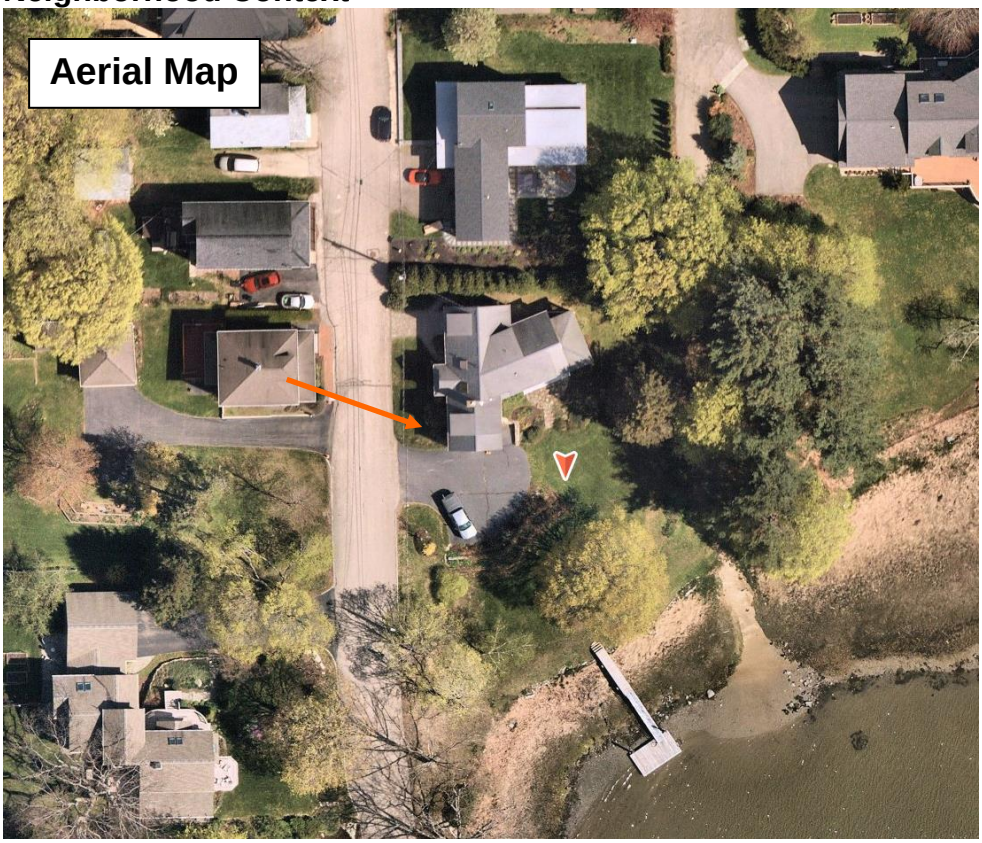
Existing & Proposed Conditions

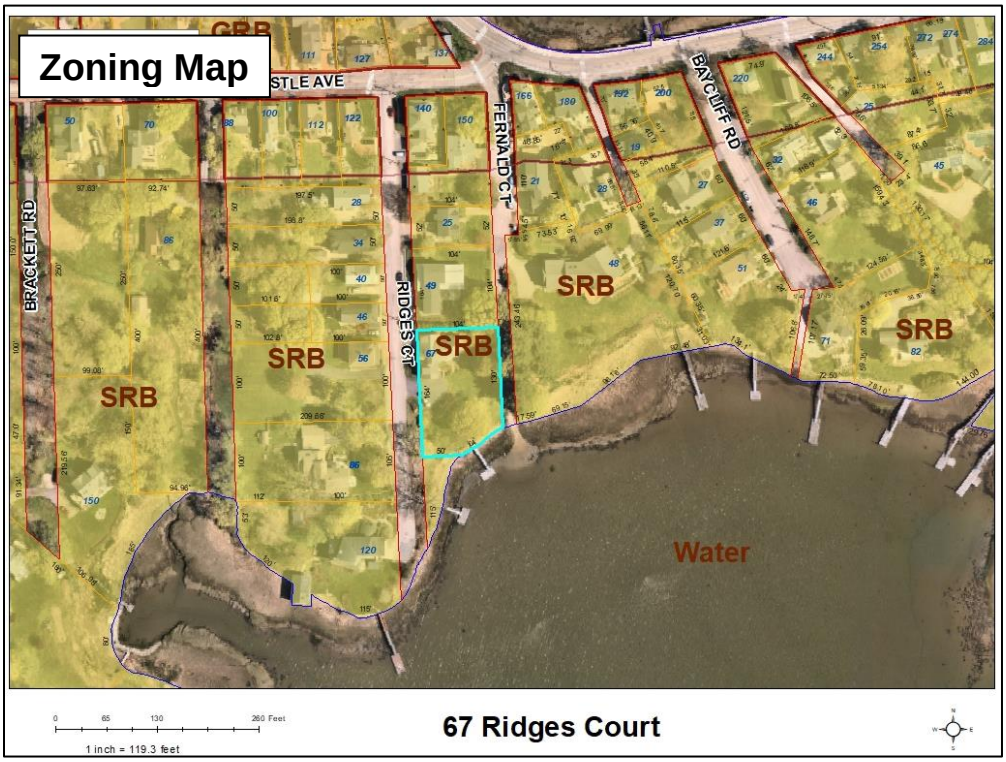
	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Garage addition	Primarily single residence	
Lot area (sq. ft.):	16,500	16,500	15,000	min.
Lot area per dwelling (sq. ft.):	16,500	16,500	15,000	min.
Lot depth (ft):	109	109	100	min.
Street Frontage (ft.):	164	164	100	min.
Primary Front Yard (ft.):	8	15.5	30	min.
Left Yard (ft.):	10	10	10	min.
Right Yard (ft.):	95	>67	10	
Rear Yard (ft.):	40	40	30	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	14	18.5	20	max.
Open Space Coverage (%):	73	75	40	min.
Parking:	4	4	2	
Estimated Age of Structure:	2002	Variance request(s) shown in red.		

Other Permits/Approvals Required

Conservation Commission/Planning Board – Wetland CUP

Neighborhood Context





Previous Board of Adjustment Actions

July 15, 1986 – the Board **granted** a Variance to permit the construction of a 20' x 20' addition onto an existing single family dwelling with a front yard of 9' where a 30' front yard is required.

August 20, 2002 – The Board considered request for the following Variance:
Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) is requested to allow a 5'9" x 10'3" front porch/entry with an 8'1" front yard where 30' is the minimum required
The Board voted the request be **granted** as advertised and presented.

October 15, 2002 – The Board considered request for the following Variance:
Article III, Section 10-302(A) is requested to allow the existing single family dwelling to be demolished and rebuilt with a 13'11" front yard where 30' is the minimum required
The Board voted the request be **granted** as advertised and presented.

Planning Department Comments

The applicant is seeking to add a right side garage addition with living space above connected to the main dwelling. As shown in the history above, variances were granted in 2002 to allow the reconstruction of the dwelling at 13'11" from the front lot line and a front porch at 8' from the front lot line. The proposed addition will be setback an addition 2 feet from the front of the existing dwelling at 15.5'. The proposed addition will be located over existing pavement and the open space will actually increase with the removal of additional impervious areas as part of the project. All other dimensional requirements are compliant with the proposal. The applicant will need to go to the Conservation Commission and Planning Board for a Wetland CUP for the encroachment into the buffer.

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.

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

June 29, 2022

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Jeffrey and Melissa Foy, Owner/Applicant
67 Ridges Court
Tax Map 207/Lot 59
Single Residence B District

Dear Mr. Stith & Zoning Board Members:

On behalf of Jeffrey and Melissa Foy ("Foy"), enclosed please find the following in support of a request for zoning relief:

- Digital Application submitted via Viewpoint earlier today.
- Owner's Authorization.
- 6/29/2022 – Memorandum and exhibits in support of Variance Application

We look forward to presenting this application to the Zoning Board at its July 19, 2022 meeting.

Very truly yours,

R. Timothy Phoenix
Monica F. Kieser
Stephanie J. Johnson

Encl.

cc: Jeffrey and Melissa Foy
Ambit Engineering, Inc.
Destefano Maugel

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
STEPHANIE J. JOHNSON
OF COUNSEL:
SAMUEL R. REID
JOHN AHLGREN

OWNER'S AUTHORIZATION

We, Jeffrey & Melissa Foy, Owners/Applicants of 67 Ridges Court, Tax Map 207/Lot 59, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent me before any and all Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date: _____

Jeffrey Foy

Date: _____

Melissa Foy

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment ("ZBA")
FROM: R. Timothy Phoenix, Esquire
Monica F. Kieser, Esquire
Stephanie J. Johnson, Esquire
DATE: June 29, 2022
Re: Jeffrey and Melissa Foy, Owner/Applicant
Property Location: 67 Ridges Court
Tax Map 207, Lot 59
Single Residence B ("SRB")

Dear Chairman Parrott and Zoning Board Members:

On behalf of Jeffrey and Melissa Foy, Owner/Applicant ("Foy"), we are pleased to submit this memorandum and attached exhibits in support of zoning relief to allow a garage addition to be added onto the existing home at 67 Ridges Court, to be considered by the Portsmouth Zoning Board of Adjustment ("ZBA") at its July 19, 2022 meeting.

I. EXHIBITS

A. Site Plan Set – issued by Ambit Engineering, Inc.
- Existing Conditions Plan
- Variance Plan

B. Architectural Plans – issued by Destefano Maugel.
- Elevations – North and West
- Elevations – South and East
- Lower Level Floor Plans
- First Floor Plans
- Second Floor Plans

C. Site Photographs.
D. Tax Map 207.

II. PROPERTY/PROJECT

67 Ridges Court is a 16,500 s.f. lot located at the end of Ridges Court on Little Harbor in the Single Residence B Zoning District. Upon the lot is a 1.75 story, 1,591 s.f., 3-bedroom, 3 ½ bathroom Cape Cod style home and detached shed located on the left/northerly side of the lot, a dock extending into Little Harbor, and two driveways (the "Property"). Most of the lot is located in the 100 ft. tidal buffer zone from Little Harbor with a corner of the existing home and one of the paved driveways in the tidal buffer zone. The existing home also encroaches on the required 30' front yard. Foy plans to add a 718 s.f. addition to the existing home incorporating a lower

level2-car garage with a deck/porch, expanded living room, and an additional bedroom above (the "Project").

The 718 s.f. expansion meets building coverage requirements, reduces impervious coverage, and complies with open space requirements. In advance of required Conservation Commission Review and Planning Board Approval of a Conditional Use Permit, Foy seeks a variance for an addition 15.8 ft. from the front lot line.

III. RELIEF REQUIRED

Variance Section	Required	Existing	Proposed
PZO §10.521 Table of Dimensional Standards – Residential and Mixed Residential Districts – Minimum Yard Dimensions	Front 30'	13.6' Home	15.8' Addition

IV. VARIANCE REQUIREMENTS

1. **The variances will not be contrary to the public interest.**
2. **The spirit of the ordinance is observed.**

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

Portsmouth Zoning Ordinance ("PZO") Section 10.121 identifies the general purposes and intent of the ordinance "to promote the health, safety, and general welfare of Portsmouth…in accordance with the…Master Plan" This is accomplished by regulating:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The intended use of the property is and will remain residential. The requested relief will allow Foy to add a garage and increase living space while meeting building coverage and open space requirements, and reducing impervious coverage,.

2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The lot and intensity of its use will not change, as it will continue to be used as a single-family residence. The addition is set back further from the front lot line than the existing home, preserving pedestrian and sight lines on the dead-end street. Building coverage requirements and open space requirements are also met by the Project, which reduces impervious coverage compared to existing conditions.
3. The design of facilities for vehicular access, circulation, parking and loading – The garage will be located where the current paved driveway is situated, ensuring a straight route to the street, eliminating the need for turning radius and additional impervious surfaces.
4. The impact on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – The proposal removes asphalt and decreases the size of the current driveway, replacing it with the garage addition. There will be no increase in noise or lighting and no change to existing stormwater management. The existing stone walls and landscaping on the Property will not be disturbed by the garage addition.
5. The preservation and enhancement of the visual environment – The design places the garage on the lower level and incorporates a deck and trellis above the end garage bay, allowing sightlines to Little Harbor to be preserved.
6. The preservation of historic districts and building and structures of historic architectural interest – The Property is not in the Historic Overlay District.
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – Granting the variances will not undermine these purposes of the Ordinance where the existing landscaping will not be disturbed by the Project, impervious coverage will be reduced from 26.6% to 25.1%, well below the required 40% open space minimum requirement.

The intent of the SRB Zone is to "provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses." PZO §10.410. The Property, like many in the neighborhood, contains a home which does not comply with front setback requirements. **(Exhibit C & D)**. The proposal meets the intent of the SRB Zone because it does not change the intensity of the use and allows Foy to add covered parking and gain more living space. Given these factors, granting the requested variance will not conflict with the basic zoning objectives of the PZO.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives," Malachy Glen, supra, also held:

> One way to ascertain whether granting the variance would violate basic zoning objectives is to determine 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)

There are numerous other properties in the immediate area that include main or accessory structures that encroach on front, side, or rear setbacks. **(Exhibits C & D).** The garage will be placed in the current paved driveway area, resulting in a slight decrease to impervious coverage and slight increase to open space. The Project is located further back from the front lot line than the existing home located on the last residentially developed lot on the east side of this dead-end street . Given the number of buildings in the area encroaching on front, side, or rear setbacks, the proposal is in keeping with the surrounding area. Granting the variance neither alters the essential character of the locality nor threatens the public health, safety, or welfare. Accordingly, granting the variance to allow construction of a garage and increased living space is not contrary to the public interest and observes the spirit of the ordinance.

3. **Granting the variances will not diminish surrounding property values.**

The Project adds covered parking/storage, a main bedroom suite, and increases indoor and outdoor living space, thus improving the value of the Property and those around it. The lower level two car garage contains a deck/trellis over one of the garage bays preserving access to air and light. The use of the structure and its impacts will match existing conditions. Accordingly, the variances will not diminish surrounding property values.

4. **Denial of the variances results in an unnecessary hardship.**

a. Special conditions distinguish the property from others in the area.

More than half the Property is burdened by the 100 ft. tidal buffer zone, and the existing home located on the far left/northern side of the lot in the front yard setback drives the location of the proposed garage addition. These circumstances 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 setback requirements is to prevent overcrowding and overburdening of land, improve sightlines for pedestrians and motorists, ensure adequate light and air circulation, and provide sufficient area for stormwater treatment. The Project is located further back from the lot line than the existing home in the front yard setback, and incorporates a deck/trellis over a portion of the addition allowing ample open space and light and preventing overbulking. Given its location at the end of a dead-end street with minimal traffic, adequate sight lines for

pedestrian and vehicular access is maintained. The Project also complies with building coverage requirements and removes excess asphalt on the Property, reducing impervious coverageand improving stormwater management compared to existing conditions. Accordingly, there is no fair and substantial relationship between the purposes of the ordinance and its application in this instance.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential use is permitted in the SRB Zone and includes accessory buildings incidental to the permitted use. The proposed garage is reasonably sized, does not decrease open space on the Property, and results in a more functional living space for the Foy family.

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

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.

Foy is constitutionally entitled to the use of the lot as they see fit; including the addition of a garage and expansion of living space, subject only to its effect on the dimensional requirements. "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).

The Project retains the same use and offers expanded garage/storage and increased living space while complying with building coverage and reducing impervious coverage. In addition, the Project preserves access to air, light, and maintains sight lines on a waterfront lot at the end of a dead-end street, so there is no harm to the public in granting the variance. Conversely, Foy

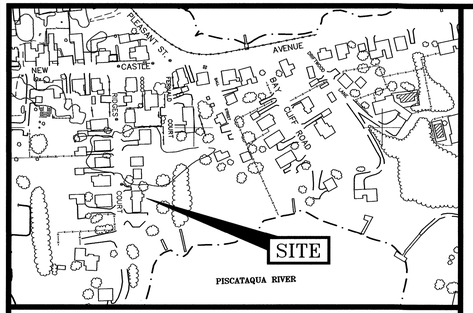
will be greatly harmed by denial of the variance because they will be unable to expand parking, storage, and living space. Without question, substantial justice will be done by granting the variance.

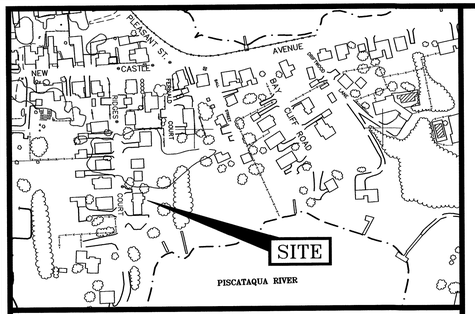
VI. CONCLUSION

For all of the reasons stated, Jeffrey and Melissa Foy respectfully request that the Portsmouth Zoning Board of Adjustment grant the requested variance.

Respectfully submitted,
Jeffrey and Melissa Foy

By: R. Timothy Phoenix
Monica F. Kieser
Stephanie J. Johnson


REGENT ST.
AVENUE
NEW
CASTLE
ISLAND
WOODS
ISLAND
ISLE OF SHOALS
ISLAND
ISLAND
ISLAND



LOCATION MAP SCALE 1" = 200'

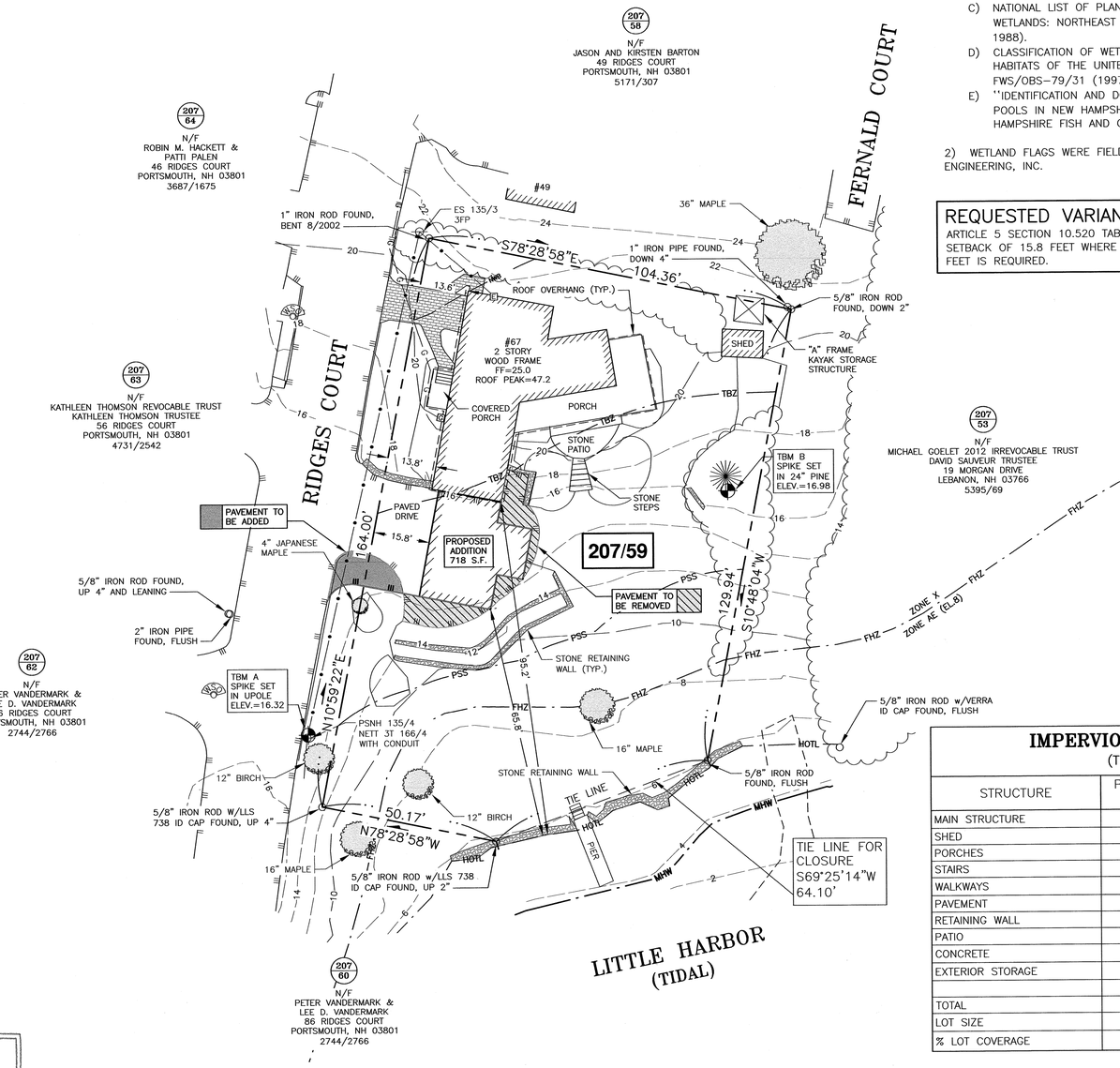
LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11/21	MAP 11 / LOT 21
	RAILROAD SPIKE FOUND
	IRON ROD/IRON PIPE FOUND
	DRILL HOLE FOUND
	STONE/CONCRETE BOUND FOUND
	RAILROAD SPIKE SET
	IRON ROD SET
	DRILL HOLE SET
	GRANITE BOUND SET
	BOUNDARY
	BUILDING SETBACK
MHW	MEAN HIGH WATER LINE
HOTL	NHDES HIGHEST OBSERVABLE TIDE LINE
PSS	NHDES 50' PRIMARY STRUCTURE SETBACK
TBZ	NHDES 100' TIDAL BUFFER ZONE
NWB	NHDES 150' NATURAL WOODLAND BUFFER
SWQPA	NHDES 250' PROTECTED SHORELAND
FHZ	FEMA SPECIAL FLOOD HAZARD AREA LINE
	OVERHEAD ELECTRIC/WIRES
100	CONTOUR
97x3	SPOT ELEVATION
	EDGE OF PAVEMENT (EP)
	WOODS / TREE LINE
	UTILITY POLE (w/ GUY)
W	WELL
GWE	METER (GAS, WATER, ELECTRIC)
A–J	EDGE OF WETLAND FLAGGING
	SWAMP / MARSH
EL.	ELEVATION
EP	EDGE OF PAVEMENT
FF	FINISHED FLOOR
INV.	INVERT
TBM	TEMPORARY BENCHMARK
TYP.	TYPICAL
LSA	LANDSCAPED AREA

PLAN REFERENCES:

1) PROPOSED ADDITIONS, CHARLES MCLEOD, 67 RIDGES COURT PORTSMOUTH, NH, PROPOSED SITE PLAN. PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2002. NOT RECORDED.

2) PLAN OF LOTS, RIENZI RIDGE. PREPARED BY JOHN W. DURGIN. DATED MARCH 1976. R.C.R.D. PLAN #0188.



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."

JOHN R. CHAGNON, LLS DATE 6.27.22

STATE OF NEW HAMPSHIRE LICENSED LAND SURVEYOR No. 738 JOHN R. CHAGNON

WETLAND NOTES:

1) HIGHEST OBSERVABLE TIDE LINE DELINEATED BY STEVEN D. RIKER, CWS ON 7/1/20 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.

REQUESTED VARIANCE:

ARTICLE 5 SECTION 10.520 TABLE 10.521 FRONT YARD SETBACK OF 15.8 FEET WHERE 13.6 FEET EXISTS AND 30 FEET IS REQUIRED.

2002 REF. 1

N

MAGNETIC PLAN

IMPERVIOUS SURFACE AREAS
(TO PROPERTY LINE)

STRUCTURE	PRE–CONSTRUCTION IMPERVIOUS (S.F.)	POST–CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURE	1,591	2,309
SHED	91	91
PORCHES	513	513
STAIRS	123	123
WALKWAYS	231	231
PAVEMENT	1452	490
RETAINING WALL	212	212
PATIO	109	109
CONCRETE	17	17
EXTERIOR STORAGE	50	50
TOTAL	4389	4145
LOT SIZE	16,500	16,500
% LOT COVERAGE	26.6%	25.1%

PROPOSED BUILDING COVERAGE:

MAIN STRUCTURE: 2,309 S.F.
SHED: 91 S.F.
PORCHES: 513 S.F.
STAIRS: 123 S.F.
TOTAL: 3,036 S.F./18.4%

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 PORTSMOUTH ASSESSOR'S MAP 207 AS LOT 59.

2) OWNERS OF RECORD:
JEFFREY M. & MELISSA FOY
4 FOX HOLLOW COURT
EAST KINGSTON, N.H. 03827
6325/1066

3) PORTIONS OF THE PARCEL ARE IN A SPECIAL FLOOD HAZARD AREA ZONE AE (EL. 8) AS SHOWN ON FIRM PANEL 33015C0278F. EFFECTIVE JANUARY 29, 2021.

4) EXISTING LOT AREA:
16,500± S.F. (PLAN REF. 1)
0.3788± ACRES (PLAN REF. 1)

5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING 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 STRUCTURE COVERAGE:		20%
MINIMUM OPEN SPACE:		40%

7) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED ADDITION ON ASSESSOR'S MAP 207 LOT 59 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').

9) PROPOSED GARAGE FROM PLAN BY DESTEFANO MAGUEL ARCHITECTS DATED JUNE 14, 2022.

PROPOSED GARAGE
FOY RESIDENCE
67 RIDGES COURT
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	6/27/22

REVISIONS

STATE OF NEW HAMPSHIRE STEVEN D. RIKER No. 219 CERTIFIED WETLAND SCIENTIST

SCALE 1"=20' JUNE 2022

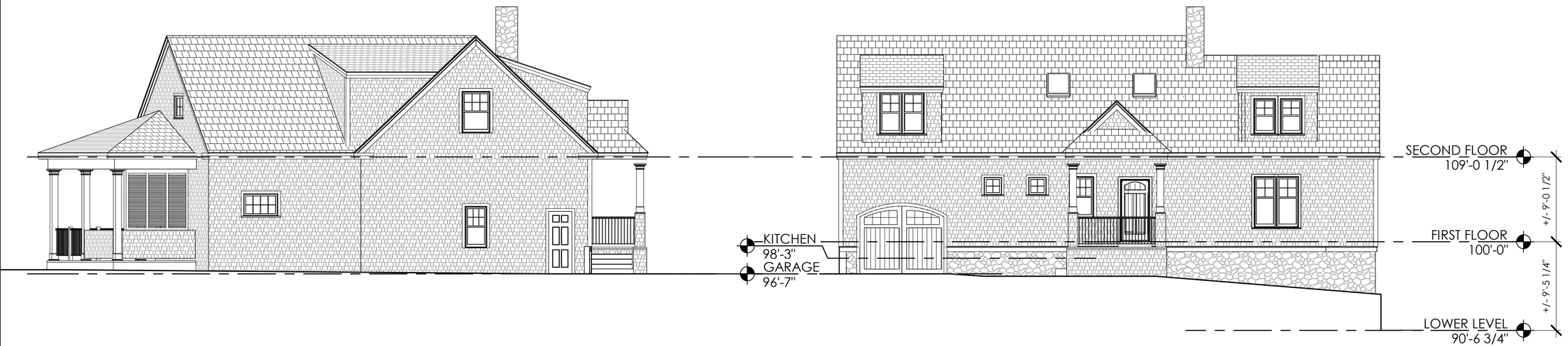
VARIANCE PLAN

C2

FB 222 PG 66

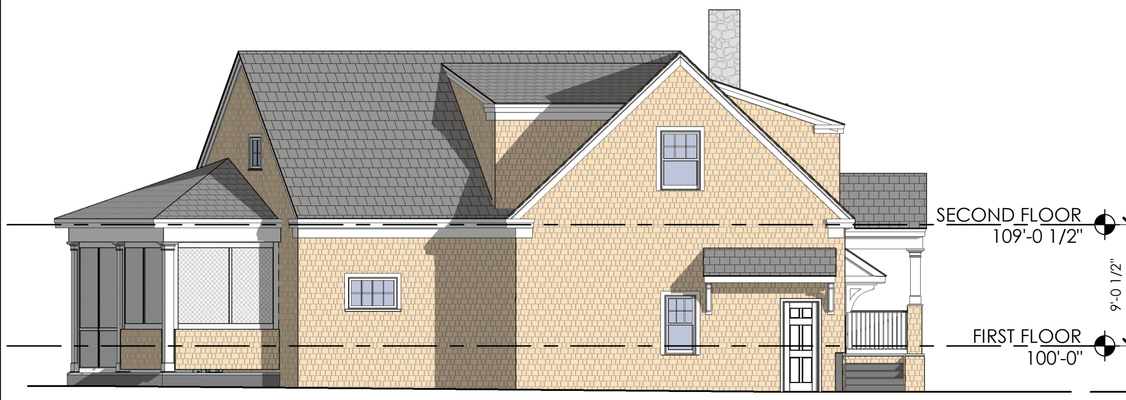
1153.02

J:\JOB\1153\cad\1153cv\115302 Building Addition-Variance\Plans & Specs\Dwg\115302 -EC-Boundary.dwg, 6/28/2022 3:55:19 AM, Canon TX-3000 (Staffing)

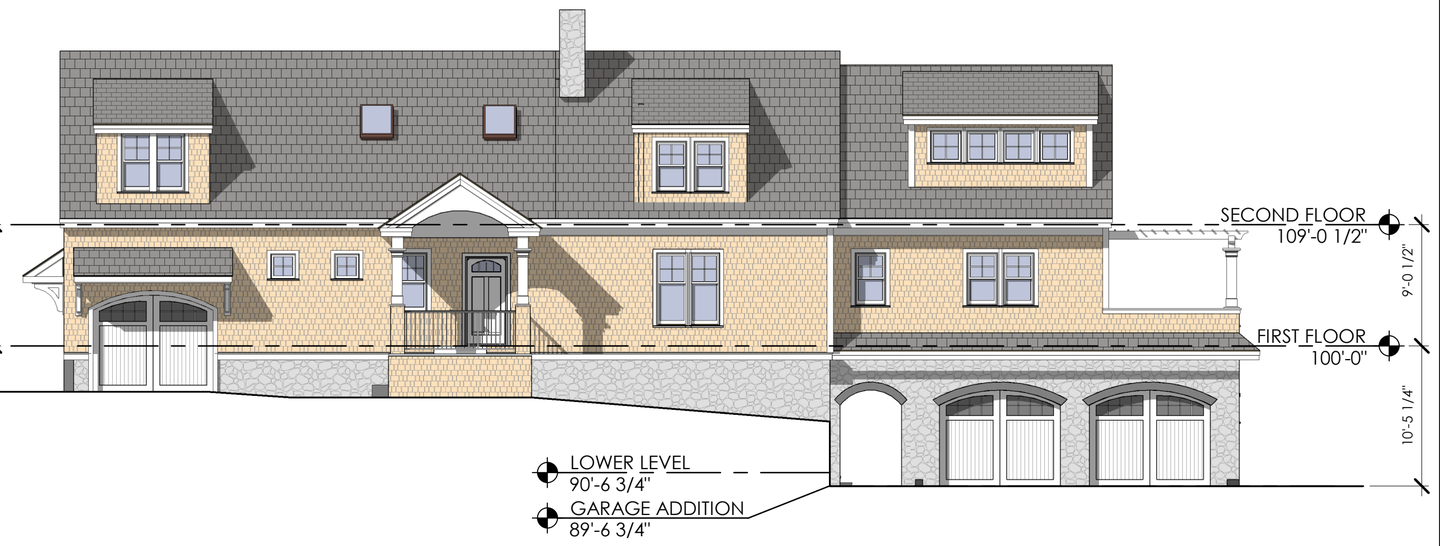


EXISTING NORTH ELEVATION

EXISTING WEST ELEVATION



PROPOSED NORTH ELEVATION 1
1/8" = 1'-0"



PROPOSED WEST ELEVATION 2
1/8" = 1'-0"

Exhibit B

21177

DESIGN DEVELOPMENT FOR

FOY RESIDENCE

67 RIDGES CT
PORTSMOUTH, NH

ELEVATIONS

1/8" = 1'-0"

JUNE 14, 2022

D|M|A
DESTEFANO
MAUGEL
ARCHITECTS

© 2022

EXISTING SOUTH ELEVATION

EXISTING EAST ELEVATION

DD - SOUTH
1/8" = 1'-0"
3

PROPOSED EAST ELEVATION
1/8" = 1'-0"
4

DESIGN DEVELOPMENT FOR

FOY RESIDENCE

67 RIDGES CT
PORTSMOUTH, NH

ELEVATIONS

1/8" = 1'-0"

JUNE 14, 2022

21177

D|M|A
DESTEFANO
MAUGEL
ARCHITECTS

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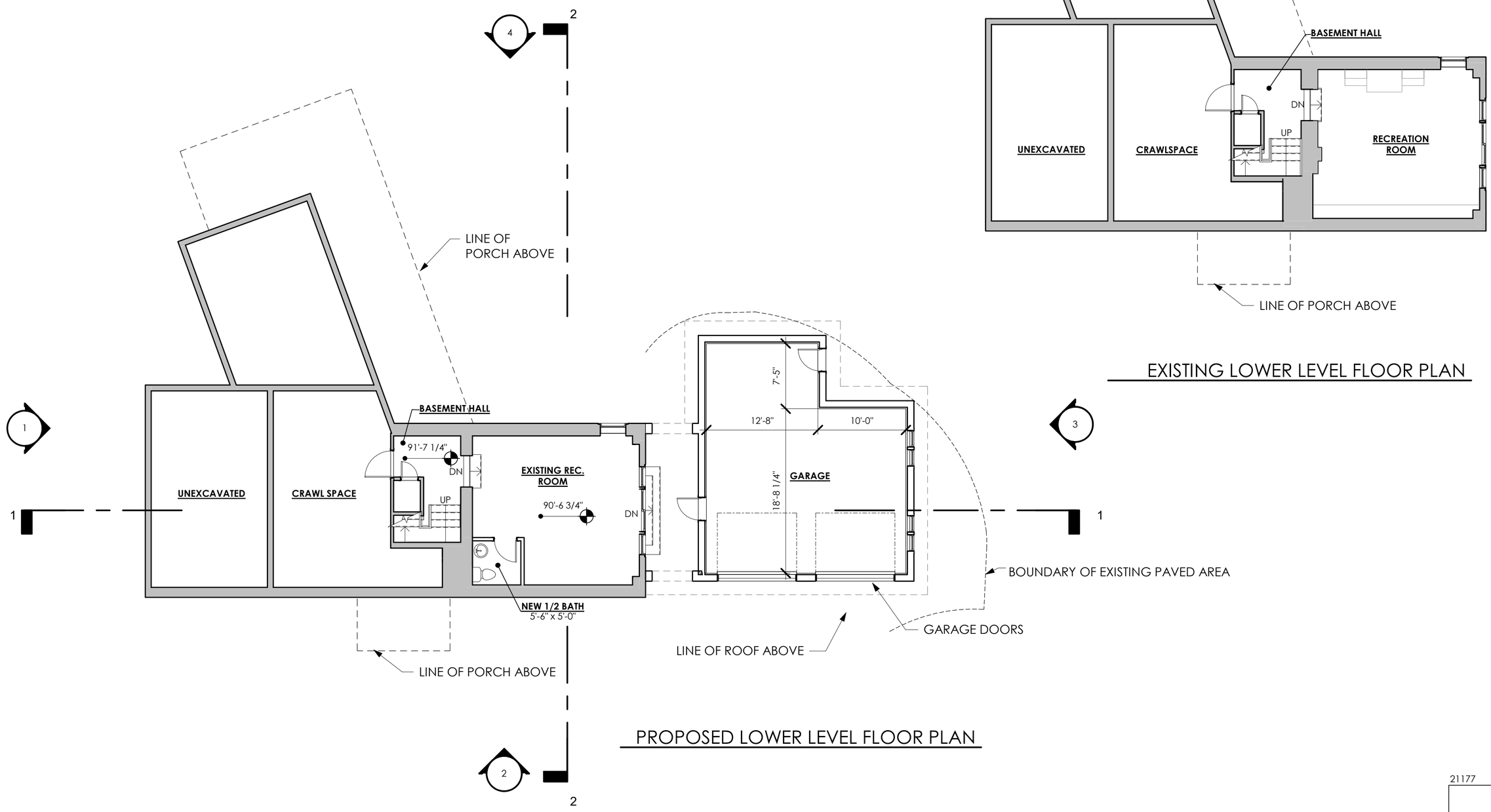

DESIGN DEVELOPMENT FOR

FOY RESIDENCE

67 RIDGES CT
PORTSMOUTH, NH

LOWER LEVEL FLOOR PLANS

1/8" = 1'-0"

21177

JUNE 14, 2022

D|M|A
DESTEFANO MAUGEL
ARCHITECTS

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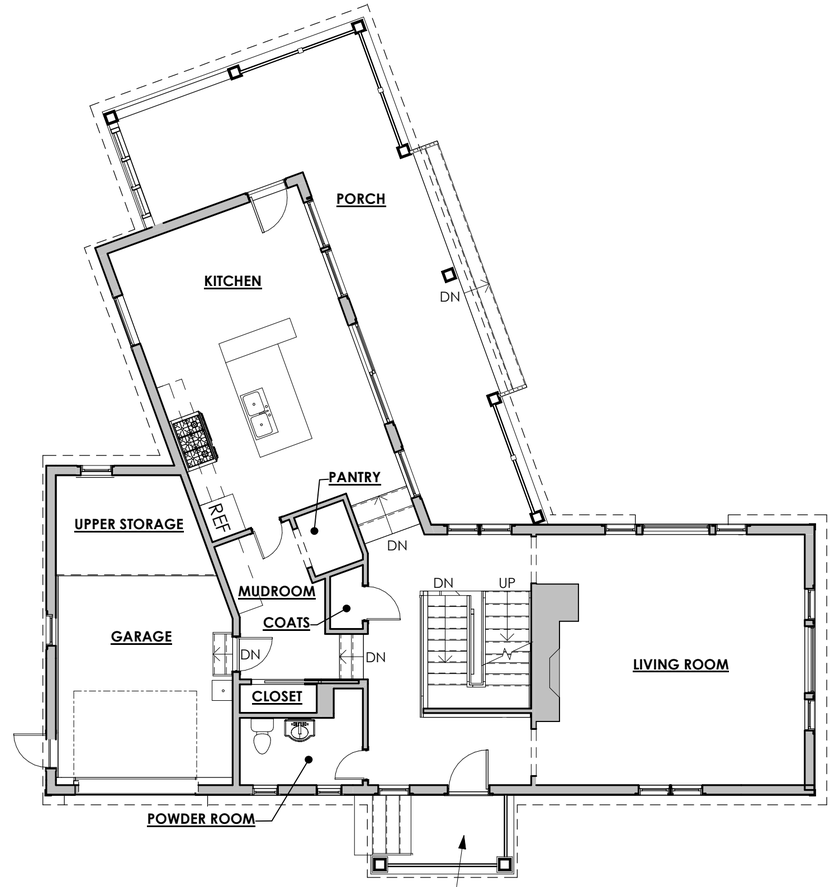
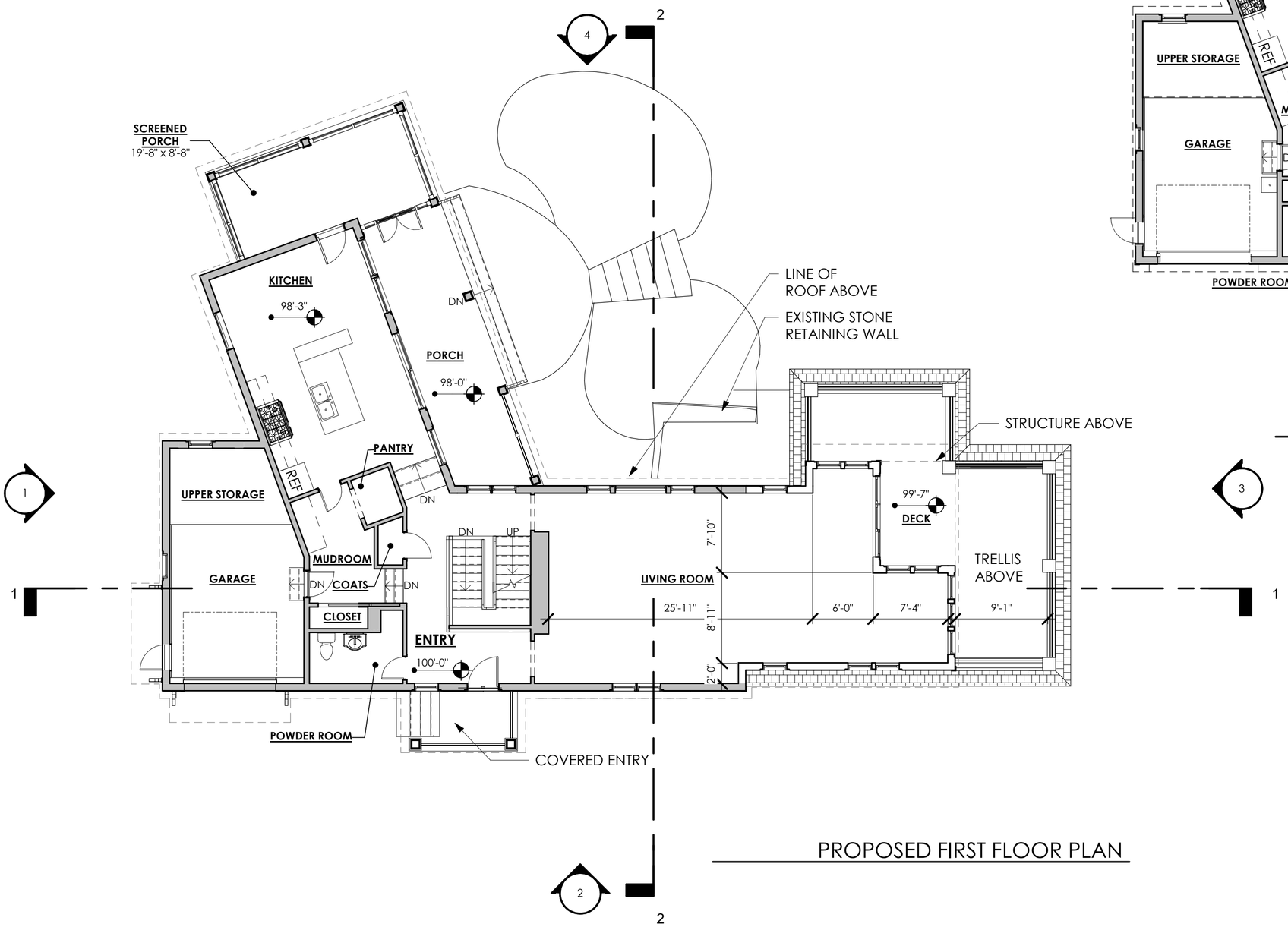


EXISTING FIRST FLOOR PLAN



PROPOSED FIRST FLOOR PLAN

DESIGN DEVELOPMENT FOR

FOY RESIDENCE

67 RIDGES CT
PORTSMOUTH, NH

FIRST FLOOR PLANS

1/8" = 1'-0"

PROJECT NORTH
TRUE NORTH

21177

D|M|A
DESTEFANO MAUGEL
ARCHITECTS

JUNE 14, 2022

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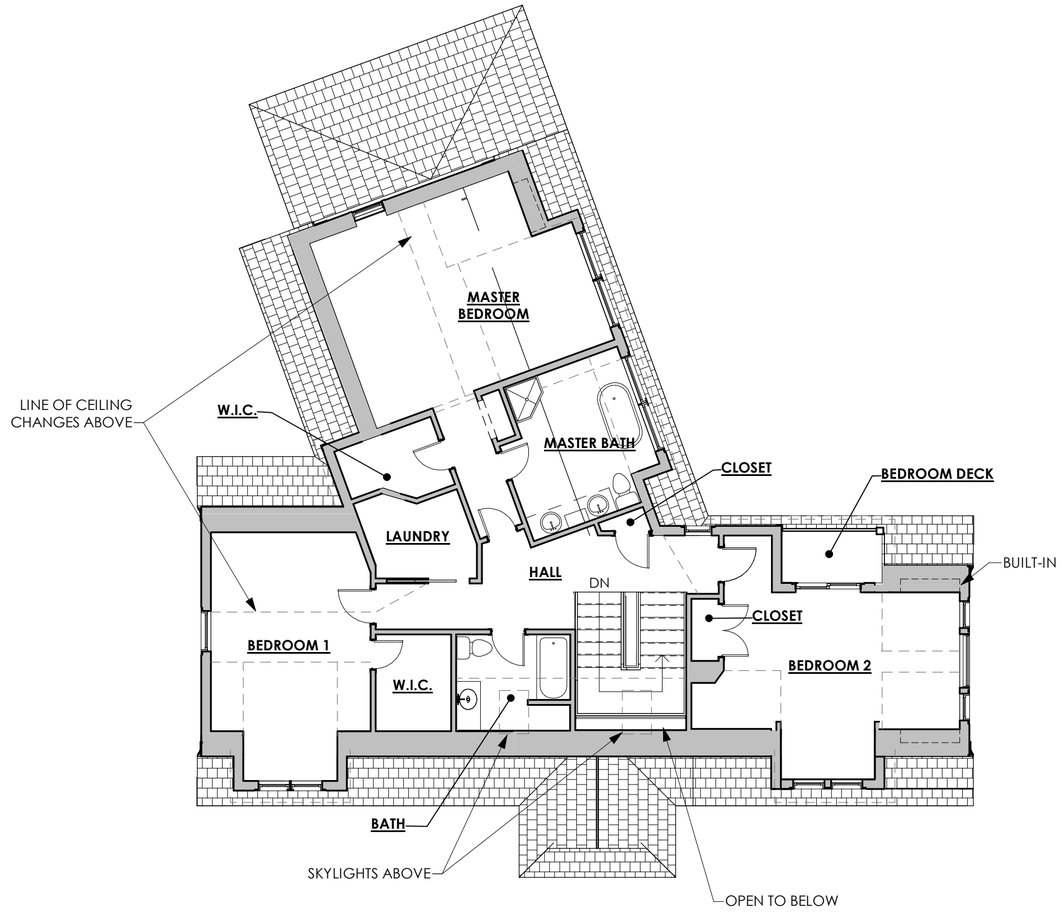
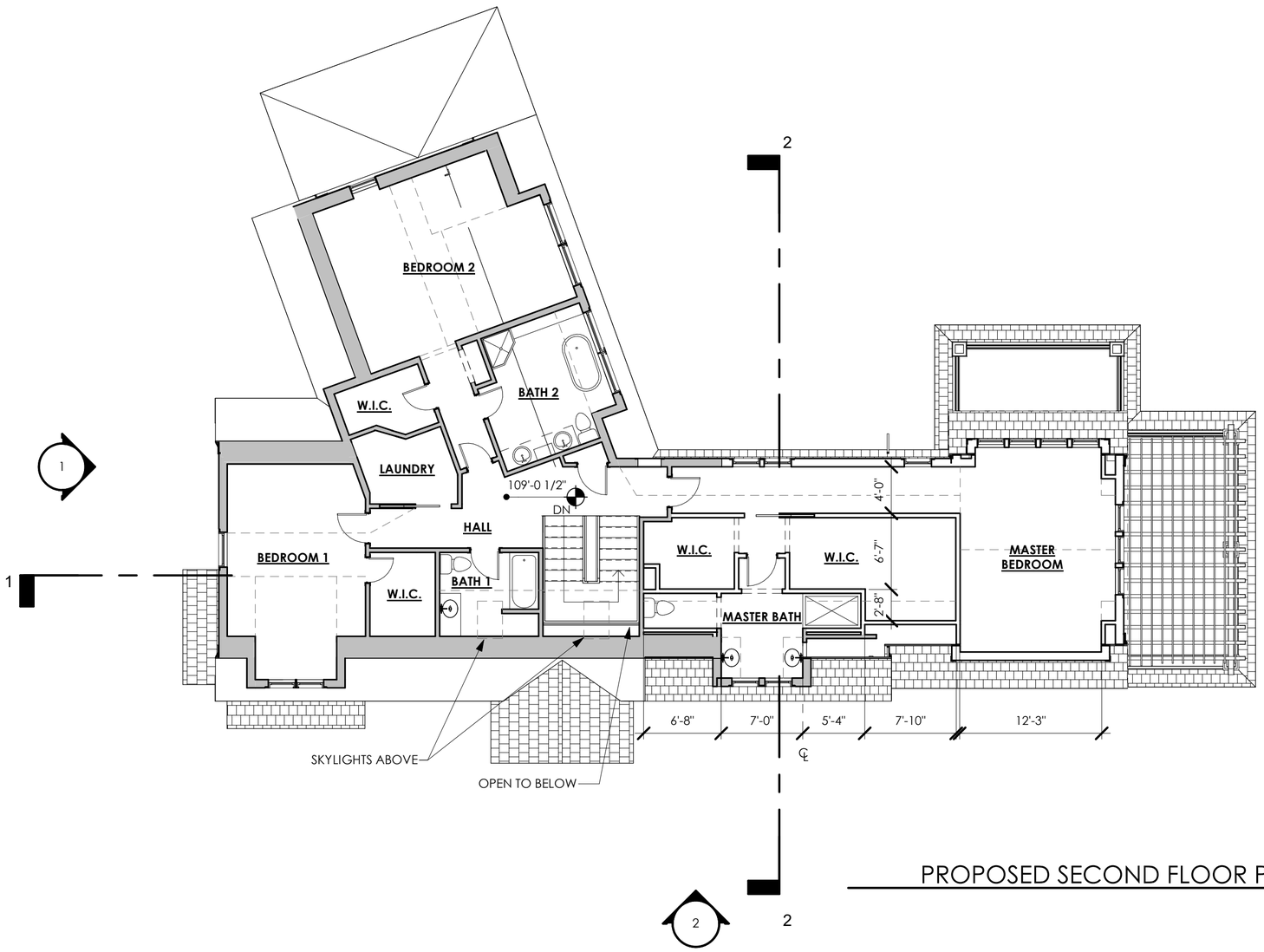


EXISTING SECOND FLOOR PLAN



PROPOSED SECOND FLOOR PLAN

DESIGN DEVELOPMENT FOR

FOY RESIDENCE

67 RIDGES CT
PORTSMOUTH, NH

SECOND FLOOR PLANS

1/8" = 1'-0"

JUNE 14, 2022

21177

DESTEFANO MAUGEL ARCHITECTS

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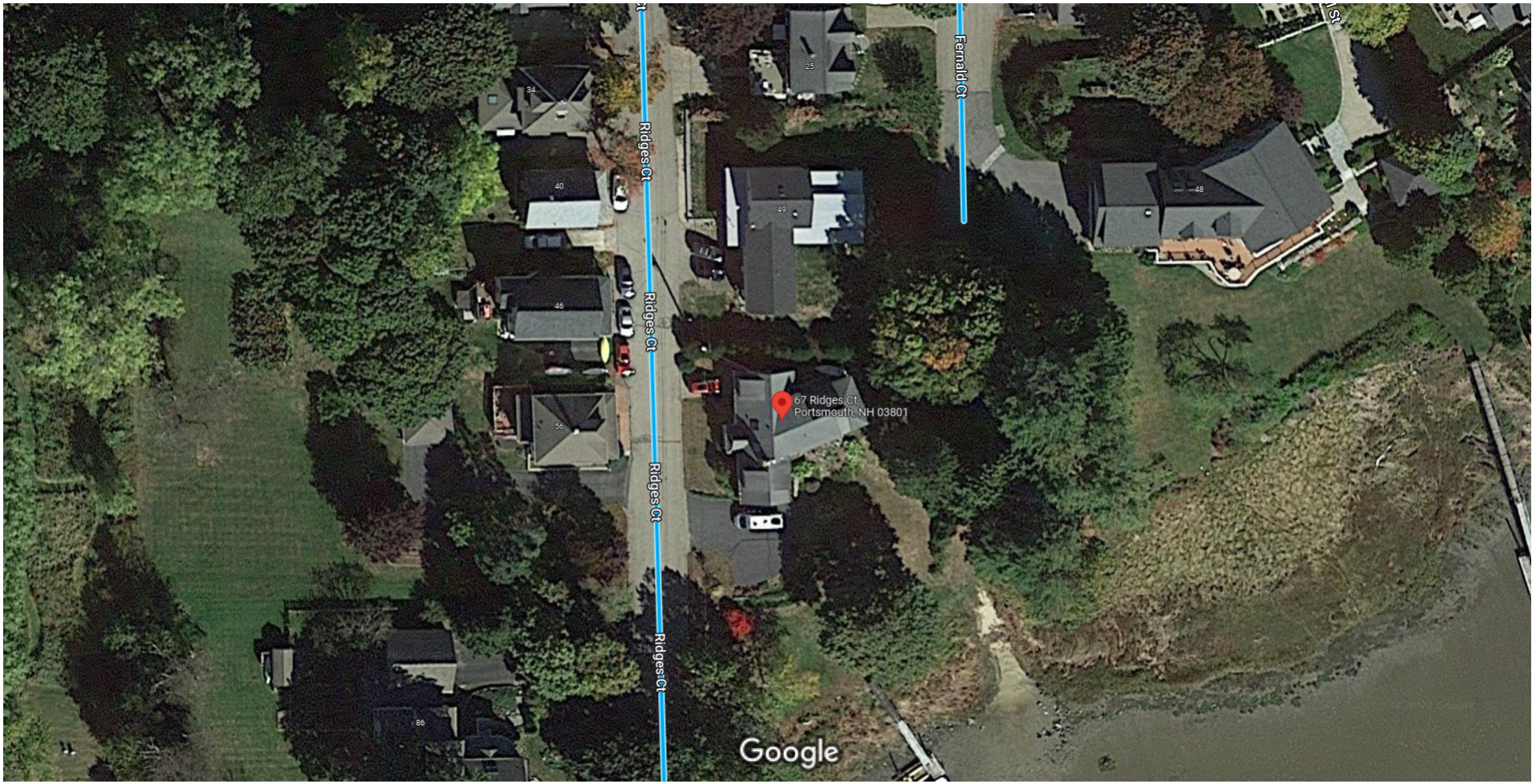
Google Maps 67 Ridges Ct

Imagery ©2022 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, Map data ©2022 50 ft

Exhibit C

Google Maps 67 Ridges Ct



Imagery ©2022 Maine GeoLibrary, U.S. Geological Survey, Map data ©2022 20 ft

Google Maps 67 Ridges Ct

Image capture: Sep 2011 © 2022 Google

Portsmouth, New Hampshire

Google

Street View - Sep 2011

Google Maps 67 Ridges Ct

Image capture: Sep 2011 © 2022 Google

Portsmouth, New Hampshire

Google

Street View - Sep 2011

Google Maps 67 Ridges Ct

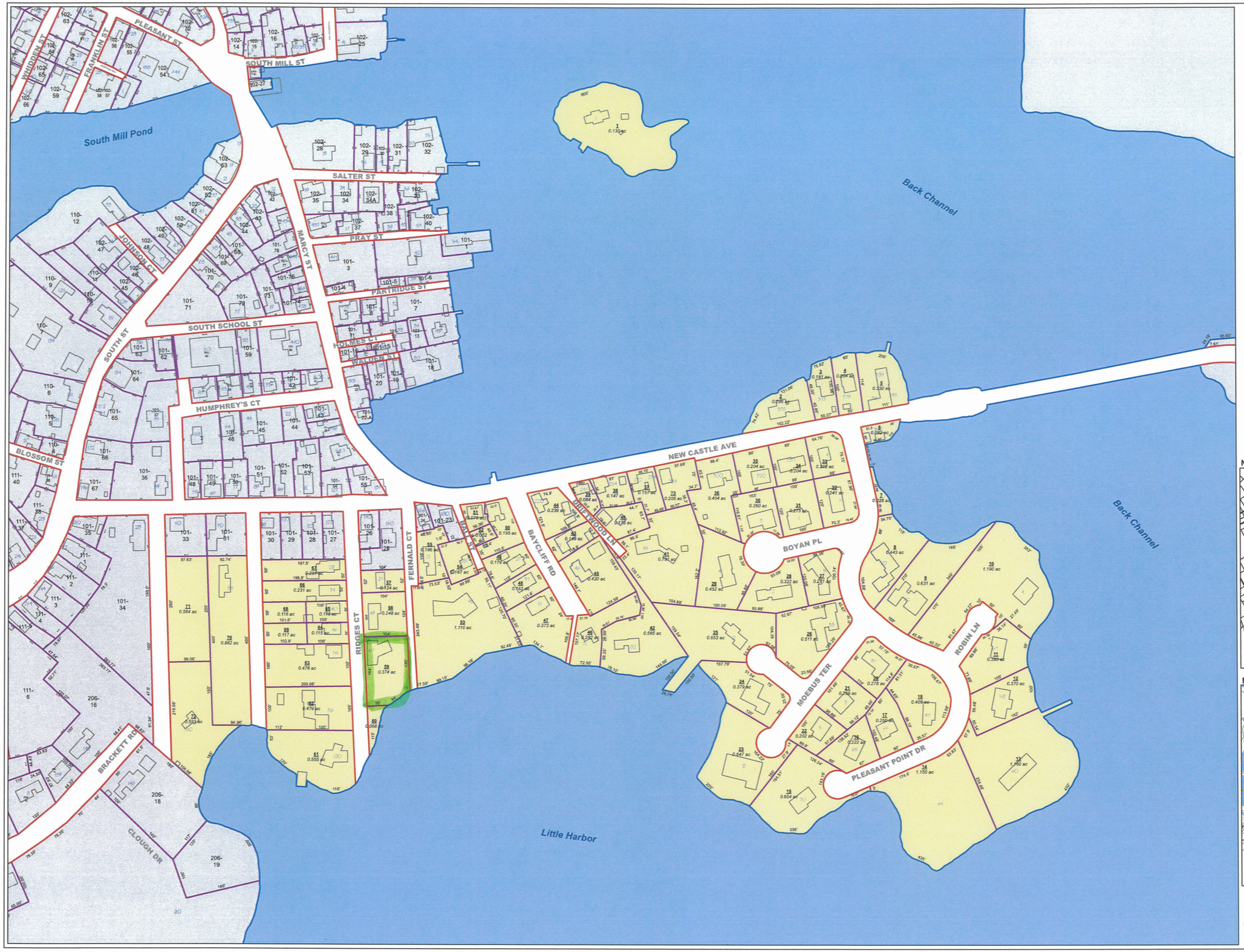
Image capture: Sep 2011 © 2022 Google

Portsmouth, New Hampshire

Google

Street View - Sep 2011

Exhibit D



Partial Legend

See the cover sheet for the complete legend.

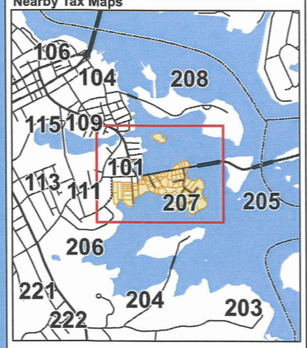
7-5A	Lot or lot-unit number
2.56 ac	Parcel area in acres (ac) or square feet (sf)
25	Address number
233-137	Parcel number from a neighboring map
68'	Parcel line dimension
SIMS AVE	Street name

Parcel/Parcel boundary
Parcel/ROW boundary
Water boundary
Structure (1994 data)
Parcel covered by this map
Parcel from a neighboring map (see other map for current status)

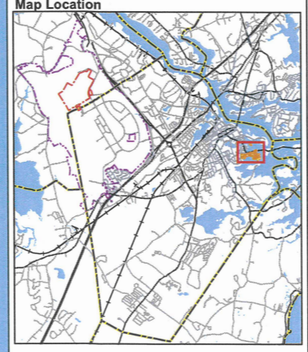
0 50 100 200 300 Feet
0 20 40 80 Meters

This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.

Nearby Tax Maps



Map Location



Portsmouth, New Hampshire
2021

Tax Map 207