

**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 25, 2024

AGENDA

I. OLD BUSINESS

- A.** 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)

II. NEW BUSINESS

- A.** 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)
- B.** 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)

- C.** 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)
- D.** 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)
- E.** 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. 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_sEztBnLXSH-6vrJN7T4Sug

I. OLD BUSINESS

- A. 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

This application was postponed from the June 18, 2024 meeting because the applicant was not present at the meeting to present the request.

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

 - (c) *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.

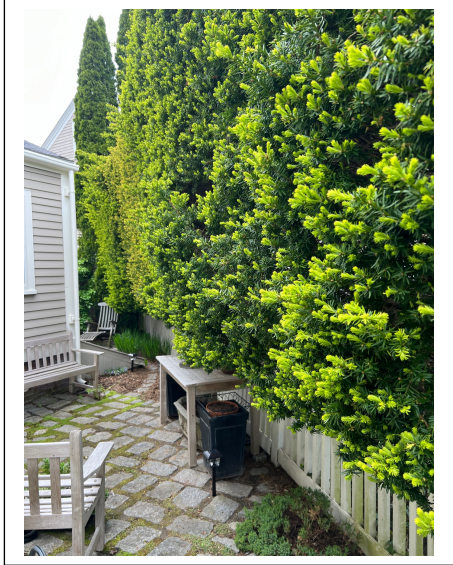
Right, a view from the Wentworth lot of the 9' vertical removal of lower branches along the 45' of our fence allowing cars to park closer to the fence.



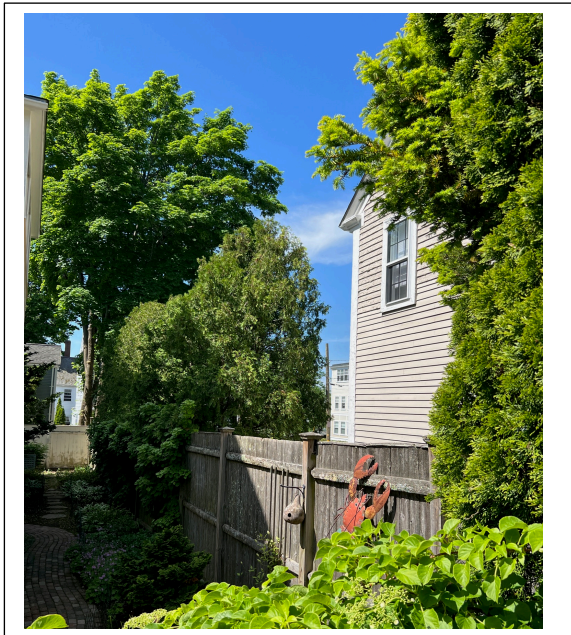
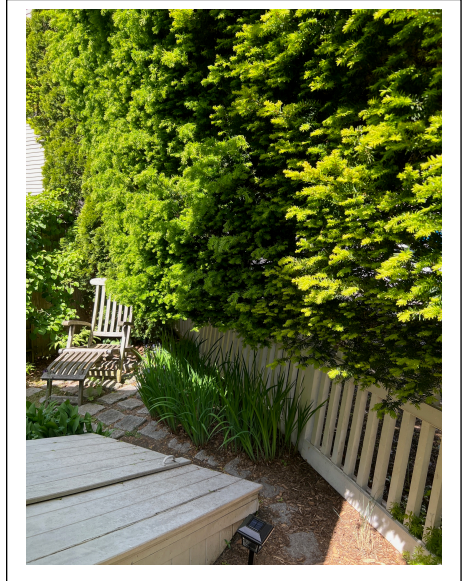
Left, view into our back yard along the 45' feet in back.

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



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.*

II. NEW BUSINESS

A. 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)

Existing & Proposed Conditions

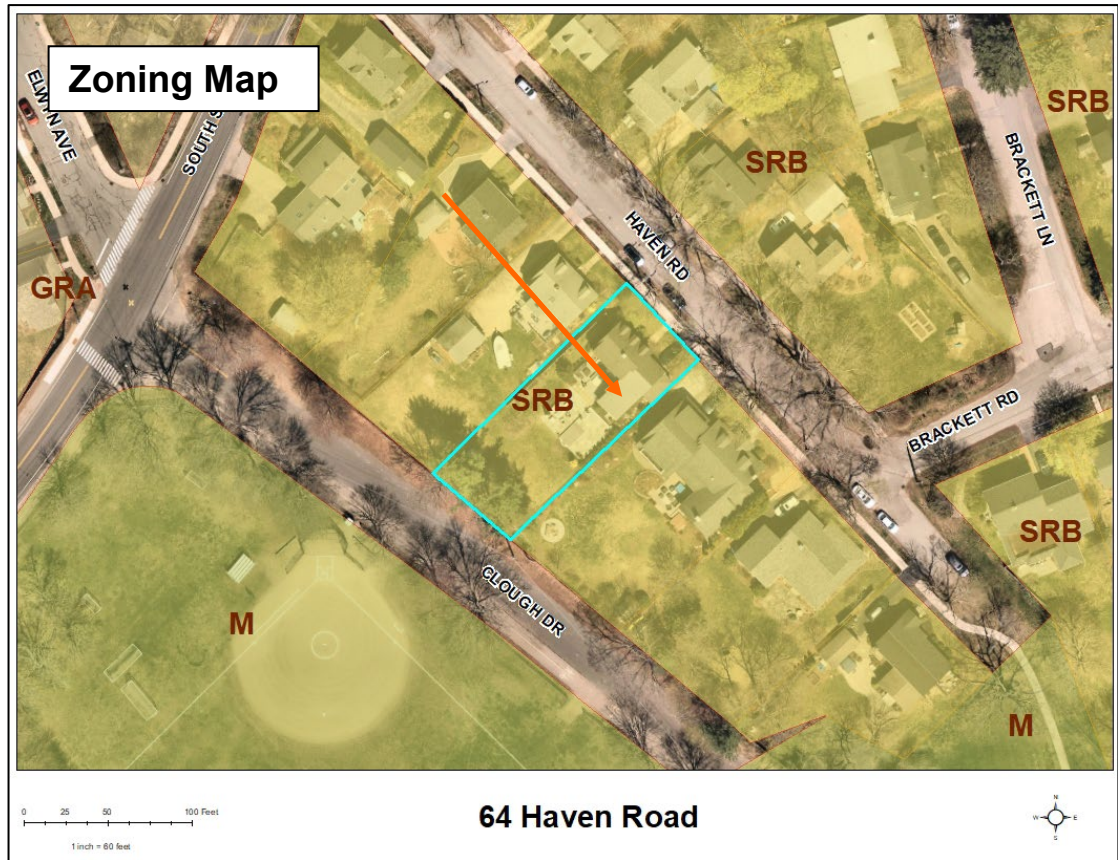
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	*Add shed, amend variance for primary structure	Primarily residential
<u>Lot area (sq. ft.):</u>	9,583	9,583	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,583	9,583	15,000 min.
<u>Lot depth (ft.):</u>	107	107	100 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Primary Front Yard (ft.):</u>	16	16	30 min.
<u>Secondary Front Yard (ft.):</u>	95	House: 95 Shed: 15	30 min.
<u>Left Yard (ft.):</u>	2	Addition: 4 HVAC: 4	10
<u>Right Yard (ft.):</u>	10.5	10.5 Shed: 5	10 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	17	15	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1940	Variance request(s) shown in red.	

*** Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.**

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

December 21, 2021 – The Board granted variances to construct a 10' x 12' shed which requires the following: 1) A Variance from Section 10.573.20 to allow a 5' side yard where 10' is required; and 2) A Variance from Section 10.571 to allow an accessory structure to be located closer to the street than the principal building.

July 19, 2022 – The Board granted variances to demolish the existing garage and porch and construct new garage and addition which requires the following: 1) Variance from Section 10.521 to allow a 5' left side yard where 10' is required; 2) A Variance from Section 10.515.14 to allow a 7.5' setback for 2 mechanical units where 10' is required for each; and 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. The Board granted the variances with the following stipulation:

- 1.) The two air conditioning units shall be 4-1/2 feet from the left side instead of 7-1/2 feet.

Planning Department Comments

The applicant is back before the Board due to a discrepancy between the original approval, granted July 19, 2022, and the structure that was built.

On October 11, 2023 a Foundation Only Permit was issued and included the following language (full permit is available in the meeting packet):

Selective Partial Demolition: Demolish 14'0 x 22'0 Garage with Three-Quarter Story Above (Including Foundation); Demolish Single-Story 7'0 x 17'0 Finished Enclosed Porch (Including Foundation); Demolish 16'0 x 17' Rear Single-Story (Behind garage) (Including Foundation); Demolish 22'0 x 18'0 Irregular Sized Rear Deck Structure. Foundation Only: Construct New 18'1 x 36'7-1/2" Full Depth Foundation and 13'10-1/2" x 20'11-1/2 Shallow Foundation as detailed on plans by Brendan McNamara, Labelled Proposed Basement & Foundation Floor Plan, Page A5, Remodel & Addition at 64 Haven Road, dated 04/26/2022, Revision date 05/23/2023. And as per Structural Plans labelled Foundation, Details, Notes 64 Haven Road, dated 06/06/2023, REV 4, dated 09/25/2023.

Permit Approval based on Land Use Approvals Granted under LU-22-121, BOA Approval permitting 5'0 left yard setback, 7.5' Setback for mechanical and Approval to expand/alter a nonconforming building. (Stipulation 1- Air-Conditioning Units shall be 4-1/2 feet from the left side instead of 7-1/2 feet.

Condition of Approval: As-Built Foundation Plan Required Prior to the Release of the full Building Permit

...

** Foundation location (As-built) plan confirming location of structure is compliant with approved property line setback shall be submitted prior to release of full building*

permit. Plan shall clearly call out the dimensions, setback locations as well as top of slab/foundation elevations to determine compliance with Land Use Approvals.

On March 19, 2024 the inspection department requested an as-built foundation plan and on May 9, 2024 it was discovered that the project was operating without a permit and had constructed a substantial amount of the structure without providing the required documents for the release of the full building permit. At this time the a stop work order was issued by the Chief Building Inspector.

To move forward, the applicant needs to obtain relief for the new yard distances as reflected in the plans.

In addition to the requested variances for the primary structure, the applicant is requesting relief for the construction of a shed in the rear of the primary structure. Relief is needed in accordance with Section 10.571 of the [Zoning Ordinance](#) (provided below).

10.571 No accessory building, structure or use shall be located in any required front yard, or closer to a street than the principal building.

As this property is a through lot, the shed can not be located in the rear as it would be between the primary structure and a street. The approval granted in 2021 was for this same request, however the shed was never constructed and the approval expired in December of 2023.

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

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

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings,

structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

**CONTENTS, BOA APPLICATION FOR “AFTER THE FACT VARIANCE” FOR WORK
DONE FOR REMODEL AND ADDITION AT #64 HAVEN RD., PORTSMOUTH, NH.**

***2-Narrative**

***3-Addressing the (5) “criteria” and “unnecessary hardship”.**

***4-Plan Set, including Corrected Existing and As-built Site Plans, with
Dimensional Table and Proposed Floor Plans and Elevations.**

***5-As-built Foundation Plan by Boudreau Land Surveying.**

“AFTER THE FACT VARIANCE” APPLICATION FOR REMODEL AND ADDITION AT #64 HAVEN RD., PORTSMOUTH, NH.

NARRATIVE

This 1 ¾, Cape style house is in the middle of a well-established 1940’s neighborhood. An addition had been done to the main structure, likely in the 60’s or 70’s, over the Garage. The surrounding neighborhood houses are consistently non-conforming for the required front yard setback, and this house has a non-confirming left side structure (Enclosed Porch) within the left side setback.

A Variance was sought and received in June of 2022 to preserve the main Cape core of the house, but demolish the Garage and later addition, including the Enclosed Porch. The new addition to replace this would give greater space to the setback but allow more volume at 2nd Floor level.

This work is near to completion, but an as-built survey identified an anomaly in the Existing House location in relation to the proximity and alignment to the side yards. This survey has shown the House is 0.7’ further to the left on the Lot and is aligned to an existing fence, which is not aligned to the right-side lot line.

As a result, the “Existing” left side setback which was indicated in the original application as 3’, would have been 2.3’ at the front. With the setback at the front of the original Garage at 9.3’, rather than the 10’ shown. And 8.6’ at the rear (because the house is “askew”) rather than the 10’ shown.

The setback to the chimney was indicated at 5’, but is actually 4.3’.

Therefore, the original application should have stated the left side setback would be increased from 2.3’ to 6.8’ (front)-6.1’ (rear). The reduction of the house area within the setback is improved by this discovery, being reduced by 10sf, rather than 0.5sf.

There is a slight increase in lot coverage, but remains below that allowed (20%) at 15%.

ADDRESSING THE (5) "CRITERIA" AND "HARDSHIP", #64 HAVEN RD., PORTSMOUTH, NH.

1: PUBLIC INTEREST.

The existing left side Enclosed Porch is non-conforming to required setbacks. The proposal decreases this set-back non-conformity. The existing appearance will be improved by the new, more stylistically conforming addition. This incorporation into the "look" of the main structure will enhance the essential character of the neighborhood. Through the necessity of meeting code compliance, the buildings will become more-safe, and energy efficient. There does not appear to be any Public Interest contrary to this proposal.

2: SPIRIT OF THE ORDINANCE.

The proposal continues some of the original building's historic non-conforming use, but reduces the level of non-conformity. The re-developed structure will be more in keeping with the intent of the Zoning Ordinance.

3: SUBSTANTIAL JUSTICE.

The proposed use does not cause any harm to the general public or other individuals and accommodates substantive and costly renovation and improvements to the property.

4: VALUE OF SURROUNDING PROPERTIES WILL NOT BE DIMINISHED.

The increased investment and preservation of this property will enhance and elevate the value of the properties surrounding it.

5: LITERAL ENFORCEMENT WOULD RESULT IN "UNNECESSARY HARDSHIP".

The property is unique given its period of development and its historic use in its current form. This use predates the implementation of the current zoning ordinance. The proposed use, while continuing some non-conformities, more aligns with the intent of the ordinance. The period nature of this property, and the existing structure, make it a special case to accommodate moderate development in line, and enhancing, existing use.

CLOUGH DR.



HAVEN RD.

*CORRECTED
PRE-EXISTING CONDITIONS SITE PLAN

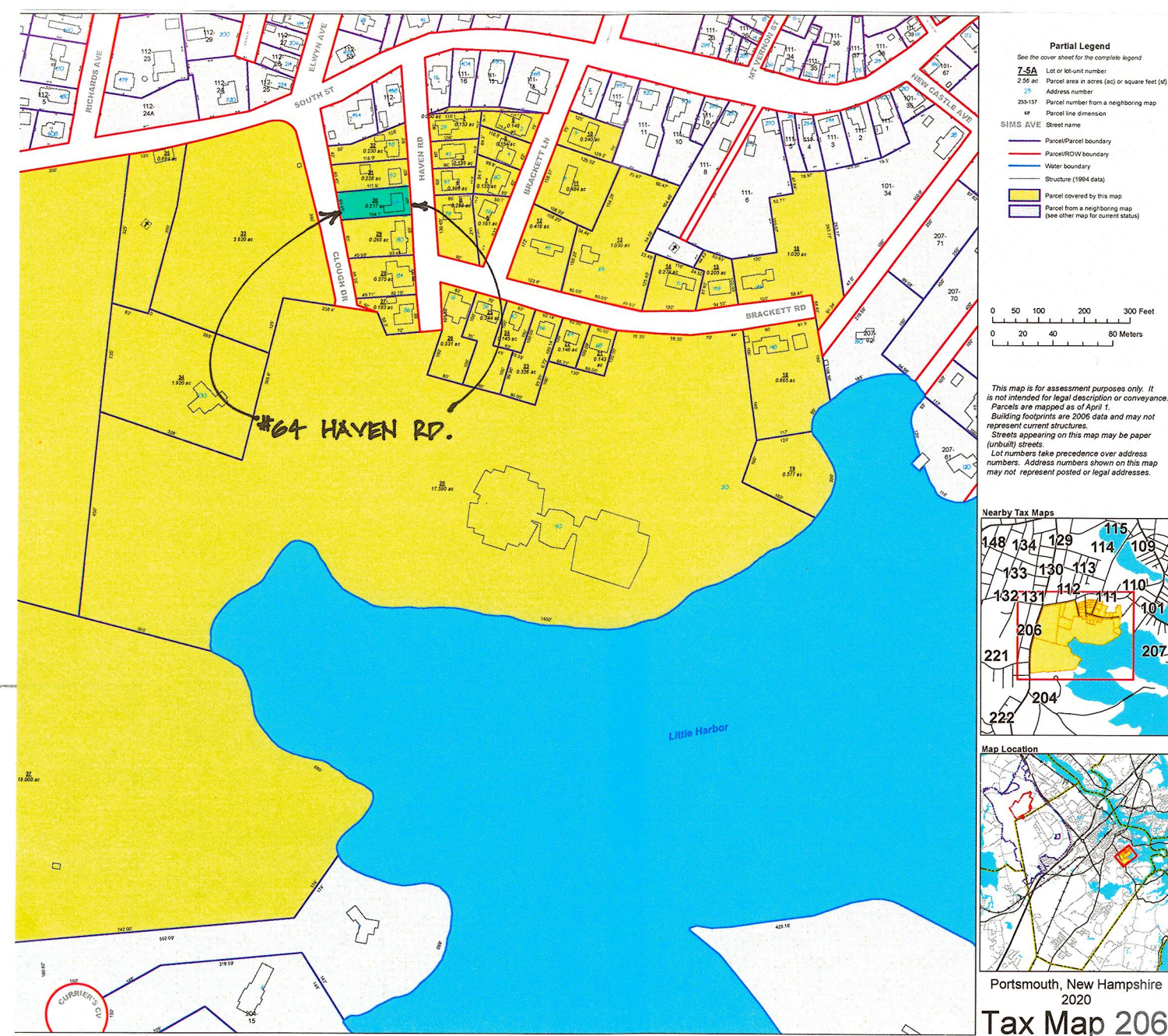
1"=10'

DIMENSIONAL TABLE (SRB)

ITEM	EXISTING	PROPOSED	CHANGE
Lot Area (Req. 15,000sf)	9,453sf	9,453sf	0sf
Height (35' max.)	25' 9"	25' 9"	0'
Front Yard (Req. 10')	19.5' (19.8)	19.5' (19.8)	0'
Left Yard (Req. 10')	3.0' (2.8)	2' (2.1)	-1' (0.6)
Left Yard (Req. 10') to chimney	-	5' (4.9)	-
Right Yard (Req. 10')	18' (17.7)	18' (17.7)	0'
Rear Yard (Req. 30')	93.0'	92.5'	-0.5'
Area within Left Yard Setback	119sf (127sf)	118.5sf (126sf)	-0.5sf (-1.0sf)
Garden Shed	120sf	120sf	0sf
House & Garage Area (20% max.)	1,208sf	1,458sf	+122sf
House & Garage % Area	14%	15%	+1%
Enclosed Porch Area	119sf	0sf	-119sf
Deck (less than 18" high)	348sf	418sf	+70sf
Bulkhead #1	21sf	0sf	-21sf
Bulkhead #2	23sf	0sf	-23sf
Hot Tub Patio (less than 18")	494sf	494sf	0sf
Patio	544sf	531sf	-13sf
Front Steps & Landing	23sf	23sf	0sf
Front Path	63sf	63sf	0sf
Driveway	198sf	220sf	+22sf
TOTAL IMPERVIOUS AREA	3,161sf	3,327sf	+22sf
TOTAL IMPERVIOUS AREA %	33.4%	35.2%	+2%
OPEN SPACE %	66.6%	64.8%	-2%

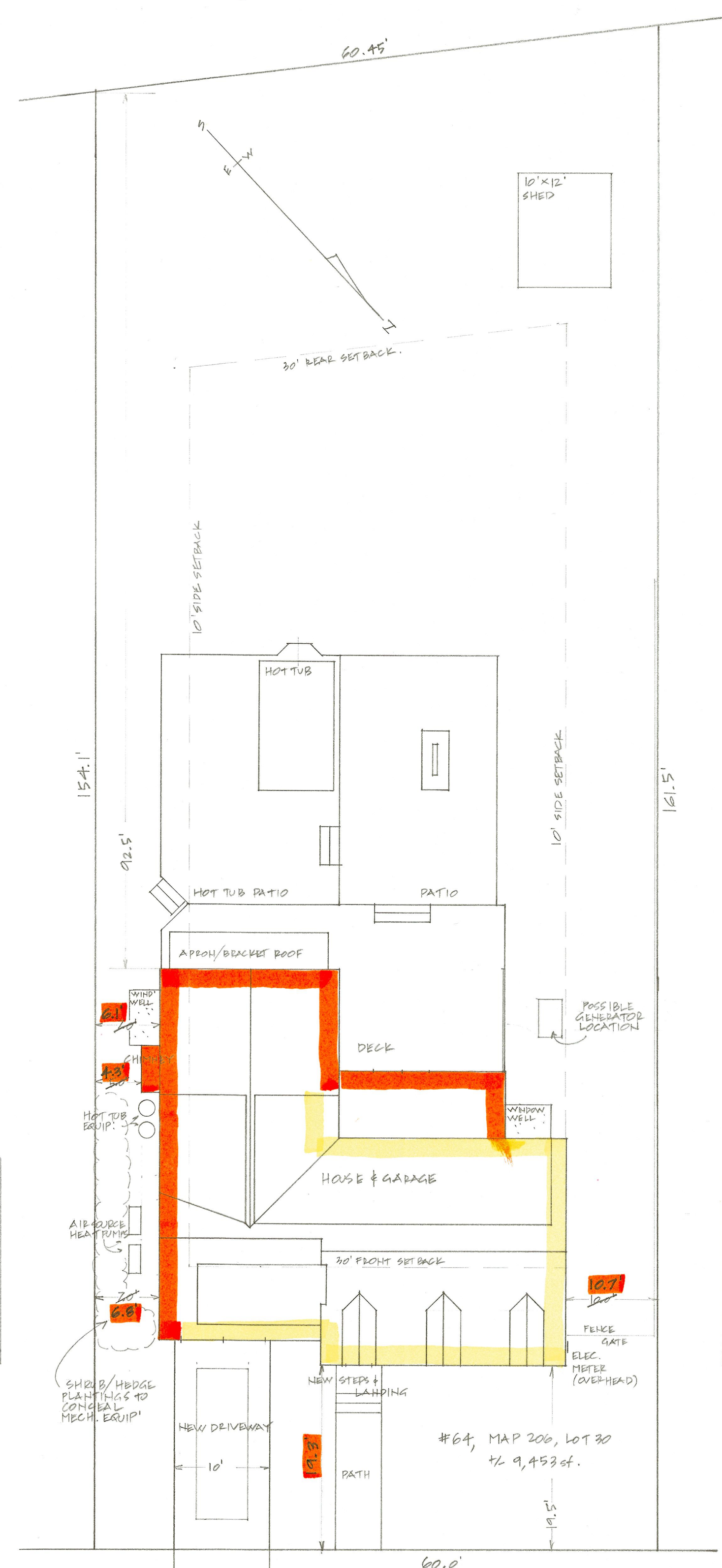
OWNER OF RECORD;
ANTHONY JAY CLARK
64 HAVEN RD.,
PORTSMOUTH, NH
MAP 206, LOT 30

PLAN TAKEN FROM TAX MAP, DEED DESCRIPTION AND FIELD MEASUREMENTS



Tax Map 206

CLOUGH DR.



HAVEN RD.

AS-BUILT CONDITIONS SITE PLAN
*(CORRECTED FROM PROPOSED) 1"=10'

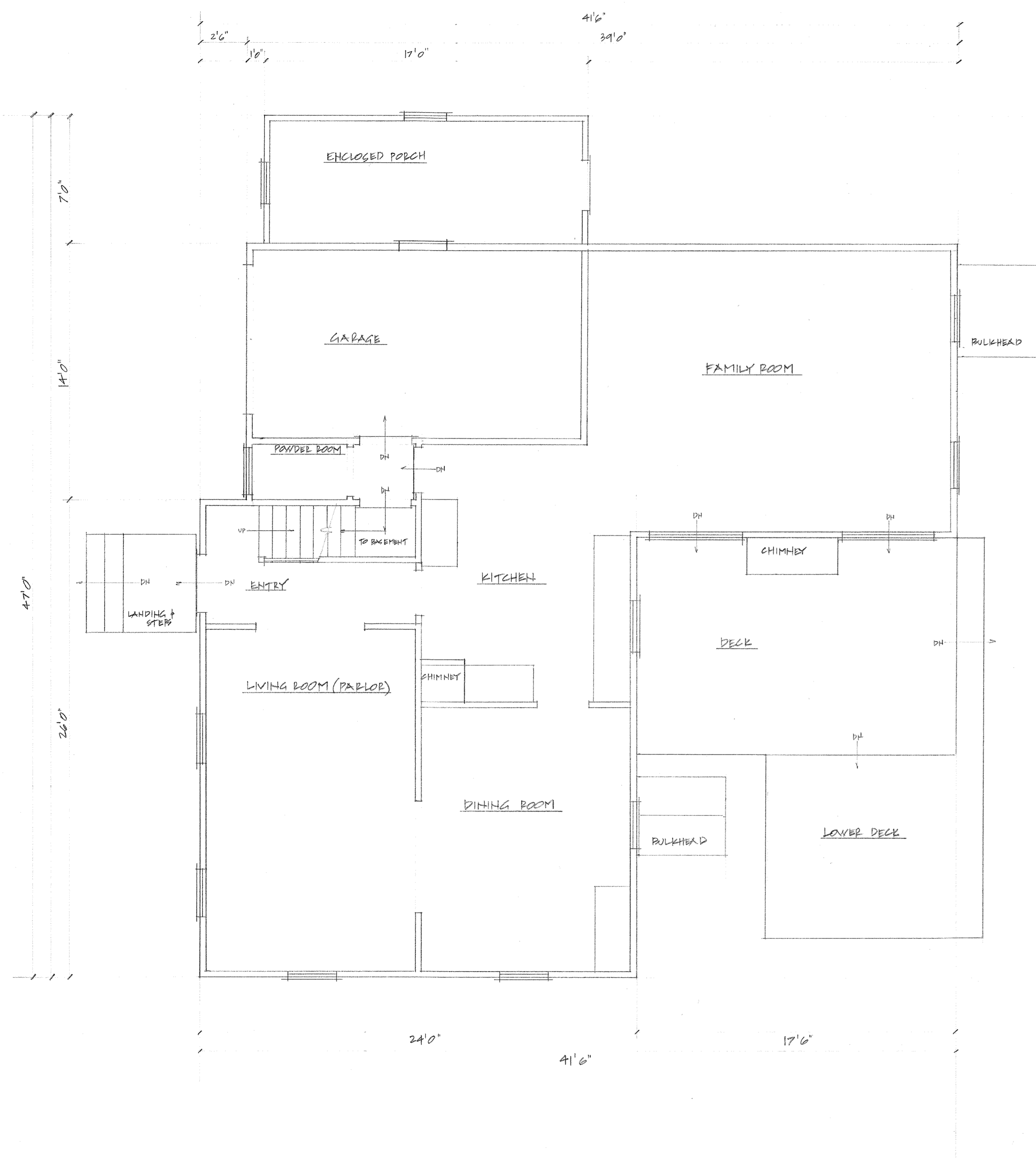
*CORRECTED
TITLE: SITE PLANS, EXISTING & AS-BUILT (FROM PROPOSED)

SCALE: 1"=10'

DATE: 4-26-2022

REVISIONS: 5-23-2023 5-15-2024

REMODEL & ADDITION
at 64 HAVEN RD.,
PORTSMOUTH, NH



EXISTING FIRST FLOOR PLAN



EXISTING SECOND FLOOR PLAN

TITLE: EXISTING FLOOR PLANS

SCALE: 1/4" = 1'0"

DATE: 4.26.2022

REVISIONS:

REMODEL & ADDITION
at 64 HAVEN RD.,
PORTSMOUTH, NH.



FRONT LEFT VIEW



FRONT VIEW



FRONT RIGHT VIEW



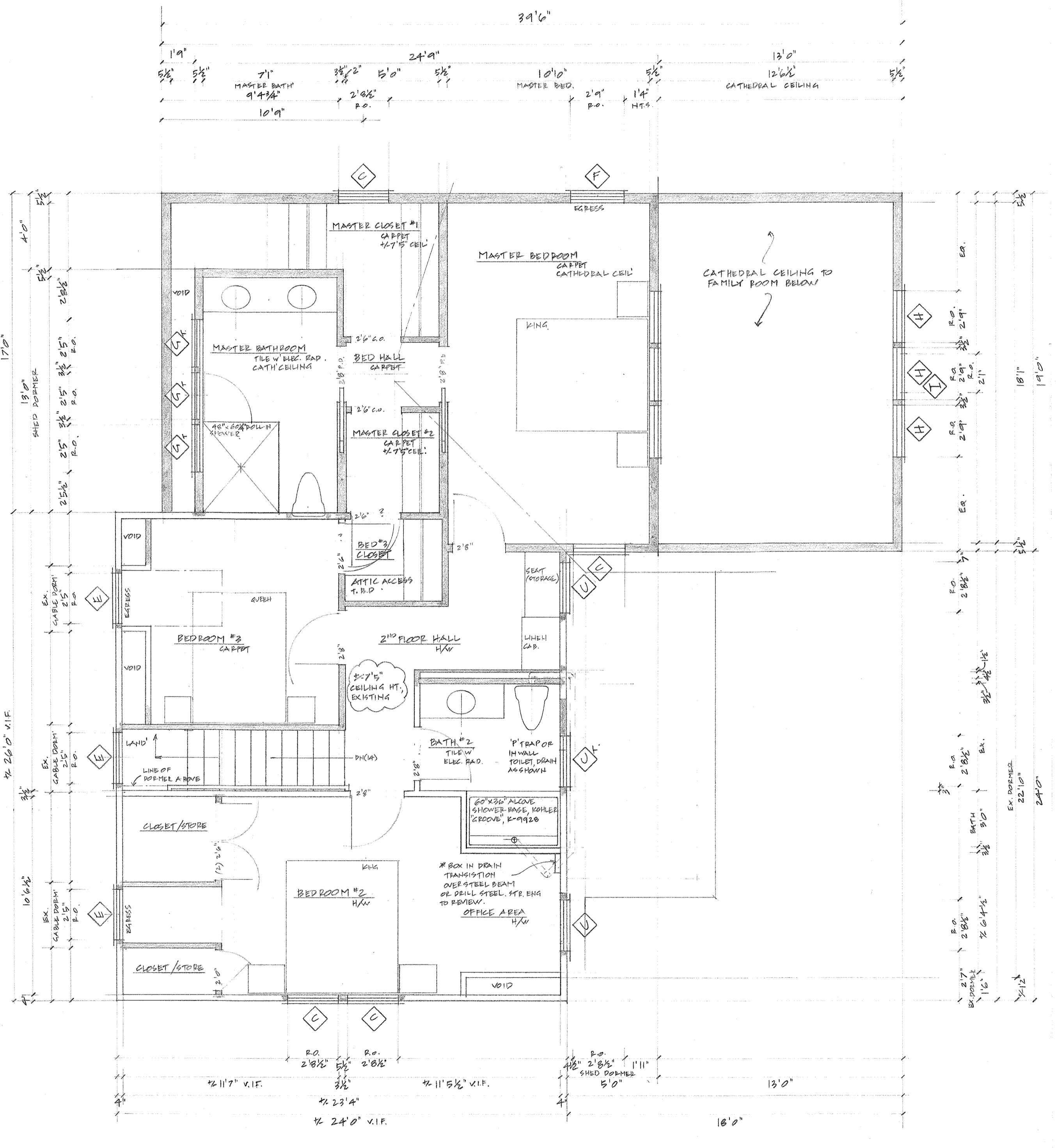
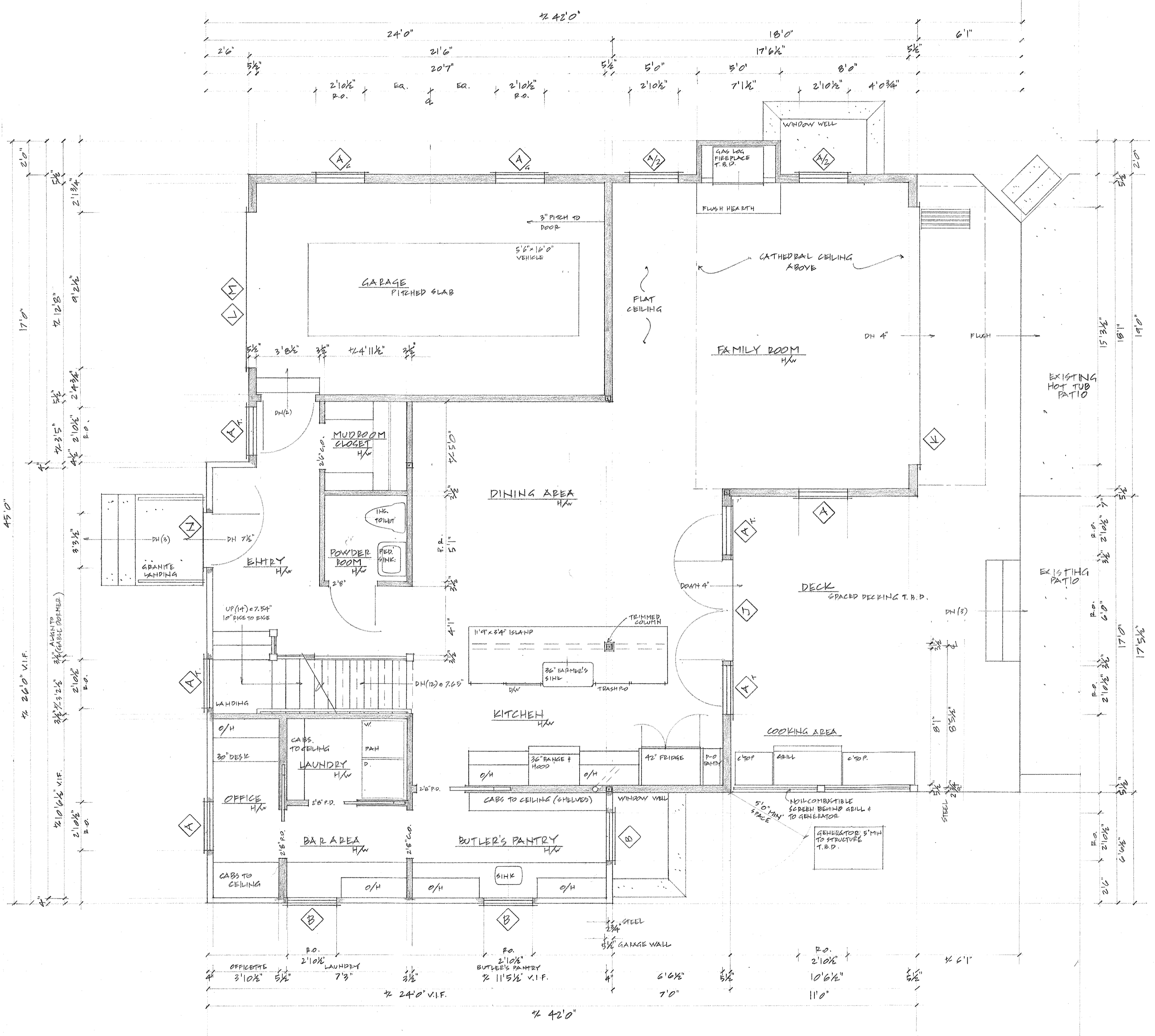
REAR VIEW (FROM RIGHT SIDE)



REAR VIEW

Brendan McNamara
RESIDENTIAL ARCHITECTURE
603.682.1105
brennmcnamara@comcast.net

REMODEL + ADDITION
64 HAVEN RD.,
PORTSMOUTH, NH
TITLE: EXISTING VIEWS
SCALE: -
DATE: 4.26.2022
REVISIONS: 5.23.2023



TITLE: PROPOSED 1ST & 2ND FLOOR PLANS

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

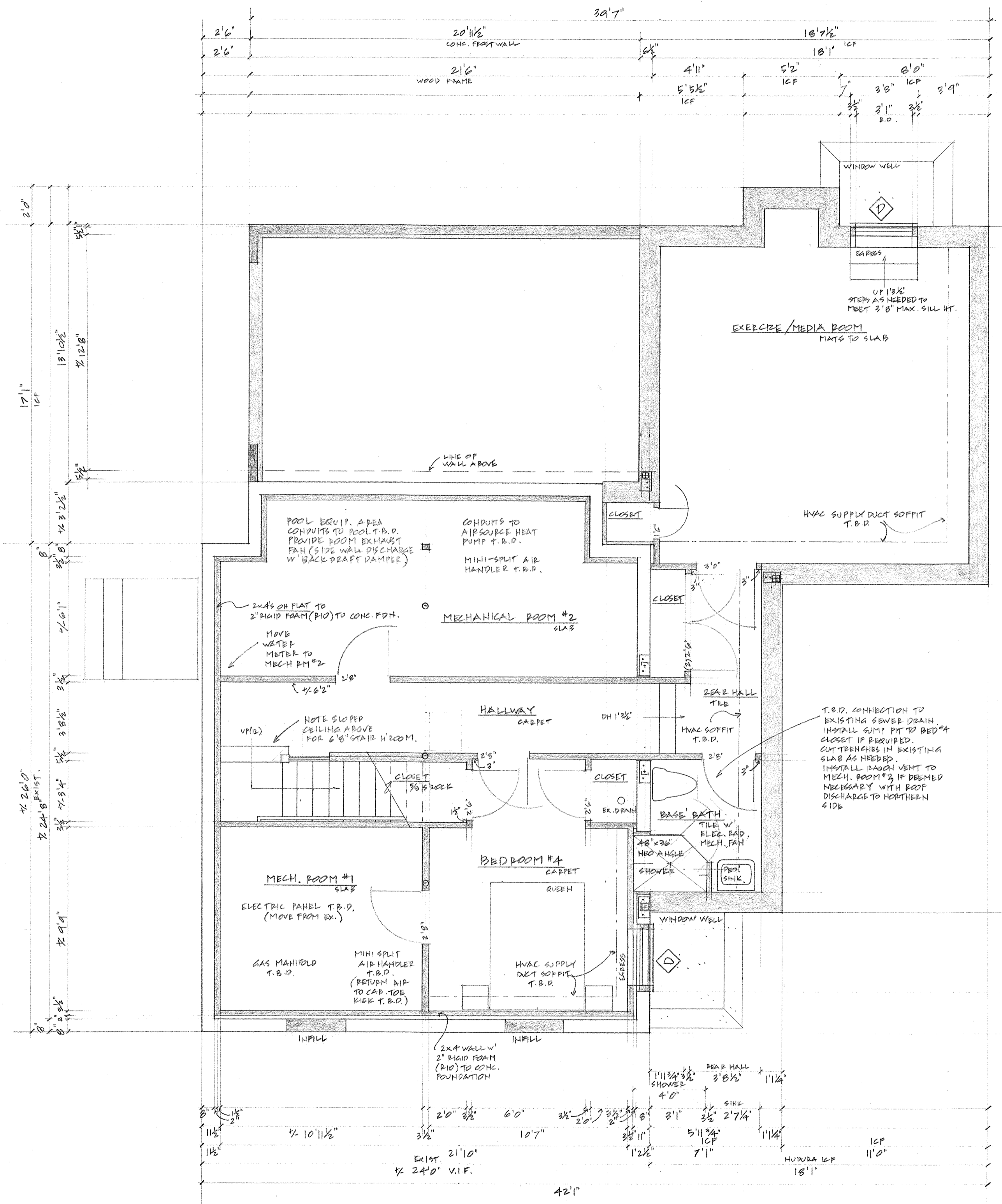
DATE: 4.26.2022

REVISIONS: 5.23.2023

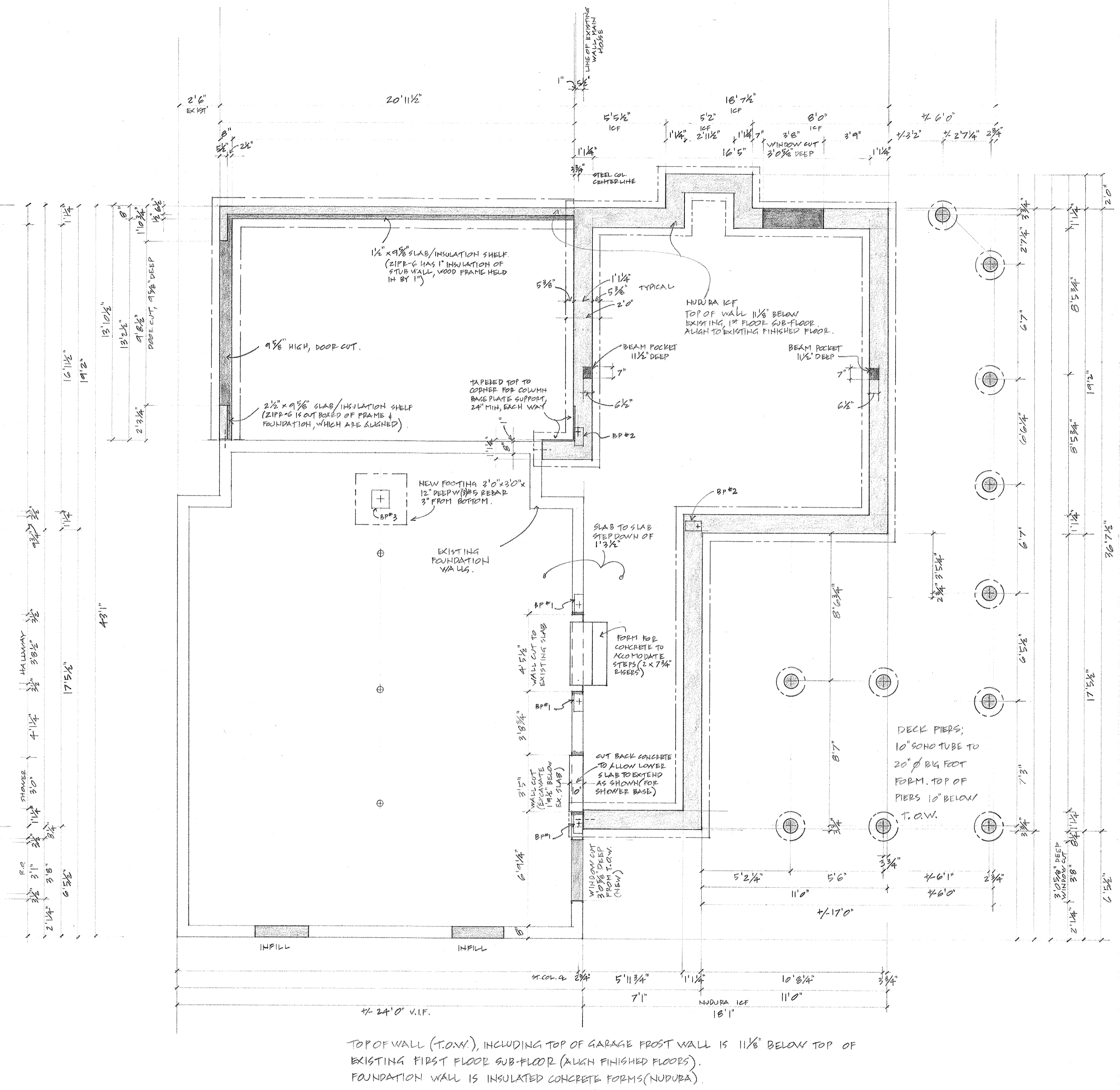
REMODEL & ADDITION

at 64 HAVEN Rd.,

PORTSMOUTH, NH.



PROPOSED BASEMENT FLOOR PLAN



PROPOSED FOUNDATION PLAN

TOP OF WALL (T.O.W.), INCLUDING TOP OF GARAGE FROST WALL IS 11 1/8" BELOW TOP OF EXISTING FIRST FLOOR SUB-FLOOR (ALIGN FINISHED FLOOR).
 FOUNDATION WALL IS INSULATED CONCRETE FORMS (NUDURA).
 MEASUREMENTS ARE TO FORM FACE OF 1 1/2" WIDE FORMS, WHICH IS 1" BEYOND THE WOOD FRAME LINE, TO ALIGN THE 1" FOAM OF ZIP-R-G TO OUTSIDE FORM FACE OF NUDURA.
 FOLLOW NUDURA INSTALLATION INSTRUCTIONS & REQUIREMENTS.

REMODEL & ADDITION
 at 64 HAVEN RD.,
 PORTSMOUTH, NH.

TITLE: PROPOSED BASEMENT & FOUNDATION FLOOR PLANS
 SCALE: 1/4" = 1'-0"
 DATE: 4.26.2022
 REVISIONS: 5.23.2023 6.27.2023 9.6.2023



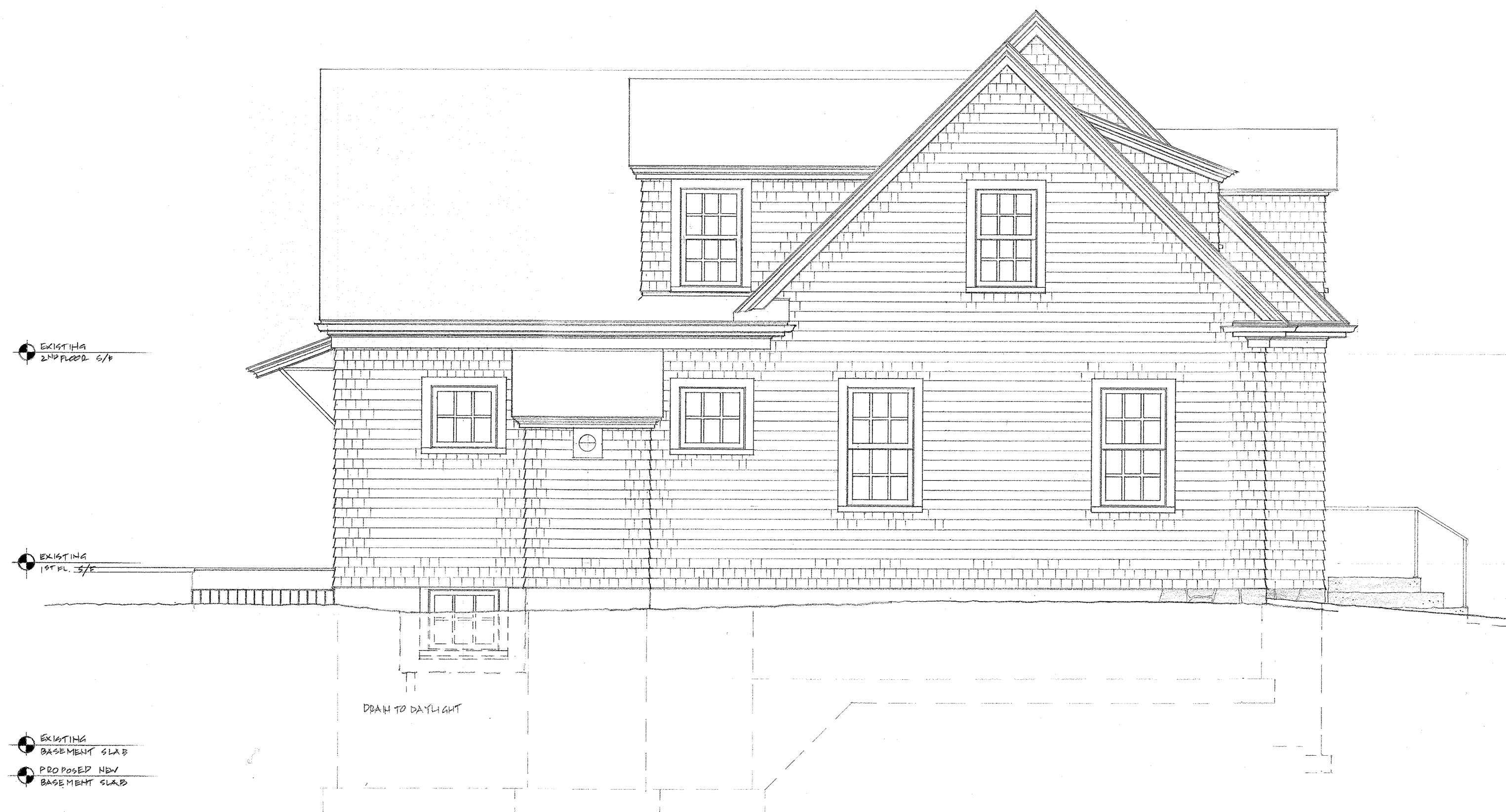
REAR (WEST) ELEVATION



RIGHT (NORTH) ELEVATION

TRIM: MATCH & REPLACE EXISTING TRIM WITH AZEK EQUIVALENT
CAYINGS 5/4x5 WITH 2" HISTORIC SILL (AZEK)
NOTE GUTTER RETURNS AT PITCH SHELVES AS SHOWN.

SIDING: MAIBEC PRE-DIPPED, EASTERN WHITE CEDAR SHINGLES, 1/2" T.W., "CHATHAM".



LEFT (SOUTH) ELEVATION



FRONT (EAST) ELEVATION

TITLE: PROPOSED ELEVATIONS

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

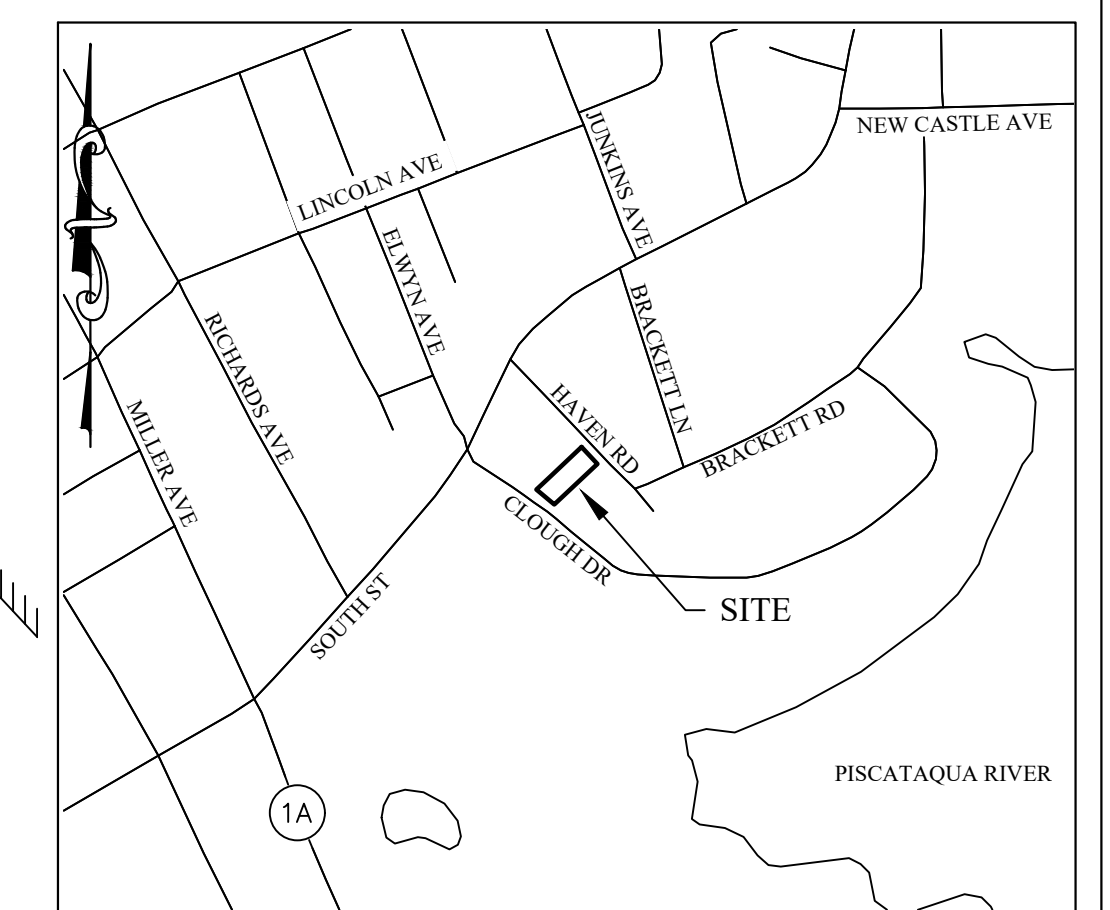
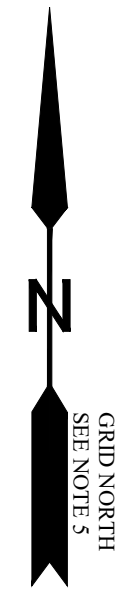
DATE: 4.26.2022

REVISIONS: 5.16.2022 5.23.2023

REMODEL & ADDITION

at 64 HAYEN Rd.,

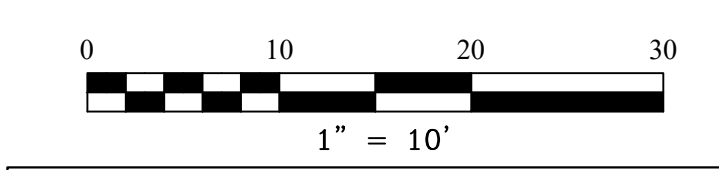
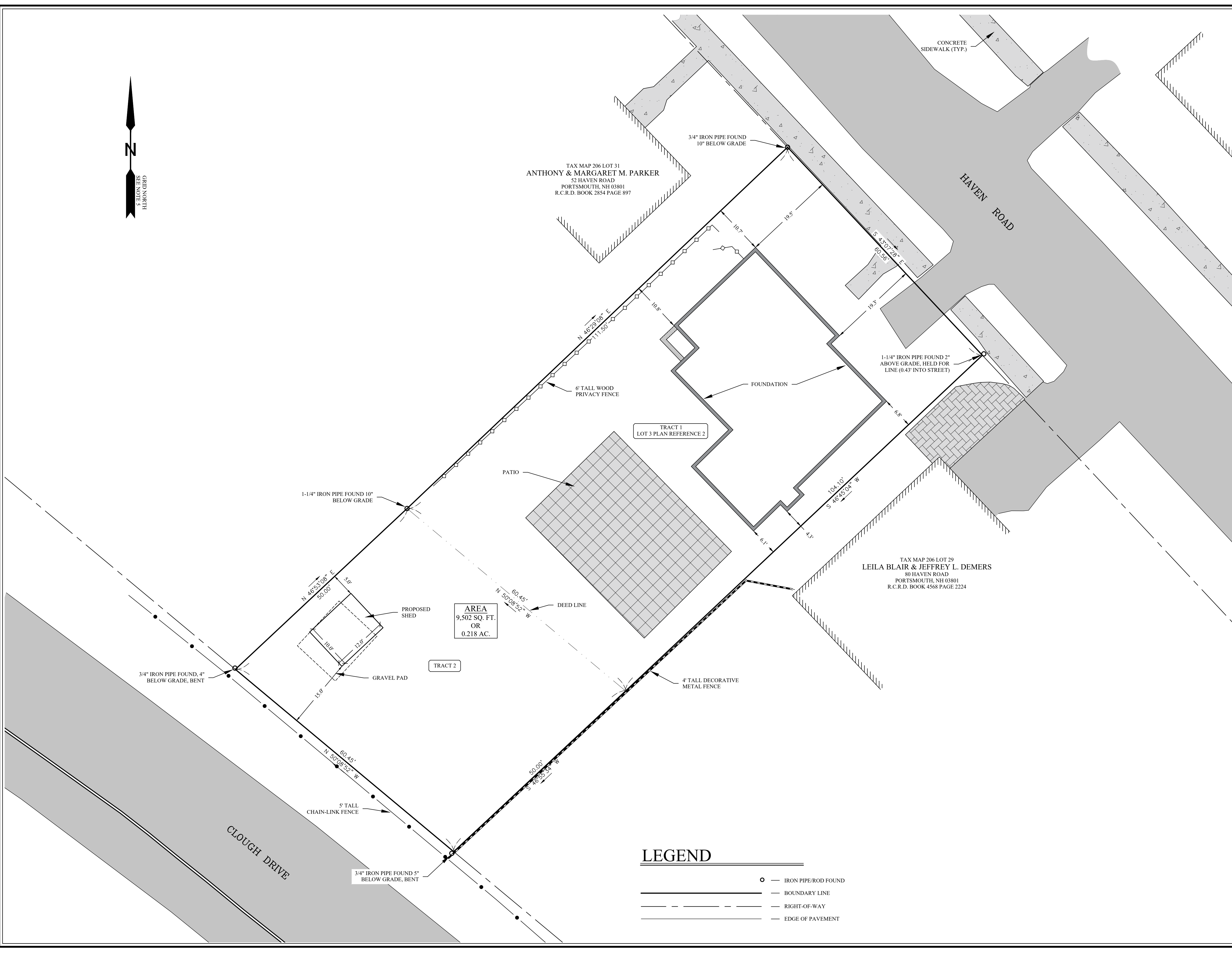
PORTSMOUTH, NH



LOCATION MAP
NOT TO SCALE

- NOTES:**
1. REFERENCE: TAX MAP 206 LOT 30
R.C.R.D. BOOK 6514 PAGE 2039
 2. TOTAL PARCEL AREA: 9,502 SQ. FT. OR 0.218 AC.
 3. OWNER OF RECORD: JAY ANTHONY CLARK & JAMES A. LINK
64 HAVEN ROAD
PORTSMOUTH, NH 03801
 4. ZONE: SRB DISTRICT
DIMENSIONAL REQUIREMENTS:

MINIMUM LOT AREA	15,000 sq. ft.
MINIMUM FRONTAGE	100 ft.
MINIMUM FRONT SETBACK	30 ft.
MINIMUM SIDE SETBACK	10 ft.
MINIMUM REAR SETBACK	30 ft.
STRUCTURE HEIGHT	35 ft.
BUILDING COVERAGE	20%
 5. HORIZONTAL DATUM IS NHSPC (NAD '83) BASED ON GPS OBSERVATIONS.
 6. THE INTENT OF THIS PLAN IS TO SHOW THE AS-BUILT LOCATION OF THE FOUNDATION IN REFERENCE TO THE LEGAL BOUNDARY OF RECORD AND THE LOCATION OF A PROPOSED SHED.
 7. PERMIT APPROVAL BASED ON LAND USE APPROVALS GRANTED UNDER LU-22-121, BOA APPROVAL PERMITTING 5'-0" LEFT YARD SETBACK, 7.5' SETBACK FOR MECHANICAL AND APPROVAL TO EXPAND/ALTER A NONCONFORMING BUILDING.
- PLAN REFERENCES:**
1. PLAN TITLED "STANDARD BOUNDARY SURVEY MAP 206 - LOT 28 FOR JAMES F. & CATHERINE LAMOND, 84 HAVEN ROAD, PORTSMOUTH, NH" DATED JANUARY 2004, PREPARED BY AMBIT ENGINEERING, INC., R.C.R.D. PLAN D-31814.
 2. PLAN TITLED "PLAN OF LOTS PORTSMOUTH, NH OWNED BY H.A. BRACKETT" DATED AUGUST 1937, PREPARED BY JOHN W. DURGIN, R.C.R.D. PLAN 0985.



AS-BUILT FOUNDATION PLAN
LAND OF
**JAY ANTHONY CLARK &
JAMES A. LINK**
(TAX MAP 206 LOT 30)
64 HAVEN ROAD
PORTSMOUTH, NH

DRAWN BY: SDB	DATE: MAY 15, 2024
CHECKED BY: ARB	DRAWING NAME: 24014A1
JOB NAME: 24014	SHEET: C1

STATE OF
NEW HAMPSHIRE
LAND USES
SCOTT
D
BOUDREAU
SIGNATURE

**Boudreau
Land
Surveying P.L.L.C.**
SCOTT D. BOUDREAU, L.L.S. #961
2 BEATRICE LANE
NEWMARKET, NH 03857
(603) 659-3468

LEGEND

	— IRON PIPE/ROD FOUND
	— BOUNDARY LINE
	— RIGHT-OF-WAY
	— EDGE OF PAVEMENT



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

July 25, 2022

Jay Anthony Clark
64 Haven Rd
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 64 Haven Road (LU-22-121)

Dear Mr. Clark:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 19, 2022**, considered your application for demolishing existing garage and porch and constructing a new garage and addition which requires the following: 1) Variance from Section 10.521 to allow a 5' left side yard where 10' is required. 2) A Variance from Section 10.515.14 to allow a 7.5' setback for 2 mechanical units where 10' is required for each. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 206 Lot 30 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** the variances as presented with the following stipulation:

1.) The two air conditioning units shall be 4-1/2 feet from the left side instead of 7-1/2 feet.

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

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

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

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

Very truly yours,



Arthur Parrott, Chairman of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Brendan McNamara



City of Portsmouth Foundation Only Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
BLDG-23-864
Date of Issue:
October 11, 2023
Expires:
October 10, 2024
Foundation Cost:
\$20,000

Owner: CLARK JAY ANTHONY
Applicant: Jay Prewitt
Contractor: Jay Prewitt, Jay Prewitt Builder Inc. **Phone #:** 6034986690
Location: 64 HAVEN RD

Description of Work: Partial Demolition and Foundation Only for New Addition

Project to Include:

Selective Partial Demolition: Demolish 14'0 x 22'0 Garage with Three-Quarter Story Above (Including Foundation); Demolish Single-Story 7'0 x 17'0 Finished Enclosed Porch (Including Foundation); Demolish 16'0 x 17' Rear Single-Story (Behind garage) (Including Foundation); Demolish 22'0 x 18'0 Irregular Sized Rear Deck Structure.

Foundation Only: Construct New 18'1 x 36'7-1/2" Full Depth Foundation and 13'10-1/2" x 20'11-1/2" Shallow Foundation as detailed on plans by Brendan McNamara, Labelled Proposed Basement & Foundation Floor Plan, Page A5, Remodel & Addition at 64 Haven Road, dated 04/26/2022, Revision date 05/23/2023. And as per Structural Plans labelled Foundation, Details, Notes 64 Haven Road, dated 06/06/2023, REV 4, dated 09/25/2023. Permit Approval based on Land Use Approvals Granted under LU-22-121, BOA Approval permitting 5'0 left yard setback, 7.5' Setback for mechanical and Approval to expand/alter a nonconforming building. (Stipulation 1- Air-Conditioning Units shall be 4-1/2 feet from the left side instead of 7-1/2 feet.

Condition of Approval: As-Built Foundation Plan Required Prior to the Release of the full Building Permit

Map/Lot: 0206--0030--0000-

Design Occupant Load: Single-Family 4 bedrooms, 3.5 bathrooms, 1-car garage, partially finished basement

Total # of Dwelling Units: 0

Use Group: Addition and Remodel Type V-B
Const. Type: Type V-B
Bldg. Code: IRC **Edition:** 2018

Remarks: * Per City Ord. Sec. 11.502 (F) Street/Unit Number must be affixed to Main Structure as to be plainly visible from the street. Construction sites must post the address clearly on the property. No site activity allowed before 7:00AM or after 6:00PM. No weekend construction allowed.

- * Per City Ord. Sec. 11.502 (F) Street/Unit Number must be affixed to Main Structure as to be plainly visible from the street. Construction sites must post the address clearly on the property. No site activity allowed before 7:00AM or after 6:00PM. No weekend construction allowed.
- * Adjoining public and private property shall be protected from damage during construction, remodeling, and demolition work, per IBC Section 3307
- * Required means of egress shall be maintained at all times during construction, demolition, remodeling or alterations and additions to any building.
- * Structures under construction, alteration or demolition shall be provided with no fewer than one approved portable fire extinguisher in accordance with Section 906, and located in accordance with IBC § 3309
- * Pedestrians shall be protected during construction, remodeling and demolition activities as required by IBC § 3306
- * Any blocking of street or sidewalk will require an **Encumbrance Permit** from the Inspection Department. 603-610-7243
- * Separate electrical, plumbing and mechanical permits required.
- * Per Section R109.1.4 Frame and Masonry inspection. Inspection of the framing and masonry construction shall be made after the roof, masonry, all framing, firestopping, draftstopping and bracing are in place and after the plumbing, mechanical and electrical rough inspections are approved.
- * Per Section R109.4 Approval Required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. Do not cover or conceal until authorized by the building official.
- * Prior to starting demolition of any portion of a structure All Utilities must be safely terminated. Electrical Service to be terminated per Electrical Inspectors approval. Water and Sewer services to be capped per DPW and City Standards. Oil Tanks and Propane tanks must be emptied and disposed of in an approved manner by a licensed contractor. Natural Gas service must be disconnected and terminated at the street by the utility company. The entire structure shall be reviewed for asbestos-containing building materials (ACBM) by an accredited inspector prior to starting demolition. All Hazardous materials must be properly disposed of per state and local regulations. Written approval required prior to starting any demolition. Removal/Demolition of any portion of the structure shall require placarding and legal notices as outlined in the Demolition Ordinance.
- * All renovation or painting work in residential structures built before 1978 and involving more than 6 square feet of painted surfaces per room, shall be done by certified persons per the federal EPA, RRP rules. NOTE: Homeowner doing this type work may not be subject to the federal regulations-check the EPA website.
- * Asbestos Removal shall comply with New Hampshire Code of Administrative Rule Env-A1800. Disposal shall comply with Env-A 1805.08. Documents maintained, including all licenses, certificates, and proof of training held by all supervisors and workers engaged in the asbestos abatement project.
- * Permit based on Board of Adjustment conditions of approval.
- **You must contact Dig Safe by calling 811 or visiting www.digsafe.com prior to starting construction**
- ?* Foundation location (As-built) plan confirming location of structure is compliant with approved property line setback shall be submitted prior to release of full building permit. Plan shall clearly call out the dimensions, setback locations as well as top of slab/foundation elevations to determine compliance with Land Use Approvals.

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project. The CONTRACTOR shall be responsible for notifying the Inspection Department 48 hours in advance, for FOUNDATION, FRAMING, and FINAL inspections. A Certificate of Occupancy is required for all Building Permits. Buildings shall not be occupied until ALL inspections (BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, and FIRE) are complete and Occupancy has been issued. By signing this permit, the owner or his/her representative (Permit Holder), authorizes property access by city officials to conduct interior and exterior inspections and property tax assessments during and/or after the construction process.

The Permit Card Shall Be Posted and Visible From the Street During Construction.

Code Official:
Code Official:

Paul Garand

This is an e-permit. To learn more, scan this barcode or visit portsmouthnh.viewpointcloud.com/#!/records/77217



II. NEW BUSINESS

B. 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)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	*3 Lot Subdivision	Primarily residential
<u>Lot area (sq. ft.):</u>	45,980	Lot 1: 19,730 Lot 2: 13,125 Lot 3: 13,125	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	45,980	Lot 1: 19,730 Lot 2: 13,125 Lot 3: 13,125	15,000 min.
<u>Street Frontage (ft.):</u>	162	Lot 1: 162 Lot 2: 0 Lot 3: 0	100 min.
<u>Lot depth (ft.)</u>	244	Lot 1: 122 Lot 2: 150 Lot 3: 150	100 min.
<u>Front Yard (ft.):</u>	33	Lot 1: 33 Lot 2: N/A Lot 3: N/A	30 min.
<u>Left Yard (ft.):</u>	>30	Lot 1:>30 Lot 2: N/A Lot 3: N/A	10 min.
<u>Right Yard (ft.):</u>	9.9	Lot 1: 9.9 Lot 2: N/A Lot 3: N/A	10 min.
<u>Rear Yard (ft.):</u>	164.5	Lot 1: 14 Lot 2: N/A Lot 3: N/A	30 min.

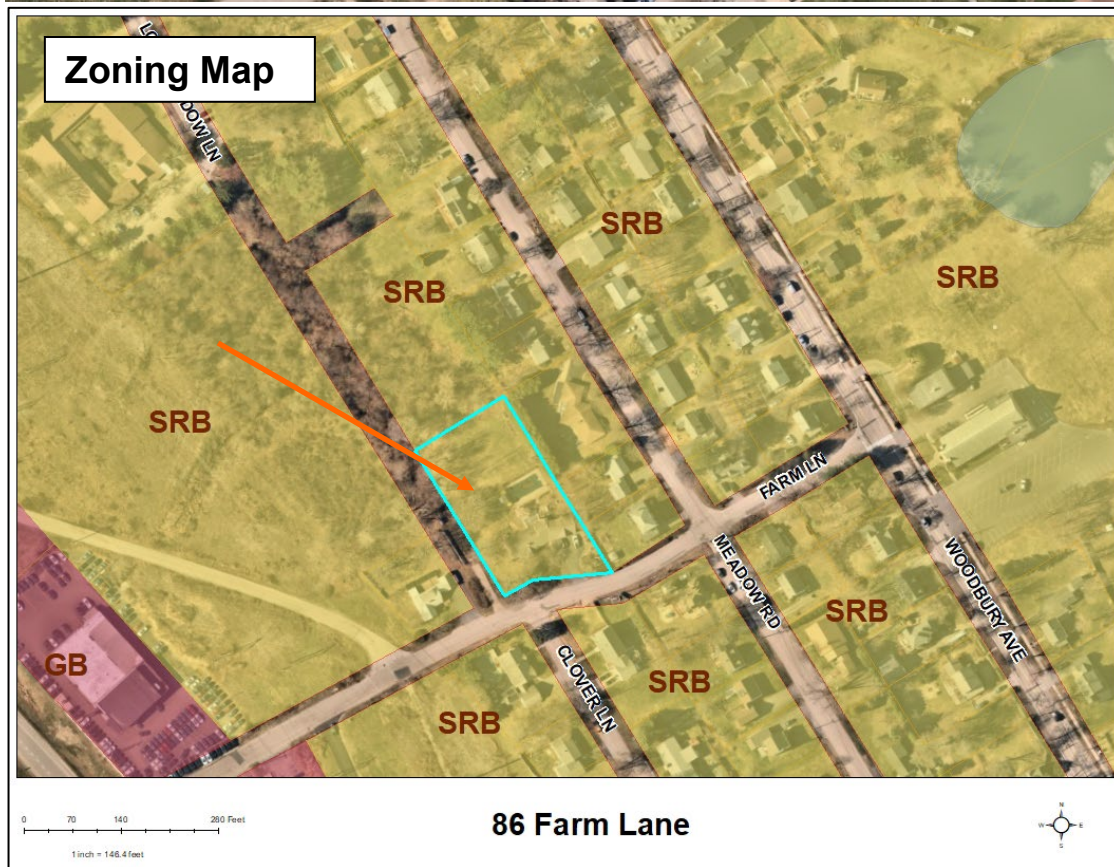
<u>Building Coverage (%)</u> :	7	Lot 1: 16 Lot 2: N/A Lot 3: N/A	20	max.
<u>Open Space Coverage (%)</u> :	>40	Lot 1: 57 Lot 2: N/A Lot 3: N/A	40	min.
<u>Parking</u>	2	Lot 1: 2 Lot 2: N/A Lot 3: N/A	2	
<u>Estimated Age of Structure</u> :	1953	Variance request(s) shown in red.		

* Relief is needed to create two lots with the intention of erecting structures on them without public or private street access.

Other Permits/Approvals Required

- Subdivision Approval (TAC and Planning Board)

Neighborhood Context



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is requesting relief to create 2 non-conforming lots and 1 non-conforming structure. Please note that the parcel numbers as labeled on the plan set have not been assigned by the assessor and are not to be considered final. Additionally, for the purposes of clarity, the zoning table references proposed lots 1, 2, and 3. Lot 1 refers to the parent lot, lot 2 is labeled as 236-74-1 on plans, and lot 3 is labeled as 236-74-2 on the plans.

As part of this request, the applicant is including area from the paper street Long Meadow Lane as part of the proposed lot area. The current City tax maps show that Long Meadow Lane is still a public right of way. Planning Department Staff, with the help of the Legal Department, have determined that there is not enough evidence to support that the current tax map is not accurate, and the Board should not act on this application until the City Council has made a certain and transparent decision.

The applicant was notified of this determination and has the option to withdraw or request postponement prior to the meeting date. Should the applicant wish to move forward with a public hearing, staff recommend the Board continue the application until a decision has been made by the City Council.

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

 - (c) *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.

BY: VIEWPOINT & HAND DELIVERY

May 29, 2024

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Jeannette MacDonald aka Jeannette McMaster
86 Farm Lane, Tax Map 236, Lot 74**

Dear Stefanie,

Please find a copy of the following submission materials relative to the above referenced variance application for property located at 86 Farm Lane, Portsmouth:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) ZBA Site Plan;
- 4) Photographs of Property.

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,



Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

Jeannette MacDonald a/k/a Jeannette McMaster, record owner of the property located at 86 Farm Lane, Tax Map 236, Lot 74, Portsmouth, NH (the “Property”), hereby authorizes **Durbin Law Offices, PLLC** to file any zoning, planning or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.

Jeannette McMaster

Jeannette McMaster (Mar 25, 2024 15:21 EDT)

March 25, 2024

Jeannette MacDonald a/k/a Jeannette McMaster



Landowner Authorization Form -3-25-2024

Final Audit Report

2024-03-25

Created:	2024-03-25
By:	Derek Durbin (derek@durbinlawoffices.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGkBwkRm3OhToQAUHoVNNUiQow0YiBEjz

"Landowner Authorization Form -3-25-2024" History

-  Document created by Derek Durbin (derek@durbinlawoffices.com)
2024-03-25 - 6:34:24 PM GMT- IP address: 71.233.191.66
-  Document emailed to Jeannette McMaster (jemac86@gmail.com) for signature
2024-03-25 - 6:34:27 PM GMT
-  Email viewed by Jeannette McMaster (jemac86@gmail.com)
2024-03-25 - 7:20:51 PM GMT- IP address: 174.168.230.244
-  Document e-signed by Jeannette McMaster (jemac86@gmail.com)
Signature Date: 2024-03-25 - 7:21:30 PM GMT - Time Source: server- IP address: 174.168.230.244
-  Agreement completed.
2024-03-25 - 7:21:30 PM GMT

CITY OF PORTSMOUTH
NARRATIVE
TO VARIANCE APPLICATION

Jeannette MacDonald
a/k/a Jeannette McMaster
(Owner/Applicant)

86 Farm Lane
Tax Map 236, Lot 74

BACKGROUND

Existing Conditions

The Property at 86 Farm Lane is a 45,980 square foot improved parcel of land (the “Property”). There is a single-family home on the Property that the owner, Jeannette McMaster, resides in with her family. The Property is zoned Single-Family Residence B. It has 187’ of continuous street frontage on Farm Lane. The Property is significantly larger and contains more street frontage than most of the properties surrounding it. It has more than 3x the lot area required by the Ordinance. Of the properties that immediately surround the Applicant’s Property, the majority are 125’ x 75’ (9,375 sf.) or smaller lots that have 75’ of continuous street frontage. **Exhibit A**.

Subdivision Plan of 1954

The Property is comprised of what were once three (3) distinct lots identified as Lots 102, 103 and 104 on a recorded subdivision plan from 1954, and a portion of the paper street formerly referred to as Longmeadow Lane. **Exhibit B**. It is believed the City involuntarily merged Lots 102 and 103, while Lot 104 was annexed to the Applicant’s lot as part of a lot line adjustment approved by the City in 2007. **Exhibit C**. The portion of Longmeadow Lane running through the Property is an unimproved area of land that was dedicated as a public street but never legally accepted by the City. **Exhibit D**. It has since been released from public servitude. **Id.** As shown in the Photographs of the property, it is a fenced-in yard area integrated with the side yard of the Property that the Applicant and her family have exclusively used and enjoyed for decades.

Proposed Conditions

The Applicant is proposing a subdivision of the Property into three (3) separate single-family home lots. Proposed “Lot 236-74”, which contains the family homestead, would be approximately 19,730 sf. in size. Proposed “Lot 236-74-1” and “Lot 236-74-2” would each be approximately 13,125 sf. in size. Proposed Lots 236-74-1 and 236-74-2 would be accessed by a private driveway over the former right-of-way (“ROW”) known as Longmeadow Lane. The three (3) proposed lots are in approximately the same configuration as the original lots shown in the 1954 subdivision plan, but slightly larger with the inclusion of the former ROW.

SUMMARY OF ZONING RELIEF

The Applicant seeks the following variances* from Article 10.521 of the Portsmouth Zoning Ordinance (the "Ordinance"), as identified by proposed lot number:

Proposed Lot 236-74

1. To allow a 14' rear yard setback where 30' is required.

Proposed Lot 236-74-1

2. To allow 0' of continuous street frontage where 100' is required.
3. To allow 13,125 sf. of lot area where 15,000 sf. is required.
4. To allow 13,125 sf. of lot area per dwelling unit where 15,000 sf. is required.

Proposed Lot 236-74-2

5. To allow 0' of continuous street frontage where 100' is required.
6. To allow 13,125 sf. of lot area where 15,000 sf. is required.
7. To allow 13,125 sf. of lot area per dwelling unit where 15,000 sf. is required.

*It is assumed that a (+/-) applies to all dimensional relief indicated above.

In addition to the above variances, the Applicant seeks a variance from Section 10.512 of the Ordinance as follows:

8. To allow a structure to be erected on a lot without access to a public street or an approved private street.

VARIANCE CRITERIA

Granting the variances will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives.'" Id. The Court observed that "[t]here are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." Id.

Lot Area / Frontage Variances

The purpose of the SRB Zoning District is "to provide areas for **single-family dwellings** at low to medium densities (approximately 1 to 3 **dwellings** per acre), and appropriate **accessory uses**." P.Z.O. at Section 10.410. The primary purpose behind the 100' minimum street frontage requirement is to promote the SRB goal of providing low to medium residential density. The implementation of lot area and frontage standards are two of the most often utilized mechanisms for controlling density. In this case, most of the surrounding properties have less than the minimum street frontage and lot area required by the Ordinance.

In the case of *Belanger v. Nashua*, the NH Supreme Court opined: "[w]hile we recognize the desired interrelationship between the establishment of a plan for community development and zoning, we believe that municipalities must also have their zoning ordinances reflect the current character of neighborhoods." 121 N.H. 389 (1981). In the present case, the frontage and lot area requirements associated with SRB zoning do not reflect the character of the neighborhood, which was established with the recording of the 1954 subdivision plan prepared by John W. Durgin.

Notwithstanding, the SRB goal of preserving low to medium density is served by granting the variances necessary to allow the subdivision of the Property into three (3) lots. Proposed Lots 236-74-1 and 236-74-2 are larger than most surrounding properties, a majority of which are 125' x 75' or 100' x 75', consistent with the original layout of the neighborhood.

Lot Depth / Rear Setback Variances (Proposed Lot 236-74)

The rear yard setback variance requested for proposed Lot 236-74 of 14' is associated with an existing deck to the rear of the Applicant's house. The deck is a rather benign structure that will not impose upon the light, air, and space of Proposed Lot 236-74-1. It will be situated more than 24' away from any structure that is built on Proposed Lot 236-74-1. The existing deck will ultimately face the side yard of Proposed Lot 236-74-1 as opposed to its rear yard; thus, it will be less impactful than a structure that is located near someone's rear yard, which tends to be the space that homeowners utilize and enjoy the most.

The average depth of Proposed Lot 236-74 is 122'. While it fails to meet the Ordinance requirement, the depth of the Property, which ranges from 94' – 150' due to its configuration, is consistent with most other properties in the neighborhood.

For the foregoing reasons, granting the variances requested will not alter the essential character of the neighborhood or otherwise represent a threat to public health, safety or welfare.

Substantial Justice will be done in granting the variances.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The “only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” New Hampshire Office of State Planning, *The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997); [*Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102 \(2007\)*](#).

There would be no public interest served by denying the variances, but it would constitute a loss to the Applicant when considering that the Property has more than 3x the land area required by the Ordinance and most surrounding lots do not comply with the lot area, frontage and depth requirements and are laid out similarly to Proposed Lots 236-74-1 and 236-74-2. The only characteristic that distinguishes Proposed Lots 236-74-1 and 236-74-2 from most surrounding properties is that they are accessed by a private drive; therefore, they do not have legal “frontage” by the definition set forth in the Ordinance. It should also be noted that many properties in the immediate neighborhood also have structures that encroach into the building setbacks. The character of the neighborhood contrasts with how it is zoned. For these reasons, denying the variances would constitute a loss to the Applicant that is not outweighed by any gain to the public.

Surrounding property values will not be diminished by granting the variance.

It would be illogical to conclude that surrounding property values could be negatively affected by granting the variances necessary to subdivide the Property into three (3) single-family homes lots. When evaluating whether surrounding property values would be diminished by granting the variance, the Board must consider the context of the surrounding neighborhood. The area is characterized by substandard single-family home lots that are less than 10,000 square feet in size and do not comply with the 100' continuous street frontage requirement. Many of these lots also have structures that encroach into one or more of the applicable setbacks.

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

The Property is distinguishable from surrounding properties based on its size and the amount of continuous street frontage it has on Farm Lane. It has approximately 187' of street frontage on Farm Lane and more than 3x the land area required by the Ordinance. Most surrounding properties are under 10,000 square feet in size and have approximately 75' of continuous street frontage. Had the paper street portion of the Property ever been accepted as a public way by the City, the Property would have benefited from approximately 245' of frontage

on Longmeadow Lane in addition to the 162' on Farm Lane. It would have more than sufficient land area and frontage to subdivide into three (3) lots by right under SRB zoning.

Thus, owing to these special conditions of the Property there is no fair and substantial relationship between the general purpose of the Ordinance provisions and their application to the Property. Finally, the proposed use is reasonable. Single-family home lots are permitted and encouraged in the SRB zoning district. The proposed lots will be used for residential purposes consistent with the objectives of the Ordinance.

CONCLUSION

The Applicant has demonstrated that her application meets the five (5) criteria for granting the variance requested. She thanks the Board for its time and consideration of her application and respectfully requests its approval of the variance sought.

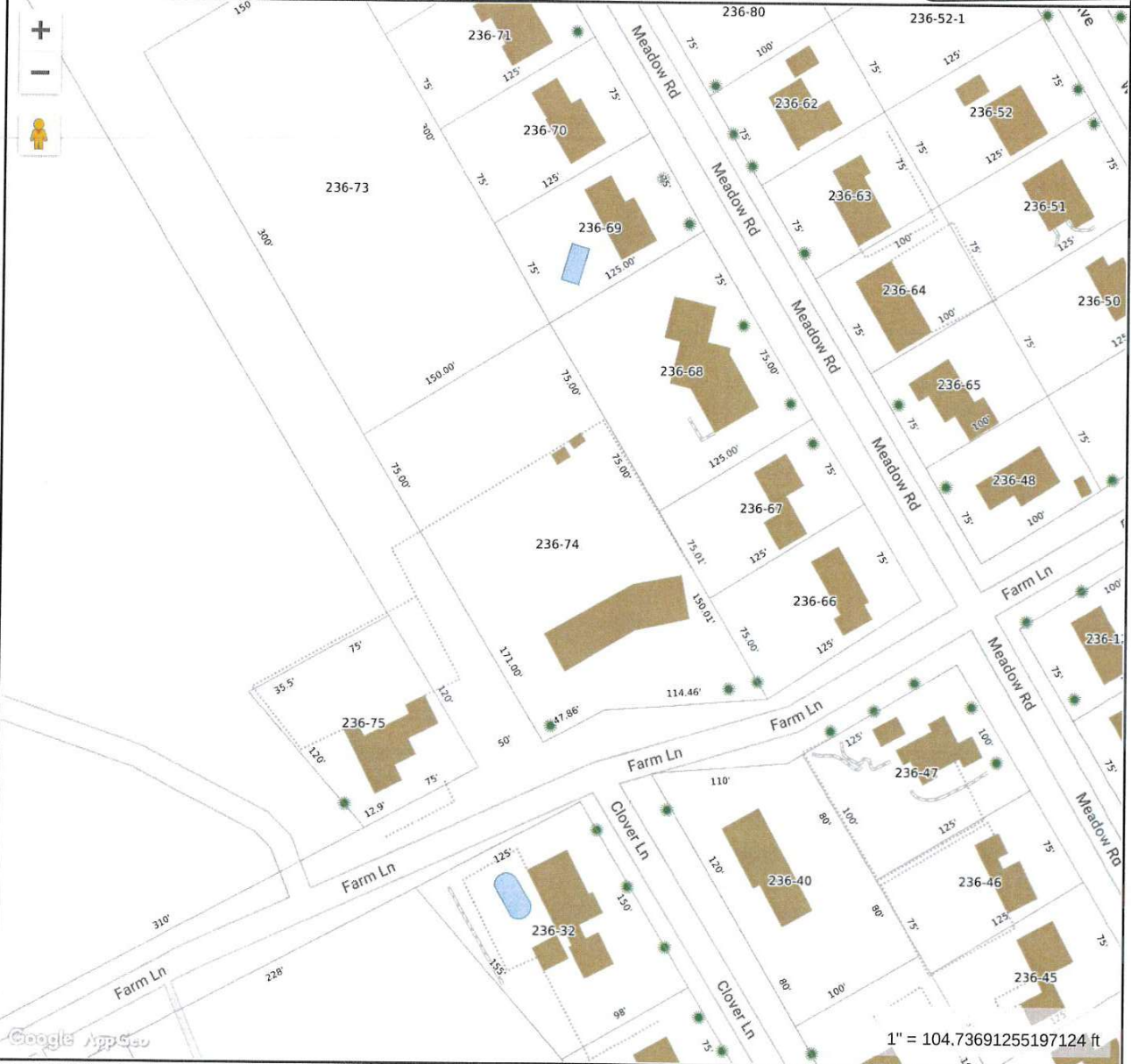
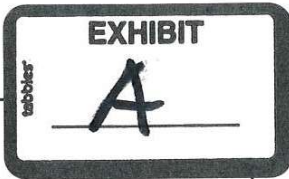
Respectfully Submitted

May 29, 2024

Jeannette MacDonald aka
Jeannette McMaster



By: Derek R. Durbin, Esq.
DURBIN LAW OFFICES PLLC
144 Washington Street,
Portsmouth, NH 03801
derek@durbinlawoffices.com

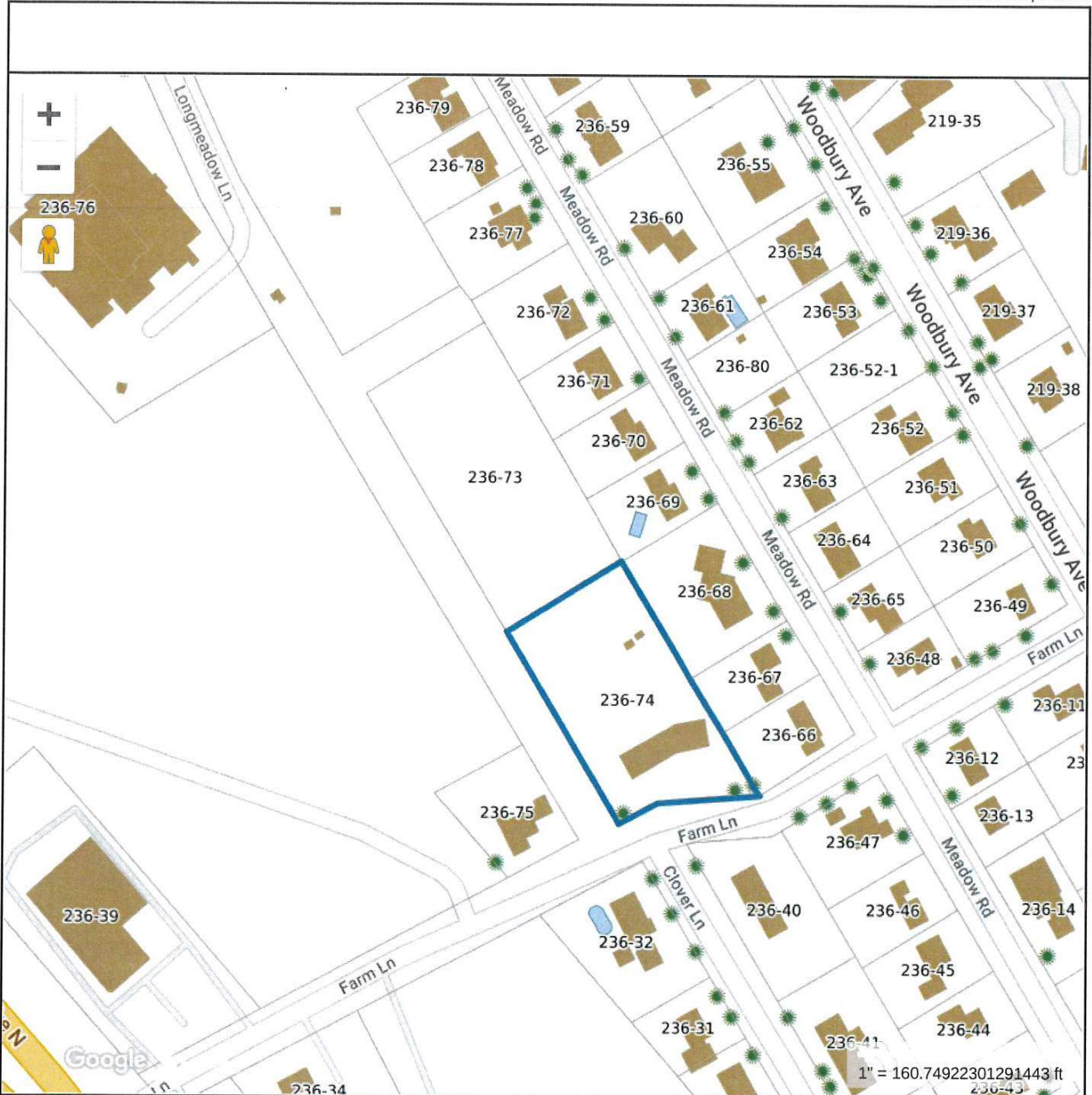


**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**


City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 08/24/2023
Data updated 3/9/2022

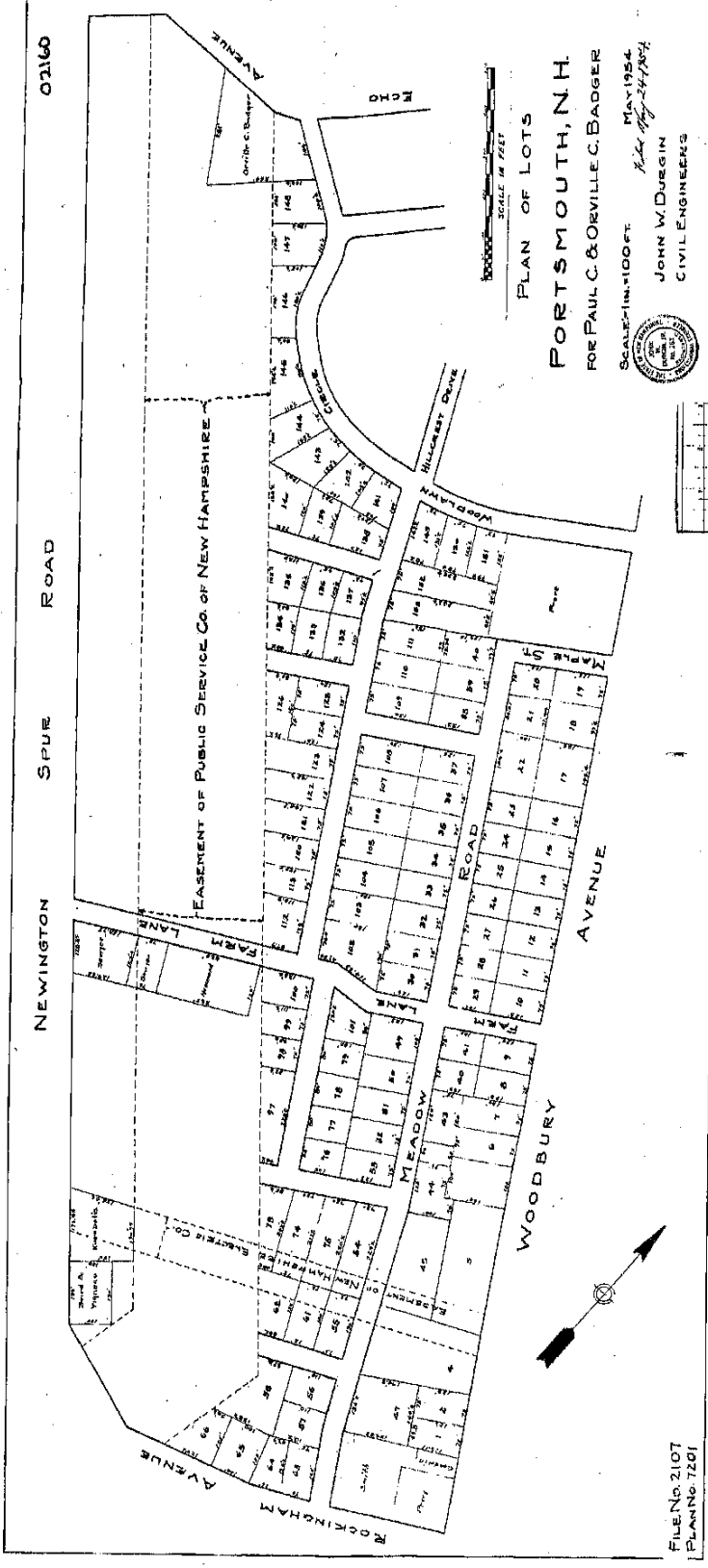
Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



Property Information	
Property ID	0236-0074-0000
Location	86 FARM LN
Owner	MACDONALD JEANNETTE


**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**
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 Geometry updated 08/24/2023
 Data updated 3/9/2022

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

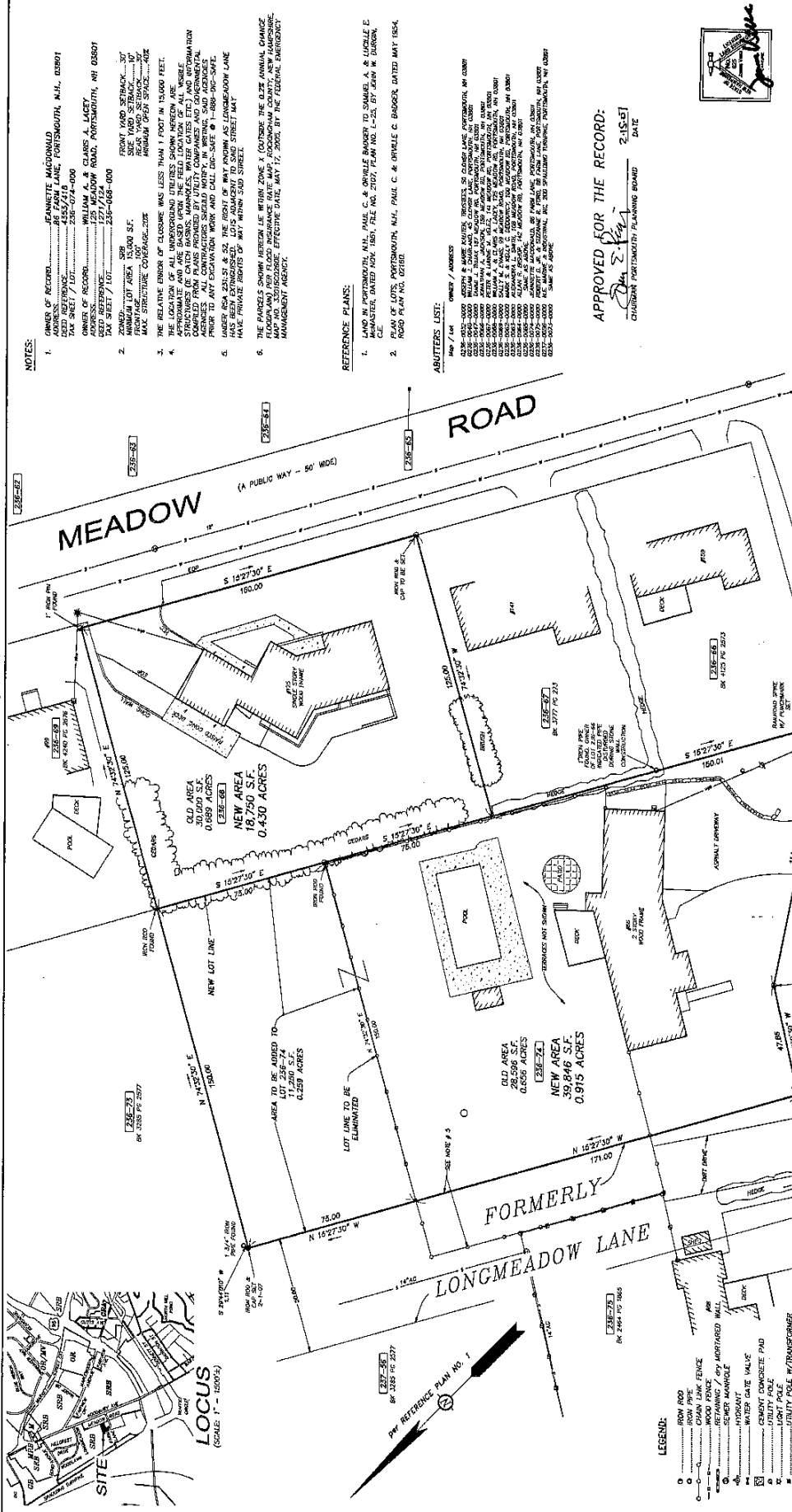


PLAN OF LOTS
 PORTSMOUTH, N.H.
 FOR PAUL C. & ORVILLE C. BADGER
 SCALE: 1"=100 FT
 MAY 1954
 JOHN W. DURGIN
 CIVIL ENGINEERS



FILE No. 2107
 PLAN No. 7201

010924
01 FEB 21 10:10



NOTES:

- OWNER OF RECORD: JEANETTE MACDONALD
DEED REFERENCE: 1787, PLAN NO. 2107, PORTSMOUTH, N.H. 02801
TAX SHEET / LOT: 236-074-000
- OWNER OF RECORD: WILLIAM A. VERRA & CHARLES LACRY
DEED REFERENCE: 1787, PLAN NO. 2107, PORTSMOUTH, N.H. 02801
TAX SHEET / LOT: 236-068-000
- FRONT YARD SETBACK: 10'-0" (SEE PLAN FOR SETBACKS)
SIDE YARD SETBACK: 5'-0" (SEE PLAN FOR SETBACKS)
REAR YARD SETBACK: 5'-0" (SEE PLAN FOR SETBACKS)
MAX. STRUCTURE COVERAGE: 20%
- THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREIN ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL UTILITY CHANGES AND ARE NOT TO BE CONSIDERED AS A GUARANTEE. THE LOCATION OF ALL UTILITY CHANGES SHOWN HEREIN ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL UTILITY CHANGES. THE LOCATION OF ALL UTILITY CHANGES SHOWN HEREIN ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL UTILITY CHANGES. THE LOCATION OF ALL UTILITY CHANGES SHOWN HEREIN ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL UTILITY CHANGES.
- UNDER RSA 231:51 & 52, THE FRONT OF ANY DRIVE OR DRIVEWAY SHALL BE ADJACENT TO AND CONTIGUOUS WITH THE FRONT OF THE DRIVEWAY OR DRIVEWAY. THE FRONT OF ANY DRIVE OR DRIVEWAY SHALL BE ADJACENT TO AND CONTIGUOUS WITH THE FRONT OF THE DRIVEWAY OR DRIVEWAY.
- THE PARCELS SHOWN HEREIN ARE WITHIN ZONE X (OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD ZONE). THE PARCELS SHOWN HEREIN ARE WITHIN ZONE X (OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD ZONE). THE PARCELS SHOWN HEREIN ARE WITHIN ZONE X (OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD ZONE).

REFERENCES PLANS:

- LAND IN PORTSMOUTH, N.H., PAUL C. & ORVILLE BARBER TO SAMUEL A. & LUCILLE E. BARBER, DATED NOV. 1951, FILE NO. 2107, PLAN NO. L-25, BY ARMY W. DUBOIS, C.E.
- PLAN OF LOTS, PORTSMOUTH, N.H., PAUL C. & ORVILLE C. BARBER, DATED MAY 1954, ROAD PLAN NO. 0258.

ABUTTERS LIST:

TRACED	OWNER / ADDRESS
0236-074-000	JEANETTE MACDONALD, 107 W. WASHINGTON ST., PORTSMOUTH, NH 02801
0236-068-000	WILLIAM A. VERRA & CHARLES LACRY, 107 W. WASHINGTON ST., PORTSMOUTH, NH 02801
0236-074-000	JEANETTE MACDONALD, 107 W. WASHINGTON ST., PORTSMOUTH, NH 02801
0236-068-000	WILLIAM A. VERRA & CHARLES LACRY, 107 W. WASHINGTON ST., PORTSMOUTH, NH 02801
0236-074-000	JEANETTE MACDONALD, 107 W. WASHINGTON ST., PORTSMOUTH, NH 02801
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0236-074-000	JEANETTE MACDONALD, 107 W. WASHINGTON ST., PORTSMOUTH, NH 02801
0236-068-000	WILLIAM A. VERRA & CHARLES LACRY, 107 W. WASHINGTON ST., PORTSMOUTH, NH 02801

APPROVED FOR THE RECORD:
DATE: 2/15/01
CLARENCE PORTSMOUTH PLANNING BOARD

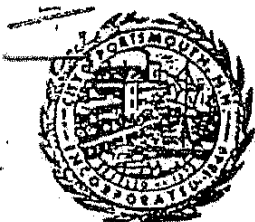
LOT LINE REVISION
86 FARM LANE & 125 MEADOW ROAD
ASSASSOR'S PARCELS: 236-74 & 236-68
PORTSMOUTH, NEW HAMPSHIRE
JAMES VERRA and ASSOCIATES, INC.
107 WASHINGTON ST., PORTSMOUTH, NH 02801
(603) 862-3333
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LEGEND:

- ROW ROAD
- CHAIN LINK FENCE
- WOOD FENCE
- RETAINING / any UNSTAKED WALL
- CONCRETE DRIVE
- HYDRANT
- WATER GATE VALVE
- CEMENT CONCRETE PAD
- UTILITY POLE
- UTILITY POLE W/ TRANSFORMER
- DUMP
- WATER LINE
- UNDERGROUND ELECTRIC
- VERTICAL PAVED CONCRETE CURB



D-34529



City of Portsmouth, New Hampshire

CITY HALL . . . 128 DANIEL STREET

Legal Department
603-431-2000
Ext. 203 / 204

October 7, 1982

MEMO #82-11

TO: NORMAN AXLER, PLANNING DIRECTOR

FROM: ROBERT P. SULLIVAN, CITY ATTORNEY

RE: BETTY'S DREAM

You have referred to me three questions concerning the above project which I answer as follows:

I. The first question is: Is the Betty's Dream project subject to local zoning regulations? In answer to this first question the applicable facts are contained in a letter to you from Housing Consultant Robert J. Obenland dated September 13, 1982, copy of which has been supplied to me, and a letter from Susan Avery, Planning Director for the New Hampshire Developmental Disabilities Council to Attorney Gerald Taube, a copy of which was received by me on September 24, 1982. These documents indicate that Betty's Dream is a non-profit corporation which proposes to construct a housing project in Portsmouth for the purpose of housing persons with developmental disabilities in accordance with a State plan to provide such services.

As you are aware, within the last two years, the Supreme Court of New Hampshire has decided two cases; Region 10 Client Management, Inc. v. Town of Hampstead, 120 N.H. 885 (1980) and Northern New Hampshire Mental Health Housing, Inc. v. Town of Conway at 121 N.H. 811 (1981), the effect of which cases is to emasculate local zoning control over land use which effectuates a State purpose. In those two cases, local zoning ordinances were specifically overridden to allow for housing of developmentally-impaired individuals and for mentally ill individuals. The Betty's Dream application is not precisely analagous to either Region 10 Client Management application or the Northern New Hampshire Mental Health Housing, Inc. application. However, it is very similar in most material aspects. The housing for developmentally-impaired people

proposed by Betty's Dream is being done under contract with a State agency, New Hampshire Developmental Disabilities Council, pursuant to carrying out a State plan which New Hampshire has become obligated to adopt as a result of the acceptance of federal money for this purpose. As I read the two cited cases, I note that they are written in extremely broad fashion. I note, for example, that in the Northern New Hampshire Mental Health Housing, Inc. case, although the town proved numerous distinctions between the housing for the mentally ill which was proposed for Conway, and the earlier proposal that the Supreme Court had upheld in the Town of Hampstead (Region 10), the Supreme Court summarily dismissed each such distinction. It becomes quite clear in reading the language of the Northern New Hampshire case that the Supreme Court considers the concept embodied in Region 10 to be a broad restriction on local zoning control over land use. A very logical extension of these cases goes beyond housing for any type of disabled person or any type of handicapped person and goes, in fact, to any State purpose whatsoever. On the basis of the foregoing, it is my opinion that the Zoning Ordinance of the City of Portsmouth simply does not apply to Betty's Dream project.

II. The second question which I have been asked concerning the Betty's Dream project is whether or not so-called Longmeadow Road, which is the 100 foot long tarred access point to the New England Fishing Gear property is a "street" within the meaning of Section 10-302 of the Zoning Ordinance such as the frontage requirements of the Subdivision Regulations would be met and further, whether or not the said Longmeadow Road "shall have been accepted or opened, or otherwise received the legal status of a public street" such that the City can grant a building permit under the provisions of RSA 36:26. The definition of "street" in the Zoning Ordinance is quite broad and it is plain that if Longmeadow Road meets the definition of a "public street" as contemplated by RSA 36:26, then perforce, it is a street in terms of the Zoning Ordinance. Therefore, it is only necessary to analyze the RSA 36:26 question alone. This statute requires that Longmeadow Road be a "public street". The statute has been interpreted such that the term "public street" means "streets and highways as defined in RSA 231:1. Blevens v. City of Manchester, 103 N.H. 285 (1961). By recodification of the highway laws, this statute is now identified as RSA 229:1. The applicable portion of this law reads as follows:

"...roads which have been dedicated to the public use and accepted by the city or town in which such roads are located or, roads which have been used as such for public travel other than travel to and from a toll bridge or ferry for twenty years prior to 1968..."

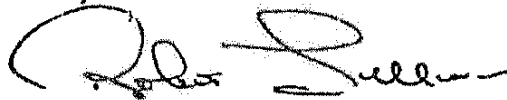
To satisfy the provisions of RSA 36:26, Longmeadow Road must come within this provision. In the case of Betty's Dream, Inc. and Longmeadow Road it appears that the twenty year provision is not met. However, the entirety of Longmeadow Road from Woodlawn Circle through to Farm Lane was apparently dedicated to the City of Portsmouth for public use by the recording in 1954 of a plan identified as "Plan of Lots, Portsmouth, N.H. for Paul C. and Orville Badger, John W. Durgin, Civil Engineers", which plan was recorded in the Rockingham County Registry of Deeds in Plat Book 66 at page 15 and the subsequent sale of at least two lots from that plan. This recording constitutes a dedication of the street property pursuant to RSA 231:51. RSA 229:1 would then require that the property underlying the road be accepted in some fashion or another by the municipality in order for the public servitude to arise. On this question of acceptance I have examined City records to determine whether or not there was ever a formal acceptance by the City Council of Longmeadow Road, and I find that no such formal acceptance has ever occurred. However, the statutory provisions and the case law allow that dedication of a road to public servitude may be accepted by implication as well as by express act of the City. See Stevens v. Nashua, 46 N.H. 192 (1865). On the question of such acceptance I discussed the matter with Keith Noyes of the City Engineering Department and with a long-time resident of Woodlawn Circle residing in the area of Longmeadow Road. I am informed by both of these people that at least since 1958 the tarred portion of Longmeadow Road has been at all times utilized as a public highway by citizens of the City. Mr. Noyes states that to the best of his investigation the City has treated approximately the first 100 feet of Longmeadow Road from Woodlawn Circle as being a public highway from that time to the present. Snow plowing, for example, has been done for that time. The 100 feet roughly corresponds to that portion of Longmeadow Road which is now tarred. On the basis of the foregoing, I am of the opinion that the RSA 36:26 requirement that Longmeadow Road be a public street before a building permit could be issued for Betty's Dream has been met and that perforce, that portion of Longmeadow Road is also a street within the meaning of our local Zoning Ordinance such that frontage requirements are satisfied.

III. The third question which I have been asked is a request to determine the status of the non-tarred portion of Longmeadow Road as indicated on the 1954 plan. This is a far more open question than that answer under II. To begin with, it is quite clear that whatever dedication occurred as a result of the recording of the 1954 plan and the sale of lots thereon, occurred not only to the tarred portion of Longmeadow Road, but to the entire Longmeadow Road going through from Woodlawn Circle to Farm Lane. As I noted earlier, no portion of Longmeadow Road was at any time expressly accepted by the municipality. Therefore, whether or not an acceptance has ever occurred of the dirt portions of Longmeadow Road is a question of fact to be determined basically by an answer to the question of whether or not such dirt portion was "built or used for public travel within twenty years from such dedication", RSA 231:51. I am informed

by Mr. Noyes that Public Works does not consider the dirt portion of Longmeadow Road to have been accepted by the municipality; it is not maintained or plowed by the City. However, I understand that on numerous occasions since 1958, various individuals have been observed using the dirt portion of Longmeadow Road for one purpose or another. The use of this dirt portion of the road could be sufficient to maintain some form of servitude less than acceptance of the dirt portion as a public highway. I believe that the case which governs the answer to this question is Young v. Prenderville, 112 N.H. 190. This case stands for the proposition that indefinite and occasional public use of such a paper street as the dirt portion of Longmeadow Road after its dedication is insufficient to constitute public acceptance of the street. It seems, therefore, that whereas the municipality and the public-at-large has treated the tarred portion of Longmeadow Road as having been accepted virtually since its dedication, neither the municipality nor the public-at-large have made the same use of the dirt portion of Longmeadow Road.

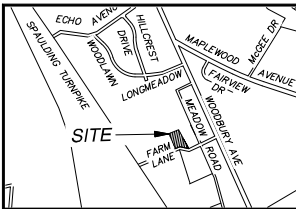
Therefore, it is my opinion as indicated in II herein that while the tarred portion of Longmeadow Road has been accepted and is thus a public street within the meaning of RSA 36:26 and a public highway generally, the dirt portion of Longmeadow Road has not been subject to acceptance. This being true, RSA 231:51 comes into operation and the dirt portion of Longmeadow Road is thus discharged from public servitude because twenty years have passed since its dedication without it being open, built, or used for public travel.

I note for the benefit of those individuals who live in the area of Longmeadow Road, however, that simply because Longmeadow Road does not rise to the level of a public street or highway does not mean that individuals who have been using that property for some particular purpose for sufficient length of time, do not have some interest to continue such use of the property. This, however is a question to be decided between those individuals and the current owner of the property underlying the dedicated portion of Longmeadow Road. It is not subject matter in which the City should be involved.



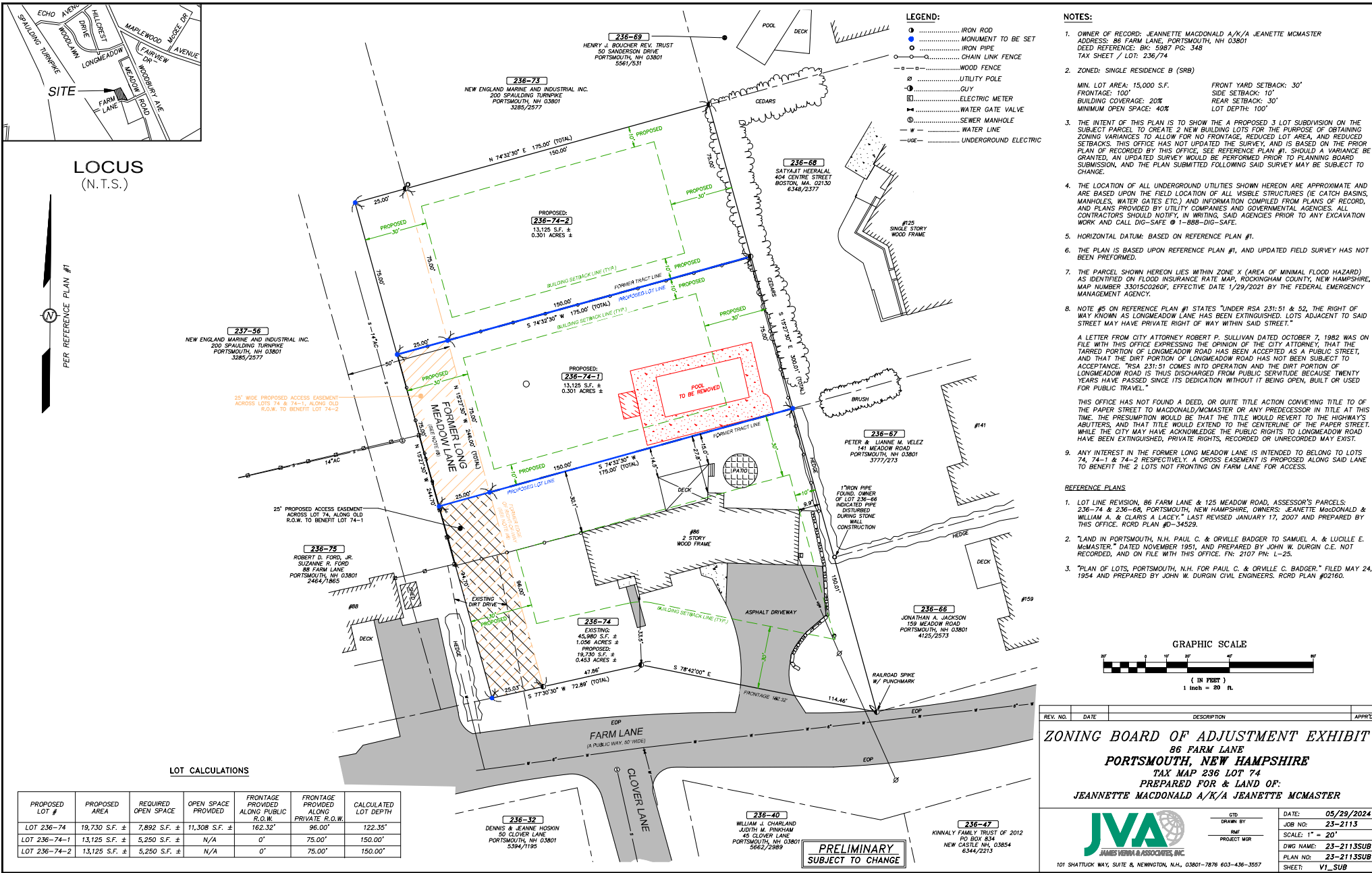
Robert P. Sullivan,
City Attorney

RPS:bh



LOCUS
(N.T.S.)

PER REFERENCE PLAN #1



- LEGEND:**
- IRON ROD
 - MONUMENT TO BE SET
 - IRON PIPE
 - CHAIN LINK FENCE
 - ○ — ○ — ○ WOOD FENCE
 - UTILITY POLE
 - GUY
 - ELECTRIC METER
 - WATER GATE VALVE
 - SEWER MANHOLE
 - W — WATER LINE
 - UGE — UNDERGROUND ELECTRIC

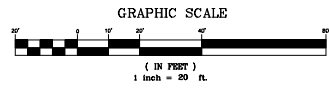
- NOTES:**
- OWNER OF RECORD: JEANNETTE MACDONALD A/K/A JEANNETTE MCMASTER
ADDRESS: 86 FARM LANE, PORTSMOUTH, NH 03801
DEED REFERENCE: BK: 5987 PG: 348
TAX SHEET / LOT: 236/74
 - ZONED: SINGLE RESIDENCE B (SRB)
MIN. LOT AREA: 15,000 S.F. FRONT YARD SETBACK: 30'
FRONTAGE: 100' SIDE SETBACK: 10'
BUILDING COVERAGE: 20% REAR SETBACK: 30'
MINIMUM OPEN SPACE: 40% LOT DEPTH: 100'
 - THE INTENT OF THIS PLAN IS TO SHOW THE A PROPOSED 3 LOT SUBDIVISION ON THE SUBJECT PARCEL TO CREATE 2 NEW BUILDING LOTS FOR THE PURPOSE OF OBTAINING ZONING VARIANCES TO ALLOW FOR NO FRONTAGE, REDUCED LOT AREA, AND REDUCED SETBACKS. THIS OFFICE HAS NOT UPDATED THE SURVEY, AND IS BASED ON THE PRIOR PLAN OF RECORD BY THIS OFFICE. SEE REFERENCE PLAN #1. SHOULD A VARIANCE BE GRANTED, AN UPDATED SURVEY WOULD BE PERFORMED PRIOR TO PLANNING BOARD SUBMISSION, AND THE PLAN SUBMITTED FOLLOWING SAID SURVEY MAY BE SUBJECT TO CHANGE.
 - THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS OF RECORD, AND PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
 - HORIZONTAL DATUM: BASED ON REFERENCE PLAN #1.
 - THE PLAN IS BASED UPON REFERENCE PLAN #1, AND UPDATED FIELD SURVEY HAS NOT BEEN PREFORMED.
 - THE PARCEL SHOWN HEREON LIES WITHIN ZONE X (AREA OF MINIMAL FLOOD HAZARD) AS IDENTIFIED ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 330500260F, EFFECTIVE DATE 1/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
 - NOTE #5 ON REFERENCE PLAN #1 STATES "UNDER RSA 231:51 & 52, THE RIGHT OF WAY KNOWN AS LONGMEADOW LANE HAS BEEN EXTINGUISHED, LOTS ADJACENT TO SAID STREET MAY HAVE PRIVATE RIGHT OF WAY WITHIN SAID STREET."

A LETTER FROM CITY ATTORNEY ROBERT P. SULLIVAN DATED OCTOBER 7, 1982 WAS ON FILE WITH THIS OFFICE EXPRESSING THE OPINION OF THE CITY ATTORNEY, THAT THE TARRIED PORTION OF LONGMEADOW ROAD HAS NOT BEEN ACCEPTED AS A PUBLIC STREET, AND THAT THE DIRT PORTION OF LONGMEADOW ROAD HAS NOT BEEN SUBJECT TO ACCEPTANCE. "RSA 231:51 COMES INTO OPERATION AND THE DIRT PORTION OF LONGMEADOW ROAD IS THIS DISCHARGED FROM PUBLIC SERVITUDE BECAUSE TWENTY YEARS HAVE PASSED SINCE ITS DEDICATION WITHOUT IT BEING OPEN, BUILT OR USED FOR PUBLIC TRAVEL."

THIS OFFICE HAS NOT FOUND A DEED, OR QUITE TITLE ACTION CONVEYING TITLE TO OF THE PAPER STREET TO MACDONALD/MCMMASTER OR ANY PREDECESSOR IN TITLE AT THIS TIME. THE PRESUMPTION WOULD BE THAT THE TITLE WOULD REVERT TO THE HIGHWAY'S ARBITERS, AND THAT TITLE WOULD EXTEND TO THE CENTERLINE OF THE PAPER STREET. WHILE THE CITY MAY HAVE ACKNOWLEDGE THE PUBLIC RIGHTS TO LONGMEADOW ROAD HAVE BEEN EXTINGUISHED, PRIVATE RIGHTS, RECORDED OR UNRECORDED MAY EXIST.

9. ANY INTEREST IN THE FORMER LONG MEADOW LANE IS INTENDED TO BELONG TO LOTS 74-1 & 74-2 RESPECTIVELY. A CROSS EASEMENT IS PROPOSED ALONG SAID LANE TO BENEFIT THE 2 LOTS NOT FRONTING ON FARM LANE FOR ACCESS.

- REFERENCE PLANS**
- LOT LINE REVISION, 86 FARM LANE & 125 MEADOW ROAD, ASSESSOR'S PARCELS: 236-74 & 236-68, PORTSMOUTH, NEW HAMPSHIRE, OWNERS: JEANNETTE MACDONALD & WILLIAM A. & CLARIS A. LACEY. LAST REVISED JANUARY 17, 2007 AND PREPARED BY THIS OFFICE. RCRD PLAN #0-34529.
 - "LAND IN PORTSMOUTH, N.H. PAUL C. & ORVILLE BADGER TO SAMUEL A. & LUDLIE E. MCMASTER." DATED NOVEMBER 1951, AND PREPARED BY JOHN W. DURGIN C.E. NOT RECORDED, AND ON FILE WITH THIS OFFICE. PG: 2107, EN: 1-25.
 - "PLAN OF LOTS, PORTSMOUTH, N.H. FOR PAUL C. & ORVILLE C. BADGER." FILED MAY 24, 1954, AND PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS. RCRD PLAN #02160.



LOT CALCULATIONS

PROPOSED LOT #	PROPOSED AREA	REQUIRED OPEN SPACE	OPEN SPACE PROVIDED	FRONTAGE PROVIDED ALONG PUBLIC R.O.W.	FRONTAGE PROVIDED ALONG PRIVATE R.O.W.	CALCULATED LOT DEPTH
LOT 236-74	19,730 S.F. ±	7,892 S.F. ±	11,308 S.F. ±	162.32'	96.00'	122.35'
LOT 236-74-1	13,125 S.F. ±	5,250 S.F. ±	N/A	0'	75.00'	150.00'
LOT 236-74-2	13,125 S.F. ±	5,250 S.F. ±	N/A	0'	75.00'	150.00'

**PRELIMINARY
SUBJECT TO CHANGE**

REV. NO. DATE DESCRIPTION APPRD

ZONING BOARD OF ADJUSTMENT EXHIBIT
86 FARM LANE
PORTSMOUTH, NEW HAMPSHIRE
TAX MAP 236 LOT 74
PREPARED FOR & LAND OF:
JEANNETTE MACDONALD A/K/A JEANNETTE MCMASTER

JVA
JAMES VERRA & ASSOCIATES, INC.
101 SHATTUCK WAY, SUITE A, NEWINGTON, N.H., 03801-7876 603-436-3557

DATE: 05/29/2024
JOB NO: 23-2113
SCALE: 1" = 20'
DWG NAME: 23-2113SUB
PLAN NO: 23-2113SUB
SHEET: VI_SUB

F



Front View from Farm Lane (South Elevation View)



Front View from Farm Lane (South Elevation View)



**View of Rear Yard from South
(showing portion of paper street formerly known as Longmeadow Lane)**



**Alternate View of Rear Yard from South
(showing paper street formerly known as Longmeadow Lane)**



View of Rear Yard from West



II. NEW BUSINESS

C. 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)

Existing & Proposed Conditions

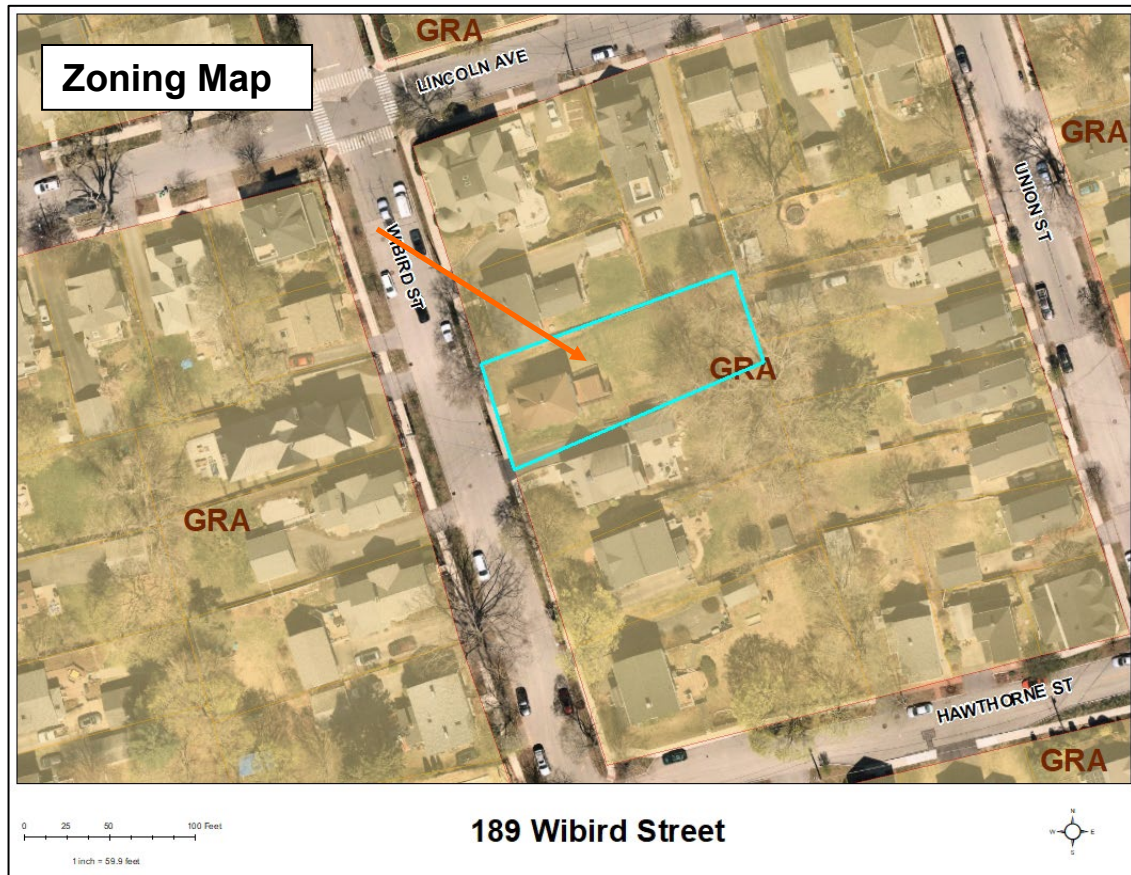
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	*Demolish the existing back deck and construct addition and new back deck	Primarily residential
<u>Lot area (sq. ft.):</u>	8,524	8,524	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,524	8,524	7,500 min.
<u>Street Frontage (ft.):</u>	54.5	54.5	100 min.
<u>Lot depth (ft.)</u>	157	157	70 min.
<u>Front Yard (ft.):</u>	4.6	4.6	15 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Right Yard (ft.):</u>	Existing Home: 5.2	Existing Home: 5.2 Proposed Addition: 8.5	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<35	32.5	35 max.
<u>Building Coverage (%):</u>	13	20	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1920	Variance request(s) shown in red.	

***Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.**

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is requesting relief for demolition of the existing back porch to construct an addition and new back porch at the rear of the primary structure.

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

 - (c) *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.

COLBY T. GAMESTER

Attorney At Law

144 Washington Street
Portsmouth, New Hampshire 03801

(603)-427-0000
colby@gamesterlaw.com

May 29, 2024

SUBMITTED VIA VIEWPOINT

City of Portsmouth
Zoning Board of Adjustment
Attn: Phyllis Eldridge, Chairwoman
1 Junkins Avenue
Portsmouth, NH 03801

**Re: Variance Application of Liam Hoare and Reese C. Green
189 Wibird Street, Portsmouth , NH (Tax Map 133, Lot 51)**

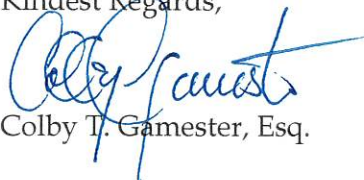
Dear Chairwoman Eldridge:

My office represents Liam Hoare and Reese C. Green, the owners of property located at 189 Wibird Street, Portsmouth. Enclosed herewith are the following materials for submission to the Zoning Board of Adjustment for consideration at the next regularly scheduled meeting:

1. Landowner Letter of Authorization
2. Narrative to Variance Application
3. Existing Conditions Plan
4. Owners' Source Deed
5. 1927 Zoning Map and Ordinance (selected portions)
6. Proposed Site Plan
7. Design Plans
8. Mapgeo screenshot of the Property/Neighborhood
9. Photographs of and around the Property

Should there be any questions, comments or concerns regarding the enclosed application ad materials then please do not hesitate to contact me.

Kindest Regards,


Colby T. Gamester, Esq.

Enclosures

Cc: file; Clients, Amy Dutton and Scott Boudreau (via email only)

LANDOWNER LETTER OF AUTHORIZATION

We, the Undersigned, Liam Hoare and Reese C. Green, the record owners of real property located at 189 Wibird Street, Portsmouth, New Hampshire 03801, identified on Portsmouth Tax Map 133 as Lot 51 (the "Property"), hereby authorize Gamester Law Office, and its attorneys and representatives, Amy Dutton Home, and its representatives, and Boudreau Land Surveying, PLLC, and its representative, to file any document with the City of Portsmouth (the "City"), communicate and correspond with City staff and officials, and submit applications with and appear before the City's land use boards all regarding the Property. This Letter of Authorization shall be valid until expressly revoked in writing.



Liam Hoare

5/28/24

Date



Reese C. Green

5/28/24

Date

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

Liam Hoare and Reese C. Green
189 Wibird Street
Portsmouth, NH 03801
Owner and Applicant

Introduction and Relevant Historical Information

Liam Hoare and Reese C. Green (“Owners” or “Applicant”) are the owners of real property located at 189 Wibird Street, identified on Portsmouth Tax Map 133 as Lot 51 (the “Property”). The Property is located in the General Residence A (“GRA”) zoning district, is 0.195 acres, or 8,524 square feet, and contains a modest two-story, wood framed New Englander style home, front porch and rear deck, and no other structures, creating a footprint of approximately 1174 square feet, or approximately 14.00% building coverage. The Property has 54.50 feet of frontage solely on Wibird Street. There is an existing curb cut for the Property, but no driveway.

The Property contains three (3) preexisting nonconformities: 1) frontage of 54.50 feet where 100 feet is required, 2) a 4 foot, 6 inch front setback where 15 feet is required, and 3) a 5 foot, 2 inch side setback where 10 feet is required.

These existing conditions can be seen on a plan entitled “Existing Conditions Plan, Land of Liam Hoare & Reese C. Green, Tax Map 133 Lot 51, 189 Wibird Street, Portsmouth, NH” drawn by Boudreau Land Surveying PLLC, dated December 4, 2023, which is enclosed herewith as **Exhibit A**.

The Property was created by the recording of a plan entitled “Plan of Lots of Land on Wibird Street, belonging to John F. Shillaber, Portsmouth, N.H.” Nov. 1, 1890, prepared by A. C. Hoyt, Surveyor, which is recorded with the Rockingham County Registry of Deeds as Plan #00276. The house was constructed in 1920 as noted in the City’s Property file. The Property maintains its original perimeter boundaries which is evidenced by the description of the Property in the source deed, enclosed herewith as **Exhibit B**, which states (emphasis added):

Westerly by Wibird Street, 54 feet, 6 inches
Northerly by Lots No. 9 and No. 7 on said plan, 157 feet, more or less;
Easterly by land now or formerly of Gershowitz, et. al., 54 feet, 6 inches; and
Southerly by Lot No. 11 on said plan, 157 feet, more or less.

The creation of the Property and the construction of the house predates the existence of any zoning regulation in the City. The City first enacted zoning regulation in 1927, and at that time the Property, and the entirety of Wibird Street, was zoned as “Single Residence.” The Single

Residence district called for a side set back of 8 feet. Enclosed herewith as **Exhibit C** is a portion of the 1927 Zoning Map, as well as the pertinent pages of the 1927 Zoning Ordinance showing the Property being located in the Single Residence district, as well as the dimensional standards for the Single Residence district, respectively. The Property, and surrounding area, was later rezoned as GRA. At the time of its construction, the Property was not nonconforming with respect to its side setback because there was no zoning regulation. The Property became nonconforming due to the overlay of zoning regulation in 1927, subsequent zoning regulations, and under the current Zoning Ordinance.

The Owners had been searching for a single-family residence in Portsmouth for quite some time, and finally lucked out with their purchase of the Property in June of 2023. The Owners knew that eventually they wanted to renovate the house but did not have to move in right after their purchase and decided to rent the Property. Since then, the Owners welcomed their first child, and their tenant is vacating and relocating soon. The Owners now desire to move forward with a renovation to the existing house which includes a new addition to the rear.

Enclosed herewith as **Exhibit D** is a plan entitled “Site Plan, Land of Liam Hoare & Reese C. Green. Tax Map 133 Lot 51, 189 Wibird Street, Portsmouth, NH” drawn by Boudreau Land Surveying PLLC, dated May 16, 2024 (the “Site Plan”). Also enclosed herewith as **Exhibit E** is the overview architectural plans drawn by Amy Dutton Home (the “Design Plan”). The Site Plan and the Design Plan show the proposed conditions of the Property.

The plan is to maintain and renovate the existing house and front porch, remove the existing rear deck, and in place of the rear deck construct a 588 square foot, two-story addition, and a 243 square foot rear deck, as well as a small side porch on the northerly side of the house which will service the new driveway.

The rear addition is stepped-in and stepped-down from the house, and the rear deck is stepped-in and stepped-down from the addition, creating a trailing effect of the expansion of the structure. Architecturally speaking, the design of the addition is consistent with the style of the existing home by paying homage to the New Englander style. The trailing effect is also consistent with the shape of the Property which is much longer than it is wide, and it does not cut or block off the Property or site lines like other types of additions which are L-shaped.

The addition utilizes the existing grade of the Property which generally slopes down from west (front) to east (back), as such, the ground floor, or basement, of the addition will serve as a two-car garage. The first floor will serve as new living area and a kitchen, and the second floor of the addition will serve as a master bedroom, bathroom and closet and a new bedroom/office space.

The utilization of the existing grade of the Property allows the Owner to have a longer driveway setting the parking farther from the street, creating more off-street parking, and, as just noted, parking in the garage. This is more favorable instead of either proposing an even larger

addition or a separate structure for a garage, which minimizes the overall proposed building coverage.

Another result and benefit of the proposed addition and improvements is the Owner's ability to address and mitigate stormwater and drainage concerns that affect the Property and the immediately surrounding abutters as the backyard of the Property is a low point in the neighborhood. The Owners are currently working with a site contractor to determine if a drywell and drainage system would suffice and are even entertaining a private stormwater drain that could connect to existing infrastructure on Union Street. The second option would require working with an abutter to the rear for an easement and the approval of the Department of Public Works.

At its widest point, the addition encroaches into the side setback by only 1.5 feet but stays well within the current 5 foot, 2 inch existing condition created by the bump-out bay window. Had there been zoning regulation when the house was constructed, even under the Single Residence district which called for an 8 foot side setback, it is entirely possible that the house could have been constructed within the now existing building envelope which is influenced by the GRA dimensional requirements; and, as such, the proposed design could also have been placed within the building envelope negating the need for any variance relief.

The Property is by no means alone in these existing or proposed conditions. The majority of properties abutting the Property and around Wibird Street experience some form of setback nonconformity due to original construction or variance relief received over the years. Enclosed herewith as **Exhibit F** is a general overview of the immediately surrounding neighborhood highlighting existing properties that appear to contain nonconforming setbacks; of the 43 properties examined within the highlighted perimeter 36 of the properties appear to have nonconforming setbacks of various types.¹

Finally, enclosed herewith as **Exhibit G-1 – G9**, are several pictures of the house and property, as well as views heading from the house up Wibird Street and down Wibird Street toward the house.

In summary, the Owner would like to retain and renovate the existing front porch and house, construct a 588 square foot, two-story addition off the rear of the house, a new rear deck, a small side porch, and a new driveway.

¹ The Mapgeo Interactive Tax Map is known to be for reference only, and for these purposes it is being used to show that, in general, it can be gleaned that many of the surrounding properties appear to have nonconforming setbacks; still, it is further acknowledged that this not a survey and therefore not exact.

Zoning Relief Requested

The Owners seek the following variance from the Zoning Ordinance:

1. A variance from Article 10.521-Table of Dimensional Standards in the GRA Zoning District to allow a side yard setback of 8 feet, 6 inches for the rear addition, where a 5 foot, 2 inch side yard setback currently exists, and where 10 feet is required.

Variance Criteria

A. Granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.

“There are two methods of ascertaining whether granting a variance would violate an ordinance’s basic zoning objectives: 1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative, 2) examining whether granting the variance would threaten the public health, safety, or welfare.” *Harborside Assoc. v. Parade Residence Hotel*, 162 N.H. 508, 514 (2011).

The zoning relief requested herein will not alter the essential character of the neighborhood, nor will it create any negative impact to the public health, safety, or welfare.

First and foremost, the original house is not being demolished, rather the front porch and house are being renovated and revitalized leaving the literal streetscape of the Property in the same condition as it has been for decades. Moreover, the construction of an actual driveway will provide for better interaction with the streetscape and remove vehicles from on-street parking.

The construction of the addition, generally and regardless of location on the Property, is a common practice for single family residences, especially to residences constructed as far back as 1920. The streetscape will not be affected by the addition since the majority of work will be occurring in the rear of the house toward the rear of the Property.

As seen in Exhibit G1-G5 the addition will only visible from certain angles from passing-by vehicular and pedestrian traffic, and it will not be visible while looking at the Property head-on.

Finally, the purpose of setbacks and similar standards is to create uniform lots, when possible, create uniform building envelopes, and to prevent overcrowding on lots that could affect surrounding properties by disturbing abutters’ light, air and space. The existence of the addition, though it increases the size of the house, still speaks to and preserves the interests that the Zoning Ordinance seeks to protect, and as described in more detail below, will not disturb the light, air and space for abutters.

B. Substantial justice will be done by granting the variance relief.

Any loss to the individual that is not outweighed by a gain to the general public is an injustice. *New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997); *Malachy Glen Assoc. Inc v. Town of Chichester*, 155 N.H. 102 (2007).

In this instance, the loss to the Applicant is clear if the variance relief sought is denied. The Applicant would be forced to either change its design plan and lose out on valuable living area which maximizes space and efficiency or entertain other types of additions which would be inconsistent with the current style of the house and would segregate the Property, which would also disrupt the essential character of the neighborhood.

C. The values of surrounding properties will not be diminished by granting the variance relief.

Granting the requested relief will not diminish the value of surrounding properties. As previously stated, many properties in the surrounding area benefit from structures (primary residences and/or accessory structures) being located in the side and other setbacks. The addition provides the least amount of potential impact for the abutter to the left as that house is built almost on the shared property line and placement of the driveway will serve as a natural buffer to that property. Similarly, the abutter to the right uses its property directly abutting the Property as its driveway which also contains a nonconforming accessory structure, a garage, that is within the side setback. The abutter to the right's use of its left side setback creates a buffer in relation to the addition and abutter's primary residence. The addition will also only be seen from the angles and perspectives when approaching the house from the left or the right. The addition will otherwise be 60+ feet from other properties' lines to the rear. Finally, the Owners plan to also incorporate stormwater mitigation into their project will serve as a benefit to surrounding properties.

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

1. There are special conditions that distinguish the Property from surrounding properties.

The Property has special conditions that distinguish it from surrounding properties. The Property is situated at the bottom of a hill on Wibird Street and is also graded from west to east creating a low point for the neighborhood in its backyard. Second, had zoning regulations been in place at the time of the construction of the house then the original builder would have had to pay attention to a building envelope. It is likely that the house would have either been constructed in a different location (entirely within the building envelope) or the design of the house may have been altered. The existing features of the house already create a 5 foot, 2 inch side setback. Finally, the style of the existing house drives the architect to create an addition that is architecturally

consistent with the original, dominant structure; any other design would either not be practical or would segregate the Property and potentially alter the essential character of the neighborhood.

2. There is no fair and substantial relationship between the general purposes of the ordinance and their specific application to the Property.

The Property was created by the recording of a plan of land from 1890 when no zoning regulation or subdivision regulations were in effect. The Property has maintained its original structure since its creation. The house was constructed prior to the City’s first enactment of any zoning regulation and, therefore, certainly predates any of the current dimensional requirements of the GRA District.

As previously stated, the purpose of setbacks, among other dimensional standards, is to create uniform lots, when possible, create uniform building envelopes, and to prevent overcrowding on lots that could affect surrounding properties. In this instance, construction of anything to, on or near the right side of the house would run afoul of the Zoning Ordinance, however, the addition will be less nonconforming than the existing conditions of the house and Property and, therefore, is consistent with the objectives and spirit of the Zoning Ordinance by not further frustrating the interests of direct abutters which the Zoning Ordinance seeks to protect. Strictly applying the current zoning standards to the Property that pre-date the adoption of any, including current, zoning standards is impractical in relation to the requested relief.

3. The Proposed Use is Reasonable.

The Property is used as a single-family residence and this use will remain the same. The Applicant is requesting relief in order to add on to the house with a design that is consistent with the current style of the house.

Proposed Stipulations

None at this time.

In conclusion, the Applicant has demonstrated that its application meets the five (5) criteria for each of the variances ought and respectfully requests that the Board approves this application.

Respectfully submitted,
Liam Hoare & Reese C. Green
By and through their Attorney,



Colby T. Gamester, Esquire
144 Washington Street
Portsmouth, NH 03801
603-427-0000, colby@gamesterlaw.com

Dated: May 29, 2024

ABUTTERS

TAX MAP 148 LOT 1
BRIAN M. & ALLISON M. CLAYPOOL
 194 WIBIRD STREET
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 6424 PAGE 1552

TAX MAP 148 LOT 1-1
STEWART WHITNEY & HAIYAN CHAO WHITNEY
 180 WIBIRD STREET
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 5632 PAGE 2171

TAX MAP 133 LOT 50
BENJAMIN & JANE D'ANTONIO
 175 WIBIRD STREET
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 5799 PAGE 2002

TAX MAP 133 LOT 48
HEATHER & JEFFREY FRANAS
 496 LINCOLN AVENUE
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 5441 PAGE 2654

TAX MAP 133 LOT 44
THE JANDA FAMILY REVOCABLE TRUST OF 2020
 484 UNION STREET
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 6208 PAGE 2106

TAX MAP 133 LOT 43
BETHANY A. SIVULKA BRAY & DERIN TYLER BRAY
 492 UNION STREET
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 6421 PAGE 1544

TAX MAP 133 LOT 42
ALFONSO E. & DONNA L. LOPEZ
 500 UNION STREET
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 6517 PAGE 989

TAX MAP 133 LOT 52
BERGERON REVOCABLE TRUST
 199 WIBIRD STREET
 PORTSMOUTH, NH 03801
 R.C.R.D. BOOK 6152 PAGE 1984

LEGEND

- IRON PIPE/ROD FOUND
- UTILITY POLE
- ⊗ RAILROAD SPIKE
- ⊗ SEWER CLEANOUT
- IRON ROD TO BE SET WITH IDENTIFICATION CAP "LLS 961" UNLESS OTHERWISE NOTED ON PLAN
- BOUNDARY LINE
- ABUTTER LINE
- OVERHEAD WIRES
- RIGHT-OF-WAY
- EDGE OF PAVEMENT
- PRIVACY FENCE
- CHAIN-LINK FENCE
- BUILDING SETBACKS
- ABUTTER DESIGNATION
- ⊗ STORMWATER MANHOLE
- ▭ CATCHBASIN
- ⊗ WATER VALVE
- ⊕ BENCHMARK



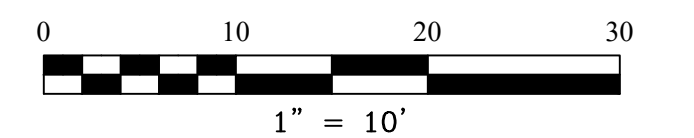
NOTES:

- REFERENCE: TAX MAP 133 LOT 51 R.C.R.D. BOOK 6491 PAGE 2536
- TOTAL PARCEL AREA: 8,524 SQ. FT. OR 0.195 AC.
- OWNER OF RECORD: LIAM HOARE & REESE C. GREEN 351 HIGH STREET SUITE 101 NEWBURYPORT, MA 01950
- ZONE: GRA DISTRICT DIMENSIONAL REQUIREMENTS:

MINIMUM LOT AREA	7,500 sq. ft.
MINIMUM FRONTAGE	100 ft.
MINIMUM FRONT SETBACK	15 ft.
MINIMUM SIDE SETBACK	10 ft.
MINIMUM REAR SETBACK	20 ft.
- HORIZONTAL DATUM IS NHPSP (NAD '83) BASED ON GPS OBSERVATIONS.
- VERTICAL DATUM SHOWN IS NAVD '88 BASED ON GPS OBSERVATIONS.
- THE INTENT OF THIS PLAN IS TO THE EXISTING CONDITIONS OF THE SURVEYED PREMISES IN RELATION TO THE LEGAL BOUNDARIES OF RECORD.

PLAN REFERENCES:

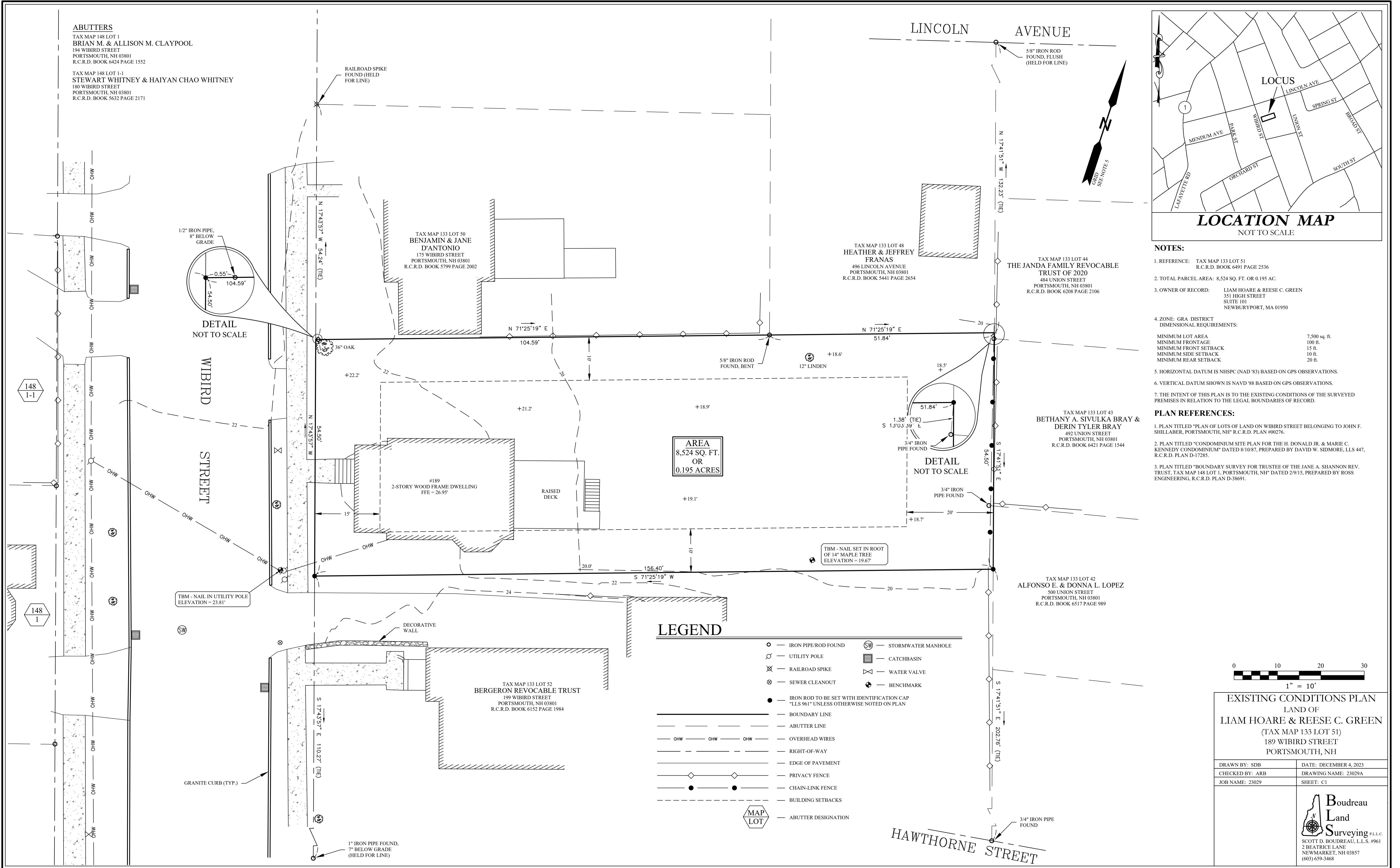
- PLAN TITLED "PLAN OF LOTS OF LAND ON WIBIRD STREET BELONGING TO JOHN F. SHILLABER, PORTSMOUTH, NH" R.C.R.D. PLAN #00276.
- PLAN TITLED "CONDOMINIUM SITE PLAN FOR THE H. DONALD JR. & MARIE C. KENNEDY CONDOMINIUM" DATED 8/10/87, PREPARED BY DAVID W. SIDMORE, LLS 447, R.C.R.D. PLAN D-17285.
- PLAN TITLED "BOUNDARY SURVEY FOR TRUSTEE OF THE JANE A. SHANNON REV. TRUST, TAX MAP 148 LOT 1, PORTSMOUTH, NH" DATED 2/9/15, PREPARED BY ROSS ENGINEERING, R.C.R.D. PLAN D-38691.



EXISTING CONDITIONS PLAN
 LAND OF
LIAM HOARE & REESE C. GREEN
 (TAX MAP 133 LOT 51)
 189 WIBIRD STREET
 PORTSMOUTH, NH

DRAWN BY: SDB	DATE: DECEMBER 4, 2023
CHECKED BY: ARB	DRAWING NAME: 23029A
JOB NAME: 23029	SHEET: C1

Boudreau Land Surveying P.L.L.C.
 SCOTT D. BOUDREAU, L.L.S. #961
 2 BEATRICE LANE
 NEWMARKET, NH 03857
 (603) 659-3468



AREA
 8,524 SQ. FT.
 OR
 0.195 ACRES

DETAIL
 NOT TO SCALE

DETAIL
 NOT TO SCALE

TBM - NAIL IN UTILITY POLE
 ELEVATION = 23.81'

TBM - NAIL SET IN ROOT
 OF 14" MAPLE TREE
 ELEVATION = 19.67'

GRANITE CURB (TYP.)

1" IRON PIPE FOUND,
 7" BELOW GRADE
 (HELD FOR LINE)

HAWTHORNE STREET

MAP LOT



LCHIP	ROA653151	25.00
TRANSFER TAX	RO123669	13,500.00
RECORDING		14.00
SURCHARGE		2.00

TAX STAMP: \$13,500.00 WARRANTY DEED

KNOW ALL BY THESE PRESENTS, that I, **Karen Melissa Zukowski**, Successor Trustee of The William M. Niland and Helena I. Niland Revocable Living Trust, dated January 14, 2010, of 90 TJ Gamester Avenue, Portsmouth, New Hampshire, (the "Grantor"), for consideration paid and in full consideration, grant to **Liam Hoare and Reese C. Green**, husband and wife, as joint tenants with rights of survivorship, of 351 High Street, Suite 101, Newburyport, Massachusetts (the "Grantee"), with WARRANTY COVENANTS:

A certain lot or parcel of land with the buildings thereon, situate in Portsmouth, County of Rockingham, and State of New Hampshire, being Lot No. 10 on a plan entitled "Plan of Lots of Land on Wibird Street, belonging to John F. Shillaber, Portsmouth, N.H." dated Nov. 1, 1890, prepared by A. C. Hoyt, Surveyor, and recorded with the Rockingham County Registry of Deeds as Plan #00276, bounded and described as follows, viz:

Westerly by Wibird Street, 54 feet, 6 inches;
Northerly by Lots No. 9 and No. 7 on said plan, 157 feet, more or less;
Easterly by land now or formerly of Gershowitz, et. al., 54 feet 6 inches; and
Southerly by Lot No. 11 on said plan, 157 feet, more or less.

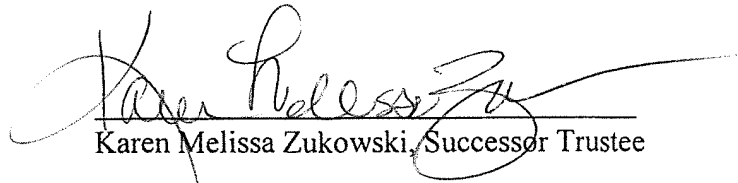
Meaning and intending to describe the same premises conveyed by William M. Niland, to William M. Niland, Trustee of The William M. Niland and Helena I. Niland Revocable Living Trust, by deed dated September 29, 2011 and recorded on October 13, 2011, with the Rockingham County Registry of Deeds at Book 5252, Page 1005.

This is not homestead property.

END OF TEXT

SIGNATURE PAGE FOLLOWS

WITNESS the execution hereof, under seal, this 27th day of June 2023.



Karen Melissa Zukowski, Successor Trustee

STATE OF NEW HAMPSHIRE

Rockingham, ss.

June 27, 2023

Before me, the undersigned notary public, personally appeared Karen Melissa Zukowski, as Successor Trustee of The William M. Niland and Helena I. Niland Revocable Living Trust, proved to me through satisfactory evidence of identification, which was a driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed and sealed it voluntarily and for its stated purpose as Successor Trustee of The William M. Niland and Helena I. Niland Revocable Living Trust and who swore or affirmed that the contents contained therein are true and accurate.


Notary Public
My Commission Expires: 6/7/27

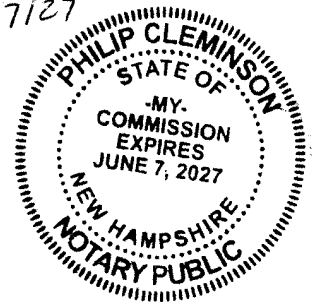
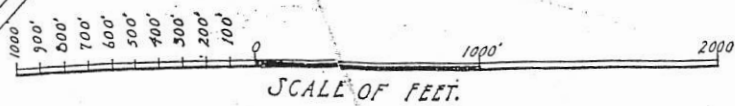
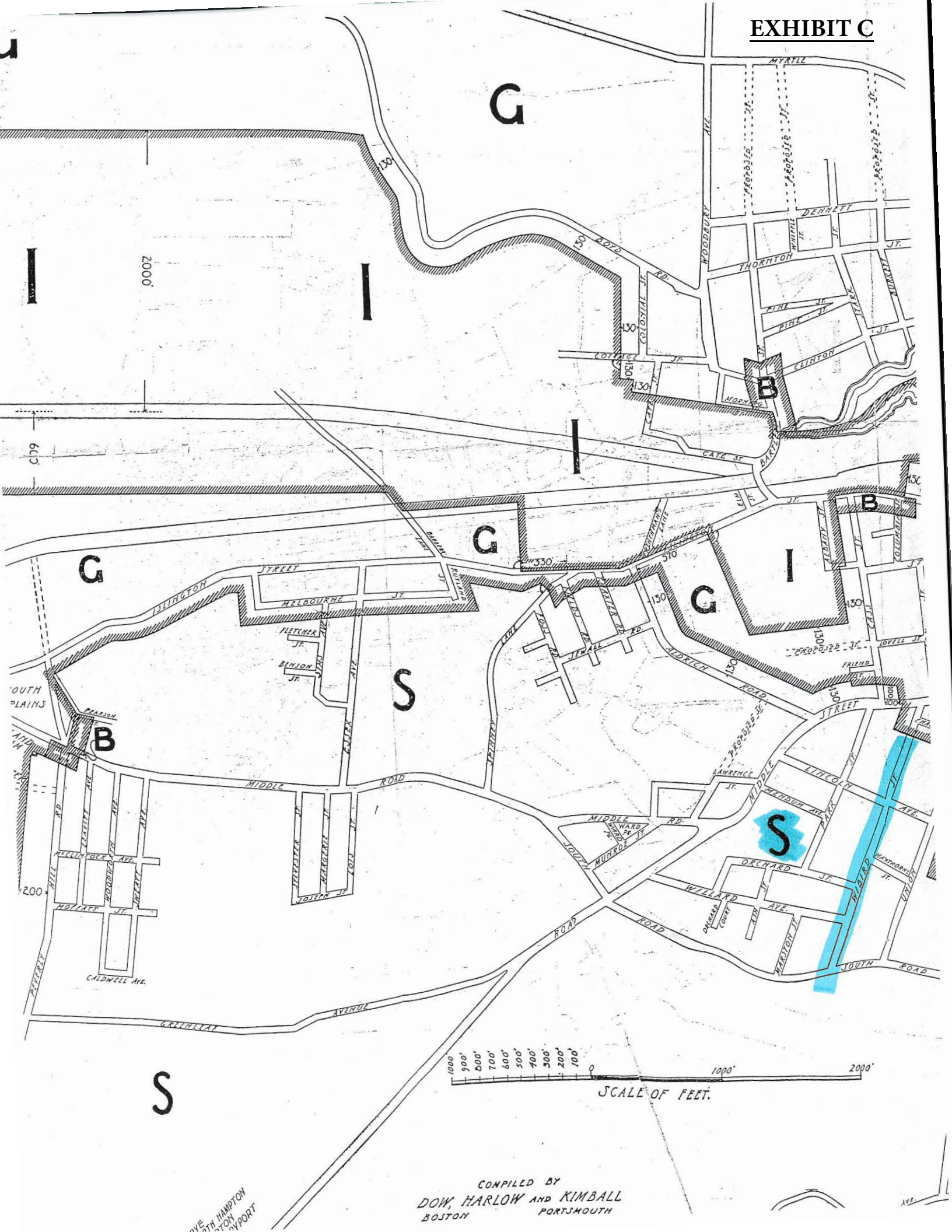


EXHIBIT C



COMPILED BY
DOW, HARLOW AND KIMBALL
BOSTON PORTSMOUTH

BYE HAMPTON
TON SVPORT

Portsmouth Zoning Commission

ZONING ORDINANCE

For the City of Portsmouth, N. H.

In Effect Dec. 7, 1927

Arthur C. Comey, City Planner



(7) Accessory use customarily incident to any of the above uses.

(b) **Rear Yards:** There shall be behind every building a rear yard having a minimum depth of one-fifth of the depth of the lot or twenty-four feet, whichever is the less.

(c) **Side Yards:** There shall be on each side of every building or pair of semi-detached buildings a side yard having a minimum width of seven feet, provided that the width of one side yard may be reduced one foot or two feet if the width of the other side yard is correspondingly increased, and provided further that on no lot held under separate and distinct ownership from adjacent lots and of record at the time it is placed in a general residence district shall the buildable width be reduced by this requirement to less than twenty-four feet.

(d) **Courts:** No court shall be less in any dimension than as prescribed in apartment house districts. No window in a dwelling shall open upon an outer court with a horizontal depth exceeding its width or upon an inner court with a vertical depth exceeding its width.

(e) **Front Yards:** There shall be in front of every building a front yard having a minimum depth of fifteen feet, provided that no front yard need be deeper than the average of the depths of front yards on the lots next thereto on either side, a vacant lot or a lot occupied by a building with a front yard more than fifteen feet deep being considered as though occupied by a building with a front yard fifteen feet deep; and provided further than on a lot held under separate and distinct ownership from adjacent lots and of record and less than one hundred feet deep at the time it is placed in a general residence district the depth of no front yard need exceed fifteen per cent of the depth of the lot.

(f) **Corner Clearance:** Between the lines of intersecting streets and a line joining points on such lines fifteen feet distant from their point of intersection, or, in the case of a rounded corner, the point of intersection of their tangents, no building or structure may be erected and no vegetation other than shade trees may be maintained above a height three feet above the plane through their curb grades.

(g) **Building Area:** No dwelling shall occupy more than forty per cent of its lot and no building other than a dwelling shall occupy more than sixty per cent of its lot. (For accessory buildings see Sec. 9, par. g.)

(h) **Area of Lot per Family:** No dwelling shall be erected or altered to accommodate or make provision for more than one family for each two thousand five hundred square feet of the area of the lot, and no dwelling shall be erected on any lot containing less than four thousand square feet, provided that a single-family dwelling may be erected on any lot of record at the time this ordinance is adopted and a two-family dwelling may be erected on any lot of record and containing not less than four thousand five hundred square feet at the time this ordinance is adopted.

(i) **Height:** No building shall exceed two and one-half stories or thirty-five feet in height unless it sets back from each street and lot line ten feet in addition to the above requirements plus one foot for each foot of excess height. No building shall exceed four stories or fifty-five feet in height. No dwelling for more than one family shall exceed two and one-half stories or thirty-five feet in height, provided that nothing herein shall prevent any dwelling existing at the time of the adoption of this ordinance being altered to accommodate not more than two families. The term "half story" in this ordinance shall mean a story in a sloping roof, the area of which at a height four feet above the floor does not exceed two-thirds of the floor area of the story immediately below it, and which does not contain an independent apartment.

SINGLE RESIDENCE DISTRICTS

SECTION 7. In a single residence district—

(a) **Use:** No building or premises shall be erected, altered or used except for one or more of the following uses:

(1) Single-family detached dwelling;

(2) Church;

(3) Club, except clubs the chief activity of which is a service customarily carried on as a business and clubs with more than five sleeping rooms;

- (4) Educational use;
- (5) Farm, including the sale of products grown on the premises only, but excluding any use injurious, or offensive to the neighborhood;
- (6) Municipal recreational use;
- (7) Accessory use customarily incident to any of the above uses.

(b) **Rear Yards:** There shall be behind every building a rear yard having a minimum depth of one-quarter of the depth of the lot or thirty feet, whichever is the less.

(c) **Side Yards:** There shall be on each side of every building a side yard having a minimum width of eight feet, provided that the width of one side yard may be reduced one foot or two feet if the width of the other side yard is correspondingly increased, and provided further that on no lot held under separate and distinct ownership from adjacent lots and of record at the time it is placed in a single residence district shall the buildable width be reduced by this requirement to less than twenty-four feet.

(d) **Courts** shall conform to the regulations prescribed in general residence districts.

(e) **Front Yards:** There shall be in front of every building a front yard having a minimum depth of twenty feet, provided that no front yard need be deeper than the average of the depths of front yards on the lots next thereto on either side, a vacant lot or a lot occupied by a building with a front yard more than twenty feet deep being considered as though occupied by a building with a front yard twenty feet deep; and provided further that on a lot held under separate and distinct ownership from adjacent lots and of record and less than one hundred feet deep at the time it is placed in a single residence district the depth of no front yard need exceed twenty per cent of the depth of the lot.

(f) **Corner Clearance:** Between the lines of intersecting streets and a line joining points on such lines twenty feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of their tangents. no building or structure may be erected and no vegetation

other than shade trees may be maintained above a height three feet above the plane through their curb grades.

(g) **Building Area:** No dwelling shall occupy more than thirty-five per cent of its lot and no building other than a dwelling shall occupy more than fifty per cent of its lot. (For accessory buildings, see Sec. 9, par. g.)

(h) **Area of Lot per Family:** No dwelling shall be erected on a lot containing less than four thousand five hundred square feet unless such lot is of record at the time it is placed in a single residence district.

(i) **Height:** No building shall exceed two and one-half stories or thirty-five feet in height unless it sets back from each street and lot line ten feet in addition to the above requirements plus one foot for each foot of excess height. No building shall exceed four stories or fifty-five feet in height.

NON-CONFORMING USES

SECTION 8. (a) Any lawful building or use of a building or premises or part thereof existing at the time of the adoption of this ordinance or any amendment thereto may be continued, although such building or use does not conform to the above provisions hereof. Such use may be changed or if in a part of a building or premises designed or intended for such use may be extended throughout such building or premises, provided in each case no structural alterations are hereinafter made therein, except those required by law, ordinance or regulation, and provided that the Board of Adjustment shall rule that such changed or extended use is not substantially more detrimental or injurious to the neighborhood.

(b) A building of non-conforming use may be enlarged or altered or additional buildings may be erected on the same or an adjacent parcel of land in the same single or joint ownership of record at the time it is placed in a district for an extension of such use, provided the aggregate volume of such additions does not exceed twenty per cent of the volume of the existing building, provided the aggregate cost of such additions and alterations does not exceed fifty per cent of the fair value of the building, and provided the Board of Adjustment shall rule that such addition or al-

ABUTTERS

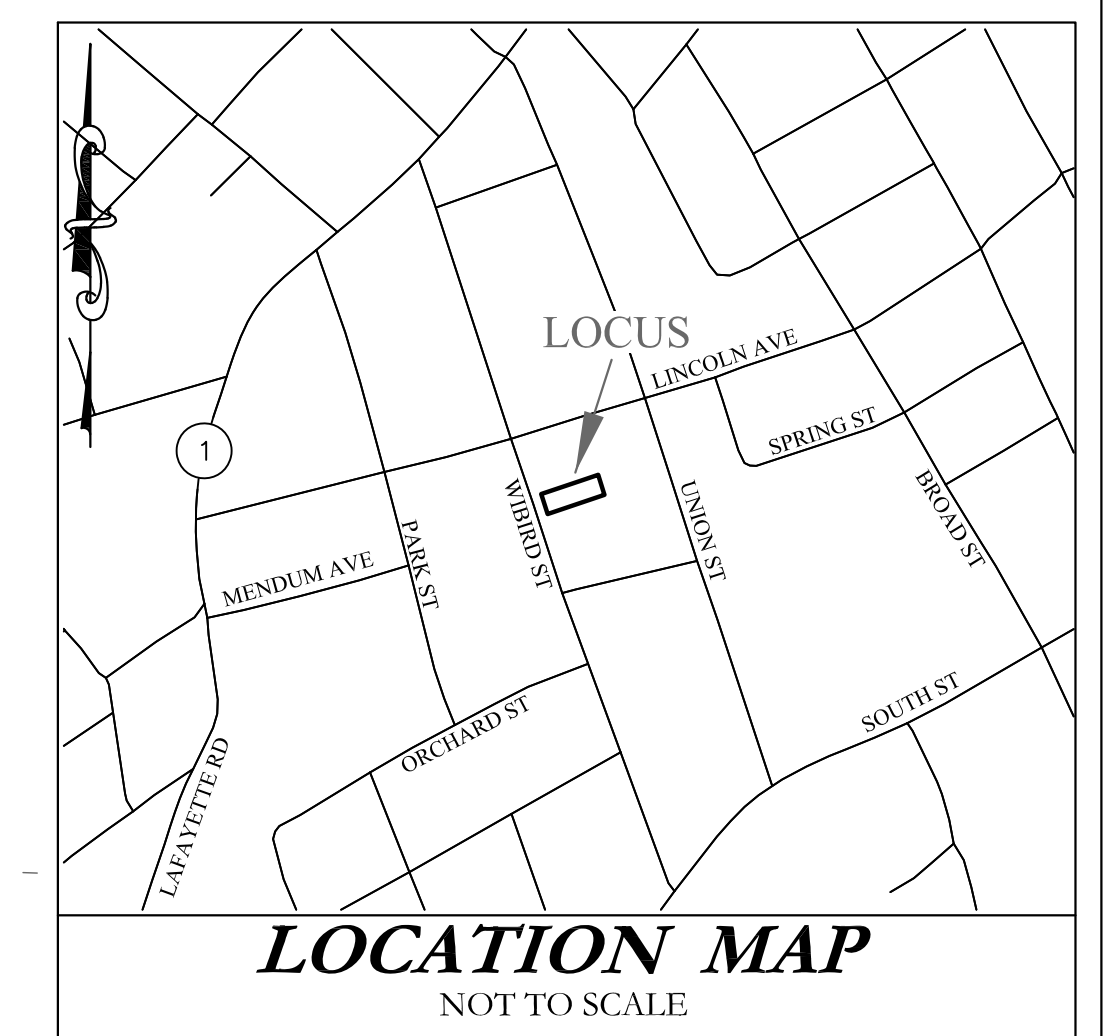
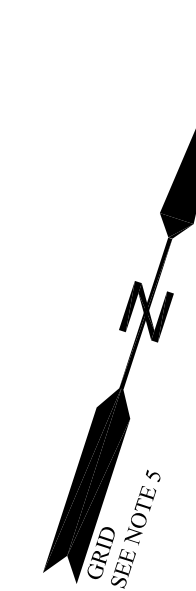
TAX MAP 148 LOT 1
BRIAN M. & ALLISON M. CLAYPOOL
194 WIBIRD STREET
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 6424 PAGE 1552

TAX MAP 148 LOT 1-1
STEWART WHITNEY & HAIYAN CHAO WHITNEY
180 WIBIRD STREET
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 5632 PAGE 2171

LOT COVERAGE CALCULATIONS		
STRUCTURE	AREA (SF)	PERCENT COVERAGE
EXISTING COVERAGE		
DWELLING	858	
FRONT STEPS	25	
DECK/STAIRS	291	
TOTAL EXISTING COVERAGE	1174	14%
PROPOSED COVERAGE		
DWELLING	858	
FRONT STEPS	25	
SIDE DECK AND STEPS	50	
ADDITION	588	
DECK/STAIRS	243	
TOTAL PROPOSED COVERAGE	1764	21%
LOT SIZE	8524	

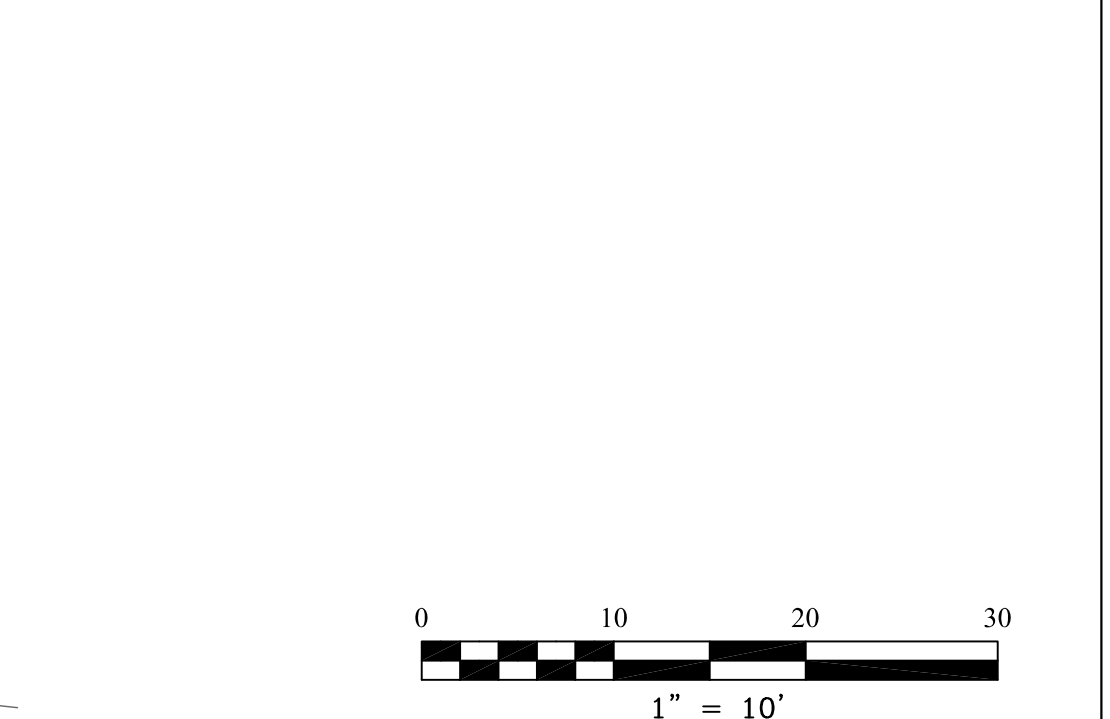
LINCOLN AVENUE

5/8" IRON ROD FOUND, FLUSH (HELD FOR LINE)



- NOTES:**
- REFERENCE: TAX MAP 133 LOT 51 R.C.R.D. BOOK 6491 PAGE 2536
 - TOTAL PARCEL AREA: 8,524 SQ. FT. OR 0.195 AC.
 - OWNER OF RECORD: LIAM HOARE & REESE C. GREEN
351 HIGH STREET
SUITE 101
NEWBURYPORT, MA 01950
 - ZONE: GRA DISTRICT
DIMENSIONAL REQUIREMENTS:
MINIMUM LOT AREA: 7,500 sq. ft.
MINIMUM FRONTAGE: 100 ft.
MINIMUM FRONT SETBACK: 15 ft.
MINIMUM SIDE SETBACK: 10 ft.
MINIMUM REAR SETBACK: 20 ft.
MAXIMUM BUILDING HEIGHT: 35 ft.
BUILDING COVERAGE: 25%
 - HORIZONTAL DATUM IS NHPSC (NAD '83) BASED ON GPS OBSERVATIONS.
 - VERTICAL DATUM SHOWN IS NAVD '88 BASED ON GPS OBSERVATIONS.
 - THE INTENT OF THIS PLAN IS TO SHOW PROPOSED IMPROVEMENTS OF THE SURVEYED PREMISES IN RELATION TO THE LEGAL BOUNDARIES OF RECORD.
 - OFF-STREET PARKING: THE FINAL GROSS FLOOR AREA FOR THE EXISTING DWELLING AND PROPOSED ADDITION IS 2,867 SQ. FT. (FIRST AND SECOND FLOOR). PER ZONING ORDINANCE 10:112.311, FOR FLOOR AREAS OVER 750 SQ. FT., 1.3 SPACES ARE REQUIRED PER DWELLING UNIT, REQUIRING A MINIMUM OF 2 SPACES.

- PLAN REFERENCES:**
- PLAN TITLED "PLAN OF LOTS OF LAND ON WIBIRD STREET BELONGING TO JOHN F. SHILLABER, PORTSMOUTH, NH" R.C.R.D. PLAN #00276.
 - PLAN TITLED "CONDOMINIUM SITE PLAN FOR THE H. DONALD JR. & MARIE C. KENNEDY CONDOMINIUM" DATED 8/10/87, PREPARED BY DAVID W. SIDMORE, LLS 447, R.C.R.D. PLAN D-17285.
 - PLAN TITLED "BOUNDARY SURVEY FOR TRUSTEE OF THE JANE A. SHANNON REV. TRUST, TAX MAP 148 LOT 1, PORTSMOUTH, NH" DATED 2/9/15, PREPARED BY ROSS ENGINEERING, R.C.R.D. PLAN D-38691.



SITE PLAN
LAND OF
LIAM HOARE & REESE C. GREEN
(TAX MAP 133 LOT 51)
189 WIBIRD STREET
PORTSMOUTH, NH

DRAWN BY: SDB DATE: MAY 29, 2024
CHECKED BY: ARB DRAWING NAME: 23029B2
JOB NAME: 23029 SHEET: C2

Boudreau Land Surveying P.L.L.C.
SCOTT D. BOUDREAU, L.L.S., #961
2 BEATRICE LANE
NEWMARKET, NH 03857
(603) 659-3468

WIBIRD STREET

TBM - NAIL IN UTILITY POLE ELEVATION = 23.81'

GRANITE CURB (TYP.)

1" IRON PIPE FOUND, 7" BELOW GRADE (HELD FOR LINE)

LEGEND

- IRON PIPE/ROD FOUND
- UTILITY POLE
- ⊗ RAILROAD SPIKE
- ⊗ SEWER CLEANOUT
- BOUNDARY LINE
- ABUTTER LINE
- OHW
- RIGHT-OF-WAY
- EDGE OF PAVEMENT
- PRIVACY FENCE
- CHAIN-LINK FENCE
- BUILDING SETBACKS
- MAP LOT
- ⊗ STORMWATER MANHOLE
- ⊗ CATCHBASIN
- ⊗ WATER VALVE
- ⊗ BENCHMARK

AREA
8,524 SQ. FT.
OR
0.195 ACRES

TBM - NAIL SET IN ROOT OF 14" MAPLE TREE ELEVATION = 19.67'

HAWTHORNE STREET

3/4" IRON PIPE FOUND

N 17°41'51" W 132.23' (TIE)

N 71°25'19" E 51.84'

S 17°41'51" E 54.50'

S 17°41'51" E 202.76' (TIE)

S 17°41'51" E 110.27' (TIE)

N 71°25'19" E 104.59'

N 17°43'57" W 54.24' (TIE)

N 17°43'57" W 54.50'

S 17°43'57" W 110.27' (TIE)

S 17°43'57" E 110.27' (TIE)

TAX MAP 133 LOT 50
BENJAMIN & JANE D'ANTONIO
175 WIBIRD STREET
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 5799 PAGE 2002

TAX MAP 133 LOT 52
BERGERON REVOCABLE TRUST
199 WIBIRD STREET
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 6152 PAGE 1984

TAX MAP 133 LOT 48
HEATHER & JEFFREY FRANAS
496 LINCOLN AVENUE
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 5441 PAGE 2654

TAX MAP 133 LOT 44
THE JANDA FAMILY REVOCABLE TRUST OF 2020
484 UNION STREET
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 6208 PAGE 2106

TAX MAP 133 LOT 43
BETHANY A. SIVULKA BRAY & DERIN TYLER BRAY
492 UNION STREET
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 6421 PAGE 1544

TAX MAP 133 LOT 42
ALFONSO E. & DONNA L. LOPEZ
500 UNION STREET
PORTSMOUTH, NH 03801
R.C.R.D. BOOK 6517 PAGE 989

36" OAK

5/8" IRON ROD FOUND, BENT

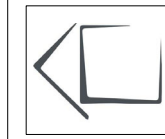
12" LINDEN

18.5'

3/4" IRON PIPE FOUND

SW





OVERVIEW

SCALE: NTS

Number	Date	Description

OVERVIEW

SPECIFICATIONS + NOTES

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

- *FLOORING:
- _1ST FLOOR:
- _2ND FLOOR:
- _HEATED FLOOR:
- _REFINISH AREAS:
- *KITCHEN:
- _CABINETS: Cabinetry Notes: Specs to be prepared on 11 x 17 doc.
- _BUILT-IN NOTES:
- _APPLIANCES
- *MANTLE:
- *FIREPLACE:
- _GAS
- _WOOD: INT. FIREBOX: RED BRICK VS. YELLOW BRICK
- _HEARTH: RAISED VS. FLUSH
- *MATERIAL:
- NOTES:
- *CEILING HEIGHTS: 1ST FLOOR: _____ | 2ND FLOOR: _____
- *CORNER BOARDS: 6" TYP
- *WATER TABLE: 10" W/ COPPER FLASHING TYP.
- *RAKE BOARD: 8" TYP. PVC OR BORAL. (FILLED & PAINTED)
- *SOFFIT - BEADBOARD AZEC OR EQ.
- *ROOF VENT - RIDGE VENT VS. BROSCO LOUVERED VENT VS. SOFFIT VENT
- *ARCHITECTURAL DETAIL:
- *WINDOW TRIM: 4-1/2" TYP. PVC
- TOTAL SQUARE FOOTAGE:
- _NEW
- _RENOVATED SF
- _TOTAL

© AMY DUTTON HOME
DRAWINGS USED EXPRESSIVELY FOR
DESIGN ONLY FOR NOTED CLIENT. ALL
STRUCTURAL ENGINEERING PROVIDED BY
OTHER.

Building contractor / home owner to review and verify all
dimensions, specs and connections before construction
begins.
ELECTRICAL SYSTEM CODE: IEC 2011
MECHANICAL SYSTEM CODE: IMC 2015
PLUMBING SYSTEM CODE: 2021 Uniform Plumbing Code
IECC 2018

FINAL CD SET DATE: 05.28.24

EXISTING LIVING AREA		
MAIN DWELLING	858 sqft	
FRONT STEPS	25 sqft	
DECK / STAIRS	241 sqft	
TOTAL:	1174 sqft	14%

PROPOSED LIVING AREA		
MAIN DWELLING	858 sqft	
FRONT STEPS	25 sqft	
SIDE DECK & STEPS	50 sqft	
ADDITION	588 sqft	
DECK / STAIRS	243 sqft	
TOTAL:	1764 sqft	21%

DIM DISCLAIMER

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

Label	Title
O-1	OVERVIEW
A-1	FLOT PLAN
A1	DEMOLITION PLAN
A-2	RENOVATION PLAN
G-1	GENERAL NOTES
G-2	GENERAL NOTES
G-3	GENERAL NOTES
A-3	FOUNDATION PLAN
A-4	FIRST FLOOR
A-5	SECOND FLOOR
A-6	ROOFS
A-7	WINDOW AND DOOR SCHEDULE
A-8	WINDOW AND DOOR SCHEDULE
A-9	ELEVATIONS
A-10	ELEVATIONS
A-11	ELEVATIONS
A-12	ELEVATIONS
A-13	SECTION
A-14	SECTIONS
F-1	FRAMING
F-2	WOOD FRAMING NOTES
F-3	FRAMING OVERVIEW
E-1	ELECTRICAL
P-1	PLUMBING
C-1	KITCHEN CABINETRY
C-2	BATH CABINETRY
C-3	CABINETRY
C-4	COUNTERTOP & TILE PLAN
C-5	COUNTERTOP & TILE QUANTITIES
C-6	CABINET SCHEDULE
L-1	LANDSCAPE PLAN
FP-1	FURNITURE PLAN
FP-2	FURNITURE SCHEDULE

CLIENT:
HOARE GREEN RESIDENCE
134 Kibrid Ave.
Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
4 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.937.2020

DATE:

5/28/2024

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SCALED FOR:
24" X 36"

SCALE:

SEE SCALE
ON DRAWINGS

SHEET:

0-1

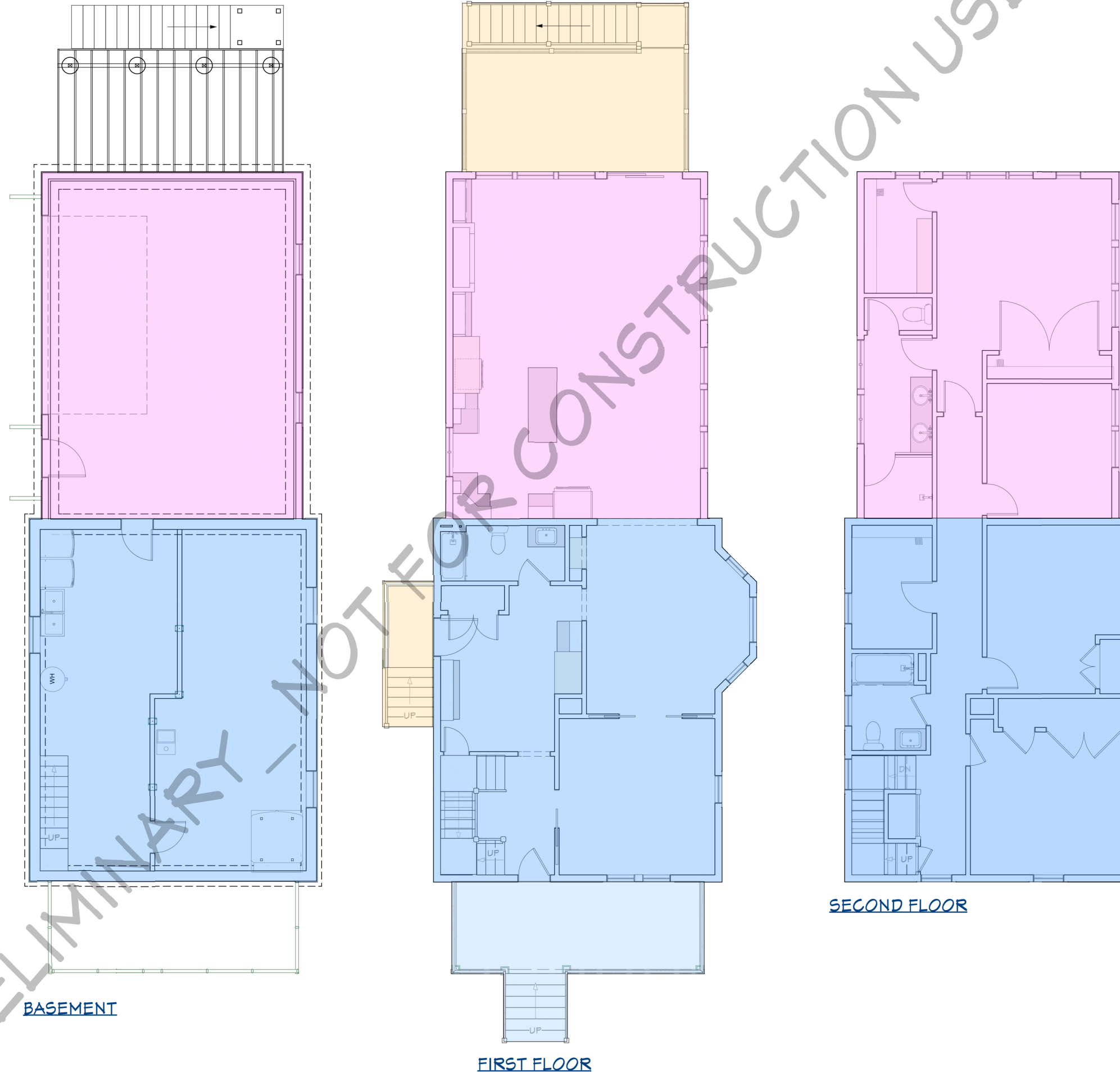
DEMOLITION NOTES

GENERAL NOTES

1. PROVIDE SELECTIVE DEMOLITION TO REMOVE EX. FLOOR, WALLS, CEILING, WINDOWS AND ROOF SYSTEMS IDENTIFIED. CONFIRM EXACT LOCATION W/ DESIGNER AND CIVIL ENGINEER PRIOR TO SELECTIVE DEMOLITION COMMENCEMENT. CONSULT WITH DESIGN PROFESSIONAL FOR ALL REQUIRED TEMPORARY SHORING AND SUPPORTS.
2. CUT EXISTING FOUNDATION TO LOCATION IDENTIFIED AND PREPARE FOR NEW FOUNDATION WALL.
3. EXISTING FOUNDATION WALL TO BE CUT AND REMAIN IN PLACE. REMOVE SILL PLATES OR OTHER LUMBER AND CUT BACK ANCHOR BOLTS TO TOP OF WALL. FILL VOID WITH SAND AND/ OR SOILS CONSISTENT WITH SURROUNDING MATERIALS.

CAD BLOCK GUIDE

- EXISTING FOOTPRINT (858 SQFT)
- PROPOSED ADDITION (588 SQFT)
- PROPOSED DECKS (253 + 50 SQFT)
- RENOVATED EXISTING FRONT PORCH



BASEMENT

FIRST FLOOR

SECOND FLOOR

RENOVATION PLAN

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



Revision Table	
Number	Date

RENOVATION PLAN

CLIENT:
HOARE GREEN RESIDENCE
 134 Nibrid Ave.
 Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
 4 WALKER STREET | KITTERY, ME
 amy@amyduttonhome.com
 207.937-2020

DATE:

5/28/2024

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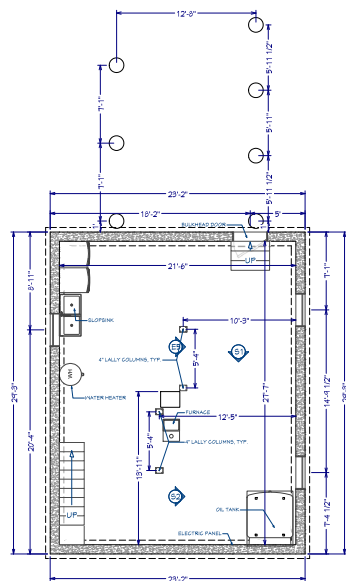
SCALED FOR:
24" X 36"

SCALE:

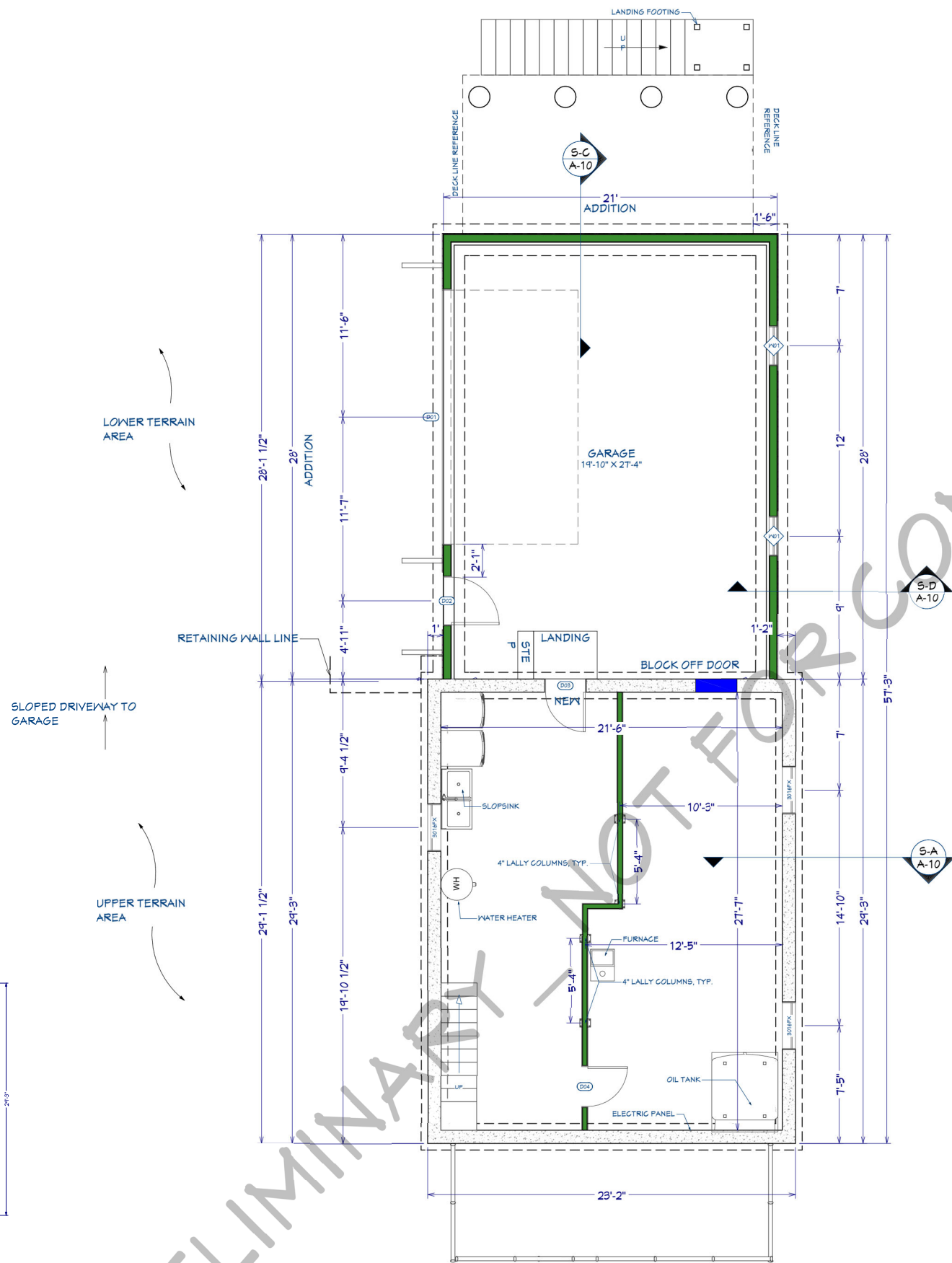
SEE SCALE
ON DRAWINGS

SHEET:

A-2

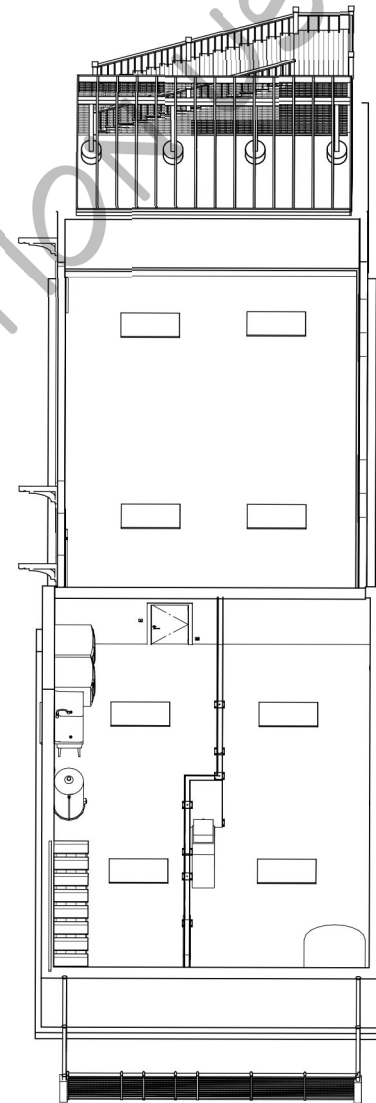


EXISTING FOUNDATION PLAN
SCALE: 1/8" = 1'-0"

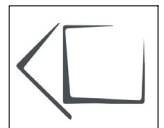


PROPOSED FOUNDATION PLAN
SCALE: 1/4" = 1'-0"

PROPOSED PERSPECTIVE VIEW
SCALE: NTS



PRELIMINARY NOT FOR CONSTRUCTION



Revision Table		
Number	Date	Description

FOUNDATION PLAN

CLIENT:
HOARE GREEN RESIDENCE
134 Nibrid Ave.
Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
4 WALKER STREET | KITTERY, ME
amy@duttonhome.com
207.937.2020

DATE:
5/28/2024

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

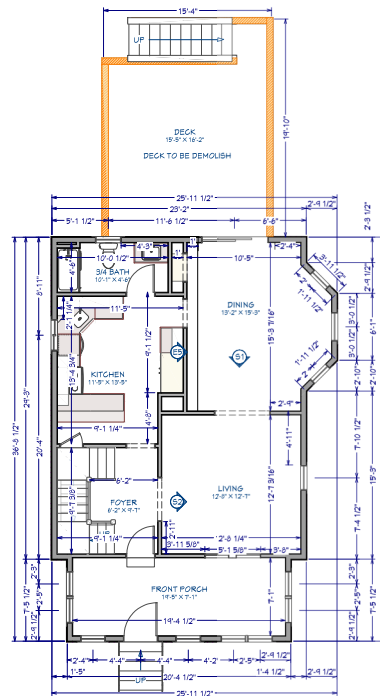
SHEET:

A-3

RENOVATION NOTE:

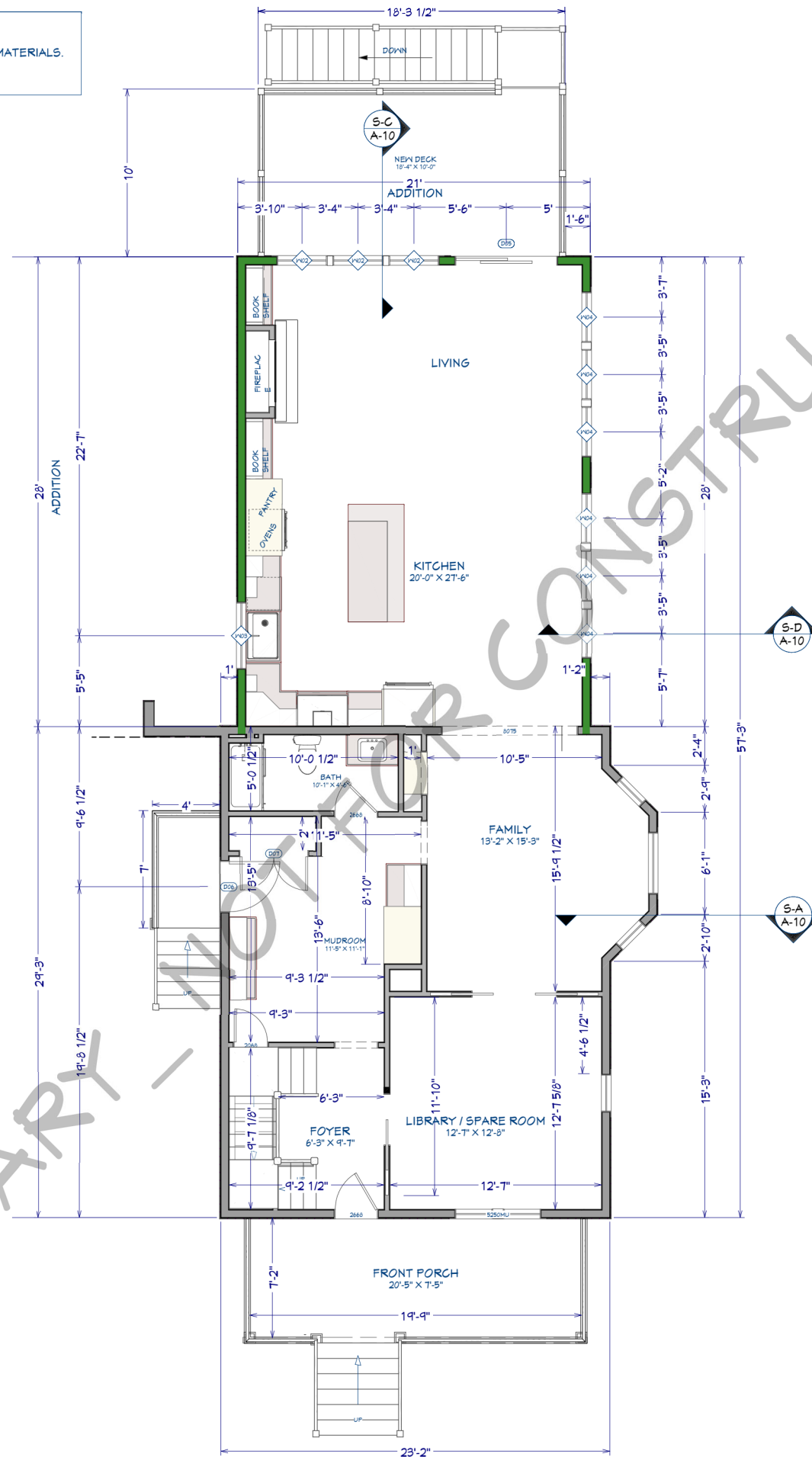
EXISTING UPSTAIRS BATH AND FIRST FLOOR BATH TO BE RENOVATED WITH FIXTURES IN SAME LOCATIONS, NEW MATERIALS.

CHIMNEY TO BE REMOVED FROM ROOFLINE PLANE AND 3RD FLOOR ONLY



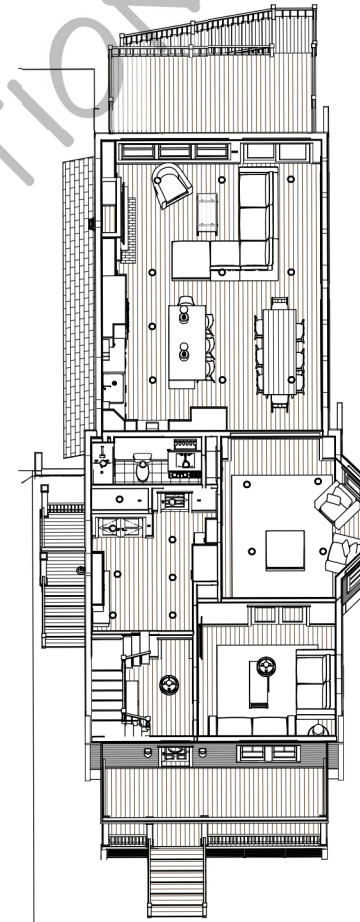
EXISTING FIRST FLOOR PLAN

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



PROPOSED FIRST FLOOR PLAN

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



PERSPECTIVE VIEW

SCALE: NTS

WALL LEGEND

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



Revision Table		
Number	Date	Description

FIRST FLOOR

CLIENT:
HOARE GREEN RESIDENCE
134 Nibrid Ave.
Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
4 WALKER STREET | KITTERY, ME
amy@duttonhome.com
207.937.2020

DATE:

5/28/2024

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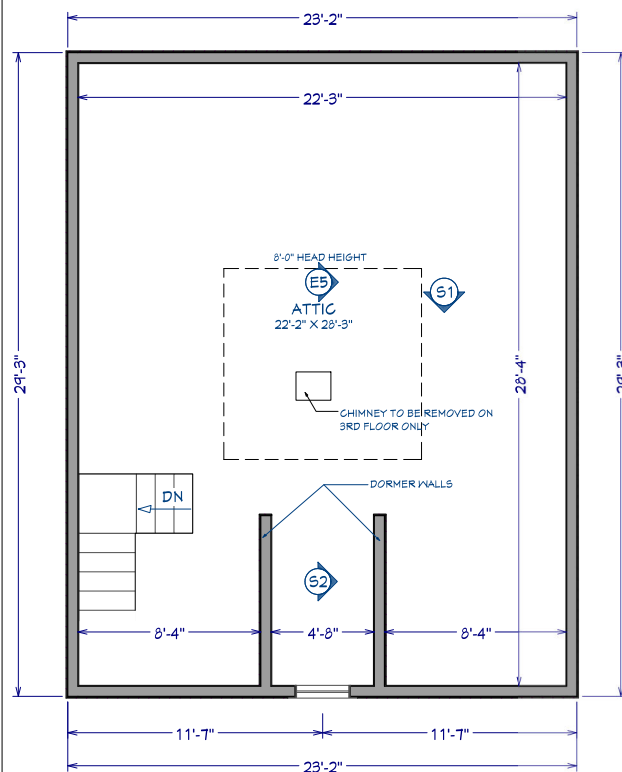
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24" X 36"

SCALE:

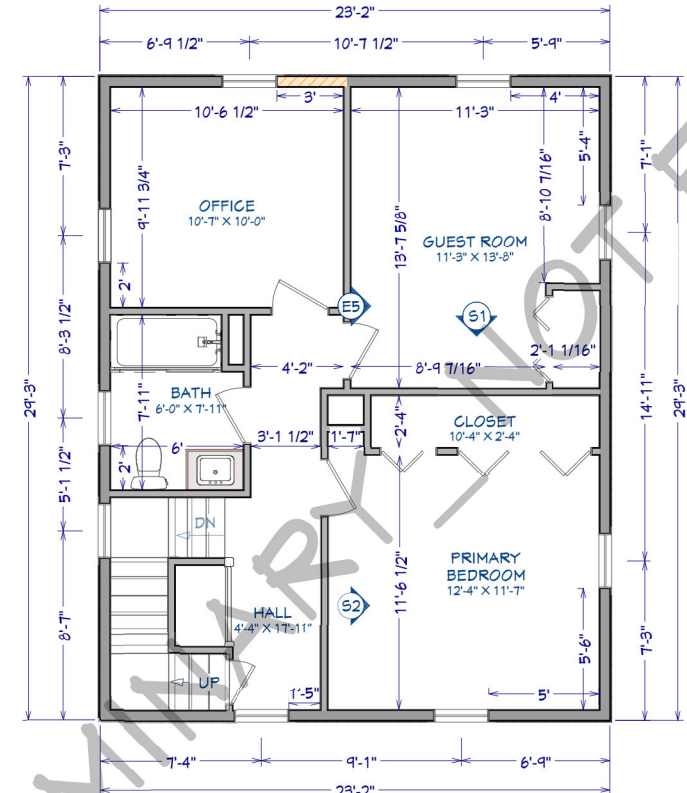
SEE SCALE
ON DRAWINGS

SHEET:

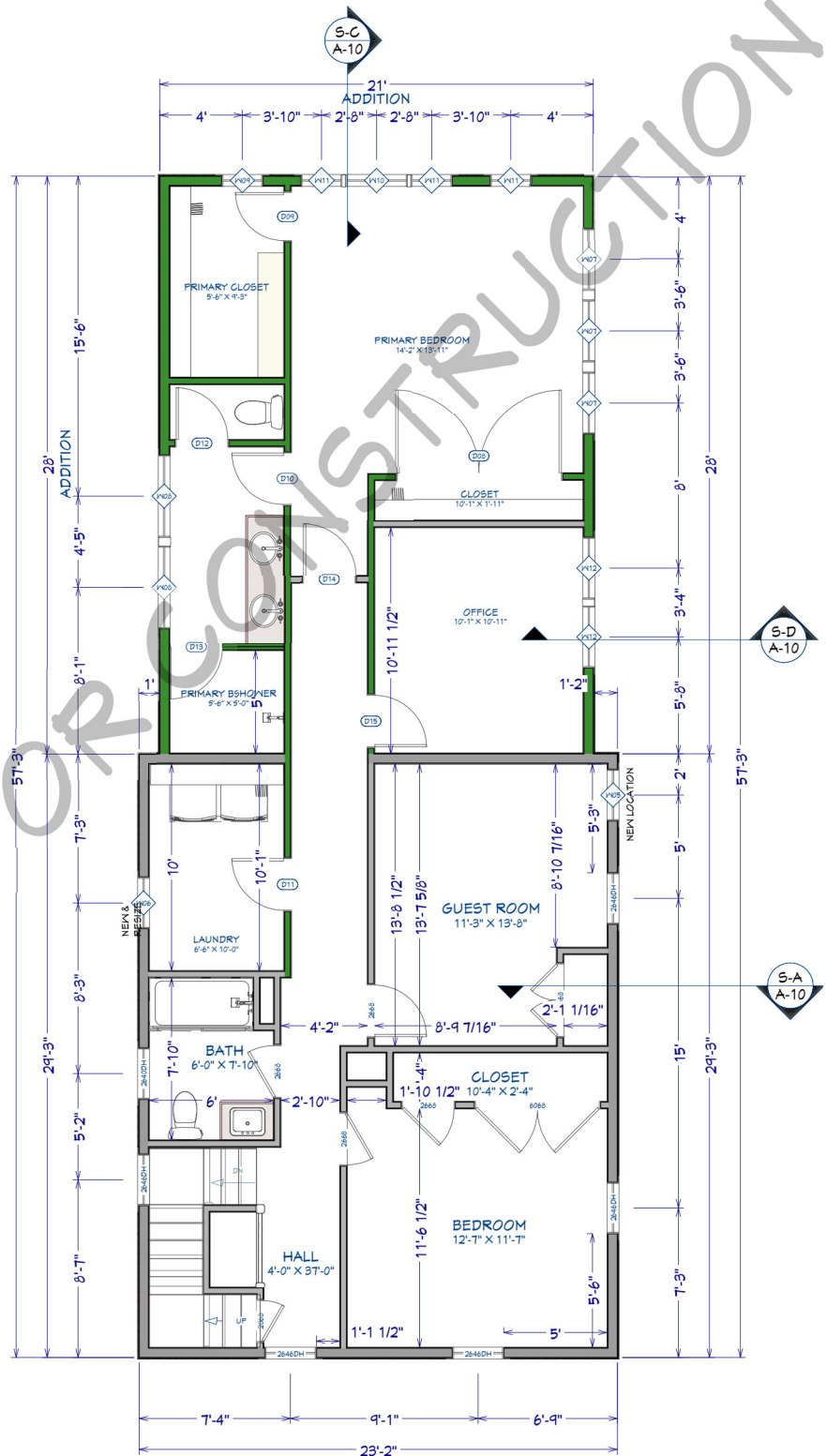
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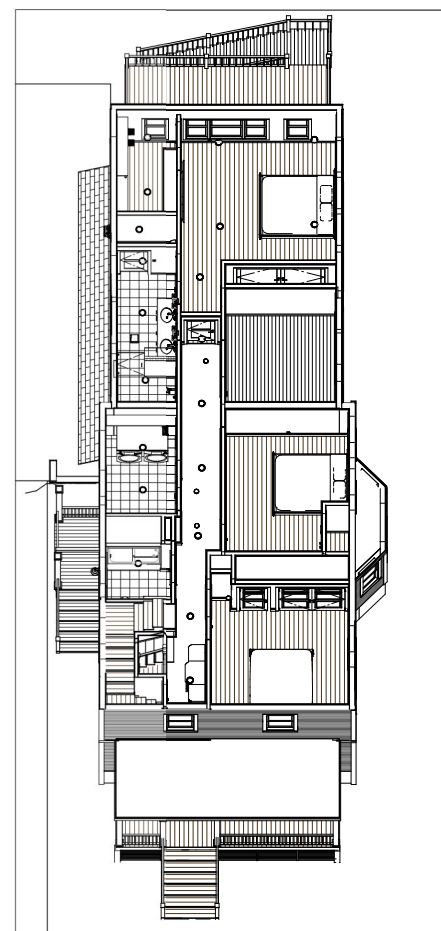
EXISTING THIRD FLOOR PLAN
SCALE: 1/4" = 1'-0"



EXISTING SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"



PROPOSED SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"

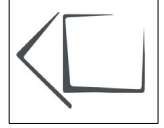


PERSPECTIVE VIEW
SCALE: NTS

WALL LEGEND

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

RENOVATION NOTE:
EXISTING UPSTAIRS BATH AND FIRST FLOOR BATH TO BE RENOVATED WITH FIXTURES IN SAME LOCATIONS, NEW MATERIALS.
CHIMNEY TO BE REMOVED FROM ROOFLINE PLANE AND 3RD FLOOR ONLY



Revision Table		
Number	Date	Description

SECOND FLOOR

CLIENT:
HOARE GREEN RESIDENCE
134 Nibrid Ave.
Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
4 WALKER STREET | KITTERY, ME
amy@duttonhome.com
207.937.2020

DATE:
5/28/2024

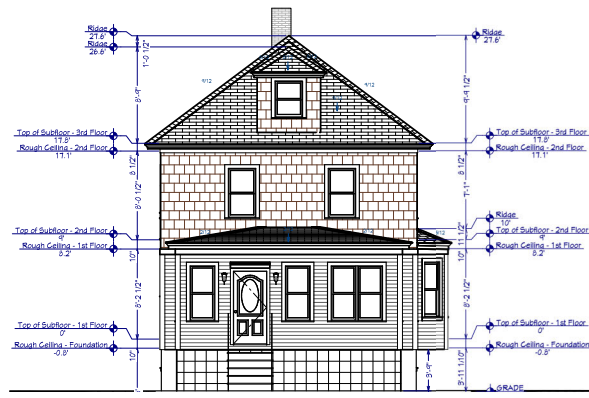
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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

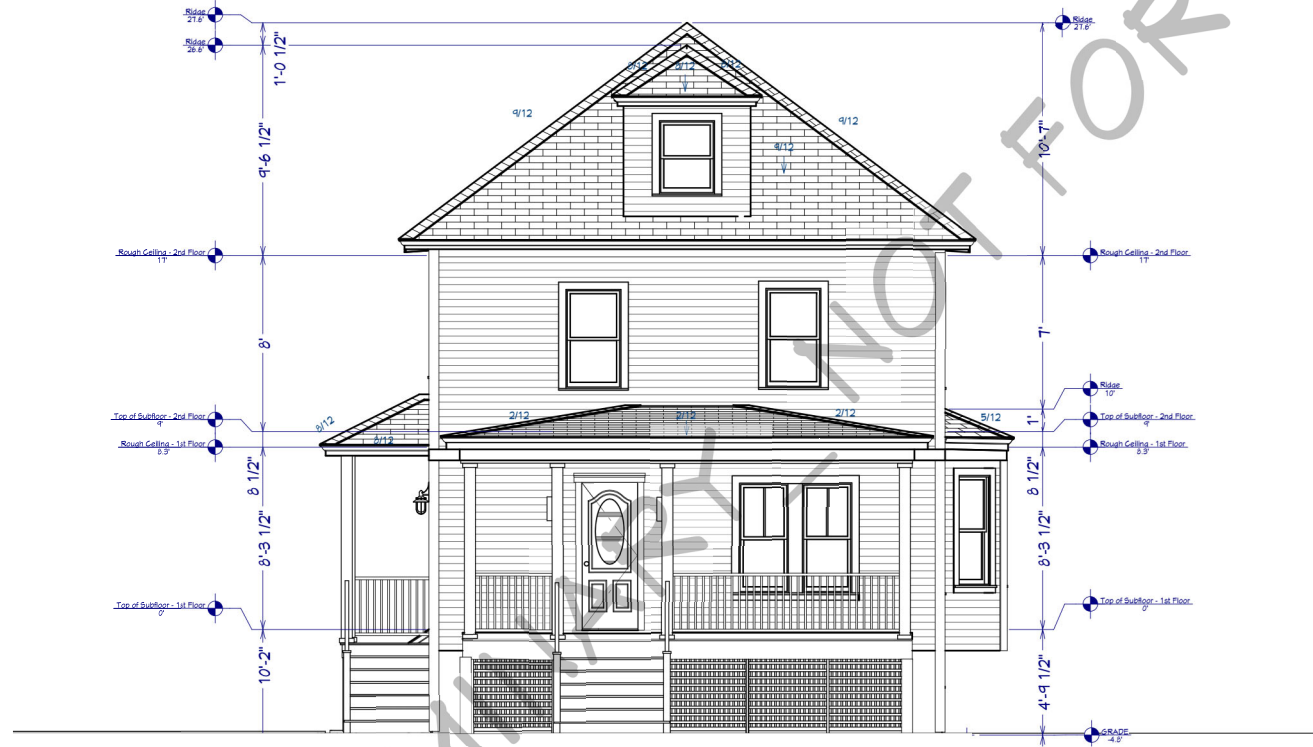
SHEET:

A-5



EXISTING NORTH ELEVATION | FRONT VIEW

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

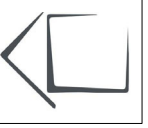


PROPOSED NORTH ELEVATION | FRONT VIEW

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

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

ACTUAL GRADE LEVEL MAY VARY. WHERE ZONING HEIGHT RESTRICTIONS APPLY, BUILDER SHALL VERIFY CONFORMANCE. MANUAL MARKUP OF DRAWINGS TO DEMONSTRATE COMPLIANCE IS RECOMMENDED.



Revision Table	
Number	Date

ELEVATIONS

CLIENT:
HOARE GREEN RESIDENCE
134 Nibrid Ave.
Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
4 WALKER STREET | KITTERY, ME
amy@duttonhome.com
207.837.2020

DATE:
5/28/2024

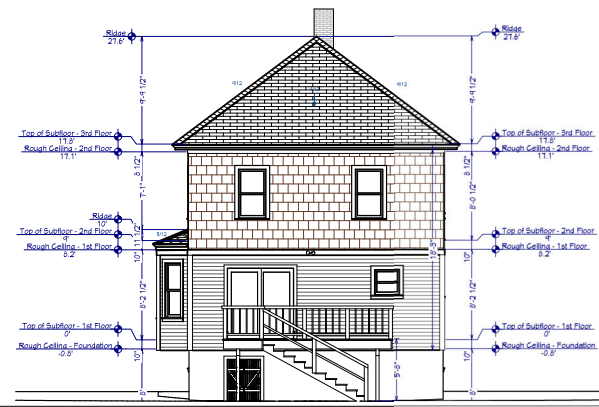
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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

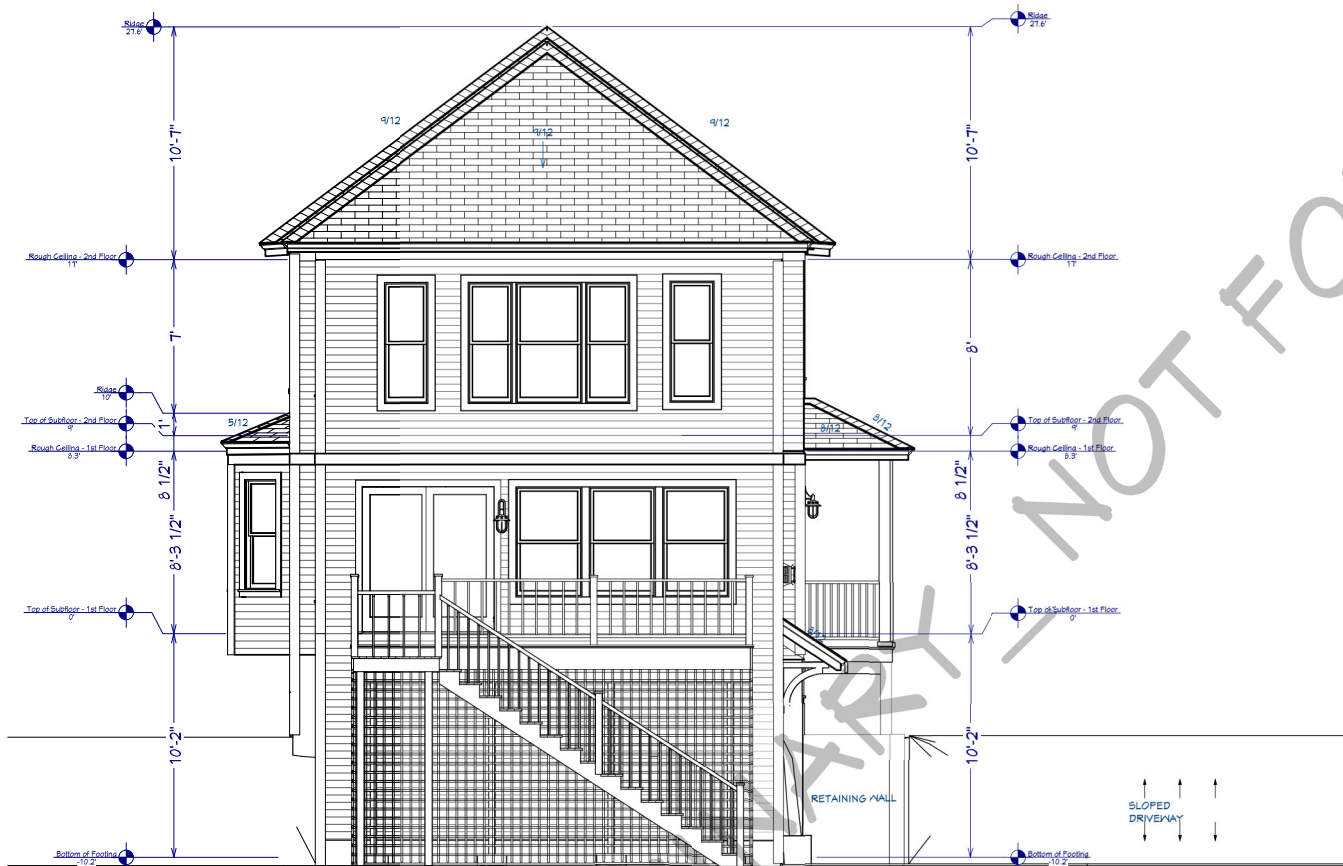
SHEET:

A-9



EXISTING SOUTH ELEVATION | REAR VIEW

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



PROPOSED SOUTH ELEVATION | REAR VIEW

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

ACTUAL GRADE LEVEL MAY VARY. WHERE ZONING HEIGHT RESTRICTIONS APPLY, BUILDER SHALL VERIFY CONFORMANCE. MANUAL MARKUP OF DRAWINGS TO DEMONSTRATE COMPLIANCE IS RECOMMENDED.

ELEVATIONS

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



Revision Table

Number	Date	Description

ELEVATIONS

CLIENT:
HOARE GREEN RESIDENCE
 134 Nibrid Ave.
 Portsmouth, NH 03801

CONTACT:
 AMY DUTTON HOME
 4 WALKER STREET | KITTERY, ME
 amy@amyduttonhome.com
 207.837.1200

DATE:

5/28/2024

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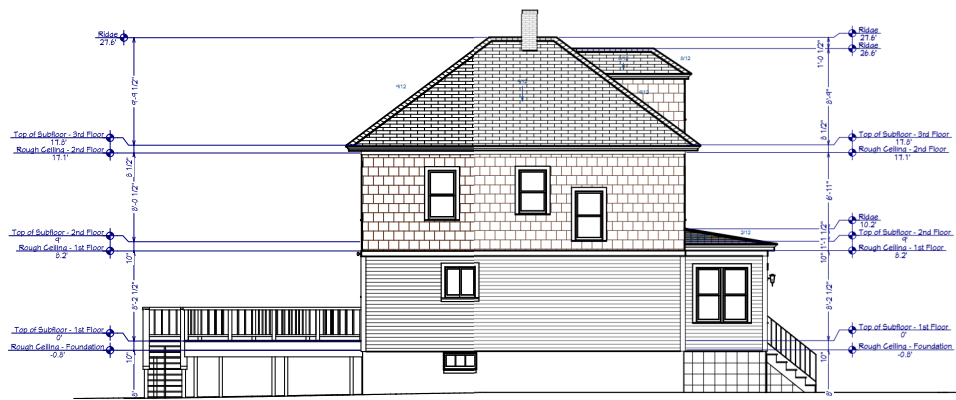
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SCALE:

SEE SCALE ON DRAWINGS

SHEET:

A-10



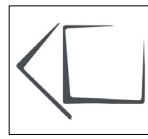
EXISTING EAST ELEVATION | SIDE VIEW

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



PROPOSED WEST ELEVATION | SIDE VIEW

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



Revision Table	
Number	Description

ELEVATIONS

CLIENT:
HOARE GREEN RESIDENCE
134 Nibrid Ave.
Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
4 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.837-2020

DATE:

5/28/2024

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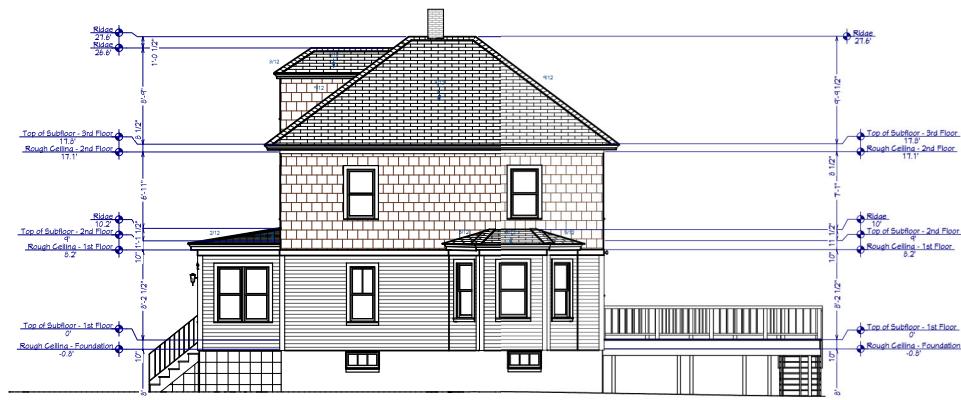
SCALED FOR:
24" X 36"

SCALE:

SEE SCALE
ON DRAWINGS

SHEET:

A-11



EXISTING WEST ELEVATION | SIDE VIEW

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



PROPOSED WEST ELEVATION | SIDE VIEW

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



Revision Table

Number	Date	Description

ELEVATIONS

CLIENT:
HOARE GREEN RESIDENCE
134 Nibrid Ave.
Portsmouth, NH 03801

CONTACT:
AMY DUTTON HOME
4 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.837-2020

DATE:

5/28/2024

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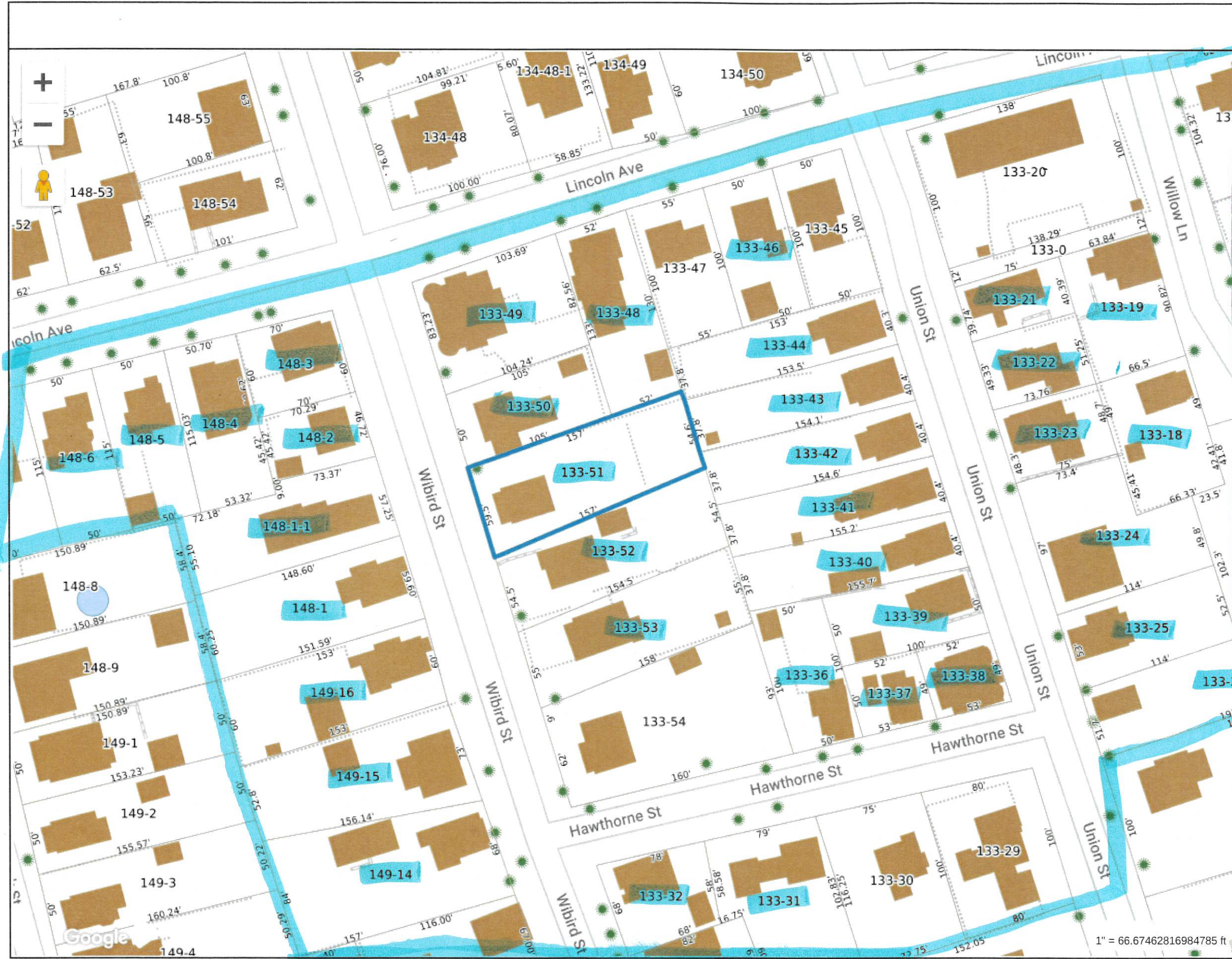
SCALED FOR:
24" X 36"

SCALE:

SEE SCALE
ON DRAWINGS

SHEET:

A-12



Property Information
 Property ID 0133-0051-0000
 Location 189 WIBIRD ST
 Owner HOARE LIAM



**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 08/24/2023
 Data updated 3/9/2022

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

Exhibit G-1 Front of Property



Exhibit G-2
Front of Property
North West Side



Exhibit G-3
Front of Property
Due East – Down the Left Side



Exhibit G-4
Front of Property
South West Side



Exhibit G-5
Front of Property
Due East – Down the Right Side



Exhibit G-6
Back of Property
South East Side



Exhibit G-7
Back of Property
North East Side



Exhibit G-8
Due South
Up Wibird Street

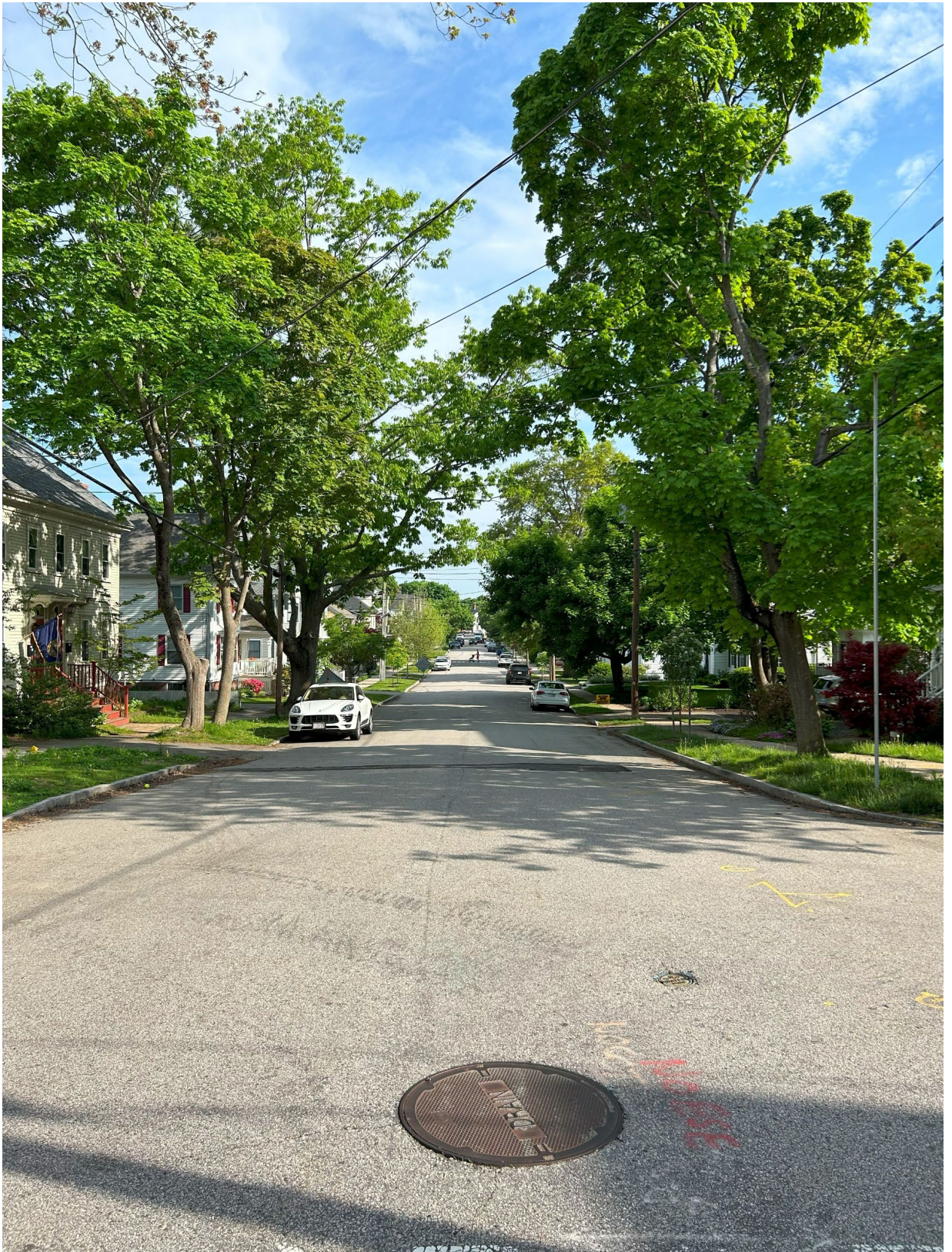
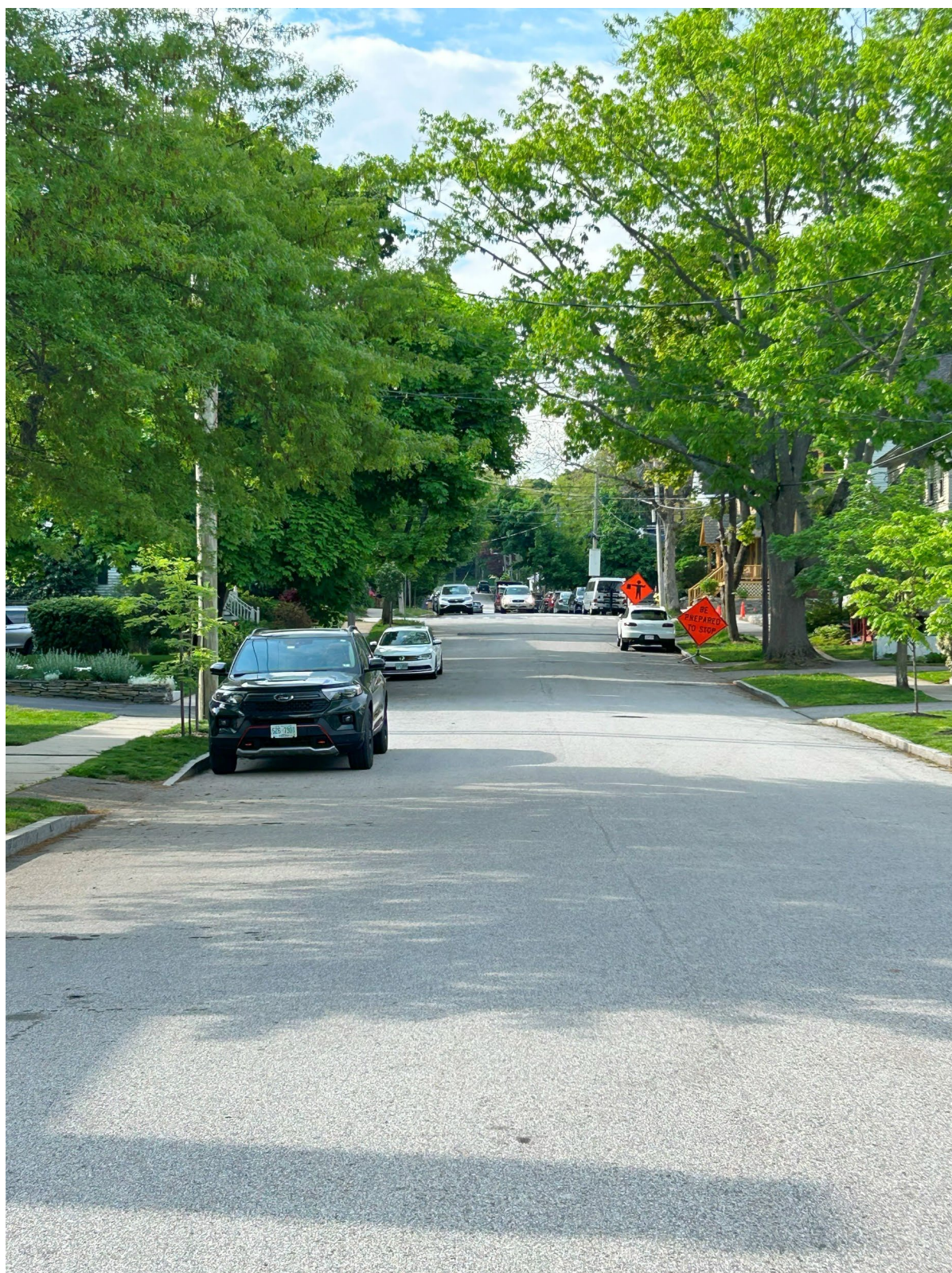


Exhibit G-9
Due North
Down Wibird Street



II. NEW BUSINESS

D. 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)

Existing & Proposed Conditions

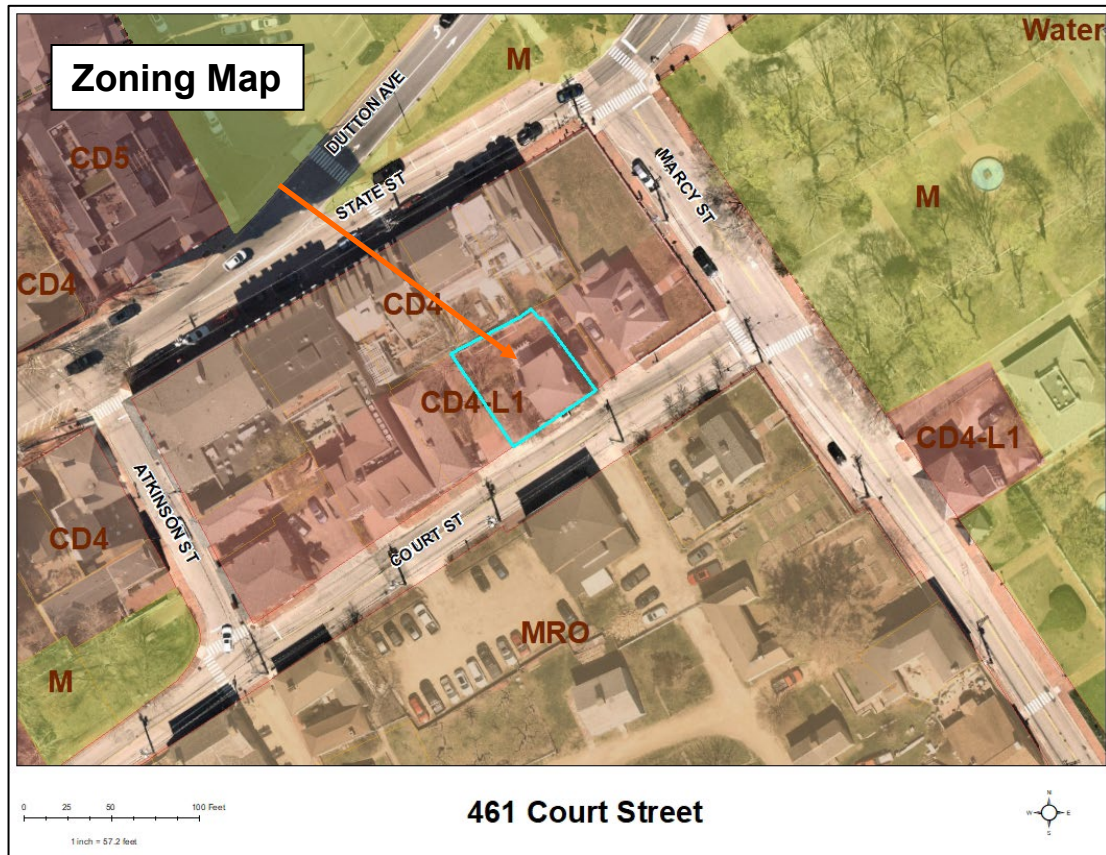
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	*Construct addition at the rear of the structure	Mixed-Use
<u>Lot area (sq. ft.):</u>	3,443	3,443	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,443	3,443	3,000 min.
<u>Building Footprint (sq. ft.):</u>	1,464	2,046	2,500 max
<u>Front Yard (ft.):</u>	0	0	15 max.
<u>Left Yard (ft.):</u>	>24	24	5 min. 20 max
<u>Right Yard (ft.):</u>	2	1	5 min. 20 max
<u>Rear Yard (ft.):</u>	30	5	5 min.
<u>Height (ft.):</u>	<35	<35	36 max.
<u>Building Coverage (%):</u>	43	59	60 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1820	Variance request(s) shown in red.	

*Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.

Other Permits/Approvals Required

- Building Permit
- Historic District Commission Approval

Neighborhood Context



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is requesting to demolish a portion of the existing structure and construct an addition to the rear of the primary house. The applicant has not determined if mechanical units will be needed and has been advised that should any mechanical units need relief, they will be required to come back to the BOA when those details are available.

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.

**461 Court Street
Map 105 Lot 7**

2-Story Addition at Rear of Residence with Porch

To permit the following:

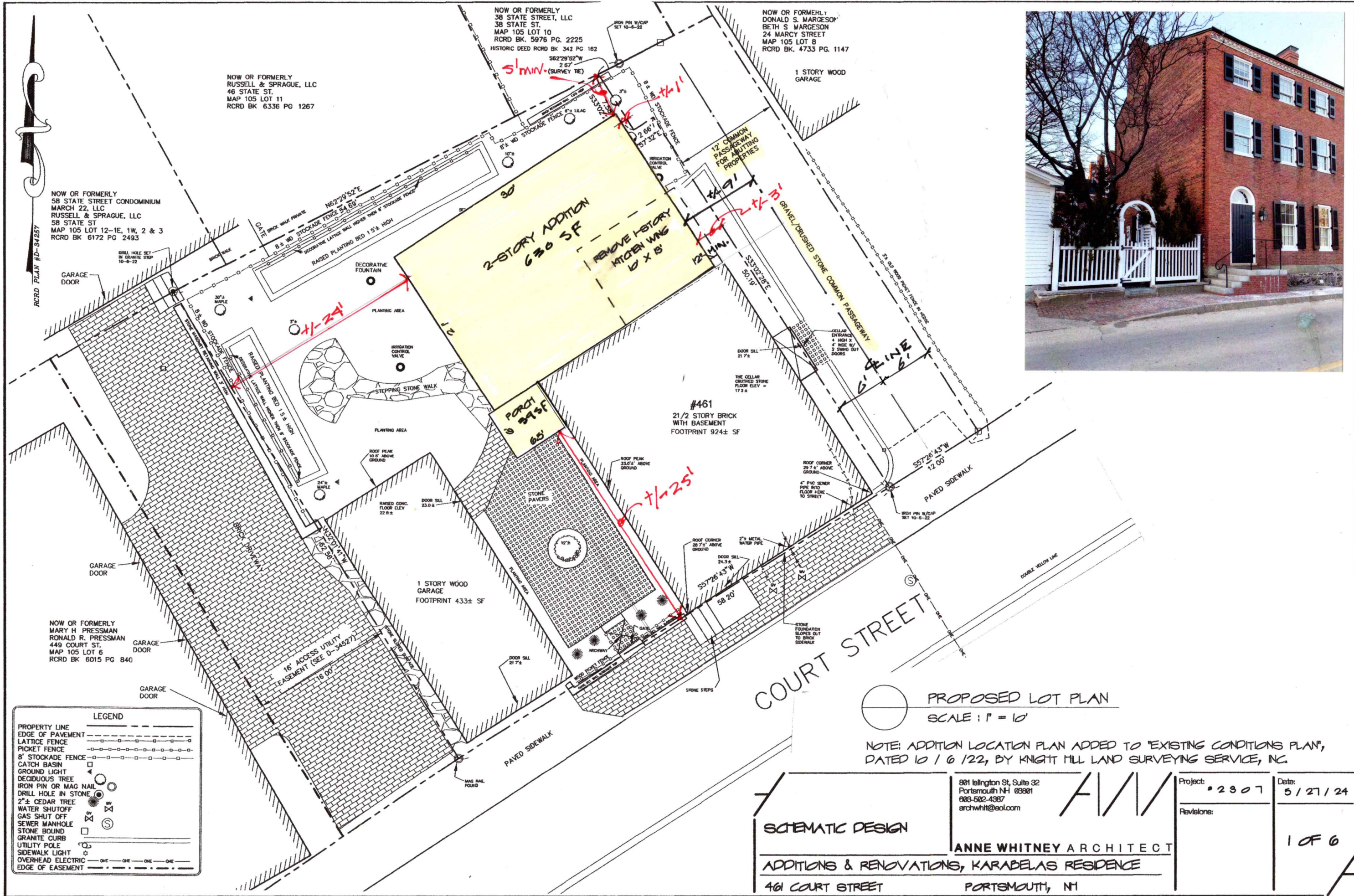
1. Right Side Setback of 1' where 5' is required.
2. Expansion of a non-conforming structure

The undersigned agrees that the following circumstances exist.....

1. An Existing 1-Story 10' x 13', with a Right Side Setback of 2' will be removed. The Kitchen access in the new Addition will be through the existing opening in the Brick Wall.
2. The Proposed 21' x 30' Addition will be setback at least 12" from the Existing Residence on the Right Side. This will have a +/- 3' setback for 18' of the Addition. The Property Line jogs at the Rear and the last 3' of the Addition will have a setback of +/-12".
3. The Abutting Lot (12' wide) on the Right Side is a Common Passageway for all Abutting Properties. Research has shown that this Lot is not part of any of the Abutters Land.

Criteria for the Variance:

1. The Variances are not contrary to the public interest in that many properties in this neighborhood are non-conforming to Yard Setbacks. A small portion of the Addition is seen from Court St & the view from the corner of Marcy & State St shows the 2-Story Addition will be below the existing & surrounding 2, 3 & 4 Story Roof Lines.
2. The Variances are consistent with the spirit of the ordinance in that the non conforming Right Side Yard will be buffered by the 12' wide Common Passageway and the Addition is otherwise conforming.
3. Substantial justice will be done, as the Variances will allow needed expansion of the Living Space for accessibility, without impacting the Property to the Right. The benefit to the Owners out ways any impact to the Right Side Abutter.
4. These Variances will not diminish the value of surrounding properties.
5. The special condition of this property is the Existing Residence is just 2' from the Right Side Property Line. The proposed location of the Addition allows for minimal renovations to the Existing Brick Residence and maximizes Open Space between the Addition & the Left Property Line.



NOW OR FORMERLY
RUSSELL & SPRAGUE, LLC
46 STATE ST.
MAP 105 LOT 11
RCRD BK 6336 PG 1267

NOW OR FORMERLY
38 STATE STREET, LLC
38 STATE ST.
MAP 105 LOT 10
RCRD BK. 5976 PG. 2225
HISTORIC DEED RCRD BK 342 PG 162

NOW OR FORMERLY
DONALD S. MARGESON
BETH S. MARGESON
24 MARCY STREET
MAP 105 LOT 8
RCRD BK. 4733 PG. 1147

NOW OR FORMERLY
58 STATE STREET CONDOMINIUM
MARCH 22, LLC
RUSSELL & SPRAGUE, LLC
58 STATE ST
MAP 105 LOT 12-1E, 1W, 2 & 3
RCRD BK 6172 PG 2493

NOW OR FORMERLY
MARY H. PRESSMAN
RONALD R. PRESSMAN
449 COURT ST.
MAP 105 LOT 6
RCRD BK 6015 PG 840

LEGEND

PROPERTY LINE	---
EDGE OF PAVEMENT	---
LATTICE FENCE	---o---o---
PICKET FENCE	---o---o---
8" STOCKADE FENCE	---o---o---
CATCH BASIN	□
GROUND LIGHT	○
DECIDUOUS TREE	○
IRON PIN OR MAG NAIL	●
DRILL HOLE IN STONE	○
2"± CEDAR TREE	○
WATER SHUTOFF	○
GAS SHUT OFF	○
SEWER MANHOLE	○
STONE BOUND	□
GRANITE CURB	□
UTILITY POLE	○
SIDEWALK LIGHT	○
OVERHEAD ELECTRIC	---
EDGE OF EASEMENT	---

NOW OR FORMERLY
RUSSELL & SPRAGUE, LLC
46 STATE ST.
MAP 105 LOT 11
RCRD BK 6336 PG 1267

NOW OR FORMERLY
38 STATE STREET, LLC
38 STATE ST.
MAP 105 LOT 10
RCRD BK. 5976 PG. 2225
HISTORIC DEED RCRD BK 342 PG 162

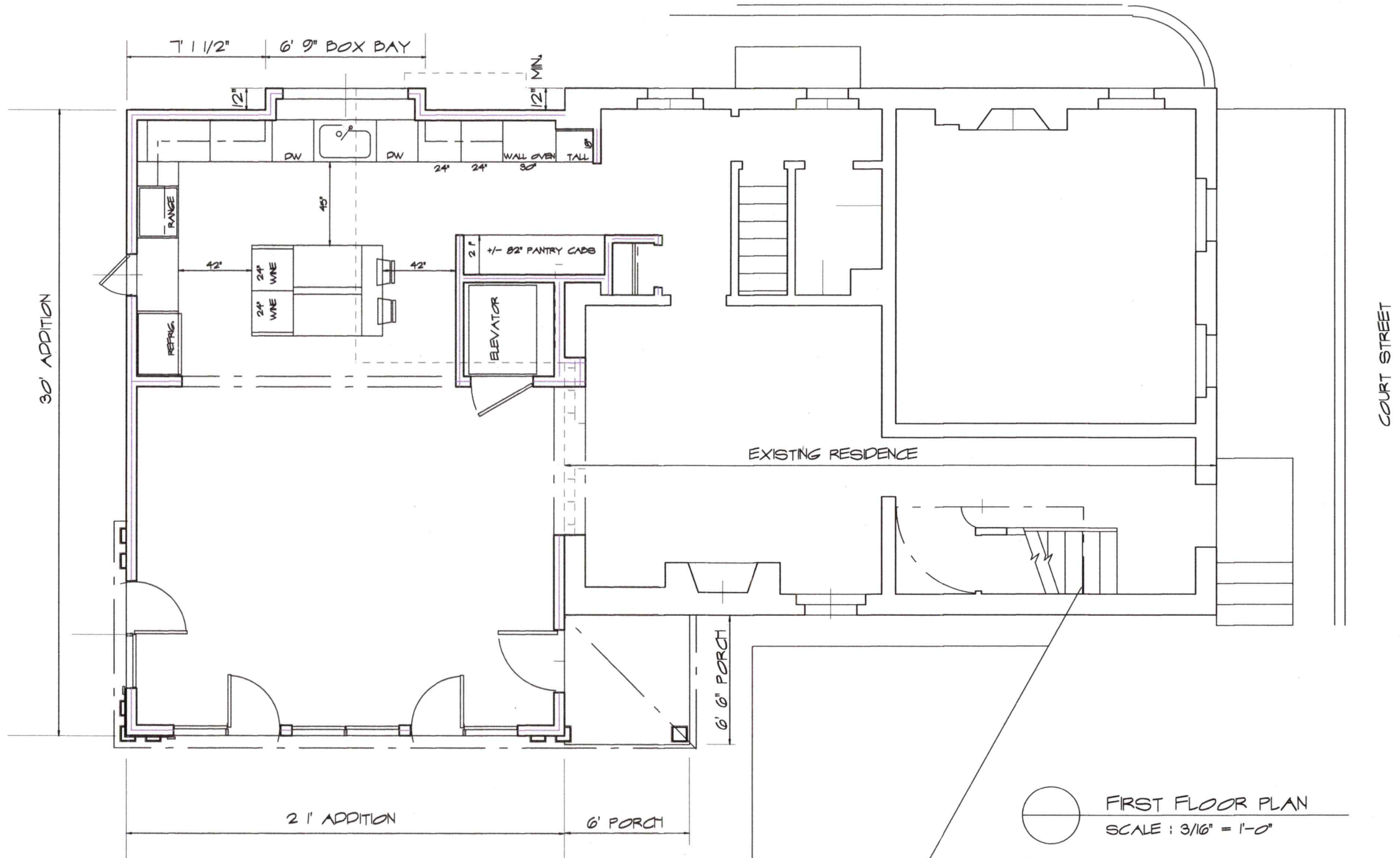
NOW OR FORMERLY
DONALD S. MARGESON
BETH S. MARGESON
24 MARCY STREET
MAP 105 LOT 8
RCRD BK. 4733 PG. 1147

NOW OR FORMERLY
58 STATE STREET CONDOMINIUM
MARCH 22, LLC
RUSSELL & SPRAGUE, LLC
58 STATE ST
MAP 105 LOT 12-1E, 1W, 2 & 3
RCRD BK 6172 PG 2493

NOW OR FORMERLY
MARY H. PRESSMAN
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MAP 105 LOT 6
RCRD BK 6015 PG 840

LEGEND

PROPERTY LINE	---
EDGE OF PAVEMENT	---
LATTICE FENCE	---o---o---
PICKET FENCE	---o---o---
8" STOCKADE FENCE	---o---o---
CATCH BASIN	□
GROUND LIGHT	○
DECIDUOUS TREE	○
IRON PIN OR MAG NAIL	●
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2"± CEDAR TREE	○
WATER SHUTOFF	○
GAS SHUT OFF	○
SEWER MANHOLE	○
STONE BOUND	□
GRANITE CURB	□
UTILITY POLE	○
SIDEWALK LIGHT	○
OVERHEAD ELECTRIC	---
EDGE OF EASEMENT	---



○ FIRST FLOOR PLAN
SCALE: 3/16" = 1'-0"

KEY

	NEW WALL
	EXIST. WALL
	EXIST. WALL TO BE REMOVED

SCHEMATIC DESIGN

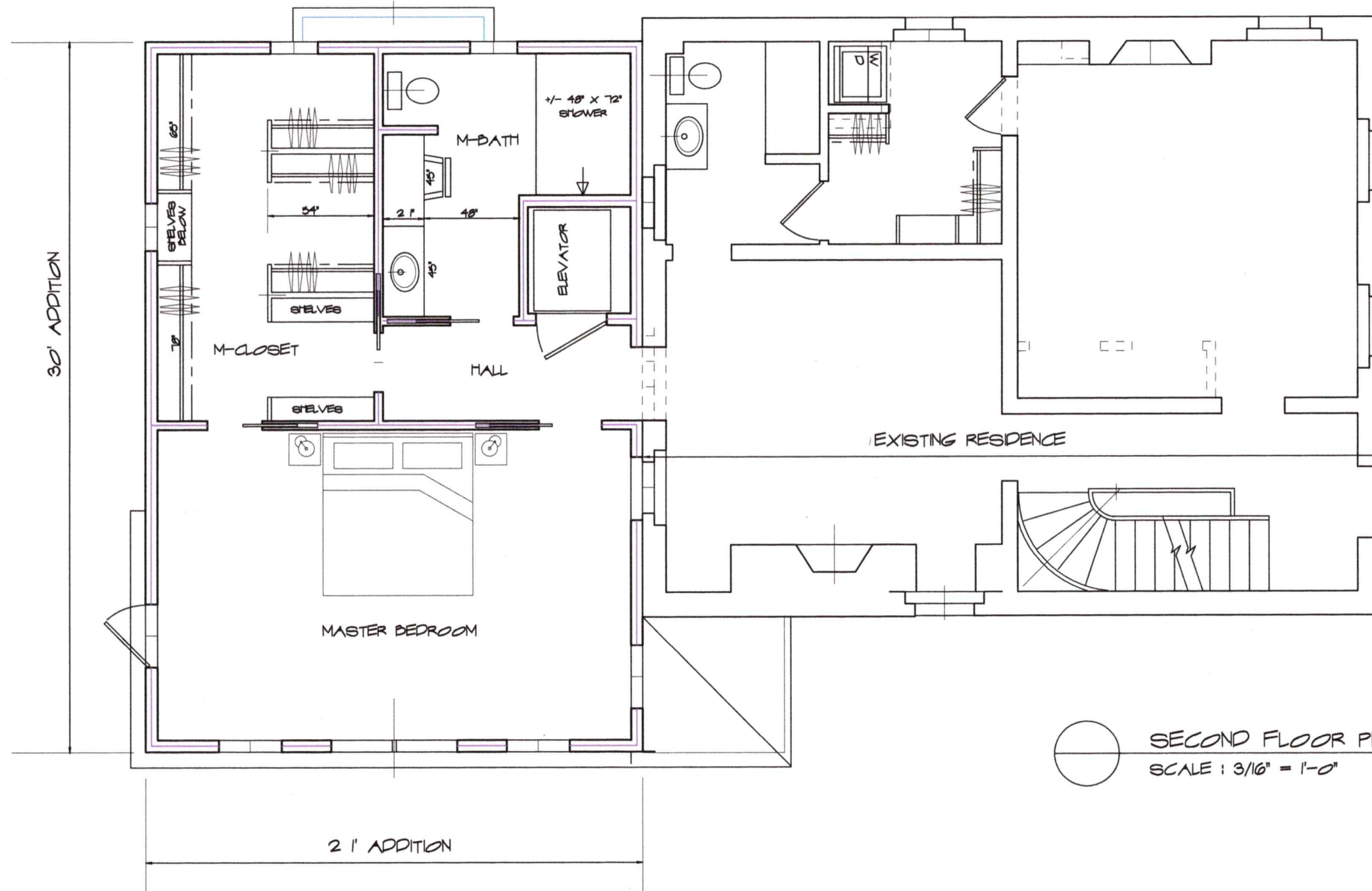
ANNE WHITNEY ARCHITECT

ADDITIONS & RENOVATIONS, KARABELAS RESIDENCE

461 COURT STREET PORTSMOUTH, NH

801 Islington St, Suite 32
Portsmouth NH 03801
603-502-4387
archwhit@aol.com

Project: 2307	Date: 5/27/24
Revisions:	
2 OF 6	



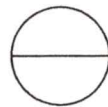
SECOND FLOOR PLAN
SCALE: 3/16" = 1'-0"

KEY

	NEW WALL
	EXIST. WALL
	EXIST. WALL TO BE REMOVED

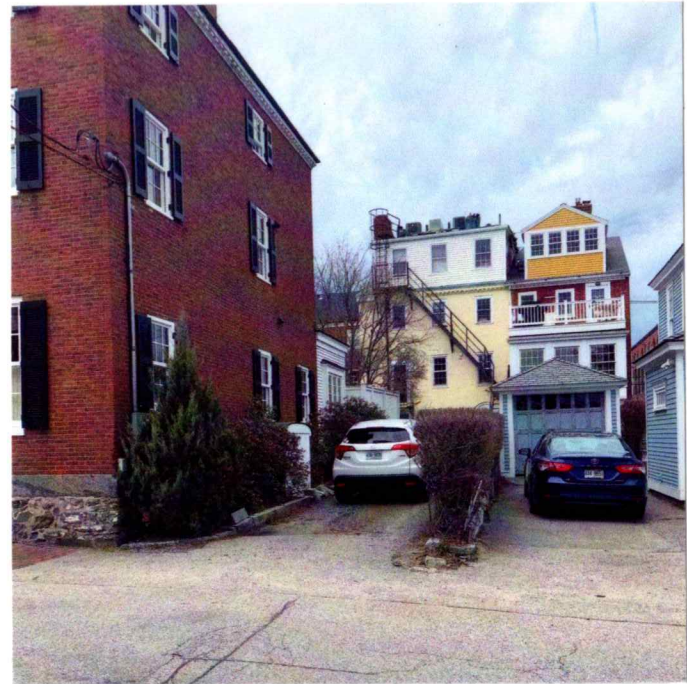
SCHEMATIC DESIGN ADDITIONS & RENOVATIONS, KARABELAS RESIDENCE 401 COURT STREET PORTSMOUTH, NH		801 Islington St, Suite 32 Portsmouth, NH 03801 603-502-4387 archwhit@aol.com	Project: 2307 Revisions:	Date: 5/27/24
		3 OF 6		




EAST ELEVATION
 SCALE: 3/16" = 1'-0"



VIEW OF REAR ELEVATION FROM THE CORNER OF MARCY & STATE ST



VIEW OF EAST SIDE FROM COURT STREET

SCHEMATIC DESIGN ADDITIONS & RENOVATIONS, KARABELAS RESIDENCE 401 COURT STREET	 ANNE WHITNEY ARCHITECT PORTSMOUTH, NH	Project: 2307	Date: 5/27/24
		Revisions:	4 OF 6

801 Islington St, Suite 32
 Portsmouth NH 03801
 603-502-4387
 archwhit@aol.com



REAR ELEVATION
SCALE: 3/16" = 1'-0"



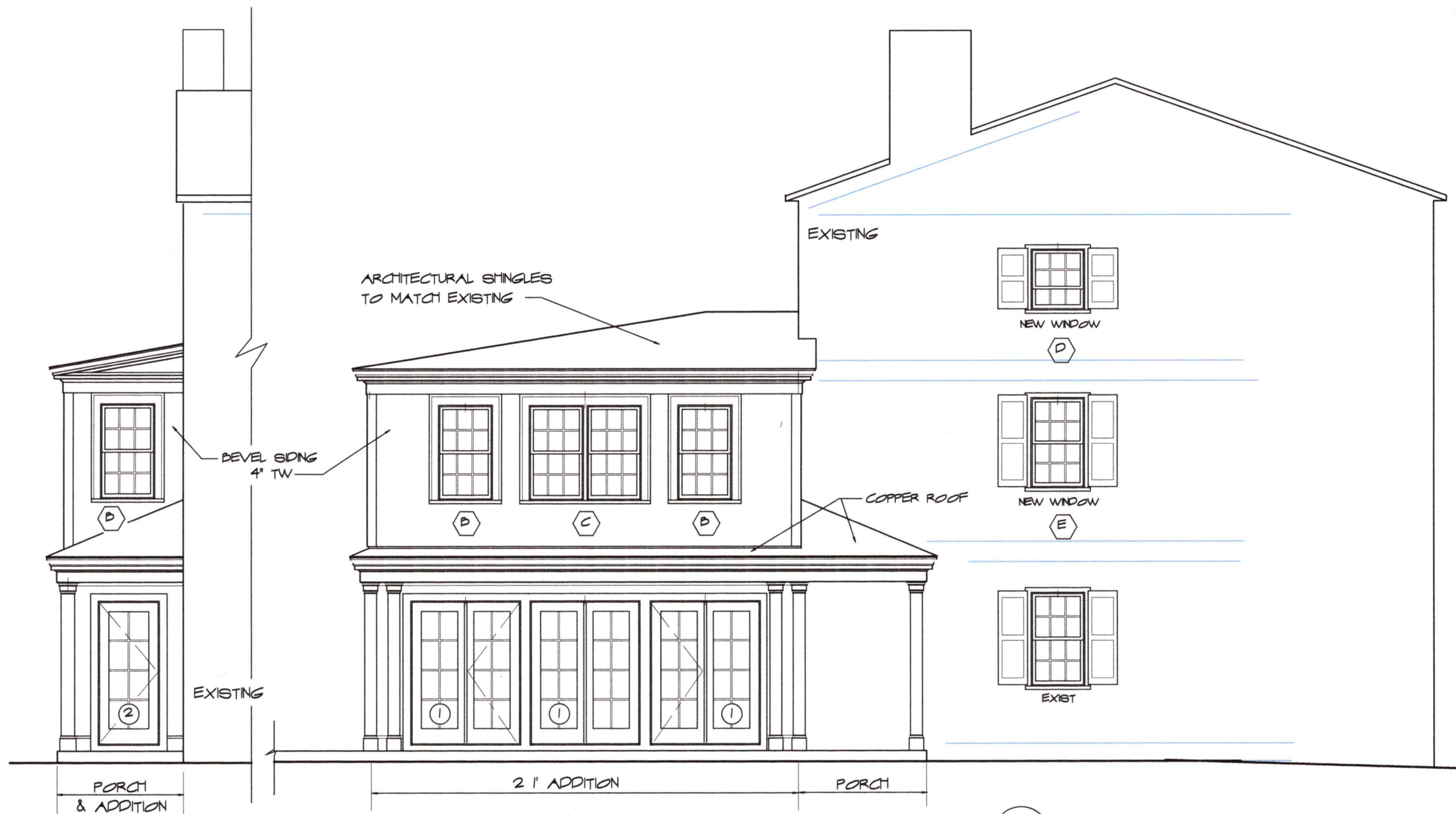
EXISTING REAR ELEVATION

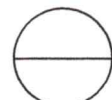



VIEW OF EXISTING WEST GARDEN

SCHMATIC DESIGN ADDITIONS & RENOVATIONS, KARABELAS RESIDENCE 461 COURT STREET PORTSMOUTH, NH	 ANNE WHITNEY ARCHITECT	Project: 2307	Date: 5/27/24
		Revisions:	5 OF 6

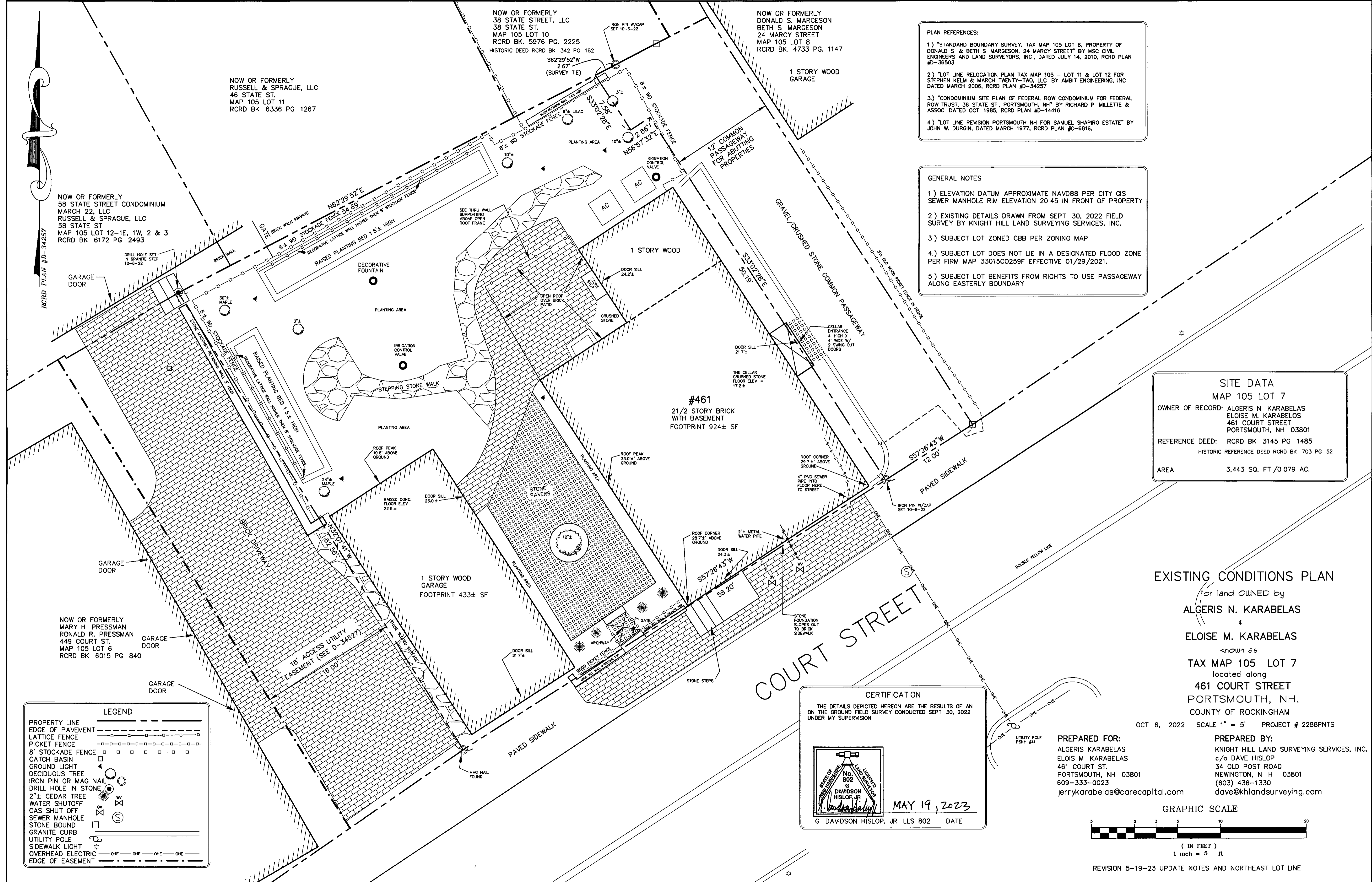
801 Islington St, Suite 32
 Portsmouth NH 03801
 603-502-4387
 archwhit@aol.com




 ADDITION COURT ST ELEVATION
 SCALE : 3/16" = 1'-0"


 WEST ELEVATION
 SCALE : 3/16" = 1'-0"

SCHEMATIC DESIGN ADDITIONS & RENOVATIONS, KARADELAS RESIDENCE 461 COURT STREET	801 Islington St, Suite 32 Portsmouth NH 03801 603-602-4387 archwhit@aol.com	 ANNE WHITNEY ARCHITECT	
	Project: # 2307		Date: 5/27/24
	Revisions:		6 OF 6



PLAN REFERENCES:

- 1) "STANDARD BOUNDARY SURVEY, TAX MAP 105 LOT 8, PROPERTY OF DONALD S. MARGESON, 24 MARCY STREET" BY MSC CIVIL ENGINEERS AND LAND SURVEYORS, INC. DATED JULY 14, 2010, RCRD PLAN #D-36503
- 2) "LOT LINE RELOCATION PLAN TAX MAP 105 - LOT 11 & LOT 12 FOR STEPHEN KELM & MARCH TWENTY-TWO, LLC" BY AMBIT ENGINEERING, INC. DATED MARCH 2006, RCRD PLAN #D-34257
- 3) "CONDOMINIUM SITE PLAN OF FEDERAL ROW CONDOMINIUM FOR FEDERAL ROW TRUST, 38 STATE ST, PORTSMOUTH, NH" BY RICHARD P MILLETTE & ASSOC. DATED OCT 1985, RCRD PLAN #D-14416
- 4) "LOT LINE REVISION PORTSMOUTH NH FOR SAMUEL SHAPIRO ESTATE" BY JOHN W. DURGIN, DATED MARCH 1977, RCRD PLAN #C-6816.

GENERAL NOTES

- 1) ELEVATION DATUM APPROXIMATE NAVD88 PER CITY GIS SEWER MANHOLE RIM ELEVATION 20.45 IN FRONT OF PROPERTY
- 2) EXISTING DETAILS DRAWN FROM SEPT 30, 2022 FIELD SURVEY BY KNIGHT HILL LAND SURVEYING SERVICES, INC.
- 3) SUBJECT LOT ZONED CBB PER ZONING MAP
- 4) SUBJECT LOT DOES NOT LIE IN A DESIGNATED FLOOD ZONE PER FIRM MAP 33015C0259F EFFECTIVE 01/29/2021.
- 5) SUBJECT LOT BENEFITS FROM RIGHTS TO USE PASSAGEWAY ALONG EASTERLY BOUNDARY

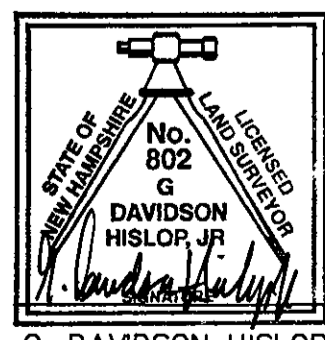
SITE DATA
MAP 105 LOT 7
 OWNER OF RECORD: ALGERIS N. KARABELAS
 ELOISE M. KARABELOS
 461 COURT STREET
 PORTSMOUTH, NH 03801
 REFERENCE DEED: RCRD BK 3145 PG 1485
 HISTORIC REFERENCE DEED RCRD BK 703 PG 52
 AREA: 3,443 SQ. FT / 0.079 AC.

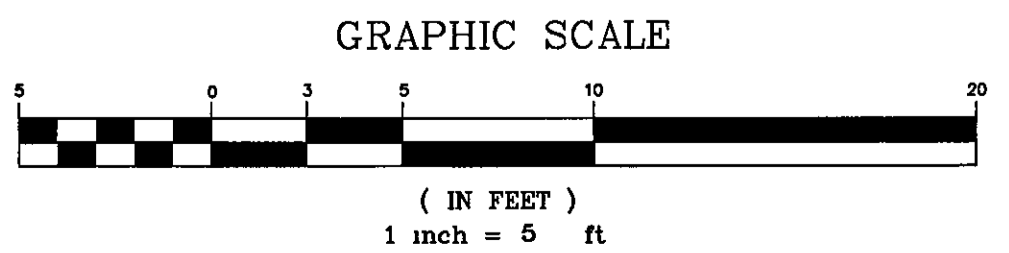
EXISTING CONDITIONS PLAN
 for land OWNED by
ALGERIS N. KARABELAS
 &
ELOISE M. KARABELAS
 known as
TAX MAP 105 LOT 7
 located along
461 COURT STREET
 PORTSMOUTH, NH.
 COUNTY OF ROCKINGHAM
 OCT 6, 2022 SCALE 1" = 5' PROJECT # 2288PNTS

PREPARED FOR:
 ALGERIS KARABELAS
 ELOIS M KARABELAS
 461 COURT ST.
 PORTSMOUTH, NH 03801
 609-333-0023
 jerrykarabelas@carecapital.com

PREPARED BY:
 KNIGHT HILL LAND SURVEYING SERVICES, INC.
 c/o DAVE HISLOP
 34 OLD POST ROAD
 NEWINGTON, N H 03801
 (603) 436-1330
 dave@khillandsurveying.com

CERTIFICATION
 THE DETAILS DEPICTED HEREON ARE THE RESULTS OF AN ON THE GROUND FIELD SURVEY CONDUCTED SEPT 30, 2022 UNDER MY SUPERVISION


 G. DAVIDSON HISLOP, JR. LLS 802 DATE **MAY 19, 2023**



LEGEND

PROPERTY LINE	---
EDGE OF PAVEMENT	---
LATTICE FENCE	---o---o---
PICKET FENCE	---o---o---
8' STOCKADE FENCE	---o---o---
CATCH BASIN	□
GROUND LIGHT	○
DECIDUOUS TREE	○
IRON PIN OR MAG NAIL	○
DRILL HOLE IN STONE	○
2"± CEDAR TREE	○
WATER SHUTOFF	○
GAS SHUT OFF	○
SEWER MANHOLE	○
STONE BOUND	○
GRANITE CURB	○
UTILITY POLE	○
SIDEWALK LIGHT	○
OVERHEAD ELECTRIC	---
EDGE OF EASEMENT	---

II. NEW BUSINESS

- E. 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)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	*Construct a shed in the rear of the property	Primarily residential
<u>Lot area (sq. ft.):</u>	10,018	10,018	15,000 min.
<u>Left Yard (ft.):</u>	10	5	5 (Per 10.573) min.
<u>Rear Yard (ft.):</u>	57	5	5 (Per 10.573) min.
<u>Building Coverage (%):</u>	28	29	20 min.
<u>Structure Height (ft.)</u>	N/A	8	
<u>Estimated Age of Structure:</u>	1968	Variance request(s) shown in red.	

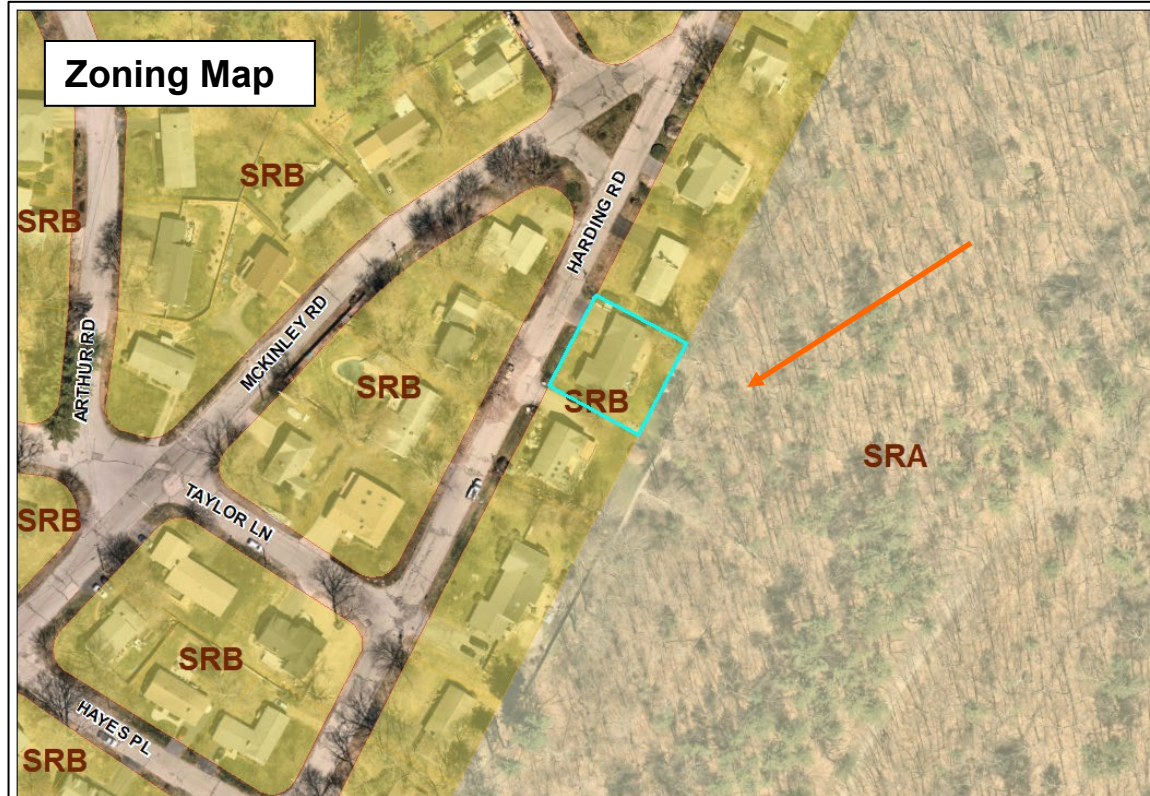
Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Aerial Map



Zoning Map

0 50 100 200 Feet
1 inch = 101.9 feet

26 Harding Road



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is requesting relief to construct an 8' by 12' shed in the rear left corner of the property. Relief is required for building coverage, all yard set backs are conforming.

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

 - (c) *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.

Tyler and Susan Moore
26 Harding Rd
Portsmouth, NH 03801
603-969-8712

May 17, 2024

Subject: Variance for a shed at 26 Harding Rd

Dear Zoning Board Members,

We are hoping to get a variance to place a small shed on our property at 26 Harding Rd. We need to apply for a variance because our current building coverage with the proposed shed is at 29% and the maximum building coverage for our district is 20%. Currently we have only our home on the property, but our home has a front porch, back deck and small screened in porch.

The shed will be white to match our home color and the dimensions will be 8' X 12 The height of the shed will be 8'. There will be a door and a small window located above the door. The shed will sit on cinder blocks with crushed stone beneath the entire shed. We plan to place it in the back left corner of our yard. We have included a photo of the proposed location. We don't have any neighbors behind our home as it is many acres of woods. We plan to place it 5 ft from our neighbors property and 5 ft from the woods. Many of the lots located in the Elwyn Park neighborhood are a similar size to ours or smaller and they have small sheds on their properties as well.

We really need a shed as our garage is completely full. We are a very active family of five. Currently our garage has all our bikes, surfboards, paddle boards, skateboards/scooters, an electric bike, sports gear, a generator, snow blower, and lawnmower amongst many other lawn care/gardening items.

We would like to place the generator, snow blower, lawnmower, and all the other yard care items in the shed so we can have more room in the garage to move around and work on our bikes/equipment.

Thank you for your consideration.

Tyler and Susan Moore

Responding to 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 shed is white and matches the style of our ranch home, as well as our neighbors homes (matches neighborhood aesthetics).

3. 10.233.22 The spirit of the Ordinance will be observed;

Granting a variance on this property to add a small storage shed will not impact the ordinance

4. 10.233.23 Substantial justice will be done;

The shed will allow us to store all our outdoor equipment keeping the appearance of our yard well kept, clear of clutter, and clean.

5. 10.233.24 The values of surrounding properties will not be diminished; and

There are neighbors on one side of the shed, and it will look nicer as it will hide the wood pile and other lawn care items currently stored in this location.

6. 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

This shed is a necessity as we need more storage for our generator and outdoor lawn equipment including the lawn mower and snow blower.

This is the spot we would like to place our shed.



26 Harding Rd



1" = 52.30448662510275 ft

Property Information

Property ID 0247-0016-0000
Location 26 HARDING RD
Owner MOORE TYLER S



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

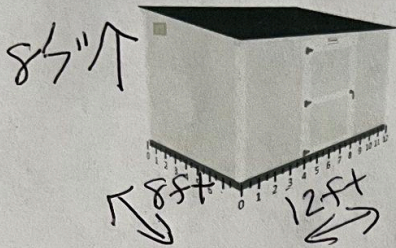
City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 08/24/2023
 Data updated 3/9/2022

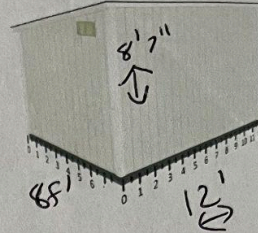
Print map scale is approximate.
 Critical layout or measurement
 activities should not be done using
 this resource.



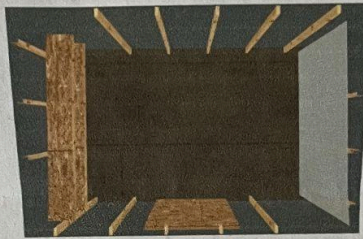
Susan Moore
 26 Harding Road
 PORTSMOUTH NH 03801
 Q-2652825



Wall A



Wall D



Wall B

Wall C

Base Details/Permit Details

Building Size & Style
 Premier Lean-To - 8' wide by 12' long

Door
 4' x 6' Single Shed Door, Left Hinge Placement

Paint Selection
 Base: Delicate White, Trim: Delicate White

Roof Selection
 Charcoal 3 Tab

Drip Edge
 White

Is a permit required for this job?
 Yes

Who is pulling the permit?
 Tuff Shed

Optional Details

Interior
 16 Lin Ft Shelving - 12" deep
 51 Sq Ft Pegboard

Vents
 2 Ea 16"x8" Wall Vent - White

Jobsite/Installer Details

Do you plan to insulate this building after Tuff Shed installs it?
 No

Is there a power outlet within 100 feet of installation location?
 Yes

The building location must be level to properly install the building. How level is the install location?
 Within 4" of level

Will there be 18" of unobstructed workspace around the perimeter of all four walls?
 Yes

Can the installers park their pickup truck & trailer within approximately 200' of your installation site?
 Yes

Substrate Shed will be installed on?
 Dirt/Gravel

Customer Signature: _____ Date: _____