

**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.

June 18, 2024

AGENDA

<p><u>PLEASE NOTE:</u> DUE TO THE LARGE VOLUME OF REQUESTS FOR JUNE, ITEMS (II.) F. THROUGH J. WILL BE HEARD AT THE JUNE 25, 2024 BOARD OF ADJUSTMENT MEETING.</p>

I. APPROVAL OF MINUTES

A. Approval of the May 21, 2024 *and* May 28, 2024 meeting minutes.

II. NEW BUSINESS

- A.** The request of **Kimberly Rosensteel and Timothy Sullivan (Owners)**, for property located at **63 Humphreys Court** whereas relief is needed to install a mini-split air conditioning system, which requires the following relief: 1) Variance from Section 10.515.14 to install a mechanical unit 2.5 feet from the side property line whereas 10 feet is required. Said property is located on Assessor Map 101 Lot 38 and lies within the General Residence B (GRB) and Historic Districts. (LU-24-71)
- B.** The request of **Madeline Lockwood and Drew Morgan (Owners)**, for property located at **42 Sewall Road** whereas relief is needed for a second-story addition and construction of a front porch to the existing home, which requires the following relief: 1) Variance from Section 10.521 to a) allow a 20 foot front yard where 30 feet is required; b) to allow a building coverage of 21.5% where 20% is the maximum permitted; and 2) 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 170 Lot 13 and lies within the Single Residence B (SRB) District. (LU-24-70)

- C. The request of **Christopher Blaudschun and Katie Gilpatrick (Owners)**, for property located at **411 Ocean Road** whereas relief is needed to renovate the front façade of the existing house, including construction of new dormers, bay window skirting and a new front door portico, which requires the following: 1) Variance from Section 10.521 to allow an 11.5 foot front yard where 30 feet is required; and 2) 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 293 Lot 7 and lies within the Single Residence A (SRA) District. (LU-24-91)
- D. The request of **Doty Seavey Family Revocable Trust and J W Seavey and Doty Seavy Trustees (Owners)**, for property located at **17 Whidden Street** whereas relief is needed to construct a fence 8 feet in height within the rear and side yards, which requires relief from the following: 1) Variance from Section 10.521 to a) allow a 0.5 foot rear yard where 25 feet is required; and b) to allow a 0.5 foot side yard where 10 feet is required. Said property is located on Assessor Map 109 Lot 5 and lies within the General Residence B (GRB) and Historic Districts (LU-24-85)
- E. The request of **Lonza Biologics (Owner)**, for property located at **101 International Drive** to add four (4) above ground storage tanks which requires relief from the following: 1) from Section 308.02(c) of the Pease Development Ordinance to allow an above ground storage tank (AST) exceeding a 2,000-gallon capacity per facility. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. (LU-23-108)

THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, JUNE 25, 2024

- F. The request of **Jay Anthony Clark and James A Link (Owners)**, for property located at **64 Haven Road** whereas relief is needed for the construction of a shed and after-the-fact construction of an addition to the primary structure which requires the following: 1) Variance from Section 10.521 to allow a 4 foot left side yard where 10 feet is required; 2) Variance from Section 10.515.14 to allow a 4 foot setback for 2 mechanical units where 10 feet is required for each; 3) 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; 4) Variance from Section 10.573.20 to allow a 5 foot side yard where 10 feet is required; and 5) A Variance from Section 10.571 to allow an accessory structure to be located closer to the street than the principal building. Said property is located on Assessor Map 206 Lot 30 and lies within the Single Residence B (SRB) District. (LU-22-121)
- G. The request of **Jeanette McMaster (Owner)**, for property located at **86 Farm Lane** whereas relief is needed to subdivide the existing property into 3 separate lots. Proposed lots 1 and 2 require the following: 1) Variance from Section 10.521 to allow a) 0 feet of

continuous street frontage where 100 feet is required, b) 13,125 square feet of lot area where 1,500 square feet is required, c) 13,125 square feet of lot area per dwelling where 15,000 square feet are required; and 2) Variance from Section 10.512 to allow the creation of a lot without access to a public street or an approved private street for future construction of a structure. The proposed remaining parent lot requires the following: 1) Variance from Section 10.521 to allow a 14 foot rear yard where 30 feet is required. Said property is located on Assessor Map 236 Lot 74 and lies within the Single Residence B (SRB) District. (LU-24-99)

- H. The request of **Liam Hoare and Reese C Green (Owners)**, for property located at **189 Wibird Street** whereas relief is needed to demolish the existing rear deck and construct an addition and new deck at the rear of the structure which requires the following: 1) Variance from Section 10.521 to allow an 8.5 foot right yard where 10 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 133 Lot 51 and lies within the General Residence A (GRA) District. (LU-24-98)
- I. The request of **Argeris Karabelas and Eloise Karabelas (Owners)**, for property located at **461 Court Street** whereas relief is needed to demolish the rear 1-story portion of the existing structure and construct a 2-story addition which requires the following: 1) Variance from Section 10.5A41.10A to allow a 1 foot side yard where a minimum of 5 feet is required; 2) 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 105 Lot 7 and lies within the Character District 4-L1 (CD4-L1) and Historic District. (LU-24-87)
- J. The request of **Tyler and Susan Moore (Owners)**, for property located at **26 Harding Road** whereas relief is needed to construct a shed at the rear of the property which requires the following: 1) Variance from Section 10.521 to allow 29% building coverage where 20% is the maximum permitted. Said property is located on Assessor Map 247 Lot 16 and lies within the Single Residence B (SRB) District. (LU-24-96)

III. OTHER BUSINESS

IV. ADJOURNMENT

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

https://us06web.zoom.us/webinar/register/WN_CaBZsshAR0uocbLFt6SWrw

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

7:00 P.M.

May 21, 2024

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; Members David Rheaume, Thomas Rossi, Paul Mannle, Jeffrey Mattson, Thomas Nies; and Jody Record, Alternate

MEMBERS EXCUSED: ML Geffert, Alternate

ALSO PRESENT: Stefanie Casella, Planning Department

I. APPROVAL OF MINUTES

A. Approval of the **April 16, 2024** and **April 30, 2024** meeting minutes.

*The April 16 and April 30 minutes were **approved** as amended.*

The **April 16** minutes were amended as follows:

On page 2, last paragraph, the word ‘for’ in the second sentence was changed to ‘or’, so the sentence now reads: “She thought the rules said if the motion to grant a variance or a special exception resulted in a tie vote, the resulting decision is denial unless a subsequent motion is made that receives at least four affirmative votes.”

On page 7, the end of the first paragraph, the phrase “it would be on an existing lot that was already nonconforming” was changed to “it would be on an existing lot that was dimensionally nonconforming.” (He noted that the structure was nonconforming and not the use).

On page 9, first sentence of the top paragraph, the words ‘that was the general character’ was changed to “that would alter the general character”, so the sentence now reads: “He did not think there was anything in the petition that would alter the general character of the area and he believed it satisfied Sections 10.233.21 and .22.”

The **April 30** minutes were amended as follows:

On page 5, first major paragraph, second sentence, the phrase “back side of the lot” was changed to “left side of the lot”, so that the sentence now reads: “He said the applicant presented a decent

rationale as to why the rear addition had to be on the left side of the lot, but he was still concerned about the front yard setback because it was a significant deviation from what was already there.”

II. OLD BUSINESS

- A. The request of **Kerrin J Parker Revocable Trust of 2012 (Owner)**, for property located at **86 Haven Road** whereas relief is needed to construct an addition to the existing structure which requires the following: 1) Variance from Section 10.521 to a) allow a 7.5 foot front yard where 10 feet is required by front yard averaging; b) to allow a building coverage of 26% where 20% is allowed; and 2) Variance from Section 10.321 to allow of 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 206 Lot 27 and lies within the Single Residence B (SRB) District. (LU-23-192) ***The Board will reopen the public hearing to accept new information.**

*Mr. Nies moved to suspend the rules and accept new information from the applicant. Mr. Rossi seconded. The motion **passed** unanimously.*

SPEAKING TO THE PETITION

[Timestamp 7:39] Attorney Derek Durbin was present on behalf of the applicant. He explained that the reason they were back was due to the Board’s concern at the previous meeting that the previous front yard setback was shown as nine feet and the existing was 12 feet. He said a new surveyor was hired and found that the proposed front yard setback is 7.7 feet instead of nine feet, and the existing front yard setback was also 7.7 feet. He said it was also determined that the building coverage was overcalculated, which erred in the applicant’s favor. He said it was revised from 29 percent to 26 percent. He reviewed the petition.

Mr. Nies said the drawing showed that much of the porch addition was probably over 10 feet from the property line. Attorney Durbin said it jogged back and was just over 10 feet, so the small portion extended into the 10-ft setback, with the greater portion just outside of it. Mr. Nies asked if the house next door had a 5-ft setback, and Attorney Durbin agreed.

Attorney Durbin then reviewed the criteria. The Board had no further questions.

SPEAKING IN FAVOR OF THE PETITION

Ed St. Pierre of 15 Marriot Drive said he was in favor of the petition.

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

No one else spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the variances as presented and advertised. Mr. Mannle seconded.*

[Timestamp 20:35] Mr. Rossi said that most of the addition of the porch was in an area that extends beyond the southeastern terminus of Haven Road and it's not possible that it would encroach upon a roadway in any substantial way. He said granting the variances would not be contrary to the public interest or the spirit of the ordinance because there was no public interest in maintaining the setback in a general area that is not a roadway. He noted that the requested dimensional variances for the porch were really de minimis vs. the current conditions of the property and would not substantially change the degree of nonconformance of the structure; therefore, there would be no loss to the public that is relatable to the changes being requested. He said granting the variances would not diminish the values of surrounding properties because the other nearby properties had similar if not lesser setbacks from the front lot line. He said the property was also surrounded on two sides by public land that is part of the school system and there was no possibility of impacting the value of that property. He said the hardship of the property was its irregular shape and its location relative to the empty lots that are part of the school system, so due to those unique characteristics, there is no relationship between the purposes of the ordinance, and denying the variances would not serve the purposes of the ordinance, so it satisfied the criteria that literal enforcement of the provisions of the ordinance would result in unnecessary hardship. Mr. Mannle concurred and had nothing to add.

Mr. Nies said the Board expressed their concern at the previous meeting about how close it might be to the sidewalk. He said the drawing made it clear that it was not any closer than it was before, and much of it was much farther from the sidewalk than many of the houses on Haven Road, so he did not think that concern was valid any longer.

*The motion **passed** unanimously, 7-0.*

- B.** The request of **Atlas Commons LLC (Owner)**, for property located at **581 Lafayette Road** whereas relief is needed for after-the-fact installation of an awning sign which requires the following: 1) Variance from Section 10.1251.20 to allow a 32 square foot awning sign whereas 20 square feet is allowed. Said property is located on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) District. (LU-24-1)

SPEAKING TO THE PETITION

The applicant was not present.

DECISION OF THE BOARD

*Mr. Rossi moved to **postpone** the petition to the May 28 meeting, seconded by Mr. Nies. The motion **passed** unanimously, 7-0.*

- C. REQUEST TO WITHDRAW** The request of **Giri Portsmouth 505 Inc. (Owner)**, for property located at **505 US Route 1 Bypass** whereas relief is needed to demolish the

existing structure and construct a new hotel with a drive thru restaurant which requires the following: 1) Special Exception from 10.440 Use #10.40 hotel where it is permitted by Special Exception; 2) Variance from Section 10.835.32 to allow 5 feet between the lot line and drive-thru and bypass lanes where 30 feet is required for each; 3) Variance from Section 10.835.31 to allow 18 feet between the menu and speaker board and the front lot line where 50 feet is required; 4) Variance from Section 10.5B22.20 to allow up to 60 feet in building height within 50 feet of the street right-of-way line whereas up to 45 feet is permitted; 5) Variance from Section 10.5B34.70 to allow up to 60 feet in building height whereas 50 feet is permitted; 6) Variance from Section 10.5B34.60 to allow a 30 foot setback for a small commercial building whereas a maximum of 20 feet is permitted; 7) Variance from Section 10.5B33.20 to allow less than 75 percent front lot line buildout whereas a minimum of 75 percent is required for commercial buildings. Said property is located on Assessor Map 234 Lot 5 and lies within the Gateway Neighborhood Corridor (G1) District. (LU-24-44) **REQUEST TO WITHDRAW**

DECISION

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

III. NEW BUSINESS

- A. The request of **Ryan Leibundgut (Owner)**, for property located at **137 Walker Bungalow Road** whereas relief is needed to demolish the front deck and construct a new deck on the front of the existing home which requires the following: 1) Variance from Section 10.521 to allow a 20 foot front yard where 30 feet is required; 2) Variance from Section 10.321 to allow of 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 202 Lot 4 and lies within the Single Residence B (SRB) (LU-24-10)

SPEAKING TO THE PETITION

[Timestamp 27:47] The applicant Ryan Leibundgut was present to review the petition. He said he bought the house last summer and that the front of the house had an unfinished dormer. He said the front deck was also problematic and needed to be demolished. He said he would drop the old porch back half a foot farther from the road and extend it across the front of the house. He reviewed the criteria and said they would be met.

[Timestamp 32:02] Mr. Rheume said the Board generally looked at the relative distance of some of the neighboring properties and homes, and he asked the applicant if he would be in alignment with the characteristics of the neighborhood. Mr. Leibundgut said the porch wouldn't look like it was any closer to the road. Mr. Rheume noted that the neighbors across the street were situated far from Walker Bungalow Road. Vice-Chair Margeson verified with Ms. Casella that a wetland conditional use permit was needed because the entire lot was within the 100-ft buffer. The applicant said he was planning to apply for one after the variance approval.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

[Timestamp 34:34] Mr. Rossi said he passed by the property frequently and thought the proposed changes were very much in keeping with the kinds of changes and beautification happening on Walker Bungalow Road in general. He said the project was quite fitting for the property. Chair Eldridge said the neighborhood was eclectic, with houses that were set up quite differently, and nothing that the applicant would do would be that different. Mr. Rossi said the project was an ideal type because it modernizes the house and makes it more livable and addresses a structural issue in regard to its integrity for water but would not create a massive new structure. Mr. Nies said it looked on the property map like the house was closer to the street than the other houses but that it didn't matter in this case because the other houses were set so far back that the neighbors wouldn't notice the change or the fact that the applicant was widening his porch.

DECISION OF THE BOARD

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

[Timestamp 36:27] Mr. Mannle said he drove by the site and thought the request was minimal because it would not change the current setback. He said the 30-ft setback was problematic on that road but it was more of a rural setting than a semi-urban one. He said the houses were diverse and the applicant wasn't really changing anything but just extending the front of the house to have a more presentable street presence. Referring to Sections 10.233.21 and .22, he said granting the variances would not be contrary to the public interest because the public didn't have much interest in the porch and it would observe the spirit of the ordinance. Referring to Section 10.233.23, he said granting the variances would do substantial justice because nothing would really change. Per Section 10.233.24, he said the values of surrounding properties would not be diminished and most likely would be improved. Per Section 10.233.25, he said literal enforcement of the provisions of the ordinance would result in unnecessary hardship because the property has special conditions that distinguish it from other properties 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 provision and the specific application of that provision to that property, and the proposed use is a reasonable one. Mr. Mannle said enforcing the ordinance would be a great hardship for the applicant, noting that the applicant was not changing anything other than expanding the porch length of the house for a better street aesthetic. Mr. Rossi concurred and had nothing to add.

*The motion **passed** unanimously, 7-0.*

- B.** The request of **John C. Wallin and Jeanine M. Girgenti (Owners)**, for property located at **5 Cleveland Drive** to amend the Variances granted on July 18, 2023 to install a 6-foot fence along the primary and secondary front of the property to include the following: 1) Variance from Section 10.515.13 to allow a 6 foot fence to be installed on top of a 3.5 foot tall retaining wall to create a total structure height of 9.5 feet where 4 feet is allowed. Said property is located on Assessor Map 247 Lot 74 and lies within the Single Residence B (SRB) District. (LU-23-92)

SPEAKING TO THE PETITION

[Timestamp 40:26] The applicants John Wallin and Jeanine Girgenti were present. Ms. Girgenti said they previously received permission from the Board to install the 6-ft fence for the inground pool. Their landscaper then said the wall would not be secure enough for the patio, so an Allen Block wall was installed instead. She said they were then informed by the City that the wall was a change from the original variance and were asked to stop the work. She said they were back for approval to install the 6-ft fence and she reviewed the criteria.

[Timestamp 47:40] Mr. Nies said he wasn't at the first meeting and asked if there was a significant difference in the location of the fence between what was approved last year and what was now proposed. Ms. Girgenti said there was not. She said that the Board previously agreed that the fence could be placed at the height of the pool, so the wall did not change where the fence would be located. Mr. Wallin said the wall was below the yard level and was not visible from the street. Mr. Nies said the new picture of what was proposed showed that the proposed fence would be behind the Allen Block wall. He asked if there was a plan for linkage between the wall and the fence. The applicant said there was not. Mr. Nies concluded that the plan was to put a fence some distance between the retaining wall that was a separate structure, and the applicant agreed.

[Timestamp 49:40] Vice-Chair Margeson said she viewed the property and saw that the Allen Block wall was very visible from the streetscape and she did not see any other fences in the area. She asked if the applicant considered using bushes to provide streetscape for the pool. Mr. Wallin said they previously had a plan to landscape the yard but the City asked them to stop the fence installation, and the landscapers said that the rest of the dirt in the backyard should be leveled with the fence and that everything should be planted after that. He said there would be landscaping between the wall and the street and between the fence and the wall. Vice-Chair Margeson said the fence ordinance was meant to prevent a blocked-off or walled look. She said there was a taller fence behind the Allen Block wall on an elevated part of the property six feet from the grade, which concerned her. Ms. Girgenti said the height of the property didn't change, even though the wall was installed. She said there was only a 7" difference because one step of the deck was lost, and the wall only made it look like the property was raised. She said the fence would go in the same location as previously requested. Mr. Rossi asked how far the fence would be set back from the retaining wall. Ms. Girgenti explained that the pool was rectangular and the wall came out like a vee to the pool. She said the fence would go at the middle of the vee and would be four ft inside of the wall at the smallest part of the vee. She said it would be ten feet at the biggest opening of the vee. Mr. Rossi concluded that it would not look like one continuous structure.

[Timestamp 53:58] Mr. Rheume asked Ms. Casella why the property line the applicant's home shared with the neighboring home was considered the left side yard and not the right. Ms. Casella said Cleveland Drive drove the address, so that was the primary front. She said the City looked at it as having technically three lot lines: Cleveland Drive was the primary front, Taft Road was the secondary front, and the neighboring lot line was the left side yard. Mr. Mattson asked how far from the retaining wall the fence would need to be to not be considered the fence height plus the retaining wall height. Ms. Casella said the reason a variance was triggered was because it was different than what the original application proposed, and it was also at one point within three feet. She said when the City measured grade from existing to proposed, it is five feet out from that, so because it was within that three feet, it triggered going down to the bottom of the wall. She said when there are fences on top of retaining walls, the City looked at it as an entire structure height, even if the proposed is below to the top, so it would read as 9-1/2 feet. Mr. Nies said it seemed that the fence was not on top of the retaining wall, as the City memo indicated, so it was unclear why it was being treated as one structure and not two. According to the applicant, he said the nearest point is four feet away from the retaining wall. Ms. Casella said the definition of existing grade or average grade plane explained how to measure grade plane on a variable surface and that it was five feet out at varying degrees. She said the primary aspect was that, from the bottom of the wall to the top, it was different than what was originally proposed, so the applicant had to return. It was further discussed.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the variance for the petition as presented and advertised, seconded by Mr. Nies.*

[Timestamp 1:01:40] Mr. Rossi said that the Board was looking at a variance to approve something they already approved, which was the fence at this height on this property, and the reason for the variance request is that there was a change in the grade past the retaining wall, and that change brought the ground level in that area closer to street level, which stimulated an interpretation by the Planning Department that a new variance was needed. However, because the height of the fence is basically identical to what was approved previously, and because the fence is visually set back from the retaining wall, he said it will not appear as a monolithic structure any higher than what the Board approved in the past. He said granting the variance would not be contrary to the public interest, especially having the fence at this height. He said it would serve a legitimate purpose for securing the pool against accidental access, especially by minors. He noted that pool drownings are a substantial cause of mortality in children and it serves the public interest to have a secure fence around the pool area. He said granting the variance would do substantial justice because of the location of the lot and the lack of impairment of any valuable sight lines. He said there was no public interest that would be served by denying the owners the opportunity to build the fence. He

said it would not diminish the values of the surrounding properties, noting that providing a reasonable screening of pool paraphernalia including the pool's mechanical units would preserve the property values of the surrounding properties. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. He said the hardship of the property as it relates to this variance is the change in the grade that has resulted in a technical change in the measurement of the height, but the change of the grade really does not change the relative height of the fence vs. street level and vs. the surrounding properties, so that is a unique characteristic of the property, and because of that, there is no relationship between denying this variance that had already been approved vs. the current conditions. Mr. Nies concurred. He said the special conditions are clearly the grade and he didn't think the pictures did it justice. He said the way the property increased in back in height is really a condition that makes it difficult to construct a fence that provides privacy and safety without having it relatively high from the street, and it hasn't changed since the last variance was granted.

[Timestamp 1:06:13] Vice-Chair Margeson said she would not support the motion because she thought it was a significant change. She said a person was only allowed to have a 4-ft fence, and the combined total was nine feet. She said the issue was that it is a secondary front yard and there is a construction of a fence around that entire secondary front yard, which is against the spirit and intent of the ordinance. She said the fence ordinance was meant to keep things from being walled off. Mr. Rheume said he was on the Board when the requirement was added to the ordinance and, prior to that, they had no requirement for fence height. He said most homes in Portsmouth had a tall fence up along a sidewalk or close to the property line. He said one of the property's hardships was that it had two front yards and no rear yard, and the applicant had to choose a side of their house to be the back yard of their property. He said Mr. Nies noted the contour issues and the fact that the neighboring properties were up on a bit of elevation themselves, which added to the applicant's case. He said the privacy element was important as well as the safety requirement. He said the fence would be set back fairly far from the road that had no sidewalk and was more of a driving than a pedestrian area. He said it was still within the spirit and intent of the ordinance when it was enacted several years ago. Chair Eldridge agreed and said she would support the motion.

*The motion **passed** by a vote of 6-1, with Vice-Chair Margeson voting in opposition.*

- C. The request of **Edmund R. St. Pierre (Owner)**, for property located at **15 Mariette Drive** whereas relief is needed to create a second driveway in front of the existing garage which requires the following: 1) Variance from Section 10.1114.31 to allow two driveways on a single lot where only one is allowed per section 3.3.2.3 of the Site Review Regulations. Said property is located on Assessor Map 292 Lot 167 and lies within the Single Residence B (SRB) District. (LU-24-57)

SPEAKING TO THE PETITION

[Timestamp 1:10:47] The applicant Edmund St. Pierre was present to review the petition. He distributed photos and other documentation to the Board. He reviewed the petition in detail and the criteria and said they would be met.

[Timestamp 1:24:11] Vice-Chair Margeson asked if the bench shown on the existing conditions photo was where the bus stop was. Mr. St. Pierre agreed. Vice-Chair Margeson said she recognized that the lots were involuntarily merged but asked where the paper street was. Ms. Casella explained that it was Parcel One and that it was one lot now. She said the parcel used to be a separate lot for the paper street, which was merged into Parcel Two. Vice-Chair Margeson said the deed restriction noted that no structure could be built on Parcel One that was merged on Parcel Two unless it was an accessory to the one on Parcel Two.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Vice-Chair Margeson moved to **grant** the variance for the petition as presented and advertised, seconded by Mr. Rheume.*

[Timestamp 1:26:50] Vice-Chair Margeson said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. She said the spirit and intent of the ordinance is not to have multiple driveways on one lot, but the applicant's case was an exception because of the lot's special conditions, and she believed it was acceptable. She also noted that the plan was the preferred one by the City's traffic engineer as opposed to the other one and it was the traffic engineer's professional opinion, so she took that into consideration. She said substantial justice would be done because there was no benefit to the public that is outweighed by a loss to the applicant. She said the public would not be harmed at all and would not lose anything by the property having two driveways on it. She said granting the variance would not diminish the values of surrounding properties, noting that the Board received no testimony from the public and there was another property in the immediate area that had a double driveway on it. She said the property has special conditions that distinguish it 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 and the specific application of that provision to the property, and the proposed use is a reasonable one. She said the property has special conditions due to an involuntary merger, and as part of that merger, there is a deed restriction that says that a structure cannot be constructed on one of the lots, the part of the lot that is now one lot that has the garage on it and that is not an accessory to the house that's on the other part of the lot. She said there was no other property in the area that has those special conditions. She said the part of the property that will need the second driveway leads to an existing garage, and the proposed use is a reasonable one because a driveway is needed to access an accessory garage to a property. Mr. Rheume said he thought it was in keeping with the

spirit of the ordinance and the overall characteristics of the neighborhood, which had a scattering of driveways in different locations. He said the applicant provided good evidence in terms of the City's potential concern of the driveway going into the intersection. He said there were other driveways that go right into the intersection or close to it. He said he agreed with the City's traffic engineer assessment. He said there was a low volume of traffic going through and the intersection itself was wide open, with large curves and good sight lines, which reduced some of the concerns with vehicles entering and exiting into the intersection. Relating to hardship, he said the applicant benefited, due to the two parcels and a former paper street, and the structure was quite separated from the rest of the house. He said the house had its own internal garage but was on the opposite side of the lot, so the two driveways would be far apart and the perception would be different than two driveways being close together on the lot.

*The motion **passed** unanimously, 7-0.*

- D.** The request of **Elizabeth M. and Torben O. Arend (Owners)**, for property located at **1 Rockaway Street** whereas relief is needed to construct a porch and mudroom onto the front of the existing structure which requires the following: 1) Variance from Section 10.521 to allow a 24 foot front yard where 30 feet is required. Said property is located on Assessor Map 230 Lot 11 and lies within the Single Residence B (SRB) District. (LU-24-46)

SPEAKING TO THE PETITION

[Timestamp 1:33:37] Chris Crumpet of CWC Design was present on behalf of the applicant and reviewed the petition. He reviewed the criteria and said they would be met.

The Board had no questions, and Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rheume moved to **grant** the variance for the petition as presented and advertised, seconded by Mr. Mattson.*

Mr. Rheume said normally this would cause some concern in the sense that the home was a fully compliant one and the applicant was requesting a variance in the front yard setback that complied to the ordinance, but the overall circumstances met all the criteria. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the applicant made a good argument that the 30-ft setback would be consistent with how the other properties in the micro neighborhood are aligned relative to their property lines up against the assortment of streets. He said it would not present anything that looks out of place with the

character of the neighborhood. He noted that it was the only house on that side of the street and it would be consistent. He said granting the variance would do substantial justice. He said the applicant was adding a modest addition to the home and the only enclosed portion would be a 9'x6' mudroom, otherwise it was an open porch area that wasn't substantial and aligned with the major front facade of the house. He said there was no public interest that would outweigh the applicant's benefit. He said granting the variance would not diminish the values of surrounding properties. He said he did not see any impact to property values in the micro neighborhood. He said the street was very short and the applicant had an oddly shaped lot, but the home was placed in a logical location on the lot, and any expansion to provide a porch would bring it closer to Rockaway Street. He said the request was modest and thought the hardship requirement was met due to those special conditions and the small unique nature of the micro neighborhood.

Chair Eldrige noted that a letter was received by the Board in support of the project.

The motion passed unanimously, 7-0.

IV. ADJOURNMENT

The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

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

7:00 P.M.

May 28, 2024

MEMBERS PRESENT: Phyllis Eldridge, Chair; Members David Rheaume, Thomas Rossi, Paul Mannle, Jeffrey Mattson, Thomas Nies; Jody Record, Alternate

MEMBERS EXCUSED: Beth Margeson, Vice-Chair; ML Geffert, Alternate

ALSO PRESENT: Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:00 p.m. Alternate Jody Record took a voting seat for the evening.

I. OLD BUSINESS

- A.** The request of **Atlas Commons LLC (Owner)**, for property located at **581 Lafayette Road** whereas relief is needed for after-the-fact installation of an awning sign which requires the following: 1) Variance from Section 10.1251.20 to allow a 32 square foot awning sign whereas 20 square feet is allowed. Said property is located on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) District. (LU-24-1)

SPEAKING TO THE PETITION

[Timestamp 1:50] Ryan Lent of 2 Alex Way, Stratham, owner of the Tour Restaurant, was present along with sign representative Tor Larsen. Mr. Larsen said the lighting was only 12 feet larger than it was supposed to be and that changing it would cost thousands of dollars. He said he didn't believe that the sign would cause any issues because the sign was far from Route One and was a non-lit, simple black and white classic design. He reviewed the criteria and said they would be met.

Mr. Rossi asked what the awning's service life expectancy was. Mr. Larsen said it should last between 10 to 15 years.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rheume moved to **grant** the variance for the petition as presented and advertised, seconded by Mr. Mattson.*

[Timestamp 7:20] Mr. Rheume said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the overall amount of signage was not anywhere close to the maximum allowed, and the entryway was wide with panels on each side, so it wasn't surprising that the proportional awning was as big as it was. He said the lettering on it was proportional to the awning's size and provided important supplemental information. He said the Board did not want to overburden any façade with a lot of writing, information and illustrations, particularly on awnings. He said nothing in the application would counter the characteristics of the neighborhood, noting that the businesses along that strip had signage of various types and sizes. He said granting the variance would do substantial justice because there was nothing that the public would have a significant interest for that would outweigh the applicant's desire to have the information about the nature of what the name Tour meant and to provide that information to their potential clients. He said it would not diminish the values of surrounding properties because the building was at the end of a commercial district that had signage of all types up and down Lafayette Road, and the lettering was just a small amount larger than what was required. He said the hardship that made the property unique was the size of the entryway that had the characteristics of a doorway, and the overall signage configuration and the nature of the business contributed to the unique aspect of the building and that strict application of the ordinance would not make sense. Mr. Mattson concurred. Referring to the hardship, he said the Route One bypass started to curve away from that particular parcel's location on the end of the Gateway District, and there was a grass buffer that set it back farther so that Lafayette Road could split off of the bypass. He said the small amount of increase in sign coverage that went over what was allowed was understandable.

Mr. Nies said he would not support the application. He said he was troubled by the applicant's claim of a hardship by the fact that someone put in a nonconforming sign and could potentially incur costs if the ordinance was enforced. He said he also was not convinced by the applicant's argument about what the special conditions of the property were. He said the building wasn't very different from other buildings along that line of Route One and that the same argument could be made for a larger awning sign for any of those buildings. Chair Eldridge said the Board had in fact used that argument in the past, including hotels off major highways, and she thought the same condition applied. She said it was a busy intersection and the sign covered the doorway, so she didn't think there would be any damage to anyone else and it would make it easier for customers. Mr. Rheume agreed. He said the applicant tried to make that as a condition for hardship, but the way it was worded in the criteria was confusing if someone didn't know the true nature of the lot. He said there were other aspects to the property that were in fact other hardships that superseded what the applicant was making for an argument. Mr. Rossi said he was generally opposed to sign exceptions because he didn't want Route One to look like the gateway through Pottersville and wanted to maintain a decent and subdued atmosphere as much as possible in accordance with the ordinance. He said he was also not generally sympathetic to after-the-fact variances when the result was an error from a contractor, and he didn't buy the economic hardship argument because he believed that the applicant would have recourse to go back to the original contractor and have them

bear the costs of any required changes. However, he said he drove by the intersection almost every day and did not find the sign to be objectionable and would have never known that it was out of conformance if the applicant had not come forward.

*The motion **passed** by a vote of 6-1, with Mr. Nies voting in opposition.*

II. NEW BUSINESS

- A. The request of **Sakuntalala LLC (Owner)**, for property located at **235 Marcy Street** whereas relief is needed to demolish an existing 1-story addition and reconstruct a two-story attached garage addition on the rear of the existing residential structure, which requires the following: 1) Variance from Section 10.521 to allow a 7-foot left side yard for the addition where 10 feet is required; and 2) 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 103 Lot 12 and lies within the General Residence B (GRB) and Historic Districts. (LU-24-68)

SPEAKING TO THE PETITION

[Timestamp 16:39] Attorney Chris Mulligan was present on behalf of the applicant, along with the principles the Sakuntalalas, project architect Bill Bartell, and project engineer Eric Weinrieb. Attorney Mulligan explained the renovations that the applicant proposed to do and said the applicant also wanted to add a new addition with a covered garage to the main dwelling to replace the existing addition that had a substandard shed with no utilities. He said the property was unique because it was small and narrow, the existing main dwelling violated the front and side yard setbacks, and the property did not have the necessary frontage or lot area for the zone. He said the new addition's placement would be more conforming. He noted that abutting properties had nonconforming structures built right up to the lot lines. He reviewed the criteria.

[Timestamp 26:03] Mr. Rheume asked how long the proposed addition would be. Mr. Weinrieb said it would be 22 feet long, four feet longer than existing. Mr. Rheume asked if the calculated 31 percent open space included having the driveway expanded upon, and Mr. Weinrieb agreed. Mr. Rossi asked what it was about the property that prevented the proposed addition from moving away from the left side. Mr. Weinrieb said they would improve the right side by about 12 feet of space between the property line and the building instead of 14 feet. He said they were shifting it over to leave enough room for a driveway to come into the back. He said the land went a bit beyond the line of occupation with the fence, so they were trying not to go on the other side of the fence and were building a small retaining wall on that right side. He said they did not want to push farther over and encroach into the area being used by the abutting property. Mr. Rossi said there was a small courtyard on the northern side of the proposed addition and he was concerned about blocking the sunlight into that courtyard by a 2-story addition that was not placed as far as possible from the left side lot line. Attorney Mulligan thought property owners in that particular part of Portsmouth understood that they were living in close proximity to their neighbors, and structures were built close to lot lines, so they lost some of the light and air they otherwise would have had. He said the

garage on the abutting property went right up against the lot line but the residents managed to enjoy their courtyard. Mr. Rossi said the existing garage was to the northeast of the courtyard and would not cast a shadow as long throughout the day as on the northern side of the proposed addition. He said it was a question of whether the spirit of the ordinance was observed and setbacks regarding light and air issues. He asked why the addition could not be longer or narrower or slide over more. Attorney Mulligan explained why sliding it over more would make for a difficult and unsafe drive aisle to get in and out. He said if they made it skinnier and extended it, the driveway configuration would take up all the green space in the backyard.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Fred Orlando of 180 Gates Street (via Zoom) asked if the proposed garage had living space above it and what justified the two stories. He said he was concerned about encroachment, visibility, sunlight, and their views. Chair Eldridge said there would be a bedroom above the garage that would comply with the ordinance and that the addition met all height requirements.

Bert Wortell of 245 Marcy Street (via Zoom) said he wanted to see drawings of the proposed structure. He said they recently bought their house based on the existing layout of the neighborhood buildings. Chair Eldridge said the project drawings and plans were available on line.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

[Timestamp 38:38] Mr. Rossi said he was still concerned about the impact of light and air on the neighboring property. He said having a 2-story structure that close to the lot line would be more problematic than having the existing 1-story structure. Mr. Mattson said he thought it was great that the property was getting improved and that aesthetically it would be better for the neighborhood's character. He said Attorney Mulligan explained why the proposed addition was sited the way it was. He said he saw the special condition of the property, with its narrow width of only 40 feet and the 10-ft setbacks on either side. He said the small building envelope drove a lot of the problems. Mr. Rheaume said it was a classic example of when houses are placed into an historic district and it becomes expensive to renovate a property and someone else has the means to renovate the property to the level of satisfaction that the Historic District Commission wants. He said he would not want to put a garage at the back end of the property because the entire back yard would be lost, and he asked if having a tiny one-car garage was that important. He said it was the applicant's choice, but the configuration that the applicant was asking for was driven by the modern second-floor bedroom suite. He said it came down to whether a 2-story addition that is three feet closer to the property line was going to be a significant impact to the neighboring property, and he thought it probably would not. Mr. Nies said he wasn't as concerned about the impact of the building on the next-door courtyard with sunlight because it would only have an impact early in the morning. He said he wasn't convinced that there would be a significant difference by adding the 2-story addition in the back and how often and how long that courtyard would be shaded. Mr. Rossi said the Board was

not compelled to come up with an alternative solution that avoids the problems that he saw with the proposal, and he didn't take it as a fixed given that the addition had to be the exact square footage it was proposed to be. He said he had not heard anything that convinced him that the proposal would observe the spirit of the ordinance with regard to light and space, and he could not support it.

DECISION OF THE BOARD

*Mr. Nies moved to **grant** the variances for the petition as presented and advertised, seconded by Mr. Rheume.*

[Timestamp 45:53] Mr. Nies said granting the variance would not be contrary to the public interest and would not change the essential characteristics of the neighborhood, which had many small lots and small buildings right up along property lines. He said most of the buildings had very limited setbacks in the residential area. He said he didn't see any public benefit that would be accrued by denial and did not think there would likely be a significant impact on the light and air on the next-door property. He said it arguably would create a slightly more compliant property by increasing the setback on the left side a bit. He said granting the variances would do substantial justice because it would help the applicant get rid of a decrepit structure that wasn't useful. He said there was no evidence that it would diminish surrounding property values. He said there were several specific conditions to the property, including a very small lot and a very narrow footprint where the building could be allowed to comply with the setbacks, but there were issues on the right side of the property. He said the desire to have a driveway on a street with no parking necessitated keeping a certain amount of space on that side. He said the substandard building attached to the existing addition was more of a hazard to the public than hopefully what it would be replaced with. Based on those conditions, he said there was no fair and substantial basis for applying the provisions of the ordinance to the property, so literal enforcement would result in an unnecessary hardship for the applicant. Mr. Rheume concurred. He said what was unique about the property was that it was long and narrow. He said the existing structure was situated for many years all the way on one side, which was common on many properties, and the Board had seen additions on the back ends of those properties. He said the addition from the standpoint of a general public purpose would not be visible to any great extent. He said it came down to the imposition to the closest neighboring property, which was being driven by the desire to make the addition a garage. He said most people wanted the modern convenience of a garage and a modern master bedroom setup. He asked if it really was that big of a driver to say that an additional three feet would make a significant difference. He said in this particular case, the imposition was not that great. He said the conditions of the property made it difficult for a modern addition to be in full compliance with the ordinance. Chair Eldridge agreed.

*The motion **passed** by a vote of 6-1, with Mr. Rossi voting in opposition.*

- B.** The request of **Colleen M. Cook (Owner)**, for property located at **40 Winter Street** whereas relief is needed for the following: 1) Variance from Section 10.515.14 to install a mechanical unit 3.5 feet from the side property line whereas 10 feet is required. Said property is located on Assessor Map 145 Lot 96 and lies within the General Residence C (GRC) District. (LU-24-74)

SPEAKING TO THE PETITION

[Timestamp 51:30] The applicant Colleen Cook was present and said there were limited options on her nonconforming lot that made it difficult to find a space to place the mini split ducts in. She said no one would see the unit due to the existing fence. She reviewed the criteria.

[Timestamp 54:48] Mr. Rheume said the applicant was only asking for six additional inches from the side of the house but typically there was a distance that a condenser had to be. Ms. Cook said her unit installer said the Board would have that information. Mr. Rheume said his concern was that typically a unit had to be set back a certain distance from the house to get proper airflow and thought the applicant might need more relief than was asked for. Ms. Cook asked if she could request 24 inches. Chair Eldridge said it had to be advertised. Mr. Rossi said the Board didn't have enough information to take action, and it was further discussed.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Mattson moved to **grant** the variance for the petition as requested, seconded by Mr. Mannle.*

[Timestamp 1:01:18] Mr. Mattson said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said it would not alter the essential characteristics of the neighborhood or threaten the public's health, safety, or welfare and would not conflict with the purpose of the ordinance. 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 granting the variance would not diminish the values of surrounding properties, noting that adding more energy-efficient heating and cooling to the property would not harm any other properties and that the unit was quiet. He said literal enforcement of the ordinance would result in unnecessary hardship due to the special conditions of the property, which included that the lot was undersized and as big as some houses were. He said the house's placement limited the locations to place the mini split. He said there was no fair and substantial relationship between the general public purposes of the ordinance and their specific application to the property and that the proposed use was a reasonable one. Mr. Mannle concurred and had nothing to add.

[Timestamp 1:03:04] Mr. Rheume said he would support the motion but was fearful that there could be a 2-ft setback instead of a 3-1/2 one when the contractor worked everything else out. Mr. Nies said he had the same concern and asked if the applicant could apply for an amendment. Chair Eldridge agreed but said it would be a new application with all the costs. It was further discussed. Mr. Mattson said even if the Board approved the variance, the applicant might have to come back, but he thought granting the variance was the most beneficial option for the applicant.

*The motion **passed** by a vote of 6-1, with Mr. Rossi voting in opposition.*

- C. The request of **Stephen A. Singlar** and **Kathryn L. Singlar (Owners)**, for property located at **43 Holmes Court** whereas relief is needed to amend a Variance granted on December 20, 2022 to demolish the existing dwelling and construct a new single-family dwelling which requires the following: 1) Variance from Section 10.531 to allow a 16-foot front yard where 30 feet is required. Said property is located on Assessor Map 101 Lot 14 and lies within the Waterfront Business (WB) and Historic Districts. (LU-22-227)

SPEAKING TO THE PETITION

[Timestamp 1:07:57] Attorney Derek Durbin was present on behalf of the applicant, with the owners Stephen and Kathryn Singlar. He said the Board granted a variance in December 2022 to demolish the home and build a new one, but the applicant then applied for a wetlands permit and the New Hampshire Department of Environmental Services (NHDES) made a condition that the home be moved closer to the front boundary of the property by one foot. He said the applicant was asking for a 16-ft front yard setback variance to satisfy that requirement. He explained that the house was in poor condition and the property did not have a true front yard, was landlocked with no access to a public street, and was accessed only through a private drive by 39 Holmes Court, which the applicant also owned.

[Timestamp 1:10:40] Mr. Mannle asked what the setback from the water was in the zoning. Attorney Durbin said the proposed setback from the rear boundary was 21.2 feet and that the NHDES wanted 22 feet. Mr. Nies said the loss of the one-ft setback was described by the applicant as inconsequential in the front, but he thought taking off the back of the house would compromise the integrity of the design of the house and was like removing about 24 square feet of area from the house. He asked Attorney Durbin to elaborate on why he thought removing one foot would compromise the plan's integrity. Attorney Durbin said the architect informed him of it and that they were at 1,297 finished square feet. He said the plan was designed at the minimal amount of square feet to accommodate everything a single-family home would need. He said the house could not be raised and had been squeezed in as much as possible and was smaller than anything else in the neighborhood. Mr. Rossi said the same owner owned 39 Holmes Court, and part of the rationale for the 41 Holmes Court was that the property was in poor condition. He asked if there were future plans to expand 39 Holmes Court, which also seemed to be in poor condition. Mr. Singlar said 39 Holmes Court would get remodeled as it was and would not be pushed closer to the current property. Attorney Durbin then reviewed the criteria and said they would be met.

The Board had no more questions, and Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the variance for the petition as presented and advertised, seconded by Mr. Rheume.*

[Timestamp 1:21:52] Mr. Rossi said the primary purpose of his looking at the property that day was to assure himself that the conditions that existed at the time the Board approved the original variance were still the same. He said nothing substantial had changed and that the same considerations the Board had back then were still relevant. He said what caused the Board the most consternation at the time was the nonconforming use of the lot zoned in the Waterfront Business District. He said with regard to observing the spirit of the ordinance, the lot, although zoned in waterfront business, was not able to be utilized that way because it was landlocked and there was no good way to get ingress and egress to the property for anything that came in off the Piscataqua River, so even though the Waterfront Business zoning reflected a legitimate public interest, granting the variance in this case would not be contrary to the public interest because the lot could not be used in that manner anyway. He said granting the variance would do substantial justice because the lot currently and had for centuries been used as a residential lot, and there would be no loss to the public by continuing that use that would outweigh the loss to the applicant by insisting that the use be changed. He said granting the variance would not diminish the values of surrounding properties. He said that was where the additional one foot moving closer to the front property line came into play and had an impact only on 39 Holmes Court, which was owned by the same owner who attested that moving the structure one foot closer to 39 Holmes Court would not have a deleterious impact on the value of that property. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, noting that the property itself had many hardships including the landlocked nature of the lot and the fact that there wasn't enough room to solve the problems presented by the NHDES in their request to get a foot farther away from the water line without granting the variance. He said failure to grant the variance would put the Board in conflict with other considerations that were important for the proper utilization of the property, therefore being strictly in observance of the ordinance would be an unnecessary hardship.

Mr. Rheume concurred. He said, regarding the hardship, the neighboring property at 39 Holmes Court was right up against the property line and was GRC, so the setback would be five feet vs. the required 30 feet of the Waterfront Business zone. He said the last time the Board considered it, their concern was allowing a residential use in a waterfront business zone. He said if it was zoned as a residential parcel and not as a waterfront business parcel, which the Board concluded last time was not the correct zoning for it, it would be allowed to be much closer. He said that, compared to the existing nearby structures, it would look like it had a huge setback even at 16 feet. He said the other part of the hardship was that it was butted up against the water and had to go through the permitting process that did not turn out favorably for the applicant. Mr. Mannle noted that it was only a one-foot adjustment requested by a State agency of a previously-approved application.

*The motion **passed** unanimously, 7-0.*

- D.** The request of **366 Broad Street LLC (Owner)**, for property located at **366 Broad Street** whereas relief is needed to demolish the existing multi-family and single-family dwellings

and accessory structure and reconstruct four single-family dwelling units, which requires the following: 1) Variance from Section 10.513 to allow more than one dwelling per lot. Said property is located on Assessor Map 221 Lot 68 and lies within the General Residence A (GRA) District. (LU-24-75)

SPEAKING TO THE PETITION

[Timestamp 1:28:40] Attorney Chris Mulligan was present on behalf of the applicant, along with the applicant Michael Green. Attorney Mulligan noted that the applicant has the property under contract and intended to redevelop it. He reviewed the petition in detail and reviewed the criteria.

[Timestamp 1:43:43] Mr. Mannle asked if it would be condo ownership. Attorney Mulligan agreed. Mr. Mannle said the lot was big enough to do a planned unit development and asked why that could not be done. Attorney Mulligan said the development costs would be significantly higher. Mr. Nies said he struggled with why the applicant was not trying to make the property completely compliant with the ordinance. He said there could be a fully compliant structure and asked what the special conditions of the property were that could make that not possible. Attorney Mulligan said the test was unnecessary hardship and not impossibility, and the analysis had to be whether it was necessary to require a 4-unit apartment building or dwelling in a single contained space on a lot that large, or if there was some underlying benefit that overrides the applicant's desire to develop the lot in a certain way. He said there were already significant nonconformities in the property, and the fact that it may be possible to obtain a special exception for a 4-unit structure highlighted why he thought it was necessary for them to try to obtain variances. He said they could get four units on the property no matter what. Mr. Nies said it was a nonconforming lot that violated several setbacks, and the proposal was to replace it with a nonconforming lot that would have two more residential buildings. He asked what special conditions of the property that made that necessary. Attorney Mulligan said the lot was conforming and the structures were not. He said the property was four times the size of the lot area per dwelling requirement and much larger than those in the immediate neighborhood. He said the existing built environment on the property was a special condition and nonconformance that cut against requiring strict conformance with the one specific provision. He said they would eliminate all those nonconformities but required relief from that one specific provision.

[Timestamp 1:49:10] Mr. Rossi said there was nothing nonconforming about the main building and all the nonconformance came from the garage, carriage house, and the other structure in terms of setback. He asked why it was necessary to destroy the existing structure. He said the neighborhood had a certain look and characteristic to it and thought the existing main structure would be all that would be seen from the roadway, and not keeping it would change the neighborhood's characteristics. Attorney Mulligan said the main structure had five dwelling units in it, so that structure, even though it complied with the setbacks, tipped the lot area per dwelling calculation. He said part of the challenge of the property was getting it back to the way it was originally developed, which was not a possibility due to the way it was carved up.

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Vincent Prien of 400 Broad Street said there was ledge and asked how it would be gotten rid of. Chair Eldridge said those decisions would be made as the project went through further review.

SPEAKING IN OPPOSITION TO THE PETITION

[Timestamp 1:53:04] Cathy Hodson of 616 Central Road, Rye, said she owned the property at 389 Broad Street. She said the applicant's 1900 house was a representation of Portsmouth at an earlier time. She said a subdivision of four homes would be a significant change to the neighborhood's character and the new houses would be expensive, while the existing apartments were most likely affordable. She said she also had an issue about the trees being removed and tossing building materials into a landfill. She said the proposed project could set a precedent.

Sally Mulhern of 60 Pinehurst Road said she did not see that the planned four houses would be unique or interesting. She said the neighborhood was a beautiful one, the trees were tremendous, and demolition was permanent. She said a similar property down the street was denied.

Margot Doering of 300 Jones Avenue said there were two basic premises in the request: a nonconforming lot is a hardship on the developer and a nuisance to the neighborhood, and any change that would result in fewer nonconformities should justify a larger nonconformity. She said she disagreed. She said there was nothing to suggest that bringing some aspects of the property up to code would suit the neighborhood any better. She said granting the variance would double the number of freestanding buildings from two to four and increase the number of bedrooms from 11 to 16, which was almost a 50 percent increase, as well as add a large driveway. She said that was not a hardship and that she found it egregious that a developer who had no plans to live on the property would claim that the existence of those known zoning requirements were imposing a hardship on his ability to make an economic profit. She said the developer could choose a different property or a different plan, like retaining the primary house and having different options for the back of the property that would be more in keeping with the character of the street. She said if the trees were cut down it would reduce the values of surrounding properties because the replacement trees would take 20-40 years to replace the current shade, privacy, and natural habitat. She said there was no evidence that construction and energy efficiency improve the values of existing homes and that one could argue that people want to live in the neighborhood because the homes are quality built ones. She said the applicant's property was nonconforming in ways that had not bothered the neighborhood in over a hundred years, and to permit serviceable dwellings to be torn down and thrown into a landfill would be against the City's sustainability goals.

Jim Lee of 520 Sagamore Avenue said the project would change the neighborhood's character and would set a precedent for other developers, leading to a domino effect. He said the current zoning was to maintain a specific density of housing, and allowing larger homes would contradict that zoning. He said there was no hardship, noting that the hardship had to be with the land and not for the developer's gain. He explained why it was also inconsistent with the 2025 Master Plan.

Lena Wyand of 65 Pinehurst Road said a similar project at 482 Broad Street to build four freestanding dwellings in 2014 was denied because the proposal was not in keeping with the neighborhood. She said the proposed project had no hardship. She read two letters from neighbors

at 35 and 51 Pinehurst Road who said demolishing the home would change the streetscape of homes, reduce the number of available dwelling units, and look like a subdivision.

SPEAKING TO, FOR, OR AGAINST THE PETITION

[Timestamp 2:17:09] Attorney Mulligan said the property was not in the Historic District and the owner would be within his rights to make substantial changes up to and including raising the structure. He said one of the criteria before the Board was whether the project resulted in a diminution of values. He said larger and more expensive housing would increase the values of surrounding properties. He said the owner could build an enormous single-family dwelling, given how large the lot was. He said the failed project of many years ago that was mentioned was a single-family residence changing to a multiple townhouse and that the zoning had changed considerably since then. He said the aesthetic preservation of the property was not within the Board's purview. He said the applicant met all the criteria for the one specific variance requested.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

[Timestamp 2:27:31] Mr. Mannle said he did not see the hardship because the property was conforming other than density. He said the applicant said he could build four units by special exception on the large lot, but everything on that side of Broad Street was huge and he didn't see the special conditions owing to the property that would cause a hardship. He said that, given the nature of the neighborhood on that side of the street, the applicant's lot was not much different than any lot on that side, and placing four single houses on that side of the lot would change the neighborhood's character. Mr. Rossi said there was no exact legal definition of the essential characteristics of a neighborhood, which meant that the Board had discretion and understood what the character of the various neighborhoods in Portsmouth were because the Board was comprised of City residents and was charged with bringing that understanding into their evaluation of variance requests. He said it was his assessment that the proposal would alter the essential characteristics of Broad Street. He said the existing primary home was a fitting essential component of the neighborhood's characteristics and thought the application failed on maintaining or not altering the essential characteristics of the neighborhood, so he could not support it. Ms. Record agreed and said that what looked like a mini subdivision with four houses would not look like what was on that street. Mr. Mattson asked how unlikely it would be for the Board to approve the petition if there were already four family homes there and seven units were proposed, five in an attached structure and two in a separate one. Chair Eldridge agreed. She said there were huge lots on one side of Broad Street and was concerned about what would happen when the large houses started to fall apart or go into estates and someone wanted to do something with them. She said the way the project broke up the streetscape did change the essential look of the neighborhood, and because there were so many other large lots on Broad Street, she didn't think the property was unique or had a hardship. Mr. Rheume said that, outside of the Historic District, there was very little that allowed the City to protect an old home from demolition and that the City could only do what it could through enabling State legislation. He said the nature of the existing number of dwelling units on the property was probably the type of housing the City needed more of, but that it did not conform

with the zoning. He said the Board's job was not to preserve nonconformances but to help the applicant move closer to the zoning. He said allowing multiple units on a single property and putting four houses in each corner of the property flew in the face of everything the ordinance was trying to accomplish. He said the proposed homes would be significantly closer than the existing ones and the bulk of them would be substantially away from the property line. He said the only major incursion in the existing buildings was the garage, which was quite close to the property line, but that was a characteristic of the neighborhood. He said the applicant made positive arguments regarding hardship, but he said there could be some rehabilitation options that would more closely mimic what existed. Mr. Nies said he still struggled with the special conditions of the property that distinguished it from others in the areas. He said there were several properties in the area that were not quite as large but were large, and there was at least one that was larger and had nonconforming buildings on it, so he was not convinced that there were special conditions that distinguished the property from others. He said even if there were, it was not clearly established that those special conditions rose to the level that the ordinance requirement for a number of residential buildings needs to be waived in order to enjoy the property. He said he did not believe that the Board saw a reason why four buildings should be allowed on the applicant's lot.

*Mr. Rossi moved to **deny** the application for a variance as presented and advertised, seconded by Mr. Mannle.*

[Timestamp 2:43:36] Mr. Rossi said for a variance to be approved, it must satisfy all the criteria, and for it to be denied, it must only fail one criteria. He said the consensus of the Board was that the proposal was not consistent with the characteristics of the neighborhood and would alter those fundamental characteristics of the neighborhood, per Sections 10.233.21 and .22 of the ordinance. Mr. Mannle concurred and said the petition also failed the hardship test. Mr. Rheume said he would support the motion, noting that the spirit of the ordinance was combined with the characteristics of the neighborhood. He said there was a reason why the ordinance stated that there would be one dwelling unit on a property and that the Board had to be careful about allowing exceptions.. He said the applicant argued that there was already a second structure on the property, but that structure was way in the back of the property and had a very modest size and was very different than what was proposed.

*The motion to deny the variance **passed** unanimously, 7-0.*

- E.** The request of **Victoria Willingham** and **Robert Bowser (Owners)**, for property located at **692 State Street** whereas relief is needed for the following: 1) Variance from Section 10.515.14 to install a mechanical unit 3 feet from the side property line whereas 10 feet is required. Said property is located on Assessor Map 137 Lot 6 and lies within the General Residence C (GRC) District. (LU-24-67)

SPEAKING TO THE PETITION

[Timestamp 2:46:38] The applicant Robert Bowser said he needed a standby generator in his yard. He said the nearby houses were all built nearly to the property line, and the only appropriate location for the unit was behind the house because the buildings were so close together. He said the

unit would not be seen from the funeral home on one side of his lot or the residents on the other side because it would be shielded by a fence and granite steps. He noted that the funeral home owner had no objection. He reviewed the criteria and said they would be met.

The Board had no questions, and Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

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

[Timestamp 2:50:05] Mr. Rossi said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the proposed location for the generator was behind the residence and would not be observable or heard from the street, so there was no public interest to be had by denying the variance. He said substantial justice would be done because having the generator located behind the home would not cost the public anything, so there would be no loss to the public that would be considered as a counterbalance to the loss of the applicant should the variance be denied. He said granting the variance would not diminish the values of surrounding properties, noting that the applicant took the time to speak to the neighbor closest to the generator and the Board had communication from that neighbor stating that the generator would not be problematic for him. He said that was evidence that the nearby property owner saw no diminution in the value of his property by the generator's installation. He said the property's hardship was the narrow and deep nature of the lot and the location of the house. He said the applicant enumerated safety considerations with regard to the location of the generator and said it made no sense to put the generator in the middle of the yard far from the house. He said special conditions like the shape of the house, the location of the windows and the ingress and egress, and the location relative to the property lines weighed in favor of approving the application and locating the generator in the proposed spot. Mr. Mannle concurred. He said the applicant was putting the unit at the back of his house and that it would not be in any light or air areas.

*The motion **passed** unanimously, 7-0.*

III. ADJOURNMENT

The meeting adjourned at 9:54 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary



City of Portsmouth
Planning & Sustainability Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Jillian Harris, Principal Planner
DATE: June 12, 2024
RE: Zoning Board of Adjustment June 18, 2024

The agenda items listed below can be found in the following analysis prepared by City Staff:

- I. **New Business**
 - A. 63 Humphreys Court
 - B. 42 Sewall Road
 - C. 411 Ocean Road
 - D. 17 Whidden Street
 - E. 101 International Drive

I. NEW BUSINESS

- A. The request of **Kimberly Rosensteel and Timothy Sullivan (Owners)**, for property located at **63 Humphreys Court** whereas relief is needed to install a mini-split air conditioning system, which requires the following relief: 1) Variance from Section 10.515.14 to install a mechanical unit 2.5 feet from the side property line whereas 10 feet is required. Said property is located on Assessor Map 101 Lot 38 and lies within the General Residence B (GRB) and Historic Districts. (LU-24-71)

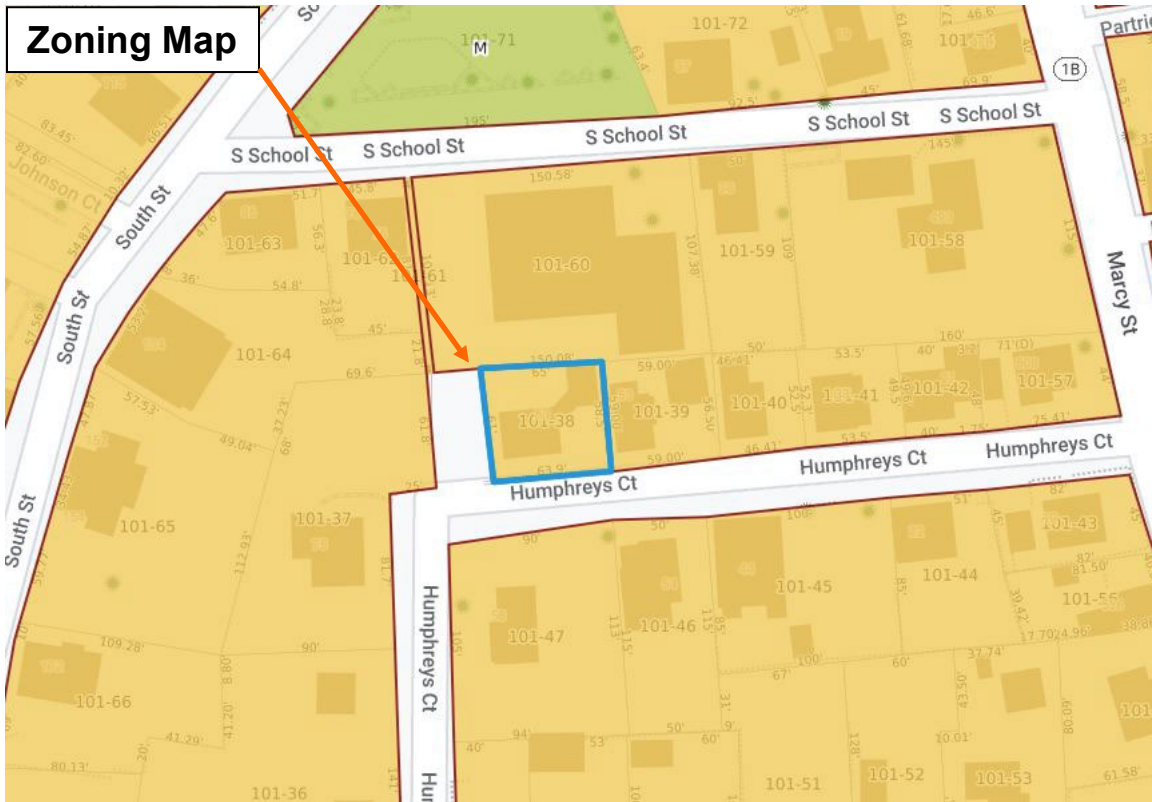
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Single-family dwelling	Mechanical Unit	Primarily Residential
<u>Lot area (sq. ft.):</u>	3,920	3,920	5,000 min.
<u>Front Yard (ft.):</u>	13	13	5 min.
<u>Right Yard (ft.):</u>	3.75 (Structure)	2.5 (Mechanical Unit)	10 min.
<u>Parking:</u>	3	3	2
<u>Estimated Age of Structure:</u>	1958	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Historic District Commission Review
- Building Permit / Mechanical Permit

Neighborhood Context



Previous Board of Adjustment Actions

November 17, 1992 – The Board **granted** a request to allow the construction of a 6.5' x 9' triangular one story breezeway addition with a) lot coverage of 30.5% where 20% allowed; b) a rear yard of 17.5' where 25' is required; and c) an increase in a nonconforming structure where no increase may be made.

August 24, 1993 – The Board **granted** a request to allow construction of a 7'4" x 8'2" laundry addition to an existing breezeway with a rear yard of 16'3" where 25' is required, where a Variance for a 17.5' rear yard had previously been granted.

August 20, 2013– The Board considered a request for relief from the zoning ordinance to include the following: 1. A Variance from Section 10.521 to allow a right-side yard setback of 2.5'± where 10' is the minimum allowed. 2. A Variance from Section 10.521 to allow building coverage of 36% ± where 49%± exists and 30% is the maximum coverage allowed. The Board voted to **grant** the petition with the following stipulations:

- That the right-side yard setback will be 4.2'± as presented by the applicant at the hearing, rather than 2.5'± as advertised.
- That the existing shed will be removed.
- That the proposed deck will be less than 18" above grade.
- That any construction within the 25' rear yard will not exceed the height and footprint of existing structures ensuring that the proposed second story addition will be no closer than 25' to the rear property line.

Planning Department Comments

The existing single-family dwelling was built in 1958 on an existing non-conforming lot and was most recently renovated with an addition in 2013. The applicant is proposing the installation of a mini-split mechanical unit in the right side yard of the existing garage. The applicant has provided two options for the location of the unit in the right side yard. **If granted approval, staff recommends the following stipulation for consideration:**

1. **The location of the unit may change as a result of review and approval of the permit, as long as it is consistent with the side setback distance as depicted in the application materials.**

Variance 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.

April 16, 2024

Written Statement / Scope of Proposed Work

Author: Timothy Sullivan and Kimberly Rosensteel, owners of 63 Humphrey's Court

63 Humphreys Court is an older home with no permanent air conditioning and is heated by hot water radiators which are inefficient and supplied with a propane-burning boiler. As the summers have become increasingly uncomfortable with three small children and no permanent air conditioning, we would like to install a minisplit heat pump with air-conditioning. There are three potential locations on the property for the external unit. We are requesting a variance because we would like the outdoor unit to be placed on the strip of land between our home at 63 Humphreys Court, and our neighbors at 53 Humphreys Court, in proximity to their pre-existing outdoor unit.

There are two alternative locations available. One is on the west side of our house, which is directly adjacent to a community garden that is enjoyed by members of the community. The other would be in the back yard area of our house, which would not require a variance, but our concerns are potential damage to the unit as this small area is the only place for our children to play, or that it could hinder potential future development of our limited backyard space.

The location between our home at 63 Humphreys Court, and 53 Humphreys Court, would have the biggest potential impact on our neighbors Michael and Zoe Daboul. However, there is a traditional air conditioner under the deck of our immediate neighbor to the north, 50 South School Street, that is significantly noisier than the Dabouls' heat pump, so a second heat pump in the same location should have minimal impact on noise in the backyard space. Additionally, our neighbors the Dabouls have told us "put the AC WHEREVER it works best for you. It won't affect us no matter where it is. Tell the city we approve".

Our intention is to have it as far back from Humphreys Court as possible, either directly across from our neighbors' unit, or else tucked back by our north addition room, as depicted in the two included pictures. The HVAC unit at 53 Humphreys Court is currently 3 feet from the property line between our two houses. Placing our unit directly across from our neighbors unit, allowing for a 0.75 foot offset from our garage, would put our unit 2.5 feet from the property line. If we placed the HVAC unit farther north, behind our garage, would allow a slightly larger setback of 2.65 feet from the property line. This location would minimize visibility from the street. Furthermore, having the unit in this area would minimize the external lines on the front and west sides of the home which are most visible from the street.

Zoning Ordinance to be met, as per City Ordinance 10.233.20:

10.233.21 The variance will not be contrary to the public interest:

The minisplit would be replacing the use of propane-powered boilers for heating in the fall / winter, and portable air conditioning units that we currently use in the summer which are inefficient and energy intensive. It is therefore in the public interest that the home be heated and cooled in a more energy-efficient manner.

10.233.22 The spirit of the Ordinance will be observed:

The proposed minisplit outdoor unit will set back from Humphreys Court in a minimally noticeable location. It avoids the west facing wall of the house which is directly across from the public gardens. This location also minimizes external line-sets that would be visible from the road.

10.233.23 Substantial justice will be done:

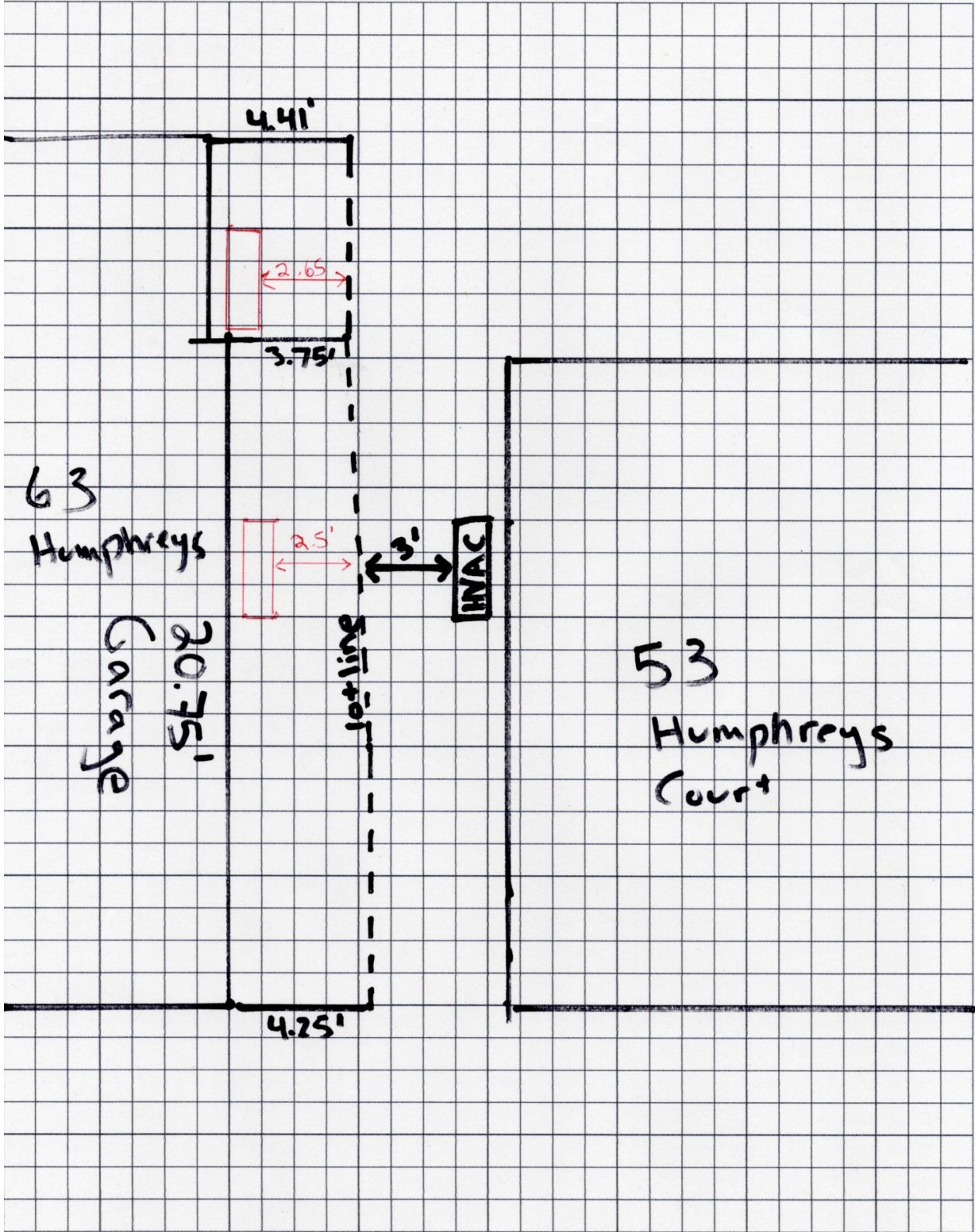
We would like to place the unit on the side of the home as far back from the road as reasonably possible where it could be seen by passersby. Substantial justice for the community regarding lower emissions will be done if the variance is granted.

10.233.24 The values of the surrounding properties will not be diminished:

Our neighbors at 53 Humphreys Court have an outdoor unit in essentially the same location, which has not diminished the property values in either home.

10.233.25 Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship:

We have three small children and a very small lot. Our children use our backyard for their play, and our concern is that an HVAC unit in this location could get damaged. The strip of land between 63 Humphreys Court and our neighbors at 53 Humphreys Court is small, essentially unused, and currently already has an outdoor HVAC unit on our neighbors property. It is the obvious location for our own HVAC unit.







Outdoor
Unit



Outdoor unit

Master and dining room line set



Second floor line set





Living room line set

Job Name/Location: 63 HUMPHREYS CT, PORTSMOUTH, NH 03801

Tag No: KIM SULLIVAN

Date: 3/15/24

For: File Resubmit

PO No.: 63 HUMPHREYS

Approval Other

Architect:

GC:

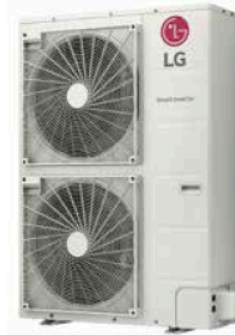
Engr:

Mech:

Rep: PETTIGREW PLUMBING & HVAC
(Company)

ERIC PELCHAT
(Project Manager)

LMU480HHV Multi F MAX with LGRED° Outdoor Unit 4.0 Ton Heat Pump



Performance:

Cooling Capacity (Min.-Rated-Max., Btu/h)	10,800~48,000~58,000
Heating Capacity (Min.-Rated-Max., Btu/h)	12,420~52,500~59,000
Max. Heating Capacity at 17°F (Btu/h)	56,740
Max. Heating Capacity at 5°F (Btu/h)	52,840
Max. Heating Capacity at -4°F (Btu/h)	46,010
Max. Heating Capacity at -13°F (Btu/h)	39,870
Cooling COP @95°F (Rated)	3.84
Heating COP @47°F (Rated)	3.62

Cooling Nominal Test Conditions:
Indoor: 80°F DB / 67°F WB
Outdoor: 95°F DB / 75°F WB

Heating Nominal Test Conditions:
Indoor: 70°F DB / 60°F WB
Outdoor: 47°F DB / 43°F WB

Electrical:

Power Supply (V/Hz/Ø) ¹	208-230V, 60, 1
MOP (A)	40
MCA (A)	32.7
Cooling Rated Amps (A)	29.2
Heating Rated Amps (A)	29.2
Compressor (A)	22.0
Fan Motor (A)	1.6 x 2
Locked Rotor Amps (A)	22

MOP - Maximum Overcurrent Protection

MCA - Minimum Circuit Ampacity

Piping:

Refrigerant Charge (lbs.)	11.46
Liquid Line Connection (in., O.D.)	Ø3/8 x 1
Vapor Line Connection (in., O.D.)	Ø3/4 x 1
Maximum Total Piping ² (ft.)	475.7
Min. / Max. ODU to IDU Piping ³ (ft.)	32.8 / 229.6
Piping Length ⁴ (no add'l refrigerant, ft.)	180.4
Maximum Elevation between ODU and IDU (ft.)	98.4
Maximum Elevation between IDU and IDU (ft.)	49.2

ODU = Outdoor Unit

IDU = Indoor Unit

Features:

- R1 Scroll (Variable Speed) Compressor
- Auto operation
- Auto restart
- Self diagnosis
- Defrost / Deicing
- Low ambient cooling down to 14°F
- Soft start
- Restart delay (three [3] minutes)
- Factory installed Drain Pan Heater

Optional Accessories:

- PI-485 - PMNFP14A1
- AC Smart 5 - PACS5A000
- ACP 5 - PACP5A000
- MultiSITE™ Comm. Mgr. - PBACNBTR0A
- Power Distribution Indicator (PDI) Premium - PQNUD1S41
- Mobile LGMV - PLGMVW100
- Low Ambient Wind Baffle (Cooling Operation Down to -4°F) - ZLABGP04A x2

Required⁵ Accessories:

- 2 Port BD Unit - PMBD3620
- 3 Port BD Unit - PMBD3630
- 4 Port BD Unit - PMBD3640
- 4 Port BD Unit - PMBD3641

Operating Range:

Cooling (°F DB)	14 to 118
Heating (°F WB)	-13 to +64

Unit Data:

Refrigerant Type	R410A
Refrigerant Control	EEV
Sound Pressure (Cool / Heat) ±1 dB(A) ⁶	54 / 56
Net / Shipping Weight (lbs.)	218 / 243
Heat Exchanger Coating	Gold Fin™
Minimum No. of Indoor Units	2
Maximum No. of Indoor Units	8

Compressor:

Type	R1 Scroll
Quantity	1
Oil / Type	FVC68D

Fan:

Type	Propeller
Quantity	2
Motor / Drive	Brushless Digitally Controlled/Direct
Max. Airflow Rate (CFM)	2,119 x 2

Notes:

1. Acceptable operating voltage: 187V - 253V.
2. Piping lengths are equivalent.
3. 180.4 ft. of Main Piping + 49.2 ft. of Branch Piping.
4. 49.2 ft. of Main Piping + 131.2 of Branch Piping.
5. At least one branch distribution (BD) unit is required for system operation; a maximum of two can be installed per ODU with the use of a Y-branch accessory (PMBL5620).
6. Sound pressure levels are tested in an anechoic chamber under ISO Std. 3745.
7. All power / communication cable to be minimum 14 AWG from the ODU to the BD unit, and 14 AWG from the BD unit to the IDU.
8. All power / communication cable to be 4-conductor, stranded, shielded or unshielded, and must comply with applicable local and national codes. If shielded, the wire must be grounded to the chassis at the ODU only.
9. Power wiring size must comply with the applicable local and national codes.
10. See the Engineering Manual Capacity Tables for ODU sensible and latent capacities.
11. See the Engineering Manual Combination Tables for allocation of ODU rated capacity to each connected IDU when all are calling for full capacity. Allocation percentages should be applied to ODU capacity at design conditions.
12. This data is rated 0 ft. above sea level, with 0 ft. level difference between ODU and IDUs, and the following refrigerant pipe lengths:
LMU361HHV: 16.4 ft. Main + (16.4 ft. Branch x 5) = 98.4 ft.
LMU421HHV: 16.4 ft. Main + (16.4 ft. Branch x 6) = 114.8 ft.
LMU480HHV: 16.4 ft. Main + (16.4 ft. Branch x 8) = 147.6 ft.
All capacities are net with a combination ratio between 95 - 105%.
13. Must follow installation instructions in the applicable LG installation manual.
14. See the Engineering Manual Capacity Tables for ODU capacity at design conditions.



162279



Job Name/Location: 63 HUMPHREYS CT, PORTSMOUTH, NH 03801

LMU480HHV
Multi F MAX with LGRED® Outdoor Unit
4.0 Ton Heat Pump



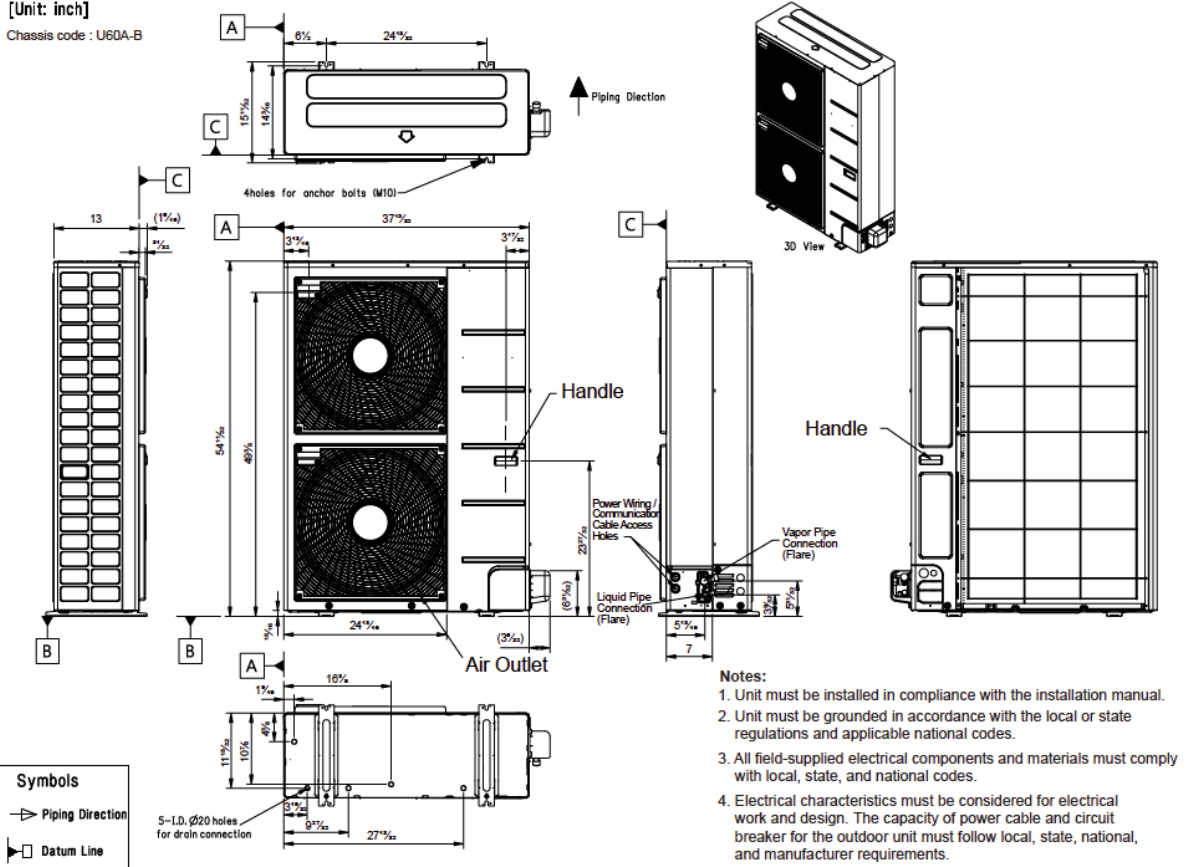
Tag No.: KIM SULLIVAN

Date: 3/15/24

PO No.: 63 HUMPHREYS

[Unit: inch]

Chassis code : U60A-B



- Notes:**
1. Unit must be installed in compliance with the installation manual.
 2. Unit must be grounded in accordance with the local or state regulations and applicable national codes.
 3. All field-supplied electrical components and materials must comply with local, state, and national codes.
 4. Electrical characteristics must be considered for electrical work and design. The capacity of power cable and circuit breaker for the outdoor unit must follow local, state, national, and manufacturer requirements.

Job Name/Location: 63 HUMPHREYS CT, PORTSMOUTH, NH 03801

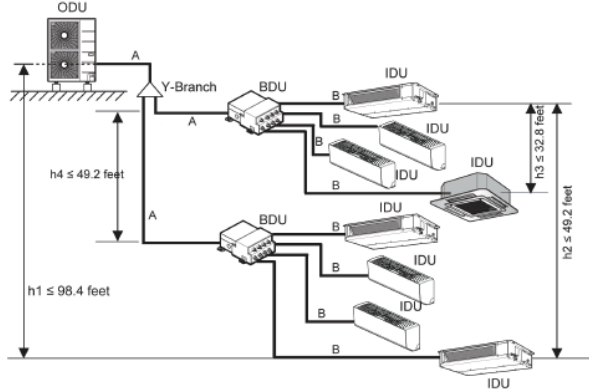
LMU480HHV
Multi F MAX with LGRED® Outdoor Unit
4.0 Ton Heat Pump



Tag No.: KIM SULLIVAN

Date: 3/15/24

PO No.: 63 HUMPHREYS

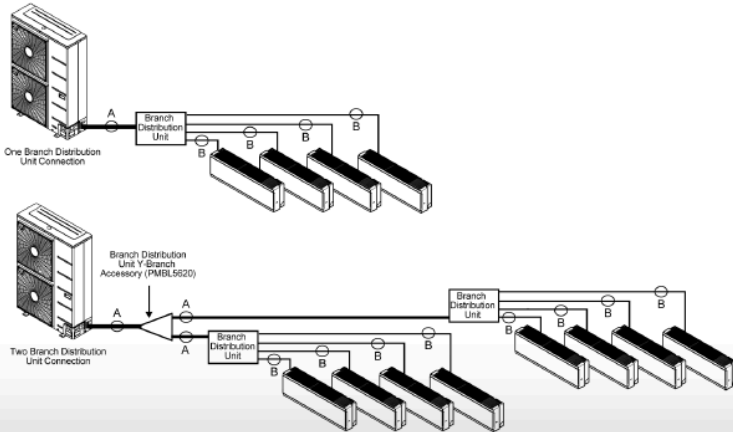


Example: LMU480HHV outdoor unit with eight (8) indoor units and two (2) branch distribution units connected.
 ODU: Outdoor Unit.
 IDU: Indoor Unit.
 BDU: Branch Distribution Unit(s).
 A: Main Pipe.
 B: Branch Pipe (Branch Distribution Unit[s] to Indoor Unit[s]).

Multi F MAX with LGRED Outdoor Unit Refrigerant Piping System Limitations.

Pipe Length (ELF = Equivalent Length of pipe in Feet)	Total piping length ($\Sigma A + \Sigma B$)		≤475.7 feet
	Main pipe (Outdoor Unit to Branch Distribution Units: A)	Minimum for Each (A) Piping Segment	16.4 feet
		Maximum (ΣA)	≤180.4 feet
	Total branch piping length (ΣB)		≤295.3 feet
Elevation Differential (All Elevation Limitations are Measured in Actual Feet)	Branch pipe (Branch Distribution Units to Indoor Units: B)		Minimum
			Maximum
	If outdoor unit is above or below indoor unit (h1)		≤98.4 feet
	Between the farthest two indoor units (h2)		≤49.2 feet
		Between branch distribution unit and farthest connected indoor unit(s) (h3)	≤32.8 feet
		Between branch distribution units (h4)	≤49.2 feet

Installing the Unit



Multi F MAX with LGRED Piping Sizes.

Piping	Main Pipe A (inch)	Branch Pipe B
Liquid	Ø3/8	Depends on the size of the indoor unit piping.
Vapor	Ø3/4	

I. NEW BUSINESS

- B.** The request of **Madeline Lockwood and Drew Morgan (Owners)**, for property located at **42 Sewall Road** whereas relief is needed for a second-story addition and construction of a front porch to the existing home, which requires the following relief: 1) Variance from Section 10.521 to a) allow a 20 foot front yard where 30 feet is required; b) to allow a building coverage of 21.5% where 20% is the maximum permitted; and 2) 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 170 Lot 13 and lies within the Single Residence B (SRB) District. (LU-24-70)

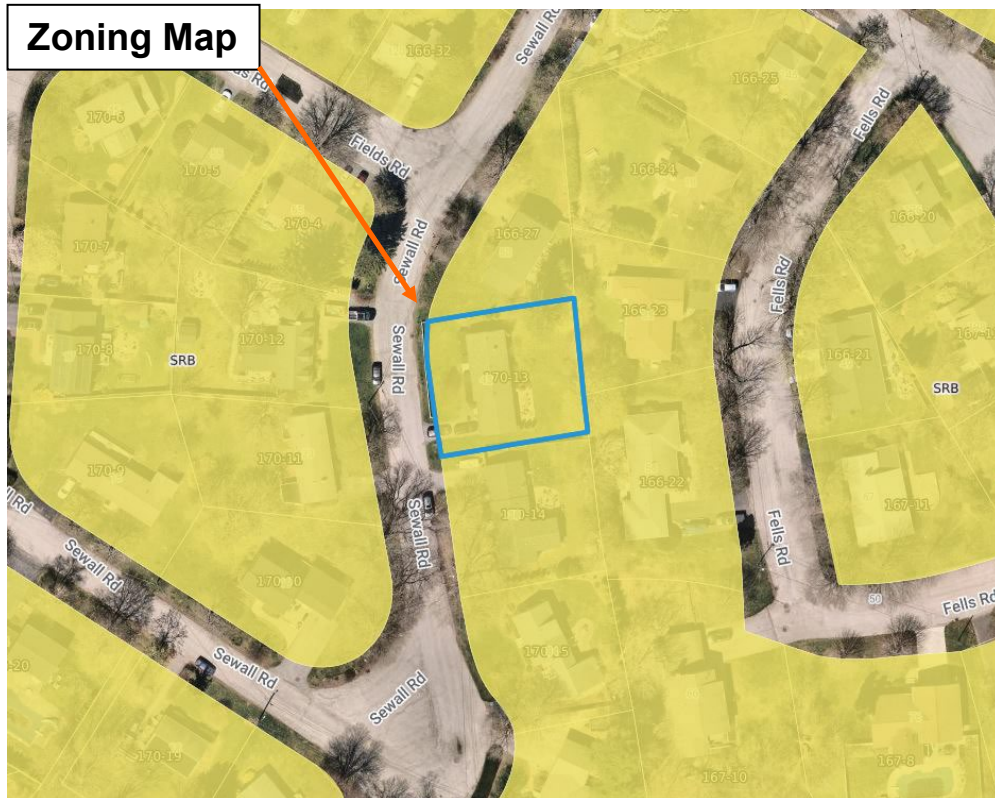
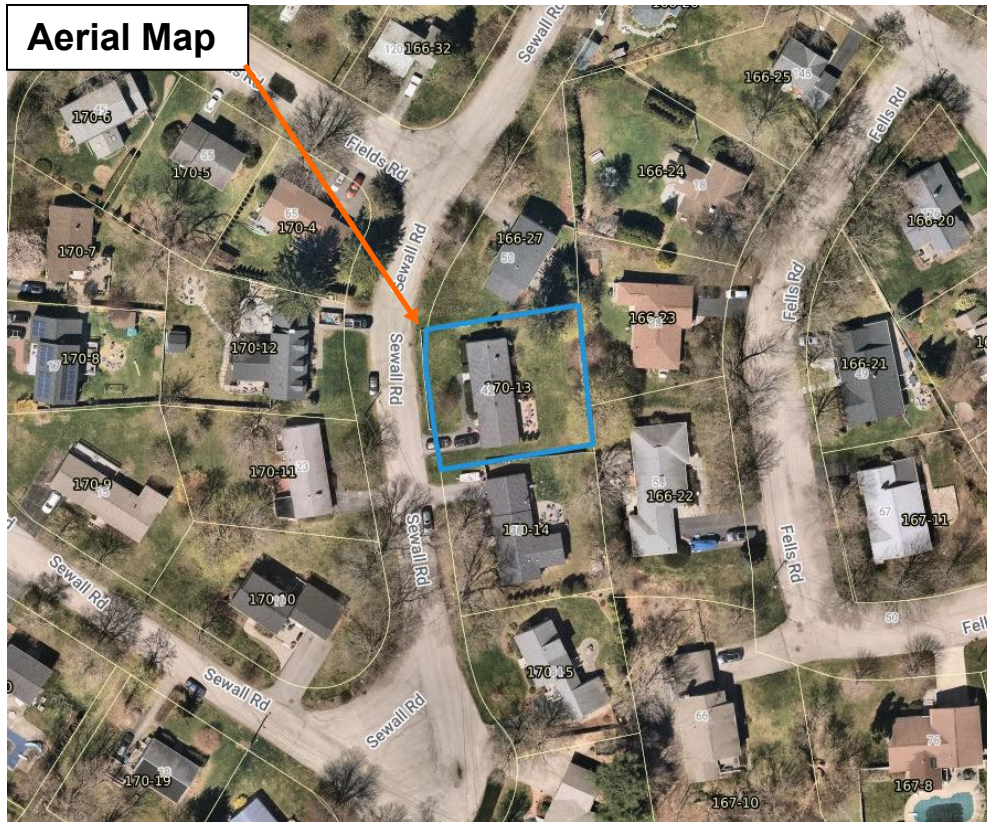
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family Dwelling	addition and front porch	Primarily residential
<u>Lot area (sq. ft.):</u>	9,053	9,053	15,000 min.
<u>Street Frontage (ft.):</u>	72.5	72.5	100 min.
<u>Lot depth (ft.)</u>	100	100	100 min.
<u>Front Yard (ft.):</u>	28	20	30 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Right Yard (ft.):</u>	8	8	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	30 min.
<u>Height (ft.):</u>	15	27	35 max.
<u>Building Coverage (%):</u>	18	21.5	20 max.
<u>Open Space Coverage (%):</u>	72	70	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1961	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No Previous BOA history found.

Planning Department Comments

The applicant proposes to construct a second-story addition and front porch on the existing one-story single-family dwelling. The property is an existing non-conforming lot and the primary structure sits within the front and right side yard setbacks. The proposed second story addition and front porch require relief to be constructed within the front yard and to increase the building coverage over the maximum of 20%.

Variance 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.

Drew & Madeline Morgan
42 Sewall Road
Portsmouth NH 03801

We are requesting a variance to allow a nonconforming building to be reconstructed without conforming to the requirement of the ordinance. We would like to reconstruct our house to add a second story. The current footprint will remain unchanged, but since our current build is non-conforming, we need the variance to add the second story.

We are also requesting dimensional relief on the front setback of the property for outward expansion of a front porch as well as building coverage relief. We are looking to add a porch to the front (west facing) side of our house. This porch would extend 7.5ft from the current front of our house, encroaching the 30ft setback from the road. The new setback from the porch to the front edge of the property would be 20 ft. The proposed porch will also increase the building coverage of our lot from its current 18.1% to 21.3%.






Explanation

- 1. The variance is not contrary to the public interest:** The variance is not contrary to public interest- it will in no way threaten public health, safety, welfare or otherwise injure public rights. The surrounding neighborhood consists of single and two story homes; and on a quiet street used for neighborhood enjoyment. The outward expansion will improve the aesthetics of this property by not altering the essential character of the neighborhood. The reconstruction of our home fits within the aesthetics of our neighborhood.
- 2. The Spirit of the Ordinance is Observed:** This style of home with the addition of the front porch is common in not only this neighborhood, but throughout Portsmouth.
- 3. Substantial Justice is Done:** The proposed plan does not result in any hardship done to the general public and/or individuals. The purpose of this renovation is to allow for more liveable space both indoors and outdoors for the applicant and their family without hindering the public in any way.
- 4. The values of surrounding properties are not diminished:** The values of the surrounding properties are not diminished; the proposed work falls in line with the character of other properties in the neighborhood.
- 5. Literal enforcement of the ordinance would result in unnecessary hardship:** The purpose of this proposed renovation is to create more liveable space for a young family who loves to be outside and interacting with the neighborhood. A benefit of this lovely, quiet neighborhood is that our children can play outside, ride bikes in the street, and this proposed front porch allows us to enjoy the outdoors while also maintaining the essential character of the neighborhood. The proposed addition allows us to create a 'forever'home in this great neighborhood and continue building strong relationships with our neighbors. It gives a growing family more space while still maintaining the character Portsmouth is known for.

NOTES

- 1) OWNER OF RECORD:
 MADELINE JANE LOCKWOOD & DREW BOWDEN MORGAN
 TAX MAP 170, LOT 13
 42 SEWALL ROAD
 PORTSMOUTH, NH 03801
 RCRD: 6283-0448
 AREA: 9,053 SF, 0.21 ACRES
- 2) BASIS OF BEARING HELD FROM PLAN REFERENCE #1.
- 3) PARCEL IS IN SINGLE RESIDENCE - B ZONE (SRB):
 MINIMUM LOT AREA.....15,000 SF
 MIN. LOT AREA PER DWELLING UNIT.....15,000 SF
 MINIMUM FRONTAGE.....100 FT
 MINIMUM DEPTH.....100 FT
 SETBACKS:
 FRONT.....30 FT
 SIDE.....10 FT
 REAR.....30 FT
 MAXIMUM BUILDING HEIGHT:
 SLOPED ROOF.....35 FT
 FLAT ROOF.....30 FT
 MAXIMUM BUILDING COVERAGE.....20%
 MINIMUM OPEN SPACE.....40%
- 4) THE PARCEL IS NOT WITHIN A FEMA FLOOD ZONE, AS PER FLOOD INSURANCE RATE MAP #33015C0259F, PANEL 259 OF 681, DATED JANUARY 29, 2021. VERTICAL DATUM IS NAVD 1988.
- 5) COVERAGES
 EXISTING BUILDING COVERAGE
 HOUSE.....1619 SF
 DECK > 18".....24 SF
 TOTAL.....1643 SF
 COVERAGE 1643 / 9053 = 18.1%
 PROPOSED BUILDING COVERAGE
 HOUSE.....1619 SF
 COVERED PORCH.....310 SF
 TOTAL.....1929 SF
 COVERAGE 1929 / 9053 = 21.3%
 EXISTING OPEN SPACE
 BUILDING COVERAGE.....1643 SF
 DECKS & STAIRS < 18".....46 SF
 PAVER PATIO & WALL.....329 SF
 ASPHALT.....529 SF
 TOTAL.....2547 SF
 COVERAGE 2547 / 9053 = 28.1%
 OPEN SPACE = 100 - 28.1 = 71.9%
 PROPOSED OPEN SPACE
 BUILDING COVERAGE.....1929 SF
 DECKS.....33 SF
 PAVER PATIO & WALL.....329 SF
 ASPHALT.....414 SF
 TOTAL.....2705 SF
 COVERAGE 2705 / 9053 = 29.9%
 OPEN SPACE = 100 - 29.9 = 70.1%

LEGEND

-  MONUMENT TO BE SET
-  MONUMENT FOUND
-  UTILITY POLE
-  OVERHEAD UTILITIES
-  STONEWALL

2	4/3/2024	FOR REVIEW	
1	3/6/2024	FOR REVIEW	
ISS	DATE	DESCRIPTION OF ISSUE	
SCALE	1" = 10'		
CHECKED	A.ROSS		
DRAWN	S.R.O		

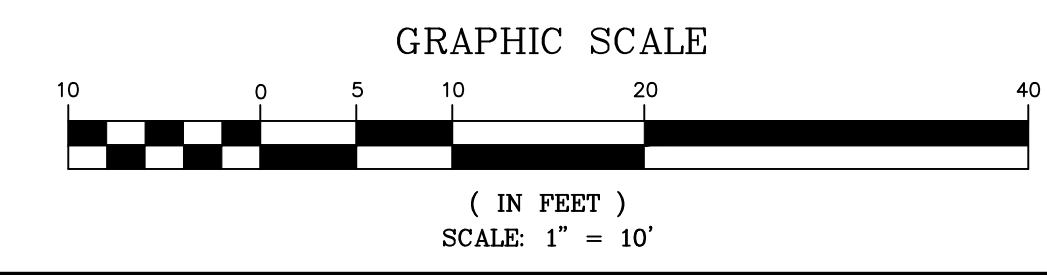
ROSS ENGINEERING, LLC
 Civil/Structural Engineering
 & Surveying
 909 Islington St.
 Portsmouth, NH 03801
 (603) 433-7560

CLIENT
 DREW MORGAN
 42 SEWALL RD
 PORTSMOUTH, NH 03801

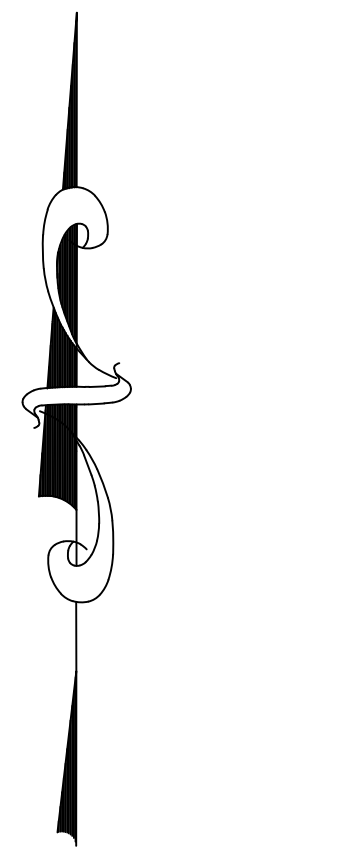
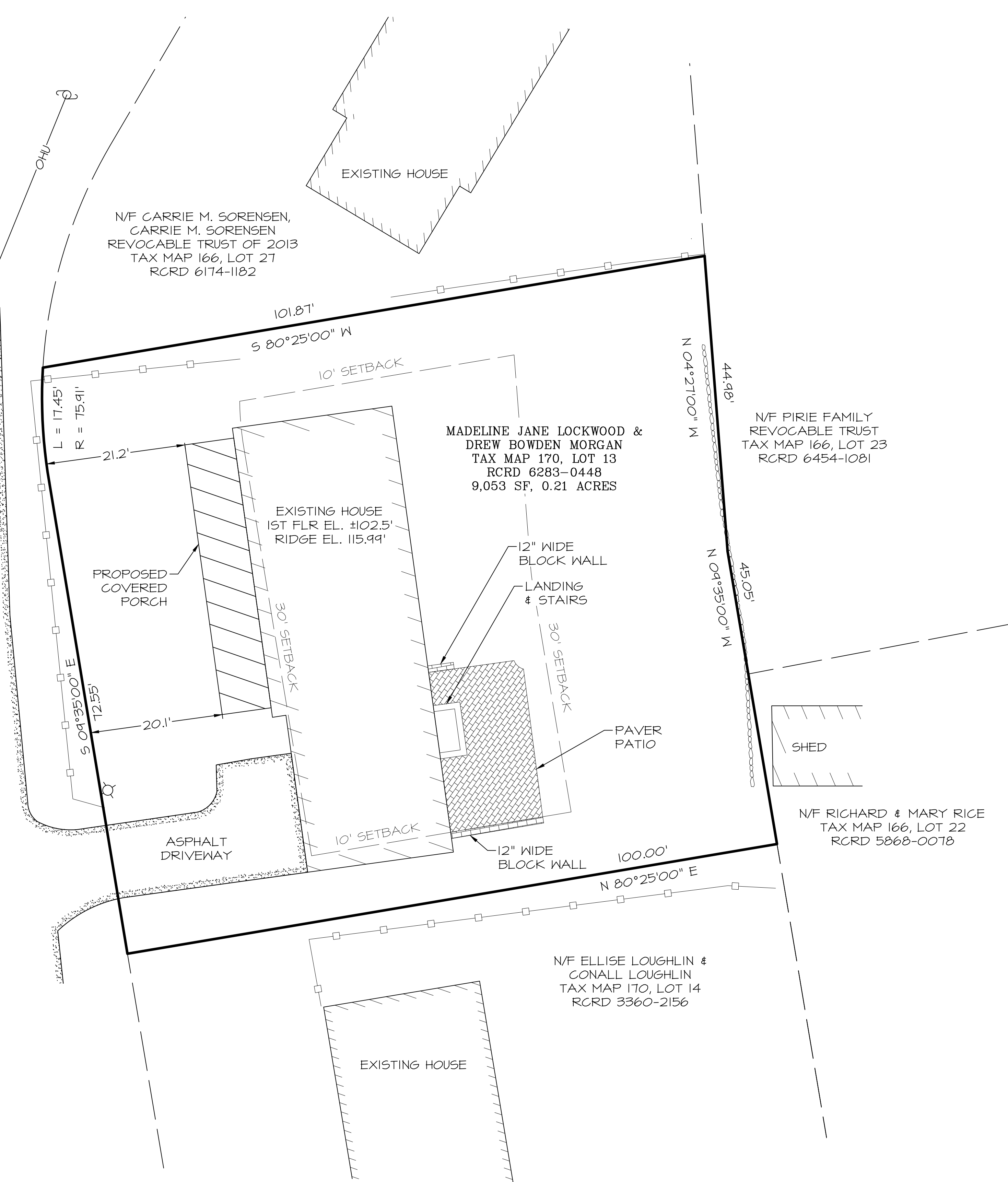
TITLE

SITE PLAN
 42 SEWALL RD
 PORTSMOUTH, NH 03801
 TAX MAP 170, LOT 13

JOB NUMBER	DWG. NO.	ISSUE
23-127	2 OF 2	2



SEWALL ROAD





7.0 Side Elevation
Scale: 1/4" = 1'-0"



Existing ranch style home



8.0 Street Elevation
Scale: 1/4" = 1'-0"

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DATE: Apr 30, 2024
PROJECT: LUG21-09

In partnership with
Hugo Design Group
10 Pepperell Rd
Kittery Point ME 03905
207.752.3046 HugoOffice@me.com

Drew and Maddie Morgan
42 Sewall Rd
Portsmouth, NH 03801

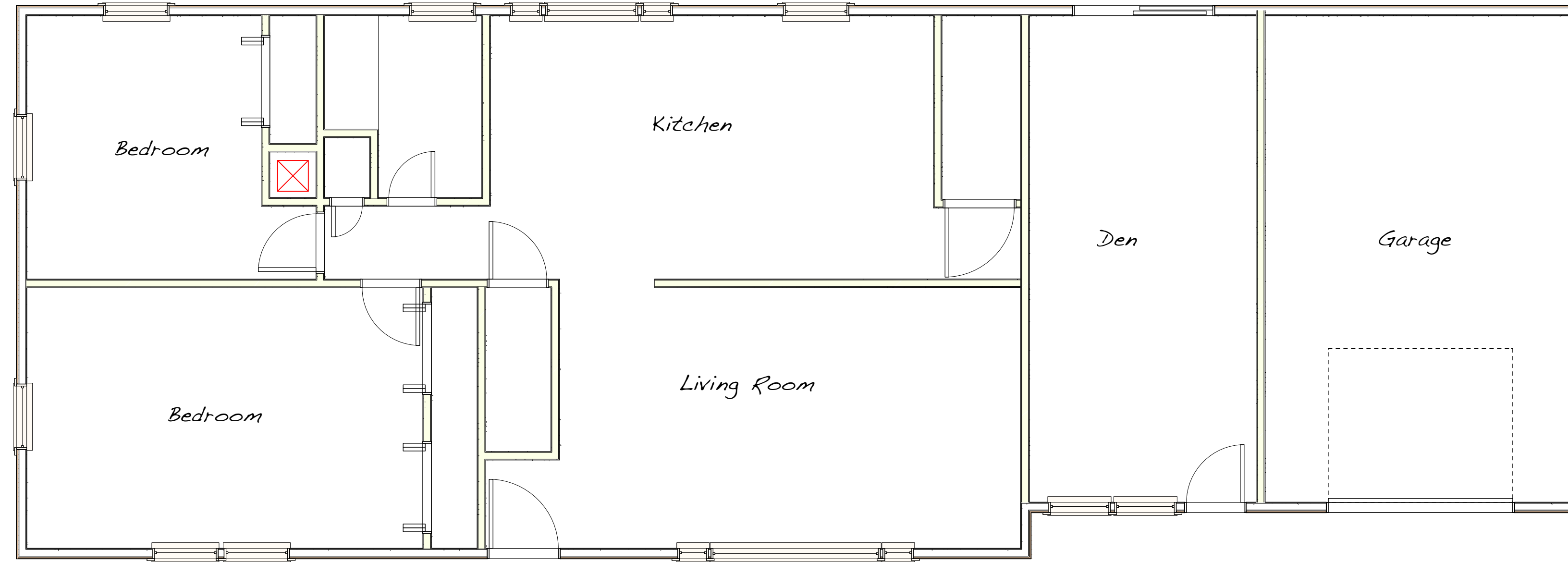
Elevation Street
Designed By: CCH
Drawn By: CCH
Sheet Scale: 1/4" = 1'-0"

GORDON DESIGN-BUILD
PO Box 685
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(603) 512-1959

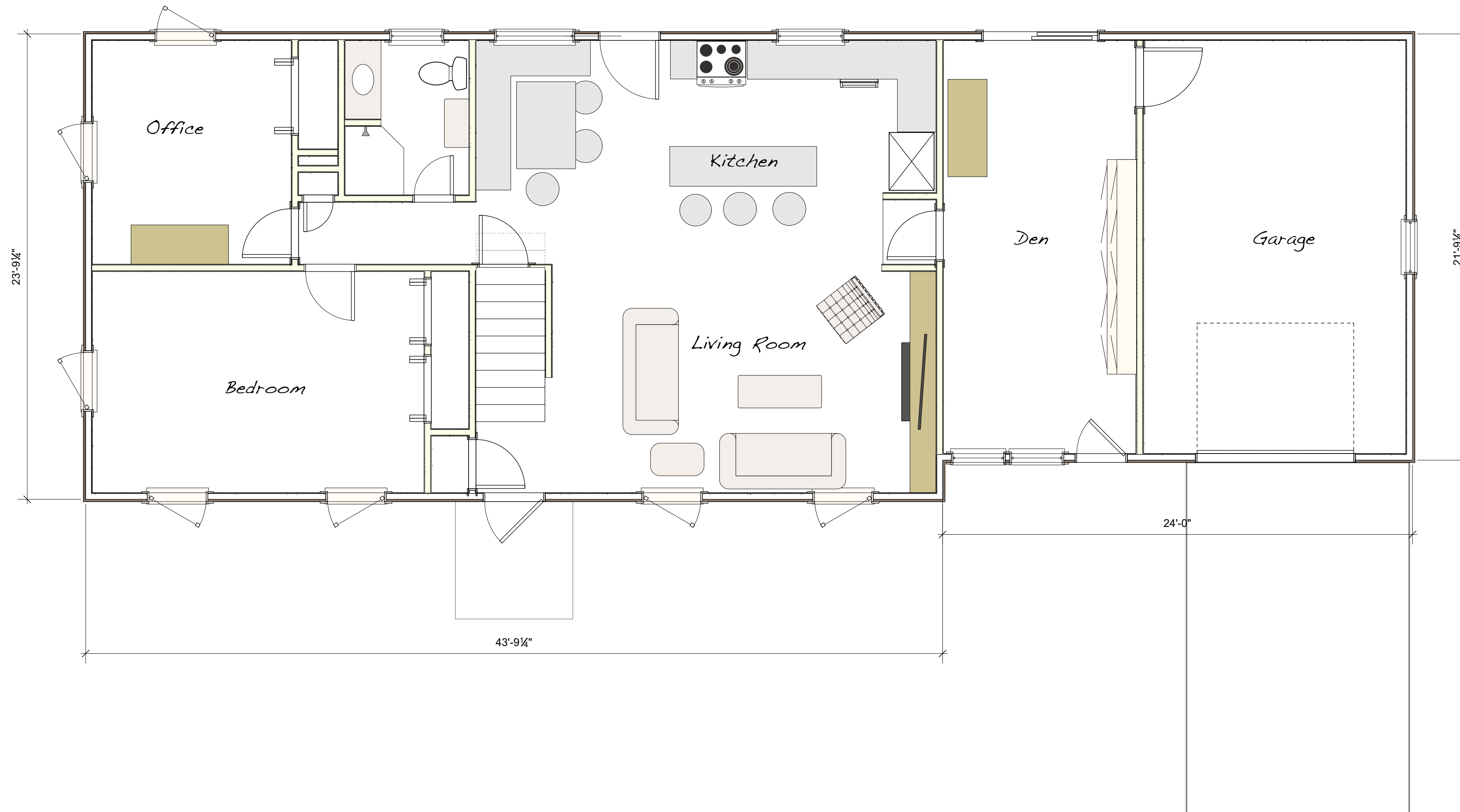
Sheet Date: 3/8/24

Sheet No. 8.0 of 14

2.1 1st Floor Existing
Scale: 1/4" = 1'-0"



2.1 1st Floor Concept
Scale: 1/4" = 1'-0"



NOTE:
This plan is based on a visual inspection only. Designer does not certify that all existing or hidden conditions that may be present have been identified and addressed within these plans and that any such conditions uncovered during the construction process that may require modifications and/or resubmission's of plans, whether by jurisdictional directives or by inspection of structural engineer or other events, may incur additional fees to complete. Confirm all dimensions in field.



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Sheet Date: 12/20/23
Sheet No.:

1.2
of
4

First Floor Concept

Designed By: CCH
Drawn By: CCH
Sheet Scale: 1" = 20'-0"

Drew and Maddie Morgan
42 Sewall Rd
Portsmouth, NH 03801

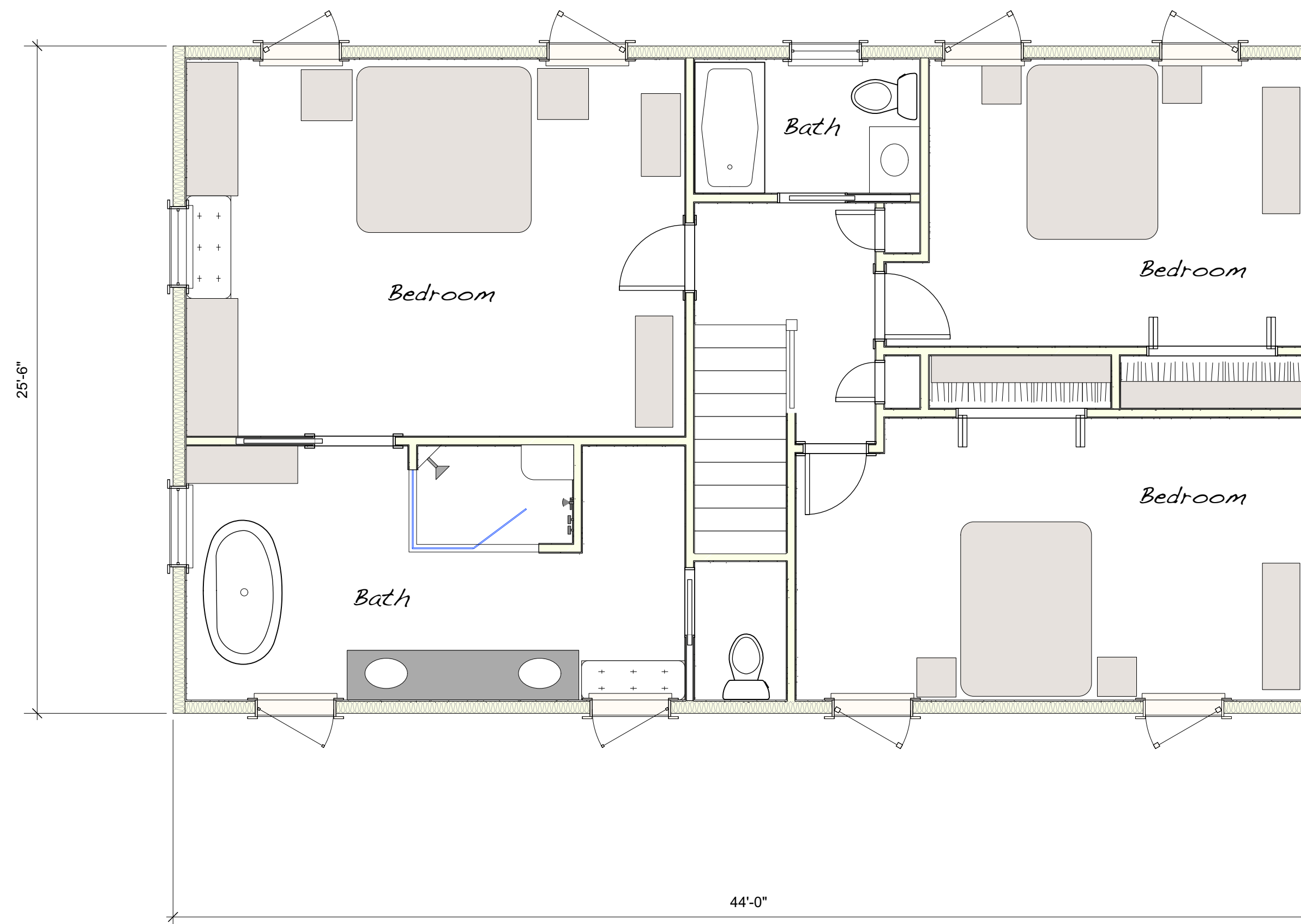
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PROJECT: CCH
DATE: Apr 30, 2024
DRAWN BY: LUG21-09

2.1 2nd Floor Existing
Scale: 1/4" = 1'-0"



2.2 2nd Floor Concept
Scale: 1/4" = 1'-0"



NOTE:

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Sheet Date: 12/20/23
Sheet No.:

2.2
of
7

Second Floor Concept

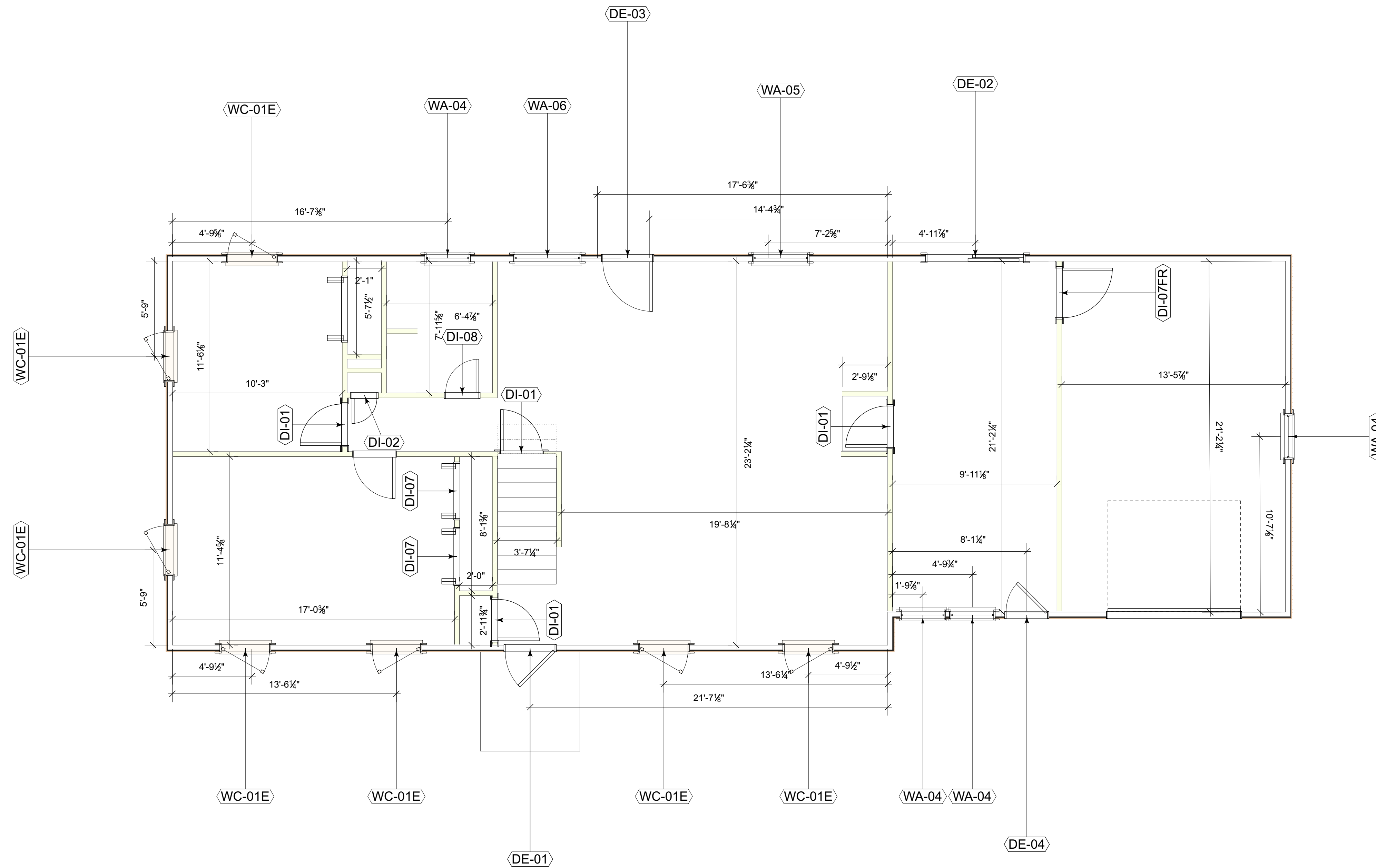
Designed By: CCH
Drawn By: CCH
Sheet Scale: 1" = 20'-0"

Drew and Maddie Morgan
42 Sewall Rd
Portsmouth, NH 03801

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10 Pepperell Rd
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PROJECT: Apr 30, 2024
CADD File Name: Liu921-09

2.1 1st Floor Door Window Plan
Scale: 1/4" = 1'-0"



Door Schedule						
Mark	Nominal Size		Door Style	Door Data		
	Width	Height	Configuration	Mfr	Model No.	Comments
DI-01	26"	68"	Swing	N/A		
DI-01	26"	68"	Swing	N/A		
DI-01	26"	68"	Swing	N/A		
DI-01	26"	68"	Swing	N/A		
DI-01	30"	68"	Swing	Jeld Wen	Smooth-Pro™ Fiberglass Ext. 1/4 View 3-Light Top Down 1-Panel	
DI-01	26"	68"	Swing	N/A		
DI-02	60"	68"	Sliding	XO	Marvin	Elevate SPD6068
DI-02	18"	68"	Swing	N/A		
DI-02	18"	68"	Swing	N/A		
DI-02	18"	68"	Swing	N/A		
DI-02	18"	68"	Swing	N/A		
DI-03	30"	68"	Swing	N/A	Jeld Wen	Smooth-Pro™ Fiberglass Ext. All Glass
DI-03	26"	68"	Swing	N/A		
DI-04	50"	68"	Folding	N/A		
DI-04	26"	68"	Swing	N/A	Jeld Wen	Smooth-Pro™ Fiberglass Ext. 1/4 View 3-Light Top Down 1-Panel
DI-04	50"	68"	Folding	N/A		
DI-05	26"	68"	Pocket	N/A		
DI-05	26"	68"	Pocket	N/A		
DI-06	30"	68"	Pocket	N/A		
DI-07	36"	68"	Folding	N/A		
DI-07	36"	68"	Folding	N/A		
DI-07	FR	30"	68"	Swing	N/A	
DI-08		20"	68"	Swing	N/A	

Window Schedule									
Mark	Window Style	Configuration	Openings			Window Data			
			Wgress W/in	RO Width	RO Height	Mfr	Model No.	Accessories	Comments
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WC-01	E	Casement	True	31"	31 5/8"	Marvin	ELCA3747		
WA-02	Casement	True	31"	33 5/8"	Marvin	ELAWN3739			
WA-03	Awning	FALSE	31"	33 5/8"	Marvin	ELAWN3735			
WA-03	Awning	FALSE	31"	33 5/8"	Marvin	ELAWN3735			
WA-03	Awning	FALSE	31"	33 5/8"	Marvin	ELAWN3735			
WA-03	Awning	FALSE	31"	33 5/8"	Marvin	ELAWN3735			
WA-04	Awning	FALSE	29"	21 5/8"	Marvin	ELAWN3335			
WA-04	Awning	FALSE	29"	21 5/8"	Marvin	ELAWN3335			
WA-04	Awning	FALSE	29"	21 5/8"	Marvin	ELAWN3335			
WA-04	Awning	FALSE	29"	21 5/8"	Marvin	ELAWN3335			
WA-05	Awning	FALSE	35"	21 5/8"	Marvin	ELAN4135			
WA-06	Awning	FALSE	41"	11 5/8"	Marvin	ELAWN4923			

NOTE:
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Sheet Title: First Floor Window and Door

Sheet Date: 12/20/23

Sheet No.:

Drawn By: CCH

Checked By: CCH

Project Date: Apr 30, 2024

Project File Name: LUG21-09

In partnership with

Hugo Design Group

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Drew and Maddie Morgan

42 Sewall Rd
Portsmouth, NH 03801

Project Title: First Floor Window and Door

Scale: 1" = 20'-0"

Logo for GORDON DESIGN-BUILD

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1.3
of
5

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Examples of homes in the neighborhood
with front porches







I. NEW BUSINESS

C. The request of **Christopher Blaudschun and Katie Gilpatrick (Owners)**, for property located at **411 Ocean Road** whereas relief is needed to renovate the front façade of the existing house, including construction of new dormers, bay window skirting and a new front door portico, which requires the following: 1) Variance from Section 10.521 to allow an 11.5 foot front yard where 30 feet is required; and 2) 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 293 Lot 7 and lies within the Single Residence A (SRA) District. (LU-24-91)

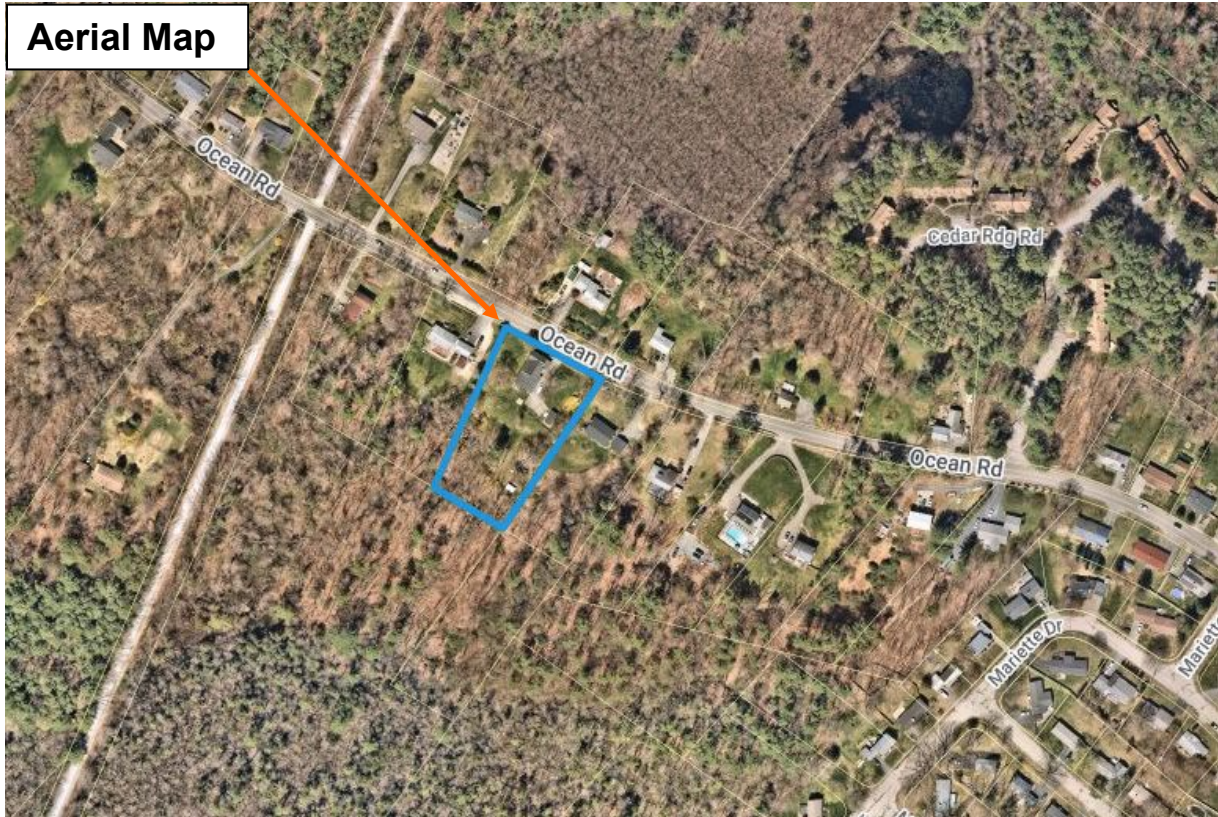
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family Dwelling	Front façade renovation	Primarily residential
<u>Lot area (sq. ft.):</u>	55,321	55,321	43,560 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	55,321	55,321	43,560 min.
<u>Street Frontage (ft.):</u>	200	200	150 min.
<u>Lot depth (ft.)</u>	320	320	200 min.
<u>Front Yard (ft.):</u>	16	11.5	30 min.
<u>Left Yard (ft.):</u>	>20	>20	20 min.
<u>Right Yard (ft.):</u>	>20	>20	20 min.
<u>Rear Yard (ft.):</u>	>40	>40	40 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	4.5	4.6	10 max.
<u>Open Space Coverage (%):</u>	90.9	90.9	50 min.
<u>Parking</u>	>2	>2	2
<u>Estimated Age of Structure:</u>	1857	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

April 18, 2000 – The Board considered a request for a Special Exception as allowed in Article II, Section 10-206(12) requesting to establish a Home Occupation as a personal trainer from 8am to 5pm in 231.95 s.f. area of an existing single family dwelling. The Board voted that the request be **granted** as advertised and presented.

Planning Department Comments

The applicant proposes to renovate the front façade of the existing two-story single-family dwelling, including construction of new dormers, bay window skirting and a new front door portico. The additions to the front façade require relief as the existing non-conforming structure is within the required front yard setback.

Variance 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.

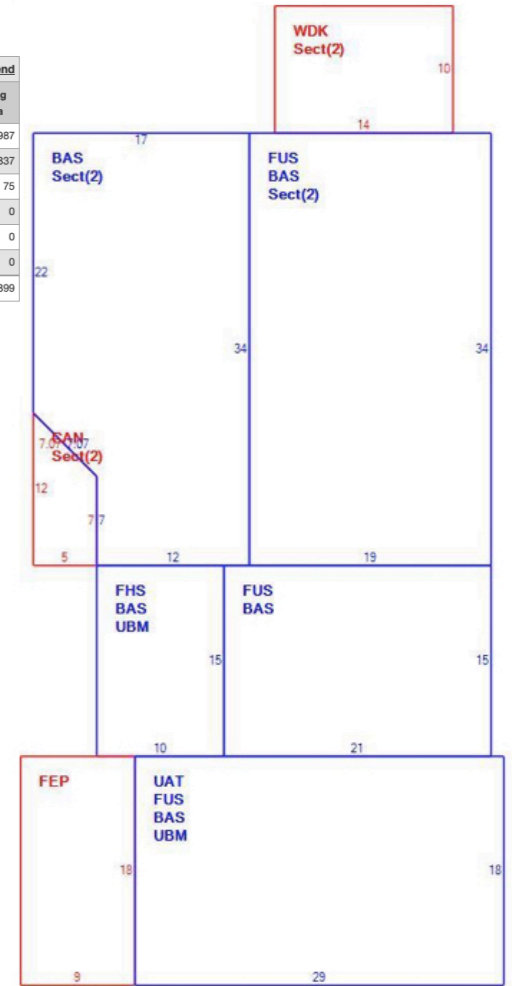
Blaudschun Residence

411 Ocean Rd, Portsmouth NH

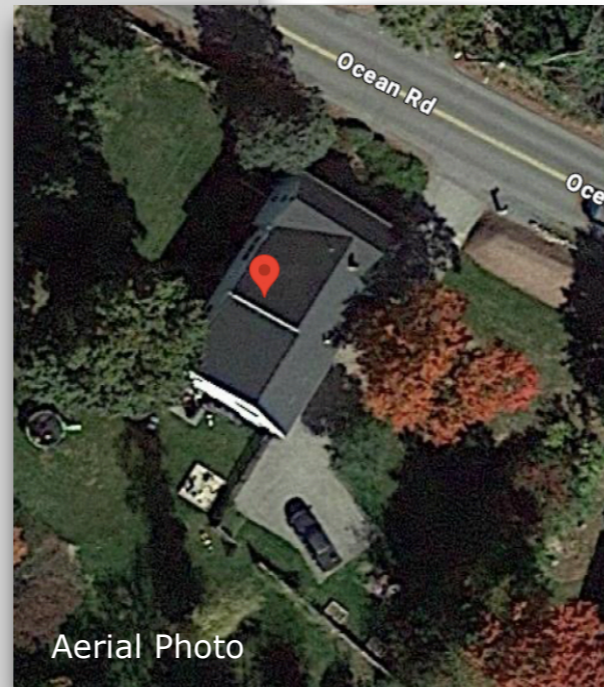
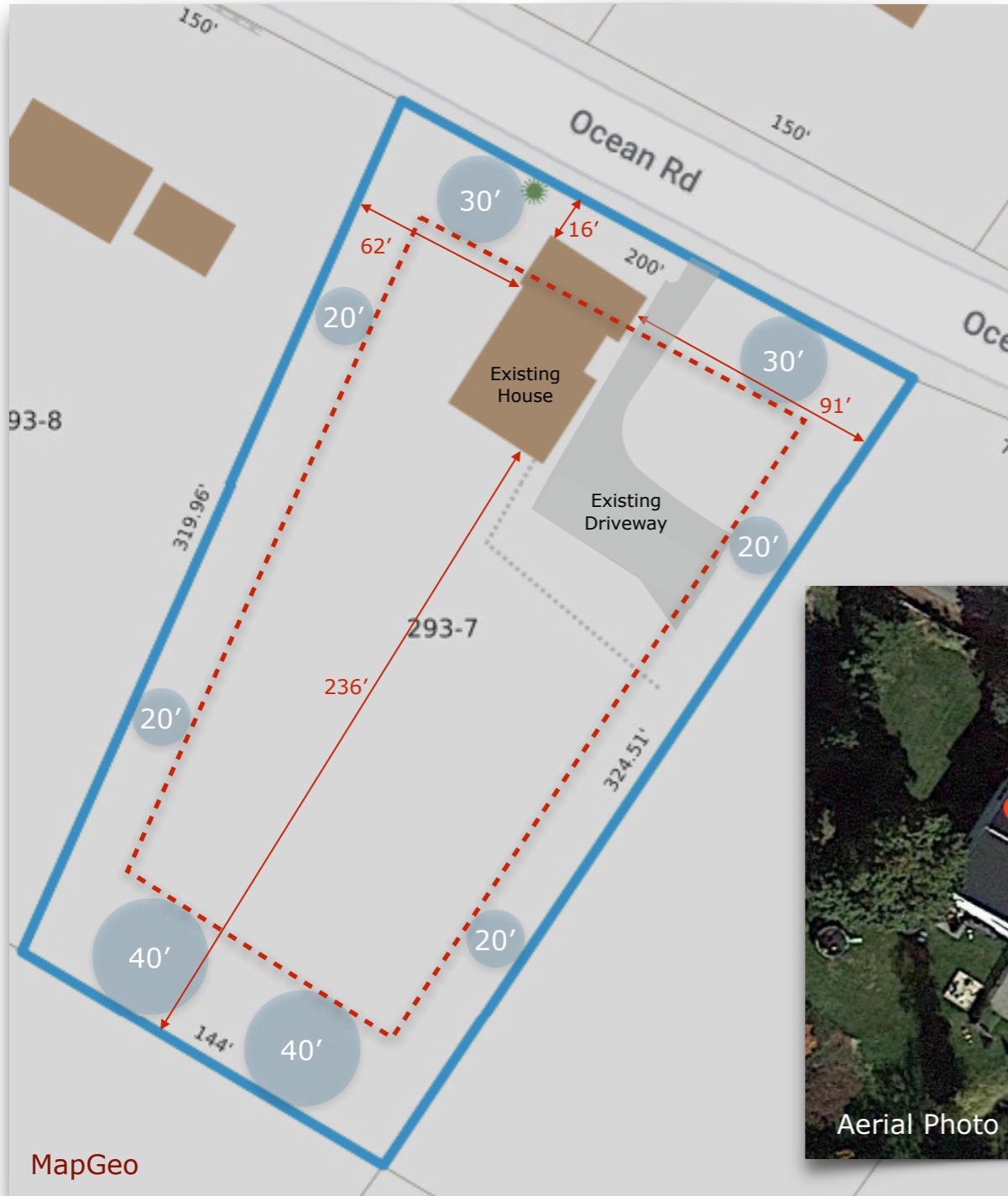
Existing Site Data

- Map 293 Lot 007
- Single Family MDL-01
- SRA (Built 1857)
- 1.27 Acres (55,321 SF+/-)
- Setbacks:
 - Front = 30'
 - Side = 20'
 - Rear = 40'
- Lot Size = 1 Acre
- Frontage = 150'
- Height = 35'
- Coverage = 10%
 - 5,532 SF Allowed (2,513 or 4.54% Current)
- Minimum Open Space = 50%
 - 27,660 SF Allowed (5,026 or 9.08% Current - Assumed)

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	987	987	
FUS	Upper Story, Finished	837	837	
FHS	Half Story, Finished	150	75	
FEP	Porch, Enclosed	162	0	
UAT	Attic	522	0	
UBM	Basement, Unfinished	672	0	
		3,330	1,899	



Tax Map



Aerial Photo

Right Side



Existing Photos

Left Side

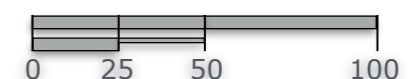


Front & Left Side



Front Of House

Existing Site Conditions



Blaudschun Residence

411 Ocean Rd, Portsmouth NH



Existing Conditions:

- Entry door head trim
- Shallow eaves / overhangs
- Bay window insulation value is minimal
- Landscape is overgrown

Notes:

- Facade work is meant to enhance the existing front elevation as well as address insulation, doors and windows
- Added "Dog House Dormers" to help with water mitigation at the front elevation of the house
- Add stone drip band at the foundation perimeter to help with water management away from house
- New Portico / Stoop to help protect front door and keep snow and ice from building up at this location (due to the new portico element)



Proposed Conditions:

- New Dog House Dormer tops above existing 3 windows at the second floor
- New Bay Window Skirt at the existing bay windows
- New Portico / Stoop @ Existing front door
- Revise Landscaping

Bay Window Skirt Added (2)

New Portico / Stoop

Front Elevation Images

Blaudschun Residence

411 Ocean Rd, Portsmouth NH

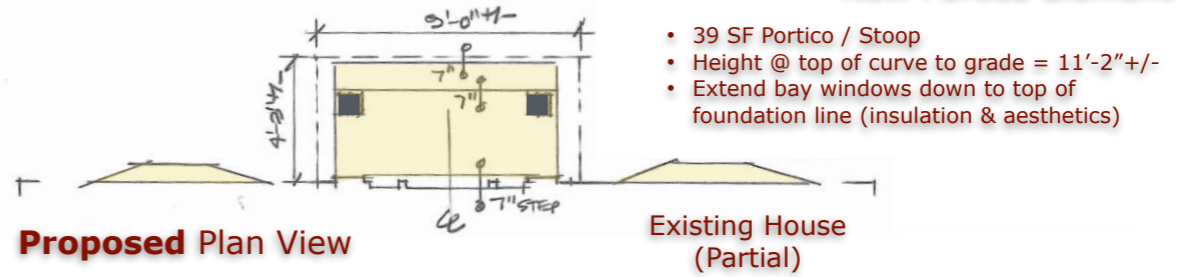
Work within the Front Setback:

- Any work in a setback requires a Variance from the Zoning Board



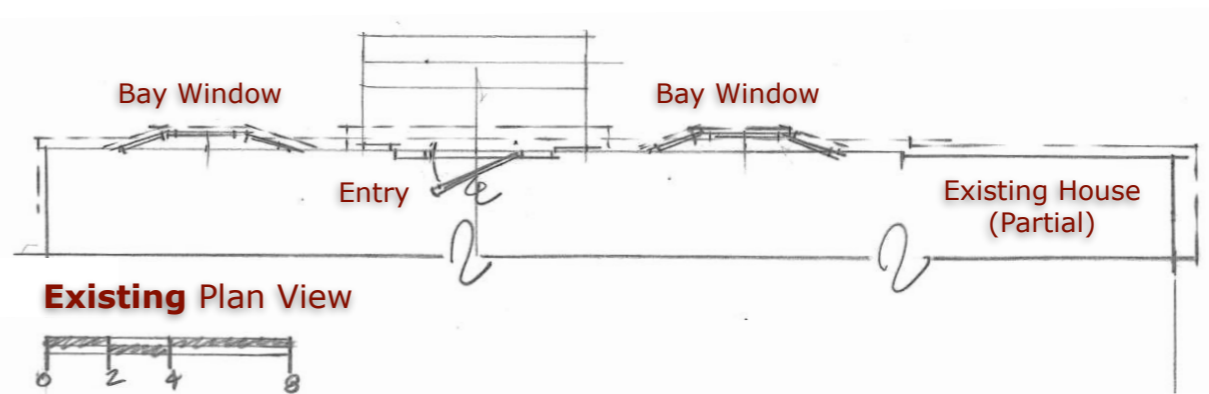
Proposed Front Elevation

New Portico Element



Proposed Plan View

Existing House (Partial)



Existing Plan View

Portico / Stoop Diagrams

5-20-2024

TMS
architects
interiors

Proposed Site Conditions

Blaudschun Residence

411 Ocean Rd, Portsmouth NH

Proposed Site Data

- 1.27 Acres (55,321 SF+/-)
- Setbacks:
 - Front = 11.75'
- Coverage = 10%
 - 5,532 SF Allowed
 - 2,513 or 4.54% Existing
 - 2,553 or **4.61% Proposed**
- Minimum Open Space = 50%
 - 27,660 SF Allowed
 - (5,026 or 9.08% Current - Assumed)
 - (5,066 or **9.15% Proposed** - Assumed)

Variance Criteria:

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

Allowing the proposed entry stoop and facade modifications helps make the house more functional along this busy road.

10.233.22 The spirit of the Ordinance will be observed;

By allowing this change to the facade of this older house, the unique condition of the house's proximity to the road can be addressed in a meaningful way.

10.233.23 Substantial justice will be done;

Allowing these updates adds specific function to the property.

10.233.24 The values of surrounding properties will not be diminished;

Allowing these updates will add value to the specific property and will not diminish adjacent property values.

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

The proposed stoop will allow the residing young children to wait for the school bus in a safe, covered area along this busy road.

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

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

This house is closer to Ocean Road than the adjacent neighbors and was built in 1859, predating zoning regulations. The adjacent houses were built between 1965 and 1976 and predate current zoning regulations but were better situated on their respective lots and better meet current zoning outlines. There is no fair and substantial relationship between general purposes of the ordinance and the specific application to the property.

and (b) the proposed use is a reasonable one. (Under this provision, an unnecessary hardship shall be deemed to exist only if both elements of the condition are based on the special conditions of the property.)

The proposed use is a reasonable one as it adheres to the intended residential use and helps maintain a safer environment to the house's occupants.

I. NEW BUSINESS

D. The request of **Doty Seavey Family Revocable Trust and J W Seavey and Doty Seavy Trustees (Owners)**, for property located at **17 Whidden Street** whereas relief is needed to construct a fence 8 feet in height within the rear and side yards, which requires relief from the following: 1) Variance from Section 10.521 to a) allow a 0.5 foot rear yard where 25 feet is required; and b) to allow a 0.5 foot side yard where 10 feet is required. Said property is located on Assessor Map 109 Lot 5 and lies within the General Residence B (GRB) and Historic Districts (LU-24-85)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family Dwelling	Add 8' fence to rear and side yards*	Primarily residential
<u>Lot area (sq. ft.):</u>	1,307	1,307	5,000 min.
<u>Street Frontage (ft.):</u>	32	32	80 min.
<u>Lot depth (ft.)</u>	23	23	60 min.
<u>Front Yard (ft.):</u>	0	0	5 min.
<u>Left Yard (ft.):</u>	≈1-2	≈1-2	10 min.
<u>Right Yard (ft.):</u>	8 (structure)	0.5 (fence)	10 min.
<u>Rear Yard (ft.):</u>	≈5	0.5 (fence)	25 min.
<u>Height (ft.):</u>	<4 (existing fence)	8 (proposed fence)	4 (front yard) max. 6 (rear/side yards)
<u>Estimated Age of Structure:</u>	1840	Variance request(s) shown in red.	

*Variance required for 8' fence within rear and side yards.

Other Permits/Approvals Required

- HDC Review
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No Previous BOA history found.

Planning Department Comments

The applicant is proposing to add a fence 8 feet in height to a portion of the rear and side yards on an existing non-conforming lot. Section 10.515.13 exempts fences not over 4 feet in height in the front yard and not over 6 feet in height in the side and rear yards. As the fence is proposed to be greater than 6 feet in height it therefore requires the requested relief.

Variance 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.

Petition for Land Use Variance
LU-24-85
Seavey Doty Revocable Trust
17 Whidden Street
Portsmouth, NH

We purchased the house at 17 Whidden Street in 1988 and have lived on the very friendly and supportive street for 36 years. We know everyone on the street and interact with them for street parties and other events.

The Wentworth (now the Wentworth Senior Living) had planted a hedge by the original back picket fence on our property when we purchased the house. Approximately 30 years ago we worked with the Wentworth facility to put a new picket fence along the 45.4 feet on our property line in back of our house and along the 23' side property line adjacent to their parking lot. We paid for the existing picket fence. Recently the Wentworth Senior Living has removed a 156 old pine tree and 5 groups of birch trees along Pleasant street. The pine tree created a buffer preventing people from parking close to our picket fence. The pine tree's stump has since been removed allowing cars to park inches from our side fence. Previously, the Wentworth had cut the lower branches of the hedge up to about 9', removing the privacy that we had in our back yard. The Wentworth has indicated that they will remove one or both sections their picket fence on Whidden Street, which will make vehicle entrance and exit to the lot from Whidden Street that much closer to our property line.

We have been working with Madison Abbott, Property Manager of Wentworth Senior Living to redo our fence between the two properties. We are proposing replacing the existing fence with an 8' tongue and groove wooden fence along the 45' of our back line and along the side of the parking lot. It will be attractive on both sides. Madison Abbott has indicated that they are fine with an 8' fence and has agreed to write a letter of support. The hedge on Wentworth property has grown dramatically over the years and currently overhangs our yard by 3.5'. Walking to the back patio and opening the bulkhead door is now difficult due to the overhang. In addition, we have lost the use of our outside table for dining.

We will trim the hedge on our side of the fence up about 9' to match the Wentworth side and to accommodate the 8' fence. Our proposed 8' fence would run the 45' in back of our house and be visually consistent with the existing 8' foot fence that was constructed years ago by the Wentworth behind our neighbor's house at 19 Whidden Street. Their 8' fence runs in back of their house for approximately 90'. That fence is visible along Melcher Street. Our neighbors, Edward and Majia Hibbard are supportive of our proposed 8' fence and will write a letter of support. The reason for the 8' fence variance is twofold. First, it will be consistent with the height of the Wentworth's fence behind 19 Whidden Street. Second, Whidden Street slopes down to the South Mill Pond. The slope is such that it drops approximately two feet from Pleasant Street to our property line. In addition, our house sits up so that the bottom of our dining room window which looks out to the parking lot is 4.6' above the ground. Consequently, an 8' fence will provide privacy but not appear to be unusually tall from Pleasant Street. See accompanying photographs. The Wentworth wants us to retain the Evergreen Euonymus that is on our property. We will do that to provide greenery to soften the line on the side of our house. As a result, the 8' fence along the side of our house will run from the back line for approximately 15' to accommodate the 8' long Evergreen Euonymus.

Analysis Criteria (from section 10.223 of the [Zoning Ordinance](#)):

1. 10.233.20 In order to authorize a variance, the Board must find that the variance meets all of the following criteria:
2. 10.233.21 The variance will not be contrary to the public interest;
 - The 8' fence does not change any public interest. The Wentworth parking lot remains the same as before. The fence will not look out of proportion from Pleasant Street given the slope of the land.
3. 10.233.22 The spirit of the Ordinance will be observed;
 - The 8' fence will be consistent with our neighbor's 8' fence installed years ago by the Wentworth in back of 19 Whidden Street. The fence will not look out of proportion from Pleasant Street given the slope of the land.
4. 10.233.23 Substantial justice will be done;
 - Our house will now have privacy in the back yard, and we will re-gain an extra 3.5 feet of our pocket garden, ease of access to the bulkhead door and gain outdoor living space. Due to the removal of the large pine tree cars are now able to park against our side picket fence.
5. 10.233.24 The values of surrounding properties will not be diminished; and
 - Their recent removal of trees will allow more Wentworth employee parking. There is no adverse impact the fence on the value of the Wentworth parking lot. They have no objection to the proposed fence.
6. 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
 - We have lost 3.5 feet of our back yard and privacy due to the cutting of the lower branches of the hedge on the Wentworth side by approximately 9' from the ground. If we merely cut the branches on our side, we lose all privacy. The removal of the tall pine tree removes a buffer from cars. Cars can now park inches from our picket fence.

The Wentworth parking lot runs on the side and in back of our home at 17 Whidden Street. It is an active parking lot most of the day. Cars park behind one another so that when someone's shift ends, multiple people have to jockey around their cars to allow that person to exit. Frequently, employees sit in their cars during their break. They tend to run their engines during the cold months and hot days producing additional exhaust. There is also a visible employee smoking bench on their Pleasant Street fence where workers congregate. The fence will be tongue and groove and be attractive on both sides.



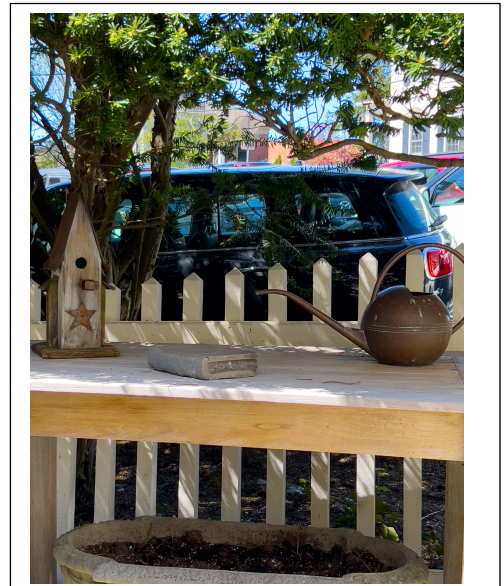
Left, our side fence and the Wentworth's back hedge with 3.5' overhang over our back picket fence. The dining room window on the left is 56" from the ground.

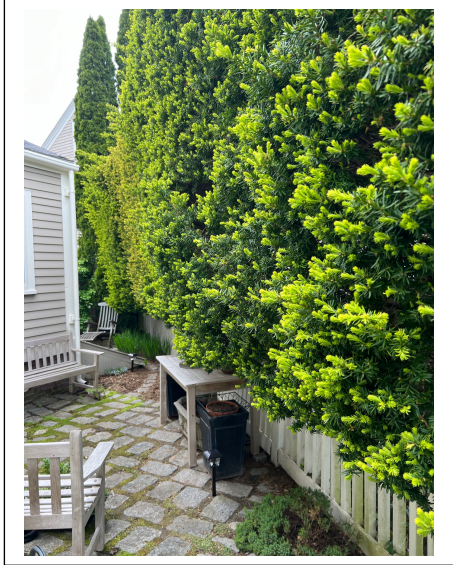
Right, a view from the Wentworth lot of the 9' vertical removal of lower branches along the 45' of our fence allowing cars to park closer to the fence.



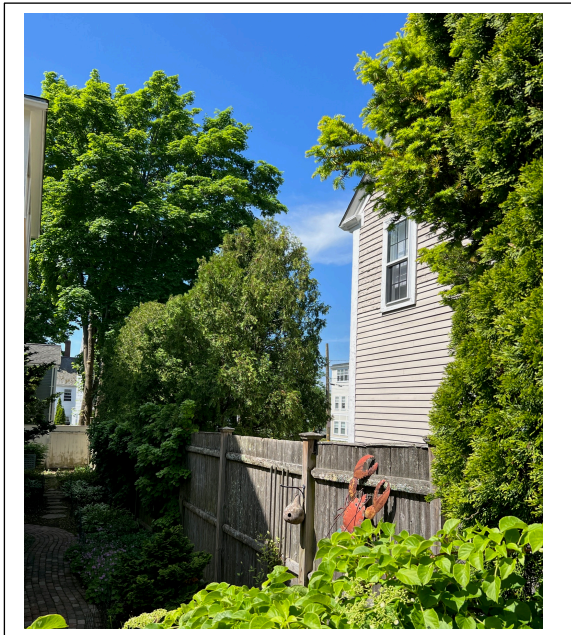
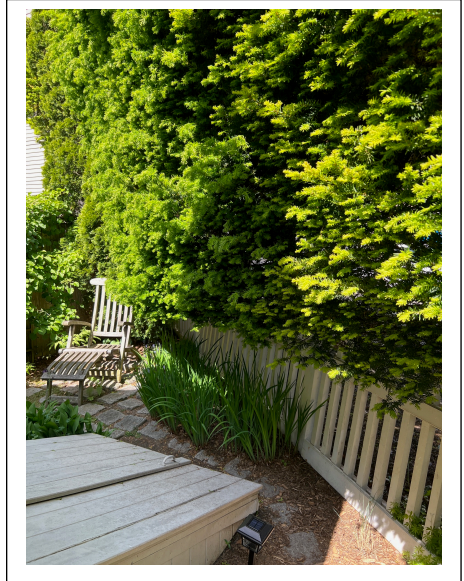
Left, view into our back yard along the 45' feet in back.

Right, view from our back yard table into the Wentworth parking lot. We no longer use the table due to lack of privacy and the 3.5' overhang.





The 3.5' overhang of our picket fence making access to the back patio and bulkhead door difficult and the outside table unusable.



The existing 8'foot fence built by the Wentworth years ago to protect privacy for 19 Whidden Street. Our next-door neighbors are supportive of our request for a variance.



View from our driveway to Pleasant Street. The 156-year-old pine tree has been cut down. The pine tree created a buffer from parking. The stump has since been removed, allowing cars to park inches from our fence.



Wentworth Picket fence on Whidden Street. They have indicated that they will remove one or both of these sections, thus removing the buffer provided by the pine tree and allowing parking closer to the fence. The 8' long Evergreen Euonymus will be retained. The 8' fence would come from the back line approximately 15'. The Wentworth has indicated that they will remove one or both sections on their fence on Whidden Street. We planted and have taken care of the lilies in front of the fence.



Side view of our house from Pleasant Street. In the foreground is the Wentworth's existing picket fence on Pleasant Street. Our side picket fence is barely visible at the top of that fence due to the slope of the land.

17 WHIDDEN ST

Location 17 WHIDDEN ST
 Map-Lot 0109-0005-0000
 Vision Account Number 33198

Ownership

Owner SEAVEY DOTY FAMILY REV
 TRUST SEAVEY J W & DOTY B
 A TRUSTEES

Address 17 WHIDDEN ST,
 PORTSMOUTH, NH 03801

Valuation

Total \$509,600
 Last Sale \$0 on 2022-10-11
 Deed Date 2022-10-11
 Book/Page 6445/176

Land

Land Use 1010
 Land Use Description SINGLE FAM MDL-01
 Market Delineation 102
 Local District R
 Parcel Area (AC) 0.03

Search

Zoom To Share Print

Search

Advanced Search

No results were found with your query.
 Maybe try refining your search to make it more general.



The proposed fence would run 45' along the back yard line and 15' along the side of the house. The existing 8' long Evergreen Euonymus which runs to Whidden Street will be retained.



To the Owners of 17 Whidden St and City of Portsmouth,

We, Wentworth Senior Living, representing 18 Melcher Street and 346 Pleasant Street, have no opposition to a fence replacement bordering our owned properties by 17 Whidden Street. We have no reservations on heights lower than 10ft, fencing materials used, and aesthetics so long as the aesthetic appearance is generally in line with other fences in the Historic District. We ask that representatives of 17 Whidden Street maintain communications with Wentworth Senior Living regarding their project so we may plan accordingly.

With thanks,

MADISON ABBOTT

Property Manager

Direct: 603-570-7884

mabbott@wentworthseniorliving.org

346 Pleasant St. | Portsmouth | NH 03801

Ph: 603-436-0169 | F: 603-436-2040

May 29, 2024

Portsmouth Planning Department
Portsmouth City Hall
Portsmouth, NH 03801

To whom it may concern:

As a neighbor and abutter to John Seavey and Bruce Doty's property at 17 Whidden Street who might possibly view approximately 12' of their fence, I am supportive of their request for a land use variance for the construction of an 8' fence which will be compatible with my 8' fence.

*Ed Hubbard
19 Whidden ST.*

I. NEW BUSINESS

E. The request of **Lonza Biologics (Owner)**, for property located at **101 International Drive** to add four (4) above ground storage tanks which requires relief from the following: 1) from Section 308.02(c) of the Pease Development Ordinance to allow an above ground storage tank (AST) exceeding a 2,000-gallon capacity per facility. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. (LU-23-108)

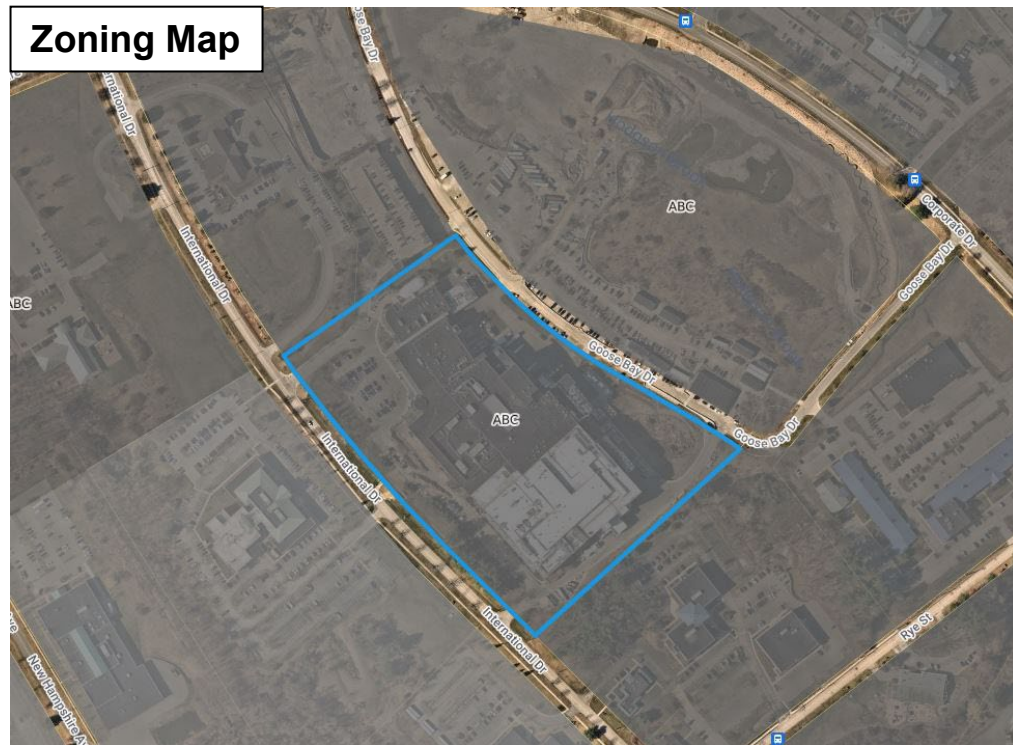
Existing & Proposed Conditions

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Above ground storage tank >2,000 gallons	Business, com. & trade related enterprises
<u>Above Ground Storage Facility:</u>	4 @ 4,400 gal	2,000 gal max.
	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Pease Development Authority (PDA)

Neighborhood Context



Previous Board of Adjustment Actions

December 15, 1998 – The Board **granted a variance** pursuant to the PDA regulations to allow 5 loading docks to be provided where 13 loading docks were required for the 130,000 s.f. expansion of the facility.

February 20, 2001 – The Board **recommended approval** to the Pease Development Authority that a variance be granted to allow 5 loading docks where 28 loading docks are required.

June 16, 2015 – The Board **recommended approval** to the Pease Development Authority of a variance to allow above ground storage tanks exceeding 2,000 gallon capacity for two existing and two proposed generators. The recommendation was given with a request to provide information on the life span of the above ground tanks.

May 28, 2019 - The Board **recommended approval** to the Pease Development Authority of a variance to allow above ground storage tanks exceeding 2,000 gallon capacity.

July 27, 2021 - The Board **recommended approval** to the Pease Development Authority to allow an above ground storage tank (AST) exceeding 2,000 gallon capacity per facility. Said property is shown on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District.

August 16, 2022 - The Board **recommended approval** to the Pease Development Authority for the addition of a 372 square foot wall sign which will result in 487.5 square feet of total sign area which requires the following: 1) A Variance from Section 306.01(d) to allow 487.5 square feet of total sign area where 200 square feet is the maximum allowed per lot. No additional BOA history found.

March 26, 2024 – The Zoning Board of Adjustment, **acknowledged a request** to withdraw the application for adding four (4) above ground storage tanks which requires the following: 1) from Section 308.02(c) of the Pease Development Ordinance to allow an above ground storage tank (AST) exceeding a 2,000gallon capacity per facility.

Planning Department Comments

The application was before the Pease Development Authority (PDA) Board meeting on March 14, 2024 and the PDA Board voted to support the applicant's request to move forward to seek a variance.

The PDA has its own land use and zoning regulations and is exempt from the City's regulations ordinance. For certain parcels in Pease, variance requests are sent to the City for a recommendation from the BOA. A motion to approve or deny will be a recommendation

and the recommendation will become an approval by the PDA Board after 14 days unless the applicant or PDA Board member requests a hearing (see Part 317.03(f) below).

The Chapter in the Pease Land Use Controls regarding the process for a variance is below. Part 317.03(c) states the BOA will apply the standards in Part 317.01(c) in its review of the application. These standards are attached hereto under Review Criteria.

317.03 Zoning Variances Referred to Local Municipalities for Administration

- (a) For parcels located within the Industrial Zone, Business and Commercial Zone, Natural Resource Protection Zone or portions of the Airport Industrial Zone not acquired by the Pease Development Authority pursuant to Section 13(g) of the Surplus Property Act, requests for a variance from the provisions of this zoning rule shall be referred to the zoning board of adjustment for the municipality in which the parcel is situated for administration in accordance with the provisions of this section.
- (b) Applications for a variance for parcels referred to in Subsection (a) shall be filed with the Pease Development Authority Building Inspector on forms prescribed by the Board and referred to the applicable zoning board of adjustment.
- (c) The zoning board of adjustment to which the application for a variance has been referred shall, in its review of the request, apply the substantive provisions of this Chapter.
- (d) Recommendations to the Board regarding requests for a zoning variance shall be made by the applicable zoning board of adjustment within sixty (60) days of referral. Notice of the recommendation shall be provided to the applicant and the Board within 48 hours of the decision.
- (e) The recommendation of the applicable zoning board of adjustment shall be forwarded to the Board along with a written report detailing the reasons for any recommendation for denial or approval with conditions.
- (f) A recommendation of the applicable zoning board of adjustment shall be deemed a final decision of the Board upon the expiration of fourteen (14) days from the date of notice, unless the applicant/developer or a member of the Board requests a hearing by the Board.
- (g) Where a hearing has been requested, the Board shall conduct a hearing and render a final decision on the variance request within thirty (30) days.

60

- (h) At the discretion of the Board the time period for rendering a final decision may be extended an additional thirty (30) days, or such additional time as may be consented to by the applicant.
- (i) The Board may approve, conditionally approve or deny the application notwithstanding the recommendation of the applicable zoning board of adjustment. In the case of denial of any application by the Board or where the Board elects not to follow the recommendation of the applicable zoning board of adjustment, the ground(s) for such action shall be stated in writing.

Review Criteria

This application must meet the criteria for a **variance** of Part 317.01(c) of the Pease Land Use Controls below.

PART 317. VARIANCES FROM ZONING PROVISIONS317.01 General Provisions

58

- (a) Requests for a variance from the provisions of this zoning rule shall be filed with the Pease Development Authority Building Inspector on forms prescribed by the Board.
- (b) Applications for zoning variance approval shall set forth the specific provision of the rule or regulation involved and reasons why a variance should be granted.
- (c) A variance shall not be approved or recommended for approval unless it is in harmony with the general purpose and intent of these regulations and meets the following criteria:
- (1) No adverse effect or diminution in values of surrounding properties would be suffered.
 - (2) Granting the variance would be of benefit to the public interest.
 - (3) Denial of the variance would result in unnecessary hardship to the person seeking it.
 - (4) Granting the variance would be substantial justice.
 - (5) The proposed use would not be contrary to the spirit of this zoning rule.
- (d) Reasonable conditions necessary to meet one or more of the standards in subsection (c) above may be attached to approval of a variance.



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

HAND DELIVERED

LIZABETH M. MACDONALD
JOHN J. RATIGAN
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
ELAINA L. HOEPPNER
WILLIAM K. WARREN
BRIANA L. MATUSZKO
ALI GENNARO

RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
DENISE A. POULOS
NICHOLAS R. AESCHLIMAN

May 22, 2024

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

RE: Lonza Biologics
101 International Drive, Tax Map 305, Lot 6

Dear Chair Eldridge and Board Members:

Enclosed please find supporting materials to accompany the information submitted via the City's on-line permitting system requesting variance relief to permit the installation at the above referenced property of four (4) above ground fuel tank which exceeds the maximum permitted capacity of 2,000 gallons per PDA 308.02(c).

We respectfully request that this matter be placed on the Board's June 18, 2024 agenda. In the meantime, if you have any questions or require additional information do not hesitate to contact me.

Yours truly,
DONAHUE TUCKER & CIANDELLA, PLLC

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

Enclosures

cc: Lonza Biologics
Tighe & Bond
Pease Development Authority

4853-9343-4561, v. 1

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

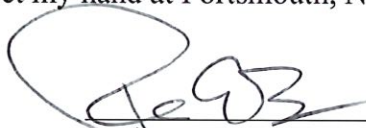
CERTIFIED MOTION

I, Paul E. Brean, Executive Director of the Pease Development Authority, do hereby certify that the following is the motion the Pease Development Authority Board of Directors resolved to adopt at its March 14, 2024, Board meeting:

The Pease Development Authority Board of Directors hereby approves of the variance request submitted by Lonza Biologics, Inc. ("Lonza") attached hereto for four (4) Above-Ground Storage Tanks ("AST") with a capacity of 4,400 gallons each at the Central Utility Building and Building 1 located at 70/80 Corporate Drive / 101 International Drive; subject to Lonza securing the requisite variance from the City of Portsmouth for the additional AST; all in accordance with the memorandum from Michael R. Mates, P.E., Director of Engineering, dated February 29, 2024.

I further certify that such authority has not been repealed, rescinded or amended.

In witness hereof, I hereto set my hand at Portsmouth, New Hampshire, this 22nd day of March, 2024.



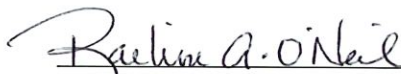
Paul E. Brean
Executive Director

STATE OF NEW HAMPSHIRE

: ss.

COUNTY OF ROCKINGHAM

On this 22nd day of March, 2024, before me, Raeline A. O'Neil, the undersigned officer in and for said County and State, personally appeared **Paul E. Brean**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the **Executive Director** of the **Pease Development Authority** and on oath stated that he was authorized to execute this instrument and acknowledged it to be his free and voluntary act for the uses and purposes set forth herein.



Notary Public / Justice of the Peace

Printed Name:

My commission expires:

Raeline A. O'Neil
Justice of the Peace / Notary Public
State of New Hampshire
My Commission Expires 9/21/2027

VARIANCE APPLICATION FOR
Lonza Biologics, Inc. (“**Lonza**” or the “**Applicant**”) for property located at 101 International Drive (City Assessor Map 305, Lot 6) (the “**Property**”).

The Applicant seeks a variance from Section 308.02(c) of the Pease Development Authority’s (“PDA”) Land Use Controls to permit four (4) above ground storage (fuel) tanks (“ASTs”), each of which exceeds the maximum 2,000-gallon capacity pursuant to Section 308.02(c), at the Property. As detailed below, the ASTs will support generators which will back-up the Central Utility Building (the “CUB”) and the Vertex Building recently approved for fit-up by the City’s Planning Board and already under construction at the Property. See Enclosure 1 (Planning Board Notice of Decision dated 22 November 2023). The Applicant requests that the City’s Board of Adjustment recommend approval of the Applicant’s variance request to the PDA’s Board of Directors pursuant the process outlined in Section 317.03 of the PDA’s Land Use Controls. The Applicant anticipates that the PDA Board of Directors will vote to authorize the Applicant to appear before the Board of Adjustment’s 19 March 2024 meeting, at the PDA Board’s 14 March 2024 meeting.

A. Factual Context

The Property, which is leased by Lonza from the PDA, is 46.03 acres in size and is located onboard the PDA within the Airport, Business and Commercial Zoning District. The Property has frontage along International Drive and Corporate Drive and is the location of Lonza’s Portsmouth facility.

In January of 2019, the City’s Planning Board approved, among other things, Lonza’s Site Plan Review application for the construction of three proposed industrial buildings, a parking garage, the CUB, as well as paving, lighting, utility, landscaping, drainage and associated site improvements for the Property, which approval was slightly amended by the PDA in August of 2019 and again in January of 2023 (collectively referred to as the “Phase 1 Approval”). The Phase 1 Approval permitted the construction of the shells for both Building 1 and the CUB, which construction work began in the late summer of 2023.

As detailed in **Enclosure 1**, in November 2023, Lonza obtained Amended Site Plan approval for Phase 2 of the Project from the City’s Planning Board which includes the fit-up of Building 1 and the CUB as well as the construction of a temporary surface parking lot and gravel area for construction trailers, parking and laydown area in the location of Proposed Building #2. See Enclosure 2 (approved Phase 2 Overall Site Plan).

Building #1 will be utilized by Vertex Pharmaceuticals Incorporated (“Vertex”) for a groundbreaking cell therapy manufacturing facility (hereinafter referred to as the “Vertex Building”). The Vertex Building will support the development and commercialization of the Vertex type 1 diabetes cell therapy portfolio. As detailed in a 30 August 2023 press release from Lonza (see Enclosure 3), the Vertex Building, which will be operated by Lonza, is being built adjacent to Lonza’s existing Portsmouth facility, will span more than 130,000 square feet, and is anticipated to generate up to 300 new jobs at peak capacity. Id.

As depicted on **Enclosure 2**, the Vertex Building and the CUB will be located in the central area of the so-called Iron Parcel portion of the Property, northwest of Lonza's existing facilities. See Enclosure 4 (aerial view of the Property); **Enclosure 5** (City Assessor Map 305).

Like nearly all buildings within Lonza's operations, the Vertex Building and the CUB must be supported by emergency generators to ensure protection of the sensitive and important operations and processes that will be occurring inside the buildings in the event of an electrical outage. As a result, the Applicant proposes installing four (4) CAT 3516C diesel generators (the "Generators") with corresponding ASTs, two to serve the CUB and two to serve the Vertex Building. The location of the four (4) new generators and ASTs, as well as the locations of all other generators in use by Lonza at the Property, are depicted on **Enclosure 6**. Details of the Generators and ASTs can be found in **Enclosure 7**, which includes specifications and other information for both.¹

The Generators and the ASTs will be located on the interior of the Property and meet all applicable setback requirements. See Enclosure 6. They will also observe and conform to the requirements of all applicable regulations, to include NFPA 30, the Flammable and Combustible Liquids Code, and they will require additional State approvals before operation. See also Enclosure 8, which includes two photographs of the proposed Generator and AST sites.

Section 308.02(c) of the PDA Land Use Controls prohibits ASTs, to include fuel tanks, with capacities greater than 2,000 gallons. As the proposed ASTs to serve the Generators will have an estimated capacity of 4,400 gallons each, variance relief is required.

The Applicant has previously obtained, on two separate occasions, unanimous recommendation for variance approval from the City's Board of Adjustment for similar generator/AST proposals. More specifically, in 2019, the Applicant installed two nearly identical generators and ASTs on the northern portion of the Property after receiving the requisite variance relief. See Enclosure 9. Then, in July of 2021, the Applicant received unanimous recommendation for variance approval from the Board of Adjustment to accommodate a generator and AST located on the southeastern portion of the Property which now serve Lonza's Lynx Project. See Enclosure 10.

We note that the proposed ASTs will be the 22nd through 25th storage facilities at the Property. See Enclosure 11. Further, each AST will be double walled, will have a 110% rupture basis, a low fuel level alarm switch, a fuel in rupture basis switch, a lockable mechanical fuel port, an overfill prevention valve with five (5) gallon lockable spill box, emergency vents, and a fill alarm panel and digital fuel level gauge. Further, all four proposed Generators/ASTs will be incorporated into Lonza's existing Spill Prevention, Control, and Countermeasures Plan and Emergency Spill Response Program and, like all similar equipment on the Property, they

¹ We note that the four (4) generator/AST concept depicted on **Enclosure 6** is the result of a risk analysis performed by Lonza's Environmental Health and Safety Department, Lonza engineers and corresponding manufacturing professionals which collectively determined what systems and configuration are warranted considering the proposed use of the Vertex Building and CUB. In this case, the design choice to use four (4) integrated above ground tanks to service the four (4) generators mitigated, to the extent possible, risks posed by underground storage tanks, which are not permitted at the PDA, or a single consolidated generator/tank concept with corresponding fuel lines.

will be regularly inspected by Lonza and tested for operating efficiency, etc. Additionally, each Generator/AST will be installed with security fencing and/or bollards to protect them.

Because the Applicant's proposal will not be inconsistent with the essential character of the surrounding area, will not compromise the public health in any way, will provide substantial justice, will not compromise the property values of surrounding properties, and because there is no rational connection between the general purposes of the PDA's Land Use Controls and their specific application to the Property under the unique circumstances of this case, as outlined below, we respectfully request that the Board of Adjustment recommend approval of Lonza's variance request.

B. Variance Criteria

The variance criteria outlined in PDA 317.01(c) generally mirror those found within RSA 674:33, and will thus be analyzed pursuant to the statute and corresponding case law interpreting the same.

To obtain a variance pursuant to PDA 317.01, an applicant must show that that the variance is in harmony with the general purpose and intent of the PDA Land Use Controls and meets the following criteria: (1) no adverse effect or diminution in values of surrounding properties will be suffered; (2) granting the variance would be of benefit to the public interest; (3) denial of the variance would result in unnecessary hardship to the person seeking it; (4) granting the variance would be substantial justice; and (5) the proposed use would not be contrary to the spirit of the zoning rule.

1. No adverse effect or diminution in values of surrounding properties will be suffered if the variance request is approved.

Given the nature of the area and the existing use of the Property and surrounding properties, none of the surrounding properties will suffer any diminution in value or other adverse effect as a result of granting the requested variance. Certainly, the Applicant is aware of no evidence to the contrary. Use of the Generators in the proposed locations is permitted by right and the size of the corresponding ASTs will have no discernible impact on surrounding properties which are themselves, commercial in nature. See Enclosures 4, 6. Indeed, several other generators are already in operation at the Property which use ASTs that exceed the 2,000 gallon limit. See Enclosure 11. The new ASTs will be incorporated into Lonza's existing Spill Prevention, Control, and Countermeasures Plan as well as Lonza's Emergency Spill Response Program, and they will be regularly inspected by Lonza. Lonza will also comply with all applicable regulations and requirements regarding use of the Generators and ASTs. The neighborhood is already commercial and/or industrial in nature.

Accordingly, the Applicant respectfully requests that the Board of Adjustment find that the requested variance will not diminish surrounding property values or cause other adverse effect.

2. Granting the variance will be of benefit to the public interest.

The New Hampshire Supreme Court has indicated that the requirement that a variance not be “contrary to the public interest” is coextensive and related to the requirement that a variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005); Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 105-06 (2007); and Farrar v. City of Keene, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest only if it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives.” Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. See also Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011) (“[m]ere conflict with the terms of the ordinance is insufficient.”) Moreover, these cases instruct boards of adjustment to make the determination as to whether a variance application “unduly” conflicts with the zoning objectives of the ordinance “to a marked degree” by analyzing whether granting the variance would “alter the essential character of the neighborhood” or “threaten the public health, safety or welfare” and to make that determination by examining, where possible, the language of the Zoning Ordinance.

While PDA 308, regulating above and below-ground storage facilities, does not have an express purpose provision, the general purpose of the PDA’s Zoning Ordinance is to:

[P]romote the public health, safety and general welfare, promote the safe operation of air transportation, conserve the value of property within the jurisdiction of the Pease Development Authority, assure the most efficient use of the existing natural and manmade resources, provide adequate light, air and open space, encourage the appropriate and wise use of land and promote high quality economic development and employment.

PDA 301.01. See also PDA 317.01(c)(requiring that in addition to satisfying the variance criteria, variances “shall not be approved or recommended for approval unless it is in harmony with the general purpose and intent of these regulations ...”).

As a foundational matter, the Applicant’s proposal is in harmony with the general purpose and intent of the PDA Land Use Controls, and therefore not contrary to the public interest, because it will advance the general purposes articulated in PDA 301.01. Specifically, the Generators and ASTs will serve the Vertex Building and corresponding CUB and therefore support the development and commercialization of the Vertex type 1 diabetes cell therapy portfolio and in so doing, the creation of up to 300 local jobs, both of which benefit the public. The Applicant’s proposal is also consistent with the PDA’s stated purpose of encouraging the appropriate and wise use of land and promoting high quality economic development and employment, and it will not, in light of the Property’s existing conditions and uses, implicate in any negative way the provision of adequate light, air and open space. Rather, Phase 2 of the project is a major step forward with regard to long-standing efforts to facilitate development on the so-called Iron Parcel. Further, as referenced above, the Generators and ASTs will be incorporated into Lonza’s existing Spill Prevention, Control and Countermeasures Plan as well as Lonza’s Emergency Spill Response Program, and they will be regularly inspected and maintained by Lonza and will obtain all other applicable approvals before operation.

The Applicant's proposal also satisfies the tests articulated under the case law. First, the Generators and ASTs will not alter the essential character of the neighborhood. On the contrary, they will be consistent with the current status and use of the Property and Lonza's other operations as well as surrounding commercial properties, specifically consistent with the configuration and installation of other generators and ASTs approved in 2019 and 2021 which are in use, and otherwise comply with all applicable regulations and requirements. See Enclosures 1, 2, 6, 9, 10, 11.

Similarly, the requested variance from PDA 308.02(c) will not threaten the public health, safety or welfare. If the proposed ASTs had a capacity of 2,000 gallons or less, no zoning relief would be required at all. As the Applicant explained to the Board during the May 2019 and July 2021 hearings, the size of the generator dictates the size of the fuel tank and the size of the Generators in this case, are required due to the nature and scope of the Vertex Building operations. Further, the ASTs have several safety features as discussed above. See Enclosure 7.

As the Applicant's variance proposal will be consistent with and advance the general purposes of the PDA Land Use Controls, and as it will not alter the essential character of the neighborhood or threaten the public health or safety, it would be reasonable and appropriate for the Board of Adjustment to conclude that granting the variances will benefit the public interest.

3. Denial of the variance would result in unnecessary hardship to Lonza.

In New Hampshire, there are two options by which the Board of Adjustment can find that an unnecessary hardship exists:

- (A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to 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.

or,

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

See RSA 674:33, I.

The "special conditions" of the Property for purposes of this variance criterion include the size of the Property leased by Lonza from the PDA which, at approximately 46 acres, appears larger than all surrounding privately leased parcels, the Property's unique ability to accommodate the development originally approved in 2019 and to advance the core purposes of

the PDA, to include the size and scale of approved Building 1, which is already under construction, the size and scale of the Vertex operation inside the building which will utilize approximately 130,000 sf, the sensitive and important nature of the use and the need for considerable generators to protect same in the event of an emergency power outage, and the Property's ability to accommodate the Generators and ASTs in the locations proposed in a manner that complies with all applicable regulations aside from PDA 308.02(c) which pertains to the size of the AST. See Enclosures 1, 2, 3, 6, 8, 9.

In Harborside Assocs. v. Parade Residence Hotel, the New Hampshire Supreme Court upheld the Portsmouth Board of Adjustment's finding that the physical improvements on a property, in that case the size of a building when compared to other buildings in the area within the context of sign variance request, could be considered "special circumstances." Affirming the analysis of the Board of Adjustment, the Supreme Court stated:

The [Respondent] is not attempting to meet the 'special conditions' test by showing that its *signs* would be unique in their settings, but that its *property* – the hotel and conference center – has unique characteristics that make the signs themselves a reasonable use of the property.

Harborside, 162 N.H. at 518 (emphasis added). Cf Farrar, 158, N.H. 689 (where variance sought to convert large, historical single use residence to mixed use of two residence and office space, size of residence was relevant to determining whether property was unique in its environment).

Here, the Property's physical characteristics to include its large size which facilitated the underlying site plan approvals for the Vertex Building, the size of the Vertex Building itself which is currently under construction, and the sensitive and important nature of the Vertex Building's operations make the proposed variance reasonable under the circumstances because due to the size of the building and the scale of the anticipate operations, the Project requires the specific generators which are proposed and those generators require the specific ASTs proposed.

Due to these special conditions of the Property, there is no fair and substantial relationship between the public purposes of the PDA Land Use Controls and their specific application to the Property in this case. On the contrary, despite the technical lack of conformity, and as discussed above, the Applicant's proposal is consistent with PDA 301.01 because the Generators and ASTs will service the Vertex Building and therefore support the manufacturing of pharmaceuticals which will benefit the public, because the project will create up to 300 local jobs, and because the variance is consistent with the PDA's stated purpose of encouraging the appropriate and wise use of land and promoting high quality economic development and employment. Further, the requested variance will replicate existing conditions at the Property vis-à-vis other generators and ASTs and will otherwise comply with all applicable regulations.

Put another way, strictly enforcing the PDA 308.02(c) will not advance the public purposes of the PDA Land Use Controls, but granting the requested variances will clearly will.

The Applicant respectfully reminds the Board of Adjustment that the mere fact that the Applicant is seeking a variance from the express provisions of the PDA Land Use Controls is not

a valid reason for denying the variance. See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007); see also Harborside Associates, 162 N.H. at 2011 (“mere conflict with the terms of the ordinance is insufficient”).

Finally, because the Applicant’s proposed Generators and ASTs will be substantially similar to existing uses on the Property, will serve a critical need vis-à-vis the Vertex Building and operation, and will otherwise comply with all applicable regulations, it is reasonable under the circumstances. See Vigeant v. Town of Hudson, 151 N.H. 747, 752 - 53 (2005); and Malachy Glen, 155 N.H. at 107; see also Harborside at 518-519 (applicant did not need to show signs were “necessary” rather only had to show signs were a “reasonable use”).

Accordingly, the Applicant respectfully asserts that its application complies with the standard for Option A of the unnecessary hardship criterion and the Board of Adjustment should so find.

4. Granting the variance will be substantial justice.

As noted in Malachy Glen, *supra*, “perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, *supra*, citing 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)). In short, there must be some gain to the general public from denying the variance that outweighs the loss to the Applicant from its denial.

Granting the variance will provide a great benefit to Lonza as it will permit the installation of the Generators and ASTs which will accommodate the Vertex Building and its operations. By extension, the relief will facilitate the creation of a ground breaking cell therapy to treat people with type 1 diabetes, which is a great benefit to the public. This infrastructure will also help Lonza expand its operations at the Portsmouth Facility and advance its business plans in accordance with the goals of the PDA, and the long-standing development proposal for the Iron Parcel.

On the contrary, there is no discernible benefit to the general public that could be gained by denying the requested variance because the opposite is true: granting the variance will be a great benefit to the general public. First, the Generators are permitted by right at the proposed locations but relief is needed due only to the size of the corresponding ASTs which exceed, by an estimated 2,400 gallons, the limitation contained within PDA 308.02(c). Beyond this, the Generators and ASTs will support the Vertex Building which will contribute to the manufacturing of pharmaceuticals which have self-evident value to the general public, as referenced above, as do the creation of up to 300 jobs which the project will create. Further, this initiative will help Lonza continue to grow roots in a manner that is beneficial to the PDA, the City of Portsmouth and the surrounding areas, and the State of New Hampshire.

Because granting the requested variance will provide a significant benefit both to the Applicant and to the general public, and because there is no discernible benefit to the general public by denying the variance, Lonza's proposal accomplishes substantial justice.

5. The proposed use would not be contrary to the spirit of PDA 308.02(c).

As referenced in Section 2, above, the requested variance will satisfy the "public interest" prong of the variance criteria because it advances the general purpose and intent of the PDA Land Use Controls and will not alter the essential character of the neighborhood or threaten the public health and welfare. As the New Hampshire Supreme Court has indicated in both Chester Rod & Gun Club and in Malachy Glen, the requirement that the variance not be "contrary to the public interest" is coextensive and is related to the requirement that the variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. As discussed above, the requested variance is consistent with the general purpose and intent of the PDA Land Use Controls because of the reasons stated in Section 2. Further, generators and ASTs of this size are commonly associated with the work Lonza performs, which is why Lonza has sought and received similar relief for ASTs that exceed the 2,000-gallon limit in the past. As a result, for the reasons stated above, the Applicant respectfully asserts that it would be reasonable and appropriate for the Board of Adjustment to conclude that the requested variance will not be contrary to the spirit of the PDA's Land Use Controls.

C. Conclusion

Lonza respectfully submits that its Variance Application meets the underlying standard of review and respectfully requests the same be granted.

4884-3060-6505, v. 1



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

PLANNING BOARD

November 22, 2023

Dave Morgan
Lonza Biologics
230 Corporate Drive
Portsmouth, New Hampshire 03801

RE: Amended Site Plan approval request for property located at 101 International Drive (LU-23-108)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of Thursday, November 16, 2023, considered your application for Amended Site Plan approval for Phase 2 which includes fit-up of Building #1 and the utility building, construction of a temporary surface parking lot and gravel area for construction trailers, parking and laydown area in the location of Proposed Building #2. Said property is shown on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. As a result of said consideration, the Board voted recommend Amended Site Plan Approval to the PDA Board with the following **condition**:

1.1) A recommendation for the PDA to request a review of the project by the Rockingham Regional Planning Commission for a project of regional impact for traffic and water use.

This approval is granted subject to all conditions of approval by the Planning Board on January 17, 2019 and to all other requirements stated in the Planning Board letter of decision dated January 18, 2019.

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.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any approved work.

The Planning Director must certify that all conditions of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

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

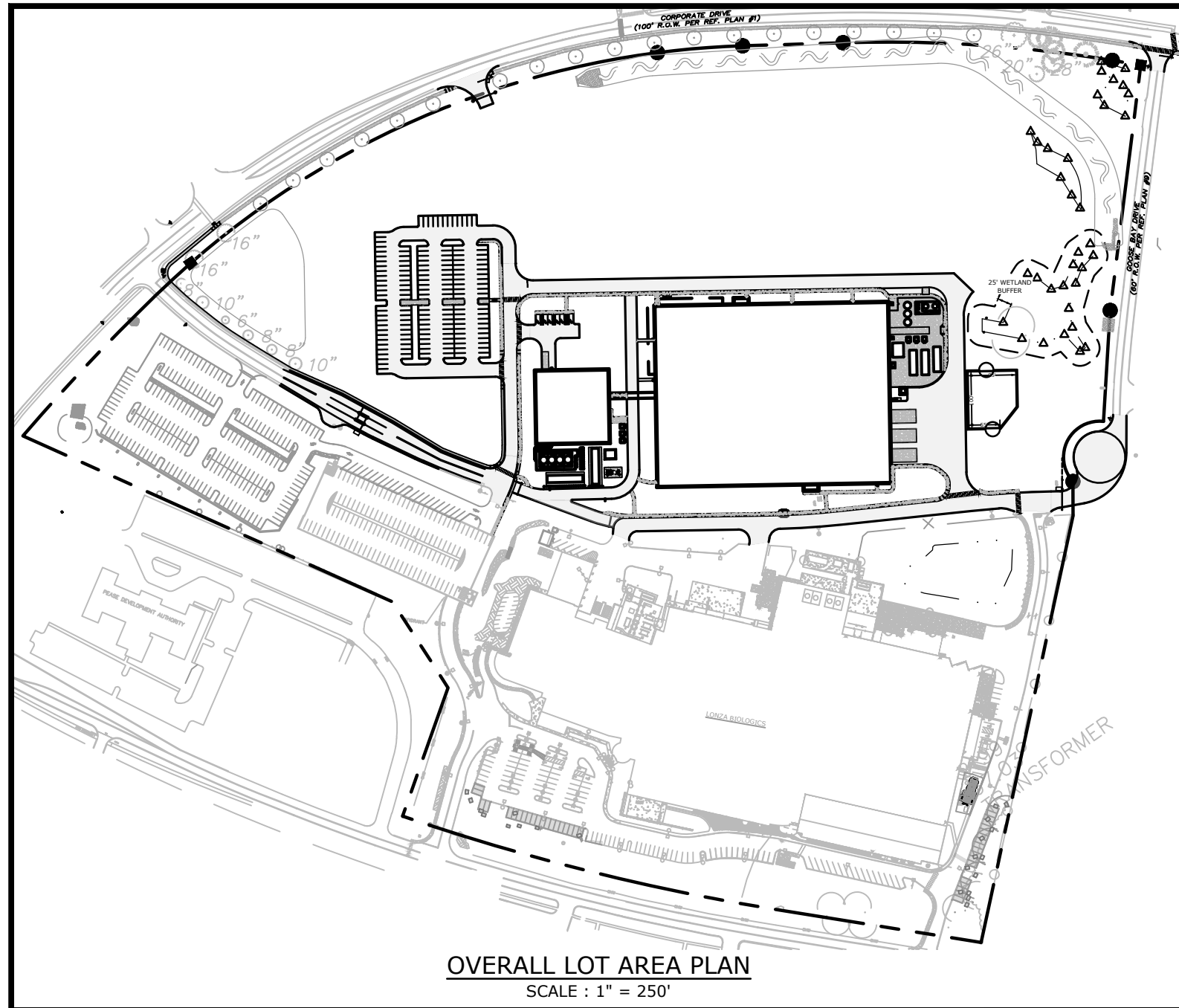
Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is fluid and cursive, with a large initial "R" and "C".

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector

Neil Hansen, Tighe & Bond



SITE DATA

LOCATION: TAX MAP 305, LOTS 1 & 2
70 & 80 CORPORATE DRIVE
PORTSMOUTH, NH

TAX MAP 305, LOT 6
101 INTERNATIONAL DRIVE
PORTSMOUTH, NH

ZONING DISTRICT: AIRPORT, BUSINESS & COMMERCIAL (ABC)

DIMENSIONAL REQUIREMENTS:

	REQUIRED	PROVIDED
MINIMUM LOT AREA:	5 AC	43.4± AC
MINIMUM STREET FRONTAGE:	200 FT	1,038 FT
MINIMUM FRONT YARD SETBACK:	70 FT	70 FT
SIDE SETBACK:	30 FT	30 FT
REAR SETBACK:	50 FT	51 FT
MINIMUM OPEN SPACE:	25 %	59.9± %

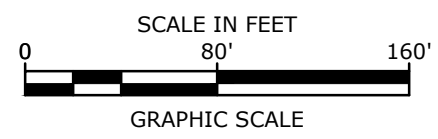
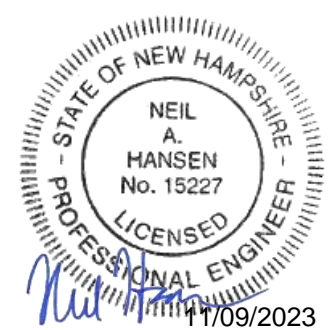
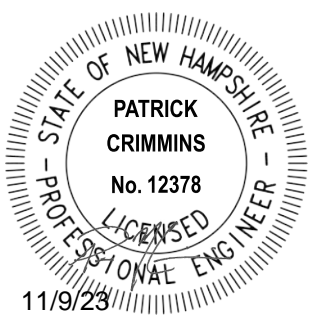
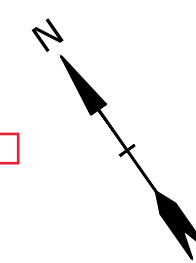
MAXIMUM STRUCTURE HEIGHT SHALL NOT EXCEED FAA CRITERIA.

PARKING REQUIREMENTS:

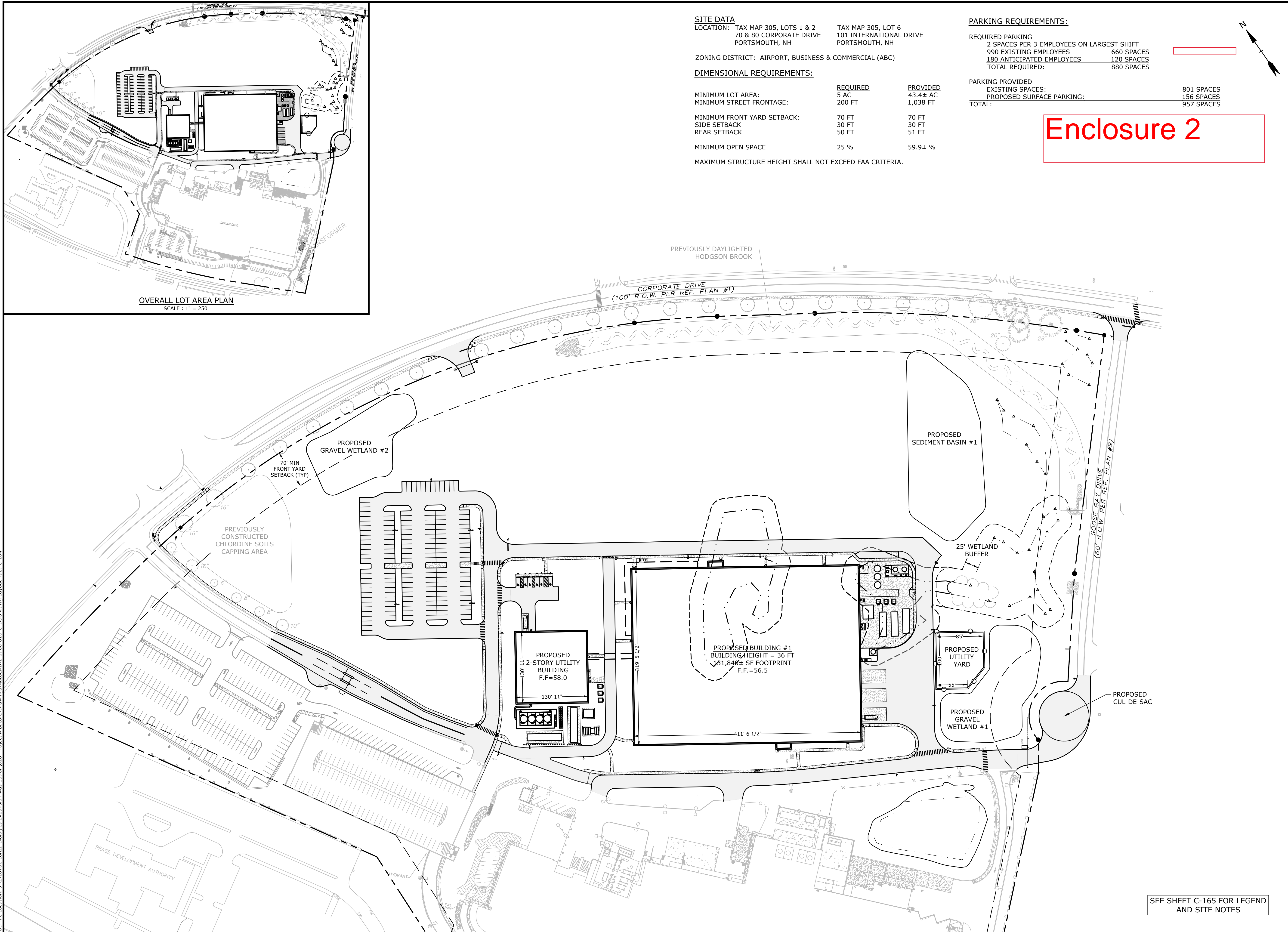
REQUIRED PARKING	PROVIDED
2 SPACES PER 3 EMPLOYEES ON LARGEST SHIFT	801 SPACES
990 EXISTING EMPLOYEES	156 SPACES
180 ANTICIPATED EMPLOYEES	120 SPACES
TOTAL REQUIRED:	957 SPACES

PARKING PROVIDED:
EXISTING SPACES: 801 SPACES
PROPOSED SURFACE PARKING: 156 SPACES
TOTAL: 957 SPACES

Enclosure 2



Last Save Date: November 9, 2023 11:03 AM By: NAHANSEN
 Plot Date: Thursday, November 09, 2023 Plotted By: Neil A. Hansen
 Pkg File Location: J:\L-0700-Lonza Biologics Expansion.was 12/20/2026 Project Subarea Drawings\AutoCAD\L-0700-026-C-DSGN.dwg Layout Tab: C-164



Proposed Industrial Development

Lonza Biologics

Portsmouth, New Hampshire

MARK	DATE	DESCRIPTION
N	11/9/2023	Revised P.B. Submission
M	9/27/2023	P.B. Submission
L	9/1/2022	Issued for Construction
K	5/27/2022	Issued for Bid
J	5/23/2022	Third Party Rev. Comments
I	4/26/2022	Revised PB Stipulations

PROJECT NO: L-0700-013
DATE: 04/03/2018
FILE: L-0700-026-C-DSGN.dwg
DRAWN BY: CIK
CHECKED BY: NAH
APPROVED BY: PMC

PHASE 2 OVERALL SITE PLAN

SCALE: AS SHOWN

SEE SHEET C-165 FOR LEGEND AND SITE NOTES

Media Advisory

30 Aug 2023

Lonza and Vertex Celebrate Groundbreaking of Cell Therapy Manufacturing Facility in Portsmouth (US)

- The large-scale facility will support the development and commercialization of the Vertex type 1 diabetes (T1D) cell therapy portfolio
- At the facility's groundbreaking event on August 30th, Lonza and Vertex were joined by New Hampshire government officials to commemorate the milestone

Portsmouth, NH (US), August 30, 2023 – Today, Lonza and Vertex Pharmaceuticals Incorporated (Vertex) celebrated the groundbreaking of a dedicated manufacturing facility in Portsmouth, New Hampshire (US). This marks a milestone in the [strategic collaboration](#) between the two companies, which aims to accelerate the development and commercialization of Vertex's potentially transformative cell therapies for type 1 diabetes (T1D).

The new facility is being built adjacent to Lonza's existing campus in Portsmouth, and is a co-investment project between the two companies. Operated by Lonza, the facility will span more than 130,000 square feet and is anticipated to generate up to 300 new jobs at peak capacity, in areas including manufacturing operations, quality assurance and quality control. Initial hiring for roles relating to the facility's construction, fit out and qualification is already underway.

The large-scale manufacturing facility will support the commercial production of the Vertex T1D cell therapy portfolio, with a focus on the VX-880 and VX-264 programs currently in clinical trials. Vertex's first clinical program, VX-880, has already demonstrated clinical proof-of-concept, while its second approach, VX-264, is being studied in a Phase 1/2 clinical trial.

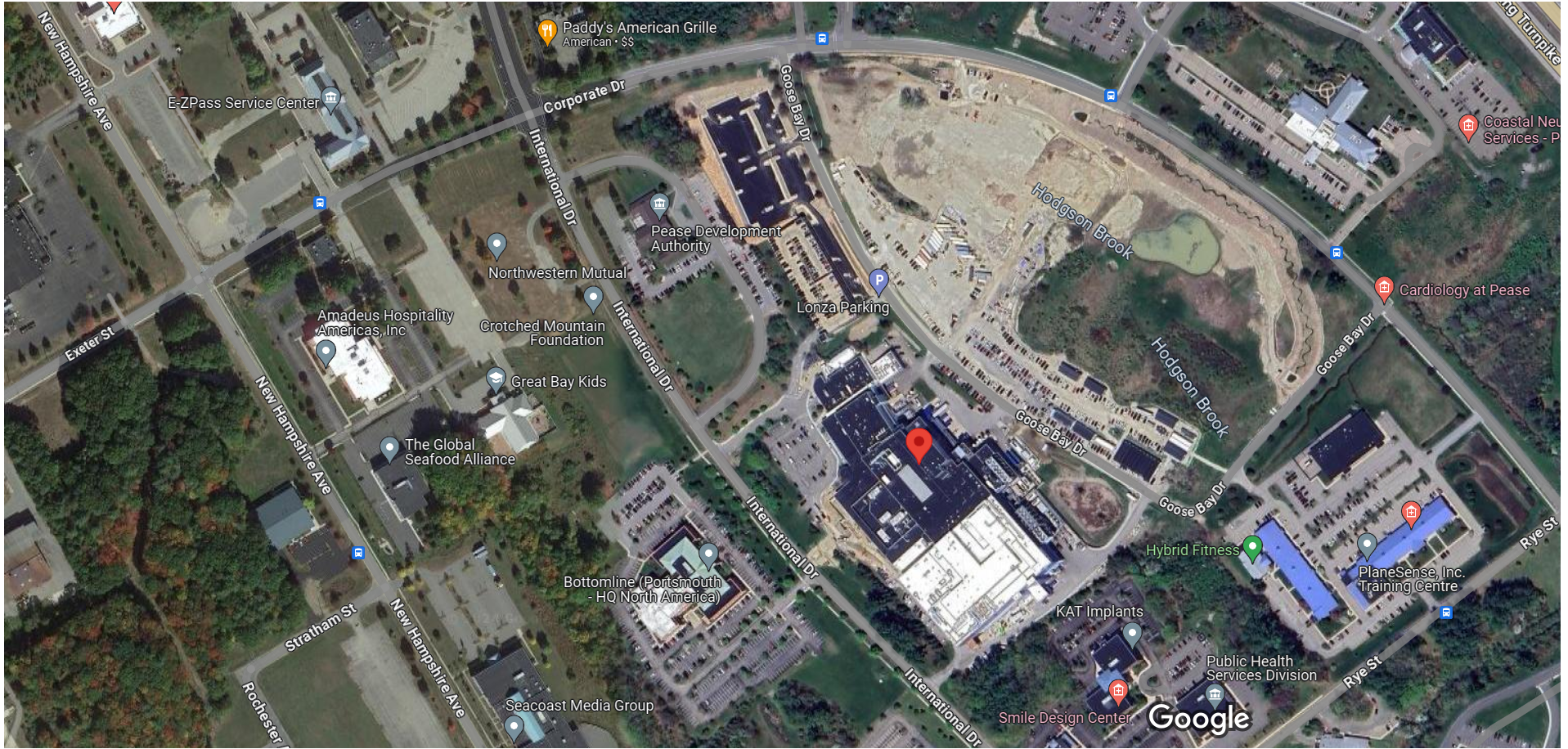
A groundbreaking ceremony was held on August 30, 2023 to mark the beginning of the facility's construction. Lonza and Vertex's leadership teams were joined at the event by several New Hampshire government officials, including United States Senator Jeanne Shaheen, and the Mayor of Portsmouth, Deaglan McEachern.

Reshma Kewalramani, M.D., Chief Executive Officer and President of Vertex, said: "Establishing this strategic partnership with Lonza, a world-class manufacturing organization, is a critical milestone in Vertex's journey to transform the treatment of type 1 diabetes. Today is an exciting day for both Vertex and Lonza and for patients living with T1D."

Pierre-Alain Ruffieux, CEO of Lonza, commented: "Today's groundbreaking demonstrates Lonza's continued commitment to helping our customers bring their innovative therapies to life. The facility will play a major role in delivering Vertex's ambition to shape the future for patients living with T1D. We are proud to support Vertex on this journey with a combination of deep scientific, regulatory and manufacturing expertise, alongside our established track record in supporting the commercialization of cell therapy products. Portsmouth is the ideal location for the new facility, as it enables us to build upon our existing infrastructure, capabilities and talent in the area."



Google Maps 101 International Dr



Imagery ©2024 Airbus, Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2024 200 ft



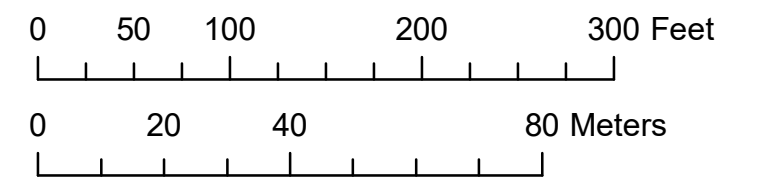
Enclosure 5

Partial Legend

See the cover sheet for the complete legend.

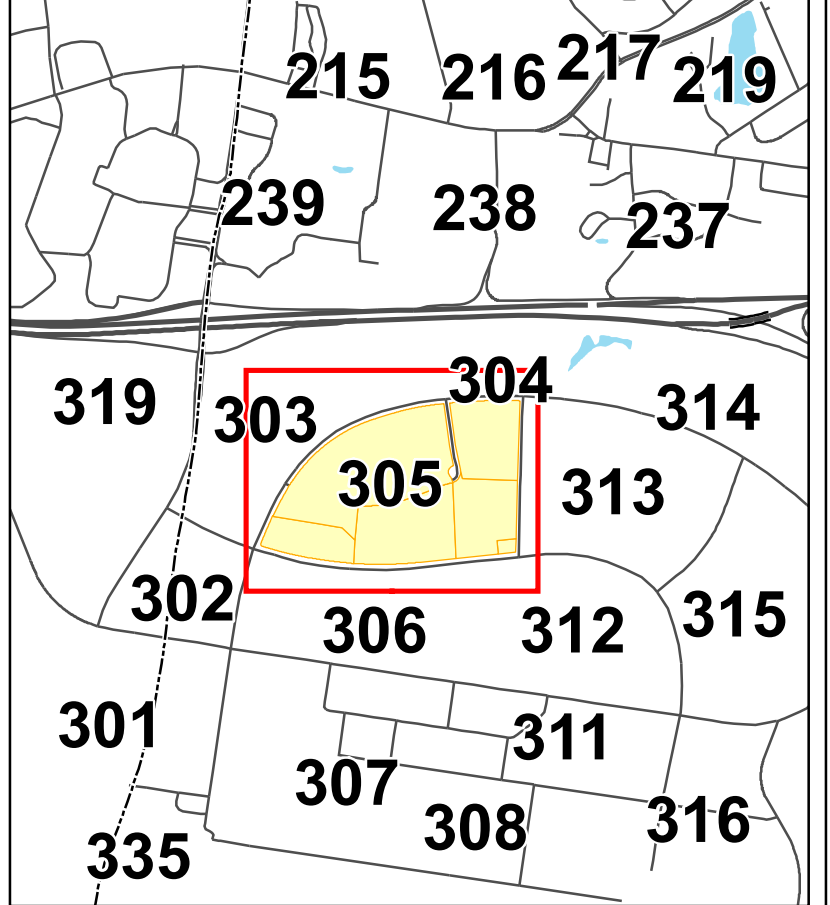
- 7-5A** Lot or lot-unit number
- 2.56 ac Parcel area in acres (ac) or square feet (sf)
- Address number
- 233-137 Parcel number from a neighboring map
- 68' Parcel line dimension
- Street name

- 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)

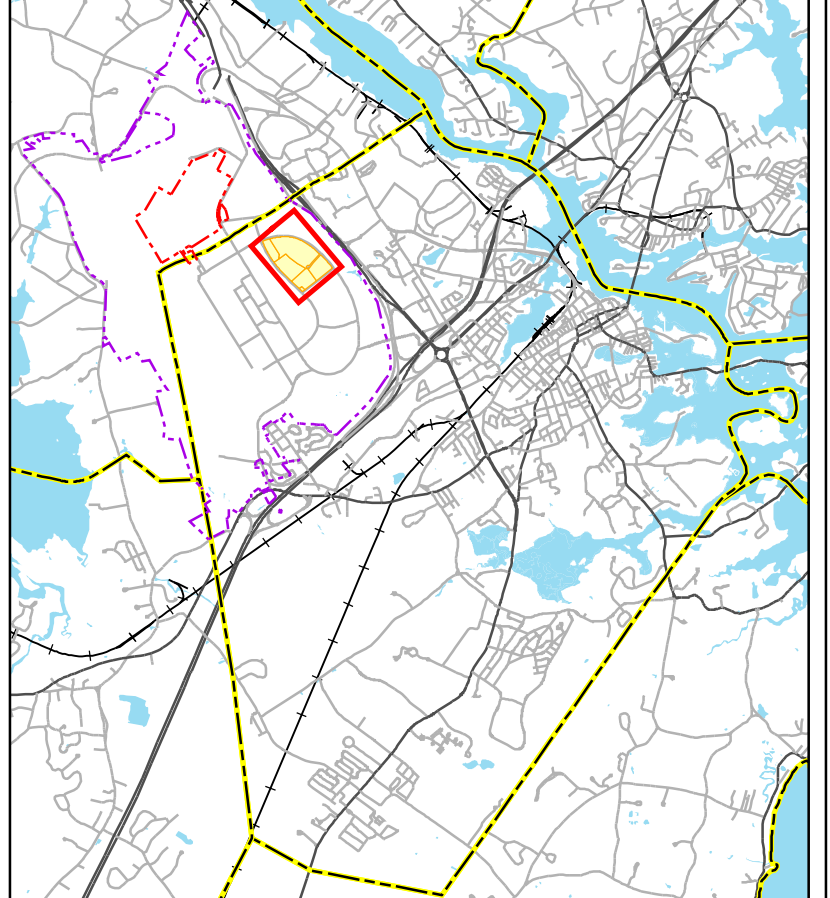


This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.

Nearby Tax Maps

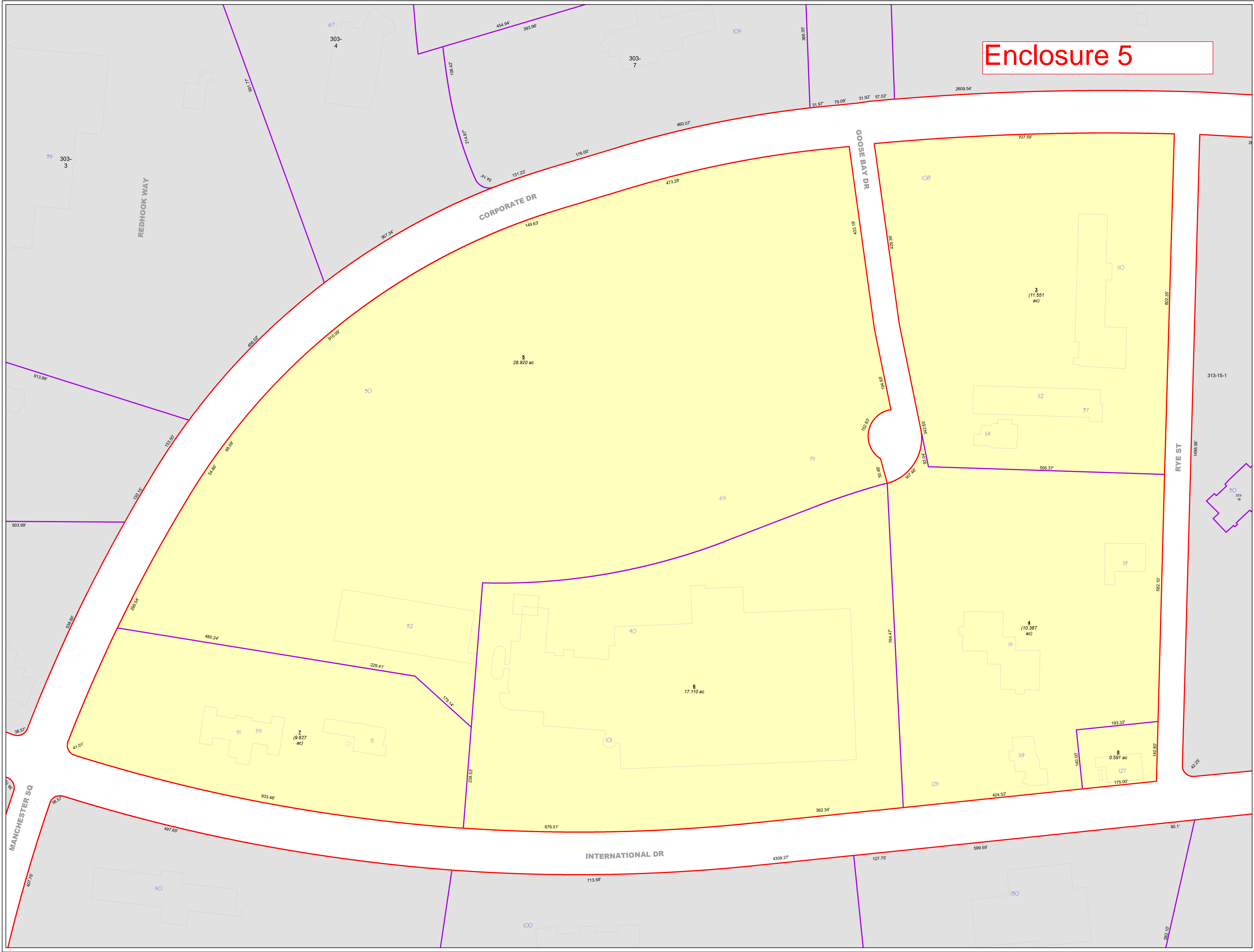


Map Location

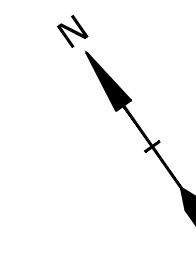


Portsmouth, New Hampshire
2023

Tax Map 305

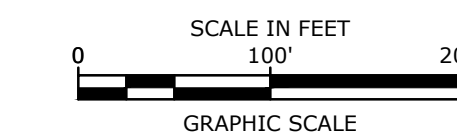
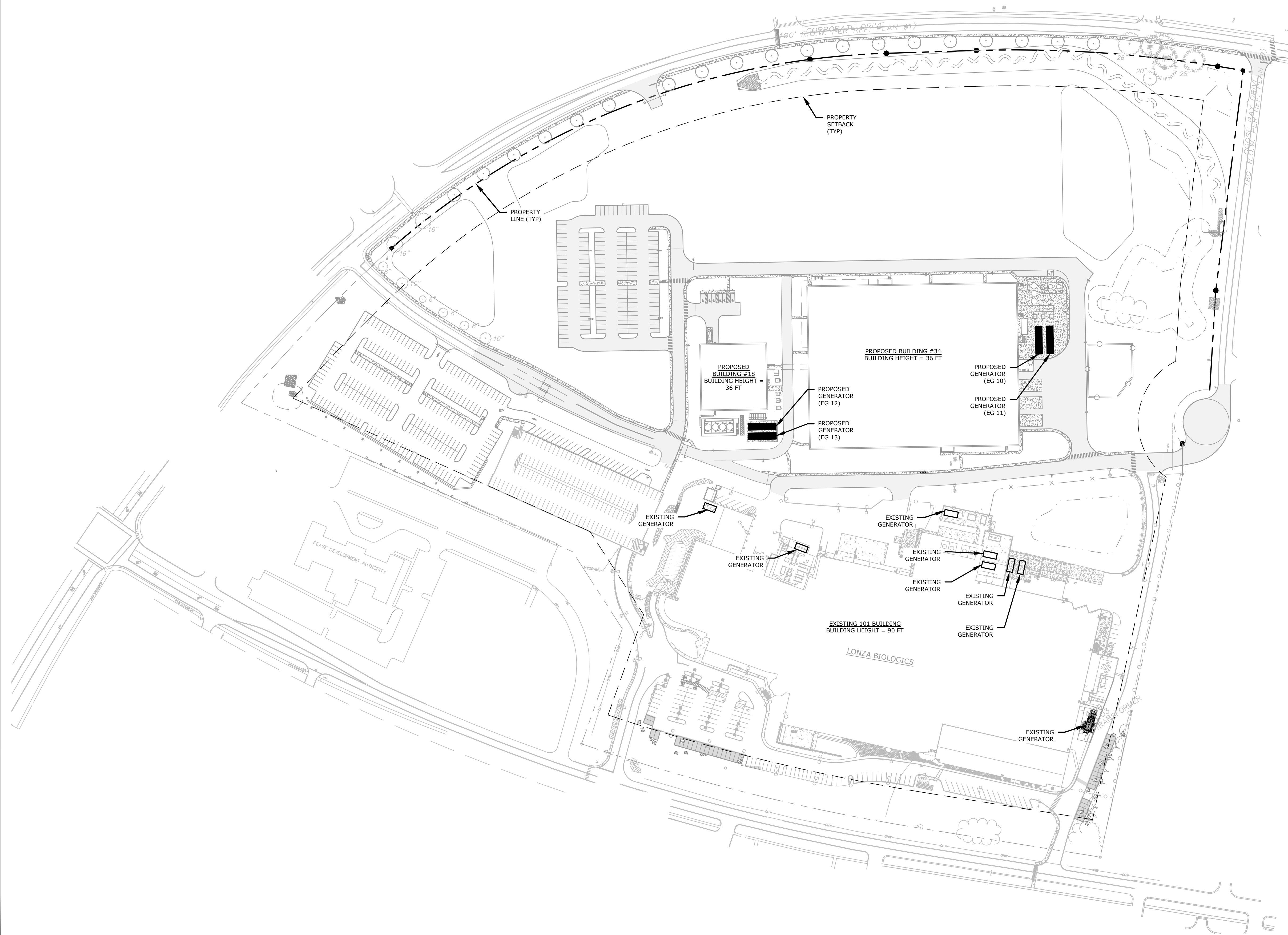


Enclosure 6



LEGEND

- PROPERTY LINE
- - - PROPERTY SETBACK
- PROPOSED GENERATOR
- EXISTING GENERATOR



Proposed Industrial Development

Lonza Biologics

Portsmouth, New Hampshire

MARK	DATE	DESCRIPTION

PROJECT NO:	L-0700-013
DATE:	2/26/2024
FILE:	L-0700-026-C-DSGN-SPCC.dwg
DRAWN BY:	CJK
CHECKED:	NAH
APPROVED:	PMC

OVERALL SITE PLAN

SCALE: AS SHOWN

Last Save Date: February 16, 2024 2:30 PM By: CKRZCUIK
 Plot Date: Monday, February 26, 2024 Plotted By: Colter Krzcuik
 P&E File Location: J:\0700\Lonza Biologics Expansion was 12767.026 Project Abstract\Drawings\AutoCAD\0700-026-C-DSGN-SPCC.dwg Layout Tab: 1 of 1

PERFORMANCE DATA[EM1895]

Performance Number: EM1895

Change Level: 06

SALES MODEL:	3516C	COMBUSTION:	DIRECT INJECTION
BRAND:	CAT	ENGINE SPEED (RPM):	1,800
MACHINE SALES MODEL:		HERTZ:	60
ENGINE POWER (BHP):	3,634	FAN POWER (HP):	130.1
GEN POWER WITH FAN (EKW):	2,500.0	ASPIRATION:	TA
COMPRESSION RATIO:	14.7	AFTERCOOLER TYPE:	ATAAC
RATING LEVEL:	MISSION CRITICAL STANDBY	AFTERCOOLER CIRCUIT TYPE:	JW+OC, ATAAC
PUMP QUANTITY:	1	INLET MANIFOLD AIR TEMP (F):	122
FUEL TYPE:	DIESEL	JACKET WATER TEMP (F):	219.2
MANIFOLD TYPE:	DRY	TURBO CONFIGURATION:	PARALLEL
GOVERNOR TYPE:	ADEM3	TURBO QUANTITY:	4
ELECTRONICS TYPE:	ADEM3	TURBOCHARGER MODEL:	GT6041BN-48T-1.10
CAMSHAFT TYPE:	STANDARD	CERTIFICATION YEAR:	2006
IGNITION TYPE:	CI	CRANKCASE BLOWBY RATE (FT3/HR):	3,619.4
INJECTOR TYPE:	EUI	FUEL RATE (RATED RPM) NO LOAD (GAL/HR):	16.0
FUEL INJECTOR:	3920221	PISTON SPD @ RATED ENG SPD (FT/MIN):	2,539.4
UNIT INJECTOR TIMING (IN):	64.34		
REF EXH STACK DIAMETER (IN):	12		
MAX OPERATING ALTITUDE (FT):	2,953		

INDUSTRY	SUBINDUSTRY	APPLICATION
ELECTRIC POWER	STANDARD	PACKAGED GENSET
OIL AND GAS	LAND PRODUCTION	PACKAGED GENSET

General Performance Data

THIS STANDBY RATING IS FOR A STANDBY ONLY ENGINE ARRANGEMENT. RERATING THE ENGINE TO A PRIME OR CONTINUOUS RATING IS NOT PERMITTED.

THE INLET MANIFOLD AIR TEMP LISTED IN THE HEADER, AND IN THE GENERAL PERFORMANCE DATA, IS THE AVERAGE INLET MANIFOLD TEMP FRONT TO REAR ON THE ENGINE.

GENSET POWER WITH FAN	PERCENT LOAD	ENGINE POWER	BRAKE MEAN EFF PRES (BMEP)	BRAKE SPEC FUEL CONSUMPTN (BSFC)	ISO BRAKE SPEC FUEL CONSUMPTN (BSFC)	VOL FUEL CONSUMPTN (VFC)	ISO VOL FUEL CONSUMPTN (VFC)	ELEC SPEC FUEL CONSUMPTN (ESFC)	ISO ELEC SPEC FUEL CONSUMPTN (ESFC)
EKW	%	BHP	PSI	LB/BHP-HR	LB/BHP-HR	GAL/HR	GAL/HR	LB/EKW-HR	LB/EKW-HR
2,500.0	100	3,633	336	0.334	0.328	171.3	168.0	0.486	0.477
2,250.0	90	3,283	303	0.335	0.329	155.1	152.1	0.489	0.480
2,000.0	80	2,935	271	0.339	0.333	140.4	137.7	0.498	0.489
1,875.0	75	2,760	255	0.342	0.336	133.2	130.7	0.504	0.494
1,750.0	70	2,586	239	0.346	0.339	126.0	123.6	0.511	0.501
1,500.0	60	2,237	207	0.354	0.347	111.5	109.4	0.527	0.517
1,250.0	50	1,889	174	0.365	0.358	97.1	95.2	0.551	0.540
1,000.0	40	1,547	143	0.373	0.366	81.4	79.8	0.577	0.566
750.0	30	1,203	111	0.385	0.378	65.3	64.1	0.618	0.606
625.0	25	1,029	95	0.394	0.386	57.2	56.1	0.649	0.637
500.0	20	854	79	0.403	0.396	48.6	47.6	0.689	0.676
250.0	10	497	46	0.441	0.433	30.9	30.3	0.877	0.860

GENSET POWER WITH FAN	PERCENT LOAD	ENGINE POWER	INLET MFLD PRES	INLET MFLD TEMP	EXH MFLD TEMP	EXH MFLD PRES	ENGINE OUTLET TEMP	COMPRESSOR OUTLET PRES	COMPRESSOR OUTLET TEMP
EKW	%	BHP	IN-HG	DEG F	DEG F	IN-HG	DEG F	IN-HG	DEG F
2,500.0	100	3,633	78.1	121.9	1,235.7	67.6	853.1	85	466.7
2,250.0	90	3,283	71.3	119.4	1,190.0	61.3	824.5	78	443.1
2,000.0	80	2,935	64.3	116.9	1,158.9	55.3	810.7	70	417.8
1,875.0	75	2,760	60.7	115.8	1,145.6	52.3	804.8	66	404.7
1,750.0	70	2,586	57.1	114.7	1,133.3	49.3	798.9	63	391.3
1,500.0	60	2,237	49.5	112.7	1,112.4	43.2	787.1	55	363.6
1,250.0	50	1,889	41.3	111.0	1,091.8	36.8	775.1	46	334.7
1,000.0	40	1,547	31.4	109.4	1,061.5	29.3	770.6	36	297.5
750.0	30	1,203	21.7	107.9	1,010.3	22.1	752.8	25	249.8
625.0	25	1,029	17.2	107.2	968.3	18.7	731.8	21	223.4
500.0	20	854	12.7	106.4	902.0	15.5	695.6	16	197.2
250.0	10	497	4.8	104.1	700.7	9.8	562.6	7	152.3

General Performance Data (Continued)

GENSET POWER WITH FAN	PERCENT LOAD	ENGINE POWER	WET INLET AIR VOL FLOW RATE	ENGINE OUTLET WET EXH GAS VOL FLOW RATE	WET INLET AIR MASS FLOW RATE	WET EXH GAS MASS FLOW RATE	WET EXH VOL FLOW RATE (32 DEG F AND 29.98 IN HG)	DRY EXH VOL FLOW RATE (32 DEG F AND 29.98 IN HG)
EKW	%	BHP	CFM	CFM	LB/HR	LB/HR	FT3/MIN	FT3/MIN
2,500.0	100	3,633	7,133.1	18,497.4	31,696.1	32,910.2	6,927.7	6,289.9
2,250.0	90	3,283	6,756.8	17,036.6	29,886.4	30,985.9	6,522.8	5,944.9
2,000.0	80	2,935	6,350.9	15,740.8	28,028.8	29,019.5	6,092.1	5,568.4
1,875.0	75	2,760	6,132.5	15,125.9	27,059.2	27,998.2	5,881.4	5,382.5
1,750.0	70	2,586	5,902.5	14,507.6	26,056.9	26,945.9	5,667.5	5,192.6
1,500.0	60	2,237	5,408.9	13,196.0	23,934.4	24,726.5	5,204.1	4,777.6
1,250.0	50	1,889	4,844.0	11,701.1	21,447.3	22,136.3	4,659.1	4,284.7
1,000.0	40	1,547	4,122.0	9,918.3	18,264.4	18,842.5	3,963.7	3,647.8
750.0	30	1,203	3,423.6	8,121.4	15,177.8	15,642.9	3,293.2	3,036.5
625.0	25	1,029	3,105.0	7,237.8	13,766.9	14,173.7	2,986.8	2,759.5
500.0	20	854	2,791.1	6,276.7	12,375.6	12,721.7	2,671.3	2,475.8
250.0	10	497	2,236.2	4,428.4	9,910.4	10,129.4	2,129.9	1,997.8

Heat Rejection Data

GENSET POWER WITH FAN	PERCENT LOAD	ENGINE POWER	REJECTION TO JACKET WATER	REJECTION TO ATMOSPHERE	REJECTION TO EXH	EXHAUST RECOVERY TO 350F	FROM OIL COOLER	FROM AFTERCOOLER	WORK ENERGY	LOW HEAT VALUE ENERGY	HIGH HEAT VALUE ENERGY
EKW	%	BHP	BTU/MIN	BTU/MIN	BTU/MIN	BTU/MIN	BTU/MIN	BTU/MIN	BTU/MIN	BTU/MIN	BTU/MIN
2,500.0	100	3,633	46,992	9,146	142,265	70,115	19,835	44,723	154,077	372,403	396,702
2,250.0	90	3,283	44,242	8,557	127,929	62,041	17,960	39,380	139,243	337,204	359,207
2,000.0	80	2,935	41,477	8,162	116,879	56,282	16,262	34,167	124,444	305,311	325,233
1,875.0	75	2,760	40,076	8,007	111,588	53,551	15,425	31,612	117,053	289,608	308,505
1,750.0	70	2,586	38,657	7,874	106,293	50,817	14,588	29,085	109,651	273,881	291,752
1,500.0	60	2,237	35,755	7,684	95,729	45,311	12,915	24,201	94,874	242,485	258,307
1,250.0	50	1,889	32,626	7,527	85,184	39,388	11,245	19,401	80,109	211,118	224,893
1,000.0	40	1,547	29,235	7,262	72,693	33,148	9,427	13,873	65,583	176,995	188,544
750.0	30	1,203	25,476	6,784	59,425	26,293	7,565	8,706	51,005	142,037	151,305
625.0	25	1,029	23,394	6,435	52,542	22,520	6,621	6,496	43,653	124,317	132,429
500.0	20	854	21,006	5,995	44,739	18,221	5,624	4,534	36,223	105,594	112,484
250.0	10	497	15,737	5,026	27,795	8,787	3,578	1,916	21,071	67,181	71,564

Sound Data

SOUND PRESSURE DATA FOR THIS RATING CAN BE FOUND IN PERFORMANCE NUMBER - DM8779.

Emissions Data

DIESEL

RATED SPEED NOMINAL DATA: 1800 RPM

GENSET POWER WITH FAN	EKW	2,500.0	1,875.0	1,250.0	625.0	250.0
PERCENT LOAD	%	100	75	50	25	10
ENGINE POWER	BHP	3,633	2,760	1,889	1,029	497
TOTAL NOX (AS NO2)	G/HR	19,123	11,751	5,837	2,974	2,654
TOTAL CO	G/HR	1,515	725	607	831	1,165
TOTAL HC	G/HR	376	375	408	307	329
TOTAL CO2	KG/HR	1,740	1,340	966	559	296
PART MATTER	G/HR	132.5	88.4	94.3	99.6	100.7
TOTAL NOX (AS NO2) (CORR 5% O2)	MG/NM3	2,349.1	1,857.9	1,286.9	1,127.3	1,858.5
TOTAL CO (CORR 5% O2)	MG/NM3	195.4	118.8	140.1	330.3	862.6
TOTAL HC (CORR 5% O2)	MG/NM3	42.1	54.8	81.8	105.8	212.3
PART MATTER (CORR 5% O2)	MG/NM3	14.1	11.8	18.4	34.7	63.0
TOTAL NOX (AS NO2) (CORR 15% O2)	MG/NM3	871.7	689.4	477.5	418.3	689.6

PERFORMANCE DATA[EM1895]

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TOTAL CO	(CORR 15% O2)	MG/NM3	72.5	44.1	52.0	122.6	320.1
TOTAL HC	(CORR 15% O2)	MG/NM3	15.6	20.3	30.4	39.3	78.8
PART MATTER	(CORR 15% O2)	MG/NM3	5.2	4.4	6.8	12.9	23.4
TOTAL NOX (AS NO2)	(CORR 5% O2)	PPM	1,144	905	627	549	905
TOTAL CO	(CORR 5% O2)	PPM	156	95	112	264	690
TOTAL HC	(CORR 5% O2)	PPM	79	102	153	197	396
TOTAL NOX (AS NO2)	(CORR 15% O2)	PPM	425	336	233	204	336
TOTAL CO	(CORR 15% O2)	PPM	58	35	42	98	256
TOTAL HC	(CORR 15% O2)	PPM	29	38	57	73	147
TOTAL NOX (AS NO2)		G/HP-HR	5.32	4.30	3.12	2.92	5.39
TOTAL CO		G/HP-HR	0.42	0.26	0.32	0.82	2.37
TOTAL HC		G/HP-HR	0.10	0.14	0.22	0.30	0.67
PART MATTER		G/HP-HR	0.04	0.03	0.05	0.10	0.20
TOTAL NOX (AS NO2)		G/KW-HR	7.23	5.84	4.24	3.96	7.33
TOTAL CO		G/KW-HR	0.57	0.36	0.44	1.11	3.22
TOTAL HC		G/KW-HR	0.14	0.19	0.30	0.41	0.91
PART MATTER		G/KW-HR	0.05	0.04	0.07	0.13	0.28
TOTAL NOX (AS NO2)		LB/HR	42.16	25.91	12.87	6.56	5.85
TOTAL CO		LB/HR	3.34	1.60	1.34	1.83	2.57
TOTAL HC		LB/HR	0.83	0.83	0.90	0.68	0.72
TOTAL CO2		LB/HR	3,836	2,955	2,130	1,233	654
PART MATTER		LB/HR	0.29	0.19	0.21	0.22	0.22
OXYGEN IN EXH		%	9.4	10.4	11.3	12.2	14.4
DRY SMOKE OPACITY		%	1.7	1.4	1.9	2.6	4.0
BOSCH SMOKE NUMBER			0.83	0.80	0.85	0.97	1.13

RATED SPEED POTENTIAL SITE VARIATION: 1800 RPM

GENSET POWER WITH FAN	EKW	2,500.0	1,875.0	1,250.0	625.0	250.0	
PERCENT LOAD	%	100	75	50	25	10	
ENGINE POWER	BHP	3,633	2,760	1,889	1,029	497	
TOTAL NOX (AS NO2)	G/HR	22,948	14,101	7,004	3,568	3,185	
TOTAL CO	G/HR	2,726	1,304	1,092	1,496	2,098	
TOTAL HC	G/HR	500	499	543	408	437	
PART MATTER	G/HR	185.5	123.7	132.1	139.5	141.0	
TOTAL NOX (AS NO2)	(CORR 5% O2)	MG/NM3	2,818.9	2,229.5	1,544.3	1,352.7	2,230.2
TOTAL CO	(CORR 5% O2)	MG/NM3	351.8	213.9	252.3	594.6	1,552.7
TOTAL HC	(CORR 5% O2)	MG/NM3	55.9	72.8	108.8	140.7	282.4
PART MATTER	(CORR 5% O2)	MG/NM3	19.7	16.5	25.8	48.5	88.2
TOTAL NOX (AS NO2)	(CORR 15% O2)	MG/NM3	1,046.0	827.3	573.0	502.0	827.6
TOTAL CO	(CORR 15% O2)	MG/NM3	130.5	79.4	93.6	220.6	576.2
TOTAL HC	(CORR 15% O2)	MG/NM3	20.8	27.0	40.4	52.2	104.8
PART MATTER	(CORR 15% O2)	MG/NM3	7.3	6.1	9.6	18.0	32.7
TOTAL NOX (AS NO2)	(CORR 5% O2)	PPM	1,373	1,086	752	659	1,086
TOTAL CO	(CORR 5% O2)	PPM	281	171	202	476	1,242
TOTAL HC	(CORR 5% O2)	PPM	104	136	203	263	527
TOTAL NOX (AS NO2)	(CORR 15% O2)	PPM	510	403	279	244	403
TOTAL CO	(CORR 15% O2)	PPM	104	63	75	177	461
TOTAL HC	(CORR 15% O2)	PPM	39	50	75	97	196
TOTAL NOX (AS NO2)		G/HP-HR	6.38	5.15	3.74	3.50	6.47
TOTAL CO		G/HP-HR	0.76	0.48	0.58	1.47	4.26
TOTAL HC		G/HP-HR	0.14	0.18	0.29	0.40	0.89
PART MATTER		G/HP-HR	0.05	0.05	0.07	0.14	0.29
TOTAL NOX (AS NO2)		G/KW-HR	8.67	7.01	5.09	4.76	8.79
TOTAL CO		G/KW-HR	1.03	0.65	0.79	2.00	5.79
TOTAL HC		G/KW-HR	0.19	0.25	0.39	0.54	1.21
PART MATTER		G/KW-HR	0.07	0.06	0.10	0.19	0.39
TOTAL NOX (AS NO2)		LB/HR	50.59	31.09	15.44	7.87	7.02
TOTAL CO		LB/HR	6.01	2.88	2.41	3.30	4.62
TOTAL HC		LB/HR	1.10	1.10	1.20	0.90	0.96
PART MATTER		LB/HR	0.41	0.27	0.29	0.31	0.31

Regulatory Information

EPA EMERGENCY STATIONARY	2011 - ----
GASEOUS EMISSIONS DATA MEASUREMENTS PROVIDED TO THE EPA ARE CONSISTENT WITH THOSE DESCRIBED IN EPA 40 CFR PART 60 SUBPART IIII AND ISO 8178 FOR MEASURING HC, CO, PM, AND NOX. THE "MAX LIMITS" SHOWN BELOW ARE WEIGHTED CYCLE AVERAGES AND ARE IN COMPLIANCE WITH THE EMERGENCY STATIONARY REGULATIONS.	

Locality U.S. (INCL CALIF)	Agency EPA	Regulation STATIONARY	Tier/Stage EMERGENCY STATIONARY	Max Limits - G/BKW - HR CO: 3.5 NOx + HC: 6.4 PM: 0.20
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Altitude Derate Data

STANDARD

ALTITUDE CORRECTED POWER CAPABILITY (BHP)

AMBIENT OPERATING TEMP (F)	30	40	50	60	70	80	90	100	110	120	NORMAL
ALTITUDE (FT)											
0	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,634
1,000	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,561	3,634
2,000	3,634	3,634	3,634	3,634	3,634	3,634	3,634	3,604	3,541	3,480	3,634
3,000	3,628	3,628	3,628	3,628	3,628	3,603	3,537	3,474	3,413	3,354	3,628
4,000	3,504	3,504	3,504	3,504	3,504	3,471	3,408	3,347	3,289	3,232	3,504
5,000	3,384	3,384	3,384	3,384	3,384	3,344	3,283	3,225	3,168	3,113	3,384
6,000	3,269	3,269	3,269	3,269	3,269	3,221	3,162	3,105	3,051	2,998	3,269
7,000	3,159	3,159	3,159	3,159	3,159	3,101	3,044	2,990	2,937	2,887	3,159
8,000	3,052	3,052	3,052	3,052	3,041	2,985	2,930	2,878	2,827	2,779	3,052
9,000	2,950	2,950	2,950	2,950	2,926	2,872	2,820	2,769	2,721	2,674	2,950
10,000	2,851	2,851	2,851	2,851	2,815	2,763	2,713	2,664	2,617	2,544	2,851

Cross Reference

Test Spec	Setting	Engine Arrangement	Engineering Model	Engineering Model Version	Start Effective Serial Number	End Effective Serial Number
4577176	LL1858	5084280	GS336	-	SBK02000	
4581567	LL6760	5157721	PG243	-	LYM00001	

Supplementary Data

Type	Classification	Performance Number
SOUND	SOUND PRESSURE	DM8779

Performance Parameter Reference

Parameters Reference:DM9600-14 PERFORMANCE DEFINITIONS
--

PERFORMANCE DEFINITIONS DM9600

APPLICATION:

Engine performance tolerance values below are representative of a typical production engine tested in a calibrated dynamometer test cell at SAE J1995 standard reference conditions. Caterpillar maintains ISO9001:2000 certified quality management systems for engine test Facilities to assure accurate calibration of test equipment. Engine test data is corrected in accordance with SAE J1995. Additional reference material SAE J1228, J1349, ISO 8665, 3046-1:2002E, 3046-3:1989, 1585, 2534, 2288, and 9249 may apply in part or are similar to SAE J1995. Special engine rating request (SERR) test data shall be noted.

PERFORMANCE PARAMETER TOLERANCE FACTORS:

- Power +/- 3%
- Torque +/- 3%
- Exhaust stack temperature +/- 8%
- Inlet airflow +/- 5%
- Intake manifold pressure-gage +/- 10%
- Exhaust flow +/- 6%
- Specific fuel consumption +/- 3%
- Fuel rate +/- 5%

PERFORMANCE DATA[EM1895]

February 12, 2024

Specific DEF consumption +/- 3%

DEF rate +/- 5%

Heat rejection +/- 5%

Heat rejection exhaust only +/- 10%

Heat rejection CEM only +/- 10%

Heat Rejection values based on using treated water.

Torque is included for truck and industrial applications, do not use for Gen Set or steady state applications.

On C7 - C18 engines, at speeds of 1100 RPM and under these values are provided for reference only, and may not meet the tolerance listed.

On 3500 and C175 engines, at speeds below Peak Torque these values are provided for reference only, and may not meet the tolerance listed.

These values do not apply to C280/3600. For these models, see the tolerances listed below.

C280/3600 HEAT REJECTION TOLERANCE FACTORS:

Heat rejection +/- 10%

Heat rejection to Atmosphere +/- 50%

Heat rejection to Lube Oil +/- 20%

Heat rejection to Aftercooler +/- 5%

TEST CELL TRANSDUCER TOLERANCE FACTORS:

Torque +/- 0.5%

Speed +/- 0.2%

Fuel flow +/- 1.0%

Temperature +/- 2.0 C degrees

Intake manifold pressure +/- 0.1 kPa

OBSERVED ENGINE PERFORMANCE IS CORRECTED TO SAE J1995 REFERENCE AIR AND FUEL CONDITIONS.

REFERENCE ATMOSPHERIC INLET AIR

FOR 3500 ENGINES AND SMALLER

SAE J1228 AUG2002 for marine engines, and J1995 JAN2014 for other engines, reference atmospheric pressure is 100 KPA (29.61 in hg), and standard temperature is 25deg C (77 deg F) at 30% relative humidity at the stated aftercooler water temp, or inlet manifold temp.

FOR 3600 ENGINES

Engine rating obtained and presented in accordance with ISO 3046/1 and SAE J1995 JANJAN2014 reference atmospheric pressure is 100 KPA (29.61 in hg), and standard temperature is 25deg C (77 deg F) at 30% relative humidity and 150M altitude at the stated aftercooler water temperature.

MEASUREMENT LOCATION FOR INLET AIR TEMPERATURE

Location for air temperature measurement air cleaner inlet at stabilized operating conditions.

REFERENCE EXHAUST STACK DIAMETER

The Reference Exhaust Stack Diameter published with this dataset is only used for the calculation of Smoke Opacity values displayed in this dataset. This value does not necessarily represent the actual stack diameter of the engine due to the variety of exhaust stack adapter options available. Consult the price list, engine order or general dimension drawings for the actual stack diameter size ordered or options available.

REFERENCE FUEL

DIESEL

Reference fuel is #2 distillate diesel with a 35API gravity;

A lower heating value is 42,780 KJ/KG (18,390 BTU/LB) when used at 15 deg C (59 deg F), where the density is 850 G/Liter (7.0936 Lbs/Gal).

GAS

Reference natural gas fuel has a lower heating value of 33.74 KJ/L (905 BTU/CU Ft). Low BTU ratings are based on 18.64 KJ/L (500 BTU/CU FT) lower heating value gas. Propane ratings are based on 87.56 KJ/L (2350 BTU/CU Ft) lower heating value gas.

ENGINE POWER (NET) IS THE CORRECTED FLYWHEEL POWER (GROSS) LESS EXTERNAL AUXILIARY LOAD

Engine corrected gross output includes the power required to drive standard equipment; lube oil, scavenge lube oil, fuel transfer, common rail fuel, separate circuit aftercooler and jacket water pumps. Engine net power available for the external (flywheel) load is calculated by subtracting the sum of auxiliary load from the corrected gross flywheel out put power. Typical auxiliary loads are radiator cooling fans, hydraulic pumps, air compressors and battery charging alternators. For Tier 4 ratings additional Parasitic losses would also include Intake, and Exhaust Restrictions.

ALTITUDE CAPABILITY

Altitude capability is the maximum altitude above sea level at standard temperature and standard pressure at which the engine could develop full rated output power on the current performance data set.

Standard temperature values versus altitude could be seen on TM2001.

When viewing the altitude capability chart the ambient temperature is the inlet air temp at the compressor inlet.

Engines with ADEM MEUI and HEUI fuel systems operating at conditions above the defined altitude capability derate for atmospheric pressure and temperature conditions outside the values

PERFORMANCE DATA[EM1895]

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defined, see TM2001.

Mechanical governor controlled unit injector engines require a setting change for operation at conditions above the altitude defined on the engine performance sheet. See your Caterpillar technical representative for non standard ratings.

REGULATIONS AND PRODUCT COMPLIANCE

TMI Emissions information is presented at 'nominal' and 'Potential Site Variation' values for standard ratings. No tolerances are applied to the emissions data. These values are subject to change at any time. The controlling federal and local emission requirements need to be verified by your Caterpillar technical representative.

Customer's may have special emission site requirements that need to be verified by the Caterpillar Product Group engineer.

EMISSION CYCLE LIMITS:

Cycle emissions Max Limits apply to cycle-weighted averages only. Emissions at individual load points may exceed the cycle-weighted limit.

WET & DRY EXHAUST/EMISSIONS DESCRIPTION:

Wet - Total exhaust flow or concentration of total exhaust flow

Dry - Total exhaust flow minus water vapor or concentration of exhaust flow with water vapor excluded

EMISSIONS DEFINITIONS:

Emissions : DM1176

EMISSION CYCLE DEFINITIONS

1. For constant-speed marine engines for ship main propulsion, including diesel-electric drive, test cycle E2 shall be applied, for controllable-pitch propeller sets test cycle E2 shall be applied.

2. For propeller-law-operated main and propeller-law-operated auxiliary engines the test cycle E3 shall be applied.

3. For constant-speed auxiliary engines test cycle D2 shall be applied.

4. For variable-speed, variable-load auxiliary engines, not included above, test cycle C1 shall be applied.

HEAT REJECTION DEFINITIONS:

Diesel Circuit Type and HHV Balance : DM9500

HIGH DISPLACEMENT (HD) DEFINITIONS:

3500: EM1500

RATING DEFINITIONS:

Agriculture : TM6008

Fire Pump : TM6009

Generator Set : TM6035

Generator (Gas) : TM6041

Industrial Diesel : TM6010

Industrial (Gas) : TM6040

Irrigation : TM5749

Locomotive : TM6037

Marine Auxiliary : TM6036

Marine Prop (Except 3600) : TM5747

Marine Prop (3600 only) : TM5748

MSHA : TM6042

Oil Field (Petroleum) : TM6011

Off-Highway Truck : TM6039

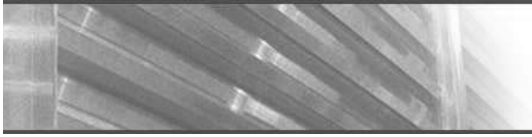
On-Highway Truck : TM6038

SOUND DEFINITIONS:

Sound Power : DM8702

Sound Pressure : TM7080

Date Released : 10/27/21



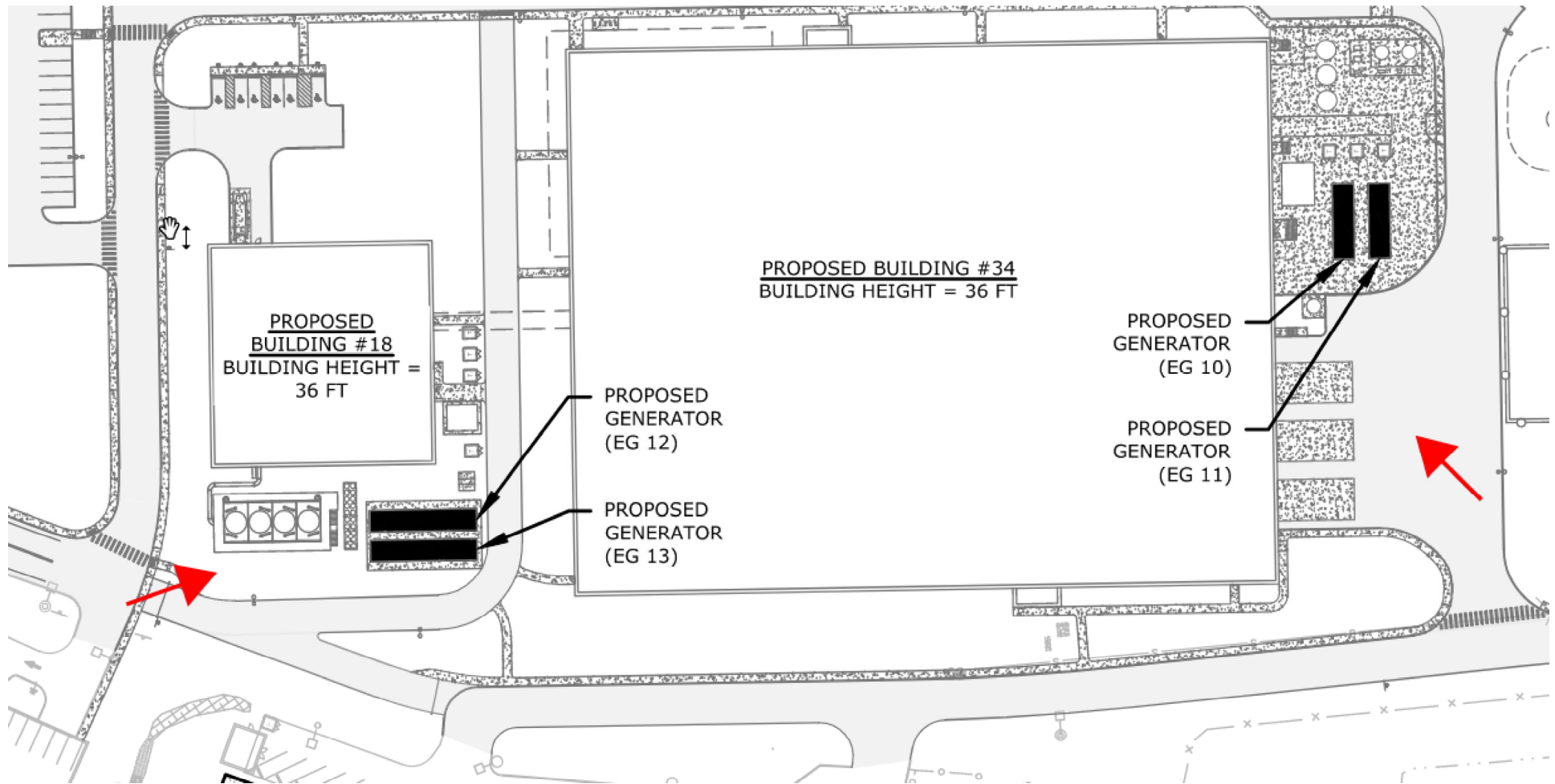
- Miscellaneous Items:
 - ✓ Flexible coolant and oil drains to exterior with shut valves.
 - ✓ Hennig to install customer supplied vibration isolators.
 - ✓ Powder Coat Finish - All enclosure panels are individually powder coated inside and out. Color is TBD by end-user at a later date. Please select color from Hennig standard powder chart. Color chart will be provided at time of order.

Hennig Enclosure Systems Tank Proposal: Est. Overall Size: 425”L x 130”W x 19.5”H

- Sub-base UL 142 Certified Fuel Tank. Standard package includes:
 - ✓ Designed for 3,312 usable gallons, 24 hours of runtime at full load.
 - ✓ 110% Rupture basin containment.
 - ✓ Primary & secondary tanks are individually tested per UL142 requirements.
 - ✓ 2” Lockable fill port.
 - ✓ Supply & return ports w/ flexible fuel lines (sized for specified generator).
 - ✓ Low level switch.
 - ✓ 2” Normal vent.
 - ✓ Rupture basin switch.
 - ✓ Emergency vents (sized to meet UL standards).
 - ✓ (2) Extra 2” fittings with plugs.
 - ✓ Generator electrical stub up.
 - ✓ Lifting lugs.
 - ✓ 200 lbs/sq ft floor capacity (top of tank).
 - ✓ Painted black (textured finish).
- Additional Tank Items:
 - ✓ Slip resistant surface in walkways; mastic coating w/ silica.
- New Hampshire Code Adders:
 - ✓ Overfill prevention valve w/ 5-gallon lockable spill box, mounted outside enclosure.
 - ✓ External normal & emergency vents.
 - ✓ Fill alarm panel, lithium battery powered w/ 90% level switch.
 - ✓ Clock fuel gauge.
 - ✓ NFPA & tank information labels

Generator Information:

- Model No.: 3516C
- Size: 267”L x 94”W x 116.5”H
- Weight: 35,000 lbs.
- Pre-installed breaker(s); **side facing**.
- **Rear facing** control panel.









The motion passed by unanimous vote, 7-0.

Ms. Eldridge returned to alternate status, and Mr. Hagaman assumed a voting seat.

2) Case 5-9

Petitioners: Lonza Biologics, Inc.
Property: 101 International Drive
Assessor Plan: Map 305, Lot 6
District: (Pease) Airport Business Commercial District
Description: Add two new generators, above ground storage tanks, a transformer pad, and gear/switch enclosure.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Pease Development Ordinance including the following variances:
a) from Section 308.02(c) to allow above ground storage tanks (AST) exceeding 2,000 gallons per facility.

SPEAKING IN FAVOR OF THE PETITION

Patrick Crimmins of Tigie and Bond was present on behalf of the applicant. He reviewed the petition, noting that the tanks would require other State approvals. He said the project would involve construction of new electric equipment to support it. He noted that there were already four generators that exceeded 2,000 gallons. He referenced his letter that addressed the criteria.

In response to the Board’s questions, Mr. Crimmins said the following:

- Two generators and tanks would be added and not replace the existing ones. Some of the tanks were smaller;
- There had been no spillage and the tanks were regularly inspected;
- One tank exceeded the 2,000 gallons and had no issues. The tanks would be replaced in kind if they failed or the applicant would return for approval if a larger tank were necessary;
- The material of the new tanks consisted of a rubber lining, with steel on the outside;
- He didn’t know the percentage of space that had not been outfitted in the existing envelope but said a shell was done in 2008 and was dormant for eight years but was in the process of being fit up. He said they were getting close to capacity because generators were catching up to existing space as new projects evolved;
- In a catastrophe, there were pits under the tanks to contain any leakage;
- Generators would routinely be tested to ensure that they were operating efficiently;
- Tanks greater than 2,000 gallons were necessary because they wanted generators that were similar to those on other sites and were running out of space due to the limited footprint.

**SPEAKING IN OPPOSITION TO THE PETITION AND/OR
SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

Mr. Parrott moved to recommend approval, and Mr. Lee seconded.

Mr. Parrott said it was a straightforward request and similar to what was used in many other facilities. He noted that the applicant would have a regular auditing program to check the integrity of the tanks and that the secondary backup of the pit arrangement would allow any adverse effect to be detected before getting out to the environment. He said the project would have no adverse effect or diminution of value of surrounding properties because it was just a continuation of existing machinery and facilities and there was plenty of room. He said it would be a benefit to the public interest to see the business prosper and would not pose any harm to the environment. In terms of the hardship, he said the company was the best one to know about backup or emergency power to keep their operation running smoothly, and denying the request would be detrimental to them and not have a positive effect on anyone else. He said substantial justice would be done and could see no effect on the public interest. He said the proposed use was not contrary to the spirit of the zoning of the rule, noting that people operated their businesses as they needed to in a safe and responsible fashion. He said he was satisfied that the request met all the criteria.

Mr. Lee concurred and had nothing to add.

Chairman Rheume said he would support the motion. He noted that Lonza at some point should consider whether there was a better way to provide a central tank location that would be easier to inspect than all the smaller tanks. He said it might be a positive benefit to think longer-term about having one large tank so that they didn't have to return before the Board.

The motion passed by unanimous vote, 7-0.

Mr. Hagaman returned to Alternate status, and Ms. Eldridge assumed a voting seat.

3) Case 5-10

- Petitioners: Weeks Realty Trust, Kaley E. Weeks, Trustee and Chad Carter, owners and Tuck Realty Corporation, applicant
- Property: 3110 Lafayette Road and 65 Ocean Road
- Assessor Plan: Map 292, Lots 151-1, 151-2 and 153
- District: Single Residence B
- Description: Construct 23 townhouses on three merged lots.
- Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:
- a) from Section 10.513 to allow more than one dwelling per lot;

Vice-Chair McDonell and Mr. Mulligan recused themselves from the vote.

Chairman Rheume said the applicant requested to postpone because only five Board members were available to vote, due to recusals.

DECISION OF THE BOARD

*Mr. Parrott moved to **postpone** the petition to the August 17 meeting, seconded by Mr. Hagaman.*

Mr. Parrott said it was a first-time request and reasonable, and he saw no reason to not postpone it. Mr. Hagaman concurred.

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

- K) Petition of **Lonza Biologics, Inc.** for property located at **101 International Drive** to add an above ground storage tank which requires the following: 1) from Section 308.02(c) of the Pease Development Ordinance to allow an above ground storage tank (AST) exceeding 2,000-gallon capacity per facility. Said property is shown on Assessor Plan 305 Lot 6 and lies within the (Pease) Airport Business Commercial (ABC) District.

SPEAKING TO THE PETITION

Attorney Justin Pasay was present on behalf of the applicant, with project manager Patrick Crimmins and Ricardo Santana of Lonza. Attorney Pasay said the generator would support Lonza's LINKS program and was the same relief granted for a previous similar generator. He reviewed the PDA criteria and said they would be met.

In response to the Board's questions, Attorney Pasay said the generator was unique to the LINKS program and that general generator support would be necessary if an incident or loss of power occurred. He said there was no toxic issues. He said the size of the tank was dictated by the operational time for the generator; the previous tanks that were recommended for approval were located on the back side of that building; and the pit under the tank was lined with a fuel-proof liner and large enough to contain a full drain of the tank.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Mulligan moved to **recommend approval**, and Mr. Parrott seconded.*

Mr. Mulligan reviewed the PDA criteria. He said granting the variance would pose no adverse effect or diminution in values of surrounding properties because the site was a fully-developed and highly industrial one and the values of surrounding properties would not be affected by the introduction of the mechanical utility. He said the use itself was permitted but just in a smaller size. The benefit to the public interest was that the essential characteristics of the surrounding vicinity would not change with the introduction of a tank that as larger than the 2,000-gallon limit. He said the denial of the variance would result in unnecessary hardship due to special conditions of the large size of the lot and the very large building on it and the fact that there several similar generators with tanks that were previously approved. He said those were special conditions of the property that were different from properties in the nearby vicinity. He said there was no fair and sub relationship between the purpose of the 2,000-gallon requirements and its application to the property. He said the use was permitted but just at a different size, so it was a reasonable use and met the unnecessary hardship test. He said granting the variance would result in substantial justice because the loss to the applicant would outweigh any gain to the PDA if the requirement was strictly adhered to. He said the proposed use would not be contrary to the spirit of the zoning rule because the use was allowed and it was just the size of the use that the relief was sought for, and that size had been approved before, plus the fact that the site was highly industrial and fully developed. He said the Board should recommend approval.

Mr. Parrott concurred and had nothing to add.

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

II. OTHER BUSINESS

There was no other business.

III. ADJOURNMENT

The meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

ENCLOSURE 11

Lonza Biologics Storage Facilities located at 101 International Drive Portsmouth, NH

Location	Service	PDA Classification	Capacity	Year Installed	Equipment #	Storage Facility Description	Lonza Comments
101A Utility Yard	Wastewater	Not Regulated	12,000 G	N/A	T-17001	Non Hazardous Material	Not Currently In use
101A Gas Yard	Liquid Nitrogen	No Spill Risk	1,500 G	N/A	X-680	Crygenic Liquid -Gasify and Disperse	
101A Gas Yard	Liquid Carbon Dioxide	No Spill Risk	3,300 G	N/A	X-695	Crygenic Liquid -Gasify and Disperse	
101A Cold Storage Bldg	Generator-Diesel	Regulated	1,075 G	2013	101A-EGEN-B	Double Walled Tank with Interstitial Monitoring	
101A Utility Yard	Generator-Diesel	Regulated	2,400 G	2000	101A-EGEN-B	Double Walled Tank with Interstitial Monitoring	
101B Gas Yard	Liquid Nitrogen	No Spill Risk	6,000 G	N/A	X-33050	Crygenic Liquid -Gasify and Disperse	Orriginal Volume - 1500 G
101B Gas Yard	Liquid Carbon Dioxide	No Spill Risk	7,100 G	N/A	X33040	Crygenic Liquid -Gasify and Disperse	
101B Gas Yard	Liquid Oxygen	No Spill Risk	5,855 G	N/A	X-33030	Crygenic Liquid -Gasify and Disperse	
101B Gas Yard	Gaseous helium	No Spill Risk	43,535 SCF 2,244 G	N/A	X-33060	Crygenic Liquid -Gasify and Disperse	
101B Gas Yard	Brine solution	Not Regulated	50 Tons	N/A	X-30010	Saturated Salt Solution	No Significant hazzards Mostly Dry Tank
101B Electrical Yard	Generator Diesel	Regulated	3,640 G	2003	101B-EGEN	Double Walled Tank with Interstitial Monitoring	
101B Electrical Yard	Generator Diesel	Regulated	3,312 G	2019	101B-EGEN	Double Walled Tank with Interstitial Monitoring	
101B Electrical Yard	Generator Diesel	Regulated	3,312 G	2019	101B-EGEN	Double Walled Tank with Interstitial Monitoring	
101C Underground	Nitrogen Wastewater- Currently not in use	Not Regulated	50,000 G	N/A	T-33011	Epoxy Lined	Non Hazardous
101C Underground	triton Wastewater	Not Regulated	50,000 G	N/A	T-33012	Epoxy Lined	Non Hazardous
101C Underground	Waste water (not used)	Not Regulated	50,000 G	N/A	T-33013	Epoxy Lined	WW flushed into chemical drains in building flow to this lined tank for equilzaion. Following Equalizaion the Ww is diverted back into the building's wast Neutralization systems
101C Gas Yard	liquid nitrogen	No Spill Risk	3,000 G	N/A	T-43410	Crygenic Liquid -Gasify and Disperse	
101C Electrical Yard	Generator -Diesel	Regulated	3,312 G	2016	101C-EGEN	Double Walled Tank with Interstitial Monitoring	
101C Electrical Yard	Generator -Diesel	Regulated	3,312 G	2016	101C-EGEN	Double Walled Tank with Interstitial Monitoring	
101C Electrical Yard	Generator -Diesel	Regulated	3,312 G	2021	101C-EGEN	Double Walled Tank with Interstitial Monitoring	
Bldg 230	Generator -Diesel	Regulated	660 G	N/A	230-EGEN	Double Walled Tank with Interstitial Monitoring	
Bldg 34	Generator -Diesel	Regulated	4,400 G	2024	EG-10	Double Walled Tank with Interstitial Monitoring	
Bldg 34	Generator -Diesel	Regulated	4,400 G	2024	EG-11	Double Walled Tank with Interstitial Monitoring	
bldg 18	Generator -Diesel	Regulated	4,400 G	2024	EG-12	Double Walled Tank with Interstitial Monitoring	
bldg 18	Generator -Diesel	Regulated	4,400 G	2024	EG-13	Double Walled Tank with Interstitial Monitoring	