

**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.

October 15, 2024

AGENDA

I. APPROVAL OF MINUTES

- A. Approval of the September 17, 2024 meeting minutes.
- B. Approval of the September 24, 2024 work session minutes.

II. NEW BUSINESS

THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, OCTOBER 15, 2024

- A. **REQUEST TO POSTPONE** The request of **Timothy Huntly (Owner)**, for property located at **124 Raleigh Way** whereas relief is needed after the fact for the keeping of chickens which requires the following: 1) Variance from Section 10.440 Use #17.20 to allow the keeping of farm animals where it is not allowed. Said property is located on Assessor Map 212 Lot 49-1 and lies within the General Residence B (GRB) District. **REQUEST TO POSTPONE (LU-24-140)**
- B. The request of **Sharon Syrek (Owner)**, for property located at **47 Langdon Street** requesting relief to construct a sunroom on the rear of the existing structure which requires the following: 1) Variance from Section 10.521 to allow 43% building coverage where 35% is the maximum allowed. Said property is located on Assessor Map 138 Lot 29 and lies within the General Residence C (GRC) District. (LU-24-159)
- C. The request of **Garrett R. Merchant (Owner)**, for property located at **33 Harrison Avenue** requesting relief after the fact for the construction of a shed which requires the following: 1) Variance from Section 10.573.20 to allow a 3 foot rear yard and 5 foot right side yard where 9 feet is required for both; and 2) Variance from Section 10.521 to allow 22% building coverage

where 20% is the maximum allowed. Said property is located on Assessor Map 251 Lot 16 and lies within the Single Residence B (SRB) District. (LU-24-179)

- D.** The request of **Northeast Credit Union and Liberty Mutual Insurance Company (Owners)**, for property located at **0 and 100 Borthwick Avenue** requesting relief to perform a lot line adjustment which will expand the parking lot which is an existing non-conforming use on the lot which requires the following: 1) Variance from 10.440 to allow a surface parking lot as a principal use where it is not allowed. Said property is located on Assessor Map 259 Lot 15 and Map 240 Lot 3 and lies within the Office Research (OR) District. (LU-24-165)
- E.** The request of **Kent and Jennifer Bonniwell (Owners)**, for property located at **332 Hanover Street** requesting relief to demolish the existing primary and accessory structure and construct a 2-living unit structure which requires the following: 1) Variance from Section 10.5A41.10A to allow: a) 2,167 square feet of lot area per dwelling unit where 3,000 square feet is required; b) a secondary front yard of 17 feet where 12 feet is the maximum; and c) a finished floor surface 6 feet above the sidewalk grade where 36 inches is maximum. Said property is located on Assessor Map 126 Lot 43 and lies within the Character District 4-L1 (CD4-L1). (LU-24-170)

THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, OCTOBER 22, 2024

- F.** The request of **Eric Benvin and James Christopher Dozier (Owners)**, for property located at **49 Cass Street** whereas relief is needed to construct a two-story addition to the rear of the home which requires the following: 1) Variance from Section 10.521 to a) allow a 3 foot side setback where 10 feet is required; b) allow a 13.5 foot rear setback where 20 feet is required; and 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 156 Lot 10 and lies within the General Residence C (GRC) District. (LU-24-145)
- G.** The request of **Aranosian Oil Company INC (Owner)**, for property located at **1166 Greenland Road** requesting relief for the installation of a canopy sign and lightbars which require the following: 1) Variance from Section 10.1251.20 to allow a 44 square foot canopy sign where 20 square feet is allowed; and 2) Variance from Section 10.1252.40 to allow illumination of two existing gas pump canopies. Said property is located on Assessor Map 279 Lot 2 and lies within the Industrial (I) District. (LU-24-171)
- H.** The request of **Andrew Powell and Nicole Ruane (Owners)**, for property located at **339 Miller Avenue** requesting relief to demolish the existing sunroom and construct a two-story addition to the rear of the home which requires the following: 1) Variance from Section 10.521 to allow a building coverage of 28.5% where 25% is allowed. Said property is located on

Assessor Map 131 Lot 31 and lies within the General Residence A (GRA) District. (LU-24-175)

- I. The request of **Port Harbor Land LLC (Owner)**, for property located at **0 Deer Street** requesting relief to construct a parking garage associated with a previously approved mixed-use development which requires the following: 1) Variance from Section 10.1114.20 to a) allow a 75 degree angle of parking on the lower level where the parking design standards do not allow it; b) allow a 17.5' one-way drive aisle on the lower level where the parking design standards do not allow it; c) allow a parallel parking space on the upper level with a length of 19 feet where 20 feet is required; and d) allow a 10' one-way drive aisle on the upper level where 14' is required. Said property is located on Assessor Map 118 Lot 28 and lies within the Character District 5 (CD5), Historic and Downtown Overlay Districts. (LU-24-176)

III. OTHER BUSINESS

IV. ADJOURNMENT

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

https://us06web.zoom.us/webinar/register/WN_tdY_mZuYQB0pmCLUOhhQsw

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

7:00 P.M.

September 17, 2024

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

MEMBERS EXCUSED: None.

ALSO PRESENT: Stefanie Casella, Planning Department

Chair Eldridge called the meeting to order at 7:00 p.m.

I. APPROVAL OF MINUTES

A. Approval of the August 20, 2024 meeting minutes.

Mr. Nies asked that the word ‘the’ in the following sentence on page 7 be changed to ‘an’ so that the sentence now reads as follows: He noted that *an* earlier proposal that was withdrawn included a traffic study and had hoped that the Board could discuss it. Mr. Rheume asked that the following sentence on page 8 have the phrase ‘triggers a special exception’ at the end of the sentence removed and replaced by the phrase ‘could not meet the criteria for the special exception’ so that the sentence now reads: He said he was irritated that the applicant wasn’t better prepared by providing the information the Board needed, but he did not think it was fair to deny the special exception on the assumption that the traffic is such a magnitude that it *could not meet the criteria for the special exception*.

*Mr. Rheume moved to **approve** the August 20 minutes as amended, seconded by Mr. Nies. The motion **passed** unanimously, 7-0.*

II. OLD BUSINESS

- A.** The request of **Jared Majcher (Owner)**, for property located at **84 Thaxter Road** whereas relief is needed to construct an attached garage and 1.5-story addition and to demolish an existing detached garage which requires the following: 1) Variance from Section 10.521 to a) allow 22% building coverage where 20% is allowed; b) allow a 15.5 foot front setback where 30 feet is required; and 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 166 Lot 34 and lies within the Single Residence B (SRB) District. (LU-24-135)

SPEAKING TO THE PETITION

[Timestamp 6:40] Attorney Derek Durbin was present on behalf of the applicant to review the petition. He said a 1-1/2 story addition was proposed to accommodate a single car garage with living space above. He said a small porch area on the front of the home was also proposed. He said the owner wanted to demolish the nonconforming garage at the rear of the home to bring the property more in compliance with the setbacks. He noted that the immediate abutter and other neighbors supported the project. He addressed the criteria and said they would be met.

[Timestamp 16:18] Mr. Rheume said Attorney Durbin talked about the need for the two percent over the coverage but did not talk much about the front setback. He said a substantial portion of the garage and the new extension of the hall area would also fall within the front setback. He asked if there was any consideration given to looking at the averaging of the neighboring properties. Attorney Durbin said they did consider it but did not like relying on the MapGeo because it often meant relying on non-surveyed data. He said it was very close and if averaged, the front setback would be in line with where the home is and the addition. He said the front setback was in line with the other homes along the street and they would not be encroaching into the pedestrian right-of-way in any meaningful way. He said if the averaging were used, they would be very close to compliant if not compliant, but the major consideration was that it would not affect the light, air, and space of the abutters. He said the left side of the addition was designed to stay in line with the home, and the front porch addition was a way to tie in with the stairs, but the stairs would be replaced, so the request was for the 15-1/2' relief. Mr. Rheume said the open space calculation in the packet did not match the Staff Report. The applicant's father Mark Majcher spoke said when he calculated the open space, he wasn't sure if the driveway should be included. He said that was the reason for two different calculations and that the correct calculation was 73 percent and not 83 percent.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

[Timestamp 22:45] Mr. Mattson said granting the variances would not be contrary to the public interest and the spirit of the ordinance would be observed. He said the proposed addition and front porch were within the character of the neighborhood and would not create any issues with public safety. He said substantial justice would be done because there was nothing to suggest that the

addition would harm the general public. He said it would benefit the property owner by allowing him to make better use of his property, so the benefit to the applicant would not be outweighed by any harm to the general public. He said granting the variances would not diminish the values of surrounding properties, noting that there was no reason to suggest that improving and updating the property would diminish any surrounding property values. He said literal enforcement of the ordinance would result in unnecessary hardship due to the special conditions of the property that distinguish it from others in the area, and there is no fair and substantial relationship between the general purposes of the ordinance provision and the specific application of that provision to this property. He said the proposed use is a reasonable one because it would still be a single-family home and the hardship is that the undersized lot was created before modern zoning standards, so the home itself is located closer to the street than the current required setback and the addition would bring it no closer to the street. He said it was a minor request for relief that stemmed from the lot being so small. Mr. Mannle concurred and said it was typical for those neighborhoods where the zoning is greater than what the actual reality on the ground is. He said in this case, the lot size was half of what the typical SRB lot was, and the building coverage requested was another 100 square feet, which was very small. He said the design would fit and would not be noticeable.

The motion passed unanimously, 7-0.

- B.** The request of **Zeng Kevin Shitan Revocable Trust of 2017 (Owner)**, for property located at **377 Maplewood Avenue** whereas relief is needed to demolish the existing accessory building and construct a new detached accessory dwelling unit which requires the following: 1) Variance from Section 10.521 to a) allow a building coverage of 37.5% where 25% is allowed; b) allow an open space of 24.5% where 30% is required; c) allow a secondary front yard setback of 6 feet where 10 feet is required; d) allow a left yard setback of 4.5 feet where 10 feet is required; e) allow a rear yard setback of 3 feet where 20 feet is required; and 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 141 Lot 22 and lies within the General Residence A (GRA) and Historic Districts. (LU-24-133)

SPEAKING TO THE PETITION

[Timestamp 27:46] The Board discussed whether the issue of Fisher v. Dover applied, due to the fact that the petition was previously presented and denied, and they decided that it did not because it was substantially changed.

[Timestamp 31:22] Attorney Derek Durbin was present on behalf of the applicant to review the petition. The project designer Brendan McNamara was present via Zoom, and surveyor Jason Cook of T. F. Moran and the owner/applicant Zeng Kevin Shitan were also present. Attorney Durbin said the building that was previously proposed had a footprint of just over 1,600 square feet, but the present petition was for a footprint of 1,104 square feet. He said the existing accessory building was in disrepair and that they wanted to replace it with a carriage house-style ADU with a smaller footprint for the applicant's mother to reside in. He said the parking situation would improve

because the vehicles would not have to be backed out in the public right-of-way. He said the design was supported by the Historic District Commission and that the applicant would go before the Planning Board for a Conditional Use Permit if he received the variances. He reviewed the criteria and said they would be met. Mr. McNamara said the design was directed toward meeting the requirements of the ADU ordinance and seemed like a natural fit.

[Timestamp 45:08] Mr. Rheume said the packet noted that the property was uniquely burdened by two 15-ft front yard setbacks as opposed to one 15-ft front yard setback and two 10-ft side yard setbacks. He said the Staff Memo showed a 10-ft secondary front setback, and what was advertised also referenced the 10-ft setback and not the 15-ft front setback. Ms. Casella asked Attorney Durbin if he knew whether Jackson Hill Street was a public way. Attorney Durbin said it was looked into several years ago and no evidence was found that it was accepted at a public hearing. He said it had been maintained as a public street, so there was an implied acceptance by the City that it exists, and he was advised in 2020 to treat it as a secondary front yard setback. Mr. Rheume said the original application showed a 10-ft side setback and the current application showed a 10-ft side yard setback. He said it didn't have a dimension but was the same dimensional line and less than the 15 feet for the front setback. Attorney Durbin said that would be a more stringent requirement, assuming that it was 15 feet. He said if that argument was thrown out as a special condition, the applicant was still improving upon that setback. He said the point was that there were nonconformities that the applicant could not get around, and if they tried to put it in compliance with all the applicable setbacks, they were limited to not a lot of room. Mr. Rheume said the drawings showed that the building footprint of the proposed ADU was 1,104 square feet. He said the applicant had to go before the Planning Board for a Conditional Use Permit, but he noted that the zoning ordinance said the building footprint of a building for a detached ADU should be no greater than 750 square feet. He asked Attorney Durbin to explain that discrepancy. Attorney Durbin said if they were successful in receiving the variances, they would need a modification related to the garage. Mr. Rheume asked if there was a firewall between the two structures. Mr. McNamara said it was required that there be a 1-hour fire-rated wall as per any residential house and garage but that they had not reviewed in terms of that overall floor issue.

[Timestamp 50:35] Mr. Nies referenced the question about the building footprint and said the packet indicated that the applicant was requesting a variance to allow a detached ADU in a new building that does not conform with the dimensional requirements of the ordinance. He said it sounded like the applicant was asking for a variance on the building's footprint size but it was unclear. Attorney Durbin said that paragraph existed when he submitted the application, but the City Staff determined that the proper mechanism for that would be a modification with a Conditional Use Permit from the Planning Board. He said that issue was raised after the petition submission, so it was a carry-through in the narrative, but there was no relief required for that because it was just related to building coverage. He said the applicant was not asking for a variance from the building footprint. Mr. Nies confirmed that the applicant would tear down the existing building and replace it with the proposed one.

[Timestamp 52:38] Mr. Rheume asked if the issue of allowing a detached ADU to a new building that did not conform with dimensional requirements of the ordinance was from a Staff standpoint or related to the fact that the applicant requires setback relief. Attorney Durbin said he included it

originally in an abundance of caution because he thought a variance might be needed for it, but the Planning Manager had said that it did not require a variance, so he was going to remove it. Mr. Mattson confirmed that the ordinance did mention the building footprint size, so it was true that it was relative to the ordinance, but it was under the section for a Conditional Use Permit modification that can be asked for from the Planning Board, so it was not a variance for the building permit.

[Timestamp 54:15] Vice-Chair Margeson said she realized that the building footprint is a modification that the Planning Board does, but if it were a smaller building, the applicant would not need as much relief from the setback requirements. Attorney Durbin agreed and said the garage could be lopped off but it wouldn't make sense to do it when that area would be used for parking and storage. Mr. Nies asked Mr. Mattson for more detail on his comment, and it was further discussed. Mr. Nies said the packet stated that the attached ADU would only have a bedroom and bath, but the drawing showed a kitchen and family room. Attorney Durbin agreed and said it would have that space associated with the living space. Mr. Mannle asked what the ADU's building footprint was. Attorney Durbin said the ADU itself, apart from the garage, was within the 750 square feet and that the garage brought it to 1,104 square feet. Mr. Nies said the building footprint is not the same as the floor area or the living area because it is measured on the outside, so it is over the 750 square feet. Mr. McNamara said the building footprint is associated with the ADU that operates on the gross living room, which is the interior wall measurement, but the exterior wall measurement is just under 750 square feet.

Chair Eldridge opened the public hearing

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DISCUSSION OF THE BOARD

[Timestamp 59:59] Mr. Mattson said he was at first struck by how much relief was being asked for and how intense it seemed, but a huge factor was that the proposed structure is small and only one story and tucked back. Mr. Rheume said the Planning Board would go through the Conditional Use Permit process, but he thought it came down to the attached garage and that most of the relief asked for was setback relief. He said what the applicant was asking for would have less overall coverage, and while it didn't fully meet the open space or building coverage requirements, it would be an improvement over the current situation. He said a unique aspect of the lot was that it was cut out of the adjacent lot that also had a structure on it so it had almost no setbacks associated with it and created a small lot. He said some of the setbacks were driven by that. He said the proposed garage did create a setback relief but was up against a paper street. He said it was in the applicant's favor that that side of the property was really open space and that the property next to it would not be built upon. He said the applicant was making a good faith effort to improve the cookie-cutter lot.

DECISION OF THE BOARD

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

[Timestamp 1:04:38] Vice-Chair Margeson referred to Criteria 10.233.21 and .22 of the ordinance and said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. She said the applicant was looking for relief for the front yard, side yard, and rear yard setbacks, the building coverage, and the open space coverage, and she thought the applicant was going in the right direction to make things more conforming with the zoning ordinance. She said substantial justice would be done because the public would not gain anything by the denial of the variance, so Criterion 10.233.23 was met. Regarding Criterion 10.233.24, she said granting the variances would not diminish the values of surrounding properties because it would be a one-story carriage house with a garage and would be a significant improvement over the existing structure that the Historic District Commission deemed not to be historic or of architectural interest. Referring to Criterion 10.233.25, she said the property had special conditions because it was carved out of the lot to the left of it and was very constrained in what it could do in the back of the property, and it also was on a paper street that was more of a public right-of-way. She said, owing to those special conditions, that a fair and substantial relationship does not exist between the general public purpose of the ordinance provision and the specific application of that provision to the property. She said it did not make much sense to apply the provisions to the property related to the other relief asked for the side yard setbacks, given the property's uniqueness and the fact that it is significantly smaller than the minimum lot size for the GRA District. She said a detached ADU was allowed in the GRA District and was a reasonable use. Mr. Rheume concurred. He said in terms of parking, the last time the application was before the Board there was a lot of concern, but the applicant had done a fair job of showing how three legitimate parking spaces could be created, one in the garage and the other two between the current primary structure and the proposed ADU. He said it looked more feasible than what was proposed the first time around in terms of trying to prevent stacked parking and the need to back out onto Maplewood Avenue with very little sight lines. He said the applicant adequately addressed the issue and the fact that they made the ADU smaller was one of the contributing factors that allowed them to do that. Vice-Chair Margeson noted that she didn't think her motion needed a condition that the approval was dependent on a modification of the Conditional Use Permit because it would be considered by the Planning Board.

[Timestamp 1:09:46] Mr. Nies said he would not support the motion because he was concerned that some of the necessary information was not in the document, including the fact that the Board did not have a comparison of the gross floor area of the ADU to the primary building and did not have the proposed ADU's footprint. He said he knew the guidance on the Conditional Use Permit and that the Planning Board could modify a specific standard set forth in the ADU section, except for the size and height of any ADU. He said what he was calling out was more of a technical issue and that it was unclear to him whether the size included things like the building footprint and whether a variance was needed for that, and the size of the building. Mr. Mattson said the Planning Department deemed that the size referred to was the living room area set forth by State statute of 750 square feet as opposed to the building's footprint size, and that he also learned that the Planning Board did not grant modifications lightly.

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

III. NEW BUSINESS

- A. The request of **Jonagold Empire LLC (Owners)**, and **Benjamin Otis (Applicant)** for property located at **230 Lafayette Road, Unit 10 A/B** whereas relief is needed to establish a medical office in units 10A and 10B which requires the following: 1) Variance from Section 10.440 Use #6.20 to allow a medical office use where it is not allowed. Said property is located on Assessor Map 151 Lot 6-D10B and lies within the General Residence A (GRA) District. (LU-24-143)

SPEAKING TO THE PETITION

[Timestamp 1:12:17] The applicant and co-owner Ben Otis was present to review the petition and said they wanted to change the unit from a professional use to a medical professional one. He said there would be no change to the exterior and that all the other suites and buildings had medical professionals, so it would be consistent. He reviewed the criteria and said they would be met.

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

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

[Timestamp 1:17:10] Mr. Rossi said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said there was no public interest to be served by limiting the use of that particular suite to be in conformance with the ordinance, so it satisfied those two criteria. He said substantial justice would be done because the benefit to the applicant was that they would have a place to perform their medical practice that is consistent with the type of activity in the surrounding suites. He said there would be no harm or loss to the public and that it was actually a benefit to the public. He said granting the variance would not diminish the values of surrounding properties, noting that there would be no excessive noise or changes and modifications to the exterior of the building or encroaching on the ability of the neighboring suites to perform their businesses. He said literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property that distinguished it from other properties in the area, particular Subsection A where there is no fair and substantial relationship between the general public purposes of the ordinance and the specific application of that provision to the property, and the proposed use is reasonable. He said it all tied back to the prevailing use in the neighboring suites, and continuing those types of uses would be reasonable. He said the

buildings on the property defined their own neighborhood, so there was no real relationship between the ordinance as written and the uses that are commonly practiced in this neighborhood. Mr. Rheume concurred. He said normally the Board was reluctant to grant variances for uses but in this case, there was a unique situation of two separate pieces of property, two lots involved with the condo complex, and they were in different zones and neither zone allowed office uses. He said the previous use of a professional office was also not allowed by the GRA zone that the parcel is in. He said it was a unique set of circumstances that went back several decades. He said he could understand why the Planning Board would have a hard time zoning it more correctly, which he further explained. He said creating the two spots as its own unique zone would constitute spot zoning, which the Board did not want to do. He said there was a recognition that there had been a longstanding use, and while it was different than what was generally allowed in those residential neighborhoods, it had worked for many years and there was no reason to think that the real intent of the ordinance was to somehow change the two parcels into a future residential area. He said the specific use request, while unusual for the Board to grant as a variance, made sense.

Mr. Nies said he would support the motion and that it was a textbook example of how the actual use in the area evolved over time and had nothing to do with the zoning, and the Board would be hard pressed to deny the variance in that case. He said even though the area was designed as a residential one in the 1950s, it was not residential now and that type of activity was rampant in that block.

The motion passed unanimously, 7-0.

- B.** The request of **Condos at Rock Hill (Owners)**, and **Stewart Bradley (Applicant)**, for property located at **962 Islington Street and 964 Islington Street** whereas relief is needed to demolish and reconstruct the existing front steps which requires the following relief: 1) Variance from Section 10.521 for a) an 11 foot front yard where 30 is required, and b) 30% building coverage where 20% is allowed; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 171 Lot 1 and lies within the Single Residence B (SRB) District. (LU-24-146)

SPEAKING TO THE PETITION

[Timestamp 1:24:21] Applicant and owner of 966 Islington Street Stuart Bradley was present to speak to the petition. He said he wanted to remove the existing stairs at either end of the porch at 962 and 964 Islington Street because they were dangerous and out of code and replace them with new ones. He reviewed the criteria and said they would be met.

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

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

[Timestamp 1:28:58] Mr. Rossi said two staircases were being replaced with almost identical replacement stairs and because of that, the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said there would be no alteration in the essential character of the neighborhood and that it would be a change that would be invisible to the rest of the neighborhood unless they went up and down the stairs. He said it would not impact the safety or welfare of the general public or otherwise injure public rights, so those two criteria were satisfied. He said substantial justice would be done because there would be a benefit to the property owners in improving the safety of ingress and egress from the units on those staircases and no loss to the public in providing that safety benefit to the property owners. He said granting the variances would not diminish the values of surrounding properties due to the same reasons stated in the first two criteria. He said the change would be invisible to the surrounding property owners and would therefore have no conceivable impact on the values of their properties. He said literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property that distinguished it from other properties in the area. He said that was hard to articulate in this case, but the special condition of the property was the unsafe condition of ingress and egress to the dwelling, which was not a condition shared by surrounding properties, so it therefore satisfied the criterion of not having a substantial relationship between the requirements of the ordinance and the proposed variance. He said all five criteria were adequately satisfied. Mr. Mattson concurred. He said, relating to the hardship, the existing structure is where it is and the size and location of the lot were the reasons for the variance. Mr. Rheume said he would support the motion, noting that another factor that weighed in for the hardship was the building structures going back to 1900 and predating the ordinance. He said the building always had a front entryway, and to now say that the applicant could only use that front entryway did not make sense.

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

- C. The request of **Ryan and Joanna Brandt (Owners)** for property located at **570 Dennett Street** whereas relief is needed to demolish the existing single car detached garage and construct a new single car garage which requires the following: 1) Variance from Section 10.571 to allow an accessory structure to be located in the required front yard and closer to the street than the principal building; 2) Variance from Section 10.573 to allow a 3 foot secondary front yard where 14 feet are required; and 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. Said property is located on Assessor Map 161 Lot 12 and lies within the General Residence A (GRA) District. (LU-24-156)

SPEAKING TO THE PETITION

[Timestamp 1:34:12] Owner/applicant Ryan Brandt was present to review the petition. He said the existing garage was rotting and he wanted to replace it in the same footprint by replacing the concrete pad with the modest expansion of two feet to the rear setback and four feet deeper into the property to accommodate a modern car. He said the abutting neighbor had a large 2-car garage along the same 3-ft setback and their garage was almost on his rear property line, which he would not encroach on. He said he had letters of approval from all the abutting neighbors. He reviewed the criteria and said they would be met.

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

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

[Timestamp 1:41:18] Mr. Rheume said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He noted that the criterion were taken together to reflect what was being asked for in terms of the characteristics of the neighborhood. He said nothing substantial was being altered because the applicant made a good argument that the existing alignment for the garage was consistent with the closest neighbors. He said it had been in place for many years and was not out of character with the overall neighborhood's accessory structures. He said that not all the examples provided were necessarily front yard or in this case, secondary side setbacks, but were usually up against the property line or in some way nonconforming, so the fact that the applicant asked to align the garage to the 3-ft depth relative to the property line was satisfactory, as well as the fact that it was four feet deep, which really was not in the Board's purview. He said it was really the width within that 15-ft side yard setback that added two additional feet that was what the Board was concerned about and that the actual depth was beyond what the actual setback would be. He said granting the variances would do substantial justice because the applicant could now create a garage that is two feet wider and more conforming to a modern single-car garage and was only asking to bring it up to a width that was more accepted in modern times for modern vehicles to be parked in. He said there was nothing in the public purposes that would indicate that pushing it back to the 15-ft line would somehow provide some public benefit and that it was in alignment with the overall neighborhood and the neighbors were in support of it. He said granting the variances would not diminish the values of surrounding properties because it was a minor change. He said the garage would probably be a net plus benefit because it was slightly larger and the cross dimensions would not negatively affect that. Regarding the hardship, he said what was unique about the lot was a preexisting structure that likely predated the current zoning requirements and was a characteristic of the neighborhood. He said it was a unique set of circumstances and that the applicant was simply asking to replace what existed and not cause further encroachment. He said there was also some additional distance to the actual

roadway itself, which gave the feel that it wasn't quite at three feet and not up against a road and felt like it was set back further from the road. He said the proposed use was reasonable. Mr. Mattson concurred. He said the secondary frontage is on Whipple Street, which is a very low-traffic street, and the proposed location of the garage is sufficiently far enough from the intersection with Dennett Street and won't provide any sight line issues.

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

IV. OTHER BUSINESS

[Timestamp 1:45:52] Chair Eldridge stated that there would be a work session on Tuesday, September 24, at 6:00 p.m. to discuss the Board's rules and regulations and that City Attorney Trevor McCourt would be present.

V. ADJOURNMENT

The meeting adjourned at 8:50 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

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

6:00 P.M.

September 24, 2024

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

MEMBERS EXCUSED: Thomas Rossi

ALSO PRESENT: Stefanie Casella and Jillian Harris, Planning Department

I. REVIEW OF RULES AND REGULATIONS

A. Discussion with Deputy City Attorney Trevor McCourt

Chair Eldridge called the meeting to order at 6:00 p.m. and said Deputy City Attorney Trevor McCourt would lead the Board through the discussion. Attorney McCourt said he and the Planning Staff members Stefanie Casella and Jillian Harris would take notes and return with suggestions.

[Timestamp 4:50] Section I, Meetings, and Section II, Time and Date, were reviewed. Attorney McCourt said the sections related to when and where the meetings were held, how they were scheduled, and what the Board did in case of a lengthy agenda. He said there were a few questions from the Board about other kinds of meetings they might want to hold, like recommendations regarding zoning amendments or reviews on the Board's progress, which he thought would be an appropriate place to put those rules. He said if the Board wanted to have an annual meeting to discuss how the Board was doing regarding their decisions, it could put into the rules that the Board could instruct City Staff to schedule that sort of meeting sometime during the year, or the Board could schedule it on their own. Mr. Mattson asked if the Board could hold a meeting that was not listed. Attorney McCourt said the point of the Rules and Regulations document was to give the public an idea of what the Board expects out of applicants, the Staff, and themselves, how the meeting will be conducted, and when the Board can expect those meetings to occur on a regular basis so that they can provide for it. He said the more information that was provided to people, the better, but the Board was welcome to deviate from the rules. Mr. Rheame said that he didn't see a need to put something in the Rules and Regulations. He said typically the Board had a sense of when they were not being fully effective and then called for an additional meeting, especially if there were new Board members, to discuss Board procedures, but he did not recommend making it a regular meeting because then it might require three meetings in a month. Chair Eldridge agreed.

[Timestamp 9:26] Section III, Responsibilities of the Code Official, was discussed. Attorney McCourt said it was often Ms. Casella who helped prepare the applicants and the Board for working through any application. Vice-Chair Margeson said it was up to the Code Official to decide whether or not something came forward to the Board, but she said there were a few applications that didn't seem final and she didn't want to be put in that position. Attorney McCourt said the Board could request a third responsibility, which could be to make a threshold determination as to an application's completeness. Vice-Chair Margeson said it was already in the section as Item 7 and that Ms. Casella could be authorized to do that.

[Timestamp 11:19] Section IV, Applicant's Responsibilities, was discussed. Attorney McCourt said the section described how the Board expected an applicant to present their argument and what the requirements were. Mr. Rheume said Item 14 required the applicant to provide 11 copies, which he thought seemed archaic since everything was now digitized, and he said that should be updated. He then referred to Item 6, scales of all drawings and plans, and said there were instances when applicants said they didn't have a scaled drawing, so he suggested adding the term "if applicable". He said sometimes applicants would draw on a surveyor's plan, in which case he said the applicant should not include any of the surveyor's information but just say it was an illustration. Ms. Casella said that would work well for the applicants because smaller projects were hesitate to hire engineers or architects due to the cost. Attorney McCourt suggested adding a provision that either the Code Official or the Board itself, upon request, would have the applicant prepare and provide scaled drawings in appropriate circumstances. Mr. Mattson referred to the completeness of applications in Item 6 and said they were all great things that needed to be included, but sometimes some were more important than others and some could be overkill for a small project. Attorney McCourt said the phrase "unless waived by the Code Official" indicated that, but the edit regarding the scale spoke to the fact that it was not always provided and there were often circumstances where it wasn't necessary to provide the scaled drawing. Mr. Nies asked if larger projects that did not bring in traffic studies and the Board asked to see it or voted against the project should be added to the list since it could be waived by the Code Official when it wasn't necessary. It was further discussed. Mr. Mannle said he didn't think it was necessary because the applicant knew that he had to bring in material he needed to prove that he met the five criteria. The traffic study was further discussed. Mr. Rheume said the intent was to give a handout to the homeowner/applicant who didn't have any idea what the Board expected. He said larger projects usually required a traffic study and it was a rare exception when the Board got too little information. He said he would leave it out of the Rules and Regulations. Mr. Nies said he asked the question to find out if the Board should say that they expected to see a missing key part of an application. Chair Eldridge said the Board had the option to ask the applicant to postpone the petition before hearing it if that was the situation. Ms. Harris said the objective was to outline the minimum requirements, so the less that was in the package, the better. Vice-Chair Margeson agreed.

[Timestamp 22:54] Section V, Fees, was discussed. Attorney McCourt said it referred to the Fee Committee and that the Board didn't have the ability to change that.

[Timestamp 23:19] Section VI, Voting, was discussed. Attorney McCourt said the Board could consider whether they wanted to change how they voted or how things got to a rehearing. He recommended that there always be an affirmative vote to do something due to the requirement of findings of fact, so if the Board voted to deny an application, that would carry the majority, or if they approved, likewise. He said a motion should be passed instead of failing to pass the motion. Vice-Chair Margeson said if the Board was deadlocked, they had done the motion to deny or approve and they're at a tie, so that would be a denial. Mr. Nies said if there was a motion to approve and it failed on a tie vote, it should just stop because it would be clear that it's been denied. He said that was a Robert's Rules standard and he didn't think the Board should deviate from that on a tie vote. Attorney McCourt said it was different in this situation because the State law required findings of fact and support in one way or another. It was further discussed. Mr. Nies said the magic number four of yeas votes was confusing. Mr. Rheume said it was from the State Statute. Mr. Mannle said it had to be the majority of the Board members, not the Board members present.

[Timestamp 28:45] Mr. Rheume said Item 6 was written when he was past Chair of the Board and that the Board ran into cases where they had 3-3 tie votes. He said it was an attempt to ensure that there was information given back to the applicant if they were denied. He said the Board did put wording about a subsequent motion to perhaps break up the deadlock, which would give the applicant an opportunity to get a majority vote, but in the Chair's mind, the Board is deadlocked and the petition is denied, and they want to make sure for the record that the applicant knows why it's denied. The subsequent motion issue was further discussed. Mr. Mattson said he preferred that the Chair solicit comments from the Board members who voted against the petition so that the Board and the applicant were comfortable and it would be helpful information if the applicant wanted to come back with a different application. Attorney McCourt said the most important thing was that the Board was building its record and findings of facts. Ms. Casella clarified that findings of fact was not just about the five criteria but also about discussion around those pieces and explaining how the Board got to its decision to support whatever was written in those findings of fact sheets. It was further discussed. Vice-Chair Margeson said her problem with the paragraph was that it didn't cover the denial if the motion was to deny. She said the Board in practice had treated the subsequent motion as the opposite motion. For example, if they motioned to approve and it was a tie, then they motioned to deny and it was still a tie. She said the paragraph indicated that the subsequent motion was supposed to be another motion to approve and not necessarily another motion to deny. Mr. Nies agreed. Attorney McCourt asked what the Board wanted. Vice-Chair Margeson said their practice had been that if the motion fails, they went the opposite way on the next motion. She said they did not want to do a repeat motion. Mr. Rheume suggested rewording the first few words 'motion to grant'. He said a subsequent motion could have stipulations or conditions that could get the motion granted, so there was an opportunity to break the deadlock. It was further discussed. Mr. Mattson suggested that instead of saying if a motion is to 'grant or deny', it could say if a motion 'results in a tie vote'. He said it was better than the alternatives, which would be to pass it if both motions tied or to continue it indefinitely. It was further discussed. Vice-Chair Margeson said she thought a motion to grant or deny was appropriate working unless any subsequent motion could encompass a further motion to grant with conditions, and then a motion to deny. Mr. Rheume said the Chair had

the power to determine when the Board was deadlocked and thought that should be incorporated in the paragraph. Attorney McCourt said he would draft something up.

[Timestamp 48:45] Attorney McCourt recommended that Items 5 and 6 include what occurs when there was a tie vote, either on a request for rehearing or a motion to grant the decision of a Code Official appeal. He said clarifying that would be helpful. Mr. Nies asked why a tie vote on a rehearing of 3-3 resulted in an approval. Attorney McCourt said the idea was to give people more of a chance if there was any doubt in the Board's mind. He said the tie should go to having a rehearing because the Board could still make the decision that was made the first time around. Mr. Nies asked what Item 8 meant by indicating 'acted upon immediately'. Attorney McCourt said the Board should be having discussions based on a motion, so the next thing that should happen is a motion should be made and there can be discussion on the motion. Ms. Casella said if a discussion led to a postponement, the public hearing should then be re-opened and the issue postponed. Mr. Rheume said it might be possible that the Board postpones it because they want more time to formulate a motion that addresses all the criteria. He said if new information was not added by the applicant, the public hearing may not need to be opened again, but if the petition was postponed because the Board wanted more information from the applicant, then it would behoove the Board to re-open the public hearing to hear from the public what their reaction is to the new information.

[Timestamp 53:13] Mr. Rheume said that Item 2 in Section VI about voting for the Chair and Vice-Chair seemed confusing because it said it shall happen annually. He said it should be more specific about what meeting it would take place in and what meeting the new Chair and Vice-Chair would take effect. He said December made sense because terms expired on December 1. He said it should be made clear that it doesn't take effect until the January meeting because there could be a new Chair and also a pre-meeting with Staff. It was further discussed. Ms. Casella said it should be clarified when it is appropriate for remote participation in terms of Board members or applicants. Vice-Chair Margeson referred to Item 2 and said attendance was a broader thing to define in the rules but she was in favor of keeping Item 2 the way it was. Mr. Rheume said he was in favor of tightening it up. He also noted that Item 13 about the Chair and Vice-Chair gender should be made gender neutral. The alternates description in Item 13 was briefly discussed.

[Timestamp 1:00:49] Section VII, Miscellaneous, was discussed. Chair Eldridge said when the Board knew a petition was postponed, they took it out of the agenda's order at the beginning of the meeting to rule on it. Attorney McCourt said taking anything out of order would require a suspension of rules and that it would be helpful to clarify that in the Rule and Regulations. Chair Eldridge asked if it was a problem for an applicant to have two applications before the Board at the same time. Attorney McCourt said there should only be one application, including appeals, and that it should be included in the Rules. Vice-Chair Margeson said Item 4 said the applicant shall only be allowed to have one active application before the Board at any time including applications on appeal because those things could be remanded to the Board.

[Timestamp 1:03:50] Ms. Casella said it might be a good section to add the detail of Fisher v. Dover and the fact that it is applicable for not only variances but for special exceptions too. Mr. Rheume

said the Board seemed to struggle with how they resolved Fisher v. Dover issues. He said sometimes Staff brought it up and it was discussed ahead of time, or the applicant spoke to Fisher v. Dover. He asked what the public's role in it was as well, noting that they might say it applied or did not apply. He asked if it required a motion or not. Ms. Casella said the Board had the ability to invite the applicant to speak to Fisher v. Dover specifically. Attorney McCourt said the Board could work through and clarify how they wanted to handle Fisher v. Dover. He said the application was either substantially different or not, and if not, the Board could vote to request more information. Mr. Rheume suggested that the Staff ensure that the Board had the prior application as part of their package if there was a Fisher v. Dover situation. It was further discussed. Chair Eldridge asked if the applicant and the public should be alerted if there was a Fisher v. Dover situation. After more discussion, the Board decided that the paragraph should be changed but kept simple. Chair Eldridge said the applicant could appeal a decision or do a different application. Ms. Harris asked if the Board wanted the Decision Letter or all the materials from a previous application in the case of Fisher v. Dover. Mr. Rheume said he preferred the full application so that it could be compared. Vice-Chair Margeson said the previous Staff Report would also be helpful. It was decided that an on-line link would be most appropriate.

[Timestamp 1:13:58] Section VIII, Procedure for Public Hearings, was discussed. Mr. Rheume said the Board seemed to be helter-skelter in postponing petitions at times. He said postponing a petition was significant because it affected the applicant and the public, so he thought it was appropriate for a motion to postpone have commentary about why the maker of the motion thought it should be postponed. He said another issue was that sometimes the Board had a request to postpone but didn't have any information in the package, so if they chose not to postpone, they wouldn't know what to speak to. Ms. Casella said sometimes the information wasn't included because Staff was waiting for certain information and the petition had already been noticed. She said they added the postponement to the agenda as soon as they found out from the applicant that they wanted it postponed. Attorney McCourt suggested that if an applicant didn't show up and the Board wasn't comfortable postponing the petition, they could deny it without prejudice.

[Timestamp 1:23:57] Section IX, Electronic or Multi Media Presentations, was discussed. Attorney McCourt said the Board had submitted comments about people attending meetings remotely. The Board decided to discuss it at a subsequent meeting.

[Timestamp 1:24:48] A few pre-submitted comments were discussed. Mr. Mannle suggested that in Section IV, Applicant's Responsibilities, it should be added that the applicant is responsible for his own application and its factual correctness, otherwise it could be used against them. Attorney McCourt suggested that the term be 'can be considered to be against the applicant' instead of 'used against the applicant'. Vice-Chair Margeson asked if it was possible for the Board to do administrative approvals for items like condensers, similar to what the Historic District Commission did. Attorney McCourt said if there were items where the zoning ordinance was too restrictive, the issue could be brought to the Planning Board. It was further discussed. The Board decided to address Mr. Nies' list of comments at another meeting when Mr. Rossi was present.

II. OTHER BUSINESS

There was no other business discussed.

III. ADJOURNMENT

The meeting adjourned at 7:32 p.m.

Submitted,

Joann Breault
BOA Recording Secretary

II. NEW BUSINESS

- A. The request of **Timothy Huntly (Owner)**, for property located at **124 Raleigh Way** whereas relief is needed after the fact for the keeping of chickens which requires the following: 1) Variance from Section 10.440 Use #17.20 to allow the keeping of farm animals where it is not allowed. Said property is located on Assessor Map 212 Lot 49-1 and lies within the General Residence B (GRB) District. (LU-24-140)

Planning Department Comments

The applicant has requested postponement due to a scheduling conflict. See postponement request letter in packet.

From: [Tim Huntley](#)
To: [Stefanie L. Casella](#)
Subject: Tim Huntley 124 Raleigh Way hearing postponement request
Date: Wednesday, October 9, 2024 11:43:59 AM

[You don't often get email from thuntley82@yahoo.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

dear board of adjustment,

I am writing as a formal request to postpone my hearing regarding 124 Raleigh Way, Portsmouth NH from the 15th to the 7PM October 22nd hearing. I will be unable to be present physically or as a call-in on October 15th's hearing due to a non-reschedule work trip I am on, attending the Association of the US Army conference in Washington, D.C.. I do not have another representative for this hearing that can attend in my place.

I will be available for October 22nd's hearing if the board can accommodate my request.

Thank you for your consideration,

-Tim Huntley

II. NEW BUSINESS

- B. The request of **Sharon Syrek (Owner)**, for property located at **47 Langdon Street** requesting relief to construct a sunroom on the rear of the existing structure which requires the following: 1) Variance from Section 10.521 to allow 43% building coverage where 35% is the maximum allowed. Said property is located on Assessor Map 138 Lot 29 and lies within the General Residence C (GRC) District. (LU-24-159)

Existing & Proposed Conditions

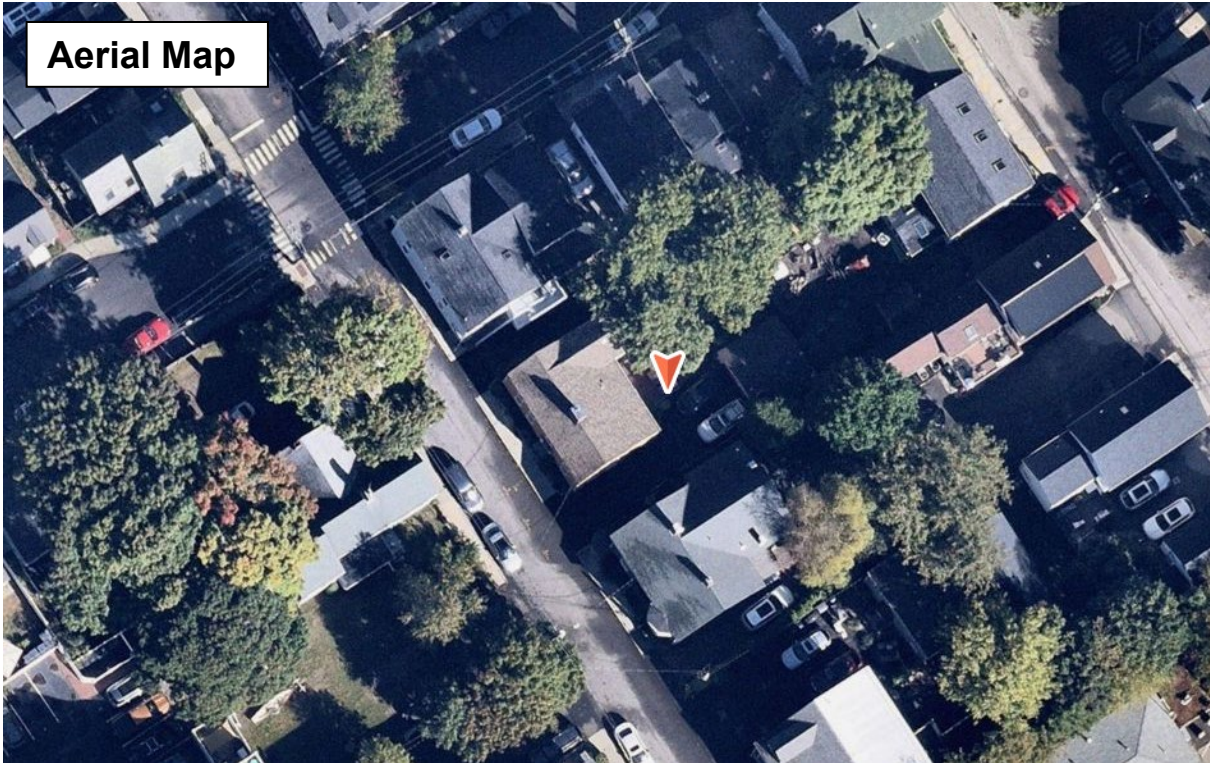
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	*Construct sunroom addition	Primarily Residential
<u>Lot area (sq. ft.):</u>	3,920.4	3,920.4	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,920.4	3,920.4	3,500 min.
<u>Lot depth (ft.):</u>	80	80	50 min.
<u>Street Frontage (ft.):</u>	52	52	70 min.
<u>Front Yard (ft.):</u>	4	4	5 min.
<u>Right Side Yard (ft.):</u>	11	House:11 Addition: 19.5	10
<u>Left Side Yard (ft.):</u>	House: 3	House: 3 Addition: >10	10 min.
<u>Rear Yard (ft.):</u>	35	House:35 Addition:35	20 min.
<u>Building Coverage (%):</u>	37	43	35 max.
<u>Open Space Coverage (%):</u>	>20	>20	20 min.
<u>Parking</u>	3	3	3
<u>Estimated Age of Structure:</u>	1779	Variance request(s) shown in red.	

Other Permits/Approvals Required

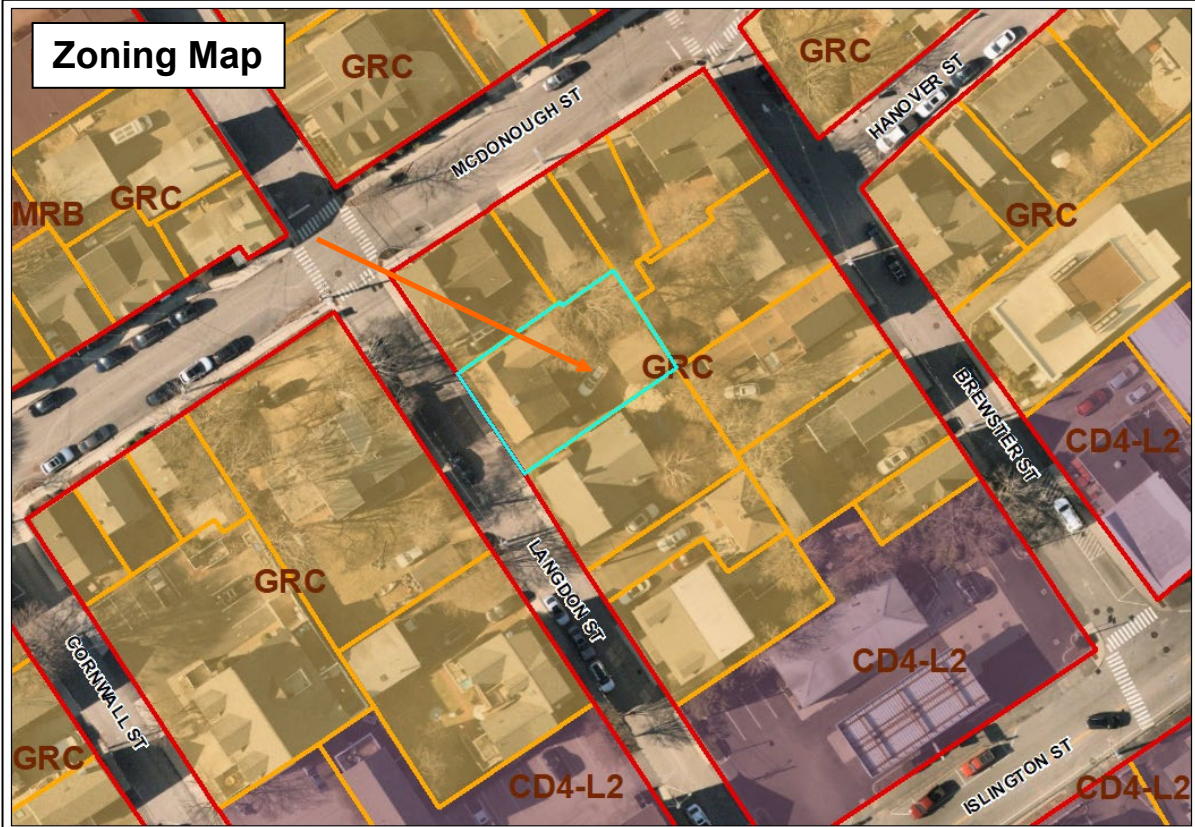
- Building Permit

Neighborhood Context

Aerial Map



Zoning Map



0 20 40 60 Feet
1 inch = 48.7 feet

47 Langdon Street



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is requesting to construct a sunroom addition onto the rear of the existing primary structure. The addition will fit in the void “L” space at the rear of the property and will not increase any setback non-conformities.

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.

47 Langdon Street Addition Variance Request

To Whom it May Concern,

In accordance with the Portsmouth variance application process, please find the attached plans and pictures in support of our request. The owners, Thomas Basiliere and Sharon Syrek, are asking for a single variance to the Zoning Ordinance (maximum lot coverage) in order to build a modest single-story "sunroom" on to the existing non-conforming structure (the Property) at 47 Langdon Street. The footprint for the addition is the same space currently covered by a brick patio.

The original home built in 1779 went through renovations before we purchased it in 2019. Sometime after 1779, an addition to the back of the original house resulted in a L-shaped space which we believe was for a kitchen and dining room. Since then a number of alterations, such as adding a staircase and moving the exterior door, resulted in half of that space only being usable as a pass through entryway. We would like to add space that would turn the L-shaped area into a usable room.

ZONING RELIEF SUMMARY

The Applicants seek the following variances from the Portsmouth Zoning Ordinance:

Article 5 - Section 10.521: To allow 43% (+/-) building coverage where 37% (+/-) exists and 35% is allowed.

VARIANCE CRITERIA

1. Variance will not be contrary to the public interest.
The addition will not alter the essential nature of the neighborhood or threaten the public health, safety, or welfare.
 - a. The addition will not be visible from the street and is fully conforming to setback requirements.
 - b. The sunroom will not negatively affect light and air to any adjoining property. It simply squares off the "L" shape in the back created when a previous addition was added. Two of the walls from the current house already exist along 2 sides of the existing patio so only 2 new walls will need to be created. (See picture #2, page 4.)
 - c. The new addition will not extend beyond the existing house in the back of the lot, and extends only a portion of the way towards the right side of the lot, less than the original house does.

2. Spirit of the Ordinance will be observed
 - a. The proposed addition will not interfere with the adjoining property's views, property use or privacy.
 - b. The proposed addition will still allow at least 25% open space where only 20% is required.

3. Substantial justice will be done
 - a. Even with the addition, the lot still has less building coverage than many properties in the area. The neighborhood itself is characterized by home lots that exceed the building coverage requirement and have structures that encroach into one or more setbacks as shown on the attached Portsmouth tax map of the area.
 - b. The public would not realize any gain by denying the variance. The addition is modest and in keeping with the character of the neighborhood. The increase in building coverage above what is permitted by the Ordinance will not overcrowd or otherwise overburden the Property.
 - c. Two homes directly visible from the backyard of 47 Langdon have additions on the back of the main building. The house at 50 Brewster St. has a single-story addition characterized by a back facing wall of primarily windows. The house at 18 McDonough St. has a one-story addition that encroaches into the rear setback. (See attached pictures on page 6).

4. Value of surrounding properties will not be diminished.
 - a. The addition is tasteful and will integrate nicely with the existing design of the home. The improved appearance of the home should only add value to surrounding properties.
 - b. Several properties in the neighborhood including the homes at 18 McDonough St and at 50 Brewster St have similar one-story additions on the back of the original house. (See attached pictures on page 6).

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship
 - a. Denying the permit means the homeowner cannot fully utilize a substantial section of this very old home as the alterations over the years have created a dysfunctional space. Given the age of the original house and its configuration, this proposed addition will allow us to rectify this situation and create a modern-sized area for gatherings.
 - b. The addition is reasonable in size and function and is consistent with the neighborhood use as a single-family home.

Prepared by,
Sharon Syrek - Owner
Thomas Basiliere - Owner

- **Pictures of Existing Property**
- **Pictures of Abutter properties**



1. View of the back of the existing house at 47 Langdon Street



2. View from the driveway at 47 Langdon Street facing the existing brick patio (where the proposed addition will go).



3. View from backyard at 47 Langdon of the existing brick patio (where the proposed addition will go).



4. View of backyard, abutting property fences and additions on the rear of the home at 50 Brewster St and 18 McDonough St.

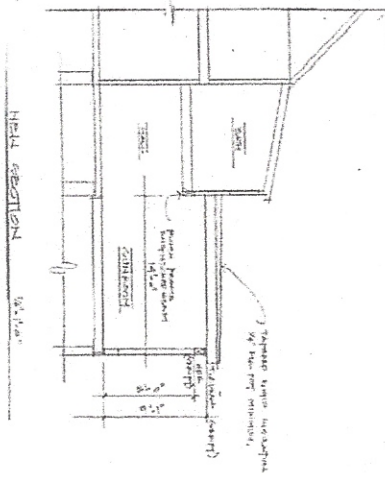
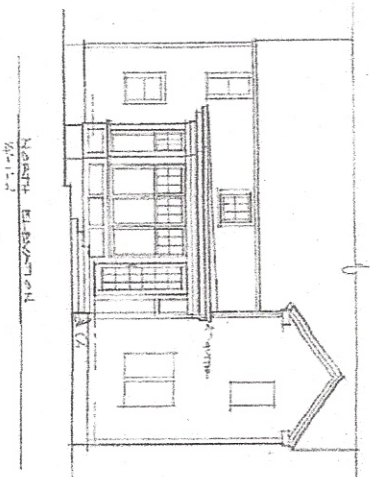
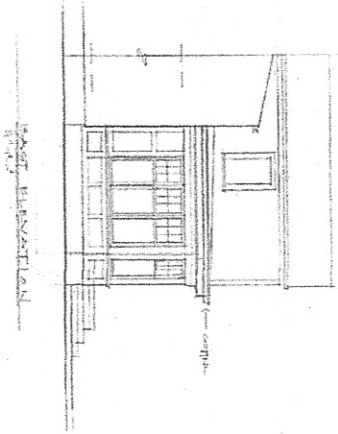


5. View of the abutter property at 18 McDonough single story back addition



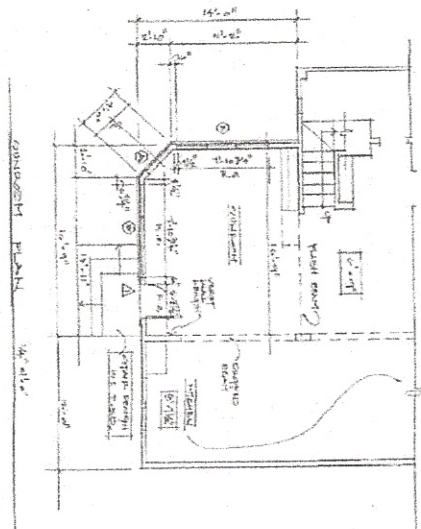
6. View of abutter property at 50 Brewster single story back addition.

- **Architectural Design for Addition**
- **Portsmouth Tax Map**
- **Coverage and Setback Measurements**
- **Property Survey - Partial w/ Proposed Addition
(illustrative only)**
- **Property Survey (original unaltered)**
- **Support Letters from Abutters**



PLAN 1/8" = 1'-0"

DATE	10/10/24
PROJECT	47 LANGDON ST. WASHINGTON, DC
CLIENT	MR. & MRS. CYRIL
ARCHITECT	GOBBIA ARCHITECTURAL DESIGN
SCALE	1/8" = 1'-0"



KEY GOBBIA ARCHITECTURAL DESIGN 1100 17TH ST NW WASHINGTON, DC 20036 202-462-1111 www.gobbia.com	PRELIMINARY	CYRIL ADDITION 47 LANGDON ST. WASHINGTON, DC	10/10/24 1/8" = 1'-0"	4119
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Property Information
Property ID 0138-0029-0000
Location 47 LANGDON ST
Owner BASILIERE THOMAS LIV TR (50% INT)



**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.

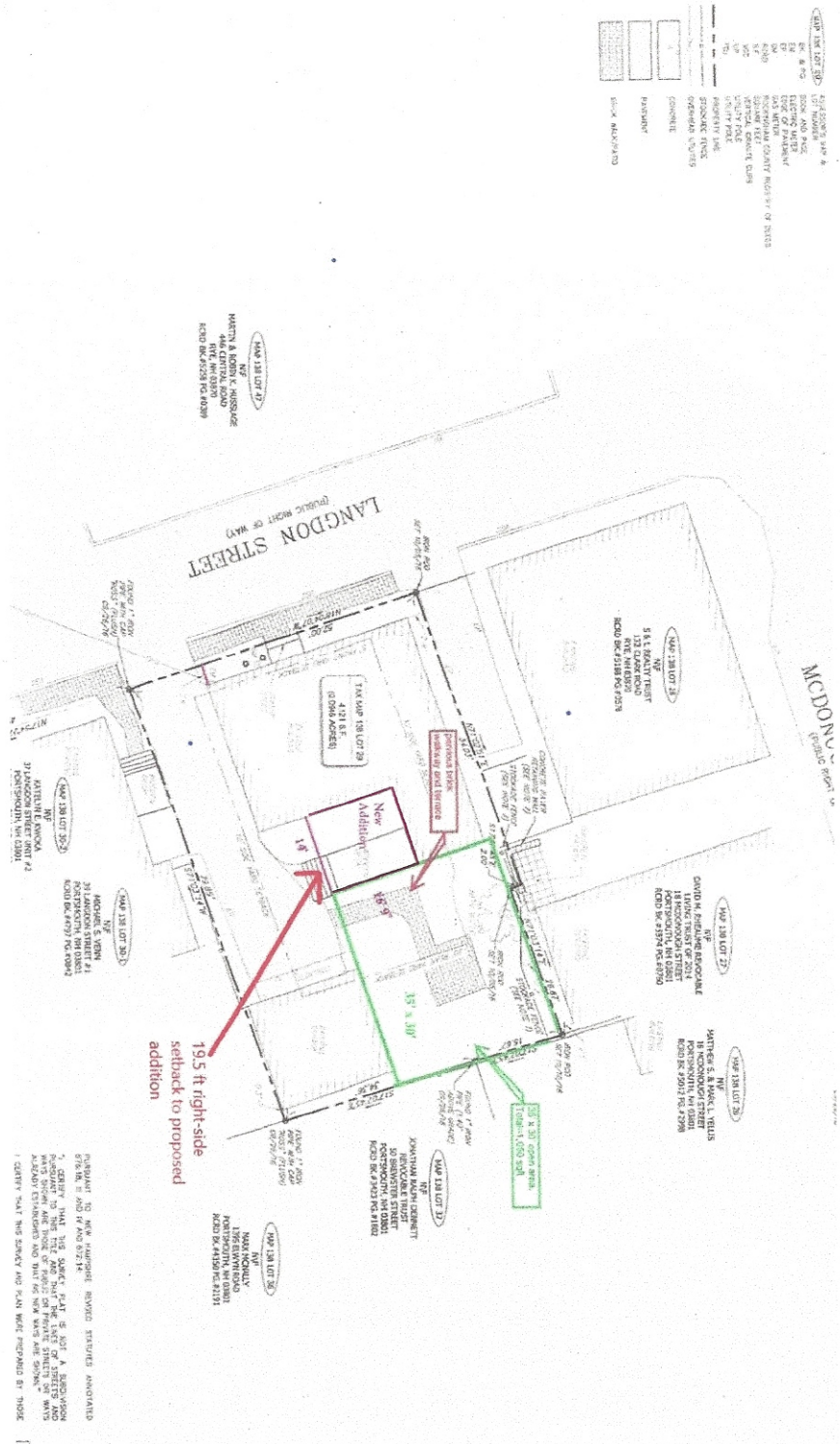
Geometry updated 08/30/2024
 Data updated 3/9/2022

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

Coverage and Setback Measurements

Structure	Sq Ft	% of Total
Primary Dwelling	1140	27.6%
Existing Garage	400	9.7%
Total Existing Building Coverage	1540	37%
Proposed Addition	234	5.7%
Total Proposed Building Coverage	1774	43%
<i>(Total Lot Size)</i>	4121	

Rear setback	35 ft
Right-side setback to proposed addition	19.5 ft



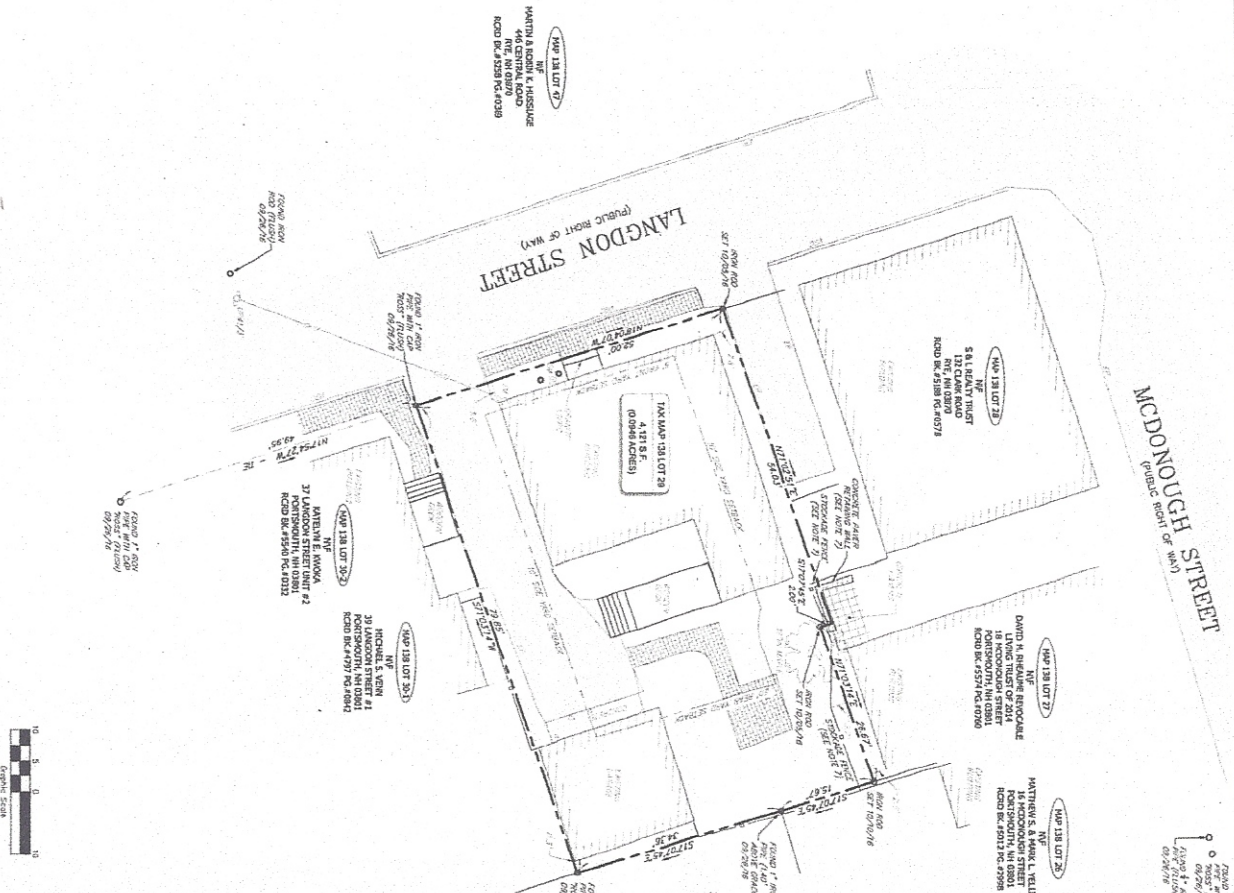
Partial Property Survey with Proposed Addition drawn in (Illustrative only; Drawing not to scale)

CONDUCTED BY: J. WILSON, INC.
 DATE: 09/24/16
 DRAWN BY: J. WILSON, INC.
 CHECKED BY: J. WILSON, INC.
 SCALE: 1" = 40' (SEE NOTES)
 THIS DRAWING IS THE PROPERTY OF J. WILSON, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. THIS DRAWING IS VALID FOR THE STATE OF NEW HAMPSHIRE ONLY. THE USER OF THIS DRAWING IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES. THE USER OF THIS DRAWING IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES. THE USER OF THIS DRAWING IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.



LEGEND

Symbol	Description
Circle with dot	APPROXIMATE VERT. CURVE
Circle with cross	APPROXIMATE HORIZ. CURVE
Circle with cross-hatch	APPROXIMATE VERT. CURVE AND HORIZ. CURVE
Circle with 'x'	ELECTRIC METER
Circle with 'y'	ELECTRIC METER
Circle with 'z'	ELECTRIC METER
Circle with 'w'	ELECTRIC METER
Circle with 'v'	ELECTRIC METER
Circle with 'u'	ELECTRIC METER
Circle with 't'	ELECTRIC METER
Circle with 's'	ELECTRIC METER
Circle with 'r'	ELECTRIC METER
Circle with 'q'	ELECTRIC METER
Circle with 'p'	ELECTRIC METER
Circle with 'o'	ELECTRIC METER
Circle with 'n'	ELECTRIC METER
Circle with 'm'	ELECTRIC METER
Circle with 'l'	ELECTRIC METER
Circle with 'k'	ELECTRIC METER
Circle with 'j'	ELECTRIC METER
Circle with 'i'	ELECTRIC METER
Circle with 'h'	ELECTRIC METER
Circle with 'g'	ELECTRIC METER
Circle with 'f'	ELECTRIC METER
Circle with 'e'	ELECTRIC METER
Circle with 'd'	ELECTRIC METER
Circle with 'c'	ELECTRIC METER
Circle with 'b'	ELECTRIC METER
Circle with 'a'	ELECTRIC METER
Circle with '9'	ELECTRIC METER
Circle with '8'	ELECTRIC METER
Circle with '7'	ELECTRIC METER
Circle with '6'	ELECTRIC METER
Circle with '5'	ELECTRIC METER
Circle with '4'	ELECTRIC METER
Circle with '3'	ELECTRIC METER
Circle with '2'	ELECTRIC METER
Circle with '1'	ELECTRIC METER
Circle with '0'	ELECTRIC METER
Circle with '9'	ELECTRIC METER
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Circle with '9'	ELECTRIC METER
Circle with '8'	ELECTRIC METER
Circle with '7'	ELECTRIC METER
Circle with '6'	ELECTRIC METER
Circle with '5'	ELECTRIC METER
Circle with '4'	ELECTRIC METER
Circle with '3'	ELECTRIC METER
Circle with '2'	ELECTRIC METER
Circle with '1'	ELECTRIC METER
Circle with '0'	ELECTRIC METER



PLAT 16

LICENSED LAND SURVEYOR

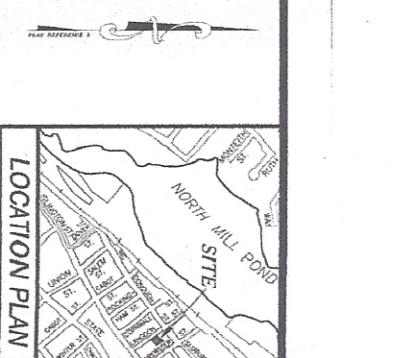
NAME	DATE
J. WILSON	09/24/16

NOTES:

- THE BOUNDARY IS SHOWN ON THE CITY OF PORTSMOUTH 452555307'S MAP 138 LOT 29.
- OWNER OF RECORD: J. WILSON, INC. 444 CENTRAL ROAD PORTSMOUTH, NH 02801
- LEGAL DESCRIPTION: 0.0094 ACRES, BEING 1/4 OF 138 LOT 29, PORTSMOUTH, NH.
- THE PARCEL IS LOCATED IN THE GENERAL RESERVE (GR) ZONE.
- THE PARCEL IS LOCATED IN THE GENERAL RESERVE (GR) ZONE.
- THE PARCEL IS LOCATED IN THE GENERAL RESERVE (GR) ZONE.
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- THE PARCEL IS LOCATED IN THE GENERAL RESERVE (GR) ZONE.
- THE PARCEL IS LOCATED IN THE GENERAL RESERVE (GR) ZONE.

PLAN REFERENCES:

- 78 LANGDON STREET BOUNDARY ASSOCIATION BEING PART OF RICHMOND PLAT 16 IN BOOK 452555307'S MAP 138 LOT 29, PORTSMOUTH, NH.
- 138 LOT 29, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 30, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 31, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 32, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 33, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 34, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 35, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 36, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 37, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).
- 138 LOT 38, PORTSMOUTH, NH, BY ROSS CUNDIFF AND RENEE S. DAVID 1/29/06 RCD 8200.0000 (0.0094 ACRES).



TAX MAP 138 LOT 29

STANDARD BOUNDARY SURVEY

47 LANGDON STREET

PORTSMOUTH, NEW HAMPSHIRE

OWNED BY
CHRISTOPHER J. WILSON & LAUREL VALCHUS

SCALE: 1" = 40' (SEE NOTES)
 DATE: 09/24/16

TJM
 Town & Country
 Surveyors & Engineers

170 Commercial Hwy. 3rd Fl. 123
 Portsmouth, NH 02871
 Phone: (603) 451-2332
 Fax: (603) 451-9110
 www.townandcountry.com

MSC
 Maine State
 Surveyors & Engineers

170 Commercial Hwy. 3rd Fl. 123
 Portsmouth, NH 02871
 Phone: (603) 451-2332
 Fax: (603) 451-9110
 www.mscsurveyors.com

OCTOBER 14, 2016

September 5, 2024

Re: Abutter support of home addition project at 47 Langdon Street

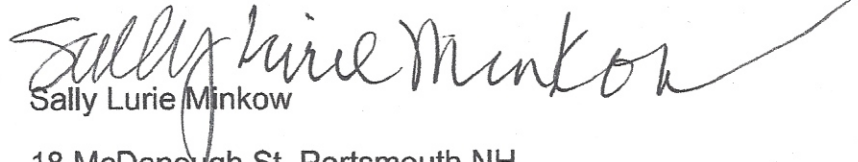
To whom it may concern,

I am the homeowner at 18 McDonough Street and my property abuts 47 Langdon Street. I have been fully informed of the details of the proposed addition to this property and have had an opportunity to ask questions about and review the plans.

In my opinion the proposed addition will look beautiful and be in keeping with the historic nature of the house.

I would like to confirm my full support for this proposal and have no reservations about the project should it be approved to move forward.

Best,

A handwritten signature in cursive script that reads "Sally Lurie Minkow". The signature is written in black ink and is positioned above the printed name.

Sally Lurie Minkow

18 McDonough St, Portsmouth NH

603 496-8240

09/08/2024

To Whom it may concern,

I am an abutter to 47 Langdon St (located directly behind) and would like to express my support of the proposed addition on the property. The owners have shared the details and plans. I consider the proposed addition to be a complement to the structure and property.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "J. Dennett". The signature is fluid and cursive, with a prominent initial "J" and a long horizontal stroke for the "D".

Jonathan Dennett
50 Brewster St
Portsmouth, NH 03801

II. NEW BUSINESS

- C. The request of **Garrett R. Merchant (Owner)**, for property located at **33 Harrison Avenue** requesting relief after the fact for the construction of a shed which requires the following: 1) Variance from Section 10.573.20 to allow a 3 foot rear yard and 5 foot right side yard where 9 feet is required for both; and 2) Variance from Section 10.521 to allow 22% building coverage where 20% is the maximum allowed. Said property is located on Assessor Map 251 Lot 16 and lies within the Single Residence B (SRB) District. (LU-24-179)

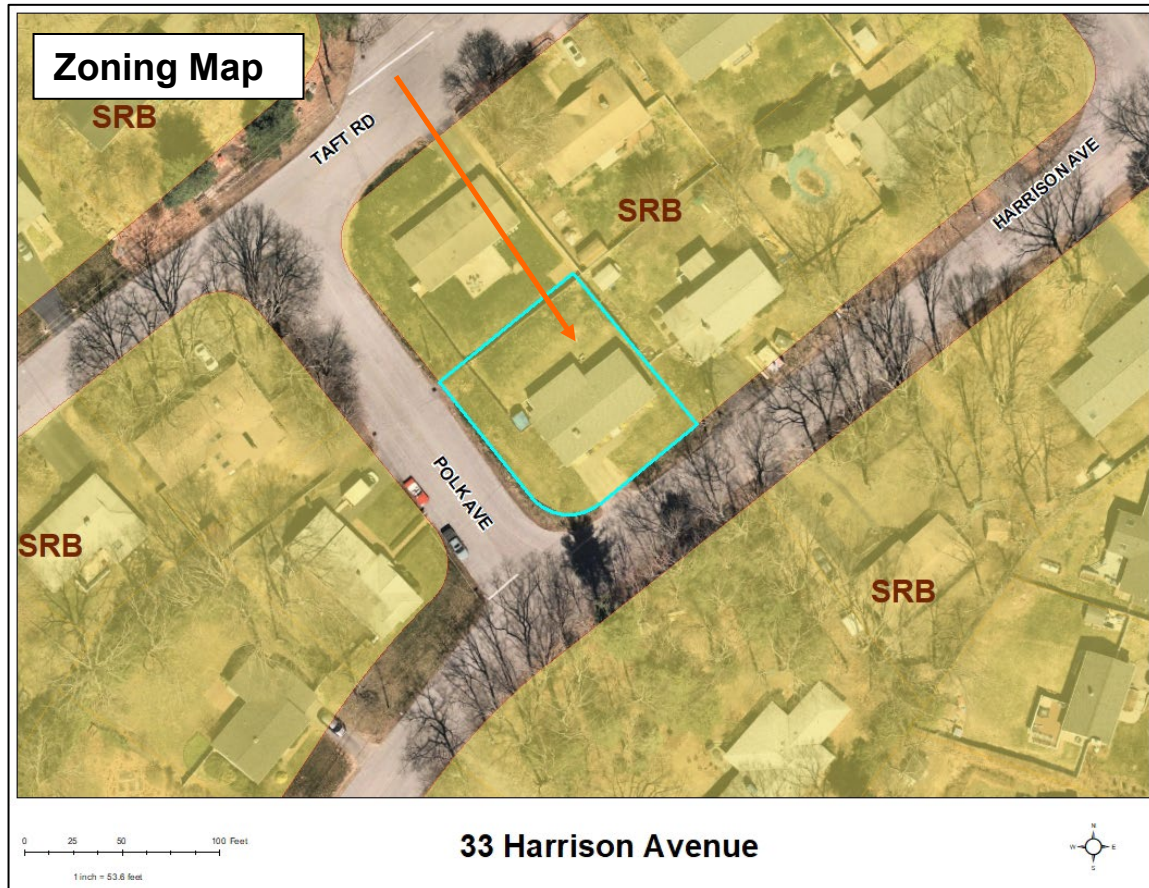
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family Residence	*After the fact variance for the construction of a shed	Primarily residential
<u>Lot area (sq. ft.):</u>	8,712	8,712	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,712	8,712	15,000 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Street Frontage (ft.):</u>	179	179	100 min.
<u>Primary Front Yard (Harrison Ave) (ft.):</u>	25	25	30 min.
<u>Right Yard (ft.):</u>	Primary Structure: 6	Shed: 5 Primary Structure:6	9 per 10.573.20 min.
<u>Secondary Front Yard (Polk Ave) (ft.):</u>	Primary Structure: 25	Shed: >30 Primary Structure: 25	30 min.
<u>Rear Yard (ft.):</u>	Primary Structure: 30	Shed: 3 Primary Structure: 30	9 per 10.573.20 min.
<u>Height (ft.):</u>	<35	Shed: 9	35 max.
<u>Building Coverage (%):</u>	20	23	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	2 min.
<u>Estimated Age of Structure:</u>	1956	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is requesting an after the fact variance for the installation of a shed. Setbacks for the shed are determined by the height of the structure, 9 feet, per Section 10.573.20 (language provided below).

10.573.20

An accessory building or structure more than 10 feet in height or more than 100 square feet in area shall be set back from any lot line at least the height of the building or the applicable yard requirement, whichever is less.

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.

Garrett and Margaret Marchand
33 Harrison Ave
Portsmouth, 03801
603-845-6852

August 19th 2024

Subject: Variance for 10x12 shed at 33 Harrison Avenue

Dear Zoning Board Members,

I am hoping to receive a variance for an existing shed on my property. I apologize for starting this process after the fact. When I purchased the shed from JD Sheds, I had asked the salesman if any permitting was required. Unfortunately, I trusted the salesman who told me "the only permit that would be required in Portsmouth would be in the historical district" and that I "would be all set". When I was picking a location on my property to place the shed, I noticed that 2 out of my 3 neighbors have similar sheds located in the corner of the adjoining properties. When the shed was being delivered, I requested that the shed be placed in that location and mimic how my neighbors' sheds were spaced so that it would look uniform with the existing sheds. The shed was already on my property when I was notified that a building permit is required for the 10X12 pre-made shed. I began the permitting process as soon as this was brought to my attention and I was informed that the shed would need to be nine feet from the adjacent property lines. Additionally, I was informed that my house was at the 20% land use threshold and this shed puts me over the 20%. Again, I apologize for starting this process after the shed was delivered as I was unaware of the rules/regulations. I am requesting a variance for the location of the shed, along with the 20 percent land use.

The shed is currently pine color and I plan to paint it gray to match the color of my house. The dimensions are 10'x12' and the height is 9 feet. I have attached pictures of what the shed currently looks like as of Aug 19th 2024. The shed is currently on cinder blocks and I confirmed the ground was level within 5 inches as requested by the shed company, before the shed was delivered. It is located in the right corner of my property where two of my neighbors have similar sized sheds. I am requesting permission to leave the shed in its current location; 39 inches (~3 feet) from my rear neighbor's property line and 5 feet from the property line to my right.

I require a shed because I require covered space to store a lawn mower, snow blower, weed wacker, and other supplies. For the last couple of years I utilized a tarp shed (see attached picture) that was always an eyesore as it would constantly blow over or spring leaks during the winter and frequent rain storms. Last winter I was unaware of a large leak which ruined a ~\$600 mower, ~\$300 leaf blower, and \$300 dollar water pump that I needed to use to move water that collected/flooded my driveway from the street. I do not have a garage or any storage space for outdoor equipment (lawn mower, shovels, weed wacker, grill, chairs, snow blower, and other equipment. We also just welcomed our first child and we are expecting to need to store toys, bikes and sports equipment for him in the next couple of years.

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 will be painted to match the house and the location of the shed is the same as my neighbors who have similar sheds (matches neighborhood aesthetics).

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

Granting a variance on the land use and location of the shed will not impact the ordinance; it mimics the location of my neighbors sheds

4. 10.233.23 Substantial justice will be done;

The shed allows us to have a safe, dry and secure spot to store our outdoor equipment and kids gear/toys. This will also ensure that my lawn is clutter free. The shed is brand new and is much more appealing than the tarp shed that was falling apart.

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

The shed does not affect any of my neighbors. 2 of my 3 adjacent neighbors have sheds in the same exact location. Their sheds do not affect me and my shed will not affect them in any way. I believe that my neighbors' property values will not be diminished in any way, as the shed allows me to have a clean/tidy lawn space. I have discussed the location of the shed with one of my neighbors who has offered to write a letter to the board on my behalf, if needed.

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

I need this shed for safe and secure storage so that I am not wasting money repurchasing outdoor power equipment every year due to damage, rust, etc.

















33 Harrison Ave

Restaurants Hotels Things to do Transit Parking Pharmacies ATMs

Sketch

33 Harrison Ave

Building

Directions Save Nearby Send to phone Share

33 Harrison Ave, Portsmouth, NH 03801

- Suggest an edit on 33 Harrison Ave
- Add a missing place
- Add your business
- Add a label
- Your Maps activity

Photos

Layers Google

II. NEW BUSINESS

- D. The request of **Northeast Credit Union and Liberty Mutual Insurance Company (Owners)**, for property located at **0 and 100 Borthwick Avenue** requesting relief to perform a lot line adjustment which will expand the parking lot which is an existing non-conforming use on the lot which requires the following: 1) Variance from 10.440 to allow a surface parking lot as a principal use where it is not allowed. Said property is located on Assessor Map 259 Lot 15 and Map 240 Lot 3 and lies within the Office Research (OR) District. (LU-24-165)

Existing & Proposed Conditions

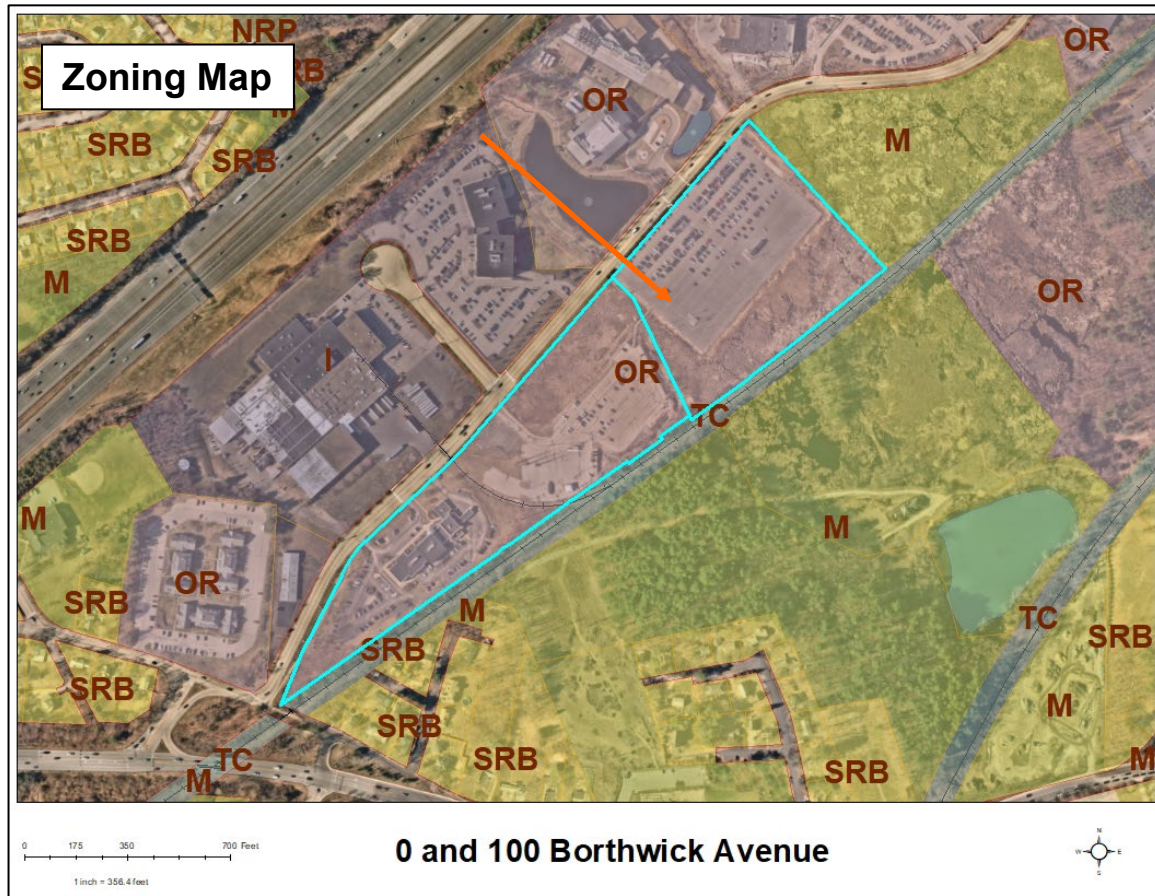
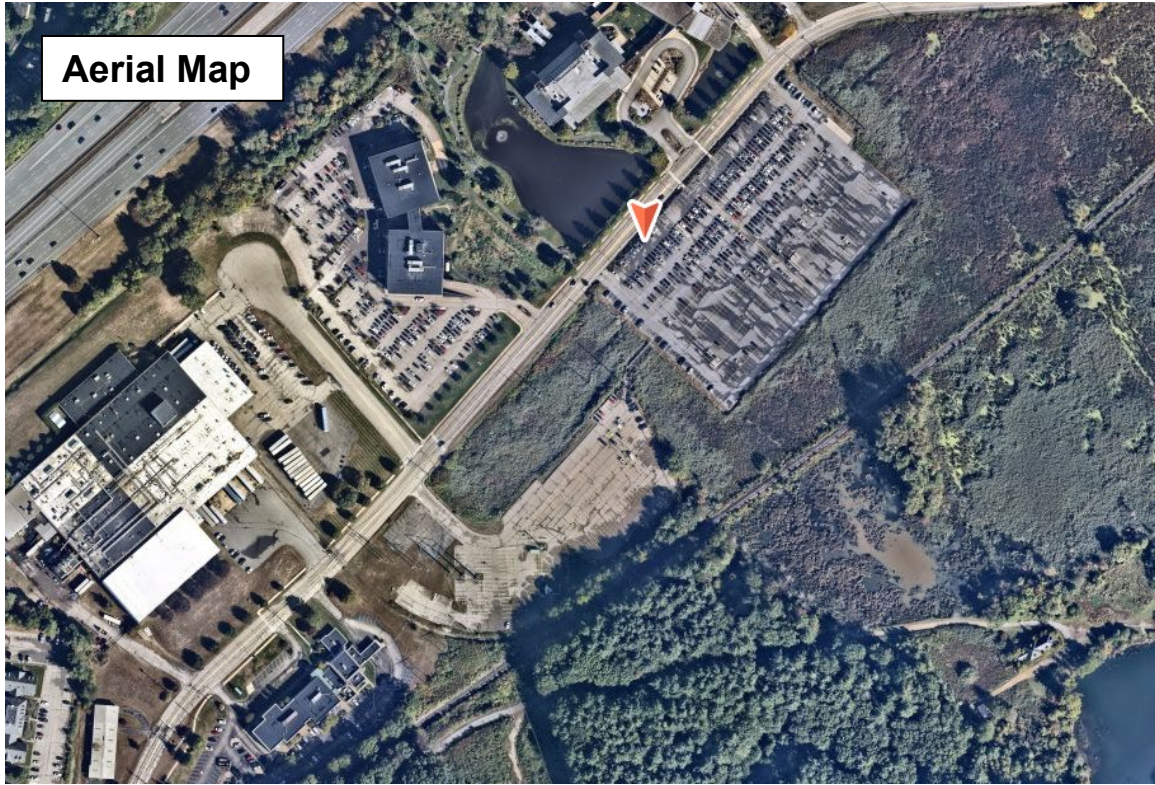
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Parking Lot	Expand the parking lot	Primarily building and commercial facilities
<u>Lot area (sq. ft.):</u>	467,834.4	677,024.4	130,680 min.
<u>Street Frontage (ft.):</u>	708.81	1,032.41	300 min.
<u>Parking Spaces</u>	264	526	
		Variance request(s) shown in red.	

* Parking facility is not permitted as a primary use

Other Permits/Approvals Required

- Lot Line Adjustment (Subdivision Application) – Planning Board

Neighborhood Context



Previous Board of Adjustment Actions For Map 240 Lot 3

No previous history found.

Planning Department Comments

The applicant is proposing a lot line adjustment between lots 240/3 and 259/15 to expand the parking facility on lot 240/3 by 262 spaces. The parking facility services the Liberty Mutual across the street. Parking is the primary use of lot 240/3 is considered existing non-conforming and the applicant is before the Board as redrawing of the lot line, as proposed, would expand the existing non-conformity.

Applicants lot line adjustment plan only shows the parcel being transferred from the parent lot (259/15). However, staff have provided a zoning analysis for the new dimensions of lot 240/3 and believe that the information is sufficient for the Board to consider the request.

The applicant has requested that a variance be approved for Section 10.331 of the Zoning Ordinance in addition to the use variance. Staff believe that the proposed project as advertised, under section 10.440, is sufficient. However, the Board may want to consider acknowledging on record that the request is covered or add a condition citing Section 10.331, if desired.

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.

September 23, 2024

Portsmouth Board of Adjustment

1 Junkins Avenue

Portsmouth, NH 03801

RE: Variance Addendum for Stonefish, LLC at 0 Borthwick Avenue

A. Introduction

Lot 240-3 is a ±10.74 acre parcel on Borthwick Avenue in Portsmouth, NH, that is currently owned by Liberty Mutual and used solely as a 264-space parking lot. The proposed lot-line adjustment will combine a portion of Lot 259-15, which is currently leased by Liberty Mutual, with their current parking lot which serves 225 Borthwick Ave, Lot 240-1. This lot-line adjustment and related real estate transaction will result in Liberty Mutual owning the entire parking lot it designed, engineered, and constructed. Variance relief is necessary due to Borthwick Avenue's extension splitting Liberty Mutual's parcel into separate parcels, thus making the standalone parking lot use non-conforming. Pursuant to Zoning Ordinance Section 10.331, a non-conforming parcel is permitted to remain but to extend the non-conforming use, a variance is required.

B. Requested Relief

Zoning Ordinance Section 10.331 allows a lawful nonconforming use to continue, but such use may not be extended, enlarged or changed except in conformity with this Ordinance. The Applicant's proposed lot line adjustment will technically expand Lot 240-3's primary use as a parking lot, which is not an allowed primary use per Section 10.440 – Table of Uses. As a result, the Applicant seeks variance relief from Section 10.331.

C. The Five Variance Criteria

1. **Waiving the terms of the Ordinance will not be contrary to the public interest because:** For a variance to be contrary to the public interest, the proposal must conflict with the Ordinance so much that it violates the Ordinance's basic zoning objectives. The relevant tests are (1) whether the proposal will alter the essential character of the neighborhood; and (2) whether it threatens the public health, safety or welfare. This section of Borthwick Avenue has a wide variety of uses, with a mix of Office Research, Industrial,

and Municipal-zoned properties paralleling the Interstate 95 corridor. Granting the variance will not alter the essential character of the neighborhood, because each of these uses has accessory parking and the subject lots are already being used for parking. The site abuts similar uses and is buffered by wetlands. The continuation of this use will not threaten the public health, safety, or welfare because the Applicant's proposal will only represent a change on paper as the existing parking areas are already in existence and being used as such.

2. **Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:** Because it is in the public's interest to uphold the spirit of the Ordinance, the New Hampshire Supreme Court has held that this and the first criterion are related. If an application meets one test, it almost certainly meets the other. *See Farrar v. City of Keene*, 158 N.H. 684 (2009). In addition to the reasons stated above, which are incorporated herein by reference, granting the variance will be consistent with the spirit of the Ordinance. Among the stated purposes of the Zoning Ordinance and Master Plan are to promote economic development and to promote "the design of facilities for vehicular access, circulation, parking and loading." Allowing the requested relief simply allows the Applicant to redraw the lot lines while maintaining the existing necessary parking servicing the office building directly across Borthwick Ave. Accordingly, granting the variance will be consistent with the spirit of the Ordinance.
3. **Granting the variance would do substantial justice because:** The New Hampshire Supreme Court has held that measuring substantial justice requires balancing public and private rights. "Perhaps 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." *Harborside Assocs., L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 515 (2011). The extension of Borthwick Ave in 1969 bifurcated the property and created the unusual circumstance where the accessory parking (Lot 240-3) is separated from the primary user (Lot 240-1). Denying the variance will harm the Applicant in its attempt to consolidate the existing parking areas, but would serve no public benefit as these uses already exist. There is no injury to the public if the variance is granted because it will allow the Applicant to realize reasonable property rights while maintaining necessary parking.
4. **The value of surrounding property will not be diminished because:** Continuing use of this property for parking will have no effect on surrounding properties. The parking lot serves an abutting property, and all of the other lots have significant parking areas, as would be expected. Additionally, many of the abutting properties are City-owned and generally impervious to any market fluctuations.

5. **Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship. “Unnecessary hardship” means that, *owing to special conditions of the property that distinguish it from other properties in the area:***

The property’s size, location at the edge of multiple zoning districts, and historical creation by the City’s extension of Borthwick Ave are special conditions of the property that distinguish it from its neighbors and other properties in Portsmouth at large.

(A)(i) No fair and substantial relationship exists between the general purposes of the Ordinance provision and the specific application of that provision to the property because: Unnecessary hardship will be found when the subject property has special conditions or circumstances that distinguish it from other properties in the area and (1) there is no substantial relationship between the purpose of the Ordinance and the specific application of the Ordinance as applied to the property; and (2) the proposed use is reasonable. See RSA 674:33. The Zoning Ordinance aims to promote Portsmouth’s health, safety, and welfare while allowing reasonable uses of property. This property is unique in that its non-conformity was the result of municipal action. The proposal will not change physical layout of the engineered parking lot, but will enable a reasonable lot line adjustment to the benefit of the Applicant. Further, the current user of the lot does not own the lot, so granting this variance would enable the Applicant, as well as the current user of the lot, to both avoid unnecessary hardship.

(A)(ii) The proposed use is a reasonable one because: Parking is a necessary permitted accessory use. The fact that this lot was separated from its primary use, by municipal action no less, does not make its function any less accessory. When considering this property’s location abutting similar existing uses, providing the requested variance relief to allow this use at this location is fundamentally reasonable.

Should there be any questions or concerns about the aforementioned application, please feel free to contact me directly.

Sincerely,

Jeff Kilburg

Project Director

Encl: Application Material



LIBERTY MUTUAL INSURANCE

REAL ESTATE SERVICES
175 BERKELEY STREET
MAIL STOP M04E
BOSTON, MA 02116
TELEPHONE: (617) 357-9500
FAX: (617) 574-5779

Owner Authorization Form Portsmouth, New Hampshire

Liberty Mutual Insurance Company, owner of the Map 240 Lot 3 property, authorizes Apex
(Company Name)
Design Build, to submit a Zoning Variance Request (Lot Line Revision) application relating to
the project (# LU-24-165) at 0 Borthwick Ave, Portsmouth, NH.

William G. Johnson

William Johnson, AVP,
Director Real Estate Transactions,
Real Estate Delivery

9/23/2024

Date

Authorization Form

This Authorization Form (this “Authorization”), effective upon the date of signature below (the “Effective Date”), is by and among Northeast Credit Union dba Lighthouse Credit Union and its successors or assigns (“Lighthouse”), Apex Design Build (“Apex”) and Allen & Major Associates, Inc. (collectively with Apex, the “ATDG Borthwick Team”), to act as an agent on behalf of Lighthouse for the purposes and upon the limitations listed herein:

Effective upon the Effective Date, this Authorization, relative strictly to Lighthouse’s property located at 100 Borthwick Avenue, Portsmouth, New Hampshire 03801 (the “Property”) and the ATDG Borthwick Team’s ongoing project on behalf of ATDG, LLC at the Property (the “Project”), is limited to: 1) permitting and land use matters relative to the Project that are before governing boards, committees or other authority bodies or individuals authorized and acting on behalf of the City of Portsmouth, New Hampshire or the State of New Hampshire (collectively, the “Project Governmental Bodies”) and 2) authorizes the ATDG Borthwick Team to: a) apply for and sign permits and ancillary documents relative to the Project as needed from the Project Governmental Bodies and to b) speak with and appear before Project Governmental Bodies and individuals working on behalf of the same, as representative of Lighthouse in conjunction with the Project. This Authorization is contingent upon copy of all applications and submissions relative to the Project that are submitted to the Project Governmental Bodies being sent to Lighthouse, contemporaneously with or before their time of submission, as follows:

Lighthouse Credit Union

Attn: Lee Schafer, SVP, General Counsel & Chief Operating Officer

Via email to: lschafer@lighthousecu.org &

Neil Gordon, SVP & Chief Financial Officer

Via email to: ngordon@lighthousecu.org

With a copy to

Sheehan Phinney Bass & Green, PA

Attn: Eric T. Kilchenstein, Esq.

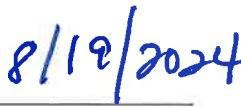
Via email to: ekilchenstein@sheehan.com

This Authorization is fully revocable without cause and upon written notice from Lighthouse.

[Signature Page Follows]

Northeast Credit Union dba Lighthouse Credit Union

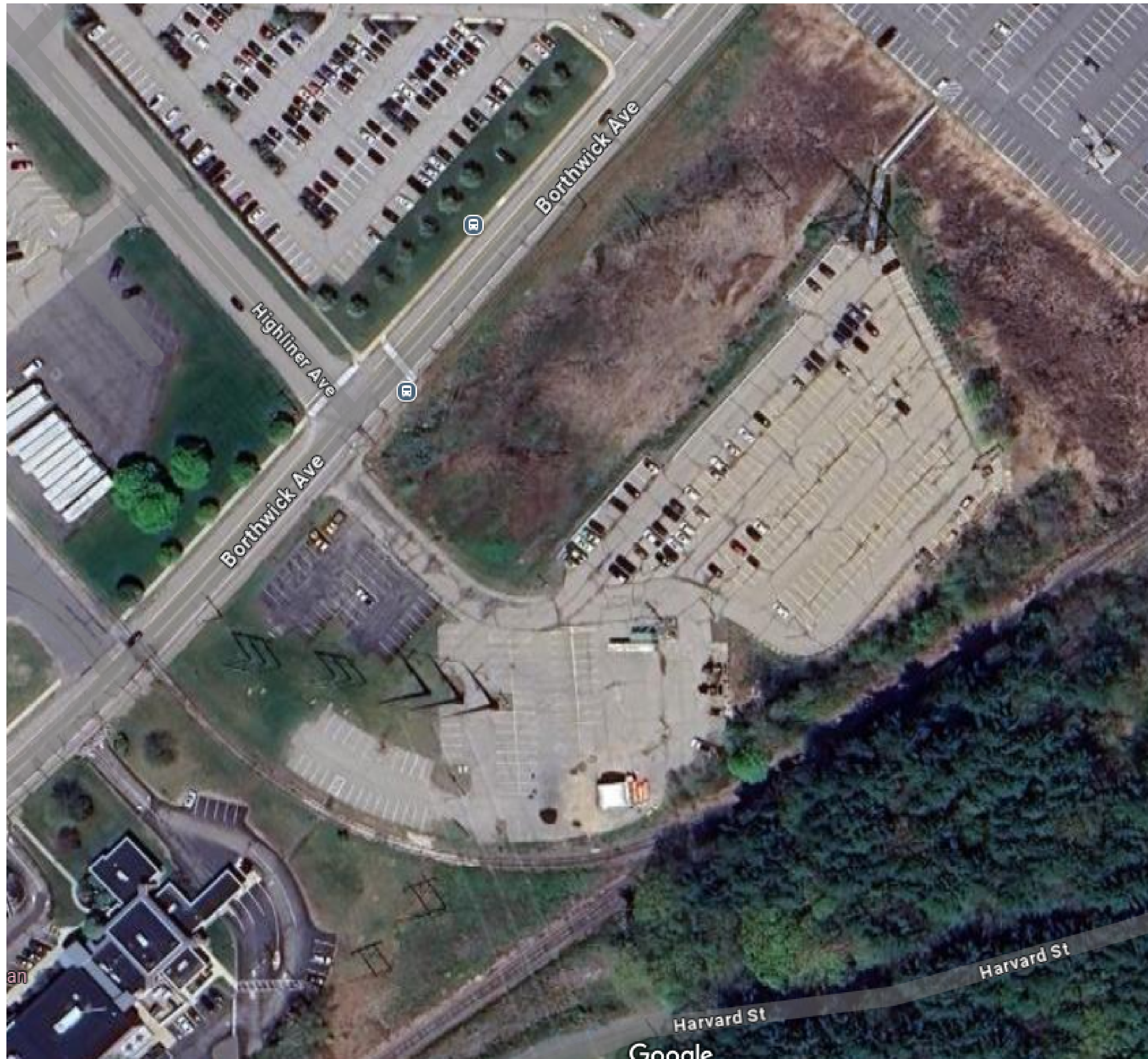




By: Neil Gordon,
Title: SVP and Chief Financial Officer
Duly Authorized

Date:

[Signature Page to Authorization Form]



9550 W. Higgins Rd. 170
Rosemont, IL 60018

Map 240 Lot 3

0 BORTHWICK AVE.
PORTSMOUTH, NH 03801

SEAL:

DISCLAIMER: All drawings are proprietary and the exclusive property of our company. This/these print(s) shall not be shared, copied or reproduced without expressed permission of our company. This print is loaned in confidence and subject to return upon request by our company.

No.	Description	Date

PARKING LOT PHOTOS

Project number

GA0-0

Scale



9550 W. Higgins Rd. 170
Rosemont, IL 60018

Map 240 Lot 3

0 BORTHWICK AVE.
PORTSMOUTH, NH 03801

SEAL:

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No.	Description	Date

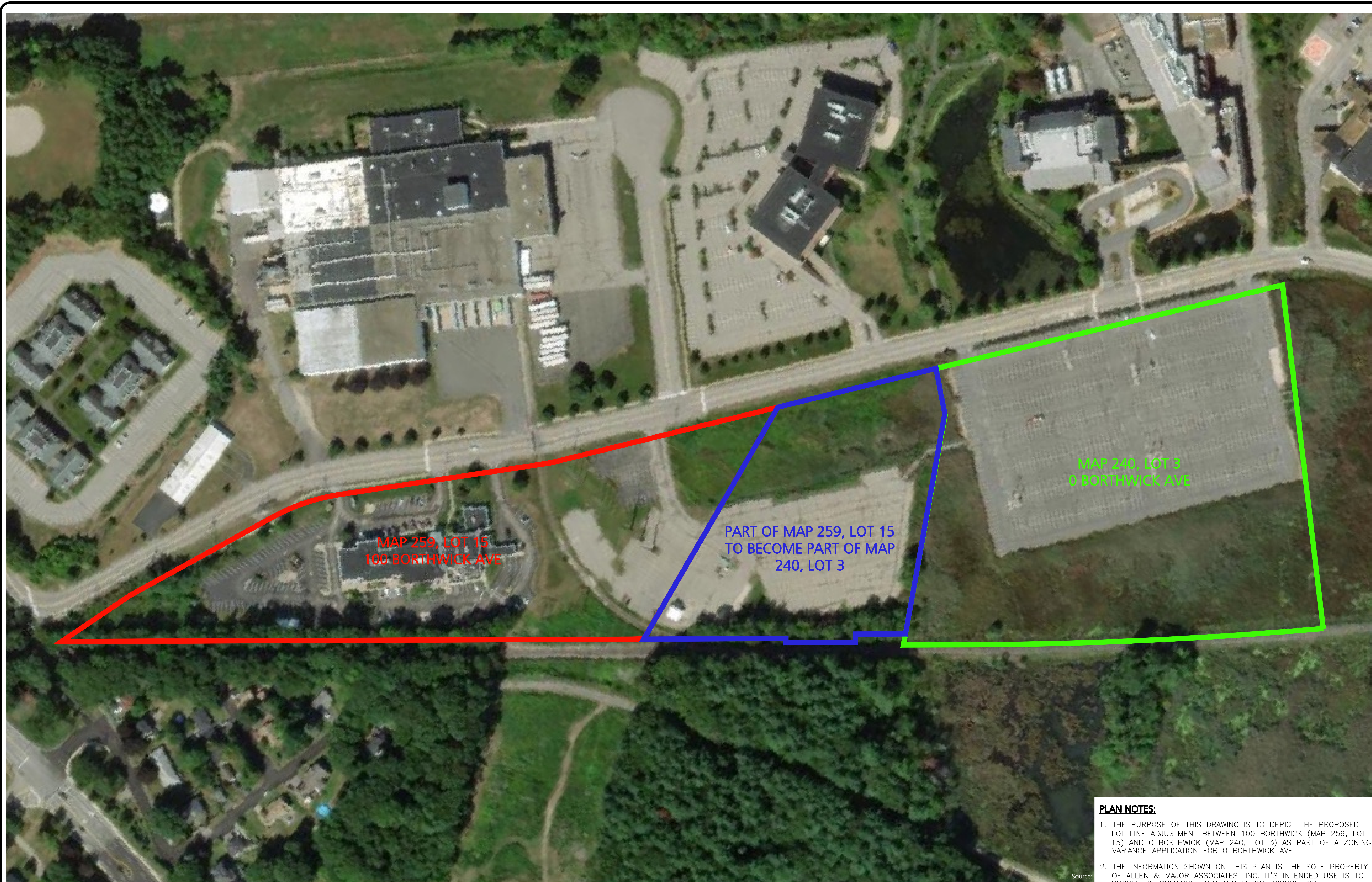
PARKING LOT PHOTOS

Project number

GA0-0

Scale





MAP 259, LOT 15
100 BORTHWICK AVE

PART OF MAP 259, LOT 15
TO BECOME PART OF MAP
240, LOT 3

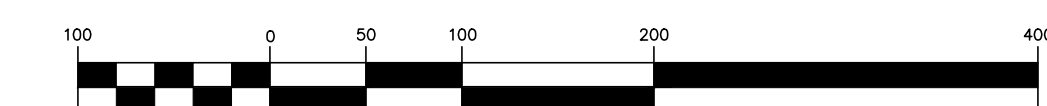
MAP 240, LOT 3
0 BORTHWICK AVE

PLAN NOTES:

1. THE PURPOSE OF THIS DRAWING IS TO DEPICT THE PROPOSED LOT LINE ADJUSTMENT BETWEEN 100 BORTHWICK (MAP 259, LOT 15) AND 0 BORTHWICK (MAP 240, LOT 3) AS PART OF A ZONING VARIANCE APPLICATION FOR 0 BORTHWICK AVE.
2. THE INFORMATION SHOWN ON THIS PLAN IS THE SOLE PROPERTY OF ALLEN & MAJOR ASSOCIATES, INC. IT'S INTENDED USE IS TO PROVIDE INFORMATION. ANY ALTERATION, MISUSE, OR RECALCULATION OF INFORMATION OR DATA WITHOUT THE EXPRESSED, WRITTEN CONSENT OF ALLEN & MAJOR ASSOCIATES, INC. IS STRICTLY PROHIBITED.

Source:

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.

REV	DATE	DESCRIPTION

APPLICANT/OWNER:
APEX DESIGN BUILD
9550 W. HIGGINS ROAD, STE 170
ROSEMONT, IL 60018

PROJECT:
MAP 240, LOT 3
0 BORTHWICK AVENUE
PORTSMOUTH, NH 03801

PROJECT NO.	3250-02	DATE:	09-23-24
SCALE:	1" = 100'	DWG. NAME:	C3250-02
DESIGNED BY:	BDJ	CHECKED BY:	RPC

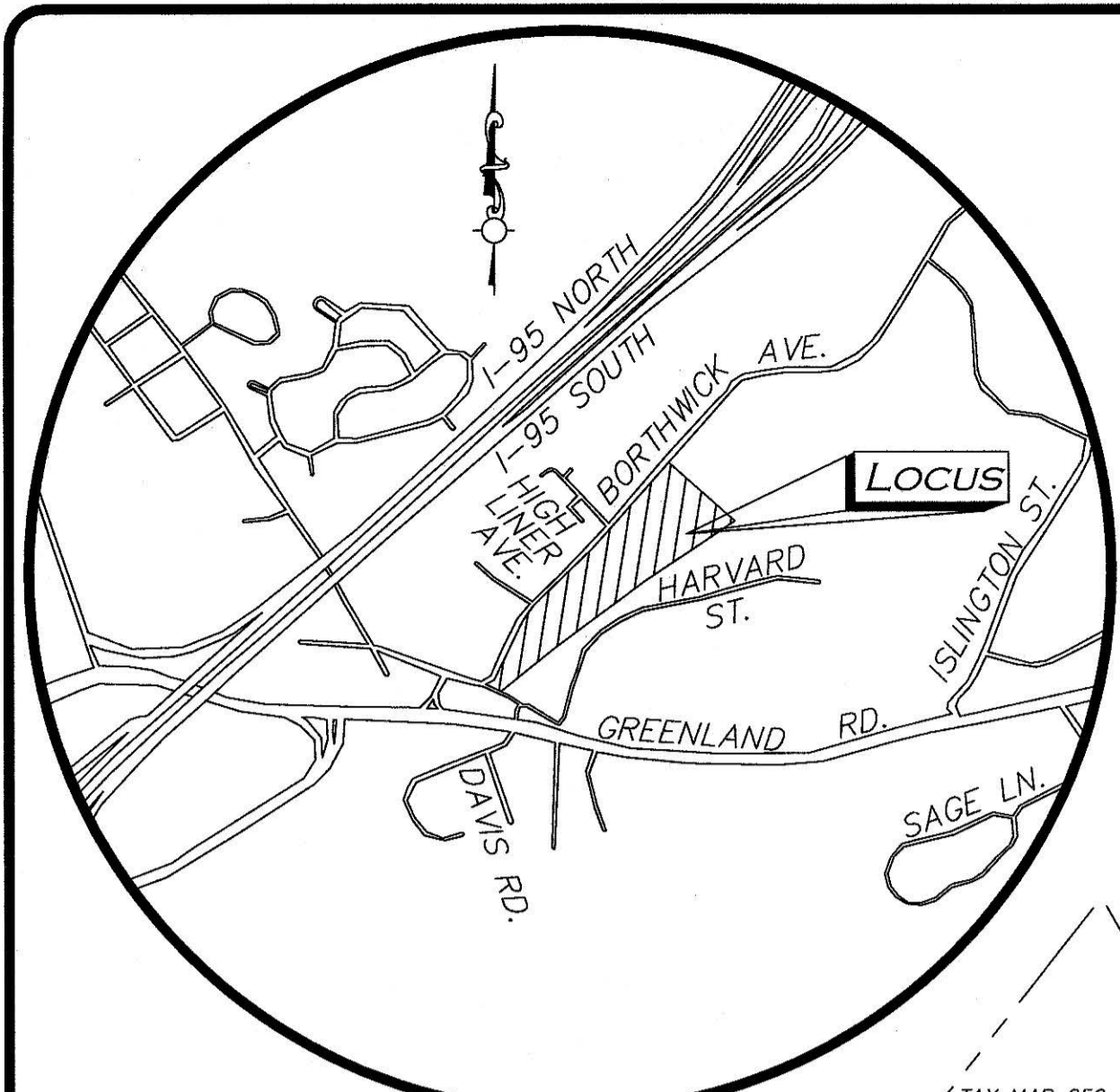
PREPARED BY:

ALLEN & MAJOR ASSOCIATES, INC.
civil engineering • land surveying
environmental consulting • landscape architecture
www.allenmajor.com
400 HARVEY ROAD
MANCHESTER, NH 03103
TEL: (603) 627-5500
FAX: (603) 627-5501

WOBURN, MA • LAKEVILLE, MA • MANCHESTER, NH

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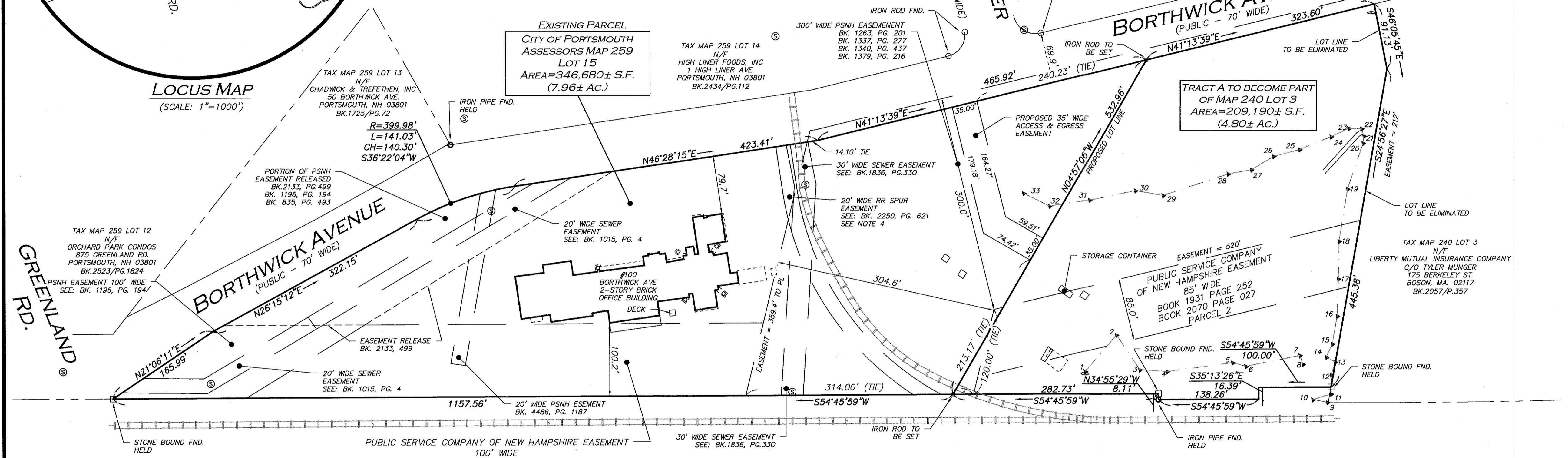
DRAWING TITLE: **VARIANCE EXHIBIT PLAN** SHEET No. **EXH-1**



LOCUS MAP
(SCALE: 1"=1000')

LEGEND	
STONE BOUND FND.	□
IRON PIPE (IP)	○
IRON ROD (IR)	●
WETLAND FLAG	▲A31
PROPERTY LINE	---
ABUTTERS LINE	---
STONE BOUND W/DRILL HOLE	SB/DH
CONC. BOUND W/DRILL HOLE	CB/DH
FOUND	FND
NOW OR FORMERLY	N/F
BOOK	BK.
PAGE	PG.
BUILDING HEIGHT	BH
SEWER MAN HOLE	⊙

ZONING TABLE - OFFICE/RESEARCH DISTRICT			
ITEM	REQUIRED	EXISTING	PROPOSED 259-15
LOT AREA (MIN)	3 Ac.	12.76	7.96 AC.
LOT FRONTAGE (MIN)	300'	1842.10'	1518.5'
LOT DEPTH (MIN)	300'	337' AVG.	337' AVG.
FRONT YARD SETBACK (MIN)	50'	79.7'	79.7'
SIDE YARD SETBACK (MIN)	75'	829'	332'
REAR YARD SETBACK (MIN)	50'	100.2'	100.2'
OPEN SPACE (MIN)	30%	48%	45%
BUILDING COVERAGE (MAX)	30%	4%	4%
BUILDING HEIGHT (MAX)	60'	72'	72'



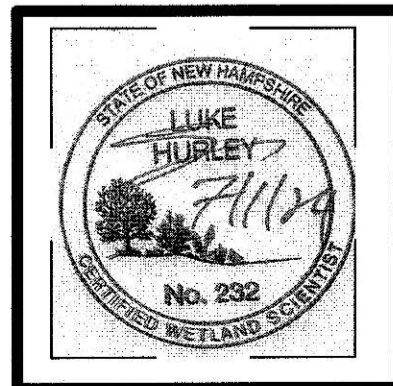
EXISTING PARCEL
CITY OF PORTSMOUTH
ASSESSORS MAP 259
LOT 15
AREA=346,680± S.F.
(7.96± AC.)

TRACT A TO BECOME PART OF MAP 240 LOT 3
AREA=209,190± S.F.
(4.80± AC.)

BOSTON & MAINE RAILROAD

PLAN REFERENCES

- PLAN ENTITLED, "PLAN OF A PORTION OF BORTHWICK INDUSTRIAL PARK PORTSMOUTH, N.H.", SCALE 1"=60', DATED DECEMBER 1975, PREPARED BY JOHN W. DURGIN, AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-5695.
- PLAN ENTITLED, "SITE PLAN OF ORCHARD PARK CONDOMINIUMS", SCALE 1"=40', DATED OCTOBER 10, 1985, PREPARED BY KIMBALL CHASE COMPANY, INC. AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-14238.
- PLAN ENTITLED, "PLAN OF LAND MAP 240, LOTS 1 & 3 PORTSMOUTH, NEW HAMPSHIRE", SCALE 1"=60', DATED JUNE 13, 2005, PREPARED BY VHB, AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-33833.
- PLAN ENTITLED, "SUBDIVISION PLAN FOR NATIONAL SEA PRODUCTS INCORPORATED HIGHLINER AVENUE/ BORTHWICK AVENUE COUNTY OF ROCKINGHAM PORTSMOUTH, N.H.", SCALE 1"=100', DATED OCTOBER 25, 1997, PREPARED BY RICHARD P. MILLETTE AND ASSOCIATES, AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-25842.
- PLAN ENTITLED, "REVISED PLAN OF BORTHWICK INDUSTRIAL PARK PORTSMOUTH, N.H.", SCALE 1"=60', DATED AUGUST 31, 1966, PREPARED BY JOHN W. DURGIN AND ON FILE AT THE R.C.R.D. AS PLAN #770.
- PLAN ENTITLED, "PLAN OF BORTHWICK INDUSTRIAL PARK PORTSMOUTH, N.H.", SCALE 1"=60', DATED JANUARY, 1964, PREPARED BY JOHN W. DURGIN AND ON FILE AT THE R.C.R.D. AS PLAN NO. 282.
- PLAN ENTITLED, "STANDARD BOUNDARY SURVEY" DATED JUNE 2004, PREPARED BY AMBIT ENGINEERING, INC. CIVIL ENGINEERS & LAND SURVEYORS AND RECEIVED ON JUNE 17, 2024.
- PLAN ENTITLED, "EASEMENT PLAN MAP 259-LOT 15 NORTHEAST CREDIT UNION TO PSNH" DATED MARCH 2005, PREPARED BY AMBIT ENGINEERING, INC. CIVIL ENGINEERS & LAND SURVEYORS AND ON FILE AT R.C.R.D. AS PLAN NO. D-32670.



HURLEY ENVIRONMENTAL & LAND PLANNING, LLC
P.O. BOX 356
EPSOM, NH 03234
(603) 583-1745

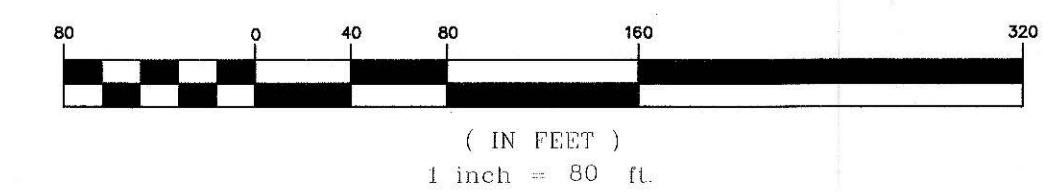
THE WETLAND DELINEATION WAS PERFORMED BY HURLEY ENVIRONMENTAL & LAND PLANNING, LLC, JUNE 2024, UTILIZING THE FOLLOWING STANDARDS:

- REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS MANUAL: NORTH CENTRAL AND NORTHEAST REGION, (VERSION 2.0) JANUARY 2012, U.S. ARMY CORPS OF ENGINEERS.
- FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, A GUIDE FOR IDENTIFYING AND DELINEATING HYDRIC SOILS, VERSION 8.2, UNITED STATES DEPARTMENT OF AGRICULTURE(2018).
- NEW ENGLAND HYDRIC SOILS TECHNICAL COMMITTEE, 2019 VERSION 4, FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND. NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION, LOWELL, MA.
- NATIONAL WETLAND PLANT LIST, VERSIONS 3.5 (2020).

LOCUS REFERENCES
-CITY OF PORTSMOUTH TAX MAP 259, LOT 15
-R.C.R.D. BOOK 2270, PAGE 345

NOTES

- THE PURPOSE OF THIS PLAN IS TO ADJUST THE LOT LINE BETWEEN MAP 259 LOT 15 AND MAP 240 LOT 3. PROPOSED TRACT A WILL BE ANNEXED AND COMBINED WITH MAP 240 LOT 3. NO SURVEY WORK WAS COMPLETED AT THIS TIME BY THIS OFFICE, FOR MAP 240 LOT 3.
- NORTH ARROW IS BASED ON NEW HAMPSHIRE GRID COORDINATE SYSTEM (NAD 83).
- BOOK/PAGE AND PLAN REFERENCES ARE TAKEN FROM THE ROCKINGHAM COUNTY REGISTRY OF DEEDS IN BRENTWOOD, NH
- WETLANDS DELINEATED BY LUKE HURLEY, NH WETLAND SCIENTIST.
- RAILROAD SPUR WAS CONSTRUCTED OUTSIDE OF RECORD EASEMENT.
- PROPOSED NEW PARCEL MAP 259 LOT 15-A IS CURRENTLY USED AS A PARKING AREA.
- SEE EXISTING CONDITIONS PLAN SET, PREPARED BY ALLEN & MAJOR ASSOCIATES, INC. WITH THE SAME DATE. ONLY THIS PLAN TO BE USED FOR SUBDIVISION RECORDING PURPOSES.
- SEE: BK. 4486, PG. 2595 EASEMENT TO CITY OF PORTSMOUTH FOR GROUNDWATER MONITORING.
- SEE: BK. 1374, PG. 142 35' WIDE EASEMENT TO ALLIED NH GAS COMPANY. SPECIFIC LOCATION NOT IDENTIFIED, BLANKET IN NATURE.
- SEE: BK. 835, PG. 493 FOR EASEMENT TO NH GAS & ELECTRIC COMPANY. BELIEVED TO BE AN OVERLAPPING EASEMENT THAT WAS DISCONTINUED IN BK. 2133, PG. 499.



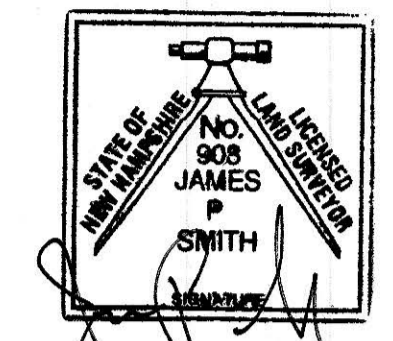
R:\PROJECTS\3250-02\SURVE\DRAWINGS\CURRENT\S-3250-02-LOT LINE ADJUSTMENT.DWG

CITY OF PORTSMOUTH, NH PLANNING BOARD APPROVAL

CHAIRMAN	DATE

THIS PLAN IS THE RESULT OF AN ACTUAL ON THE GROUND SURVEY PERFORMED ON OR BETWEEN JUNE 14, 2024 AND JULY 2, 2024 AND HAD AN ERROR OF CLOSURE OF NO GREATER THAN 1/10,000.
THE SUBJECT PREMISES IS LOCATED IN FLOOD ZONE X - "AREA OF MINIMAL FLOOD HAZARD" AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR THE CITY OF PORTSMOUTH NEW HAMPSHIRE ROCKINGHAM COUNTY COMMUNITY PANEL NUMBER 33015C0270F HAVING AN EFFECTIVE DATE OF JANUARY 1, 2021.

ALLEN & MAJOR ASSOCIATES, INC.



JAMES P. SMITH NH L.S. #908 DATE 8-19-24

REV	DATE	DESCRIPTION

APPLICANT:
STONEFISH, LLC
875 GREENLAND RD. UNIT C8
PORTSMOUTH, NH 03801

OWNER:
NORTH EAST CREDIT UNION
PO BOX 1240
PORTSMOUTH, NH 03802

PROJECT:
TM 259 LOT 15
100 BORTHWICK AVE.
PORTSMOUTH, NH

PROJECT NO. 3250-02 DATE: 08-19-2024

SCALE: 1" = 80' DWG. NAME: S-3250-02-LLA

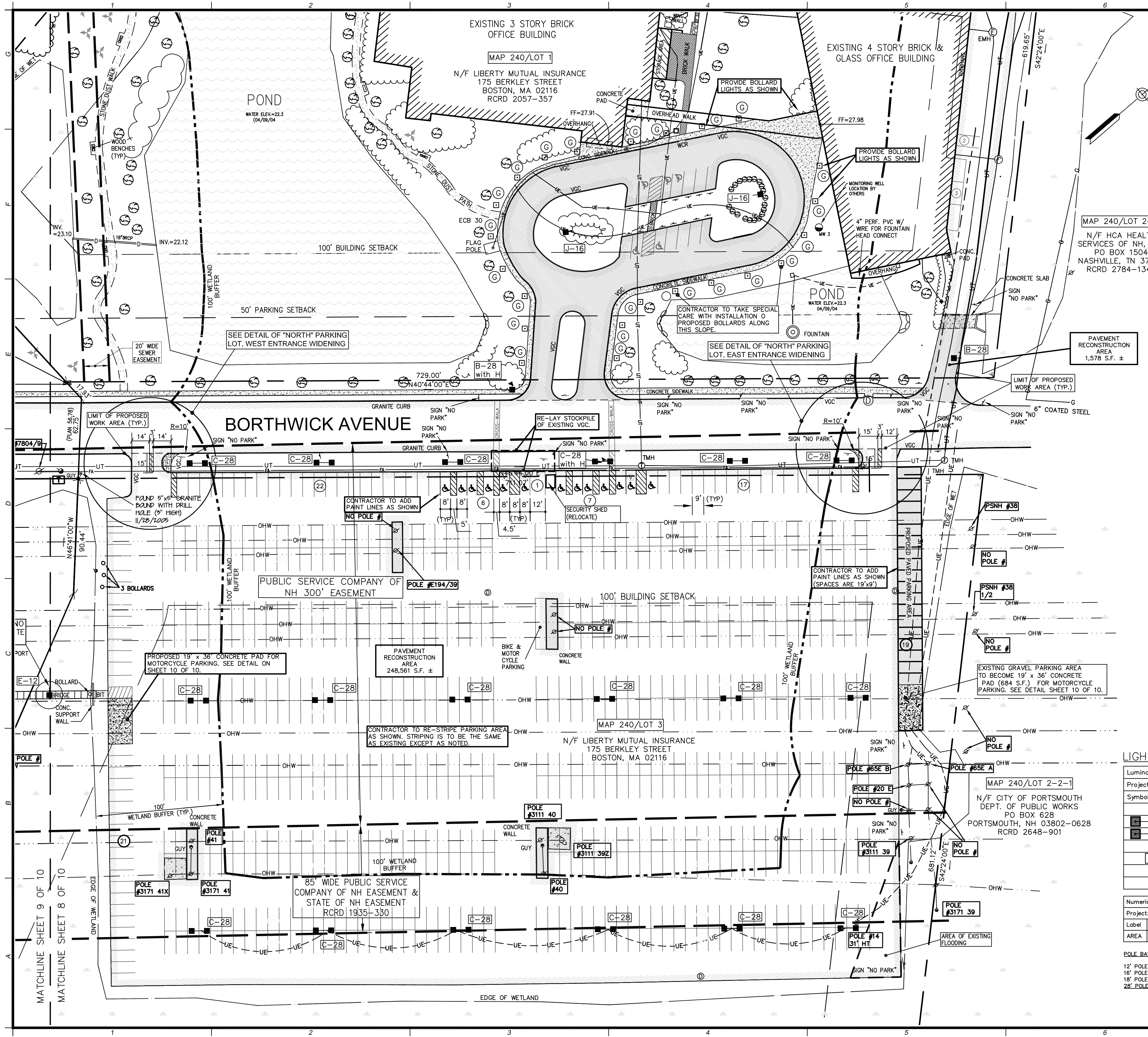
DRAFTED BY: CTP CHECKED BY: JPS

PREPARED BY:

ALLEN & MAJOR ASSOCIATES, INC.
civil engineering • land surveying
environmental consulting • landscape architecture
www.allenmajor.com
400 HARVEY ROAD
MANCHESTER, NH 03103
TEL: (603) 627-5500
FAX: (603) 627-5501
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DRAWING TITLE: LOT LINE ADJUSTMENT PLAN SHEET No. 1



ISSUED
09/29/06

- NOTES:**
- SEE SHEET 2 OF 10 FOR STANDARD NOTES.
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING AND DETERMINING THE LOCATION, SIZE AND ELEVATIONS OF ALL EXISTING UTILITIES, SHOWN OR NOT SHOWN ON THESE PLANS PRIOR TO THE START OF ANY CONSTRUCTION. THE ENGINEER SHALL BE NOTIFIED IN WRITING OF ANY UTILITIES INTERFERING WITH THE PROPOSED CONSTRUCTION TO DETERMINE APPROPRIATE ACTION TO BE TAKEN BEFORE PROCEEDING WITH THE WORK.
 - CONTRACTOR TO COORDINATE WITH ALL UTILITY COMPANIES AND DIGSAFE PRIOR TO ANY EXCAVATION. CONTRACTOR TO CONTACT DIGSAFE AT LEAST 72 HOURS PRIOR TO ANY EXCAVATION. (1-888-344-7233).

UTILITY CONTACTS:

ELECTRIC: PUBLIC SERVICE CO. OF NH
1700 LAFAYETTE ROAD
PORTSMOUTH, NH 03801
CONTACT: WAYNE BROOKS
TRANSMISSION LINE ENGINEER
(603) 436-5660

TELEPHONE: VERIZON
ROUTE 33
PO BOX 307
GREENLAND, NH 03840
CONTACT: KEN MOKENZIE
(603) 427-2000

GAS: NORTHERN UTILITIES, INC.
325 WEST ROAD
PORTSMOUTH, NH 03801
CONTACT: JEFF INGLIS
(603) 436-0310

SEWER: PORTSMOUTH DPW
680 PEVERLY HILL ROAD
PORTSMOUTH, NH 03801
CONTACT: MIKE JENKINS
(603) 427-1552

WATER: PORTSMOUTH DPW
680 PEVERLY HILL ROAD
PORTSMOUTH, NH 03801
CONTACT: MIKE JENKINS
(603) 427-1552

CABLE: MEDIA ONE
155 COMMERCE WAY
PORTSMOUTH, NH 03801
CONTACT: GEORGE KIRKWOOD
(603) 433-2166

- CONTRACTOR TO STRIPE PARKING AREAS AS SHOWN. STRIPING IS TO BE THE SAME AS THE EXISTING PARKING STRIPING EXCEPT AS NOTED.
CONTRACTOR TO STRIPE PARKING AREAS AS SHOWN.
THE RE-STRIPING WILL ALLOW FOR THE FOLLOWING INCREASE IN PARKING:
- | "SOUTH"/"CREDIT UNION" LOT: | EXISTING | PROPOSED | |
|-----------------------------|----------|----------|------------|
| "NORTH" LOT: | 779 | 795 | +16 SPACES |
| BUILDING ENTRANCE LOT: | 14 | 14 | |
| | 1059 | 1075 | +16 |

- LIGHTING DESIGN FROM LSI INDUSTRIES INC.
10000 ALLIANCE ROAD
CINCINNATI, OH 45242
(513) 793-3200
- A. CONTRACTOR TO COORDINATE WITH LSI INDUSTRIES INC. FOR LIGHT FIXTURE AND POLE SPECIFICATION.
B. CONTRACTOR TO COORDINATE WITH CLIENT AND CITY OF PORTSMOUTH PLANNING DEPARTMENT TO ACHIEVE "DARK SKY" NON-GLARE LIGHTING.
C. CONTRACTOR TO COORDINATE WITH PUBLIC SERVICE COMPANY OF NH FOR POLE LOCATED WITH THE PSNH EASEMENT.

LIGHTING SCHEDULE

Symbol	Qty	Label	Arrangement	Lumens	LLF	Description	Total Watts
[Symbol]	7	B	SINGLE	120000	0.720	GFR 3 1000 PSMV F	1080
[Symbol]	20	C	D180	120000	0.720	GFR 5 1000 PSMV F	2160
[Symbol]	8	D	D180	32000	0.720	GFM 5 320 PSMV F	736
[Symbol]	2	E	SINGLE	32000	0.720	GFM 3 320 MH F	368
[Symbol]	26	G	SINGLE	8500	0.720	BVS-ID-100-MH-CP	129
[Symbol]	2	H	SINGLE	32000	0.720	DRM2-MF-400-MHR-F	458
[Symbol]	2	J	SINGLE	36000	0.720	GFM 5 400 MHR F	458

Numeric Summary

Label	Avg	Max	Min	Avg/Min	Max/Min
AREA	5.68	22.2	0.1	56.80	222.00

ALL EXISTING POLE LOCATIONS

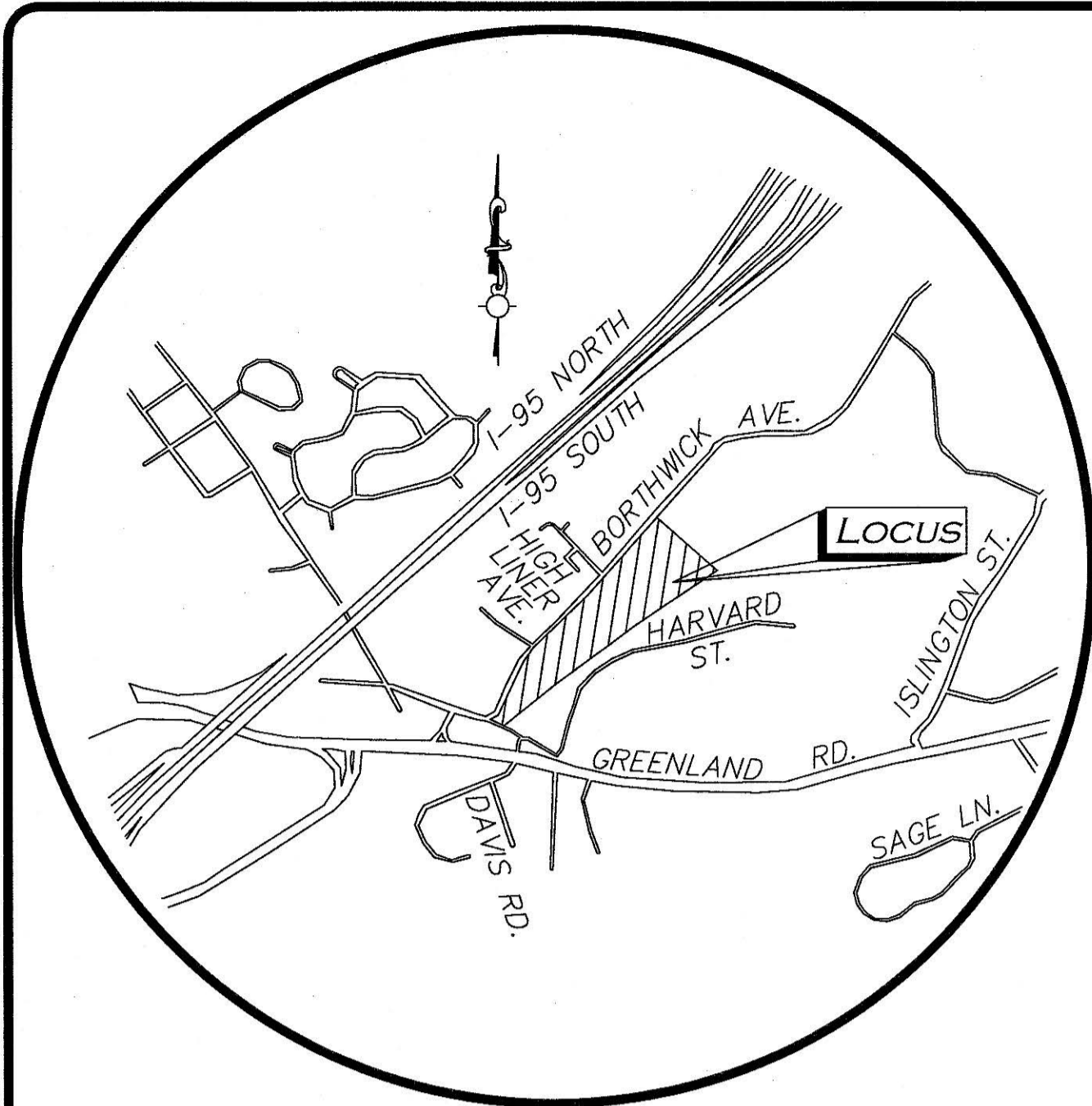
All 28' Poles to be mounted on concrete pedestals 2' above grade, for a total mounting height of 30'.
 ○ NEW POLE LOCATIONS MOUNTED AT 12'
 □ FIXTURE MOUNTED AT 16'
 △ FIXTURES "J" ARE MOUNTED AT 16'
 Maintained Footcandle levels at grade, using a .22 Total Light Loss Factor.

MAP 240, LOT 3 & MAP 259, LOT 15
PROPERTY OF
LIBERTY MUTUAL INSURANCE COMPANY
BORTHWICK AVENUE
COUNTY OF ROCKINGHAM
PORTSMOUTH
NEW HAMPSHIRE

LIGHTING & LAYOUT PLAN
 REV. 5 06/29/06 REVISE NORTH PARKING LOT ENTRANCES
 REV. 4 06/28/06 REVISE NORTH PARKING LOT HANDICAP SPACES
 REV. 3 05/18/06 REVISIONS PER REVIEW
 REV. 2 03/17/06 REVISIONS PER CLIENT REVIEW
 REV. 1 02/23/06 REVISIONS PER CLIENT REVIEW
 DRAWN BY: LAS
 CHECKED BY: FRS

AMES MSC
ARCHITECTS & ENGINEERS
 JOHN HART MANSION
 403 THE HILL
 P.O. Box 427
 www.amesmsc.com
 PORTSMOUTH, NH 03802-0427

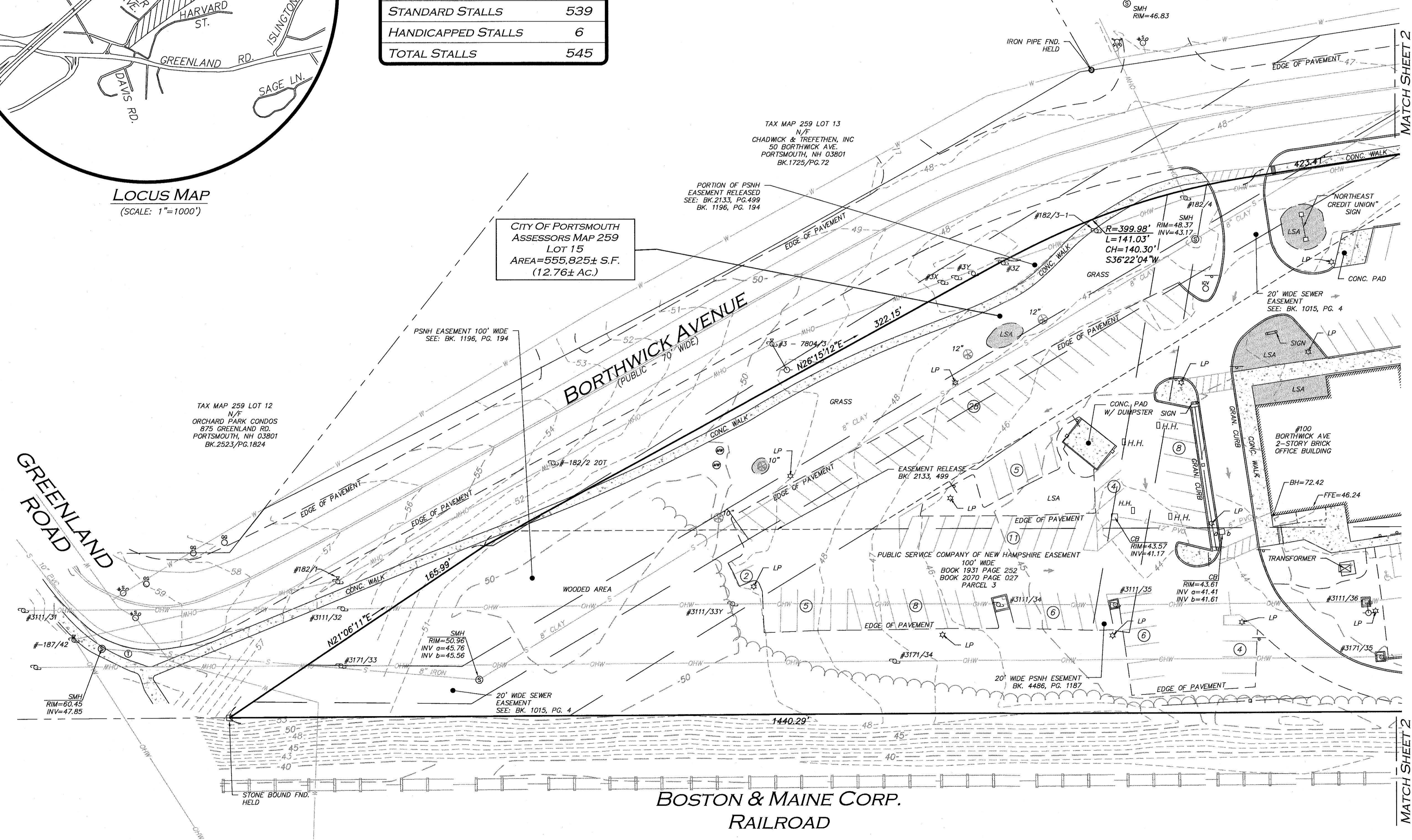
DATE: DECEMBER 27, 2005
 SHEET 8 OF 10
 PROJECT NO. 05783
 SCALE: 1" = 40'



LOCUS MAP
(SCALE: 1"=1000')

BENCHMARK SUMMARY		
TBM #	DESCRIPTION	ELEV.
1	COTTON GIN SPINDLE IN UP#182/6	39.66
2	COTTON GIN SPINDLE IN UP#2	50.65

PARKING SUMMARY	
STANDARD STALLS	539
HANDICAPPED STALLS	6
TOTAL STALLS	545



CITY OF PORTSMOUTH
ASSESSORS MAP 259
LOT 15
AREA=555,825± S.F.
(12.76± AC.)

TAX MAP 259 LOT 12
N/F
ORCHARD PARK CONDOS
875 GREENLAND RD.
PORTSMOUTH, NH 03801
BK.2523/PG.1824

TAX MAP 259 LOT 13
N/F
CHADWICK & TREFETHEN, INC
50 BORTHWICK AVE.
PORTSMOUTH, NH 03801
BK.1725/PG.72

PORTION OF PSNH
EASEMENT RELEASED
SEE: BK.2133, PG.499
BK.1196, PG.194

PSNH EASEMENT 100' WIDE
SEE: BK.1196, PG.194

EASEMENT RELEASE
BK.2133, 499

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE EASEMENT
100' WIDE
BOOK 1931 PAGE 252
BOOK 2070 PAGE 027
PARCEL 3

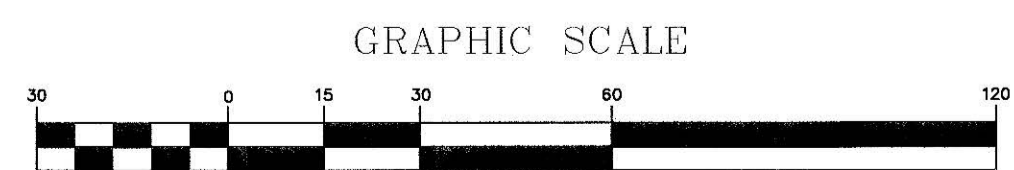
20' WIDE PSNH ESEMENT
BK. 4486, PG. 1187

20' WIDE SEWER
EASEMENT
SEE: BK. 1015, PG. 4



BOSTON & MAINE CORP.
RAILROAD

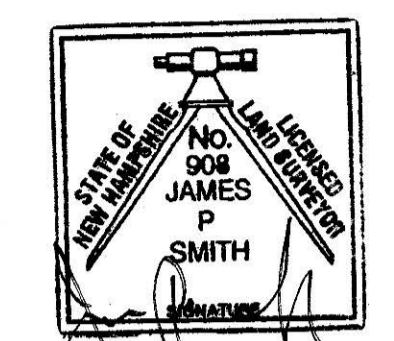
- NOTES**
- SEE SHEET 3 FOR UTILITY STATEMENT AND LEGEND.
 - SEE SHEET 4 FOR NOTES, LOCUS REFERENCES, AND PLAN REFERENCES.



R:\PROJECTS\3250-02\SURVEY\DRAWINGS\CURRENT\S-3250-02-EC.DWG

THIS PLAN IS THE RESULT OF AN ACTUAL ON THE GROUND SURVEY PERFORMED ON OR BETWEEN JUNE 14, 2024 AND JULY 1, 2024 AND HAD AN ERROR OF CLOSURE OF NO GREATER THAN 1/10,000.
THE SUBJECT PREMISES IS LOCATED IN FLOOD ZONE X - "AREA OF MINIMAL FLOOD HAZARD" AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR THE CITY OF PORTSMOUTH NEW HAMPSHIRE ROCKINGHAM COUNTY COMMUNITY PANEL NUMBER 33015C0270F HAVING AN EFFECTIVE DATE OF JANUARY 1, 2021.

ALLEN & MAJOR ASSOCIATES, INC.



JAMES P. SMITH NH LLS #908

7-9-24
DATE

REV	DATE	DESCRIPTION

APPLICANT:
STONEFISH, LLC
875 GREENLAND RD. UNIT C8
PORTSMOUTH, NH 03801

OWNER:
NORTH EAST CREDIT UNION
PO BOX 1240
PORTSMOUTH, NH 03802

PROJECT:
TM 259 LOT 15
100 BORTHWICK AVE.
PORTSMOUTH, NH

PROJECT NO. 3250-02 DATE: 7/08/24

SCALE: 1" = 30' DWG. NAME: S-3250-02-EC

DRAFTED BY: CTP CHECKED BY: JPS

PREPARED BY:

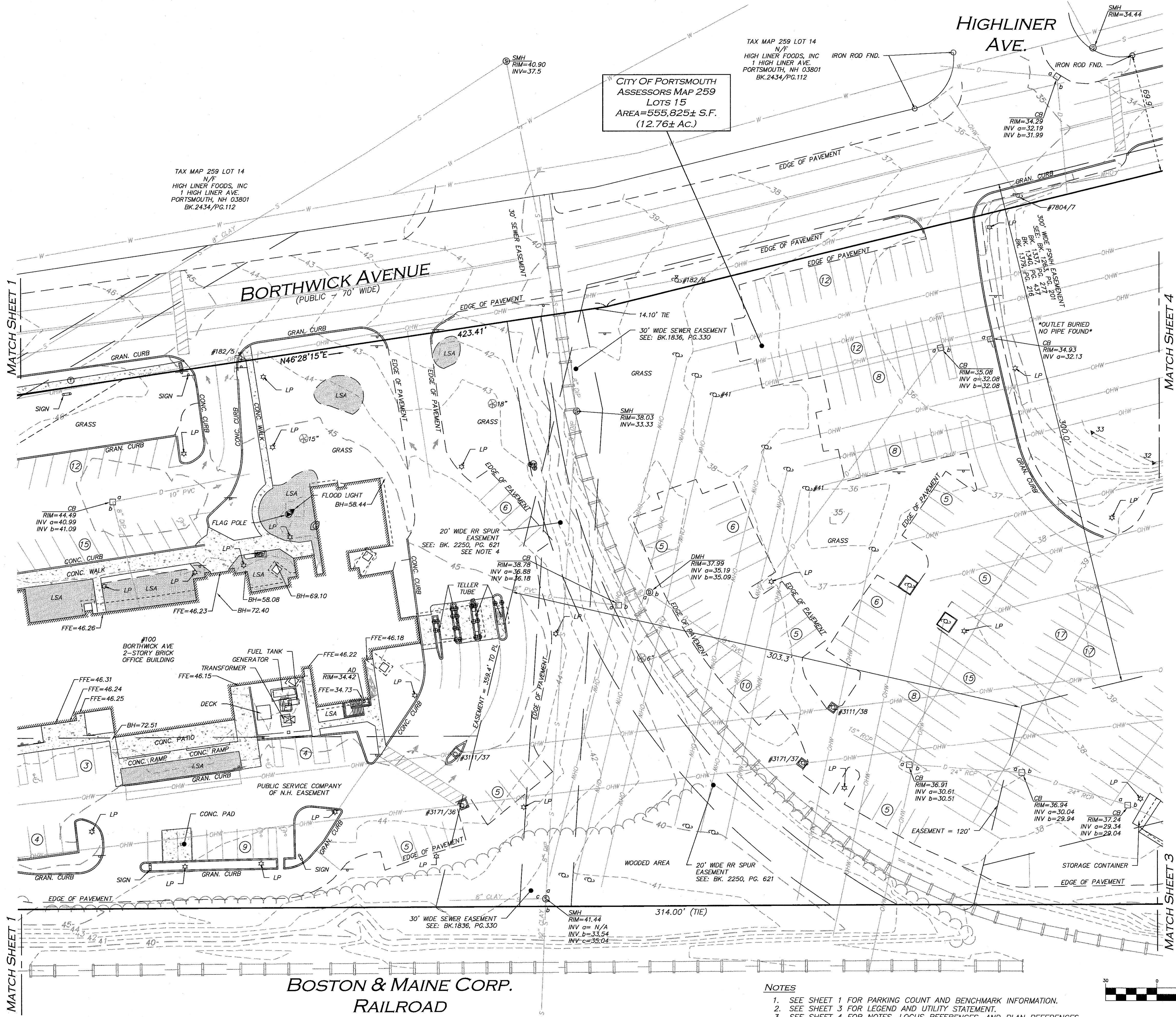
ALLEN & MAJOR ASSOCIATES, INC.
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environmental consulting • landscape architecture
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FAX: (603) 627-5501

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DRAWING TITLE:	SHEET NO.
EXISTING CONDITIONS	1

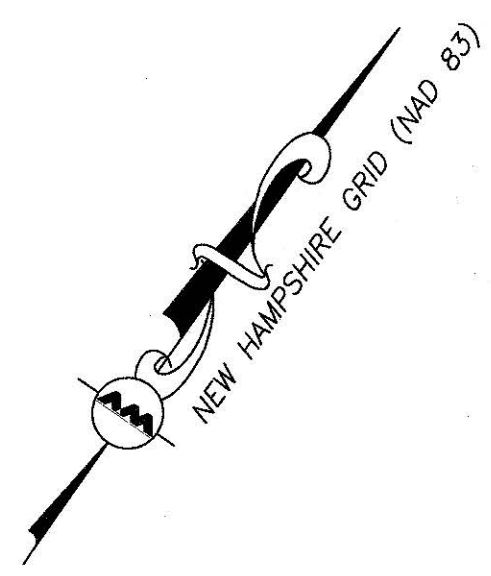
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CITY OF PORTSMOUTH
ASSESSORS MAP 259
LOTS 15
AREA=555,825± S.F.
(12.76± AC.)

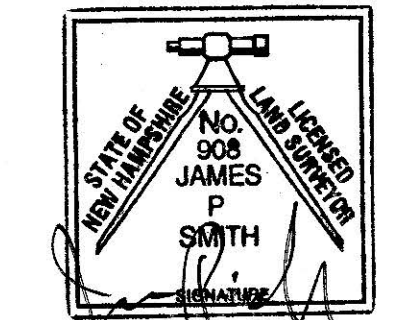
TAX MAP 259 LOT 14
N/F
HIGH LINER FOODS, INC
1 HIGH LINER AVE.
PORTSMOUTH, NH 03801
BK.2434/PG.112

TAX MAP 259 LOT 14
N/F
HIGH LINER FOODS, INC
1 HIGH LINER AVE.
PORTSMOUTH, NH 03801
BK.2434/PG.112



THIS PLAN IS THE RESULT OF AN ACTUAL ON THE GROUND SURVEY PERFORMED ON OR BETWEEN JUNE 14, 2024 AND JULY 1, 2024 AND HAD AN ERROR OF CLOSURE OF NO GREATER THAN 1/10,000. THE SUBJECT PREMISES IS LOCATED IN FLOOD ZONE X - "AREA OF MINIMAL FLOOD HAZARD" AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR THE CITY OF PORTSMOUTH NEW HAMPSHIRE ROCKINGHAM COUNTY COMMUNITY PANEL NUMBER 33015C0270F HAVING AN EFFECTIVE DATE OF JANUARY 1, 2021.

ALLEN & MAJOR ASSOCIATES, INC.



JAMES P. SMITH NH LLS #908

1-9-24
DATE

REV	DATE	DESCRIPTION

APPLICANT:
STONEFISH, LLC
875 GREENLAND RD. UNIT C8
PORTSMOUTH, NH 03801

OWNER:
NORTH EAST CREDIT UNION
PO BOX 1240
PORTSMOUTH, NH 03802

PROJECT:
TM 259 LOT 15
100 BORTHWICK AVE.
PORTSMOUTH, NH

PROJECT NO. 3250-02 DATE: 7/08/24

SCALE: 1" = 30' DWG. NAME: S-3250-02-EC

DRAFTED BY: CTP CHECKED BY: JPS

PREPARED BY:

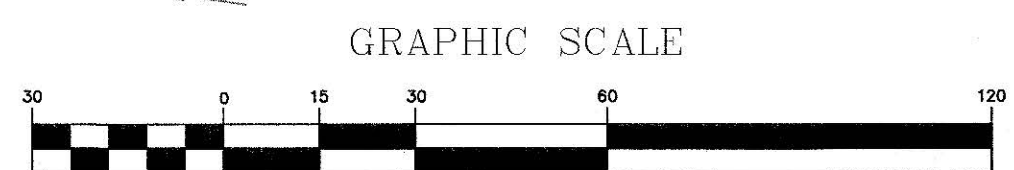
ALLEN & MAJOR ASSOCIATES, INC.
civil engineering • landscape surveying
environmental consulting • landscape architecture
www.allenmajor.com
400 HARVEY ROAD
MANCHESTER, NH 03103
TEL: (603) 627-5500
FAX: (603) 627-5501

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DRAWING TITLE: EXISTING CONDITIONS SHEET NO. 2

- NOTES
- SEE SHEET 1 FOR PARKING COUNT AND BENCHMARK INFORMATION.
 - SEE SHEET 3 FOR LEGEND AND UTILITY STATEMENT.
 - SEE SHEET 4 FOR NOTES, LOCUS REFERENCES, AND PLAN REFERENCES.

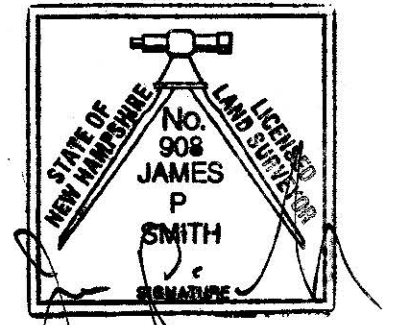


LEGEND			
IRON PIPE (IP) ○	LIGHT ☆	PAINTED ARROW →	EDGE OF PAVEMENT - - - -
IRON ROD (IR) ○	FLOODLIGHT ▲	PARKING SPACE COUNT ⑩	CURB = = = =
DRAIN MANHOLE (DMH) ⊕	TREE ⊗	CONCRETE [stippled]	CHAIN LINK FENCE - x - x -
SEWER MANHOLE (SMH) ⊕	AREA DRAIN ○	LANDSCAPED AREA (LSA) [stippled]	STOCKADE FENCE - o - o -
ELECTRIC MANHOLE (EMH) ⊕	SIGN ⊕	WETLAND AREA [wavy]	VINYL FENCE - o - o -
TELEPHONE MANHOLE (TMH) ⊕	SIGN ⊕	BUILDING [hatched]	GUARDRAIL - - - -
CATCH BASIN (CB) ⊕	MAILBOX ⊕	BUILDING OVERHANG [hatched]	WATER LINE - W -
ROUND CATCH BASIN (RCB) ⊕	TRANSFORMER ⊕	WETLAND [wavy]	SEWER LINE - S -
UTILITY POLE ○	MONITOR WELL ⊕	BUFFER ZONE [dashed]	DRAIN LINE - D -
UTILITY POLE W/LIGHT ○	WETLAND FLAG ⊕	EASEMENT LINE [dashed]	GAS LINE - G -
GUY WIRE ⊕	HAND HOLE ⊕	1' CONTOUR - - - -	ELECTRIC LINE - E -
FIRE HYDRANT ⊕	ELECTRIC BOX ⊕	5' CONTOUR - - - -	TELEPHONE LINE - T -
WATER GATE ⊕	FLAG POLE ⊕	PROPERTY LINE [dashed]	OVERHEAD WIRES - OHW -
GAS GATE ⊕	GAS METER ⊕	ABUTTERS LINE [dashed]	FINISHED FLOOR ELEVATION FFE
BOLLARD ⊕	HANDICAPPED PARKING SPACE ⊕	CONCRETE RETAINING WALL [hatched]	BIT.
INVERT (INV) ⊕	IRRIGATION CONTROL VALVE ⊕	TREE LINE [wavy]	CONC.

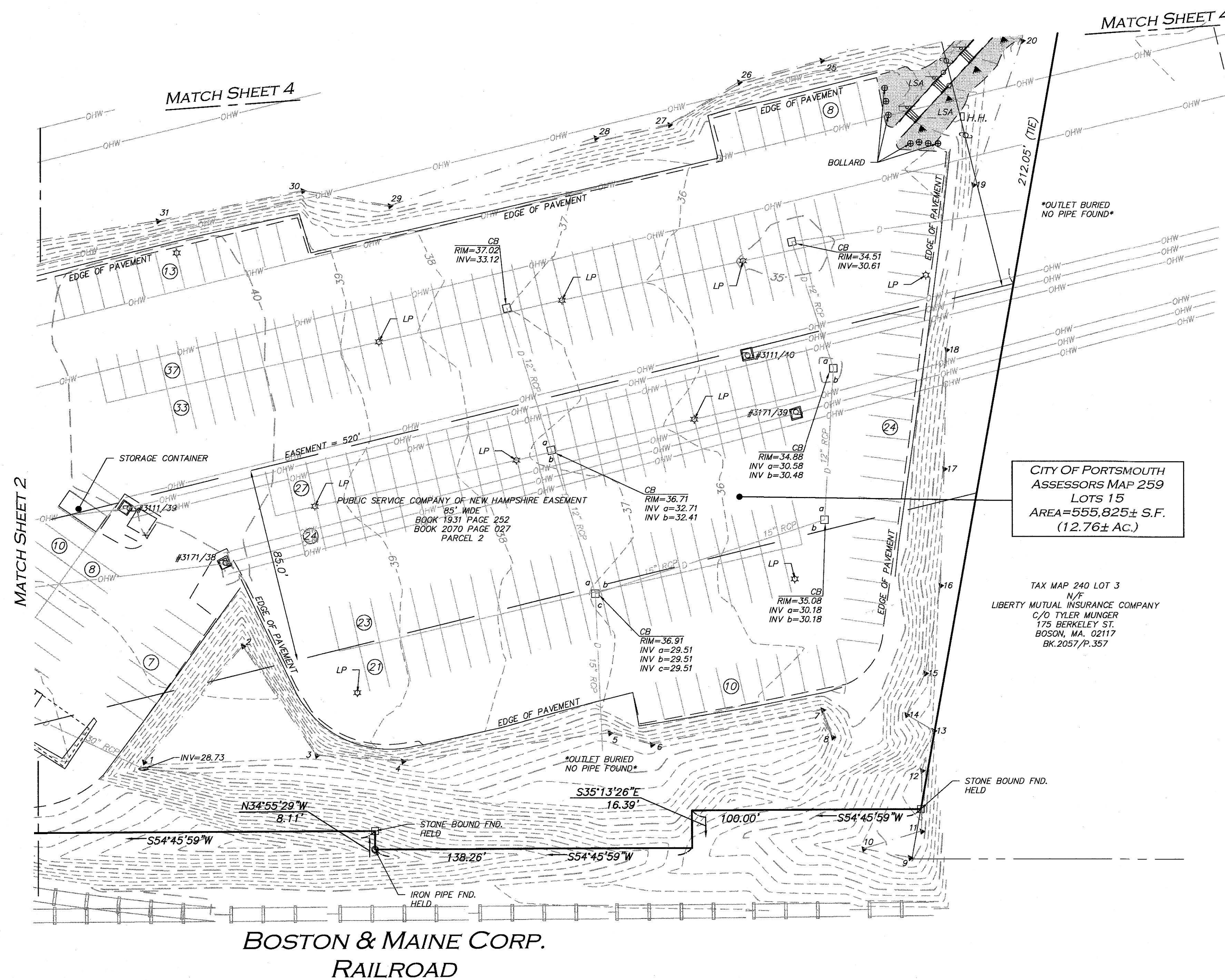
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ALLEN & MAJOR ASSOCIATES, INC.



JAMES P. SMITH NH LLS #908 DATE 7-9-24

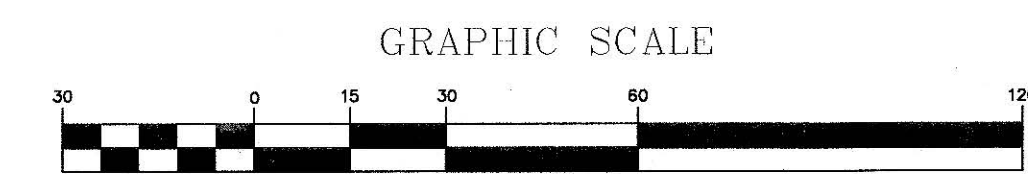


NOTES

- SEE SHEET 1 FOR PARKING COUNT AND BENCHMARK INFORMATION.
- SEE SHEET 4 FOR NOTES, LOCUS REFERENCES, AND PLAN REFERENCES.

UTILITY STATEMENT

THE UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. ALLEN & MAJOR ASSOCIATES, INC. (A&M) MAKES NO GUARANTEE THAT THE UTILITIES SHOWN HEREON COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. A&M FURTHER DOES NOT WARRANT THAT THE UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. A&M HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.



R:\PROJECTS\3250-02\SURVEY\DRAWINGS\CURRENT\S-3250-02-EC.DWG

REV	DATE	DESCRIPTION

APPLICANT:

STONEFISH, LLC
875 GREENLAND RD. UNIT C8
PORTSMOUTH, NH 03801

OWNER:

NORTH EAST CREDIT UNION
PO BOX 1240
PORTSMOUTH, NH 03802

APPLICANT/OWNER:

JEFF KILBURG
9550 W. HIGGINS RD SUITE 170
ROSEMONT, IL 60018

PROJECT:

TM 259 LOT 15
100 BORTHWICK AVE.
PORTSMOUTH, NH

PROJECT NO. 3250-02 DATE: 7/08/24

SCALE: 1" = 30' DWG. NAME: S-3250-02-EC

DRAFTED BY: CTP CHECKED BY: JPS

PREPARED BY:

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 civil engineering • land surveying
 environmental consulting • landscape architecture
 www.a1e.com
 400 HARVEY ROAD
 MANCHESTER, NH 03103
 TEL: (603) 627-5500
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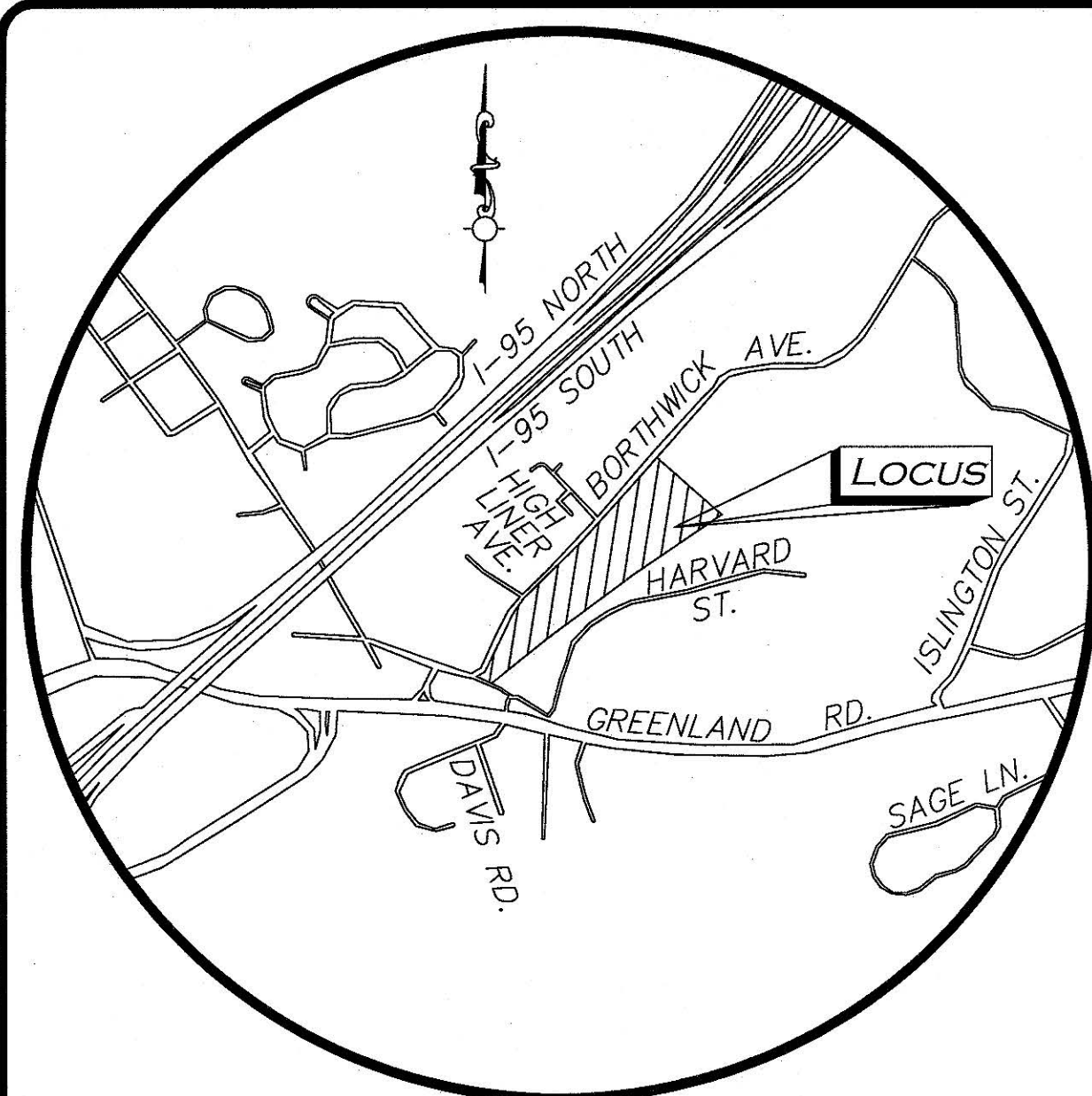
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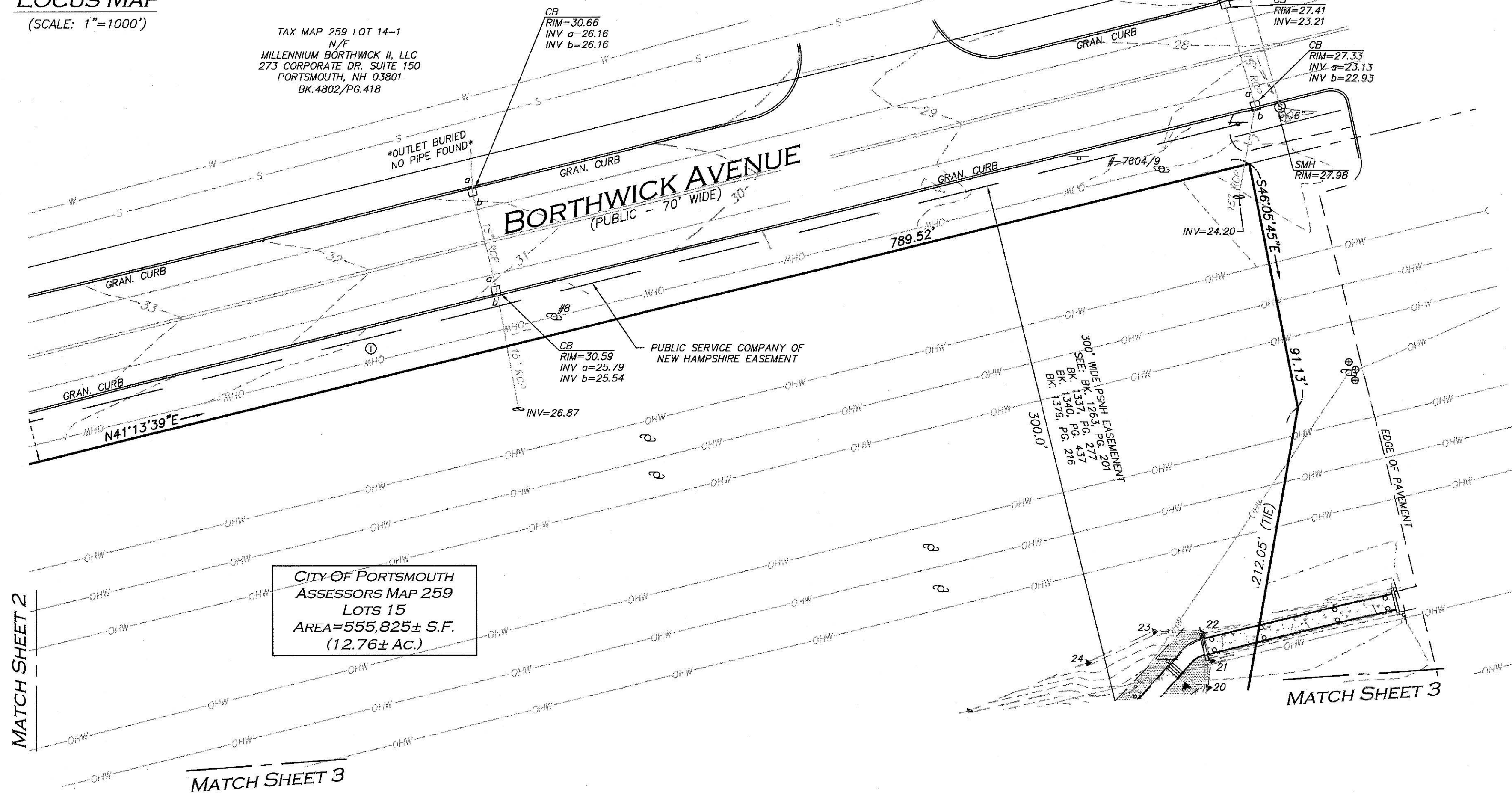
DRAWING TITLE: SHEET No.

PROPERTY LINE / EXISTING CONDITIONS 3

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LOCUS MAP
(SCALE: 1"=1000')



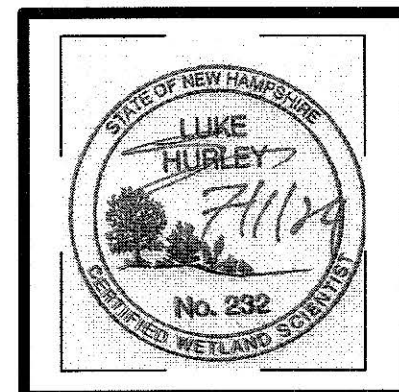
MATCH SHEET 2

MATCH SHEET 3

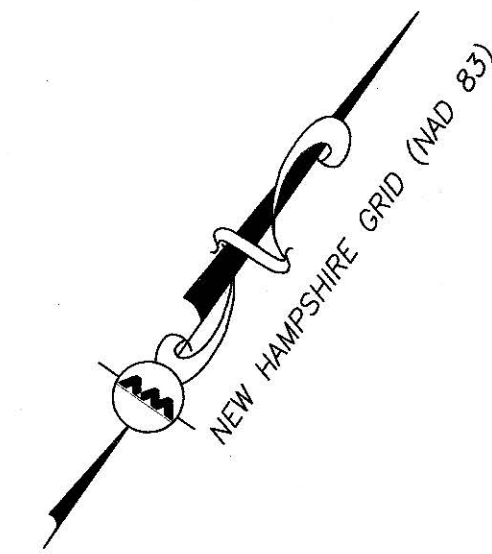
HURLEY ENVIRONMENTAL & LAND PLANNING, LLC
P.O. BOX 356
EPSOM, NH 03234
(603) 583-1745

THE WETLAND DELINEATION WAS PERFORMED BY HURLEY ENVIRONMENTAL & LAND PLANNING, LLC, JUNE 2024, UTILIZING THE FOLLOWING STANDARDS:

- REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS MANUAL: NORTH CENTRAL AND NORTHEAST REGION, (VERSION 2.0) JANUARY 2012, U.S. ARMY CORPS OF ENGINEERS.
- FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, A GUIDE FOR IDENTIFYING AND DELINEATING HYDRIC SOILS, VERSION 8.2, UNITED STATES DEPARTMENT OF AGRICULTURE(2018).
- NEW ENGLAND HYDRIC SOILS TECHNICAL COMMITTEE, 2019 VERSION 4, FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION, LOWELL, MA.
- NATIONAL WETLAND PLANT LIST, VERSIONS 3.5 (2020).



TAX MAP 240 LOT 1
N/F
LIBERTY MUTUAL INSURANCE COMPANY
175 BERKELEY ST.
BOSTON, MA. 02116
BK.2057/P.357



NOTES

- SEE SHEET 1 FOR PARKING COUNT AND BENCHMARK INFORMATION.
- SEE SHEET 3 FOR UTILITY STATEMENT AND LEGEND.

LOCUS REFERENCES

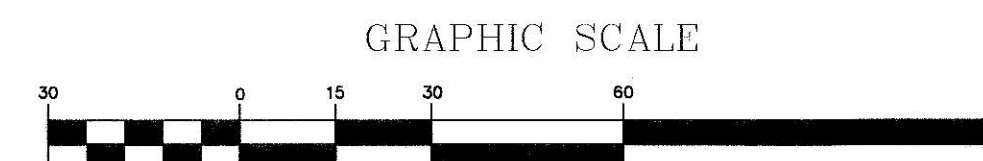
- CITY OF PORTSMOUTH TAX MAP 259, LOT 15
- R.C.R.D. BOOK 2270, PAGE 345

PLAN REFERENCES

- PLAN ENTITLED, "PLAN OF A PORTION OF BORTHWICK INDUSTRIAL PARK PORTSMOUTH, N.H.", SCALE 1"=60', DATED DECEMBER 1975, PREPARED BY JOHN W. DURGIN, AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-5695.
- PLAN ENTITLED, "SITE PLAN OF ORCHARD PARK CONDOMINIUMS", SCALE 1"=40', DATED OCTOBER 10, 1985, PREPARED BY KIMBALL CHASE COMPANY, INC, AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-14238.
- PLAN ENTITLED, "PLAN OF LAND MAP 240, LOTS 1 & 3 PORTSMOUTH, NEW HAMPSHIRE", SCALE 1"=60', DATED JUNE 13, 2005, PREPARED BY VHB, AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-33833.
- PLAN ENTITLED, "SUBDIVISION PLAN FOR NATIONAL SEA PRODUCTS INCORPORATED HIGHLINER AVENUE/ BORTHWICK AVENUE COUNTY OF ROCKINGHAM PORTSMOUTH, N.H., SCALE 1"=100', DATED OCTOBER JUNE 25, 1997, PREPARED BY RICHARD P. MILLETTE AND ASSOCIATES, AND ON FILE AT THE R.C.R.D. AS PLAN NO. D-25842.
- PLAN ENTITLED, "REVISED PLAN OF BORTHWICK INDUSTRIAL PARK PORTSMOUTH, N.H." SCALE 1"=60', DATED AUGUST 31, 1966, PREPARED BY JOHN W. DURGIN AND ON FILE AT THE R.C.R.D. AS PLAN #770.
- PLAN ENTITLED, "PLAN OF BORTHWICK INDUSTRIAL PARK PORTSMOUTH, N.H." SCALE 1"=60', DATED JANUARY, 1964, PREPARED BY JOHN W. DURGIN AND ON FILE AT THE R.C.R.D. AS PLAN NO. 262.
- PLAN ENTITLED, "STANDARD BOUNDARY SURVEY" DATED JUNE 2004, PREPARED BY AMBIT ENGINEERING, INC. CIVIL ENGINEERS & LAND SURVEYORS AND RECEIVED ON JUNE 17, 2024.
- PLAN ENTITLED, "EASEMENT PLAN MAP 259-LOT 15 NORTHEAST CREDIT UNION TO PSNH" DATED MARCH 2005, PREPARED BY AMBIT ENGINEERING, INC. CIVIL ENGINEERS & LAND SURVEYORS AND ON FILE AT R.C.R.D AS PLAN NO. D-32670.

NOTES

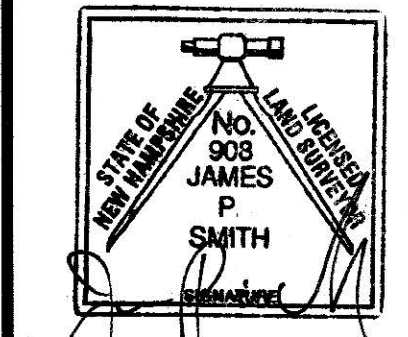
- NORTH ARROW IS BASED ON NEW HAMPSHIRE GRID COORDINATE SYSTEM (NAD 83).
- BOOK/PAGE AND PLAN REFERENCES ARE TAKEN FROM THE ROCKINGHAM COUNTY REGISTRY OF DEEDS IN BRENTWOOD, NH.
- VERTICAL DATUM IS NAVD 88.
- CONTOUR INTERVALS ARE ONE FOOT (1').
- WETLANDS DELINEATED BY LUKE HURLEY, NH WETLAND SCIENTIST.
- RAILROAD SPUR WAS CONSTRUCTED OUTSIDE OF RECORD EASEMENT.
- SEE EXISTING CONDITIONS PLAN SET, PREPARED BY ALLEN & MAJOR ASSOCIATES, INC. WITH THE SAME DATE. ONLY THIS PLAN TO BE USED FOR SUBDIVISION RECORDING PURPOSES.
- SEE: BK. 4486, PG. 2595 EASEMENT TO CITY OF PORTSMOUTH FOR GROUNDWATER MONITORING.
- SEE: BK. 1374, PG. 142 35' WIDE EASEMENT TO ALLIED NH GAS COMPANY. SPECIFIC LOCATION NOT IDENTIFIED, BLANKET IN NATURE.
- SEE: BK. 835, PG. 493 FOR EASEMENT TO NH GAS & ELECTRIC COMPANY. BELIEVED TO BE AN OVERLAPPING EASEMENT THAT WAS DISCONTINUED IN BK. 2133, PG. 499.



R:\PROJECTS\3250-02\SURVEY\DRAWINGS\CURRENT\S-3250-02-EG.DWG

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JAMES P. SMITH NH LLS #908

7-9-24
DATE

REV	DATE	DESCRIPTION

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875 GREENLAND RD. UNIT C8
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OWNER:
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PROJECT:
TM 259 LOT 15
100 BORTHWICK AVE.
PORTSMOUTH, NH

PROJECT NO.	3250-02	DATE:	7/08/24
SCALE:	1" = 30'	DWG. NAME:	S-3250-02-EC
DRAFTED BY:	CTP	CHECKED BY:	JPS

PREPARED BY:

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DRAWING TITLE:	SHEET No.
EXISTING CONDITIONS	4

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REVIEW – RESPONSE LETTER

DATE: September 23, 2024

PROJECT: Map 240 Lot 3 - 0 Borthwick Ave

This letter addresses review comments received on September 20,2024.

COMMENT #1

In order to consider this application as complete, we need a narrative that addresses the 5 variance Criteria found in section 10.233 of the Zoning Ordinance and your responses to how the application meets each criterion. You are currently citing the special exception criteria.

RESPONSE #1

The narrative addressing the 5 variance Criteria found in section 10.233 of the Zoning Ordinance and the responses to how the application meets each criterion has been updated. The special exception criteria reference has been removed from the narrative.

COMMENT #2

Additionally, we need a site plan that shows both parcels in their entirety. We need to be able to see the lots and features as they currently exist as well as the proposed layout.

RESPONSE #2

An aerial view of existing Map 240, Lot 3 and existing Map 259 Lot 15 plans have been added to the set as to show both parcels in their entirety. Original drawing of Map 240 Lot 3 has been added to show lots and features as they currently exist.

COMMENT #3

Additionally, please provide an owner authorization form for Liberty Mutual (owners of Map 240 Lot 3).

RESPONSE #3

The Owner authorization form for Liberty Mutual has been provided with this submittal.

COMMENT #4

The application addressing should reflect the lot of which the variance is being requested for. In this case, the lot that requires the variance is Map 240 Lot 3 with an address of 0 Borthwick Ave. Please update your materials accordingly and we will change the address in the online permit.

RESPONSE #4

The address on the application and narratives have been updated to Map 240 Lot 3 with the address of 0 Borthwick Ave. The materials have been updated to show correct address.

Sincerely,

Apex Design Build

III. NEW BUSINESS

- E. The request of **Kent and Jennifer Bonniwell (Owners)**, for property located at **332 Hanover Street** requesting relief to demolish the existing primary and accessory structure and construct a 2-living unit structure which requires the following: 1) Variance from Section 10.5A41.10A to allow: a) 2,167 square feet of lot area per dwelling unit where 3,000 square feet is required; b) a secondary front yard of 17 feet where 12 feet is the maximum; and c) a finished floor surface 6 feet above the sidewalk grade where 36 inches is maximum. Said property is located on Assessor Map 126 Lot 43 and lies within the Character District 4-L1 (CD4-L1. (LU-24-170)

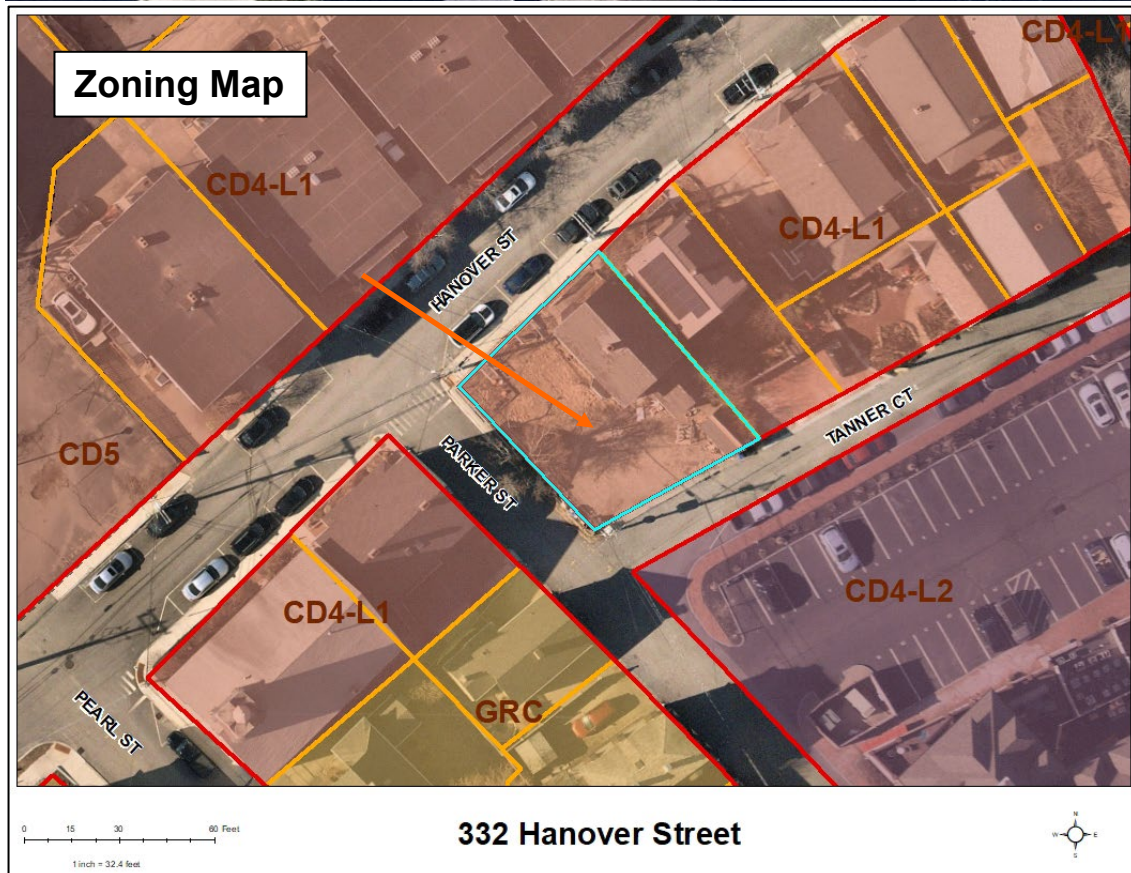
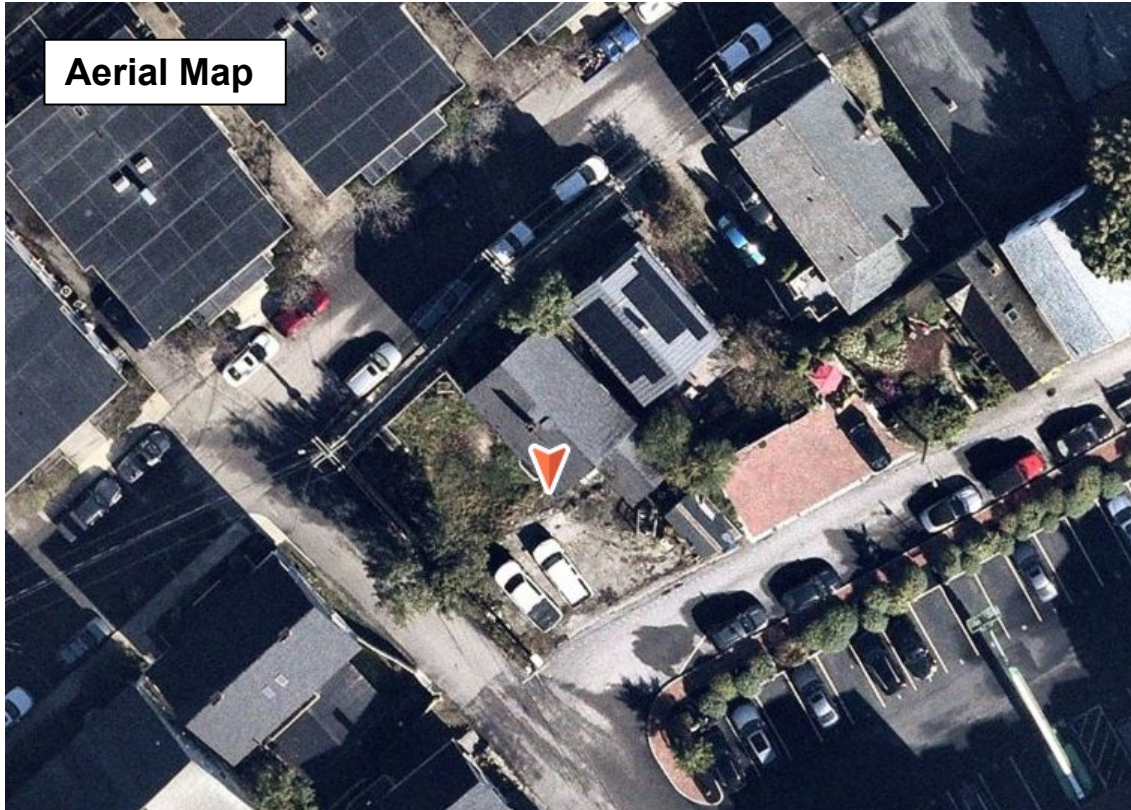
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family residence	*Demolish and construct two unit structure	Primarily residential
<u>Lot area (sq. ft.):</u>	4,334	4,334	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,334	2,167	3,000 min.
<u>Front Yard (ft.):</u>	8.8	5.5	15 max.
<u>Secondary Front Yard (Parker St) (ft.):</u>	32.8	2	12 max
<u>Left Yard (ft.):</u>	1.2	7.7	5-20 max
<u>Secondary Front Yard (Tanner Ct) (ft.):</u>	20.7	17	12 max.
<u>Height (ft.):</u>	25	30	40 max.
<u>Finished Floor Above Grade</u>	6.2	6.3	3 max
<u>Building Coverage (%):</u>	26.7	50	60 max.
<u>Open Space Coverage (%):</u>	32.6	29.1	25 min.
<u>Parking:</u>	4	6	4
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

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 to demolish the existing structures on site and construct a duplex. A duplex is a permitted structure in CD4-L1. This property is unique as it has 3 front yards and 1 side yard.

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.

Introduction

Kent and Jennifer Bonniwell (collectively, the “Applicant”) are the owners of property situated at 332 Hanover Street (Tax Map 126, Lot 43). The property is situated in the CD4-L1 Character District. The lot is situated at the corners of Hanover Street/Parker Street and Parker Street/Tanner Court, and thus is surrounded on three sides by public roads. The existing property is approximately 4,334 square feet and currently maintains a single-family dwelling that fronts along the northerly (Hanover Street) portion of the lot. A shed and parking area with four parking spaces are situated on the southerly (Tanner Court) side of the lot. Lawn and a few landscaping beds occupy the westerly (Park Street) portion of the parcel.

As shown on the enclosed plans, the Applicant proposes to remove the existing single-family dwelling and shed and construct a new two-family dwelling and associated parking area. The proposed building will occupy the bulk of land running along Hanover Street and Parker Street and much of the interior of the lot. The Applicant proposes to maintain most of the existing parking area along Tanner Court, but by removing the shed and reconfiguring the parking area around the proposed building, the Applicant is able to pick up two additional parking spaces (from four existing to six proposed). The easterly portion of the parking area will consist of pervious material and the westerly portion will consist of pervious pavers.

In connection with the proposed redevelopment of the site, the following three variances are required from the terms of the CD4-L1 Character District dimensional requirements contained in Article 5A of the zoning ordinance:

First, the CD4-L1 Character District requires 3,000 square feet of minimum lot area per dwelling unit. The Applicant requests a variance from Article 5A of the zoning ordinance to permit two dwelling units on a lot having 4,334 square feet where 6,000 square feet is required (i.e., providing 2,167 square feet per unit where 3,000 square feet per unit is required).

Second, the CD4-L1 Character District requires a maximum secondary front yard of no less than 12 feet. The Applicant requests a variance from Article 5A of the zoning ordinance to permit the new two-family dwelling to maintain 17.4 feet of non-building area between its southerly edge and southerly lot line along Tanner Court, primarily to maintain sufficient parking to support the proposed two-family dwelling.

Third, the CD4-L1 Character District requires that the finished ground floor surfaces above sidewalk grade shall be no greater than three feet. Due to the natural grade and topography running along Hanover Street (the existing dwelling’s finished ground floor surface above sidewalk grade is 6.2 feet), the Applicant requests a variance from Article 5A of the zoning ordinance to permit the new two-family dwelling to maintain a finished ground floor surface 6.3 feet above sidewalk grade.

For the reasons set forth below, the Applicant submits that the five variance criteria are satisfied and requests that the Board grant the variances.

1 & 2. Granting the variances will not be contrary to the public interest and will be consistent with the spirit of the ordinance.

For a variance to be contrary to the public interest, the proposal has to conflict with the ordinance so much that it violates the ordinance's basic zoning objectives. See Farrar v. City of Keene, 158 N.H. 684 (2009). The relevant tests are (1) whether the proposal will alter the essential character of the neighborhood; and (2) whether it threatens the public health, safety or welfare. Id. Because it is in the public's interest to uphold the spirit of the ordinance, the Supreme Court has held that these two criteria are related. Id. If you meet one test you almost certainly meet the other. Id. As such, the Applicant addresses these two criteria together.

Granting the variance will not alter the essential character of the area. While a variance is required for the secondary front yard from Tanner Street, that area is being reserved for parking in order to support the proposed two-family dwelling and reduce the burden on nearby on-street parking, which has been and continues to be an issue in the neighborhood. While only three parking spaces are required, the Applicant has proposed six spaces in order to support the two-family dwelling and ensure the additional unit does not contribute to existing on-street parking congestion in the area. Further, the Applicant is proposing to build along most of Hanover Street and Parker Street where the lot is currently grass and landscaping, which is consistent with the purpose of the CD4-L1 Character District in order to activate the sidewalks and facilitate a dense character-based urban environment. By expanding the building area in these areas, the Applicant is actually eliminating nonconformities as it relates to front and secondary front setbacks along Hanover Street and Parker Street. Indeed, a front lot line buildout between 60% and 80% is required on the site, and the Applicant's proposal will bring this buildout from 43.5% existing to 77.49% proposed, eliminating the existing front lot line buildout nonconformity on the lot. Additionally, a side setback between 5 feet and 20 feet is required on the site, and the Applicant is proposing to build the two-family dwelling 7.7 feet from the easterly side lot line abutting 324 Hanover Street where a 1.2-foot setback presently exists, thereby eliminating that nonconformity and allowing for more light and air to the neighbor's property.

Due to the natural grade change that slopes downgrade from Tanner Court toward Hanover Street, the new two-family dwelling must maintain a finished ground floor surface more than three feet above sidewalk grade, but the proposed 6.3 feet is consistent with existing conditions on the site and does not detract from the optimal character of the area. As a result of this natural topography, most other lots in this area fronting along the southerly edge of Hanover Street have finished ground floor surfaces in excess of three feet above sidewalk grade. The natural grade change is further demonstrated by the fact that the finished ground floor elevation would be conforming if measured based upon the average grade of the lot, which is the benchmark for calculating maximum building height

because both the existing and proposed finished ground floor elevations are under the three-foot maximum at 1.5 feet and 1.6 feet, respectively.

While a density variance is required to allow two dwellings, granting the variance will not alter the character of the area because two-family dwellings are an allowed and encouraged use on this site and the property is larger than many other properties in the area, so there will not be any undue overcrowding or congestion. In fact, as shown on the Neighborhood Density analysis contained on sheet A2 of the McHenry Architecture plans enclosed herewith, of the 33 nearby properties analyzed, only one is conforming to current density requirements. The Applicant proposes to provide 2,167 square feet per unit, which is more than 20 of these 33 nearby properties provide. Further, of the 33 properties analyzed, six of them are two-family dwellings, but none of those six provide more than 2,000 square feet per unit – the largest provides 1,961 square feet and the smallest provides 872 square feet.

Accordingly, granting the variances will not alter the essential character of the area. Further, there will be no adverse impact or injury to any public rights if the variances are granted. Therefore, granting the variances would not be contrary to the public interest and will be consistent with the spirit of the zoning ordinance.

3. Granting the variances would do substantial justice.

The Supreme Court has held that measuring substantial justice requires balancing public and private rights. “Perhaps 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.” Harborside Assocs., L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 515 (2011). There is no injury to the public if the variances are granted. There is no gain to the public if the variances are denied. There is only loss to the Applicant if the variances are denied. Therefore, when balancing public and private rights, the loss to the Applicant if the variances are denied outweighs any loss or injury to the public if the variances are granted. Further, for the reasons discussed above and below, the proposed two-family dwelling is “appropriate for the area”. Granting variances for requests that are appropriate for the area does substantial justice. See U-Haul Co. of New Hampshire & Vermont v. City of Concord, 122 N.H. 910, 913 (1982). Therefore, granting the variances would do substantial justice.

4. The values of surrounding properties will not be diminished.

If the variances are granted, the lot will remain consistent with the character of the other lots in the neighborhood such that there will be no adverse effect on surrounding property values. Maintaining sufficient parking to support the two-family dwelling will ensure that other lots in the area are not impacted by the addition of a new unit on the site. Two-family dwellings are permitted by right in the underlying district, and it is presumed that permitted uses do not devalue surrounding property values. The new two-family dwelling must maintain a finished ground floor surface above sidewalk grade above three feet, but this is consistent with existing conditions on and around the site along Hanover

Street and does not detract from the optimal character of the area. Therefore, surrounding property values will not be diminished.

5. Unnecessary hardship.

Unnecessary hardship will be found when the subject property has special conditions or circumstances that distinguish it from other properties in the area and (1) there is no fair and substantial relationship between the purpose of the ordinance and the specific application of the ordinance as applied to the property; and (2) the proposed use is reasonable. See RSA 674:33. This property is distinguishable from other properties in the area. As discussed above, this lot is larger than other lots in the area, and thus it is particularly well suited for a two-family dwelling. It also maintains a sizeable parking area in the vicinity of the proposed parking area that is sufficient to support a two-family dwelling. It even maintains these unique features notwithstanding the fact that it is sandwiched between three public streets, unlike the majority of other lots in the area.

Owing to these special conditions, among others, relative to other properties in the area, there is no fair and substantial relationship between the purpose of the zoning ordinance's subject requirements and their application here. As discussed above, while a variance is required for the secondary front yard from Tanner Street, that area is being reserved for parking in order to support the proposed two-family dwelling and reduce the burden on nearby on-street parking. The Applicant is proposing to build along most of Hanover Street and Parker Street where the lot is currently grass and landscaping, which is consistent with the purpose of the CD4-L1 Character District in order to activate the sidewalks and facilitate a dense character-based urban environment, and will eliminate nonconformities as it relates to front and secondary front setbacks along Hanover Street and Parker Street, and the side setback abutting 334 Hanover Street. The proposed dwelling must maintain a finished ground floor surface more than three feet above sidewalk grade, but this is consistent with existing conditions on and around the site along Hanover Street and does not detract from the character of the area. Again, notably, the proposed finished ground floor elevation would be conforming at 1.6 feet if measured based upon the average grade of the lot rather than at the lot line abutting the Hanover Street sidewalk. Two-family dwellings are an allowed and encouraged use on this site and the property is larger than many other properties in the area, so there will not be any overcrowding or congestion – the parcel will provide more square footage per unit than the six other two-family dwelling lots in the area.

In other words, notwithstanding strict application of the restrictions in the zoning ordinance, this property is uniquely well suited for this project vis-à-vis other properties in the area. Accordingly, the purposes that the zoning ordinance seeks to achieve – and the harms that it seeks to prevent – are not in any way threatened if the variances are granted. Therefore, even though the proposed redevelopment requires these variances, the purposes that the zoning ordinance seeks to protect will be preserved.

The proposed use is reasonable.

For all of the foregoing reasons, which are incorporated herein by reference, the proposed use is reasonable. Moreover, two-family dwellings are permitted by right in the underlying district, and uses permitted by right are *per se* reasonable. See Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007) (permitted uses are *per se* reasonable).

PROPOSED DUPLEX

ZONING BOARD OF ADJUSTMENT - OCTOBER 2024 PORTSMOUTH, NEW HAMPSHIRE

PROPOSED WORK:

- THE COMPLETE DEMOLITION OF THE EXISTING SINGLE FAMILY HOME AND OUTBUILDINGS, DEMO PERMIT FILED SEPARATELY UNDER DEMO 24-27
- PROPOSED TWO FAMILY HOME IS REQUESTING RELIEF FOR:
 - 2,167 SF PER DWELLING UNIT WERE 3,000 SF IS REQUIRED TO CONSTRUCT A TWO FAMILY HOME WHERE A SINGLE UNIT IS ALLOWED.
 - UNIT A: 2,359 LIVEABLE SQUARE FEET
 - UNIT B: 2,047 LIVEABLE SQUARE FEET
 - 17.4' SECONDARY FRONT YARD WHERE 12' - 0" MAX. IS ALLOWED AT TANNER COURT.
 - 6.3' FINISH FLOOR ABOVE THE SIDEWALK ELEVATION WHERE 3' - 0" MAX. IS ALLOWED

332 HANOVER STREET PORTSMOUTH, NH 03801			
CHARACTER DISTRICT ZONING REQUIREMENTS: CD4-L1			
	REQUIRED	EXISTING	PROPOSED
MAX. PRINCIPAL FRONT YARD	15' - 0"	8.8'	5.5'
MAX. SECONDARY FRONT YARD (PARKER ST.)	12' - 0"	32.8'	2.0'
MAX. SECONDARY FRONT YARD (TANNER COURT)	12' - 0"	20.7'	17.4'
SIDE YARD SETBACK	5' - 0" MIN TO 20' - 0" MAX.	1.2'	7.7'
FRONT LOT LINE BUILDOUT	60% MIN. TO 80% MAX.	43.50%	77.49%
MAX BUILDING BLOCK LENGTH	80' - 0"	63.23'	63.23'
MAX. FAÇADE MODULATION	50' - 0"	27' - 0" +/-	25' - 6"
MAX. BUILDING COVERAGE	60%	26.70%	50.00%
MAX. BUILDING FOOTPRINT	2,500 SF	1,158 SF	2,164 SF
MIN. LOT AREA	3,000 SF	4,334 SF	4,334 SF
MIN. LOT AREA PER DWELLING UNIT	3,000 SF	4,334 SF	2,167 SF
MIN. OPEN SPACE	25%	32.60%	29.10%
MAX. BUILDING HEIGHT	2-3 STORIES	2 STORIES	3 STORIES
	40' - 0"	25' +/-	29' - 4" +/-
MAX. FINISH FLOOR ABOVE GRADE	3' - 0"	6.2'	6.3'
FAÇADE GLAZING	20% MIN. TO 40% MAX.	UNKNOWN	26.89%
ROOF TYPE	FLAT, GABLE 6:12 - 12:12, HIP 3:12 MIN., GAMBREL 6:12 - 30:12, MANSARD 6:12 - 30:12	GABLE / HIP	MANSARD - 30:12
OUTBUILDING FRONT YARD	20'-0" BEHIND PRICIPAL FRONT ELEVATION	59' - 0" +/-	N/A
OUTBUILDING SIDE AND REAR YARD	3' - 0"	0.5'	N/A
FAÇADE TYPES	PORCH	PORCH	PORCH
	STOOP		STOOP
	STEP		
	FORECOURT		
	RECESSED-ENTRY		
	DOORYARD		
PARKING	1.3 SPACES PER UNIT	4 SPOTS	6 SPOTS

1. RED INDICATED VARIANCE REQUEST
2. BLUE INDICATES EXISTING NONCONFORMITY



332 HANOVER STREET
PORTSMOUTH, NH 03801



SHEET LIST	
Sheet Number	Sheet Name

GENERAL INFORMATION

C	COVER
S	EXISTING CONDITION SURVEY

CIVIL DRAWINGS

1 OF 2	EXISTING SITE PLAN
2 OF 2	SITE PLAN

ARCHITECTURAL DRAWINGS

A1	EXISTING CONDITION IMAGES
A2	NEIGHBORHOOD DENSITY
A3	FIRST FLOOR PLAN
A4	SECOND AND THIRD FLOOR
A5	ELEVATIONS
A6	ELEVATIONS
A7	3D PERSPECTIVE
A8	3D PERSPECTIVE

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PROPOSED DUPLEX

332 HANOVER STREET
PORTSMOUTH, NEW HAMPSHIRE 03801

COVER

ZONING BOARD OF ADJUSTMENT - OCTOBER 2024

4 Market Street
Portsmouth, New Hampshire
603.430.0274

brought to you by
McHENRY ARCHITECTURE



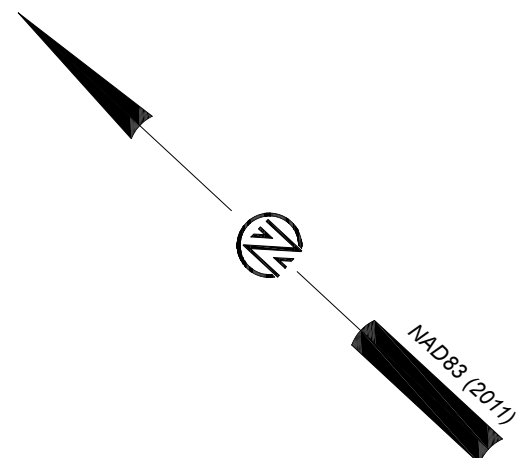
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09/13/2024

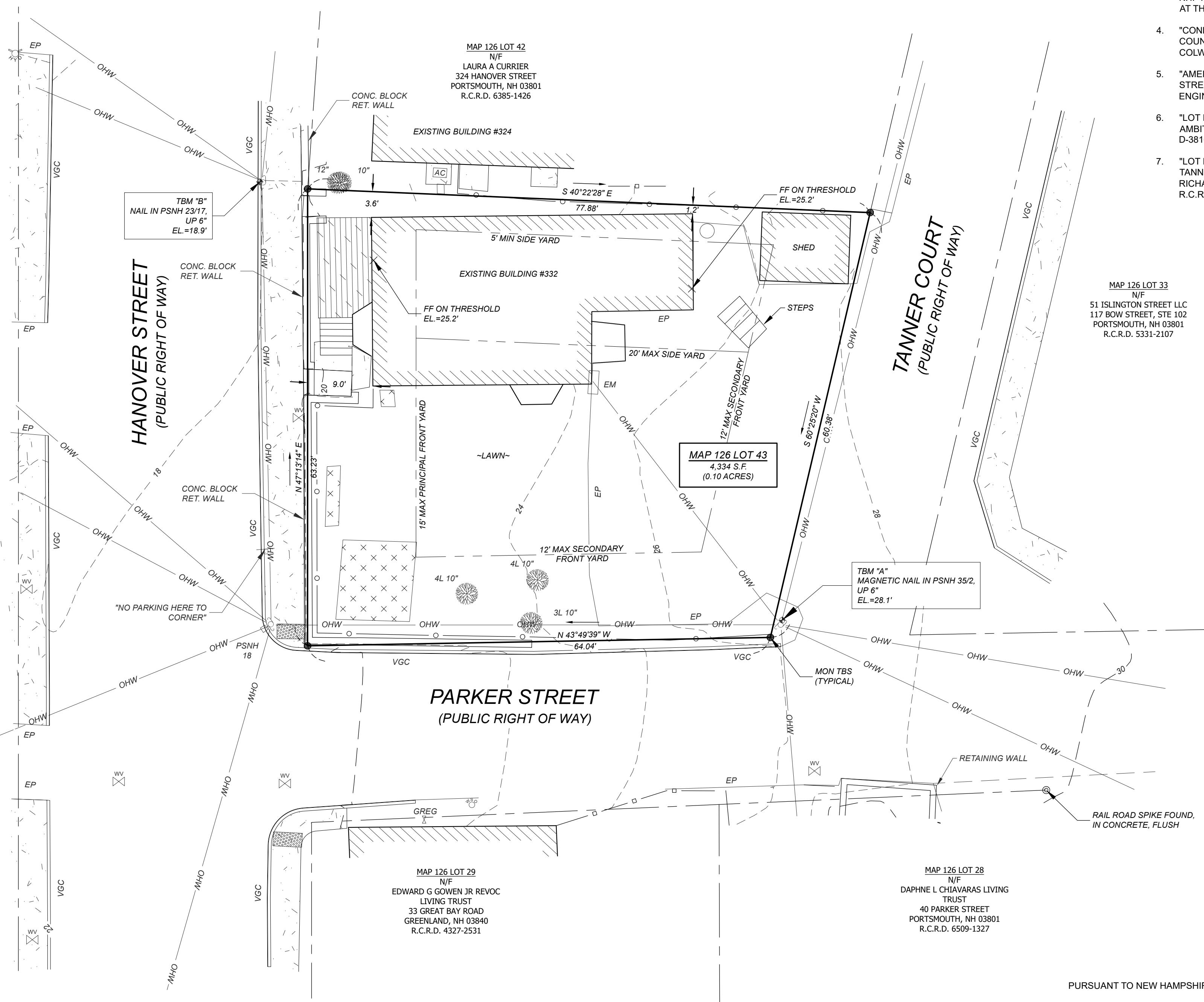
McHA: RD / MG

Project Number: 24071

NOT TO SCALE



MADS (2011)

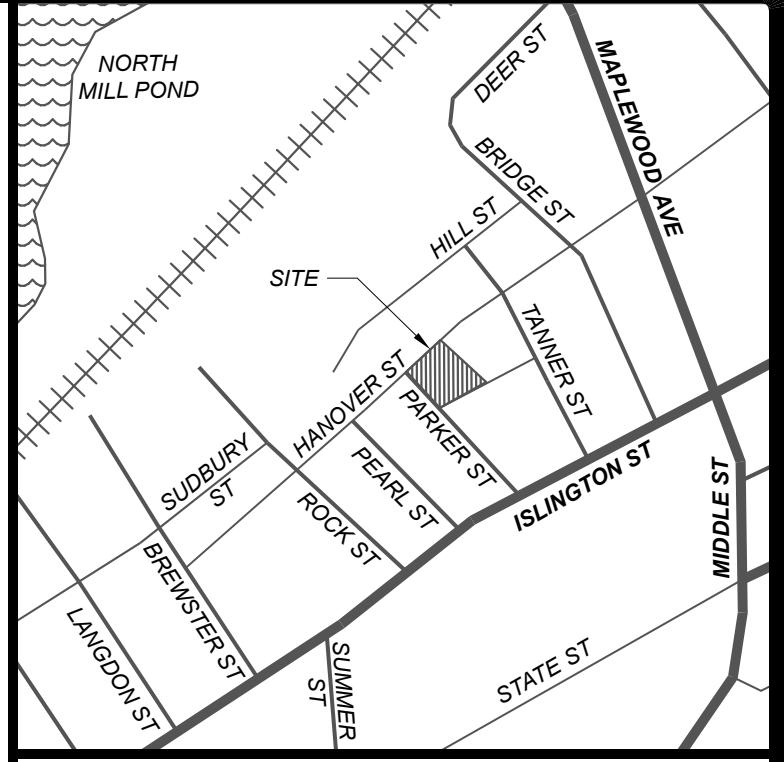


PLAN REFERENCES:

- 1. "PLAN OF SEVEN HOUSE LOTS SITUATE IN PORTSMOUTH, BELONGING TO A. W. + G. W. HAVEN". DATED 1848. RECORDED AT THE R.C.R.D. AS PLAN 00558 REFERENCES BOOK 337 PAGE 59.
2. "PLAN OF LOT NO.314 HANOVER STREET PORTSMOUTH, N.H." PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS. DATED NOVEMBER 21, 1956. RECORDED AT THE R.C.R.D AS PLAN 02501.
3. "LOT CONSOLIDATION PLAN FOR GERTRUDE K. BORDEN LIVING TRUST PARKER, ISLINGTON, TANNER STREETS & TANNER ALLEY COUNTY OF ROCKINGHAM PORTSMOUTH, NH." PREPARED BY MILLETTE, SPRAGUE & COLWELL, INC. DATED MAY 1, 1998. RECORDED AT THE R.C.R.D. AS PLAN D-28280.
4. "CONDOMINIUM SITE PLAN FOR HANOVER PLACE CONDOMINIUM 349 HANOVER STREET COUNTY OF ROCKINGHAM PORTSMOUTH, NH." PREPARED BY MILLETTE, SPRAGUE & COLWELL, INC. DATED SEPTEMBER 28, 2004. RECORDED AT THE R.C.R.D. AS PLAN D-33379.
5. "AMENDED CONDOMINIUM SITE PLAN TAX MAP 126 - LOT 33 PHASE I, II 51 ISLINGTON STREET CONDOMINIUM FOR 51 ISLINGTON STREET, LLC." PREPARED BY AMBIT ENGINEERING, INC. DATED AUGUST 15, 2013. RECORDED AT THE R.C.R.D. AS PLAN D-37882.
6. "LOT LINE RELOCATION PLAN TAX MAP 125, LOT 14 & TAX MAP 138, LOT 62". PREPARED BY AMBIT ENGINEERING, INC. DATED NOVEMBER 2013. RECORDED AT THE R.C.R.D. AS PLAN D-38162.
7. "LOT LINE RELOCATION PLAN FOR HAROLD B. & SUZANNE M. WATT AND DIXIE L. PAPPAS TANNER CT / HANOVER ST. COUNTY OF ROCKINGHAM PORTSMOUTH, N.H." PREPARED BY RICHARD P. MILLETTE AND ASSOCIATES. DATED FEBRUARY 5, 1962. RECORDED AT THE R.C.R.D. AS PLAN C-10673.

NOTES:

- 1. SUBJECT PARCEL: TAX MAP 126 LOT 43, 332 HANOVER STREET, PORTSMOUTH, NEW HAMPSHIRE, NS PROJECT #1289
2. OWNER OF RECORD: KENT & JENNIFER BONNIWELL, 108 FOREST STREET, WELLESLEY, MA 02481, R.C.R.D. BOOK 6557, PAGE 1561
3. PARCEL AREA: 4,334 S.F. OR 0.1 AC
4. THE PURPOSE OF THIS PLAN IS TO SHOW EXISTING CONDITIONS OF THE SUBJECT PARCEL.
5. DIMENSIONAL REQUIREMENTS: ZONE: OD-4-L1, 3,000 S.F.
MIN LOT AREA (PER DWELLING UNIT): 15'
MAX PRINCIPAL FRONT YARD: 12'
MAX SECONDARY FRONT YARD: 60%/80%
FRONT LOT BUILDOUT MIN/MAX: 5/20'
MIN/MAX SIDE SETBACK: 5' OR 10' FROM ALLEY
MIN REAR SETBACK: 40'
MAX BUILDING HEIGHT: 25%
MIN OPEN SPACE: 60%
MAX BUILDING COVERAGE:
ZONING INFORMATION SHOWN HEREON IS PER THE CITY OF PORTSMOUTH ZONING ORDINANCE DATED JANUARY 1, 2010. LAST REVISED JUNE 17, 2024. ADDITIONAL REGULATIONS APPLY, THE LAND OWNER IS RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE CITY STATE, AND FEDERAL REGULATIONS.
6. FLOOD HAZARD ZONE: "X" AREA OF MINIMAL FLOOD RISK, PER FIRM MAP #33015C0259F, DATED 01/29/2021.
7. THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF BOUNDARIES IN ACCORDANCE WITH THE CURRENT LEGAL DESCRIPTIONS. IT IS NOT AN ATTEMPT TO DEFINE UNWRITTEN RIGHTS, DETERMINE THE EXTENT OF OWNERSHIP, OR DEFINE THE LIMITS OF TITLE.
8. FIELD SURVEY COMPLETED BY NORTHAM SURVEY IN JULY, 2024 USING A TRIMBLE S5 TOTAL STATION WITH A TRIMBLE TSC3 DATA COLLECTOR, A TRIMBLE R121 GPS RECEIVER AND A SOKKIA B31 AUTO LEVEL.
9. HORIZONTAL DATUM IS NAD83(2011) NEW HAMPSHIRE STATE PLANE COORDINATES PER STATIC GPS OBSERVATIONS.
10. THE VERTICAL DATUM IS NAVD88 PER STATIC GPS OBSERVATIONS. THE CONTOUR INTERVAL IS 2 FEET.
11. EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN OR IDENTIFIED ARE THOSE WHICH WERE FOUND DURING RESEARCH PERFORMED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.
12. THE LOCATION OF UNDERGROUND UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. NORTHAM SURVEY LLC MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF UNDERGROUND UTILITIES SHOWN. PRIOR TO ANY EXCAVATION ON SITE THE CONTRACTOR SHALL CONTACT DIG SAFE.

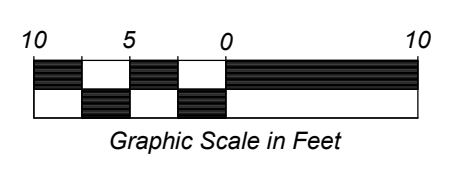


LOCUS

- LEGEND:
ASSASSORS MAP AND LOT NUMBER
BK. PG. BOOK / PAGE
CONC. CONCRETE
MON TBS MONUMENT TO BE SET
BH BUILDING HEIGHT
RET RETAINING
EM ELECTRIC METER
EP EDGE OF PAVEMENT
FF FINISHED FLOOR
GREG GAS REGULATOR
NIF NOW OR FORMERLY
RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
S.F. SQUARE FEET
TBM TEMPORARY BENCHMARK
VGC VERTICAL GRANITE CURB
DRILL HOLE FOUND/SET
IRON PIPE/ROD FOUND
SPIKE/NAIL FOUND
AC AIR CONDITIONER
GUY WIRE
UTILITY POLE
UTILITY POLE W/LIGHT
DECIDUOUS TREE
GAS VALVE
HYDRANT
WATER SHUT OFF
WATER GATE VALVE
IRRIGATION CONTROL VALVE
SIGN
OHW OVERHEAD WIRE
CHAINLINK FENCE
STOCKADE FENCE
BOUNDARY LINE
SETBACK LINE
EXISTING CONTOUR
CONCRETE
WOODEN DECK
LANDSCAPING
NON SLIP MAT

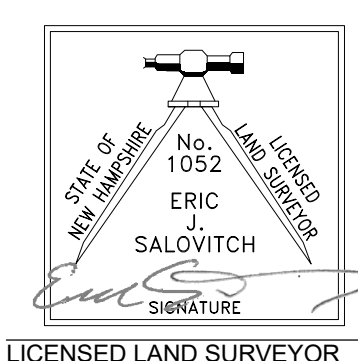
MAP 126 LOT 29
NIF
EDWARD G GOWEN JR REVOC
LIVING TRUST
33 GREAT BAY ROAD
GREENLAND, NH 03840
R.C.R.D. 4327-2531

MAP 126 LOT 28
NIF
DAPHNE L CHIAVARAS LIVING
TRUST
40 PARKER STREET
PORTSMOUTH, NH 03801
R.C.R.D. 6599-1327



PURSUANT TO NEW HAMPSHIRE RSA 676:18 III

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.
I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS.
I FURTHER CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND AND IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE. RANDOM TRAVERSE SURVEY BY TOTAL STATION WITH A PRECISION GREATER THAN 1:15,000.



AUGUST 28, 2024
DATE

EXISTING CONDITIONS PLAN
FOR
KENT & JENNIFER BONNIWELL
OF
TAX MAP 126 LOT 43
332 HANOVER STREET
PORTSMOUTH, NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

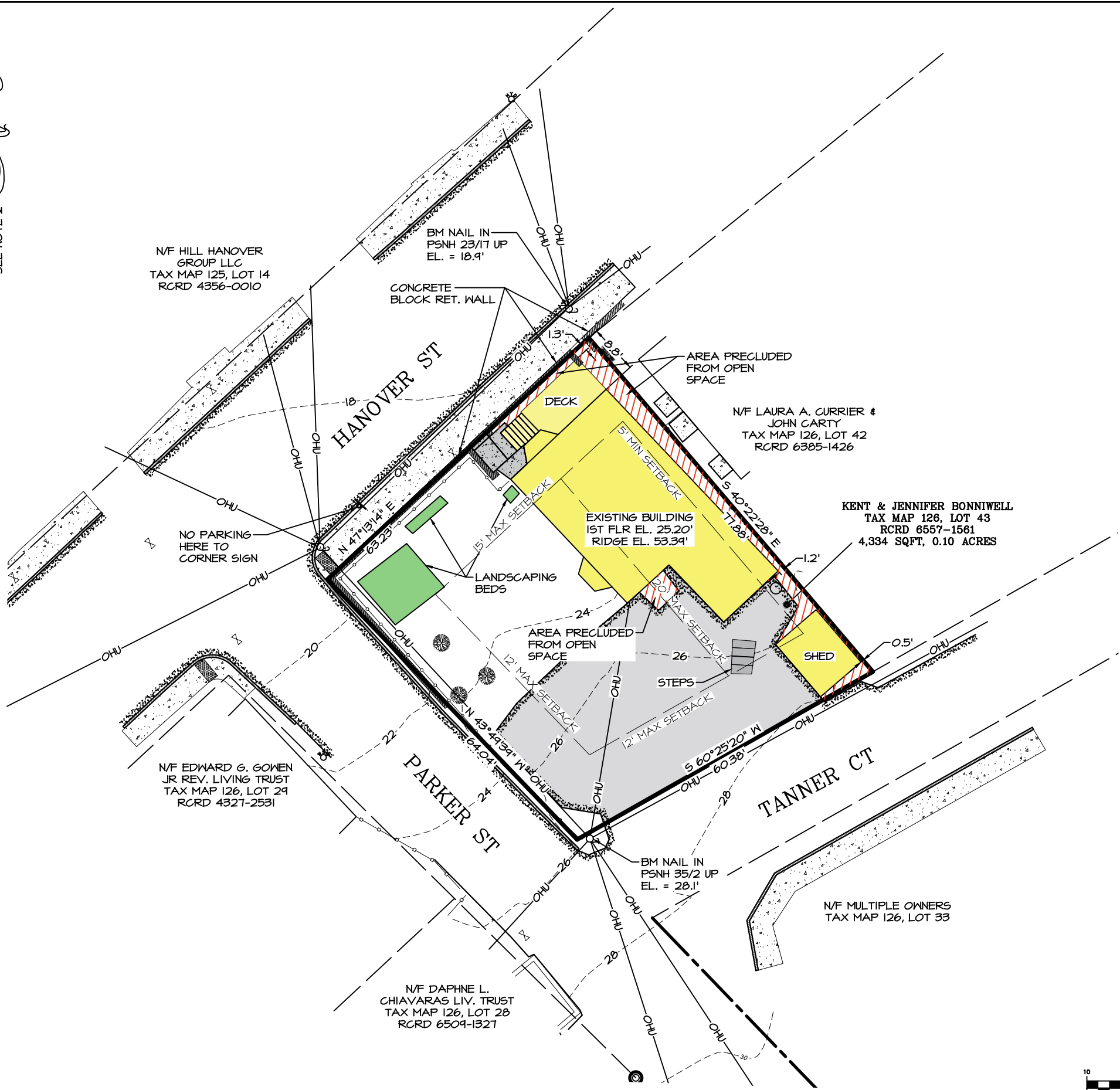
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Table with 2 columns: JOB NO. / DRAWN BY / CHECKED BY and DATE / DRAWING / SHEET. Values include 1289, PJN, ZMH, EJS, 1289 SURVEY.DWG, 1 OF 1.

Table with 4 columns: NO., DATE, DESCRIPTION, BY.



SEE NOTE 2



N/F HILL HANOVER GROUP LLC
TAX MAP 125, LOT 14
RCRD 4356-0010

BM NAIL IN PSNH 23/17 UP
EL. = 18.9'

CONCRETE BLOCK RET. WALL

N/F LAURA A. CURRIER & JOHN CARTY
TAX MAP 126, LOT 42
RCRD 6385-1426

KENT & JENNIFER BONNIWELL
TAX MAP 126, LOT 43
RCRD 6557-1561
4,334 SQFT, 0.10 ACRES

EXISTING BUILDING
1ST FLR EL. 25.20'
RIDGE EL. 53.39'

NO PARKING HERE TO CORNER SIGN

LANDSCAPING BEDS

AREA PRECLUDED FROM OPEN SPACE

STEPS

SHED

N/F EDWARD G. GOWEN JR REV. LIVING TRUST
TAX MAP 126, LOT 29
RCRD 4327-2531

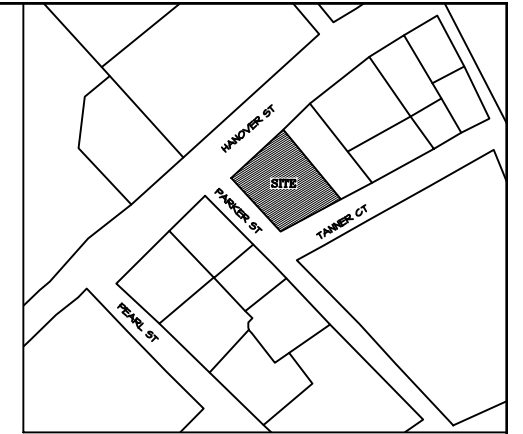
N/F DAPHNE L. CHIAVARAS LIV. TRUST
TAX MAP 126, LOT 28
RCRD 6504-1327

N/F MULTIPLE OWNERS
TAX MAP 126, LOT 33

BM NAIL IN PSNH 35/2 UP
EL. = 28.1'

LEGEND

- 100— EXISTING CONTOUR
- ⊙ MONUMENT FOUND
- ⊕ UTILITY POLE
- OHU— OVERHEAD UTILITIES
- ⊗ WATER VALVE
- CHAIN LINK FENCE
- WOODEN FENCE
- ▬ VERTICAL GRANITE CURB
- ⊕ WATER SHUT-OFF
- ⊕ FIRE HYDRANT



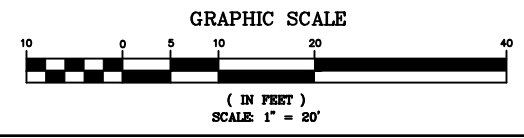
**LOCUS PLAN
N.T.S.**

NOTES

- 1) OWNER OF RECORD:
KENT & JENNIFER BONNIWELL
TAX MAP 126, LOT 43
108 FOREST ST
WELLESLEY, MA 02481
RCRD: 6557-1561
AREA: 4,334 SF, 0.10 ACRES
- 2) BASIS OF BEARING HELD FROM PLAN REFERENCE #1.
- 3) PARCEL IS IN CHARACTER DISTRICT 4-L1 (CD4-L1):
MINIMUM LOT AREA.....3,000 SF
MIN. LOT AREA PER DWELLING UNIT.....3,000 SF
MAX BUILDING FOOTPRINT.....2,500 SF
MAX PRINCIPAL FRONT YARD.....15 FT
MAX SECONDARY FRONT YARD.....12 FT
MIN/MAX SIDE SETBACK.....5 FT/20 FT
MIN REAR YARD FROM LOT LINE.....5 FT
MAX BUILDING HEIGHT.....40 FT
MIN OPEN SPACE.....25%
MAX BUILDING COVERAGE.....60%
MAX FINISHED FLOOR ABOVE SIDEWALK...3 FT
- 4) THE PARCEL IS NOT WITHIN A FEMA FLOOD ZONE, AS PER FLOOD INSURANCE RATE MAP #33015C0254F, PANEL 254 OF 681, DATED JANUARY 29, 2021. VERTICAL DATUM IS NAVD 1988.
- 5) THIS PLAN DOES NOT REPRESENT A BOUNDARY SURVEY. ALL PROPERTY LINE, SETBACKS, COVERAGES, AND ELEVATIONS WERE OBTAINED FROM PLAN REFERENCE #1.

REFERENCE PLANS

- 1) "EXISTING CONDITIONS PLAN FOR KENT & JENNIFER BONNIWELL" BY NORTHAM SURVEY LLC, DATED JULY 26, 2024. NOT RECORDED.



1	9/13/2024	ZBA SUBMITTAL	
ISS.	DATE	DESCRIPTION OF ISSUE	
SCALE	1" = 20'		
CHECKED	A.ROSS		
DRAWN	D.D.D.		
ROSS ENGINEERING, LLC Civil/Structural Engineering & Surveying 909 Kingston St. Portsmouth, NH 03801 (603) 433-7560			
CLIENT MCHENRY ARCHITECTURE 4 MARKET ST PORTSMOUTH, NH 03801			
TITLE EXISTING CONDITIONS PLAN 332 HANOVER ST PORTSMOUTH, NH 03801 TAX MAP 126, LOT 43			
JOB NUMBER	DWG. NO.	ISSUE	
24-049	1 OF 2	1	

N/F HILL HANOVER GROUP LLC
TAX MAP 125, LOT 14
RCRD 4356-0010

EXISTING CONCRETE BLOCK RET. WALL
CONCRETE SIDEWALK

BM NAIL IN PSNH 23/17 UP
EL. = 18.9'

N/F LAURA A. CURRIER & JOHN CARTY
TAX MAP 126, LOT 42
RCRD 6385-1426

NOTES

1) OWNER OF RECORD:
KENT & JENNIFER BONNIWELL
TAX MAP 126, LOT 43
108 FOREST ST
WELLESLEY, MA 02481
RCRD: 6557-1561
AREA: 4,334 SF, 0.10 ACRES

2) PARCEL IS IN CHARACTER DISTRICT 4-LI (CD4-LI):
MINIMUM LOT AREA.....3,000 SF
MIN. LOT AREA PER DWELLING UNIT.....3,000 SF
MAX BUILDING FOOTPRINT.....2,500 SF
MAX PRINCIPAL FRONT YARD.....15 FT
MAX SECONDARY FRONT YARD.....12 FT
MIN/MAX SIDE SETBACK.....5 FT/20 FT
MIN REAR YARD FROM LOT LINE.....5 FT
MAX BUILDING HEIGHT.....40 FT
MIN OPEN SPACE.....25%
MAX BUILDING COVERAGE.....60%
MAX FINISHED FLOOR ABOVE SIDEWALK.....3 FT

3) COVERAGES:
BUILDING COVERAGE

EXISTING BUILDING COVERAGE
BUILDING.....928 SF
DECK.....99 SF
STAIRS > 18".....15 SF
SHED.....116 SF
EXISTING STRUCTURE 1,158 SF
BUILDING COVERAGE 1,158 / 4,334 = 26.7%

PROPOSED BUILDING COVERAGE
BUILDING.....1,900 SF
DECK.....217 SF
STAIRS > 18".....47 SF
PROPOSED STRUCTURE 2,164 SF
BUILDING COVERAGE 2,164 / 4,334 = 50.0%

OPEN SPACE

EXISTING OPEN SPACE
BUILDING COVERAGE.....1,158 SF
STAIRS < 18".....8 SF
ASPHALT DRIVEWAY.....1,405 SF
CONCRETE STEPS.....49 SF
RETAINING WALL.....59 SF
PRECLUDED FROM OPEN SPACE 241 SF
TOTAL LOT COVERAGE 2,920 SF
EXISTING OPEN SPACE = 4334 - 2920 = 1414 SF
EXISTING OPEN SPACE = 1414 / 4334 = 32.6%

PROPOSED OPEN SPACE
BUILDING COVERAGE.....2,164 SF
STAIRS < 18".....16 SF
ASPHALT DRIVEWAY.....584 SF
HARDSCAPE.....63 SF
RETAINING WALL.....51 SF
PRECLUDED FROM OPEN SPACE 193 SF
TOTAL LOT COVERAGE 3,071 SF
PROPOSED OPEN SPACE = 4334-3071 = 1263 SF
PROPOSED OPEN SPACE = 1263 / 4334 = 29.1%

4) GRADE PLANE:
AS PER PORTSMOUTH ZONING ORDINANCE GRADE PLANE IS DEFINED AS FOLLOWS; A REFERENCE PLANE REPRESENTING THE AVERAGE OF FINISHED GROUND LEVELS ADJOINING THE BUILDING AT ALL EXTERIOR WALLS. WHEN THE FINISHED GROUND LEVEL SLOPES AWAY FROM EXTERIOR WALLS, THE REFERENCE PLANE SHALL BE ESTABLISHED BY THE LOWEST POINTS WITHIN THE AREA BETWEEN THE BUILDING AND THE LOT LINE OR, WHEN THE LOT LINE IS MORE THAN 6 FEET FROM THE BUILDING, BETWEEN THE BUILDING AND A POINT 6 FEET FROM THE BUILDING.

THE GRADE PLANE WAS DETERMINED BY THE AVERAGE ELEVATION OF POINTS BETWEEN THE PERIMETER OF THE BUILDING AND 6' AWAY FROM THE BUILDING. THE GRADE PLANE WAS CALCULATED AS 23.66'.

5) BUILDING HEIGHT:
BUILDING HEIGHT FOR A HIP-TOPPED MANSARD ROOF IS CALCULATED AS THE VERTICAL MEASUREMENT FROM THE GRADE PLANE TO THE ELEVATION MIDWAY BETWEEN THE LEVEL OF THE EAVES AND THE HIGHEST POINT OF THE ROOF AS PER PORTSMOUTH ZONING ORDINANCE. THE GRADE PLANE USED IS THE EXISTING GRADE PLANE OR THE FINISHED GRADE PLANE, WHICHEVER IS LOWER. THE HIGHEST RIDGE IS 58.95' AND THE LEVEL OF THE EAVES IS 47.00'. THE MIDPOINT ELEVATION IS 52.98'.

6) THE BUILDING HEIGHT OF THE BUILDING WAS CALCULATED TO BE 29.32', USING A GRADE PLANE OF 23.66' AND A MIDPOINT HEIGHT OF 52.98'.

7) PARKING REQUIRED AS PER 10.1112.30 DWELLING UNIT FLOOR AREA > 750 SF = 1.3 SPACES PER UNIT

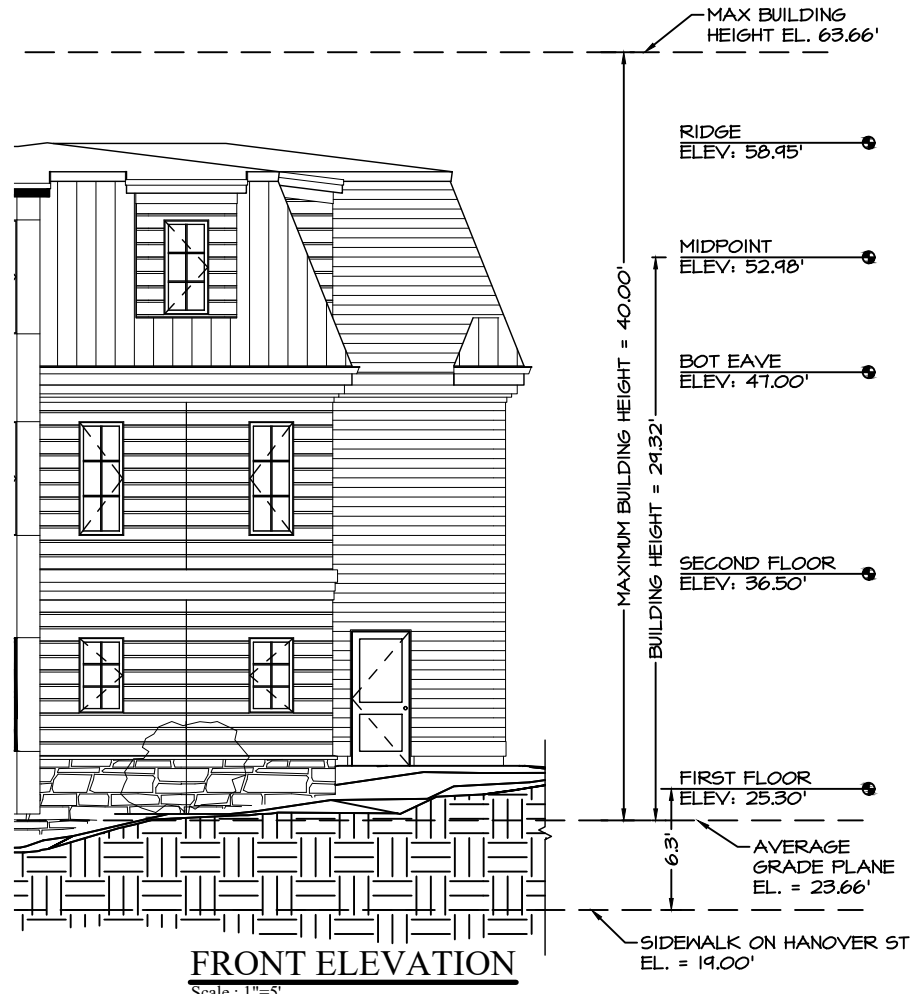
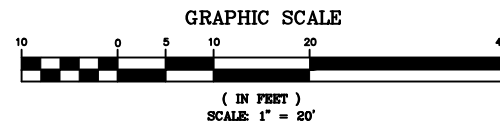
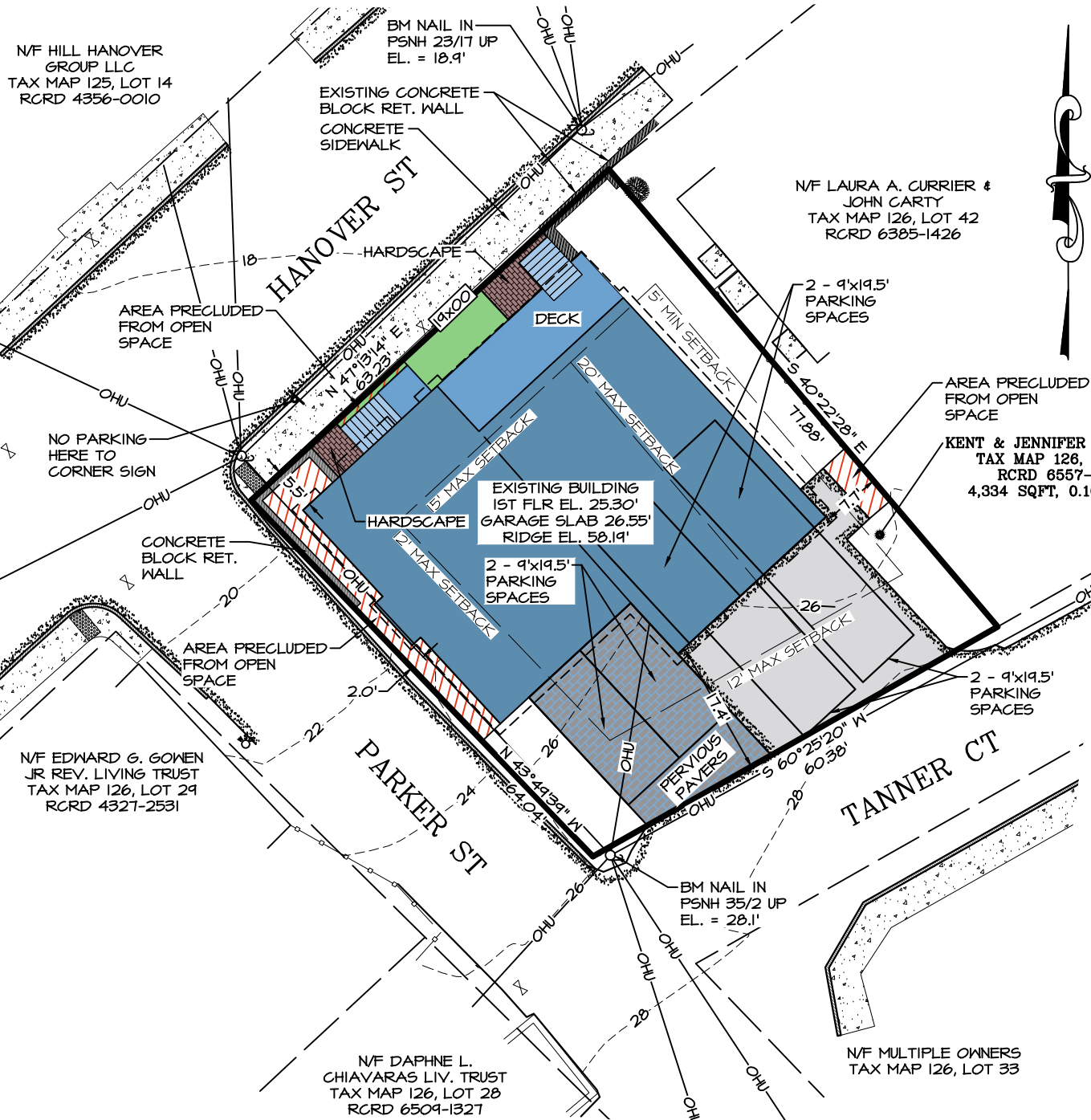
1.3 SPACES PER UNIT x 2 UNITS = 2.6 = 3 PARKING SPACES REQUIRED

6 PARKING SPACES ARE PROVIDED, FOUR IN THE DRIVEWAY AND TWO INSIDE THE PROPOSED GARAGE.

VARIANCES REQUIRED

THE FOLLOWING VARIANCES FROM THE PORTSMOUTH ZONING ORDINANCE ARE REQUESTED

- SECTION 10.5A41.10A - TO CONSTRUCT A BUILDING WITH A 17.4 FT SECONDARY FRONT YARD ON TANNER CT WHERE A MAXIMUM OF 12 FT IS ALLOWED.
- SECTION 10.5A41.10A - TO CONSTRUCT A BUILDING WITH A FIRST FLOOR 6.3' ABOVE THE SIDEWALK GRADE WHERE 3.0' IS ALLOWED.
- SECTION 10.5A41.10A - TO ALLOW 2,167 SF PER DWELLING UNIT WHERE 3,000 SF IS REQUIRED.



FRONT ELEVATION
Scale: 1"=5'

DIMENSIONAL REGULATIONS TABLE

REGULATION	REQUIRED	EXISTING	PROPOSED	VARIANCE REQUESTED
MAX FRONT YARD (HANOVER)	15 FT	8.8 FT	5.5 FT	NO
MAX FRONT LINE (PARKER)	12 FT	32.8 FT	2.0 FT	NO
MAX FRONT YARD (TANNER)	12 FT	20.7 FT	17.4 FT	YES
SIDE LINE TO BUILDING	5' MIN TO 20' MAX	1.2 FT	7.7 FT	NO
SIDE LINE TO SHED	5' MIN TO 20' MAX	0.5 FT	N/A	NO
BUILDING COVERAGE	60% MAX	26.7%	50%	NO
MAX BUILDING FOOTPRINT	2,500 SF	1,158 SF	2,164 SF	NO
OPEN SPACE	25% MIN	32.6%	29.1%	NO
BUILDING HEIGHT	40 FT	24.73 FT	29.32 FT	NO
FIRST FLOOR ABOVE SIDEWALK GRADE	3 FT MAX	6.2 FT	6.3 FT	YES
NUMBER OF DWELLING UNITS		1 UNITS	2 UNITS	
LOT AREA PER DWELLING UNIT	3,000 SF MIN	4,334 SF	2,167 SF	YES

LEGEND

- 100- EXISTING CONTOUR
- 100- PROPOSED CONTOUR
- 100x00 SPOT ELEVATION
- ⊙ MONUMENT FOUND
- ⊙ UTILITY POLE
- OHU- OVERHEAD UTILITIES
- ⊗ WATER STOP
- CHAIN LINK FENCE
- WOODEN FENCE
- VERTICAL GRANITE CURB
- ⊕ WATER SHUT-OFF
- ⊕ FIRE HYDRANT

1	9/13/2024	ZBA SUBMITTAL
ISS. DATE		DESCRIPTION OF ISSUE
CHECKED	A.ROSS	
TRAVN	D.D.D.	

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

CLIENT
MCHENRY ARCHITECTURE
4 MARKET ST
PORTSMOUTH, NH 03801

TITLE

SITE PLAN
332 HANOVER ST
PORTSMOUTH, NH 03801
TAX MAP 126, LOT 43

JOB NUMBER	DWG. NO.	ISSUE
24-049	2 OF 2	1



EXISTING PERSPECTIVE FROM HANOVER STREET LOOKING SOUTH



EXISTING PERSPECTIVE FROM HANOVER/PARKER STREET LOOKING EAST



EXISTING PERSPECTIVE FROM HANOVER STREET LOOKING SOUTHEAST



EXISTING PERSPECTIVE FROM TANNER COURT LOOKING NORTH



EXISTING PERSPECTIVE FROM PARKER STREET/TANNER COURT
LOOKING NORTH



EXISTING PERSPECTIVE FROM TANNER COURT LOOKING NORTHWEST

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PROPOSED DUPLEX

332 HANOVER STREET
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EXISTING CONDITION IMAGES

ZONING BOARD OF ADJUSTMENT - OCTOBER 2024

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- Character Districts**
- CD5 Character District 5
 - CD4 Character District 4
 - CD4W Character District 4-W
 - CD4-L1 Character District 4-L1
 - CD4-L2 Character District 4-L2
- Residential Districts**
- R Rural
 - SRA Single Residence A
 - SRB Single Residence B
 - GRA General Residence A
 - GRB General Residence B
 - GRC General Residence C

PROPERTY DENSITY DATA					
KEYNOTE	ADDRESS	NUMBER OF UNITS	REQUIRED SQUARE FEET PER UNIT	SQUARE FEET PER UNIT	ZONE
1	332 HANOVER STREET	2	3,000 SF	2,178 SF	CD4-L1
2	324 HANOVER STREET	1	3,000 SF	2,614 SF	
3	314 HANOVER STREET	4	3,000 SF	872 SF	
4	306 HANOVER STREET	4	3,000 SF	545 SF	
5	296 HANOVER STEET	2	3,000 SF	872 SF	
6	52 TANNER STREET	1	3,000 SF	1,307 SF	
7	9 TANNER COURT	1	3,000 SF	1,307 SF	
8	13 TANNER COURT	1	3,000 SF	2,178 SF	
9	350 HANOVER STREET	2	3,000 SF	1,307 SF	
10	45 PEARL STREET	2	3,000 SF	1,500 SF	
11	349 HANOVER STREET	6	3,000 SF	872 SF	
12	181 HILL STREET	12	3,000 SF	1,343 SF	
13	299 HANOVER STREET	COMMERCIAL ONLY			
14	136 HILL STREET	3	3,000 SF	1,017 SF	
15	285 HANOVER STREET	4	3,000 SF	436 SF	
16	288 HANOVER STREET	1	3,000 SF	1,743 SF	
17	282 HANOVER STREET	1	3,000 SF	1307 SF	
18	53 TANNER STREET	1	3,000 SF	2,178 SF	
19	45 TANNER STREET	1	3,000 SF	2,178 SF	
20	37 TANNER STREET	1	3,000 SF	2,178 SF	
21	29 TANNER STREET	1	3,000 SF	3,050 SF	
22	19 ISLINGTON STREET	4	3,000 SF	1,525 SF	

23	51 ISLINGTON STREET	30	3,000 SF	1,043 SF	CD4-L2
24	63 ISLINGTON STREET	COMMERCIAL ONLY			
25	93 ISLINGTON STREET	COMMERCIAL ONLY			

26	30 PARKER STREET	1	3,500 SF	2,614 SF	GRC
27	40 PARKER STREET	1	3,500 SF	1,743 SF	
28	31 PEARL STREET	6	3,500 SF	509 SF	
29	19 PEARL STREET	2	3,500 SF	1,743 SF	
30	36 PEARL STREET	1	3,500 SF	3,050 SF	
31	48 PEARL STREET	2	3,500 SF	1,961 SF	
32	394 HANOVER STREET	1	3,500 SF	1,743 SF	
33	27 ROCK STREET	2	3,500 SF	1,307 SF	

RED = NON CONFORMING LOT AREA PER DWELLING UNIT

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PROPOSED DUPLEX

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NEIGHBORHOOD DENSITY

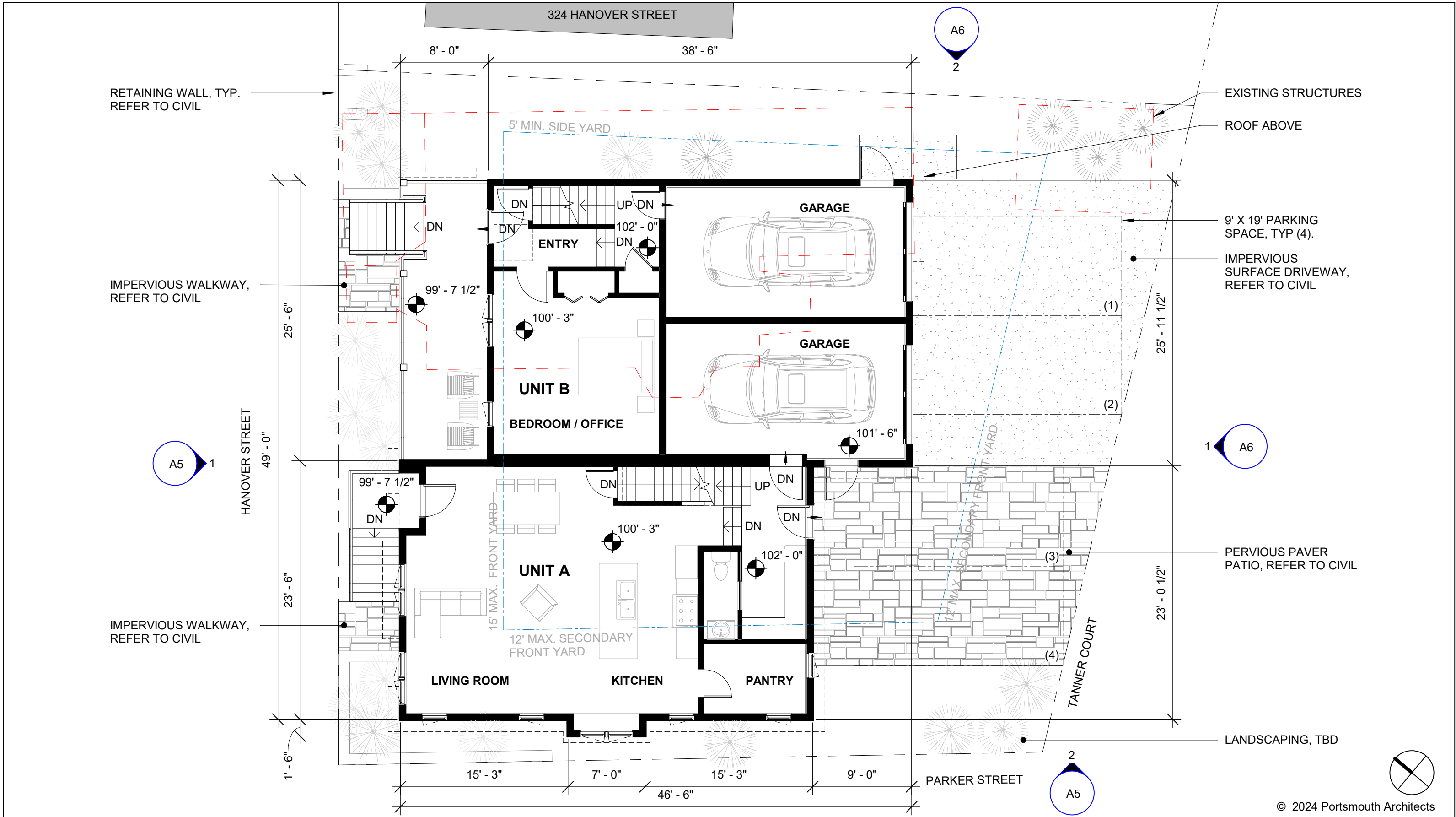
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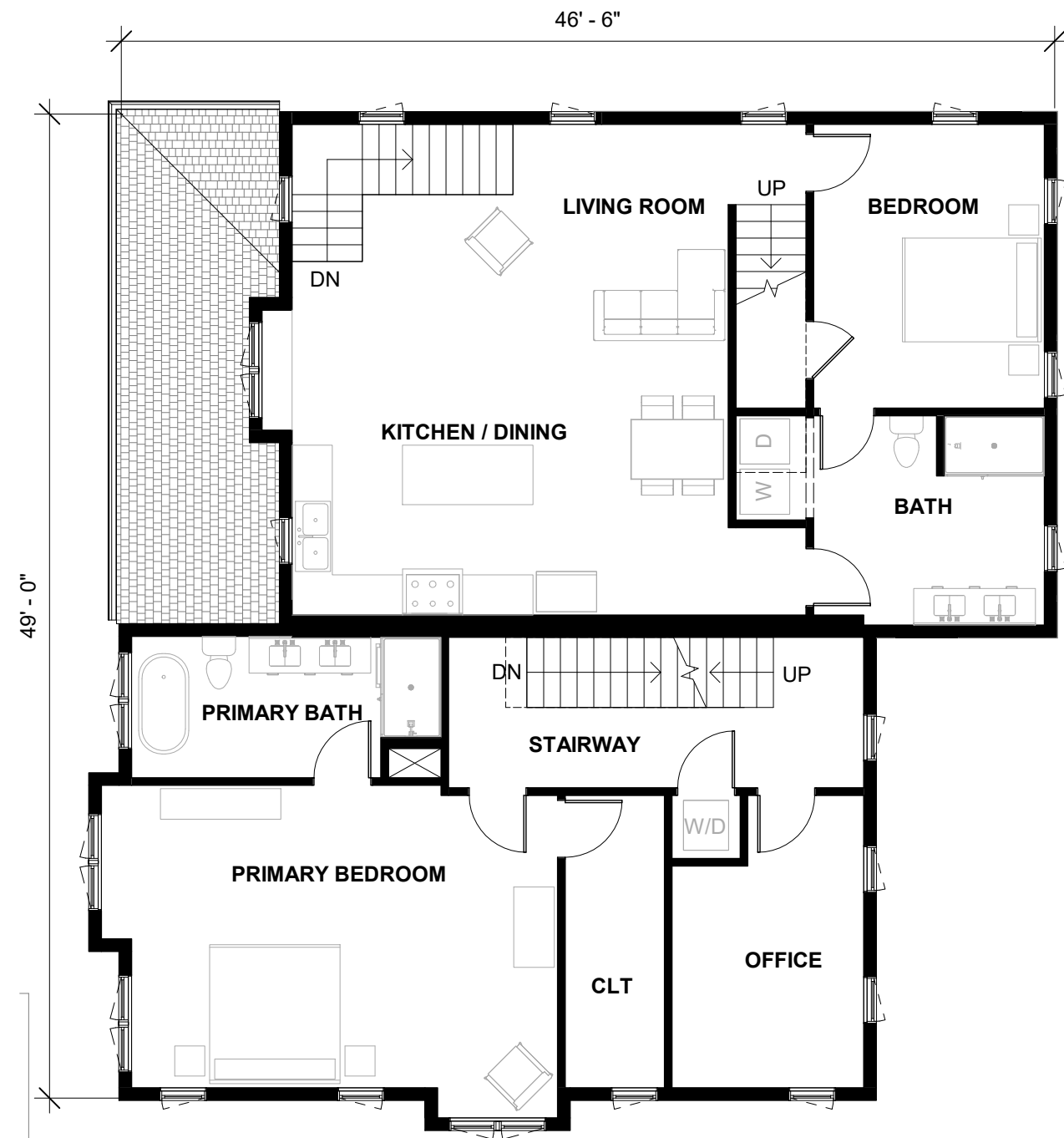
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FIRST FLOOR PLAN
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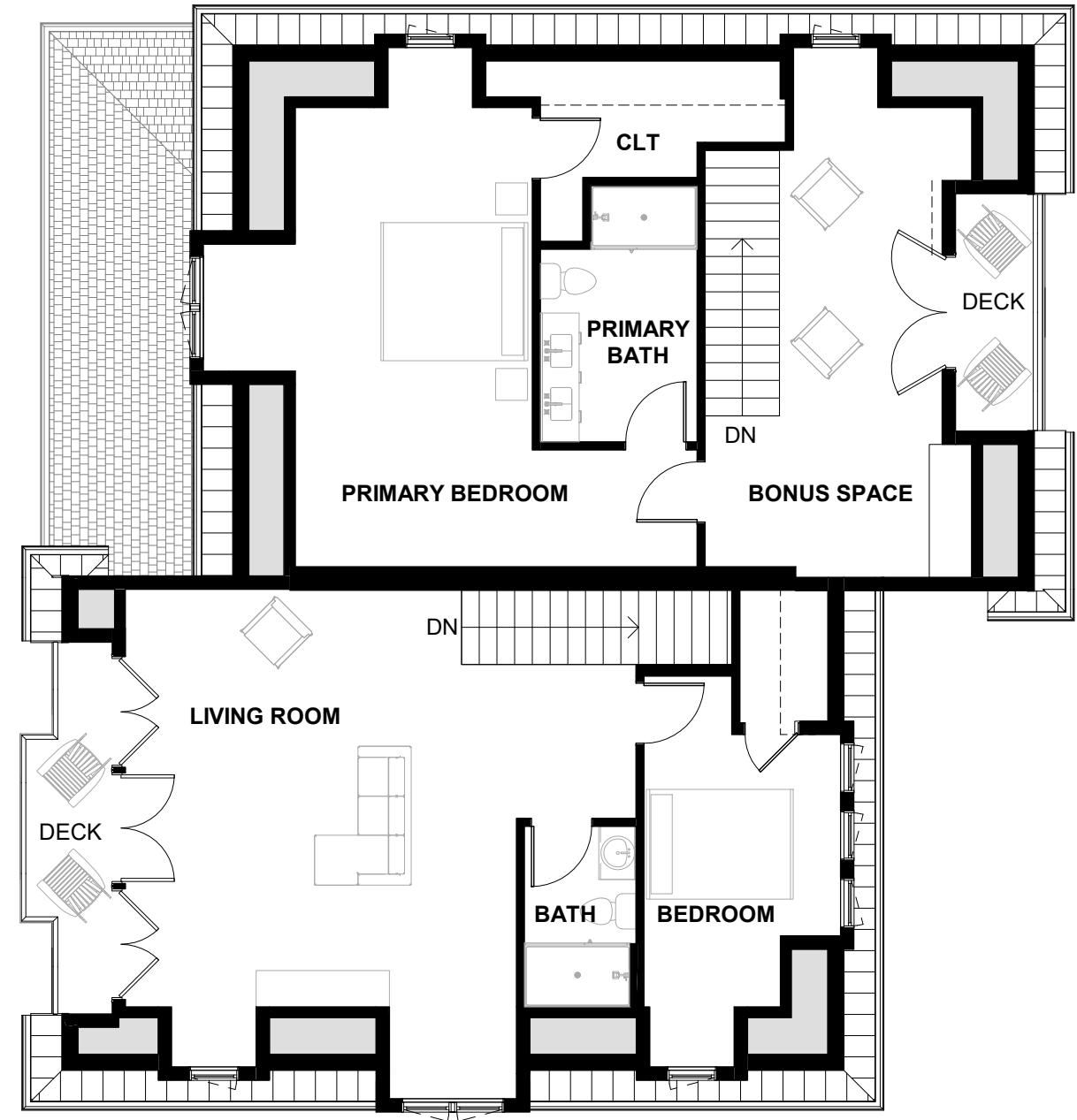
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 Scale: 1/8" = 1'-0"



1 SECOND FLOOR PLAN
1/8" = 1'-0"



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

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SECOND AND THIRD FLOOR
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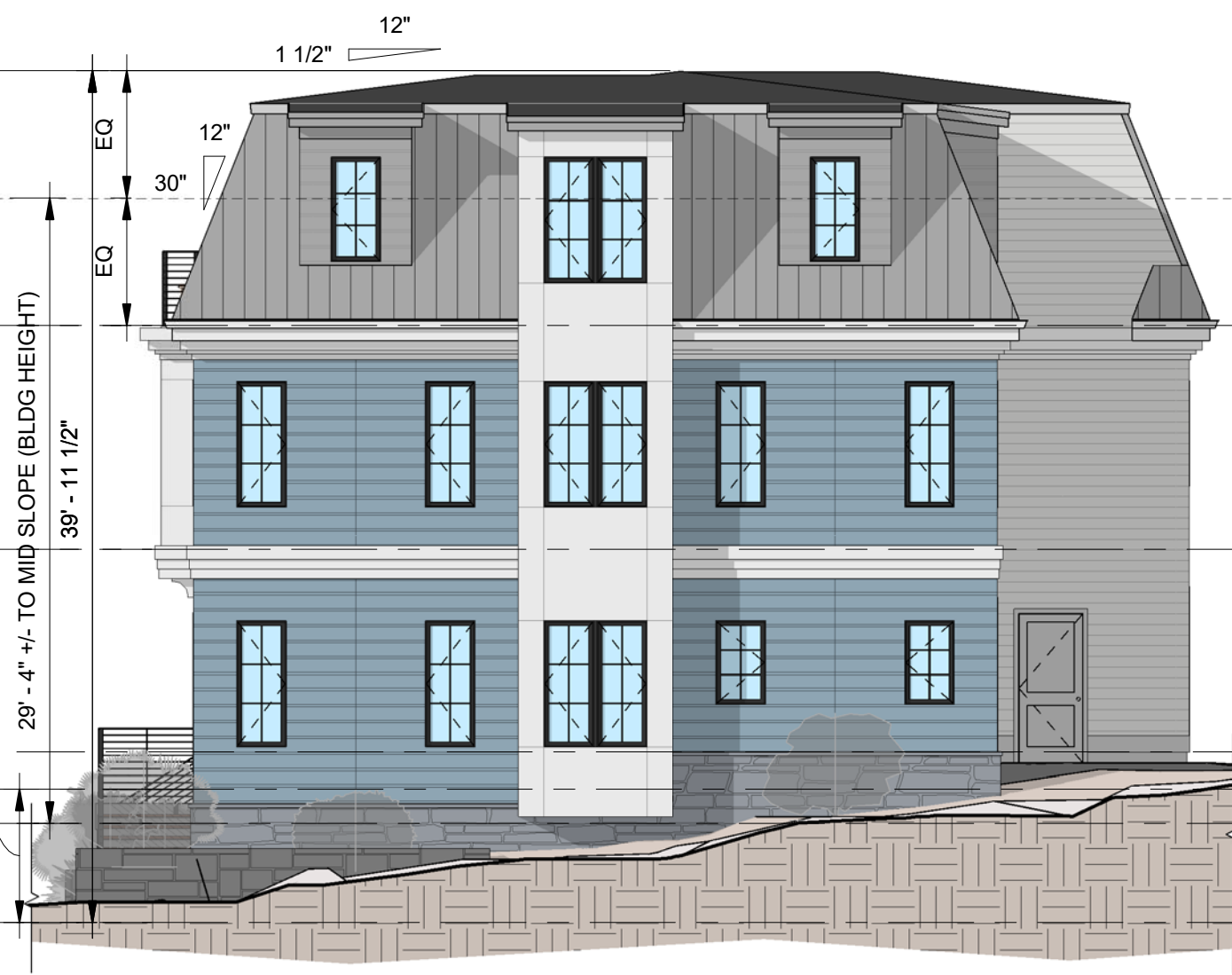
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Scale: 1/8" = 1'-0"

MAX BLDG. HEIGHT
138' - 7 3/4"
SURVEY: 63.6'



THIRD FLOOR
122' - 0"
SURVEY: 47.0'

SECOND FLOOR
111' - 6"
SURVEY: 36.5'

REAR ENTRY
102' - 0"
SURVEY: 27.0'

FIRST FLOOR
100' - 3"
SURVEY: 25.3'

AVERAGE GRADE
98' - 7 3/4"
SURVEY: 23.6'

SIDEWALK GRADE
94' - 0"
SURVEY: 19.0'

1 NORTH-WEST ELEVATION - HANOVER STREET
1/8" = 1'-0"

2 SOUTH WEST ELEVATION - PARKER STREET
1/8" = 1'-0"

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PROPOSED DUPLEX
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ELEVATIONS

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



1 SOUTH EAST ELEVATION - TANNER COURT
1/8" = 1'-0"

2 NORTH EAST ELEVATION
1/8" = 1'-0"

- MAX BLDG. HEIGHT
138' - 7 3/4"
SURVEY: 63.6'
- THIRD FLOOR
122' - 0"
SURVEY: 47.0'
- SECOND FLOOR
111' - 6"
SURVEY: 36.5'
- REAR ENTRY
102' - 0"
SURVEY: 27.0'
- FIRST FLOOR
100' - 3"
SURVEY: 25.3'
- AVERAGE GRADE
98' - 7 3/4"
SURVEY: 23.6'
- SIDEWALK GRADE
94' - 0"
SURVEY: 19.0'

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ELEVATIONS

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



PERSPECTIVE FROM HANOVER STREET LOOKING SOUTH

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PROPOSED DUPLEX

332 HANOVER STREET
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3D PERSPECTIVE

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NOT TO SCALE



PERSPECTIVE FROM HANOVER STREET AND TANNER COURT
LOOKING NORTH

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PROPOSED DUPLEX
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3D PERSPECTIVE
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