

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

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

7:00 P.M.

June 16, 2026

AGENDA

I. APPROVAL OF MINUTES

- A. Approval of the May 19, 2026 meeting minutes.
- B. Approval of the May 26, 2026 meeting minutes.

II. OLD BUSINESS

- A. The request of **Portsmouth Historical Society (Owner)**, for property located at **43 Austin Street** whereas relief is needed to convert a single-family home to an office use which requires the following: 1) Variance from Section 10.440 (Use #5.10) to allow professional office space where it is not permitted. Said property is located on Assessor Map 127 Lot 27 and lies within the General Residence C (GRC) and Historic Districts. (LU-26-43)
- B. **POSTPONE TO JULY** The request of **Lonza Biologics INC (Owner)**, for property located at **34 Harvest Way** whereas relief is needed to install two illuminated wall signs and one illuminated monument sign, which requires relief from the following: 1) from Section 306.01(d) of the Pease Development Authority Ordinance to allow signs to exceed a maximum aggregate area of two (2) square feet of sign area for each linear foot of street frontage up to a maximum of 200 square feet. Said property is located on Assessor Map 305 Lot 5 and lies within the Airport Business Commercial (ABC) District. **POSTPONE TO JULY** (LU-26-12)
- C. **0 Melbourne Street** – Extension Request (LU-24-109)
- D. **POSTPONE TO JULY** The request of **Hope for Tomorrow Foundation (Owner)**, for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be

extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. **POSTPONE TO JULY** (LU-26-41)

- E.** The request of **Port Hunter LLC (Owner)**, for property located at **361 Miller Avenue** whereas relief is needed to construct a detached garage with a professional office space on the second floor, which requires the following: 1) Variance from Section 10.573.20 to allow a) 6 foot side yard where 10 feet are required, and b) 10 foot rear yard where 20 feet are required; and 2) Variance from Section 10.440 Use #5.10 to allow a professional office use where it is not permitted. Said property is located on Assessor Map 131 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-76)
- F.** The request of **Ryan Trust (Owner)**, for property located at **221 Woodbury Avenue** whereas relief is needed to subdivide the existing parcel into two parcels, for demolition of the existing one-story detached garage and construction of a new two-story detached garage on lot 1; and a new single-family residential structure on lot 2, which requires the following: 1) Variance from Section 10.521 to allow 63 feet of frontage where 100 feet is required. Said property is located on Assessor Map 175 Lot 10 and lies within the General Residence A (GRA) District. (LU-26-57)

III. NEW BUSINESS

- A.** The request of **Dan Smith Management Group LLC (Owner)**, for property located at **407 The Hill, #6-16** whereas relief is needed to convert the ground floor to a residential use, which requires the following: 1) Variance from Section 10.642 to allow residential use on the ground floor in the Downtown Overlay District where it is not permitted. Said property is located on Assessor Map 118 Lot 26-4 and lies within Character District 4-L1 (CD4-L1) and the Historic District. (LU-26-56)
- B.** The request of **Susan E. Ingersoll (Owner)**, for property located at **46 Aldrich Road** whereas relief is needed to demolish the existing detached garage and construct a new attached garage which requires the following: 1) Variance from Section 10.521 to allow a 17.5 foot rear yard where 20 feet are required. Said property is located on Assessor Map 148 Lot 26 and lies within the General Residence A (GRA) and Historic Districts. (LU-26-65)
- C.** The request of **Debra M. Dupont (Owner)**, for property located at **911 Sagamore Avenue** whereas relief is needed to demolish the existing sunroom and construct an addition which requires the following: 1) Variance from Section 10.531 to allow a 13 foot rear yard where 20 feet are required; and 2) Variance from Section 10.334 to allow the existing single family residential use (Use #1.10) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 223 Lot 33 and lies within the Waterfront Business (WB) District. (LU-26-71)

- D.** The request of **1010 US Route 1 Bypass LLC (Owner)**, for property located at **1010 Route 1 Bypass** whereas relief is needed for a canopy sign which requires the following: 1) Variance from Section 10.1251.20 for a 95 sq. ft. canopy sign where 20 sq. ft. is allowed; and 2) Variance from Section 10.1241 for an animated sign where it is not allowed. Said property is located on Assessor Map 141 Lot 19 and lies within the Business (B) District. (LU-26-75)
- E.** The request of **500 Maplewood Avenue LLC (Owner)**, for property located at **500 Maplewood Avenue** whereas relief is needed for a canopy sign which requires the following: 1) Variance from Section 10.1251.20 for a 95 sq. ft. canopy sign where 20 sq. ft. is allowed; and 2) Variance from Section 10.1241 for an animated sign where it is not allowed. Said property is located on Assessor Map 142 Lot 34 and lies within the Business (B) District. (LU-26-74)
- F.** The request of **Madison Commercial Group (Owner)**, for property located at **72 Mirona Road** whereas relief is needed to establish a 5,049 square foot Pilates/exercise studio which requires the following: 1) Special Exception from Section 10.440 Use #4.42 to allow a 5,049 square foot health club, yoga studio, or similar use where more than 2,000 square feet are allowed by Special Exception. Said property is located on Assessor Map 253 Lot 3 and lies within the Gateway Center (G2) District. (LU-26-76)
- G.** The request of **Prescott Family Revocable Trust (Owner)**, for property located at **306 South Street** whereas relief is needed to build a chicken coop and have chickens, which requires the following: 1) Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where it is allowed by Special Exception. Said property is located on Assessor Map 253 Lot 3 and lies within the Single Residence B (SRB) and Historic Districts. (LU-26-64)

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_58EFfVmMSPmocmSsiFH4jA

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

7:00 P.M.

May 19, 2026

MEMBERS PRESENT: Beth Margeson, Chair; Jeffrey Mattson, Vice-Chair; David Rheäume; Paul Mannle; Thomas Nies; Robert Sullivan

MEMBERS EXCUSED: Thomas Rossi; Mike Lucas, Alternate

ALSO PRESENT: Stefanie Casella, Planning Department

Chair Margeson called the meeting to order at 7:00 p.m. She said the applicant for Petition Old Business B, 140 West Road, withdrew his application, and Petition Old Business D, 34 Harvest Way, was postponed by the applicant to the June 16th meeting. She then asked for a motion to suspend the rules to take some items out of order.

Mr. Mannle moved to suspend the rules, seconded by Mr. Rheäume. The motion passed unanimously, 6-0.

Chair Margeson said the applicant for Old Business Petition A, 315 Banfield Rd, asked to postpone the petition to the June 16th meeting due to legal issues that were being worked out.

Mr. Sullivan moved to postpone Old Business Petition A, 315 Banfield Rd, to the June 16th meeting, seconded by Mr. Mannle. The motion passed unanimously, 6-0.

Chair Margeson said the applicant for New Business Petition A, 43 Austin Street, asked to postpone their petition until the June 16th meeting.

Mr. Mannle moved to postpone the petition to the June 16th meeting, seconded by Mr. Sullivan. The motion passed unanimously, 5-0, with Mr. Rheäume recused.

Chair Margeson said New Business Petition C, 134 Pleasant Street, would not be heard. She said the application was rejected by City Staff because an applicant could only have one application before the Board at one time.

I. APPROVAL OF MINUTES [Timestamp 5:20]

A. Approval of the March 31, 2026 Work Session minutes.

Mr. Nies moved to approve the March 31 Work Session minutes as amended. Mr. Rheäume seconded.

Mr. Nies suggested a few changes. He said Mr. Rossi's name should be replaced by Mr. Nies' name in the following sentence on page 3: "Mr. Rossi said de minimis changes came before the BOA and that he wasn't sure if it was a zoning issue as much as a Planning Department process issue." Mr. Nies said he, and not Mr. Rossi, made the comment. In the same paragraph, Mr. Nies said the word "he" in the sentence should be replaced by "Mr. Nies" because he made the comment and not Mr. Rossi as implied. The sentence was changed to read: "Mr. Nies said the ordinance did not state 25.0 percent lot coverage but said it was 25 percent lot coverage, so unless the last digit changed, it was not a change relevant to the ordinance." On page 6, Mr. Nies suggested adding a sentence after the following: "Attorney McCourt said it was being rolled out to new members as they were inducted on the boards but wasn't sure how that process was playing out in practice. He said he brought it to the attention of the Deputy City Manager". The added sentence reads: The new members on the BOA reported that they had not received the ethics training yet."

The motion passed unanimously, 6-0.

B. Approval of the April 21, 2026 meeting minutes.

Vice-Chair Mattson moved to approve the April 21 minutes as amended, seconded by Mr. Rheume.

Mr. Nies said that in the top paragraph on page 8, the 1.3 acre lot should read as a 0.13 acre lot. Mr. Rheume, who originally made the statement, agreed. The sentence was changed to read: "Mr. Rheume said Exhibit A was submitted to give the Board an idea that the 0.13 acre lot was the smallest in the area." Mr. Rheume noted a typo on page 4 in the last paragraph and said the word 'lo' should be 'lot'. The sentence was changed to read: "Mr. Rheume said the proposed structure was a lot taller than the existing one and more intensive to maintain." He said the sentence on page 6 in the first paragraph: "He said he thought the 20-ft requirement was somewhat excessive and thought it should be something closer to 10 feet due to the sense that the property seemed like a side yard property" should be changed to read as follows: "He said he thought the 20-ft requirement was somewhat excessive and thought it should be something closer to 10 feet due to the sense that the setback seemed like a side yard for the property." The word "property" was changed to "setback" and the words "for the" were added at the end of the sentence before the word "property".

The motion passed unanimously, 6-0.

C. Approval of the April 28, 2026 meeting minutes.

Mr. Nies moved to approve the April 28 minutes with as amended. Mr. Rheume seconded.

Mr. Nies said the first condition in the motion on page 5 should read: "The special exception is vested without issuance of a building permit because it was not needed for the construction of an accessory structure of the size proposed." The word "accessory" replaced the word "exterior".

The motion passed unanimously, 6-0.

II. OLD BUSINESS

- A. REQUEST TO POSTPONE** The request of **Hope for Tomorrow Foundation (Owner)**, for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. **REQUEST TO POSTPONE (LU-26-41)**

DECISION OF THE BOARD

Mr. Sullivan moved to postpone Old Business Petition A, 315 Banfield Rd, to the June 16th meeting, seconded by Mr. Mannle. The motion passed unanimously, 6-0.

- B. WITHDRAWN** The request of **Road to the West, LLC (Owner)**, for property located at **140 West Road** whereas relief is needed to create an outdoor dining area, which requires the following: 1) Variance from Section 10.440 Use #19.50 to allow an outdoor dining or drinking area, as accessory use where it is not allowed. Said property is located on Assessor Map 252 Lot 2-13 and lies within the Industrial (I) District. **WITHDRAWN (LU-26-34)**

The petition was withdrawn by the applicant.

- C.** The request of **Port Hunter LLC (Owner)**, for property located at **361 Miller Avenue** whereas relief is needed to construct a detached garage with a professional office space on the second floor, which requires the following: 1) Variance from Section 10.573.20 to allow a) 6 foot side yard where 10 feet are required, and b) 10 foot rear yard where 20 feet are required; and 2) Variance from Section 10.440 Use #5.10 to allow a professional office use where it is not permitted. Said property is located on Assessor Map 131 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-76)

SPEAKING TO THE PETITION [Timestamp 15:04]

Attorney Colby Gamester was present on behalf of the applicant and asked that the petition be postponed to the June 16th meeting because the applicant could not be present that night due to an illness in the family.

DECISION OF THE BOARD

Mr. Sullivan moved to postpone the petition to the June 16th meeting, seconded by Mr. Nies. The motion passed unanimously, 6-0.

- D. POSTPONE TO JUNE** The request of **Lonza Biologics INC (Owner)**, for property located at **34 Harvest Way** whereas relief is needed to install two illuminated wall signs and one illuminated monument sign, which requires relief from the following: 1) from Section 306.01(d) of the Pease Development Ordinance to allow signs to exceed a maximum aggregate area of two (2) square feet of sign area for each linear foot of street frontage up to a maximum of 200 square feet. Said property is located on Assessor Map 305 Lot 5 and lies within the Airport Business Commercial (ABC) District. **POSTPONE TO JUNE (LU-26-12)**

The petition was postponed by the applicant to the June 16th meeting.

III. NEW BUSINESS

- A. REQUEST TO POSTPONE** The request of **Portsmouth Historical Society (Owner)**, for property located at **43 Austin Street** whereas relief is needed to convert a single-family home to an office use which requires the following: 1) Variance from Section 10.440 (Use #5.10) to allow professional office space where it is not permitted. Said property is located on Assessor Map 127 Lot 27 and lies within the General Residence C (GRC) and Historic Districts. **REQUEST TO POSTPONE (LU-26-43)**

DECISION OF THE BOARD

Mr. Mannle moved to postpone the petition to the June 16th meeting, seconded by Mr. Sullivan. The motion passed unanimously, 5-0, with Mr. Rheume recused.

- B.** The request of **Alexandre T and Lauren M LePage (Owners)**, for property located at **53 McNabb Court** whereas relief is needed to demolish the existing rear porch and construct an addition and construct a new front porch which requires the following: 1) Variance from Section 10.521 to allow a) 30.5% building coverage where 25% is allowed, b) 8 foot left yard where 10 feet are required, c) 6 foot right yard where 10 feet are required. Said property is located on Assessor Map 112 Lot 57 and lies within the General Residence A (GRA) District. (LU-26-50)

SPEAKING TO THE PETITION [Timestamp 16:57]

The applicant Alex LePage was present. He noted that the petition was originally approved in January but that his builder revised the plans, causing some items to go farther into the setback. He reviewed the changes, noting that the enlarged front porch was farther into the original right setback. He said the left yard stairs were revised and needed an 8.5-ft setback. He said the right side porch setback changed and needed a variance because it was now 8.5 ft from the right property line. He said the building coverage increased to 30.1 percent but was closely in line with the rest of the neighbors. He reviewed the criteria and said they would be met.

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

SPEAKING IN FAVOR OF THE PETITION [Timestamp 22:20]

Julie Robb of 405 South Street said she was the right-side abutter. She said her only concern was that the applicant's front porch had changed. She said cars generally were parked there and next to her access fence and that they were also near a fire hydrant. She said the applicant did not have a very big house, however, and everyone in the neighborhood had expanded their houses. She said the applicant was willing to work with the neighbors and that the petition should be approved.

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

No one else spoke, and Chair Margeson closed the public hearing. She noted that the Board received three letters from neighbors in support of the petition.

DECISION OF THE BOARD [Timestamp 24:00]

Mr. Nies moved to grant the variance for the application as presented and advertised. Mr. Mannle seconded.

Mr. Nies commented that the changes for the application that was approved earlier in the year were very minor, so he was drawing a lot on the rationale that was used for that application. He said granting the variances will not be contrary to the public interest and will observe the spirit of the ordinance. He said the changes will make the house much more livable and will not affect the health, safety, and welfare of the neighborhood or have a real effect on light and air. He noted that there was a large lot next to the applicant's property and that its light and air would not be affected. He said granting the variance will not alter the essential characteristics of the neighborhood. He said it was an interesting court in which all four houses were similar in design and had similar porches and additions in the back. He said the applicant's house would fit in better with the neighborhood after the changes were made. He said substantial justice would be done, noting that he would be hard-pressed to identify any benefit to the public by denial that would outweigh any loss to the applicant by not approving the usability of the applicant's house. He said granting the variance would not diminish the values of surrounding properties, noting that no evidence was presented that it would. He said no abutters had objected to the proposal or indicated concerns about their property values being diminished. He said the special conditions that distinguished the property from many others in the area included that the lot was very small for the zoning area and was in an unusual location. He said there were not many little courts like that in Portsmouth, and the additional changes would not be visible from the nearest major street, Lincoln Avenue. He said the house itself was relatively small by today's standards. He said it is situated on the property near the front property line and near the righthand side property line, which created some of the issues involved. He said owing to those special conditions, there is no fair and substantial relationship between the purpose of the ordinance and its specific application to the property. He said it is a reasonable use of the property to make a better home for the family. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 6-0.

- C. The request of **Double Mc LLC (Owner)**, for property located at **134 Pleasant Street** whereas relief is needed to alter the existing drive-through facility which requires the following: 1) Variance from Section 10.334 to allow a drive-through use (Use # 19.40) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 116 Lot 30 and lies within Character District 4 (CD4) and the Historic District. (LU-25-138)

The application was not heard because it was rejected by City Staff because an applicant could only have one application before the Board at one time.

IV. ADJOURNMENT

The meeting adjourned at 7:27 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker

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

7:00 P.M.

May 26, 2026

MEMBERS PRESENT: Beth Margeson, Chair; Jeffrey Mattson, Vice Chair; David Rheaume; Paul Mannle; Thomas Nies; Robert Sullivan

MEMBERS EXCUSED: Thomas Rossi; Mike Lucas, Alternate

ALSO PRESENT: Jillian Harris, Planning Department

Chair Margeson called the meeting to order at 7:00 p.m. She asked for a vote to suspend the rules take New Business Item C, 221 Woodbury Avenue, out of order.

Mr. Sullivan moved to take Item C out of order, seconded by Mr. Rheaume. The motion passed unanimously, 6-0.

Chair Margeson noted that the applicant needed more time to provide additional information and clarification for his application.

*Mr. Sullivan moved to **postpone** the item to the June 16th meeting, seconded by Mr. Mannle. The motion passed unanimously, 6-0.*

I. NEW BUSINESS

- A.** The request of **Eldredge Place Condo Association (Owner)**, for property located at **40 Merrimac Street** whereas relief is needed to demolish the existing rear deck and construct a new deck which requires the following: 1) Variance from Section 10.521 to allow a 3.5-foot side yard where 10 feet are required. Said property is located on Assessor Map 129 Lot 18 and lies within the General Residence A (GRA) District. (LU-26-53)

SPEAKING TO THE PETITION [Video timestamp 5:50]

Owner Peter Carpenter of 40 Merrimac Street, Unit 1, was present on behalf of the Condo Association. He gave a brief history of the property and said the historic estate was eventually converted into three condominiums with a large deck. He said the three townhouse owners wanted to remove the deteriorated deck and replace it with a composite one with an additional two feet of depth. He reviewed the criteria and said they would be met.

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

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 12:32]

*Mr. Nies moved to **grant** the variance for the application as presented and advertised. Mr. Mannle seconded.*

Mr. Nies said it was a minor change to an existing property, although it did encroach somewhat on what was considered a side setback, with an additional two feet. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance, in part because of the siting of the property and the buildings adjacent to it. He said it would not affect the health, safety, and welfare of the neighborhood and would have no effect on light and air on any of the buildings on either side of it because the buildings were quite distant. He said it would not alter the essential characteristics of the neighborhood, which was essentially a residential area. He said it would do substantial justice, noting that he could not see any benefit to the public by denial that would outweigh the loss to the applicant. He said a denial would keep the applicant limited to the current size of the deck once it was replaced, which would affect their enjoyment of the deck to a certain extent, but there would be no benefit to the public that would support denial. He said granting the variance would not diminish the values of surrounding properties, noting that no evidence was presented that it would. He said some abutters commented in favor of the change and did not raise any concerns about any impact on their property values. Related to the hardship criteria, he said the property has special conditions. He said it is a large lot with an unusual shape, and the location of the structure was also unusual because it is on one side of the property and has minimum setbacks on two sides of the property including where the deck is. Relating to the context of the neighborhood, he said the adjoining property structures were not nearby at all. He said the minor change to the deck will not have any impact on any of the abutters. Owing to those conditions, he said he did not believe that there was a fair and substantial relationship between the purposes of the ordinance and its specific application to the property. He said the proposed use, a slightly larger deck, is a reasonable use. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 6-0.

- B.** The request of **801 Islington Street LLC (Owner)** and **Evergreen Yoga & Meditation, LLC d/b/a Studio 108 (Applicant)** for property located at **801 Islington Street, Unit 33** whereas relief is needed to establish a yoga studio which requires the following: 1) Special Exception from Section 10.440 Use #4.40 to allow a yoga studio more than 2,000 square feet gross floor area. Said property is located on Assessor Map 165 Lot 8 and lies within the Character District 4-W (CD4-W). (LU-26-54)

SPEAKING TO THE PETITION [Timestamp 16:20]

Attorney F. X. Bruton was present on behalf of the applicant Michael MacDonald, who was also present. Attorney Bruton said his client wanted to rent a studio in the facility known as Gallagher's Place. He said the company's name was Evergreen Yoga & Meditation and that they had yoga at their Stratham site but that the Portsmouth site was not intended to be utilized for yoga and instead would be limited to Pilates and therapeutic massage, which were lesser uses in terms of participants coming to the facility. He said the City determined that they should be under the yoga label, and that use required a special exception if it exceeded 2,000 sf. He said the unit they wanted to rent was 2,300 sf. He said they were able to deduct 194 sf of storage and were down to 2,175 sf. He said the Pilates would run from 6:30 to 11:30 a.m. when the rest of the plaza was not really being utilized. He said there would be 1-6 students in the morning and 2-3 users in the afternoon, so there would be a low impact. He said the prior use was a call center, so the need for parking would be identical. He reviewed the special exception criteria.

[Timestamp 22:33] Mr. Rheaume said he did not see anything in the floor plan labeled as Exhibit A or B and nothing showing where the unit would be in the plaza. Attorney Bruton said the unit would be at the end of the building on the second floor and would be called Studio 108. Chair Margeson asked what the businesses around the studio were. Attorney Bruton said there were a few restaurants, stores, a tanning salon, a barbershop, and sales and architectural offices.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 26:50]

*Vice-Chair Mattson moved to **grant** the special exception request as advertised and presented. Mr. Nies seconded.*

Vice-Chair Mattson said the standards as provided by the ordinance for the particular use are permitted by special exception, and in this case falls under the yoga studio category and would be small Pilates classes. He said granting the special exception would pose no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials because those things did not apply to the applicant's type of business. He said it would pose no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location and scale of buildings or other structures, parking areas, accessways, odors, smoke, gas or other pollutants, noise, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials. He said it would be a low intensity use for a small Pilates class. He said there would be no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity because the use would be a low-intensity one and the hours would be earlier than other businesses in the vicinity, such as the restaurants that would cause increased traffic later in the day. He said granting

the special exception would pose no excessive demand on municipal services included but not limited to water, sewer, waste disposal, police and fire protection, and schools because there was no reason to think that an instructional Pilates class would cause such issues. He said it would pose no significant increase of stormwater runoff onto adjacent properties or streets because there would be no external changes to the building. Mr. Nies concurred and had nothing to add.

Chair Margeson said that Pilates was not specifically mentioned in the zoning ordinance, but in Section 10.440 there was mention of yoga or a similar use, so the use fell into that section of the zoning ordinance.

The motion passed unanimously, 6-0.

- C. The request of **Ryan Trust (Owner)** for property located at **221 Woodbury Avenue** whereas relief is needed to subdivide the existing parcel into two parcels for demolition of the existing one-story detached garage and construction of a new two-story detached garage on lot 1; and a new single-family residential structure on lot 2, which requires the following: 1) Variance from Section 10.521 to allow 63 feet of frontage where 100 feet is required. Said property is located on Assessor Map 175 Lot 10 and lies within the General Residence A (GRA) District. (LU-26-57)

DECISION OF THE BOARD

*Mr. Sullivan moved to **postpone** the item to the June 16th meeting, seconded by Mr. Mannle. The motion passed unanimously, 6-0.*

- D. The request of **Maximillian Kolbe Hochschwender (Owner)** and **Flybird LLC (Applicant)** for property located at **44 Rogers Street** whereas relief is needed to construct a rear addition to the existing residential structure which requires the following: 1) Variance from Section 10.521 to allow a 3-foot side yard where 10 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 116 Lot 45 and lies within the Mixed Residential Office (MRO) and Historic Districts. (LU-26-55)

SPEAKING TO THE PETITION [Timestamp 31:37]

Attorney Derek Durbin was present on behalf of the applicant Flybird LLC, along with Mark Gianniny of Portsmouth Architects. Attorney Durbin said the property was a small 3,485-sf lot with a 3-story single family home and a detached garage on it. He briefly reviewed the property's history and noted that a 2-story addition was later added to the rear of the home. He said the applicant wanted to demolish the ell addition and build a 3-story addition in the same footprint. He said the exterior staircase would be eliminated by the new addition and there would be no additional encroachment into the side yard setback. He said the applicant went before the Historic District

Commission (HDC) for a work session in April and received positive feedback, so he did not anticipate any material changes to the design plans.

[Timestamp 33:41] Mr. Nies said the left yard and right yard setback shown in the package were flipped. Attorney Durbin said it was an error. Mr. Rheume said the 3-ft setback off Lot 114-46 shown in the plan indicated a jut out of 1-1/2 feet that appeared to be what the existing addition had, and the intent was to replicate that. He asked if there was an intent to use the existing foundation or start with fresh construction. Mr. Gianniny said the foundation of the building to be demolished was really several foundations due to additions over the years and they could not be salvaged. He said a new foundation would follow the existing face of the wall on the right side of the building. Mr. Rheume asked if there was a structural reason for the need to be that much closer to the side property line as opposed to aligning it with the side of the existing home. Mr. Gianniny said they would follow the existing footprint and that it would also help differentiate the original building from the two later additions that would be reconstructed, which the HDC appreciated.

[Timestamp 37:19] Attorney Durbin reviewed the criteria.

The Board had no further questions. Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 41:20]

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

Mr. Rheume said the actual relief asked for was minor. He said it is a complete vertical expansion and there would be a teardown and rebuild of the existing addition, but when done it would look like there was one additional floor added to the property. He said no other relief was needed for anything other than the side yard setback. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the essential characteristics of the neighborhood would be maintained. He said the addition would be in the rear of the property, and the lots were narrow and from the public's perspective, there would not be a lot of visibility of the additional bulk. He said there was an open parking lot area on the opposite side of the home that was not really like a street front. He said several other homes in the area had additions, and the applicant's addition would simply look like a taller addition compared to what was there now and would not excessively change the overall nature of the neighborhood. He said granting the variances would do substantial justice because the applicant was just looking for additional living space, which he said was a common situation in many parts of Portsmouth where the only opportunity to get additional living space was to provide an addition or expand one additional floor and fill in a bit on the second floor, as the applicant wanted to do. He said the increase in size on the second floor

would be toward the interior of the property, so the benefits the applicant would get compared to an addition on the back side of the property would be in his favor. He said granting the variances would not diminish the values of surrounding properties because it would be a relatively modest additional height to the addition and would be tastefully presented and continue to allow the home to be a fully functional single-family one. He said it would increase the applicant's property value and those of surrounding homes and would serve as a positive comparison for other neighboring properties. Relating to the hardship criteria, he said what was unique about the property was the narrow lot with the home situated on one side of it. He said it was an older home that had an addition in the back of it, and the applicant wanted to expand the addition and provided a strong rationale from a historic standpoint that offsetting it slightly would be a beneficial visual aid to help people understand what the natures of what the original home and the addition were. He said the neighboring property had their home situated in the same manner, so with that rhythm, the negative effects to light and air would be diminished. He said the positioning of the home was a unique characteristics and was just an addition of one story on that side of the property. He said it was a reasonable request to maintain a single-family resident use. Vice-Chair Mattson concurred and said it would be an improvement to the existing conditions.

The motion passed unanimously, 6-0.

- E. The request of **RRNR Revocable Trust (Owner)**, for property located at **111 Crescent Way** whereas relief is needed to demolish and reconstruct a detached garage which requires the following: 1) Variance from Section 10.573.20 to allow a 3-foot left side yard and a 4-foot rear yard where 8 feet is required from any lot line. Said property is located on Assessor Map 212 Lot 151 and lies within the General Residence B (GRB) District. (LU-26-58)

SPEAKING TO THE PETITION [Timestamp 48:09]

The builder Jeff Trovato was present on behalf of the applicant. He said the request was to replace the existing deteriorating garage with a code-compliant building in the same dimensions. He reviewed the criteria.

[Timestamp 52:04] Mr. Sullivan asked what the term "structural racking" meant. Mr. Trovato explained that over time, a building could start to lean if it was not properly supported laterally. Mr. Rheume asked Ms. Harris how the City Staff arrived at the 8-ft conclusion of the building's height and setback requirement with the odd roof configuration. Ms. Harris said the building had a different height on one side than the other, so the City took the average of the two. Chair Margeson asked what was in the garage structure. Mr. Trovato said it was basic storage. Chair Margeson asked if it would continue to be used as storage, and Mr. Trovato said it would or it could be a workshop. Chair Margeson asked what the tiny structure next to the garage was. The owner Russell Rogers was present and said the structure was like a self-assembled Amazon shed but was sold and removed. Chair Margeson said it looked like there was an aluminum fence and a wooden fence in the corner of the property. Mr. Trovato said there was a jog in the fence and that the fence was

made of different materials. Chair Margeson asked if the lot line was the wooden fence. Mr. Trovato said he thought the real lot line on that side was closer to the farther fence. Chair Margeson asked if the fence extended to the back of the property. Mr. Rogers said the part of the fence with the jog was really to keep their dog contained and that the other fence went to about the lot line. Mr. Rheume said some of the photos showed the garage to be very close to the neighboring garage. He asked if there was a concern about the ability to have future maintenance with that narrow distance between the two garages. Mr. Trovato said he would use a shallow foundation and would go 18 or 24 inches deep for a footing instead of deeper to avoid undermining the adjacent garage or fence. Mr. Rheume asked if a ladder could fit to do basic maintenance on that side of the garage. Mr. Trovato agreed and said the 36-inch distance between the roofs would not be changed.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 59:18]

*Mr. Rheume moved to **grant** the variance for the application as presented and advertised Mr. Sullivan seconded.*

Mr. Rheume said there is no vertical expansion and that it is simply a 100 percent rebuild of a garage structure that went back many years. He said it could become an issue over time, so the applicant wanted to replace it in kind and in the same location. He said the structure was a sizable one, with an added-on shed/workshop on the side of it that adds to some of the bulk, but it is a modest accessory structure. He said the averaging of the height is eight feet and reasonable, and even though it is close to the property edge, it probably can be maintained satisfactorily. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said it spoke to the general characteristics of the neighborhood and what the ordinance was trying to accomplish, and that light and air was mostly what the Board was concerned about. He said the structure existed for many years and there was a similar structure on the neighboring property. He said each structure was forced to be close to the other due to the nature of the small backyards and the driveway arrangement between the two structures. He said light and air, while impeded, was not a large condition because it was really two garages that are not being intensified by the request. He said substantial justice would be done because the applicant would get the benefit of restoring their garage space to being fully usable and safe and having more storage area. He said the applicant was not asking for anything additional so there really was no general public interest that would outweigh the benefits to the applicant. He said granting the variances would not diminish the values of surrounding properties because the applicant would just renovate an existing structure into a better condition that would add to the property's value and those of the surrounding properties. He said literal enforcement of the provision of the ordinance would result in an unnecessary hardship. He said the neighborhood layout in 1917 resulted in close property lines

and driveways and the applicant was close to the shared driveway, so the structure needed to be close to the front and rear property lines. He said the structure would be modest in height and its impact on the neighborhood would be minimal. He said the additional structure would be toward the interior of the property and would still be an 8-ft high structure. Mr. Sullivan concurred and had nothing to add. Chair Margeson said her concerns about the lot lines would be addressed when the building permit was pulled and would likely need a survey.

The motion passed unanimously, 6-0.

- F.** The request of **Hill Hanover Group LLC C/O JPK Properties LLC (Owner)** for property located at **181 Hill Street** whereas relief is needed to demolish three existing multi-family buildings and to construct two new three-story multi-family buildings connected by an underground parking garage and elevated courtyard area which requires the following: 1) Variance from Section 10.5A41.10A to allow a) 1,008 square feet of lot area per dwelling unit where 3,000 feet is required, b) a building footprint of 5,232 square feet where 2,500 square feet is the maximum, c) a building footprint of 3,035 square feet where 2,500 square feet is the maximum, d) 18% open space where 25% is required; and 2) Variance from Section 10.440 to allow 10 dwelling units in a building where up to 8 dwelling units are permitted. Said property is located on Assessor Map 125 Lot 14 and lies within the Character District 4-L1 (CD4-L1). (LU-26-59)

Attorney Derek Durbin asked for more time to present the application.

Mr. Rheaume moved to allow the applicant 25 minutes to present the application, seconded by Mr. Sullivan. The motion passed unanimously, 6-0.

SPEAKING TO THE PETITION [Timestamp 1:08:18]

Attorney Derek Durbin was present on behalf of the applicant, along with the owner Bruce Sommer, Cory Belden of Altus Engineering, Brian Desjardins and Mark Gianniny of Portsmouth Architects, and Jeff Sabin of JPK Properties. Attorney Durbin said the property was a 16,127 sf lot with three separate 4-unit multi-family buildings on it. He said the property was the largest one in the CD4-L1 zone and was bordered by streets on three sides, and it was in a transitional area between zoning districts and also between the downtown center and the West End. He said building residential densities and land use varied quite a bit on that area. He said the massing, size, and height tapered down from the West End. He said the property was also nonconforming with respect to maximum building block length, open space, and lot area per dwelling unit. He said it would not make sense to rehabilitate the buildings and would make more financial sense for the applicant to redevelop the property. He said the applicant wanted to demolish the existing buildings and develop two separate buildings connected by an elevated courtyard and underground garage. He said Building A would have 10 units and Building B would have 8 units.

[Timestamp 1:12:40] Mr. Gianniny reviewed the site plan. He said the existing buildings were three separate 2-story structures with a total of 12 units. He said Hill Street became a private drive that continued to the west and then connected back to Hanover Street, and he said that access would continue. He said the current parking was ten service parking spots, with two driveways that provided parking and six parallel spots along the private part of Hill Street. He reviewed the density analysis, neighborhood context, and proposed site plan. He said they proposed two buildings and that Building A would be three stories high with two units per floor, and Building B would be three stories high with 10 units. He said the courtyard between the buildings would provide open space. He reviewed the square footage of each building. He said they proposed 36 parking spaces, which were 12 more than what existed now. He said 17 spaces would be in the parking garage and five additional service parking spots and some ADA spots would be in the back of the property. He said the applicant also had 14 deeded spots in the garage across the street. He said the plans were scaled down at the TAC and Planning Board meetings to break up the mass. He said the feedback from surrounding neighbors was also considered which affected the designs.

[Timestamp 1:31:34] Mr. Desjardins described the designs of the two building masses and noted that there was a 5-ft grade difference from west to east on the property. He said the roof lines matched the grade difference and that the total approach aligned with the character district as opposed to more contemporary boxy buildings. He showed the massing in the 3D model and said it did not stand out compared to adjacent lots like the Foundry Place.

[Timestamp 1:29:29] Attorney Durbin reviewed the criteria.

[Timestamp 1:36:24] Mr. Sullivan said the applicant proposed to demolish the existing buildings and would be left with a vacant lot. He asked why a building that complied with the zoning ordinance could not be built. Attorney Durbin said it would leave the property out of context with what it was surrounded by and would also leave a vastly underutilized property and some oddly-configured buildings on the property. Mr. Sullivan asked if “underutilized” meant that the applicant would not be able to maximize the financial value of the construction. Attorney Durbin said if the property were to be developed with oddly-shaped buildings on it and met the strict ordinance requirements, it would end up with larger units and significantly higher priced points to offset the redevelopment costs and probably maximize the building height. Mr. Sullivan said it would then be possible to design a building in compliance with the ordinance. Attorney Durbin said the result would be out of character with the surrounding neighborhood and would not meet the spirit and intent of the ordinance. Mr. Rheume referred to the zone’s minimum lot size and lot area per dwelling unit and said the applicant’s property was five times larger and that five single-family homes could be placed on the lot, but the current structures on the property were multiple dwellings and the lot was unique vs. the mental model for the zoning ordinance. He said his concern was that the applicant was proposing something at the higher end of the allowable front lot line buildout range and maxing out what the ordinance allowed. Mr. Desjardin said 72 percent of the existing lot line buildout was causing the existing condition to be noncompliant in the maximum building block length as well as the open space because the space between the buildings did not meet the zoning defined spacing to actually consider them separate buildings. Mr. Rheume said the additional

parking was also not open space. He asked why the total lot line buildout was 80 percent instead of the lower 60 percent and what drove the design for that. Mr. Gianniny said it was to provide the open space between the buildings. He said the buildout of the lot line included the entire footprint of the parking garage and the courtyard and they were adding more air and light and providing two separate buildings. Mr. Rheume said one of the main characteristics of the existing buildings were the open porches that provided an interaction with passers-by in the neighborhood and added to the streetscape of that portion of Hanover Street. He said the proposed design of Juliet balconies did not have that interactive feel. He asked if any of the open space could be reconfigured to recreate some of that interactivity with the streetscape community. Mr. Desjardins said the intention of the open courtyard was to be more inviting and to activate that particular area since it would be the main entry point for the units. Mr. Rheume said the façade glazing in the table was not calculated for proposed or existing. He asked if the project would end up in the 21.4 percent range. Mr. Desjardins said he thought they would end up in that range but had not nailed down a specific dimension because it could dedicate a specific size of windows. Mr. Rheume said the calculation was 21.4 percent but the applicant was asking for 18 percent relief. He asked what the 3 percent cushion was for. Mr. Belden said utility requirements could require another add-on site or additional features and he wanted to ensure that there was flexibility for any minor changes that would occur. Mr. Rheume said five on-street parking spots shown on the plan that did not include an ADA spot. He asked why the applicant had 11 more spaces than they needed and why they would dedicate that area to parking instead of adding it onto the open space. Mr. Belden said, based on the parking requirements for the site, there were 20 spaces for 16 units, and they provided 21 spaces on site plus an ADA one. Mr. Rheume asked if the applicant would take advantage of the off-site spots. Mr. Belden said the owner had a lease agreement of ownership of off-site parking but the intent was to meet all of the parking requirements on site with the basement garage. He said the basement garage would be for residents, and some of the exterior surface stalls would be for on-site visitors.

[Timestamp 1:50:20] Vice-Chair Mattson said the applicant's maximum building footprint was too big, there were more dwelling units per building than allowed, and the open space requirements were not met, so it seemed that the ordinance would be pushing for more than what was already there for three separate buildings. He said if it was broken up into three buildings, the applicant could still achieve 60 percent buildout while also becoming much closer to meeting the other variance criteria. He said it would also result in the lot area per dwelling becoming closer to conforming. He said it was not clear to him why the applicant's design was being pushed. Attorney Durbin explained that the separation into three different buildings would make it noncompliant with the maximum building block and end up with not enough spacing on the property to comply. Vice-Chair Mattson said he understood the argument about the bigger lot but it seemed that the reason for the maximum footprint was that a big boxy building type was undesirable, based on public comments through the Master Plan process. He said the applicant could have more broken-up buildings on a bigger lot, or a smaller lot with fewer buildings. Mr. Desjardins said they were keeping in mind the maximum building block length and wanted to keep the building massing in the footprint aligned with the other intents of the ordinance. He said breaking the 80-ft maximum into one or two would be fine but the buildings would start to get very tight, light and air would be

reduced and the window openings between buildings would be restricted, all of which would cause a less desirable location. It was further discussed.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION [Timestamp 1:46:08]

Matthew Drennin of 329 Hanover Street said none of the units were landlocked, so they would all have light and air. He said it was a good idea to maximize the square footage so that the amount of units could be maximized. He said the owners had always served the neighborhood well.

Bill Downey of 67 Bow Street (via Zoom) said the density would go above 33 percent, which was what happened when a city grew, and sometimes the existing regulations are outdated. He said a lot of the people in the West End were younger and had a difficult time affording living in Portsmouth. He said the zoning ordinance was behind the curve on what the City is and what the citizens want. He said the owner was making a good-faith attempt at working with the citizens.

The property owner Bruce Sommer said he worked with the neighbors on the design. He said the proposed Juliet balconies were part of the neighborhood's character. He said he considered adding a third floor but three floors would make it look out of character. He said the density was adjusted by adding additional parking spaces on the property and having the traffic flow on Hill Street.

Attorney Durbin said he had several letters in support that were rejected by the City because they were not turned in on time. Chair Margeson accepted the letters.

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

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

DISCUSSION OF THE BOARD [Timestamp 2:10:30]

Mr. Nies said the zoning table indicated how many dwelling units were allowed, and he asked whether it was dwelling units per lot or per building. Ms. Harris said it was per building. It was further discussed. Vice-Chair Mattson explained why he could get on board with some of the criteria being met but thought it was a hard justification to say that there was a hardship for why the building footprint needed to be bigger than what was allowed. Mr. Rheaume said the applicant was requesting something five times larger than the model for the CD4-L1 zone. He said he thought the two proposed buildings made sense more than the three current buildings because the narrow space between those buildings were a fire hazard and only usable for some parking. He said the proposed open space and connectivity to the community made sense. He said he struggled with the buildup of variances that started tipping the balance. He said the applicant was asking for a lot of relief. He said he was comfortable with Building A but thought it really came down to Building B with eight units. He said if the total number of dwelling units was reduced in that building and the square

footage was reduced, it would create more open space that would enhance the engagement of the buildings to the community and to each other. He said there were opportunities to reduce some of the requested variances.

[Timestamp 2:22:21] Mr. Nies said the applicant had a blank slate by tearing down the existing three buildings and there was opportunity to create open space, which the applicant was doing, but he was concerned about the reduction in the lot area per dwelling unit due to the increased density. He said that seemed to be driven by the ten units in the second building. He said it did not really comply with the spirit of the ordinance with respect to how the ordinance wants CD4-L1 to work. He said he was concerned about the magnitude of the variance requests and how they interacted with each other. Chair Margeson said she would not support the application because the property would be a blank slate. She said CD4-L1 was something that was brought into the zoning ordinance fairly recently. She said the vacant lot could be redeveloped in accordance with the ordinance, as admitted by Attorney Durbin. She said the applicant did not have a hardship. Mr. Mannle agreed with Mr. Rheume's statements that a lot of the project was driven by Building B. He said if eight units were proposed, it would eliminate that variance request and others as well. He said he was willing to have some leeway with the variance requests because downtown was heavily built out beginning from the West End, but he thought going from eight units to 16 was too big of a leap. Mr. Nies said the project was over twice the size of the maximum building footprint.

DECISION OF THE BOARD [Timestamp 2:28:06]

*Mr. Rheume moved to **postpone** final determination on the application until the July meeting, with the direction to the applicant that the application be revised such that Variances 1D and 2 are eliminated and Variance 1B is changed such that it is a smaller number than what is being presented now. Mr. Sullivan seconded.*

Chair Margeson said the Board should only be continuing or postponing applications for more information, not to give the applicant the benefit of their thoughts about the application and giving the applicant the opportunity to revise them. She said it was not within the purview of their rules. She said the motion had to vote it up or down and allow the applicant to take whatever actions they wanted to.

*The vote resulted in a tie, 3-3, with Mr. Nies, Mr. Mannle, and Vice-Chair Margeson voting in opposition. The motion **failed**.*

Mr. Nies asked if there could be a motion to deny without prejudice. Ms. Harris said the Board would have to determine that they lacked sufficient evidence. Chair Margeson said the Board had enough evidence but could address the variance request separately, which she was not in favor of because she thought it was better to address the petition as a whole package.

*Mr. Mannle moved to **deny** the application as presented.*

He said his motion was based on the failure to meet the hardship criteria because it was a clean slate and should not need any variances. He said he did not believe that the application met the hardship as stated in Criteria 10.233.25 He said there was no reason why any application could not meet all the zoning criteria.

No one seconded the motion. Mr. Mannle withdrew his motion.

*Mr. Nies moved to **deny** the application on the basis that several elements did not meet the spirit of the ordinance, Criterion 10.233.22.*

Mr. Nies said the CD4-L1 zone was designed to do a step down from the downtown area into residential areas, and it established some specific requirements for lot area per dwelling unit. In addition, he said the application conflicted with the size of the buildings and the number of units per building requirement in the ordinance without really explaining why it was necessary. He said the proposed size of Building B was twice the size of the maximum building footprint and was asking for 10 residences where eight were called for, and the lot area per dwelling unit was decreasing from what now existed.

Mr. Mannle seconded the motion. The motion passed by a vote of 5-1, with Mr. Rheume voting in opposition.

II. ADJOURNMENT

The meeting adjourned at 9:43 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker

II. OLD BUSINESS

- A. The request of **Portsmouth Historical Society (Owner)**, for property located at **43 Austin Street** whereas relief is needed to convert a single-family home to an office use which requires the following: 1) Variance from Section 10.440 (Use #5.10) to allow professional office space where it is not permitted. Said property is located on Assessor Map 127 Lot 27 and lies within the General Residence C (GRC) and Historic Districts. (LU-26-43)

Existing & Proposed Conditions

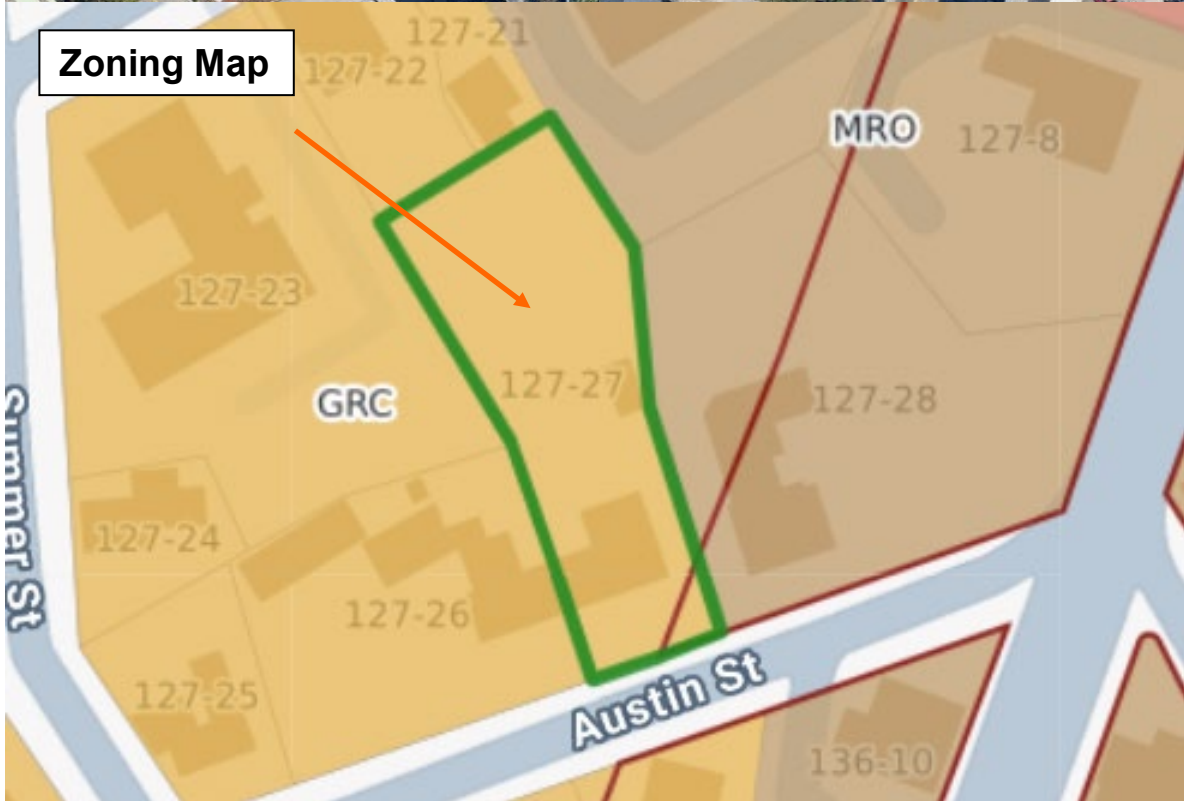
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	*Convert existing space to professional office use	Primarily Residential
<u>Estimated Age of Structure:</u>	1801	Variance request(s) shown in red.	

*Professional office use is not allowed in the GRA

Other Permits/Approvals Required

- Tennant Fit Up – Building Permit
- Site Review – TAC and Planning Board

Neighborhood Context



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is requesting relief to convert the existing historic home to professional office space. If approved, this project will need Site Review approval to create the needed parking area.

Variance Review Criteria

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

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

10.235 Certain Representations Deemed Conditions

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



MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment ("ZBA")
FROM: Emma Stratton, Executive Director
Portsmouth Historical Society
DATE: March 18, 2026
Re: Portsmouth Historical Society
43 Austin Street
Tax Map [127]/Lot [27]
General Residence C ("GRC")/Historic District Overlay ("HD")

Dear Chair Margeson and Zoning Board Members:

Portsmouth Historical Society ("PHS") respectfully submits this memorandum in support of its application for a Change of Use Variance from the Portsmouth Zoning Ordinance ("PZO") to allow professional office use at 43 Austin Street (Tax Map [127]/Lot [27]). PHS respectfully requests that the Zoning Board of Adjustment ("ZBA") grant the requested variance at its April 25 hearing.

I. EXHIBITS

-
- A. Historic Condition Assessment & Photographs of Existing Conditions— Arcove Architects
 - B. Site/Tax Map — Tax Map [127], Lot [27]
 - C. Property Deed and Deed Restriction — Peter Beck Trust

II. PROPERTY / PROJECT

43 Austin Street is a 5,000-square-foot single-family residence located in the General Residence C ("GRC") district and the Historic District Overlay ("HD") (the "Property"). The Property is listed as contributing on the National Register of Historic Places and is known locally as the "Dynamite House," a name derived from its former owner's practice of storing (and using) dynamite on the premises. It was the former home of Dr. Peter Beck and Mrs. Beck.

The Property was bequeathed to PHS by Dr. Beck in 2021 with a deed restriction providing that it may never be sold by PHS. At the time of the bequest, the Property was in seriously deteriorating condition. Since 2021, PHS has invested substantial time and financial resources to prevent further deterioration while carefully evaluating all responsible pathways for the Property's future. Despite these efforts, the unoccupied structure continues to decline and remains an ongoing neighborhood concern.

Shortly after taking title, PHS commissioned a Historic Condition Assessment, which identified over \$800,000 in improvements required to return the home to serviceable condition, including a minimum of \$300,000 in essential stabilization and life-safety upgrades required before any occupancy could be presumed. Both figures are well outside PHS's budget.

PHS evaluated three neighborhood-compatible reuse scenarios before concluding that professional office use represents the most viable path to preserving the Property. PHS also notes that preliminary consultations with the City's Planning and Fire Departments gave PHS confidence that this variance application was the appropriate path forward. The Property is located immediately adjacent to property zoned Mixed Residential Office ("MRO"), further supporting the compatibility of the proposed use with the surrounding area. The compatible reuse scenarios explored were:

Single-family rental:

- Very small pool of prospective tenants for a home of this size.
- High vacancy risk between tenants; significant additional investment required.
- Projected return is unlikely to attract a development partner.

Conversion to multiple rental units:

- Interior configuration makes subdivision highly challenging.
- Multiple kitchens and bathrooms would substantially increase renovation costs.
- Limited number of possible units constrained partner interest.
- Subdivision would compromise historic interior elements worthy of preservation.

Professional office use (proposed variance):

- Requires the least additional investment beyond the stabilization and life-safety work already necessitated by the Property's condition.
- Professional office tenants commonly undertake historically sensitive interior build-out at their own expense, reducing the capital burden on PHS.
- Portsmouth's downtown office market supports demand for this type of space, and the Property's configuration and on-site parking are well suited to professional use.
- This use presents the most realistic opportunity for PHS to identify a partner capable of funding the rehabilitation necessary to stabilize the structure.

PHS proposes no expansion of the existing building footprint and no dimensional relief. All required parking can be accommodated on site based on the applicable parking ratio for the square footage of the structure and the available lot area. The proposed use does not require exterior alterations that would alter the residential character of the structure.

III. VARIANCE REQUIREMENTS

1. The variance will not be contrary to the public interest.

2. The spirit of the ordinance is observed.

The threshold inquiry is whether granting the variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together. PZO §10.121 identifies the general purposes and intent of the ordinance "to promote the health, safety and general welfare of Portsmouth . . . in accordance with the . . . Master Plan." These purposes are served, not undermined, by the proposed variance:

- Use of land and buildings — The Property will be stabilized for a quiet, low-impact professional use consistent with neighboring properties, which already include a church, multi-family residences, and an office building.
- Intensity of land use — No expansion of the existing building footprint is proposed; building coverage, height, and bulk remain unchanged.
- Vehicular access, circulation, and parking — No change. All parking accommodated on site.
- Visual environment — The proposed improvements will stabilize and enhance the appearance of a deteriorating historic structure, benefiting the streetscape and the neighborhood.
- Preservation of historic structures — The variance enables PHS to partner with a developer to fund the Historic Condition Assessment's recommended rehabilitation in accordance with historic preservation best practices. Denial risks continued deterioration.

The GRC district's purpose is to promote compatibility, protect neighborhood scale, and encourage orderly development. Professional office use within the existing structure maintains the Property's architectural character and residential scale while introducing a use that is demonstrably compatible with the surrounding neighborhood. The building will continue to read as a large historic home. Granting the variance therefore observes the spirit of the ordinance and does not conflict with its basic zoning objectives.

Moreover, this neighborhood already contains multiple large historic homes that have been successfully converted to professional offices, and the immediately adjacent parcel is zoned MRO. The proposed variance is consistent with that established pattern.

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

Absent the variance, viable reuse pathways for the Property become severely constrained. The hardship PHS faces is not of its own making: the Property's size, its condition at the time of the bequest, the deed restriction prohibiting its sale, and the applicable zoning classification are all circumstances PHS inherited — none were created by PHS. Continued maintenance without the ability to fund full rehabilitation risks prolonged vacancy, chronic underinvestment, and an ongoing drain on PHS's core educational and preservation mission. There is no public benefit in denying the variance; to the contrary, the community benefits from the rehabilitation and productive reuse of a deteriorating historic asset. Substantial justice is done by granting the variance, while a substantial injustice is imposed by denial.

4. Granting the variance will not diminish surrounding property values.

The proposed improvements will stabilize and enhance the Property while eliminating conditions that currently diminish the streetscape. PHS has received positive feedback from abutters and neighbors who strongly support correcting the Property's current condition. Well-maintained, professionally occupied historic buildings have been successfully integrated throughout Portsmouth's residential neighborhoods and frequently serve as neighborhood anchors. Granting the variance will not diminish surrounding property values; denial risks the opposite.

5. Denial of the variance results in an unnecessary hardship.

a. Special conditions distinguish the Property from others in the area.

The hardship arises from a unique combination of conditions specific to this Property: it is a large historic structure requiring substantial capital investment for stabilization and ongoing maintenance,

and it is legally prohibited from ever being sold by PHS under the terms of the Peter Beck Trust and the resulting deed restriction. These circumstances combine to create conditions that distinguish 43 Austin Street from other residential properties in the GRC district.

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

The hardship here is not self-created. PHS did not create the zoning, the size of the home, its deteriorated condition at the time of the bequest, or the deed restriction that prevents its sale. The purpose of use restrictions in the GRC district is to protect neighborhood scale and character. None of those purposes are impaired by permitting quiet professional office use within the existing footprint of this historic structure. The building's exterior character is preserved; no expansion is proposed; and the use is demonstrably compatible with abutting properties.

Restricting the Property exclusively to residential use, given the foregoing combination of circumstances, eliminates any economically viable path to rehabilitation and condemns the Property to continued deterioration. There is therefore no fair and substantial relationship between the ordinance's general public purposes and its specific application to 43 Austin Street.

IV. CONCLUSION

This application represents the minimum relief necessary to preserve a significant historic structure, address longstanding neighborhood concerns, and bring 43 Austin Street into productive use consistent with the established character of the surrounding area. PHS is not proposing an intensification of use. We are proposing a preservation strategy. The requested variance permits a quiet, professional use that protects a deteriorating historic structure, respects the neighborhood, and ensures this property remains an asset to Austin Street and to the history of Portsmouth for decades to come.

For all of the foregoing reasons, PHS respectfully requests that the ZBA grant the requested Change of Use Variance.

Respectfully submitted,

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Historic Building Condition Assessment

**Austin Pickering House
Portsmouth, NH**

December 1, 2022

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Part 1 – Introduction

This report pertains to the Austin Pickering House at 43 Austin Street in Portsmouth, New Hampshire. This building was first erected circa 1802 – 1804 and expanded in four phases between 1815-1867. Daniel Austin was the original owner. The building passed through several owners and configurations over the years and is currently owned by the Portsmouth Historical Society.

The project team includes Arcove Architects with structural review by Marty Gorham. The purpose and intent of this report is to assess the existing conditions and provide recommendations to ensure the character defining historic fabric of the building endures for future generations.

The building is historically significant because of its comparatively fine level of period architectural detail and craftsmanship, its locally unique connected wood building configuration, and its relation to significant local historic events. It is designated as a Contributing Resource in the National Register’s “Portsmouth Downtown Historic District”.

Investigations of existing conditions find the building to be generally sound but in need of repair. There is substantial cosmetic deterioration of interior and exterior finishes, and outdated mechanical, electrical and plumbing systems. There is structural decay at first floor framing due to basement moisture.

Advanced building envelope weathering due to deferred maintenance should also be addressed. The interior of the building demonstrates many areas of worn finishes, with some moisture damage evident at exterior walls; however, the original finish carpentry is mostly intact and of exemplary quality.

Specific recommendations of this report are at a minimum, to stabilize and restore the building in its current use as a single-family dwelling and in its configuration, to provide for continued service as a single-family dwelling, for purposes of meeting current life safety regulations, while protecting its historic character defining features. This is a recommended minimum baseline level of action to preserve the building. Any further change of use or spatial reconfiguration greater than 50% of any floor area will require an additional level of code improvements with corresponding costs and schedule impact.

There are some code leniencies which may be granted upon review by Authorities having Jurisdiction for historic structures such as this when equivalent alternative solutions are proposed by a registered design professional. Per the International Existing Building Code Chapter 12, and per Life Safety Code NFPA 101 Chapter 43.10.2 for rehabilitation of historic structures, a written evaluation is required to be submitted for review and approval to the local Authority Having Jurisdiction (AHJ) as prepared by registered design professional, demonstrating historic status; and documenting required safety features or proposed equivalents where life safety code required changes would be damaging to contributing historic features. This report may be co-authored by a preservation professional. This report is required to “protect the health and safety of the public” and per NFPA is not required if the building will be occupied solely for personal use by the owner and their immediate family.

Per IEBC-202.1&.3, this building qualifies as a “historic building” because it is listed as contributing in the National Historic Register Downtown Portsmouth District and is also eligible for individual listing in the National Register of Historic Places. Specifically, the Austin-Pickering House is listed to the National Register of Historic Places (NR) as a contributing resource to the Portsmouth Downtown Historic District with National Significance under Criterion A with its associations with Community Planning and Development. The building directly reflects early planning efforts of Portsmouth including its associations with early deed restrictions implemented by the house’s builder as part of

the development and expansion of Portsmouth, NH in the early 19th century and its back addition built in response to the passing of the 1814 Brick Act. The period of significance for this criterion runs from 1800 to 1932. The building is also listed to the NR with local significance under Criterion C for architecture as a strong example of the Federal Style in Portsmouth, part of a “collection of late seventeenth through early twentieth-century residential, commercial, and government buildings that exhibit popular national architectural styles.” Like most of the houses in this “collection,” the Austin Pickering House experienced modifications in the 19th and 20th centuries as the building was expanded and updated to reflect changing tastes and fashions. The period of significance for this criterion is 1801-1803 with subsequent significant alteration dates.

A unique condition of this property is the brick party (demising) wall shared with adjacent dwelling at the property line, and at the rear wall and entire ell of brick, which is attached to the front wood framed structures. This is indicative of the incremental expansion of the building, before, during, and after the Portsmouth Brick Act of 1814-1824. The first deed referencing the brick demising wall running north/south is with the transfer from Kimbal to Stearns in 1858 (0381-0027), although the wall was likely constructed earlier during the Brick Act period as was required for construction and additions exceeding 12 feet. The first mention of joint tenancy was in 1825 when Clagget & Richardson became tenants in common, dividing up the structure between them, and adding the east ell.

Fire separation and protection regulations have continued to evolve since then. Today, to comply with current life safety regulations, this demising wall along the property line requires additional fire stopping, with fire resistive treatments added at both sides of wall and at both sides of adjacent roofs and cornices. Selective non-invasive investigate demolition would be required to verify continuity of masonry to underside of roof sheathing and to inside faces of exterior wall sheathing; any gaps could be remedied with infill masonry, grout, or fire stopping materials. If a property on one side of the fire wall makes layout or occupancy changes, and the other side does not want to add the required fire resistive treatments, then alternative substitute approaches would need to be proposed to and approved by the AHJ (such as, for example, a brick firewall extending up through roof, or fire sprinkler systems at both sides of fire wall). Additionally, if there is a future change of use or spatial reconfiguration greater than 50% of any floor area, a fire protection sprinkler system will be required throughout the building on the respective side of firewall. This would apply to changes for either 43 or 53 Austin Street.

Part 2 – Character, Development & History of Property

The Austin Pickering House is a noteworthy example of American federal style architecture. The house was originally constructed circa 1802-4 around center stair hall floor plan, one room deep but with an unusual two-bay room addition with stair, at the west side. Incremental expansions occurred over time.

Exterior

The main façade of the house is arranged with a five-bay symmetry, with two full stories plus a short third story topped by a shallow hipped roof. A shorter, 3 story brick rear ell was added around 1816 in accordance with the Portsmouth Brick Act. The house was subdivided into two separately owned dwellings in 1825 (Richardson & Claggett, Rockingham County Deed 0251-0317). The west wall of central stair hall was the demarcation line. Deed transfers prior to 1825 describe the property as “undivided moiety”. After 1825, transfer deeds drop that terminology and henceforth describe specific portions of the property. The building was returned to a single-family dwelling in 1858. The parcel was then subdivided again in 1876 by Commodore Charles Pickering and a new 3 bay wing expanded the west room. This addition consisted of a 2-room deep 3-story hipped roof structure, with stair hall entry, thus creating a symmetric center entry 5 bay façade, balancing that of the original east structure. A small, one-story brick ell and possibly bulkhead was added to the rear of the east kitchen around this time. The exterior rear wall of the original house is also brick. Although mixed construction materials with wood fronts and masonry side “fire” walls were sometimes found in more densely built downtown areas, it was less common for outlying detached buildings on a spacious lots. In this case, because the rear ell was built during the Brick Act, and the original structure built between the first two great Portsmouth Fires (1802 & 1806), we find this unique arrangement to be a character defining element which tells the story of its time.

The ornamentation and details of the front structure include an elaborate flat arched open portico with bulls-eye corners, brackets, and balustrade. An unusual smaller projecting vestibule sits within the space under the portico, built of simple vertical boards with a cap molding, and oval windows; this appears to have been added as an airlock for winter weather. It does not appear in summer photographs from 1975. A large carved four-panel door is flanked by sidelights and a transom window.

Deeply carved cyma reversa dentils and end brackets support flat pediments over the front facing first and second story windows, recalling a scaled down version of the portico cornice brackets. A yet smaller scaled dentil moulding runs along the underside of a projecting roof soffit, atop a wide frieze band, which is interrupted partially by the simpler moldings of the smaller third floor windows. Wood block quoining at the corners transitions the wood clapboard siding around to the side façade. A shallow projecting water table forms a base to the clapboards, above a cut granite foundation at the front with brick on rubble stone foundation wall to the side.

The first and second floor windows of the front structure are 6 over 6 double-hungs most of which appear to be original; the third floor are 2 over 2 double-hungs of a later vintage. Modern aluminum storm windows are currently installed at the 2nd and 3rd floors; additional stored storm windows should be reinstalled at the 1st floor.

Windows at the rear brick ells are of varying vintages and configurations, mostly replacements with simple and heavy brickmolds. These windows themselves are arranged unsymmetrically and are of inconsistent sizes. Two large iron scrolled shutter dogs are located between upper floors west of

westernmost rear ell windows; these do not seem to align with where the shutters would have been and may have been installed decoratively.

Exterior window casings throughout still have shutter pintles, however the shutters seen in historic photographs are no longer in place. The original shutters are currently being stored in the rear porch for future installation. An ornate balustrade seen running along the edge of top front roof in historic photographs is also no longer in place.

The building currently has 3 brick chimneys – one at the front east side, and two at the rear brick ells. An original 4th chimney at the front west side has been removed. The two easterly chimneys have triple bishop's caps, while the west chimney has a three chambered flat masonry cap.

Interior

The interior maintains most of its original finish carpentry and features. Elaborate built-up cornice mouldings are typical of the lower rooms.

Stairs - A well-crafted ornate center staircase curves up from the 1st to 3rd floors. The tall built-up wall cornice with tightly spaced dentils integrates seamlessly with the exceptional curved, narrow fluted architrave of the staircase's inner stringers. An unusual midlevel landing between 2nd and 3rd floors provides doorway access to 3rd floor of rear brick ell through a bathroom. A simple and steep, enclosed secondary service staircase is in the rear ell.

Finish Carpentry - Wood wainscot board paneling, with chair rail and base board moldings, and plaster on lath above, are at the front 1st and 2nd floor rooms. The chair rail in the Living Room is carved with a repeating scroll detail. 3rd floor front rooms have plaster on lath with chair rail and base board. Some of the closets have built in shelves, drawers, and cupboards. Raised four and six paneled doors have ceramic knobs and skeleton keyed spring latches, a few have surface mounted box/rim locks.

Doors & Windows - The interior side of front door transom and sidelites are fitted with unique operable louvered shutters to control light and privacy. The front rooms of the house have remarkable and intricately crafted interior inset paneled hinged or sliding concealed shutters.

Walls and wallpaper - Most rooms have wallpaper, some of which appears to be original hand blocked prints such as at Living Room (Rm#2), with more recent variations at other room. Paper is in disrepair or damaged from wall moisture in many locations. Plaster and lath substrate exists throughout, except in a few of the smaller rear ell rooms which have newer painted gypsum board or wallpaper.

Fireplaces - Each room has a fireplace, some of which have been closed off or retrofitted with coal burning apparatuses. Fireplace surrounds in the front lower Living & Dining rooms are finely detailed with carved swags and egg and dart moldings, marble, or tile hearths, with simpler detailing at upper bedrooms. A strangely located ceramic stove pipe cover with winter forest scene, is mortared into the side of the second-floor front bedroom chimney, at floor level within a side closet.

Flooring - Flooring is a mix of original wide boards, some painted; with narrow light/dark hardwood strip flooring at main entry stair hall; and some carpeting at upper bedrooms. Contemporary tile flooring is found at the recently modernized rear kitchen and powder room. The upper front bedrooms have unique built-in marble topped washstands with antique hard plumbed sinks and faucets; the one in Bedroom (Rm#6 - second floor, west) is cracked.

Basement - The basement has been excavated slightly deeper than the original condition as evidenced by the brick shelf along foundation walls. There is an active open well with standing water, and another excavated opening in the floor which has been filled in with dirt. A large empty steel safe is in the NW corner under kitchen. A slightly trenched interior perimeter drainage way leads to evidence of what might have been a sump pump in the past, exiting to the rear of building. A few remnants remain of a few simple interior board partitions, glazed sashes, and shelves. At the area to the west of center stair bay, the framing is of irregularly matched timbers in more advanced stage of decay, than the areas to the east. Additionally, there is a substantial timber ledger along the north/rear wall, supporting crumbling brick and mortar between framing above. This appears to have been added shortly after the original floor framing was constructed and could be indicative of the c. 1825 rear brick wall additions.

Ownership History

The property was developed originally by Daniel Austin on land inherited by his wife Mary around 1802-1804, and included what is now both 43 and 53 Austin Street. Austin sold the property to William Clagget in 1815. The east part was sold in 1816 to William M. Richardson who fell gravely ill in 1818 and moved to Chester in 1819. The parcel was expanded with rear and side additions, owned by Clagget & Richardson as tenants in common in 1825. Richardson sold his side back to Clagget in 1833. Clagget went on to distribute portions of the property to his heirs and later sold the east portion to David Kimball. Thereafter the property at 43 Austin was distributed among Kimball's various heirs (Harris, Culbert) for several generations, and also some portions sold to non-family members Stearns, Hersey, Pickering and Beck. Many of these owners and their spouses held highly esteemed positions in society. The property at 43 Austin Street is currently under ownership of the Portsmouth Historical Society, having been bequeathed by Peter Beck. The following timeline details the deed transactions, however because there were so many estate inheritances, additional details could likely be gleaned from probate records.

Further information on some of the owners:

Daniel Austin

c. 1800 wife Mary inherits land in west end Portsmouth & he becomes major developer of Market Sq. and "Austinboro" house lots

1800 appears in US Census Portsmouth

1802 D. Austin of Portsmouth signs petition to lay out Summer Street

1802 Rundlet MSS map shows Austin Street; Summer & Rundlett Streets just proposed

House built by 1804 = Mr. [Daniel] Austin (ATH Treadwell insurance map shows house)

1805 ad. *NH Gaz.*: lots near "Middle Road opposite the mansion house of Mr. Austin"

1812 mss map - long, narrow rectangle plan

1813 printed map shows kitchen wing off W end

1815 D. Austin to Wm. Claggett, Esq. \$5,200 "buildings & outbuildings...which the said Austin lately occupied and improved as his Dwelling."

b. Charlestown, MA son of Daniel and Mary (Penhallow) Austin; d. Kittery, 1877. Moved to Portsmouth ca. 1801 and worked as a teacher; graduated from Dartmouth 1823, honorary divinity degree from Harvard 1827. He returned to Kittery ca. 1849, was Athenaeum's director 1861-68. Philanthropy: the Austin School in Kittery, and his will left \$40,000 to various causes.

William Claggett

(b.1790 – d.1870)

b. Litchfield, Conn., Graduated from Dartmouth (1808) and was admitted to the Hillsborough Bar (1811); he moved to Portsmouth in 1812 to practice law. He purchased the home at 43 Austin in 1815, transferring an ownership portion to W.M. Richardson a few months later. He served in both houses of the N.H. State Legislature, as clerk of the federal court, and as a naval officer for Portsmouth (1830-38), and he played a key role in establishing the Portsmouth city charter and the town-farm system for the poor. He married Sarah F. Plummer. He apparently suffered great financial losses late in life.

William Merchant Richardson

b. Pelham, N.H., 4 Jan. 1774; d. Chester, N.H., 23 Mar. 1838.

Richardson grew up on a farm in Pelham, descendant from multiple generations of farmers. At age 15 he severely injured his hand in a farming accident and became unable to do farm work. He studied classic literature, was accepted to Harvard, excelled at poetry. After graduation in 1797 he became a teacher at The Academy at Leicester but was of feeble health and became exhausted and unwell by the work, so he retired from teaching, went back to live with his father on the farm in Pelham. He married young to Elizabeth (Betsy) Smith of Pelham. He was preceptor at Groton Academy, and became friends with Judge Samuel Dana, who hired him as a law understudy, and later made him a business partner. He was soon-after elected as a State Representative to the U.S. Congressman (1811-14), but found he disliked politics. He moved to Portsmouth in 1814 to resume his law practice, purchasing an ownership share at 43 Austin Street in 1816. He became the Atheneum's 1st president and was appointed NH Superior Court Justice. However, in 1818 he became deathly ill with a fever from which he never fully recovered. In 1819 he was Christened in Portsmouth and then moved to an apple farm he bought in Chester. He sold his share of the 43 Austin property in 1833. He continued living on the farm in Chester while continuing his service as Chief Justice for 19 years, until he died of liver disease in 1838. ^{1 2}

David Kimball (1799-1885)

b. Topsfield, Me., attended Dummer Academy and taught school in Newbury, Mass.; Kimball came to Portsmouth in 1822 to clerk in William Norwood's drug store. After attending lectures at the Medical College in Boston, he purchased Norwood's business and worked until 1880. He was also an early supporter of the anti-slavery cause and buys his ATH share in 1848.

c. 1867? Kimball sells to C W. Pickering (W ½)

Charles Whipple Pickering (1809-1888)

b. ca. 1809; d. St. Augustine, Fla., 29 Feb. 1888. Entered the Navy as a midshipman and served for 55 years, retiring in 1867 with the rank of Commodore. He was wounded in 1865 when his ship was blown up in Charleston Harbor. He purchased his ATHENAEUM share in 1866 and his estate transferred it to his son-in-law, Arthur C. Heffenger, in ca. 1888.

Peter and Nancy Beck

Born in 1923 in Switzerland, Peter Beck immigrated as a child to the U.S. and settled on a farm on Lake Champlain, VT. He was a graduate of Dartmouth College Medical School, Columbia College of Physicians and Surgeons, and the University of Bern in Switzerland. He served in the Army for three years and trained at Duke Hospital, Harvard Medical School and the Massachusetts Eye and Ear Infirmary. He was a Diplomate of the American Board of Ophthalmology. Peter was an avid traveler and student of history. He provided medical aid to his community and beyond, specializing in eye surgery, with professional offices out of his home on Austin Street. He was also known in his spare

¹ history.house.gov

² [Bell, Charles Henry]. Life of William M. Richardson, LL. D., Late Chief Justice of the Superior Court in New Hampshire. Concord: I. S. Boyd and W. White, 1839.

time for fixing construction equipment and excavating his property on Austin Street sometimes with dynamite. He also owned the Cutts mansion in Portsmouth for several years. He married Nancy Reynolds Beck in 1959 and settled in Portsmouth, NH, where they lived together for 57 years.

Nancy (Reynolds) Beck was born in 1927, raised in Boston and graduated from Mount Holyoke and Harvard. A former Managing Editor of Atlantic Monthly magazine, she married Dr. Peter Beck of Portsmouth in 1959 and moved into his Austin Street home. Nancy was a relentless supporter of many causes and was instrumental in the development of Strawberry Banke Museum, Theatre by The Sea, Prescott Park Arts Festival, and the Portsmouth Athenaeum. She was a pioneering historic preservationist. With Peter's enthusiastic support, she often invited travelers, actors, merchant captains and the occasional political operative to stay in their home on Austin Street, creating a salon for exchanging ideas and seeking mutual understanding. She was honored with numerous awards for her community endeavors and was a generous philanthropist in her passing at age 92, on September 29, 2019.

Date		Grantor	Grantee	Rockingham Deed Reference Number	Terms	Notes
09/06/1815	Daniel Austin	William Claggett	William Claggett	0208-0114	Paid \$5,250 to Austin for land bound westerly and northerly by land owned by Jeremiah Mason; and easterly land owned by Benj. Penthalow	whole parcel
2/13/1816	Mary Claggett, wife of William Claggett	William M Richardson	William M Richardson	0214-0541	\$2,625 paid to Claggett for moiety of land bound westerly and northerly by land owned by Jeremiah Mason; and easterly land owned by Benj. Penthalow	whole parcel
2/13/1816	William M Richardson	William Claggett	William Claggett	0212-0136	\$1,625 paid to Richardson for undivided moiety of land bound westerly and northerly by land owned by Jeremiah Mason and easterly land owned by Benj. Penthalow (paid in two installments \$874.50 in 1816 & \$896.00 in 1817)	whole parcel
12/27/1825	William M Richardson (east side)	William Claggett	William Claggett	0251-0317	Claggett & Richardson were tenants in common with equal shares ownership of moiety of land. Land is bounded westerly by John Lake, northerly by Jeremiah Mason and easterly by Benjamin Penthalow.	whole parcel: Richardson gets E front room & entry to W of it; chambers above, & all that "which was erected by sd Richardson & Claggett" that lies directly behind these rooms; + gardens; E part of cellar...
1/31/1833	David Kimball & Caroline Kimball (wife)	William M Richardson	William M Richardson	0269-0051	\$1,000 paid by Richardson to Kimball then \$300 the next year, and another \$300 the following year	
02/07/1833	William M Richardson	David Kimball	David Kimball	0269-0050	\$1,000 paid by Kimball to Richardson for portion of premises where he was formerly tenant in common with Kimball	
6/15/1858	Mary Claggett	David Kimball	David Kimball	0392-0040	\$500 paid to Claggett for land owned northerly by Daniel Treadwell, easterly land owned by David Kimball, westerly owned by widow of John Sake (same land as previously owned by Wm. Claggett).	middle portion, or east side?
9/30/1858	David Kimball	John Stearns	John Stearns	0381-0027	\$6,500 paid to Kimball, for land, dwelling, barn & outbuildings, bounded by land easterly owned by heirs of John Sake; 91 feet along Austin street to land westerly owned by David Kimball at brick demising wall of house, through house; to land northerly owned by Treadwell.	east side (43 Austin)
2/28/1864	Daniel Smith	Jacob Hersey	Jacob Hersey	0402-0285 (top part)	\$262.75 paid to Smith for dwelling house, barn & outbuildings, land bounded to east by land owned by heirs of John Sake; 91 feet along Austin st to land westerly owned by David Kimball, through brick demising wall of house (wall owned in common) to northerly land owned by Treadwell.	east side(43 Austin)
2/28/1864	John Stearns	Mary Pickering (husband Charles Pickering)	Mary Pickering (husband Charles Pickering)	0402-0285 (bottom part)	\$1 paid by Mary Pickering for dwelling house, barn & outbuildings, land bounded to east by land owned by heirs of John Sake; 91 feet along Austin st to land westerly owned by David Kimball, through brick demising wall of house (wall owned in common) to northerly land owned by Treadwell.	east side (43 Austin)

Date	Grantor	Grantee	Rockingham Deeds Reference Number	Terms	Notes
c.1885	David Kimball (b.1799-d.1895)	Lucy Woodward Kimball (daughter of David Kimball), married to Robert Harris		Robert Harris (1834-1896) born in Portsmouth, New Hampshire in 1834, was a civil engineer worked for the railroads all over the country he moved often sometimes bringing his family with him, and sometimes leaving them in Portsmouth. Robert Harris married Lucy Woodward Kimball (Daughter of David & Caroline Kimball) in 1864 and died in 1896.	
c.1924	Lucy Woodward Kimball Harris (d.1924) & Robert Harris	Edith Harris (daughter of Lucy Kimball Harris & Robert Harris)		conveyed by Probate?	
1956	Edith Harris	Peter Beck (east side, 43 Austin)		\$4,000 Edith Harris estate sale for 1/3 property interest. She was grand daughter of David Kimball. Edith Kimball Harris (1868-1956) was the second child of Lucy Woodward (Kimball) and Robert Harris and was born in Vallejo, California in 1868. Edith spent time in Europe during 1890 and 1891, returned to live in Portsmouth with her sister Mary and died on June 6, 1956. (atheneum)	
	Kimball descendant (?)	Caroline Pickard Culbert (east side) great-grand-daughter of David Kimball		conveyed by Probate?	
1957	Caroline Pickard Culbert (east side)	Peter Beck (east side)	1428-0188	quit claim deed, \$1 for 2/3 property interest	
		Caroline Pickard Culbert - great-grand-daughter of David Kimball & daughter of Jeanie A Gerrish Pickard and Dr John Pickard (m.1889 at 4 Austin Street "Kimball Mansion"). He was Governor of Missouri and National Grand Sovereign of Masonic Lodges, principal PHS). ... Brother: Leonard Culbert. Daughter: Lenore(Leonore) Culbert (b.1934, New Mexico).	1880 census: Caroline Gerrish age 36 @ 4 Austin St. daughter of David& Caroline Kimball. Caroline Gerrish's daughter is Jeanie Gerrish, age 17.	David & Caroline Rebecca Swett Kimball Daughter: Caroline (Kimball) Gerrish & _____ Gerrish Grand-daughter: Jeanie A Gerrish Picard & John Picard Great-grand-daughter: Caroline Picard Culbert & James I. Culbert	
2019	Nancy Beck (east side, 43 Austin)	Portsmouth Historical Society (east side)			

Treatments, repairs, or changes between 1805 and today (unless otherwise noted, observations from on-site inspections):

- Consecutive rear and side ell additions.³ See attached floorplans for locations and dates.
- Window replacements at rear ells and third floor
- Roof structure repair at west attic
- Kitchen and bathroom installations and renovations, domestic hot water and heating system
- Electric power and lighting system installations
- Fireplace inserts or closures
- Front portico vestibule addition
- Basement excavation
- In Dining Room (Rm#1) the window to right of fireplace was filled in with solid panel and shelves (likely when porch ell added behind this wall).
- Two lower front room fireplaces are boarded up or have coal burning insert.
- Interior finishes replacements at some of the rear ell rooms, carpeting.

Summary of character defining features:

- Symmetrical 5-bay center entry building form and fenestration
- Elaborate entry portico
- Transom and side lights surrounding paneled front door
- Finely scaled classical trim details, interior and exterior.
- Flat dentilled lintels over windows
- Double hung windows with narrow but deep muntins, thin mid-rail
- Exterior cornice with frieze and dentil moldings, and roof balustrade (original but currently missing)
- Low pitched hipped roof
- Rear brick hipped roof ell
- Connection on one side to adjacent residential structure.
- Rear brick wall and brick ell
- Marble topped washstands at bedrooms
- Two-toned hardwood flooring, walnut and maple, c. late 19th century
- Center staircase, fireplace surrounds, and built-in interior shutters
- Wallpaper at Living Room (Rm#2).

³ Reference Deed chronology cited above; physical inspection of existing framing connections and materials; [Building Portsmouth](#), R.M. Candee

Part 3 – Existing Conditions Assessment

Per visual inspection of interior and exterior non-concealed building assemblies, structure and MEP systems, the existing condition of the building includes the following items which are in disrepair, nonfunctional or in need of treatment to comply with NH State Life Safety Code (NH Saf-C 600 & NFPA). Concealed conditions were not reviewed. For specific locations of items requiring attention, please refer to the itemized list in **Part 4** (Recommendations for Maintenance and Rehabilitation) and the attached floorplans and photographs in **Appendix C**. A summary of these conditions is as follows.

Architectural

Structural Framing – Roof and floor framing are heavy sawn timber with sawn joists. Front building has wood framed walls; rear ell has multi-wythe brick bearing walls. Specific areas of deterioration include select areas of the first-floor framing as noted in the Appendix A Structural Report.

Masonry - Brick masonry at rear ell walls and chimneys need full repointing and reflashing; the worst conditions are at corners and areas where it appears the roof gutters failed, and along the foundation at north patio. The brownstone lintels above the upper story windows on east façade have spalled and need repair or replacement. The granite window lintels of lowest windows are in good condition.

It is important to note - The demising wall between 43 and 53 Austin Street is currently concealed by plaster finishes and was not reviewed. However historic deeds reference this wall as brick masonry. If this is the case, then additional fire proofing, to bring residential unit separation up to current codes, will be minimal and likely non-structural and non-invasive (may consist of adding UL Listed fire stopping materials at discontinuous areas of masonry, such as mortar and brick, mineral wool, intumescent putty, gypsum board, plaster, etc.). Construction of this interior demising wall should be investigated further. If the building undergoes a future change of use or layout, code required fire separation at the demising wall could impact historic fabric, if the wall is framed in wood instead of masonry.

Exterior framed walls – Minor moisture damage is evident at the inside face of exterior walls throughout. Excessive moisture infiltration at basement has led to structural decay of first floor framing; mold, mildew and fungus growth; and gradual spalling of foundation mortar and masonry. A musty odor is present in the lower levels. Concealed conditions did not allow for investigation of insulation between framing members currently. Further investigations with select areas of non-invasive demolition are required to review these concealed conditions.

Exterior Finish Carpentry - Some areas of exterior siding, trim and windows show signs of deterioration from moisture damage. Previously hung shutters have been removed, many of the pintles and shutter dogs remain. The missing shutters are currently being stored in the rear porch.

Doors – Interior period doors and hardware are mostly sound and functional, but with some cracked and peeling paint. The rear door at front lower east room (blue wallpaper) has split lower panels and casing, hangs crooked and does not latch. Ceramic doorknobs are serviceable but very loose in many locations; hinges and latches are mostly secure and aligned. Front entry door hardware is ornate and substantial but does not latch; a latch bolt box has been mounted above. Primitive mechanical string doorbell is functional. The door to the back porch is a 19th century four panel door, the upper two panels have been replaced with an etched glass with a star pattern, it has a deadbolt, a thumb latch and a slide bolt for hardware. A substantial patinaed brass doorbell device is at the exterior wall by back porch door.

Windows - Many windows are not in working order but have solid frames and sashes and some original glass; they are in need of refurbishing, with some missing putty, broken panes, and non-functioning balances. Second floor front Bedroom (Rm#7) has broken lites/sash at east wall. At front lower floors, corded weight and pulley balance systems have been painted over in some locations. Interior shutter panels, folding and sliding, are sound but operationally sticky or stuck. Rear brick ell and third floor of front structure have a mix of 19th and 20th century replacement windows. Windows lack weatherstripping. The aluminum framed storm windows need tracks cleaned and some minor adjustments for functional operability.

Roofing- Asphalt shingle roofing is in good condition. Gutters and downspouts are clogged, disconnected or leaking in some areas; they are useful to help control basement and sill plate moisture damage; a gravel landscaping strip along foundation, without plantings, would also help. In particular, roof flashings should be examined up close, at the connection of rear brick ell to main house, and along north fascia, due to signs of water infiltration from above, at exterior walls of the rooms below these areas. Chimney and vent pipe penetrations are also common potential sources of leaks. The rooftops were not accessed as part of this investigation, further field review is recommended for specific locations.

Interior Finish Carpentry - Most of the historic interior finish carpentry components are in very good shape. A built-up cornice moulding has been removed from one of the primary rooms (apparently to facilitate wall repair) and has been temporarily stored in basement. This should be relocated to a dryer, safer place for storage, or reinstalled. Wood wainscot paneling with carved chair rails is in fair condition with some localized cracking. The main stair is in fair shape. The banister rail is a little loose, a couple of balusters at the upper midlevel landing are very loose. The paint is in good condition. Overall, it seems to be structurally sound. The stair treads and risers are painted white with a modern carpet runner.

Interior finishes - The interior walls demonstrate some areas of worn finishes. Wood wainscot below windows has some cracking and bubbling of paint, indicative of some moisture damage from leaking window flashings. Wallpaper at front rooms has areas of discoloration and peeling. Wallpaper in main stair hall has some minor damage where it meets the stair stringer and major damage at second floor but otherwise appears in good condition with scenes of medieval European villages. There appears to be some bulging of the plaster in some areas behind the wallpaper in other rooms which could indicate moisture damage in the wall. Ceiling plaster and paint are in generally good condition. Carpeting is worn and discolored in many locations; the clear finished strip hardwood flooring in front stair hall and at rear ell 2nd floor bedroom are in very good condition; at upper floors, painted wood floors are in fair condition. Wood flooring in rear of stair hall may have been similar to front hall originally but is in poor condition possibly due to window or plumbing leaks from upper floors. There is significant water damage at central stairwell at rear wall. The wall plaster and wallpaper at first floor rear service stair are in poor condition.

Fireplaces – Most wood burning masonry fireboxes, hearths and mantle surrounds appear in original condition however the flues and dampers were not reviewed. The west front lower room (gold papered) is boarded up; and the east front lower room (blue papered) has a cast iron coal burning insert. At second floor east front bedroom, at the built-in closets at right side steps to rear bedroom there is an early 20th century ceramic and pressed tin stove pipe chimney flue cover, with a painted winter woodland scene, installed near the floor in back under the bottom shelf of closet. This cover plate has been mortared to the side of the brick chimney. Such covers were common at that time to seal up stove pipe exhaust connections or hot air supply vents for upper rooms when not in use, from coal or wood stove sources below (there is a coal stove insert in fireplace below). However, the location of this cover at the floor in the back of a small closet behind a door is unusual and would

have been ineffective at distributing heat, and too low and confined to provide direct exhaust. The reason for installation at this location could not be determined and is worth further investigation.

Lighting – Most installed early 20th century ceiling and wall sconce light fixtures work by wall switches except for the center stair hall chandelier which did not turn on. More contemporary fixtures are at the rear rooms, not all of the lights in kitchen work. Modern exterior security lighting is mounted at northeast corner of brick ell. The crystal chandelier at rear ell blue room does not work, there is exposed cloth electrical wiring in that ceiling by the corner posts.

General - There is evidence of a past fire at the upper floor and roof in the northwest quadrant, where some repairs to roofing and framing are evident; interior finishes below this area at NW Bedroom 5 are badly stained at fireplace, there may also be excessive exterior wall moisture damage in this area, which could be related to charring and water infiltration at fire damaged structure above. Further investigation and removal of select materials should be done at this area, to mitigate further deterioration. The front second floor bedroom has major water damage at rear wall with tar colored staining, this could be remnants from the attic fire. The marble commode in this room is cracked and tiled hearth is loose and disheveled. The kitchen and lower powder rooms have contemporary fixtures and finishes. Ants in this area indicate gaps due to moisture damage at the sill boards. Exterior sill framing and water table trim boards should be investigated for areas of decay, sealant between disparate materials can help prevent further damage and nuisance from pests. There were no signs of rodents. A few spaces have very low ceilings that do not meet current building code (7'-6" minimum): the first-floor rear hall behind main stair, and third floor rear ell rooms have 6'-0" ceilings, some doors are 5'-10". Note that the minimum clear height for doorways or isolated ceiling obstructions (such as a light fixture) per ADA handicapped regulations is 6'-8".

Mechanical

Heat is delivered via a forced hot-water baseboard and radiator system, distributed over four zones through a recent copper piping system. The high-efficiency gas fired boiler appears to be quite new, it is a multi-zoned Burnham Alpine boiler, 96% efficient; recently serviced by Simmons HVAC (800)929-8339. This model came out around 2019 and is still on the market for sale today. There is no mechanical ventilation or air conditioning. Note that replacing the mechanical system for current building conditions without concurrent envelope improvements (air sealing and insulation) will require a larger, more expensive and less efficient system. If insulation is added later, the usage loads on the mechanical system will be reduced.

Electrical

There are two installed electric meters, one of which appears in use and an older one not in use; rated for 240-volt 200 Amp service to 43 Austin Street, located at southeast corner. There is also one empty meter housing. The service feed line coming from the street pole to the meters shows areas of deterioration and fraying, the supplied power rate from feed line was not confirmed. A fuse box and a small breaker box in the basement serve this house. The breaker box appears fairly new, but the fuse box is vintage, obsolete, non-code compliant and potentially unsafe. What appears to be asbestos wrapped wiring runs throughout basement along with some newer insulated wiring. Most of the wiring runs secured to framing members. However various exposed, capped, and bare uncapped wires are terminated loosely and not in junction boxes; some terminate in junction boxes but without covers, some of these wires may or may not be abandoned in place. There are several switched timers throughout the basement, seemingly connected to lighting. Power receptacles through the house are un-grounded. An exterior mounted emergency power shutoff is required to bring building up to current state and city amended electric code.

Plumbing

Electric domestic hot water system appears to have been worked on fairly recently, with some copper and pex distribution tubing, and some older remnants in cast iron. At some upper floor locations exposed supply lines are run next to walls (instead of within). Upper floor bathroom fixtures are vintage. Venting and sanitary lines were not reviewed or confirmed. No active leaks were observed at time of review.

Structural

See attached appendix report.

Site

Outbuildings - Previously a small freestanding barn stood midway towards the rear and east side of the property. This was removed recently but still shows on current City Tax Maps. This outbuilding was determined as non-contributing in the National Register for the Portsmouth Downtown Historic District.

Hardscape - Remnants of a brick driveway and rear patio can be clearly seen through grass and gravel debris, what remains is unlevel and patchy. A low, leaning granite block retaining wall at the front garden supports an ornate and heavy post and rail capped picket fence with monumentally scaled quoined corner posts; the side return fencing along driveway is missing. The front fence has some missing and broken elements and needs repair.

Landscape - A partially excavated hillside with brush and small trees lies upward of an earthen berm and granite ledge outcropping. This is located towards the rear of the property behind a level grassy clearing. An enormous, aged, and somewhat compromised copper beech tree stands between the front entrance and driveway. The front yard slopes noticeably down towards the street front, with the house set up on a small rise, bounded by granite curbed border.

Accessibility – The first floor of the structure is raised above grade at face of building by approximately 40 inches at the front façade, 64 – 24 inches on the east side, and 12 – 4” at the rear. A code compliant handicapped ramp requires a maximum slope with 1-foot horizontal travel for every 1-inch vertical rise (1:12). Accordingly, a ramp at the front door would be 40 feet long, plus several landings, which is not reasonable at this location. A gently sloped walkway and patio from driveway, around the back to the rear porch area (at slope < 1:20, without handrails) would be more easily accommodated by the site and less intrusive to the historic fabric. Although current code requires the front entrance to be accessible, buildings designated as historic can apply for an exception for the accessible entrance to be located at the rear of building.

Part 4 – Recommendations for Existing Building, core & shell maintenance and rehabilitation strategies

See **Appendix C** for floor plan and building elevation locations and photographs of itemized recommendations. Assess the site for archaeological sensitivity before implementing any recommendations that require ground disturbance.

Exterior:

1. Scrape peeling paint, selectively repair/replace rotted wood siding and trim, inspect sheathing for rot, repaint siding and trim.
2. Reflash roofing and roof to wall connections where compromised. Areas requiring further close-up inspection are at bases of chimneys, wall to roof connections at rear ells; and bottom of roof at fascia flashings.
3. Repair or replace where required, gutters & downspouts. Provide gravel drip strip with perforated sub-grade drain piping along foundation perimeter to protect sill framing and foundation masonry from further decay.
4. Refurbish and reinstall missing shutters. Some are currently stored in the back porch.
5. Repoint and reflash existing chimneys. Repair bishop's caps. Rebuild the flat-topped chimney cap at the west chimney. Repair or replace brownstone lintels above the upper story windows on east brick façade.
6. Wooden double hung sash windows are typically in poor condition with cracked glass and missing putty and broken balances in many locations, there is no weather stripping; refurbishment is recommended. Existing aluminum storm windows at first floor also appear loose and in poor working condition, repair or replacement of storm windows is recommended, to help protect the historic windows and to improve thermal and moisture performance of wall assembly.
7. Exterior doors are slightly out of plumb with their frames and stops, due to normal settling over time. It is recommended that hinged be adjusted and weather stripping installed to ensure adequate thermal and moisture performance. The wood on the front entry door is in need of repair.
8. Front portico balustrade – Rotted areas of wood need repair & repainting. Consider reconstructing missing original rooftop balustrade.
9. Repair rotted gate and fencing.
10. Driveway brick pavers are loose and disheveled, resetting existing pavers and replacing missing pavers on a well-drained gravel/sand base is recommended.
11. Granite retaining walls between fence and driveway need repair.
12. Eastern Facade – Wood needs minor maintenance, rear brick needs cleaning, & repointing
13. The rusted bulkhead on north wall merits repair or replacement.

14. Rear brick patio is deteriorated and disheveled, needs to be re-laid or removed. Consider accessible walkway from driveway.
15. Repair or replace disconnected or clogged gutters & downspouts.
16. Evidence of previous fire damage in the northwest attic, reference structural report. Lumber used to repair the roof is rotary sawn, with some pressure treated members (circa late 20th century+). Water damage is seen at finishes in rooms below; further investigation is recommended for potential concealed moisture damage within wall and window framing and sheathing along this north wall.

Interior:

Basement -

1. Mold and fungi growing in basement due to damp musty air. Moisture mitigation is required to prevent further damage to wood floor framing and masonry foundations. There are various options for such systems which are sometimes complex, with widely varying levels of cost and performance success. Further in-depth evaluations of strategic options for basement walls and floors should be based on owner goals and constraints for logistics and costs. As a first and simpler step, exterior water management should be addressed by repairing gutters and downspouts, and removing foundations plantings, and installing a perimeter gravel drip strip with subgrade perforated perimeter drain.
2. Masonry is in severe disrepair, basement will need moisture mitigation to repair brick masonry, and as well as holes in floor and ceiling.
3. Electrical system is outdated and merits updating as a top priority for code and safety compliance.
4. Forced hot water heating system appears to work but is less inefficient than modern heat pump systems. When next due for replacement, or when the building is insulated a properly sized heat pump system could be a more cost-effective solution.

Upper Floors-

5. Repair mild to moderate moisture damage, typical throughout much of building. Some plaster will need to be repaired or replaced.
6. All electrical outlets are ungrounded and will need to be updated with any change of use or layout, per the NEC National Electric Code. It is recommended to update this regardless of any changes to the building. This is a severe fire hazard and is a top priority for preventing catastrophic damage to this building.
7. Folding and sliding shutters need repair for operability. The house has settled over time, and the tracks and frames within which the shutters fit or slide, are no longer parallel to the shapes of the shutters. Consequently, they can get stuck and do not work smoothly or at all.

Additionally, dust dirt and debris that has blown in through broken or gaping windows has accumulated along sills and tracks, a good cleaning would also improve these conditions.

8. Windows need refurbishment to varying degrees, and weatherstripping. Clean and realign or reinstall Aluminum Storm windows.
9. Door hardware throughout is loose and in need of repair. The door in lower front east room (blue papered) is cracked and hangs out of plumb. Multiple doors need new paint.
10. In various areas, wallpaper is peeling or is discolored and in need of repair.
11. In front west (gold) room, the crown molding above the alcove has a small misalignment of the bottom molding that has been painted over. Replace (stored) crown molding in rear dining room.
12. First floor framing should be repaired and selectively replaced according to structural report (Appendix A).
13. Energy upgrades to envelope: Not required if there is no change of use or alternation of layout. Compliance with energy code is required if there is a change of use or layout 50%. It is advised to review potential energy upgrades for consistency with latest available technical preservation guidance documents (see attached appendices). Recommendations include:
 - a. Primary envelope treatment: Improve air and weather barriers for better energy efficiency and vapor moisture control, and to reduce costs of installing and maintaining mechanical heating system. At a minimum, this consists of sound, uncracked paint on solid clean surfaces, with caulking at joints of disparate materials. Interior latex paint can help retard vapor moisture infiltration and damage to walls and wall papers. Flooring underlayments can reduce cold and damp air infiltration from basement. Inspect all windows and doors for sound weather stripping.
 - b. Additional Exterior wall treatment options:
 - i. Level 1: Repair exterior walls for areas of deteriorated wood siding, trim, flashing and sheathing boards. Scrape and repaint entirely.
 - ii. Level 2: Exterior wall cavities may be cored and filled with blown cellulose fiber insulation – due to the sensitive condition of interiors detailing, it is recommended to install insulation from the exterior in locations where trim boards can be temporarily removed and replaced without any damage. If the exterior air barriers (Step A and Step B Level 1) are not sufficiently and cohesively repaired, insulation is not recommended.
 - iii. Level 3: For optimal energy and moisture performance, and only if the extent of wood trim, siding, and sheathing repair due to rot and decay is extensive, it is recommended to remove and temporarily store all salvageable wood trim and replace rotted wood clapboards and rotted sheathing boards with new wood materials to replicate the originals, applied over continuous insulation board with continuous air barrier. Reinstall existing salvageable wood trim.
 - c. It is recommended at a minimum to install properly applied continuous attic insulation, with air and vapor barriers. Ensure adequate natural ventilation of attic space and mitigate ice damming by means of soffit and ridge vents. When roofing shingles are next replaced, consider applying vented insulated nail-base, for better

thermal performance and a conditioned (more efficient and can accommodate potential future sprinkler system) attic space, this can be installed with concealed venting strategies.

14. A sprinkler fire-suppression system installed in accordance with NFPA-13 is required for compliance with Life Safety and building codes in the event of change of use or modifications >50% floor area.
15. Plumbing - Replacing toilets and shower heads with newer technologies for low flow fixtures could reduce water usage costs. Review solder joints at copper lines for any signs of leaking; replace existing cast iron domestic water supply lines with copper or pex to prevent future leaks.

Structural (See attached structural reports):

Future investigations

Recommendations for future further studies, specialists and investigations:

1. Concealed construction of interior demising wall between 43 and 53 Austin Street should be investigated further, verify if brick masonry.
2. Consider an energy model study to assess cost impact and operating cost savings, and to determine most appropriate energy efficiency improvements for insulation options at existing walls, attic, and floor.
3. Historic accounts further reference:
 - a. The Harris Papers; Portsmouth Athenaeum
 - b. [Bell, Charles Henry]. Life of William M. Richardson, LL. D., Late Chief Justice of the Superior Court in New Hampshire. Concord: I. S. Boyd and W. White, 1839.
<https://babel.hathitrust.org/cgi/pt?id=hvd.32044086344009&view=1up&seq=25>
 - c. Richardson, William Merchant. The New-Hampshire Justice of the Peace. Concord, [N.H.]: Printed by I. Hill, 1824.
 - d. William Merchant Richardson: The New-Hampshire Town Officer. Concord, [N.H.]: J. B. Moore, 1829.
 - e. Rockingham County probate records

Part 5 – Supplemental information

Appendices

- A. Structural Report
- B. Code & Zoning Review
- C. Existing Conditions, Life Safety and Accessibility, and Proposed Treatment floorplans and elevations.
- D. Budgetary opinion of probable costs and Construction phasing schedule outline
 - iv. Phase 1: Building stabilization
 - v. Phase 2: Life Safety Code compliance
 - vi. Phase 3: Accessibility Regulatory compliance
- E. Technical Briefs
 - vii. National Park Service
 - 1. Flat plaster
 - 2. Painting interiors
 - 3. Moisture control
 - 4. Exteriors
 - 5. Improving Energy Efficiency
 - 6. Wallpaper
 - 7. Repointing Mortar Joints in Historic Masonry Buildings
 - viii. New York Landmarks Conservancy Technical Services Center
 - 1. The Brownstone Guide, Maintenance & Repair Facts for Historic Property Owners
 - ix. Building Science Briefs
 - 1. Rubble foundations - Basement damp proofing

Additional technical References:

- City of Portsmouth, zoning ordinance and amendments to state Building Code
 - a. <https://www.cityofportsmouth.com/planportsmouth/land-use-and-zoning-regulations>
- NH Building and Life Safety Codes
 - a. <https://www.nh.gov/safety/boardsandcommissions/bldgcode/nhstatebldgcode.html>
 - b. <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=101>
- Secretary of Interior’s Standards for the Treatment of Historic Properties
- National Park Service – “Wallpapers in Historic Preservation: Wallpaper Within A Restoration Project”

27 September, 2022

Tracy S. Kozak, AIA
ARCove Architects, LLC
3 Congress Street, Suite 1
Portsmouth, NH 03801

RE: Structural Observation Assessment
Austin Pickering House
43 Austin Street
Portsmouth, New Hampshire

Dear Ms. Kozak,

On Tuesday, 20 September, 2022, I visited the existing Austin Pickering Houses at 43 Austin Street. The intent of my visit was to review the existing conditions of the first floor framing and roof framing, which is readily visible, and comment on their condition.

The building is not presently occupied and there are no furnishings.

Description

The existing 3-story building encloses approximately 5,000 square feet over three floors. The original mansion is approximately 21' by 50', with an extension, or ell, on the back that is approximately 21' by 29'. There are three small entrance enclosures, and a bulkhead.



1 - Front Elevation



2 - Back Elevation

The basement floor is a concrete slab on grade. The exterior foundation walls are a combination of stone set in mortar and brick masonry. There are brick masonry piers, and one wood post, supporting a wood framed first floor, and the building above. The original mansion, which is visible from the street, is constructed with wood-framed exterior walls and floors. The ell off the back side of the mansion is constructed with brick masonry exterior walls and wood-framed floors. The roof over the mansion and ell are wood-framed.

Observations

The basement is damp and there is damage due to age, excessive moisture, and a lack of water management on the exterior of the building. This can be observed on the foundation walls, brick masonry piers, and some of the first floor wood framing. Images 3, 4, 5 and 6.



3 - View looking toward front left corner



4 – View looking toward front right corner



5 - View looking toward front wall



6 - Masonry pier deterioration

The mansion first floor is framed with a combination of wood timbers and sawn wood joists. The floor area below the stair hall is framed left-to-right into beams directly below the stair hall walls. Timbers below these walls, spanning front to back, are supported midspan on brick piers. These timbers, which appear to be original framing, have been wrapped along the sides and bottom with wood plank. A round timber post, which is bearing directly on the concrete floor slab, has been installed beneath one of these timbers to provide additional support. These timbers, other floor framing members, and floor decking have obvious area of decay. The sawn joists appear to be a repair/replacement that was installed many years ago. Images 7, 8, 9 and 10.



7 – Decayed timber joist



8 – Decayed timber joist



9 – Decayed timber on masonry pier



10 – Area of decayed floor deck

The mansion roof is a wood framed rafter and purlin system with board sheathing spanning from eave to ridge. An area of the front left corner, above Room 11, has been repaired with a variety of new framing materials. This includes conventional milled lumber, some pressure treated 4x4, 2x4 shoring posts, and a laminated veneer lumber beam. A cable tension tie has been installed on a repaired rafter set. There is too much debris in the attic to permit unimpeded and safe access. Images 11, 12, 13 and 14.



11 - Rafter and purlin framing



12 - View of repaired roof area



13 – New 4x4 and purlin shoring



14- View of repaired roof framing

The roof of the ell is a hip roof framed with rafters spanning from eave to the ridge and the hip rafters. The board sheathing is installed spanning across the rafters, parallel to the eaves. There is too much debris in this attic space to permit unimpeded and safe access.



15-Rafters and sheathing above ell



16-Hip rafter above ell

Conclusion

The foundation walls and piers can be repaired, repointed, and where necessary rebuilt. I do not anticipate that any changes to the existing foundation layout and design will be required. In the short term, I would recommend that the existing gutters and downspouts be cleaned and maintained. A gutter system should be installed along the front and side eaves of the mansion to help direct water away from the exterior walls and foundation.

The first floor framing and sheathing will require more careful evaluation to determine the extent and magnitude of decay. If the building is to be occupied, or used for light storage, prior to a full evaluation and repair, the existing floor framing should be temporarily shored at the areas where decay has compromised the framing to ensure structural integrity and safety. This temporary shoring could be studwalls, or beams on posts that transfer loads directly to the basement floor slab.

The roof framing and sheathing that was observed, although far from satisfying current building code requirements, is mostly original and appears to have held-up over time. Debris should be removed from the attic spaces to provide safe access, and a more

thorough observation and evaluation of the existing roof framing to determine if there are areas in need of repair.

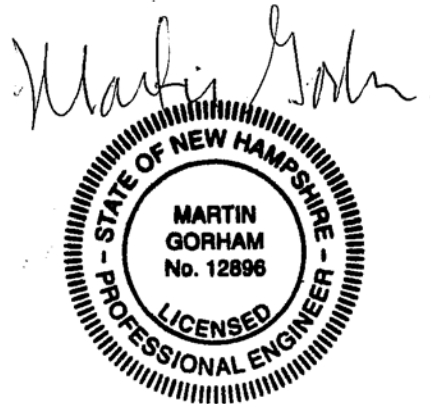
Overall, my impression is that the building is in good structural condition with the exception of the foundation walls, masonry piers, and first floor framing which are in need of repair and maintenance.

Closure

Thank you for contacting Gorham Structural Engineering, PLLC to provide this review and opinion. As the project develops, we are available to provide additional structural engineering services as needed.

Please contact me if you have any questions or if it would be helpful for me to expand on some of the issues mentioned in this report.

Respectfully submitted,
Martin Gorham, PE, LEED-AP, SECB



Austin Pickering House

43 Austin Street, Portsmouth NH

October 13, 2022

LIFE SAFETY, ACCESSIBILITY & BUILDING CODE ANALYSIS

1 Applicable Codes & Regulations

International Residential Code (IRC) , 2018 Edition with NH Ammendments
 International Energy Conservation Code, 2018 Edition with NH Ammendments
 International Existing Buidling Code (IEBC) 2018
 NH State Fire Code Saf-C 6000, NFPA-1, 2018 Edition
 NFPA 101, Life Safety Code - 2018 Edition - Chapter 24 One and two family dwellings & Chapter 43 Building Rehabilitation
 City of Portsmouth, Zoning Ordinance

2 Existing Building - Level of Work

IRC Appendix J: Repairs and Renovations
 IEBC: Repairs and Alterations Level 1

NFPA 43.10.2 Code for Fire Protection of Historic Structures

For Modifcation, reconstruction or change of occupancy, for work where occupancy will be open to the public:
 Written evaluation required by registered design professional, documenting required safety features or proposed equivalents where impacts contributing historic features

3 Occupancy

IRC & NFPA (Chapter 24)	R3 single family residential building (attached to adjacent property multifamily building)
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4 Construction Type 5B - Tabular Height and Area Limitations

Existing Conditions	
Stories above grade	3
Height (Feet)	29' - 9 1/2"
Footprint Area	1,771

Gross Floor Area (sf)			
Level	Occupancy	Zoning & IRC - Building Area Footprint	IRC - Occupancy Floor Area
		to outside face of exterior walls	to inside face of exterior walls
3rd Floor	R3	1,663	
2nd floor	R3	1,663	2,530
1st floor	R3	1,771	2,480
Basement	R3	1,661	
gross area above grade		5,097	5,010

5 Fire Separation
 IRC 302.2.2. Townhouses, common walls

NFPA - 6.1.14.4.1a

OCCUPANCY	IRC Table 302.1.(2)				
R3 - single family	existing common wall at adjacent property is non-fire-rated (noncompliant)	Change of use: requires sprinkler system with 1-hour fire rating for exposure from outside; non fire rated allowed where > 3 feet fire separation	Plumbing or Mechanical not allowed in wall; fire rated membrane extend from foundation to underside of roof deck and exterior sheathing. Fire rated electrical penetrations. If fire-rated from both sides, sprinkler system not required.	No projections (soffits) < 2 feet of common wall. No openings allowed < 3 feet of common wall. Openings between 3-5 feet from common wall must be < 25% of wall. (no restrictions if both sides of common wall are sprinklered)	IRC 202.2.4 30" tall parapet required, except where roofing is Class C and either 1) roof heights vary >30"; or 2) roof decking is FRT plywd or 5/8" gwb below extending 4 feet to both sides of common wall.

IRC 302.11 Fire blocking required at all stories, penetrations and concealed spaces

IRC 302.12 Attic draftstopping < 1,000 sf

IRC 302.13 Fire separation required at underside of framing at all floors; including basement ceiling, when basement is used for storage or heating appliances - 1/2" gwb or 5/8" plywood

6 IRC 310.1 Emergency escape rescue openings

Required at every sleeping room, one window > 5.7sf & >24h x 20w. Door or window required at occupied basements.

310.2.5 For other than change of use, replacement windows are exempt when => existing operable window.

7 Fire Protection

IRC 313.1 Fire sprinkler protection required at townhouses for change of use; exempt for alterations and additions

R314 Interconnected smoke/co alarms throughout

8 Electrical

IRC AJ501.3 Requirements for Alterations when area of work < 50% of dwelling unit area

AJ501.5.2 existing service of 60 ampere, 3 wire capacity & >30amp feeders acceptable if adequate for electrical load served.

Portsmouth ammendment _ exterior emergency power disconnect

9 Energy Requirements - IECC Energy Conservation Code

Climate Zone 5

IEBC Alternations 908.1: Alterations to existing buidlings are **permitted without requiring the entire building to comply** with the energy requirements of the IECC. Alterations shall conform to energy requirements of IECC as they relate to new construction only.

Chapter 5 - Existing Building

C501.6: Historic Buildings: **Compliance is not mandatory** with report signed by registered design professional, to building officials demonstrating that compliance would threaten or destroy historic form fabric or function of building.

C503.1 Alterations to any building or structure **shall comply** with the requirements of the code for new construction.

C505.1 Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy **shall comply** with this code.

Building Envelope Requirements	Prescriptive Table C402.1.3	Performance Table C402.1.4	SHGC - sew	SHGC - n
	ci = continuous insulation			
Roof insulation - attic	R-49	u-0.037		
wood framed walls	R-13 + 5 ci; or R-20	u-0.064		
basement walls	R-15ci or R-19 btw studs			
basement floors	R-10 for 2' deep			
windows - operable	u-0.3, SHGC NR	u-0.45		



Austin Pickering House
43 Austin Street

Zoning Summary
 10/1/2022

Zone GRC	Zoning Requirements	Existing Conditions	Existing Conformance
Min Lot area (sf)	3,500	19,166	yes
min LOT area per dwelling	3,500	19,166	yes
max # dwellings allowed per lot	5.5	1.0	yes
min continuous street frontage	70	60	no
min lot depth	50	242	yes
min front yard	5	34 +/-	yes
min side yard	10	14 +/- & 0	no
min rear yard	20	176 +/-	yes
max height - sloped roof	35	29' - 9 1/2"	yes
max height - flat roof	30	n/a	n/a
Roof appurtenance	8	n/a	n/a
footprint	700	1,771	yes
building coverage - existing	35%	9.24%	yes
minimum open space	20%	85.31%	yes
attached ADU (AADU), 2br max, gross floor area	<750 sf & addition height increase only within footprint		
detached ADU (DADU), min lot area for principal dwelling + DADU	7,000		
detatched ADA, 2br max gros floor area	<750sf		
DADU min separation from primary dwelling	20		
DADU - min front wall setback behind primary front wall	10		
off street parking, per dwelling<750	1.0		
off street parking, per dwelling>750	1.3		

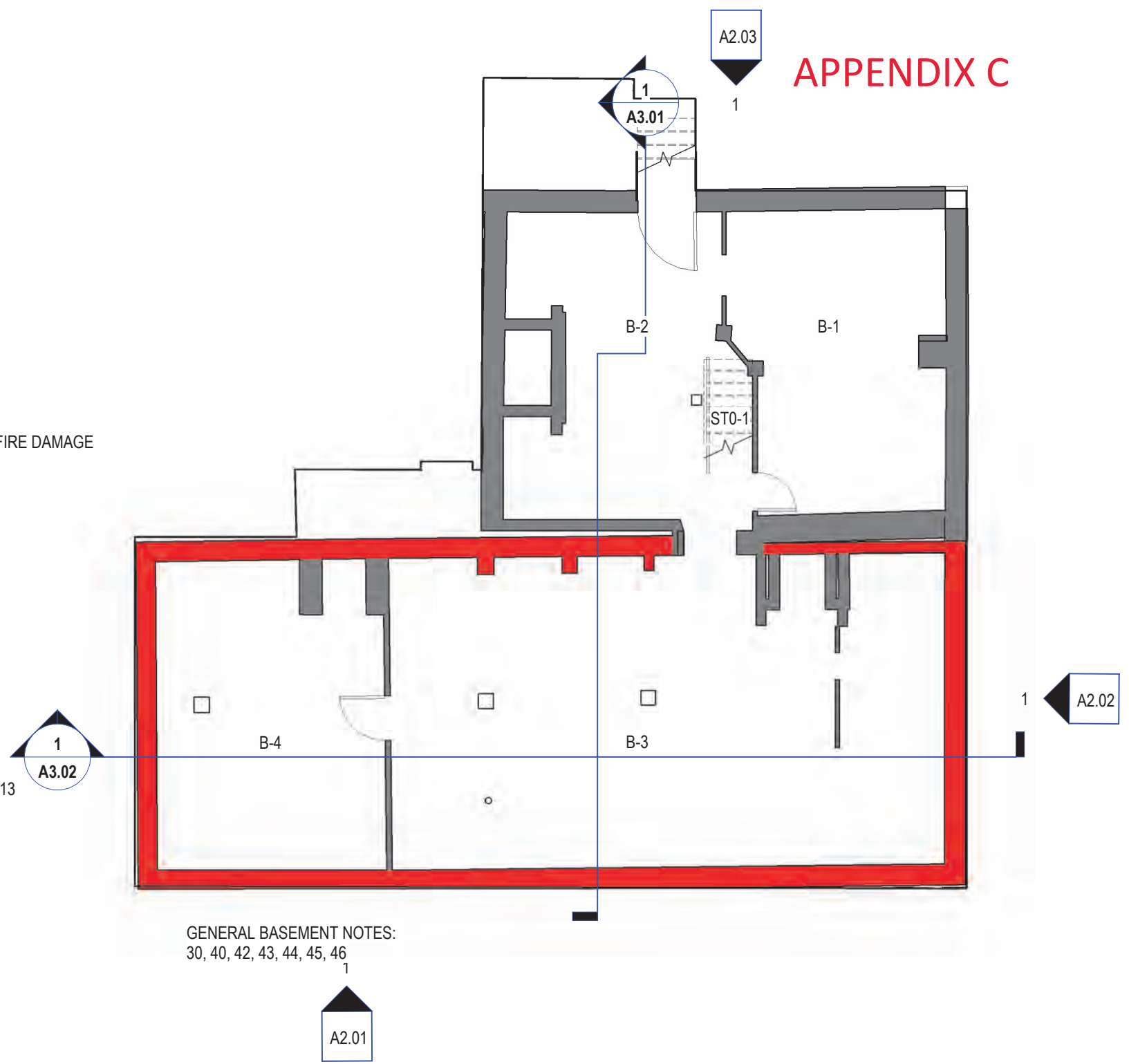
Zone: GRC General Residence C	Front Yard	Side or Rear yard
Projections allowed into required yards		
Terraces, decks, steps and stoops that are uncovered and unenclosed and are less than 3 feet in height and less than 100 square feet in area	10'	0'
Porches, porticos, steps or stoops that are covered and unenclosed and are less than 12 feet in height (to top of roof) and less than 50 square feet in area	5'	0'
Porches and porticos that are covered and enclosed and are less than 12 feet in height (to top of roof) and less than 20 square feet in area	5'	0'

APPENDIX C

KEYNOTES:

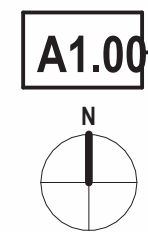
- 1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR
- 2. LIGHT FIXTURE NOT WORKING
- 3. WAINSCOT CRACKING RE: A4.00/1
- 4. MOISTURE DAMAGE RE: A4.00/2
- 5. SHUTTER DOES NOT CLOSE RE: A4.00/3
- 6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL
- 7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING
- 8. REPAINTING NEEDED
- 9. LOOSE DOOR HARDWARE - NEED REPAIR
- 10. WALLPAPER PEELING
- 11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4
- 12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5
- 13. DOOR LOOSE
- 14. CRACKED HINGES RE: A4.00/6
- 15. CEILING CRACKED
- 16. SPLIT PANELS RE: A4.00/6
- 17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6
- 18. PLUMBING EXPOSED
- 19. RUSTED PLUMBING
- 20. WALLPAPER IN TERRIBLE CONDITION RE: A4.00/6
- 21. ANT ISSUES
- 22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED
- 23. PLASTER & PAINT NEEDED

- 24. FLOOR IN NEED OF REPAIR
- 25. CARPET IN BAD CONDITION RE: A4.00/7
- 26. BROKEN UPPER SASH
- 27. CRACKED MARBLE COMMODOE RE: A4.00/10
- 28. CORREY TILES NEED RESETTING RE: A4.00/8
- 29. RAILING BROKEN RE: A4.00/9
- 30. MOLD & MILDEW
- 31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11
- 32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING
- 33. GATE ROTTED
- 34. BRICK PAVERS DISSHEVELED
- 35. WOOD NEEDS MINOR MAINTENANCE
- 36. RUSTY BULKHEAD
- 37. BRICK NEEDS CLEANING & REPOINTING
- 38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12
- 39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13
- 40. ELECTRICAL NEEDS TO BE UPDATED
- 41. 5' 10" DOOR NON-COMPLIANT
- 42. REPAIR MISSING CEILING AREAS
- 43. CLEAR ABANDONED UTILITIES
- 44. REPAIR WEATHERSEALED WINDOWS
- 45. REPAIR FLOOR SLAB @ TUNNEL ENTRANCE
- 46. REPAIR MASONRY & PARGING



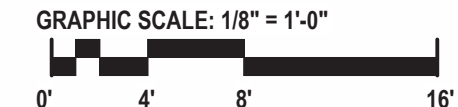
GENERAL BASEMENT NOTES:
30, 40, 42, 43, 44, 45, 46

— CIRCA 1802-04
— CIRCA 1815



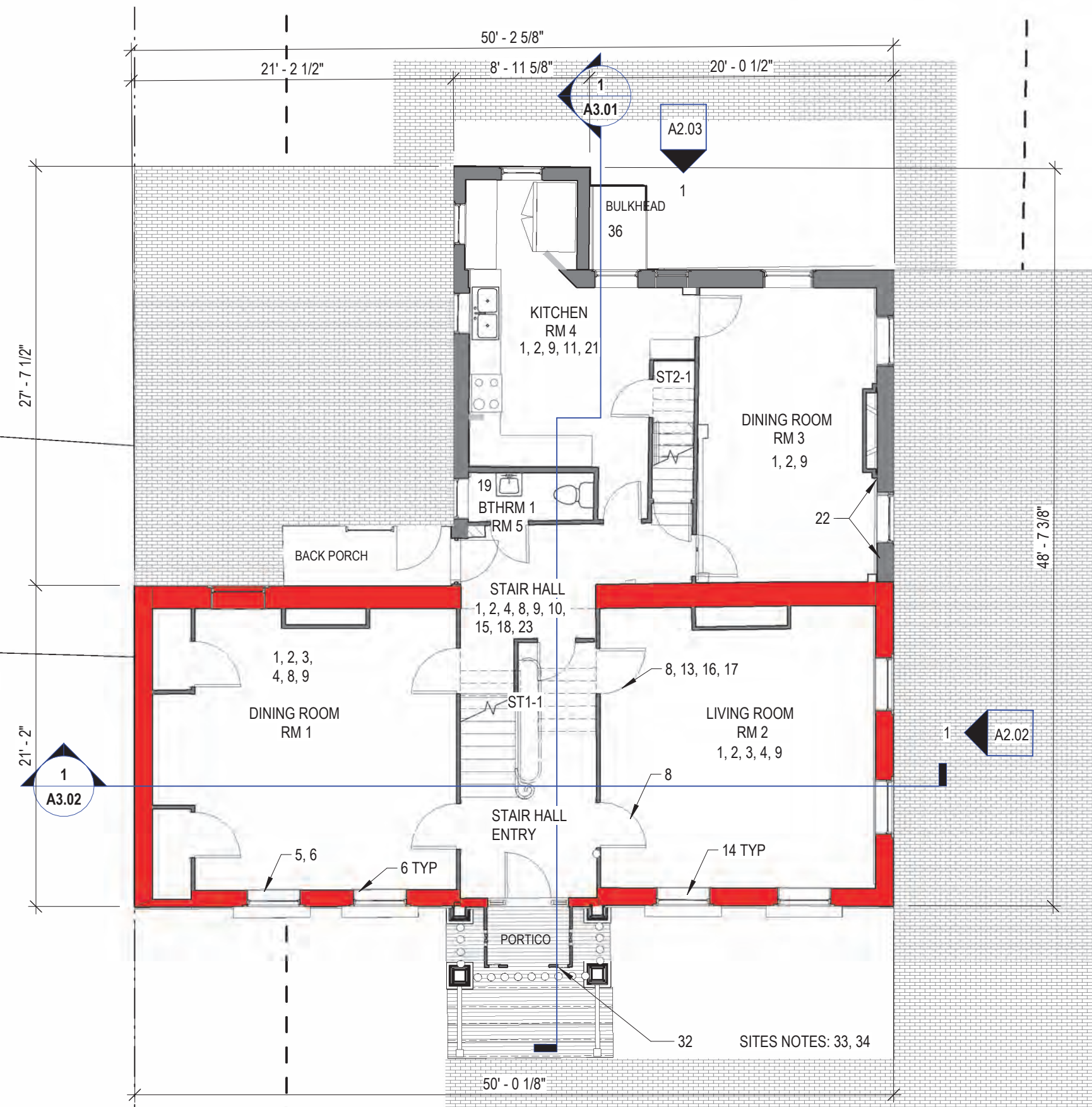
A1.00 BASEMENT FLOOR PLAN EXISTING CONDITIONS

1/8" = 1'-0"
12/1/2022

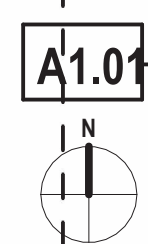


KEYNOTES:

- | | |
|---|---|
| 1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR | 24. FLOOR IN NEED OF REPAIR |
| 2. LIGHT FIXTURE NOT WORKING | 25. CARPET IN BAD CONDITION RE: A4.00/7 |
| 3. WAINSCOT CRACKING RE: A4.00/1 | 26. BROKEN UPPER SASH |
| 4. MOISTURE DAMAGE RE: A4.00/2 | 27. CRACKED MARBLE COMMODE RE: A4.00/10 |
| 5. SHUTTER DOES NOT CLOSE RE: A4.00/3 | 28. CORREY TILES NEED RESETTING RE: A4.00/8 |
| 6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL | 29. RAILING BROKEN RE: A4.00/9 |
| 7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING | 30. MOLD & MILDEW |
| 8. REPAINTING NEEDED | 31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11 |
| 9. LOOSE DOOR HARDWARE - NEED REPAIR | 32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING |
| 10. WALLPAPER PEELING | 33. GATE ROTTED |
| 11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4 | 34. BRICK PAVERS DISSHEVELED |
| 12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5 | 35. WOOD NEEDS MINOR MAINTENANCE |
| 13. DOOR LOOSE | 36. RUSTY BULKHEAD |
| 14. CRACKED HINGES RE: A4.00/6 | 37. BRICK NEEDS CLEANING & REPOINTING |
| 15. CEILING CRACKED | 38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12 |
| 16. SPLIT PANELS RE: A4.00/6 | 39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13 |
| 17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6 | 40. ELECTRICAL NEEDS TO BE UPDATED |
| 18. PLUMBING EXPOSED | 41. 5' 10" DOOR NON-COMPLIANT |
| 19. RUSTED PLUMBING | 42. REPAIR MISSING CEILING AREAS |
| 20. WALLPAPER IN POOR CONDITION RE: A4.00/6 | 43. CLEAR ABANDONED UTILITIES |
| 21. ANT ISSUES | 44. REPAIR WEATHERSEALED WINDOWS |
| 22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED | 45. REPAIR SLAB @ HOLE IN FLOOR |
| 23. PLASTER & PAINT NEEDED | 46. REPAIR MASONRY & PARGING |



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CIRCA 1815



**A1.01 FIRST FLOOR PLAN
 EXISTING CONDITIONS**

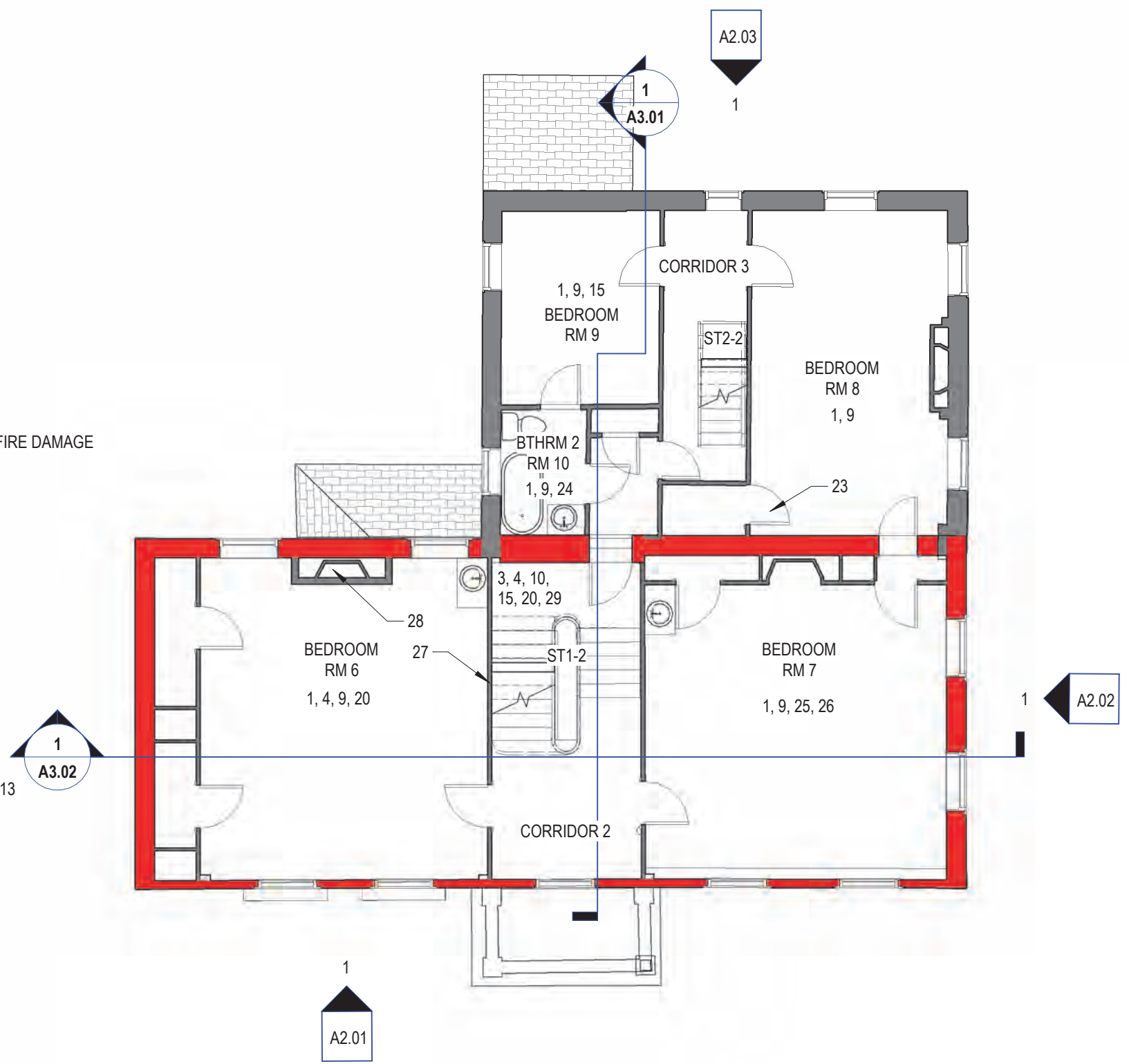
1/8" = 1'-0"
 12/1/2022
 GRAPHIC SCALE: 1/8" = 1'-0"
 0' 4' 8' 16'



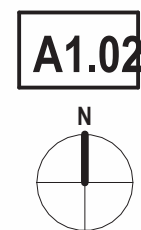
KEYNOTES:

1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR
2. LIGHT FIXTURE NOT WORKING
3. WAINSCOT CRACKING RE: A4.00/1
4. MOISTURE DAMAGE RE: A4.00/2
5. SHUTTER DOES NOT CLOSE RE: A4.00/3
6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL
7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING
8. REPAINTING NEEDED
9. LOOSE DOOR HARDWARE - NEED REPAIR
10. WALLPAPER PEELING
11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4
12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5
13. DOOR LOOSE
14. CRACKED HINGES RE: A4.00/6
15. CEILING CRACKED
16. SPLIT PANELS RE: A4.00/6
17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6
18. PLUMBING EXPOSED
19. RUSTED PLUMBING
20. WALLPAPER IN POOR CONDITION RE: A4.00/6
21. ANT ISSUES
22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED
23. PLASTER & PAINT NEEDED

24. FLOOR IN NEED OF REPAIR
25. CARPET IN BAD CONDITION RE: A4.00/7
26. BROKEN UPPER SASH
27. CRACKED MARBLE COMMODE RE: A4.00/10
28. CORREY TILES NEED RESETTING RE: A4.00/8
29. RAILING BROKEN RE: A4.00/9
30. MOLD & MILDEW
31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11
32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING
33. GATE ROTTED
34. BRICK PAVERS DISSHEVELED
35. WOOD NEEDS MINOR MAINTENANCE
36. RUSTY BULKHEAD
37. BRICK NEEDS CLEANING & REPOINTING
38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12
39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13
40. ELECTRICAL NEEDS TO BE UPDATED
41. 5' 10" DOOR NON-COMPLIANT
42. REPAIR MISSING CEILING AREAS
43. CLEAR ABANDONED UTILITIES
44. REPAIR WEATHERSEALED WINDOWS
45. REPAIR SLAB @ HOLE IN FLOOR
46. REPAIR MASONRY & PARGING



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█ CIRCA 1815



**A1.02 SECOND FLOOR PLAN
EXISTING CONDITIONS**

1/8" = 1'-0"
12/1/2022

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16'

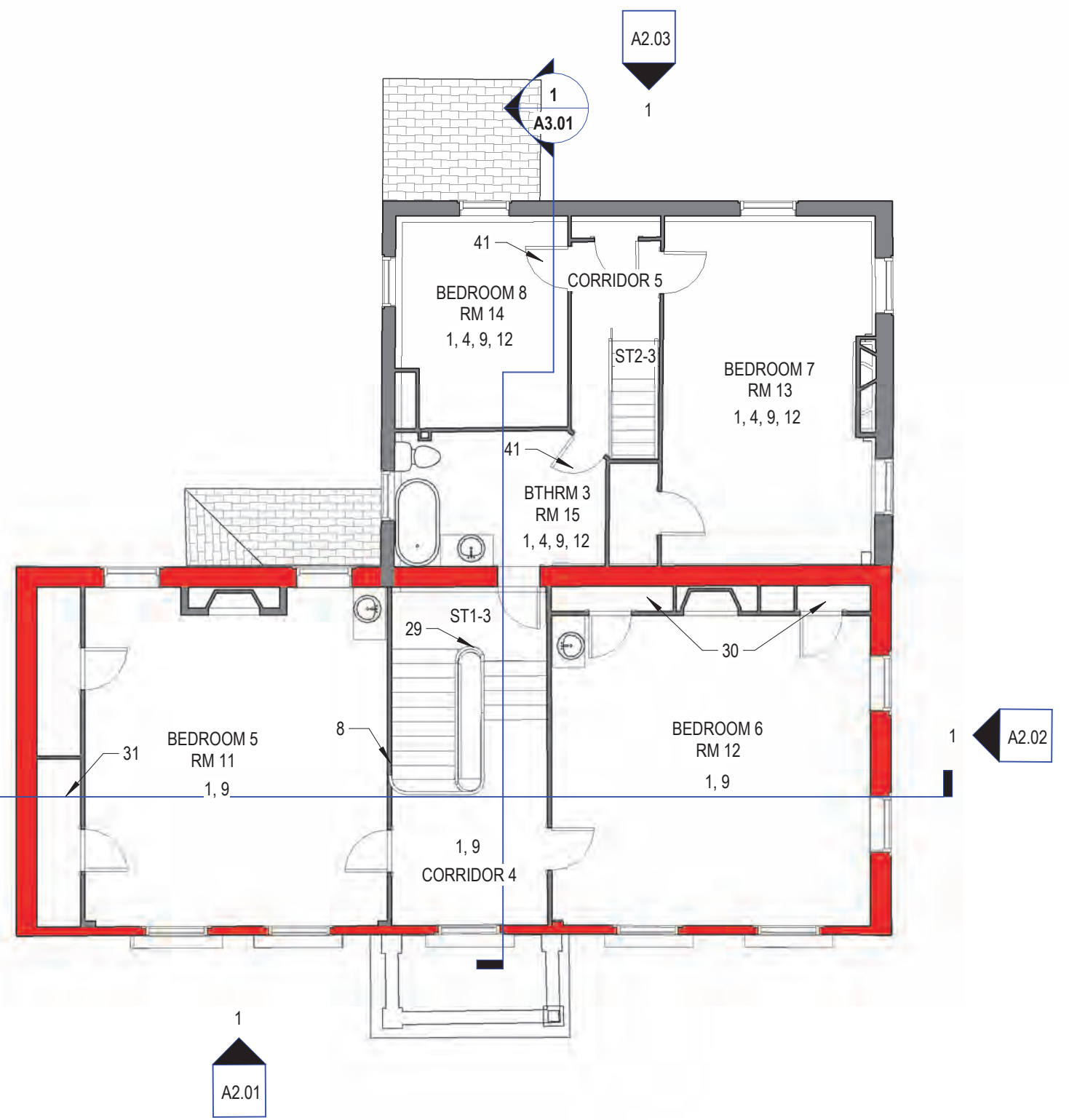


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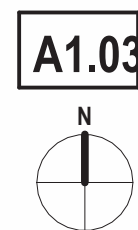
KEYNOTES:

1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR
2. LIGHT FIXTURE NOT WORKING
3. WAINSCOT CRACKING RE: A4.00/1
4. MOISTURE DAMAGE RE: A4.00/2
5. SHUTTER DOES NOT CLOSE RE: A4.00/3
6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL
7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING
8. REPAINTING NEEDED
9. LOOSE DOOR HARDWARE - NEED REPAIR
10. WALLPAPER PEELING
11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4
12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5
13. DOOR LOOSE
14. CRACKED HINGES RE: A4.00/6
15. CEILING CRACKED
16. SPLIT PANELS RE: A4.00/6
17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6
18. PLUMBING EXPOSED
19. RUSTED PLUMBING
20. WALLPAPER IN POOR CONDITION RE: A4.00/6
21. ANT ISSUES
22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED
23. PLASTER & PAINT NEEDED

24. FLOOR IN NEED OF REPAIR
25. CARPET IN BAD CONDITION RE: A4.00/7
26. BROKEN UPPER SASH
27. CRACKED MARBLE COMMODE RE: A4.00/10
28. CORREY TILES NEED RESETTING RE: A4.00/8
29. RAILING BROKEN RE: A4.00/9
30. MOLD & MILDEW
31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11
32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING
33. GATE ROTTED
34. BRICK PAVERS DISSHEVELED
35. WOOD NEEDS MINOR MAINTENANCE
36. RUSTY BULKHEAD
37. BRICK NEEDS CLEANING & REPOINTING
38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12
39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13
40. ELECTRICAL NEEDS TO BE UPDATED
41. 5' 10" DOOR NON-COMPLIANT
42. REPAIR MISSING CEILING AREAS
43. CLEAR ABANDONED UTILITIES
44. REPAIR WEATHERSEALED WINDOWS
45. REPAIR SLAB @ HOLE IN SLAB
46. REPAIR MASONRY & PARGING



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█ CIRCA 1815



**A1.03 THIRD FLOOR PLAN
 EXISTING CONDITIONS**

1/8" = 1'-0"
 12/1/2022

GRAPHIC SCALE: 1/8" = 1'-0"
 0' 4' 8' 16'



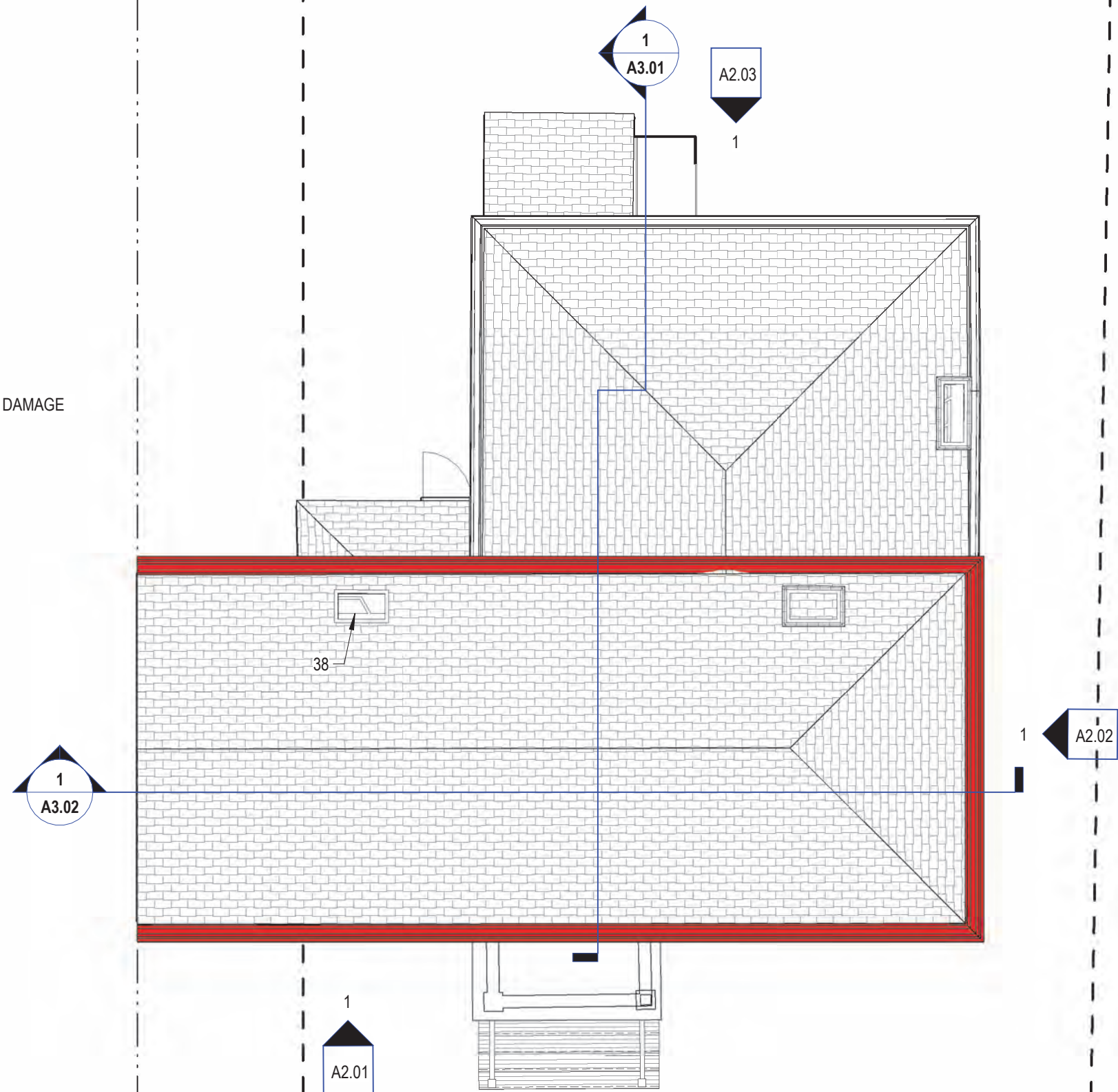
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KEYNOTES:

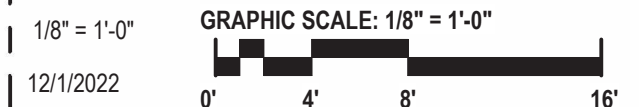
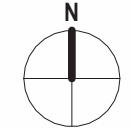
1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR
2. LIGHT FIXTURE NOT WORKING
3. WAINSCOT CRACKING RE: A4.00/1
4. MOISTURE DAMAGE RE: A4.00/2
5. SHUTTER DOES NOT CLOSE RE: A4.00/3
6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL
7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING
8. REPAINTING NEEDED
9. LOOSE DOOR HARDWARE - NEED REPAIR
10. WALLPAPER PEELING
11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4
12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5
13. DOOR LOOSE
14. CRACKED HINGES RE: A4.00/6
15. CEILING CRACKED
16. SPLIT PANELS RE: A4.00/6
17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6
18. PLUMBING EXPOSED
19. RUSTED PLUMBING
20. WALLPAPER IN TERRIBLE CONDITION RE: A4.00/6
21. ANT ISSUES
22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED
23. PLASTER & PAINT NEEDED

24. FLOOR IN NEED OF REPAIR
25. CARPET IN BAD CONDITION RE: A4.00/7
26. BROKEN UPPER SASH
27. CRACKED MARBLE COMMODE RE: A4.00/10
28. CORREY TILES NEED RESETTING RE: A4.00/8
29. RAILING BROKEN RE: A4.00/9
30. MOLD & MILDEW
31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11
32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING
33. GATE ROTTED
34. BRICK PAVERS DISSHEVELED
35. WOOD NEEDS MINOR MAINTENANCE
36. RUSTY BULKHEAD
37. BRICK NEEDS CLEANING & REPOINTING
38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12
39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13
40. ELECTRICAL NEEDS TO BE UPDATED
41. 5' 10" DOOR NON-COMPLIANT
42. REPAIR MISSING CEILING AREAS
43. CLEAR ABANDONED UTILITIES
44. REPAIR WEATHERSEALED WINDOWS
45. REPAIR FLOOR SLAB @ TUNNEL ENTRANCE
46. REPAIR MASONRY & PARGING

- █ CIRCA 1802-04
- █ CIRCA 1815



A1.04 ROOF PLAN
EXISTING CONDITIONS

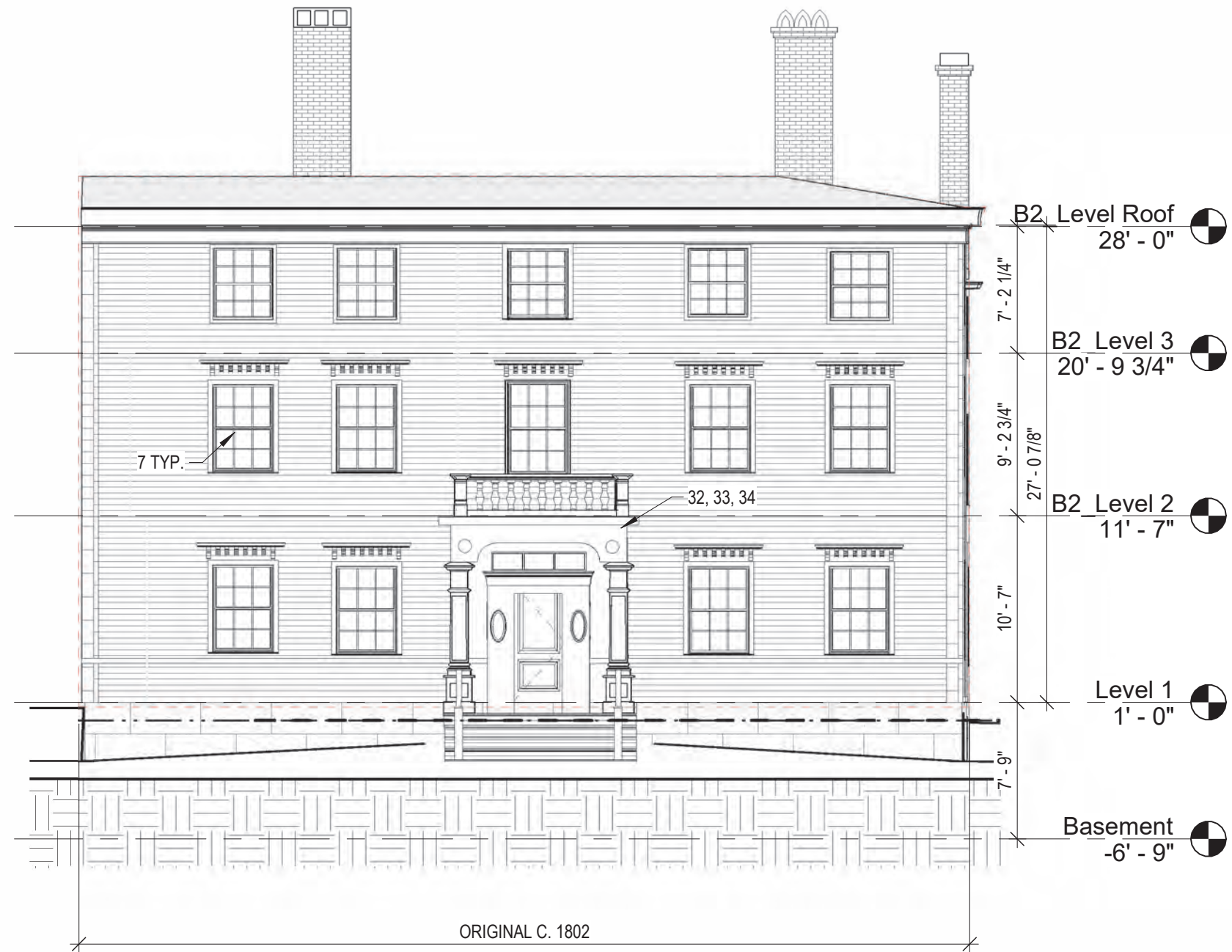


12/1/2022



KEYNOTES:

- | | |
|---|---|
| 1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR | 24. FLOOR IN NEED OF REPAIR |
| 2. LIGHT FIXTURE NOT WORKING | 25. CARPET IN BAD CONDITION RE: A4.00/7 |
| 3. WAINSCOT CRACKING RE: A4.00/1 | 26. BROKEN UPPER SASH |
| 4. MOISTURE DAMAGE RE: A4.00/2 | 27. CRACKED MARBLE COMMODE RE: A4.00/10 |
| 5. SHUTTER DOES NOT CLOSE RE: A4.00/3 | 28. CORREY TILES NEED RESETTING RE: A4.00/8 |
| 6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL | 29. RAILING BROKEN RE: A4.00/9 |
| 7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING | 30. MOLD & MILDEW |
| 8. REPAINTING NEEDED | 31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11 |
| 9. LOOSE DOOR HARDWARE - NEED REPAIR | 32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING |
| 10. WALLPAPER PEELING | 33. GATE ROTTED |
| 11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4 | 34. BRICK PAVERS DISSHEVELED |
| 12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5 | 35. WOOD NEEDS MINOR MAINTENANCE |
| 13. DOOR LOOSE | 36. RUSTY BULKHEAD |
| 14. CRACKED HINGES RE: A4.00/6 | 37. BRICK NEEDS CLEANING & REPOINTING |
| 15. CEILING CRACKED | 38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12 |
| 16. SPLIT PANELS RE: A4.00/6 | 39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13 |
| 17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6 | 40. ELECTRICAL NEEDS TO BE UPDATED |
| 18. PLUMBING EXPOSED | 41. 5' 10" DOOR NON-COMPLIANT |
| 19. RUSTED PLUMBING | 42. REPAIR MISSING CEILING AREAS |
| 20. WALLPAPER IN TERRIBLE CONDITION RE: A4.00/6 | 43. CLEAR ABANDONED UTILITIES |
| 21. ANT ISSUES | 44. REPAIR WEATHERSEALED WINDOWS |
| 22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED | 45. REPAIR FLOOR SLAB @ TUNNEL ENTRANCE |
| 23. PLASTER & PAINT NEEDED | 46. REPAIR MASONRY & PARGING |



**A2.01 SOUTH EXTERIOR ELEVATION
EXISTING CONDITIONS**

1/8" = 1'-0"

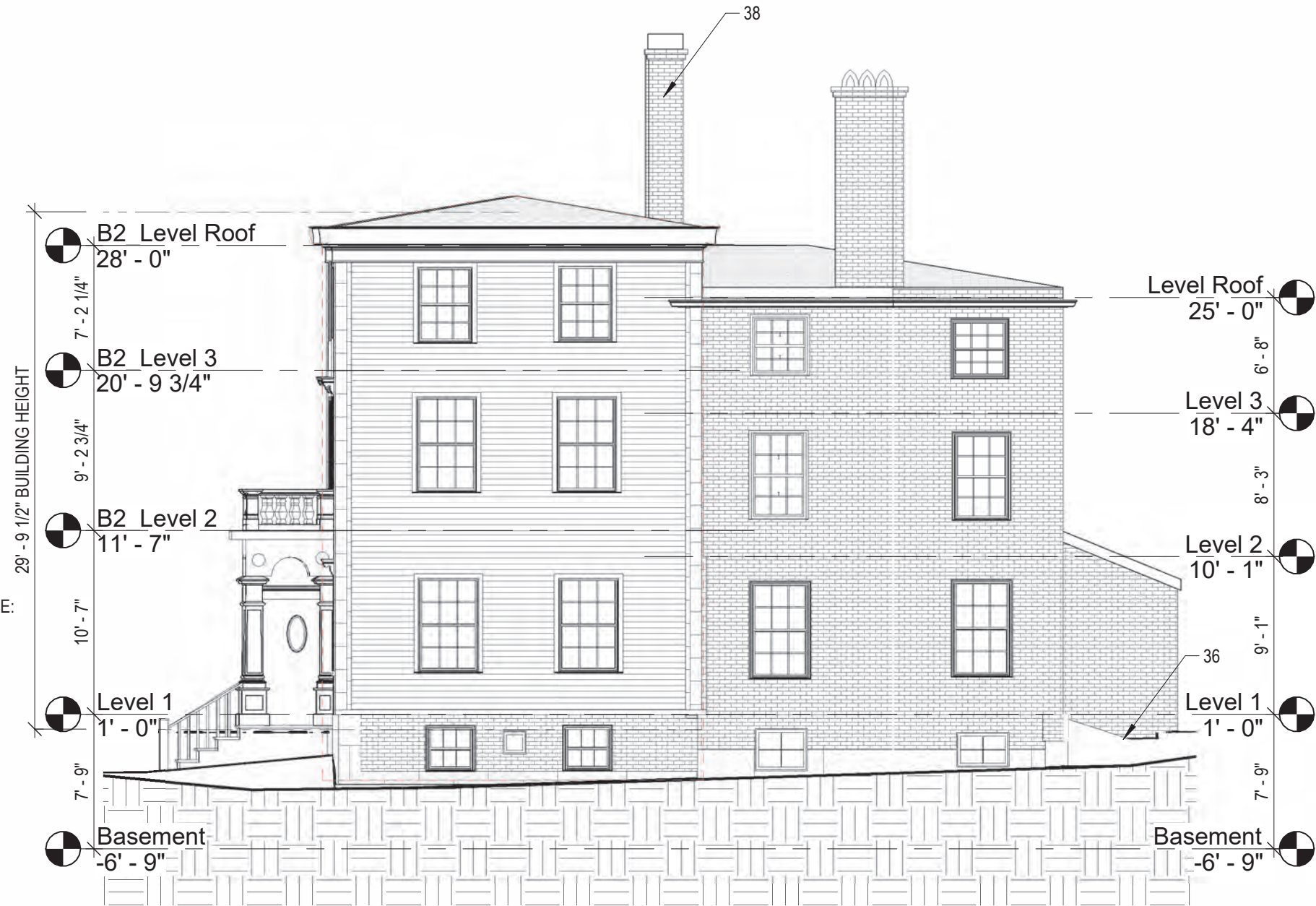
12/1/2022



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KEYNOTES:

- | | |
|---|---|
| 1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR | 24. FLOOR IN NEED OF REPAIR |
| 2. LIGHT FIXTURE NOT WORKING | 25. CARPET IN BAD CONDITION RE: A4.00/7 |
| 3. WAINSCOT CRACKING RE: A4.00/1 | 26. BROKEN UPPER SASH |
| 4. MOISTURE DAMAGE RE: A4.00/2 | 27. CRACKED MARBLE COMMODE RE: A4.00/10 |
| 5. SHUTTER DOES NOT CLOSE RE: A4.00/3 | 28. CORREY TILES NEED RESETTING RE: A4.00/8 |
| 6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL | 29. RAILING BROKEN RE: A4.00/9 |
| 7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING | 30. MOLD & MILDEW |
| 8. REPAINTING NEEDED | 31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11 |
| 9. LOOSE DOOR HARDWARE - NEED REPAIR | 32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING |
| 10. WALLPAPER PEELING | 33. GATE ROTTED |
| 11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4 | 34. BRICK PAVERS DISSHEVELED |
| 12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5 | 35. WOOD NEEDS MINOR MAINTENANCE |
| 13. DOOR LOOSE | 36. RUSTY BULKHEAD |
| 14. CRACKED HINGES RE: A4.00/6 | 37. BRICK NEEDS CLEANING & REPOINTING |
| 15. CEILING CRACKED | 38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12 |
| 16. SPLIT PANELS RE: A4.00/6 | 39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13 |
| 17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6 | 40. ELECTRICAL NEEDS TO BE UPDATED |
| 18. PLUMBING EXPOSED | 41. 5' 10" DOOR NON-COMPLIANT |
| 19. RUSTED PLUMBING | 42. REPAIR MISSING CEILING AREAS |
| 20. WALLPAPER IN TERRIBLE CONDITION RE: A4.00/6 | 43. CLEAR ABANDONED UTILITIES |
| 21. ANT ISSUES | 44. REPAIR WEATHERSEALED WINDOWS |
| 22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED | 45. REPAIR FLOOR SLAB @ TUNNEL ENTRANCE |
| 23. PLASTER & PAINT NEEDED | 46. REPAIR MASONRY & PARGING |



**A2.02 EAST EXTERIOR ELEVATION
EXISTING CONDITIONS**

1/8" = 1'-0"

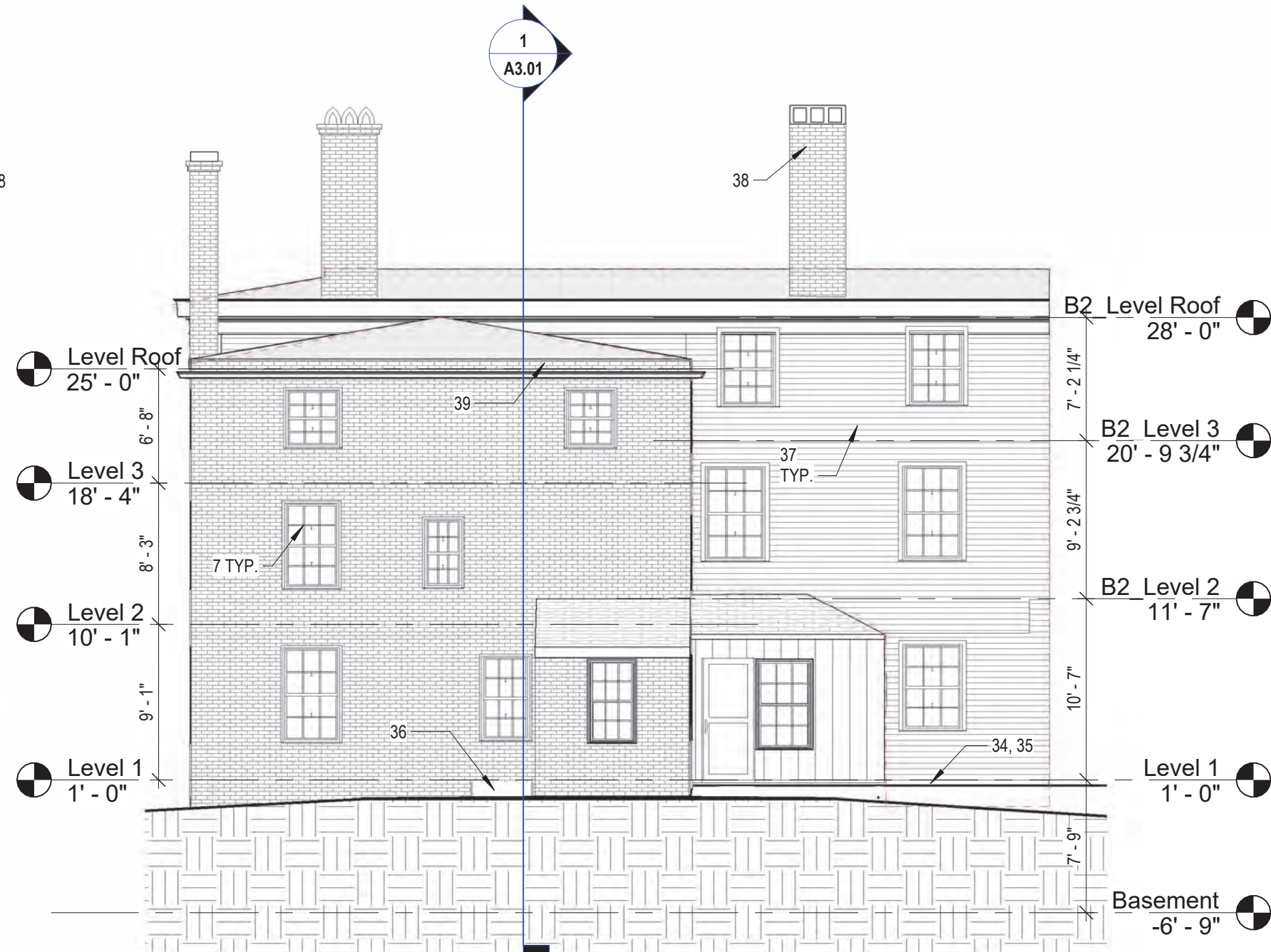
12/1/2022



KEYNOTES:

1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR
2. LIGHT FIXTURE NOT WORKING
3. WAINSCOT CRACKING RE: A4.00/1
4. MOISTURE DAMAGE RE: A4.00/2
5. SHUTTER DOES NOT CLOSE RE: A4.00/3
6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL
7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING
8. REPAINTING NEEDED
9. LOOSE DOOR HARDWARE - NEED REPAIR
10. WALLPAPER PEELING
11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4
12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5
13. DOOR LOOSE
14. CRACKED HINGES RE: A4.00/6
15. CEILING CRACKED
16. SPLIT PANELS RE: A4.00/6
17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6
18. PLUMBING EXPOSED
19. RUSTED PLUMBING
20. WALLPAPER IN TERRIBLE CONDITION RE: A4.00/6
21. ANT ISSUES
22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED
23. PLASTER & PAINT NEEDED

24. FLOOR IN NEED OF REPAIR
25. CARPET IN BAD CONDITION RE: A4.00/7
26. BROKEN UPPER SASH
27. CRACKED MARBLE COMMODE RE: A4.00/10
28. CORREY TILES NEED RESETTING RE: A4.00/8
29. RAILING BROKEN RE: A4.00/9
30. MOLD & MILDEW
31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11
32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING
33. GATE ROTTED
34. BRICK PAVERS DISSHEVELED
35. WOOD NEEDS MINOR MAINTENANCE
36. RUSTY BULKHEAD
37. BRICK NEEDS CLEANING & REPOINTING
38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12
39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13
40. ELECTRICAL NEEDS TO BE UPDATED
41. 5' 10" DOOR NON-COMPLIANT
42. REPAIR MISSING CEILING AREAS
43. CLEAR ABANDONED UTILITIES
44. REPAIR WEATHERSEALED WINDOWS
45. REPAIR FLOOR SLAB @ TUNNEL ENTRANCE
46. REPAIR MASONRY & PARGING



A2.03 NORTH EXTERIOR ELEVATION
EXISTING CONDITIONS

1/8" = 1'-0"

12/1/2022



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A2.11

SOUTH EXTERIOR ELEVATION PHOTO
EXISTING CONDITIONS

12/1/2022



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A2.12 EAST EXTERIOR ELEVATION PHOTO
EXISTING CONDITIONS

12/1/2022



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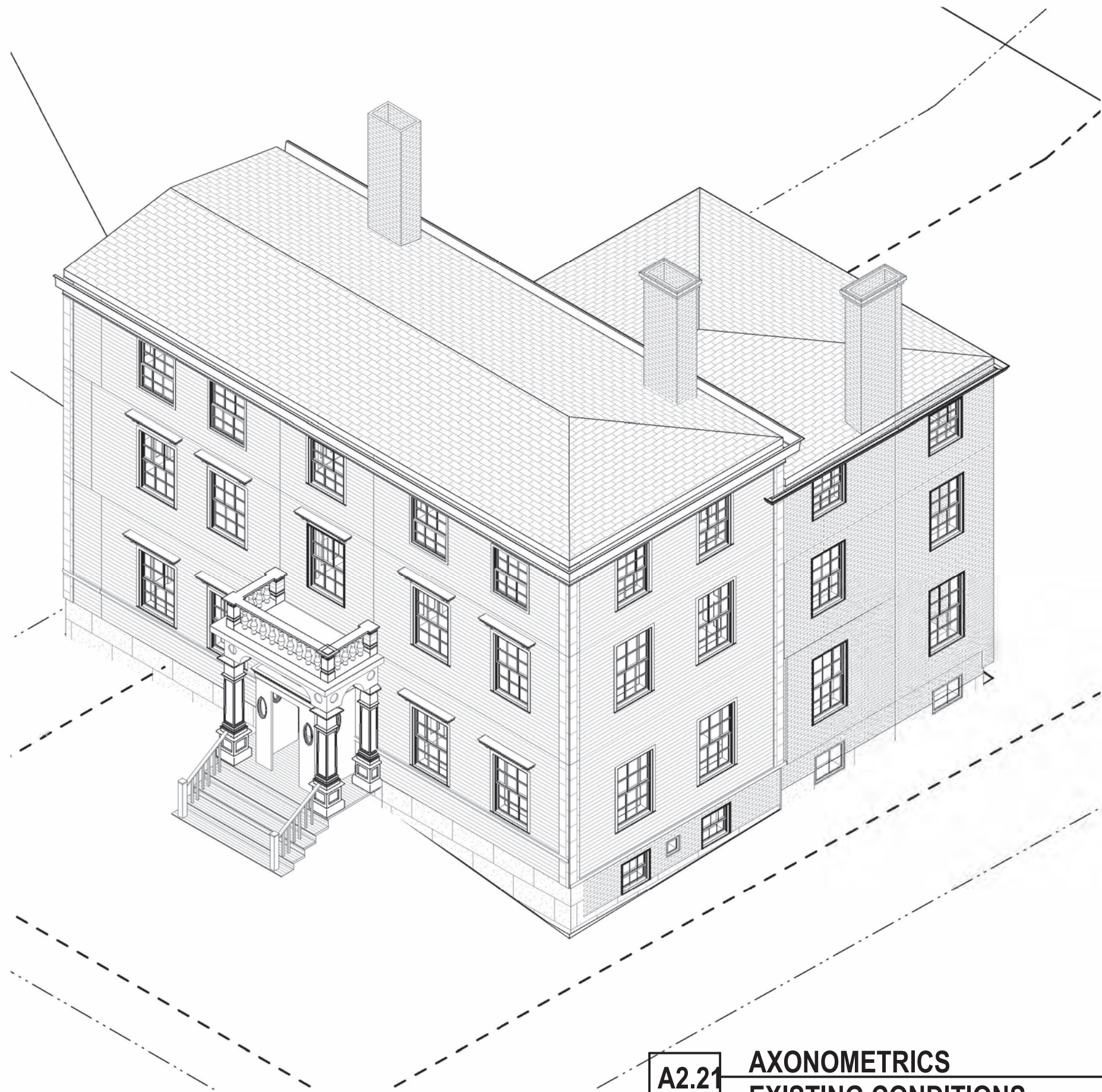


A2.13 NORTH EXTERIOR ELEVATION PHOTO
EXISTING CONDITIONS

12/1/2022



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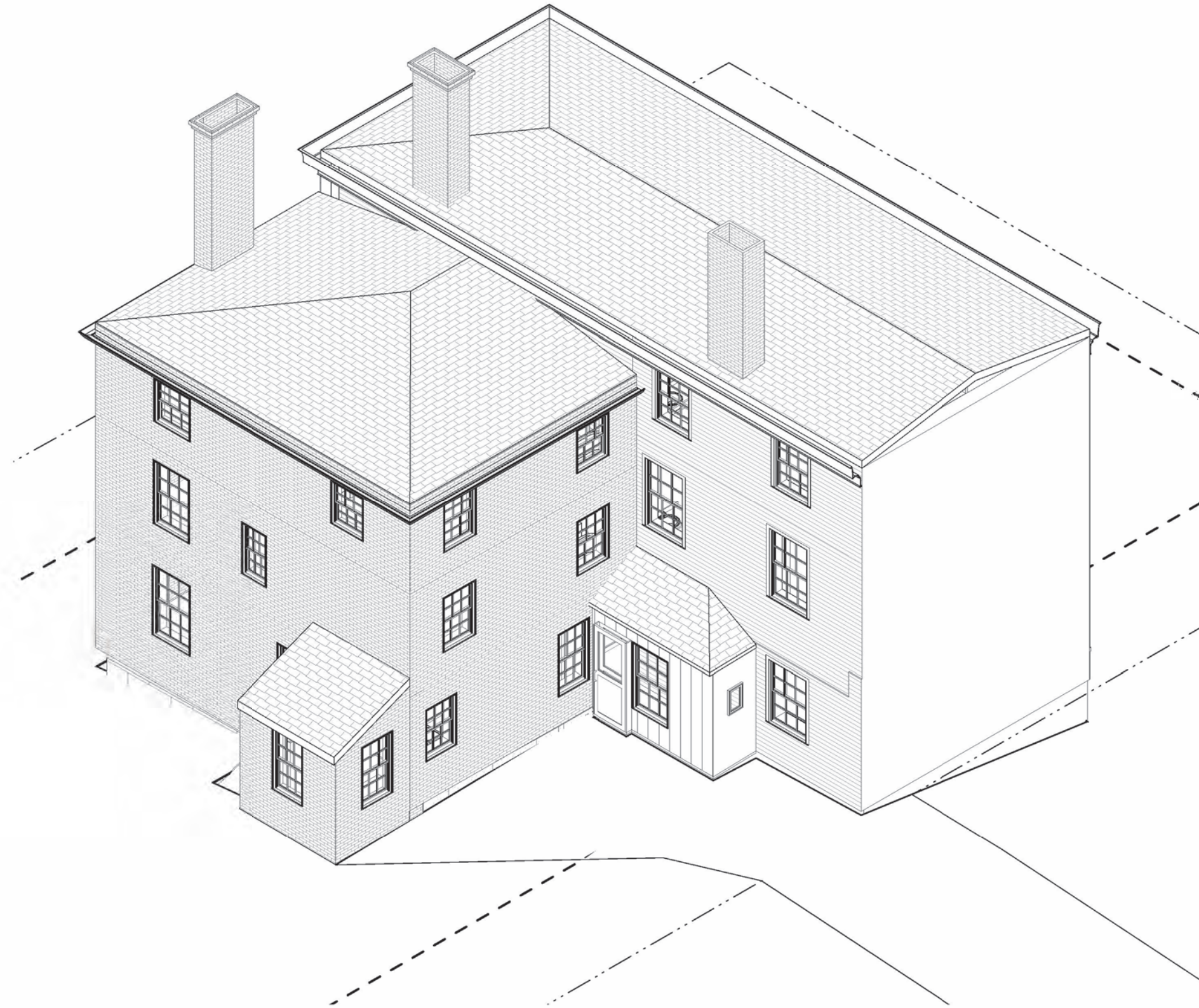


A2.21 AXONOMETRICS
EXISTING CONDITIONS

12/1/2022



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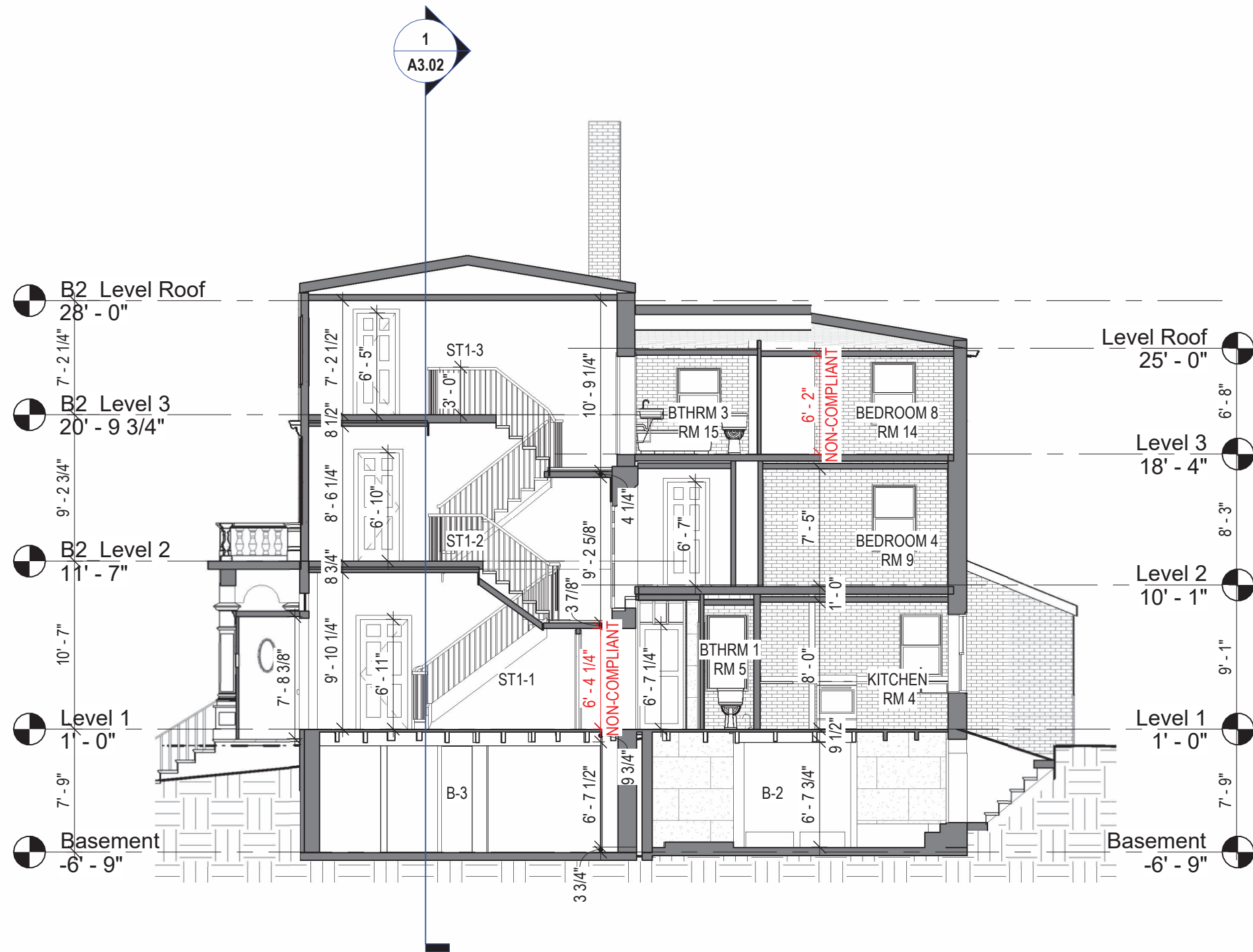


A2.22 AXONOMETRICS
EXISTING CONDITIONS

12/1/2022



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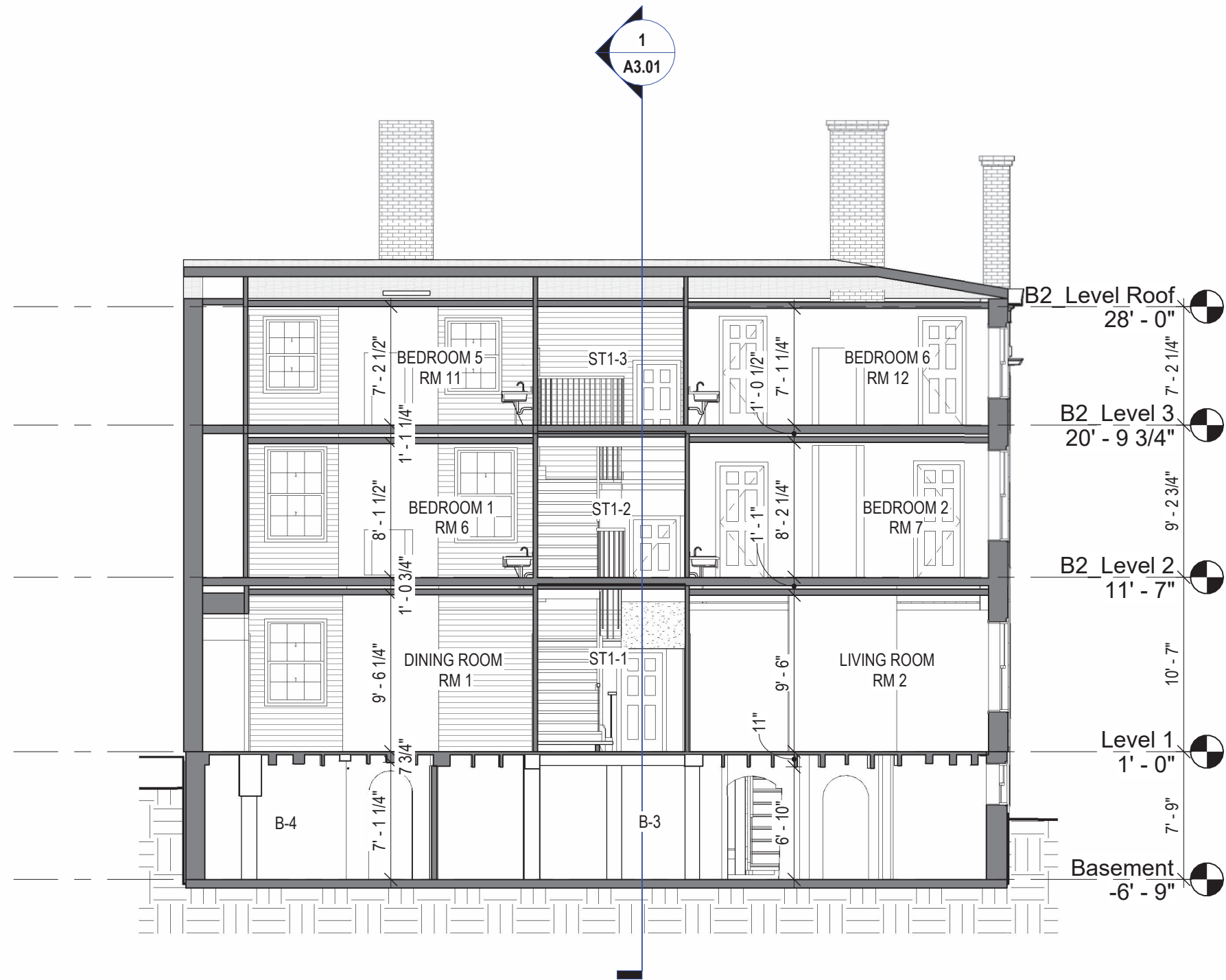
**A3.01 BUILDING SECTIONS
EXISTING CONDITIONS**

1/8" = 1'-0"

12/1/2022



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**A3.02 BUILDING SECTIONS
EXISTING CONDITIONS**

1/8" = 1'-0"

12/1/2022



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A ROOM 1



B ROOM 2



C ROOM 3



D ROOM 6



E ROOM 7



F ROOM 8



G ROOM 11



H ROOM 12



I ROOM 13



J BASEMENT

A4.01 INTERIOR CONDITIONS
EXISTING CONDITIONS

12/1/2022



KEYNOTES:

1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR
2. LIGHT FIXTURE NOT WORKING
3. WAINSCOT CRACKING RE: A4.00/1
4. MOISTURE DAMAGE RE: A4.00/2
5. SHUTTER DOES NOT CLOSE RE: A4.00/3
6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL
7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING
8. REPAINTING NEEDED
9. LOOSE DOOR HARDWARE - NEED REPAIR
10. WALLPAPER PEELING
11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4
12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5
13. DOOR LOOSE
14. CRACKED HINGES RE: A4.00/6
15. CEILING CRACKED
16. SPLIT PANELS RE: A4.00/6
17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6
18. PLUMBING EXPOSED
19. RUSTED PLUMBING
20. WALLPAPER IN TERRIBLE CONDITION RE: A4.00/6
21. ANT ISSUES
22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED
23. PLASTER & PAINT NEEDED
24. FLOOR IN NEED OF REPAIR
25. CARPET IN BAD CONDITION RE: A4.00/7
26. BROKEN UPPER SASH
27. CRACKED MARBLE COMMUNE RE: A4.00/10
28. CORREY TILES NEED RESETTING RE: A4.00/8
29. RAILING BROKEN RE: A4.00/9
30. MOLD & MILDEW
31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11
32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING
33. GATE ROTTED
34. BRICK PAVERS DISSHEVELED
35. WOOD NEEDS MINOR MAINTENANCE
36. RUSTY BULKHEAD
37. BRICK NEEDS CLEANING & REPOINTING
38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12
39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13
40. ELECTRICAL NEEDS TO BE UPDATED
41. 5' 10" DOOR
42. REPAIR MISSING CEILING AREAS
43. CLEAR ABANDONED UTILITIES
44. REPAIR WEATHERSEALED WINDOWS
45. REPAIR FLOOR SLAB @ TUNNEL ENTRANCE
46. REPAIR MASONRY & PARGING



K TYPICAL - KEYNOTE 3



L TYPICAL - KEYNOTE 4



M ROOM 1 - KEYNOTE 5, 6, 7



N TYPICAL - KEYNOTE 10



O ROOM 4 - KEYNOTE 11



P TYPICAL - KEYNOTE 12



Q ROOM 2 - KEYNOTE 1, 2, 3, 4, 8, 9, 13, 16, 17

A4.02 **INTERIOR CONDITIONS**
EXISTING CONDITIONS

12/1/2022

KEYNOTES:

1. ELECTRICAL OUTLETS - NON COMPLIANT & NEED BASIC REPAIR
2. LIGHT FIXTURE NOT WORKING
3. WAINSCOT CRACKING RE: A4.00/1
4. MOISTURE DAMAGE RE: A4.00/2
5. SHUTTER DOES NOT CLOSE RE: A4.00/3
6. PAINTED ROPE PULLEY SYSTEMS FOR WINDOWS NEED OVERHAUL
7. WINDOWS LOOSE - NEED REPAINTING & REPOINTING
8. REPAINTING NEEDED
9. LOOSE DOOR HARDWARE - NEED REPAIR
10. WALLPAPER PEELING
11. MISALIGNMENT IN CROWN MOULDING RE: A4.00/4
12. LOW CEILING DOES NOT MEET CODE RE: A4.00/5
13. DOOR LOOSE
14. CRACKED HINGES RE: A4.00/6
15. CEILING CRACKED
16. SPLIT PANELS RE: A4.00/6
17. DOOR OUT OF PLUMB DOES NOT LATCH RE: A4.00/6
18. PLUMBING EXPOSED
19. RUSTED PLUMBING
20. WALLPAPER IN TERRIBLE CONDITION RE: A4.00/6
21. ANT ISSUES
22. PLASTER DETERIORATION WITH CLOTH WIRING EXPOSED
23. PLASTER & PAINT NEEDED
24. FLOOR IN NEED OF REPAIR
25. CARPET IN BAD CONDITION RE: A4.00/7
26. BROKEN UPPER SASH
27. CRACKED MARBLE COMMODE RE: A4.00/10
28. CORREY TILES NEED RESETTING RE: A4.00/8
29. RAILING BROKEN RE: A4.00/9
30. MOLD & MILDEW
31. LADDER TO ATTIC IN CLOSET - ATTIC HAD PREVIOUS FIRE DAMAGE RE: A4.00/11
32. BALUSTRADE WOOD NEEDS REPAIR & REPAINTING
33. GATE ROTTED
34. BRICK PAVERS DISSHEVELED
35. WOOD NEEDS MINOR MAINTENANCE
36. RUSTY BULKHEAD
37. BRICK NEEDS CLEANING & REPOINTING
38. CHIMNEY TOPS IN NEED OF REPAIR RE: A4.00/12
39. DISCONNECTED GUTTERS & DOWNSPOUTS RE: A4.00/13
40. ELECTRICAL NEEDS TO BE UPDATED
41. 5' 10" DOOR
42. REPAIR MISSING CEILING AREAS
43. CLEAR ABANDONED UTILITIES
44. REPAIR WEATHERSEALED WINDOWS
45. REPAIR FLOOR SLAB @ TUNNEL ENTRANCE
46. REPAIR MASONRY & PARGING



R ROOM S1-2 - KEYNOTE 29



S ROOM 6 - KEYNOTE 1, 4, 9, 20, 27



T TYPICAL - KEYNOTE 28



U ROOM 11 - KEYNOTE 31



V TYPICAL - KEYNOTE 37, 38, 39

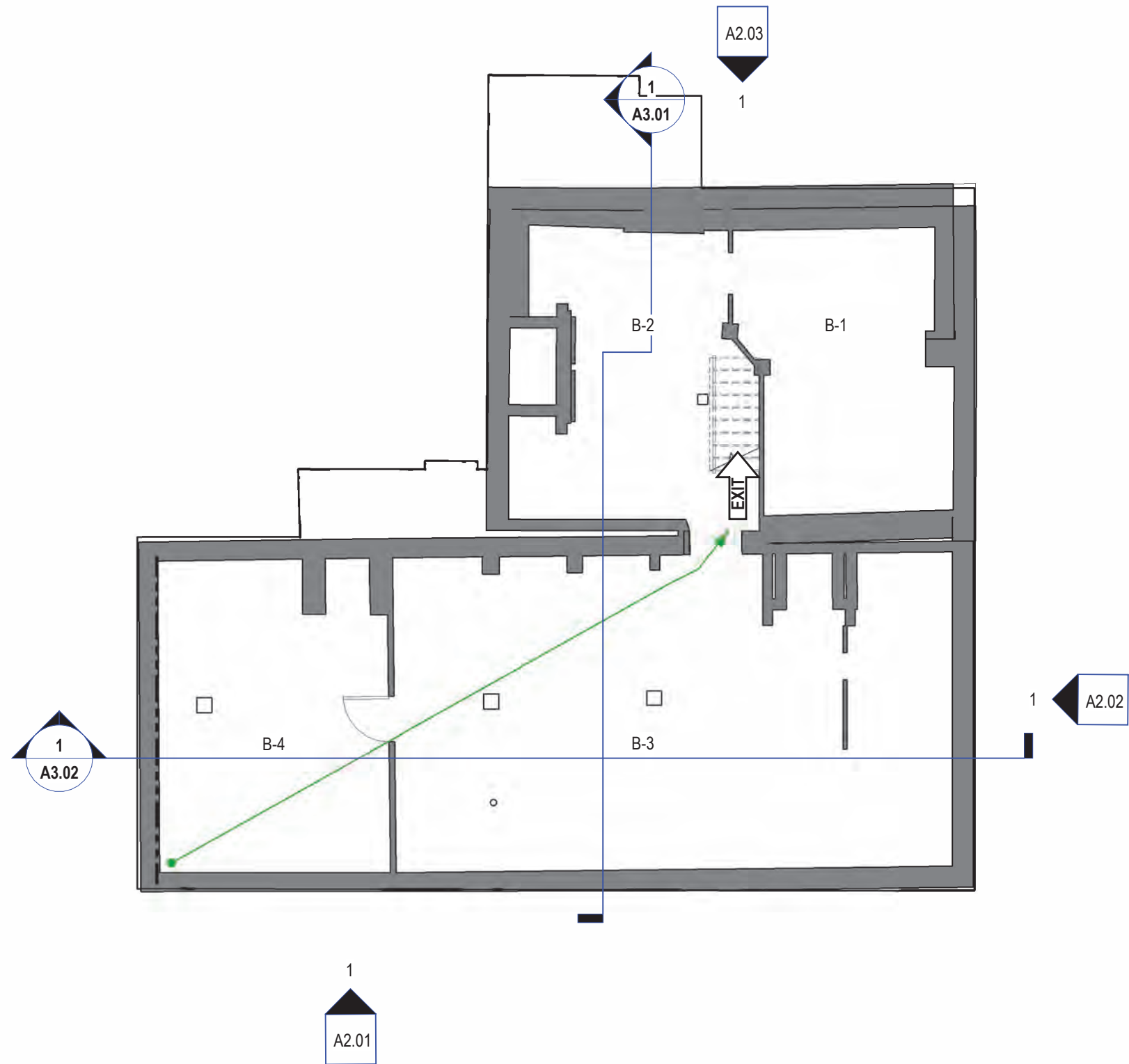


W BASEMENT - KEYNOTE 44



X BASEMENT - KEYNOTE 30, 42, 43, 45, 46

**A4.03 INTERIOR CONDITIONS
EXISTING CONDITIONS**



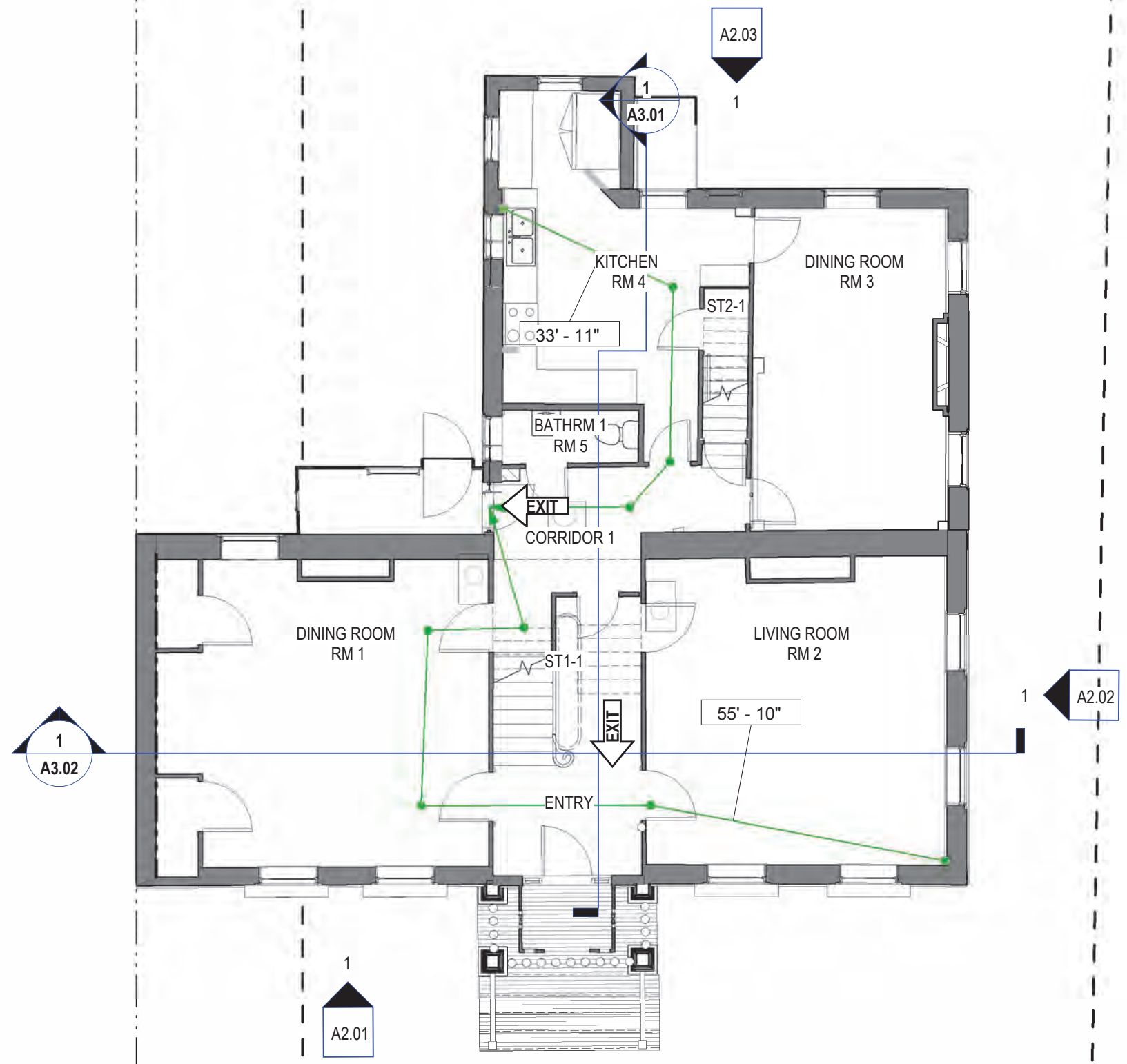
**A5.00 BASEMENT LIFE SAFETY PLAN
EXISTING CONDITIONS**

1/8" = 1'-0"

12/1/2022



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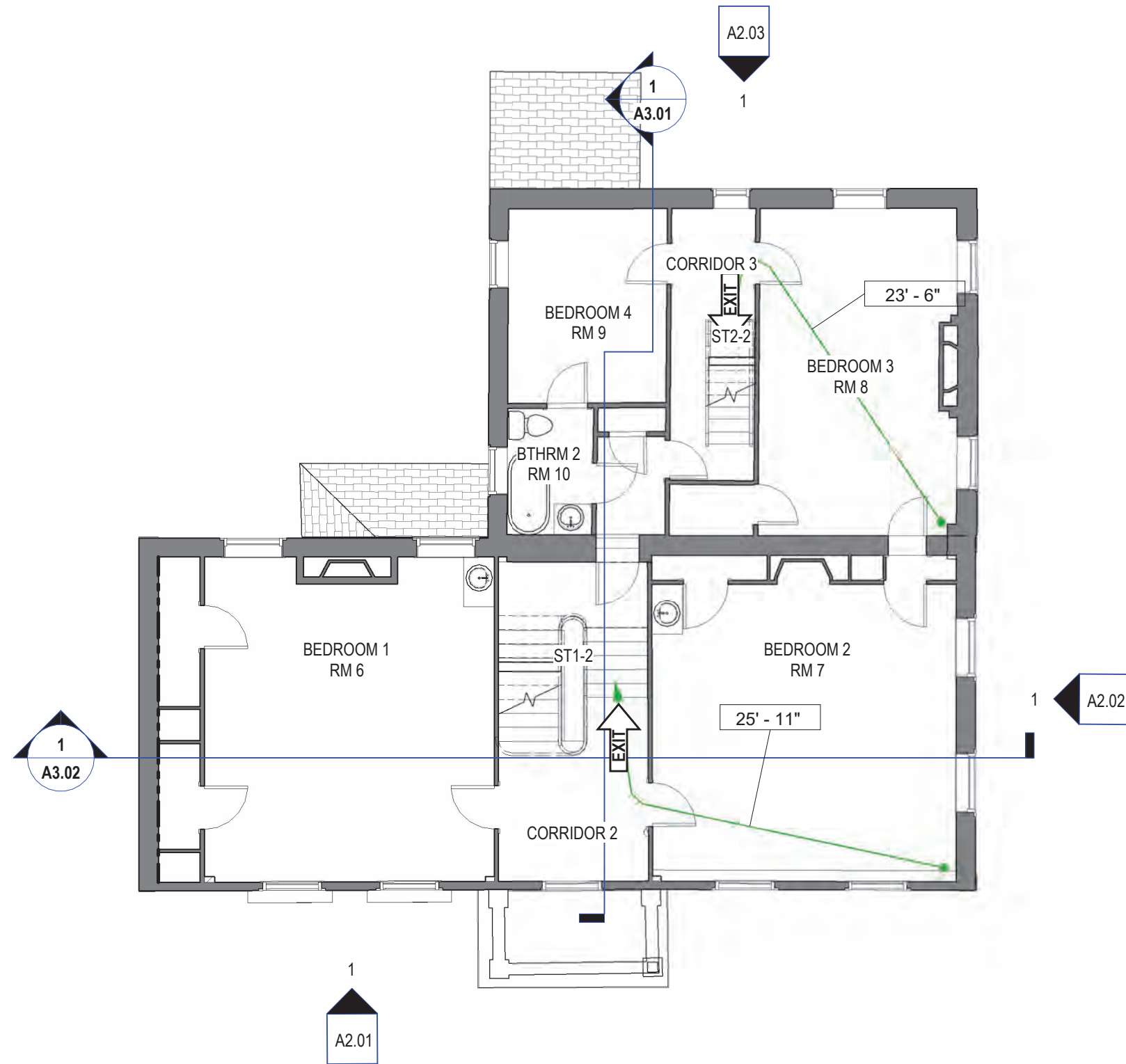


A5.01 FIRST FLOOR LIFE SAFETY PLAN
EXISTING CONDITIONS

1/8" = 1'-0"

12/1/2022





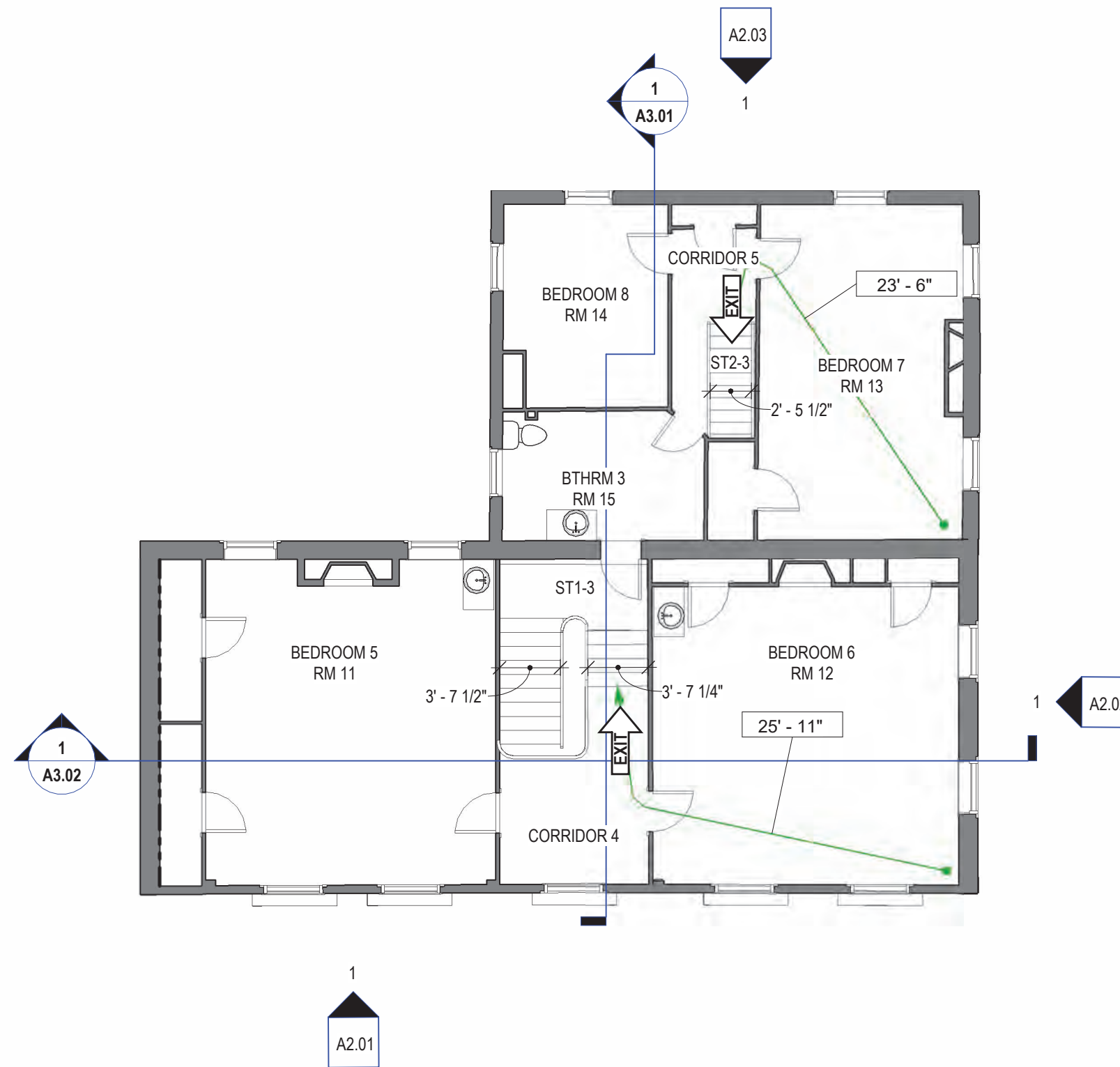
**A5.02 SECOND FLOOR LIFE SAFETY PLAN
EXISTING CONDITIONS**

1/8" = 1'-0"

12/1/2022



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A5.03 THIRD FLOOR LIFE SAFETY PLAN
EXISTING CONDITIONS

1/8" = 1'-0"

12/1/2022



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APPENDIX D



Austin-Pickering House

Preliminary Opinion of Budgetary Cost of Treatments for rehabilitation, life safety and accessibility

September 13, 2022

Building exterior perimeter	189	ls
Building footprint	1,771	sf
exterior wall height	27	lf
exterior wall area	5,103	sf
Total floor area, 1 2 & 3	5,096	sf
Basement area	1,657	sf
Total floor area B 1 2 & 3	6,753	sf
interior wall surfaces area	15,937	sf
all walls, total area	10,520	sf

Phases	
1	stabilization
2	life safety
3	accessibility, aesthetic & operational

Category	Description	qty	unit	unit cost	low	high	Phase
Site	Accessible brick walkway from driveway to rear patio & driveway to front stoop	318	sf	11.74	3,733	4,667	3
Site	re-lay rear brick patio	536	sf	11.74	6,293	7,866	3
Site	replace driveway (asphalt)	1,063	sf	17.81	18,932	23,665	1
Site	removing plantings and provide gravel drip strip with perimeter drain at building perimeter	41	cy	123.50	5,084	6,355	1
Structure	foundation masonry cleaning, tuck pointing & repair	189	lf	10.00	1,890	2,363	1
Structure	foundation walls: waterproofing membrane (15#felt), 2" sprayfoam insulation; intumescent coating	1,512	sf	11.46	17,328	21,659	1
Structure	perimeter interior trench drain with filter fabric and 6" gravel	189	lf	3.24	612	765	1
Structure	temporary shoring at first floor framing repair	10	ea	3,000.00	30,000	37,500	1
Structure	first floor framing repair & select replacement	1,771	sf	5.32	9,422	11,777	1
Structure	Basement floor moisture control - drainage mat on top of the existing slab with 2 in. of rigid-foam insulation and new concrete slab topping.	1,771	sf	7.42	13,141	16,426	1
Exteriors	repair / replace gutters & downspouts	189	lf	22.00	4,158	5,198	1
Exteriors	exterior siding and trim restoration and repainting (minor repairs)	5,103	sf	4.48	22,861	28,577	1
Exteriors	brick - cleaning	1,512	sf	1.95	2,948	3,686	1
Exteriors	brick - repointing	1,512	sf	12.00	18,144	22,680	1
Exteriors	recreate original roof balustrate	120	lf	250.00	30,000	37,500	3
Exteriors	storm windows - clean and adjust	44	ea	50.00	2,200	2,750	1
Exteriors	roofing and flashing repairs	284	lf	16.75	4,749	5,936	1
Exteriors	window repair / refurbishment	45	ea	600.00	27,000	33,750	1
Exteriors	door hardware - repair loose latch sets	48	ea	166.50	7,992	9,990	3
Interiors	patch damaged ceiling plaster (5%), 3 troweled coats	255	sf	12.47	3,177	3,972	3
Interiors	patch cracked wall plaster (5%)	797	sf	5.98	4,765	5,956	3
Interiors	touch up / repaint trim & walls (50%)	7,969	sf	2.22	17,690	22,113	3
Interiors	refinish flooring - paint/carpets (50%)	2,548	sf	34.12	86,938	108,672	3
Interiors	wall paper restoration	7,969	sf	13.00	103,591	129,488	3
Interiors	replace upstairs toilets	2	ea	1,960.00	3,920	4,900	3
Interiors	replace upstairs faucets	6	ea	490.00	2,940	3,675	3
MEP	fire suppression sprinkler system	6,753	sf	8.13	54,902	68,627	2
MEP	basement sump pump	1	ea	1,500.00	1,500	1,875	1
MEP	replace electrical service distribution	1	ea	12,000.00	12,000	15,000	2
MEP	replace circuits and wiring for lighting & branch power	1	ea	134,160.00	134,160	167,700	2
subtotal construction					652,069	815,087	

Soft Costs

procurement and general contracting	10.9%			71,336	89,170
LS permitting design & engineering	5.0%			32,603	40,754
general requirements	2.1%			13,954	17,443
contingency	15.0%			97,810	122,263
subtotal soft costs				215,705	269,631

TOTAL		33.08%		867,774	1,084,717
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Optional upgrades

	new HVAC heat pump system				
	thermal envelope improvements, roof & walls				



Austin-Pickering House
Preliminary Opinion of Budgetary Cost of Treatments for rehabilitation, life safety & accessibility
 October 13, 2022

PHASING SCHEDULE - LOW END COSTS

Low End Cost Estimate Description	Phase			
	1 - Stabilization	2 - Life Safety	3 - Access/Operations	Construction Total
Exteriors	\$ 82,060.47		\$ 37,992.00	\$ 120,052.47
exterior siding and trim restoration and repainting (minor repairs)	\$ 22,861.44			\$ 22,861.44
roofing and flashing repairs	\$ 4,748.63			\$ 4,748.63
repair / replace gutters & downspouts	\$ 4,158.00			\$ 4,158.00
brick - cleaning	\$ 2,948.40			\$ 2,948.40
brick - repointing	\$ 18,144.00			\$ 18,144.00
recreate original roof balustrate			\$ 30,000.00	\$ 30,000.00
storm windows - clean and adjust	\$ 2,200.00			\$ 2,200.00
window repair / refurbishment	\$ 27,000.00			\$ 27,000.00
door hardware - repair loose latch sets			\$ 7,992.00	\$ 7,992.00
Interiors			\$ 223,020.85	\$ 223,020.85
patch damaged ceiling plaster (5%), 3 troweled coats			\$ 3,177.36	\$ 3,177.36
patch cracked wall plaster (5%)			\$ 4,765.16	\$ 4,765.16
touch up / repaint trim & walls (50%)			\$ 17,690.07	\$ 17,690.07
refinish flooring - paint/carpets (50%)			\$ 86,937.76	\$ 86,937.76
wall paper restoration			\$ 103,590.50	\$ 103,590.50
replace upstairs toilets			\$ 3,920.00	\$ 3,920.00
replace upstairs faucets			\$ 2,940.00	\$ 2,940.00
MEP	\$ 1,500.00	\$ 201,061.89		\$ 202,561.89
fire suppression sprinkler system		\$ 54,901.89		\$ 54,901.89
basement sump pump	\$ 1,500.00			\$ 1,500.00
replace electrical service distribution		\$ 12,000.00		\$ 12,000.00
replace circuits and wiring for lighting & branch power		\$ 134,160.00		\$ 134,160.00
Site	\$ 24,015.81		\$ 10,025.96	\$ 34,041.77
Accessible brick walkway from driveway to rear patio & driveway to front stoop			\$ 3,733.32	\$ 3,733.32
re-lay rear brick patio			\$ 6,292.64	\$ 6,292.64
replace driveway (asphalt)	\$ 18,932.03			\$ 18,932.03
removing plantings and provide gravel drip strip with perimeter drain at building perimeter	\$ 5,083.78			\$ 5,083.78
Structure	\$ 72,392.42			\$ 72,392.42
foundation masonry cleaning, tuck pointing & repair	\$ 1,890.00			\$ 1,890.00
foundation walls: waterproofing membrane (15#felt), 2" sprayfoam insulation; intumescent coating	\$ 17,327.52			\$ 17,327.52
perimeter interior trench drain with filter fabric and 6" gravel	\$ 612.36			\$ 612.36
temporary shoring at first floor framing repair	\$ 30,000.00			\$ 30,000.00
first floor framing repair & select replacement	\$ 9,421.72			\$ 9,421.72
Basement floor moisture control - drainage mat on top of the existing slab with 2 in. of rigid-foam insulation and new concrete slab topping.	\$ 13,140.82			\$ 13,140.82
Construction Total	\$ 179,968.69	\$ 201,061.89	\$ 271,038.81	\$ 652,069.39
Soft Costs 33.08%	\$ 59,533.64	\$ 66,511.27	\$ 89,659.64	\$ 215,704.56
GRAND TOTAL	\$ 239,502.34	\$ 267,573.16	\$ 360,698.45	\$ 867,773.95



Austin-Pickering House

Preliminary Opinion of Budgetary Cost of Treatments for rehabilitation, life safety & accessibility

October 13, 2022

PHASING SCHEDULE - HIGH END COSTS

High End Cost Estimate Description	Phase			Construction Total
	1 - Stabilization	2 - Life Safety	3 - Access/Operations	
Exteriors	\$ 102,575.58		\$ 47,490.00	\$ 150,065.58
exterior siding and trim restoration and repainting (minor repairs)	\$ 28,576.80			\$ 28,576.80
roofing and flashing repairs	\$ 5,935.78			\$ 5,935.78
repair / replace gutters & downspouts	\$ 5,197.50			\$ 5,197.50
brick - cleaning	\$ 3,685.50			\$ 3,685.50
brick - repointing	\$ 22,680.00			\$ 22,680.00
recreate original roof balustrate			\$ 37,500.00	\$ 37,500.00
storm windows - clean and adjust	\$ 2,750.00			\$ 2,750.00
window repair / refurbishment	\$ 33,750.00			\$ 33,750.00
door hardware - repair loose latch sets			\$ 9,990.00	\$ 9,990.00
Interiors			\$ 278,776.06	\$ 278,776.06
patch damaged ceiling plaster (5%), 3 troweled coats			\$ 3,971.70	\$ 3,971.70
patch cracked wall plaster (5%)			\$ 5,956.45	\$ 5,956.45
touch up / repaint trim & walls (50%)			\$ 22,112.59	\$ 22,112.59
refinish flooring - paint/carpets (50%)			\$ 108,672.20	\$ 108,672.20
wall paper restoration			\$ 129,488.13	\$ 129,488.13
replace upstairs toilets			\$ 4,900.00	\$ 4,900.00
replace upstairs faucets			\$ 3,675.00	\$ 3,675.00
MEP	\$ 1,875.00	\$ 251,327.36		\$ 253,202.36
fire suppression sprinkler system		\$ 68,627.36		\$ 68,627.36
basement sump pump	\$ 1,875.00			\$ 1,875.00
replace electrical service distribution		\$ 15,000.00		\$ 15,000.00
replace circuits and wiring for lighting & branch power		\$ 167,700.00		\$ 167,700.00
Site	\$ 30,019.76		\$ 12,532.45	\$ 42,552.21
Accessible brick walkway from driveway to rear patio & driveway to front stoop			\$ 4,666.65	\$ 4,666.65
re-lay rear brick patio			\$ 7,865.80	\$ 7,865.80
replace driveway (asphalt)	\$ 23,665.04			\$ 23,665.04
removing plantings and provide gravel drip strip with perimeter drain at building perimeter	\$ 6,354.72			\$ 6,354.72
Structure	\$ 90,490.53			\$ 90,490.53
foundation masonry cleaning, tuck pointing & repair	\$ 2,362.50			\$ 2,362.50
foundation walls: waterproofing membrane (15#felt), 2"sprayfoam insulation; intumescent coating	\$ 21,659.40			\$ 21,659.40
perimeter interior trench drain with filter fabric and 6" gravel	\$ 765.45			\$ 765.45
temporary shoring at first floor framing repair	\$ 37,500.00			\$ 37,500.00
first floor framing repair & select replacement	\$ 11,777.15			\$ 11,777.15
Basement floor moisture control - drainage mat on top of the existing slab with 2 in. of rigid-foam insulation and new concrete slab topping.	\$ 16,426.03			\$ 16,426.03
Construction Total	\$ 224,960.87	\$ 251,327.36	\$ 338,798.51	\$ 815,086.74
Soft Costs 33.08%	\$ 74,417.05	\$ 83,139.09	\$ 112,074.55	\$ 269,630.69
GRAND TOTAL	\$ 299,377.92	\$ 334,466.45	\$ 450,873.06	\$ 1,084,717.43

Tax Map View 43 Austin



**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 06/21/2023
Data updated 3/9/2022

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

Record and return to:
Attorney Lisa J. Bellanti
Casassa Law Office
459 Lafayette Road
Hampton, NH 03842



LCHIP	ROA608178	25.00
RECORDING		14.00
SURCHARGE		2.00

FIDUCIARY DEED

JACINTHE GROTE, as **TRUSTEE** of **THE PETER BECK REVOCABLE TRUST OF 1992**, a New Hampshire trust created u/a dated September 22, 1992, with a mailing address of 124 Washington Road, Rye, Rockingham County, New Hampshire 03870, for consideration paid, grants to **PORTSMOUTH HISTORICAL SOCIETY**, a domestic non-profit corporation, of 10 Middle Street, P.O. Box 728, Portsmouth, Rockingham County, New Hampshire 03802, the following described premises:

A certain tract or parcel of land with any improvements thereon, situated at 43 Austin Street, Portsmouth, Rockingham County, New Hampshire, more particularly bounded and described as follows:

Southerly by Austin Street; Westerly by land now or formerly of Frank A. J. Veneroso at 53 Austin Street, Map/lot, 0127-0026-0000, and in part by land now or formerly of Advent Christian Church; Northerly by land now or formerly of Donald Trahan at 606 State Street, Map/lot 0127-0021-0000 and by land now or formerly of George Alexandrou at 690-10 State Street, Map/lot 0137-0030-0010; and Easterly by land now or formerly of Sean Mahoney at 27 Austin Street, Map/lot 0127-0028-0000.

SUBJECT TO the restrictions and conditions contained in The Peter Beck Revocable Trust of 1992, as amended August 28, 2013, which amendment was confirmed as such by court order dated December 21, 2021 in the 10th Circuit – Probate Division – Brentwood, Docket #318-2020-EQ-01427. These restrictions and conditions shall run with the land.

SUBJECT TO and TOGETHER WITH all other reservations, restrictions and/or covenants and easements of record, insofar as in force and applicable.

Meaning and intending to describe and convey the same premises conveyed to Peter Beck, Trustee of The Peter Beck Revocable Trust of 1992 by deed of Peter Beck dated September 9, 2005 and recorded in the Rockingham County Registry of Deeds at Book 4556, Page 0647. See also deed of Caroline Pickard Culbert to Peter Beck dated November 7, 1956, recorded in said Registry at Book 1428, Page 0187. See also deed of Charles J. Griffin, Executor under the Will of Edith K. Harris to Peter Beck dated December 21, 1956 recorded in said Registry at Book 1428, Page 0189.

The preparer of this instrument was neither furnished with, nor requested to review, an abstract on the described property and therefore expresses no opinion as to condition of title.

This transfer is a from a revocable trust made irrevocable upon the death of the grantor of the trust, in accordance with the terms of the trust instrument, and is exempt from transfer tax stamps pursuant to R.S.A 78-B:2, XI.

Certificate of Trustee pursuant to RSA 564-A:7

The undersigned trustee as Trustee under The Peter Beck Revocable Trust of 1992 created by Peter Beck as grantor under trust agreement dated September 22, 1992, as amended August 28, 2013 and June 10, 2016, and by provisions under the Last Will and Testimony of Peter Beck dated August 28, 2013 which Last Will and Testimony was validated as an amendment to said Trust by the 10th Circuit – Probate Division – Brentwood, Docket #318-2020-EQ-01427, and by and thereto has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust and no purchaser or third party shall be bound to inquire whether the trustee has said power or is properly exercising said power or to see to the application of any trust asset paid to the trustee for a conveyance thereof.

This is not homestead property.

Signed on February 23, 2022.

Jacinthe Grote
Jacinthe Grote, Trustee of
The Peter Beck Revocable Trust of 1992

STATE OF NEW HAMPSHIRE
COUNTY OF Rockingham

The foregoing deed was acknowledged before me on February 23, 2022 by Jacinthe Grote, Trustee of The Peter Beck Revocable Trust of 1992, on behalf of said Trust.



[Signature]
(Signature of notarial officer)
(Seal)
Title: Notary Public
My Commission Expires:

53601

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

10th Circuit - Probate Division - Brentwood
PO Box 789
Kingston NH 03848-0789

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE OF DECISION

**PORTSMOUTH HISTORICAL SOCIETY
10 MIDDLE STREET
PORTSMOUTH NH 03801**

Case Name: **The Peter Beck Revocable Trust of 1992**
Case Number: **318-2020-EQ-01427**

On December 02, 2021, Judge Mark F. Weaver issued orders relative to:

Assented to Motion for Appearance of Strawberry Banke Museum f/k/a Strawberry Banke, Inc by remote means is granted.

Any Motion for Reconsideration must be filed with this court by December 31, 2021. Any appeals to the Supreme Court must be filed by January 20, 2022.

December 21, 2021

LoriAnne Hensel
Clerk of Court

C: Jacinthe Grote, Trustee; Pamela J. Newkirk, ESQ; Heather Elizabeth Crandlemire; Geoffrey Reynolds Crandlemire; Brooks Taylor Crandlemire; Christopher Hume Reynolds; Laura Stone Reynolds; Jenny Orme Reynolds; Strawberry Banke, Inc; Mount Holyoke; Dartmouth College; Palden Shangpa's Vermont, Inc.; Discover Portsmouth; Charitable Trusts Unit; Strawberry Banke Museum; Lisa J. Bellanti, ESQ; Diane M. Quinlan, ESQ; Michele E. Kenney, ESQ

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

10th Circuit - Probate Division - Brentwood
PO Box 789
Kingston NH 03848-0789

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NOTICE OF DECISION

**PORTSMOUTH HISTORICAL SOCIETY
10 MIDDLE STREET
PORTSMOUTH NH 03801**

Case Name: **The Peter Beck Revocable Trust of 1992**
Case Number: **318-2020-EQ-01427**

On December 21, 2021, Judge Mark F. Weaver issued orders relative to:

Motion for Entry of Judgment is granted - See Narrative Order.
Proposed Order approved changed to Order approved and allowed.

Any Motion for Reconsideration must be filed with this court by December 31, 2021. Any appeals to the Supreme Court must be filed by January 20, 2022.

December 21, 2021

LoriAnne Hensel
Clerk of Court

C: Jacinthe Grote, Trustee; Pamela J. Newkirk, ESQ; Heather Elizabeth Crandlemire; Geoffrey Reynolds Crandlemire; Brooks Taylor Crandlemire; Christopher Hume Reynolds; Laura Stone Reynolds; Jenny Orme Reynolds; Strawberry Banke, Inc; Mount Holyoke; Dartmouth College; Paiden Shangpa's Vermont, Inc.; Discover Portsmouth; Charitable Trusts Unit; Strawberry Banke Museum; Lisa J. Bellanti, ESQ; Diane M. Quinlan, ESQ; Michele E. Kenney, ESQ

10th CIRCUIT COURT

THE STATE OF NEW HAMPSHIRE

PROBATE DIVISION
BRENTWOOD

RECEIVED
DEC 06 2021

10th Circuit at Brentwood

Case Number: 318-2020-EQ-01427

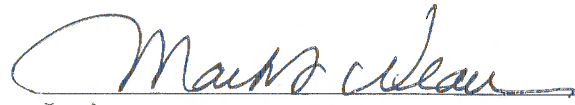
In re: The Peter Beck Revocable Trust of 1992

mzw ~~PROPOSED~~ ORDER

It is hereby ordered as follows:

1. The Peter Beck Revocable Trust of 1992 is annexed hereto as Exhibit A.
2. The August 28, 2013 Amendment to the Peter Beck Revocable Trust of 1992, annexed hereto as Exhibit B, revokes Paragraphs 3.D.2.a., and 3.D.2.e.i. and ii of the Trust.
3. The August 28, 2013 Amendment to the Peter Beck Revocable Trust of 1992 makes no additional changes or modifications to Paragraph 3.D. of the Trust.
4. The August 28, 2013 Amendment to the Peter Beck Revocable Trust of 1992 includes specific bequests in the amount of Ten Thousand Dollars (\$10,000.00) to each of the Portsmouth Historical Society and the Society for the Protection of New Hampshire Forests on the terms set forth therein.
5. The August 28, 2013 Amendment to the Peter Beck Revocable Trust of 1992 disposes of all of the trust residuary in an endowment to Palden Shangpa's Vermont on the terms set forth therein.
6. The bequest to Strawberry Banke Museum has been satisfied and no further distribution shall be made to Strawberry Banke Museum.
7. The instrument called the Last Will and Testimony dated August 28, 2013, annexed hereto as Exhibit C, is an amendment to the Peter Beck Revocable Trust of 1992.

Dated: 12/21/2021

A handwritten signature in cursive script, appearing to read "Mark F. Weaver", written over a horizontal line.

Justice

Mark F. Weaver
Judge

EXHIBIT A

THE ORIGINAL OF THIS DOCUMENT IS LOCATED AT THE OFFICES OF
McLANE, GRAF, RAULERSON & MIDDLETON, P.A.
900 ELM STREET | MANCHESTER, NH 03105-0326 | (603) 625-6464

**THE
PETER BECK
REVOCABLE TRUST OF 1992**

THE PETER BECK REVOCABLE TRUST OF 1992

TRUST AGREEMENT, made on *Sept 22*, 1992 between PETER BECK, residing in Portsmouth, New Hampshire (hereinafter called the "Grantor"), and PETER BECK, residing in Portsmouth, New Hampshire (hereinafter called the "Trustee").

1. TRUST PROPERTY. The Grantor does hereby transfer and deliver to the Trustee the property listed in SCHEDULE A annexed hereto, to have and to hold the same and any cash, securities, or other property which the Trustee may, pursuant to any of the provisions hereof, at any time hereafter, hold or acquire, all of such property being hereinafter referred to collectively as the "trust estate," for the uses and purposes and upon the terms and conditions herein set forth.

2. DISPOSITIVE PROVISIONS: LIFETIME. The Trustee shall hold, manage, invest and reinvest the trust estate, and shall collect the income thereof and dispose of the net income and principal as follows:

- A. Pay such parts of the income, if any, and such parts of the principal of this trust to, or for the benefit of, the Grantor as the Grantor directs from time to time for the Grantor's support in reasonable comfort, education (including college and professional education), and maintenance in health (including medical, dental, hospital, nursing and nursing home expenses). Any income accrued or accumulated at the time of the Grantor's death shall be paid and transferred to principal, to be administered according to the terms hereinafter provided.
- B. In addition, during the lifetime of the Grantor, if the Grantor becomes so incapacitated that he cannot exercise his rights under sub-paragraph 2.A. above, and there are sufficient assets in this trust to do so, the Trustee is authorized to pay such parts of the income, if any, and such parts of the principal of this trust to, or for the benefit of, the Grantor and the Grantor's spouse as it deems advisable for their support in reasonable comfort and maintenance in health (including medical, dental, hospital, nursing and nursing home expenses), taking into consideration the amount of their income from sources other than this trust.

3. DISPOSITIVE PROVISIONS: AFTER-DEATH. Upon the death of the Grantor, the Trustee shall thereafter apply and distribute the trust estate as follows:

- A. If, at the time of the Grantor's death, there is found with this trust agreement a memorandum regarding

certain items of the Grantor's tangible personal property, the Trustee shall distribute the items of the Grantor's tangible personal property contained in said memorandum, outright and free of trust, as therein provided.

All of the Grantor's remaining tangible personal property and household effects which are then part of the trust estate, if any, including furniture, clothing, jewelry, silver, books, pictures, china, automobiles and their equipment, other vehicles and their equipment, and other articles of personal and household use or ornament, shall be distributed, outright and free of trust, to Nancy R. Beck, if she survives the Grantor.

If the Grantor's spouse, Nancy R. Beck, shall not survive the Grantor, then the Trustee shall distribute, outright and free of trust, all of the Grantor's tangible personal property and household effects located at 43 Austin Street, Portsmouth, New Hampshire, to Meredith S. Crandlemire, of Standish, Maine, if she shall be then living. Thereafter, the Trustee shall sell all of the Grantor's remaining tangible personal property and household effects at public auction or at private sale at maximum advantage to the trust estate and the net proceeds therefrom shall be added to the then remaining trust estate hereinbelow described in sub-paragraph 3.D. and administered as part thereof.

- B. Thereafter, if the Grantor's spouse, Nancy R. Beck, survives the Grantor, the Trustee shall divide the trust estate into two parts, one to be known as the "Marital QTIP Trust," and the other, the "Family Trust."
1. The Marital QTIP Trust shall consist of an amount equal to the maximum allowable federal estate tax marital deduction as calculated by law in effect at the time of the Grantor's death, diminished by the value for federal estate tax purposes of all items in the Grantor's gross estate which qualify for said deduction and which pass or have passed to the Grantor's spouse under the Grantor's will, by survivorship in joint tenancy or tenancy by the entirety property, by life insurance settlement, by operation of law or otherwise. Provided, however, that if the amount of the maximum allowable federal estate tax marital deduction in the Grantor's estate is greater than the amount needed to reduce the federal estate tax to zero, after considering the available unified tax credit and

state death tax credit allowable in determining such tax (provided that the state death tax credit shall be taken into account only to the extent that doing so would not result in an increase in state death taxes which would otherwise be payable), then the amount set aside in the Marital QTIP Trust shall be equal only to that portion of such marital deduction that is needed to reduce the federal estate tax on the Grantor's estate to zero.

2. For the purpose of determining the amount to be transferred into the Marital QTIP Trust, values shall be those which are finally determined for federal estate tax purposes. Elections made by the Grantor's executor with respect to an alternate valuation date and with respect to taking certain deductions for income tax purposes rather than for estate tax purposes shall determine the aforesaid values and the amount to constitute the Marital QTIP Trust. The words "which pass" or "has passed" shall have the same meaning as under the Internal Revenue Code for marital deduction purposes and no assets shall be transferred to the Marital QTIP Trust that do not qualify for the marital deduction.
3. In making allocation or distribution to the Marital QTIP Trust the Trustee is authorized to satisfy the Marital QTIP Trust in cash or in kind, or in combination of both, provided that all assets placed in the Marital QTIP Trust shall be valued for the purpose of being placed in the Marital QTIP Trust at their fair market value as determined as of the dates of respective distributions to the Marital QTIP Trust, which dates shall be the dates on which the Trustee makes specific allocation on its books of account (if such assets are in negotiable form), or when delivery is made in proper form for transfer, or a deed is executed (if real estate) and the aggregate fair market value thereof shall be no less than the amount required to completely fund the Marital QTIP Trust. The Trustee is further authorized to estimate the size of the Marital QTIP Trust and to fund the trust, subject, however, to any adjustments which may be required upon final determination of the federal estate tax on the Grantor's estate.
4. No debts, funeral expenses, expenses of administration, estate, inheritance, transfer, legacy or

succession taxes (state and federal), and any interest or penalties thereon shall be apportioned against or paid from the Marital QTIP Trust, any other provisions in the Grantor's will to the contrary notwithstanding.

C. Marital QTIP Trust. The Marital QTIP Trust shall be held and administered and disposed of as follows:

1. The Trustee shall pay over to the Grantor's spouse all of the net income of this Marital QTIP Trust during her life, at least annually, but at more frequent intervals if the Grantor's spouse shall, in writing, direct.

Also, the Trustee shall pay over to the Grantor's spouse whatever part or parts of the principal as the Trustee may deem proper or necessary for her support in reasonable comfort and maintenance in health (including medical, dental, hospital, nursing and nursing home expenses).

2. The Grantor's spouse shall have the absolute right once during each and every calendar year, between December 1 and December 31 inclusive, to withdraw from the principal of the Marital QTIP Trust, any amount, in cash or in kind, not to exceed Five Thousand Dollars (\$5,000) or five percent (5%) of the then value of the principal of the Marital QTIP Trust, whichever amount is greater. Such right to withdraw shall be noncumulative.
3. Upon the death of the Grantor's spouse, the Trustee shall pay to the executor of the Grantor's spouse's estate all income accrued but undistributed at the date of death of the Grantor's spouse. The Trustee shall then dispose of the then remaining principal as follows:
 - a. The Trustee shall first pay to the executor of the Grantor's spouse's estate, out of the principal of the trust estate, the full amount by which estate, inheritance, transfer, legacy or succession taxes (federal and state), and including penalties or interest thereon, imposed by reason of the Grantor's spouse's death, are increased as a result of the inclusion of this Marital QTIP Trust in the Grantor's spouse's estate for such tax purposes. The final determination of the amount due hereunder shall be based upon the values as finally determined for

federal estate tax purposes in the Grantor's spouse's estate.

- b. The Trustee shall then pay over and add the principal, if any, remaining at the Grantor's spouse's death and after the payment required under sub-paragraph 3.C.3.a. has been made, to the Family Trust and thereafter said additional principal shall be administered as part thereof.

D. Family Trust. The Family Trust shall consist of all of the remainder of the trust estate which has not been heretofore previously allocated and shall be held and administered and disposed of by the Trustee as follows:

1. If the Grantor's spouse, Nancy R. Beck, survives the Grantor, then, during her lifetime, the Trustee may pay over to her or may use, apply or expend for her direct or indirect benefit, so much or all of the income of the trust hereby created and so much or all of the principal of said trust as the Trustee may deem proper or necessary for her support in reasonable comfort and maintenance in health (including medical, dental, hospital, nursing and nursing home expenses).

In addition, the Grantor's spouse shall have the absolute right once during each and every calendar year, between December 1 and December 31 inclusive, to withdraw from the principal of the Family Trust any amount, in cash or in kind, not to exceed Five Thousand Dollars (\$5,000) or five percent (5%) of the then value of the principal of the Family Trust, whichever amount is greater. Such right to withdraw shall be noncumulative.

Said right of withdrawal herein shall not be made in duplication of the right of withdrawal contained in the Marital QTIP Trust in sub-paragraph 3.C.2. hereinabove and if the Grantor's spouse has utilized, in any calendar year, the right of withdrawal granted her in sub-paragraph 3.C.2. above, she shall have no right to exercise the withdrawal right granted hereunder in the same calendar year, or vice versa.

2. Upon the death of the Grantor's spouse, or upon the Grantor's death if the Grantor's spouse does not survive him, the Trustee shall distribute, outright and free of trust, the trust estate as follows:

- a. The sum of ten thousand dollars (\$10,000) to each of the following nieces and nephews of the Grantor's spouse, if then living:
 - i. Heather Elizabeth Crandlemire;
 - ii. Geoffrey Reynolds Crandlemire;
 - iii. Brooks Taylor Crandlemire;
 - iv. Christopher Hume Reynolds;
 - v. Laura Stone Reynolds;
 - vi. Jenny Orme Reynolds; and
 - vii. the Grantor's friend, Deidre Caproni, of Bethany, Connecticut, if she is then living.

- b. The sum of ten thousand dollars (\$10,000) to each of the following charitable organizations:
 - i. Dana Hall Schools, of Wellesley, Massachusetts, to be used for its general purposes;
 - ii. New Hampshire Association for the Blind, of Concord, New Hampshire, to be used for its general purposes;
 - iii. Perkins School for the Blind, of Watertown, Massachusetts, to be used for its general purposes;
 - iv. Carroll Center for the Blind Inc., of Newton, Massachusetts, to be used for its general purposes; and
 - v. Strawberry Banke Inc., of Portsmouth, New Hampshire, to be used for its general purposes.

- c. The sum of twenty-five thousand dollars (\$25,000) to Meredith S. Crandlemire, if she is then living.

- d. The sum of twenty-five thousand dollars (\$25,000) to Greater Piscataqua Community Foundation, of Portsmouth, New Hampshire, to be added to its Futures Fund.

- e. The remainder of said trust estate shall be distributed, outright and free of trust, as follows:
- i. Sixty percent (60%) thereof to the Trustees of the Mount Holyoke College, a corporation existing under the laws of the Commonwealth of Massachusetts and located in South Hadley in said Commonwealth, to be designated as THE ADRIAN BECK ENDOWMENT, to be used to establish a junior chair or a full professorship in the field of political science or history.

In the event there shall be funds in excess of the amount needed to establish a professorship, as described above, then the remainder thereof shall be designated as THE NANCY R. BECK 1948 ENDOWMENT, one-half (1/2) of the income of said Fund to be used for scholarships and the remaining one-half (1/2) of the income to be added to the principal of said Fund.

- ii. Forty percent (40%) thereof to the Trustees of Dartmouth College, a corporation duly existing under the laws of the State of New Hampshire and located in Hanover in said state, to be designated as THE ADRIAN BECK 1941 ENDOWMENT, to be used to establish a junior chair or a full professorship in the field of political science or history.

In the event there shall be funds in excess of the amount needed to establish a professorship, as described above, then the remainder thereof shall be designated as THE PETER BECK 1945 ENDOWMENT, one-half (1/2) of the income of said Fund to be used for scholarships and the remaining one-half (1/2) of the income to be added to the principal of said Fund.

4. TRUSTEE'S POWERS DURING GRANTOR'S INCAPACITY. If at any time during the Grantor's lifetime, there is delivered to the Trustee other than the Grantor, if any, or, if none, then to the successor Trustee, a written opinion, signed by two (2) licensed

physicians, stating that the Grantor has become incompetent or incapacitated, then from and after the delivery of such written opinion the Trustee other than the Grantor, or the successor Trustee, as the case may be, shall have those powers and authorities with respect to the trust estate given to it under sub-paragraph 2.B. and Paragraph 5.

5. TRUSTEE'S POWERS AFTER GRANTOR'S INCAPACITY OR DEATH.

In the administration of the trust estate, the Trustee, during the lifetime of the Grantor, shall have all of the powers granted to trustees under the Uniform Trustees' Powers Act, R.S.A. 564-A, as it may be amended from time to time.

6. ADDITIONAL PROPERTY.

The Grantor, or his spouse, Nancy R. Beck, may, by will, trust or during their lifetimes, from time to time, transfer and deliver to the Trustee cash, securities, and other property acceptable to the Trustee, and such cash, securities, and other property shall be held, administered, and disposed of by the Trustee in accordance with the provisions of this agreement without the execution of any further instrument or declaration.

7. SUCCESSOR TRUSTEE. The following provisions shall govern the addition, removal and succession of the Trustee:

- A. If Peter Beck shall be unable or unwilling to serve in the capacity of Trustee for any reason, then the Grantor's spouse, Nancy R. Beck, shall serve in his stead.
- B. If Nancy R. Beck shall be unable or unwilling to serve in the capacity of Trustee for any reason, then Meredith S. Crandlemire, of Standish, Maine, shall serve in his stead.
- C. If Meredith S. Crandlemire shall be unable or unwilling to serve in the capacity of Trustee for any reason, then Dr. Matthew Norman, of Portsmouth, New Hampshire, shall serve in her stead.
- D. In the event there shall be no successor Trustee who shall be able or willing to serve in the capacity of Trustee, then the remaining Trustee, may, by a written instrument signed and acknowledged by him, appoint a successor Trustee.

8. TAX PROVISION. The trust estate shall not be charged with the payment of any estate, inheritance, legacy, death taxes or duties of any nature (state or federal), or any interest or penalty thereon, except to the extent that the other assets in the Grantor's estate (excluding any assets which may be exempted from the payment of such taxes by the last will of the Grantor)

shall be insufficient to discharge such taxes, interest or penalties or shall be insufficiently liquid to satisfy the same. The Trustee may rely conclusively upon written certification from the executor of the Grantor's estate, or if no probate administration of the Grantor's estate is required under applicable law, upon request of the person or persons nominated as executor under the Grantor's will or upon any other evidence, as to the existence of such insufficiency and the amount thereof.

Provided, further, that in the event that no probate administration of the Grantor's estate is required under applicable law, the Trustee shall have all the powers and authority given the executor under the Grantor's will in relation to such taxes.

9. DEBTS AND EXPENSES. The trust estate shall not be charged with the payment of legal debts of the Grantor's estate, funeral expenses or expenses of administration of the Grantor's estate except to the extent that the other assets in the Grantor's estate shall be insufficient to discharge such debts and expenses, or shall be insufficiently liquid to satisfy the same. The Trustee may rely conclusively upon written certification from the executor of the Grantor's estate, or if no probate administration of the Grantor's estate is required under applicable law, upon request of the person or persons nominated as executor under the Grantor's will, or upon any other evidence, as to the existence of such insufficiency and the amount thereof. If the Trustee shall be required to pay any such debts and expenses, the same shall be treated as debts and expenses of the trust estate (to the extent the assets of the Grantor's estate are insufficient to satisfy the same) or as loans to the Grantor's estate (to the extent the liquid assets of the Grantor's estate are insufficient to satisfy the same) if any such debts and expenses are deducted for federal estate tax purposes in computing the value of the Grantor's taxable estate under Section 2053 of the Internal Revenue Code of 1986, or any provision successor thereto. If any such debts and expenses are either not so deducted or deductible under Section 2053 of the Internal Revenue Code of 1986, or any provision successor thereto, however, the same shall be charged against the principal of the trust estate as an expense without apportionment.


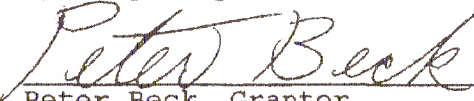

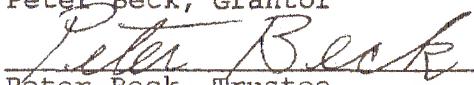
10. SURVIVAL REQUIREMENT. No person shall be deemed to have survived the Grantor, or any other person or event under the terms of this trust, unless such person survives the end of the period commencing with the close of the calendar day of the Grantor's death, the death of such other person or on which such event occurs, and ending with the close of the thirtieth (30th) calendar day thereafter.

11. GOVERNING LAW AND SITUS. The Grantor declares that this agreement and the trust created hereby shall be construed

and administered under the laws of the State of New Hampshire, that the validity and effect of this agreement and of this trust shall be determined in accordance with the laws of that State and that the Trustee shall not be chargeable in any court other than one of the courts of that State.

12. AMENDMENT AND REVOCATION. The Grantor reserves the right at any time or from time to time without the consent of any person and without notice to any person other than the Trustee to revoke or modify the trust hereby created, in whole or in part, to change the beneficiaries hereof, or to withdraw the whole or any part of the trust estate by filing notice of such revocation, modification, change, or withdrawal with the Trustee.

13. EXECUTION. This trust agreement, and any amendments hereto, shall be effective when executed by the Grantor, notwithstanding that the signature of the Trustee is provided for, the Trustee's signature being intended to denote the acceptance of the Trustee to serve in that capacity only.

	
_____	_____
	Peter Beck, Grantor
	
_____	_____
	Peter Beck, Trustee

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

7/22, 1992

Before me, personally appeared the above-named PETER BECK and acknowledged that he has executed the within Trust Agreement of his free will.



Notary Public/Justice of the Peace

CHARLES A. DEGRANDPRE, Notary Public
My Commission Expires April 28, 1997

SCHEDULE A

CASH: 10⁰⁰ cash

ACCEPTED: Sept. 22, 1992

Peter Beck
Peter Beck, Trustee

LAW OFFICE OF McLANE, GRAF, RAULERSON & MIDDLETON PROFESSIONAL ASSOCIATION 80 STARK STREET BOX 326 MANCHESTER, N.H. 03105	Received at <u>Manchester, N.H.,</u> <u>September 22</u> <u>1992</u>
	<u>Peter Beck</u>
	<u>10</u> Dollars
	In re: <u>The Peter Beck Revocable</u>
	<u>Trust of 1992</u>
	McLANE, GRAF, RAULERSON & MIDDLETON Professional Association
<u>10</u>	<u>Linda Kelly</u>

EXHIBIT B

original 8/28/13

AMENDMENT TO THE

PETER BECK REVOCABLE TRUST OF 1992

WHEREAS, on the 22th day of September, 1992, Peter Beck Beck, established the PETER BECK REVOCABLE TRUST OF 1992 (hereinafter sometimes referred to as the "Trust") by and between Peter Beck, as Grantor (hereinafter sometimes referred to as the "Grantor") and as Trustee (hereinafter sometimes referred to as the "Trustee"):

WHEREAS, pursuant to Section 16, of the Trust, the Grantor reserved the power to amend the Trust by an instrument in writing filing a notice of such revocation, modification, change or withdrawal with the Trustee; and

NOW THEREFORE, in consideration of the aforementioned, Peter Beck, Grantor does hereby amend the Trust by amending Section 3A to name Jacinthe Grote of Rye, New Hampshire instead-of (now deceased) Meredrth S Crandiemire.

NOW THEREFORE, in consideration of the aforementioned, Peter Beck, Grantor does hereby amend the Trust by revoking Section "D3, e, i. and ii." in its entirety. D3, subsection a., page 6 of the Revocable Trust of 1992 is to be entirely removed. D3 subsection b and D3 subsection d. is to be retained. The remainder of the trust, with the exception of all my real estate and all household furnishings, including pictures, tools, sculptures, carvings, and machinery in backyard and cellar but consisting of all household cash, all money in the joint, or individual checking account of Peter and Nancy Beck, investments, namely; all stocks and bonds whether individually or jointly owned, whether inside the Revocable Trust of 1992 or not, Government Life Insurance policy, any private placement, and all free cash in hand at any brokerage account in which Peter Beck has a then existing account, shall be distributed, outright and free of trust as, as follows:

NOW THEREFORE, in consideration of the aforementioned, Peter Beck, Grantor, having amended the Trust by revoking Sections of 3D, now retains the following sections of said trust estate to be distributed, outright and free of trust, as follows:

In equal amounts of ten thousand dollars each (\$10,000.) to the following charitable organizations, (but only if these charitable organizations have not been previously paid legacies, from the estate of Nancy R. Beck) (a) the Strawberry Banke Museum of 14 Hancock Street, Portsmouth, New Hampshire for general purposes; (b) the Portsmouth Historical Society of 43 Middle Street, Portsmouth, New Hampshire for the purpose of maintaining the Discover Portsmouth Center or other historical buildings acquired by the Historical Society; and (c) the Society for Protection of New Hampshire Forests specifically for the purpose of preserving and maintaining the Creek Farm of 400 Little Harbor Road, Portsmouth, New Hampshire

Should any of the aforementioned organizations or entities cease to exist under the above names, then to any successor organization or to a similar organization with a similar purpose. The determination as to any successor charitable organization or one with a similar purpose shall be made by the Trustee.

After payment of the foregoing charitable organizations the remaining, previously listed, money is to be placed into an endowment trust; the Peter & Nancy Beck Endowment for the exclusive benefit of Palden Shangpa's Vermont (PSV) Adrian Beck, retreat in Alburg Springs Vt. Currently under the leadership of Ms. Yana Robicheau (Tel; 802 225 6591) The money and other securities listed in this endowment are to be managed by Michael Whitney, CFA, Partner of Taylor Investment Associates, 50 Federal St., Boston Mass. 02110 Tel; 617 482 2222 a managed account that has performed well for Jacinthe Grote and Nancy Beck. Alternative registered money managers of part or all of this endowment must be agreeable to the executor-trustee and to the full Board of PSV. Sometime during each calendar year, PSV may withdraw 5% of the then value of the Endowment to be used in furtherance of their project, including scholarship, and education, at Alburg Springs. None of this 5% can be used for any salary beyond basic living expenses for any PSV member, administrator, associate, or volunteer. The financing for capital expenses for additional buildings, or acquiring additional land, houses, water, wells, renovations, or lowering the elevated highway which was done in 1969 with no reimbursement for slope rights, on to the Beck private property, can be done by borrowing money from Taylor Investments with a low interest rate or the money can be obtained from Taylor Investment by selling securities, with no interest payments, but with the obligation to repay the loan, in bimonthly installments, after completion, in a maximum of 14 years. Three/fourths of the PSV Board Members must agree to any such loan as well as the Executor, (if there continues to be an Executor-trustee.) The administrator of the PSV Endowment must review the expenditures paid from the PSV Endowment to certify, annually, that the expenditures are reasonable, utilized for the purpose specified and compatible with the requirements specified in the Endowment. If a bond is deemed necessary to safeguard the management of the Endowment, the cost therefor shall be born equally by the PSV organization and the Endowment.

NOW THEREFORE, in consideration of the aforementioned, Peter Beck, Grantor does hereby amend the Trust by replacing deceased, Meredith S. Crandlemire in Section 7B with Jacinthe Grote of Rye, N.H. to serve in her stead. In 7C replace Meredith S. Crandlemire with Jacinthe Grote and replace Dr. Matthew Norman with Lionel Ingram of Exeter, N.H. Namely; If the Grantor's spouse, Nancy R. Beck, shall be unable or unwilling to serve in the capacity of Trustee for any reason, then Jacinthe Grote of Rye, New Hampshire shall serve in her stead. All provisions of the Trust of September 22, 1992, not hereby amended or revoked shall remain in full force and effect.

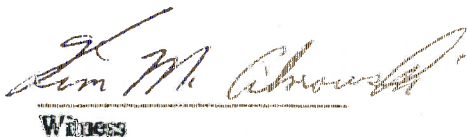
NOW THEREFORE, in consideration of the aforementioned, Peter Beck, Grantor does hereby amend the Trust by replacing deceased, Meredith S. Crandlemire in Section 7B with Jacinthe Grote of Rye, N.H. to serve in her stead. In 7C replace Meredith S. Crandlemire with Jacinthe Grote and replace Dr. Matthew Norman with Lionel Ingram of Exeter, N.H. Namely; If the Grantor's spouse, Nancy R. Beck, shall be unable or unwilling to serve in the capacity of Trustee for any reason, then Jacinthe Grote of Rye, New Hampshire shall serve in her stead. All provisions of the Trust of September 22, 1992, not hereby amended or revoked shall remain in full force and effect.

IN WITNESS WHEREOF, the Grantor and the Trustee have executed this Amendment to the PETER BECK REVOCABLE TRUST OF 1992 on this 28th day of August, 2013

WITNESSES TO BOTH


Witness


Peter Beck, Grantor


Witness


Peter Beck, Trustee

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

On this 28th day of August, 2013 before me, the undersigned officer personally appeared Peter Beck, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same in his capacities as the Grantor and Trustee for the purposes therein contained.





Notary Public
My Commission Expires: June 3, 2014

EXHIBIT C

Last will and testimony, regarding only, two properties, individually owned by Peter Beck and his wife Nancy Beck in Portsmouth, N.H.

Now comes Peter Beck and his wife, Nancy Beck, both living at 43 Austin St. Portsmouth, N.H. and state as follows:

Peter Beck is sole owner of unencumbered residence at 43 Austin St, Portsmouth, N.H.
Nancy Beck is sole owner of unencumbered apartment house at 85 Austin St. " " " "

By our notarized signatures we agree that upon the demise of Peter Beck and Nancy Beck, both the foregoing properties will be managed, maintained and utilized for the benefit of Discover Portsmouth, located at 10 Middle St. Portsmouth, N.H. for as long as the parent organization of Discover Portsmouth, the Portsmouth Historical Society wishes, without any financial or other charges or obligations of any kind to the unencumbered estates of Peter and Nancy Beck.

Before any income generated by one or both of these properties, can be used at the discretion of Discover Portsmouth, the foregoing obligations must be paid from said earnings. If said earnings are insufficient to pay for maintenance costs these costs will be paid by Discover Portsmouth, or the Portsmouth Historical Society

The following restrictions and conditions shall apply;

Discover Portsmouth is prohibited from ever selling one or both properties. If the properties cannot be excluded from paying taxes because the ownership of the properties remains outside 501C-3 a sale for \$1.00 with the provision that if Discover Portsmouth no longer wants the responsibility and use of the properties they can never receive more than \$1.00 when transferring the same free indefinite use of the properties as now specified for Discover Portsmouth, from another 501C-3

Discover Portsmouth may transfer ownership to another charitable 501C-3 with the same restrictions as apply to Discover Portsmouth.

If Discover Portsmouth wishes to cease being custodians and beneficiaries of the properties, they are obligated to make a diligent search for another 501C-3 in or outside Portsmouth, the first candidate being the Cornell Isles of Shoals, Creek Farm project in Portsmouth.

If no 501C-3 charity wishes to become custodian and benefactor of the properties, ownership will be turned over to Dartmouth College to be sold and the proceeds put into a scholarship or student loan fund, to be financed by the earnings of the fund, in the name of Adrian Beck '41

The pond in the back yard at 43 Austin St. shall not be destroyed by filling it in. It was carved from solid rock with extreme effort. It is at ground water level. Water is an increasingly valuable resource, this body of water can be used to irrigate, raise fish, heat a house geo-thermally or become a year round swimming place with solar heating.

The maintenance man, Wayne Tuck, for the properties for well past a decade must be allowed to continue to live in and is happy with the cellar of the apartment house at 85 Austin St. If this is no longer permitted accommodations, up to 2 rooms, must be provided, free, on the top floor, 43 Austin St. He pays no rent for this current accommodations. In return he can be trusted to do all kinds of repairs and addressing tenant complaints as well as routine maintenance for \$12.00/ hour. If he wishes to continue this relationship, his wishes must be honored as part of this property transfer. His salary may be adjusted to conform with inflation or the cost of living increase. He is hereby being given ownership of the backhoe and compressor on the properties which continue useful for leveling the hill in the back yard of 43 Austin St and snow removal.

The back yard at 43 Austin St. has a 2 story structure which is beyond repair but could qualify for repair rather than a new construction for easier permitting. The land area is large enough for a house, storage barn, or other building which would be deemed useful for Discover Portsmouth. We, Peter & Nancy Beck would allow such a structure to be built with the help of a 10 year mortgage, if necessary. The mortgage would be funded & paid by the income from one or both of the properties .

Dated _____

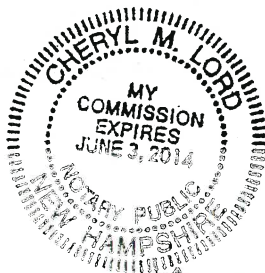
Dated: 8/28/13

Mrs. Nancy R. Beck

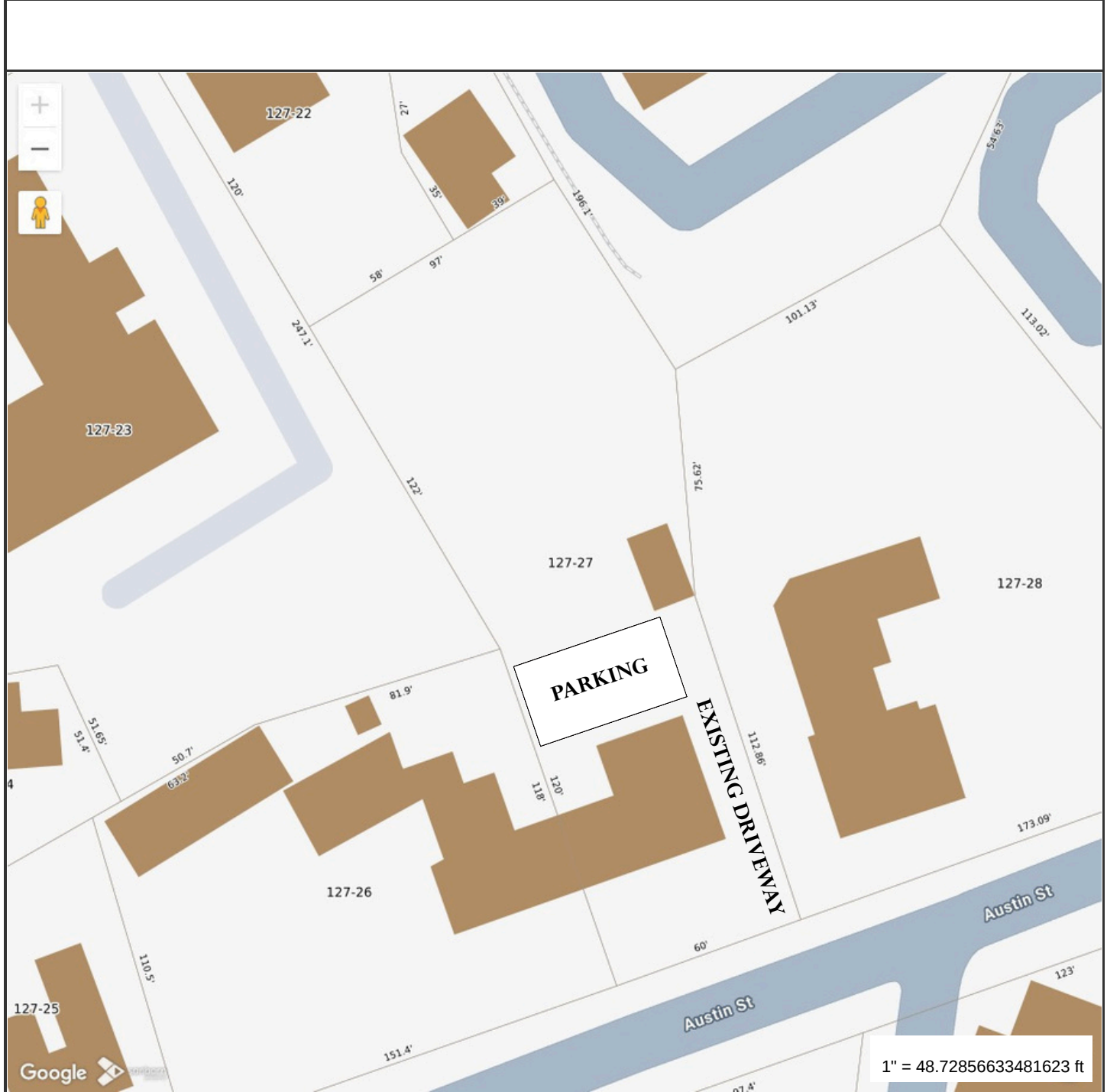
Peter Beck
Peter Beck, M.D.

*On this date: August 28, 2013
Peter Beck, MD appeared before
me:*

Cheryl M. Lord
Notary Public



My commission expires 6-3-2014



**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 03/06/2026

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

II. OLD BUSINESS

- B.** The request of **Lonza Biologics INC (Owner)**, for property located at **34 Harvest Way** whereas relief is needed to install two illuminated wall signs and one illuminated monument sign, which requires relief from the following: 1) from Section 306.01(d) of the Pease Development Authority Ordinance to allow signs to exceed a maximum aggregate area of two (2) square feet of sign area for each linear foot of street frontage up to a maximum of 200 square feet. Said property is located on Assessor Map 305 Lot 5 and lies within the Airport Business Commercial (ABC) District. (LU-26-12)

Planning Department Comments

Applicant has postponed consideration to the June BOA meeting

Dear Portsmouth Planning Board

We are requesting a postponement of Land Use Application LU-26-12. This postponement will allow us to refine the application and provide information clear up any confusion that was caused at the previous meeting. Thank you!

Justin Parker 6/8/2026

II. OLD BUSINESS

C. 0 Melbourne Street - Extension Request

Planning Department Comments

On July 16, 2024 the Board of Adjustment granted the following variances to construct a single residential unit on a vacant and undersized lot which requires the following:

1) Variance from Section 10.521 to allow a) 6,197 sf of lot area where 15,000 sf are required, b) 6,197 sf of lot area per dwelling unit where 15,000 sf are required, and c) 50 ft of frontage where 100 ft are required.

The variances were granted with the following condition:

1) The design and orientation of the home and driveway may change as a result of the building permit review and approval.

The approvals listed above are scheduled to expire on July 16, 2026. The Ordinance allows for a one-time, one-year extension if the request is acted on prior to the expiration date. The applicant has requested an extension as a permit has not yet been obtained. A letter from the applicant and the 2024 letter of decision is included in the meeting packet. You can view the original application material at the following link:

https://files.portsmouthnh.gov/files/planning/apps/MelbourneSt_0/MelbourneSt_0_BOA_07162024.pdf

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

May 18, 2026

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

**RE: 0 Melbourne Street, Tax Map 233, Lot 54
LU-24-109
REQUEST FOR EXTENSION**

Dear Chair Margeson and Members of the Board:

This office is counsel to Patrick and Wendy Quinn, the applicants relative to the above-referenced property. On July 16, 2024, the Board granted variances to enable the construction of a single-family dwelling on the property. Subsequent thereto, in December 2024, the Board granted the applicants variances to enlarge the existing home on the abutting property at 124 Melbourne Street (LU-24-202).

The applicants have proceeded with the second project, which is in its final stages of completion and is a significant upgrade to the neighborhood. Construction and financing of the 124 Melbourne project has consumed an inordinate amount of the applicants' time and resources and they will require additional time to execute the first project at the above-referenced location. Accordingly, we respectfully request the Board grant a one-year extension of the variance approvals pursuant to §10.236.

Thank you for your consideration.

Sincerely,

Christopher P. Mulligan

Christopher P. Mulligan

CPM/

cc: Patrick and Wendy Quinn

DANIEL C. HOEFLE	ALEC L. MCEACHERN	PETER V. DOYLE	STEPHEN H. ROBERTS <i>In Memoriam</i>
R. TIMOTHY PHOENIX	KEVIN M. BAUM	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	JACOB J. B. MARVELLEY	CHRISTOPHER P. MULLIGAN	SAMUEL R. REID
R. PETER TAYLOR	GREGORY D. ROBBINS	STEPHANIE J. JOHNSON	JOHN AHLGREN



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

July 23, 2024

Bruce R Carll
0 Melbourne Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 0 Melbourne Street (LU-24-109)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for constructing a single residential unit on a vacant and undersized lot which requires the following: 1) Variance from Section 10.521 to allow a) 6,197 sf of lot area where 15,000 sf are required, b) 6,197 sf of lot area per dwelling unit where 15,000 sf are required, and c) 50 ft of frontage where 100 ft are required. Said property is shown on Assessor Map 233 Lot 54 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** the request with the following **condition**:

1) The design and orientation of the home and driveway may change as a result of the building permit review and approval.

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

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

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

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

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

Very truly yours,

A handwritten signature in cursive script that reads "Beth Margeson".

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Christopher P Mulligan, Attorney Bosen & Associates, P.L.L.C.

II. OLD BUSINESS

- D. The request of **Hope for Tomorrow Foundation (Owner)**, for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. (LU-26-41)

Planning Department Comments

Applicant has postponed consideration to the July BOA meeting

BY: VIEWPOINT & HAND DELIVERY

June 10, 2026

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

**RE: Variance Application of Hope for Tomorrow Foundation, Inc.
315 Banfield Road, Tax Map 266, Lot 5**

Dear Stefanie,

Please forward the following request to the Zoning Board of Adjustment. My client is seeking further postponement of the public hearing on their variance application for the property at 315 Banfield Road. There have been ongoing discussions with the City Legal Department that affect the variance application. Until those discussions have closed, it makes little sense to hold a hearing on the substance of the application.

Sincerely,



Derek R. Durbin, Esq.

II. OLD BUSINESS

- E. The request of **Port Hunter LLC (Owner)**, for property located at **361 Miller Avenue** whereas relief is needed to construct a detached garage with a professional office space on the second floor, which requires the following: 1) Variance from Section 10.573.20 to allow a) 6 foot side yard where 10 feet are required, and b) 10 foot rear yard where 20 feet are required; and 2) Variance from Section 10.440 Use #5.10 to allow a professional office use where it is not permitted. Said property is located on Assessor Map 131 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-76)

Existing & Proposed Conditions

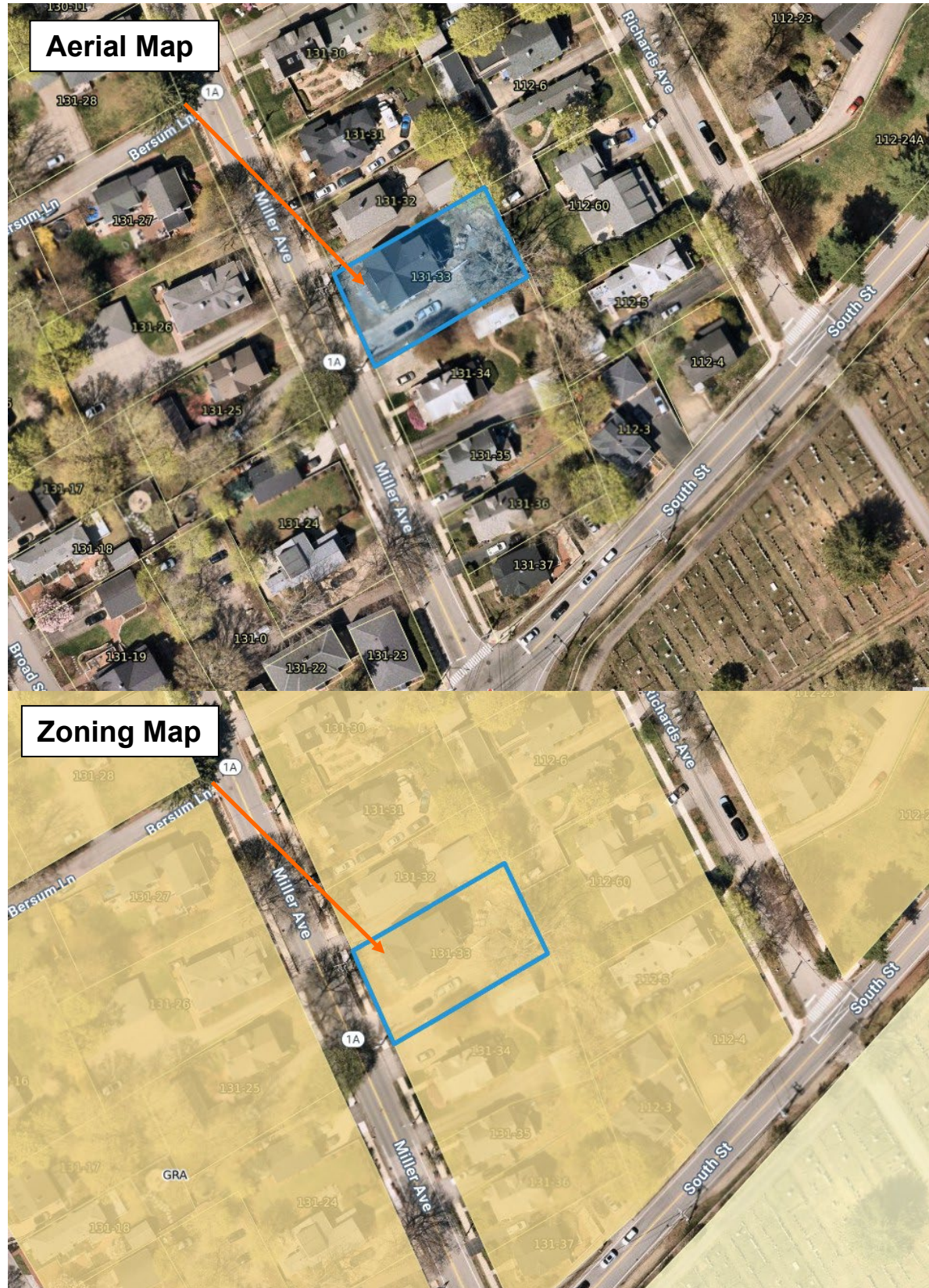
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	6-unit Multi-family	*Demo existing detached garage and construct new detached garage in new location with professional office space on the second floor	Primarily Residential
<u>Lot area (sq. ft.):</u>	9,921	9,921	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,653.5	1,653.5	7,500 min.
<u>Lot depth (ft.):</u>	131.5	131.5	100 min.
<u>Street Frontage (ft.):</u>	75.8	75.8	70 min.
<u>Front Yard (ft.):</u>	>15	>15	15 min.
<u>Right Side Yard (ft.):</u>	Garage: 4	Garage: >10	10 min.
<u>Left Side Yard (ft.):</u>	Garage: >10	Garage: 6	10 min.
<u>Rear Yard (ft.):</u>	Garage: 21	Garage: 10.5	20 min.
<u>Building Coverage (%):</u>	23.9	26	25 max.
<u>Open Space Coverage (%):</u>	39.5	34.6	30 min.
<u>Height (ft.):</u>	Garage: <35	Garage: 24.5	35 max.
<u>Parking</u>	8	9	8
<u>Estimated Age of Structure:</u>	1880	Variance request(s) shown in red.	

*Professional office use is not allowed in the GRA

Other Permits/Approvals Required

- TAC / PB Amended Site Plan Approval
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

July 15, 2025 – The Board **granted** the request to demolish the existing detached garage and construct a new detached garage which requires the following: 1) Variance from Section 10.521 to allow a building coverage of 26% where a maximum of 25% is permitted; 2) Variance from Section 10.573.20 to a) allow an accessory building with a 10.5 foot rear setback where 20 feet is required; and b) a 6 foot left side yard setback where 10 feet is required.

Planning Department Comments

The applicant is proposing to demolish the existing dilapidated one-story detached garage on the property and to construct a new 24' x 24', two-story, two-car garage in the northeasterly corner of the property. The proposed garage requires relief for left side yard setback and rear yard setback.

The applicant was granted relief for a similar project at the [July 15, 2026 BOA meeting](#). This new proposal includes a 2.5-foot increase in height and professional office space on the second floor of the new structure.

Variance Review Criteria

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

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

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

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

10.235 Certain Representations Deemed Conditions

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

COLBY T. GAMESTER

Attorney At Law
Licensed in NH

144 Washington Street
Portsmouth, New Hampshire 03801

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

March 25, 2026

SUBMITTED VIA VIEWPOINT & HAND DELIVERED

City of Portsmouth
Zoning Board of Adjustment
Attn: Beth Margeson, Chairwoman
1 Junkins Avenue
Portsmouth, NH 03801

**Re: Variance Application of Port Hunter, LLC
361 Miller Avenue, Portsmouth, NH (Tax Map 131, Lot 33)
LU-25-76**

Dear Chairwoman Margeson:

My office represents Port Hunter, LLC, the owner of property located at 361 Miller Avenue. Enclosed herewith are the following materials for submission to the Zoning Board of Adjustment for consideration at the next regularly scheduled meeting:

1. Landowner Letter of Authorization
2. Narrative to Variance Application
3. Exhibit A - Existing Conditions Plan
4. Exhibit B - Proposed Site Plan
5. Exhibit C - Architectural Renderings

Given the prior history of this Property and project, as well as the events that have occurred since the July 2025 Board hearing and approvals, it is possible that the Applicant may require more than the allotted fifteen (15) minutes for its presentation and respectfully requests that the Board grant an exception to the same.

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

Kindest Regards,



Colby T. Gamester, Esq.

Enclosures

Cc: file; Clients; Ross Engineering LLC; Tuscher Design Group (all via email only)

LANDOWNER LETTER OF AUTHORIZATION

I, the Undersigned, Elizabeth Pesce, as a member of Port Huner, LLC, the record owner of real property located at 361 Miller Avenue, Portsmouth, New Hampshire 03801, identified on Portsmouth Tax Map 131 as Lot 33 (the "Property"), hereby authorize Gamester Law Office, and its attorneys and representatives, Ross Engineering, LLC, and its representatives, and Tuscher Design Group, and its representatives, to file any document with the City of Portsmouth (the "City"), communicate and correspond with City staff and officials, and submit applications with and appear before the City's land use boards all regarding the Property. This Letter of Authorization shall be valid until expressly revoked in writing.


Elizabeth Pesce, Member

3/21/2025
Date

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

Owner and Applicant
Port Hunter, LLC
56 Piscataqua Street
New Castle, NH 03854

For Property Located At:
361 Miller Avenue
Portsmouth, NH 03801

Introduction and Relevant Historical Information

Port Hunter, LLC (“Owner”) is the owner of real property located at 361 Miller Avenue, identified on Portsmouth Tax Map 131 as Lot 33 (the “Property”). The Property lies in the General Residence A (“GRA”) zoning district, contains approximately 9,921 square feet (0.23 acres), and is improved with a single multi-family dwelling structure containing six (6) dwelling units, together with accessory structures and improvements. The Property maintains four (4) pre-existing nonconformities with respect to dimensional standards, including frontage, lot area per dwelling unit, and side-yard setbacks along both the northern and southern boundaries.

These existing conditions can be seen on a plan entitled “Existing Conditions Plan, 361 Miller Ave., Portsmouth, NH 03801, Tax Map 131, Lot 33” drawn by Ross Engineering, LLC, dated May 10, 2024, which is enclosed herewith as **Exhibit A**.

In 2021, the Owner, specifically Elizabeth, Tim, and Jameson Pesce, the underlying members of the LLC, purchased the Property and promptly undertook a comprehensive interior and exterior renovation of the property and all six (6) units to bring the structure into full compliance with current building codes while preserving its historic character. At the time of purchase, the existing two-car garage (approximately 20.5' x 20.5') was in a state of significant disrepair: the wood frame and structure were failing, and the concrete slab was deteriorating. The overall deteriorating conditions were exacerbated by the root system of a magnificent 210+ year-old silver maple tree located immediately adjacent to the garage in the southeast corner of the lot. The tree is certified through the New Hampshire Big Tree Program as one of the largest and oldest silver maples in Rockingham County. Rebuilding the garage in place would have required excavation and foundation work that would have threatened the tree’s health and longevity.

In May 2025, the Owner submitted an application seeking dimensional variances to demolish the existing garage and construct a new 24' x 24', two-story, two-car garage in the northeasterly corner of the Property. That application also addressed building coverage (proposed 25.6% where 25% is permitted), rear-yard setback (10.5' where 20' is required under Section

10.573.20), and left side-yard setback (6.0' where 10' is required under the same section). After a public hearing on July 22, 2025, the Zoning Board of Adjustment unanimously granted all requested relief (LU-25-76). The Board's decision recognized that the relocation would protect the historic tree, improve drainage and parking, enhance open space, and create a more functional and aesthetically pleasing site without adverse impacts to the neighborhood or public welfare.

These proposed conditions, the majority of which have been previously approved by the Board, namely the placement of the 24'x24' garage, can be seen on a plan entitled "Site Plan, 361 Miller Ave., Portsmouth, NH 03801, Tax Map 131, Lot 33" drawn by Ross Engineering, LLC, dated May 21, 2025, revised through March 24, 2026, which is enclosed herewith as **Exhibit B**.

A proposed office use on the second floor of the new garage has been part of the Owners' vision from the very beginning of the project, the ideations of which began years ago. The idea was first discussed with Planning Staff during the Owners' initial meeting with the Department in 2024, and it was revisited in subsequent conversations with both Staff and undersigned counsel as the plans were refined and all required zoning relief was identified.

The second-floor layout has always included a bathroom and storage areas alongside the office space itself. When a member of the public submitted public comment questioning the need for a bathroom and if the space would ever be used as a dwelling, the Owners promptly realized that the architectural plans incorrectly identified the open space on the second floor as "storage" and not "office" and, further, promptly submitted a supplemental memorandum to the Board clarifying that the space was intended solely as a Home Occupation 1 for the Owners' exclusive personal use, and that space was not intended to be, nor would it ever be, used as a dwelling. That memo, and the Home Occupation 1 use, were reviewed and discussed during the July 2025 Board meeting and the application passed without objection on the dimensional relief requested and the discussion pertaining to the Home Occupation 1. It is also worth noting that at that time the Owners had previously discussed the application with the immediate abutters, including the proposed use of the second floor, and there was no objection to the same.

It was not until the Technical Advisory Committee review in February 2026, well over a years after initial discussions with Planning Staff and six months after the variances were granted, that the City identified an oversight that had been missed by all parties through no fault other than the natural evolution of a project: that Home Occupation 1 may not be appropriate. Productive and professional dialogue followed where Staff and undersigned counsel parsed the literal language of the Home Occupation definition in Section 10.440.

The Owners noted that nothing in the ordinance expressly requires the property owner to reside on-site, yet Staff referenced the Meriam-Webster definition of "home" to be one's dwelling or residence. Though we still respectfully disagree that the label of the use should not be more controlling than the definition, undersigned counsel and Staff then correctly observed that the Home Occupation use applies only to an "existing" accessory building or dwelling. Because the

garage was and is new construction, not yet completed, the use could not technically qualify as Home Occupation 1 until constructed.

All parties agreed that in order to proceed the most accurate classification under the Table of Uses is "Professional Office," a use not permitted in the GRA district. The discovery was unfortunate in its timing but fortunate in its collaborative spirit; it allowed the project to move forward transparently rather than risk a later enforcement issue.

The second-floor office itself is approximately 310 square feet of usable office and related storage (within the overall 576-square-foot gross floor area of the second level, which also includes the bathroom and closet). It will be used solely by the Owner, the members of Port Hunter, LLC, for personal and property-management purposes. The space will also be used to reduce the current number of rented controlled climate storage units, currently at five. The climate controlled second floor will allow for safe storage of historical and genealogical documents, and administrative work related to the many rental units on the Property and throughout the City. Ultimately, the space will be a quiet refuge for the Owner's personal and business affairs.

There will be no employees, no client or customer visits, no signage, and no deliveries beyond ordinary postal service. This use is low-impact and functionally akin to the Home Occupation 1 that *is* expressly permitted in the GRA district; the only material differences being the new-construction status of the accessory structure and the fact that none of the Owners reside on-site. In other practical perspectives, the space operates exactly like a property management office that is often found onsite at rental properties in the City, such as 263 Rockland Street or the Margeson Apartments (albeit on a far smaller and personal scale). It is simply an incidental, owner-only office refuge included in the garage that serves the residential rental operation, preserving rather than altering the residential character of the Property and the neighborhood. Furthermore, it behooves the Owners to not commercialize the Property which could otherwise affect the primary purpose of the Property as serving residential tenants.

The classification of the second-floor space as a Professional Office requires compliance with commercial building-code standards, including revised stair geometry and headroom. To maintain the originally approved architectural character, ceiling heights, and usability of the interior space without external redesign of the roof line, the peak height of the garage has been increased to 26'6" (approximately 2.5' taller than the previously represented 24'). Because Section 10.573.20 ties the minimum setback for an accessory building to "the height of the building or the applicable yard requirement, whichever is less," this modest vertical change increases the intensity of the already approved non-conformity within the side and rear-yard areas.

The updated design and dimensional information of the garage are represented in the updated architectural renderings, elevations and floor plans of the drawn by Brayden Tuscher of Tuscher Design Group, which are enclosed herewith as **Exhibit C**.

The Owners note that the design and dimensions contained in the architectural renderings are preferred regardless of the Board's determination on the proposed use.

Zoning Relief Requested

In summary, the Owner respectfully requests the following variances from the Zoning Ordinance so that the previously approved garage may be constructed with the refined design and authorized use:

1. A variance from Section 10.573.20 to allow an accessory building to be set back from any lot line at least the height of the building or the applicable yard requirement, whichever is less (10 feet), within the side yard setback where 10 feet is required and 6.0 feet is proposed.
2. A variance from Section 10.573.20 to allow an accessory building to be set back from any lot line at least the height of the building or the applicable yard requirement, whichever is less (20 feet), within the rear yard setback where 20 feet is required and 10.7 feet is proposed.
3. A variance from Section 10.440 (Table of Uses) to permit a Professional Office as an accessory use on the second floor of the approved garage, where such use is otherwise not permitted in the GRA district.

Variance Criteria

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

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

The dimensional relief requested is identical in footprint and location to that previously granted by this Board in July 2025. The only change is a modest 2.5-foot increase in peak height necessitated by commercial-code compliance for the stairs and ceiling height of the professional office. The garage will continue to be “tucked away” in the northeasterly corner, improving site lines, open space, and drainage while protecting the historic tree.

The use variance for the Professional Office likewise introduces no new impacts: the space is strictly for the Owners' personal and property-management use, and for storage, generates no additional traffic, employees, clients, or deliveries, and creates no odor, noise, or visual change beyond the approved structure. The proposal remains fully consistent with the residential character of the GRA district and the spirit of the Ordinance, which permits accessory uses (including Home Occupation 1) that are low-impact and incidental to residential ownership.

Granting the variances simply recognizes a reasonable, owner-specific accessory office in a structure this Board has already found appropriate.

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

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

In this instance, the loss to the Owner is clear if the variance relief sought is denied. Regarding the Professional Office use, the Owners would be deprived of a practical, low-impact office and storage area that has been part of the project vision from its inception; where accessory storage is allowed in every district and where office is permitted use as Home Occupation 1. This general office use received no objection, or in the very least warranted no substantive deliberation, in its first iteration in the Summer of 2025. The public gains nothing by such denial. Regarding the increased height, the footprint remains the same, the garage remains tucked away in the northeasterly corner of the lot, and otherwise has no effect on abutters just like in the original application. Again, the public gains nothing by such denial.

Substantial justice is served by allowing the Owners to complete a project that this Board has already determined improves the Property, the tree’s health, and does not affect the immediate neighbors, and while providing the Owners a reasonable, private space to manage their rental properties and personal affairs.

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

The relief will not diminish surrounding property values. The garage location and footprint are unchanged from the previously approved design. The modest height increase is not visible from the street or most abutting properties in any meaningful way, and the architectural character remains consistent with the main dwelling. The Professional Office use introduces no commercial activity, signage, or traffic; it is invisible to the public and neighbors. As with the original approval, the project continues to replace a dilapidated eyesore with a well-designed accessory structure, improves drainage and open space, and enhances the overall appearance and functionality of the site.

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

(1) The Property has special conditions that distinguish it from surrounding properties.

The Property is distinguished from surrounding properties by its existing and long-established use and configuration. It is a relatively large multi-family structure and residential property in a neighborhood comprised primarily of single-family homes and smaller multi-family dwellings, and it predates current zoning. It also contains pre-existing nonconformities as to setbacks and lot coverage. Most significantly, the Property includes a unique site condition in the form of the historic silver maple tree, together with the Board-approved relocation of the garage to the northeasterly corner of the lot, which together create a highly particularized site layout and functional arrangement not shared by surrounding properties.

The Property is therefore not a typical GRA lot. It is an existing multi-family residential property with unusual site constraints, an already approved accessory structure in a fixed and logical location, and an ownership use that is directly tied to the operation, oversight, and stewardship of the Property itself. The second-floor office is not proposed as a separate commercial enterprise, nor as a general office open to the public, but rather as a small, accessory, owner-only administrative space incidental to the ownership and management of this Property and other residential holdings in the City.

These conditions distinguish the Property from surrounding parcels in a meaningful way. Unlike the typical single-family or smaller residential lots in the neighborhood, this Property reasonably lends itself to a modest on-site administrative space associated with the ownership and management of a six-unit residential building, especially where the space is fully contained within an accessory structure already found by this Board to be appropriate for the site.

These special conditions make literal enforcement of the setback and use provisions uniquely burdensome here.

(2) Owing to these special conditions, there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their specific application to the Property; and the proposed use is a reasonable one.

With respect to the requested use variance, the purpose of excluding professional office uses from the GRA district is plainly to prevent the intrusion of commercial activity that would alter neighborhood character or adversely affect public welfare, including customer traffic, employees, signage, noise, deliveries, or the outward appearance of a business use in a residential area. Literal enforcement of the Ordinance in this case, however, does not materially advance those purposes.

The proposed office is extremely limited in scope and intensity. It consists of approximately 310 square feet of office and related storage space within the second floor of the approved garage. It will be used solely by the Owners for personal, administrative, and property-management purposes. There will be no employees, no clients or customers visiting the site, no signage, no public-facing business activity, and no deliveries beyond ordinary mail. The space will not be rented to third parties, and it will not be used as a dwelling. In practical effect, the proposed use is invisible to the public and to neighboring properties and will function as a quiet, incidental accessory use serving the residential Property.

As applied here, the Ordinance sweeps more broadly than its underlying purpose. Although the Table of Uses leads us to the proposed space as a "Professional Office," the actual use proposed bears none of the characteristics typically associated with the kind of office activity the Ordinance seeks to exclude from a residential district. The use is instead functionally akin to the type of low-impact accessory activity the Ordinance already tolerates in residential settings, including home occupation type uses, except that the space here cannot technically qualify under that classification because the accessory structure is not yet constructed and because the Owners do not reside on-site. Those technical distinctions do not alter the actual character or impact of the use.

The dimensional relief requested is likewise reasonable and bears no fair and substantial relationship to the purposes underlying the setback requirement as applied here. This Board has already determined that the relocated garage footprint and placement in the northeasterly corner are appropriate because that location protects the historic silver maple, improves drainage and parking, and enhances the functionality and appearance of the site. The present application does not seek to move or enlarge that footprint. Instead, the requested setback relief is triggered only because the second-floor use classification requires compliance with applicable building-code standards, which in turn necessitated a modest increase in the peak height of the garage. Because the Ordinance ties the required setback to building height, that limited vertical change technically increases the degree of setback nonconformity, even though the garage remains in the same previously approved location and continues to produce the same practical site relationship to abutters and the neighborhood.

In these circumstances, literal enforcement of the setback and use provisions does not bear a fair and substantial relationship to the Ordinance's general purpose as applied to this Property. Denial would prohibit a reasonable, owner-only accessory use and would require redesign of a garage that this Board has already found to be the logical and appropriate solution for the site, despite the absence of any material new adverse impact. The requested relief is therefore reasonable and avoids the unnecessary hardship that would result from rigid application of the Ordinance to this particular Property.

The hardship here was not created by the Owners. The underlying conditions giving rise to the request include the Property's historic and unusual multi-family configuration, its pre-existing nonconformities, the location and preservation needs of the historic silver maple tree, the Board-approved placement of the garage, and the later determination by City staff and the Technical

Advisory Committee that the second-floor space could not technically qualify as a Home Occupation 1 and instead fell within the “Professional Office” category. That classification issue arose through the evolution and refinement of the project and was not the product of any bad faith, manipulation, or attempt to circumvent the Ordinance.

Similarly, the dimensional hardship was not self-created merely because the revised height now necessitates renewed setback relief. The garage footprint and location were previously approved by the Board based on the unique physical conditions of the site, and the modest increase in height arose only from code-compliance refinements associated with the clarified use classification, not from any effort to intensify the structure’s footprint, relocate it, or expand its neighborhood impact.

From the outset, the Owners contemplated a small second-floor office and storage area for their own use in connection with the Property. That concept was openly discussed during the planning process and was not concealed. The present request arose only after collaborative review clarified that, notwithstanding the low-impact and accessory nature of the use, the most accurate label under the Ordinance was “Professional Office.” The resulting hardship is therefore a function of the Property’s unique circumstances and the technical application of the Ordinance to those circumstances, not any self-created condition.

The Ordinance cannot adequately address every possible type of use or dimensional hypothetical situation, and if it did it would be thousands of pages long. Here, the proposed use of Professional Office simply exposes a gap in the Ordinance for precisely this low-impact, incidental office use by a non-resident owner of multi-family dwelling property in the GRA District. Literal enforcement would preclude a reasonable and customary accessory use that this Board has already implicitly endorsed through the original approval and public hearing. The use is entirely reasonable, consistent with the Ordinance’s allowance of home occupations and accessory structures, and will have no greater impact than the storage and office space originally discussed.

Proposed Stipulations

To further assure the Board that the Professional Office will remain low-impact and residential in character, the Owner proposes the following reasonable stipulations as conditions of approval:

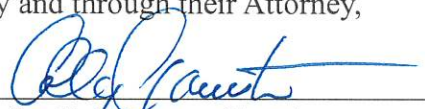
1. The second-floor space shall be used solely by Owners of the Property, and shall not be otherwise rented to any tenant or third party.
2. The second floor space will not be used as a space for employees, or for regular meetings with and of other members of the public.
3. No signage of any kind shall be permitted.
4. The space shall never be converted to a dwelling unit.

Conclusion

The Owner has demonstrated that the updated application satisfies all five statutory criteria for the requested variances. This submission is not a new project but a modest refinement of one this Board has already found worthy of approval. The dimensional changes are driven by code compliance for an office space that has always been part of the Owners' vision, and the use itself is a private, low-impact accessory activity that fills a logical gap in the Ordinance while preserving the residential character of the GRA district. The Owner respectfully requests that the Board grant the three variances as presented and advertised so that the approved garage may be constructed with the refined design and authorized use.

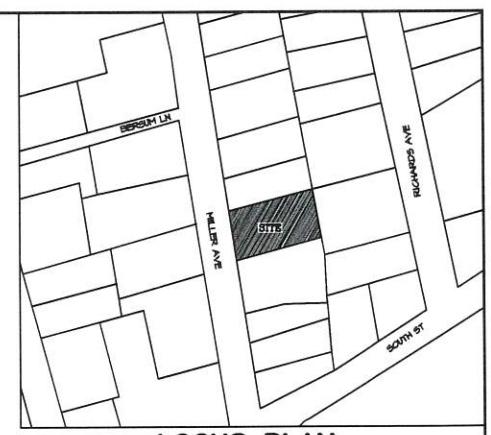
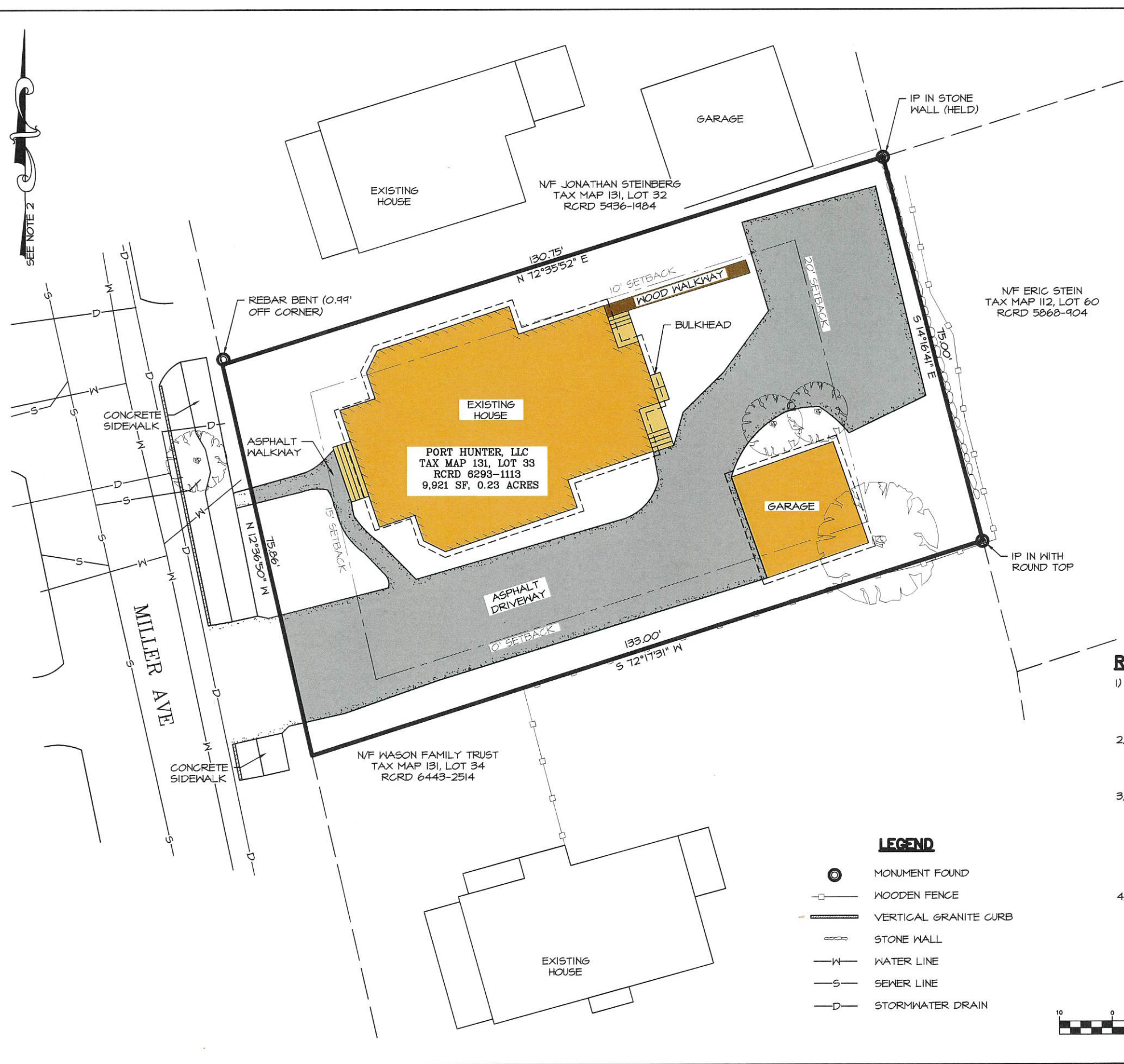
Dated: March 25, 2026

Respectfully submitted,
PORT HUNTER, LLC
By and through their Attorney,



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

SEE NOTE 2



LOCUS PLAN
N.T.S.

NOTES

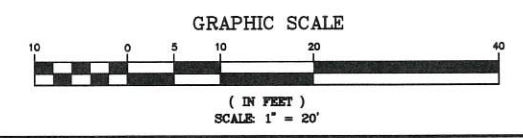
- 1) OWNER OF RECORD:
PORT HUNTER, LLC
TAX MAP 131, LOT 33
361 MILLER AVE
PORTSMOUTH, NH 03801
RCRD: 6293-1113
AREA: 9,921 SF, 0.23 ACRES
- 2) BASIS OF BEARING HELD FROM PLAN REFERENCE #1.
- 3) PARCEL IS IN GENERAL RESIDENCE A ZONE (GRA):
MINIMUM LOT AREA.....7,500 SF
MIN. LOT AREA PER DWELLING UNIT.....7,500 SF
MINIMUM FRONTAGE.....100 FT
MINIMUM DEPTH.....70 FT
SETBACKS:
FRONT.....15 FT
SIDE.....10 FT
REAR.....20 FT
MAXIMUM BUILDING HEIGHT:
SLOPED ROOF.....35 FT
FLAT ROOF.....30 FT
MAXIMUM BUILDING COVERAGE.....25%
MINIMUM OPEN SPACE.....30%
- 4) THE PARCEL IS NOT WITHIN A FEMA FLOOD ZONE, AS PER FLOOD INSURANCE RATE MAP #33015C0259F, PANEL 259 OF 681, DATED JANUARY 29, 2021. VERTICAL DATUM IS NAVD 1988.
- 5) LOCATION OF EXISTING UTILITY LINES SHOWN ON PLAN ARE BASED FROM INFORMATION PROVIDED BY PORTSMOUTH D.P.W. IN JANUARY 2026. EXACT LOCATION OF UTILITIES MAY VARY. ADDITIONAL UTILITY LINES MAY EXIST.

REFERENCE PLANS

- 1) "PLAN SHOWING PROPERTY OF EMERY BOYNTON & GAIFFIN, PORTSMOUTH NH" DATED OCTOBER 1898 BY L.E. SCRUTON. RCRD 00125.
- 2) "PLAN OF LOTS IN PORTSMOUTH NEW HAMPSHIRE FOR M.J. GRIFFIN" BY WN A. GROVER. DATED MARCH 31, 1914. RCRD 062.
- 3) "STANDARD PROPERTY SURVEY, TAX MAP 112 LOT 6, PROPERTY OF THE MCAULIFFE FAMILY REVOCABLE TRUST OF 2011, 452 & 460 RICHARDS AVENUE PORTSMOUTH, NEW HAMPSHIRE COUNTY OF ROCKINGHAM" BY MSC CIVIL ENGINEERS & LAND SURVEYORS, INC. DATED SEPTEMBER 14, 2012. NOT RECORDED.
- 4) "THE CONDOMINIUMS AT LINCOLN HILL MANOR SITE PLAN 352 & 354 MILLER AVE" FOR WILLIAM H HOAGLAND & LEAH A ORTON, KENNETH & BEVERLY BELLEVUE & KAREN M DRISCOLL" BY ROSS ENGINEERING. DATED MARCH 26, 2018 RCRD D-40723.

LEGEND

- ⊙ MONUMENT FOUND
- WOODEN FENCE
- VERTICAL GRANITE CURB
- STONE WALL
- W WATER LINE
- S SEWER LINE
- D STORMWATER DRAIN



5	3/24/2026	ZBA SUBMITTAL	
4	2/2/2026	TAC WORK SESSION	
3	5/21/2025	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 Islington St
Portsmouth, NH 03801
(603) 433-7560

CLIENT
ELIZABETH PESCE
361 MILLER AVE
PORTSMOUTH, NH 03801

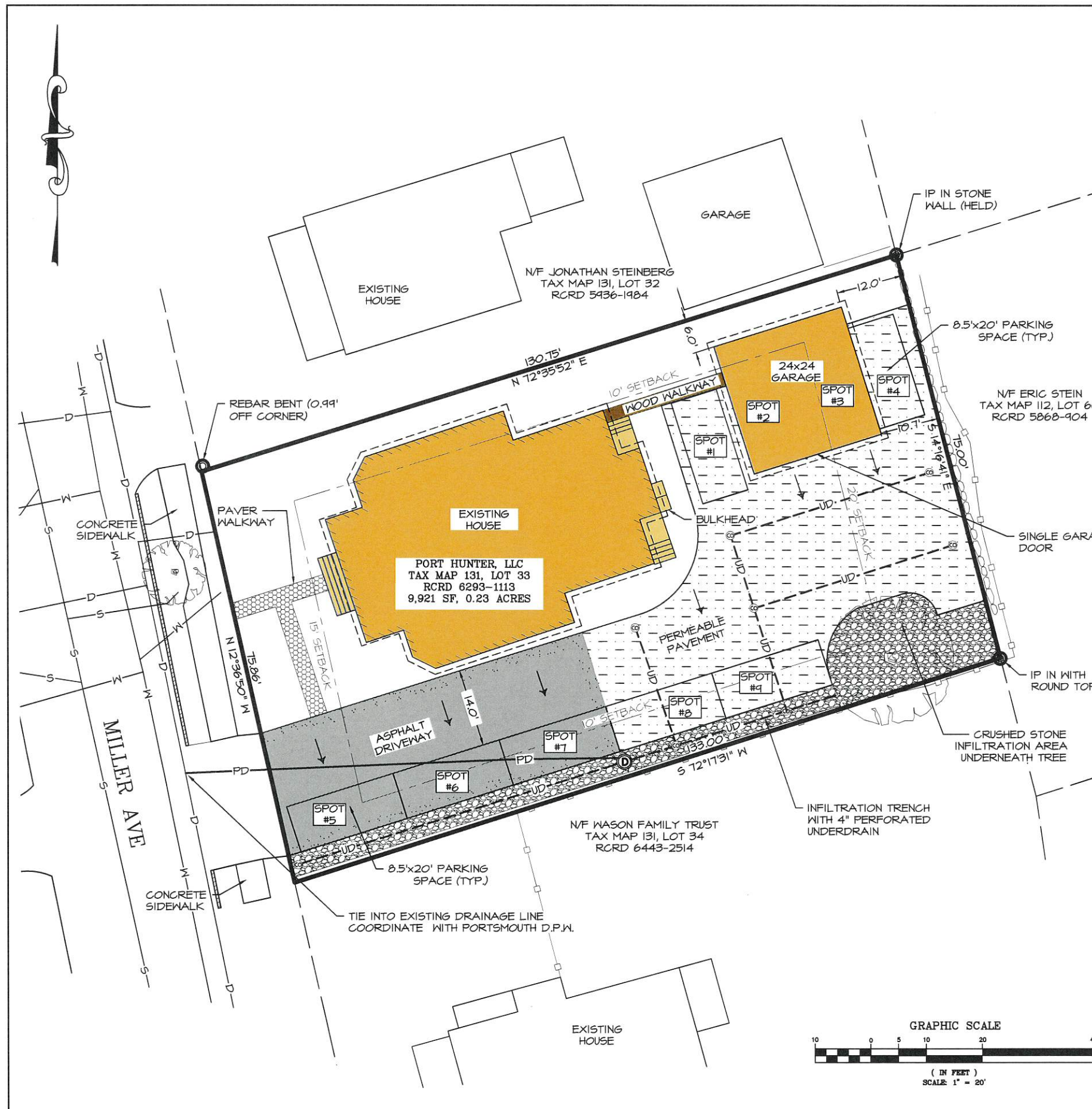
TITLE

EXISTING CONDITIONS PLAN

361 MILLER AVE
PORTSMOUTH, NH 03801
TAX MAP 131, LOT 33

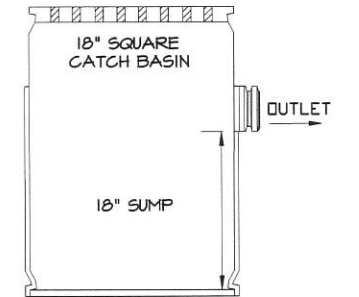
JOB NUMBER	DWG. NO.	ISSUE
23-035	1 OF 2	5

EXHIBIT B



NOTES

- OWNER OF RECORD:
PORT HUNTER, LLC
361 MILLER AVE
PORTSMOUTH, NH 03801
RCRD: 6293-1113
AREA: 9,921 SF, 0.23 ACRES
- PARCEL IS IN GENERAL RESIDENCE A ZONE (GRA):
MINIMUM LOT AREA.....7,500 SF
MIN. LOT AREA PER DWELLING UNIT.....7,500 SF
MINIMUM FRONTAGE.....100 FT
MINIMUM DEPTH.....70 FT
SETBACKS:
FRONT.....15 FT
SIDE.....10 FT
REAR.....20 FT
MAXIMUM BUILDING HEIGHT:
SLOPED ROOF.....35 FT
FLAT ROOF.....30 FT
MAXIMUM BUILDING COVERAGE.....25%
MINIMUM OPEN SPACE.....30%
- COVERAGES:
BUILDING COVERAGE
EXISTING BUILDING COVERAGE
HOUSE.....1,883 SF
DECKS & STAIRS > 18".....65 SF
BULKHEAD.....11 SF
GARAGE.....412 SF
EXISTING STRUCTURE 2,371 SF
BUILDING COVERAGE 2,371 / 9,921 = 23.9%
PROPOSED BUILDING COVERAGE
HOUSE.....1,883 SF
DECKS & STAIRS > 18".....65 SF
BULKHEAD.....11 SF
GARAGE.....576 SF
PROPOSED STRUCTURE 2,535 SF
BUILDING COVERAGE 2,535 / 9,921 = 25.6%
OPEN SPACE
EXISTING OPEN SPACE
BUILDING COVERAGE.....2,371 SF
OVERHANG.....160 SF*
STAIRS < 18".....32 SF
ASPHALT.....3,371 SF
WOOD WALKWAY 70 SF
TOTAL LOT COVERAGE 6,004 SF
EXISTING OPEN SPACE = 9,921 - 6,004 = 3,917 SF
EXISTING OPEN SPACE = 3,917 / 9,921 = 39.5%
PROPOSED OPEN SPACE
BUILDING COVERAGE.....2,535 SF
OVERHANG.....132 SF*
STAIRS < 18".....32 SF
ASPHALT DRIVEWAY.....1,381 SF
PERMEABLE PAVEMENT DRIVEWAY.....2,631 SF
PAVER WALKWAY.....115 SF
WOOD WALKWAY 54 SF
TOTAL LOT COVERAGE 6,880 SF
PROPOSED OPEN SPACE = 9,921 - 6,880 = 3,041 SF
PROPOSED OPEN SPACE = 3,041 / 9,921 = 30.7%
- PARKING PROVIDED
7 PARKING SPOTS HAVE BEEN PROVIDED IN THE PROPOSED ASPHALT DRIVEWAY. 2 SPACES WILL BE PROVIDED IN THE PROPOSED GARAGE. 9 TOTAL SPACES HAVE BEEN PROVIDED.

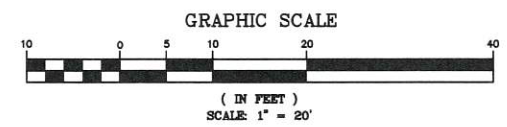


TYP. 18" ADS NYLOPLAST BASIN
N.T.S.

*OVERHANG SHOWN IS THE ROOF OVERHANG THAT IS ABOVE PERVIOUS SURFACES. OVERHANG THAT IS OVER AN IMPERVIOUS SURFACE HAS NOT BEEN INCLUDED, SO AS TO NOT DOUBLE COUNT IMPERVIOUS AREAS.

LEGEND

- ⊙ MONUMENT FOUND
- WOODEN FENCE
- ▬ VERTICAL GRANITE CURB
- ∞ STONE WALL
- W— WATER LINE
- S— SEWER LINE
- D— STORMWATER DRAIN
- PD— PROPOSED STORMWATER DRAIN
- UD— PROPOSED UNDERDRAIN



5	3/24/2026	ZBA SUBMITTAL
4	2/2/2026	TAC WORK SESSION
3	5/21/2025	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 Edington St.
Portsmouth, NH 03801
(603) 433-7560

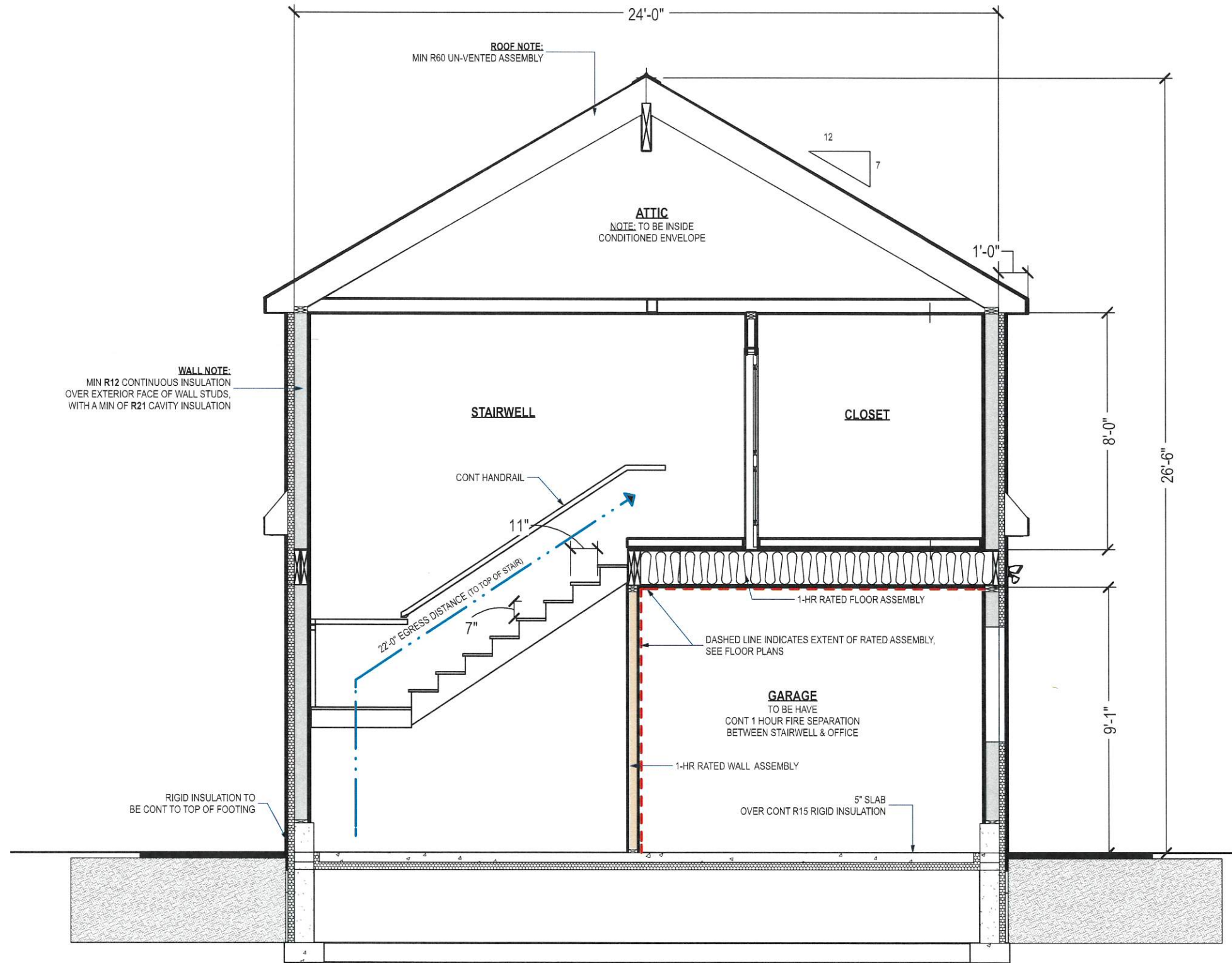
CLIENT
ELIZABETH PESCE
361 MILLER AVE
PORTSMOUTH, NH 03801

TITLE
SITE PLAN

361 MILLER AVE
PORTSMOUTH, NH 03801
TAX MAP 131, LOT 33

JOB NUMBER	DWG. NO.	ISSUE
23-035	2 OF 2	5





VAKOTA
architecture, pllc
41 East 11th St. 11th Floor
New York, New York 11225
212.655.9875

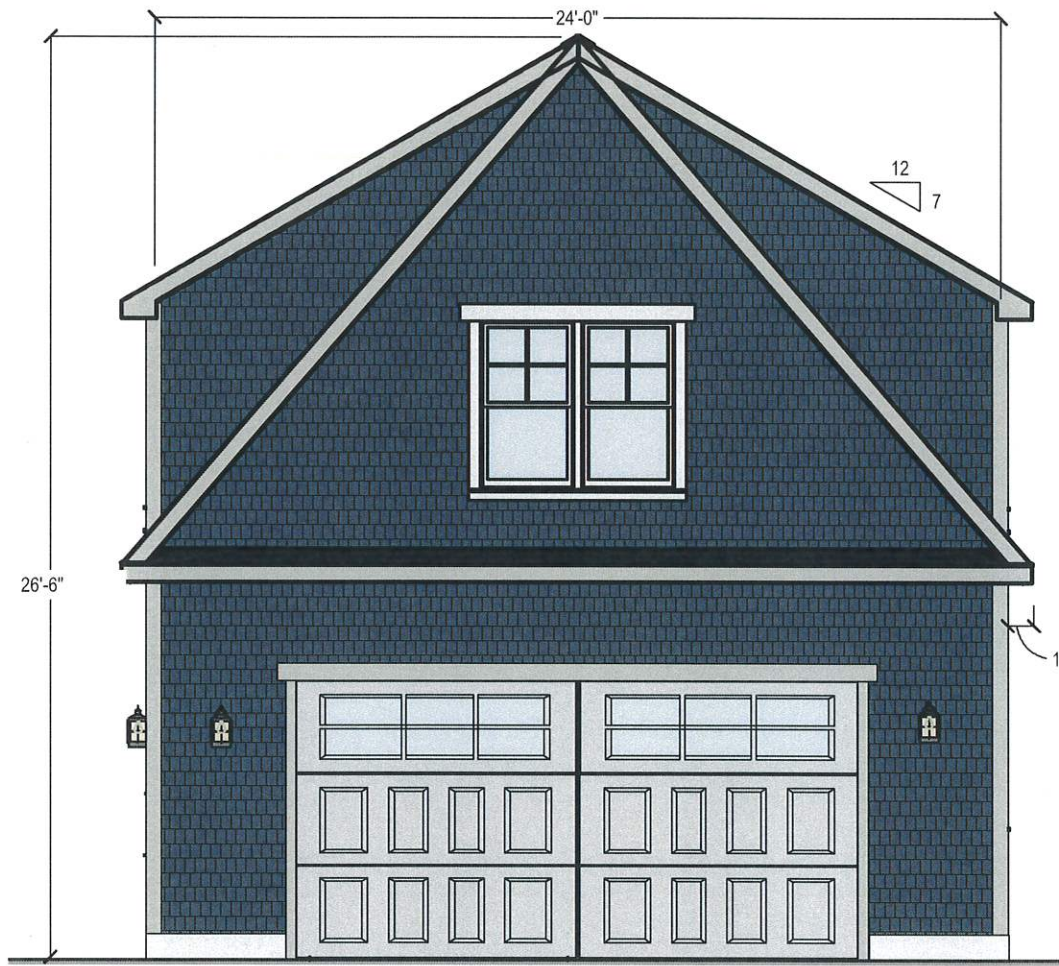
PROJECT INFO:
PORT HUNTER, LLC
GARAGE
361 MILLER AVE
PORTSMOUTH, NEW HAMPSHIRE

SHEET TITLE:
SECTION

PROJECT STATUS: SCHEMATIC		DATE
NO.	REVISION SCHEDULE DESCRIPTION	DATE

DATE: 03/23/2026
SCALE: 1/4"=1'-0"
SHEET NUMBER:

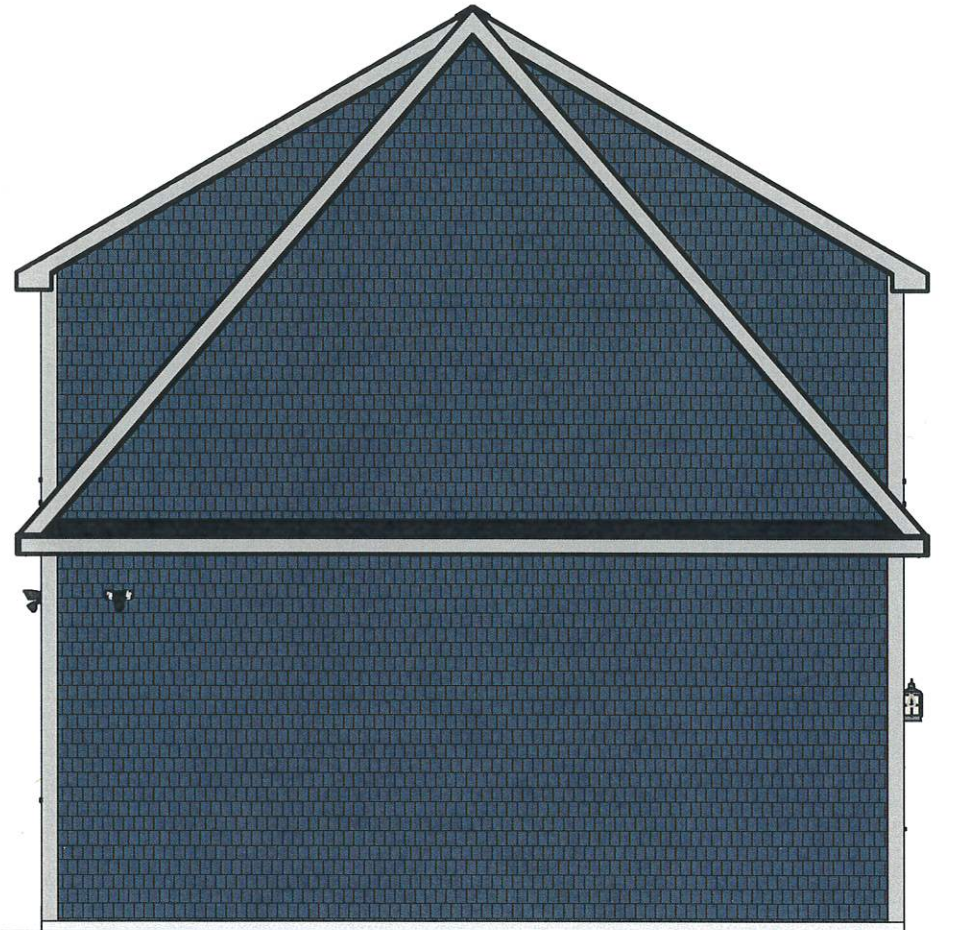
A3



1) SOUTH



2) WEST



3) NORTH



4) EAST

VAKOTA
 architecture, pllc
 41 East 11th St, 11th Floor
 New York, New York 11225
 212.655.9875

PROJECT LINE:
PORT HUNTER, LLC
GARAGE
 361 MILLER AVE
 PORTSMOUTH, NEW HAMPSHIRE

SHEET TITLE:
EXTERIOR ELEVATIONS

PROJECT STATUS: SCHEMATIC		DATE
NO.	DESCRIPTION	DATE

DATE: 03/23/2026
 SCALE: 3/16"=1'-0"
 SHEET NUMBER:
A4

II. OLD BUSINESS

- F. The request of **Ryan Trust (Owner)**, for property located at **221 Woodbury Avenue** whereas relief is needed to subdivide the existing parcel into two parcels, for demolition of the existing one-story detached garage and construction of a new two-story detached garage on lot 1; and a new single-family residential structure on lot 2, which requires the following: 1) Variance from Section 10.521 to allow 63 feet of frontage where 100 feet is required. Said property is located on Assessor Map 175 Lot 10 and lies within the General Residence A (GRA) District. (LU-26-57)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family Residential	Subdivision and construct new SFR	Mostly Residential
<u>Lot area (sq. ft.):</u>	17,351	Lot 1: 7,979 Lot 2: 9,538	7,500 min.
<u>Lot area per dwelling unit (sq. ft.)</u>	17,351	Lot 1: 7,979 Lot 2: 9,538	7,500 min
<u>Street Frontage (ft.):</u>	279	Lot 1: 199 Lot 2: 63	100 min.
<u>Lot depth (ft.):</u>	139	Lot 1: 137 Lot 2: 123	70 min.
<u>Front Yard (ft.):</u>	13	Lot 1: 13 Lot 2: 8	8 (Sec.10.516.10) min.
<u>Secondary Front Yard (ft.):</u>	Primary: 5 Garage: >15	Primary: 5 Garage: 15	15 min.
<u>Left Yard (ft.):</u>	>10	Lot 1: 19 Lot 2: 18.5	10 min.
<u>Rear Yard (ft.):</u>	Garage: 25	Garage: 29.5	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	10.4	Lot 1: 25 Lot 2: 20	25 max.
<u>Open Space (%)</u>	89.8	Lot 1: 75 Lot 2: 80	30 min.
<u>Estimated Age of Structure:</u>	1900	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Planning Board / Subdivision Approval
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **August 18, 2009** – Variance from Article III Section 10-302(A) to allow for a new lot with 60.45'± of frontage where 100' is required. The Board voted to deny the request as presented and advertised.

Planning Department Comments

The applicant is requesting relief to subdivide the property from one lot into two with a portion of frontage and access to the new lot coming off Thornton Street. The proposed subdivision would include construction of a new single-family residential structure on the new lot, a new detached garage on the primary lot and conversion of the existing two-family residence on the primary lot to a single-family residence.

Fisher vs. Dover

The applicant was before the Board on August 18, 2009, seeking relief from Article III, Section 10-302(A) to allow for a new lot with 60.45'± of frontage where 100' is required. A motion to grant the request failed to pass and the request was denied. The Board should consider whether it is appropriate to evoke Fisher vs Dover before the application is considered.

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

To view the August 2009 proposal please see the following link:

https://files.portsmouthnh.gov/files/planning/apps/WoodburyAve_221/221_WoodburyAve_08-18-09_BOA_app.pdf

June Update

The Board should be aware the applicant has submitted updated materials to address Fisher vs Dover.

Variance Review Criteria

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

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

(b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

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

10.235 Certain Representations Deemed Conditions

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

Planning Department
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

To: Portsmouth Zoning Board of Adjustment (“ZBA”)

From: Martin Ryan

Date: June 05, 2026

Re: Ryan Trust
221 Woodbury Ave, Tax map 175-10
General Residence A Zoning

Dear Chair & Zoning Board Members:

In support of the request for zoning relief, we respectfully submit this updated memorandum and the accompanying exhibits for the Zoning Board of Adjustment's (ZBA) consideration at its meeting on June 16, 2026. Note, this updated memorandum addresses the Board's consideration of whether or not it is appropriate to evoke Fisher v. Dover before this application is heard in Section 6 below.

1. Attachments

- A. City Tax Map
- B. Drawing Set
 - T1- Title Sheet
 - C1- Historic Map & Figure Ground
 - C2- Existing Site Plan
 - C3- Proposed Site Plan
 - C4- Site Diagram
 - A1- Site Elevation
 - A2- Site Elevations
 - P1- Context Photographs
 - P2- Context Photographs
- C. Previous Application- 2009
- D. 2009 Meeting Minutes
- E. Abutter Letters

2. Property:

Located at 221 Woodbury Avenue, the subject property is a 17,351-square-foot corner parcel with approximately 135 feet of Woodbury Avenue frontage and approximately 145 feet of Thornton Street frontage (see C2 Existing site Plan). Existing structures include a well-maintained two-family residence constructed circa 1900 and a detached garage.

Originally, the property consisted of two (2) long and narrow rectangular lot, much like the surrounding lots, but the lots were situated on Thornton Street, rather than Woodbury Avenue. These original features can be seen on the pertinent section of the plan prepared by A.C. Hoyt in June 1890, recorded in the Rockingham County Registry of Deeds as #00150. (Re org exhibit list if you want to include this paragraph). Why Mr. Hoyt chose to layout these two (2) lots in this fashion is unknown and otherwise inconsistent with planning practices today; similarly, why the original builder or owner of the house chose to orient the house on Woodbury Avenue is also unknown. Regardless of these unknown factors, the original intent was for this property to be two (2) lots and not one (1) lot.



Figure #1- 1890 Hoyt Plan, Rockingham County Registry of Deeds

The applicants, who have resided at and maintained the property for 30 years, seeks a subdivision due to health-related challenges that make the current dwelling unfeasible.

The objective and goal of this proposal and application is to subdivide the large parcel to create a new, adjacent lot, with the original house remaining on its own lot; both of which having frontage on, and cited to, Woodbury Avenue, and which would be more consistent with what we today would have deemed as better planning practices.

This will facilitate the construction of a more suitable residence, enabling the applicants to age in place within their established community.

While the proposed subdivision creates two appropriately sized lots that is consistent with the essential character of the neighborhood, as well as the neighborhood's layout and development over the years, the project requires the approval of specific zoning variances.

3. Zoning Compliance :

Except for lot depth and frontage, the proposed subdivision would be in accordance with all of the dimensional standards, (See Table 10.521) as follows:

Lot Area: the existing lot is 17,351 SF. With the proposed subdivision, a new lot at 9,538 sf. would be created for the development of a single-family dwelling. The existing dwelling, which is a two-family home, will downgrade to a single-family dwelling on the remaining lot which would be 7,979 sf. Both lots would be conforming as the required lot sizes are a min. of 7,500 sf.

Front Setback: The existing two-family house has an existing, non-conforming front setback of 13'-2" where 15'-0" is required.

The proposed development of the newly formed lot would adhere to the setback requirements based upon section 10.516.10 "Front Yard Exception of Existing Alignments". The existing setback of 251 Woodbury Avenue and the existing structure of 221 Woodbury Avenue, the proposed house would be at 8'-0", an average of the sets of the two existing structures.

Rear setbacks: The existing 2 family house rear setback of 20'-0" is conforming.

The proposed development of the newly formed lot would adhere to the rear setback requirements.

Lot Coverage: With the proposed subdivision, the newly created lot #1, containing the existing house and garage, would have a lot coverage of 21%

where 25% is the maximum allowed. The lot coverage of the proposed new lot #2, will adhere to the lot coverage requirements

Open Space: With the proposed subdivision, Lot #1, containing the existing house and garage, would be at 21% where 25% is the maximum allowed.

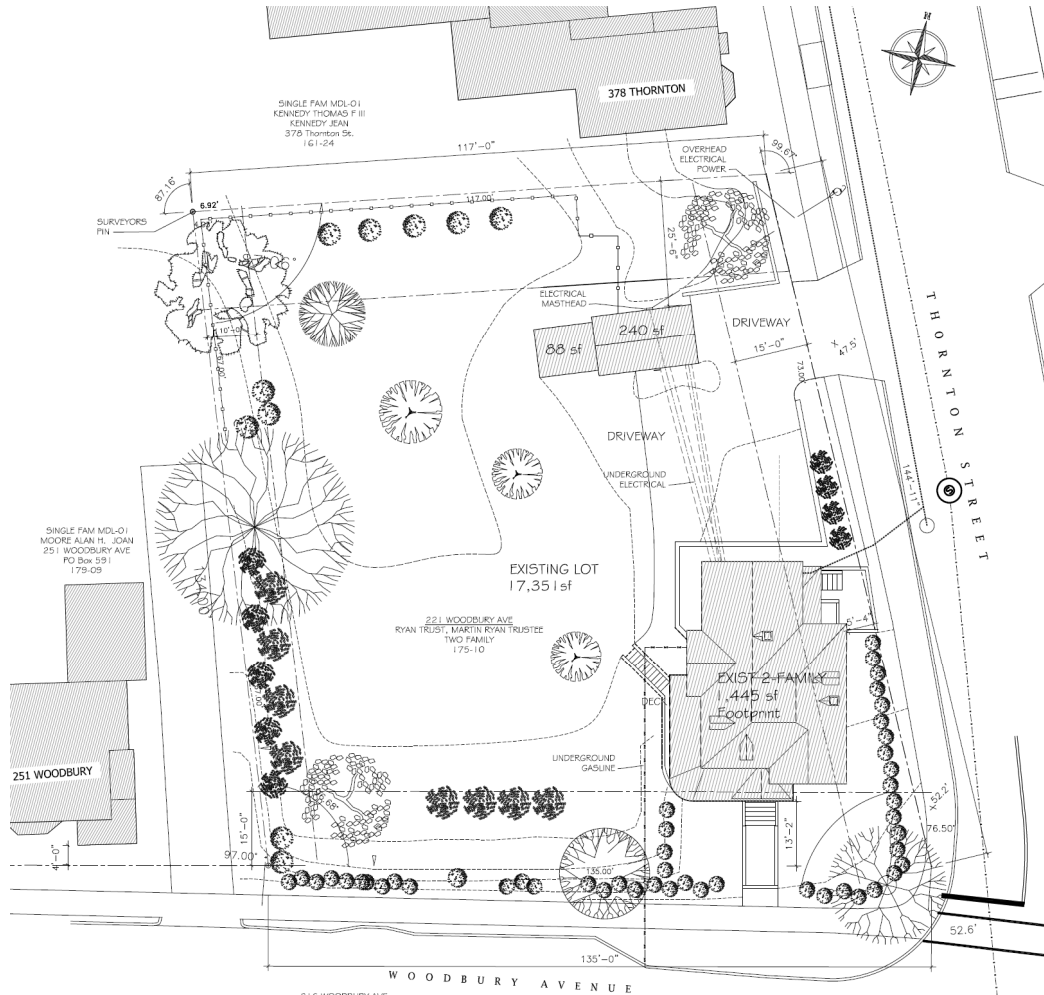


Figure #2 Existing Site Plan

4. Zoning Relief Required:

Lot Frontage: where 100 LF is required in Zone GRA, 63'-0" would be the proposed frontage on Woodbury Avenue for the newly created Lot 2. As shown on

the Figure #2 drawing, the proposed and remaining lot frontage is typical for lot frontage and average for the pattern and character of the neighborhood.

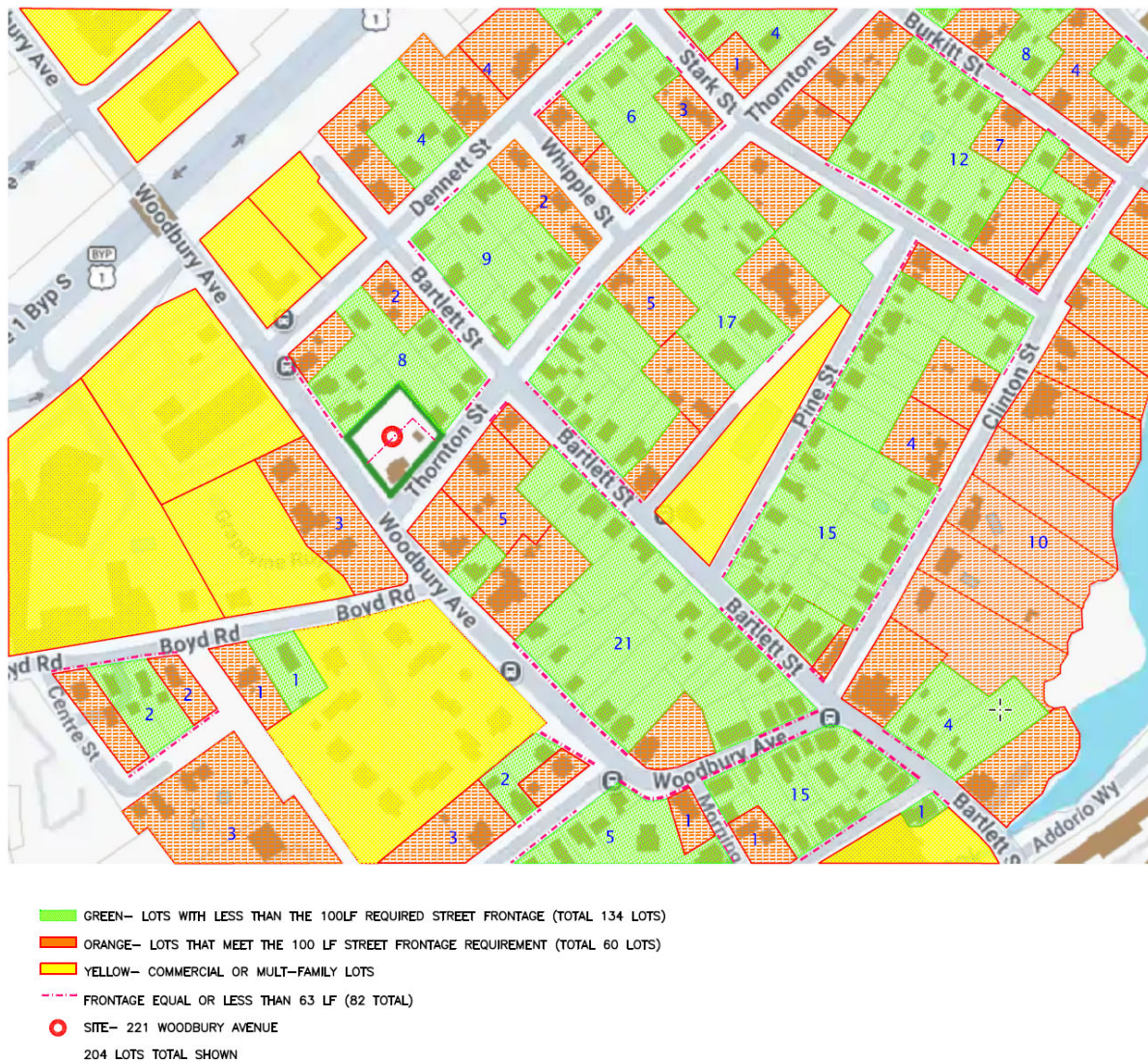


Figure #3. Neighborhood Context & Analysis Map

5. Site Layout:

The proposed subdivision is deliberately designed to maintain the neighborhood's character by preventing driveways and garages from dominating the property's architectural façade and by reducing the traffic and safety factors by not proposing a curb cut on Woodbury Avenue.

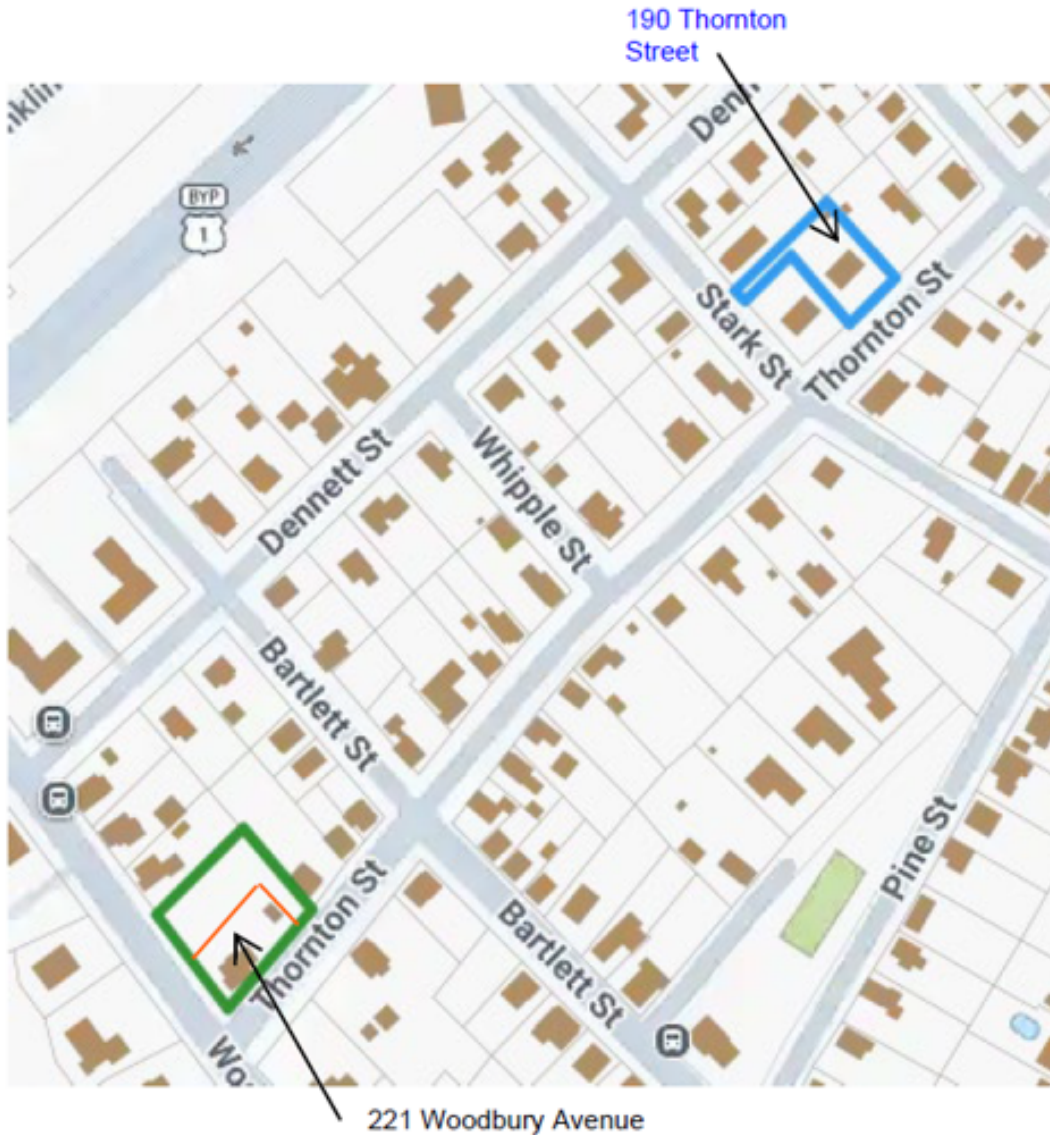


Figure #4- Precedent for Site Layout.

By relocating these visual elements to the interior of the lot, the proposed lot configuration successfully preserves the existing streetscape and the historic charm of the area. This approach would maintain the historic language of the “urban street wall”. Additionally, this driveway configuration eliminates the danger of backing into street traffic. A comparable precedent for this L-shaped lot and driveway configuration can be found at 190 Thornton Street.

6. Fisher V. Dover:

As noted in the historical record, the Applicant previously filed a request for a subdivision on this parcel, which was reviewed at a meeting on August 18, 2009, (see Figure #5). Under New Hampshire law, consideration of subsequent petitions by a zoning board is limited to those which present a material change in circumstances affecting the application, propose a use materially different in nature or degree, or upon a finding of a material change of circumstances (Fisher v. Dover, 121 N.H. 187 (1980)).

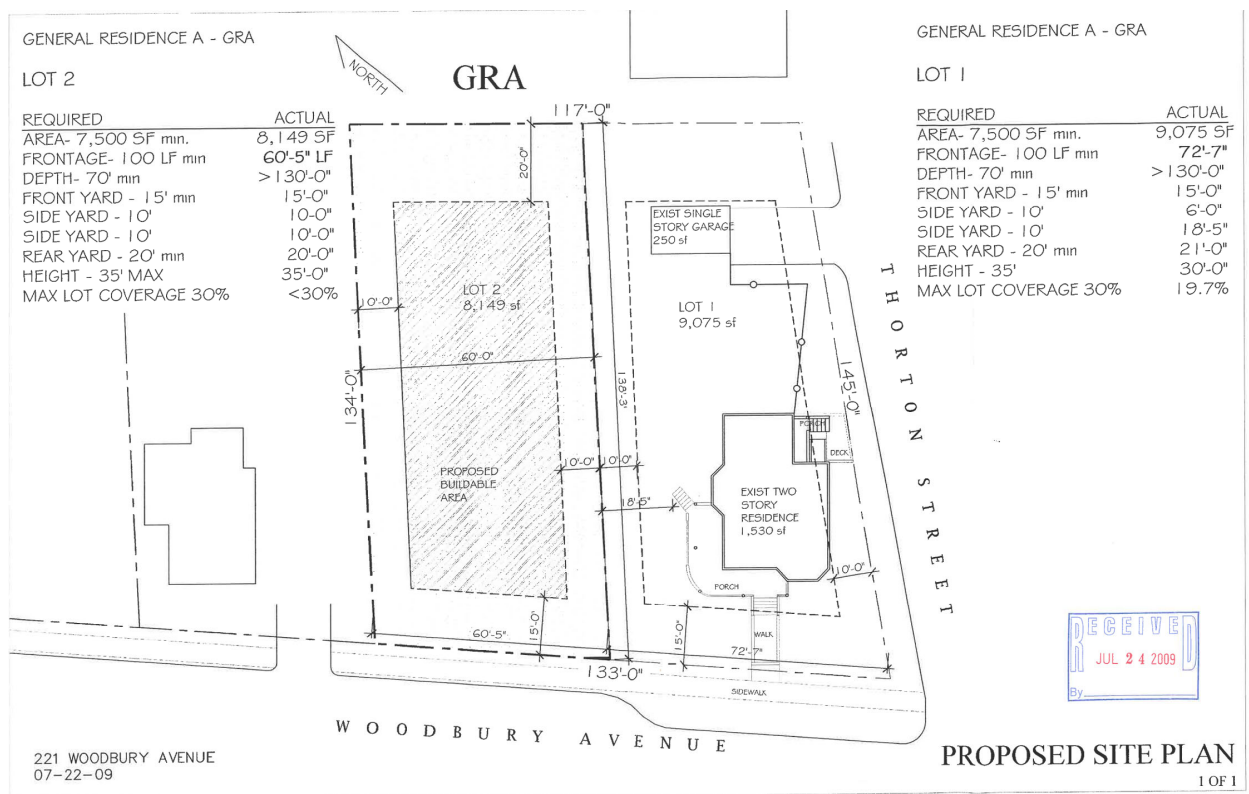


Figure #5: 2009 Request for Lot Subdivision.

The New Hampshire Supreme Court has emphasized that this limitation is not to be technically and narrowly imposed. The intent of the doctrine is to resolve finality and prevent abusive, repetitive applications, not to freeze a parcel of land in perpetuity based on a decades-old denial.

The current 2026 application successfully clears the Fisher hurdle by presenting a radically modified proposal, demonstrating substantial changes in the surrounding environment over the intervening 17 years, and because of changes in the legal standards for zoning boards.

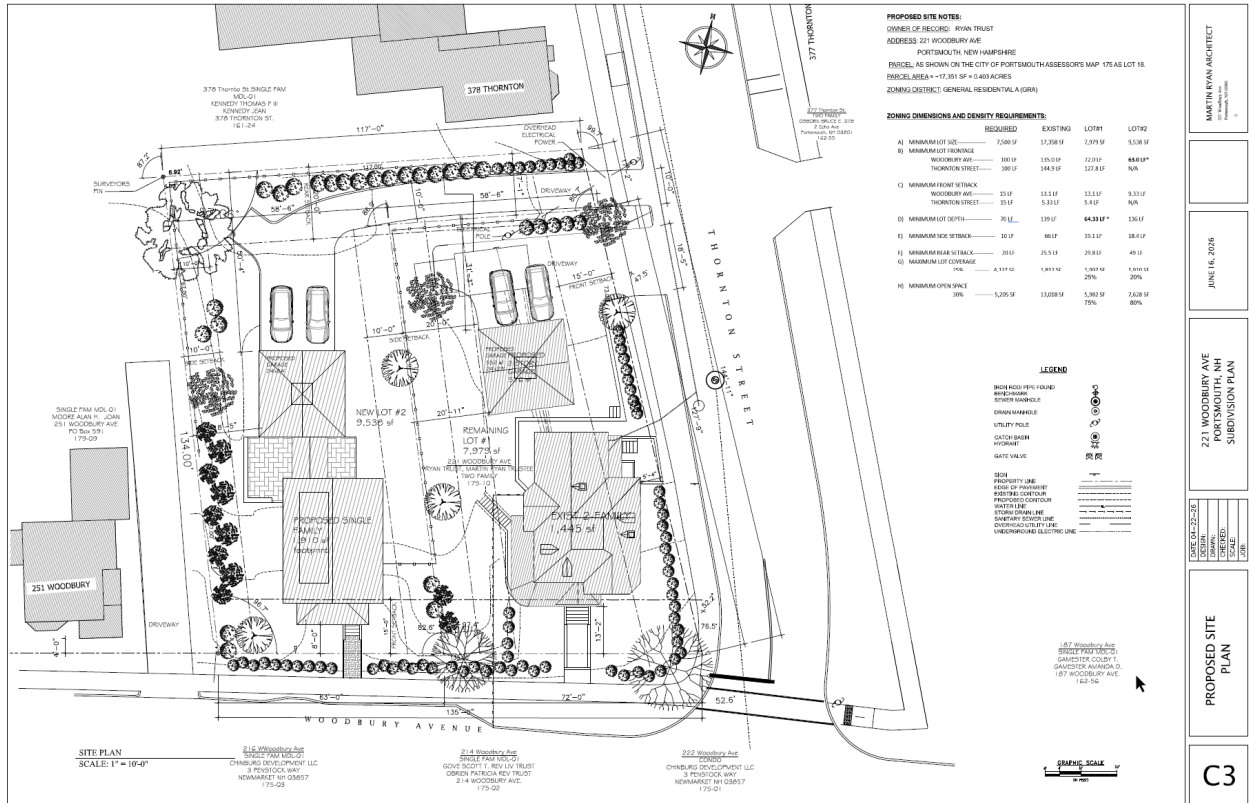


Figure #6: 2026 Request for Lot Subdivision

Materially Different Proposal (Changes in Nature and Degree): The 2026 application is fundamentally different in scope, detail, intensity, access, and design from the 2009 generic subdivision request.

- Detailed, Engineered Site Plan vs. Speculative Request:** The 2009 application provided no specific architectural elevations, driveway locations, landscaping, or building footprint for the new lot, making impact assessment difficult. The 2026 application is comprehensive: precise site plans (C3 Proposed Site Plan, C4 Site Diagram), architectural elevations (A1–A2), context photographs, and a landscaping plan that relocates driveways and garages to the interior of an L-shaped lot. This transforms the request from an abstract subdivision into a concrete, thoroughly engineered proposal the Board can fully evaluate.

- **Reduced Density and Intensity:** The 2009 proposal contemplated maintaining the existing house as a two-family dwelling while adding a new single-family dwelling, potentially resulting in three total dwelling units. The 2026 application reduces this to two total units (downgrading the existing two-family to single-family on Lot 1 and constructing one new single-family on Lot 2)—a 33% reduction in density. This directly reduces traffic, noise, and utility burden compared to the prior proposal.
- **Safer, Reconfigured Site Access:** The 2009 plan proposed a new curb cut directly onto Woodbury Avenue (a high-traffic arterial), raising legitimate concerns about traffic flow, sightlines, and public safety. The 2026 plan abandons any new Woodbury curb cut. Both lots are accessed via Thornton Street (a secondary, lower-volume street), with driveways and garages located internally. This eliminates backing into street traffic and better preserves the historic “urban street wall” character of the neighborhood. A comparable L-shaped configuration with internal access exists at 190 Thornton Street.
- **Lot Shape, Size, and Spatial Relationship:** The 2026 geometry incorporates specific design factors—adjusted setbacks under §10.516.10 (Front Yard Exception of Existing Alignments), optimized building envelopes, and internal circulation—that were absent in 2009. These directly address potential abutter concerns regarding privacy, light, and air.
- **Material Change in Circumstances (17 Years of Evolution):** Beyond applicant-driven changes, the physical, infrastructural, and regulatory environment has evolved materially.
 - Municipal water, sewer, and stormwater networks and standards have advanced significantly. Modern stormwater management (bio-retention, permeable surfaces, etc.) allows far superior mitigation of environmental impacts than was feasible in 2009.
 - The surrounding neighborhood has changed with new development, higher-density housing, and commercial properties nearby. The baseline for assessing neighborhood character, property values, and impacts is no longer the 2009 snapshot.
 - The 2009 denial occurred under an ambiguous, high-intensity proposal. The 2026 application cures those defects with a lower-impact, fully realized design.

Material Change in Applicable Law: The legal framework governing the ZBA's review has changed. In 2009, area variances were evaluated under the two-part judicial test articulated in *Boccia v. City of Portsmouth*, 151 N.H. 85 (2004). Effective January 1, 2010, the Legislature enacted 2009 N.H. Laws ch. 307 (SB 147), which repealed and reenacted RSA 674:33, I(b) specifically "to eliminate the separate 'unnecessary hardship' standard for 'area' variances, as established by the New Hampshire supreme court in the case of *Boccia*." All variances are now reviewed under unified statutory five criteria, with unnecessary hardship determined under the *Simplex* standards for both use and area variances. ZBAs have recognized statutory changes between applications as a material change of circumstances for *Fisher* purposes. The Board is therefore reviewing this application under an entirely different legal standard than in 2009.

Materially Different Proposal (Changes in Nature and Degree): The applicants have substantially modified their proposal, intent, and overall site design to directly mitigate potential impacts and improve harmony with the neighborhood.

Proposed Lot Development & Design Clarity: The 2009 application was essentially a generic subdivision request that did not suggest a specific intended use or structural footprint for the new lot, making it difficult for the Board to accurately assess its impact. By contrast, the 2026 application is comprehensive. It provides detailed architectural elevations, precise driveway locations, and a comprehensive landscaping plan. This transitions the request from a speculative subdivision to a concrete, thoroughly engineered site plan.

Reduced Density and Intensity of Use: A critical material change is the substantial reduction in proposed density. The 2009 proposal intended to maintain the existing house as a two-family dwelling while adding a new single-family dwelling on the proposed lot, resulting in three (3) total dwelling units across the two parcels. The 2026 application drastically reduces this intensity by proposing only two (2) total units—one single-family dwelling per lot. This 33% reduction in density directly translates to reduced traffic, lower noise profiles, and a lesser burden on municipal utilities, representing a use materially different in degree.

Lot Shape, Size, and Spatial Relationship: The 2026 application proposes a fundamentally different lot configuration than the 2009 plan. This new geometry incorporates specific design factors—such as adjusted setbacks and optimized building envelopes—that were completely absent in the 2009 submission. These spatial adjustments directly address potential abutter concerns regarding privacy, light, and air that may have existed previously.

Safer, Reconfigured Site Access: Perhaps the most significant material change to the site's functionality is the vehicular access plan. The 2009 application proposed a new curb cut directly onto Woodbury Avenue, a high-traffic arterial road, raising valid concerns regarding traffic flow, sightlines, and public safety. The 2026 application abandons this approach entirely, instead proposing two curb cuts on Thornton Street. This routes traffic onto a secondary, less busy street, significantly improving safety and reducing friction on the main thoroughfare.

Material Change in Circumstances (17 Years of Evolution) Beyond the changes made by the applicant, the physical and regulatory environment surrounding the property has evolved considerably since August 2009.

Upgraded Infrastructure and Environmental Standards: The availability, capacity, and standards of municipal utilities have not remained static. Over the last 17 years, municipal water and sewer networks have been expanded or upgraded. Furthermore, modern stormwater management regulations and technologies (such as bio-retention and permeable surfaces) have advanced significantly since 2009. The technical feasibility of developing this lot, and the ability to mitigate environmental impacts, are vastly superior today than they were 17 years ago.

Evolution of Surrounding Development: The character of the surrounding neighborhood has inevitably changed since the initial denial. The introduction of new commercial properties, higher-density housing, or infrastructural expansions in the immediate vicinity alters the baseline of the neighborhood. Because the surrounding landscape has evolved, the impact of the requested variance on surrounding property values and neighborhood character is a brand-new factual question that cannot be answered using 2009 data.

Context of the 2009 Meeting: In the 2009 application, the intended use and specific impacts were left ambiguous, leading to board hesitation and an inability to properly weigh the benefits against the detriments. The 2026 application cures these defects entirely by presenting a fully realized, lower-impact design.

Conclusion:

The fundamental purpose of Fisher v. Dover is to prevent an applicant from treating the ZBA like a revolving door, submitting identical applications month after month in hopes of a different outcome. It was never intended to chain a piece of property to a single, localized snapshot in time from 17 years ago.

The combination of a materially different, lower-density, safer, and more precisely engineered proposal, 17 years of neighborhood and infrastructural evolution, and

a change in the statutory criteria the Board must apply creates a clear basis for the Board to consider this application on its merits under today's standards and realities.

CRITERIA

The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

A. Public Interest:

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

In this case, were the variance to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. A second dwelling lot is entirely appropriate and consistent with the existing subdivision in which this property sits. It does not increase the amount of residential density beyond what is permitted by right. Thus, the fundamental residential character of the neighborhood will not be altered and the health, safety and welfare of the public will not be threatened.

B. Spirit of the Ordinance:

"The spirit of the Ordinance will be observed".

The neighborhood is diverse with older traditional homes sited on longer, rectangular lots, as well as more contemporary homes where driveways and garages are present. The lot is also adjacent to a newly developed residential block and existing commercial buildings. The intent of Section 10.1113.20 is presumably to create and preserve a consistent aesthetic where buildings are visible from the street and separated from the street by landscaping or other similarly landscaping, fencing and garden features. The location of automobiles and driveways and garage doors are minimized. Much of the area between the buildings and the street will remain grassed and landscaped, thus preserving that aesthetic of the neighborhood. This proposed lot and home not only meets the spirit of the ordinance, it furthers it.

C. Substantial Justice:

“Substantial justice will be done” If this variance is granted, the applicants will be allowed to continue to reside in the community. If “there is no benefit to the public that would outweigh the hardship to the applicant” this factor is satisfied. *Harborside Associates, L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508 (2011). That is, “any loss to the owner that is not outweighed by a gain to the general public is an injustice.” *Malachy Glen*, supra at 109. The owners are constitutionally entitled to the use of the lot as it sees fit; including redevelopment for a permitted single-family home with an incorporated garage, fully zoning compliant except for frontage, which is being sought. “The right to use and enjoy one’s property is a fundamental right protected by both the State and Federal Constitutions.” N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; *Town of Chesterfield v. Brooks*, 126 N.H. 64 (1985) at 68.

Approval of the frontage variance, supports a development that adheres to the character of the neighborhood and all substantive zoning criteria. As the variance entails no detriment to adjacent properties, there is no public interest served by its denial. In contrast, the applicants would not only be barred from creating an otherwise incredibly reasonable lot based on the surrounding neighborhood, but would also lose out on their ability to construct a home that would allow and enable them to age in place and in a neighborhood of which is part of their identity, and vice versa..

D. Property Values:

“The values of the surrounding properties will not be diminished”. “The Project, as designed and presented in this application, will result in no diminution of value to surrounding properties. The traditional style, single family structure is consistent with the neighborhood land use pattern and quality and character of the existing structures in the neighborhood. The request is limited to lot frontage variance necessitated by a site constraint that cannot be remedied. Moreover, even though the applicants are seeking relief to construct a new residence, they are at the same time reducing the number of dwelling units in the existing structure, thereby creating result of no net change in dwelling units yielding from the property. As the development enhances the property without impacting adjacent owners, it successfully fulfills the fourth prong of the variance requirements.

E. Unnecessary Hardship:

“Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship”. Allowing this proposed use is fair and reasonable.

The occupants of the property have resided at and maintained 221 Woodbury Avenue for over 30 years. Health-related challenges now make the current two-family dwelling unfeasible for aging in place within their established community. This can be accomplished by allowing the construction of a new, more suitable single-family residence on the newly created adjacent lot, with both lots being appropriately sized and consistent with the neighborhood’s land use patterns.

The property presents special conditions that distinguish it from other properties in the GRA district and that necessitates the requested variance: it is a large (17,351 sf) corner parcel developed circa 1900 with an existing two-family structure positioned with a non-conforming front setback on Woodbury Avenue. This pre-zoning development pattern, combined with the corner location, creates practical difficulties in configuring two standard rectangular lots meeting all dimensional requirements without variance relief. The lot’s size nevertheless allows logical subdivision into two lots each exceeding the minimum 7,500 sf area requirement. In addition, there are currently no curb cuts on the property on and for Woodbury, which drives the development proposal to maintain a status quo situation on Woodbury and forces the applicant to create a better result of utilizing Thornton Street for all ingress and egress of each lot.

There is no fair and substantial relationship between the general public purposes of the frontage (and, under the proposed configuration, depth) requirements and the specific application of those provisions to this property. Those purposes include preventing overcrowding, ensuring adequate street access and light/air, maintaining appropriate residential densities, and preserving neighborhood character. Here:

- Both resulting lots exceed the minimum lot area; Lot 1 coverage and open space remain conforming (21% where 25% max / 30% min).
- Access is reconfigured to Thornton Street (a secondary street), eliminating any new curb cut on high-traffic Woodbury Avenue and improving safety.
- Driveways and garages are located internally via an L-shaped configuration that preserves the historic “urban street wall” streetscape and matches an existing condition located nearby at 190 Thornton Street.
- Overall residential density/intensity is reduced compared to the 2009 proposal (two total units vs. potential three) and is fully consistent with the permitted use and existing varied lot frontages in the West End neighborhood (as shown on

Figure #3, where numerous lots have frontage below 100 lf, particularly on side streets or in the historic pattern).

- The development enhances the property without diminishing surrounding values or threatening public health, safety, or welfare.

The proposed use, a single-family dwelling on each lot, is a reasonable use. Single-family residential use is permitted by right in the GRA district and is identical in character to the existing and abutting properties. The variances are narrowly tailored to site constraints that cannot be remedied while still achieving a permitted, lower-impact outcome that allows the owners to remain in the community they have called home for three decades.

Granting the variance is essential for the owners to make reasonable use of their property and remain in the community.

Thank you for your fair consideration on this matter.

Respectfully Submitted,

Martin Ryan

II. PUBLIC HEARINGS

- 1) Case # 8-1
Petitioners: Martin L. Ryan
Property: 221 Woodbury Ave. Assessor Plan 175, Lot 10
Zoning district: General Residence A
Request: Variance from Article III Section 10-302(A) to allow for a new lot with 60.45'±
of frontage where 100' is required

SPEAKING IN FAVOR OF THE PETITION

Mr. Martin Ryan stated that he had owned the property since 1996 and his intention was to subdivide it. His request was for relief from the 100' of frontage to 60.45'. Addressing the criteria, he stated that this was an irregularly shaped corner lot and the existing structure made it difficult to subdivide. He had done a survey of the surrounding lots and only 25% met the frontage requirement. He stated that the size and scale of the lot would meet the spirit of the ordinance, with proper setbacks and buffering. It would be designed to fit the residential nature of the rest of the community. In the justice consideration, not allowing the variance would lend itself to an expansion of the current structure which would be more intrusive than what he was proposing. A variance would allow them to increase the value of the property while producing another buildable lot.

Mr. Grasso asked Mr. Feldman for clarification of the reference in the departmental memorandum to the new lot having an address of Thornton Street. Mr. Feldman stated that what they would see if they looked at the plan was that the applicant was proposing to create two

undersized lots. Because the address for the main lot from which the parcel would be cut was a Woodbury Avenue address, not Thornton Street, they needed to look at the frontage on Woodbury Avenue, rather than Thornton as the width of the lot. Even if they were going to look at Thornton Street as the width of the lot for the frontage, the depth of the lot still wouldn't meet the requirements. Mr. Grasso agreed but stated it would be less impact. His follow-up question was, if this were met favorably by the Board, would the two addresses be Woodbury Avenue. Mr. Feldman stated that they would.

Mr. Parrott referred to Mr. Ryan's memo to the Board under "Conditions," where he had said that if the parcel were vacant, it would be possible to configure the proposed lot lines in a manner that would not require a variance. As he looked at the plot plan provided, Mr. Parrott saw 133' on Woodbury Avenue and 145' on Thornton Street and he was trying to figure out how either of these could end up with 200'. Mr. Ryan stated it would be achievable if Thornton Street were considered as frontage and with the creation of a division that was irregular in shape that could have angles back from the corner back toward the opposite deep corner of the lot. Mr. Parrott asked if he meant an L-shaped lot and Mr. Ryan replied it could be an L or triangular. Mr. Parrott asked him if he were aware of a general requirement in the city zoning ordinance which said that lots generally should be of a rectangular nature, his point being that the applicant might not be able to take an essentially rectangular lot and reconfigure it in some odd way.

Ms. Rousseau stated that Mr. Ryan had mentioned the benefit to the city re. tax revenue and asked if he intended to put a three bedroom house on there. Mr. Ryan stated his intention was to build a single family residence. He hadn't explored all possibilities. Ms. Rousseau stated that would bring in about \$10,000 in tax revenue and it cost \$10,000 per child in the school system. With more than one child, the city was in a deficit position, which she felt would not be in the public interest.

Mr. Ryan stated that he would just like to add that he had read the comments from the planning department and if it were an issue of whether or not he had requested the proper variances, depth versus frontage, he would like to go after a continuance and adjust the request. Chairman LeBlanc stated that it was too late as they had already opened consideration.

Mr. Witham directed a question to Mr. Feldman. The way he was reading it, if the applicant used the address of Woodbury Avenue, he needed 100' of frontage and, if he used Thornton Street, he needed 70'. Mr. Feldman stated, "no." He still needed 100' of frontage but he needed 70' of depth because it was a corner lot and he didn't have that either. Mr. Feldman concurred when Mr. Witham asked if, then, 70' x 100' was the minimum lot size.

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

With no one rising, the public hearing was closed.

DECISION OF THE BOARD

Mr. Witham made a motion to grant the petition as presented and advertised, which was seconded for discussion by Mr. Grasso.

Mr. Witham stated that he was usually hesitant to approve a subdivision which brought one lot into nonconformity. One of the key considerations was a change in the essential character of the neighborhood. When you look at the site map of the neighborhood, what the applicant was proposing conformed to 75% of the lots in the area so that the essential character of the area would not be changed. Mr. Witham stated that each lot met the lot size requirement and there was room to build. He could understand hesitance in putting another lot into nonconformance but the structure on the one lot now was nonconforming.

Mr. Witham stated that granting the variance would not be against the public interest. They were not creating substandard lots. The properties would be larger than required for lot size but did not have the street frontage. He didn't feel the information about the cost to maintain one student could be used as an argument in determining the public interest. The special conditions would be the corner lot and the shape which made it difficult to divide and meet the requirements. He felt there was no public benefit to having one oddly shaped lot as opposed to two standard lots with two houses. He stated that the spirit of the ordinance would be served by allowing a reasonable use of this lot and creating another housing unit which would be of such a size as to be affordable. He reiterated that the essential character of the neighborhood would remain unchanged. Justice would be served by allowing the owner to create another lot in keeping with the area and the value of surrounding properties would not be diminished. There was plenty of space between the proposed properties and the homes to the sides.

Mr. Grasso stated that he was on the fence. Mr. Witham made a strong argument and he was going to go with his motion to grant the petition. Given the current zoning the house that would go in the buildable section of the new lot would not be overbearing for the neighborhood.

Mr. Parrott stated that if they approved the request, there would not be just one nonconforming lot but two and a 60' wide lot line was very short. Absent some extraordinary circumstance or hardship presented by the land, there was no strong reason for the subdivision except that the owner wanted to do so. The fact that there were plenty of others in the neighborhood was not a good reason to make two new nonconforming lots.

Mr. Witham stated that he didn't feel he was making a motion to create two nonconforming lots. The lot was already nonconforming considering the location of the structure. It would be conforming with regard to size and it was noted that he could make two conforming lots by having an odd shape but again that flew against the recommendation to which Mr. Parrott referred about having the regularly shaped rectangular lots. To have the applicant go do it without a variance seemed to require going through a lot of hassle to make this odd shaped lot work and he questioned whether it was in the public interest to do so. He also noted that, while 60' was narrow, it was the average for 75% of the homes in that area.

Ms. Eaton stated that the application could not meet all the criteria, especially the special conditions for the lot.

The motion to grant the petition failed to pass by a vote of 3 to 4, with Ms. Eaton, Ms. Rousseau and Messrs. Durbin and Parrott voting against the motion.



CITY OF PORTSMOUTH

Community Development Department
(603) 610-7232

Planning Department
(603) 610-7216

PLANNING DEPARTMENT

August 21, 2009

Martin L. Ryan
221 Woodbury Avenue
Portsmouth, NH 03801

Re: Property at 221 Woodbury Avenue
Assessor Plan 175, Lot 10
Zoning district: General Residence A

Dear Applicant:

The Board of Adjustment at its regular meeting on August 18, 2009 completed its consideration of your application described as follows:

Request: Variance from Article III Section 10-302(A) to allow for a new lot with 60.45'± of frontage where 100' is required

After consideration, a motion to grant the petition failed to pass and the request was denied. In conformance with RSA 677:2, you have thirty days from the date of decision to file a request for rehearing with the Board of Adjustment.

The minutes and tape recording of the meeting may be reviewed in the Planning Department.

Very truly yours,

Charles A. LeBlanc, Chairman
Board of Adjustment

mek

c: Richard A. Hopley, Building Inspector
Roseann Maurice-Lentz, City Assessor

Case # 8-1

Petitioners: Martin Ryan

Property: 221 Woodbury Ave. Assessor Map 175, Lot 10

Zoning district: General Residence A

Request: Variance from Article III Section 10-302(A) to allow for a new lot with 60.45'± of frontage where 100' is required



Previous Board of Adjustment actions

None.



Overview

The applicant is seeking relief from to allow the division of the lot into two lots, both lots having less than the required street frontage of 100'.

This request is being reviewed as a Boccia analysis

All of the submission requirements have been met by the applicant

The property is located at 221 Woodbury Avenue which is on the corner of Woodbury Avenue and Thornton Street as shown on the attached plans. In creating the second lot which would have a nonconforming frontage the remainder of the lot from which the new lot is being created would now have nonconforming frontage on Woodbury Avenue. If the frontage were to be changed to Thornton Street than the depth of the remaining land would now be nonconforming. The applicant should really be asking for frontage or depth relief for the parcel remaining on the corner of Woodbury Avenue and Thornton Street after the lot split occurs.

Depth of Lot - The average horizontal distance between the front lot line and the rear lot line as measured along both side property lines.

The average depth of the lot utilizing Thornton street as the frontage is 64'± where 70' is required. The address for the home is Woodbury Avenue which suggests that the frontage for the lot is Woodbury Avenue. Since this is the case once the lot split occurs both parcels would have less than the required 100' of frontage.

The creation of an undersized lot(s) would be in opposition to the current zoning policy and could be considered to be contrary to the spirit of the ordinance by allowing non-conformity to take place, could be considered a diminution of surrounding property values by allowing the further erosion of lot size requirements where only 25% of the lots meet the zoning standards,

and may hurt the benefit to the public interest by allowing the construction of an additional unit to be built on an undersized lot where one did not exist previously.

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**Findings of Fact**  
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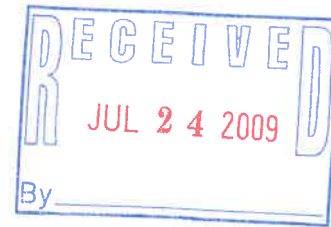
- 1)
- 2)
- 3)
- 4)

~~~~~  
**Analysis for Variances**  
~~~~~

	<u>True</u>	<u>Not True</u>
I. The variance will not be contrary to the public interest.	<input type="checkbox"/>	<input type="checkbox"/>
II. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.		
B. Applicant seeking area variance – Boccia analysis		
i. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.	<input type="checkbox"/>	<input type="checkbox"/>
ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.	<input type="checkbox"/>	<input type="checkbox"/>
III. The variance is consistent with the spirit of the ordinance.	<input type="checkbox"/>	<input type="checkbox"/>
IV. Substantial justice is done.	<input type="checkbox"/>	<input type="checkbox"/>
V. The value of surrounding properties will not be diminished.	<input type="checkbox"/>	<input type="checkbox"/>

Martin Ryan
221 Woodbury Avenue
Portsmouth, NH 03801

July 22, 2009



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

Re: Zoning Board of Adjustments Relief Request
221 Woodbury Avenue
Lot 10
Tax Map 175
General Residence A

Dear Members of the Board;

I am seeking a variance relief of the 100-linear feet of required frontage for the purpose of subdivision of the current 17,224 sf. lot from a single lot into 2 dwelling lots of 9,075 sf and 8,149 sf. (See attached Proposed Site plan).

The proposed two lot subdivision meets all of the criteria of the Zoning Regulations under Section 10-302 (A) with the exception of the frontage requirement. Lot 1, which contains the existing dwelling and garage, will meet of the Zoning Requirements for a new residential lot. Lot 2, which vacant, will meet of the criteria as well with the exception of the frontage requirement.

I am proposing and requesting that Lot 2 have 60-feet of frontage where 100-feet is required.

5 Conditions

The denial of the variance will result in unnecessary hardship

If the parcel were vacant, it would be possible to configure the proposed lot lines in a manner that would not require a variance. The house was constructed in 1900, which is prior to the Zoning Ordinance. The lot was developed in a manner that is conducive to subdividing and creating a similar sized and shaped lot as the abutting parcels.

No diminution in value of surrounding property values

The majority of abutting parcels are smaller and have similar lot frontage as the proposed lot. Of the approximately 388 lots in this particular zoning district only 91 meet the required 100 linear feet of frontage. That's approximately 25% of the lots meeting the requirement.

Contrary of the spirit of the ordinance

The proposed lots will be developed in a reasonable manner. Each lot will have adequate buffering from abutting properties and room for adequate yards and treatment of stormwater, parking, etc.

Benefits to the public Interest

The granting of the variance will allow the development of additional housing in an area with a housing shortage. Improvements to the property would translate into increased tax revenue for the City of Portsmouth.

Substantial justice

Granting the variance will not be injurious to the abutters, it will do substantial justice in the fact that the remaining open portions of the property can be developed. Its fair to believe that w/o the variance, that the existing house could be expanded to an unwieldy size and occupy as much space as 2 house lots.

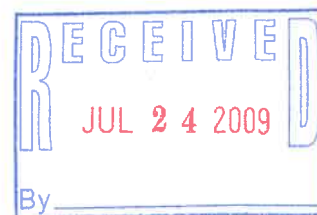
In summary, granting of a variance would not be contrary to the public interest or injurious to public rights of others. This proposal does not conflict with the ordinance or violate the zoning requirements in any way. The creation of these lots would be harmonious with the immediate neighborhood and even more in keeping with the lots sizes that are indigenous to the City of Portsmouth.

Please call me at (603) 436-5767 if you have any questions or require additional information regarding this matter. I look forward to presenting this issue to the board.

Sincerely,



Martin L. Ryan



GENERAL RESIDENCE A - GRA

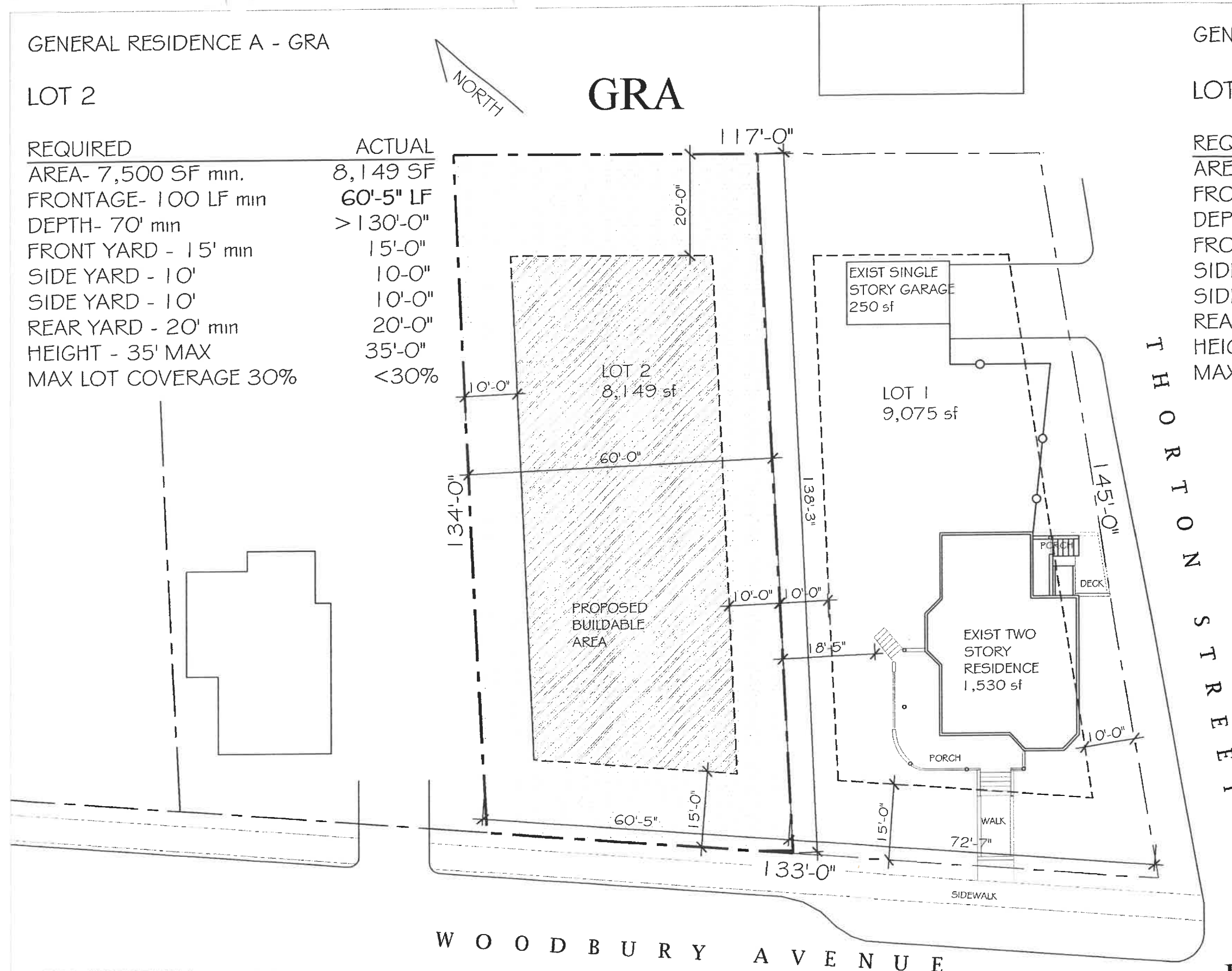
LOT 2

REQUIRED	ACTUAL
AREA- 7,500 SF min.	8,149 SF
FRONTAGE- 100 LF min	60'-5" LF
DEPTH- 70' min	> 130'-0"
FRONT YARD - 15' min	15'-0"
SIDE YARD - 10'	10'-0"
SIDE YARD - 10'	10'-0"
REAR YARD - 20' min	20'-0"
HEIGHT - 35' MAX	35'-0"
MAX LOT COVERAGE 30%	<30%

GENERAL RESIDENCE A - GRA

LOT 1

REQUIRED	ACTUAL
AREA- 7,500 SF min.	9,075 SF
FRONTAGE- 100 LF min	72'-7"
DEPTH- 70' min	> 130'-0"
FRONT YARD - 15' min	15'-0"
SIDE YARD - 10'	6'-0"
SIDE YARD - 10'	18'-5"
REAR YARD - 20' min	21'-0"
HEIGHT - 35'	30'-0"
MAX LOT COVERAGE 30%	19.7%



221 WOODBURY AVENUE
07-22-09

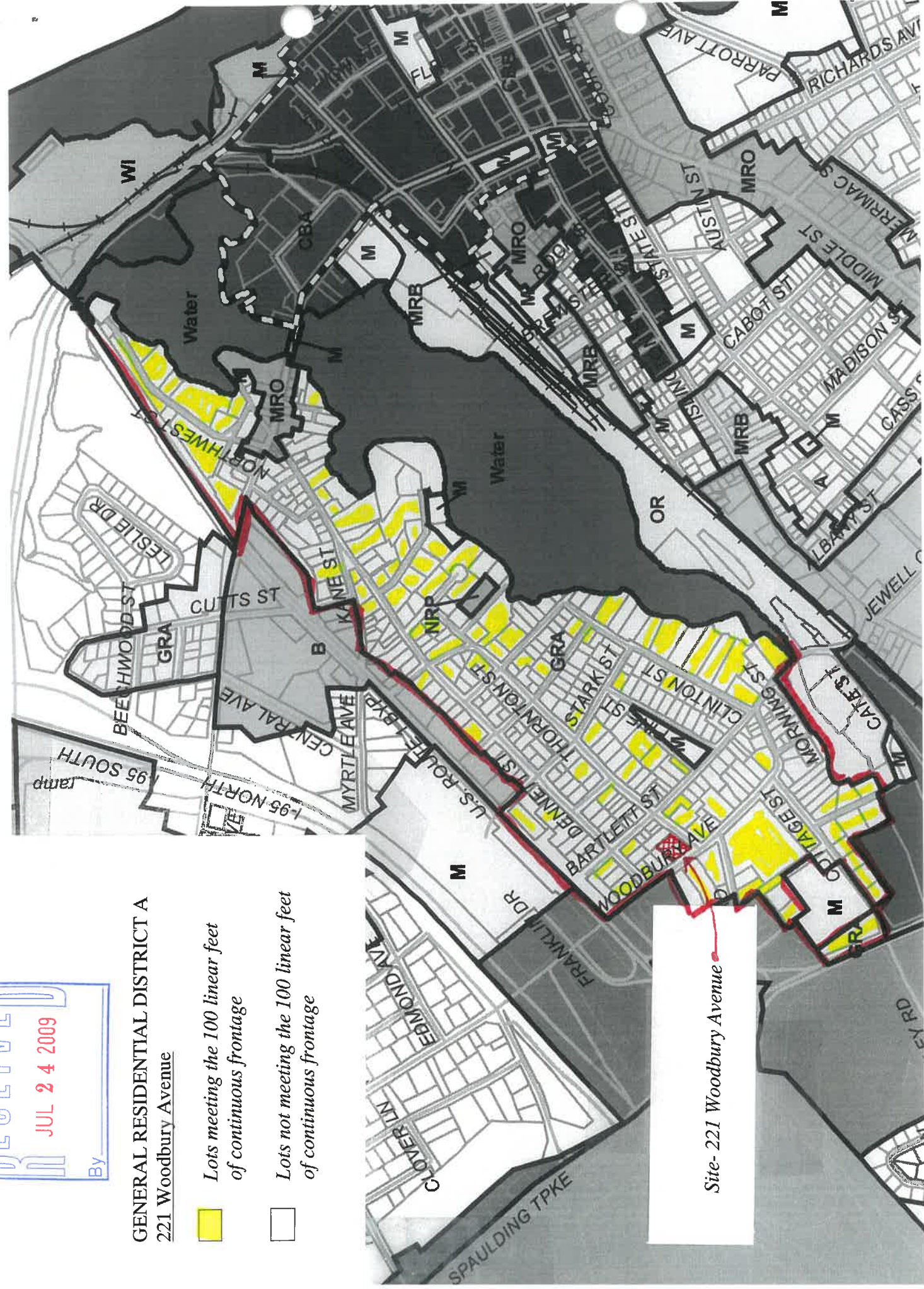
PROPOSED SITE PLAN

RECEIVED
JUL 24 2009
By

GENERAL RESIDENTIAL DISTRICT A
221 Woodbury Avenue

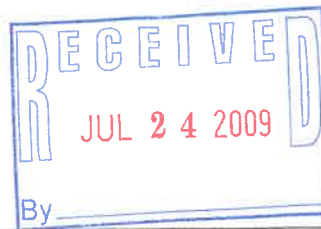
■ Lots meeting the 100 linear feet
of continuous frontage

□ Lots not meeting the 100 linear feet
of continuous frontage



Site- 221 Woodbury Avenue

CITY OF PORTSMOUTH
Board of Adjustment Application



Department Use Only	Date <u>7-24-09</u>
Assessor Plan # <u>175</u>	Fee <u>875.00</u>
Zone <u>GRA</u>	Lot # <u>10</u>
Lot area _____	By <u>NIC</u>

Fill in below by printing in ink or typing / Complete all Blanks or indicate "N/A" if not applicable

Owner Martin L. Ryan Applicant Martin L. Ryan
 Owner address 221 Woodbury Avenue Applicant address 221 Woodbury Avenue
 Owner phone (603-436-5767) ext. _____ Applicant phone (603) 502-8635 ext. _____
 Owner Fax 603-457-0268 Applicant Fax 603-457-0268
 Lessee _____ Lessee address _____
 Lessee phone _____ Lessee Fax _____
 Location address of work: 16 Market Square, Suite 2, Portsmouth, NH 03801
 Existing use: residence

Undersigned hereby requests:

<input type="checkbox"/> Appeal from an Administrative Decision	<u> </u>	<u> </u>
<input type="checkbox"/> Special Exception	<u> </u>	<u> </u>
<input checked="" type="checkbox"/> Variance	<u>Dimension Table 810-302A</u>	<u> </u>

To permit the following:
The variance requested is to relieve the dimensional requirements of one lot from 100' lf of frontage to 60.45' of street frontage in an effort to take a single 17,224 sf. lot and subdivide the lot into 2 separate lots of 9,075 sf. and 8,150 sf. each.

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his/her property under the strict terms of the Zoning Ordinance and thus constitutes unnecessary hardship according to Article XIII, Section 10-1302(D):
Location of the existing structure makes it impossible to configure the proposed lot lines in a manner that would not require a variance. The house was constructed in 1900, which is prior to the Zoning Ordinance. The lot was developed in a manner that is condusive to subdividing and creating a similar sized and shaped lot as the abutting parcels. (see narrative).

Only complete applications will be accepted by the deadline date. A complete application shall consist of: a completely filled out application, the application fee and 12 packets each containing: site and building/floor plans (8 1/2" x 11")* and any supporting data, letters or photos. Incomplete applications will not be accepted. The Board may allow evidence to be submitted at the time of the Public Hearing. Applications received after the deadline will be scheduled for the following month. The owner or his/her representative is required to attend the Public Hearing for the above appeal.

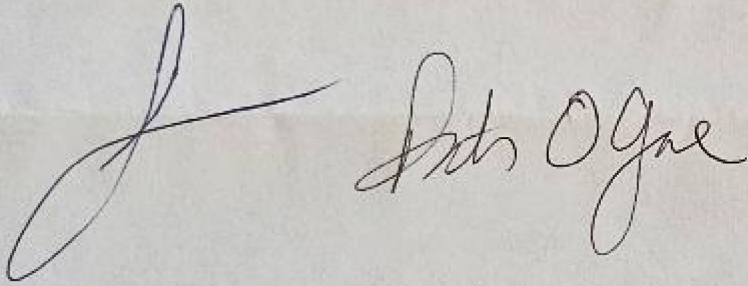
*11" x 17" plans maybe used only if 8 1/2" x 11" plan would not be readable.

[Signature] Signature of Owner 7/22/09 Date

To whom it may concern:

My wife and I live at 214 Woodbury Ave, directly across the street from 221. We fully support the request for the variance requested by Martin and Lisa to allow reduced frontage and create a new buildable lot. The new lot in question has sufficient area for a home to be built and would be in keeping with character of the neighborhood. In addition, housing is badly needed in the city, and this would be one more small step in alleviating that issue.

Scott and Patty Gove

A handwritten signature in cursive script, appearing to read "Scott and Patty Gove". The signature is written in dark ink on a light-colored, slightly textured paper. The first part of the signature is a large, stylized initial, followed by the names "Scott and Patty Gove" written in a fluid, connected cursive style.

From Moore-251

From: Joan Moore (jmo1251@hotmail.com)

To: mlr10000@yahoo.com

Date: Tuesday, May 12, 2026 at 11:59 AM EDT

Hi Martin & Lisa,

Thanks for the letter and house plans. We hope that everything goes well with the city and you can start your new home soon!

Best wishes, Alan & Joan

221 WOODBURY AVENUE PORTSMOUTH, NH 03801 SUBDIVISION PROPOSAL PLAN

DRAWING LIST

NO	TITLE
T1	TITLE SHEET
C1	HISTORIC MAP & FIGURE GROUND
C2	EXISTING SITE PLAN
C3	PROPOSED SITE PLAN
C4	SITE DIAGRAMS
A1	SITE ELEVATIONS
A2	SITE ELEVATIONS
P1	CONTEXT PHOTOGRAPHS
P2	CONTEXT PHOTOGRAPHS

OWNER- RYAN TRUST
JUNE 16, 2026



AERIAL VIEW
SCALE: NTS

MARTIN RYAN ARCHITECT
221 Woodbury Ave
Portsmouth, NH 03801

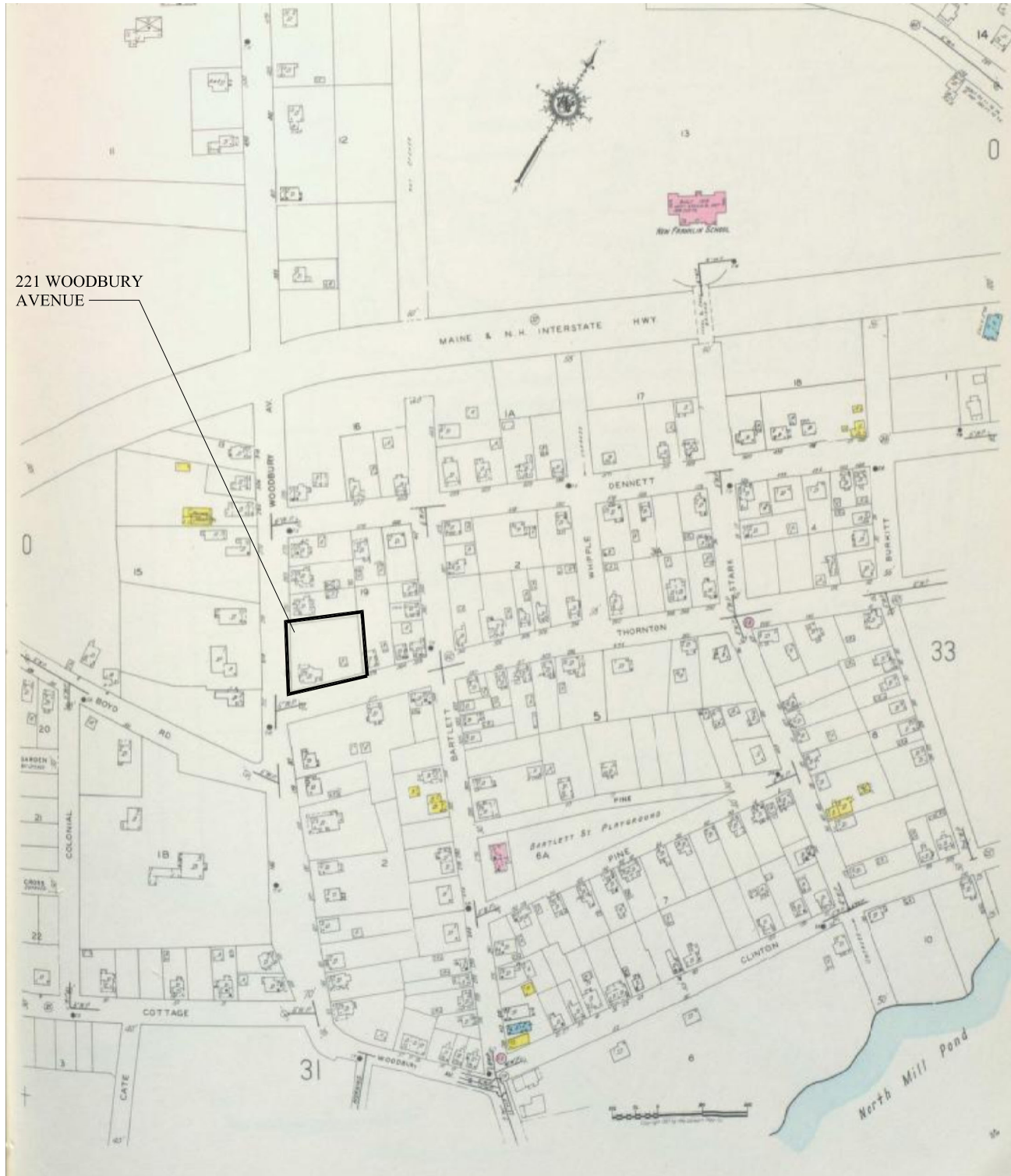
JUNE 16, 2026

221 WOODBURY AVE
PORTSMOUTH, NH
SUBDIVISION PLAN

DATE: 04-22-26
DESIGN:
DRAWN:
CHECKED:
SCALE:
JOB:

TITLE
SHEET

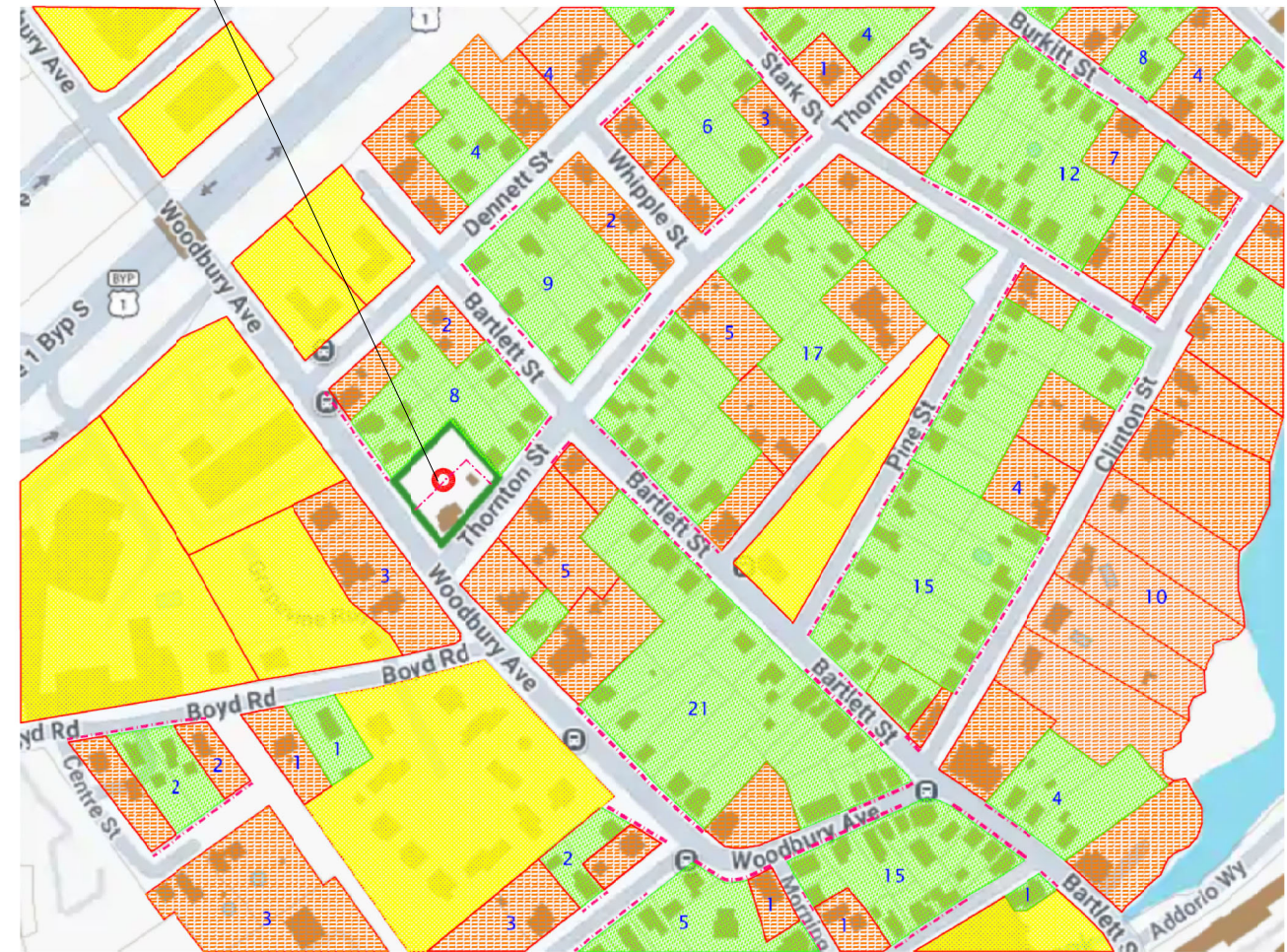
T1



221 WOODBURY AVENUE

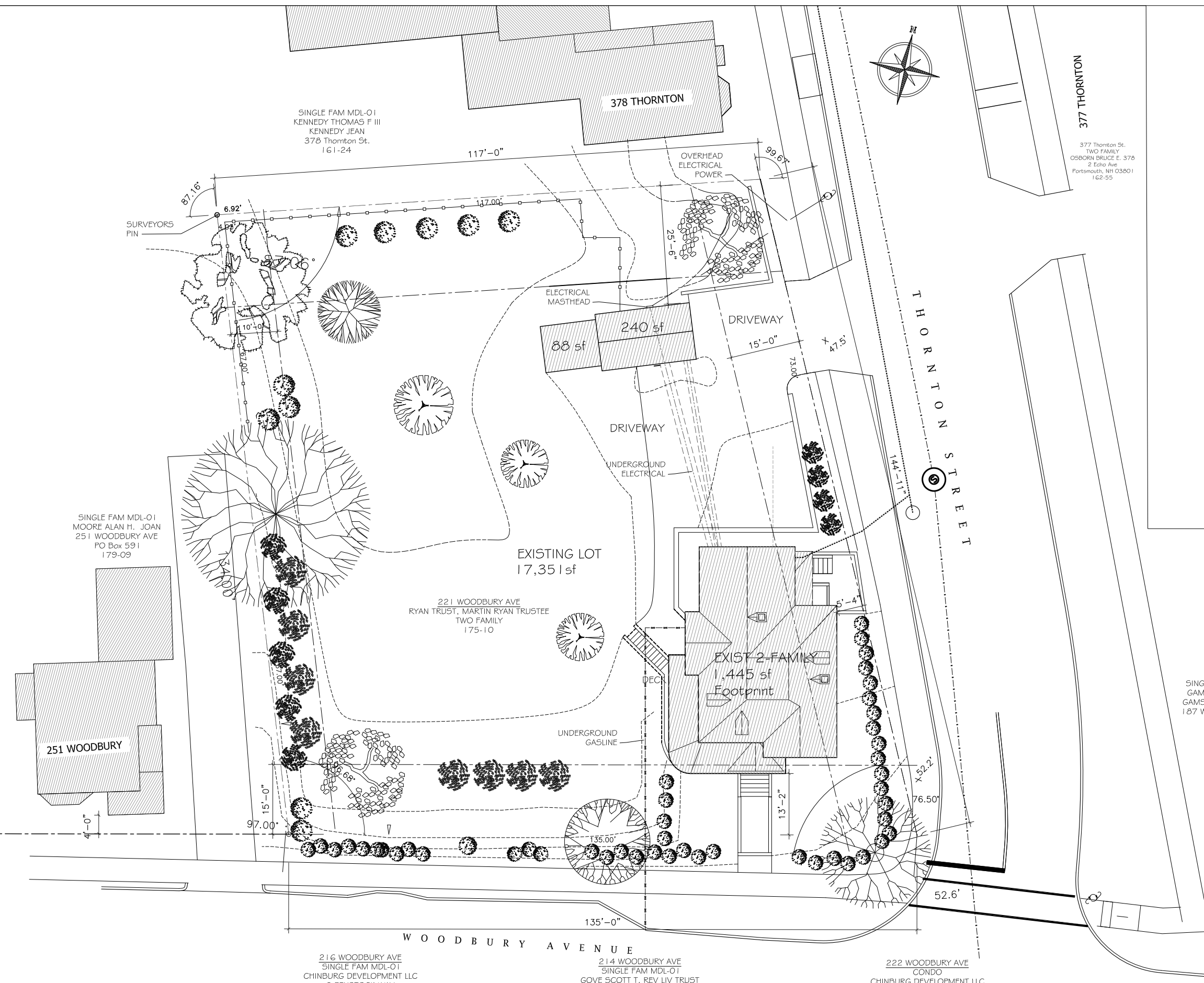
SANBORNE MAP 1920
SCALE: NTS

221 WOODBURY AVENUE



- GREEN— LOTS WITH LESS THAN THE 100LF REQUIRED STREET FRONTAGE (TOTAL 134 LOTS)
- ORANGE— LOTS THAT MEET THE 100 LF STREET FRONTAGE REQUIREMENT (TOTAL 60 LOTS)
- YELLOW— COMMERCIAL OR MULTI-FAMILY LOTS
- FRONTAGE EQUAL OR LESS THAN 63 LF (82 TOTAL)
- SITE— 221 WOODBURY AVENUE
- 204 LOTS TOTAL SHOWN

FIGURE GROUND
SCALE: NTS



SITE NOTES:
OWNER OF RECORD: RYAN TRUST
ADDRESS: 221 WOODBURY AVE
 PORTSMOUTH, NEW HAMPSHIRE
PARCEL: AS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S
 MAP 175 AS LOT 16.
PARCEL AREA = ~17,351 SF = 0.403 ACRES
ZONING DISTRICT: GENERAL RESIDENTIAL A (GRA)

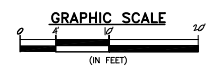
ZONING DIMENSIONS AND DENSITY REQUIREMENTS:

	REQUIRED	EXISTING
A) MINIMUM LOT SIZE	7,500 SF	17,58 SF
B) MINIMUM LOT FRONTAGE		
WOODBURY AVE	100 LF	135.0 LF
THORNTON STREET	100 LF	144.9 LF
C) MINIMUM FRONT SETBACK		
WOODBURY AVE	15 LF	13.1 LF
THORNTON STREET	15 LF	5.33 LF
D) MINIMUM LOT DEPTH	70 LF	135 LF
E) MINIMUM SIDE SETBACK	10 LF	66 LF
F) MINIMUM REAR SETBACK	20 LF	25.5 LF
G) MAXIMUM LOT COVERAGE		
25%	4,337 SF	1,767 SF
30%	5,205 SF	13,018 SF
H) MINIMUM OPEN SPACE		
30%	5,205 SF	13,018 SF
35%		89.82%

LEGEND

- IRON ROD/PIPE FOUND
- BENCHMARK
- SEWER MANHOLE
- DRAIN MANHOLE
- UTILITY POLE
- CATCH BASIN
- HYDRANT
- GATE VALVE
- SIGN
- PROPERTY LINE
- EDGE OF PAVEMENT
- EXISTING CONTOUR
- PROPOSED CONTOUR
- WATER LINE
- STORM DRAIN LINE
- SANITARY SEWER LINE
- OVERHEAD UTILITY LINE
- UNDERGROUND ELECTRIC LINE

SINGLE FAM MDL-01
 GAMSTER COLBY T.
 GAMSTER AMANDA D.
 187 WOODBURY AVE.
 162-56



EXISTING SITE PLAN
 SCALE: 1" = 10'-0"

216 WOODBURY AVE
 SINGLE FAM MDL-01
 CHINBURG DEVELOPMENT LLC
 3 PENSTOCK WAY
 NEWMARKET NH 03857
 175-03

214 WOODBURY AVE
 SINGLE FAM MDL-01
 GOVE SCOTT T. REV LIV TRUST
 OBRIEN PATRICIA REV TRUST
 214 WOODBURY AVE.
 175-02

222 WOODBURY AVE
 CONDO
 CHINBURG DEVELOPMENT LLC
 3 PENSTOCK WAY
 NEWMARKET NH 03857
 175-01

MARTIN RYAN ARCHITECT
 221 Woodbury Ave
 Portsmouth, NH 03801

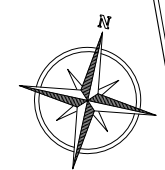
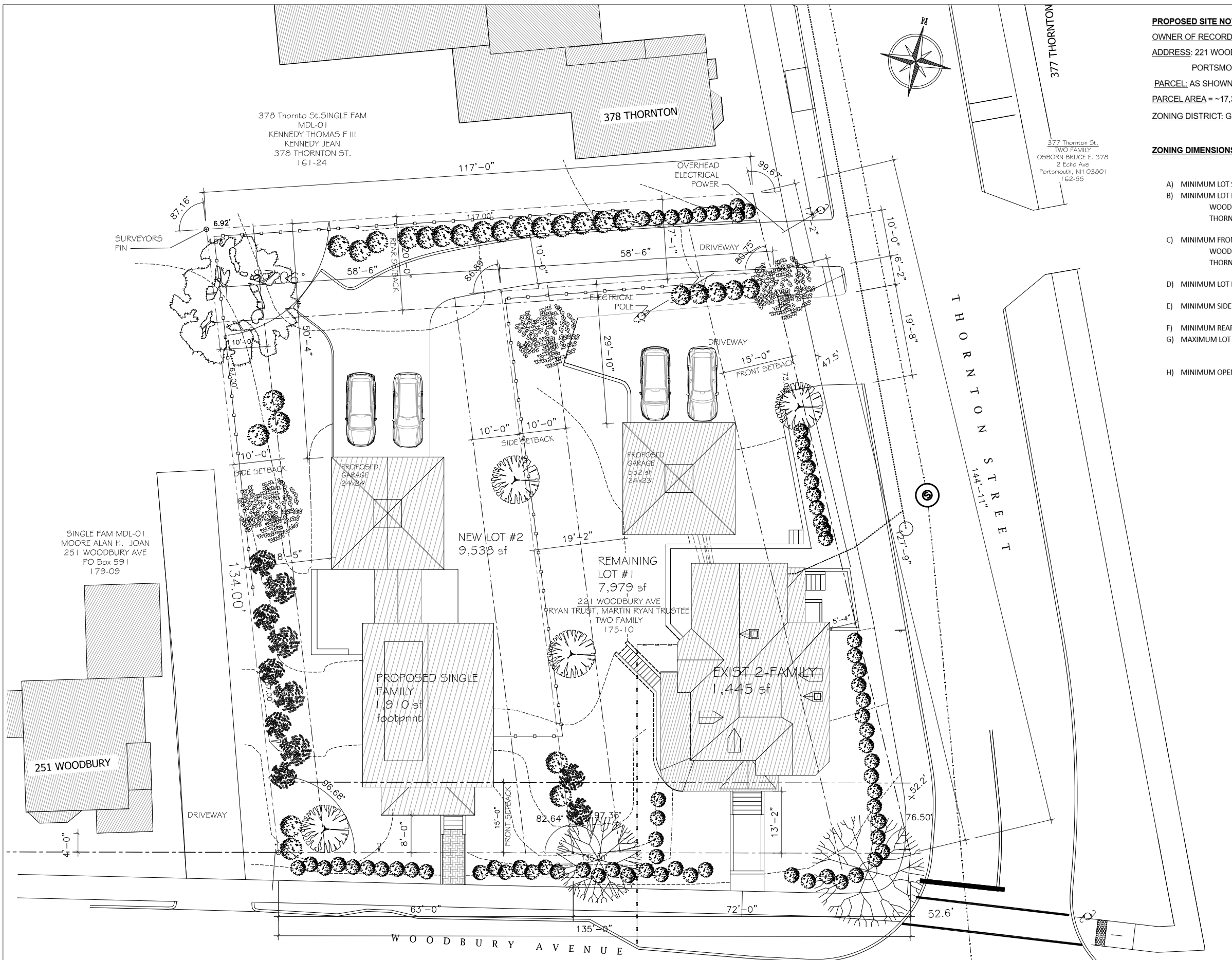
JUNE 16, 2026

221 WOODBURY AVE
 PORTSMOUTH, NH
 SUBDIVISION PLAN

DATE: 04-22-26
 DESIGN:
 DRAWN:
 CHECKED:
 SCALE:
 JOB:

EXISTING SITE
 PLAN

C2



PROPOSED SITE NOTES:
OWNER OF RECORD: RYAN TRUST
ADDRESS: 221 WOODBURY AVE
 PORTSMOUTH, NEW HAMPSHIRE
PARCEL: AS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 175 AS LOT 16.
PARCEL AREA = ~17,351 SF = 0.403 ACRES
ZONING DISTRICT: GENERAL RESIDENTIAL A (GRA)

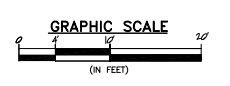
ZONING DIMENSIONS AND DENSITY REQUIREMENTS:

	REQUIRED	EXISTING	LOT#1	LOT#2
A) MINIMUM LOT SIZE	7,500 SF	17,358 SF	7,979 SF	9,538 SF
B) MINIMUM LOT FRONTAGE				
WOODBURY AVE	100 LF	135.0 LF	72.0 LF	63.0 LF*
THORNTON STREET	100 LF	144.9 LF	127.8 LF	N/A
C) MINIMUM FRONT SETBACK				
WOODBURY AVE	15 LF	13.1 LF	13.1 LF	9.33 LF
THORNTON STREET	15 LF	5.33 LF	5.4 LF	N/A
D) MINIMUM LOT DEPTH	70 LF	139 LF	64.33 LF*	136 LF
E) MINIMUM SIDE SETBACK	10 LF	66 LF	19.1 LF	18.4 LF
F) MINIMUM REAR SETBACK	20 LF	25.5 LF	29.8 LF	49 LF
G) MAXIMUM LOT COVERAGE				
25%	4,337 SF	1,812 SF	1,997 SF	1,910 SF
30%	5,205 SF	13,018 SF	5,982 SF	7,628 SF
H) MINIMUM OPEN SPACE				
25%			25%	20%
30%			75%	80%

LEGEND

IRON ROD/ PIPE FOUND	
BENCHMARK	
SEWER MANHOLE	
DRAIN MANHOLE	
UTILITY POLE	
CATCH BASIN	
HYDRANT	
GATE VALVE	
SIGN	
PROPERTY LINE	
EDGE OF PAVEMENT	
EXISTING CONTOUR	
PROPOSED CONTOUR	
WATER LINE	
STORM DRAIN LINE	
SANITARY SEWER LINE	
OVERHEAD UTILITY LINE	
UNDERGROUND ELECTRIC LINE	

187 Woodbury Ave
 SINGLE FAM MDL-01
 GAMSTER COLBY T.
 GAMSTER AMANDA D.
 187 WOODBURY AVE.
 162-56



SITE PLAN
SCALE: 1" = 10'-0"

216 Woodbury Ave
 SINGLE FAM MDL-01
 CHINBURG DEVELOPMENT LLC
 3 PENSTOCK WAY
 NEWMARKET NH 03857
 175-03

214 Woodbury Ave
 SINGLE FAM MDL-01
 GOVE SCOTT T. REV LIV TRUST
 O'BRIEN PATRICIA REV TRUST
 214 WOODBURY AVE.
 175-02

222 Woodbury Ave
 CONDO
 CHINBURG DEVELOPMENT LLC
 3 PENSTOCK WAY
 NEWMARKET NH 03857
 175-01

MARTIN RYAN ARCHITECT
 221 Woodbury Ave
 Portsmouth, NH 03801

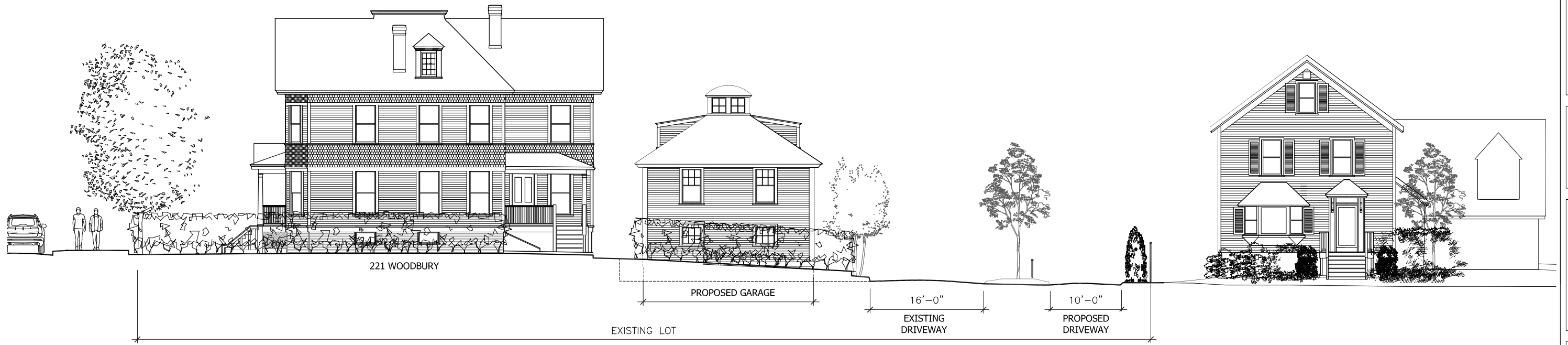
June 16, 2026
 City of Portsmouth, NH
 BOA Hearing

221 WOODBURY AVE
 PORTSMOUTH, NH
 SUBDIVISION PLAN

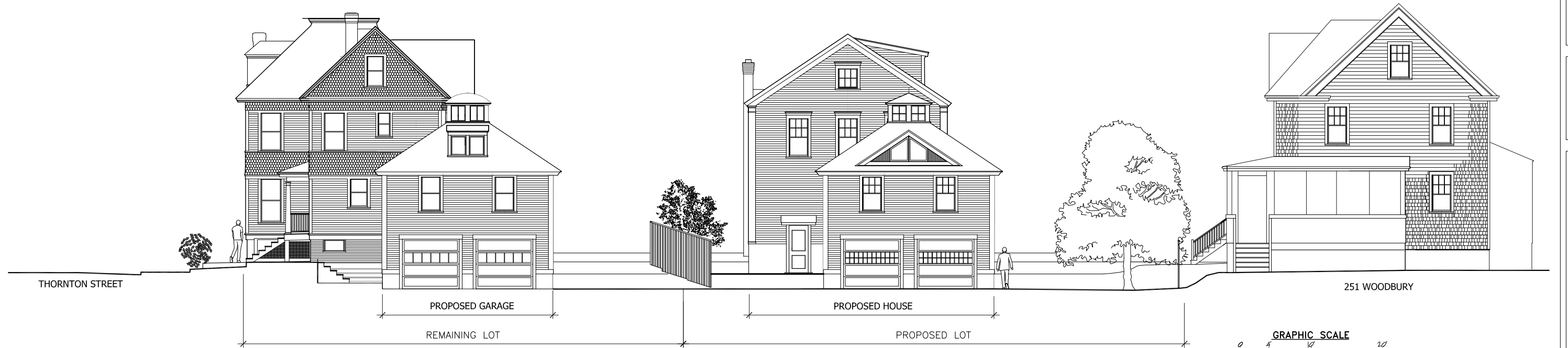
DATE: 04-22-26
 DESIGN:
 DRAWN:
 CHECKED:
 SCALE:
 JOB:

PROPOSED SITE
 PLAN

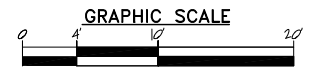
C3



3 THORNTON STREET ELEVATION



4 NORTH ELEVATION



MARTIN RYAN ARCHITECT
221 Woodbury Ave
Portsmouth, NH 03801

JUNE 16, 2026

221 WOODBURY AVE
PORTSMOUTH, NH
SUBDIVISION PLAN

DATE: 04-22-26
DESIGN:
DRAWN:
CHECKED:
SCALE:
JOB:

SITE
ELEVATIONS

A2



PHOTOGRAPH #1



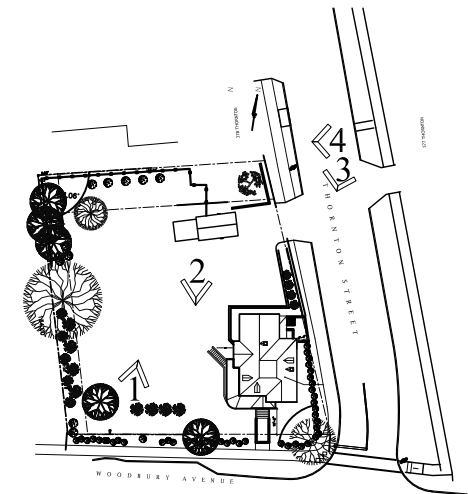
PHOTOGRAPH #2



PHOTOGRAPH #3



PHOTOGRAPH #4



SITE KEY PLAN
SCALE: NTS



PHOTOGRAPH #5



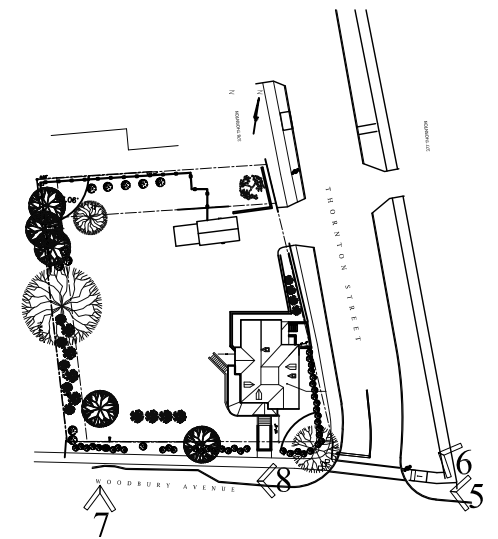
PHOTOGRAPH #6



PHOTOGRAPH #7



PHOTOGRAPH #8



SITE KEY PLAN
SCALE: NTS

MARTIN RYAN ARCHITECT
221 Woodbury Ave
Portsmouth, NH 03851

31 MARCH 2026

221 WOODBURY AVE
PORTSMOUTH, NH
PROPOSAL

DATE: 08-01-21
DESIGN:
DRAWN:
CHECKED:
SCALE:
JOB:

CONTEXT
PHOTOGRAPHS

P2

III. NEW BUSINESS

A. The request of **Dan Smith Management Group LLC (Owner)**, for property located at **407 The Hill, #6-16** whereas relief is needed to convert the ground floor to a residential use, which requires the following: 1) Variance from Section 10.642 to allow residential use on the ground floor in the Downtown Overlay District where it is not permitted. Said property is located on Assessor Map 118 Lot 26-4 and lies within Character District 4-L1 (CD4-L1) and the Historic District. (LU-26-56)

Existing & Proposed Conditions

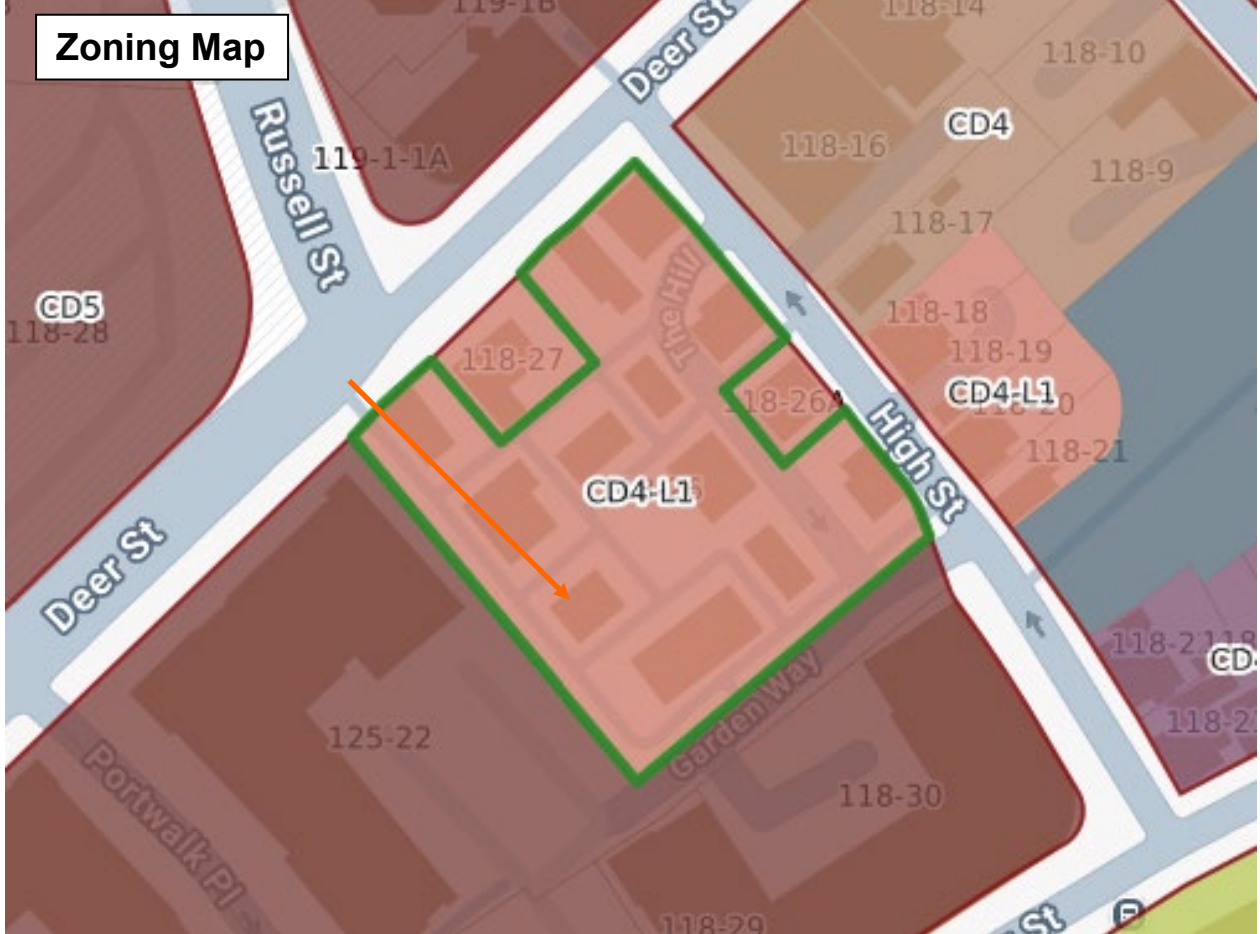
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mixed-used office and residential	*Convert first floor to residential	Primarily Residential
<u>Estimated Age of Structure:</u>	1761	Variance request(s) shown in red.	

***Residential uses are not permitted on the ground floor in the Downtown Overlay District**

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The applicant is proposing to convert the first floor offices to a residential use. Upon completion, the structure will be a single family home. Residential uses are not permitted in the Downtown Overlay, as stated in section 10.642 of the [Zoning Ordinance](#).

Variance Review Criteria

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

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

10.235 Certain Representations Deemed Conditions

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

DAN SMITH MANAGEMENT GROUP, LLC

**In Re: Application for Variance
407 The Hill #6-16
Map/Lot 0118-0026-0004
Portsmouth, New Hampshire**

STATEMENT OF FACTS AND LAW

This Statement of Facts and Law is submitted on behalf of Dan Smith Management Group, LLC (the “Applicant”) with respect to the real property located at 407 The Hill (identified at Map-Lot 0118-0026-0004, the “Property”) in connection with an Application for a variance to permit residential use on the ground floor of the Property pursuant to Section 10.642 of the Portsmouth Zoning Ordinance (the “Ordinance”).

All testimony, statements, representations, evidence, plans, reports, studies, exhibits and other information submitted to or to be submitted by or on behalf of the Applicant in connection with the Application at or prior to the public hearing on the Application (including but not limited to the plans, reports, studies and other material attached hereto) are incorporated by reference hereto.

The Applicant requests that the Zoning Board of Adjustment (the “ZBA”) approve this Statement of Facts and Law as the specific findings required pursuant to RSA 676:3, I.

A. Background and Description.

1. The Property consists of a 2-1/2 story house, with a side gable roof and clapboard exterior, built on Deer Street in 1761 and known as the “Samuel Beck House” and also as the “Hart-Treat House.” It was relocated, along with the surrounding houses, as part of the City’s urban renewal activities of the 1960’s and 1970’s.

2. As a well-preserved example of late-colonial architecture with an early Federal period door surround, the house was added to the National Registry of Historic Places in 1973. According to the National Registry of Historic Places, the historic function of the house was “domestic,” and the historic sub-function was “single-family dwelling.”

3. Since 2001, the Property has been part of The Hill of Portsmouth Condominium.

4. The Applicant owns and operates the Property. The ground floor is currently utilized for offices with the upper floor being utilized for residential use by the Applicant’s principal, Jeffrey Deuink.

5. The highest and best use of the Property is as a residential dwelling, with the ground floor converted from office use to residential use.

6. For zoning purposes, the Property is located in Character District 4 – Limited (CD4-L1), as well as the Historic District and the Downtown Overlay District.

7. Although single family dwellings are generally permitted in the CD4-L1 district (see Zoning Ordinance, §§10.440(1.10), 10.5A41(Fig. 10.5A41.10A), Section 10.642 of the Zoning Ordinance prohibits residential principal uses on the ground floor in the Downtown Overlay District.

B. Details of Request

8. The Applicant requests a variance from Section 10.642 of the Zoning Ordinance to allow the residential use of the ground floor of the Property.

C. Variance Standards

1. The variance will not be contrary to the public interest.

9. A variance is contrary to the public interest when it unduly, and to a marked degree, conflicts with the Zoning Ordinance such that it violates the Zoning Ordinance’s basic zoning objectives. Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 105 (2007). There are two methods for determining whether a variance will violate the Zoning Ordinance’s basic zoning objectives: (1) “whether granting the variance would alter the essential character of the neighborhood” or (2) “whether granting the variance would threaten the public health, safety, or welfare.” Harborside Assocs., L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011).

10. The variance requested here will not alter the essential character of the neighborhood. The Property is located in the Historic District, and the purpose of the district is to preserve the architectural and historical resources of the City of Portsmouth and conserve property values. The purpose of the district is also to strengthen the local economy and promote use of the district for education, pleasure and welfare of residents and visitors. See Zoning Ordinance, §10.630. Allowing residential use on the ground floor will promote these goals consistent with the Property’s historic use and its highest and best use and without any material impact on the neighbors or public at large.

11. Furthermore, the variance will not alter the essential character of the neighborhood because this Board recently granted a variance for 411 The Hill to be used entirely as a single-family dwelling.

12. The variance will not threaten the public health, safety, or welfare of the City. Allowing residential use on the ground floor of the Property does not inherently create a health, safety or welfare concern, and there is no reason to suspect that granting the variance in this case will. To the contrary, conversion of the entire property to residential use will likely reduce vehicular and pedestrian traffic, which will improve the overall safety and welfare of the area.

2. *The spirit of the Zoning Ordinance is observed by granting the variance.*

13. The requirement that the variance not be “contrary to the public interest” is “related to the requirement that the variance be consistent with the spirit of the Zoning Ordinance.” Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. at 105. For the reasons discussed above, allowing residential use on the ground floor of the Property will observe the spirit of the Ordinance and allow the Property to be used in a way that is consistent with its historic use and its highest and best use.

14. Furthermore, allowing residential use on the ground floor will complement and enhance the City’s architectural and historic character and contribute to its sense of place, which is the overall intent and purpose of the ordinance.

3. *Substantial justice will be done by granting the variance.*

15. The “substantial justice” element of a variance is guided by two rules: (1) that any loss to the individual that is not outweighed by a gain to the general public is an injustice, and (2) whether the proposed development is consistent with the area’s present use. Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. at 109. As noted above, the variance will promote the Property’s use in a manner which is consistent with the use of the neighborhood, its historic residential use, the purpose of the Historic District, and its highest and best use.

16. Denying the variance will be detrimental to the Applicant. It will needlessly harm the Applicant by denying residential use of the ground floor, where residential use is already permitted on the upper floor. The proposed use is consistent with the area’s present use because residential use is already permitted on the upper floor and a variance allowing a single-family dwelling was previously granted with respect to 411 The Hill. Denying the variance will also cause harm to the Applicant by limiting the economically viable use of the Property.

17. On the other hand, there will be no benefit to the public in denying the Application. The granting of a variance to allow residential use on the ground floor will not result in any of the harm the Ordinance seeks to prevent. The harm to the Applicant of strict enforcement of the Ordinance will outweigh the nonexistent benefit to the public. Granting the variance will therefore result in substantial justice.

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

18. As set forth above, allowing residential use on the ground floor of the Property will benefit the City as a whole and the neighborhood in particular. Furthermore, conversion of the ground floor to residential use will not require any alterations to the exterior of the Property and will improve its historical integrity. The similar conversion of 411 The Hill has not created any problems or concerns for any of the neighbors of the surrounding properties. Granting the variance therefore will not diminish the value of the surrounding properties.

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

19. A landowner need not establish that a variance is “necessary for a property’s use, only that the proposed use is reasonable given the particular conditions of the property. See Harborside Assocs., 162 N.H. at 519. “This factor, however, does *not* require the landowner to show that he or she has been deprived of *all* beneficial use of the land.” Harrington v. Town of Warner, 152 N.H. 74, 80-81 (2005) (emphasis added). The question of whether the property can possibly be used differently from what the applicant has proposed is not a material consideration. Malachy Glen, 155 N.H. at 108.

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

20. Restricting the Applicant’s ability to utilize the ground floor for residential use would reduce the utility of the Property for its historical use. Exclusively allowing residential use on the second floor while restricting residential use on the ground floor is not the highest and best use of the Property and does not support the City as much as it could. As discussed above and as evidenced by the historical record, including the records from the National Registry of Historic Places, the Property has a history of being used for domestic and residential purposes. None of the harms that the Zoning Ordinance is intended to prevent, such as diminishing the surrounding historic properties or failing to preserve the historical significance of the Property, will occur by strictly applying the Zoning Ordinance in this case.

ii. The proposed use is a reasonable one because:

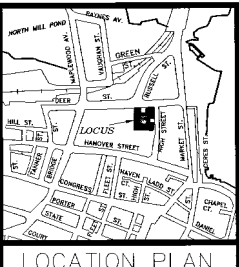
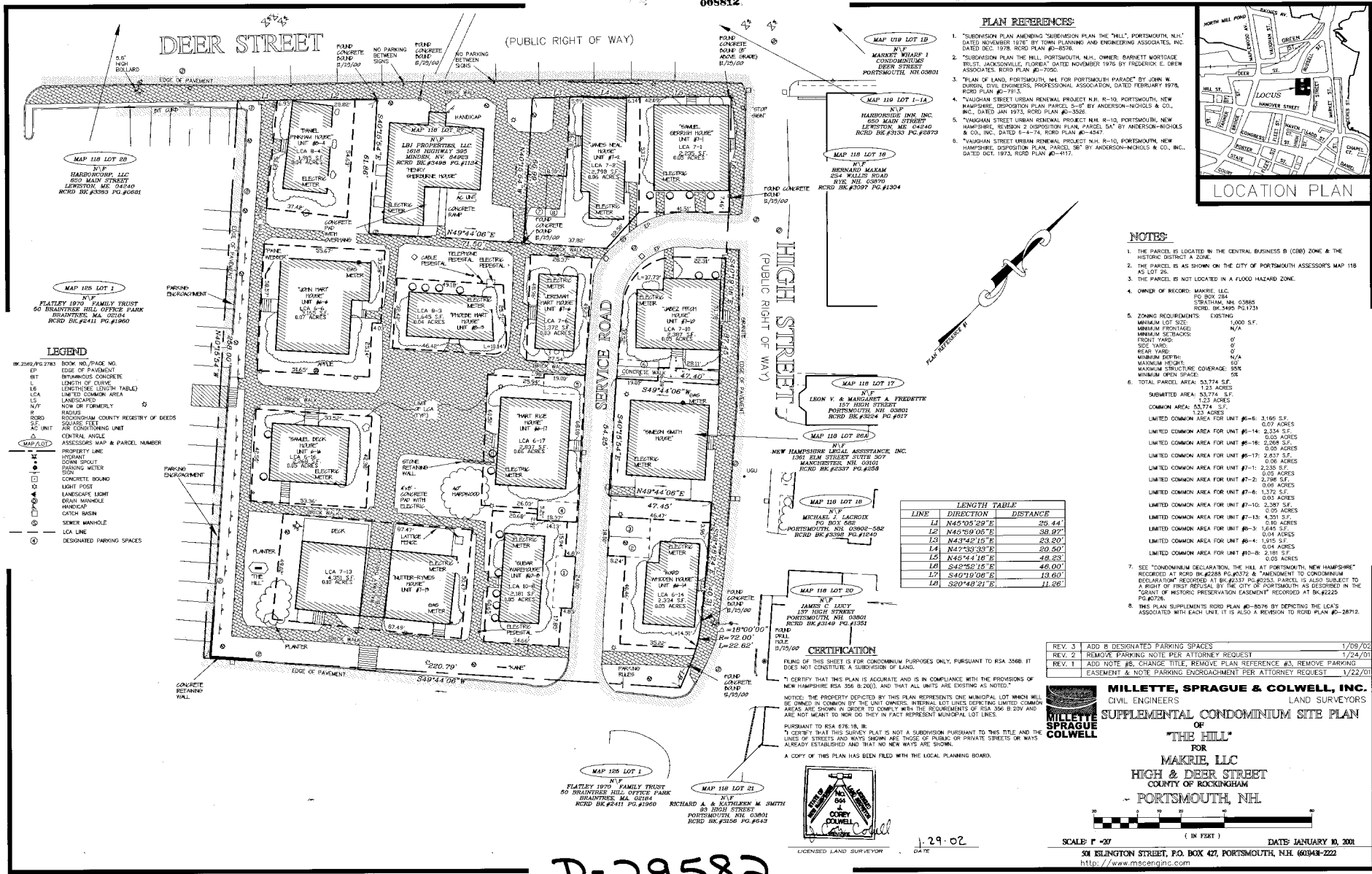
21. On the other hand, the Property is well suited for residential use on the ground floor. As residential use is already permitted on the floor above, allowing residential use on the ground floor would simply expand the already reasonable use of the floor above. Moreover, as previously stated, because 411 The Hill has been permitted to utilize its property for single-family dwelling, it would be reasonable to allow the Property in the same neighborhood to do the same. Finally, the prior historical use of the Property entirely for residential purposes is indicative of its reasonableness.

22. Although residential use is already permitted on the second floor, granting the variance will strengthen the economic vitality that the residential use brings to the City while increasing the pleasure of the residents of the Property by providing more living space for residents. Allowing residential use on the ground floor therefore will not impact the existing character of the neighborhood or the surrounding properties which also enjoy residential uses. Likewise, granting the variance will not burden the area, as it would enhance the character of the area by allowing additional space for residential use and will likely increase the safety of the area from a pedestrian and vehicular standpoint.

23. In these circumstances, a denial of this variance would result in unnecessary hardship.

The Applicant reserves the right to amend, modify, and/or supplement this application on or before the hearing thereon.

4916-5068-0737, v. 2



- LEGEND**
- DK 2582 PG 2783 BOOK NO./PAGE NO.
 - BT BIT
 - BT BITUMINOUS CONCRETE
 - LE LENGTH OF CURVE
 - LCA LENGTH/AREA (LENGTH TABLE)
 - LCA LIMITED COMMON AREA
 - N/V NOT VISIBLE
 - N/V NOT VISIBLE
 - R RADIUS
 - R/RD ROUNDCURVED COUNTY REGISTRY OF DEEDS
 - SF SQUARE FEET
 - AC UNIT AIR CONDITIONING UNIT
 - ▲ CENTRAL ANGLE
 - MAP/LOT ASSESSORS MAP & PARCEL NUMBER
 - PROPERTY LINE
 - INSTRUMENT
 - SOAK PIT
 - PARKING METER
 - SOIL
 - CONCRETE BOUND
 - LIGHT POST
 - LANDSCAPE LIGHT
 - BRAM MANHOLE
 - HANDICAP
 - CATCH BASIN
 - SEWER MANHOLE
 - LCA LINE
 - DESIGNATED PARKING SPACES

PLAN REFERENCES:

1. "SUBDIVISION PLAN AMENDING 'SUBDIVISION PLAN THE HILL', PORTSMOUTH, NH," DATED NOVEMBER 1976 BY TOWN PLANNING AND ENGINEERING ASSOCIATES, INC. DATED DEC. 1978. R/RD PLAN #0-8576.
2. "SUBDIVISION PLAN THE HILL, PORTSMOUTH, N.H., OWNER: BARNETT MORTGAGE TRUST, JACKSONVILLE, FLORIDA," DATED NOVEMBER 1979 BY FREDERICK E. CREW ASSOCIATES, R/RD PLAN #0-7990.
3. "PLAN OF LOTS, PORTSMOUTH, NH FOR PORTSMOUTH PARISH" BY JOHN W. DUGAN, CIVIL ENGINEER, PROFESSIONAL ASSOCIATION, DATED FEBRUARY 1979, R/RD PLAN #0-7913.
4. "VAUGHAN STREET URBAN RENEWAL PROJECT N.H. R-10, PORTSMOUTH, NEW HAMPSHIRE, DISPOSITION PLAN PARCEL 5-5" BY ANDERSON-NICHOLS & CO., INC. DATED JAN 1973, R/RD PLAN #0-3306.
5. "VAUGHAN STREET URBAN RENEWAL PROJECT N.H. R-10, PORTSMOUTH, NEW HAMPSHIRE, DISPOSITION PLAN PARCEL 5-4" BY ANDERSON-NICHOLS & CO., INC. DATED 1-4-74, R/RD PLAN #0-4547.
6. "VAUGHAN STREET URBAN RENEWAL PROJECT N.H. R-10, PORTSMOUTH, NEW HAMPSHIRE, DISPOSITION PLAN PARCEL 40" BY ANDERSON-NICHOLS & CO., INC. DATED OCT. 1973, R/RD PLAN #0-4117.

NOTES:

1. THE PARCEL IS LOCATED IN THE CENTRAL BUSINESS (CBB) ZONE & THE HISTORIC DISTRICT A ZONE.
2. THE PARCEL IS AS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 118 AS LOT 26.
3. THE PARCEL IS NOT LOCATED IN A FLOOD HAZARD ZONE.
4. OWNER OF RECORD: MAKRIE, LLC
PO BOX 384
SOUTHAMPTON, NH 03888
R/RD BK #3140 PG #131
5. ZONING REQUIREMENTS: EXISTING
MINIMUM LOT SIZE: 1,000 S.F.
MINIMUM FRONTAGE: N/A
MINIMUM SETBACKS:
FRONT YARD: 0'
SIDE YARD: 0'
REAR YARD: N/A
MINIMUM DEPTH: N/A
MAXIMUM HEIGHT: 35'
MAXIMUM STRUCTURE COVERAGE: 50%
MINIMUM OPEN SPACE: 5%
6. TOTAL PARCEL AREA: 53,774 S.F.
SUBMITTED AREA: 13,774 S.F.
COMMON AREA: 1,233 ACRES
LIMITED COMMON AREA FOR UNIT #5-6: 3,160 S.F.
0.07 ACRES
LIMITED COMMON AREA FOR UNIT #5-14: 2,334 S.F.
0.05 ACRES
LIMITED COMMON AREA FOR UNIT #5-16: 2,208 S.F.
0.05 ACRES
LIMITED COMMON AREA FOR UNIT #5-17: 2,637 S.F.
0.06 ACRES
LIMITED COMMON AREA FOR UNIT #7-1: 2,330 S.F.
0.05 ACRES
LIMITED COMMON AREA FOR UNIT #7-2: 2,786 S.F.
0.06 ACRES
LIMITED COMMON AREA FOR UNIT #7-6: 1,372 S.F.
0.03 ACRES
LIMITED COMMON AREA FOR UNIT #7-10: 2,397 S.F.
0.05 ACRES
LIMITED COMMON AREA FOR UNIT #7-13: 4,301 S.F.
0.16 ACRES
LIMITED COMMON AREA FOR UNIT #8-3: 1,644 S.F.
0.04 ACRES
LIMITED COMMON AREA FOR UNIT #8-4: 1,915 S.F.
0.04 ACRES
LIMITED COMMON AREA FOR UNIT #10-8: 2,181 S.F.
0.05 ACRES
7. SEE "CONDOMINIUM DECLARATION, THE HILL AT PORTSMOUTH, NEW HAMPSHIRE" RECORDED AT R/RD BK #2288 PG #0372 & "AMENDMENT TO CONDOMINIUM DECLARATION" RECORDED AT BK #2237 PG #0353. PARCEL IS ALSO SUBJECT TO A RIGHT OF FIRST REFUSAL BY THE CITY OF PORTSMOUTH AS DESCRIBED IN THE "RIGHT OF HISTORIC PRESERVATION EASEMENT" RECORDED AT BK #2220 PG #0726.
8. THIS PLAN SUPPLEMENTS R/RD PLAN #0-8576 BY DEPICTING THE LCA'S ASSOCIATED WITH EACH UNIT. IT IS ALSO A REFERENCE TO R/RD PLAN #0-2872.

LENGTH TABLE

LINE	DIRECTION	DISTANCE
L1	N45°09'28"E	20.44'
L2	N42°59'05"E	38.97'
L3	N43°42'16"E	23.20'
L4	N47°33'33"E	20.50'
L5	N45°44'18"E	48.25'
L6	S42°52'10"E	46.00'
L7	S40°19'08"E	19.60'
L8	S20°48'21"E	11.28'

CERTIFICATION

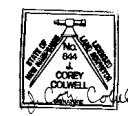
PLANS OF THIS SHEET IS FOR CONDOMINIUM PURPOSES ONLY, PURSUANT TO RSA 356-B. IT DOES NOT CONSTITUTE A SUBDIVISION OF LAND.

I CERTIFY THAT THIS PLAN IS ACCURATE AND IS IN COMPLIANCE WITH THE PROVISIONS OF NEW HAMPSHIRE RSA 356-B:20(b), AND THAT ALL UNITS ARE EXISTING AS NOTED.

NOTICE: THE PROPERTY DEPICTED BY THIS PLAN REPRESENTS ONE MUNICIPAL LOT WHICH WILL BE OWNED IN COMMON BY THE UNIT OWNERS. INTERNAL LOT LINES DEPICTING LIMITED COMMON AREAS ARE SHOWN IN ORDER TO COMPLY WITH THE REQUIREMENTS OF RSA 356-B:20V AND ARE NOT MEANT TO NOR DO THEY IN FACT REPRESENT MUNICIPAL LOT LINES.

PURSUANT TO RSA 376:18, B.
I CERTIFY THAT THIS SURVEY PLAN IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND 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.

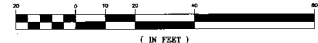
A COPY OF THIS PLAN HAS BEEN FILED WITH THE LOCAL PLANNING BOARD.



DATE: 1-29-02

REV. 3	ADD 8 DESIGNATED PARKING SPACES	1/09/02
REV. 2	REMOVE PARKING NOTE PER ATTORNEY REQUEST	1/24/01
REV. 1	ADD NOTE #6, CHANGE TITLE, REMOVE PLAN REFERENCE AS, REMOVE PARKING EASEMENT & #6, PARKING ENCROACHMENT PER ATTORNEY REQUEST	1/22/01

MILLETTE, SPRAGUE & COLWELL, INC.
CIVIL ENGINEERS LAND SURVEYORS
WILLETTE SPRAGUE COLWELL
SUPPLEMENTAL CONDOMINIUM SITE PLAN
OF
"THE HILL"
FOR
MAKRIE, LLC
HIGH & DEER STREET
COUNTY OF ROCKINGHAM
PORTSMOUTH, N.H.



SCALE: 1" = 20' DATE: JANUARY 10, 2001
50 KILGORTH STREET, P.O. BOX 427, PORTSMOUTH, N.H. 03884-2222
http://www.msceinc.com

D-29582

PORTSMOUTH
ATHENÆUM



Catalog Number P0007_52_02a

Collection Arthur I. Harriman Photograph

Title Hart-Treat House

Date 1938-1939

Year Range from 1935

Year Range to 1945

Description The Hart-Treat House on its original location, 107 Deer Street, Portsmouth, NH.

See P07_52_02 for image.

Photographer Harriman, Arthur I. (Portsmouth)

Object Name Negative, Film

Print size 5" x 4"

Search Terms Hart-Treat House (The Hill, aka Beck, Samuel House)
Deer Street
Old State House
Vaughan Street Urban Renewal Project Hill, The (Portsmouth)

Subjects Historic buildings
Steps
Balconies
Building relocation
Urban renewal
State houses

People Hart, Samuel, 1741-1813
Ham, George, c1767-1832
Treat, Samuel, 1788-1862
Harriman family
Harriman, Arthur Ilsley, 1875-1947

Other#		Category	8: Communication Artifact
Refer code		Subcategory	Documentary Artifact
Accession#	2006.0249	Container	
Received as	Found in Collection	Accession date	10/19/2006
Source	Unknown		
Creditline			
Home loc	Vault		

Allen treat - p. 153

Identity Statement:

Title: Unidentified Account Books
 Dates of creation: 1856-1858

samuel treat - p. 53

Scope & Content / Abstract:

Two account books kept by an unidentified Portsmouth merchant. Names in expenses include Irah Rugg (carpenter), Toby and Littlefield, Alexander Ladd, the Portsmouth Steam Factory, and the Portsmouth Steam Planing Mill. Many other local names included. Indexed - see multimedia files for pdf.

Context:**Structure:****Disposition:****Disposition date:****Conditions of Access & Use:****Allied Materials:**

Collection Unidentified Account Books
Event
Medium

Catdate	10/19/2006	Status date	10/19/2006
Catby	Kindstedt, Susan Stowe	Status by	Kindstedt, Susan Stowe
Display value		Status	OK

Condition	Good	Cond date	10/19/2006
Condition by	Kindstedt, Susan Stowe	Cond notes	

Appraisor		Acq value		Current value min
App notes		Value date		Current value max

Ins policy#		Ins phone#	
Ins company		Ins premium	
Ins rep		Ins value	Policy exp date

Temp loc

Date		By/Until	
Invn date		Invn by	

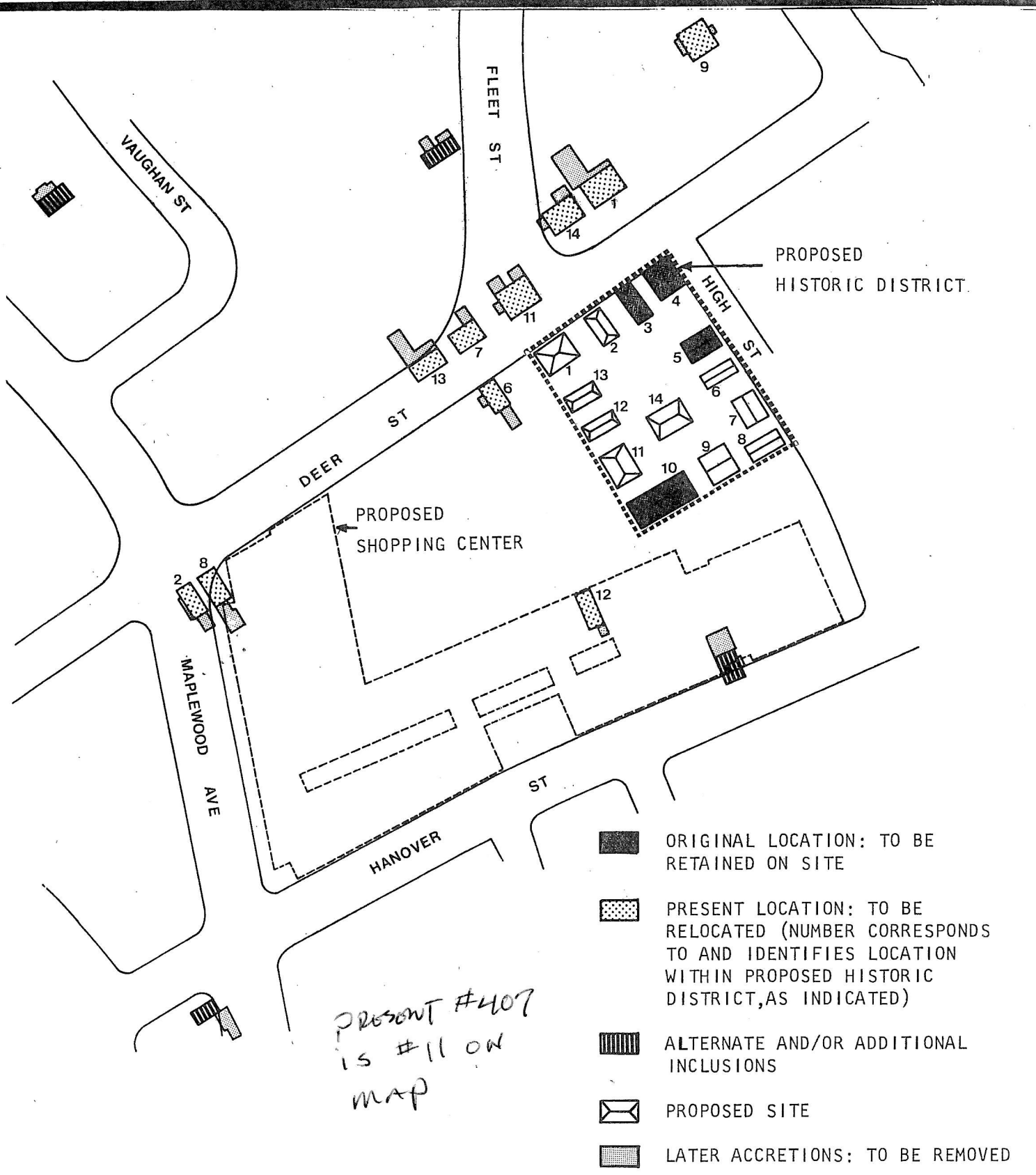
Subjects	Portsmouth (N.H.) Merchants	Classification	
-----------------	--------------------------------	-----------------------	--

Search terms	Barker & Adams Concord & Portsmouth Railroad Eastern Railroad Company Eliot (Me.) Fisher and Eldredge George Raynes' shipyard Gilbert and Head Grant and Lewis Greenland (N.H.) Hastings and Pierce John Yeaton & Son Jones and Chesley	People	Abbott, George Plaisted, 1821-1910 Adams, Joseph B., 1818-1874 Adams, Samuel E., 1810-1892 Akerman, Joseph Day, 1810-1883 Akerman, Leonard, c1798-1876 Allen, Frank, dfl. 1857 Badger, Samuel Augustus, 1794-1857 Ball, Trueworthy Muchmore, c1815-1890 Barker, Jonathan, 1792-1866 Barnes, John E. H., 1810-1858 Bartlett, James Pierrepont, 1820-1896 Beck, Andrew Jackson (Col.), 1811-1892
---------------------	--	---------------	---

PROPOSED HISTORIC DISTRICT

VAUGHAN STREET URBAN RENEWAL PROJECT (N.H.-10) PORTSMOUTH, N.H.

0 150 FT



*Present #407
is #11 on
map*



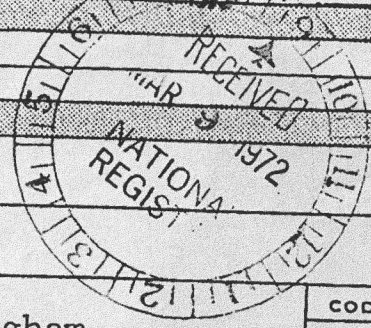
DOWN TO 4 1/2"

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES
PROPERTY PHOTOGRAPH FORM

(Type all entries - attach to or enclose with photograph)

STATE New Hampshire	
COUNTY Rockingham	
FOR NPS USE ONLY	
ENTRY NUMBER	DATE
	APR 5 1972



SEE INSTRUCTIONS

1. NAME			
COMMON: Samuel Beck House			
AND/OR HISTORIC:			
2. LOCATION			
STREET AND NUMBER: 107 Deer Street			
CITY OR TOWN: Portsmouth,			
STATE: New Hampshire		CODE 33	COUNTY: Rockingham
			CODE 015
3. PHOTO REFERENCE			
PHOTO CREDIT: Portsmouth Preservation, Inc.			
DATE OF PHOTO: 1970			
NEGATIVE FILED AT: Portsmouth Preservation, Inc., 111 Bow St., Portsmouth, N.H.			
4. IDENTIFICATION			
DESCRIBE VIEW, DIRECTION, ETC. Showing location on westerly side of Deer St. with front facade facing easterly towards downtown business district.			

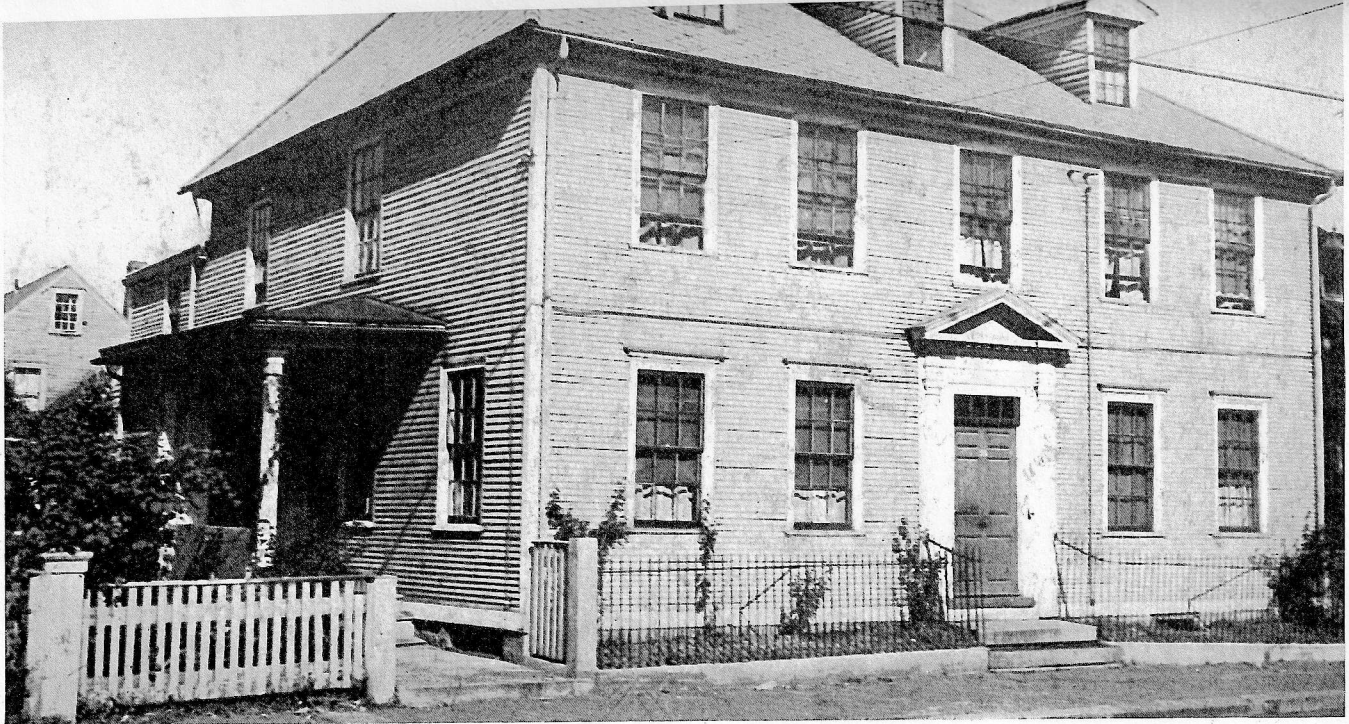


Fig. 218

CAPTAIN WILLIAM RICE HOUSE, 93 DEER STREET, PORTSMOUTH

As early as 1741 this house was owned by John Newmarch. Capt. Rice, who later lived here, was a noted sea captain and privateersman of the war of 1812. In 1814 a "Calico Party" was held at his house, and the ladies were invited to cut the dress patterns they desired from the bales of calico which one of Capt. Rice's ships had captured from the British.

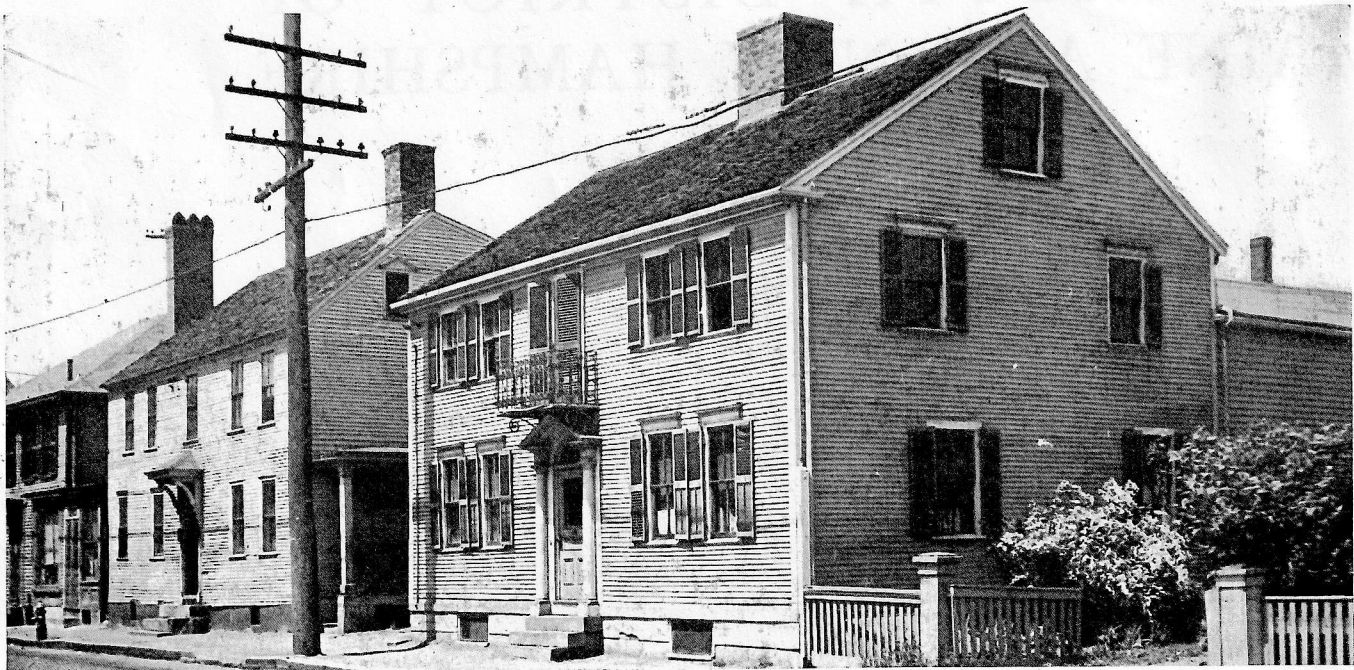


Fig. 219

HART-TREAT HOUSE, DEER STREET, PORTSMOUTH

Daniel Hart who owned much property in this vicinity is said to have built this house. It was listed in the inventory of his estate in 1740. The stone steps and the small iron balcony which adorn the house were from the Old State House.

Portsmouth, N.H.
From: "The Role of the Provincial Capital in the Development."
by Howard T. Oedel (B.U. dissertation) 1960

PART X

COLONIAL PORTSMOUTH'S ARCHITECTURAL HERITAGE

1370
20-22-1000 A
P7-52C
Built prior to 1761

Sept. 11, 1761 Samuel & Bridget Hart,
conveyed property to Samuel Beck.

March 31, 1825 George Ham Washington
Sold to Samuel Treat.

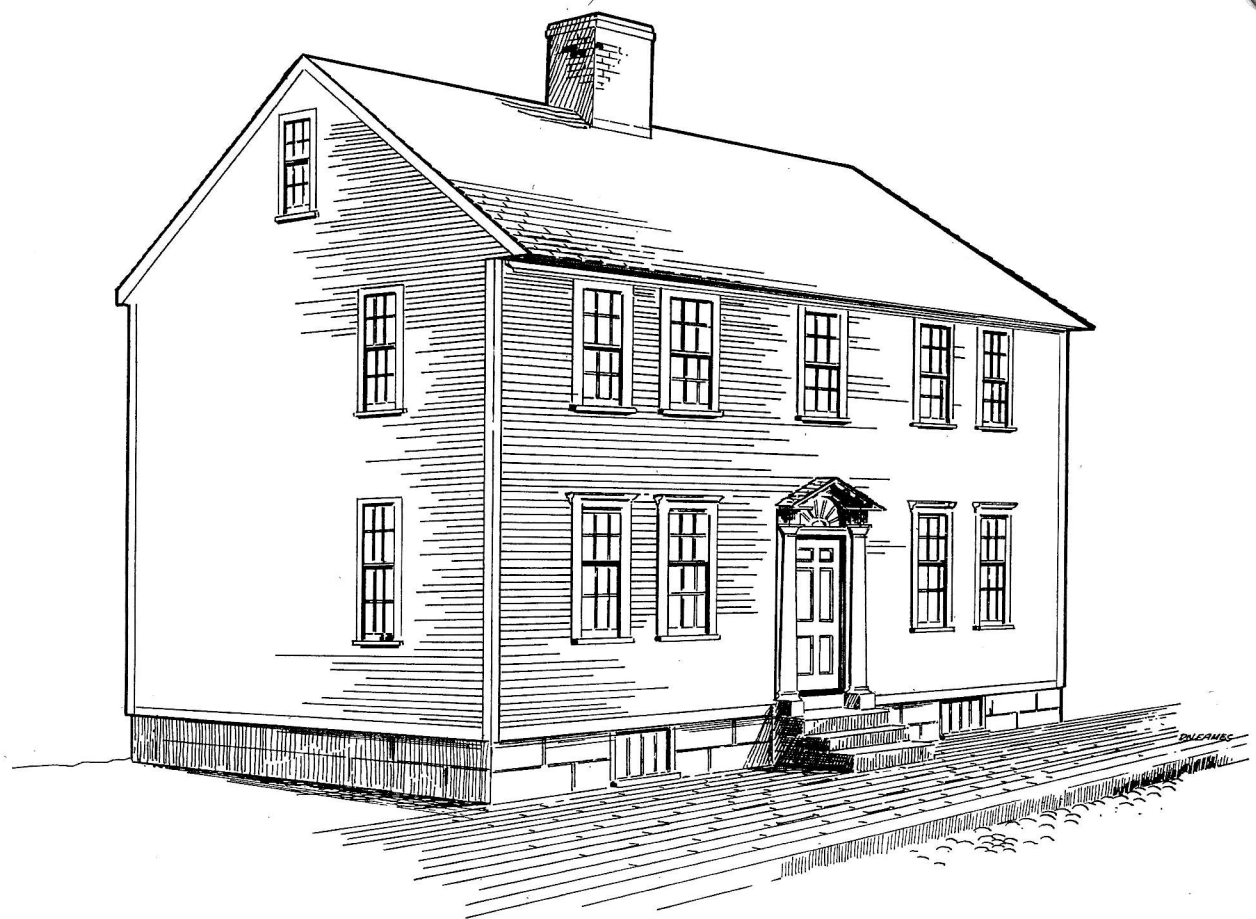
Balcony from The Old State House
placed there in 1836 by S. Treat

Steps from West End of Court House
at Mason Wablin House August 1822
East Steps to be seen in photo

P 0007.52-03

over
→





THE Samuel Beck House (c. 1770-1800) on Deer Street reflects a late 18th century central-chimney house common to all parts of New England. The handsome columned doorway is of a type which came to New England after the Revolution and gained in popularity at the turn of the 19th century.

As it stands today (right), the house has been covered with modern exterior siding, which may have protected the earlier clapboards. During the last century, a doorway was cut through on the upper story to a small wrought iron balcony which has since been removed.

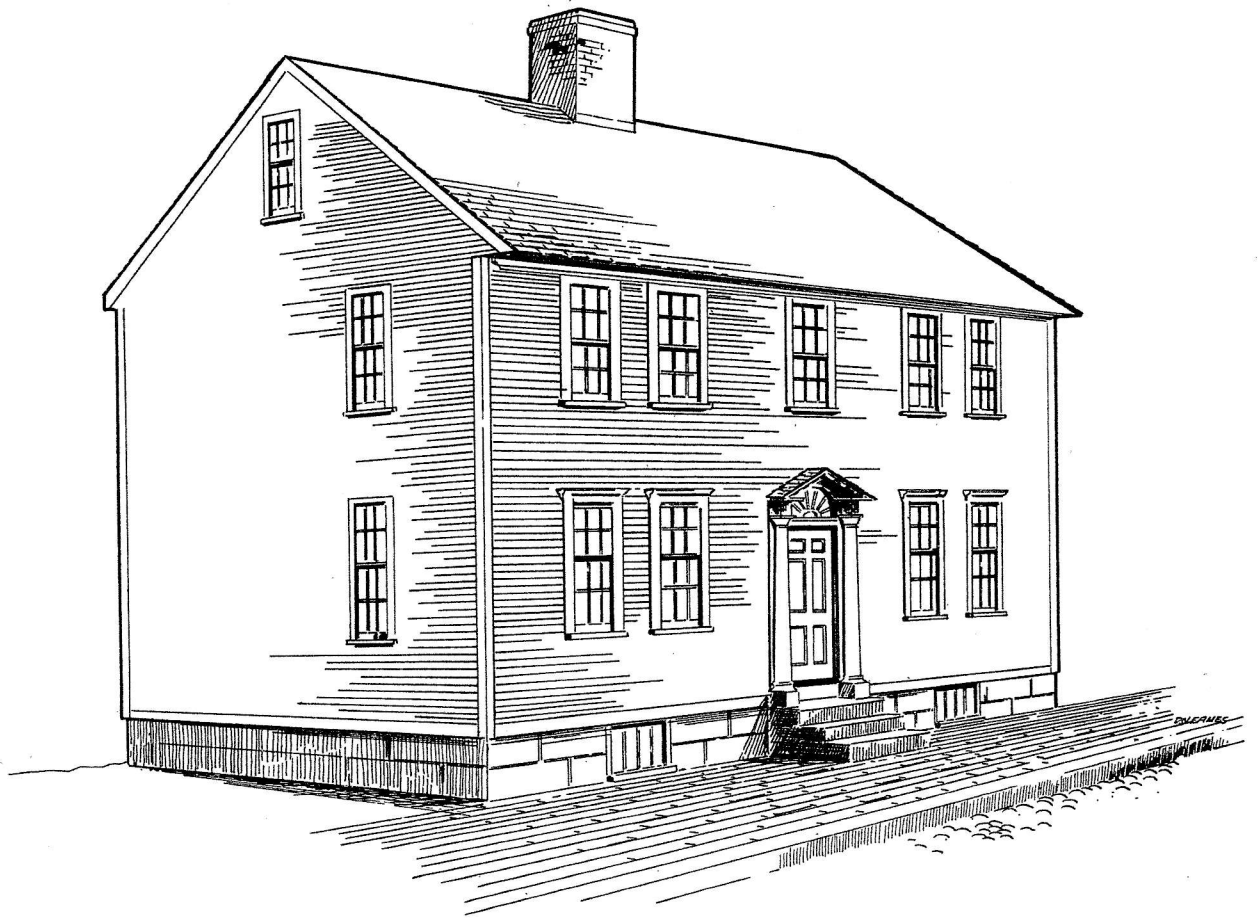
Old photographs show window caps above the first story windows on the front, as restored in the drawing (above). The later balcony door has been replaced by a matching window above the front door, and all windows contain new six over six sash lights.

Although the finely detailed Federal style door enframement has remained essentially intact, the semi-circular window light and door have been replaced. Another house



on Deer Street has a nearly identical doorway, and its original fan-light and 6-paneled door have been copied to show how the Beck house facade may have once appeared.

This home is further enhanced by a unique red sandstone foundation and front steps. Blocks of this sandstone also form the base of the wooden columns on either side of the door. Urban Renewal plans for a road through this and adjacent properties requires the relocation of the house. As an integral part of the house, these attractive foundation blocks would be removed and replaced on a new site as part of the restoration of this structure.



THE Samuel Beck House (c. 1770-1800) on Deer Street reflects a late 18th century central-chimney house common to all parts of New England. The handsome columned doorway is of a type which came to New England after the Revolution and gained in popularity at the turn of the 19th century.

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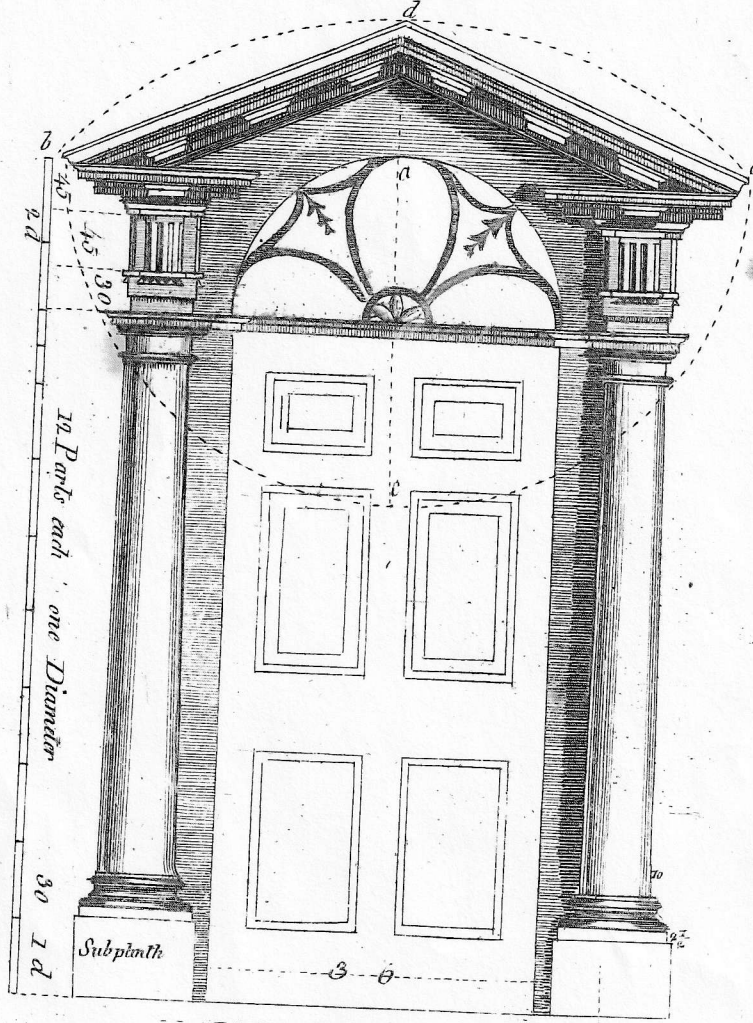
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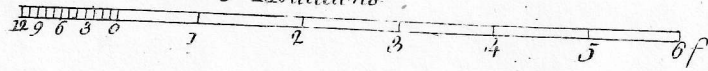
on Deer Street has a nearly identical doorway, and its original fan-light and 6-paneled door have been copied to show how the Beck house facade may have once appeared.

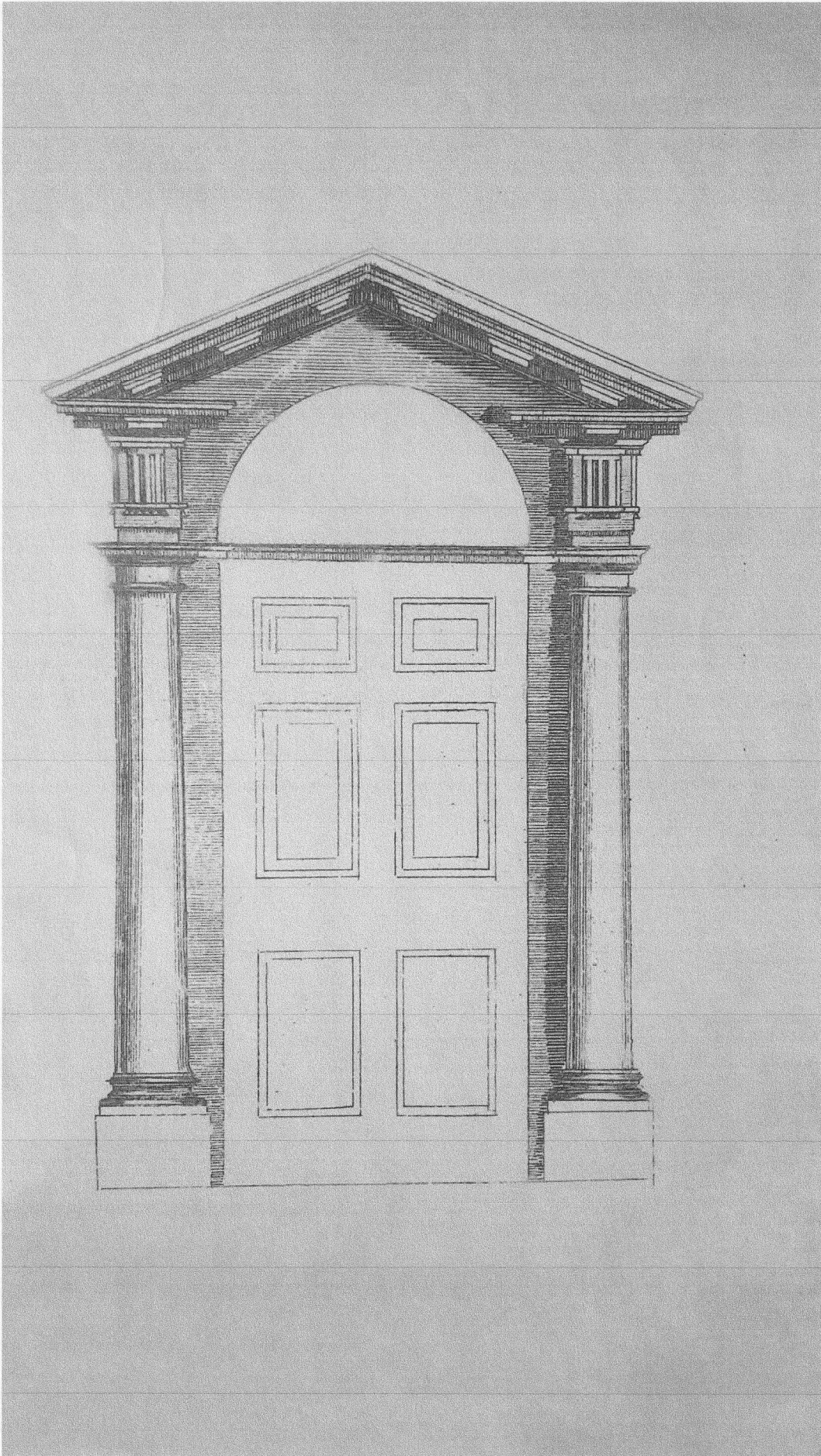
This home is further enhanced by a unique red sandstone foundation and front steps. Blocks of this sandstone also form the base of the wooden columns on either side of the door. Urban Renewal plans for a road through this and adjacent properties requires the relocation of the house. As an integral part of the house, these attractive foundation blocks would be removed and replaced on a new site as part of the restoration of this structure.

Plate 38



6D 15 m
5 Modillions





New tax map(1979)U18 lot26L size
Old tax map 16 lot 5 size

Owner SHAINES, R.A.&S.N. & FISHBEIN A., Trustees
Address Hill Realty Trust
25 Maplewood 03801

Location of legal description:
Rockingham County Registry of Deeds
Hampton Road; Exeter, New Hampshire
03833

Representation in existing surveys:
HABS ___ NRx ___ NHL ___
HAER ___ Other ___

Date c. 1760 & 1790
Sources: Estimate x Other: between 1761
and 1807

Historic name Samuel Beck house
Common name (formerly "Hart-Treat")
Original owner Samuel Beck
Architect/bldr.

Functional type house
Present use, if different offices

Moved x Originally Date 1972
Altered 107 Deer Street Date
From Deer St. (urban renewal)

Effect: Focal ___ Contributing ___
non-contributing x Intrusion ___

Photo roll 20 no. 33
Negative with: Portsmouth Advocates
Description Samuel Beck House - 1760
Date taken ___ by ___

1. Style early Federal No. of stories 2½ No. of bays 5 x 3
late Georgian
2. Overall plan: Rectangular.
3. Foundation: Brick x Stone ___ Poured concrete ___ Concrete block ___
Artificial stone ___ Other ___
4. Wall structure: Wood frame x Brick ___ Stone ___ Other ___
If wood: Post and beam ___ Balloon frame ___
5. Wall covering: Clapboard x Wood shingle ___ Flushboard ___ Imitation ashlar ___
Brick ___ Stone ___ Stucco ___ Composition board ___ Aluminum ___ Vinyl ___
Sheet metal ___ Asphalt shingles ___ Other ___
6. Roof: Gable x Hip ___ Shed ___ Mansard ___ Flat ___ Gambrel ___ Other ___
7. Specific features (location, no., appearance of porches, windows, doors,
chimnies, dormers, ells/wings--see also description), decorative elements:
Modern wood front steps, paine type doorway c. 1800, restored 6/6 sash throughout
8. Outbuildings:

(over.....

 PORTSMOUTH
ADVOCATES, INC.

P.O. BOX 4066 • PORTSMOUTH, NEW HAMPSHIRE 03801
603-431-2499

cription:

5 x 3 bay central chimney house, remodded c. 1800-1810 with William Paine type fan light doorway (fan gone, plain glass). Two windows on each side of door and one above front door; only one window present N side each floor, two on S side and four across rear with new rear door 5-bay without window above. Short return of molded cornice on ends. Wood shingle restored roof.

ificance:

The Beck House is significant for its exterior Federal woodwork dating from the early nineteenth century. The pedimented and fan-lighted door enframement of applied columns is one of a very few examples of this early Adamesque style in the city. These additions as well as the unusual Connecticut sandstone foundation facing stone and steps illustrate improvements to an earlier streetscape in Portsmouth's greatest period of rebuilding (NR form).

ibliography:

Howells, fig. 219.

NH Profiles, Feb. 1969, March 1970.

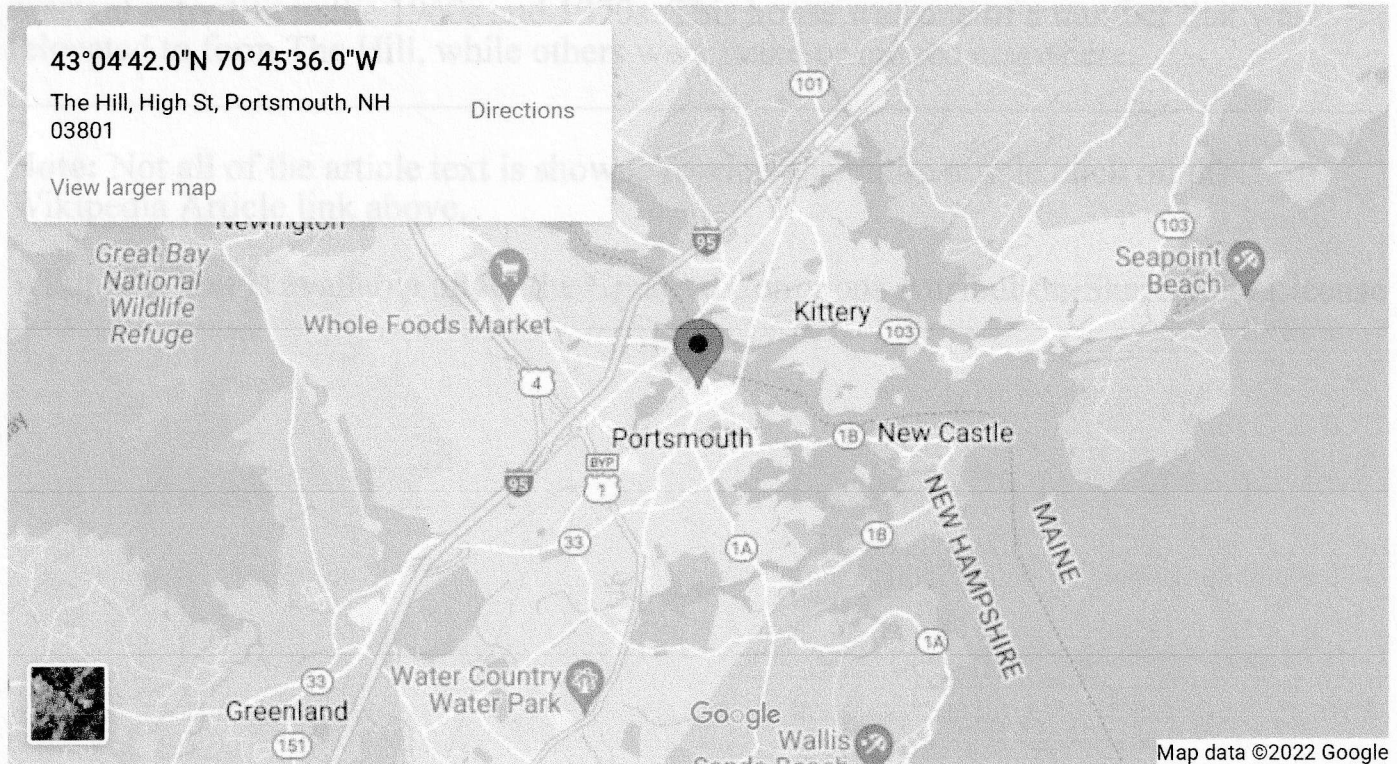
Deeds 65:155 (1761).

Tax Records 1807-1820

Probate # 2089 (1756; no house here).

fireplace surrounds, and a three-run winding staircase in the front entry vestibule.

The land where this house originally stood on Deer Street was platted in 1710 and subdivided in 1756. It was purchased by Samuel Beck in 1761. The neighborhood, populated in the early 20th century by Italian immigrants, was subjected to urban



Other Places of Interest around Samuel Beck House

Samuel Beck House

Lat/Long: 43.078333,-70.760000

Category: National Registry of Historic Places

Wikipedia Article: Samuel Beck House

Updated: 2021-03-28

The Samuel Beck House is a historic house at 410 The Hill in Portsmouth, New Hampshire. Built about 1761, it is a well-preserved example of late colonial architecture with an early Federal period door surround. The building was moved to its present location as part of a project to widen nearby Deer Street. The house was listed on the National Register of Historic Places in 1973.

Description and history

The Samuel Beck House stands near the southwestern corner of The Hill, a cluster of historic houses southwest of the junction of Deer and High Streets. These houses were relocated to this area as part of a road widening project. The Beck House is 2-1/2 stories in height, with a side gable roof and clapboarded exterior. It is five bays wide and two deep, with a large central chimney, and an early Federal-period front door surround with an arched fanlight. The interior retains original 18th-century features, including paneled

fireplace surrounds, and a three-run winding staircase in the front entry vestibule.

The land where this house originally stood on Deer Street was platted in 1710 and subdivided in 1756. It was purchased by Samuel Beck in 1761. The neighborhood, populated in the early 20th century by Italian immigrants, was subjected to urban renewal activities in the 1960s and 1970s. This house was one of a number that was relocated to form The Hill, while others were razed or moved elsewhere.

Note: Not all of the article text is shown. To view the entire article click on the Wikipedia Article link above.

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National Register of Historic Places

Historic Significance:

Architecture/Engineering

Architect, builder, or engineer:

Kilham & Hopkins

Architectural Style:

Colonial Revival

Area of Significance:

Community Planning And Development, Architecture

Period of Significance:

1900-1924

Owner:

State,Local,Private

Historic Function:

Commerce/Trade,Domestic,Education

Historic Sub-function:

Multiple Dwelling, School, Single Dwelling, Specialty Store

Current Function:

Commerce/Trade, Domestic, Landscape

Current Sub-function:

Multiple Dwelling, Park, Single Dwelling, Specialty Store

R

Bartlett, Josiah, House (added 1971 -- #71000050)

Main St. , Kingston

Historic Significance:

Person

Historic Person:

Bartlett,Josiah

Significant Year:

1795, 1774

Area of Significance:

Politics/Government

Period of Significance:

1750-1799

Owner:

Private

Historic Function:

Domestic

Historic Sub-function:

Single Dwelling

Current Function:

Domestic

Current Sub-function:

Single Dwelling

R

Beck, Samuel, House (added 1973 -- #73000167)

The Hill , Portsmouth

ADDED 4-3-73

Historic Significance:

Architecture/Engineering

Architect, builder, or engineer:

Unknown

Architectural Style:

Other, Federal

Area of Significance:

Architecture

Period of Significance:

1750-1799

Owner:

Local

Historic Function:

Domestic

Historic sub function: Single Dwelling

Current Function: Domestic

Current sub function: Single Dwelling

Portsmouth ATHENAEUM 603-431-2538 research Lib.

Samuel Beck House 1760 ±

original address: 107 Deer Street

Relocated in the 1970's 1)

- Federal Style - Adamesque
- noted for it's pedimented entrance with columns on each side and fan lighted transom
- Historic Function: Domestic

aka Hart-Terrat House

Dorothy Vaughn - ?

Brentwood (Rockingham County)

Portsmouth College

Harvard 1850 Harvard Map Collection City of Portsmouth, CW Braister

1813 City of Portsmouth NH maps Library of Congress

1816 Leventhal map center Portsmouth Public Library

Beck's Map

Early 1870's
"Northwood" Barney

Exterior Photos of 407 The Hill



Exterior Photos of 407 The Hill Cont.



Interior Photos of Dwelling Unit on Second Floor



Interior Photos of Dwelling Unit on Second Floor Cont.



Interior Photos of Dwelling Unit on Second Floor Cont.



Interior Photos of Dwelling Unit on Second Floor Cont.



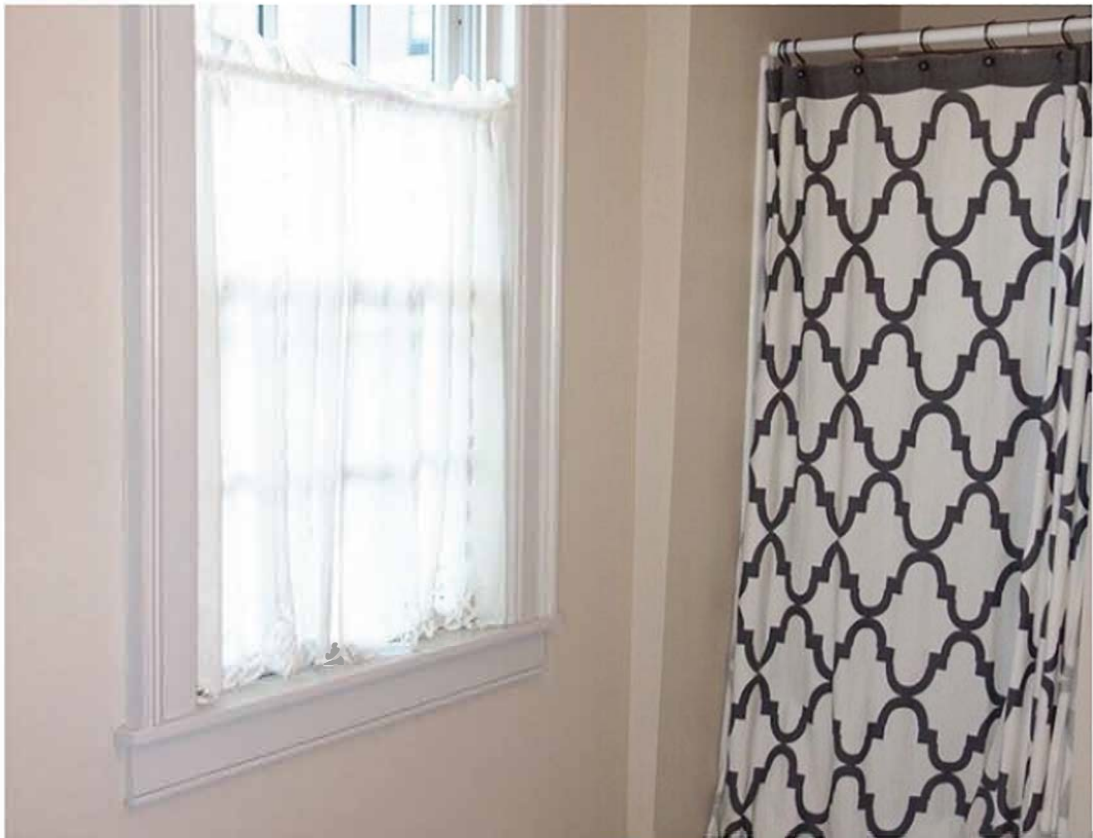
Interior Photos of Dwelling Unit on Second Floor Cont.



Interior Photos of Dwelling Unit on Second Floor Cont.



Interior Photos of Dwelling Unit on Second Floor Cont.

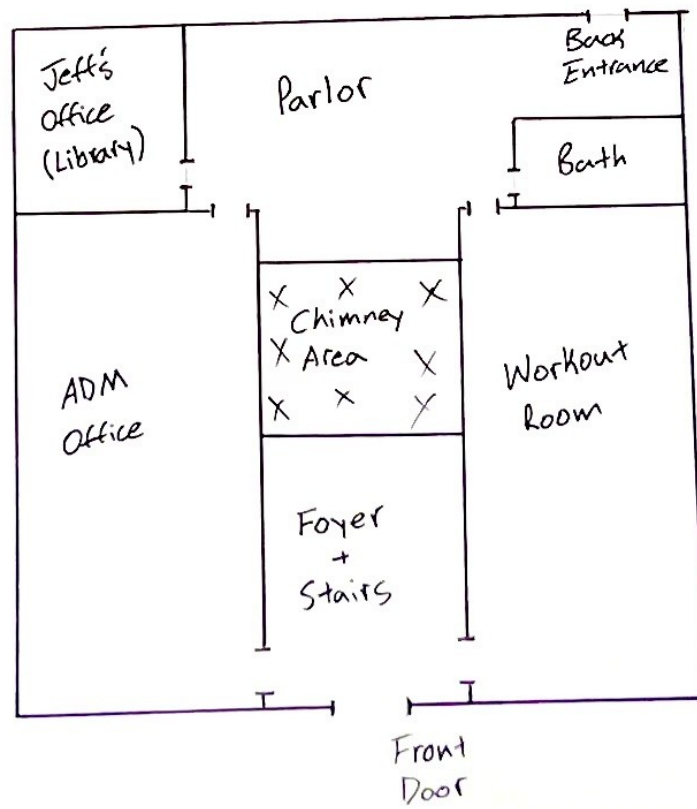


Interior Photos of Dwelling Unit on Second Floor Cont.



Sketch of Interior on Ground Floor

Not to scale Ref. Only



Interior Photos of Ground Floor



Interior Photos of Ground Floor Cont.



Interior Photos of Ground Floor Cont.



Interior Photos of Ground Floor Cont.



Interior Photo of Door on Ground Floor



III. NEW BUSINESS

B. The request of **Susan E. Ingersoll (Owner)**, for property located at **46 Aldrich Road** whereas relief is needed to demolish the existing detached garage and construct a new attached garage which requires the following: 1) Variance from Section 10.521 to allow a 17.5-foot rear yard where 20 feet are required. Said property is located on Assessor Map 148 Lot 26 and lies within the General Residence A (GRA) and Historic Districts. (LU-26-65)

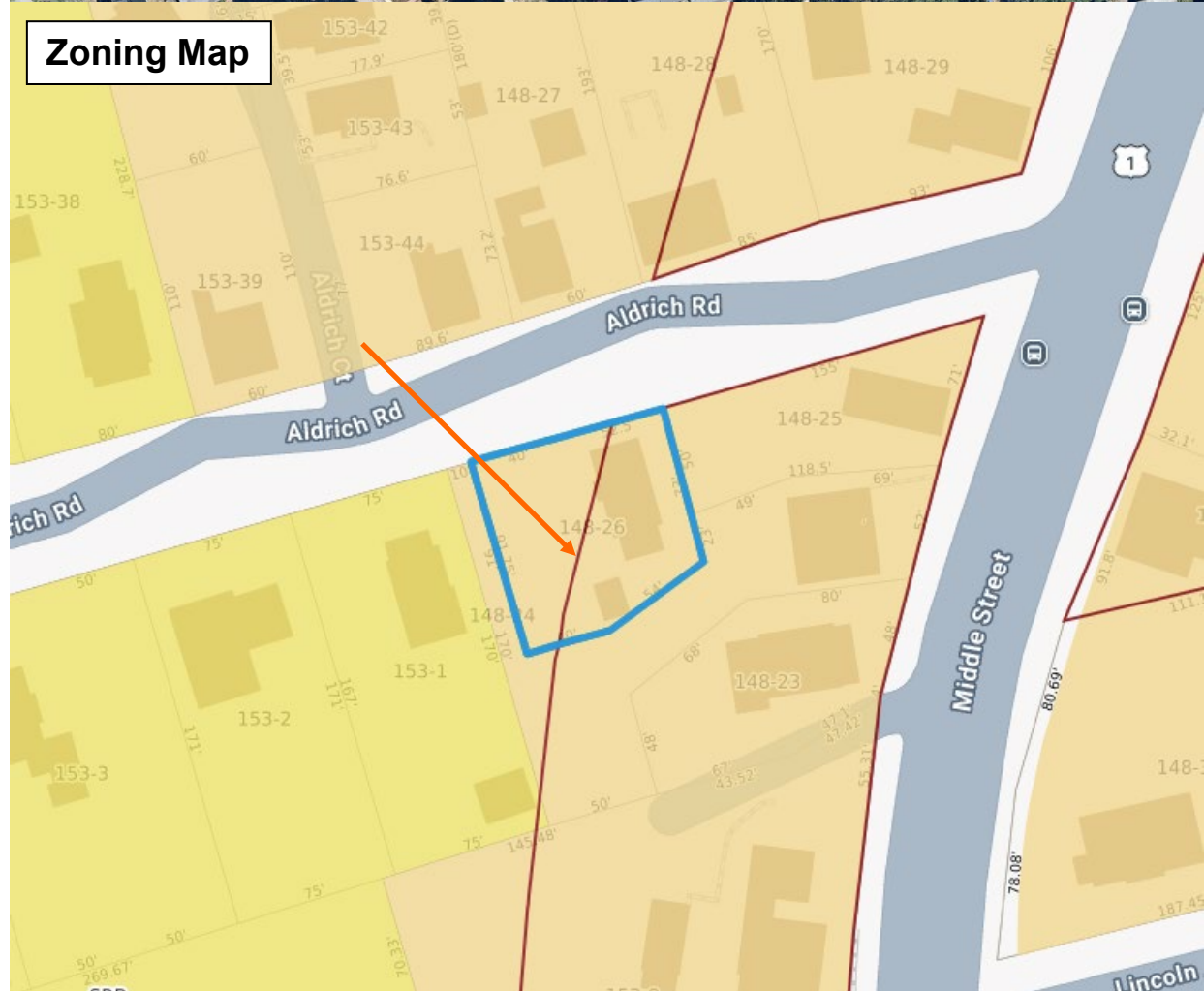
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Home	*Demo existing detached garage and construct new attached garage	Primarily Residential
<u>Lot area (sq. ft.):</u>	7,670	7,670	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,670	7,670	7,500 min.
<u>Front Yard (ft.):</u>	Home:<15 Garage:>15	Home:<15 Garage:>15	15 min.
<u>Right Side Yard (ft.):</u>	Garage: >10	Garage: >10	10 min.
<u>Left Side Yard (ft.):</u>	Garage: >10	Garage: >10	10 min.
<u>Rear Yard (ft.):</u>	Garage:3 ft 4 in	Garage: 17.5	20 min.
<u>Building Coverage (%):</u>	16.2	18.8	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Height (ft.):</u>	Garage: 12	Garage: 13	35 max.
<u>Parking</u>	4	3	1
<u>Estimated Age of Structure:</u>	1905	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Historic District Approval
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

July 27, 1971 – The Board **granted** the request to use part of an existing home for use of a Nursery School three (3) hours per day – five (5) days per week, not exceeding fifteen (15) children with the following condition:

- 1) That you completely fence in any play area or playground used by the children attending your school.

March 28, 1972 – The Board **denied** the request to be allowed to extend the Nursery School hours by three additional hours in the afternoon.

August 19, 1986 – The Board **granted** the request for a Variance from Article III, Section 10-302 to permit the construction of a 780 s.f. “L-shape” rear addition with the following: a) a rear yard of 17’ where a minimum rear yard of 30’ is required; and, b) a building coverage of 20.6% where a maximum building coverage of 20% is allowed.

July 26, 2011 – The Board **granted** the request to replace stairway, steps and roof over landing which requires relief from the following: 1) a Variance from Section 10.321 to allow alteration to an existing non-conforming structure; and 2) a Variance from Section 10.521 to allow a front yard of 20” where a minimum of 15’ front yard is required.

Planning Department Comments

The applicant is proposing to demolish the existing one-story detached garage on the property and to construct a new attached one-story garage. The existing garage is almost entirely in the rear yard and the proposed garage impacts the rear yard by 2-foot 1 inch.

Variance Review Criteria

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

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

AND

- (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

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

10.235 Certain Representations Deemed Conditions

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

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

Re: Variance Application

46 Aldrich Rd
Portsmouth, NH 03801

To Whom It May Concern:

We are pleased to submit this memo and in support of the proposed design documents requesting Zoning Relief for the construction of a new attached garage at 46 Aldrich Rd within the rear setback ordinance, to be considered by the ZBA at the June 2026 meeting.

Property/Project:

46 Aldrich Rd is a single-family home constructed around the year 1905. We are proposing to demolish an existing detached garage well within the rear setback and close to the rear property line. In removing the existing non-conforming garage, we are proposing to construct a new attached garage to the existing main house. The rear corner of the existing main house is non-conforming as well as it does protrude over the rear setback slightly. The project is seeking a variance due to the new garage addition being proposed just over the rear setback but is being proposed in less of a non-conforming way than what currently exists and would remain on the main house. The fact that the existing main house footprint and the proposed garage addition are **within the 20' rear setback required by the town** we are seeking zoning relief for the new proposed garage addition.

Variance Criteria

The variances will not be contrary to the public interest

The existing property, originally built around 1905, is currently non-conforming with respect to the rear setback of the main house as well as the existing detached garage. The construction proposed will remove the existing detached garage well within the rear setback to construct a new attached garage that is in similar compliance to the existing main house and better suits the current zoning ordinance.

The spirit of the ordinance is observed

The spirit of the zoning ordinance is observed based on the proposed project remaining consistent with the character and intent of the district while minimizing impacts to neighboring properties. The design maintains appropriate scale and residential character to the greatest extent practicable. The proposal does not create adverse impacts related to traffic, drainage, light, noise, or safety, and it preserves the overall goals of orderly development and neighborhood compatibility intended by the ordinance.

Substantial justice will be done

Granting this request would do substantial justice because it allows a reasonable use of the property while creating little to no negative impact on neighboring properties or the public. The proposal is consistent with the character of the area and respects the intent of the ordinance. Approving the variance represents a fair and balanced outcome for both the applicant and the community.

The values of surrounding properties will not be diminished

The values of the surrounding properties will not be diminished by granting the variance. The project is in keeping with the character of the neighborhood and of the existing house.

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

Literal enforcement of the Ordinance would result in unnecessary hardship because the existing detached garage is not of practical size or function for today's standard vehicles and provides limited usability during winter months and inclement weather. Due to the existing lot layout and structure configuration, construction of a fully conforming attached garage is less practical without further reducing off-street parking, significantly impacting the existing residence, or requiring substantial hardscape and landscape reconfiguration.

The proposed project replaces an existing non-conforming detached garage with an attached garage that improves the overall site layout and functionality while reducing the degree of non-conformance. Although limited rear setback relief is still required, the proposal represents a substantial improvement over the existing condition and is consistent with the intent of the Ordinance.

For the reasons described above, we respectfully request the Board grant this variance.

Respectfully,

Susan Ingersoll

OWNER AUTHORIZATION FORM

Project Address: 46 Aldrich Road

City/Town: Portsmouth **State:** NH **Zip:** 03801

Tax Map/Lot Number (if applicable): 148 / 26

Property Owner Information

Owner Name(s): Susan E. Inersoll

Mailing Address: 75 Vine Street, Unit 808, Seattle, WA 98121

Phone Number: 617.680.8845

Email Address: su.ingersoll@gmail.com

Authorized Representative Information

I/We, the undersigned property owner(s), hereby authorize:

Individual / Company Name: Justin Knowlton/Design Worth Calling Home

Contact Person (if company):

Mailing Address: 196 Dearborn Rd, Greenland, NH 03840

Phone Number: (603) 767-3232

Email Address: designworthcallinghome@gmail.com

To act as my/our authorized representative in connection with the following:

- Building Permit Application
- Planning/Zoning Application
- Wetlands Application
- Variance/Special Exception
- Site Plan Review
- Other: HDC

Scope of Authorization

The authorized representative may:

- Submit applications and supporting documents
- Communicate with municipal staff, boards, and consultants
- Receive notices and correspondence related to the application
- Attend meetings and hearings on my/our behalf
- Make revisions to submitted plans and materials as required

This authorization shall remain in effect until:

- Completion of the project/application
 Revoked in writing by the property owner
 Other expiration date: _____

Owner Certification

I/We certify that I/we are the legal owner(s) of the property identified above and that the information provided in this authorization is true and correct.

Property Owner Signature

Printed Name: Susan E. Inersoll

Signature:  

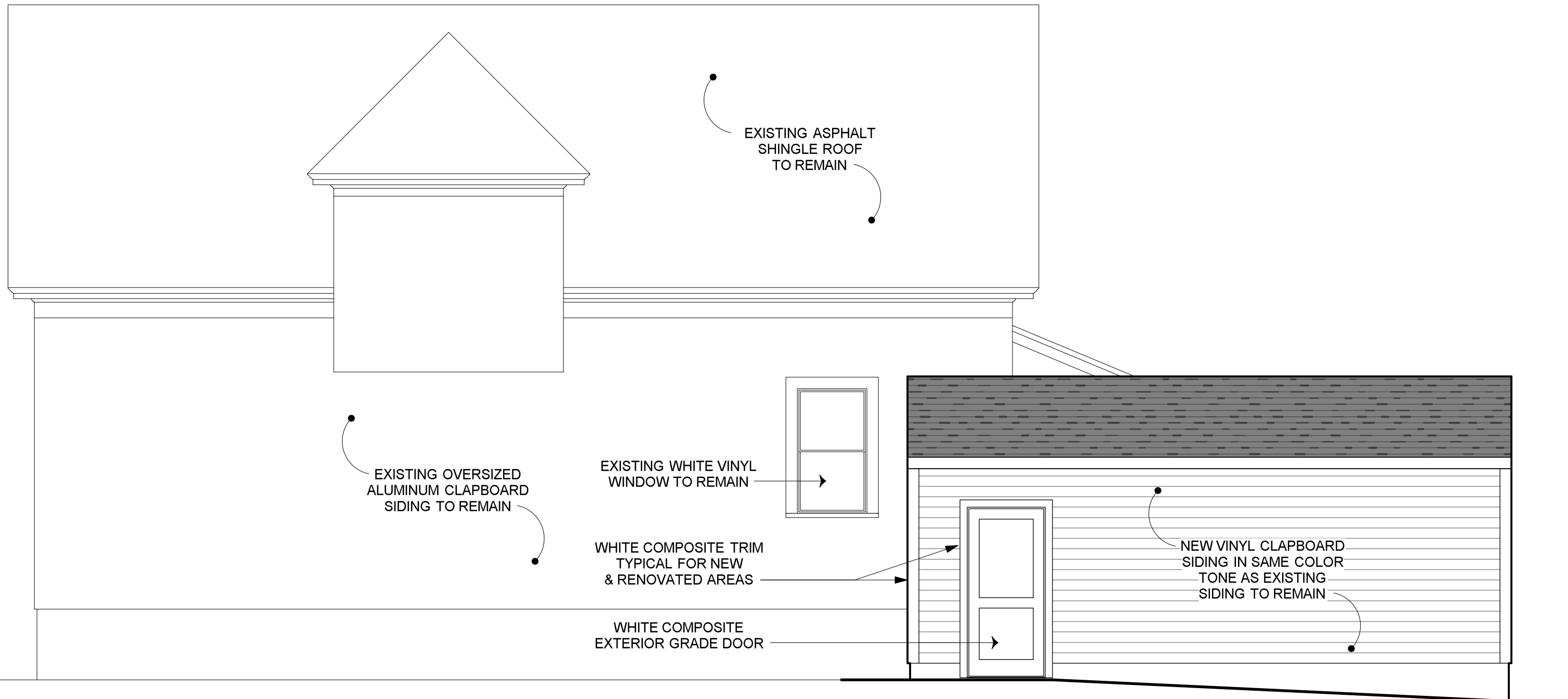
Date: 05/13/2026

Co-Owner Signature (if applicable)

Printed Name: _____

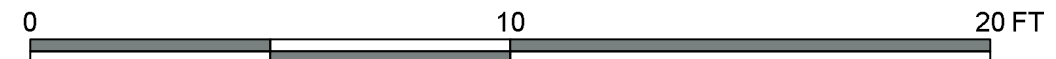
Signature: _____

Date: _____



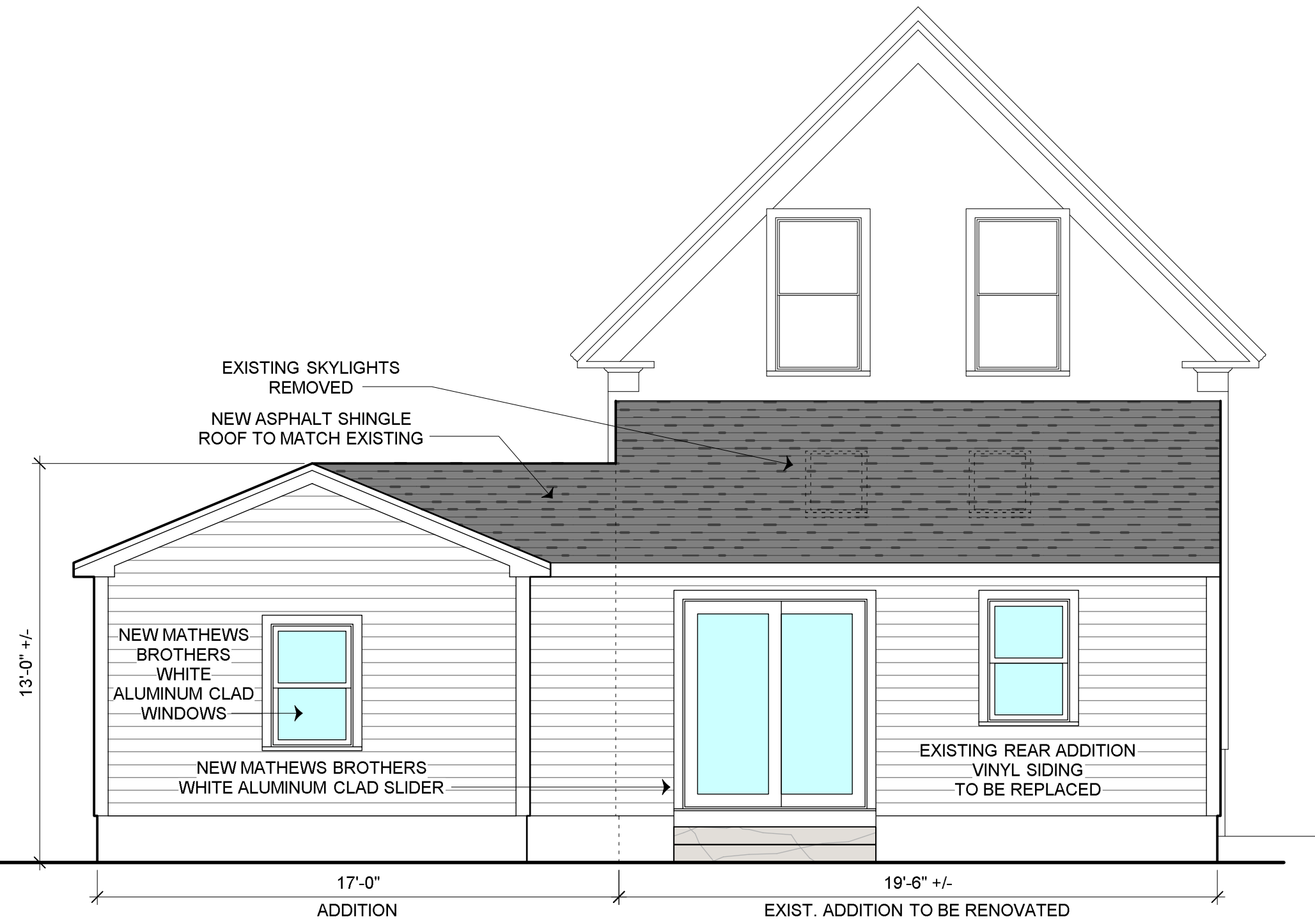
PROPOSED SIDE ELEVATION

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



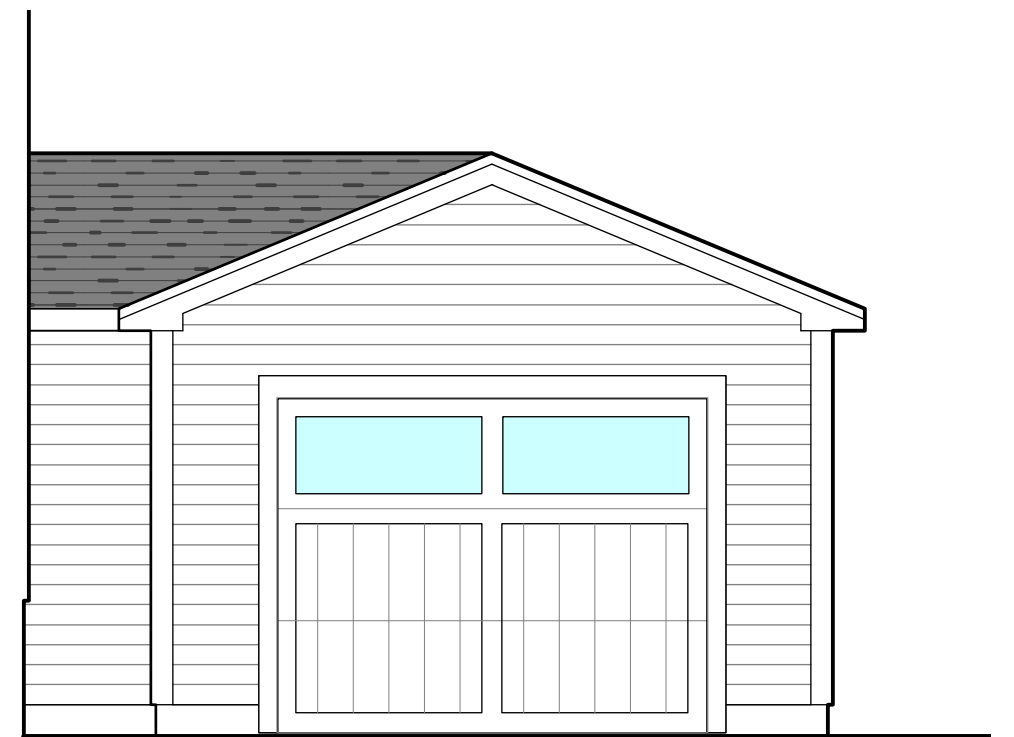
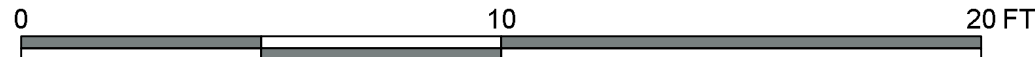
Ingersoll Residence
 46 Aldrich Rd, PORTSMOUTH, NH

Design
 WORTH CALLING
HOME LLC



PROPOSED REAR ELEVATION

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



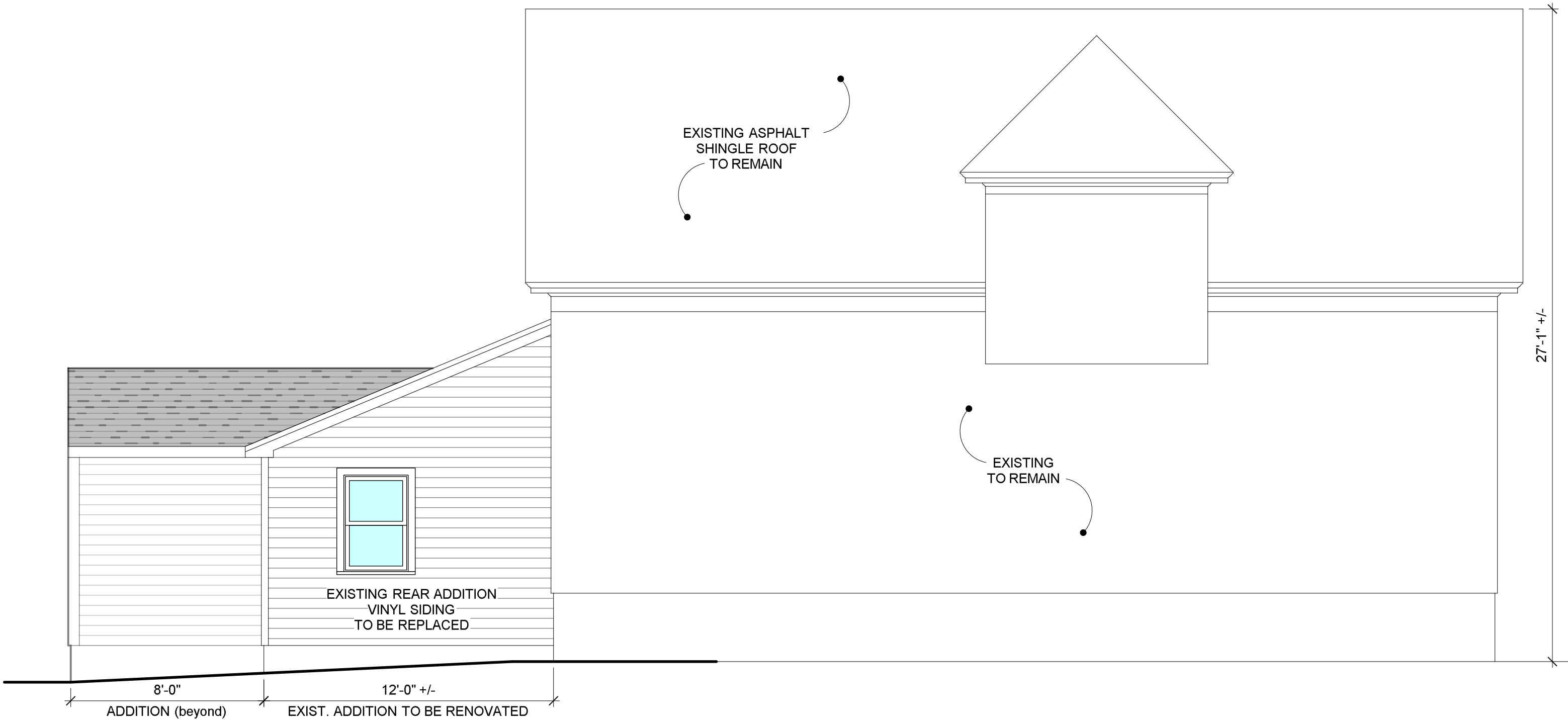
GARAGE FRONT ELEVATION

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

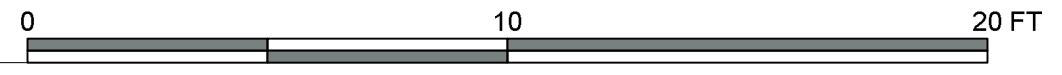
Ingersoll Residence

46 Aldrich Rd, PORTSMOUTH, NH

Design
 WORTH CALLING
HOME LLC



PROPOSED SIDE ELEVATION
 Scale: 1/4" = 1'-0"



Ingersoll Residence
 46 Aldrich Rd, PORTSMOUTH, NH

Design
 WORTH CALLING
HOME LLC

TAX MAP 153 LOT 44
SUSAN B. MCLANE
55 ALDRICH ROAD,
PORTSMOUTH, N.H. 03801
BK: 2991 PG: 2208

ALDRICH ROAD
(A.K.A. WEST STREET)

TAX MAP 148 LOT 25
STADE PARTNERS, LLC.
4 COLD SPRINGS DRIVE
DURHAM, N.H. 03824
BK: 5389 PG: 87

TAX MAP 148 LOT 24
CHARLES A. & PATRICIA A.
CORLIN
736 MIDDLE STREET
PORTSMOUTH, N.H. 03801
BK: 5743 PG: 2851

TAX MAP 153 LOT 1
JOHN E. & LAURA S.
KENNEDY
66 ALDRICH ROAD,
PORTSMOUTH, N.H. 03801
BK: 5661 PG: 1554

TAX MAP 148
LOT 26
7,670 S.F.±
0.176 ACRES±

#46
EXISTING
HOUSE

PROPOSED
ADDITION
FOOTPRINT

GARAGE

BUILDING SETBACK
(TYP.)

TAX MAP 148 LOT 23
ELTON L. SHAFFER &
PAULA M. RAIS
748 MIDDLE STREET,
PORTSMOUTH, N.H. 03801
BK: 2693 PG: 2930

MIDDLE STREET

IRON PIPE FOUND
DOWN 18" ON SIDE

THREADED IRON ROD
FOUND W/ NUT DOWN 2"

IRON PIPE FOUND
ON SIDE

5/8" IRON ROD FOUND DOWN 2"
MUSHROOMED HEAD, HELD

3/4" IRON ROD
FOUND DOWN 2"

2" IRON PIPE
FOUND FLUSH

1" IRON PIPE
FOUND DOWN 1"

2" IRON PIPE
FOUND ON SIDE

1.5" IRON PIPE
FOUND FLUSH

PROPOSED SITE PLAN

Scale: 1" = 30'-0"



Ingersoll Residence

46 Aldrich Rd, PORTSMOUTH, NH

Design
WORTH CALLING
HOME CO.

PROPERTY LOCATION
46 ALDRICH RD



PARTIAL HDC MAP - NOT TO SCALE

III. NEW BUSINESS

C. The request of **Debra M. Dupont (Owner)**, for property located at **911 Sagamore Avenue** whereas relief is needed to demolish the existing sunroom and construct an addition which requires the following: 1) Variance from Section 10.531 to allow a 13 foot rear yard where 20 feet are required; and 2) Variance from Section 10.334 to allow the existing single family residential use (Use #1.10) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 223 Lot 33 and lies within the Waterfront Business (WB) District. (LU-26-71)

Existing & Proposed Conditions

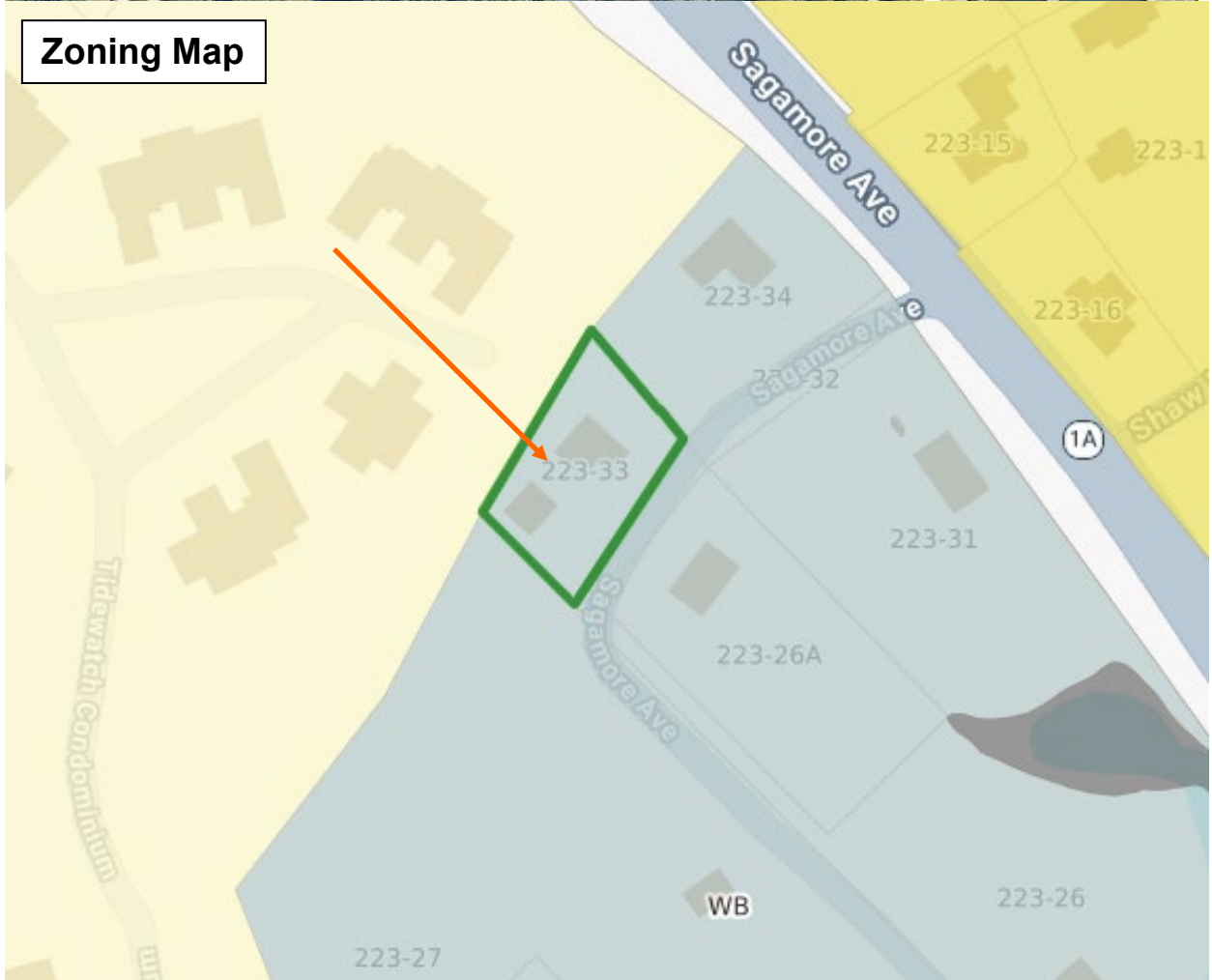
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Residential	*Demo and reconstruct the sunroom	Waterfront Business uses
<u>Lot area (sq. ft.):</u>	14,813	14,813	20,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	14,813	14,813	NR
<u>Front Yard (ft.):</u>	>30	>30	30 min.
<u>Right Side Yard (ft.):</u>	>30	>30	30 min.
<u>Left Side Yard (ft.):</u>	>30	>30	30 min.
<u>Rear Yard (ft.):</u>	16.6	13	20 min.
<u>Building Coverage (%):</u>	15.1	15.2	30 max.
<u>Open Space Coverage (%):</u>	67.6	67.4	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Estimated Age of Structure:</u>	1955	Variance request(s) shown in red.	

***Residential use is not permitted in the WB**

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

June 21, 1994 – The Board **granted** a variance from Article IV, Section 10-401(5) to allow the construction of an ell shaped deck (8' x 31'; 8' x 20') to an existing nonconforming residence (as to yards and use) thus creating an expansion of a nonconforming use of a structure where no increase in the extent of a nonconforming use of a structure may be made without Board approval.

Planning Department Comments

The applicant is proposing to demolish the existing sunroom and reconstruct it in a similar location. The plans show the new sunroom to be 16.2 feet from the rear boundary line; staff advertised the project at 13 feet to incorporate the new stairs.

Variance Review Criteria

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

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

10.235 Certain Representations Deemed Conditions

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

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

May 15, 2026

HAND DELIVERED

Stefanie Casella, Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Debra M. Dupont, Owner/Applicant
911 Sagamore Avenue
Tax Map 223/Lot 23
Waterfront Business District

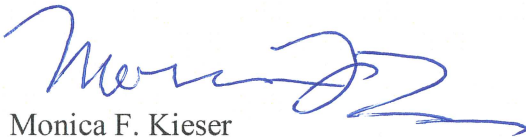
Dear Ms. Casella, Chair Margeson, and Zoning Board Members:

On behalf of Debra M. DuPont (“DuPont”), enclosed please find the following in support of a request for zoning relief:

- Digital Application submitted earlier today.
- Owner’s Authorization.
- 5/15/2026 – Memorandum and exhibits in support of Variance Application

We look forward to presenting this application to the Zoning Board at its June 16, 2026 meeting.

Very truly yours,



Monica F. Kieser

Encl.

cc: Debra M. DuPont
Cortland Builders
Ross Engineering, LLC

DANIEL C. HOEFLE	ALEC L. MCEACHERN	PETER V. DOYLE	STEPHEN H. ROBERTS In Memoriam
R. TIMOTHY PHOENIX	KEVIN M. BAUM	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	JACOB J.B. MARVELLEY	CHRISTOPHER P. MULLIGAN	SAMUEL R. REID
R. PETER TAYLOR	GREGORY D. ROBBINS	STEPHANIE J. JOHNSON	JOHN AHLGREN

OWNER'S AUTHORIZATION

I, Debra Dupont, Owner/Applicant of 911 Sagamore Avenue, Tax Map 223/Lot 33, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent me before any and all City of Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date:

Debra Dupont

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: Monica F. Kieser, Esquire
DATE: May 15, 2026
Re: Debra M. DuPont, Owner/Applicant
Property Location: 911 Sagamore Avenue
Tax Map 223, Lot 23
Waterfront Business Zone (“WB”)

Dear Chair Margeson and Zoning Board Members:

On behalf of Debra M. DuPont, Owner/Applicant (“DuPont”), we are pleased to submit this memorandum and attached exhibits in support of zoning relief to allow reconstruction of dated enclosed porch for consideration by the Portsmouth Zoning Board of Adjustment (“ZBA”) at its May 19, 2026 meeting.

I. EXHIBITS

- A. Site Plan Set – issued by Ross Engineering, LLC.
 - Boundary Survey and Existing Conditions
 - Site Plan
- B. Architectural Plan Set – issued by Cortland Builders.
- C. Site Photographs.
- D. Tax Map 223.

II. PROPERTY/PROJECT

911 Sagamore Avenue is a 0.34-acre (14,813 square feet) lot situated in the Waterfront Business (“WB”) district. The lot contains a 1,230 square foot single-family residence dating back to 1955, including a sunroom approximately 112 square feet, along with an attached deck and garage (“the Property”). The Property is served by municipal water and sewer.

A small corner of the sunroom and part of the garage are located in the rear yard setback. Portions of the house and garage are in the 250-foot State shoreland setback, but only the garage and deck encroach on Portsmouth’s 100-foot wetland buffer. Dupont intends to reconstruct the southwest sunroom for four-season use, add rear egress stairs, and perform other interior renovations (the “Project”). The sunroom reconstruction is outside the shoreland and wetland buffer. **Exhibit A.**

City Staff has confirmed that the Project requires variances for expansion of a residential use in the Waterfront Business District, expansion of a nonconforming structure, and relief from the 30 ft. side yard setback requirements.

III. RELIEF REQUIRED

<u>Variance Section</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
<u>PZO §10.321</u> <u>Expansion of</u> <u>Nonconforming</u> <u>Structure</u>	20' Rear Setback	16.6' sunroom	16.2' sunroom 13.0' stairs
<u>PZO §10.331</u> <u>Expansion of</u> <u>Nonconforming Use</u>	Business Use	1,230 s.f. Single-Family Residence	1,236 s.f. Single-Family Residence + egress stairs
<u>PZO §10.531</u> <u>Rear Setback</u>	20'	16.6' sunroom	16.2' sunroom 13.0' stairs

IV. VARIANCE REQUIREMENTS

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

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

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

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The single-family home has existed for decades and no change

- in use is proposed. The Project simply converts the sunroom into a four-season room.
2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – There is a *de minimus* expansion of the existing house to accommodate the sunroom conversion and rear stairs. The Project retains 67.6% open space building coverage is only 15.2%.
 3. The design of facilities for vehicular access, circulation, parking and loading – The sunroom conversion causes no changes to vehicular access, circulation, parking and loading.
 4. The impact on properties on of outdoor lighting, noise, vibration, stormwater runoff and flooding – Use of the property will not change.
 5. The preservation and enhancement of the visual environment – There will be no change to the visual appearance of the Property as the sunroom currently exists and will simply be properly framed and insulated.
 6. The preservation of historic districts and building and structures of historic architectural interest – The Property is not in the Historic Overlay District.
 7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The Project is located outside the applicable shoreland and wetland buffers.

The intent of the WB Zone is to “accommodate and support business uses that depend on the ocean or Piscataqua River for transport or resources.” PZO §10.410. There are approximately eight properties in this area on the west side of Sagamore Avenue zoned Waterfront Business, four of which are single-family residences sandwiched between Tidewatch Condominiums and a residential neighborhood across Sagamore Avenue. The Property, like the three other single-family residences on Sagamore Avenue near Sagamore Creek, contains a home and accessory building and portions of both are in the City’s wetland buffer. The conversion of the existing sunroom is outside the wetland buffer and results in a very slight change to the rear yard setback compared to existing conditions. The minimal expansion of the nonconforming use and structure is reasonable, in keeping with the neighborhood, and will not impede nearby businesses utilizing Sagamore Creek for access to the Piscataqua River or the ocean. Given these factors, granting the requested variances will not conflict with the basic zoning objectives of the PZO.

In considering whether variances “in a marked degree conflict with the ordinance such that they violate the ordinance’s basic zoning objectives,” Malachy Glen, supra, also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to determine whether it would alter the essential character of the locality... . Another approach to [determine] whether granting the variance violates basic zoning

objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

There are three other properties in the immediate area being used for residential purposes. The reconstruction of the sunroom in essentially the same footprint and outside the wetland buffer will provide additional conditioned space to this modest home. Given the residential use of neighboring parcels, particularly 910 Sagamore Avenue, 912 Sagamore Avenue, and 913 Sagamore Avenue, the proposal is in keeping with the surrounding area. Granting the variances neither alters the essential character of the locality nor threatens the public health, safety, or welfare. Accordingly, granting the variances to allow conversion of an existing sunroom to conditioned space with egress stairs is not contrary to the public interest and observes the spirit of the ordinance.

3. Substantial justice will be done by granting the variances.

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

Dupont is constitutionally entitled to the use of the lot as she sees fit, including converting the sunroom to conditioned space, subject only to its effect of the slight encroachment on the rear yard setback. “The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions.” N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that “no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people.” Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978).

“Property” in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it.* Burrows v. City of Keene, 121 N.H. 590, 597 (1981) (emphasis added).

The conversion of the sunroom into conditioned space and addition of rear egress stairs creates more living space for Dupont and does not negatively affect abutting properties nor

impede the ability of nearby businesses to access the ocean or Piscataqua River. Accordingly, there is no gain to the public from denying the requested variances. Conversely, Dupont will be greatly harmed by denial of any of the variances because she will be unable to modestly expand conditioned living space in her small home. Without question, substantial justice will be done by granting the variances.

4. Granting the variances will not diminish surrounding property values.

The sunroom conversion presents a very minimal expansion toward the rear lot line – less than 5 inches for the sunroom itself, plus egress stairs. This conversion will not alter the long-standing residential use of the Property. The sunroom conversion is not noticeable from the private road and well screened by vegetation and topographical features. Accordingly, the variances will not diminish surrounding property values.

5. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property from others in the area.

The Property contains a small single-family residence in proximity to other residential lots on an oversized Waterfront Business lot burdened by the wetland buffer from Sagamore Creek but with minimal Creek frontage. The home is located inside the wetland buffer and a portion of the home encroaches on the rear yard setback. The sunroom conversion is driven by the location of the existing home and three-season space, just outside the wetland buffer. These circumstances combine to create special conditions and there is no alternative location that would not require relief.

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

Limitations on the expansion of nonconforming uses exist to ensure uniformity and compatibility of uses, while yard setbacks and limitations on expansion of nonconforming structures exist to prevent “over bulking” and overburdening of land, preserve access to adequate air, light, separation between neighbors, and provide space for stormwater treatment. Here a small group of properties is in the Waterfront Business District, but half are residential properties and all are located between other residential neighborhoods. The conversion of the three-season room will not change the use of this Property, impede nearby businesses, or negatively affect abutting properties. The expansion of the sunroom itself is just a few inches plus egress stairs. Building coverage and open space requirements are well below/above that which is required.

Accordingly, there is no fair and substantial relationship between the purposes of the ordinance and its application in this instance.

c. The proposed use is reasonable.

The single-family residence currently on the lot was built in the 1950s. The Property has been used as a single-family residence since that time. The proposed sunroom conversion represents minimal expansion conditioned space with proper egress and does not negatively affect surrounding properties. Thus, the proposal is reasonable and the hardship element of the criteria is satisfied.

VI. CONCLUSION










For all of the reasons stated, Debra DuPont respectfully requests that the Portsmouth Zoning Board of Adjustment grant the requested variances.

Respectfully submitted,
Debra M. DuPont

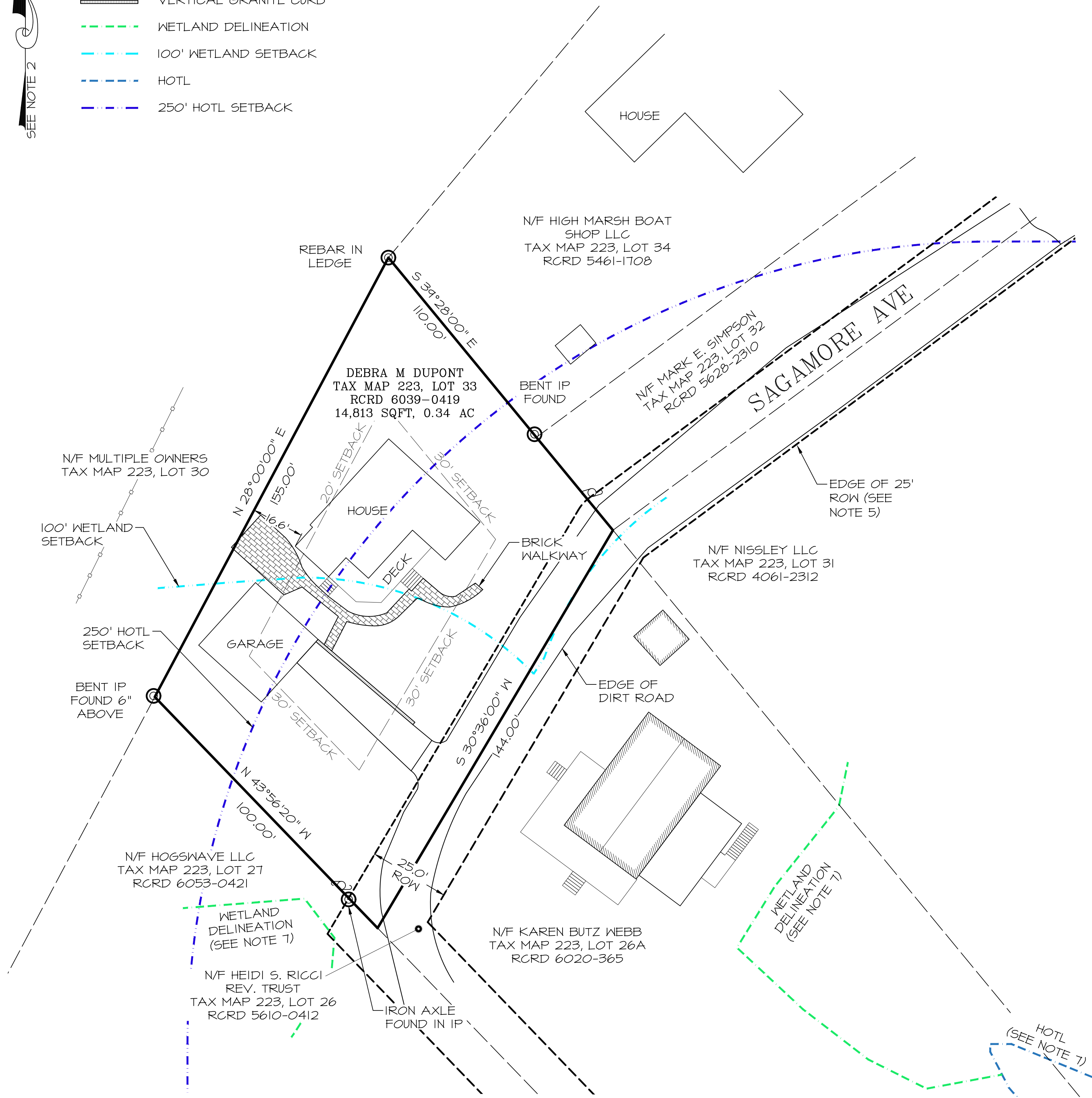


By: Monica F. Kieser

LEGEND

-  MONUMENT TO BE SET
-  MONUMENT FOUND
-  UTILITY POLE
-  WOODEN FENCE
-  VERTICAL GRANITE CURB
-  WETLAND DELINEATION
-  100' WETLAND SETBACK
-  HOTL
-  250' HOTL SETBACK

SEE NOTE 2

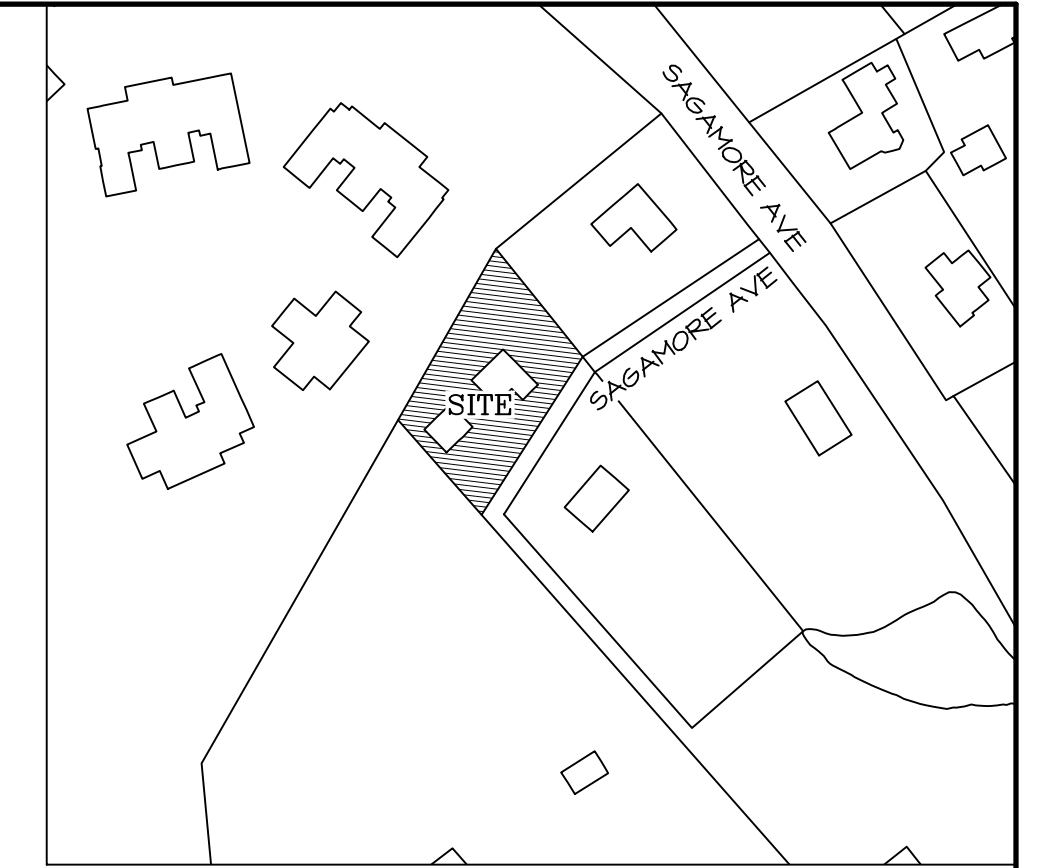


NOTES

- 1) OWNER OF RECORD:
DEBRA M DUPONT
TAX MAP 223, LOT 33
911 SAGAMORE AVE
PORTSMOUTH, NH 03801
RCRD: 6039-419
AREA: 14,813 SF, 0.34 ACRES
- 2) BASIS OF BEARING HELD FROM PLAN REFERENCE #1.
- 3) PARCEL IS IN WATERFRONT BUSINESS ZONE (WB):
MINIMUM LOT AREA.....20,000 SF
MIN. LOT AREA PER DWELLING UNIT.....7,500 SF
MINIMUM FRONTAGE.....100 FT
MINIMUM DEPTH.....100 FT
SETBACKS:
FRONT.....30 FT
SIDE.....30 FT
REAR.....20 FT
MAXIMUM BUILDING HEIGHT:
SLOPED ROOF.....35 FT
FLAT ROOF.....35 FT
MAXIMUM BUILDING COVERAGE.....30%
MINIMUM OPEN SPACE.....20%
- 4) THE PARCEL IS NOT WITHIN A FEMA FLOOD ZONE, AS PER FLOOD INSURANCE RATE MAP #33015C0210F, PANEL 2270 OF 681, DATED JANUARY 29, 2021. VERTICAL DATUM IS NAVD 1988.
- 5) A 25' WIDE RIGHT OF WAY LEADING FROM SAGAMORE AVENUE EXISTS WITH THE RIGHT TO USE IN COMMON WITH OTHERS. SEE RECORDED DEED 1306-0012. THE CENTERLINE OF THIS RIGHT OF WAY IS THE SOUTHEASTERLY PROPERTY LINE OF LOT 33.
- 6) THERE APPEARS TO BE A BOUNDARY CONFLICT WITH REFERENCE PLAN #4. REFERENCE PLAN #4 HOLDS THE IRON AXLE FOUND AT THE SOUTHERN CORNER OF THE PROPERTY AS THE CENTERLINE OF THE 25' ROW. EVIDENCE RESEARCHED BY THIS OFFICE INCLUDING MONUMENTS FOUND, ASPHALT AND GRAVEL ROAD LOCATION, DEED CHAINS, AND PLAN OVERLAYS SUPPORT THE IRON AXLE BEING AT THE EDGE OF THE ROW, ~13' FARTHER TO THE NORTH THAN THE CENTERLINE OF THE ROW.
- 7) WETLANDS & HIGHEST OBSERVABLE TIDE LINE SHOWN WERE IDENTIFIED/DELINEATED BY SERGIO BONELLA, CWS #261 ON 9/26/2018 AS PER REFERENCE PLAN #5.

REFERENCE PLANS

- 1) "DIVISION OF LAND PORTSMOUTH, N.H. FOR GARLAND W. PATCH JR." BY JOHN W. DURGIN CIVIL ENGINEERS/ DATED DECEMBER 1953. NOT RECORDED
- 2) "SUBDIVISION PLAN FOR HARRISON & FRANCES WORKMAN" BY BARRY W. KIMBALL. DATED SEPTEMBER 1979. RCRD C-9014.
- 3) "AS BUILT SITE PLAN TIDEWATCH CONDOMINIUMS" BY KIMBALL CHASE COMPANY, INC. DATED DECEMBER 29, 1986. RCRD D-15921.
- 4) "WETLAND PERMIT PLAN" BY MSC, DATED FEBRUARY 23, 2015. NOT RECORDED
- 5) "INDIVIDUAL SEWAGE DISPOSAL SYSTEM DESIGN" BY FARETRA SEPTIC DESIGN, LLC. DATED NOVEMBER 18, 2018. NHDES APPROVAL #eCA2019011417



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

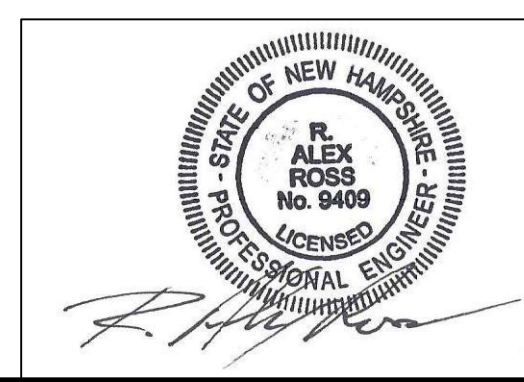
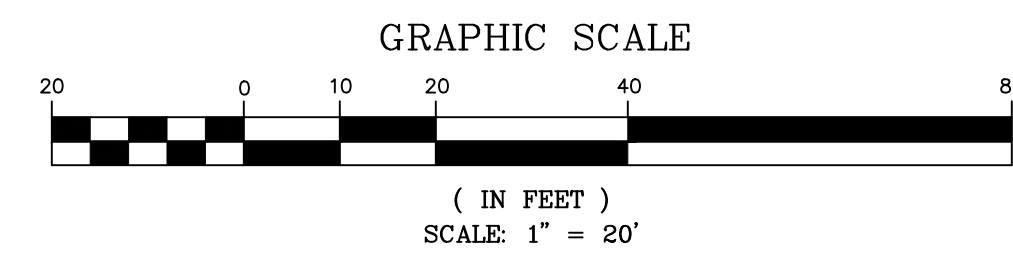


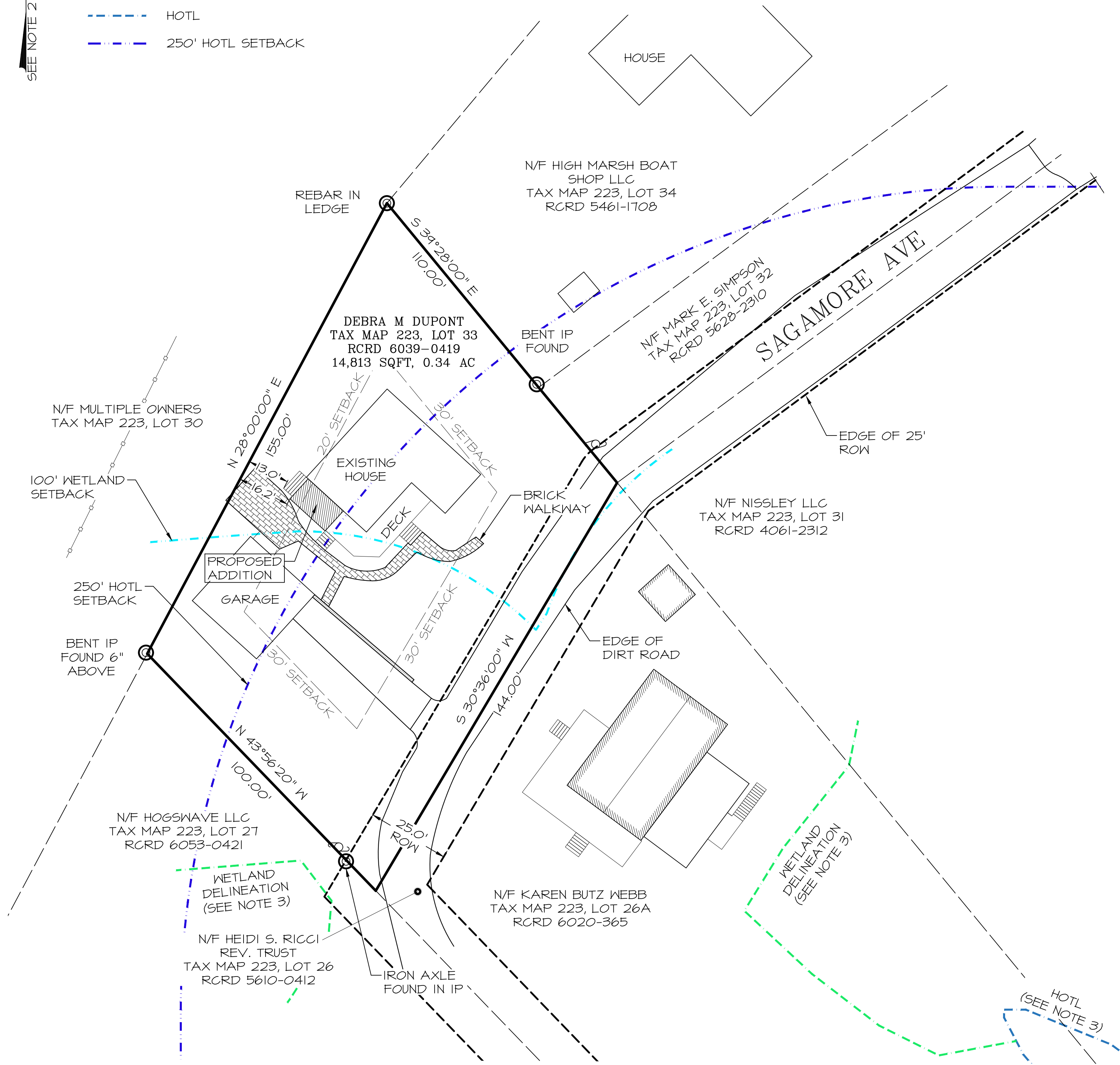
EXHIBIT A

ISS. DATE	5/13/2026	FOR REVIEW
SCALE	1" = 20'	DESCRIPTION OF ISSUE
CHECKED	A.ROSS	
DRAWN	D.D.D.	
CHECKED		
ROSS ENGINEERING, LLC Civil/Structural Engineering & Surveying 909 Islington St. Portsmouth, NH 03801 (603) 433-7560		
CLIENT SEAN LEONARD & DEB DUPONT 911 SAGAMORE AVE PORTSMOUTH, NH 03801		
TITLE EXISTING CONDITIONS PLAN 911 SAGAMORE AVE PORTSMOUTH, NH 03801 TAX MAP 223, LOT 33		
JOB NUMBER	22-079	DWG. NO. 1 OF 2
		ISSUE 1

LEGEND

- ⊕ MONUMENT TO BE SET
- ⊙ MONUMENT FOUND
- ⊕ UTILITY POLE
- WOODEN FENCE
- VERTICAL GRANITE CURB
- - - WETLAND DELINEATION
- - - 100' WETLAND SETBACK
- - - HOTL
- - - 250' HOTL SETBACK

SEE NOTE 2

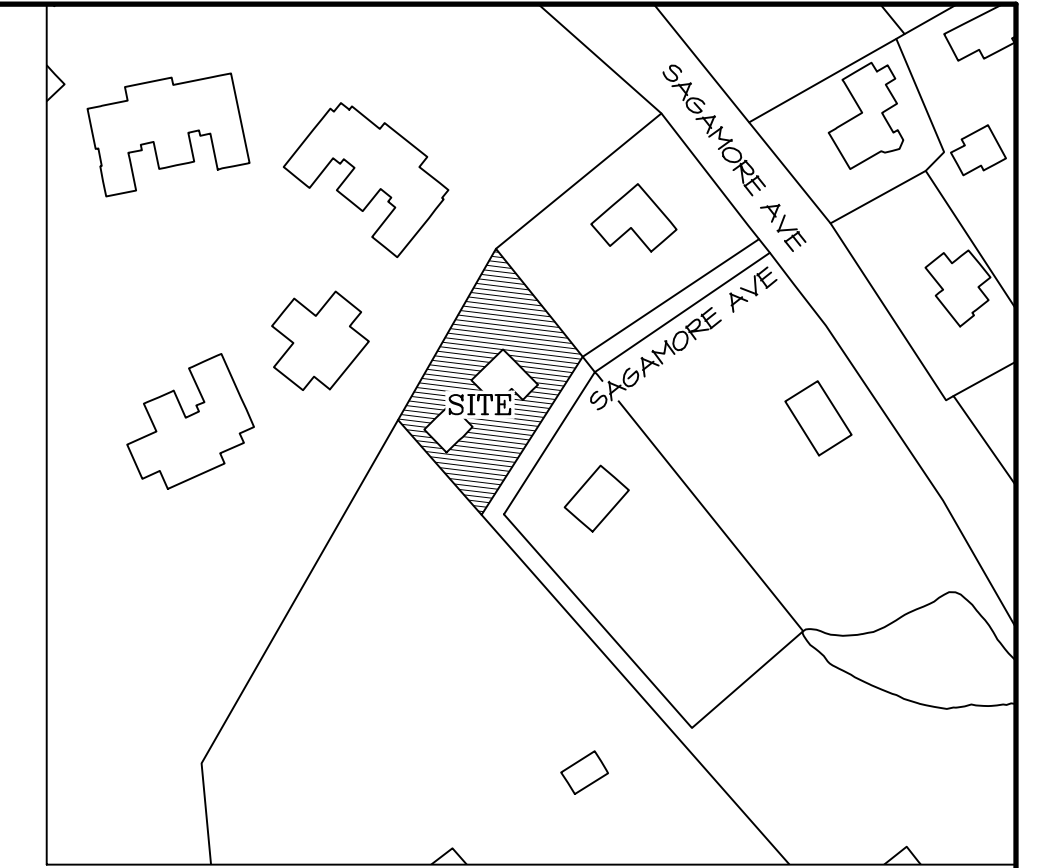


NOTES

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MINIMUM DEPTH.....100 FT
SETBACKS:
FRONT.....30 FT
SIDE.....30 FT
REAR.....20 FT
MAXIMUM BUILDING HEIGHT:
SLOPED ROOF.....35 FT
FLAT ROOF.....35 FT
MAXIMUM BUILDING COVERAGE.....30%
MINIMUM OPEN SPACE.....20%
- 3) WETLANDS & HIGHEST OBSERVABLE TIDE LINE SHOWN WERE IDENTIFIED/DELINEATED BY SERGIO BONELLA, CWS #261 ON 9/26/2018 AS PER REFERENCE PLAN #5.
- 4) BUILDING COVERAGE
EXISTING
HOUSE.....1230 SF
GARAGE.....693 SF
DECK.....288 SF
STAIRS > 18".....26 SF
TOTAL.....2237 SF
COVERAGE = 2237 / 14813 = 15.1%

PROPOSED
EXISTING HOUSE.....1117 SF
ADDITION.....119 SF
GARAGE.....693 SF
DECK.....288 SF
STAIRS > 18".....39 SF
TOTAL.....2256 SF
COVERAGE = 2256 / 14813 = 15.2%
- 5) OPEN SPACE
EXISTING
BUILDING COVERAGE.....2237 SF
STAIRS < 18".....17 SF
RETAINING WALL.....40 SF
BRICK WALKWAY.....543 SF
GRAVEL ROW.....1478 SF
ASPHALT DRIVEWAY.....484 SF
TOTAL.....4799 SF
OPEN SPACE = 14813 - 4799 / 14813 = 67.6%

EXISTING
BUILDING COVERAGE.....2256 SF
STAIRS < 18".....30 SF
RETAINING WALL.....40 SF
BRICK WALKWAY.....543 SF
GRAVEL ROW.....1478 SF
ASPHALT DRIVEWAY.....484 SF
TOTAL.....4831 SF
OPEN SPACE = 14813 - 4831 / 14813 = 67.4%



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

REFERENCE PLANS

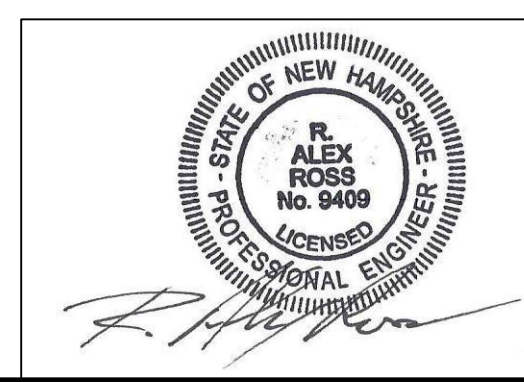
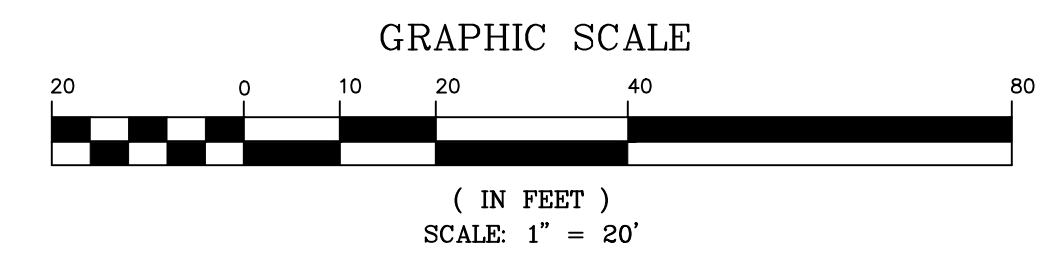
- 1) "DIVISION OF LAND PORTSMOUTH, N.H. FOR GARLAND W. PATCH JR." BY JOHN W. DURGIN CIVIL ENGINEERS/ DATED DECEMBER 1953. NOT RECORDED
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ISS.	5/13/2026	FOR REVIEW
DATE		DESCRIPTION OF ISSUE
SCALE	1" = 20'	
CHECKED	A.ROSS	
DRAWN	D.D.D.	
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ROSS ENGINEERING, LLC
Civil/Structural Engineering
& Surveying
909 Islington St.
Portsmouth, NH 03801
(603) 433-7560

CLIENT
SEAN LEONARD & DEB DUPONT
911 SAGAMORE AVE
PORTSMOUTH, NH 03801

TITLE		
SITE PLAN		
911 SAGAMORE AVE PORTSMOUTH, NH 03801 TAX MAP 223, LOT 33		
JOB NUMBER	DWG. NO.	ISSUE
22-079	2 OF 2	1



GENERAL NOTES

1. ALL WORK SHALL COMPLY WITH STATE AND MUNICIPAL BUILDING CODES.
2. ALL MECHANICAL WORK SHALL BE PERFORMED BY STATE LICENSED CONTRACTORS.
3. DRAWINGS MAY BE SCALED FOR ESTIMATING PURPOSES AND FOR GENERAL REFERENCE ONLY.
4. ALL DIMENSIONS ARE TO FACE OF STUD OR SURFACE OF DRYWALL UNLESS OTHERWISE NOTED (UON).
5. DOOR AND WINDOW DIMENSIONS ARE TO ROUGH OPENINGS UON.
6. ALL DIMENSIONS TO BE VERIFIED IN THE FIELD PRIOR TO FINAL DESIGNS.

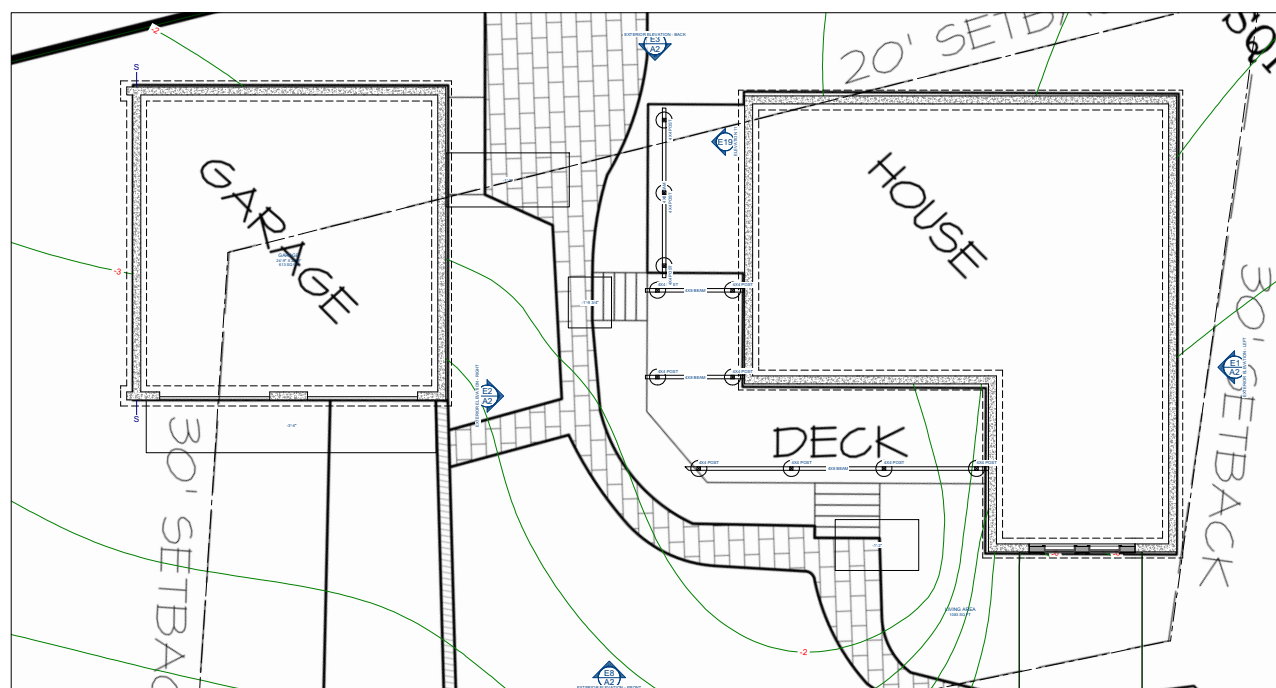
PROJECT OVERVIEW

HOME RENOVATION INCLUDES WINDOW REPLACEMENT, ADDING GAS FIREPLACE AND REPLACE SUNROOM IN KIND.
NO ADDITIONAL SQ FT ADDED TO HOME.

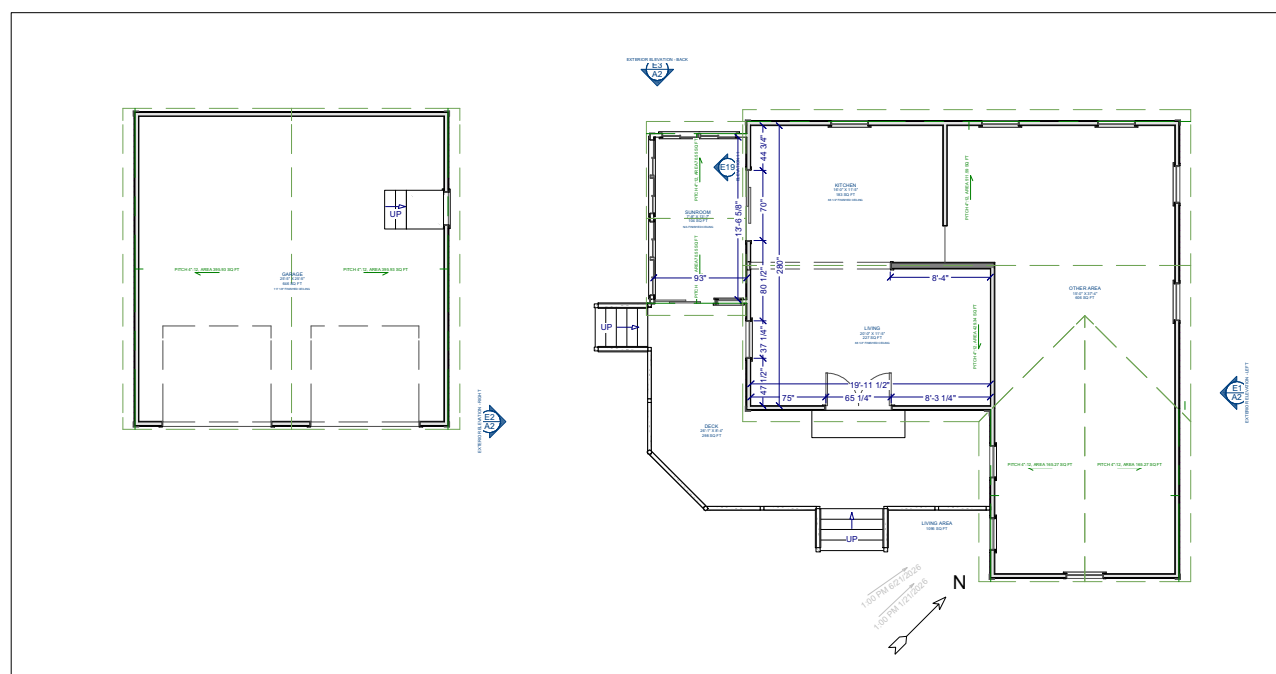
TITLE	SHEET NO.
REFERENCED SITE PLAN	A1
EXISTING CONDITIONS & DEMO PLAN	A2
FLOOR PLAN & RENDERINGS - PROPOSED	A3
EXTERIOR ELEVATION & SCHEDULES - PROPOSED	A4
WORK AREA - FLOOR PLAN	A5
CROSS SECTION & FOUNDATION PLAN - PROPOSED	A6



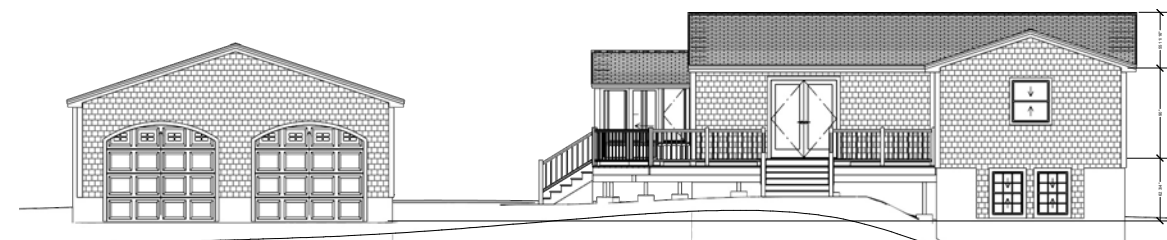
AS-BUILT CONDITIONS



EXISTING FOUNDATION
1/16 IN = 1 FT



EXISTING ENTRY LEVEL FLOOR PLAN
1/16 IN = 1 FT



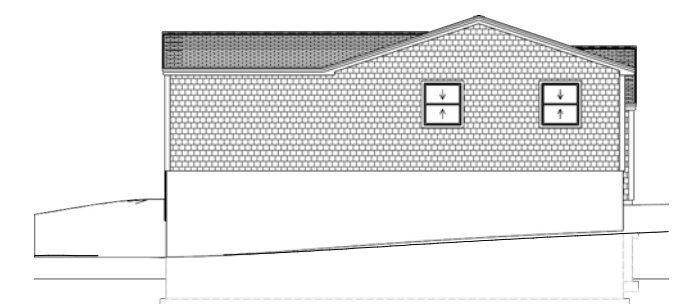
EXTERIOR ELEVATION - FRONT
1/16 IN = 1 FT



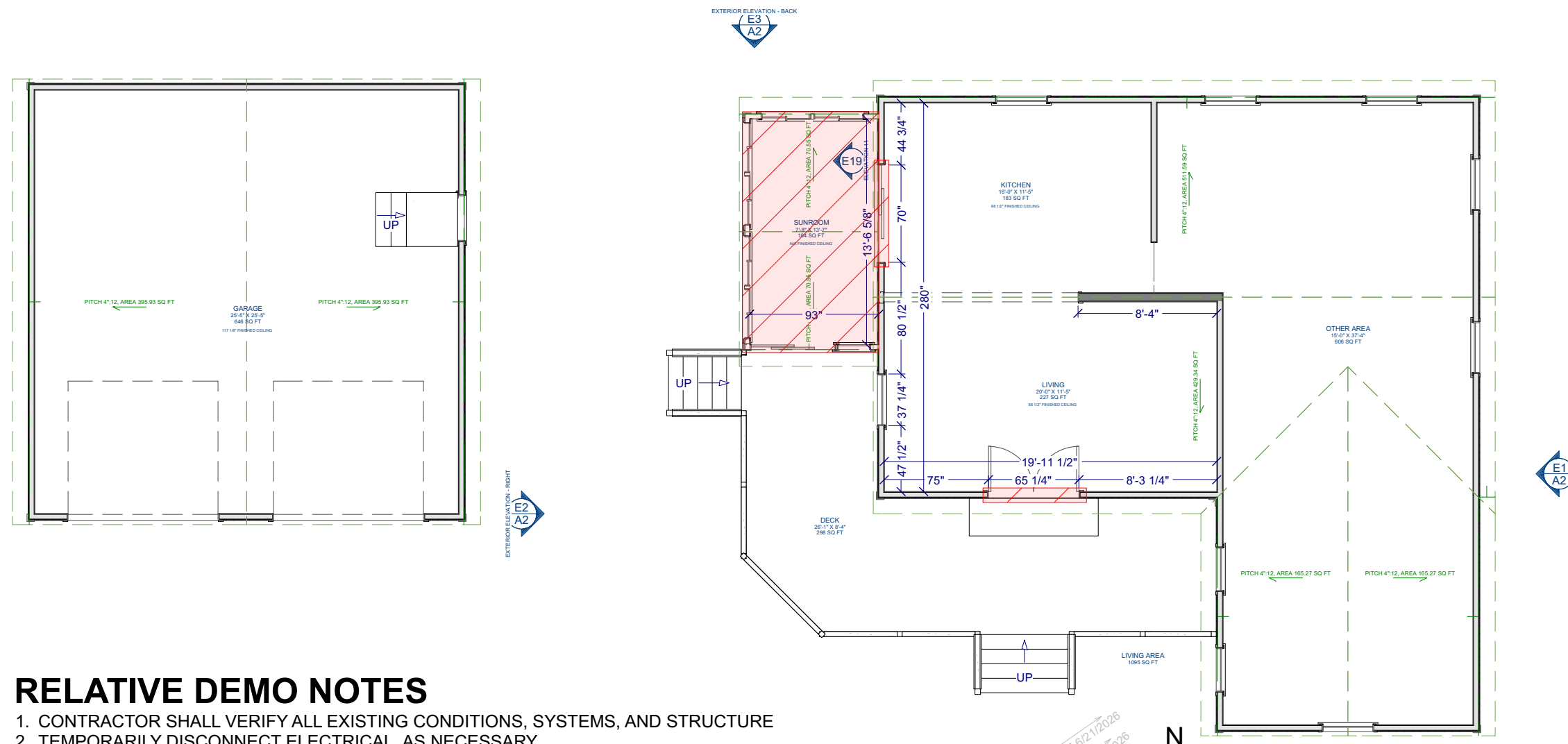
EXTERIOR ELEVATION - RIGHT
1/16 IN = 1 FT



EXTERIOR ELEVATION - BACK
1/16 IN = 1 FT



EXTERIOR ELEVATION - LEFT
1/16 IN = 1 FT



RELATIVE DEMO NOTES

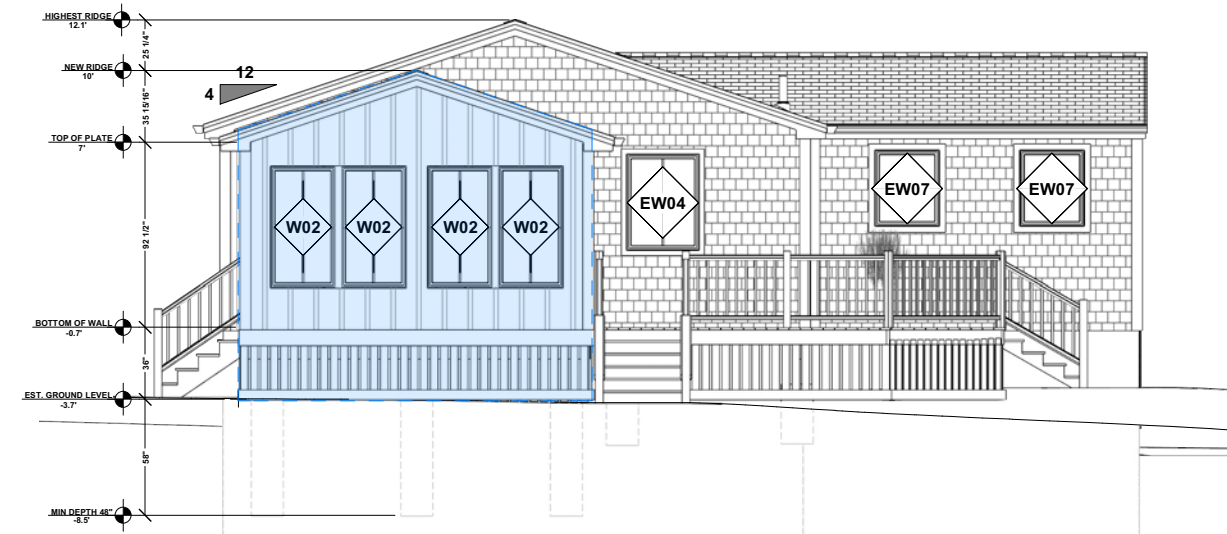
1. CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS, SYSTEMS, AND STRUCTURE
2. TEMPORARILY DISCONNECT ELECTRICAL, AS NECESSARY
3. STRIP SIDING AT ATTACHMENT POINT, AS NECESSARY
4. REMOVE EXISTING SUNROOM AND SUPPORTS, KEEP DECK INTACT.
5. TRY TO SALVAGE THE LATTICE.
6. REMOVE FRONT FRENCH DOORS, PATCH.

DEMO PLAN - 1ST FLOOR
1/8 IN = 1 FT

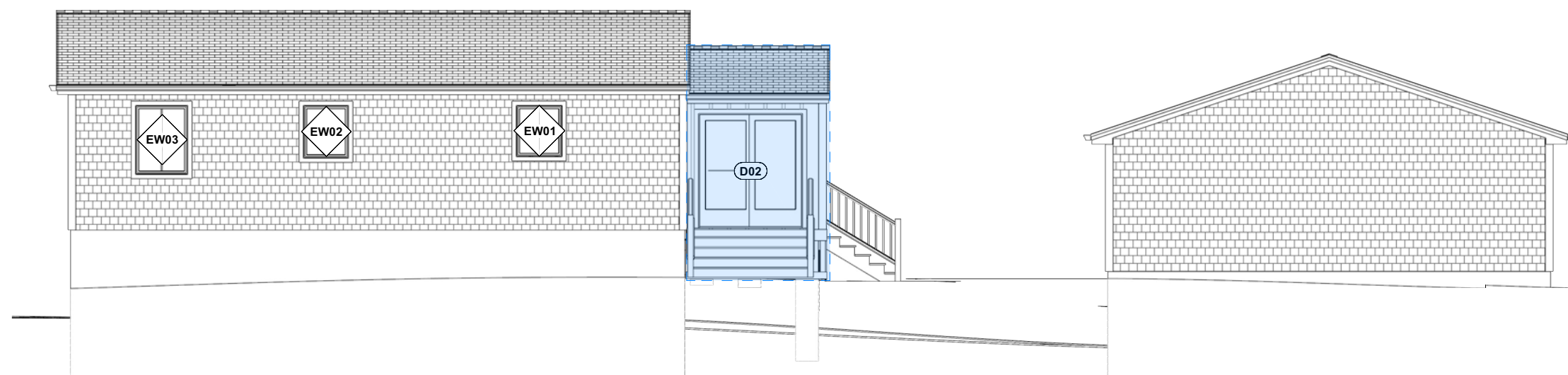
EXHIBIT B



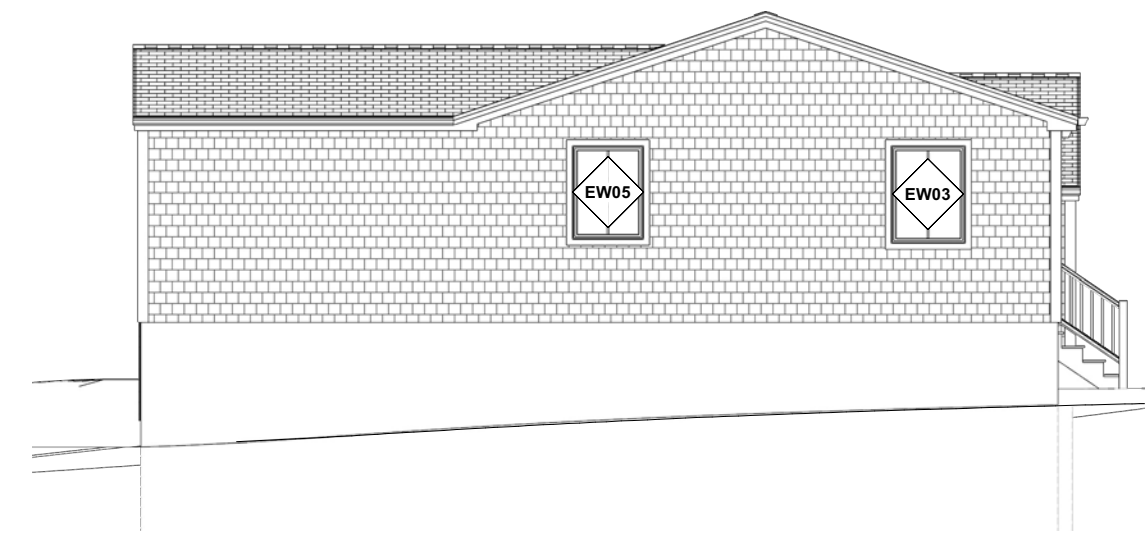
PROPOSED EXTERIOR ELEVATION - FRONT
1/8 IN = 1 FT



PROPOSED EXTERIOR ELEVATION - RIGHT
1/8 IN = 1 FT



PROPOSED EXTERIOR ELEVATION - BACK
1/8 IN = 1 FT



PROPOSED EXTERIOR ELEVATION - LEFT
1/8 IN = 1 FT

NEW WINDOW SCHEDULE

NUMBER	FLOOR	QTY	WIDTH	HEIGHT	DESCRIPTION	EGRESS	TEMPERED	DIVIDED LITES	COMMENTS
W01	1	2	37 3/4"	55 3/4"	DOUBLE HUNG			2X1 / 2X1	UDHG2 3224
W02	1	5	31 3/4"	59 3/4"	DOUBLE HUNG			2X1 / 2X1	UDHG2 2626

REPLACEMENT WINDOW SCHEDULE

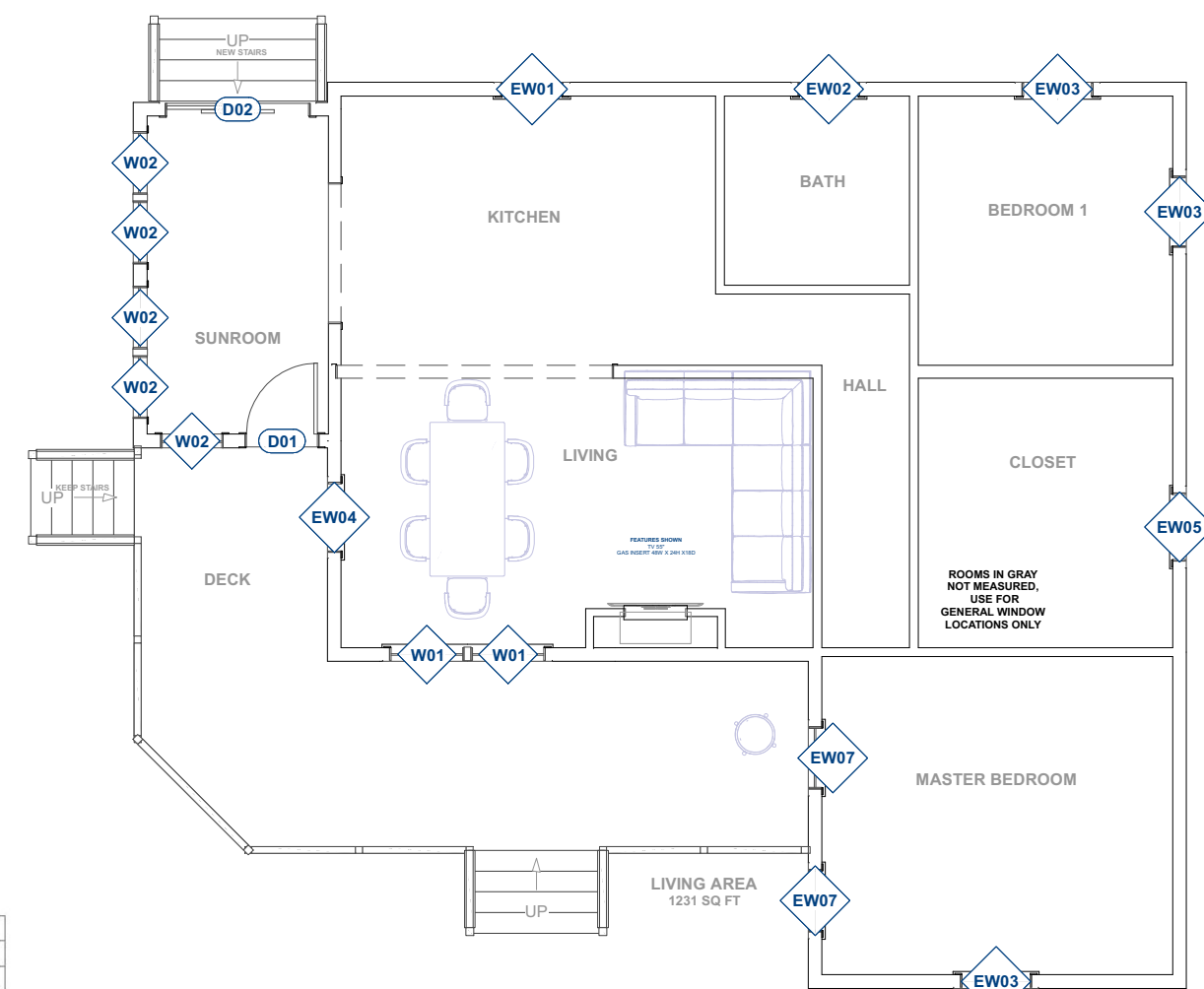
NUMBER	FLOOR	QTY	WIDTH	HEIGHT	DESCRIPTION	EGRESS	TEMPERED	DIVIDED LITES	COMMENTS
EW01	1	1	31 1/2"	35 1/4"	DOUBLE HUNG			2X1 / 2X1	
EW02	1	1	31"	36 1/4"	DOUBLE HUNG		YES	2X1 / 2X1	
EW03	1	3	36"	47 3/4"	DOUBLE HUNG			2X1 / 2X1	
EW04	1	1	35 1/2"	47 1/4"	DOUBLE HUNG			2X1 / 2X1	
EW05	1	1	34 1/2"	45 3/4"	DOUBLE HUNG			2X1 / 2X1	
EW07	1	2	31 1/2"	37 1/4"	DOUBLE HUNG			2X1 / 2X1	
EW10	0	2	30"	42 3/4"	DOUBLE HUNG			2X1 / 2X1	

DOOR SCHEDULE

NUMBER	QTY	SIZE	WIDTH	HEIGHT	DESCRIPTION	JAMB SIZE
D01	1	3068 R IN	36"	80"	HINGED-GLASS PANEL	3/4"X6 7/16"
D02	1	6068 L EX	72"	80"	EXT. SLIDER-GLASS PANEL	3/4"X6 7/16"

2018 IRC TABLE R603.7 (1) JACK & KING STUDS

SIZE OF OPENING (feet-inches)	16-INCH O.C. STUD SPACING	
	No. of jack studs	No. of king studs
Up to 3'-6"	1	1
> 3'-6" to 5'-0"	1	2
> 5'-0" to 5'-6"	2	2
> 5'-6" to 8'-0"	2	2
> 8'-0" to 10'-0"	2	3
> 10'-0" to 12'-0"	3	3
> 12'-0" to 13'-0"	3	3
> 13'-0" to 14'-0"	3	4
> 14'-0" to 16'-0"	3	4
> 16'-0" to 18'-0"	4	4



ENTRY LEVEL FLOOR PLAN - BASIC
1/8 IN = 1 FT

GROUND LEVEL FLOOR PLAN - BASIC
1/8 IN = 1 FT



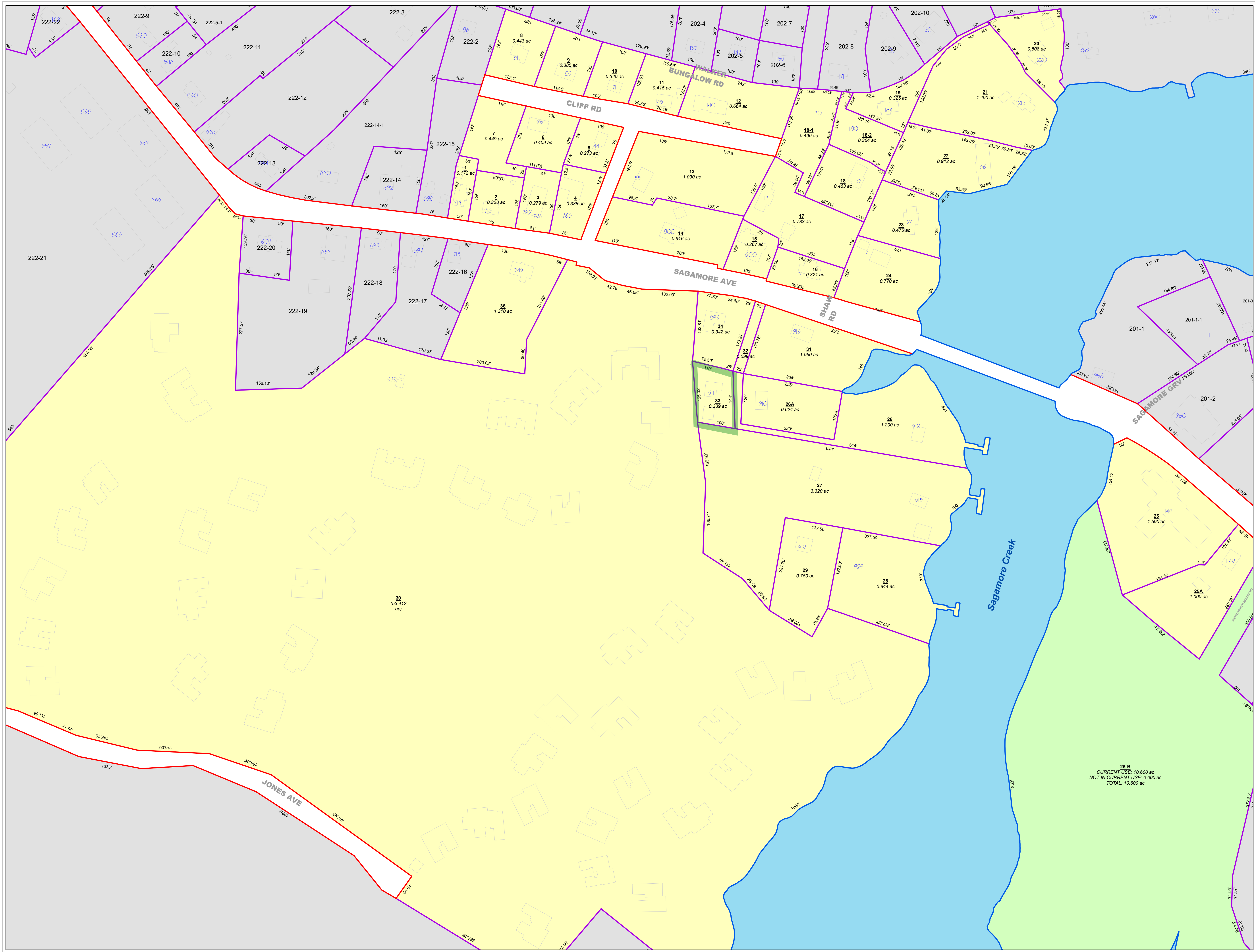
911 Sagamore Ave



Imagery ©2026 Google, Imagery ©2026 Airbus, Maxar Technologies, Map data ©2026 100 ft

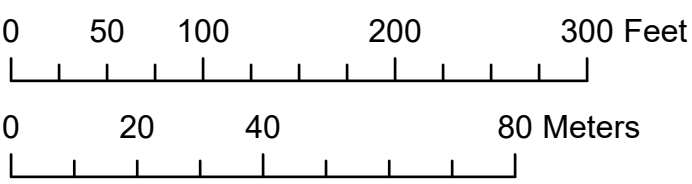
EXHIBIT C



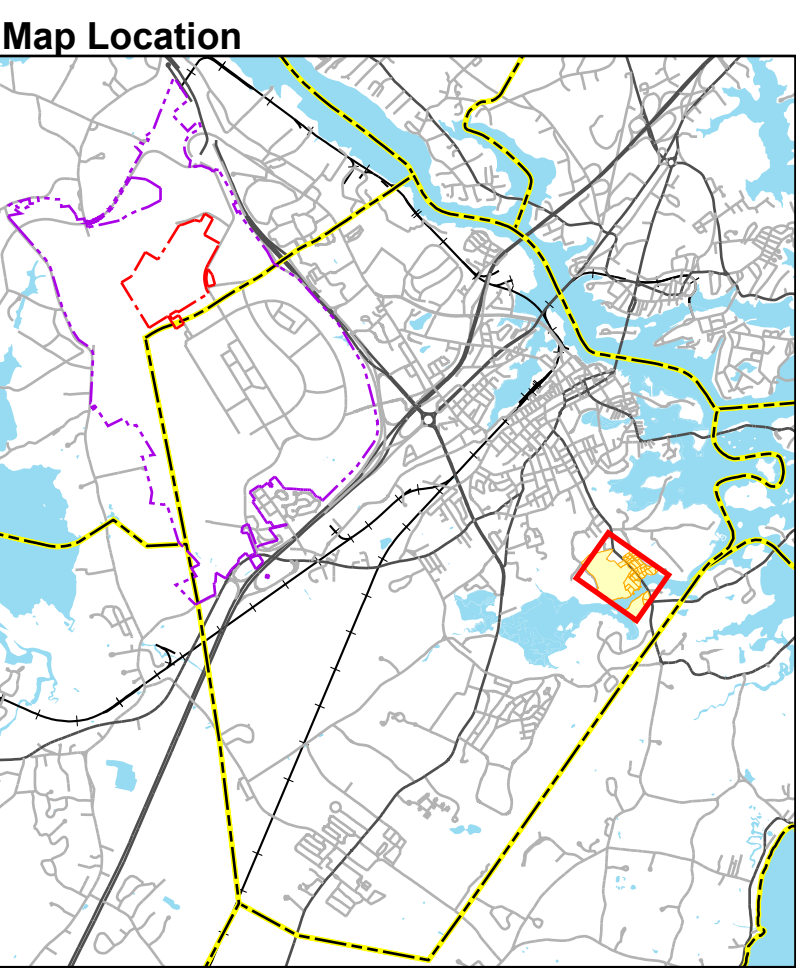
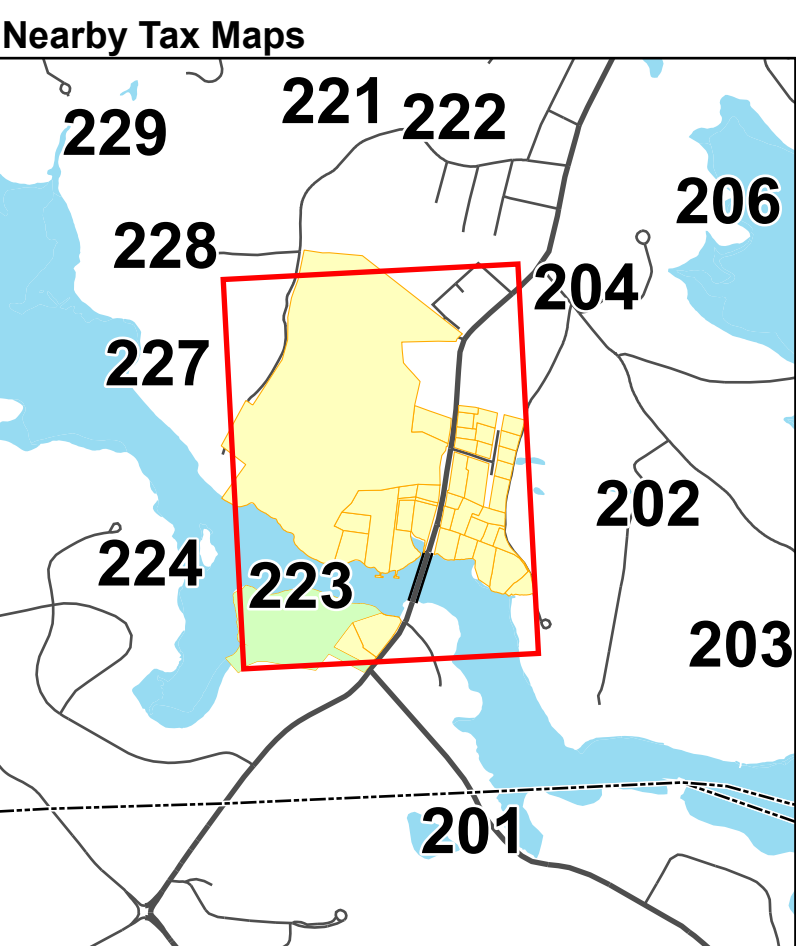


- Partial Legend**
See the cover sheet for the complete legend.
- 7-5A** Lot or lot-unit number
 - 2.56 ac Parcel area in acres (ac) or square feet (sf)
 - Address number
 - 233-137 Parcel number from a neighboring map
 - 68' Parcel line dimension
 - Street name
- SIMS AVE**
Street name
- Parcel/Parcel boundary
 - Parcel/ROW boundary
 - Water boundary
 - Structure (1994 data)
- Parcel covered by this map
 - Parcel from a neighboring map (see other map for current status)

EXHIBIT D



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



III. NEW BUSINESS

D. The request of **1010 US Route 1 Bypass LLC (Owner)**, for property located at **1010 Route 1 Bypass** whereas relief is needed for a canopy sign which requires the following: 1) Variance from Section 10.1251.20 for a 95 sq. ft. canopy sign where 20 sq. ft. is allowed; and 2) Variance from Section 10.1241 for an animated sign where it is not allowed. Said property is located on Assessor Map 141 Lot 19 and lies within the Business (B) District. (LU-26-75)

Existing & Proposed Conditions

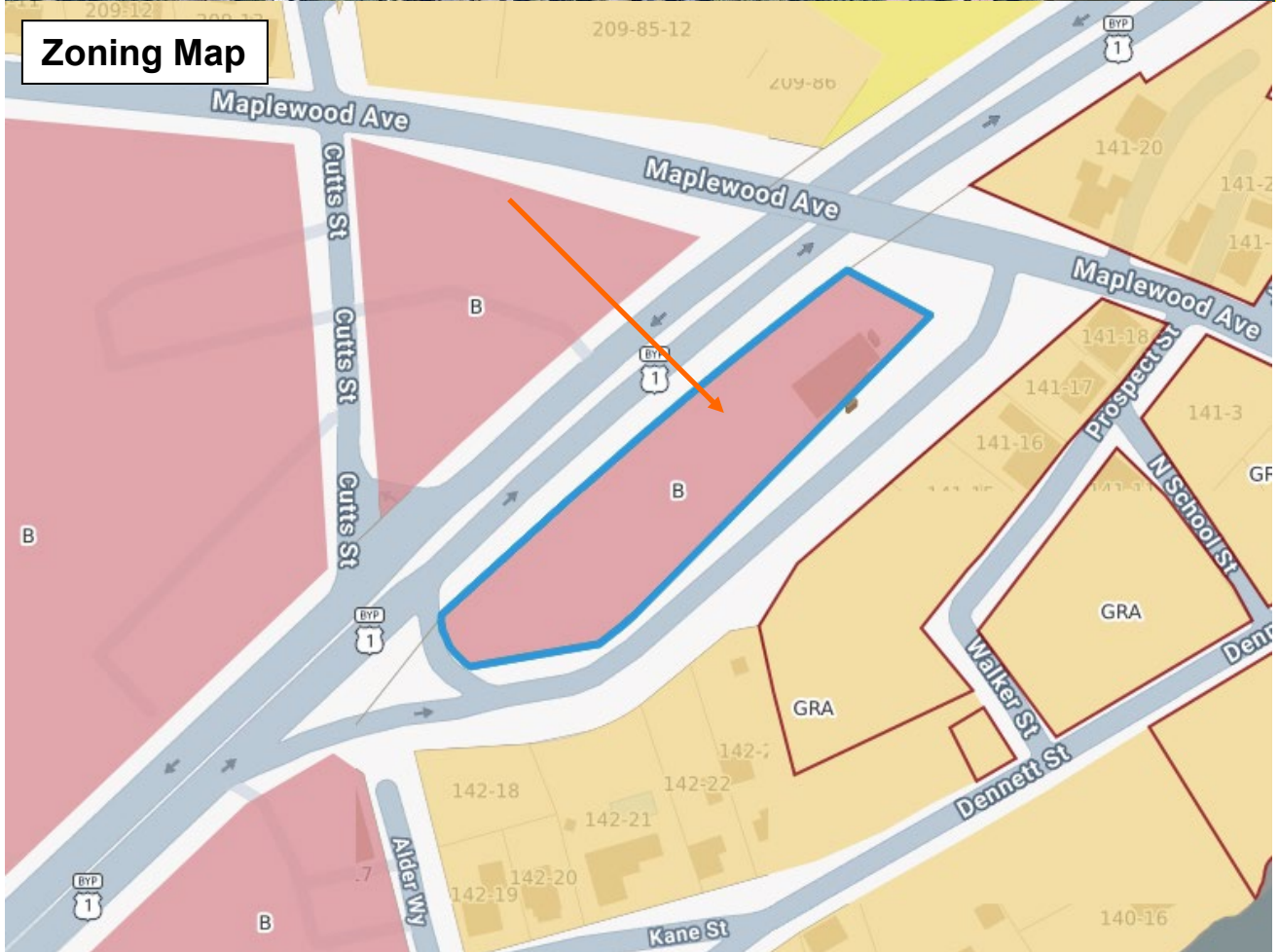
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial Gas Station	*Install animated canopy sign	Primarily Commercial Uses
<u>Canopy Sign (sq. ft.):</u>	0	95	20 max.
<u>Estimated Age of Structure:</u>	1947	Variance request(s) shown in red.	

***Animated signs are prohibited in all sign districts**

Other Permits/Approvals Required

- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

August 24, 1976 – The Board **granted** the request to locate a diner structure 72' from the front property line and 30' in the rear.

July 15, 1986 –The Board **granted** the following: 1) a Special Exception as allowed in Article II, Section 10-206(17) to permit the construction of a 16' x 35' addition onto an existing Motor Vehicle service station; 2) a Variance from Article III, Section 10-302 to permit said addition to have a rear yard of 8' where a 50' rear yard is required and to have a front yard of 51.53' where a front yard of 70' is required.

October 20, 1987 –The Board **granted** the following: 1) a Special Exception as allowed in Article II, Section 10-206(17) to permit the construction of a 666 s.f. addition on to an existing truck stop and service station for use as a food take out diner; 2) Variances from Article II, Section 10-302 to allow said addition to have an 8' rear yard where a minimum 50' rear yard is required and a 51' front yard where a minimum 70' front yard is required. Request granted with the following condition:

- 1) That tables, chairs and booths be prohibited and the existing trailer be removed upon completion of the addition.

July 19, 1988 – The Board **granted** the following: 1) a Special Exception as allowed in Article II, Section 10-206(17) to permit the expansion of a truck stop facility, said expansion being the erection of a 24' x 30' canopy over a new pump island and a 24' x 80' canopy over three new pump islands; 2) Variances from Article III, Section 10-302 to allow the 24' x 80' canopy to create a 9' front yard where a 70' front yard is the minimum required, a 16' rear yard where a 50' rear yard is the minimum required and a 3' left yard where a 30' left yard is the minimum required and the 24' x 30' canopy to create a 9' front yard where a 50' front yard is the minimum required; and, 3) a Variance from Article II, Section 10-206(17)(f) to allow for one continuous curb cut on two lots where there shall be no more than two 30' wide curb cuts or access or egress points on each abutting street. The requested granted with the following condition:

- 1) The lot line be eliminated between Map U-42 as Lot 33 and Map U-41 as Lot 019 as indicated on the plan signed and dated by you at the meeting.

February 19, 1991 – The Board **denied** the following: 1) a Variance from Article II, Section 10-206(17)(g) to allow the erection of a 24' x 52' canopy over two existing diesel islands with a 16.5' front yard where a 50' front yard is required; and, 2) a Variance from Article III, Section 10-301(g)(13) to allow said canopy to create a 76' setback from property zoned residential where a 100' setback from property zoned residential is required.

The Board found that since there are three existing islands with canopies on the property, to place an additional canopy on the property would not create a hardship to the owner.

Planning Department Comments

The applicant is proposing to construct the proposed signs on the existing canopy. The applicant is also proposing the same signage and requesting the same relief for the gas station across the street (Agenda item III. E).

Variance Review Criteria

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

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

AND

- (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

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

10.235 Certain Representations Deemed Conditions

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

Variance: 1010 US Route 1 Bypass

We are applying for a variance to increase the allowable square footage on a canopy from 20 square feet to 95 square feet. Per Section 10.1251.20 of the Zoning Ordinance, the maximum size of a canopy sign in Sign District 4 is 20 square feet.

We are also requesting relief from Section 10.1241 of the Zoning Ordinance, which prohibits animated signs to be permitted in District 4.

Independent and unbranded fuel stations often compete on one thing the largest national chains cannot easily match: price. But lower prices only matter if drivers can see them. In a market where consumers make split-second decisions from the road or while using fuel-finder apps, visibility is everything.

For unbranded stations, displaying lower prices clearly and consistently is not just a marketing tactic — it is a survival strategy. Drivers are conditioned to recognize major fuel brands, and many default to familiar names unless there is an obvious financial reason to stop elsewhere. Prominent price visibility gives independent stations the opportunity to interrupt that habit and reframe the decision around value.

Fuel is also one of the most price-sensitive consumer purchases. Even small differences per gallon influence where customers choose to fill up, especially for commuters, rideshare drivers, fleet operators, and budget-conscious households. When an unbranded station highlights that it is meaningfully cheaper than nearby competitors, it creates an immediate and measurable incentive for drivers to change behavior.

Showing lower prices also helps overcome outdated perceptions that “cheaper” means lower quality. Modern consumers increasingly understand that fuel often comes from the same regional supply systems regardless of branding. Transparent pricing allows independent stations to position themselves as smart, efficient alternatives rather than unknown risks.

Beyond attracting first-time customers, visible price advantages build long-term loyalty. Drivers who consistently save money at an unbranded station are likely to return regularly and recommend the location to others. In many communities, independent stations become trusted local businesses precisely because they are seen as delivering fair prices without the overhead costs associated with national branding.

There is also a broader competitive benefit. When independent stations successfully communicate lower pricing, they introduce more price competition into the local fuel market. That pressure can help keep regional fuel costs lower overall, benefiting consumers and reinforcing the role of independent operators as important market participants.

In today’s environment, where consumers increasingly rely on digital maps, comparison apps, roadside signage, and real-time pricing data, visibility is no longer optional. If unbranded stations do not actively showcase their lower prices, they risk becoming invisible — even when they offer the best value in the market.

We are requesting a variance in terms of:

10.1251.20 The maximum size of a canopy sign in Sign District 4 is 20 SF per Section 10.1251.20 of the Zoning Ordinance

10.1241 The types of signs permitted in each sign district shall be set forth in the following table, except as otherwise provided herein.

1. Granting this variance would not be contrary to the Public Interest

Granting this variance for the proposed additional square footage and alternating signs would not be contrary to the public interest because the signage is intended to improve the clear and efficient communication of fuel pricing information to motorists while maintaining compatibility with the surrounding commercial environment. The proposed functionality is limited to simple, controlled toggling of pricing information and is not intended to create excessive distraction or visual clutter. Approval of the variance would support public convenience and business functionality while remaining consistent with the overall spirit and intent of the ordinance.

2. The proposed use will observe the spirit of the Ordinance

The proposed additional square footage and alternating signs will observe the spirit of the ordinance by maintaining clear and accurate communication of fuel pricing while minimizing visual clutter and driver confusion. The alternating display is limited to simple toggling between fuel prices, allowing necessary information to be presented efficiently within a single sign structure rather than requiring multiple separate signs. The signs are intended to improve readability and visibility for motorists without creating excessive distraction, thereby supporting the ordinance's underlying goals of public safety, orderly appearance, and effective consumer information

3. Substantial Justice would be done to the Property Owner by granting the Variance

Substantial justice would be done to the property owner by granting the variance for the proposed additional square footage and alternating signs because the requested relief would allow the property to communicate fuel pricing information effectively and competitively while still maintaining the overall intent and spirit of the ordinance. Denial of the variance would impose an unnecessary hardship by limiting visibility and efficient communication to motorists, whereas approval would provide reasonable use of the property without creating adverse impacts on the surrounding area or the public interest

4. The proposed use will not diminish the values of surrounding properties

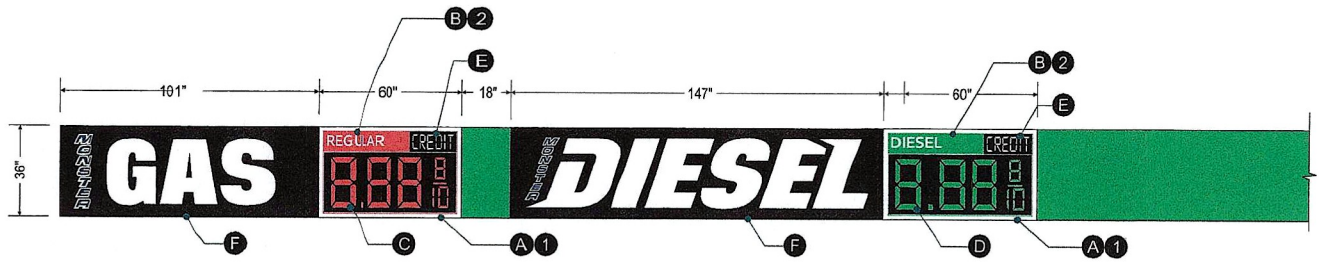
The proposed additional square footage and alternating signs will not diminish the values of surrounding properties because the signage is designed to remain compatible with the commercial character of the area while providing clear and efficient communication of fuel pricing information. The animation is limited in scope and intended solely to display pricing information through simple toggling digits, rather than excessive or distracting movement. The

proposed signage will enhance visibility and functionality for the property without adversely affecting neighboring properties, community aesthetics, or the overall character of the surrounding area.

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because:

Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because it would prevent the property owner from effectively communicating current fuel pricing information to motorists in a safe, efficient, and competitive manner. Due to the limitations on sign size and animation, the property would be unable to adequately display multiple fuel prices within a single sign structure, potentially requiring additional signage or reducing visibility and readability for passing drivers. The proposed larger and animated signs provide a practical solution that preserves the spirit and intent of the ordinance while allowing reasonable use of the property.

SIGN A: NORTHBOUND CANOPY



FRONT VIEW

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

SQFT: 95



SIDE VIEW

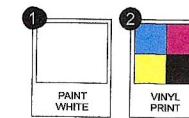
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PROPOSED SIGNAGE
SCALE: NTS

SPECIFICATIONS

- A** Non-illuminated 4" deep sign cabinet
- B** ACM faces and opaque graphics
- C** Daktronics Fuelight price display, 20" red digits; cabinet size 2' x 4'-8" x 3" deep
- D** Daktronics Fuelight price display, 20" green digits; cabinet size 2' x 4'-8" x 3" deep
- E** Daktronics Cash Credit alternator display; cabinet size 8" x 1'-7" x 3" deep
- F** Vinyl graphics applied to canopy



66 Gold Ledge Avenue,
Auburn, NH 03032
603.437.1200
FAX 603.437.1222
www.nhsigns.com

- DESIGN
- MANUFACTURE
- INSTALL
- SERVICE

CLIENT:
MABARDY OIL

LOCATION:
1010 US-1 BYP
PORTSMOUTH, NH
03801

DATE:
04/13/2026

ACCT. REP.:
GM
DESIGNER:
ASHLEY L

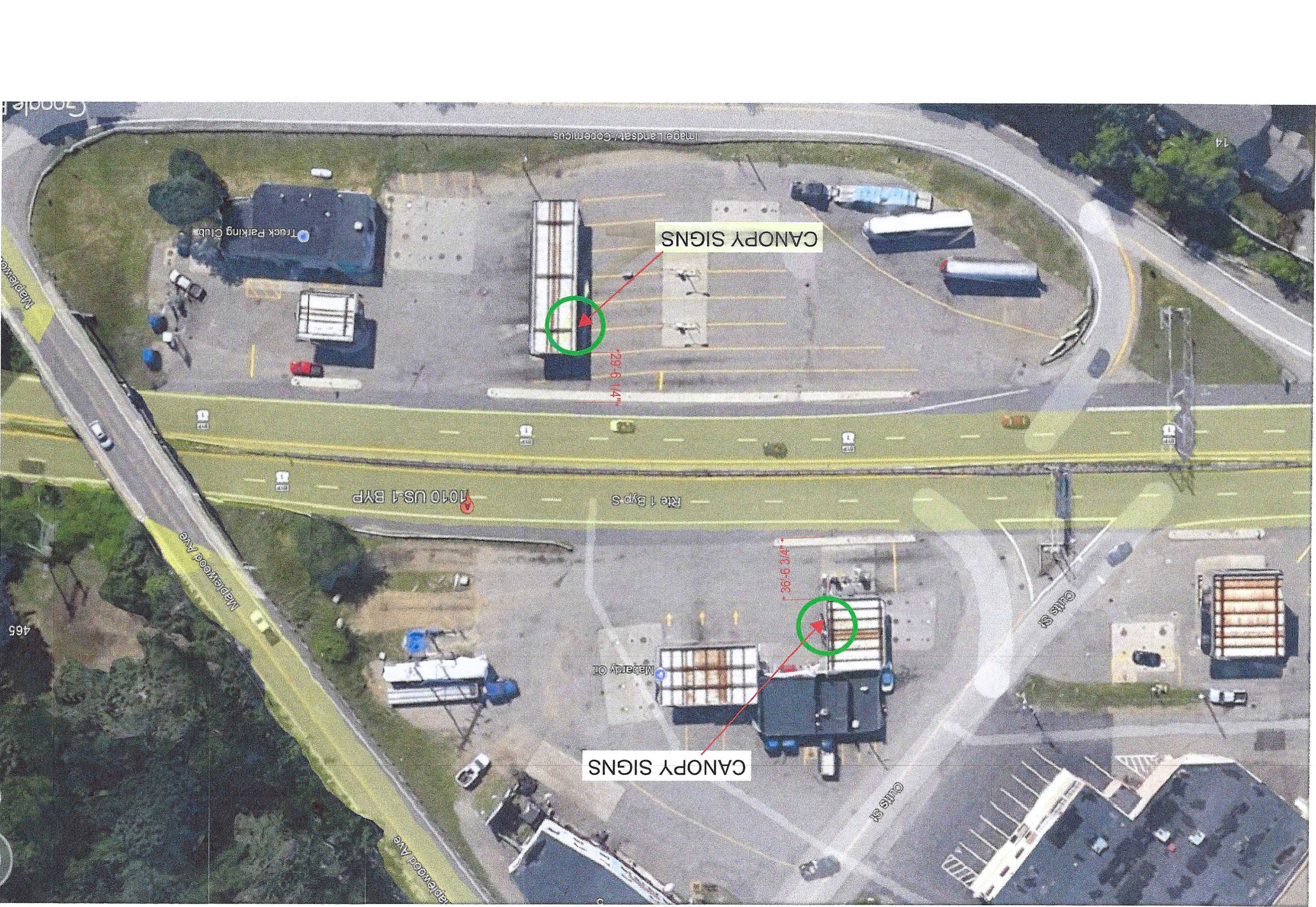
Rev#	Date:
1.JED CHG	
2. design chg kd	14/17/26

FILE NAME LOC:
MABARDY OIL_FUEL
CANOPY_v2

Please Note: It is the customers responsibility to provide primary electrical service (including ground wiring) directly from panel box, to within six ft. of sign(s). Installation to comply with N.E.C. 407

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PAGE: 1-r2



CANOPY SIGNS



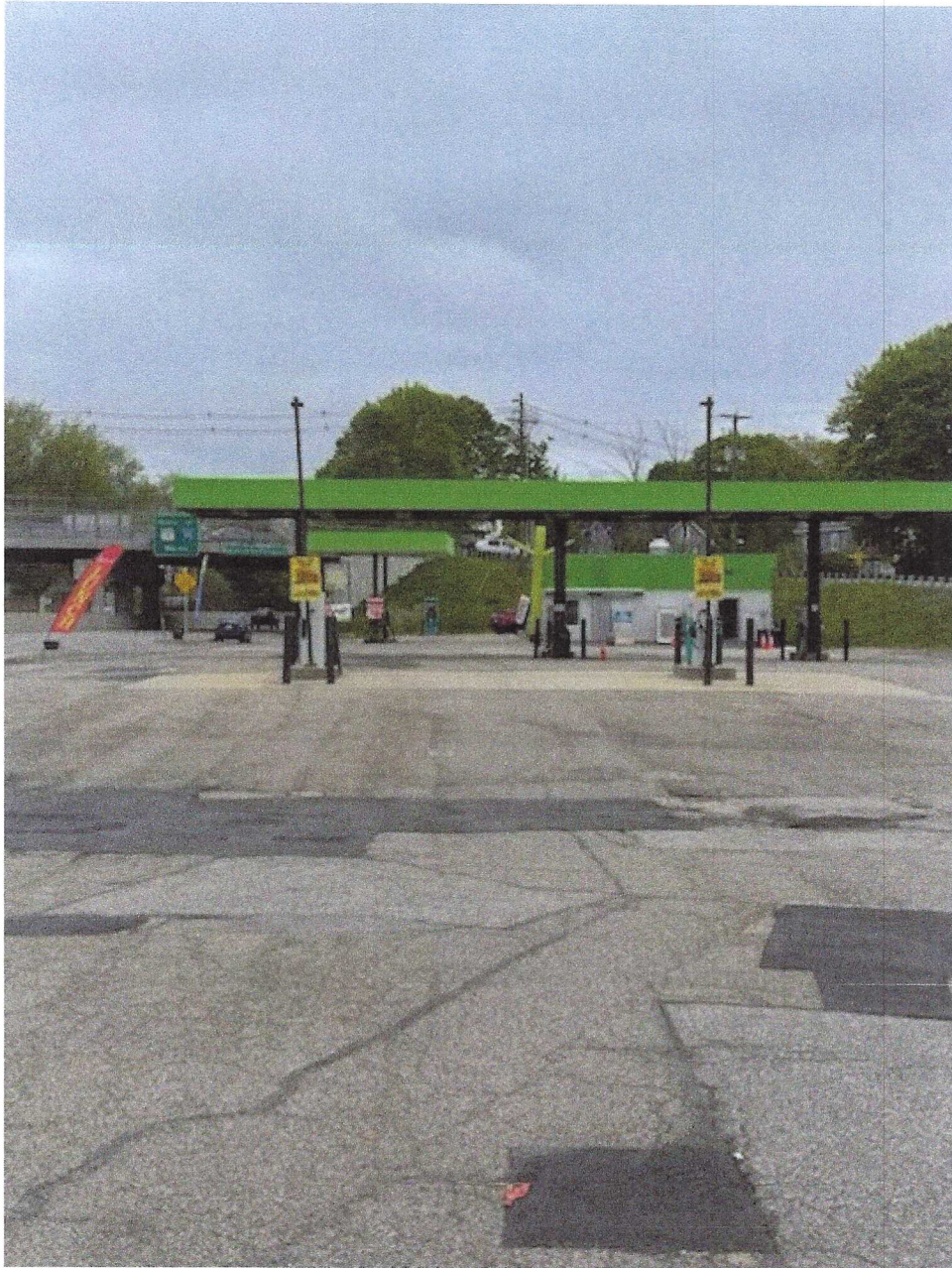
29'-6 1/4"

CANOPY SIGNS



36'-6 3/4"









To whom it may concern:

This letter authorizes Indaba Holdings, dba NH Signs of 66 Gold Ledge Ave., Auburn NH, to act as an authorized agent for I.C.O. RT. 1 Bypass LLC..... property owner of **1010 Route 1 Bypass | Portsmouth, NH 03801 US (Northbound)** with respect to the submission of applications for sign permits, sign waiver requests, variances or other permit related documents to the Town of Portsmouth.

As an authorized agent of the owner, NH Signs is allowed to sign and submit all forms necessary for the aforementioned application.

Date: 4-6-26

Regards,


Signature

III. NEW BUSINESS

E. The request of **500 Maplewood Avenue LLC (Owner)**, for property located at **500 Maplewood Avenue** whereas relief is needed for a canopy sign which requires the following: 1) Variance from Section 10.1251.20 for a 95 sq. ft. canopy sign where 20 sq. ft. is allowed; and 2) Variance from Section 10.1241 for an animated sign where it is not allowed. Said property is located on Assessor Map 142 Lot 34 and lies within the Business (B) District. (LU-26-74)

Existing & Proposed Conditions

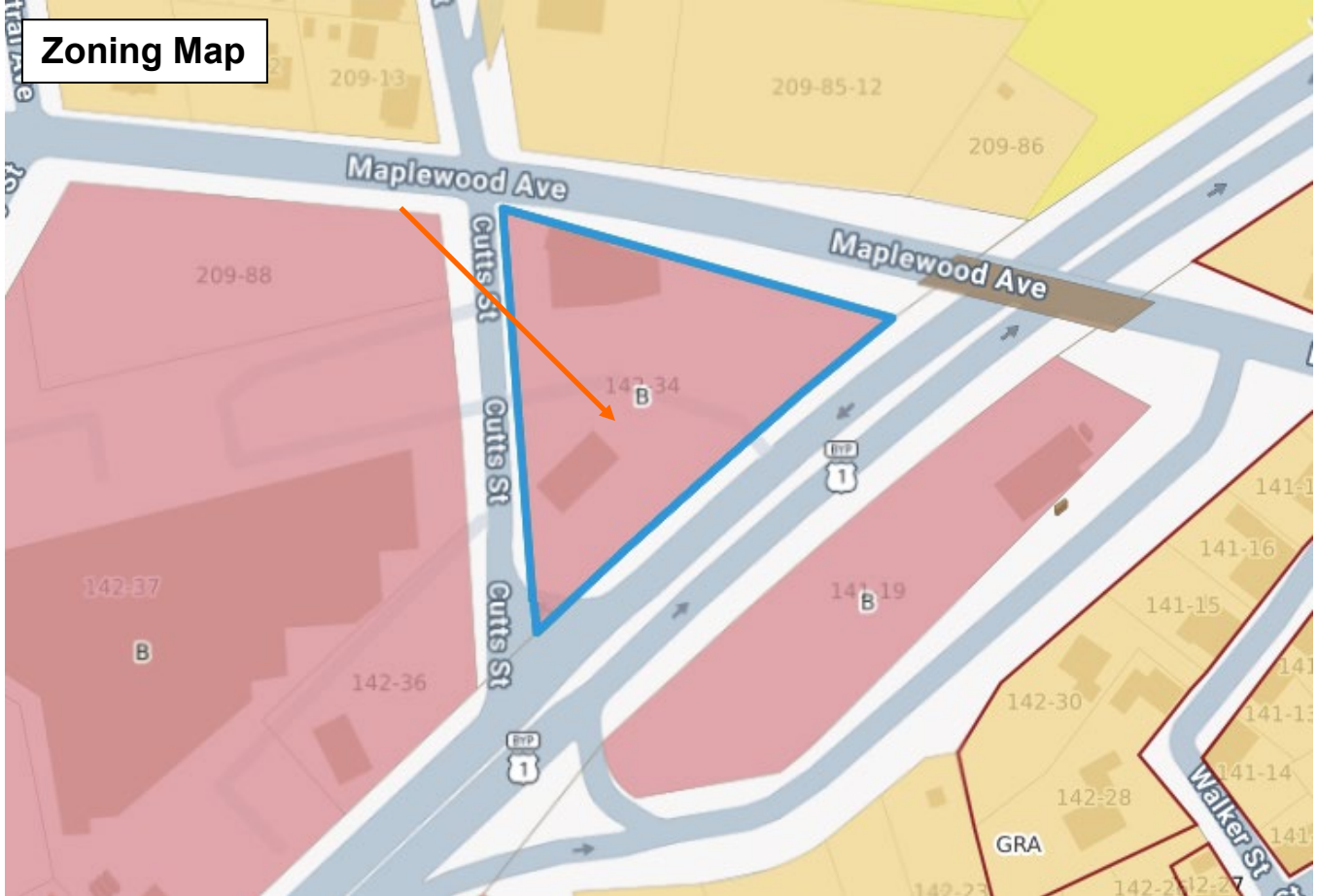
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial Gas Station	*Install animated canopy sign	Primarily Commercial Uses
<u>Canopy Sign (sq. ft.):</u>	0	95	20 max.
<u>Estimated Age of Structure:</u>	1947	Variance request(s) shown in red.	

***Animated signs are prohibited in all sign districts**

Other Permits/Approvals Required

- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

November 20, 1979 – The applicant **withdrew** the request for a Variance from Article II, Section 10-101 to allow the use of a 10' x 40' trailer, placed behind the existing building, to be used as an office.

March 27, 1990 – The Board **granted** the following: a Special Exception as allowed from Article II, Section 10-206(25) to allow a 20' x 40' free-standing tent (a temporary structure) to be erected for 4 days (May 3, 4, 5, and 6) where such temporary structures are allowed only by a Special Exception. The request was granted with the following **conditions**:

- 1) A security deposit of \$1,000 be presented to the Planning Department to ensure its removal upon completion of use;
- 2) Approval by the Fire Department to ensure adequate egress in case of fire; and,
- 3) Approval from the Electric Inspector via a permit of the electric panel and lighting circuits used at the location.

July 17, 1990 – The Board **denied** the following: 1) Variances from Article III, Section 10-302: a) to permit a lot line revision that will decrease the area of an existing 33,247 s.f. lot to 24, 675 s.f. where a lot size of 43,560 s.f. is the minimum allowed; and, b) to create a 47.02' rear yard where a 50' rear yard is the minimum required.

The Board found that all the criteria had not been met to grant the request. The Board concluded that to grant the request would result in an expansion of an already undesirable traffic safety situation in that area.

Planning Department Comments

The applicant is proposing to construct the proposed signs on the existing canopy. The applicant is also proposing the same signage and requesting the same relief for the gas station across the street (Agenda item III. D).

Variance Review Criteria

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

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

10.235 Certain Representations Deemed Conditions

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

Variance: 500 Maplewood Ave

We are applying for a variance to increase the allowable square footage on a canopy from 20 square feet to 95 square feet. Per Section 10.1251.20 of the Zoning Ordinance, the maximum size of a canopy sign in Sign District 4 is 20 square feet.

We are also requesting relief from Section 10.1241 of the Zoning Ordinance, which prohibits animated signs to be permitted in District 4.

Independent and unbranded fuel stations often compete on one thing the largest national chains cannot easily match: price. But lower prices only matter if drivers can see them. In a market where consumers make split-second decisions from the road or while using fuel-finder apps, visibility is everything.

For unbranded stations, displaying lower prices clearly and consistently is not just a marketing tactic — it is a survival strategy. Drivers are conditioned to recognize major fuel brands, and many default to familiar names unless there is an obvious financial reason to stop elsewhere. Prominent price visibility gives independent stations the opportunity to interrupt that habit and reframe the decision around value.

Fuel is also one of the most price-sensitive consumer purchases. Even small differences per gallon influence where customers choose to fill up, especially for commuters, rideshare drivers, fleet operators, and budget-conscious households. When an unbranded station highlights that it is meaningfully cheaper than nearby competitors, it creates an immediate and measurable incentive for drivers to change behavior.

Showing lower prices also helps overcome outdated perceptions that “cheaper” means lower quality. Modern consumers increasingly understand that fuel often comes from the same regional supply systems regardless of branding. Transparent pricing allows independent stations to position themselves as smart, efficient alternatives rather than unknown risks.

Beyond attracting first-time customers, visible price advantages build long-term loyalty. Drivers who consistently save money at an unbranded station are likely to return regularly and recommend the location to others. In many communities, independent stations become trusted local businesses precisely because they are seen as delivering fair prices without the overhead costs associated with national branding.

There is also a broader competitive benefit. When independent stations successfully communicate lower pricing, they introduce more price competition into the local fuel market. That pressure can help keep regional fuel costs lower overall, benefiting consumers and reinforcing the role of independent operators as important market participants.

In today’s environment, where consumers increasingly rely on digital maps, comparison apps, roadside signage, and real-time pricing data, visibility is no longer optional. If unbranded stations do not actively showcase their lower prices, they risk becoming invisible — even when they offer the best value in the market.

We are requesting a variance in terms of:

10.1251.20 The maximum size of a canopy sign in Sign District 4 is 20 SF per Section 10.1251.20 of the Zoning Ordinance

10.1241 The types of signs permitted in each sign district shall be set forth in the following table, except as otherwise provided herein.

1. Granting this variance would not be contrary to the Public Interest

Granting this variance for the proposed additional square footage and alternating signs would not be contrary to the public interest because the signage is intended to improve the clear and efficient communication of fuel pricing information to motorists while maintaining compatibility with the surrounding commercial environment. The proposed functionality is limited to simple, controlled toggling of pricing information and is not intended to create excessive distraction or visual clutter. Approval of the variance would support public convenience and business functionality while remaining consistent with the overall spirit and intent of the ordinance.

2. The proposed use will observe the spirit of the Ordinance

The proposed additional square footage and alternating signs will observe the spirit of the ordinance by maintaining clear and accurate communication of fuel pricing while minimizing visual clutter and driver confusion. The alternating display is limited to simple toggling between fuel prices, allowing necessary information to be presented efficiently within a single sign structure rather than requiring multiple separate signs. The signs are intended to improve readability and visibility for motorists without creating excessive distraction, thereby supporting the ordinance's underlying goals of public safety, orderly appearance, and effective consumer information

3. Substantial Justice would be done to the Property Owner by granting the Variance

Substantial justice would be done to the property owner by granting the variance for the proposed additional square footage and alternating signs because the requested relief would allow the property to communicate fuel pricing information effectively and competitively while still maintaining the overall intent and spirit of the ordinance. Denial of the variance would impose an unnecessary hardship by limiting visibility and efficient communication to motorists, whereas approval would provide reasonable use of the property without creating adverse impacts on the surrounding area or the public interest

4. The proposed use will not diminish the values of surrounding properties

The proposed additional square footage and alternating signs will not diminish the values of surrounding properties because the signage is designed to remain compatible with the commercial character of the area while providing clear and efficient communication of fuel pricing information. The animation is limited in scope and intended solely to display pricing information through simple toggling digits, rather than excessive or distracting movement. The

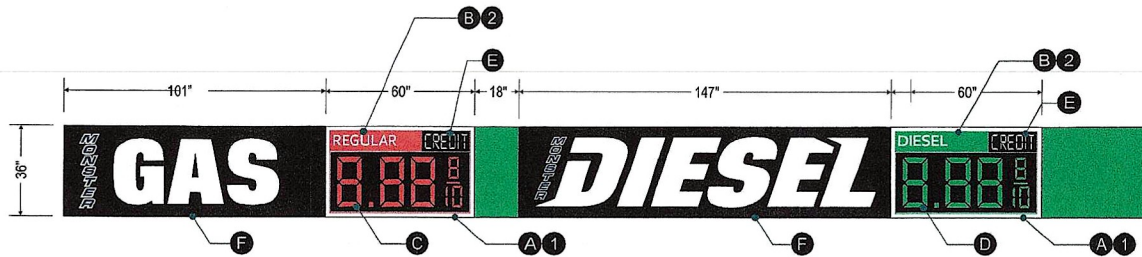
proposed signage will enhance visibility and functionality for the property without adversely affecting neighboring properties, community aesthetics, or the overall character of the surrounding area.

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because:

Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because it would prevent the property owner from effectively communicating current fuel pricing information to motorists in a safe, efficient, and competitive manner. Due to the limitations on sign size and animation, the property would be unable to adequately display multiple fuel prices within a single sign structure, potentially requiring additional signage or reducing visibility and readability for passing drivers. The proposed larger and animated signs provide a practical solution that preserves the spirit and intent of the ordinance while allowing reasonable use of the property.

SIGN B: SOUTHBOUND CANOPY

500 Maplewood Ave



FRONT VIEW

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

SQFT: 95



SIDE VIEW

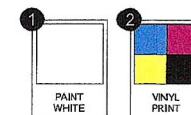
Scale: 1/4" = 1'-0"



PROPOSED SIGNAGE
SCALE: NTS

SPECIFICATIONS

- A Non-illuminated 4" deep sign cabinet
- B ACM faces and opaque graphics
- C Daktronics Fuelight price display, 20" red digits; cabinet size 2' x 4'-8" x 3" deep
- D Daktronics Fuelight price display, 20" green digits; cabinet size 2' x 4'-8" x 3" deep
- E Daktronics Cash Credit alternator display; cabinet size 8" x 1'-7" x 3" deep
- F Vinyl graphics applied to canopy



NH Signs
66 Gold Ledge Avenue,
Auburn, NH 03032
603.437.1200
FAX 603.437.1222
www.nhsigns.com

- DESIGN
- MANUFACTURE
- INSTALL
- SERVICE

CLIENT:
MABARDY OIL

LOCATION:
US-1 BYP
PORTSMOUTH, NH
03801

DATE:
04/13/2026

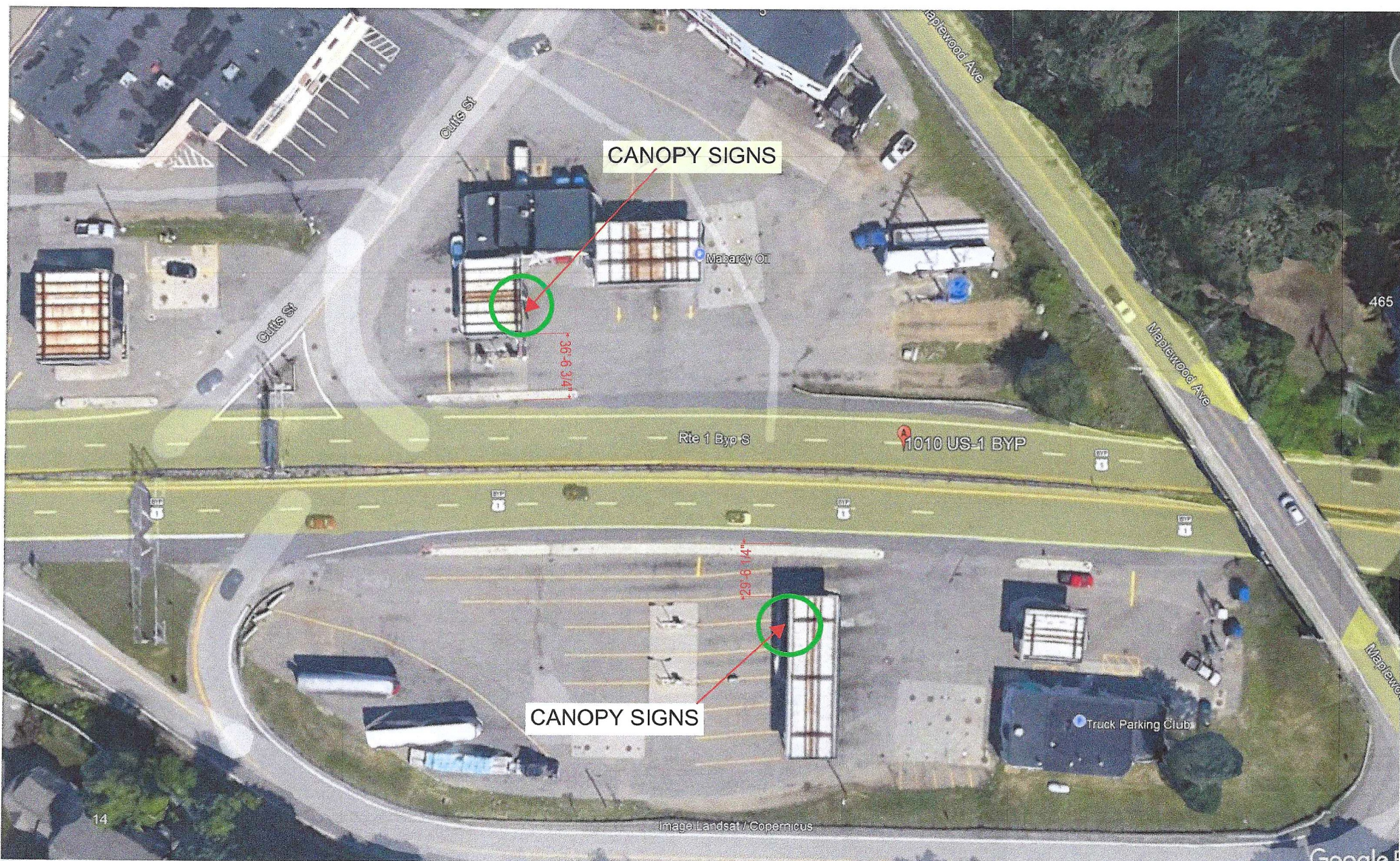
ACCT. REP:
GM

DESIGNER:
ASHLEY L

Rev#	Date:
1..JED CHG	
2. design chg kd	14/17/26

FILE NAME LOC:
MABARDY OIL_FUEL
CANOPY_v2

Please Note: It is the customer's responsibility to provide primary electrical service (including ground wiring) directly from panel/box to within 6' of canopy installation to comply with N.E.C.800



CANOPY SIGNS

36'-0" x 31'-4"

CANOPY SIGNS

29'-8" x 14"

Rte 1 Byp S

1010 US-1 BYP

Catts St

Catts St

Maplewood Ave

Maplewood Ave

Mabardy Ct

Truck Parking Club

465





To whom it may concern:

This letter authorizes Indaba Holdings, dba NH Signs of 66 Gold Ledge Ave., Auburn NH, to act as an authorized agent for SOOMAPLEWOOD.AUR.LLC..... property owner of **981 Route 1 Bypass | Portsmouth, NH 03801 US (Southbound)** with respect to the submission of applications for sign permits, sign waiver requests, variances or other permit related documents to the Town of Portsmouth.

As an authorized agent of the owner, NH Signs is allowed to sign and submit all forms necessary for the aforementioned application.

Date: 4-6-26

Regards,


Signature

*To include 1010 Route 1 Bypass

III. NEW BUSINESS

F. The request of **Madison Commercial Group (Owner)**, for property located at **72 Mirona Road** whereas relief is needed to establish a 5,049 square foot Pilates/exercise studio which requires the following: 1) Special Exception from Section 10.440 Use #4.42 to allow a 5,049 square foot health club, yoga studio, or similar use where more than 2,000 square feet are allowed by Special Exception. Said property is located on Assessor Map 253 Lot 3 and lies within the Gateway Center (G2) District. (LU-26-76)

Existing & Proposed Conditions

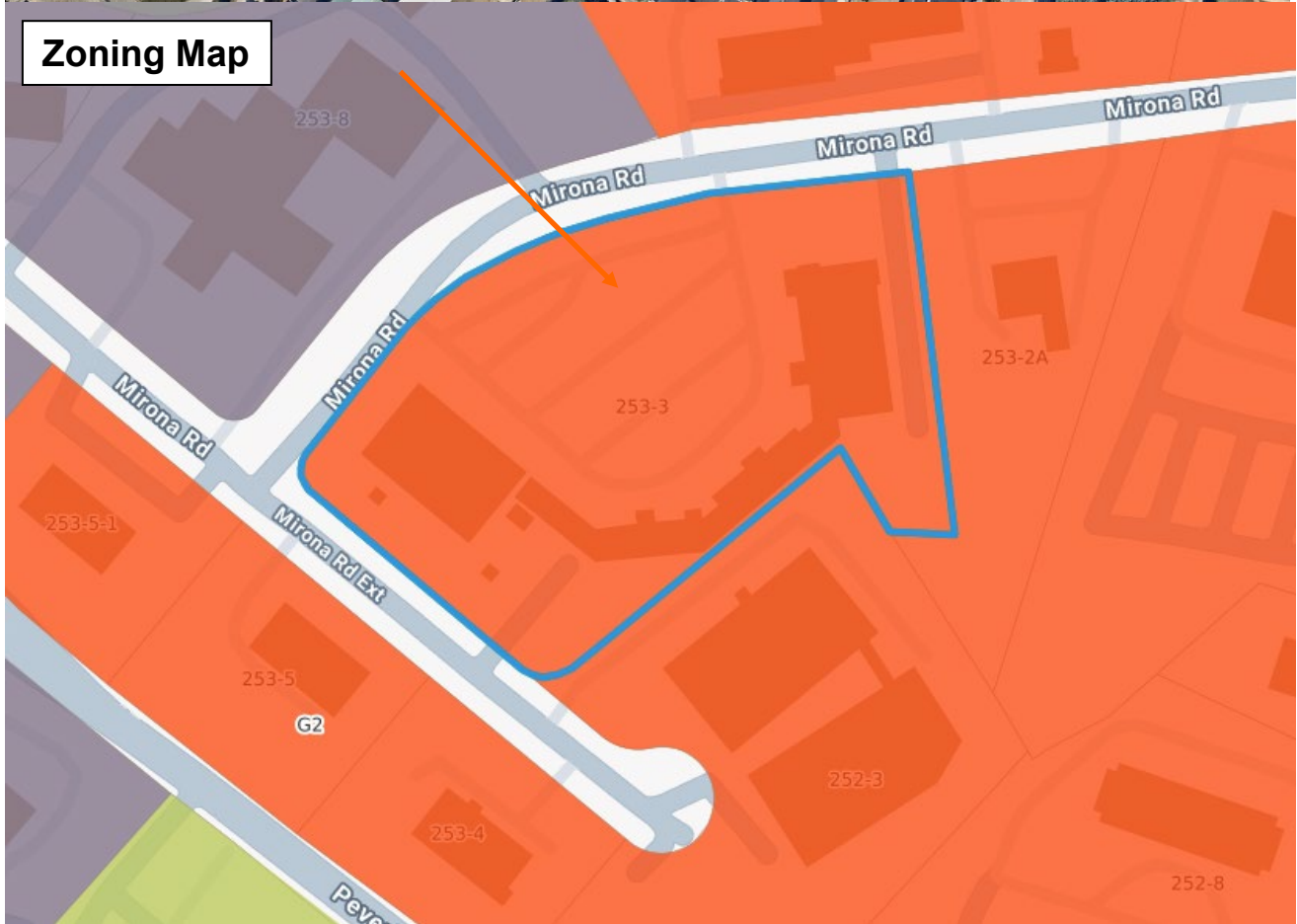
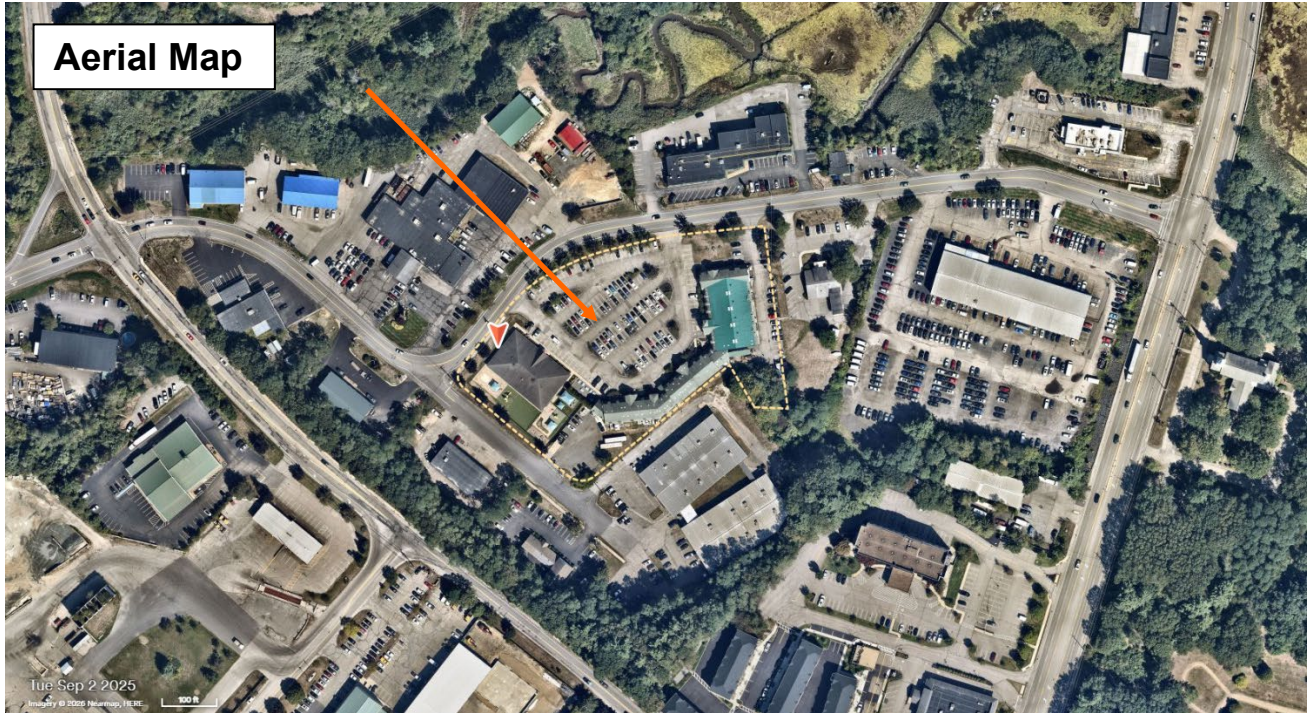
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial multi unit building	*Establish a pilates/exercise studio	Primarily Residential
<u>Gross Floor Area</u>	5,049	5,049	
<u>Estimated Age of Structure:</u>	1880	Request(s) shown in red.	

*Health club, yoga studio, or similar use with more than 2,000 sq. ft. GFA is allowed by special exception

Other Permits/Approvals Required

- Building Permit – Tennant Fit Up

Neighborhood Context



Previous Board of Adjustment Actions

November 26, 1968 –The Board **granted** the request to continue the manufacturing and sale of footwear and leather goods and factory outlet.

October 27, 1970 –The Board **granted** the request to extend present factory outlet located at 72 Mirona Road for an area of 120' x 50'.

March 7, 1978 –The Board **granted** the following: a) a Variance to extend a non-conforming retail sales use in an Industrial District; and b) a Variance to erect said 40' x 100', 2 story addition 2 ½' from the rear property line.

February 23, 1982 – The applicant **requested** the following: 1) a Variance from Article II, Section 10-213 to allow the construction of a general merchandise complex in an Industrial District; 2) a Variance from Article III, Section 10-302 to allow a front yard of 16' where 70' is required and a rear yard of 10' where 50' is required; 3) a Variance from Article III, Section 10-302(B) to allow 6 accesses and egresses where 4 accesses and egresses are permitted.

The Board voted to **grant** Variance 1 as presented and advertised.

The Board voted to **deny** Variances 2 and 3.

March 16, 1982 – The Board **granted** the following: a Variance from Article III, Section 10-302 to allow construction of an additional 22,635 s.f. of retail commercial space with a rear yard of 10' where 50' is required.

September 28, 1993 – The Board **granted** the following: a Variance from Article II, Section 10-206 to allow a 2,250 s.f. professional office to be located in a retail shopping center where professional offices are not allowed.

March 20, 2001 – The applicant **requested** the following: 1) a Variance from Article III, Section 10-304(A) to allow: a) 34.7' front yard where 70' is required, and b) 18.8% open space where 20% is the minimum required, 2) a Variance from Article XII, Section 10-204 Table 15 to allow 254 parking spaces to be provided where 282 parking spaces are required, 3) a Variance from Article XII, Section 10-1201(3)(a)(4) to allow vehicles back out onto Mirona Road, 4) a Variance from Article XII, Section 10-1201(3)(e)(2) to allow off street parking, maneuvering and traffic aisles to be located within 40' of the property line and no landscaping being provided and, 5) a Variance from Article XII, Section 10-1203(A)(2) to allow 4 loading areas to be provided where 8 loading areas are required; and 6) a Variance from Article XII, Section 10-1201(A)(2) to allow the parking spaces in the garage to be 18' in length where 19' in length is required.

The Board voted to **grant** Variances 1, 2, 3, 5, and 6 as presented and advertised. However, Variance 2 should reflect 264 parking spaces being provided. Variance 4 was withdrawn.

July 22, 2003 – The Board **granted** the following: 1) a Variance from Article III, Section 10-304(A) to allow a 30' front yard where 70' was the minimum required, and 2) a Variance from Article XIII, Section 10-1204, Table 15 to allow 188 parking spaces to be provided where 215 parking spaces were required.

February 19, 2008 – The applicant **withdrew the request for the following:** a Variance from Article XII, Section 10-1204 was requested to allow a two story addition to the existing building (51,042 sf) for 2,844 sf of retail space on the 1st floor and 2,914 sf of office space on the 2nd floor including a 2 car garage requiring a total of 216 parking spaces where 201 parking spaces are provided.

March 18, 2008 – The Board **granted** the following: a Variance from Article XII, Section 10-1204 was requested to allow 201 parking spaces to be provided where 222 parking spaces are required in conjunction with a two story (1,757 sf footprint) addition for retail and office uses and a 1,062 sf garage.

February 17, 2009 – The Board **granted** the following: a One Year Extension of the Variance granted March 18, 2008.

March 17, 2026 – The Board **granted** the following: 1) Special Exception from Section 10.440 Use #7.20 to allow Personal Services.

Planning Department Comments

The applicant is proposing to establish a Pilates and exercise studio. It should be noted that the history provided in this memo reflects the history of the entire property, it is not specific to the unit presented.

Special Exception Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

10.235 Certain Representations Deemed Conditions

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

BY: VIEWPOINT & HAND DELIVERY

May 20, 2026

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

**RE: Special Exception Application of Madison Commercial Group, LLC
72 Mirona Road, Portsmouth (Tax Map 253, Lot 3)**

Dear Stefanie,

Please find a copy of the following materials relative to the special exception application filed through Viewpoint for property located at 72 Mirona Road, Portsmouth:

- 1) Landowner Letter of Authorization
- 2) Narrative to Variance Application
- 3) GIS Map of Property
- 4) Floor Plans (Existing and Proposed)
- 5) Photographs of the Property

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

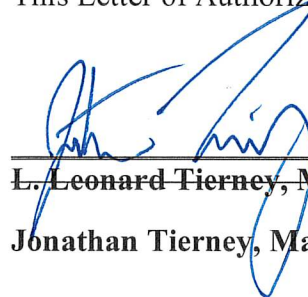
Sincerely,



Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

Madison Commercial Group, LLC, record owner of property located at **72 Mirona Road**, identified on **Tax Map 253, Lot 03** (the "Property"), hereby authorizes **Durbin Law Offices PLLC**, to file any building, zoning, planning or other municipal permit applications with the City of Portsmouth for Unit #21 and Unit #22 at said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.

 5/19/26
~~L. Leonard Tierney, Manager~~
Jonathan Tierney, Manager

**CITY OF PORTSMOUTH
VARIANCE APPLICATION NARRATIVE**

**Madison Commercial Group, LLC
(Owner/Applicant)**

**72 Mirona Road
Portsmouth, NH 03801
Tax Map 253, Lot 3**

BACKGROUND

Introduction

The property at 72 Mirona Road lies within the Gateway 2 (G2) Zoning District. It is owned by Madison Commercial Group, LLC (the “Applicant”). The property is a 4+ acre lot with two large commercial buildings on it containing over 20 office suites. Some of the businesses occupy multiple suites within the building. The complex is referred to as “Madison Village”. There are a mixture of business types occupying the buildings, including a day care, retail businesses, a personal service business (esthetics), pottery studio, kickboxing/exercise studio, business offices, and a restaurant. There is a huge parking lot in front of the building accessed from Mirona Road as well as a smaller adjacent lot to the rear. In total, there are 185 (+/-) delineated parking spaces on the property.

Proposed Use

The Applicant was recently approached by a business that runs a pilates/exercise studio seeking to lease Suites 2 and 21/22 on the property. Suite 2 is a first-floor space consisting of 1,910 square feet of Gross Floor Area (“GFA”). Suite 21/22 is a second-floor space consisting of 3,331 square feet of GFA. Suite 2 is presently unoccupied but was previously used as office space for a staffing agency. Suite 21/22 is occupied and is currently being utilized as office space for the same staffing agency. The prospective lessee intends to utilize both suites as part of the pilates/exercise studio. The total GFA of the two suites combined is 5,049 square feet (+/-), which includes all ancillary spaces including staff offices, a small kitchen, a vestibule, locker area, mechanical room, etc., as shown on the proposed floor plans submitted herewith.

Indoor recreational uses, such as a pilates/exercise studio, are permitted by right within the G2 Zoning District pursuant to Section 10.440 (4.40) of the Portsmouth Zoning Ordinance (the “Ordinance”). However, if the GFA of the proposed use exceeds 2,000 square feet, as is the case here when you consider the use of both suites, a **Special Exception** from the Zoning Board of Adjustment (the “Board”) is required under Section 10.440 (4.42) of the Ordinance.

SPECIAL EXCEPTION CRITERIA

10.232.20 Special exceptions shall meet all of the following standards:

10.232.21 Standards as provided by this Ordinance for the particular **use** permitted by special exception.

Indoor recreational uses occupying more than 2,000 square feet of gross floor area are permitted by special exception within the Gateway 2 Zoning District.

10.232.22 No hazard to the public or **adjacent** property on account of potential fire, explosion or release of toxic materials;

No threat of fire, explosion or release of toxic materials is presented by the proposed indoor recreational use of the premises. No hazardous, flammable or toxic materials will be stored or utilized at the premises.

10.232.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of **buildings** and other **structures**, parking areas, **accessways**, odor, smoke, gas, dust, or other pollutant, noise, **glare**, heat, vibration, or unsightly **outdoor storage** of equipment, vehicles or other materials;

None of the concerns set forth in Section 10.232.23 of the Ordinance are implicated by the proposed indoor recreational use. No exterior modifications will be made to the building in which the premises are located. No exterior site modifications are being made to the property, nor will there be any outdoor storage associated with the proposed use.

10.232.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;

The area surrounding the property is characterized by a mixture of both high-intensity and lower intensity uses. Overall, however, traffic on Mirona Road is free flowing at all times of the day. The peak hours of use associated with the proposed use are early morning and late afternoon/early evenings when many surrounding business uses are not even open or have just opened or are winding down. With respect to Madison Village, a comparable indoor recreational use exists in Suite 1, which is occupied by “9 Round Kickboxing”, an indoor exercise facility. It occupies Suite 1 in the same complex. While that suite is smaller (approx. 1800 sf.), the listing broker for the property has indicated that there are only typically 4 vehicles parked at the property at any given time associated with that business. Looking at Madison Village as a whole, the parking lot is half or less full even at peak hours of the day. Based solely on the parking standards set forth in the Ordinance, 21 parking spaces are required for the proposed use (1 space per 250 sf. of GFA). Even if 21 or more vehicles associated with the proposed use were accessing the property during peak hours of the day, it would not have any tangible impact upon other businesses in Madison Village or in the surrounding area or

otherwise create a substantial increase in the level of traffic congestion. While no traffic study has been done relative to the proposed use, it is fairly assumed based on history and observation that the area could handle a significant increase in daily vehicle trips without creating a traffic congestion issue.

10.232.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and

With respect to the demand upon municipal services, the proposed use is benign. There are uses permitted by right within the G2 Zoning District that create a greater demand upon municipal services than the proposed use. It is a low intensity use in the context of municipal services' demand. There will be one small bathroom within the premises as well as a kitchen area and laundry room that will be used throughout the course of the day but will not create a demand which could be considered excessive upon water, sewer, waste disposal or police and fire protection. The use is not residential in nature, so it will have no impact upon the school system.

10.232.26 No significant increase of stormwater runoff onto **adjacent** property or **streets**.

No building or other site modifications are being made to the property; therefore, there will be no significant increase of stormwater onto adjacent property or streets associated with the proposed use.

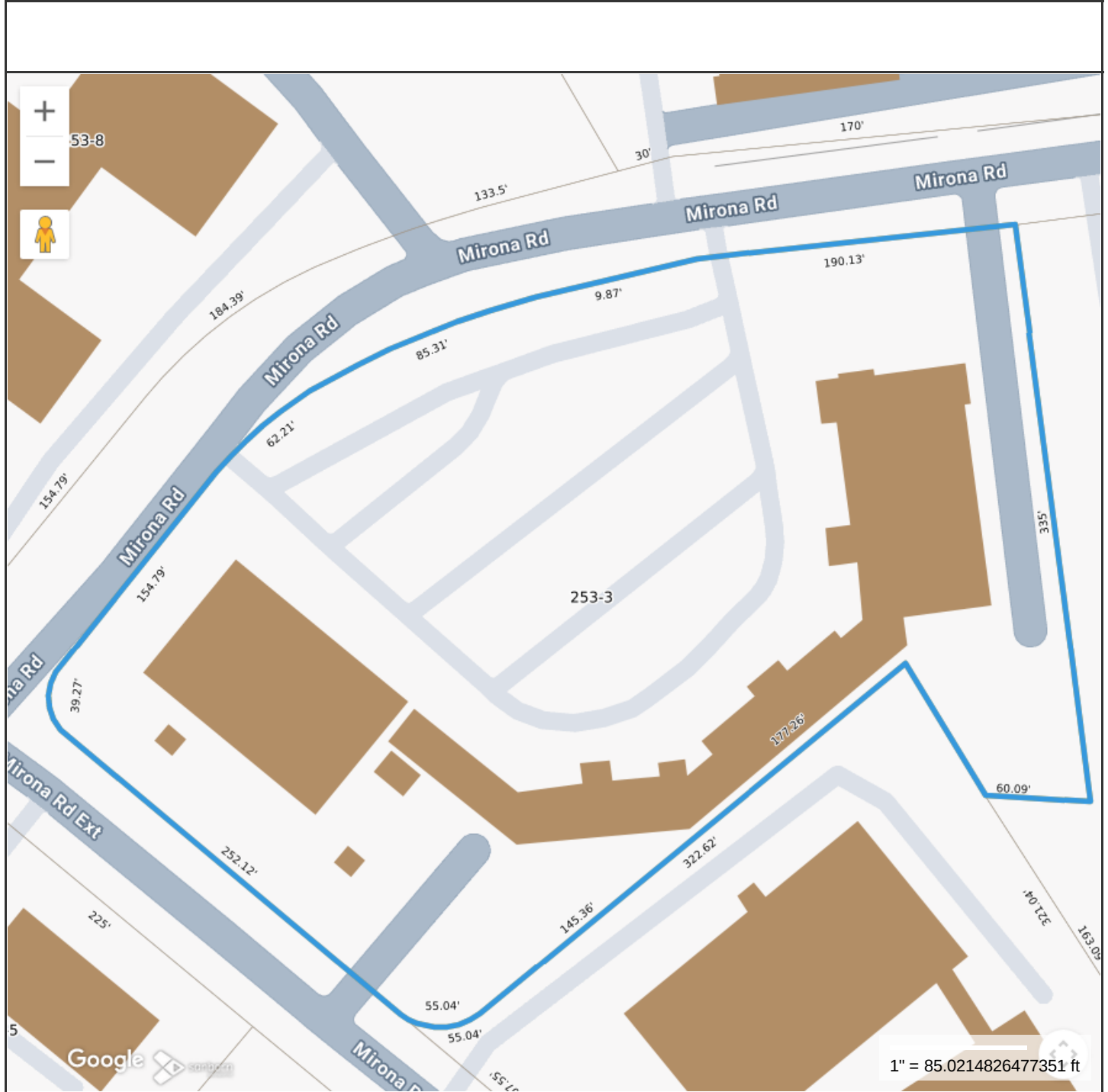
CONCLUSION

In conclusion, the Applicant believes that it has met the criteria for granting the special exception requested. It thanks the Board for its time, careful consideration and review of its application.

Respectfully submitted,



By: _____
Derek R. Durbin, Esq.
Durbin Law Offices, PLLC
154 Maplewood Avenue
Portsmouth, NH 03801
derek@durbinlawoffices.com



Property Information

Property ID 0253-0003-0000
Location 72 MIRONA RD
Owner MADISON COMMERCIAL GROUP LLC



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

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

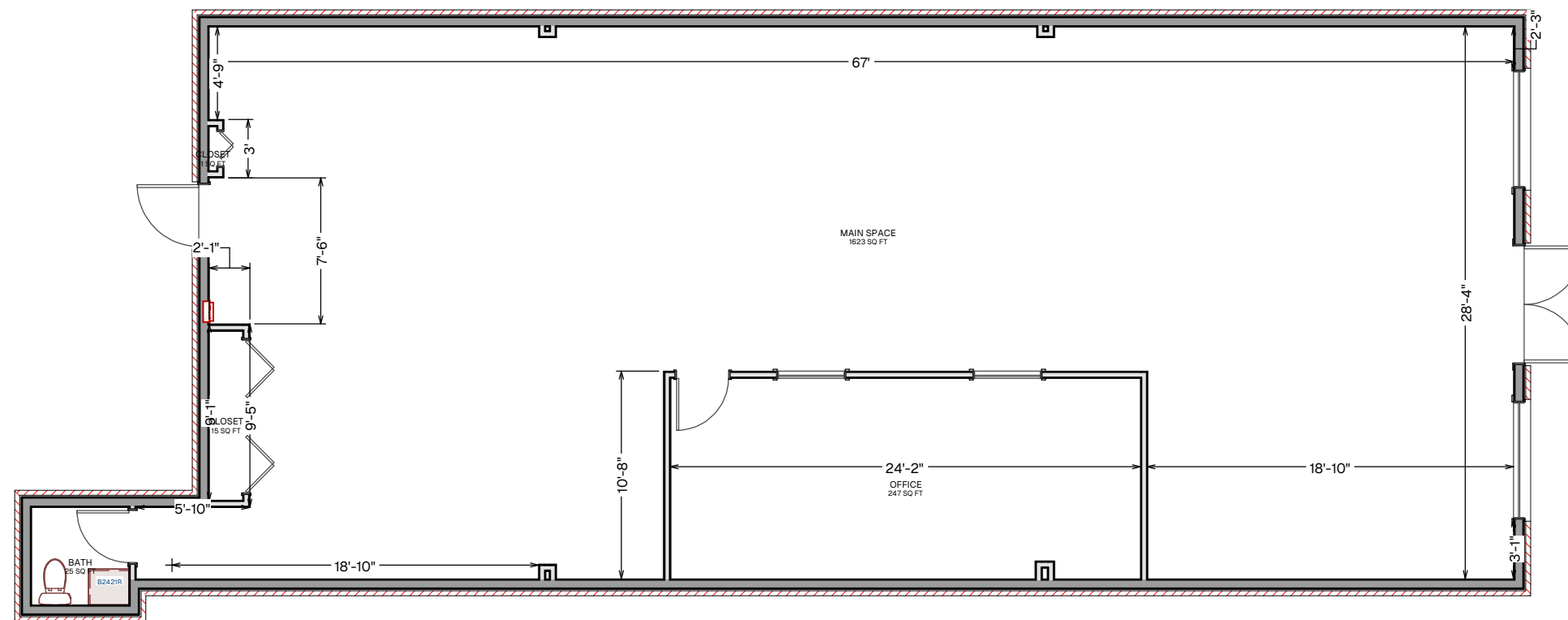
Geometry updated 03/06/2026

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

72 Mirona Way Portsmouth - NH

OWNER
The Agency Portsmouth
NH

DESIGNER/BUILDER
Build It Construction



○ Existing - 1st Floor
1/8" = 1 ft

NOTES:

05596 - 72
MIRONA RD -
PORTSMOUTH NH

DATE: 5/18/2026

REVISION: EXISTING

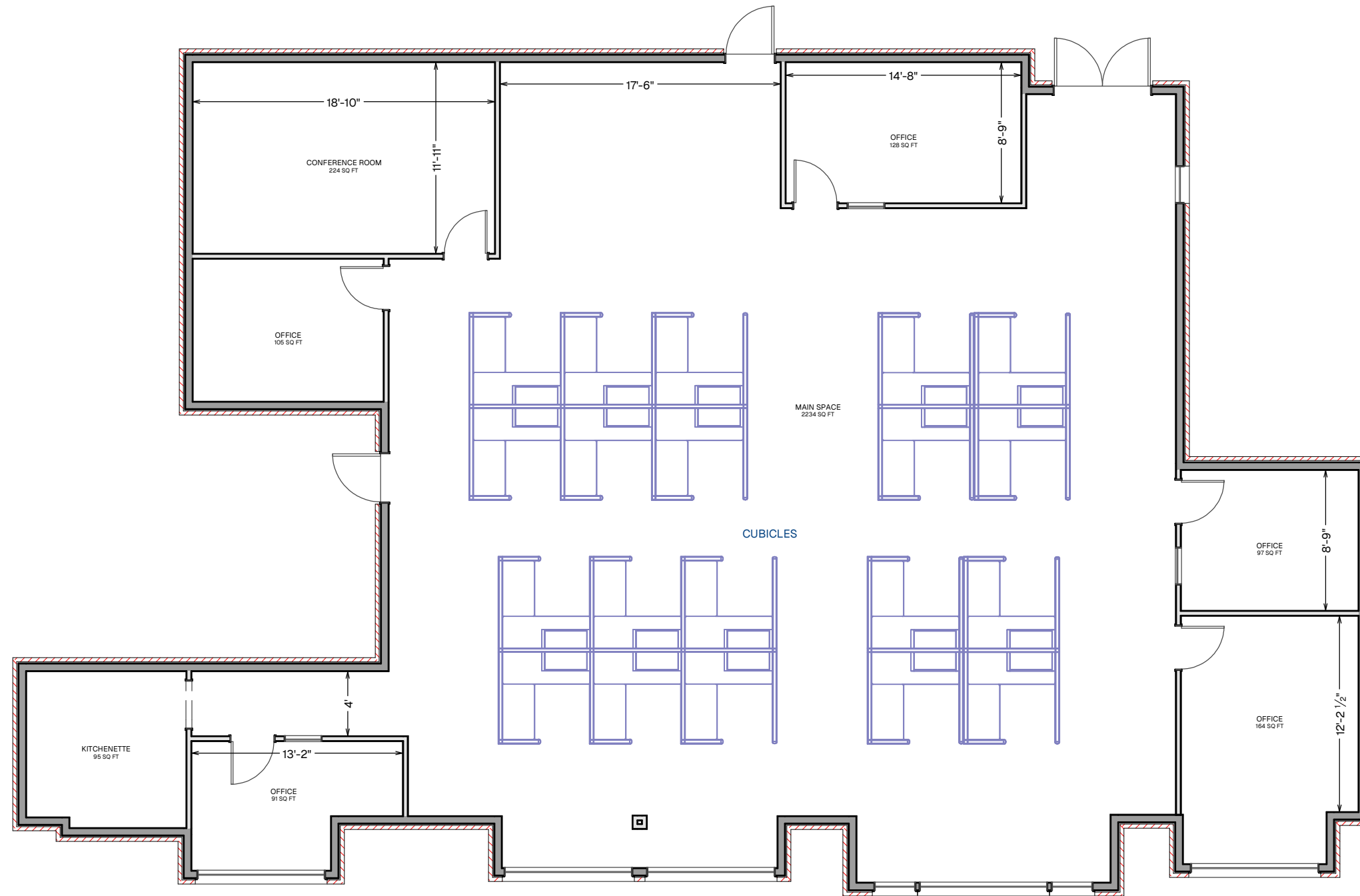
A101

NOT FOR CONSTRUCTION

72 Mirona Way Portsmouth - NH

OWNER
The Agency Portsmouth
NH

DESIGNER/BUILDER
Build It Construction



Existing - 2nd Floor
1/8" = 1 ft

NOTES:

05596 - 72
MIRONA RD -
PORTSMOUTH NH

DATE: 5/18/2026

REVISION: EXISTING

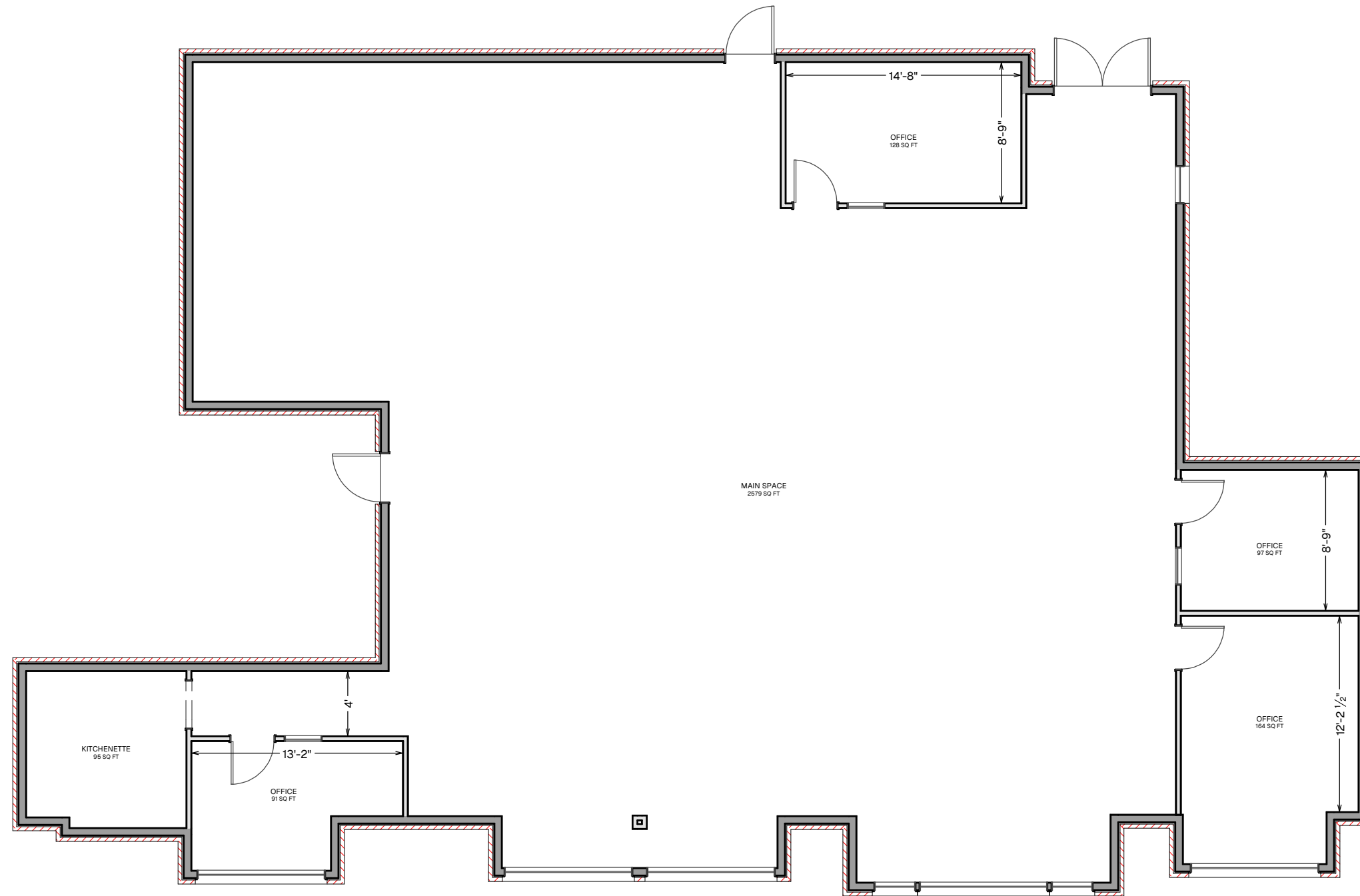
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NOT FOR CONSTRUCTION

72 Mirona Way Portsmouth - NH

OWNER
The Agency Portsmouth
NH

DESIGNER/BUILDER
Build It Construction



NOTES:

05596 - 72
MIRONA RD -
PORTSMOUTH NH
UNIT 21 / UNIT 22

DATE: 5/18/2026

REVISION: OPT 1

Proposed - 2nd Floor - Unit 21/Unit 22
1/8" = 1 ft

NOT FOR CONSTRUCTION

A104



Left Side of Building where Suites 2 and 21/22 are Located



Suites 2 and 21/22



Suite 2



Suite 2



Suite 21/22

III. NEW BUSINESS

G. The request of **Prescott Family Revocable Trust (Owner)**, for property located at **306 South Street** whereas relief is needed to build a chicken coop and have chickens, which requires the following: 1) Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where it is allowed by Special Exception. Said property is located on Assessor Map 253 Lot 3 and lies within the Single Residence B (SRB) and Historic Districts. (LU-26-64)

Existing & Proposed Conditions

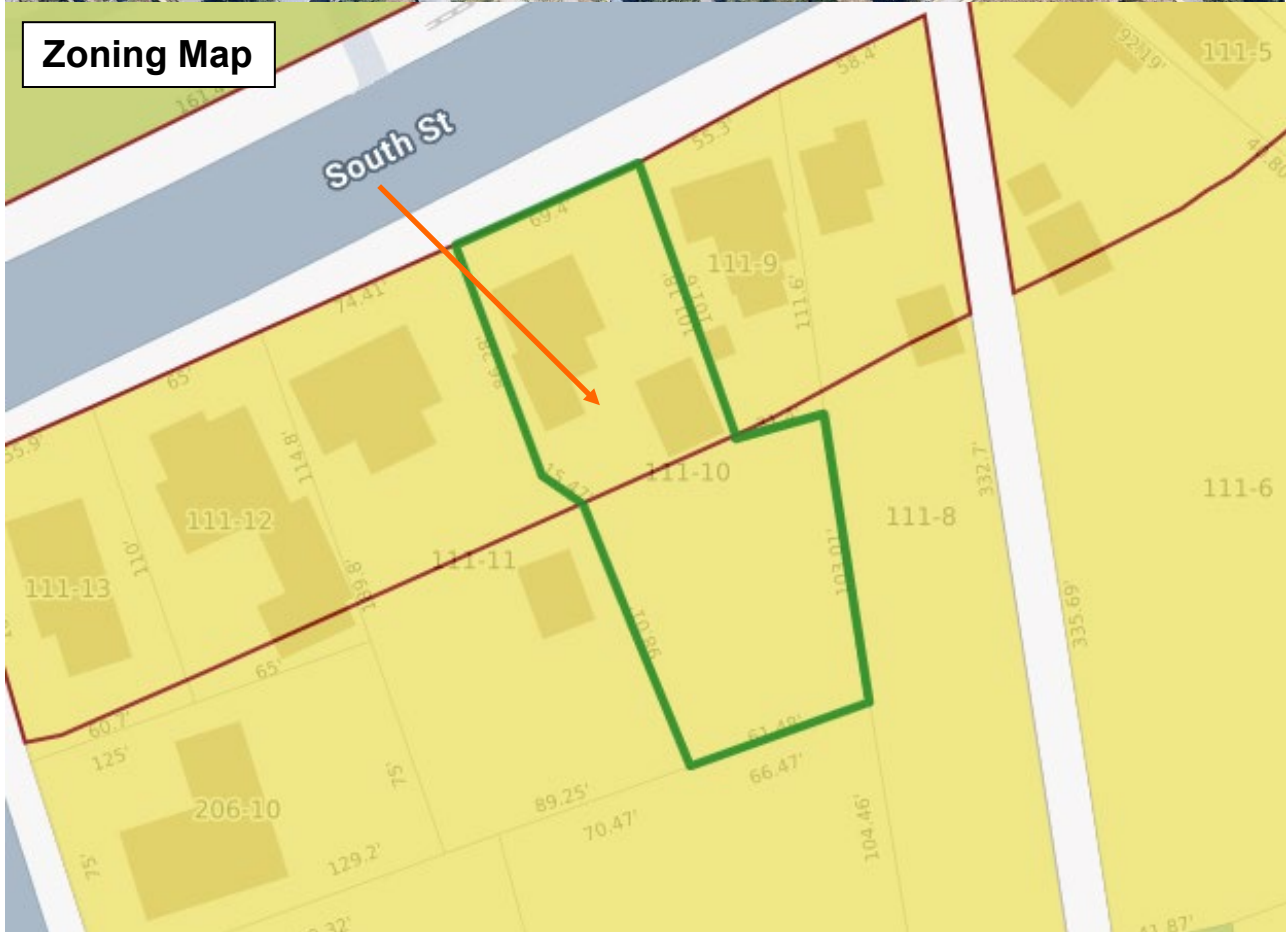
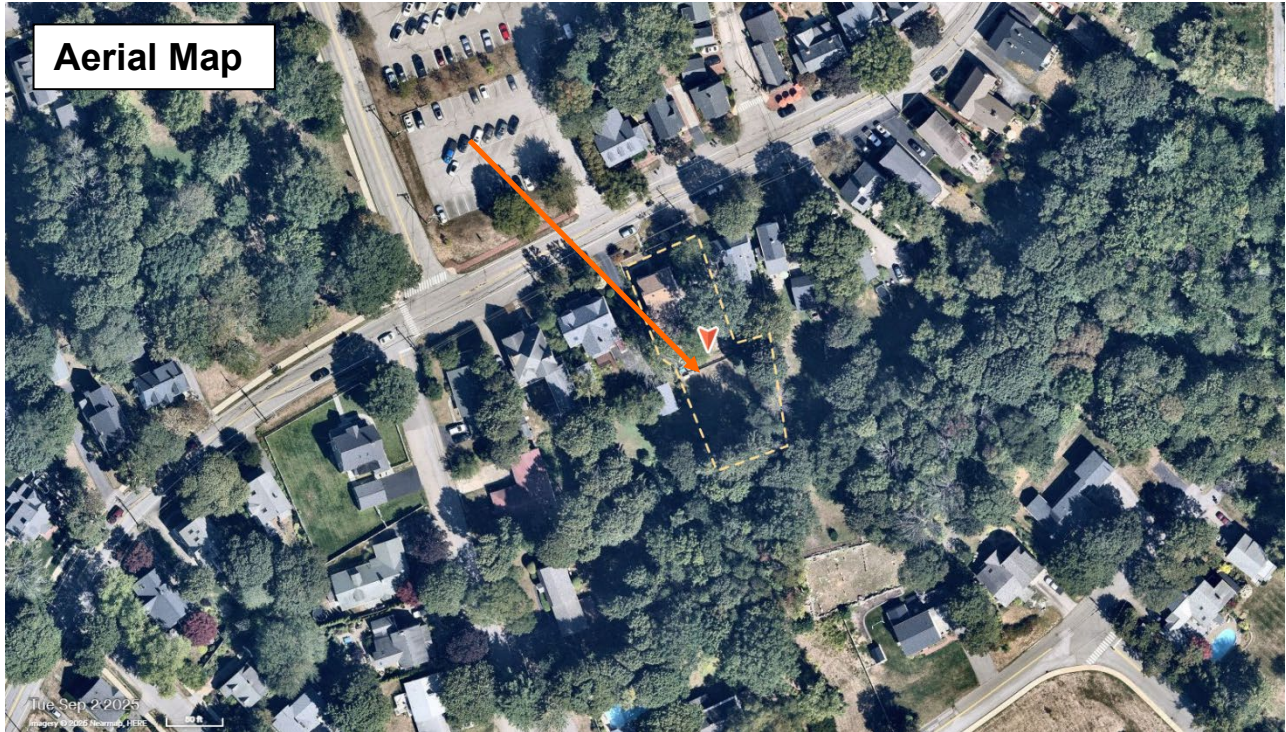
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	*Establish the keeping of chickens	Primarily residential
<u>Estimated Age of Structure:</u>	1800	Request(s) shown in red.	

*Allowed by Special Exception

Other Permits/Approvals Required

- Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

July 15, 1986 – The Board **granted** the following: a Variance from Article III, Section 10-302 to permit the following: a) the construction of a west wall entry and vestibule with a side yard of 7' where a 10' side yard is required; and, b) to allow construction of a rear porch and dining room addition (after the removal of an existing porch) at the rear with an 8' side yard where a 10' side yard is required.

July 15, 2003 – The Board **granted** the following: 1) Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) to allow: a) an irregular shaped 383 sf kitchen ell and second floor addition with a 6'6"± right side yard where 10' was the minimum required, and b) a 14'3" x 14'6" one story addition with an 8'4"± right side yard where 10' was the minimum required, and 2) a Variance from Article IV, Section 402(B) to allow a 21' x 25' detached garage with a 4'± left side yard where 10' was the minimum required.

Planning Department Comments

The applicant is requesting a special exception to keep chickens on the property. The applicant has also proposed a small chicken coop which will be located on the northeastern side of the lot (as shown on the site plan). The coop does not require relief as it is exempt under Section 10.811.60.

Due to its size, construction of the chicken coop does not require a building permit. Should the Board wish to approve the request, staff suggest the following or similar condition:

1. This special exception is vested without the issuance of a building permit, as it is not needed for the construction of the chicken coop.

Special Exception Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

10.235 Certain Representations Deemed Conditions

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

May 9, 2026

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

RE: Board of Adjustment Request for a Chicken Coop at 306 South Street

To Whom It May Concern:

We write to request permission for a flock of approximately eight laying hens in our backyard.

Overview of Proposed Work

Similar to the application approved on April 28, 2026 for 220 South Street, this request is to keep approximately eight chickens in our back yard primarily as household pets.

- A natural-wood chicken coop approximately 4'x8'x10' (width, length, height) will be added to keep the chickens housed and safe from local wildlife predators. It will use pressure treated 2x4s and 4x4s for the frame and legs. Flooring will be 1" hard pine boards. Walls will be studded with 2x3s. Gussets will be added to the four corners and legs for support. Rafter material will be 2x3s. The exterior walls are pine tongue and groove boards. Additionally, the roof will be built with roofing board, covered by a layer of tar paper. A drip edge will be secured to the bottom edge of roof. Quality shingles will be used to prevent rain and snow from entering the building, and it will be assembled with galvanized nails and screws. **See Appendix A for images.**
- The chickens will be controlled via fenced area around the coop that will keep them on our property and not allow them to wander onto neighboring properties or street.
- We will not keep any roosters.
- No hazardous, toxic, odorous, nor flammable materials will be used to construct the coop nor be stored on the premises at any time.
- Chickens will be kept as pets. Eggs will not sold to the public.
- There will be no excessive demand on municipal services as we plan on keeping a very small flock of approximately eight birds.
- The chicken coop does not require any heating or cooling.
- Using a deep-bedded litter system, the chicken coop will not emit offensive odors.
- All chicken waste will be composted naturally.

Brief Description of Existing Land Use

The area where the coop and chickens will be placed is currently part of our backyard.

10.232.23 Special exceptions shall meet all of the following standards

This request is for a special exception from (Article 4, Section 17.20) KEEPING OF FARM ANIMALS. This request is to keep chickens in our back yard primarily as household pets. We shall meet all of the following standards for this request.

10.232.20 Standards as provided by this Ordinance for the particular use permitted by special exception

We understand the standards as provided by this Ordinance for this particular request of keeping chickens permitted by special exception from (Article 4, Section 17.20) KEEPING OF FARM ANIMALS.

10.232.20 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials

The granting of this special exception to keep chickens will not result in any hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials. No hazardous, toxic, odorous, nor flammable materials will be used to construct the coop nor be stored on the premises at any time.

10.232.20 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials

The granting of this special exception to keep chickens in our back yard will not result in detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;

A natural-wood chicken coop approximately 4'x8'x10' (width, length, height) will be added to keep the chickens housed and safe from local wildlife predators.

The coop will be located approximately more than 100' feet from the road, 10' from the north property line, 10' from the east property line, 85' from the south property line, and 43' from the west property line. **See Appendixes B and C.**

Presently there is a property on South Street that keeps farm animals, geese and sheep. There is also presently a property on South Street that keeps chickens, and another property on South Street has recently applied.

Our request is to place chickens and a coop in the back of the yard away from any streets. The setting is rural in character and far from immediate housing and foot traffic. The coop will be made completely of natural wood and the finishes be in keeping with the aesthetic character of the neighborhood and surrounding area.

10.232.20 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity

There will be no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. We will place the coop and chickens in our back yard more than 100' away from South Street, sidewalks or foot traffic. Eggs will not be available for the public to purchase and therefore not create any additional traffic to the property.

10.232.20 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools

The granting of this special exception to keep chickens in our back yard will have no excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools. We will keep a small flock of approximately 6 – 8 laying hens that will drink water similar to that of a household pet. The bedding used will be natural pine woodchips in a deep bedding system that will result in producing manure twice a year that will be used in our backyard garden beds creating a closed loop ecosystem that will not produce city waste.

10.232.20 No significant increase of stormwater runoff onto adjacent property or streets

The granting of this special exception to keep chickens in our back yard will create no significant increase of stormwater runoff onto adjacent property or streets. The coop and chickens will be in our grassy back yard in a rural location far from the neighboring houses, driveways, sidewalks and streets.

Thank you for your consideration, and we look forward to hearing from you.

Sincerely,

Matt & Lara Prescott
Prescott Family Revocable Trust
306 South Street, Portsmouth NH
(240) 620-4432; matthewaprescott@gmail.com

Appendix A: Images of coop

**Bethlehem Chicken Coop
(4 x 4 sections) Total 8 Feet**



**Bethlehem Chicken Coop
2 (4 x 4 sections) Interior View**



**Bethlehem Chicken Coop
View of Back of Coop**



**Bethlehem Chicken Coop
Venting Window, Laying Boxes, Side Door**



Appendix C: Site Photo

