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

7:00 P.M. **November 17, 2026**

AGENDA

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_Msui9p7ITS-vU4PcxqrXPw

PLEASE NOTE: ***DUE TO THE LARGE VOLUME OF REQUESTS FOR NOVEMBER, ITEMS (III. E. THROUGH J.) WILL BE HEARD AT THE NOVEMBER 24, 2026 ZONING BOARD OF ADJUSTMENT MEETING.***

I. APPROVAL OF MINUTES

A. Approval of the October 20, 2026 meeting minutes.

B. Approval of the October 27, 2026 meeting minutes.

II. OLD BUSINESS

A. The request of **Christopher H. Daniell (Owner)**, for property located at **50 Whidden Street** whereas relief is needed to construct a rear addition and cantilevered deck which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 25 feet are required. Said property is located on Assessor Map 102 Lot 66 and lies within the General Residence B (GRB) and Historic Districts. (LU-26-15)

B. The request of **Colbea Enterprises LLC (Owner),** for property located at **1980 Woodbury Avenue** whereas relief is needed for signage which requires the following: 1) Variance from Section 10.1251.10 to allow for aggregate sign area greater than the maximum of 1.5' per linear foot of the building frontage establishment; 2) Variance from Section 10.1252.40 to allow illumination of lightbars as canopy sign background distinguished only by color stripes; and 3) Variance from Section 10.1251.20 to allow for canopy sign area of 460.74 square feet and 192.90 square feet where 20 square ft is the

maximum. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-163)

C. The request of **Kathleen B. and Kent A. Logan, Susan E. Lassen, Scott A. Lupkas, and Guy D. and Elizabeth R. Spiers (Appellants)**, to rehear the case for appeal of decision of administrative officials to classify the art studio attached to the side of the third dwelling unit as an R2 non-transient sleeping unit for property located at **28 Blossom Street**. Said property is located on Assessor Map 111 Lot 40 and lies within the General Residence B (GRB) and Historic Districts. (LU-26-114)

III. NEW BUSINESS

A. The request of **Carilyn J. Kussmaul Revocable Trust of 2021 (Owner),** for property located at **27 Thaxter Street** whereas relief is needed to demolish and reconstruct the front porch which requires the following: 1) Variance from Section 10.521 to allow a 14.5 foot front yard area where 30 feet are required. Said property is located on Assessor Map 166 Lot 39 and lies within the Single Residence B (SRB) District. (LU-26-137)

B. The request of **Andrew Super (Owner),** for property located at **310 Dennett Street** whereas relief is needed to reconstruct a deck which requires the following: 1) Variance from Section 10.521 to allow a) a 5.5-foot right side yard where 10 feet is required and b) building coverage of 39% where 25% is required. Said property is located on Assessor Map 143 Lot 27 and lies within the General residence A (GRA) District. (LU-26-143)

C. The request of **Arundo Group Grantor Trust (Owner),** for property located at **125 Echo Avenue** whereas relief is needed to remove and replace the front porch which requires the following: 1) Variance from Section 10.521 to allow a 20.5 foot front yard where 30 feet are required. Said property is located on Assessor Map 237 Lot 61 and lies within the Single Residence B (SRB) District. (LU-26-135)

THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, NOVEMBER 24, 2026

D. The request of **Portsmouth Lumber and Hardware LLC (Owner)**, for property located at **103 Bartlett Street** whereas relief is needed for outdoor storage as a principal use and to install a fence in the principal front yard, which requires the following: 1) Variance from Section 10.440 to permit the outdoor storage of lumber and building supply products where such storage is not allowed as a principal use; and 2) Variance from Section 10.515.13 to permit a fence over four feet in height in the principal front yard. Said property is located on Assessor Map 164 Lot 2 and lies within the Character District 4-W (CD4-W) District. (LU-26-139)

E. The request of **The Edwin B. Christly Revocable Trust (Owner),** and **Brian Zaneski (Applicant),** for property located at **197 Richards Avenue** whereas relief is needed to renovate, enlarge, and convert the existing principal structure from a three-family to a single-family and to construct a second single-family structure. The request requires the

following: 1) Variance from Section 10.521 to allow a) 5,162 sf lot area per dwelling unit where 7,500 sf is required, b) a left side yard of 3.5 feet where 10 feet is required; and 2) Variance from Section 10.513 to allow a second free-standing dwelling on the lot where no more than one is allowed. Said property is located on Assessor Map 129 Lot 42 and lies within the General Residence A (GRA) District. (LU-26-140)

F. The request of **John Michael Jr.** and **Natalie Murphy (Owners),** for property located at **175 Middle Road** whereas relief is needed to demolish and construct a landing to and infill and reconfigure a portion of the rear deck which requires the following: 1) Variance from Section 10.521 to allow for 37% building coverage where 20% maximum is allowed. Said property is located on Assessor Map 168 Lot 16 and lies within the Single Residence B (SRB) District. (LU-26-136)

G. The request of **Adam Ryan** and **Katherine Kaplan (Owners),** for property located at **19 Coakley Road** whereas relief is needed to construct walls and conditioned area for the conversion of the carport into living space which requires the following: 1) Variance from Section 10.521 for a rear yard of 12.5 feet where 30 feet is required. Said property is located on Assessor Map 234 Lot 31 and lies within the Single Residence B (SRB) District. (LU-26-134)

H. **POSTPONE TO DECEMBER** The request of **350 Hanover Street Portsmouth LLC (Owner),** for property located at **350 Hanover Street** whereas relief is needed to demolish the rear addition, construct a garage addition and renovate the existing structure, which requires the following: 1) Variance from Section 10.5A41.10A for a building coverage of 65% where 60% is allowed; and 2) Variance from Section 10.321 to allow a nonconforming building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 126 Lot 29 and lies within the Character District 4-L1 (CD4-L1) District. **POSTPONE TO DECEMBER** (LU-26-141)

I. The request of **Shiembob E & B Family Living Trust (Owner),** for property located at **635 Lincoln Avenue** whereas relief is needed to demolish the existing garage and subdivide the property into two lots which requires the following: 1) Variance from Section 10.521 to allow a) 7,046 square feet of lot area for Lot B where 7,500 are allowed, b) 63 feet of continuous frontage for Lot A and 39 feet of continuous frontage for Lot B where 100 feet are required, and c) a 5 foot left side yard on Lot A for the existing house where 10 feet are required. Said property is located on Assessor Map 148 Lot 38 and lies within the General Residence A (GRA) and Historic Districts. (LU-26-142)

IV. OTHER BUSINESS

A. *Recommendation to change the zoning on the ABC buildings to either MRO or MRB*

B. *Consideration to eliminate review by the ZBA over Pease properties*

V. ADJOURNMENT

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

7:00 P.M. **October 20, 2026**

MEMBERS PRESENT:	Beth Margeson, Chair; Jeffrey Mattson, Vice Chair; David Rheaume; John Holzman; Thomas Rossi; Thomas Nies; and Robert Sullivan
MEMBERS EXCUSED:	Mike Lucas, Alternate
ALSO PRESENT:	Peter Stith, Assistant Planning Director; Deputy City Attorney Trevor McCourt

Chair Margeson called the meeting to order at 7:00 p.m. She introduced new member John Holzman. She stated that Old Business A, Hope for Tomorrow at 315 Banfield Rd was withdrawn, and Old Business C, Christopher Daniell at 50 Whidden Rd was postponed.

Mr. Sullivan moved to suspend the rules, seconded by Mr. Nies. The motion passed with all in favor, 7-0.

Chair Margeson said the Board received a withdrawal notice that day for New Business A, Islington Properties LLC, 369 Islington St, Unit A. She read it into the record.

I. APPROVAL OF MINUTES

A. Approval of the **September 15, 2026** meeting minutes.

*Mr. Nies moved to **approve** the September 15 minutes as amended, seconded by Mr. Rheaume.*

Mr. Rheaume asked that the sentence on page 6 that begins with: "He said about 20 percent of the front lot is now burdened by a driveway that the owner is paying taxes on but will never get any benefit from" have the phrase "is now burdened" changed to "would be burdened".

Vice-Chair Mattson asked that the sentence on page 11 that begins with: "He asked what point sleeping there supposedly made it a dwelling" have the word "at" added so that it now reads: "He asked at what point sleeping there supposedly made it a dwelling". On the same page, he asked that the heading "Decision of the Commission" be changed to "Decision of the Board".

The motion passed with all in favor, 6-0, with Mr. Holzman abstaining.

II. OLD BUSINESS

A. WITHDRAWN 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) **WITHDRAWN**

The petition was **withdrawn**.

B. The request of **Ann Marie Wiley Revocable Trust (Owner),** for property located at **64 Woodworth Avenue** whereas relief is needed to construct a side addition and front porch to the existing structure which requires the following: 1) Variance from Section 10.521 to allow a) 8.5 foot left yard where 10 feet are required, b) 2.5 foot front yard where 30 feet are required, and c) 26% building coverage where 20% is the maximum. Said property is located on Assessor Map 243 Lot 42 and lies within the Single Residence B (SRB) District. (LU-26-102)

SPEAKING TO THE PETITION [Timestamp 9:18]

Attorney Courtney Vaughan was present on behalf of the applicant. She noted some changes to the description of the petition, including that the left side setback was 8.8 ft and the front yard setback was 2.9 ft. She said the applicant included the 92 sf shed in the coverage calculation, which resulted in the 29 percent coverage, but excluding it brought it down to 26.4 percent. She said they proposed a modest one-bedroom addition to the home because it was needed for the applicant's elderly father so that he could be cared for. She reviewed the criteria.

[Timestamp 14:25] Mr. Rheaume asked Mr. Stith to address the applicant's concern about the way the project was advertised. Mr. Stith said the Staff rounded down or up, depending on the percentage or the setback, to add in some flexibility. Mr. Rheaume said the Staff Report noted that the primary front yard is advertised as 40 feet, but there was a reference to a 7-1/2 ft front yard average, which he presumed referred to the allowance in the zoning ordinance that allows an averaging of front yards on a particular street on that side of the street, which can change front yard requirements. He said he did not see it referenced in the applicant's narrative and asked if Attorney Vaughan agreed that 7.5 ft was accurate. Attorney Vaughan said she did. Mr. Rheaume said the plan by the land surveyor showed some distance to Woodworth Ave, and he asked what the magnitude of that distance was. Attorney Vaughan said the property was very small, so the distances on all sides were very small. Mr. Rheaume said there was some additional distance shown on the plan to the actual paved portion of Woodworth Ave, and he asked if the applicant knew what that additional distance was. Attorney Vaughan said she relied on the engineer and builder to ensure that what was presented to the Board was accurate. Mr. Nies said the drawing showed a dashed rectangular shape at the back of the house labeled building setback, so he assumed that it was the allowable building envelope if all setback requirements were being met. Attorney Vaughan agreed.

Mr. Nies referred to the statement in the packet stating that the proposed addition does not create any new dimensional impacts beyond those historically present. He asked if the applicant was not considering the increase in building coverage or the setback relief as a dimensional impact. Attorney Vaughan said it was probably not the most accurate sentence and should read that it does not create much of an impact. Mr. Holzman said it was stated in the packet that if the petition is not approved it would be a substantially larger and more disruptive configuration of the house and the yard, and a reduction in usable living space that would defeat family care. He asked what the options were. Attorney Vaughan said an option would be to have the father live elsewhere, which would be cost prohibitive. She said it might be a slight typo about whether it was not going to be enlarged at all, but she said it was the contemplation that made the most sense and they tried to build it as modestly as possible so that it would be the least impactful for the neighborhood.

[Timestamp 24:00] Chair Margeson said the packet stated that there is a screened-in porch with no foundation. She said she saw the property and that the porch looked like it was actual living space. She said the addition will be very close to the neighbor's driveway. She asked if the applicant considered putting the addition in the back. Attorney Vaughan said the porch may be a 3-season one and that the applicant received the approval of the next-door neighbor. She said it made the most sense from a structural standpoint to add it onto the left side of the house. Chair Margeson said the porch and deck in the front were modest, but it was a corner lot and could potentially be an impediment for someone coming off Spinney Rd and McClintock St to Wordworth Avenue. She asked what the sight lines would like with the decrease in the front yard coverage. Attorney Vaughan said it would look more crowded but that they would clean up the space. She said there were only three other houses once someone took that right turn, and there was not much traffic.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE APPLICATION [Timestamp 27:29]

Rich Duddy Of 56 Swett Ave reviewed the history of the neighborhood. He said his house was placed on three lots when it was built and that he had lived there for 40 years. He said the applicant's request was not unusual for the neighborhood, which was a small pocket neighborhood of bungalows that did not meet the setbacks and had very few cars.

Anne Turner of 10 McClintock St said she agreed with Mr. Duddy. She said the proposal would have no impact on traffic and that everyone in the neighborhood was dine with the addition.

Titin Adtmadja said she was in support of the petition.

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

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

DECISION OF THE BOARD [Timestamp 31:58]

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

Mr. Nies said the ordinance had a review of sight lines and what is allowed on corner lots. He said if one took a triangular form from the corner and went 20 feet down each side, one would not be allowed to build anything within that triangle that would obstruct the view. He said from the site plan, it did not appear that there was anything being constructed within that triangle that would conflict with the provisions of the ordinance. He said it was important to note that it was a corner lot. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said no evidence was presented that it would affect the health, safety, and welfare of the neighborhood, and it would not have a significant effect on light and air. He said it is a corner lot, so on the right-hand side it is wide open to the street, and on the left side it is close to one of the property lines at a driveway. He said the neighbor did not raise any objections. He said granting the variance would not alter the essential characteristics of the neighborhood because it would remain a residential area with some smaller lots and smaller homes. He said substantial justice would be done because there was no benefit to the public by denial that would outweigh the loss to the applicant. He said, if denied, the applicant would lose the ability to modify their home in a way to facilitate taking care of a family member. He said granting the variance would not diminish the values of surrounding properties, noting that several neighbors and abutters spoke in favor and did not raise concerns about property values. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the property has special conditions of being a small lot located on a corner, and the permissible building envelope for the lot is very small. He said the existing house is already in a nonconforming location and violates several setback requirements. He said the location has limited options for improvement that would also relieve some setback requirements and affect the building coverage, so there is no fair and substantial relationship between the purposes of the ordinance and its special application to the property.

Mr. Rossi said the building setback is so small, and the lot and the situation of the existing structure long predates the establishment of the zoning requirements in that area. He said the requirements were not intended to limit such a lot to the defined dimensions indicated in the diagram. He said the front porch would be moved and would alleviate that corner. He said the fact is that the average is 7-1/2 feet and not the 30 feet that is required without averaging adjacent properties. He said it also reduces the amount of nonconformance being sought and weighs in favor of granting the variance. Mr. Rheaume said he would support the motion but noted that the requested variances run with the land and were not specific to a particular owner's position or desires. He said the overall nature of what is being requested in terms of the size and the addition is very modest and thought that the 7-1/2 foot average setback is realistic if one looks at the neighboring homes that were all positioned right up against the property line.

The motion passed with all in favor, 7-0.

C. **POSTPONED The** request of **Christopher H. Daniell (Owner),** for property located at **50 Whidden Street** whereas relief is needed to construct a rear addition and cantilevered deck which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 25 feet are required. Said property is located on Assessor Map 102 Lot 66 and lies

within the General Residence B (GRB) and Historic Districts. **POSTPONED** (LU-26-15)

The Board acknowledged the postponement.

D. 84 Pleasant Street and **266, 270, 278 State Street – Extension Request (LU-24-195)**

DECISION OF THE BOARD [Timestamp 40:59]

Chair Margeson noted that the applicant previously received a two-year extension.

*Mr. Rossi moved to **grant** the extension request to November 19, 2027. Vice-Chair Mattson seconded.*

Mr. Rheaume said the project was complex and required several Boards and permissions to move it forward. He said the area was in desperate need of some kind of new structure in it, so he hoped the one-year extension would be what is necessary to get something in that space.

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

E. The request of **Ben and Andrea St. Jean, Braden and Robyn Ferrari, Bob and Laura Gunning, Mike and Zoe Daboul, Tim and Kim Sullivan, and Jamie and Amy Baker (Appellants),** for appeal of the administrative decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at **58 Humphreys Court.** The Board will be considering the remand from the court on the issue of the property's rear lot line. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-165)

[Timestamp 44:32] Deputy City Attorney Trevor McCourt said that the Court instructed the Board to take up the issue of statutory representation. He said the various positions had already been argued to the Board and detailed documents were issue, but if the Board felt that they needed more information or would like to take additional arguments from the party, the option was to move to suspend the rules and reopen the public hearing to be scheduled at a date certain so that everyone had fair notice and the opportunity to attend and be heard. Mr. Nies said that, since the public hearing and legal events that occurred, there were a few applications with respect to the property that were taken to the Historic District Commission (HDC) for work session. He asked if the Board was allowed to consider that information. Attorney McCourt said he did not think the Board needed to because it was a matter of statutory interpretation, which he further explained. He said the appeal had only gone to the HDC for work sessions, and the Planning Department was waiting for the Board to make its decision. The Board decided to hear the appeal.

SPEAKING TO THE APPEAL [Timestamp 50:09]

Chair Margeson said the remand from the Court is to decide what the rear lot line actually is. Vice-Chair Mattson said he thought Planning Director Britz was close with his classification of a rear lot

line, which he read. Vice-Chair Mattson said a rear lot line is parallel to the front lot line. He said it will still be 10 feet in length, but instead of the straight 45-degree diagonal line, it would be a line that matches the shape of the front property line, so it would have the curve that the property line does. Mr. Rheaume said the conundrum is that the property has two front lines and then it assigns a principal front yard where presumably the rear line is relative to the principal one, but it says the principal front yard is tied to the address of the property, which is Humphreys Ct, and Humphreys Ct is on both sides of the property. It was further discussed. Attorney McCourt said the Board denied the variance application for the subdivision, and the Court upheld that decision. He said the Court felt that the Board was not providing adequate assistance to the property owner to understand what he should do with his property. He said the Court wanted the Board to take the property as it exists today and determine what the rear lot line is. He recommended that the Board ignore the variance application with the subdivided parcels and apply the ordinance to the parcel as it exists now and make a determination about the property line.

DECISION OF THE BOARD [Timestamp 1:15:17]

Mr. Rheaume moved that the Board determine that the rear lot line for this property will be the lot line opposite the lot line on Humphreys Court connecting to New Castle Avenue. The easternmost lot line will be the rear lot line. Mr. Nies seconded. The motion passed with all in favor, 7-0.

III. NEW BUSINESS

A. **WITHDRAWN** The request of **Islington Properties LLC (Owner),** for property located at **369 Islington Street, Unit A** whereas relief is needed to convert a commercial unit to a residential unit which requires the following: 1) Variance from Section 10.5A41.10A to allow 918 square feet of lot area per dwelling unit where 3,000 square feet are required. Said property is located on Assessor Map 144 Lot 22-1 and lies within Character District 4-L2 (CD4-L2) and the Historic District. **WITHDRAWN** (LU-26-111)

The application was **withdrawn**.

B. The request of **100 C Albany ST LLC (Owner),** for property located at **100 Albany Street, Unit C** whereas relief is needed to establish a dog grooming operation which requires the following: 1) Special Exception from Section 10.521 Use #7.30 to allow a pet grooming service in a zone where it is allowed by special exception. Said property is located on Assessor Map 146 Lot 24-3 and lies within Character District 4-L2 (CD4-L2). (LU-26-117)

SPEAKING TO THE PETITION [Timestamp 1:21:43]

The owner Jonathan Wilson said the property had a commercial space available and that he applied for a dog grooming operation. He noted that the existing dog grooming operation was moved across the street. He said the business had been part of the neighborhood since 1989 and the five other unit owners were in favor of the proposal. He reviewed the criteria.

[Timestamp 1:25:38] Mr. Rheaume asked if Unit C occupied the whole first floor. Mr. Wilson said it was built into a slope, so it was a 2-story building in the rear and took up the entire basement floor. Mr. Rheaume said the plan called out Units 1 and 2, and he asked if the applicant would occupy both sides. Mr. Wilson said he would occupy just Unit 1. Mr. Rheaume said the parking appeared to be for the condominium and the plan showed four parking spots to the rear of the building, but none were assigned to Unit 100-C. Mr. Wilson agreed and said there would be street parking. He said the space in front of Unit 100-C could be used for dropoffs but not long-term parking. Mr. Rheaume asked if there was a plan to make it a 15-minute dropoff. Mr. Wilson said there was not but noted that the owner only had one customer at a time.

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 1:29:02]

*Mr. Rossi moved to **grant** the request as submitted and advertised, seconded by Mr. Sullivan.*

Mr. Rossi said the use is permitted in the zone by special exception, so it is consistent with the standards provided in the ordinance. He said granting the special exception would pose no hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials because it was a simple dog grooming operation. He said it would pose no detriment to property values in the vicinity because it is an activity that is already occurring in proximity to the proposed location, so moving it would not have an impact on surrounding properties. He said there would be no creation of traffic or safety hazards because it is not a high-volume business. He said there would be no excessive demand on municipal services because it is already an activity in the vicinity, and there would be no significant increase in stormwater runoff because it is just moving an activity from one spot to another. Mr. Sullivan concurred. Mr. Rheaume said he hoped the applicant would consider making a dropoff area in front of the space.

The motion passed with all in favor, 7-0.

C. The request of **Clever Beaumont Revocable Trust (Owner),** for property located at **30 Salem Street whereas** relief is needed to remove the existing 5-foot fence and replace with a new 5-foot fence which requires the following: 1) Variance from Section 10.515.13 to allow a 5-foot fence in the front yard area. Said property is located on Assessor Map 144 Lot 35 and lies within the General Residence C (GRC) District. (LU-26-118)

SPEAKING TO THE PETITION [Timestamp 1:32:46]

The applicant Tracy Clever Beaumont said she and her wife wanted a like-for-like replacement of the wooden fence in the front yard. She said the request includes about 90 ft of fence along the Salem St frontage and that two 5-ft sections of the side fence runs within that setback area. She said the replacement fence would be a 5-ft cedar one in the same location and design, and the purpose of retaining the existing height and location were because the existing fence provided privacy, a defined boundary, and added security. She said their home was in the Railroad Corridor and Mixed Use District where people regularly passed by their home. She explained why relocating the affected portions of the fence to meet the 5-ft setback and retain the height were not practical throughout the front yard area. She said if they were to set the fence back five feet, they would have to relocate the gate works and move the potting shed. She reviewed the criteria.

[Timestamp 1:43:08] Mr. Rossi said the hardship criterion meant that there was something unique about the property that means that the standards of the ordinance do not apply fairly to this property. He said if privacy was wanted, the best alternative would be to replace the 5-ft fence with a fence that is over 8 feet tall, so the Board was balancing the applicant's interest of having privacy with the public's interest of not feeling hemmed in on public streets and sidewalks, and that was the reason there is a height restriction for fences. He said it pertained more to balance of interest that is different than hardship, which is something particular to a property. He asked what was special about the applicant's property that says a 4-ft standard fence is not applicable. Ms. Clever Beaumont said it was more the sense of security and privacy that they had come to enjoy rather than the location and traffic. She said people had looked over the fence as they passed by and there was an increase in traffic from all the recent development, so she considered a 5-ft fence a reasonable compromise. She said there was a 5-ft fence when they bought the house. Mr. Rheaume asked if there was a patio or something in the left portion of the yard. The applicant said there was a deck past the potting shed. Mr. Rheaume asked what privacy the gated fence portion in front of the driveway supported. The applicant said it was a 3-sided carport driveway and that the fence provided privacy for them. She said they were two women who were part of the LGBTQ community and had a heightened level of risk awareness. Mr. Rheaume asked if there were examples of that level of fencing with a gate right up against the street elsewhere in the neighborhood, and the applicant said there were not.

[Timestamp 1:52:03] Mr. Nies asked when the fence was built. The applicant said it was 15-20 years ago. Chair Margeson said she did a site visit to the neighborhood and found that the applicant's property was the only one with a fence of that kind. She said the applicant's traffic concerns were shared by all the other properties in the neighborhood, and she asked what was so different about the applicant's situation that she needed a 5-ft fence instead of a 4-ft fence. Ms. Clever Beaumont said everyone else's risk tolerance was different and the fact that there were no other fences like hers did not negate the importance of her request.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION [Timestamp 1:55:30]

Fotinie Bowden of 413 Islington St said a higher fence would make the applicant feel more comfortable. She said the house was next to the railroad tracks and there were a lot of sketchy people there. She said the fence would not look terrible in the neighborhood.
No one else spoke. Chair Margeson closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp1:57:08]

Mr. Nies said he walked through the neighborhood and found a house with a fence close to 8-9 feet, so there was at least one property that has a high fence right on top of the property line on the sidewalk in the neighborhood. Vice-Chair Mattson said it was a reasonable ask, and it was to replace a fence in kind, otherwise he did not think there was any reason to give more relief than the ordinance requires. Mr. Rheaume said there were other legacy fences that could be kept in place until someone wanted to replace them, but they needed to meet the zoning requirements. He said the streetscape experience should not be one of going past a walled compound. He said seeing a gate than runs across a driveway is unique and lends to that idea of a private compound. He said the request for the fence on the south side of the property made sense due to all the activities going on in the yard, but he was concerned about the longer fence on the right-hand side because the only thing it provided cover for was vehicles in an open carport. He said he did not think there were any other examples of a driveway being walled off. He said the applicant could put up an 8-ft fence near the garage's location to provide more than adequate privacy for those elements behind the garage while still opening up the driveway and garage to be more inviting and part of the neighborhood, so he could not support the continued use of the north side fence with the closed-off gate up against the sidewalk. He said the applicant could move the gate back five feet. Chair Margeson said she would not support the proposal for the same reasons. She said a 4-ft fence would satisfy the applicant's privacy and security requirements and that the Fence Ordinance was clear about not having a walled-off experience for the streetscape and pedestrians.

DECISION OF THE BOARD [Timestamp 2:03:49]

*Mr. Rossi moved to **deny** the requests as presented and advertised because they fail the following criteria: 10.233.21 granting the variance would not be contrary to the public interest, 10.233.22 granting the variance would observe the spirit of the Ordinance, 10.233.23 granting the variance would do substantial justice, and 10.233.25 the hardship criteria. Mr. Rheaume seconded the motion, with an amendment to exempt the fence on the south side of the property. Mr. Rossi agreed.*

Mr. Rossi said the criteria of not being contrary to the public interest and the spirit of the ordinance being preserved was to preserve the open feel and the walkable neighborhoods in the community and not give people the sense that they were being hemmed in by walled compounds. He said the proposal did not satisfy the substantial justice criterion because there would be a loss to the public by not having an open feel while walking down the street. He said he did not see an impact to the value of surrounding properties because the fence would be replaced in kind, and the properties were already valued with the existing 5-ft fence. He said the literal enforcement of the ordinance would result in unnecessary hardship criterion referred to something unique about the property

within the zone or neighborhood that supports the notion that a variance to the ordinance is needed to preserve fair use of the property and not create an unfair relationship between the general purpose of the ordinance and the provisions of this particular application. He said he could not see any special aspect of the property that fit in this category to make it unusual within the zone or neighborhood. He said the applicant's argument had a lot to do with their personal situation and their use of the property, but that was beyond the Board's jurisdiction because their decisions were about the property itself and not the people who use it, and those decisions stick with the property.

[Timestamp 2:08:38] Mr. Rheaume said the south side portion of the fence was probably more reasonable but that two motions would be needed to approve it. He said the applicant could return to ask for a variance for a portion of the fence, or she could set something back or re-use a shorter fence. Chair Margerson said substantial justice and hardship applied to the whole property.

The motion to deny passed by a vote of 6-1, with Mr. Sullivan voting against.

D. The request of **Path Lab Inc C/O Labcorp (Owner),** and **Lilia Madden, PLLC (Applicant),** for property located at **230 Lafayette Road, Unit 11D** whereas relief is needed to allow a medical office which requires the following: 1) Variance from Section 10.440 Use #6.20 to allow a medical office where the use is not allowed. Said property is located on Assessor Map 151 Lot 6-D11 and lies within the General Residence A (GRA) District. (LU-26-121)

SPEAKING TO THE PETITION [Timestamp 2:18:57]

The applicant Lilia Madden was present. She said she was a licensed clinical social worker and psychotherapist and wanted to establish a physical office space for her practice. She said she currently owned a space at the Lafayette Professional Building (Building C). She said it was in the GRA District but was approved to operate as professional offices in the 1960s by variances. She said the specific space was approved for clinical lab use and was 428 square feet. She said there were several medical offices in the building. She reviewed the criteria.

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

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DECISION OF THE BOARD [Timestamp 2:23:12]

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

Mr. Nies said the ABC Buildings have been medical buildings since 1964. He said the district remains a residential one and remains medical offices, and yet the Board still grants variances for the use. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said there was no evidence that allowing the use of the office as a medical or clinical space would affect the light, air, health, and safety of anyone because there would be just minor internal changes. He said granting the variance would observe the spirit of the ordinance. He said it was a non-permitted use arguably, but a previously similar case was granted and the area has evolved slightly differently than what the zoning calls for. He said the proposal would not change the character of the neighborhood and there would be no safety concerns. He said substantial justice would be done because he could not see anything that would benefit the public by denying the variances, and it would be a loss to the applicant. He said it would not diminish the values of surrounding properties because many medical offices were built in this building and others that had not diminished the values of any nearby building. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the special condition of the building is that it was created and established primarily for medical office space and not for general use, and it made sense to allow this medical use. He said there is no fair and substantial relationship between the purposes of the ordinance and its special application to the property, and that it would not make sense to try to require a residential use of this one office space in this building.

Mr. Rheaume said the Board had run into this issue a few times where all the complex is, in fact, in two separate zones. He said the uses that are common throughout the complex are prohibited in both zones, so it did not effectively matter. He said the City could not spot zone it, and he thought it would be aspirational for the City when the buildings age to return the buildings back to a residential use. He said, however, the use was approved in 1967 so it was a new use, and what the applicant was requesting had already been established for the property by an action of the Board and by decades' worth of precedent. He said it was not an allowed use but had a long representation that would not negatively affect the characteristics of the neighborhood. Chair Margeson said she shared the Board's frustration over the ABC Buildings and thought perhaps the Board should recommend to the City Council that it rezone the parcel in the future. She said it was a medical building and the Board continued to have to give variances for medical offices in the building.

The motion passed with all in favor, 7-0.

E. The request of **Colbea Enterprises LLC (Owner),** for property located at **1980 Woodbury Avenue** whereas relief is needed for signage which requires the following: 1) Variance from Section 10.1251.10 to allow for aggregate sign area greater than the maximum of 1.5' per linear foot of the building frontage establishment; and 2) Variance from Section 10.1252.40 to allow illumination of lightbars as canopy sign background distinguished only by color stripes. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-163)

Chair Margeson noted that as referenced in the Staff Memo, if the Board did not approve the variance for Section 10.1252.40, they would have to continue the application because the applicant will need further relief from Section 10.1251.20.

SPEAKING TO THE PETITION [Timestamp 2:30:40]

Attorney Christopher Drescher was present on behalf of the applicant, along with Chris Rice of TFMoran. Attorney Drescher said if the variance from Section 10.1252.40 is granted, it would resolve the problem and there would be no need for future relief. He reviewed the petition.

[Timestamp 2:40:41] Mr. Rheaume said the new proposal had two Pectens. Attorney Drescher said one Pecten faced Gosling Rd and one raced Woodbury Ave. Mr. Rheaume said it was the same proposal as the prior one, except for losing two Pectens. He asked if the front had illumination. Attorney Drescher agreed but said it was broken up. Mr. Rice said that, according to the canopy signage regulations, any individual canopy sign cannot exceed 20 square feet, and when there is a piece of banding that is broken up by a Pecten, it makes that length shorter, so the square footage complies, but if a Pecten goes away, there is a longer length that will exceed the 20 sf maximum for an individual sign. He said those also counted the areas that are illuminated. He said they were trying to calculate how much of the canopy structure the light shines before it dissipates into nothing. He said they took the total height of the canopy, and that banding did not illuminate the whole height, which was the struggle. Mr. Rheaume said he understood but asked why that struggle did not apply to the applicant's first request. It was further discussed.

[Timestamp 2:50:30] The Board had trouble understanding the diagrams and had several questions.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp 3:02:04]

Mr. Rossi said the Board was dealing only with the variance request for the aggregate sign amount and not the 20 square feet per section. Mr. Stith said the applicant was requesting not to include the illuminated area as sign area for the canopy signs, and if the Board were to grant that, the applicant would not need the other two variances He said if the Board granted the variance for Section 10.1252.40, the applicant would comply with the other two sections they included, but if the Board denied it, the applicant would have to return for the other two because they would exceed the aggregate and the maximum sign area for canopy signs. It was further discussed. Mr. Stith said the Board would benefit from having more information from the applicant and could also benefit from advertising the other variance so that all three variances were in front of the Board.

DECISION OF THE BOARD

*Mr. Rheaume moved to **continue** the application to the November 17 meeting, with the request that the following information be supplied:*

1. *City Staff will advertise for Section 10.1251.20;*
2. *The applicant will provide exact dimensions on what areas of the canopy will be illuminated and also provide maximum potential dimensions;*
3. *The applicant will provide the total aggregate sign area allowed under Section 10.1251.10; and*
4. *The applicant will provide which canopy signs are greater than 20 square feet.*

Mr. Rossi seconded the motion. The motion passed with all in favor, 7-0.

F. ADJOURNMENT

The meeting adjourned at 10:20 pm.

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. **October 27, 2026**

MEMBERS PRESENT: Beth Margeson, Chair; Jeffrey Mattson, Vice Chair; David Rheaume; John Holzman; Thomas Rossi; Thomas Nies; and Robert Sullivan

MEMBERS EXCUSED: Mike Lucas, Alternate

ALSO PRESENT: Jillian Harris, Planning Department

Chair Margeson called the meeting to order at 7:00 pm.

I. OLD BUSINESS

A. Request for Rehearing – 28 Blossom Street [Timestamp 4:18]

Mr. Rossi explained why he felt there was no error of procedural law or unreasonable application of facts made by the Board. He said the rehearing request took the same line of discussion as the original appeal that was heard in September, which was a claim that the Code Official treated a new zoning use within a zone where it is not allowed. He said the rehearing request restates that and provides additional color as to how the Code Official reached the decision. He said the building code is designed to apply appropriate architectural and engineering standards to a structure so that it can be used safely, whereas the zoning ordinance contemplates specific uses in specific zones. He said some of the things implied in the request for rehearing indicated that the requestors feel that what is being allowed is the use of the space as a dwelling unit, co-living arrangement, or boarding, where it is not allowed in that zone. He said the zoning ordinance has specific definitions of those things, which he described, and said none of the recommendations to the Code Official would have those features incorporated into the room, therefore it did not constitute a use that is allowed in that zone. He said the new information was more about how the Code Official reached his recommendations based on the building codes. He said he did not think that shed any light on the matter before the Board and within their jurisdiction to apply. Mr. Holzman said he reviewed the tape and read all the information and thought the Board should have a rehearing because the decision that was made was too narrow. Mr. Sullivan said there was overlapping and constant back-and-forth through the whole case of the building code and zoning-related issues brought up by the applicant. He said he did not doubt the accuracy of Mr. Wolf's conclusion but thought it did not address the zoning issue that the applicant raised. He said the Board's decision was really based on the building code analysis provided by Mr. Wolf, and he felt that the Board may not have really answered the question that was raised in the application. He said he was in favor of the rehearing. Mr. Rheaume said additional information was provided that was significant and worth looking at

again. Mr. Nies said the Board's written decision accurately reflected the motion that the Board passed, but it focused strictly on the building code issue and did not address the overlapping zoning issues. He said a rehearing would give the Board an opportunity to not only consider whether there was any new information that might affect their ruling but would also clarify the final decision and address the zoning issue one way or the other. Vice-Chair Mattson explained why he did not think a rehearing was needed but said he would not be opposed to one. Chair Margeson said she was not in favor of a rehearing because she did not think the Board made any error of law either in procedure or substance. She said the Board's purview was the zoning ordinance and whether the room was a dwelling unit, and all the evidence produced at the hearing indicated that it was not a dwelling unit. She said the transient or non-transient sleeping unit is not defined in the zoning ordinance, and there were concerns that it would come dangerously close to being a boarding house.

DECISION OF THE BOARD [Timestamp 23:04]

Mr. Sullivan moved to grant the rehearing, seconded by Mr. Holzman.

Mr. Sullivan said the discussion presented a good reason to have a rehearing. Mr. Holzman concurred and said he felt that the Board's previous decision was too narrow.

The motion passed by a vote of 4-3, with Vice-Chair Mattson, Mr. Rossi, and Chair Margeson voting in opposition.

II. NEW BUSINESS [Timestamp 24:48]

Chair Margeson recused herself, and Vice-Chair Mattson was Acting Chair.

A. The request of **Emilyn Anne** and **Eben Kennedy (Owners)**, for property located at **1490 Islington Street** whereas relief is needed for construction of an addition and renovation of a single-family residence with an accessory dwelling unit to a two-family residence, which requires the following: 1) Variance from Section 10.440 to allow a two-family dwelling in the SRB District. Said property is located on Assessor Map 233 Lot 108 and lies within the Single Residence B (SRB) District. (LU-26-126)

SPEAKING TO THE PETITION [Timestamp 25:30]

The owner Emilyn Kennedy said she wanted to build a modest addition to provide a bedroom for the first-floor unit and resolve a situation created by the configuration of the home and the City's installed cross signal. She said the previous owner got a permit to configure the house as a single-family one with an ADU, and it identified the first floor as an ADU to satisfy the City's requirement of 750 sf. She said the problem was that the first floor unit did not have a private bedroom and the existing window faced the crosswalk. She said the proposed new bedroom would increase the property's square footage for an ADU under the guidelines, so she wanted the property classified and used as a two-family dwelling. She reviewed the criteria.

[Timestamp 32:40] Mr. Rheaume asked how much of the plan layout was already constructed. Ms. Kennedy said there was a new kitchen and bath in the 2nd floor unit and the bedrooms were repainted. She said no reconfiguration was done on the first floor. Mr. Rheaume asked if the front

entryway would be the access point for the 2nd floor unit. Ms. Kennedy agreed. Mr. Rheaume said the floor plan for the first floor as reconfigured showed an open layout for the porch at the end of Islington Street. Ms. Kennedy said that was the current configuration for the first floor with the proposed bedroom and no changes were required. Mr. Rheaume asked what the gross living area on the second floor would be if it were not for the entryway. Ms. Kennedy said she did not have that calculation. Mr. Rheaume asked if there was any possibility it could be designed as an ADU that would meet the City's requirements. Ms. Kennedy said it was her primary residence and that she had no intention to sell. Mr. Rheaume said another option would have been to request a variance for the gross living area of an ADU and explain why she needed 875 square feet, seeing that the State allowed up to 950 square feet. Ms. Kennedy said she wasn't sure if there was a precedent for that but then found other multiple properties in the neighborhood that were changed to two- and three-family condos or apartments. Acting Chair Mattson asked if Ms. Kennedy considered reallocating the first-floor entryway to the first-floor apartment. She said she had but there would be no entryway to the second-floor unit.

SPEAKING IN FAVOR OF THE PETITION [Timestamp 44:06]

Richard Rash of 1507 Islington St said he was the abutter across the street. He said he had seen the property decline and thought it was nice to see it being improved.

Jim Lee of 520 Sagamore Ave said the property is burdened by the pedestrian signal with a big flashing yellow light going off for 30 seconds with loud beeps in front of the bedroom, which was not good. He said the project would enhance the values of the nearby properties.

SPEAKING IN OPPOSITION TO THE PETITION

No one spoke.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Rick Becksted of 1395 Islington St said he lived four doors down from the property in a duplex. He said there was another duplex in the area as well as a 3-apartment building, so the proposal would not change the neighborhood. He said the proposal was something that should be looked at more closely by the Planning Department and the City Council because it offered an opportunity to change the regulations on housing and help solve the housing crisis in New Hampshire.

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

DISCUSSION OF THE BOARD [Timestamp 48:42]

Mr. Rheaume said the Board had seen and denied some requests for 4-units and 3-units as well as other requests for subdivisions, but he did not know if the properties on the street that were duplexes were granted relief by the Board. He said the applicant's property abuts a garden

apartment/mobile home property on the back, but it was a large sea of SRB. He said the applicant said their lot is larger than most of the other lots. He said the ADU made a lot of sense and that he would be more comfortable approving it as an oversized ADU. He said the variance runs with the land, and if the applicant moved and sold it to someone else, that person could take advantage of the variances and potentially make the structure condos. He said it was advertised as a two-family dwelling, so that made it more difficult. Possible stipulations were discussed.

DECISION OF THE BOARD [Timestamp 59:34]

Mr. Rossi moved to grant the variances for the application as presented and advertised, seconded by Mr. Sullivan.

Mr. Rossi said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. Regarding single or multiple dwelling units, he said it was primarily to control the density of development in the zone, but the application would not change that because it was already being utilized as a two-family unit and would remain that way. He said substantial justice would be done because denying the application would be a loss to the applicant. He said he agreed with the rationale of not having a bedroom by the crosswalk and thought the bedroom would be more logically situated in the back of the unit, which would not cost the public anything. He said granting the variances would not diminish the values of surrounding properties because no change was proposed that would do so. He said literal enforcement of the ordinance would result in substantial hardship because the lot was a very oversized one for the zone and it was not a case where the structure is proposed to be knocked down and replaced by a substantially different new one. He said it would be a use of an existing structure that is consistent with the common practice in the area and the fact that there were other duplexes. He said, saying that this particular lot would not support a duplex when there are others in the immediate area that do not affect the character of the neighborhood is a misapplication of the zoning ordinance in a way that is not suitable for the property. He said the other condition was the proximity to the crosswalk, which was an annoyance for the way the first floor is laid out. Mr. Sullivan concurred and said the applicant stated her case very well and was well supplemented by Mr. Becksted. Mr. Rheaume said he would not support the motion because the action being taken did not provide the same protections for SRB zones as ADUs. Mr. Nies said he would support it but clarified that the Board was granting a variance and not rezoning. Mr. Holzman said he would not support it for the same reasons as Mr. Rheaume.

The motion passed by a vote of 4-2, with Mr. Holzman and Mr. Rheaume voting in opposition.

Chair Margeson resumed her seat, and Acting Chair Mattson resumed his seat as Vice-Chair.

B. The request of **Nathan Alger (Owner)**, for property located at **104 Thornton Street** whereas relief is needed to demolish an existing carport and deck and construct an addition; and to permit after-the-fact installation of a fence, which requires the following: 1) 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; 2) Variance from Section 10.521 to a) allow a 4' rear yard setback where 20' is required, b) allow a 6' secondary front yard setback where 15' is required, c) to allow 44.5% building coverage where 25% is allowed; and 3) Variance from Section 10.515.13 to allow a fence exceeding 4' in height with a 0' front yard setback where 15' is required. Said property is located on Assessor Map 160 Lot 11 and lies within the General Residence A (GRA) District. (LU-26-120)

SPEAKING TO THE PETITION [Timestamp 1:07:42]

Attorney Derek Durbin was present with the owner Nathan Alger via Zoom, architect Rob Harbeson, and engineer Patrick Crimmins. He said the property was a small corner lot that had a Thornton St address but the driveway was on Sparhawk St, so that was treated as the front. He said the carport and deck were in disrepair and the property suffered from a degree of deferred maintenance. He said the owner's family expanded and he wanted to reconfigure the floor plan, add a one-car garage with living space above, and replace the rear deck with a sunroom and living space above it. He said both additions would be built in the same footprint as the carport and deck, except for a small increase in coverage of 77 sf. He said there would also be a small decrease in the rear yard setback of 1.3 ft to accommodate the garage. Mr. Harbeson said the owner needed a primary suite with a bathroom. He said the garage would have a minimal width and they would try to get the basement access back after getting rid of the bulkhead. Mr. Nies said it seemed that the lot boundaries were set back considerably far from the road due to the way the terrain slopes down. Attorney Durbin said the boundaries were set back at least 10 feet. Attorney Durbin explained why they applied for an after-the-fact variance for the fence. He said the residents at 29 Sparhawk St emailed a letter of support, which he gave to the Board. He reviewed the criteria.

[Timestamp 1:23:16] Mr. Rheaume confirmed that the two different options for the second floor were the same in terms of the footprint. He said the house would end up being twice the size and the carport would turn into a garage with a full second story on top that would be four feet from the property line. He asked how it would be maintained. Mr. Harbeson said there would be plenty of room to maintain it. Mr. Rheaume said the applicant was taking advantage of using the additional square footage and that the wall of the second floor will match the wall of the first floor. Mr. Harbeson agreed and said it was the professional standard for a minimum width of a one-car garage. Mr. Rheaume asked what the linear length of the fence for the secondary front yard was. Attorney Durbin said the fence ran off the left side of the house. Mr. Rheaume said the applicant's property line ran closer to the fence but the Board did not know its dimensions. Attorney Durbin said the fence was at least 10 feet off the pavement. The fence was further discussed.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp 1:35:30]

Mr. Nies said he was normally skeptical about fences in the front yard, but in this case it was the principal front yard and a 6-ft high fence. He said the ground from the road sloped down to the fence, so the fence did not appear as daunting as it would otherwise. He said he could support it. Chair Margeson said she had a lot of concerns about the application due to the size of the addition where the carport was and how close it was to the side yard, and the bulking of the structure of the lot. Mr. Rheaume agreed. He said four feet was tight and would be right up against the neighbor's property and that it was too much of an ask. He said the fence was set back far enough that it would not cause an issue. Mr. Rossi and Mr. Sullivan agreed that it was too much for the lot.

DECISION OF THE BOARD [Timestamp 1:42:45]

Mr. Rossi moved to deny the application as presented and advertised, seconded by Mr. Rheaume.

Mr. Rossi said the application would not meet the first two criteria of not being contrary to the public interest and observing the spirit of the ordinance. He said the spirit of the ordinance was to prevent overcrowding, particularly having structures abutting up against other ones on adjacent properties. Mr. Rheaume said he thought the criteria of not being contrary to the public interest and the hardship were not met. Regarding special conditions of the property, he said a corner lot was not really driving the issue. He said there was an existing but not substantial structure, so that did not contribute to the uniqueness of the property relative to others in the zone. He said the lot was small but he did not think that the applicant made a strong-enough argument that other similar additions came along that required the additional room to the side property line. He said the property did not have enough unique conditions to say there was something special about it relative to others in the zone and should be granted the level of relief being asked for, with a two-story addition at four feet back from the property line. Vice-Chair Mattson said the fence variance was also a part of the application and asked if it should be considered separately. Chair Margeson explained why it should not. Mr. Rossi said he saw no need to include specific mention of the fence.

Mr. Rheaume withdrew his seconding of the motion by Mr. Rossi.

*The **amended** motion was: Mr. Rossi moved to deny the application because it failed the first two criteria of not being contrary to the public interest and observing the spirit of the ordinance and the hardship criteria. Mr. Sullivan seconded. The motion passed by a vote of 4-3, with Mr. Rheaume, Vice-Chair Mattson, and Mr. Nies voting in opposition.*

C. The request of **Schofield-Kanner Revocable Trust (Owners),** and **Cain Investments, LLC (Applicant)**, for property located at **0 Woodworth Avenue** whereas relief is needed to construct a new single-family residence on a vacant lot, which requires the following: 1) Variance from Section 10.521 to allow a) lot area of 3,440 SF where 15,000 SF is required, b) lot area per dwelling unit of 3,440 SF where 15,000 SF is required, c) 40 feet of contiguous street frontage where 100 feet is required, d) lot depth of 86 feet where 100 feet is required, e) a front yard setback of 17 feet where 30 feet is required, f) a rear yard setback of 10 feet where 30 feet is required, and g) a building coverage of 35% where 20%

is allowed. Said property is located on Assessor Map 232 Lot 73 and lies within the Single Residence B (SRB) District. (LU-26-125)

SPEAKING TO THE PETITION [Timestamp 1:50:05]

Attorney Derek Durbin was present on behalf of the applicant Paul Cain. He said the vacant lot was created in 1902 as a subdivision plan and was nonconforming with respect to area frontage and depth. He said the building envelope was only 520 sf and that a narrow 3-bedroom, 2-bath home was proposed to accommodate it. He noted that the actual coverage request was 34.6 percent and included a proposed bulkhead with 2 feet of relief from the rear setback. He reviewed the criteria. He addressed the Fisher v. Dover issue and said there was an attempt at one time to reconfigure lot lines that would have rendered two lots nonconforming, but it was denied. He said the application was different because it related to the existing nonconforming lot.

[Timestamp 2:02:17] Vice-Chair Mattson said there was a note about the rear yard setback being 8 ft vs. 10 ft and he asked if there were issues with how that was advertised. Ms. Harris said it was advertised for 10 feet, but the application was updated after the deadline to reflect 8 feet for a bulkhead. She said it could be postponed for proper notice. Attorney Durbin further explained why it was revised and said that the amended variance request could be removed and the bulkhead designed so that it did not require the extra 2 feet. Mr. Rossi said Lot 232-77 was very similar. Attorney Durbin said that lot was not encumbered by wetlands so it had a lot of similar dimensions. He said that lot and Lot 243-21 were the only two undeveloped lots of a similar configuration in the area that were not encumbered by wetlands or owned by the City. Mr. Rheaume asked if Attorney Durbin had a comparison for two other small lots as to the footprint and lot coverage for the structures. Attorney Durbin said Lots 59 and 70 exceed the 20 percent building coverage. Mr. Holzman asked where the current owner got the information from 2009 if the City did not have a record of it. Attorney Durbin said he got it through someone who researched the City files some time ago. Chair Margeson asked what the other egress out of the basement was. Mr. Cain explained that the bulkhead would have to be reconfigured vertically and that it would be lower than the 18 inches.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

No one spoke.

SPEAKING IN OPPOSITION TO THE PETITION [Timestamp 2:14:20]

Rich Duddy of 56 Swett Ave told the Board that the former owners of the property tried to subdivide it twice and were denied. He said the applicant was asking for seven variances to build a very large house on a very tiny lot and that he did not want to look at it from his front window. He gave examples of small homes in the neighborhood and said the applicant had enough land to build something comparable but that he wanted to maximize the lot for profit.

Mary Pirrung of 59 Swett Ave asked why there was not a photo shown of the actual lot the applicant wanted to build on. She said two of the photos were of her property. Chair Margeson said the photos just showed the elevations. Ms. Pirrung said the proposed house was too large for the lot.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney Durbin said the floor plan is slightly under 2,300 finished square feet, which was needed for modern living space and storage.

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

DISCUSSION OF THE BOARD [Timestamp 2:30:40]

Mr. Rheaume said the applicant's representative summarized the situation best by admitting that they were trying to develop a house from the 2020s onto a lot designed in the early 1900s. He said there was a significant incompatibility between those two things. He said making any kind of buildable lot would be a struggle, but the relief asked was creating yet another layer of nonconformity in trying to make it into what the applicant was looking for in a lot. He said the configuration asked for was too much. Vice-Chair Mattson said a lot of variances were requested but the lot is quite small. He said the lot should be allowed to have some type of home on it and he thought fewer variances could be asked for, but without some form of relief, the lot would never be allowed to be built on. Mr. Rossi said the proposed home was a far cry from the Sears catalog homes that the lots were intended for, but it was contemporary in terms of what a house should look like. He said he did not think it was out of character with the neighborhood and did not believe that the Board should consider the lot a non-developable one. He said the applicant's approach was reasonable and that he would support it. Mr. Holzman said there was room for a house on the lot but not the size proposed. Chair Margeson said if the Board did not give reasonable relief, it could be considered a taking because the lot is a lawful nonconforming one. She said she thought the proposed structure was too big and that a different application would have required not as much relief from the front yard and rear yard setbacks and building coverage. Mr. Nies said his main concern was that the rear yard setback was too close. Mr. Rheaume said parsing the application would not be helpful because additional relief would be needed for any proposed structure.

DECISION OF THE BOARD [Timestamp 2:40:46]

Mr. Rossi moved to grant the lot area, lot area per dwelling unit, the frontage, and the depth variances (variances 1a through 1d). Mr. Nies seconded.

Mr. Rossi said granting the four variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said there is no public interest in restricting the use of the lot as a buildable lot. He said substantial justice would be done because the loss to the applicant by not being able to build on the lot would outweigh any gain to the public by not having additional housing made available. He said granting the four variances would not diminish the values of

surrounding properties, noting that the Board had not heard anyone say that there was a fundamental problem with building there but there were just issues with other aspects of the application that were not included in Variances 1a through 1d. He said literal enforcement of the ordinance would result in unnecessary hardship because there was no way to cure the lot of its deficiencies with regard to lot area, lot area per dwelling unit, the frontage, and the depth. He said the lot is what it is and is not consistent with the zoning that was developed long after the lot was laid out, and there is no way to make use of it other than granting the four variances. Mr. Nies concurred and had nothing to add. Mr. Sullivan said it was a bad idea to go in that direction because if the motion passed, the Board would have approved something that has not been requested and it would leave dangling a fresh application that no one has thought about. He said it would create an almost impossible situation for the Planning Department going forward when they got the next application. He also noted that the meetings were running late enough without the Board dissecting every application to see what little part they could approve. He said he would vote against the motion. It was further discussed. Vice-Chair Mattson said he appreciated Mr. Sullivan's comments and said if the four variances were approved, the applicant could proceed without coming before the Board again, but it could complicate things for the Planning Department. Mr. Rossi said he did not see a complication for the Planning Department and that he was trying to convey that the property owner could proceed and come back with an alternative proposal. He said there were economic consequences for delaying decisions. Mr. Rheaume said in that case, he would not support the motion because the level of relief to make something realistically palatable to the owner is not consequential enough for the Board to take on this decision at this time. He said the Board would need to see the whole project. Mr. Nies said he seconded the motion but would probably vote against it now because the Board could conceivably approve the right project. Chair Margeson said she would not support the motion because she agreed with Mr. Sullivan.

The motion failed by a vote of 4-3, with Mr. Nies, Mr. Rheaume, Mr. Sullivan, and Chair Margeson voting in opposition.

[Timestamp 2:49:59] *Vice-Chair Mattson moved to deny the entire application as presented and advertised, seconded by Mr. Rheaume.*

Vice-Chair Mattson said the application failed the first two criteria. He said the applicant was asking for a lot of relief and that some of it was due to the land, but the relief for the front yard and rear yard setbacks and building coverage would conflict with the purpose of the ordinance and would be contrary to the public interest in terms of crowding, air, light, and privacy. He said the spirit of the ordinance would not be observed because the project could alter the essential characteristics of the neighborhood and how the zoning is being applied. He said there were a few comparable properties in the area, but some of the bigger homes were on bigger lots, so a good-sized home like the applicant's was not demonstrated in the neighborhood.

The motion to deny passed with all in favor, 7-0.

D. The request of **Peters Family Trust (Owner)**, for property located at **54 Lincoln Avenue** whereas relief is needed to construct a second-floor accessory dwelling unit over an existing detached garage, which requires the following: 1) Variance from Section 10.521 to allow a) a rear yard setback of 10 feet where 20 feet is required; and b) building coverage of 29% where 25% is allowed. Said property is located on Assessor Map 111 Lot 21 and lies within the General Residence A (GRA) District. (LU-26-124)

SPEAKING TO THE PETITION [Timestamp 2:54:21]

Project contractor Jeff Dyer was present on behalf of the owner. He said they wanted to place an ADU above the 2-car garage and that the only horizontal setback relief they needed was the egress to get out of the ADU. He said the design would match the existing home and the egress would be on the right side of the house so that the parking space was not lost. He reviewed the criteria.

[Timestamp 3:01:16] Mr. Nies said the applicant would need less relief if he put the egress on the left side of the garage instead. Mr. Dyer said the left side of the property was near a City-owned park and the space was small.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DECISION OF THE BOARD [Timestamp 3:03:35]

Mr. Rheaume moved to grant the variances for the application as presented and advertised, seconded by Mr. Sullivan.

Mr. Rheaume verified that the application is a two percent increase in lot coverage driven solely by a set of stairs, and the encroachment on the rear property line is a vertical expansion of an existing one-story garage to a second story but is modest in size. He said the amount of square footage in the setback area is small and the property is abutted by a City park on one side and a deep lot that is unlikely to be developed on the other side. He said the chosen location for the stairs would be the least visible to the abutters. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the additional relief requested is minimal in a form of a set of stairs and not a major structure. In terms of visual characteristics to the neighborhood, he said the applicant selected the least impactful location. He said substantial justice would be done because there was nothing in the public's purview that would outweigh the applicant's ability to make better use of the garage space by adding a second floor and turning it into an ADU, which would be more housing for a potential renter or family member and would be one less housing unit needed in the City, so that was a positive public benefit. He said the location of the stairs on the back of the property would not impede the public's view of the park. He said granting the variances would not diminish the values of surrounding properties because there was

nothing in the modest vertical expansion that would do so, and adding an ADU would probably increase the value of the applicant's property and surrounding ones. He said literal enforcement of the ordinance would result in an unnecessary hardship due to the property's special conditions of being abutted by public open land and a deep lot that probably would not be fully developed. He said the use was reasonable because it would expand a fully approved use by adding a modest second story to an existing garage and not increasing the garage's footprint. Mr. Sullivan concurred.

The motion passed with all in favor, 7-0.

***Note**: At this point in the meeting, Mr. Nies moved to go past 10:00, seconded by Mr. Rheaume. The motion passed with all in favor, 7-0.*

E. The request of **Michael** and **Stephanie Febonio (Owners)**, for property located at **9 Sheafe Street** whereas relief is needed to construct an 8-foot fence which requires the following: 1) Variance from Section 10.515.13 to allow an 8-foot fence in the secondary front yard. Said property is located on Assessor Map 107 Lot 13 and lies within Character District 4 (CD4) and the Historic District. (LU-26-123)

SPEAKING TO THE PETITION [Timestamp 3:09:53]

The applicant Michael Febonio said he wanted to replace a fence in the back with an 8-ft fence but that he would accept having a 6-ft fence with a 1-ft lattice on the top. He said his backyard was on Custom House Lane and there were 8'8" between the garage and the neighbor's property line, so the fence would be about 24 feet long. He said he wanted to enclose his yard for his animals and for privacy and security reasons. He said Custom House Lane was really a one-lane street used for parking and access to the commercial businesses for trash delivery and so on. He said he had issues with trash blowing in his yard, drug paraphernalia, and people smoking outside the area who tried to pet his dogs. He reviewed the criteria.

[Timestamp 3:19:52] Mr. Rheaume confirmed with Ms. Harris that the current 8-ft fence was allowed by right per the ordinance, so it was really the 8'8" long section in the front yard portion that the applicant needed relief for. He asked Mr. Febonio if he would include a gate with the fence, and Mr. Febonio agreed and said it would look like a solid fence across the back. Mr. Sullivan asked about a letter from the Sweeney and Sweeney Law Firm indicating that the applicant would not allow his neighbor on his property. Mr. Febonio said it had nothing to do with his application.

Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

No one spoke.

SPEAKING IN OPPOSITION TO THE PETITION

Chair Margeson said the Board had letters from the abutters but that they did object to the fence.

SPEAKING TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD [Timestamp 3:24:33]

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

Mr. Nies said Sheafe Street is normally the front yard and Custom House Lane marks the boundary for the rear yard, but the applicant's thru lot was more unusual than most of the thru lots the Board had seen because Custom House Lane seemed to function more as an alley than a street. He said granting the variance will not be contrary to the public interest and will observe the spirit of the ordinance; it will not affect the health, safety, and welfare of the neighborhood in an adverse way; it will have no effect on light and air; and will not alter the essential character of the neighborhood. He said a lot of the buildings on the street extend all the way to the street line, and the fact that the Board did not like fences on front yards because they create a wall was irrelevant because there were already walls on the street that extend all the way to the street. He said substantial justice would be done because he could not see any benefit to the public by denial that would outweigh the loss to the applicant, and denying the variance would not allow the applicant the security he needs due to the activities that take place on Custom House Lane. He said granting the variance will not diminish the value of surrounding properties, noting that no evidence was presented that it would and no abutters expressed concerns about the fence affecting their properties. He said there were 6-to-6-1/2 foot fences on other nearby properties and the property values were not diminishing in those areas due to the fences. He said the property was unusual because it was officially a thru lot, but someone could only get to the back by going through the house. He said many of the properties extend all the way to the lot line on Custom House Lane. He said the applicant's yard is narrow and the relief for the fence will provide security for the yard. He said the fence is higher than what the Board usually approves but is a short stretch that is next to a garage that goes all the way to the property line on one side. He said he did not believe that there is a fair and substantial relationship between the purpose of the ordinance and its specific application to the property. Vice-Chair Mattson said normally he was hesitant to approve such a tall fence, but the applicant's scenario was special. He said the main issue was that Custom House Lane was really a dead-end back alley and not representative of a typical street frontage, so there was not much of a pedestrian experience and if anything, the pedestrians back there were doing undesirable activities.

The motion passed with all in favor, 7-0.

F. The request of **325 Corporate Drive II LLC C/O The Kane Company (Owners)**, for property located at **325 Corporate Drive** whereas relief is needed to install two wall signs and monument signage, which requires the following: 1) Variance from Section 306.01(d)

of the Pease Development Ordinance to allow signs to exceed the 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 318 Lot 2 and lies within the Airport Business Commercial (ABC) District. (LU-26-122)

SPEAKING TO THE PETITION [Timestamp 3:30:25]

Property Manager Titus Cramer was present on behalf of the Kane Company. He said the site had a monument sign a little over 100 sf seen from Corporate Drive. He said the way each side of the sign was calculated counted toward the aggregate area. He said two of the building's tenants wanted to install signage on the building for additional wayfinding and identify. He reviewed the criteria.

[Timestamp 3:35:17] Mr. Holzman asked if having both sides of the monument sign go to the aggregate was an interpretation the applicant had gotten in the past or was just logical. Mr. Cramer said that was the way Pease looked at it.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DECISION OF THE BOARD [Timestamp 3:37:11]

Mr. Rheaume moved to recommend approval of the requested variance to the Pease Development Authority (PDA) Board. Mr. Holzman seconded.

Mr. Rheaume said the request would have no adverse effect on or diminution in the value of surrounding properties because the corner lot is somewhat separated from some of the other businesses and is a unique location in the Pease complex. He said the monument signage is minimal overall, which is a key factor, and the other signs that are wall signs that Pease proposes adding a substantial amount to the overall square footage are more hidden, so he did not see how any of the surrounding properties would be negatively impacted. He said granting the variance would be a benefit to the public interest because it will provide improved wayfinding, and the monument sign out front would still be modest. He said that, once someone sees that first initial wayfinding sign, going along will help reassure them and give them a sense of where in the building they need to go. He said denial of the variance would result in unnecessary hardship to the person seeking it. He said the lot had an exceptional amount of frontage penalizing them, understanding that there is a 200 sf cap with that, and in this case, that seems egregious relative to what the applicant should normally be allowed to have. He said granting the variance would do substantial justice and would weigh in the applicant's favor. He said the public would get what they need in terms of wayfinding and the applicant can take advantage of the remainder of the signage once they're on the lot. He said the proposed use will not be contrary to the spirit of the zoning rule. He said it caps this amount of signage at 200 sf, which is a tight cap, and the intent is to have the signage along the roadside be

very modest. He said the additional signage will not be apparent until someone gets onto the property site. Relative to what would be by the rest of the criteria of 2 sf per foot of linear footage, he said the 300 sf request is very modest. He said the Board should recommend approval.

Mr. Holzman concurred and had nothing to add. The motion passed with all in favor, 7-0.

G. The request of **Rocket Too Trust (Owner)**, for property located at **10 Merrimac Street** whereas relief is needed to reconstruct a porte-cochere which requires the following: 1) Variance from Section 10.521 to allow a) a rear yard setback of 10 feet where 20 feet is required; and b) building coverage of 26% where 25% is allowed. Said property is located on Assessor Map 129 Lot 17 and lies within the General Residence A (GRA) District. (LU-26-128)

SPEAKING TO THE PETITION [Timestamp 3:41:16]

Keri Marshall was present on behalf of the Rocket Too Trust and said they wanted to replace the porte-cochere that was removed by the previous owner without permits. She said they filed a request to have the National Park Service put the property into the National Historic Register. She showed photos of what the porte-cochere looked like in the past and said they were just asking to replace what was improperly removed. She reviewed the criteria.

[Timestamp 3:47:25] Mr. Rossi asked what the benefit to the Rocket Too Trust would be for getting the property on the National Historic Register. Ms. Marshall said there were significant financial considerations that they would get some credits for from the National Park Service. In response to Mr. Rheaume's questions, Ms. Marshall said the property line ran up the driveway of the neighboring apartment building, and some of the driveway was on that property. She said they also removed the outdoor egress from the third floor. Mr. Nies asked if the porte-cochere would be wide open on three of the four sides, and Ms. Marshall agreed.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DECISION OF THE BOARD [Timestamp 3:50:03]

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

Mr. Rossi said granting the variance will not be contrary to the public interest and will observe the spirit of the ordinance. He said the primary difference is the rear yard setback and the change in building coverage is de minimis, as is the rear yard setback. He said the spirit of the ordinance with regard to setbacks would be preserved because the porte-cochere is an open structure that does not

infringe upon light, air, and circulation around surrounding properties. He said substantial justice will be done because there is a quantifiable and quantified loss to the applicant if they did not get the changes approved so that they can get their house registered with the National Park Service and get some renumeration for the investment they put into preserving the property. He said there is no gain to the public by denying the variance that would outweigh the substantial benefit to the property owner. He said granting the variance would not diminish the values of surrounding properties because the project would restore the property to what it once was, which would only enhance the neighborhood and the values of surrounding properties. He said literal enforcement of the ordinance will result in an unnecessary hardship, noting that the unique aspects of the property are its historic nature and the fact that what is being proposed is a restoration and repair of damage to an historic structure that should never have occurred. Mr. Nies concurred and had nothing to add.

The motion passed with all in favor, 7-0.

Chair Margeson said Member Mr. Lucas resigned because he moved to Chicago, so there were two openings for alternate members and two openings for regular members. She said she would ask the Board at the December meeting to consider recommending eliminating the Board's review of Pease Development Authority (PDA) applications as well as issues with the ABC Buildings.

IV. ADJOURNMENT

The meeting adjourned at 10:55 pm.

Submitted,
Joann Breault
BOA Meeting Minutes Taker

II. OLD BUSINESS

A. The request of **Christopher H Daniell (Owner)**, for property located at **50 Whidden Street** whereas relief is needed to construct a rear addition and cantilevered deck which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 25 feet are required. Said property is located on Assessor Map 102 Lot 66 and lies within the General Residence B (GRB) and Historic Districts. (LU-26-15)

Existing & Proposed Conditions

	Existing	Proposed	Permitted/ Required	
Land Use:	Single-family Residential	Construct addition	Primarily residential	
Lot area (sq. ft.):	3,636	3,636	5,000	min.
Lot Area per Dwelling Unit (sq. ft.):	3,636	3,636	5,000	min.
Front Yard (ft.):	0.5	0.5	5	min.
Right Yard (ft.):	>10	>10	10	min.
Left Yard (ft.):	3.8	3.8	10	min.
Rear Yard (ft.):	10	9.5	25	min.
Height (ft.):	26	26	35	max.
Building Coverage (%):	23.2	24.6	30	max.
Open Space Coverage (%):	61.7	60.6	25	min.
Estimated Age of Structure:	1780	Variance request(s) shown in red.		

Other Permits/Approvals Required

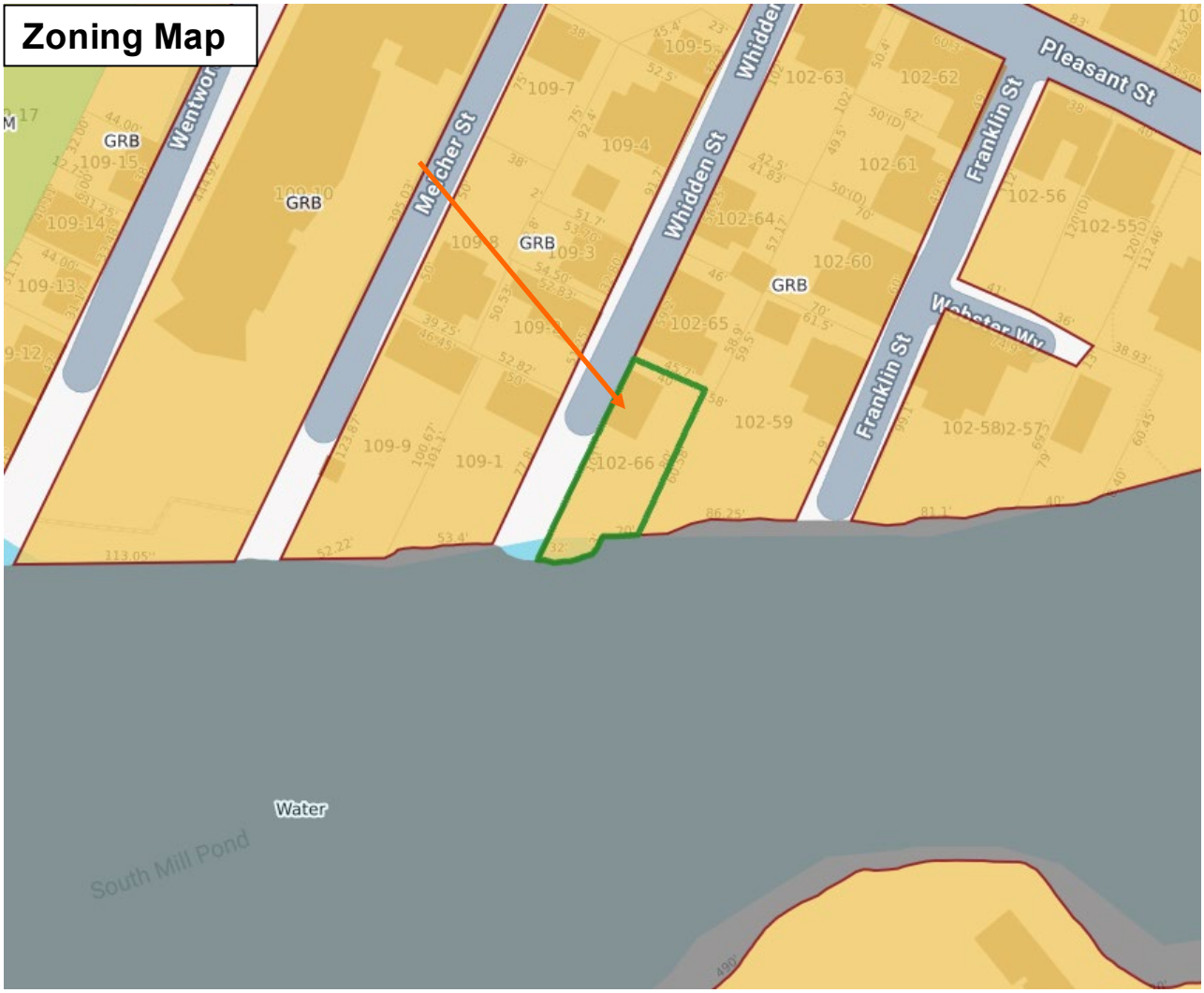
- Wetland Conditional Use Permit – Conservation Commission and Planning Board
- Building Permit
- Historic District Commission

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

September 1, 1987 – The Board **granted** a Variance from Article III, Section 10-302 to construct an 8' x 12' one story kitchen addition with a 10' rear yard where a 25' rear yard is required.

Planning Department Comments

The applicant is proposing an infill addition at the rear of the existing structure and a new cantilevered deck on the right side. This project meets all dimensional requirements except the rear setback.

At the September 9, 2026 Conservation Commission meeting, the commission voted to recommend approval to the Planning Board with the following stipulations:

Prior to submission to the Planning Board:

1. Applicant shall denote on plans where silt soxx will be placed prior to the start of construction.
2. Include a note on the plan set stating that property owner is responsible for scheduling a post-construction inspection with the Department of Public Works for the adjacent stormwater pipe within City property. If found damaged, applicant will be responsible for repair.

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.

COLBY T. GAMESTER

Attorney At Law

154 Maplewood Avenue
Portsmouth, New Hampshire 03801

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

October 21, 2026

SUBMITTED VIA VIEWPOINT & HAND DELIVERED
City of Portsmouth
Zoning Board of Adjustment
Attn: Beth Margeson, Chair
1 Junkins Avenue
Portsmouth, NH 03801

Re: Supplemental Narrative to Variance Application of Christopher H. Daniell
50 Whidden Street, Portsmouth, NH (Tax Map 102, Lot 66)
LU-26-15

Dear Chair Margeson:

Please find enclosed a supplemental materials to and for the Variance Application originally submitted with the Zoning Board of Adjustment on August 19, 2026. These additional materials are provided due to the changes in the design of the proposed project.

Enclosed herewith are the following materials for submission (to be included along with the original Application) to the Board for consideration at the November 2026 meeting:

1. Supplemental Narrative to Variance Application
2. Exhibit A-1 – Site Plan
3. Exhibit D-1 – Elevations

One (1) hardcopy of these materials will be delivered this same day to the Planning Department. Should there be any questions, comments or concerns regarding the enclosed materials or the Application in general then please do not hesitate to contact me.

Kindest Regards,

Colby T. Gamester, Esq.

Enclosures
Cc: file; Client; Scott Simons; Scott Boudreau; Jason Lajeunesse; Brian Bouchard, Esq. (all via email only)

CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT
SUPPLEMNTAL NARRATIVE TO APPLICATION

Christopher H. Daniell
50 Whidden Street
Portsmouth, NH 03801
Owner and Applicant

Christopher H. Daniell (the "Owner" or "Applicant") submits this Supplemental Narrative, together with the materials identified below, to update the Zoning Board of Adjustment ("ZBA") regarding the status of the pending variance application (LU-26-15) and to address the revised design of the proposed project.

Following the initial submission of August 19, 2026, and the subsequent receipt of opposition from an abutter, the Owner elected to revise the architectural design of the proposed living area expansion at the Property. The new design is a scaled-back version of the project previously submitted. These changes and redesign are shown on the Elevations prepared by the project architect, Scott Simons, enclosed herewith as the supplemental Exhibit D-1 (the "Redesign").

Massing has been reduced significantly; there is no longer a proposed roof and roofline extending beyond the second floor. The second floor changes now only propose a walk out deck from a proposed set of French doors, and the proposed new roof line matches what currently exists over the first floor. These changes can best be seen on the updated east elevation. Ultimately, the reduction and changes were designed to continue seamlessly matching the existing building and the architectural character of the 1780 structure.

In addition, the Planning Department had previously recommended that an updated site plan be provided to show the impacted area of the existing footprint of the structure and to include more information regarding the rear yard setback. That updated site plan, prepared by Boudreau Land Surveying, PLLC, is also submitted herewith as supplemental Exhibit A-1.

The updated site plan provides the visual representation of the portion of the existing house footprint affected by the proposed project, confirming that the only new horizontal projection beyond the preexisting footprint continues to be the modest cantilevered deck extending toward the South Mill Pond, and that the living-area expansion, occurring within the rear yard setback, continues to occur only on and within the preexisting footprint. The updated site plan also provides the existing distance from the southeasterly corner of the house to the rear boundary and the distance from the proposed southeasterly corner of the cantilevered deck to the rear boundary.

The Redesign does not change the relief requested in the original application. The Owner continues to seek the same variance from Article 10.521 to permit a rear-yard setback of 9.9 feet where 25 feet is required. The expansion area remains within the preexisting nonconforming building footprint in the rear yard area, and the sole new horizontal projection remains the cantilevered deck directed toward the open shoreland. No new horizontal expansion is created toward any abutter. The changes are confined to massing and architecture within the same existing footprint and building envelope. A new application is not required; the Owner is simply modifying the massing and intensity of the in-fill project while remaining fully within the relief previously noticed and requested. That said, we understand that the application will be re-noticed since it has been postponed twice.

While private views of the South Mill Pond are not a protected interest under the Zoning Ordinance or New Hampshire law, the Redesign has been conceived to further advance the purposes of the rear yard setback by improving light, air, and spatial relationships relative to the abutter to the north, all while remaining fully consistent with the historic character of the structure and the neighborhood.

The Redesign will require an updated approval from the Historic District Commission ("HDC"), and the HDC meeting is to occur prior the November ZBA meeting. Should the HDC suggest any changes to the design, or condition its hopeful approval, then the ZBA will be informed accordingly.

The responses to the variance criteria in the original Narrative still stand; however, because of the Redesign, the following supplements the variance criteria responses previously submitted.

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

The Redesign further ensures that the proposal will not alter the essential character of the neighborhood or threaten public health, safety, or welfare. The HDC previously granted a Certificate of Approval for the larger original design and architectural approach. The scaled-back massing makes the addition even more subservient to the primary historic form of the 1780 structure. The work remains confined to the southeasterly corner with only the modest cantilevered deck projecting toward open shoreland. By further reducing the massing, while continuing to concentrate new living area inside the existing structure's footprint, the Redesign continues to advance the purposes of the setback by protecting light, air, and open space, without introducing any expansion toward abutters.

B. Substantial justice will be done.

The redesign reinforces that any loss to the Owner from denial would not be outweighed by a gain to the general public. The Owner has now further minimized potential dimensional and neighborhood effects while still achieving a reasonable increase in living area on a uniquely constrained 1780 waterfront lot. The Redesign represents the least impactful means of accomplishing the project's purpose. Denial would leave the Owner unable to make a modest, carefully scaled improvement to his home with no corresponding public benefit.

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

This criterion is particularly strengthened by the Redesign. The reduced massing and matching roof lines further minimize any potential effect on light, air, and open space relative to neighboring properties. Most notably, the abutter to the north has agreed to withdraw his opposition because of the Redesign. With the opposition grounded in concerns over the prior proposed project's massing and height, in relation to diminution of his property value, which is now resolved, and with no other evidence of diminution based on support of the other direct abutters, the record supports a finding that surrounding property values will not be diminished. Improvement of a well maintained historic waterfront home through a restrained, architecturally consistent addition is more likely to support and maintain, if anything, than to diminish neighborhood property values.

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

The special conditions of the Property remain unchanged: a small 3,636 sq. ft. preexisting nonconforming lot of record whose dwelling was constructed in 1780, entirely within the 100-foot wetland buffer, with multiple dimensional nonconformities that are the direct product of the structure's historic placement on a small waterfront lot prior to the enactment of zoning. These conditions distinguish the Property and make ordinary expansion practically impossible without relief. The Redesign demonstrates that the Owner has pursued a least impactful solution consistent with reasonable residential use.

There remains no fair and substantial relationship between the general purposes of the rear-yard setback and its rigid application to this pre-zoning, buffer-constrained parcel. Expanding modest living area within the existing footprint, together with a small cantilevered deck directed toward open shoreland, continues to be a reasonable use.

The Redesign does not alter the relief requested. It simply reduces massing and intensity within the same existing footprint and building envelope previously submitted. The five criteria remain satisfied. The Owner respectfully requests that the ZBA approve the variance.

Respectfully submitted,

Christopher H. Daniell
Owner and Applicant

By and through his Attorney,

Dated: October 21, 2026

Colby T. Gamester, Esquire
154 Maplewood Avenue
Portsmouth, NH 03801
603-427-0000
colby@gamesterlaw.com

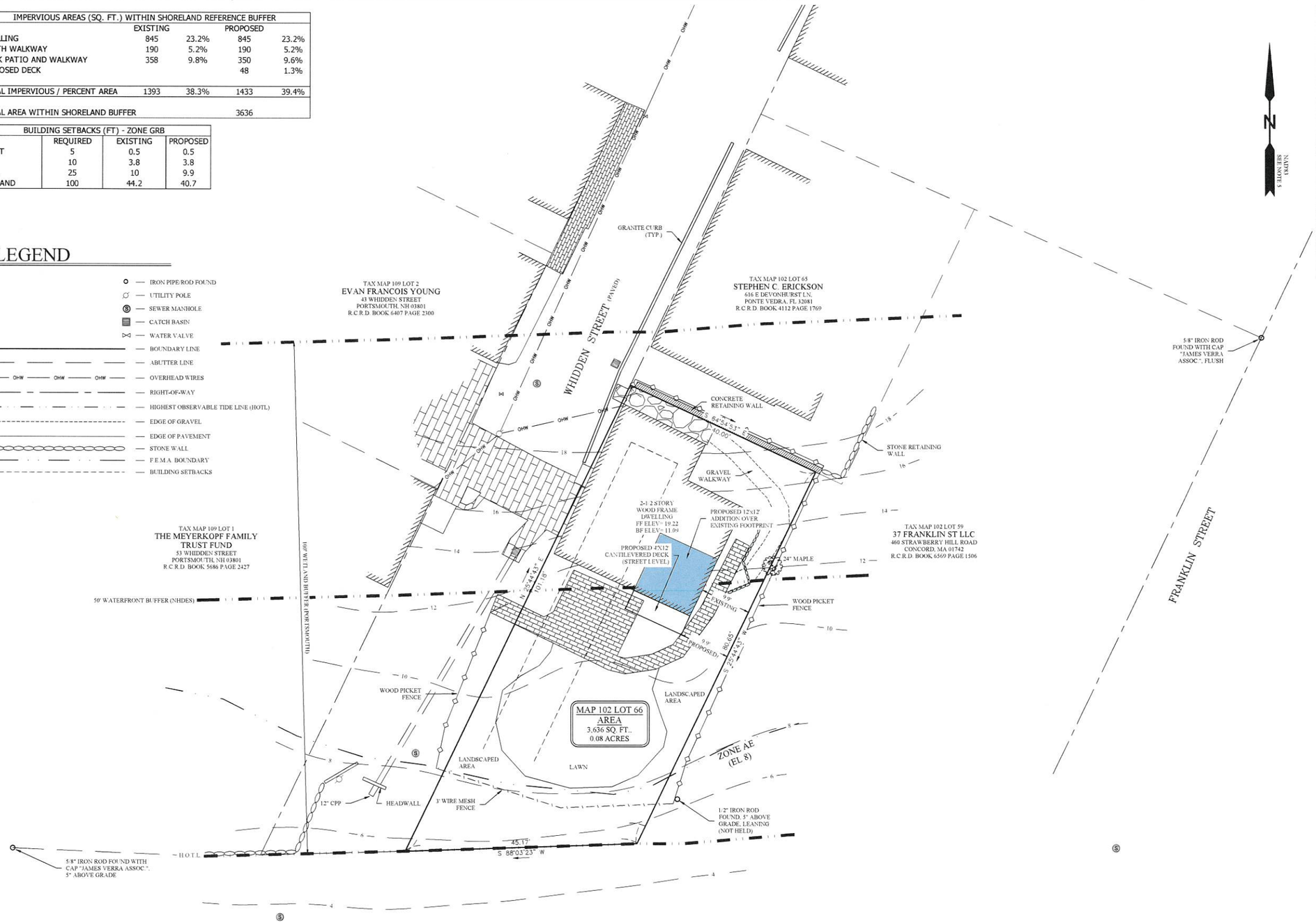
EXHIBIT A1

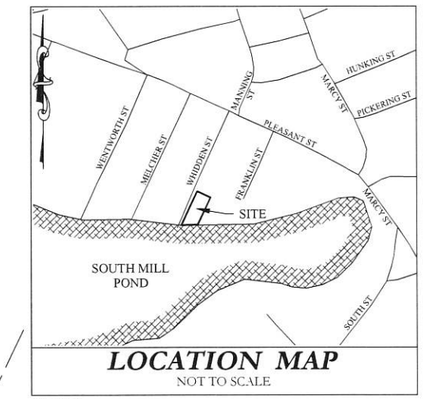
IMPERVIOUS AREAS (SQ. FT.) WITHIN SHORELAND REFERENCE BUFFER				
	EXISTING		PROPOSED	
DWELLING	845	23.2%	845	23.2%
NORTH WALKWAY	190	5.2%	190	5.2%
BRICK PATIO AND WALKWAY	358	9.8%	350	9.6%
PROPOSED DECK			48	1.3%
TOTAL IMPERVIOUS / PERCENT AREA	1393	38.3%	1433	39.4%
TOTAL AREA WITHIN SHORELAND BUFFER			3636	

BUILDING SETBACKS (FT) - ZONE GRB			
	REQUIRED	EXISTING	PROPOSED
FRONT	5	0.5	0.5
SIDE	10	3.8	3.8
REAR	25	10	9.9
WETLAND	100	44.2	40.7

LEGEND

- IRON PIPE/ROD FOUND
- UTILITY POLE
- SEWER MANHOLE
- CATCH BASIN
- WATER VALVE
- BOUNDARY LINE
- ABUTTER LINE
- OVERHEAD WIRES
- RIGHT-OF-WAY
- HIGHEST OBSERVABLE TIDE LINE (HOTL)
- EDGE OF GRAVEL
- EDGE OF PAVEMENT
- STONE WALL
- F.E.M.A. BOUNDARY
- BUILDING SETBACKS





LOCATION MAP
NOT TO SCALE

NOTES:

1. REFERENCE: TAX MAP 102 LOT 66
R.C.R.D. BOOK 5490 PAGE 2114

2. TOTAL PARCEL AREA: 3,636 SQ. FT. OR 0.08 AC.

3. OWNER OF RECORD: CHRISTOPHER H. DANIELL
50 WHIDDEN STREET
PORTSMOUTH, NH 03801

4. ZONE: GRB DISTRICT
DIMENSIONAL REQUIREMENTS

MINIMUM LOT AREA	5,000 sf.
MINIMUM FRONTAGE	80 ft.
MINIMUM FRONT SETBACK	5 ft.
MINIMUM SIDE SETBACK	10 ft.
MINIMUM REAR SETBACK	25 ft.
WETLAND BUFFER	100 ft.
BUILDING COVERAGE	30%+
MINIMUM OPEN SPACE	25%+

5. HORIZONTAL DATUM IS NHSPC (NAD'83) BASED ON GPS OBSERVATIONS.

6. VERTICAL DATUM SHOWN IS NAVD'88 BASED ON GPS OBSERVATIONS.

7. THE INTENT OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS AT THE TIME OF THE SURVEY IN RELATION TO THE LEGAL BOUNDARIES OF RECORD.

8. THE RESULTS OF THIS PLAN ARE BASED ON AN ON THE GROUND SURVEY PREPARED BY SDB ON AUGUST 6, 2026 USING A SPECTRA PRECISION FOCUS 30 ROBOTIC TOTAL STATION AND DATA COLLECTOR, AND A CARLSON BRx7 GNSS GPS RTK RECEIVER AND REMOTE BASE STATION.

9. A PORTION OF TAX MAP 102 LOT 66 FALLS WITHIN "ZONE AE" OF THE SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD, AS SHOWN ON F.I.R.M. MAP NUMBER 33015C0259F, EFFECTIVE JANUARY 29, 2021.

10. THE SURVEYED PREMISES FALLS ENTIRELY WITHIN THE 100-FOOT WETLAND BUFFER FROM SOUTH MILL POND.

PLAN REFERENCES:

1. PLAN TITLED "EASEMENT PLAN, TAX MAP 109 - LOTS 2 & 3 ON LAND OF MAHANNA PROPERTIES, LLC, TO BENEFIT JOHN F. GREEN & ALISON L. ZAEDER, 37 & 43 WHIDDEN STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE" DATED FEBRUARY 2016, PREPARED BY AMBIT ENGINEERING, INC., R.C.R.D. PLAN NO. D-39341.

0 10 20 30
1" = 10'

NO.	DATE	DESCRIPTION	BY
1	9/11/2026	SHOW 12'x12' ADDITION AND DIMENSIONS TO BOUNDARY	SDB

SITE PLAN
LAND OF
CHRISTOPHER H. DANIELL
(TAX MAP 102 LOT 66)
50 WHIDDEN STREET
PORTSMOUTH, NH

DRAWN BY: SDB	DATE: AUGUST 16, 2026
CHECKED BY: ARB	DRAWING NAME: 26031A2
JOB NAME: 26031	SHEET: C1

STATE OF NEW HAMPSHIRE — No. 961 SCOTT D BOUDREAU — SIGNATURE — LAND SURVEYOR

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

EXHIBIT D1



SOUTH ELEVATION

D003 EXISTING CONDITIONS + REMOVALS

50 WHITTEN STREET, PORTSMOUTH, NH

SIMONS, LLC, PORTLAND, ME 04101 03.24.26

REVISED 1 09.22.26



A201 REV.

SOUTH ELEVATION

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

50 WHIDDON STREET, PORTSMOUTH, N.H.

SCOTT SIMONS ARCHITECT, FAIA
PORTLAND, ME

REVISED: 09.22.26



A201 REV.

SOUTH ELEVATION

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

50 WHIDDON STREET, PORTSMOUTH, N.H.

SCOTT SIMONS ARCHITECT, FAIA
PORTLAND, ME

REVISED: 09.22.26



EAST ELEVATION
EXISTING CONDITIONS + REMOVALS

D004

50 WHIDDEN STREET, PORTSMOUTH, NH

SIMONS, LLC, PORTLAND, ME 04101 03.24.26

REVISED: 09.22.26



A202 REV.

EAST ELEVATION

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

50 WHIPPON STREET, PORTSMOUTH, N.H.

SCOTT SIMONS ARCHITECT, FAIA
PORTLAND, ME.

REVISED: 09.22.26



A202 REV.

EAST ELEVATION

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

50 WHIPPLE STREET, PORTSMOUTH, N.H.

SCOTT SIMONS ARCHITECT, FAIA
PORTLAND, ME.

REVISED: 09.22.26

II. OLD BUSINESS

B. The request of **Colbea Enterprises LLC (Owner),** for property located at **1980 Woodbury Avenue** whereas relief is needed for signage which requires the following: 1) Variance from Section 10.1251.10 to allow for aggregate sign area greater than the maximum of 1.5' per linear foot of the building frontage establishment; 2) Variance from Section 10.1252.40 to allow illumination of lightbars as canopy sign background distinguished only by color stripes; and 3) Variance from Section 10.1251.20 to allow for canopy sign area of 460.74 square feet and 192.90 square feet where 20 square ft is the maximum. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-163)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Gas Station/Convenience Store	*Add illuminated signage to canopy	Primarily Commercial
Aggregate Sign Area (sq. ft. per linear foot of bldg. frontage)	135.75 (Without canopy band)	789.39	240 max. (1.5/linear foot)
Estimated Age of Structure:	2026	Variance request(s) shown in red.	

*

Other Permits/Approvals Required

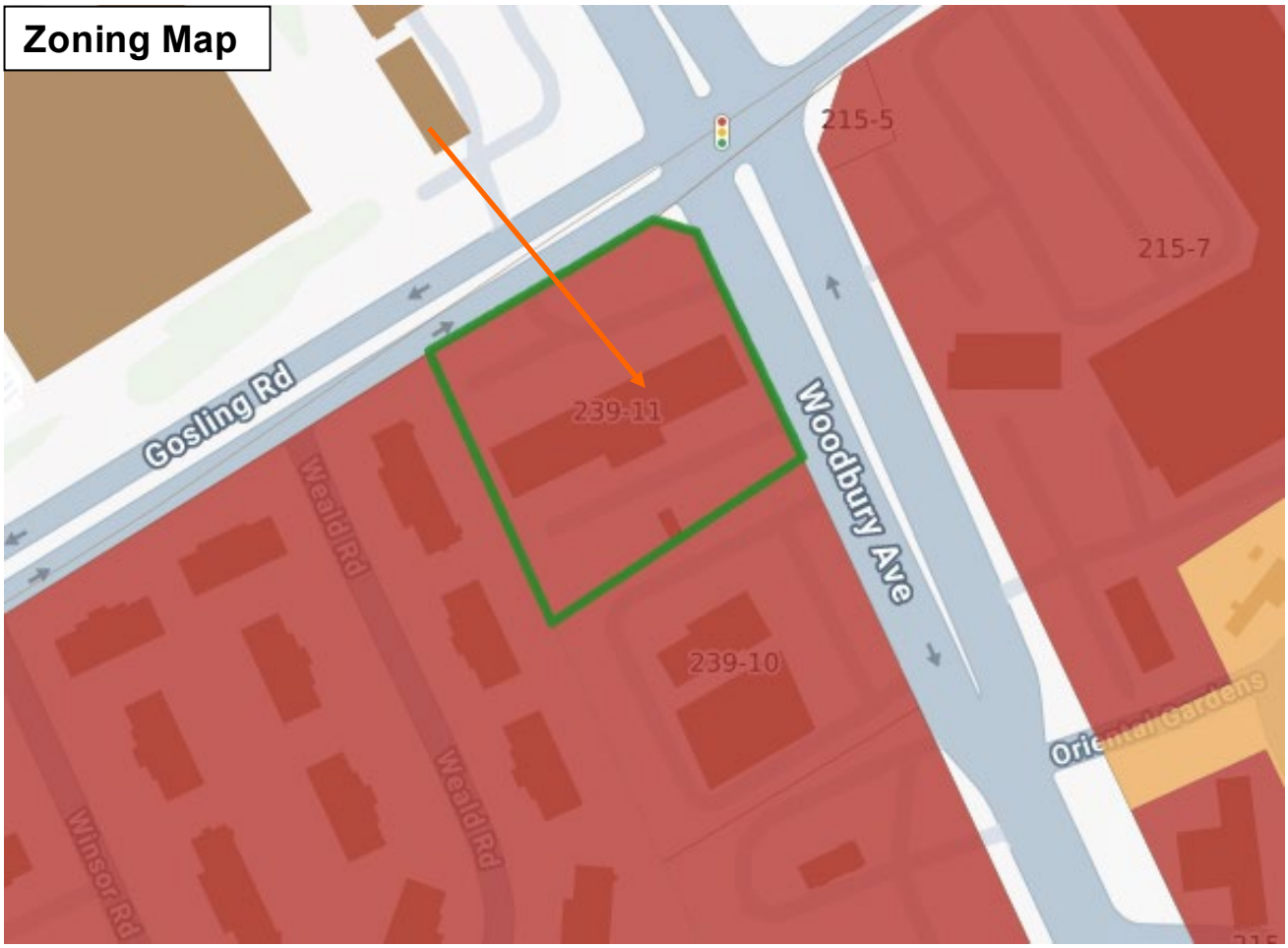
- Sign Permit

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

July 18, 1995 – 1) A Special Exception as allowed in Article II, Section 10-206(17) to construct an entire new gasoline service station facility with a 40' x 45' convenience store, a 36' x 175.85' canopy and a 10' x 24' storage building, and 2) a Variance from Article II, Section 10-302 to allow the canopy: a) a 67.3' front yard where 70' is the minimum required, b) a 14.3' right side yard where the minimum is 30', and; c) a 9.2' left yard where the minimum is 30', 3) a Variance from Article II, Section 10-402(1) to allow the storage building a 6' rear yard where 10' is the minimum required, 4) a Variance from Article II, Section 10-206 to allow the outdoor storage of two 1000 gallon propane tanks where such use is not allowed, and; 5) a Variance from Article IX, Section 10-901 to allow: a) a 72.3 s.f. freestanding sign at the corner of Gosling Road and Woodbury Avenue with a 10' setback where 35' is required, and; b) a 72.3 s.f. freestanding sign abutting Gosling Road on the right side of the property with 0' front and 25'± side yards where 35' is the minimum required.

The Board voted to **grant** the request for a Special Exception and Variances #2 and #3 as advertised and presented. The Board voted to **grant** the request for Variance #5 with the **stipulation**:

1. That the 72.3 s.f. freestanding sign abutting Gosling Road on the right of the property be maintained with a 5' front yard rather than a 0' front yard.

The Board voted to **deny** the request for Variance #4 as advertised and presented.

April 22, 2025 – The board voted to **grant** a Special Exception from Section 10.440, Use #8.122 to allow a convenience goods 2 use with 24 hours per day operation

July 15, 2025 - 1) Variance from Section 10.5B33.20 to allow for a front lot line build out of 0% where a minimum of 75% is required for a commercial building; 2) Variance from Section 10.5B34.60 to allow for a front setback from the lot line of 27 feet on Woodbury Avenue and 53.5 feet on Gosling Road where a maximum of 20 feet is required; 3) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street; 4) Variance from Section 10.835.31 to allow outdoor service facilities to be located within 34.5 feet and 40.5 of a lot line where 50 feet is required; 5) Variance from Section 10.835.32 to allow for drive-through lanes, bypass lanes and stacking lanes to be located within 13 feet of the property line where 30 feet is required; 6) Variance from Section 10.843.33 to allow for pump islands to be located within 34.5 feet of the lot lines where 40 feet is required; 7) Variance from Section 10.1251.10 to allow for an aggregate sign area of 309 s.f. where a maximum of 223.5 s.f. is allowed; 8) Variance from Section 10.1251.20 to allow a 134 s.f. freestanding sign where a maximum of 100 s.f. is allowed; and 9) Variance from Section 10.1253.10 to allow for a freestanding sign at a height of 26.5 feet where a maximum of 20 feet is allowed. Said property is shown on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District.

The Board voted to **grant** Variances 1, 2, 3, and 6 as presented and advertised only. The Board voted to **deny** Variances 4 and 5 as presented and advertised, because the request was not consistent with the spirit of the ordinance and failed to meet the hardship criterion.

The Board voted to **deny** Variances 7, 8, and 9 as presented and advertised, because the special conditions of the property don't support the variances, so it failed the hardship criterion.

February 18, 2026 – The Board granted the application for the property located at 1980 Woodbury Avenue whereas relief is needed to demolish and redevelop an existing gas station and convenience store which requires the following: 1) Special Exception from Section 10.440, Use #8.122 to allow a convenience goods 2 use with 24 hours per day operation; 2) Variance from Section 10.5B33.20 to allow for a front lot line build out of 0% where a minimum of 75% is required for a commercial building; 3) Variance from Section 10.5B34.60 to allow for a front setback from the lot line of 27 feet on Woodbury Avenue and 36.5 feet on Gosling Road where a maximum of 20 feet is required; 4) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street; and 5) Variance from Section 10.843.33 to allow for pump islands to be located within 37 feet of the lot lines where 40 feet is required.

Planning Department Comments

11/17/2026 Staff Update:
The project was re-advertised to include variance #3 which reads, “Variance from Section 10.1251.20 to allow for canopy sign area of 460.74 square feet and 192.90 square feet where 20 square ft is the maximum.”

10/20/2026 Staff Comments:
The applicant is proposing to increase the amount of signage on the property by means of a lighting band around the canopy. Section 10.1252.40 outlines that all illuminated area shall be included in the sign area of a canopy sign. It provides an exception for *non-illuminated* areas that are distinguished from the background only by color stripes. The applicants request for relief is for the illuminated band along the background color stripes to be excluded from the sign area of the canopy sign. Staff advertised this project in the same way other gas station canopy signs have been advertised in the past.

For the Boards reference, section 10.1252.40 has been provided below.

10.1252.40 The sign area of a canopy sign shall include all text and symbols, whether or not illuminated, and all illuminated areas; but shall not include non-illuminated areas that are distinguished from the background only by color stripes

The applicant also requested relief from the following Sections of the Sign ordinance in two separate submissions, out of an abundance of caution:

Section 10.1251.10 – maximum aggregate sign area of 1.5 linear foot of building frontage per establishment.

Section 10.1251.20 – maximum sign area of 20 SF per canopy sign.

Staff notes that relief from these two sections of the Ordinance is unnecessary if the requested relief from 10.1252.40 is granted, as the illuminated color band will not count towards the canopy sign area. If the Board does not grant the variance from 10.1252.40, staff recommends the public hearing is continued to the November BOA meeting to allow for proper notice of both 10.1251.10 and 10.1251.20 and consideration of this separate submission.

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 #2 from PZO 10.1251.10 and PZO Section 10.1252.40

Relief Requested

The Applicant (*Colbea, LLC)* request a variance from the ***Portsmouth Zoning Ordinance ("PZO") Section*** **PZO 10.1251.10**, to allow for a greater aggregate sign area than the maximum area of 1.5' per linear foot of the building frontage per establishment (Sign District #5). Under the PZO, 240 Square Feet ("SF") is allowed and the Applicant requests relief to allow for an aggregate sign area of 789.39 SF.

Acknowledging that the requested square footage seems quite high, the number is, nonetheless, deceiving for the reasons that follow and is being requested out of an abundance of caution.

The amount of requested square footage is due to calculating 'light spillage' from the colored areas of the Canopy Sign Area. Stated more particularly below, the light spillage will likely be less than what is being requested, however, it is nearly impossible to calculate the square footage when the 1" LED Red/Yellow Stripe ("Stripe(s)") is illuminated. Illuminating the Stripes is the impetus for this request. If the calculation were only based on the size of the 1" Stripe, the sign would otherwise comply with the PZO.

In fact, if the Applicant were to exclude the Stripe all together but calculate the aggregate signage of the pectens and, all other signage for the Property, the total aggregate signage would 135.75 SF, which is well below the allowed 240 SF.

Property Background/Facts

The Applicant is the owner of 90 Gosling Road (*formerly 1980 Woodbury Avenue*) in Portsmouth, NH, which is sometimes referred to as Tax Map 239, Lot 11 (the "Property").

The Property is zoned Gateway Corridor ("G1" (*a Mixed Residential District*)) and sits right on the border of Portsmouth and Newington, NH.

The Applicant has secured all permitting to begin construction of its own brand of fueling station, *Season's Corner Market*.

The Property is a corner lot with ingress/egress along both Gosling Road, as well as Woodbury Avenue.

Current Approved Sign Permit

The Applicant has secured a sign permit that is allowed under the PZO, however, for reasons stated below the approved signage is far larger and more intensive than what the Applicant would prefer and, consequently, the PZO permits the 'larger' ask but does not permit the preferred *smaller* ask.

Currently, the approved permit (*Permit attached as* Exhibit "A") allows the Applicant to have a Canopy sign that nets 142.75 SF that counts towards the total aggregate sign area for the Property.

The approved sign permit, includes 4 Pectens, as well as a total of 4 separate illuminated Stripes. *See* Exhibit "B" (*Sign Plan as currently allowed*). The Stripes are 'broken up' in order to comply with PZO's aggregate sign area requirement of a maximum of 240 SF. Likewise, to fill in the space between said breaks, additional Pectens were added (totaling 4), which also comply with the PZO.

The Applicant would prefer to have a longer contiguous Stripe, as well as only 2 Pectens. Thus, a less intensive sign. *See* Exhibit "C" (*Sign Plan as proposed*).

However, if the Stripe were permitted as the Applicant desires, the longest band would be 460.74 SF and the shorter band would be 192.90 SF, thus increasing the aggregate sign area to 789.39 SF[1] – even though this alternative plan equals 2 Pectens with 2 longer Stripes *v*. 4 Pectens with 4 broken up Stripes.

Furthermore, relief is also needed relative to the *illuminated area* as per PZO Section 10.1252.40 (Canopy Sign Area). The Stripe is illuminated and, thus, the City considers it part of the aggregate sign area. *See* Exhibit "D" (*Example of sign at night*).

Illumination is understandably difficult to measure. The Applicant has added a dimmer in an effort to reduce light 'spillage.' However, it is near impossible to measure the size – or the square footage – of ambient light and its spillage. Indeed, even as a layperson understands that light spillage is impacted by so many exterior factors such as cloud cover, sun/moon light, other signage light in the vicinity, street lights, etc.

Thus, the Applicant is requesting relief from having PZO Section 10.1252.40's provisions relative to "illuminated areas" being counted against any of the Canopy Sign Area's size calculations.

Variance Criteria

Portsmouth Zoning Ordinance ("PZO") Sections

PZO 10.1251.10 and PZO Section 10.1252.40

1. **Granting the variance would not be contrary to the public interest because:**

[1] This figure is conservatively based on calculating the entire face of the Fascia Board when illuminated.

The standard for prongs one and two of the variance criteria is whether the requested relief, if granted, will ***alter the essential character of the neighborhood*** or ***negatively impact the health, welfare, and safety of the surrounding area*** and ***mere conflict with the terms of the ordinance is insufficient*** as all variance requests are somewhat averse to an ordinance, hence why the relief is sought in the first instance. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011).

Furthermore, it important to note that prong 1 is in the negative. That is to say that it does not require the Applicant to prove that the proposed use is IN the public interest, but only to prove that it is NOT CONTRARY TO the public interest.

Here, the immediate ask is to allow for a maximum aggregate sign area of 789.39 SF feet where 240 SF is allowed.

The surrounding area contains many commercial properties and, likewise, many signs. The proposed project contains within it several businesses such as the co-brand food/beverage service, fuel pumps, and a convenience store.

The proposed sign is the Applicant's standard sign.

The proposed sign will be appropriate for the Zone and it will not alter the overall esthetic of the area since the area is commercial. Moreover, the proposed sign herein will be a less intensive use than what is already permitted. *See* Exhibit "A."

Consequently, there is no reason to believe that by granting this variance it would *alter the essential character of the neighborhood* since a fueling station/convenience store has been in place for so many years and there are many large signs in the area.

Similarly, given that the same use has been active on this Property for so many years there is no reason to suspect or to conclude that an approval would *negatively impact the health, welfare,*

and safety of the surrounding area. Indeed, there is simply no evidence to point to that would suggest the public is at any risk.

Moreover, this ask is only in *mere conflict* with the PZO.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because</u>:

As a matter of law, the analysis for both prongs one and two of the Variance criteria are the same. As such, the Applicant incorporates and repeats the narrative of Prong 1 (above) and reiterates the same for Prong 2. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC</u>, 162 N.H. 508 (2011).

3. <u>Granting the variance would do substantial justice because</u>:

Perhaps the only guiding rule [on this standard] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. <u>Malachy Glen Assocs. v. Town of Chichester</u>, 155 N.H. 102, 109 (2007).

Here, the loss to the Applicant in not approving this variance would far outweigh any benefit to the general public.

The ask here results in a slightly larger Canopy Sign Area that, likewise, adds to the overall aggregate sign area – despite that the proposal is more subdued than what is approved.

The proposed Canopy Sign will help bring in customers to the Property and it will not obstruct any views and/or sightlines.

If denied, the public gains nothing, as this Proposal will be less intensive than what is already permitted.

4. **<u>If the variance were granted, the values of the surrounding properties would not be diminished because</u>:**

The surrounding area is zoned to allow for the fueling station and there has been a convenience store in site for decades and, moreover, there is another convenience store/fueling station directly across the street on the Newington side of Gosling Road. As such, this is an appropriate use for the area.

Very plainly, there is no evidence to suggest that granting this relief would negatively impact the surrounding property values.

5. **<u>Unnecessary Hardship</u>:**

"Hardship," under NH RSA 674:33, I (b) (1) (A) and (B) is a straight forward three step analyses;

a. What are the special conditions of the property, if any;
b. 'No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property,' **<u>which can be said another way that if the variance is granted *would it unreasonably frustrate the purpose ordinance*</u>**; and,
c. Is the proposed use reasonable?

First, the special conditions (a) are satisfied due to the small size of the Property and the use that has historically existed at this location for decades.

The Property is a corner lot that is well suited for the in/out traffic that is inherit of a fueling station/convenience store.

What is being proposed is less intensive than what the Applicant is already permitted to do and furthermore, there is no objective manner to measure the ambient light from the illuminated Stripe. As such, the PZO's objective measurement requirement as to illuminated areas resulting in light spillage, in essence, becomes the hardship.

To the extent that any residential areas will be impacted by the Proposal there is already adequate screening. This Property is quite literally the Gateway from Newington into Portsmouth and is surrounded by several other commercial properties that would be expected to be in the vicinity of a fueling station.

Next is (b), whether "[n]o fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property." *See* NH RSA 674:33, *et seq*. Or, again, if the variance is granted will it ***unreasonably frustrate the purpose of the PZO***.

The purpose and goals of the applicable ordinance is to ensure that signage does not get too large, too many, too unsightly, or cause any too many distractions.

Here, recognizing that a request for 789.39 SF would appear to be a large ask, the extra square footage, the signage will not be abnormally large in comparison to many signs in the area. Furthermore, the proposal will appear smaller than what is approved even if the technical SF measures greater than what is allowed. We contend the sign will be attractive as the Applicant has several similar businesses located throughout New England.

Overall, we contend that what the Applicant is asking for with respect to this relief will not unreasonably frustrate the purpose of the PZO and is, indeed, appropriate for a fueling station.

Lastly (c), the proposed use for the Property is for a fueling station and the applicable Zone allows for that use and, to the extent further relief is needed for the convenience store piece, such a use has been present for so long that the proposed use is reasonable.

Exhibit "A"

City of Portsmouth
Sign Permit

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

Permit Number:
SIGN-26-47
Date of Issue:
September 11, 2026
Expires:
September 11, 2027

Owner: COLBEA ENTERPRISES LLC
Applicant: Megan Monday
Contractor: , Advanced Signs **Phone #:**
Location: 1980 WOODBURY AVE
Description of Project:
Signage for Shell "Seasons" Gas Station & Convenience Store, 1980 Woodbury Avenue

Signage to Include:

Install Seven (7) Signs as per plan by TFM, Labeled Sign Plan Proposed Gas Station & Convenience Store, 1980 Woodbury Avenue, dated November 17, 2025, REV 4: 3/11/2026. **(Total SF of 13 Signs= 195.8)**

Sign A: New Monument Sign: Install One (1) Internally Illuminated 78" x 96-3/8" "Shell Logo, Seasons Logo and digital pricing section as per plan by Federal Heath, labeled Shell- 1980 Woodbury Ave, Sheet S-1 & S-2, dated 23Mar26, REV D- 04JUN26. (first foot of monument sign not included in sign area) **(52.17 SF)**

Sign C: New Wall Sign: Install One (1) Internally Illuminated 288" (W) x 42" (H) Wall Sign "SEASONS" Logo used as "O" **(84 SF)**

Sign D: New Wall Sign: Install One (1) Non-Illuminated, 188" (W) x 10-5/8" (H) "Corner Market" **(13.83 SF)**

Sign E: New Wall Sign: Install One (1) Internally Illuminated 85" (W) x 30" (H) "Co-Brand Sign" **(17.70 SF)**

Sign F: New Canopy Signs: See revised renderings for updated measurements

- Install four (4) Internally Illuminated 37.38" (H) x 34.76" (W) " Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Install two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Install two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

Sign G: New Wall Sign: Install One (1) Non-Illuminated 6" (H) x 51" (W) "Welcome" **(2.13SF)**

Monument and wall signage for rebuild of gas station/c-store for Colbea Enterprises

Total Sign Area: 195.8
Total Number of New Signs: 13

Sign Type(s):

- Free-Standing
Wall / Attached
Wall / Attached
Wall / Attached
Canopy
Canopy
Wall / Attached
Canopy
Canopy
Canopy
Canopy
Canopy
Canopy

Remarks:

-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project.

Code Official:

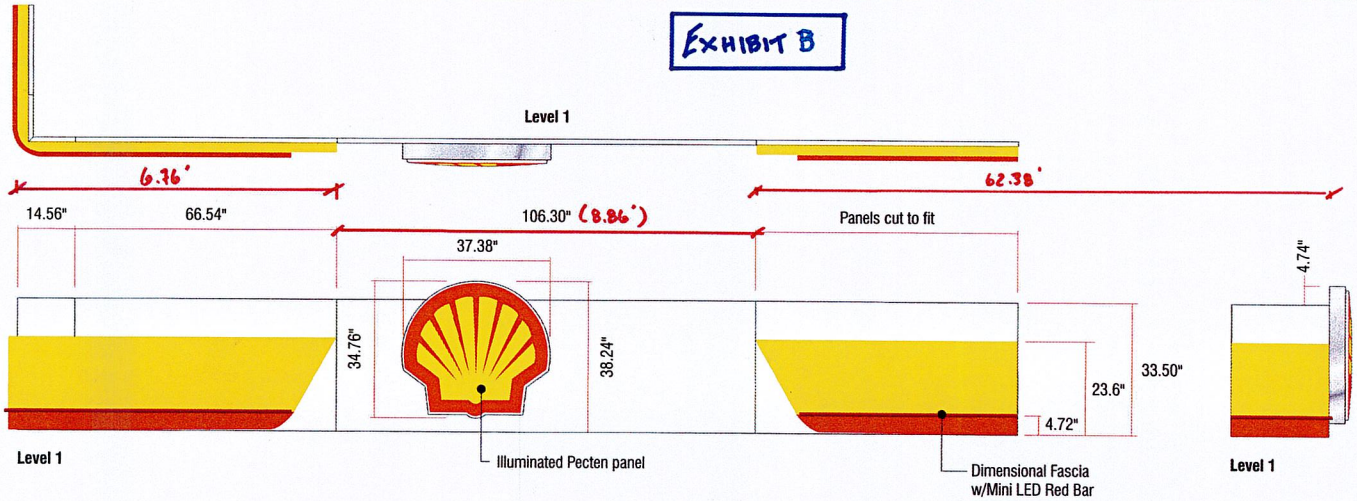
Paul Garand

This is an e-permit. To learn more, scan this barcode or

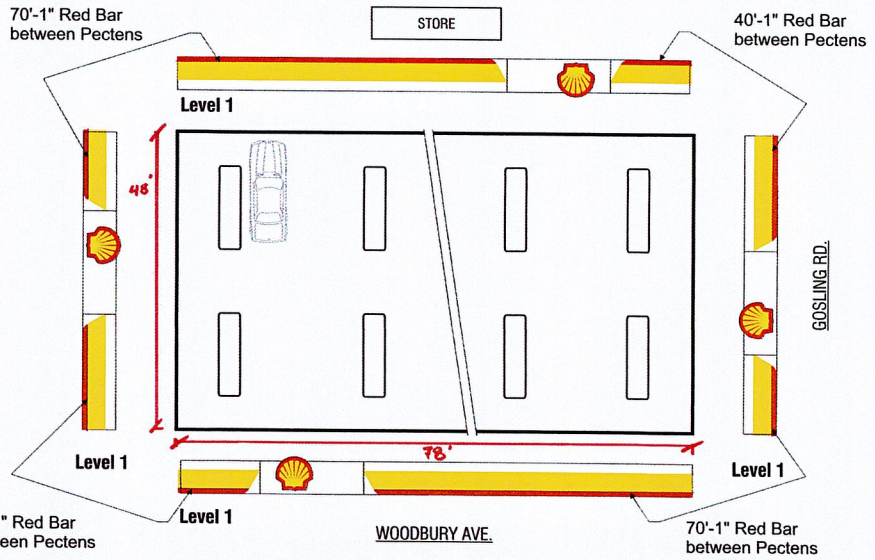
visit portsmouthnh.viewpointcloud.com/#/records/100469

Exhibit "B"

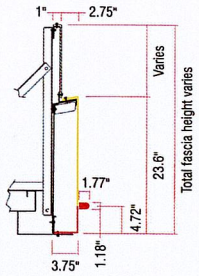
EXHIBIT B



Note: Red Bar to be dimmed 50% such that 3" of canopy fascia is illuminated



NO EXISTING PHOTO PROVIDED



Shell MVI Canopy Fascia - 48' X 78' X 33-1/2"HT Fascia

EXISTING

PROPOSED

FEDERAL HEATH SIGN COMPANY
www.FederalHeath.com
Building Quality Signage Since 1901

Manufacturing Facilities:
Oceanside - Estero - Jacksonville - Columbus
Office Locations:
Oceanside - Las Vegas - Laughlin - Idaho Falls
Estero - Jacksonville - Houston - San Antonio
Corpus Christi - Grafton - Milwaukee
Willowbrook - Louisville - Indianapolis - Columbus
Cincinnati - Westerville - Knoxville - Tunica
Atlanta - Tampa - Daytona Beach - Winter Park

Shell
MVI

Project / Location: 1980 WOODBURY AVE. PORTSMOUTH, NH

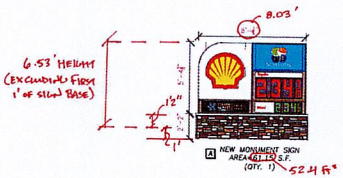
Project Manager: Nancy Vidrine
Drawn By: Brenda Lammers
PRO DESIGN: SV20260214.E

Underwriters Laboratories Inc (nec) ELECTRICAL TO USE UL LISTED COMPONENTS AND SHALL MEET ALL N.E.C. STANDARDS
ALL ELECTRICAL SIGNS ARE TO COMPLY WITH U.L. 48 AND ARTICLE 600 OF THE N.E.C. STANDARDS, INCLUDING THE PROPER GROUNDING AND BONDING OF ALL SIGNS.

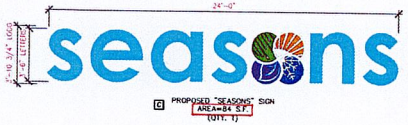
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Exhibit "C"

EXHIBIT C



52.4 FT²



Note: Monument sign not included in aggregate sign area per Article 12

PROPOSED SIGN SCHEDULE

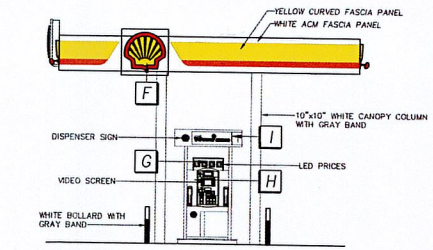
MARK	DESCRIPTION	SIZE	AREA (SF)	QUAN.	SIZE (SF)	ILLUMINATION	REMARKS	TYPE
		FREESTANDING SIGNS						
A	NEW MONUMENT SIGN	7'-7⅞" X 8'-0⅜"	61.15	1	52.4	INT	NEW	GROUND
	TOTAL FREESTANDING SIGNAGE: 52.4 S.F. (EXCLUDING FIRST 1' OF SIGN BASE)							
		WALL SIGNS						
C	"SEASONS" SIGN	24' X 3'-6"	84	1	84	INT	NEW	WALL
D	"CORNER MARKET" SIGN	15'-8" X 0'-10⅝"	13.95	1	13.95	NON	NEW	WALL
E	CO-BRAND SIGN	7'-1" X 2'-6"	17.7	1	17.7	INT	NEW	WALL
F	PECTEN SIGN	4' X 4'	9	2	18	INT	NEW	WALL
G	"WELCOME" SIGN	6" X 4'-3"	2.1	1	2.1	NON	NEW	WALL
	TOTAL WALL SIGNAGE: 135.75 S.F. (NOT INCLUDING CANOPY BAND - SEE BELOW)							

APPROVED CANOPY BAND: (2) 70'1" BANDS x 3" HEIGHT = 35.04 FT² (17.52 FT² EACH), AND (2) 40'1" BANDS x 3" HEIGHT = 20.04 FT² (10.02 FT² EACH)
TOTAL WALL SIGNAGE WITH CANOPY BAND IS 190.83 FT²

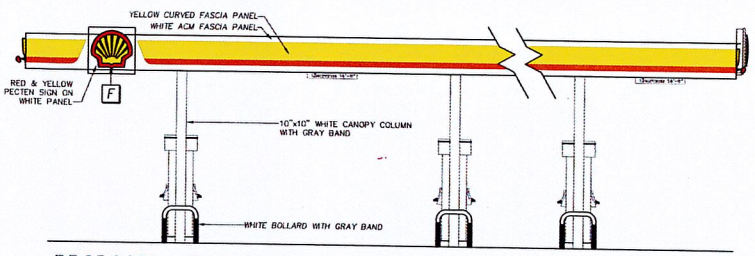
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165.14' x 2.79' (ENTIRE HEIGHT OF FASCIA BOARD) = 460.74 FT², PLUS
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TOTAL WALL SIGNAGE WITH REQUESTED CANOPY BAND (CONSERVATIVELY ASSUMING IT ILLUMINATES ALL OF FASCIA BOARD) = 789.39 FT²

ALLOWABLE AGGREGATE SIGN AREA: 1.5 x BUILDING FRONTAGE
- 1.5 x 110' (WOODBURY AVE FRONTAGE) + 1.5 x 50' (LOOSLEY ROAD FRONTAGE)
- 240 S.F. ALLOWED



PROPOSED SOUTH CANOPY ELEVATION
SCALE: 3/16"=1'-0"



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

TAX MAP 239 LOT 11
SIGN PLAN
PROPOSED GAS STATION & CONVENIENCE STORE
1980 WOODBURY AVENUE
PORTSMOUTH, NEW HAMPSHIRE
OWNED BY
COLBEA ENTERPRISES, LLC

SCALE: NTS
NOVEMBER 17, 2025

REV.	DATE	DESCRIPTION	BY
4	3/11/2026	REVISED GRADES NEAR CB-07 AND CB-08	JKC
3	3/6/2026	REVISED PER MIDAS FUELING REQUIREMENTS	JKC
2	2/3/2026	REVISED PER ADDRESS CHANGE REQUEST	JKC
1	12/22/2025	REVISED PER TAC COMMENTS	JKC

Seacoast Division
TFM
Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists
170 Commerce Way, Suite 102
Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
www.tfmoran.com

DES.	JKC	FB
CK.	CRR	CADFILE: 46077-16_SIGN

46077.16

C-13

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Not plan is not effective unless signed by a duly authorized officer of TFMoran, Inc.

Mar 24, 2026 - 11:06am
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Exhibit "D"


seasons
corner • market
seasons
3.63
3.73
4.63
4.73

VARIANCE #1 from PZO 10.1252.20 and PZO Section 10.1252.40

Relief Requested

The Applicant (*Colbea, LLC)* request a variance from the ***Portsmouth Zoning Ordinance ("PZO") Section* 10.1252.20**, to allow for a greater aggregate Canopy sign area than 20 Square Feet (SF), where the PZO limits the square footage of a Canopy sign area in (*Sign District #5*) to 20 SF.

Relief is also need from ***PZO Section 10.1252.40***, which defines the sign area of a canopy sign to "…include all text and symbols, whether or not illuminated, ***and all illuminated areas***; but shall not include non-illuminated areas that are distinguished from the background only by color stripes." (emphasis added).

Property Background/Facts

The Applicant is the owner of 90 Gosling Road (*formerly 1980 Woodbury Avenue*) in Portsmouth, NH, which is sometimes referred to as Tax Map 239, Lot 11 (the "Property").

The Property is zoned Gateway Corridor ("G1" (*a Mixed Residential District*)) and sits right on the border of Portsmouth and Newington, NH.

The Applicant has secured all permitting to begin construction of its own brand of fueling station, *Season's Corner Market*.

The Property is a corner lot with ingress/egress along both Gosling Road, as well as Woodbury Avenue.

Current Approved Sign Permit

The Applicant has secured a sign permit that is allowed under the PZO, however, for reasons stated below the approved signage is far larger and more intensive than what the Applicant would prefer and, consequently, the PZO permits the 'larger' ask but does not permit the preferred *smaller* ask.

Currently, the approved permit (*Permit attached as* Exhibit "A") allows the Applicant to have a Canopy sign with:

- Four (4) Internally Illuminated 37.38" (H) x 34.76" (W) "Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

In sum, the terms of the above sign permit, as applied to the Canopy sign, include 4 Pectens, as well as a total of 4 separate illuminated Red/Yellow Stripes ("Stripe(s)"). *See* Exhibit "B" (*Sign Plan as currently allowed*). The Stripes are 'broken up' in order to comply with PZO's requirement of a maximum of 20 SF – as each Stripe is less than 20 SF. Likewise, to fill in the space between said breaks, additional Pectens were added (totaling 4), which also comply with the PZO.

The Applicant would prefer to have a longer contiguous Stripe, as well as only 2 Pectens. Thus, a less intensive and seemingly smaller sign. *See* Exhibit "C" (*Sign Plan as proposed*).

However, if the Stripe were permitted as the Applicant desires, the longest band would be 460.74 SF and the shorter band would be 192.90 SF, thus exceeding the required 20 SF – even

though this alternative plan equals 2 Pectens with 2 longer Stipes *v*. 4 Pectens with 4 broken up Stripes.

Furthermore, relief is also needed relative to the *illuminated area* as per PZO Section 10.1252.40 (Canopy Sign Area). The Stripe is illuminated and, thus, the City considers it part of the Canopy Sign Area. *See* Exhibit "D" (*Example of sign at night*).

Illumination is understandably difficult to measure. The Applicant has added a dimmer in an effort to reduce light 'spillage.' However, it is near impossible to measure the size – or the square footage – of ambient light and its spillage. Indeed, even as a layperson understands that light spillage is impacted by so many exterior factors such as cloud cover, sun/moon light, other signage light in the vicinity, street lights, etc.

Thus, the Applicant is requesting relief from having PZO Section 10.1252.40's provisions relative to "illuminated areas" being counted against any of the Canopy Sign Area's size calculations.

Variance Criteria

Portsmouth Zoning Ordinance ("PZO") Sections

PZO 10.1252.20 and PZO Section 10.1252.40

1. Granting the variance would not be contrary to the public interest because:

The standard for prongs one and two of the variance criteria is whether the requested relief, if granted, will ***alter the essential character of the neighborhood*** or ***negatively impact the health, welfare, and safety of the surrounding area*** and ***mere conflict with the terms of the ordinance is insufficient*** as all variance requests are somewhat averse to an ordinance, hence why the relief

is sought in the first instance. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011).

Furthermore, it important to note that prong 1 is in the negative. That is to say that it does not require the Applicant to prove that the proposed use is IN the public interest, but only to prove that it is NOT CONTRARY TO the public interest.

Here, the immediate ask is to allow for the Canopy Sign Area, specifically, the Stripe to exceed the allowable 20 SF. Furthermore, to waive PZO Section 10.1252.40's provisions relative to "illuminated areas" as being counted against any of the Stripe's size calculations because there is no way to accurately measure ambient light against a square footage requirement as to the applicable area. Again, the net result if relief is granted, is a less intensive sign.

The surrounding area contains many commercial properties and, likewise, many signs. The proposed project contains within it several businesses such as the co-brand food/beverage service, fuel pumps, and a convenience store.

The proposed signage is the Applicant's standard sign.

The proposed sign will be appropriate for the Zone and it will not alter the overall esthetic of the area since the area is commercial. Moreover, the proposed sign herein will be a less intensive use than what is already permitted. *See* Exhibit "A" and Exhibit "B."

Consequently, there is no reason to believe that by granting this variance it would *alter the essential character of the neighborhood* since a fueling station/convenience store has been in place for so many years and there are many commercial signs in the area.

Similarly, given that the same use has been active on this Property for so many years there is no reason to suspect or to conclude that an approval would *negatively impact the health, welfare,*

and safety of the surrounding area. Indeed, there is simply no evidence to point to that would suggest the public is at any risk.

Moreover, this ask is only in *mere conflict* with the PZO.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because</u>:

As a matter of law, the analysis for both prongs one and two of the Variance criteria are the same. As such, the Applicant incorporates and repeats the narrative of Prong 1 (above) and reiterates the same for Prong 2. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC</u>, 162 N.H. 508 (2011).

3. <u>Granting the variance would do substantial justice because</u>:

Perhaps the only guiding rule [on this standard] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. <u>Malachy Glen Assocs. v. Town of Chichester</u>, 155 N.H. 102, 109 (2007).

Here, the loss to the Applicant in not approving this variance would far outweigh any benefit to the general public.

The ask here is fairly minimal – to allow for a slightly larger Canopy Sign Area – despite that the proposal is more subdued than what is approved.

The proposed Canopy Sign will help bring in customers to the Property and it will not obstruct any views and/or sightlines.

If denied, the public gains nothing, as this Proposal will be less intensive than what is already permitted.

4. **<u>If the variance were granted, the values of the surrounding properties would not be diminished because</u>:**

The surrounding area is zoned to allow for the fueling station and there has been a convenience store in site for decades and, moreover, there is another convenience store/fueling station directly across the street on the Newington side of Gosling Road. As such, this is an appropriate use for the area.

Very plainly, there is no evidence to suggest that granting this relief would negatively impact the surrounding property values.

5. **<u>Unnecessary Hardship</u>:**

"Hardship," under NH RSA 674:33, I (b) (1) (A) and (B) is a straight forward three step analyses;

a. What are the special conditions of the property, if any;
b. 'No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property,' **<u>which can be said another way that if the variance is granted *would it unreasonably frustrate the purpose ordinance*</u>**; and,
c. Is the proposed use reasonable?

First, the special conditions (a) are satisfied due to the small size of the Property and the use that has historically existed at this location for decades.

The Property is a corner lot that is well suited for the in/out traffic that is inherit of a fueling station/convenience store.

What is being proposed is less intensive than what the Applicant is already permitted to do and furthermore, there is no objective manner to measure the ambient light from the illuminated Stripe.

To the extent that any residential areas will be impacted by the Proposal there is already adequate screening. This Property is quite literally the Gateway from Newington into Portsmouth and is surrounded by several other commercial properties that would be expected to be in the vicinity of a fueling station.

Next is (b), whether "[n]o fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property." *See* NH RSA 674:33, *et seq*. Or, again, if the variance is granted will it ***unreasonably frustrate the purpose of the PZO***.

The purpose and goals of the applicable ordinance is to ensure that signage does not get too large, too many, too unsightly, or cause any too many distractions.

Here, despite the request for extra Canopy Sign square footage, the sign will not be abnormally large in comparison to many signs in the area. In fact, as has been stated, it will appear to be smaller with only 2 Pectens (as opposed to 4 Pectens) and the Stripe will be contiguous rather than broken up in 4 sections.

Overall, we contend that what the Applicant is asking for with respect to this relief will not unreasonably frustrate the purpose of the PZO and is, indeed, appropriate for a fueling station.

Lastly (c), the proposed use for the Property is for a fueling station and the applicable Zone allows for that use and, thus, the proposed use is reasonable.

Exhibit "A"

City of Portsmouth
Sign Permit

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

Permit Number:
SIGN-26-47
Date of Issue:
September 11, 2026
Expires:
September 11, 2027

Owner: COLBEA ENTERPRISES LLC
Applicant: Megan Monday
Contractor: , Advanced Signs **Phone #:**
Location: 1980 WOODBURY AVE
Description of Project:
Signage for Shell "Seasons" Gas Station & Convenience Store, 1980 Woodbury Avenue

Signage to Include:

Install Seven (7) Signs as per plan by TFM, Labeled Sign Plan Proposed Gas Station & Convenience Store, 1980 Woodbury Avenue, dated November 17, 2025, REV 4: 3/11/2026. **(Total SF of 13 Signs= 195.8)**

Sign A: New Monument Sign: Install One (1) Internally Illuminated 78" x 96-3/8" "Shell Logo, Seasons Logo and digital pricing section as per plan by Federal Heath, labeled Shell- 1980 Woodbury Ave, Sheet S-1 & S-2, dated 23Mar26, REV D- 04JUN26. (first foot of monument sign not included in sign area) **(52.17 SF)**

Sign C: New Wall Sign: Install One (1) Internally Illuminated 288" (W) x 42" (H) Wall Sign "SEASONS" Logo used as "O" **(84 SF)**

Sign D: New Wall Sign: Install One (1) Non-Illuminated, 188" (W) x 10-5/8" (H) "Corner Market" **(13.83 SF)**

Sign E: New Wall Sign: Install One (1) Internally Illuminated 85" (W) x 30" (H) "Co-Brand Sign" **(17.70 SF)**

Sign F: New Canopy Signs: See revised renderings for updated measurements

- Install four (4) Internally Illuminated 37.38" (H) x 34.76" (W) " Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Install two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Install two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

Sign G: New Wall Sign: Install One (1) Non-Illuminated 6" (H) x 51" (W) "Welcome" **(2.13SF)**

Monument and wall signage for rebuild of gas station/c-store for Colbea Enterprises

Total Sign Area: 195.8
Total Number of New Signs: 13

Sign Type(s):

- Free-Standing
Wall / Attached
Wall / Attached
Wall / Attached
Canopy
Canopy
Wall / Attached
Canopy
Canopy
Canopy
Canopy
Canopy
Canopy

Remarks:

-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project.

Code Official:

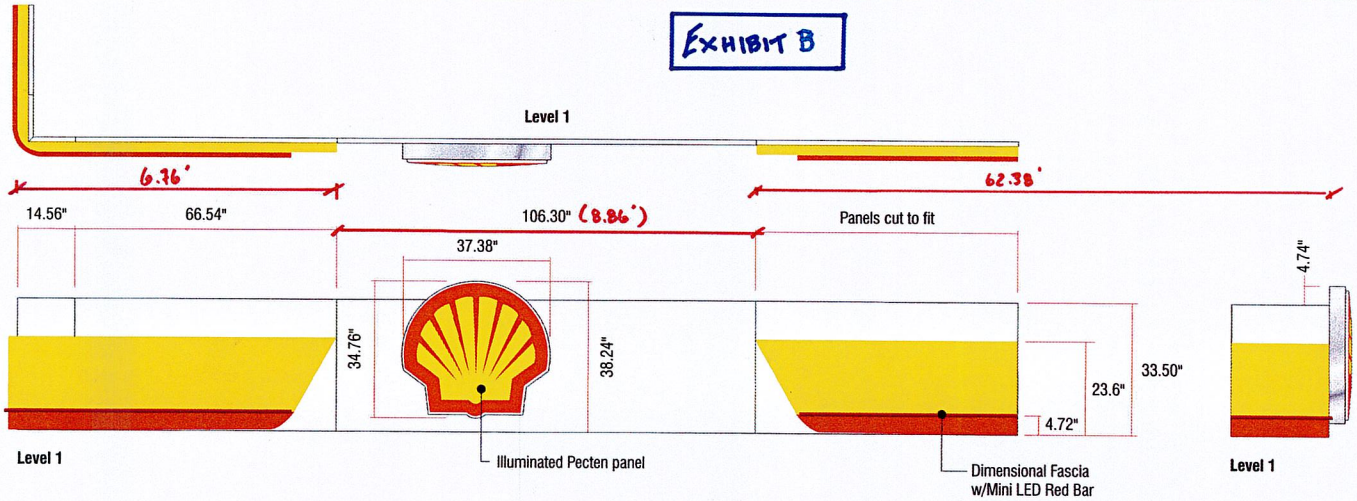
Paul Garand

This is an e-permit. To learn more, scan this barcode or

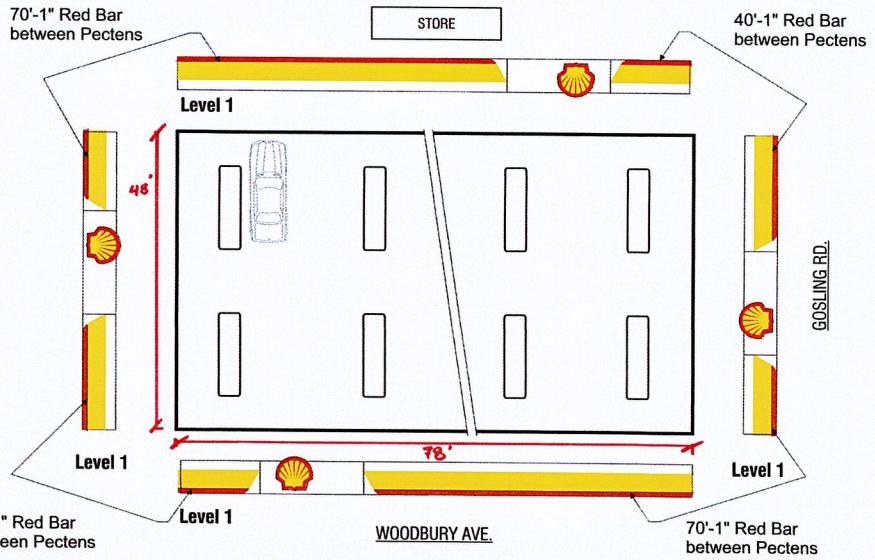
visit portsmouthnh.viewpointcloud.com/#/records/100469

Exhibit "B"

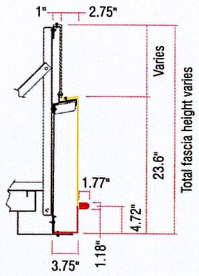
EXHIBIT B



Note: Red Bar to be dimmed 50% such that 3" of canopy fascia is illuminated



NO EXISTING PHOTO PROVIDED



Shell MVI Canopy Fascia - 48' X 78' X 33-1/2"HT Fascia

EXISTING

PROPOSED

FEDERAL HEATH SIGN COMPANY
www.FederalHeath.com
Building Quality Signage Since 1901

Manufacturing Facilities:
Oceanside - Estero - Jacksonville - Columbus
Office Locations:
Oceanside - Las Vegas - Laughlin - Idaho Falls
Estero - Jacksonville - Houston - San Antonio
Corpus Christi - Grafton - Milwaukee
Willowbrook - Louisville - Indianapolis - Columbus
Cincinnati - Westerville - Knoxville - Tunica
Atlanta - Tampa - Daytona Beach - Winter Park

Shell
MVI

Project / Location: 1980 WOODBURY AVE. PORTSMOUTH, NH

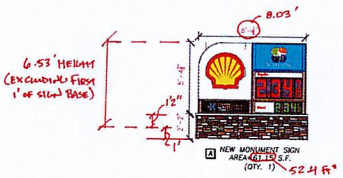
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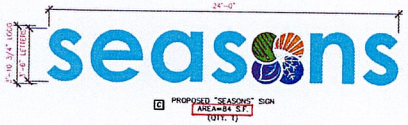
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EXHIBIT C



52.4 FT²



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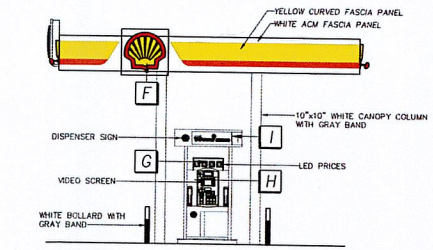
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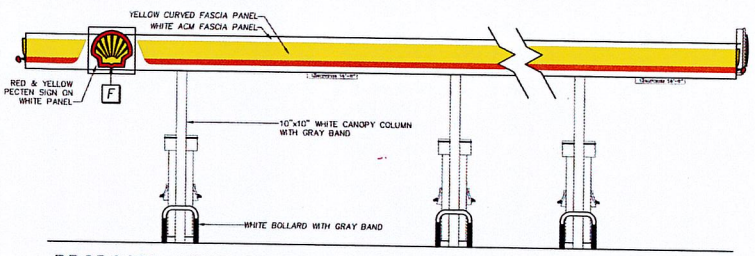
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PROPOSED SOUTH CANOPY ELEVATION
SCALE: 3/16"=1'-0"



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

TAX MAP 239 LOT 11
SIGN PLAN
PROPOSED GAS STATION & CONVENIENCE STORE
1980 WOODBURY AVENUE
PORTSMOUTH, NEW HAMPSHIRE
OWNED BY
COLBEA ENTERPRISES, LLC

SCALE: NTS
NOVEMBER 17, 2025

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Seacoast Division
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Landscape Architects
Scientists
170 Commerce Way, Suite 102
Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
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DES.	JKC	FB
CK.	CRR	CADFILE: 46077-16_SIGN

46077.16

C-13

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Mar 24, 2026 - 11:06am
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Exhibit "D"


seasons
corner • market
seasons
3.63
3.73
4.63
4.73

II. OLD BUSINESS

C. The request of **Kathleen B. and Kent A. Logan, Susan E. Lassen, Scott A. Lupkas, and Guy D. and Elizabeth R. Spiers (Appellants)**, to rehear the case for appeal of decision of administrative officials to classify the art studio attached to the side of the third dwelling unit as an R2 non-transient sleeping unit for property located at **28 Blossom Street**. Said property is located on Assessor Map 111 Lot 40 and lies within the General Residence B (GRB) and Historic Districts. (LU-26-114)

Planning Department Comments

The appellants request to be reheard was granted at the October 27, 2026th meeting.

The parties listed above are appealing the determination of the Chief Building Inspector in his determination of an R2 non-transient sleeping unit located at 28 Blossom Street.

Staff have provided the same documents that were provided at the September 15th meeting along with the rehearing request and a letter from the property owner.

STATE OF NEW HAMPSHIRE
CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT

IN RE: Appeal from Determination Letter (July 23, 2026) and Supplemental Determination Letter (August 6, 2026) of the Chief Building Inspector, City of Portsmouth
Property: 28 Blossom Street, Portsmouth, NH 03801 (MBLU 0111/0040/0000)
Owners of Record: Burke-Zabarsky Revocable Trust; Hannah & Paul J. Burke, Trustees

NOTICE OF APPEAL AND STATEMENT OF GROUNDS

(Filed pursuant to RSA 674:33; RSA 676:5; and the Portsmouth Zoning Ordinance)

TO: The Zoning Board of Adjustment, City of Portsmouth, New Hampshire

The undersigned, Kathleen B. Logan and Kent A. Logan, Trustees of the Kathleen B. Logan Revocable Trust, of 21 Blossom Street; Susan E. Lassen, Trustee of the Lassen Family Revocable Trust, of 34 Blossom Street; Scott A. Lupkas, of 33 Blossom Street; and Guy D. Spiers and Elizabeth R. Spiers, Trustees of the 3A Trust, of 241 South Street, all of Portsmouth, New Hampshire (collectively, "Appellants"), being abutters within the meaning of RSA 676:5, I, and RSA 672:3, hereby appeal to this Board the determination of the Chief Building Inspector set forth in (1) the Determination Letter dated July 23, 2026, and (2) the Supplemental Determination Letter dated August 6, 2026 (together, the "Determination"), both concerning the property at 28 Blossom Street, Portsmouth, New Hampshire ("the Property"). This appeal is timely filed within thirty (30) days of both the Determination Letter and the Supplemental Determination Letter, as required by RSA 676:5, I.

I. STATEMENT OF STANDING

Appellants own and/or occupy property that abuts, or is within the notice radius of, 28 Blossom Street, and are directly and specially affected by the Determination, which authorizes continued and expanded residential occupancy of a structure historically used as an accessory artist's studio, with attendant impacts on neighborhood character, on-street parking, density, and life

safety in the General Residence B ("GRB") zoning district. Appellants therefore have standing to bring this appeal as abutters under RSA 676:5, I, and RSA 672:3, and as aggrieved parties within the meaning of RSA 674:33, I.

II. RELATIONSHIP TO CONCURRENT BUILDING CODE APPEAL

A separate appeal has also been filed with the New Hampshire Building Code Review Board addressing building-code classification questions under Section 113.1.1 of the New Hampshire State Building Code, including whether the Chief Building Inspector correctly applied the IBC definitions of "sleeping unit" and "dwelling unit" and properly invoked the Section 104.2.4 modification authority. That appeal does not raise, and is not intended to waive, any of the zoning grounds presented here.

III. STATEMENT OF FACTS

- 28 Blossom Street is improved with a two-family dwelling that received a variance in 1987 authorizing a third residential dwelling unit. A barn structure on the Property contains a former hennery converted decades ago into an artist's studio by Melvin and Joyce Zabarsky, the parents of current co-owner Hannah Burke.
- Following the deaths of Mr. and Mrs. Zabarsky in 2019, Hannah Burke acquired an interest in the Property and later conveyed it to the Burke-Zabarsky Revocable Trust, of which she and her husband, Paul Burke, are trustees.
- Beginning in 2023, the Burkes began housing their adult son, Christopher, in the studio. When not confined in jail or committed to a mental health facility, he has been regularly housed in the studio, including to the present day. Neighbors report that, to their knowledge, the studio was never previously used as "overflow space for family and friends," as the owners now represent.
- Blossom Street neighbors have, for approximately three years, repeatedly raised concerns with City officials regarding the nonconforming residential use of the studio and regarding an unpermitted shed constructed by Paul Burke on the southeast side of the barn — a structure that does not appear on the Property's tax card to this day.

- On July 23, 2026, without public notice, hearing, or an opportunity for abutters to be heard, the Chief Building Inspector issued the Determination Letter, classifying the studio as an "R2 non-transient sleeping unit" under the 2024 International Building Code, subject to listed conditions, and citing Section 104.2.4 of the New Hampshire State Building Code (the "modifications" provision) as partial authority.
- On August 6, 2026, the Chief Building Inspector issued a Supplemental Determination Letter purporting to clarify that the July 23 letter effected no zoning reclassification, while nonetheless confirming that the studio "may continue to be used as an R-2 non-transient sleeping unit" and that the Planning Director "concurs" in that conclusion.
- As of the date of this appeal, Christopher Burke continues to be housed in the studio notwithstanding that one or more conditions of the Determination — including installation of a shower and other life-safety items — remain unsatisfied, and notwithstanding that no certificate of occupancy has issued.

IV. GROUNDS FOR APPEAL

A. The Chief Building Inspector Exceeded His Authority and Usurped the Zoning Board's Exclusive Jurisdiction

Under RSA 674:33, I, the Zoning Board of Adjustment holds exclusive authority to grant variances and to hear and decide appeals of determinations that affect the application of the zoning ordinance. The Chief Building Inspector's Section 104.2.4 authority is confined to the State Building Code and permits modification only of building-code requirements upon a finding of "practical difficulties" that does not lessen health, life-safety, or structural protections — it is not, and cannot be, a source of zoning authority.

Although the Supplemental Determination Letter disclaims any zoning reclassification, its practical and stated effect is to authorize a fourth, functionally independent sleeping arrangement in a building previously approved for only three dwelling units, subject only to building-code conditions. A determination that changes what may occupy a structure and how it may be used is a zoning determination in substance, regardless of the label placed on it. By resolving this question administratively — without notice, hearing, or referral to this Board — the Building

Inspector reached a decision reserved exclusively to the Board's variance and appeal jurisdiction under RSA 674:33 and RSA 676:5.

B. The Approved Use Is Not a Permitted Use in the GRB Zoning District

The Portsmouth Zoning Ordinance, consistent with the 2024 IBC definitions relied upon in the Determination itself, distinguishes a "dwelling unit" (which must contain permanent facilities for living, sleeping, eating, cooking, and sanitation) from a "sleeping unit" (which by definition lacks independent cooking facilities). A room or structure that provides only sleeping accommodations without a kitchen, and that operates with its own separate exterior egress, falls within the Ordinance's definition of a rooming, boarding, or co-living use rather than an accessory or incidental use of a dwelling. Rooming and boarding uses of this kind are not permitted by right in the GRB district. The Determination authorizes precisely this configuration — a non-transient sleeping unit with its own egress, prohibited only from containing a kitchen — without any of the zoning relief such a use requires.

C. The Determination Effectively Converts the Approved Three-Unit Building Into an Unauthorized Rooming, Boarding, or Co-Living Arrangement Not Permitted Outside the Downtown District

The City Council's recently adopted Co-Living Zoning Amendment demonstrates that the City itself recognizes independent sleeping units of this type as a distinct land use requiring specific zoning authorization — including tailored parking ratios — and confines that use to higher-intensity mixed-use districts such as CD4. The Council's deliberate choice not to extend that use to low- and medium-density residential districts such as GRB confirms, by clear implication, that a co-living or rooming arrangement may not be piecemealed into an existing three-family structure in the GRB district through an administrative building-code determination. The Determination effectively grants by administrative letter what the Council itself has declined to authorize by ordinance in this district.

D. The Studio Cannot Lawfully Be Treated as an Accessory Use Tied to the Separate Parcel at 161 South Street

Both Determination Letters justify the arrangement, in part, on the premise that Christopher Burke's "primary residence" is 161 South Street — a separate, non-contiguous parcel owned by his parents — where he purportedly eats, bathes, and stores his belongings, while he sleeps at the

Property. An accessory use or structure must be incidental to, and located on the same lot as, the principal use it serves; it cannot be constituted by combining facilities on one lot with sleeping quarters on an entirely different, geographically separated lot under separate ownership and separate tax assessment. The Ordinance recognizes no such cross-lot accessory-use arrangement, and the Determination's reliance on activities occurring at 161 South Street to legitimize residential occupancy at 28 Blossom Street is not a cognizable basis for approval under the Ordinance.

The Determination compounds this defect by describing 161 South Street as being "in proximity" to the Property, as though geographic nearness could substitute for the same-lot requirement that defines an accessory use under the Ordinance. It cannot. 161 South Street and 28 Blossom Street are separate, distinctly deeded and separately assessed parcels, each with its own MBLU designation, and no lot-line consolidation, lot merger, or other action has combined them into a single zoning lot. Proximity between two parcels, however close, does not create the unity of lot required for one parcel's facilities to serve as the accessory support for a use located on another.

Nor is this defect merely academic. The Determination classifies the studio itself — not Christopher Burke personally, and not the current ownership arrangement — as an R2 non-transient sleeping unit, a classification that would run with 28 Blossom Street and remain in effect for any future owner or occupant regardless of any continuing connection to 161 South Street. Nothing in the Determination requires common ownership of the two parcels, requires the sleeping unit's occupant to have any relationship to 161 South Street, or provides for reconsideration if the two properties are ever conveyed separately. Should the Burkes sell 28 Blossom Street alone, sell 161 South Street alone, or sell the two properties to different purchasers — any of which they remain free to do at any time — the entire factual predicate for the Determination would disappear, yet the studio would continue to exist as an approved fourth sleeping unit, permanently detached from the very arrangement used to justify it. That the Determination's central premise cannot survive the ordinary, foreseeable alienation of either parcel confirms that it was never a proper accessory-use analysis in the first place, and illustrates why a permanent change in occupancy classification of this kind must be evaluated by this Board — which can consider the use on a durable, parcel-specific basis — rather than rest on an

administrative letter premised on a currently convenient but legally unenforceable arrangement between two separately alienable properties.

E. The Determination Fails to Address Density, Parking, and Historic District Requirements Triggered by the Use

Even if a sleeping unit of this kind were otherwise permissible, the Determination does not address, and the Building Inspector had no authority to waive, the following additional zoning and land-use requirements implicated by the proposed occupancy:

- Density: The GRB district imposes a minimum lot area per dwelling or sleeping unit. Adding a fourth independent living arrangement increases the intensity of use beyond what was approved by the 1987 variance and may require a dimensional variance.
- Parking: Off-street parking on Blossom Street is, and has long been, a documented problem. An additional independent sleeping unit triggers additional off-street parking requirements that the Property may be unable to satisfy without a parking variance.
- Historic District Commission review: The Property lies within Portsmouth's Historic District. Because the studio has its own separate exterior egress, any exterior modifications required to bring the space into compliance with the R-2 life-safety conditions in the Determination — egress doors, emergency escape openings, exterior lighting — require a Certificate of Approval from the Historic District Commission before such work may proceed.
- Unresolved nonconforming use and unpermitted construction: The Determination does not address the unpermitted shed attached to the barn, which does not appear on the Property's tax card, or the multi-year history of unresolved neighbor complaints regarding nonconforming use of the Property, both of which bear directly on whether any further intensification of use should be authorized.

V. RELIEF REQUESTED

For the foregoing reasons, Appellants respectfully request that the Board:

1. Accept jurisdiction over this appeal pursuant to RSA 674:33, I, and RSA 676:5;

2. Reverse and vacate the Determination Letter dated July 23, 2026, and the Supplemental Determination Letter dated August 6, 2026, in their entirety;

3. Declare that the proposed non-transient sleeping unit at 28 Blossom Street constitutes a change of use requiring, at a minimum, a Use Variance, a Dimensional Variance, and a Parking Variance from this Board before any such use may lawfully continue;

4. Direct that no certificate of occupancy or building permit issue for the studio unless and until the owners obtain all required approvals from this Board, the Historic District Commission, and the Planning Board, in that sequence; and

5. Grant such other and further relief as the Board deems just and proper, including referral of the unpermitted shed and ongoing nonconforming occupancy to the City's code enforcement office.

VI. EXHIBITS

- Exhibit A — Determination Letter, City of Portsmouth Building Department, dated July 23, 2026
- Exhibit B — Supplemental Determination Letter, City of Portsmouth Building Department, dated August 6, 2026

Respectfully submitted,

Kathleen B. Logan, Trustee

Kathleen B. Logan and Kent A. Logan, Trustees
Kathleen B. Logan Revocable Trust
21 Blossom Street
Portsmouth, NH 03801

Susan E. Lassen, Trustee
Lassen Family Revocable Trust
34 Blossom Street
Portsmouth, NH 03801

Scott A. Lupkas
33 Blossom Street
Portsmouth, NH 03801

Guy D. Spiers and Elizabeth R. Spiers, Trustees
3A Trust
241 South Street
Portsmouth, NH 03801

Date: 8-20-2026

Inspection Department
Shanti R. Wolph, Chief Building Inspector

July 23, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Official Determination Regarding Occupancy Classification
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Determination Letter

This letter serves as the official determination of the City of Portsmouth Building Department regarding the occupancy classification and permissible use of the structure/art studio (studio) attached to the end dwelling at 28 Blossom Street, Portsmouth, New Hampshire.

For context, the property is owned by Burke-Zabarsky REV TST and Burke Hannah & Paul J TTES. In 1987, the two-family dwelling located at 28 Blossom Street was granted a variance authorizing a third residential dwelling unit. The studio is attached to the side of the third dwelling unit, and, according to the owners, has historically been used as overflow space for family and friends for more than 50 years. The owners have represented that the studio has not been, and is not currently being, rented, but is instead being used as a safe, quiet space for the Burkes' cognitively impaired adult son. He spends time in the studio primarily in the evening. During the day, he is at his parents' house, where he eats his meals, washes his clothes, and stores his belongings.

The Building Department received a complaint from an abutter asserting that the studio was not being used lawfully because it was being used for sleeping. The complaint also raised safety concerns related to the current occupant. The Department reviewed the matter for purposes of determining whether the existing space may be classified and regulated as a sleeping unit without creating or authorizing a fourth dwelling unit on the property.

As part of this review, Shanti Wolph, Chief Building Inspector for the City of Portsmouth, consulted with Phil Grankowski of the International Code Council (ICC) regarding the appropriate occupancy classification for the existing space. The purpose of the consultation was to determine whether the space could be classified in a manner that permits sleeping while avoiding designation as a separate dwelling unit, which would require separate zoning review and approval.

Upon review, the Building Department determines that the studio may be classified as an **R2 non-transient sleeping unit**, rather than as a dwelling unit, provided that the conditions set forth below are satisfied. This classification recognizes the historical use of the structure as accessory

overflow space for family and friends and avoids authorizing permanent cooking facilities or any independent dwelling use.

While the studio may be able to satisfy the sleeping-unit requirements, it is attached to a rental property. The son's parents reside on a separate property, which is in proximity. Therefore, an alternative code path has also been considered.

Basis for Determination:

1) 2024 IBC:

A] SLEEPING UNIT. A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Commentary to the above definition:

❖ *This definition is included to coordinate the Fair Housing Act guidelines with the code. The definition for "Sleeping unit" clarifies the differences between sleeping units and dwelling units. In addition, using the term "sleeping unit" for spaces where people sleep will replace a multitude of other terms (e.g., patient room, cell, guestroom) so that there is consistent application across occupancies. Some examples of sleeping units are hotel guest rooms; bedrooms in different types of congregate living facilities; patient sleeping rooms in hospitals, nursing homes or assisted living facilities; or housing cells in a jail. Another example would be a studio apartment with a kitchenette (i.e., countertop microwave, sink, refrigerator). Since the cooking arrangements are not the traditional permanent appliances (i.e., a range), this configuration would be considered a sleeping unit and not a dwelling unit. As defined in the code, a "Dwelling unit" must contain permanent facilities for living, sleeping, eating, cooking and sanitation.*

2) 104.2.4 of the NH State Building Code

In addition, I relied, in part, on the authority provided under 104.2.4 of the NH State Building Code, including amendments, which states as follows:

Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or the owner's authorized agent, provided that the building official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Commentary to the above code section:

❖ *The building official may amend or make exceptions to the code as needed where strict compliance is impractical. Only the building official has authority to grant modifications. Consideration of a particular difficulty is to be based on the application of the owner and a demonstration that the purpose of the code is accomplished. This section is not intended to permit setting aside or ignoring a code provision; rather, it is intended to provide acceptance of equivalent protection. Such modifications do not, however, extend to actions that are necessary to correct violations of the code. In other words, a code violation or the expense of correcting one cannot constitute a practical difficulty.*

Conditions of Approval:

- **Plumbing:** The studio currently contains a water closet and lavatory. A shower shall be installed to satisfy the hygiene requirements applicable to an R2 non-transient sleeping unit. Permanent cooking facilities shall not be installed or maintained in the studio.
- **Life Safety:** The studio shall have compliant means of egress and emergency escape and rescue openings. Smoke and carbon monoxide detectors shall be installed and maintained. The existing two-hour fire separation from the adjacent dwelling, established during a previous renovation, shall be maintained.
- **Building Systems:** The heating, electrical, and insulation systems shall be suitable for the approved use and shall comply with applicable code requirements.
- **Use Limitation:** The studio is approved only as an R2 non-transient sleeping unit and shall not be rented, leased, or otherwise used as an independent dwelling unit.
- **Cooking Facilities:** The studio shall not contain permanent cooking facilities, including a range or other equipment that would establish the space as a dwelling unit.

Conclusion:

Based on the foregoing, the Building Department determines that the studio may continue to be used as an R2 non-transient sleeping unit, provided that all conditions listed above are satisfied and maintained. This determination does not authorize the creation of a fourth dwelling unit, does not authorize rental occupancy of the studio, and does not waive any separate zoning, building, fire, life safety, health, or accessibility requirements that may apply. Any certificate of occupancy issued for the studio shall include a condition stating that the unit is approved for non-transient sleeping use only and shall not be rented or used as an independent dwelling unit.

Appeal Process:

SECTION 113 of the NH State Building Code, including amendments

Means of Appeals: *In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, the local jurisdiction is permitted to create a board of appeals per RSA 155-A:3. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board*

shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

Currently, Portsmouth does not have a local board of appeals, therefore, the following applies.

113.1.1. Should the local jurisdiction elect not to create a board of appeals, the Building Code Review Board shall hear appeals of orders, decisions, or determinations made by the local building official relative to the application and interpretation of the state building code and state fire code as defined in RSA 155-A:1 per RSA 155-A:11-b.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

Appeals of a local building official shall be filed within Thirty (30) days of the final determination. The Board typically meets monthly, at 10 a.m. on the second Friday of the month at 33 Hazen Drive, 2nd floor conference room in Concord, NH.

The State Building Code Review Board:

- **Physical Address**
  110 Smokey Bear Blvd. Concord, NH
- **Mailing Address**
  33 Hazen Drive. Concord, NH 03305
- **Phone**(603) 223-4231
- **Email** bldgcodebrd@dos.nh.gov

Thank you,

Shanti Wolph, Chief Building Inspector, City of Portsmouth

cc: Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

Inspection Department
Shanti R. Wolph, Chief Building Inspector

August 6, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Supplement to Official Determination Regarding Occupancy Classification.
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Supplemental Letter

This supplemental letter clarifies the City's prior correspondence regarding the occupancy classification of the existing art studio at 28 Blossom Street. The prior determination was not intended to limit, reclassify, or otherwise change the zoning status of the space. Rather, it identified how the space is currently being used from a building code and life-safety perspective. Because "sleeping unit" is a building code term and is not a separate zoning classification under the Portsmouth Zoning Ordinance, no zoning reclassification has occurred and no zoning variance is required.

Summary Highlights

- **Occupancy Determination:** The existing art studio attached to the three-family apartment building may continue to be used as an R-2 non-transient sleeping unit for building code purposes.
- **Safety Requirements:** Continued use is contingent upon the installation and maintenance of all life-safety items identified in the initial letter.
- **Prohibited Uses:** The studio may not be rented, leased, or used as an independent dwelling unit. Permanent cooking facilities, including ranges or similar equipment, are prohibited to prevent the space from being classified as a dwelling unit.
- **Zoning and Building Code:** From a zoning perspective, the space remains a preexisting residential art studio. The Portsmouth Zoning Ordinance does not prohibit periodic or nightly sleeping by the owner or occupant, provided the space is not used as an independent living unit.
- **Departmental Coordination:** Planning Director Peter Britz concurs with this interpretation and with the distinction between building code life-safety requirements and zoning classification.

Detailed Analysis

The "Sleeping Unit" Distinction: This clarification is based on the specific use of the studio by the owners' son. Although he may spend nights in the studio, his primary residence remains 161 South Street, where he bathes, eats meals, and keeps his personal belongings. The studio does not contain the facilities necessary to function as an independent dwelling unit, such as

permanent cooking or bathing facilities. However, because the space is used for sleeping, it is treated as a sleeping unit for building code purposes and must comply with applicable life-safety requirements.

Regulatory Rationale

- **Building Code Perspective:** The building code focuses on life safety. If a space is used for sleeping, even periodically, it must satisfy the applicable R-2 safety requirements, including detection and egress.
- **Zoning and Assessing Perspective:** I have been advised that the space has existed for more than 50 years and therefore, it will continue to be recognized, assessed, and treated as a residential art studio. The City's records from their prior Zoning Approval and Assessing records both show it as a barn/art studio.
- **Legal Safeguards:** Prohibiting permanent cooking facilities helps ensure that the space is not converted into an unauthorized fourth dwelling unit under both the Building Code and the Zoning Ordinance.

Thank you,

Shanti Wolph

Shanti Wolph, Chief Building Inspector, City of Portsmouth

Shanti Wolph on behalf of Peter Britz

Peter Britz, Director of Planning and Sustainability

cc: Karen Conard, City of Portsmouth City Manager
Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

CITY OF PORTSMOUTH

Legal Department
Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
tmccourt@portsmouthnh.gov
(603) 610-7234

Trevor P. McCourt
Deputy City Attorney

Date: September 8, 2026

To: Beth Margeson, Chair, Zoning Board of Adjustment

From: Trevor P. McCourt, Deputy City Attorney

Re: Administrative Appeal of the Chief Building Inspector's Occupancy Determination for 28 Blossom Street (Assessor Map 111, Lot 40), General Residence B (GRB) and Historic Districts — Appeal of Kathleen B. & Kent A. Logan, Susan E. Lassen, Scott A. Lupkas, and Guy D. & Elizabeth R. Spiers; ZBA public hearing scheduled September 15, 2026

I. Introduction

The abutters identified above (the "Appellants") have appealed to this Board two letters issued by the Chief Building Inspector concerning the property located at 28 Blossom Street: a Determination Letter dated July 23, 2026 (Exhibit A), and a Supplemental Determination Letter dated August 6, 2026 (Exhibit B) (together, the "Determination"). This memorandum is intended to orient the Board to the history of the matter and to explain the process applicable to this appeal.

To be clear on the scope, this memorandum addresses only the zoning questions properly before this Board; it does not address, and the Board should not attempt to resolve the building code questions that the Appellants have separately placed before the New Hampshire Building Code Review Board.

II. Background

A. The Property and the Studio

28 Blossom Street is improved with a residential building that, by virtue of a 1987 variance, is authorized for three dwelling units. Attached to the side of the third dwelling unit is a structure that the parties refer to as the "art studio". This structure was originally a henhouse or barn structure, converted decades ago to studio use by the prior owners (the parents of current co-owner Hannah Burke). The property is owned by the Burke-Zabarsky Revocable Trust (Hannah and Paul

J. Burke, Trustees). The property lies within the General Residence B (GRB) zoning district and the Historic District.

The studio presently contains a water closet and lavatory but no shower and no permanent cooking facilities. It has its own separate exterior means of egress. According to the owners, the studio has historically been used as "overflow space for family and friends." The Appellants dispute that characterization and represent that, to the neighbors' knowledge, the studio was not used for residential sleeping until recent years. The owners allege that their adult son resides with them at their single-family home located at 161 Blossom Street, and that he uses the art studio space, and will occasionally sleep on the couch located within the space. The abutters dispute this allegation and claim the owners' adult son resides in the art studio. The abutters have raised concerns with City officials over an approximately three-year period regarding residential use of the studio and regarding an unpermitted shed constructed on the barn that, they represent, does not appear on the property's tax card.

B. The Chief Building Inspector's Determination

Following a complaint from an abutter, on July 23, 2026 the Chief Building Inspector issued the Determination Letter. Relying on the 2024 International Building Code (IBC) definition of "sleeping unit" and on the modifications authority in Section 104.2.4 of the New Hampshire State Building Code, the Inspector determined that the studio may be classified as an "R-2 non-transient sleeping unit", provided that a series of conditions is satisfied. Those conditions include the following: the installation of a shower; compliant egress and emergency escape and rescue openings; smoke and carbon-monoxide detection; maintenance of the existing two-hour fire separation; and prohibition on permanent cooking facilities and on rental or use as an independent dwelling unit. The letter states that the classification "does not authorize the creation of a fourth dwelling unit" and "does not waive any separate zoning . . . requirements that may apply."

On August 6, 2026, the Inspector issued the Supplemental Determination Letter, which states that the July 23 letter "was not intended to limit, reclassify, or otherwise change the zoning status of the space," that "sleeping unit" is a building-code term and "not a separate zoning classification," and that "no zoning reclassification has occurred and no zoning variance is required." The Supplemental Letter nevertheless confirms that the studio "may continue to be used as an R-2 non-transient sleeping unit," states that the Zoning Ordinance "does not prohibit periodic or nightly sleeping by the owner or occupant," and represents that the Planning Director concurs in that interpretation. It is signed by the Chief Building Inspector and on behalf of the Planning Director.

III. The Question Presented and the Decision Before the Board

The question the Board must answer proceeds in two steps. First, as a threshold matter: **do the physical changes the Determination requires convert the space from an art studio into something else.** Second, if the answer to the first question is yes: **is that new use accessory to a**

permitted principal use on the lot, or a separate use that is not permitted by right in the GRB district and therefore requires a variance?

IV. The Board's Authority and Scope of Review

I would recommend this Board refrain from commenting on the Appellants' appeal under the IBC. "An administrative appeal to the zoning board of adjustment . . . is the proper venue for an abutter who is dissatisfied with a building official's determination concerning a nonconforming use." Loughlin, P. New Hampshire Practice: Land Use Planning and Zoning Ch. 22.02. State law provides that the Board shall "hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance." RSA 674:33 (I).

In the context of an administrative appeal, the Board "may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken." RSA 674:33 (II).

This appeal is therefore *de novo*, meaning that the Board may make any decision the Chief Building Inspector and the Director of Planning and Sustainability could have made in interpreting the zoning ordinance, and owes no deference to the underlying decision. Ouellette v. Town of Kingston, 157 N.H. 604 (2008).

EXHIBITS

- **Exhibit A**: Determination Letter, City of Portsmouth Inspection Department, dated July 23, 2026.
- **Exhibit B**: Supplemental Determination Letter, City of Portsmouth Inspection Department, dated August 6, 2026.

cc: Susan G. Morrell, City Attorney
Shanti Wolph, Chief Building Inspector
Peter Britz, Director of Planning and Sustainability
Stefanie Casella, Planner

Inspection Department
Shanti R. Wolph, Chief Building Inspector

July 23, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Official Determination Regarding Occupancy Classification
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Determination Letter

This letter serves as the official determination of the City of Portsmouth Building Department regarding the occupancy classification and permissible use of the structure/art studio (studio) attached to the end dwelling at 28 Blossom Street, Portsmouth, New Hampshire.

For context, the property is owned by Burke-Zabarsky REV TST and Burke Hannah & Paul J TTES. In 1987, the two-family dwelling located at 28 Blossom Street was granted a variance authorizing a third residential dwelling unit. The studio is attached to the side of the third dwelling unit, and, according to the owners, has historically been used as overflow space for family and friends for more than 50 years. The owners have represented that the studio has not been, and is not currently being, rented, but is instead being used as a safe, quiet space for the Burkes' cognitively impaired adult son. He spends time in the studio primarily in the evening. During the day, he is at his parents' house, where he eats his meals, washes his clothes, and stores his belongings.

The Building Department received a complaint from an abutter asserting that the studio was not being used lawfully because it was being used for sleeping. The complaint also raised safety concerns related to the current occupant. The Department reviewed the matter for purposes of determining whether the existing space may be classified and regulated as a sleeping unit without creating or authorizing a fourth dwelling unit on the property.

As part of this review, Shanti Wolph, Chief Building Inspector for the City of Portsmouth, consulted with Phil Grankowski of the International Code Council (ICC) regarding the appropriate occupancy classification for the existing space. The purpose of the consultation was to determine whether the space could be classified in a manner that permits sleeping while avoiding designation as a separate dwelling unit, which would require separate zoning review and approval.

Upon review, the Building Department determines that the studio may be classified as an **R2 non-transient sleeping unit**, rather than as a dwelling unit, provided that the conditions set forth below are satisfied. This classification recognizes the historical use of the structure as accessory

overflow space for family and friends and avoids authorizing permanent cooking facilities or any independent dwelling use.

While the studio may be able to satisfy the sleeping-unit requirements, it is attached to a rental property. The son's parents reside on a separate property, which is in proximity. Therefore, an alternative code path has also been considered.

Basis for Determination:

1) 2024 IBC:

A] SLEEPING UNIT. A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Commentary to the above definition:

❖ *This definition is included to coordinate the Fair Housing Act guidelines with the code. The definition for "Sleeping unit" clarifies the differences between sleeping units and dwelling units. In addition, using the term "sleeping unit" for spaces where people sleep will replace a multitude of other terms (e.g., patient room, cell, guestroom) so that there is consistent application across occupancies. Some examples of sleeping units are hotel guest rooms; bedrooms in different types of congregate living facilities; patient sleeping rooms in hospitals, nursing homes or assisted living facilities; or housing cells in a jail. Another example would be a studio apartment with a kitchenette (i.e., countertop microwave, sink, refrigerator). Since the cooking arrangements are not the traditional permanent appliances (i.e., a range), this configuration would be considered a sleeping unit and not a dwelling unit. As defined in the code, a "Dwelling unit" must contain permanent facilities for living, sleeping, eating, cooking and sanitation.*

2) 104.2.4 of the NH State Building Code

In addition, I relied, in part, on the authority provided under 104.2.4 of the NH State Building Code, including amendments, which states as follows:

Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or the owner's authorized agent, provided that the building official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Commentary to the above code section:

❖ *The building official may amend or make exceptions to the code as needed where strict compliance is impractical. Only the building official has authority to grant modifications. Consideration of a particular difficulty is to be based on the application of the owner and a demonstration that the purpose of the code is accomplished. This section is not intended to permit setting aside or ignoring a code provision; rather, it is intended to provide acceptance of equivalent protection. Such modifications do not, however, extend to actions that are necessary to correct violations of the code. In other words, a code violation or the expense of correcting one cannot constitute a practical difficulty.*

Conditions of Approval:

- **Plumbing:** The studio currently contains a water closet and lavatory. A shower shall be installed to satisfy the hygiene requirements applicable to an R2 non-transient sleeping unit. Permanent cooking facilities shall not be installed or maintained in the studio.
- **Life Safety:** The studio shall have compliant means of egress and emergency escape and rescue openings. Smoke and carbon monoxide detectors shall be installed and maintained. The existing two-hour fire separation from the adjacent dwelling, established during a previous renovation, shall be maintained.
- **Building Systems:** The heating, electrical, and insulation systems shall be suitable for the approved use and shall comply with applicable code requirements.
- **Use Limitation:** The studio is approved only as an R2 non-transient sleeping unit and shall not be rented, leased, or otherwise used as an independent dwelling unit.
- **Cooking Facilities:** The studio shall not contain permanent cooking facilities, including a range or other equipment that would establish the space as a dwelling unit.

Conclusion:

Based on the foregoing, the Building Department determines that the studio may continue to be used as an R2 non-transient sleeping unit, provided that all conditions listed above are satisfied and maintained. This determination does not authorize the creation of a fourth dwelling unit, does not authorize rental occupancy of the studio, and does not waive any separate zoning, building, fire, life safety, health, or accessibility requirements that may apply. Any certificate of occupancy issued for the studio shall include a condition stating that the unit is approved for non-transient sleeping use only and shall not be rented or used as an independent dwelling unit.

Appeal Process:

SECTION 113 of the NH State Building Code, including amendments

Means of Appeals: *In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, the local jurisdiction is permitted to create a board of appeals per RSA 155-A:3. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board*

shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

Currently, Portsmouth does not have a local board of appeals, therefore, the following applies.

113.1.1. Should the local jurisdiction elect not to create a board of appeals, the Building Code Review Board shall hear appeals of orders, decisions, or determinations made by the local building official relative to the application and interpretation of the state building code and state fire code as defined in RSA 155-A:1 per RSA 155-A:11-b.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

Appeals of a local building official shall be filed within Thirty (30) days of the final determination. The Board typically meets monthly, at 10 a.m. on the second Friday of the month at 33 Hazen Drive, 2nd floor conference room in Concord, NH.

The State Building Code Review Board:

- **Physical Address**
  110 Smokey Bear Blvd. Concord, NH
- **Mailing Address**
  33 Hazen Drive. Concord, NH 03305
- **Phone**(603) 223-4231
- **Email** bldgcodebrd@dos.nh.gov

Thank you,

Shanti Wolph, Chief Building Inspector, City of Portsmouth

cc: Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

Inspection Department
Shanti R. Wolph, Chief Building Inspector

August 6, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Supplement to Official Determination Regarding Occupancy Classification.
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Supplemental Letter

This supplemental letter clarifies the City's prior correspondence regarding the occupancy classification of the existing art studio at 28 Blossom Street. The prior determination was not intended to limit, reclassify, or otherwise change the zoning status of the space. Rather, it identified how the space is currently being used from a building code and life-safety perspective. Because "sleeping unit" is a building code term and is not a separate zoning classification under the Portsmouth Zoning Ordinance, no zoning reclassification has occurred and no zoning variance is required.

Summary Highlights

- **Occupancy Determination:** The existing art studio attached to the three-family apartment building may continue to be used as an R-2 non-transient sleeping unit for building code purposes.
- **Safety Requirements:** Continued use is contingent upon the installation and maintenance of all life-safety items identified in the initial letter.
- **Prohibited Uses:** The studio may not be rented, leased, or used as an independent dwelling unit. Permanent cooking facilities, including ranges or similar equipment, are prohibited to prevent the space from being classified as a dwelling unit.
- **Zoning and Building Code:** From a zoning perspective, the space remains a preexisting residential art studio. The Portsmouth Zoning Ordinance does not prohibit periodic or nightly sleeping by the owner or occupant, provided the space is not used as an independent living unit.
- **Departmental Coordination:** Planning Director Peter Britz concurs with this interpretation and with the distinction between building code life-safety requirements and zoning classification.

Detailed Analysis

The "Sleeping Unit" Distinction: This clarification is based on the specific use of the studio by the owners' son. Although he may spend nights in the studio, his primary residence remains 161 South Street, where he bathes, eats meals, and keeps his personal belongings. The studio does not contain the facilities necessary to function as an independent dwelling unit, such as

permanent cooking or bathing facilities. However, because the space is used for sleeping, it is treated as a sleeping unit for building code purposes and must comply with applicable life-safety requirements.

Regulatory Rationale

- **Building Code Perspective:** The building code focuses on life safety. If a space is used for sleeping, even periodically, it must satisfy the applicable R-2 safety requirements, including detection and egress.
- **Zoning and Assessing Perspective:** I have been advised that the space has existed for more than 50 years and therefore, it will continue to be recognized, assessed, and treated as a residential art studio. The City's records from their prior Zoning Approval and Assessing records both show it as a barn/art studio.
- **Legal Safeguards:** Prohibiting permanent cooking facilities helps ensure that the space is not converted into an unauthorized fourth dwelling unit under both the Building Code and the Zoning Ordinance.

Thank you,

Shanti Wolph

Shanti Wolph, Chief Building Inspector, City of Portsmouth

Shanti Wolph on behalf of Peter Britz

Peter Britz, Director of Planning and Sustainability

cc: Karen Conard, City of Portsmouth City Manager
Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

CITY OF PORTSMOUTH
Planning and Sustainability Department
1 Junkins Avenue
Portsmouth, New Hampshire
03801
(603) 610-7216

September 9, 2026

City of Portsmouth
Board of Adjustment

Dear Chair Margeson and Members of the Board of Adjustment:

This letter is in reference to the Administrative Appeal of the Chief Building Inspector's Occupancy Determination for 28 Blossom Street filed by Kathleen B. Logan and Kent A. Logan, Trustees of the Kathleen B. Logan Revocable Trust, of 21 Blossom Street; Susan E. Lassen, Trustee of the Lassen Family Revocable Trust , of 34 Blossom Street; Scott A. Lupkas, of 33 Blossom Street; and Guy D. Spiers and Elizabeth R. Spiers, Trustees of the 3A Trust, of 241 South Street. Specifically, I am providing some background on how this appeal relates to the Portsmouth Zoning Ordinance.

Simply, the art studio located at 28 Blossom exists today as an art studio. We do not treat a property that does not have a kitchen as a residence for the purposes of zoning. This studio attached to the third dwelling unit is used as an art studio and continues to be used in that manner and no change to that use has been made.

The definition of dwelling unit in the City's Zoning Ordinance is: *A building or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This use shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses.*

While the building inspector recommended a path forward for the space to be considered a sleeping unit there is no definition for a sleeping unit in the Zoning Ordinance. This is a building code definition that is not included in any of the uses classified in the zoning ordinance. Given that there has been no effort to convert this space into an independent living space and there is, in fact, no kitchen, and does not appear to be any place to store personal belongings or bathing facilities, it would not be treated as a residential unit.

Importantly, this artist studio could not be treated as a residence, only as an art studio for this or any future users of the space because the existing use does not meet the definition for a dwelling unit.

Sincerely,

Peter Britz
Director of Planning and Sustainability

Cc: Stefanie Casella, Planner II
Trevor McCourt, Deputy City Attorney

STATE OF NEW HAMPSHIRE
CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT

IN RE: Appeal from Determination Letter (July 23, 2026) and
Supplemental Determination Letter (August 6, 2026) of the
Chief Building Inspector, City of Portsmouth
Property: 28 Blossom Street, Portsmouth, NH 03801 (MBLU 0111/0040/0000)
Owners of Record: Burke-Zabarsky Revocable Trust; Hannah & Paul J. Burke, Trustees
ZBA Case No.: LU-26-114

APPELLANTS' MOTION FOR REHEARING

(Filed pursuant to RSA 677:2)

NOW COME Appellants Kathleen B. Logan and Kent A. Logan, Trustees of the Kathleen B. Logan Revocable Trust; Susan E. Lassen, Trustee of the Lassen Family Revocable Trust; Scott A. Lupkas; and Guy D. Spiers and Elizabeth R. Spiers, Trustees of the 3A Trust (collectively, "Appellants"), and, pursuant to RSA 677:2, respectfully move this Board for rehearing of its decision, by a vote of 5–2, denying Appellants' appeal of the Determination Letter dated July 23, 2026, and the Supplemental Determination Letter dated August 6, 2026, issued by the Chief Building Inspector of the City of Portsmouth. In support of this Motion, and specifying the grounds therefor as required by RSA 677:2, Appellants state as follows:

I. PROCEDURAL BACKGROUND AND TIMELINESS

1. On August 20, 2026, Appellants filed a Notice of Appeal and Statement of Grounds with this Board, appealing the Determination Letter and Supplemental Determination Letter described above.

2. On September 15, 2026, this Board held a hearing on Appellants' appeal and, by a vote of 5–2, denied the appeal.

3. At that hearing, the genesis and history of the City's enforcement action were placed squarely at issue by the Board itself. Planning Director Peter Britz initially testified that the City's Legal Department zoning code enforcement officer had never been involved in this matter. Inspector Wolph then clarified that Legal Enforcement Officer Jason Page and the Legal Department had, in fact, been "read in on everything." As set forth in Part II.C below, neither witness's testimony disclosed that Mr. Page had actual knowledge of the studio's occupancy well before the City's June 18, 2026 cease-and-desist letter issued. The newly discovered evidence described in Part II bears directly on the accuracy and completeness of the account the Board received on this point.

4. This Motion is filed within thirty (30) days after the Board's decision, as required by RSA 677:2, and is Appellants' complete statement of the grounds upon which rehearing is sought.

II. GROUNDS FOR REHEARING

A. The Certified Record Furnished by the City After the Board's Vote

5. On the morning of September 16, 2026 — the day after this Board's vote — the City of Portsmouth furnished Appellants with a certified record of documents (the "Certified Record") compiled by Chief Building Inspector Shanti Wolph and previously ordered produced in the related proceeding before the New Hampshire State Building Code Review Board, Docket No. 2026-4. The Certified Record was certified by Inspector Wolph on September 2, 2026, but was not furnished to Appellants until the day following this Board's vote on their appeal. A true and accurate copy of the Certified Record is attached hereto as Exhibit A and incorporated herein by reference.

6. Appellants did not have access to the Certified Record, and could not reasonably have obtained its contents through the exercise of due diligence, before this Board's September 15, 2026 vote. The Certified Record was compiled and produced solely because of the separate, concurrent proceeding before the State Building Code Review Board, and its contents were not otherwise available to Appellants or the public prior to its production.

7. The Certified Record accordingly constitutes newly discovered evidence within the meaning of RSA 677:2, which Appellants could not, with reasonable diligence, have discovered or presented at the hearing on their appeal.

B. The Newly Discovered Evidence Is Material to Grounds Already Raised Before This Board

The Certified Record is not merely cumulative. Several documents within it bear directly on the genesis of the City's enforcement action and on grounds Appellants raised in their original appeal:

8. July 10, 2026 email from Inspector Wolph to the International Code Council (Tab 7 of the Certified Record). In this contemporaneous communication — made before the Determination Letter issued and before any final decision had been reached — Inspector Wolph stated that the owners of 28 Blossom Street "do not reside on this property" and "live nearby at a separate residence and rent the three dwelling units." Inspector Wolph then wrote: "If the studio were clearly accessory to one of the dwelling units and used by the occupants of that unit, I do not believe there would be a significant issue. The challenge is that the studio does not appear to be accessory to any particular dwelling unit and is functioning as a stand-alone space... The question I am struggling with is whether the son's regular overnight use of the studio constitutes a code violation. During the day, he returns to his parents' residence, where he eats, showers, and does laundry. The studio is used primarily as a place for him to sleep at night." This contemporaneous statement, from the Building Inspector himself, directly corroborates the ground raised in Appellants' original appeal that the studio cannot lawfully be treated as an accessory use of 161 South Street.

9. June 30, 2026 letter from Hannah and Paul Burke to Inspector Wolph (Tab 5 of the Certified Record). In this letter, the property owners themselves wrote: "If the City denies us the right to have our son sleep in the studio, there will be no place for him to live." This admission, from the owners, confirms that the studio functions as Christopher Burke's actual residence rather than as incidental overflow space, and further corroborates Appellants' contention that the space operates in substance as an independent dwelling or sleeping unit.

10. July 14, 2026 email from Inspector Wolph to the Burkes (Tab 8 of the Certified Record). This email identifies Section 104.11 of the Building Code — the alternative-materials-and-methods provision, invoked expressly on the basis of "humanitarian considerations" — as the code path under consideration at that time. The Determination Letter ultimately issued on July 23, 2026 instead relies on Section 104.2.4, a different provision governing modifications for practical difficulties. This shift in the legal authority relied upon, over the course of two weeks and without any apparent intervening change in the facts, is material to Appellants' contention that the Determination reflects an outcome-driven search for regulatory authority rather than a natural application of the code.

11. June 22, 2026 letter from Inspector Wolph to the Burkes (Tab 4 of the Certified Record). In this letter, Inspector Wolph wrote: "The cease-and-desist letter was issued after I received information from a Portsmouth Police Officer indicating that your son had stated he was living in the structure." As Appellants stated in their original appeal, this police report was only the most recent development in a pattern of concern: Blossom Street neighbors, including Appellants, had repeatedly raised the same nonconforming residential use of the studio with City officials for approximately three years before the cease-and-desist letter issued. The genesis of this matter is accordingly broader than any single report, and, as set forth in Part II.C below, the completeness of this account bears directly on the testimony given to the Board at the September 15, 2026 hearing regarding the City's knowledge of and involvement in this matter.

12. July 29, 2026 inspection report (Tab 11 of the Certified Record). This is the first inspection of the studio reflected anywhere in the Certified Record. It occurred six days after the Determination Letter issued on July 23, 2026. Nothing in the Certified Record indicates that Inspector Wolph, or anyone from the City, physically inspected the studio at any point before the Determination Letter issued. A Determination that identifies specific life-safety conditions of approval — a shower, particular egress and detection requirements, and a described two-hour fire separation — before any inspection confirming the studio's actual physical condition had taken place is further evidence that the classification, and the conditions attached to it, were settled in advance and verified only after the fact.

13. August 13, 2026 inspection report (Tab 12 of the Certified Record). This report states that, as of that inspection, “a shower had not yet been installed,” notwithstanding that the July 23, 2026 Determination Letter made installation of a shower an express condition of the studio's continued use as an R2 non-transient sleeping unit. The report nonetheless concludes that “the studio is safe to use.” This document is material to Appellants' contention, raised in the related building-code appeal and relevant here, that the conditions of the Determination have not been verified or enforced before continued occupancy was permitted to proceed.

C. The Hearing Testimony Regarding the Legal Department's Knowledge and Involvement Was Incomplete

14. At the September 15, 2026 hearing, Planning Director Peter Britz initially testified that the City's Legal Department zoning code enforcement officer had never been involved in this matter. Inspector Wolph subsequently clarified, testifying that Legal Enforcement Officer Jason Page and the Legal Department had been “read in on everything.”

15. Neither witness disclosed to the Board that Mr. Page had actual knowledge of Christopher Burke's occupancy of the studio well before the City's June 18, 2026 cease-and-desist letter issued. Appellant Kathleen B. Logan documented her own direct communications with Mr. Page concerning this same occupancy on June 24, 2025, and again on May 27, 2026. Ms. Logan's reports to the City's Inspection and Police Departments regarding the occupancy of the studio date back to 2023, when, at various times, Christopher was subject to bail and protective orders barring him from both the 28 Blossom Street and 161 South Street properties.

16. This history was not before the Board at the September 15, 2026 hearing. It bears directly on the completeness and accuracy of the testimony the Board received regarding when and how the City became aware of the studio's occupancy, and on the weight the Board should give to the City's account of the genesis of this matter. Appellants are prepared to present this evidence, together with the Certified Record, on rehearing.

D. This Evidence Could Not Reasonably Have Been Obtained Before the Board's Decision

Appellants recognize that a motion for rehearing is not an occasion to introduce evidence that could, with reasonable diligence, have been obtained and presented at the original hearing. That is not the case here. The Certified Record was compiled by the City in response to a scheduling order issued by a different tribunal, in a separate proceeding, and was not requested by or available to Appellants through ordinary means before this Board's vote. The certification date of September 2, 2026, followed by production to Appellants only on September 16, 2026 — the morning after this Board's decision — reflects a gap in timing that was not within Appellants' control and that could not have been shortened through diligence on their part. And while Ms. Logan's own records of her communications with Mr. Page have long been in Appellants' possession, their significance did not become apparent as a ground for rehearing until the Legal Department's role and knowledge were placed in dispute by the testimony at the September 15, 2026 hearing itself — testimony Appellants could not have anticipated or addressed in advance.

E. The Board's Written Decision Does Not Address the Grounds of Appeal

The Board's written decision on Appellants' appeal, dated September 22, 2026, states in its entirety that the Board voted to deny the appeal because "the physical changes requested by the Code Official would not convert the space into something other than an art studio and there is nothing in those physical changes that is incompatible with the use of an art studio."

This stated rationale addresses only whether the physical modifications identified as conditions of approval in the Determination — installation of a shower, compliant egress, and smoke and carbon monoxide detection — are compatible with continued use of the space as an art studio. It does not address, and the written decision contains no discussion of, the grounds Appellants actually raised in their Notice of Appeal: that the Chief Building Inspector usurped this Board's exclusive zoning jurisdiction under RSA 674:33 and RSA 676:5; that the approved use is not a permitted use in the General Residence B zoning district; that the Determination effectively authorizes an unauthorized rooming, boarding, or co-living arrangement; that the studio cannot lawfully be treated as an accessory use of the separate, non-contiguous parcel at 161 South Street; and that the Determination fails to address density, parking, and Historic District Commission requirements triggered by the use.

A decision that evaluates only the physical compatibility of specific building modifications with an art studio, without addressing whether the occupancy those modifications are meant to support is a lawful use under the Zoning Ordinance, does not reflect consideration of the case Appellants actually presented. Appellants received this stated rationale for the first time with the Board's written decision on September 22, 2026, and could not have addressed this gap in the Board's reasoning any earlier. Rehearing is warranted so that the Board may consider, and render a decision that addresses, the zoning-use grounds Appellants actually raised, rather than the narrower physical-compatibility question the Determination itself did not present as the operative issue.

E. On the Merits, the Board's Decision Improperly Delegated the Meaning, Construction and Interpretation of the Zoning Ordinance to the Building Inspector and/or the City's Code Enforcement Department(s).

In denying the appeal, the Board improperly delegated the authority to interpret, construe and apply the City's Zoning Ordinance to the Building Inspector. Specifically, the Building Inspector reclassified the space as an "R2 non-transient sleeping unit" under the International Building Code and authorized its continued use for that purpose.

The Building Inspector's determination effectively executed an end-run around the plain meaning of the Zoning Ordinance, which distinguishes between "dwelling units" and "sleeping units", and does not permit "sleeping units" (or any other rooming, boarding or co-living use) in the GRB zoning district. The owners of the address in question have conceded that their adult son is living in the artists' studio on the property, which also includes a three-unit apartment building. The owners do not actually live on this property. Thus, this artist studio building is being used as a fully separate dwelling unit, which is not a permitted use in this location under the Portsmouth Zoning Ordinance. The Determination simply ignores the non-compliance of the use being made of the building with the Zoning Ordinance itself. The Board's September 15, 2026 decision, after hearing argument on these points, affirms that use notwithstanding the clear and obvious violation of the Zoning Ordinance. In so doing, the Board has improperly delegated its power to determine whether a use is compliant with the plain and ordinary terms of the Zoning Ordinance to the Building Inspector, or another administrative officer.

In addition, the Board's decision constitutes *ad hoc* rulemaking. The Board's decision ratifies a code enforcement determination of the Building Inspector that cannot be reconciled with the plain language of the Zoning Ordinance. The City Council deliberately chose not to extend rooming, boarding and co-living uses into GRB residential districts, confining them to districts such as the CD4 district. The Board's decision ratifying the Building Inspector's determination effectively rewrites the Zoning Ordinance without City Council or voter approval. In so doing, the Board is usurping the power to enact changes to the Zoning Ordinance from the proper legislative authority of the City of Portsmouth, the Planning Board, and the voters themselves.

Furthermore, the Board's decision appears to permit a use accessory to a primary residence on another lot altogether. The owners reside at 161 South Street, and the artist studio in question is located at 28 Blossom Street. The Building Inspector's decision, ratified expressly or implicitly by the Board on September 15, 2026, permits the linkage between a primary use and an accessory use on separately identified, assessed and taxed lots. This baffling decision is contrary to the Zoning Ordinance and undermines the City's zoning scheme altogether.

F. This Appeal Restates and Reincorporates Each of the Arguments Made In Its Appeal of August 20, 2026.

Attached hereto is the Appeal dated August 20, 2026. Because the Board failed to address any of the merits arguments contained therein, the Appellants expressly incorporate and restate each argument attached hereto lest there be any suggestion of failure to preserve any issue or argument made herein or therein.

III. THE BOARD SHOULD GRANT REHEARING

RSA 677:2 authorizes this Board to grant rehearing where, "in its opinion good reason therefor is stated in the motion." Good reason exists here. The newly discovered evidence, together with the incompleteness of the hearing testimony regarding the Legal Department's knowledge and involvement, bears directly on the credibility of the account of this matter's origin presented to the Board, on the accessory-use ground raised in Appellants' original appeal, and on whether the Determination reflects a consistent and good-faith application of the Building Code or a shifting search for regulatory cover — the latter underscored by a Determination that specified detailed life-safety conditions before any inspection of the studio had ever taken place. And apart from

that evidence, the Board's own written decision confirms that its stated rationale did not reach the zoning-use grounds Appellants actually raised. Fundamental fairness, and the interest of this Board in deciding this matter on a complete and accurate record and in addressing the grounds actually presented, favor rehearing so that this evidence and these grounds may be considered.

IV. RELIEF REQUESTED

WHEREFORE, Appellants respectfully request that the Board:

a. Grant rehearing of its September 15, 2026 decision denying Appellants' appeal, for consideration of all issues raised herein or therein;

b. Accept the Certified Record, attached as Exhibit A, as part of the record on rehearing;

c. Upon rehearing, reconsider and reverse its September 15, 2026 decision in light of the newly discovered evidence and the merits arguments raised in the Appeal; and

d. Grant such other and further relief as the Board deems just and proper.

Appellants further state that, should this Motion be denied in whole or in part, Appellants intend to preserve all rights of appeal available under RSA 677:4, and file this Motion, in the alternative, for the purpose of exhausting the prerequisite to any such appeal.

V. EXHIBITS

- Exhibit A — Certified Record, City of Portsmouth Building Department (certified September 2, 2026; produced to Appellants September 16, 2026)

CERTIFICATE OF SERVICE

Appellants hereby certify that a copy of this Motion has been filed with the Zoning Board of Adjustment, City of Portsmouth, and served upon the City of Portsmouth and all other parties of record, by the method(s) required by the Board's rules and RSA 677:2.

Respectfully submitted,

Kathleen B. Logan and Kent A. Logan, Trustees
Kathleen B. Logan Revocable Trust
21 Blossom Street
Portsmouth, NH 03801

Susan E. Lassen, Trustee
Lassen Family Revocable Trust
34 Blossom Street
Portsmouth, NH 03801

Scott A. Lupkas
33 Blossom Street
Portsmouth, NH 03801

Guy D. Spiers and Elizabeth R. Spiers, Trustees
3A Trust
241 South Street
Portsmouth, NH 03801

By their Attorneys,

ORR & RENO, P.A.

By: */s/ Jeremy D. Eggleton*

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jeggleton@orr-reno.com

STATE OF NEW HAMPSHIRE

CITY OF PORTSMOUTH

ZONING BOARD OF ADJUSTMENT

IN RE: Appeal from Determination Letter (July 23, 2026) and Supplemental Determination Letter (August 6, 2026) of the Chief Building Inspector, City of Portsmouth

Property: 28 Blossom Street, Portsmouth, NH 03801 (MBLU 0111/0040/0000)

Owners of Record: Burke-Zabarsky Revocable Trust; Hannah & Paul J. Burke, Trustees

NOTICE OF APPEAL AND STATEMENT OF GROUNDS

(Filed pursuant to RSA 674:33; RSA 676:5; and the Portsmouth Zoning Ordinance)

TO: The Zoning Board of Adjustment, City of Portsmouth, New Hampshire

The undersigned, Kathleen B. Logan and Kent A. Logan, Trustees of the Kathleen B. Logan Revocable Trust, of 21 Blossom Street; Susan E. Lassen, Trustee of the Lassen Family Revocable Trust, of 34 Blossom Street; Scott A. Lupkas, of 33 Blossom Street; and Guy D. Spiers and Elizabeth R. Spiers, Trustees of the 3A Trust, of 241 South Street, all of Portsmouth, New Hampshire (collectively, "Appellants"), being abutters within the meaning of RSA 676:5, I, and RSA 672:3, hereby appeal to this Board the determination of the Chief Building Inspector set forth in (1) the Determination Letter dated July 23, 2026, and (2) the Supplemental Determination Letter dated August 6, 2026 (together, the "Determination"), both concerning the property at 28 Blossom Street, Portsmouth, New Hampshire ("the Property"). This appeal is timely filed within thirty (30) days of both the Determination Letter and the Supplemental Determination Letter, as required by RSA 676:5, I.

I. STATEMENT OF STANDING

Appellants own and/or occupy property that abuts, or is within the notice radius of, 28 Blossom Street, and are directly and specially affected by the Determination, which authorizes continued and expanded residential occupancy of a structure historically used as an accessory artist's studio, with attendant impacts on neighborhood character, on-street parking, density, and life

safety in the General Residence B ("GRB") zoning district. Appellants therefore have standing to bring this appeal as abutters under RSA 676:5, I, and RSA 672:3, and as aggrieved parties within the meaning of RSA 674:33, I.

II. RELATIONSHIP TO CONCURRENT BUILDING CODE APPEAL

A separate appeal has also been filed with the New Hampshire Building Code Review Board addressing building-code classification questions under Section 113.1.1 of the New Hampshire State Building Code, including whether the Chief Building Inspector correctly applied the IBC definitions of "sleeping unit" and "dwelling unit" and properly invoked the Section 104.2.4 modification authority. That appeal does not raise, and is not intended to waive, any of the zoning grounds presented here.

III. STATEMENT OF FACTS

- 28 Blossom Street is improved with a two-family dwelling that received a variance in 1987 authorizing a third residential dwelling unit. A barn structure on the Property contains a former hennery converted decades ago into an artist's studio by Melvin and Joyce Zabarsky, the parents of current co-owner Hannah Burke.
- Following the deaths of Mr. and Mrs. Zabarsky in 2019, Hannah Burke acquired an interest in the Property and later conveyed it to the Burke-Zabarsky Revocable Trust, of which she and her husband, Paul Burke, are trustees.
- Beginning in 2023, the Burkes began housing their adult son, Christopher, in the studio. When not confined in jail or committed to a mental health facility, he has been regularly housed in the studio, including to the present day. Neighbors report that, to their knowledge, the studio was never previously used as "overflow space for family and friends," as the owners now represent.
- Blossom Street neighbors have, for approximately three years, repeatedly raised concerns with City officials regarding the nonconforming residential use of the studio and regarding an unpermitted shed constructed by Paul Burke on the southeast side of the barn — a structure that does not appear on the Property's tax card to this day.

- On July 23, 2026, without public notice, hearing, or an opportunity for abutters to be heard, the Chief Building Inspector issued the Determination Letter, classifying the studio as an "R2 non-transient sleeping unit" under the 2024 International Building Code, subject to listed conditions, and citing Section 104.2.4 of the New Hampshire State Building Code (the "modifications" provision) as partial authority.
- On August 6, 2026, the Chief Building Inspector issued a Supplemental Determination Letter purporting to clarify that the July 23 letter effected no zoning reclassification, while nonetheless confirming that the studio "may continue to be used as an R-2 non-transient sleeping unit" and that the Planning Director "concurs" in that conclusion.
- As of the date of this appeal, Christopher Burke continues to be housed in the studio notwithstanding that one or more conditions of the Determination — including installation of a shower and other life-safety items — remain unsatisfied, and notwithstanding that no certificate of occupancy has issued.

IV. GROUNDS FOR APPEAL

A. The Chief Building Inspector Exceeded His Authority and Usurped the Zoning Board's Exclusive Jurisdiction

Under RSA 674:33, I, the Zoning Board of Adjustment holds exclusive authority to grant variances and to hear and decide appeals of determinations that affect the application of the zoning ordinance. The Chief Building Inspector's Section 104.2.4 authority is confined to the State Building Code and permits modification only of building-code requirements upon a finding of "practical difficulties" that does not lessen health, life-safety, or structural protections — it is not, and cannot be, a source of zoning authority.

Although the Supplemental Determination Letter disclaims any zoning reclassification, its practical and stated effect is to authorize a fourth, functionally independent sleeping arrangement in a building previously approved for only three dwelling units, subject only to building-code conditions. A determination that changes what may occupy a structure and how it may be used is a zoning determination in substance, regardless of the label placed on it. By resolving this question administratively — without notice, hearing, or referral to this Board — the Building

Inspector reached a decision reserved exclusively to the Board's variance and appeal jurisdiction under RSA 674:33 and RSA 676:5.

B. The Approved Use Is Not a Permitted Use in the GRB Zoning District

The Portsmouth Zoning Ordinance, consistent with the 2024 IBC definitions relied upon in the Determination itself, distinguishes a "dwelling unit" (which must contain permanent facilities for living, sleeping, eating, cooking, and sanitation) from a "sleeping unit" (which by definition lacks independent cooking facilities). A room or structure that provides only sleeping accommodations without a kitchen, and that operates with its own separate exterior egress, falls within the Ordinance's definition of a rooming, boarding, or co-living use rather than an accessory or incidental use of a dwelling. Rooming and boarding uses of this kind are not permitted by right in the GRB district. The Determination authorizes precisely this configuration — a non-transient sleeping unit with its own egress, prohibited only from containing a kitchen — without any of the zoning relief such a use requires.

C. The Determination Effectively Converts the Approved Three-Unit Building Into an Unauthorized Rooming, Boarding, or Co-Living Arrangement Not Permitted Outside the Downtown District

The City Council's recently adopted Co-Living Zoning Amendment demonstrates that the City itself recognizes independent sleeping units of this type as a distinct land use requiring specific zoning authorization — including tailored parking ratios — and confines that use to higher-intensity mixed-use districts such as CD4. The Council's deliberate choice not to extend that use to low- and medium-density residential districts such as GRB confirms, by clear implication, that a co-living or rooming arrangement may not be piecemealed into an existing three-family structure in the GRB district through an administrative building-code determination. The Determination effectively grants by administrative letter what the Council itself has declined to authorize by ordinance in this district.

D. The Studio Cannot Lawfully Be Treated as an Accessory Use Tied to the Separate Parcel at 161 South Street

Both Determination Letters justify the arrangement, in part, on the premise that Christopher Burke's "primary residence" is 161 South Street — a separate, non-contiguous parcel owned by his parents — where he purportedly eats, bathes, and stores his belongings, while he sleeps at the

Property. An accessory use or structure must be incidental to, and located on the same lot as, the principal use it serves; it cannot be constituted by combining facilities on one lot with sleeping quarters on an entirely different, geographically separated lot under separate ownership and separate tax assessment. The Ordinance recognizes no such cross-lot accessory-use arrangement, and the Determination's reliance on activities occurring at 161 South Street to legitimize residential occupancy at 28 Blossom Street is not a cognizable basis for approval under the Ordinance.

The Determination compounds this defect by describing 161 South Street as being "in proximity" to the Property, as though geographic nearness could substitute for the same-lot requirement that defines an accessory use under the Ordinance. It cannot. 161 South Street and 28 Blossom Street are separate, distinctly deeded and separately assessed parcels, each with its own MBLU designation, and no lot-line consolidation, lot merger, or other action has combined them into a single zoning lot. Proximity between two parcels, however close, does not create the unity of lot required for one parcel's facilities to serve as the accessory support for a use located on another.

Nor is this defect merely academic. The Determination classifies the studio itself — not Christopher Burke personally, and not the current ownership arrangement — as an R2 non-transient sleeping unit, a classification that would run with 28 Blossom Street and remain in effect for any future owner or occupant regardless of any continuing connection to 161 South Street. Nothing in the Determination requires common ownership of the two parcels, requires the sleeping unit's occupant to have any relationship to 161 South Street, or provides for reconsideration if the two properties are ever conveyed separately. Should the Burkes sell 28 Blossom Street alone, sell 161 South Street alone, or sell the two properties to different purchasers — any of which they remain free to do at any time — the entire factual predicate for the Determination would disappear, yet the studio would continue to exist as an approved fourth sleeping unit, permanently detached from the very arrangement used to justify it. That the Determination's central premise cannot survive the ordinary, foreseeable alienation of either parcel confirms that it was never a proper accessory-use analysis in the first place, and illustrates why a permanent change in occupancy classification of this kind must be evaluated by this Board — which can consider the use on a durable, parcel-specific basis — rather than rest on an

administrative letter premised on a currently convenient but legally unenforceable arrangement between two separately alienable properties.

E. The Determination Fails to Address Density, Parking, and Historic District Requirements Triggered by the Use

Even if a sleeping unit of this kind were otherwise permissible, the Determination does not address, and the Building Inspector had no authority to waive, the following additional zoning and land-use requirements implicated by the proposed occupancy:

- Density: The GRB district imposes a minimum lot area per dwelling or sleeping unit. Adding a fourth independent living arrangement increases the intensity of use beyond what was approved by the 1987 variance and may require a dimensional variance.
- Parking: Off-street parking on Blossom Street is, and has long been, a documented problem. An additional independent sleeping unit triggers additional off-street parking requirements that the Property may be unable to satisfy without a parking variance.
- Historic District Commission review: The Property lies within Portsmouth's Historic District. Because the studio has its own separate exterior egress, any exterior modifications required to bring the space into compliance with the R-2 life-safety conditions in the Determination — egress doors, emergency escape openings, exterior lighting — require a Certificate of Approval from the Historic District Commission before such work may proceed.
- Unresolved nonconforming use and unpermitted construction: The Determination does not address the unpermitted shed attached to the barn, which does not appear on the Property's tax card, or the multi-year history of unresolved neighbor complaints regarding nonconforming use of the Property, both of which bear directly on whether any further intensification of use should be authorized.

V. RELIEF REQUESTED

For the foregoing reasons, Appellants respectfully request that the Board:

1. Accept jurisdiction over this appeal pursuant to RSA 674:33, I, and RSA 676:5;

2. Reverse and vacate the Determination Letter dated July 23, 2026, and the Supplemental Determination Letter dated August 6, 2026, in their entirety;

3. Declare that the proposed non-transient sleeping unit at 28 Blossom Street constitutes a change of use requiring, at a minimum, a Use Variance, a Dimensional Variance, and a Parking Variance from this Board before any such use may lawfully continue;

4. Direct that no certificate of occupancy or building permit issue for the studio unless and until the owners obtain all required approvals from this Board, the Historic District Commission, and the Planning Board, in that sequence; and

5. Grant such other and further relief as the Board deems just and proper, including referral of the unpermitted shed and ongoing nonconforming occupancy to the City's code enforcement office.

VI. EXHIBITS

- Exhibit A — Determination Letter, City of Portsmouth Building Department, dated July 23, 2026
- Exhibit B — Supplemental Determination Letter, City of Portsmouth Building Department, dated August 6, 2026

Respectfully submitted,

Kathleen B. Logan, Trustee

Kathleen B. Logan and Kent A. Logan, Trustees
Kathleen B. Logan Revocable Trust
21 Blossom Street
Portsmouth, NH 03801

Susan E. Lassen, Trustee
Lassen Family Revocable Trust
34 Blossom Street
Portsmouth, NH 03801

Scott A. Lupkas
33 Blossom Street
Portsmouth, NH 03801

Guy D. Spiers and Elizabeth R. Spiers, Trustees
3A Trust
241 South Street
Portsmouth, NH 03801

Date: 8-20-2026

Inspection Department
Shanti R. Wolph, Chief Building Inspector

July 23, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Official Determination Regarding Occupancy Classification
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Determination Letter

This letter serves as the official determination of the City of Portsmouth Building Department regarding the occupancy classification and permissible use of the structure/art studio (studio) attached to the end dwelling at 28 Blossom Street, Portsmouth, New Hampshire.

For context, the property is owned by Burke-Zabarsky REV TST and Burke Hannah & Paul J TTES. In 1987, the two-family dwelling located at 28 Blossom Street was granted a variance authorizing a third residential dwelling unit. The studio is attached to the side of the third dwelling unit, and, according to the owners, has historically been used as overflow space for family and friends for more than 50 years. The owners have represented that the studio has not been, and is not currently being, rented, but is instead being used as a safe, quiet space for the Burkes' cognitively impaired adult son. He spends time in the studio primarily in the evening. During the day, he is at his parents' house, where he eats his meals, washes his clothes, and stores his belongings.

The Building Department received a complaint from an abutter asserting that the studio was not being used lawfully because it was being used for sleeping. The complaint also raised safety concerns related to the current occupant. The Department reviewed the matter for purposes of determining whether the existing space may be classified and regulated as a sleeping unit without creating or authorizing a fourth dwelling unit on the property.

As part of this review, Shanti Wolph, Chief Building Inspector for the City of Portsmouth, consulted with Phil Grankowski of the International Code Council (ICC) regarding the appropriate occupancy classification for the existing space. The purpose of the consultation was to determine whether the space could be classified in a manner that permits sleeping while avoiding designation as a separate dwelling unit, which would require separate zoning review and approval.

Upon review, the Building Department determines that the studio may be classified as an **R2 non-transient sleeping unit**, rather than as a dwelling unit, provided that the conditions set forth below are satisfied. This classification recognizes the historical use of the structure as accessory

overflow space for family and friends and avoids authorizing permanent cooking facilities or any independent dwelling use.

While the studio may be able to satisfy the sleeping-unit requirements, it is attached to a rental property. The son's parents reside on a separate property, which is in proximity. Therefore, an alternative code path has also been considered.

Basis for Determination:

1) 2024 IBC:

A] SLEEPING UNIT. A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Commentary to the above definition:

❖ *This definition is included to coordinate the Fair Housing Act guidelines with the code. The definition for "Sleeping unit" clarifies the differences between sleeping units and dwelling units. In addition, using the term "sleeping unit" for spaces where people sleep will replace a multitude of other terms (e.g., patient room, cell, guestroom) so that there is consistent application across occupancies. Some examples of sleeping units are hotel guest rooms; bedrooms in different types of congregate living facilities; patient sleeping rooms in hospitals, nursing homes or assisted living facilities; or housing cells in a jail. Another example would be a studio apartment with a kitchenette (i.e., countertop microwave, sink, refrigerator). Since the cooking arrangements are not the traditional permanent appliances (i.e., a range), this configuration would be considered a sleeping unit and not a dwelling unit. As defined in the code, a "Dwelling unit" must contain permanent facilities for living, sleeping, eating, cooking and sanitation.*

2) 104.2.4 of the NH State Building Code

In addition, I relied, in part, on the authority provided under 104.2.4 of the NH State Building Code, including amendments, which states as follows:

Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or the owner's authorized agent, provided that the building official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Commentary to the above code section:

❖ *The building official may amend or make exceptions to the code as needed where strict compliance is impractical. Only the building official has authority to grant modifications. Consideration of a particular difficulty is to be based on the application of the owner and a demonstration that the purpose of the code is accomplished. This section is not intended to permit setting aside or ignoring a code provision; rather, it is intended to provide acceptance of equivalent protection. Such modifications do not, however, extend to actions that are necessary to correct violations of the code. In other words, a code violation or the expense of correcting one cannot constitute a practical difficulty.*

Conditions of Approval:

- **Plumbing:** The studio currently contains a water closet and lavatory. A shower shall be installed to satisfy the hygiene requirements applicable to an R2 non-transient sleeping unit. Permanent cooking facilities shall not be installed or maintained in the studio.
- **Life Safety:** The studio shall have compliant means of egress and emergency escape and rescue openings. Smoke and carbon monoxide detectors shall be installed and maintained. The existing two-hour fire separation from the adjacent dwelling, established during a previous renovation, shall be maintained.
- **Building Systems:** The heating, electrical, and insulation systems shall be suitable for the approved use and shall comply with applicable code requirements.
- **Use Limitation:** The studio is approved only as an R2 non-transient sleeping unit and shall not be rented, leased, or otherwise used as an independent dwelling unit.
- **Cooking Facilities:** The studio shall not contain permanent cooking facilities, including a range or other equipment that would establish the space as a dwelling unit.

Conclusion:

Based on the foregoing, the Building Department determines that the studio may continue to be used as an R2 non-transient sleeping unit, provided that all conditions listed above are satisfied and maintained. This determination does not authorize the creation of a fourth dwelling unit, does not authorize rental occupancy of the studio, and does not waive any separate zoning, building, fire, life safety, health, or accessibility requirements that may apply. Any certificate of occupancy issued for the studio shall include a condition stating that the unit is approved for non-transient sleeping use only and shall not be rented or used as an independent dwelling unit.

Appeal Process:

SECTION 113 of the NH State Building Code, including amendments

Means of Appeals: *In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, the local jurisdiction is permitted to create a board of appeals per RSA 155-A:3. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board*

shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

Currently, Portsmouth does not have a local board of appeals, therefore, the following applies.

113.1.1. Should the local jurisdiction elect not to create a board of appeals, the Building Code Review Board shall hear appeals of orders, decisions, or determinations made by the local building official relative to the application and interpretation of the state building code and state fire code as defined in RSA 155-A:1 per RSA 155-A:11-b.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

Appeals of a local building official shall be filed within Thirty (30) days of the final determination. The Board typically meets monthly, at 10 a.m. on the second Friday of the month at 33 Hazen Drive, 2nd floor conference room in Concord, NH.

The State Building Code Review Board:

- **Physical Address**
  110 Smokey Bear Blvd. Concord, NH
- **Mailing Address**
  33 Hazen Drive. Concord, NH 03305
- **Phone**(603) 223-4231
- **Email** bldgcodebrd@dos.nh.gov

Thank you,

Shanti Wolph, Chief Building Inspector, City of Portsmouth

cc: Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

Inspection Department
Shanti R. Wolph, Chief Building Inspector

August 6, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Supplement to Official Determination Regarding Occupancy Classification.
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Supplemental Letter

This supplemental letter clarifies the City's prior correspondence regarding the occupancy classification of the existing art studio at 28 Blossom Street. The prior determination was not intended to limit, reclassify, or otherwise change the zoning status of the space. Rather, it identified how the space is currently being used from a building code and life-safety perspective. Because "sleeping unit" is a building code term and is not a separate zoning classification under the Portsmouth Zoning Ordinance, no zoning reclassification has occurred and no zoning variance is required.

Summary Highlights

- **Occupancy Determination:** The existing art studio attached to the three-family apartment building may continue to be used as an R-2 non-transient sleeping unit for building code purposes.
- **Safety Requirements:** Continued use is contingent upon the installation and maintenance of all life-safety items identified in the initial letter.
- **Prohibited Uses:** The studio may not be rented, leased, or used as an independent dwelling unit. Permanent cooking facilities, including ranges or similar equipment, are prohibited to prevent the space from being classified as a dwelling unit.
- **Zoning and Building Code:** From a zoning perspective, the space remains a preexisting residential art studio. The Portsmouth Zoning Ordinance does not prohibit periodic or nightly sleeping by the owner or occupant, provided the space is not used as an independent living unit.
- **Departmental Coordination:** Planning Director Peter Britz concurs with this interpretation and with the distinction between building code life-safety requirements and zoning classification.

Detailed Analysis

The "Sleeping Unit" Distinction: This clarification is based on the specific use of the studio by the owners' son. Although he may spend nights in the studio, his primary residence remains 161 South Street, where he bathes, eats meals, and keeps his personal belongings. The studio does not contain the facilities necessary to function as an independent dwelling unit, such as

permanent cooking or bathing facilities. However, because the space is used for sleeping, it is treated as a sleeping unit for building code purposes and must comply with applicable life-safety requirements.

Regulatory Rationale

- **Building Code Perspective:** The building code focuses on life safety. If a space is used for sleeping, even periodically, it must satisfy the applicable R-2 safety requirements, including detection and egress.
- **Zoning and Assessing Perspective:** I have been advised that the space has existed for more than 50 years and therefore, it will continue to be recognized, assessed, and treated as a residential art studio. The City's records from their prior Zoning Approval and Assessing records both show it as a barn/art studio.
- **Legal Safeguards:** Prohibiting permanent cooking facilities helps ensure that the space is not converted into an unauthorized fourth dwelling unit under both the Building Code and the Zoning Ordinance.

Thank you,

Shanti Wolph

Shanti Wolph, Chief Building Inspector, City of Portsmouth

Shanti Wolph on behalf of Peter Britz

Peter Britz, Director of Planning and Sustainability

cc: Karen Conard, City of Portsmouth City Manager
Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

INDEX OF RECORD+
FOR
CITY OF PORTSMOUTH INSPECTION DIRECTOR SHANTI WOLPH

NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD
Docket No. 2026-4. Appeal by Kathleen B. Logan and Kent A. Logan; Susan E. Lassen; Scott A. Lupkas; Guy D. Spiers and Elizabeth R. Spiers, Appellants, of the City of Portsmouth Building Official in Matter #2026-4, 28 Blossom Street, Portsmouth, NH 03801

INDEX OF CERTIFIED RECORD

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3	06/19/2026 — Email from The Burkes Request for the appeal process.	4
4	06/22/2026 — Letter from Inspections Director Explanation of the appeal and next step process.	5-6
5	06/30/2026 — Email attachment from the Burkes This document explains why the appeal is requested and includes the Burkes' letter describing the studio's use over the past 50 years and most recently.	7-8
6	06/30/2026 — Email attachment from Inspections Director Acknowledgement of the most recent communication from the Burkes as well as providing some potential solutions. The letter included a request to meet at City Hall to discuss the different options.	9-10
7	07/10/2026 — Email from Inspections Director Email sent to the International Code Council requesting guidance on a code interpretation regarding the studio's use.	11-12

8	07/14/2026 — Email from Inspections Director Shanti Wolph The email informed the Burkes that a conversation had taken place with one of the ICC plan reviewers and included a meeting request.	13
9	07/23/2026 —Letter emailed to the Burkes The letter explained the code path as well as the requirements needed to allow the art studio to continue being used as described.	14–17
10	08/06/2026 — Supplemental Letter This letter provided clarification that the studio was not being re-classified but simply identified to provide a path for life safety requirements.	18-19
11	Inspection Results dated 07/29/2026 Initial inspection with the goal of ensuring certain life safety items were in place	20
12	Inspection Results dated 08/13/2026 Inspection to confirm that certain life safety items had been completed	21

I, Shanti Wolph, Inspections Director for the City of Portsmouth, New Hampshire, hereby certify as follows:

I have reviewed and compiled the materials maintained by the Inspections Department concerning the interpretation of the art studio located at 28 Blossom Street as an R-2 non-transient sleeping unit. To the best of my knowledge, the certified record includes all communications relevant to that interpretation and to my decision. The record does not include every email concerning 28 Blossom Street, because the request was limited to records relevant to my decision.

I certify that the foregoing is true and accurate to the best of my knowledge and is based on the records maintained by the Inspections Department.

Dated: 9/2, 2026

Shanti Wolph
Inspections Director
City of Portsmouth, New Hampshire

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this 2nd day of September, 2026, before me personally appeared Shanti Wolph, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public/Justice of the Peace
My Commission Expires: March 27, 2029

SALLY A. KELLAR
STATE OF
-MY-
COMMISSION
EXPIRES
MARCH 27, 2029
NEW HAMPSHIRE
JUSTICE OF THE PEACE

City of Portsmouth

Inspection Department
Shanti R. Wolph, Chief Building Inspector

Cease and Desist

June 18, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Improper Occupancy
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/0040/0000/

Dear Mr. and Mrs. Burke,

It has been brought to our attention that a building on the property you own at 28 Blossom St. in Portsmouth, NH, is being occupied as a dwelling unit or sleeping unit. This building has not been approved for use as a dwelling unit or sleeping unit.

You are in violation of the State of New Hampshire Building Code, specifically:

2021 IBC
[A] 111.1 Change of occupancy.
A building or structure shall not be used or occupied in whole or in part, and a change of occupancy of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid.

To avoid immediate fines and legal action, the following is recommended:

Option 1: No later than July 2, 2026, confirm that the building is not being used as a dwelling unit or sleeping unit. This confirmation will require an inspection by a City official.

OR

Option 2: In addition to complying with Option 1, apply for a building permit to convert the building to a dwelling unit. This conversion would likely require a variance due to the nonconforming use of multiple dwellings on a single parcel. Once the building permit has

been approved, an additional deadline will be established for bringing the building into compliance.

Starting on the date of this notice, the City will assess a **statutory penalty of $275 per day** for each day this code violation remains unresolved. If you remedy this violation in accordance with the timeline set forth in Option 1 or Option 2, the City will waive this statutory penalty. If you fail to remedy this serious code violation within the applicable timeline, you shall be responsible for payment of the full penalty, and the City reserves the right to bring an action in a court of competent jurisdiction to enforce this penalty. Nothing in this letter shall be read to waive the City's right to assess any other penalty or fine or to take further legal action it may identify as applicable in the future.

Respectfully,

Shanti Wolph, Chief Building Inspector, City of Portsmouth

cc: Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Zoning Officer

Outlook

Webform submission from: Building Code Board of Appeals > Body Blocks

From City of Portsmouth <webmaster@portsmouthnh.gov>
Date Fri 6/19/2026 8:51 AM
To Shanti R. Wolph <srwolph@portsmouthnh.gov>

Submitted on Fri, 06/19/2026 - 08:51

Submitted by: Anonymous

Submitted values are:

Name
Paul and Hannah Burke

Email
classicbd@comcast.net

Subject
Appeal assumed code violation

Message
We are requesting an appeal to a Cease and Desist Order we received, based on a complaint by a malicious neighbor. The decision was based on one sided, biased information to cause harm to our family. We have the right to address the facts in this complex situation. Please advise to our next course of action.

bcc-email
srwolph@portsmouthnh.gov

City of Portsmouth

Inspection Department
Shanti R. Wolph, Chief Building Inspector

June 22, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
VIA Email (classicbd@comcast.net)
Subject: Improper Occupancy
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/0040/0000/

Dear Mr. and Mrs. Burke,

Thank you for your prompt response regarding the cease-and-desist letter concerning the alleged improper occupancy of the structure located at 28 Blossom Street in Portsmouth, New Hampshire.

I understand that you are seeking information regarding the appeal process and the next steps available. At this point, there are two primary ways to proceed:

1. You may demonstrate that the structure is not being occupied. If you wish to pursue this option, I am available to meet you at the property and conduct a brief walkthrough to confirm the current condition and use of the structure.
2. You may file an appeal of the administrative decision. The matter will be heard by the Portsmouth Building Code Board of Appeals. In filing any appeal, it is important that you clearly identify the specific issue being appealed. For example, please specify whether you are contesting my interpretation or application of the building code, or whether you are asserting that the structure is not, in fact, being occupied. The cease-and-desist letter was issued after I received information from a Portsmouth Police Officer indicating that your son had stated he was living in the structure.

Please advise how you would like to proceed. If you would like to schedule a walkthrough, please provide several available dates and times. If you intend to file an appeal, please identify the specific decision or determination you are appealing

Respectfully,

Shanti Wolph, Chief Building Inspector, City of Portsmouth

cc: Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

6/30/2026

Dear Mr. Wolph,

I assume you have received the email that we sent regarding the studio space. We would like to file an appeal based on the fact that the space has been used in the same manner for over five decades. Furthermore our son has a disability. We are aware that a neighbor across the street from the property was able to get a variance for construction, based on the fact that her husband was disabled.

We also find it hard to believe that a police officer reported a code violation. The Portsmouth Police Department have been nothing but supportive and compassionate towards us, our son and his challenges.

We are available to meet Wednesday or Thursday.

Paul and Hannah Burke

The "Studio"
28 Blossom Street
Portsmouth, NH

Dear Mr. Wolph,

I wanted to clarify the use of this space. For the over fifty years the studio has been used in the same manner. It was originally my Dad's art studio, with storage for his art, a sitting area and a half bath in the attic area. It was also a space for family to stay when in transition. Today it lives on as a multi use creative space, with a small shop, a writing area, a drafting/art studio with a sitting area. There is no bedroom, kitchen or shower. It also stores my parents art. It has been a sanctuary many times for family members and friends.

Most recently our son, who has a medical condition, has been utilizing the space when he is not at our home, which is just around the corner. He has his meals, showers and has all of his clothing at our house. Due to his condition it is important that he have his own quiet space at times. There are nights that he sleeps in the studio, as many others have. We last utilized it ourselves when we were caretaking my Dad shortly before his passing. It is NOT an apartment and rent has never been received for the space. If the City denies us the right to have our son sleep in the studio, there will be no place for him to live. Perhaps none of you have been in the agonizing position of finding a safe place for a loved one who has mental health challenges. NH has nothing! Believe me, I have searched far and wide for options. This arrangement allows for us to have oversight and support our son.

Furthermore, we pay $37,000.00 to the City for our property taxes! This is an enormous amount of our income and if the taxes continue to go up in this outrageous way, we will need to look at contingency plans.

Not every situation fits into the same box. It is not appropriate to take away the rights we have utilized within this space for over fifty years.

If we need a variance at this point, we will go through the steps to do so. Unfortunate that in a world where there are so many struggles, that this somehow gets on the list. No harm towards anyone, and a salvation for us and our son.

Sincerely,

Hannah and Paul Burke

City of Portsmouth

Inspection Department
Shanti R. Wolph, Chief Building Inspector

June 30, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Improper Occupancy
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/0040/0000/

Dear Mr. and Mrs. Burke,

Thank you for your most recent response. I appreciate your willingness to discuss this further, and I agree that it would be helpful to meet in person to review the available options and the applicable code and zoning requirements together.

For context, a sleeping unit as defined in section 202 of the NH State Building Code (the Building Code) is not permitted on a property unless it is contained within one of the occupancy classifications described in section 310.3 and table 2902.1 of the Building Code. For example, a hotel, motel, dormitory, etc,

Under Section 111.1, and Chapter 12 of the Building Code, the structure must meet the applicable requirements for a dwelling unit, including access to toilet, shower, and cooking facilities, as well as heat, light, ventilation, and other life-safety requirements.

An appeal of an administrative decision is generally available when a party believes that the Building Inspector has incorrectly interpreted or applied the applicable building code provisions. If you would like to appeal my decision, you can file that with the State Building Code Board of Review in Concord, NH.

If you are inclined to add the additional facilities needed for overnight occupancy, you would be creating a fourth dwelling unit on the property and you would need to apply for a variance to the Zoning Board of Adjustment, and possibly seek other zoning relief. Please note, that approval of a variance is discretionary and cannot be guaranteed. That said, if you would like to explore that option, City staff can help explain the application process and identify the materials that would be needed for submission.

Please let me know which days next week you are available to meet at City Hall. I would be glad to discuss the applicable requirements, answer questions, and review potential next steps with you.

Respectfully,

Shanti Wolph, Chief Building Inspector, City of Portsmouth

cc: Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal EnforcementOfficer

Outlook

ICCTO-7725 Is this occupancy allowed?

From Jira Service Management Widget <jira@icc-ts.atlassian.net>
Date Fri 7/10/2026 12:50 PM
To Shanti R. Wolph <srwolph@portsmouthnh.gov>

Reply above this line.

Thank you for your code opinion request. Your request will be assigned to a member of the International Code Council's Technical Services team, who will follow-up to provide an answer or request additional information as soon as possible. You may reply to this email to add comments to your request.

Question Subject: Is this occupancy allowed?

Question Details: The property contains a two-family dwelling, with the first and second floors functioning as separate dwelling units. Attached to the side of the building is a former carriage house that has been converted into a dwelling unit. Attached to the carriage house is an additional structure identified as a "studio."

The property is currently recognized as a three-family building (Group R-2) with an attached studio, which the owner describes as a "relaxing space." The owner states that the studio has been used for more than 50 years as overflow space for guests when family and friends visit.

It is important to note that the owners do not reside on this property. They live nearby at a separate residence and rent the three dwelling units. Recently, the City received a complaint from an abutter alleging that someone was living in the studio. After speaking with the property owners, I learned that their son, who has a developmental disability, occasionally sleeps in the studio. According to the parents, he requires this separate space at night to help him remain calm and grounded.

The studio contains a toilet, sink, heat, emergency egress, smoke detectors, and other life-safety features. However, it does not contain a shower or cooking facilities. As such, it would not appear to meet the definition of a dwelling unit, though it may more closely resemble a sleeping unit.

The owners are understandably distressed by the situation, and I find myself in the difficult position of balancing their circumstances with my responsibility to administer and enforce the code. If the studio were clearly accessory to one of the dwelling units and used by the occupants of that unit, I do not believe there would be a significant issue. The challenge is that the studio does not appear to be accessory to any particular dwelling unit and is functioning as a stand-alone space.

The question I am struggling with is whether the son's regular overnight use of the studio constitutes a code violation. During the day, he returns to his parents' residence, where he eats, showers, and does laundry. The studio is used primarily as a place for him to sleep at night.

This is the code path that I had identified: Aa sleeping unit as defined in section 202 of the NH State Building Code (the Building Code) is not permitted on a property unless it is contained within one of the occupancy classifications described in section 310.3 and table 2902.1 of the Building Code. For example, a hotel, motel, dormitory, etc,

Under Section 111.1, and Chapter 12 of the Building Code, the structure must meet the applicable requirements for a dwelling unit, including access to toilet, shower, and cooking facilities, as well as heat, light, ventilation, and other life-safety requirements.

This is shared with srwolph@portsmouthnh.gov.

Outlook

28 Blossom- Follow-Up Regarding Art Studio and Meeting Request

From Shanti R. Wolph <srwolph@portsmouthnh.gov>
Date Tue 7/14/2026 2:53 PM
To Hannah Burke <classicbd@comcast.net>
Cc Susan G. Morrell <sgmorrell@portsmouthnh.gov>; Jason C. Page <jcpage@portsmouthnh.gov>; Abigail K. Cargile <akcargile@portsmouthnh.gov>

Good afternoon Mr. and Mrs. Burke,

As promised, I contacted one of the plan reviewers at the International Code Council (ICC), the organization that develops the model codes adopted by New Hampshire as part of the State Building Code.

After reviewing the configuration and current use of the art studio, the reviewer concluded that, with the addition of a shower, the space could qualify as an **R-2 non-transient sleeping unit**. This would allow the existing use of the studio to continue while also providing an overnight accommodation option for your son.

Section 104.11 of the building code provides an alternative approval path that allows the Building Official to approve alternative materials, designs, and methods of construction. In this case, it would provide a mechanism for approval based on humanitarian considerations and practical application, provided that the necessary life-safety features are in place.

To pursue this option, a licensed plumber would need to apply for a plumbing permit, and a building permit would also be required for the installation of a code-compliant shower. In addition, we would need to verify the presence of adequate heat, operational smoke and carbon monoxide alarms, and compliant means of egress.

In my opinion, this approach would not require a variance, as it would essentially formalize and bring into compliance an existing use of the space.

Would you be available on **Wednesday, July 22, at 2:00 p.m.** to meet with us in the Legal Department? The purpose of the meeting would be to finalize any remaining details and answer any questions you may have.

Thank you,

Shanti Wolph
Inspections Director/Chief Building Inspector
City of Portsmouth
(603)610-7261

City Hall Hours: Monday, 8:00 a.m. – 6:00 p.m.; Tuesday – Thursday, 8:00 a.m. – 4:30 p.m.; and Friday, 8:00 a.m. – 1:00 p.m.
(NOTE: If a holiday falls on a Monday, City Hall will be open until 6:00 p.m. on Tuesday)

The information in this message may be legally privileged and confidential. It is intended only for the use of the named individual. If you receive this communication in error, please notify me and delete the communication

Inspection Department
Shanti R. Wolph, Chief Building Inspector

July 23, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Official Determination Regarding Occupancy Classification
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Determination Letter

This letter serves as the official determination of the City of Portsmouth Building Department regarding the occupancy classification and permissible use of the structure/art studio (studio) attached to the end dwelling at 28 Blossom Street, Portsmouth, New Hampshire.

For context, the property is owned by Burke-Zabarsky REV TST and Burke Hannah & Paul J TTES. In 1987, the two-family dwelling located at 28 Blossom Street was granted a variance authorizing a third residential dwelling unit. The studio is attached to the side of the third dwelling unit, and, according to the owners, has historically been used as overflow space for family and friends for more than 50 years. The owners have represented that the studio has not been, and is not currently being, rented, but is instead being used as a safe, quiet space for the Burkes' cognitively impaired adult son. He spends time in the studio primarily in the evening. During the day, he is at his parents' house, where he eats his meals, washes his clothes, and stores his belongings.

The Building Department received a complaint from an abutter asserting that the studio was not being used lawfully because it was being used for sleeping. The complaint also raised safety concerns related to the current occupant. The Department reviewed the matter for purposes of determining whether the existing space may be classified and regulated as a sleeping unit without creating or authorizing a fourth dwelling unit on the property.

As part of this review, Shanti Wolph, Chief Building Inspector for the City of Portsmouth, consulted with Phil Grankowski of the International Code Council (ICC) regarding the appropriate occupancy classification for the existing space. The purpose of the consultation was to determine whether the space could be classified in a manner that permits sleeping while avoiding designation as a separate dwelling unit, which would require separate zoning review and approval.

Upon review, the Building Department determines that the studio may be classified as an **R2 non-transient sleeping unit**, rather than as a dwelling unit, provided that the conditions set forth below are satisfied. This classification recognizes the historical use of the structure as accessory

overflow space for family and friends and avoids authorizing permanent cooking facilities or any independent dwelling use.

While the studio may be able to satisfy the sleeping-unit requirements, it is attached to a rental property. The son's parents reside on a separate property, which is in proximity. Therefore, an alternative code path has also been considered.

Basis for Determination:

1) 2024 IBC. Section 202 Definitions:

A] SLEEPING UNIT. A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Commentary to the above definition:

❖ *This definition is included to coordinate the Fair Housing Act guidelines with the code. The definition for "Sleeping unit" clarifies the differences between sleeping units and dwelling units. In addition, using the term "sleeping unit" for spaces where people sleep will replace a multitude of other terms (e.g., patient room, cell, guestroom) so that there is consistent application across occupancies. Some examples of sleeping units are hotel guest rooms; bedrooms in different types of congregate living facilities; patient sleeping rooms in hospitals, nursing homes or assisted living facilities; or housing cells in a jail. Another example would be a studio apartment with a kitchenette (i.e., countertop microwave, sink, refrigerator). Since the cooking arrangements are not the traditional permanent appliances (i.e., a range), this configuration would be considered a sleeping unit and not a dwelling unit. As defined in the code, a "Dwelling unit" must contain permanent facilities for living, sleeping, eating, cooking and sanitation.*

2) 104.2.4 of the NH State Building Code

In addition, I relied, in part, on the authority provided under 104.2.4 of the NH State Building Code, including amendments, which states as follows:

Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or the owner's authorized agent, provided that the building official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Commentary to the above code section:

❖ *The building official may amend or make exceptions to the code as needed where strict compliance is impractical. Only the building official has authority to grant modifications. Consideration of a particular difficulty is to be based on the application of the owner and a demonstration that the purpose of the code is accomplished. This section is not intended to permit setting aside or ignoring a code provision; rather, it is intended to provide acceptance of equivalent protection. Such modifications do not, however, extend to actions that are necessary to correct violations of the code. In other words, a code violation or the expense of correcting one cannot constitute a practical difficulty.*

Conditions of Approval:

- **Plumbing:** The studio currently contains a water closet and lavatory. A shower shall be installed to satisfy the hygiene requirements applicable to an R2 non-transient sleeping unit. Permanent cooking facilities shall not be installed or maintained in the studio.
- **Life Safety:** The studio shall have compliant means of egress and emergency escape and rescue openings. Smoke and carbon monoxide detectors shall be installed and maintained. The existing two-hour fire separation from the adjacent dwelling, established during a previous renovation, shall be maintained.
- **Building Systems:** The heating, electrical, and insulation systems shall be suitable for the approved use and shall comply with applicable code requirements.
- **Use Limitation:** The studio is approved only as an R2 non-transient sleeping unit and shall not be rented, leased, or otherwise used as an independent dwelling unit.
- **Cooking Facilities:** The studio shall not contain permanent cooking facilities, including a range or other equipment that would establish the space as a dwelling unit.

Conclusion:

Based on the foregoing, the Building Department determines that the studio may continue to be used as an R2 non-transient sleeping unit, provided that all conditions listed above are satisfied and maintained. This determination does not authorize the creation of a fourth dwelling unit, does not authorize rental occupancy of the studio, and does not waive any separate zoning, building, fire, life safety, health, or accessibility requirements that may apply. Any certificate of occupancy issued for the studio shall include a condition stating that the unit is approved for non-transient sleeping use only and shall not be rented or used as an independent dwelling unit.

Appeal Process:

SECTION 113 of the NH State Building Code, including amendments

Means of Appeals: *In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, the local jurisdiction is permitted to create a board of appeals per RSA 155-A:3. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board*

shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

Currently, Portsmouth does not have a local board of appeals, therefore, the following applies.

113.1.1. Should the local jurisdiction elect not to create a board of appeals, the Building Code Review Board shall hear appeals of orders, decisions, or determinations made by the local building official relative to the application and interpretation of the state building code and state fire code as defined in RSA 155-A:1 per RSA 155-A:11-b.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

Appeals of a local building official shall be filed within Thirty (30) days of the final determination. The Board typically meets monthly, at 10 a.m. on the second Friday of the month at 33 Hazen Drive, 2nd floor conference room in Concord, NH.

The State Building Code Review Board:

- **Physical Address**
  110 Smokey Bear Blvd. Concord, NH
- **Mailing Address**
  33 Hazen Drive. Concord, NH 03305
- **Phone**(603) 223-4231
- **Email** bldgcodebrd@dos.nh.gov

Thank you,

Shanti Wolph

Shanti Wolph, Chief Building Inspector, City of Portsmouth

cc: Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

Inspection Department
Shanti R. Wolph, Chief Building Inspector

August 6, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Supplement to Official Determination Regarding Occupancy Classification.
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Supplemental Letter

This supplemental letter clarifies the City's prior correspondence regarding the occupancy classification of the existing art studio at 28 Blossom Street. The prior determination was not intended to limit, reclassify, or otherwise change the zoning status of the space. Rather, it identified how the space is currently being used from a building code and life-safety perspective. Because "sleeping unit" is a building code term and is not a separate zoning classification under the Portsmouth Zoning Ordinance, no zoning reclassification has occurred and no zoning variance is required.

Summary Highlights

- **Occupancy Determination:** The existing art studio attached to the three-family apartment building may continue to be used as an R-2 non-transient sleeping unit for building code purposes.
- **Safety Requirements:** Continued use is contingent upon the installation and maintenance of all life-safety items identified in the initial letter.
- **Prohibited Uses:** The studio may not be rented, leased, or used as an independent dwelling unit. Permanent cooking facilities, including ranges or similar equipment, are prohibited to prevent the space from being classified as a dwelling unit.
- **Zoning and Building Code:** From a zoning perspective, the space remains a preexisting residential art studio. The Portsmouth Zoning Ordinance does not prohibit periodic or nightly sleeping by the owner or occupant, provided the space is not used as an independent living unit.
- **Departmental Coordination:** Planning Director Peter Britz concurs with this interpretation and with the distinction between building code life-safety requirements and zoning classification.

Detailed Analysis

The "Sleeping Unit" Distinction: This clarification is based on the specific use of the studio by the owners' son. Although he may spend nights in the studio, his primary residence remains 161 South Street, where he bathes, eats meals, and keeps his personal belongings. The studio does not contain the facilities necessary to function as an independent dwelling unit, such as

permanent cooking or bathing facilities. However, because the space is used for sleeping, it is treated as a sleeping unit for building code purposes and must comply with applicable life-safety requirements.

Regulatory Rationale

- **Building Code Perspective:** The building code focuses on life safety. If a space is used for sleeping, even periodically, it must satisfy the applicable R-2 safety requirements, including detection and egress.
- **Zoning and Assessing Perspective:** I have been advised that the space has existed for more than 50 years and therefore, it will continue to be recognized, assessed, and treated as a residential art studio. The City's records from their prior Zoning Approval and Assessing records both show it as a barn/art studio.
- **Legal Safeguards:** Prohibiting permanent cooking facilities helps ensure that the space is not converted into an unauthorized fourth dwelling unit under both the Building Code and the Zoning Ordinance.

Thank you,

Shanti Wolph, Chief Building Inspector, City of Portsmouth

Shanti Wolph on behalf of Peter Britz

Peter Britz, Director of Planning and Sustainability

cc: Karen Conard, City of Portsmouth City Manager
Susan Morrell, City of Portsmouth City Attorney
Trevor P. McCourt, City of Portsmouth Deputy City Attorney
Jason Page, City of Portsmouth Legal Enforcement Officer

Inspection Department
Shanti R. Wolph, Chief Building Inspector

July 29, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Inspection to Determine the Condition of the Studio
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Inspection Description
The site visit at the Art Studio of Hannah and Paul Burke served as a follow-up inspection to verify the conversion of an overflow/workshop space into an R-2 non-transient sleeping area. The inspection focused on life safety requirements and the installation of a new shower facility.

Inspection Findings & Requirements
The space was evaluated for habitability and code compliance. The following items were identified as necessary for the space to be considered complete:

- **Life Safety:** Installation of interconnected smoke and carbon monoxide detectors on every level of the structure.
- **Sanitation:** Installation of a shower (minimum 30x30 inches, though 36x36 was recommended for comfort) to complement the existing toilet and hand sink.
- **Finishing:** Sheetrock/drywall needs to be completed around the new shower area and the exposed insulation foam insulation needs to be covered with thermal ignition barrier.

The inspection is currently subject to a 30-day window regarding potential appeals or objections from third parties

Inspection Department
Shanti R. Wolph, Chief Building Inspector

August 13, 2026

To: Hannah and Paul Burke, 161 South St., Portsmouth, NH 03801
Subject: Studio Life Safety Inspection
Property Address: 28 Blossom St., Portsmouth, NH MBlu: 0111/ 0040/ 0000/ /

Inspection Findings & Requirements

1. Interconnected smoke/carbon monoxide detectors had been installed.
2. A thermal barrier had been installed over the exposed foam insulation.
3. A shower had not yet been installed.

Conclusion: The studio is safe to use.

To: CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT

IN RE: Appeal from Determination Letter (July 23, 2026) and Supplemental Determination Letter (August 6, 2026) of the Chief Building Inspector, City of Portsmouth
Property: 28 Blossom Street, Portsmouth, NH 03801 (MBLU 0111/0040/0000)
Owners of Record: Burke-Zabarsky Revocable Trust; Hannah & Paul J. Burke, Trustees
ZBA Case No.: LU-26-114

Letter of Authorization for Representation by Counsel

Dear City of Portsmouth Board of Adjustment:

We, Kathleen B. Logan and Kent A. Logan, Trustees, Kathleen B. Logan Revocable Trust; Susan E. Lassen, Trustee, Lassen Family Revocable Trust; Scott A. Lupkas; and Guy D. Spiers and Elizabeth R. Spiers, Trustees, 3A Trust, hereby authorize Orr & Reno, P.A. (Jeremy D. Eggleton, Esq.) to represent us for the purposes of the above-referenced Appeal from Determination Letter (July 23, 2026) and Supplemental Determination Letter (August 6, 2026) of the Chief Building Inspector, City of Portsmouth, including appearing on our behalf at any requisite hearings of the Board.

Thank you in advance for your consideration of this matter.

Scott Lupkas — 10.14.2026
Signature — *Date*

Kathleen B Logan — 10/14/26
Signature — *Date*

Susan Lassen — 10.14.26
Signature — *Date*

Guy D. Spiers Elizabeth R. Spiers — 10/14/2026
Signature — *Date*

11/8/26
Docket No. 2026-4

Response to the Motion for a Rehearing and the Appellant's Brief

Let us not be mistaken that this entire matter has nothing to do with a zoning issue, but is one of many ongoing attempts of malicious harassment by Kathy Logan. This matter is a clear case of discrimination against our son who has struggled with a medical condition. Their Attorney in fact, brings up information that is discriminatory against our son and has nothing to do with a zoning issue. *(C-15) In the Motion for a Rehearing. Under *C-16 their Attorney further elaborates on his desire to enter information he believes is accurate and again has nothing to do with a zoning issue. Please be clear of the fact that if the Appellant's were to get the "relief" they seek, our son would sleep at 161 South Street and continue to spend other waking hours in the studio space. He would be "sleeping" on either one side of Logan's property, or the other, as her house is sandwiched between our two properties.

The attack on Inspector Wolph and the sequence of events is misleading and irrelevant. Inspector Wolph was professional and unbiased in his findings.

After clarification of the facts:

- The studio space has been used in the same manner for over five decades.
- There does not exist a kitchen, shower or separate bedroom space.
- Our son utilizes our home as his primary residence, showering, eating and keeping his clothing at 161 South Street.
- The studio provides an opportunity for him to have some autonomy and quiet space to retreat to. This is essential to his well being.
- Inspector Wolph proved complete due diligence in his decision by reaching out to the ICC to further confirm his findings in a situation that was unique. A time was then made for an inspection of the space.

The two items that needed to be addressed were:

- Bluetooth smoke/carbon monoxide detectors were to be installed on each of the two floors.
- The hard insulation that had previously been installed had some minor edges that needed to be taped and sealed.

Both items were addressed and Inspector Wolph came by for a follow up inspection to confirm this.

*The issue of a shower being installed will be completed once this matter is fully resolved. The space has been prepared for the re-installation of a shower, where there had been one previously removed. The lack of a shower is NOT a safety issue.

The International Code Council (ICC), the organization that develops the model codes adopted by NH as part of the State Building Code; concluded upon review of the facts, that the space qualifies as an **R-2 non-transient sleeping unit.**

Section 104.2.4 of the NH Building Code provides an alternative approval path:

104.2.4 Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, provided that the building official shall first find that one or more special individual reasons make the strict letter of this code impractical, and that the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety or structural requirements. The details of the written request for and action granting modifications shall be recorded and entered in the files of the department of building safety.

We ask for the relentless harassment by Kathy Logan towards our family end here. This is a straight forward situation concerning a space our family has owned for decades and has been used in a similar manner for an equal amount of time. We pay enormous property taxes to this City and it is unconscionable that we should not be able to continue the use of the studio space for the needs of our family.

Sincerely,

Hannah and Paul Burke

III. NEW BUSINESS

A. The request of **Carilyn J. Kussmaul Revocable Trust of 2021 (Owner),** for property located at **27 Thaxter Street** whereas relief is needed to demolish and reconstruct the front porch which requires the following: 1) Variance from Section 10.521 to allow a 14.5 foot front yard area where 30 feet are required. Said property is located on Assessor Map 166 Lot 39 and lies within the Single Residence B (SRB) District. (LU-26-137)

Existing & Proposed Conditions

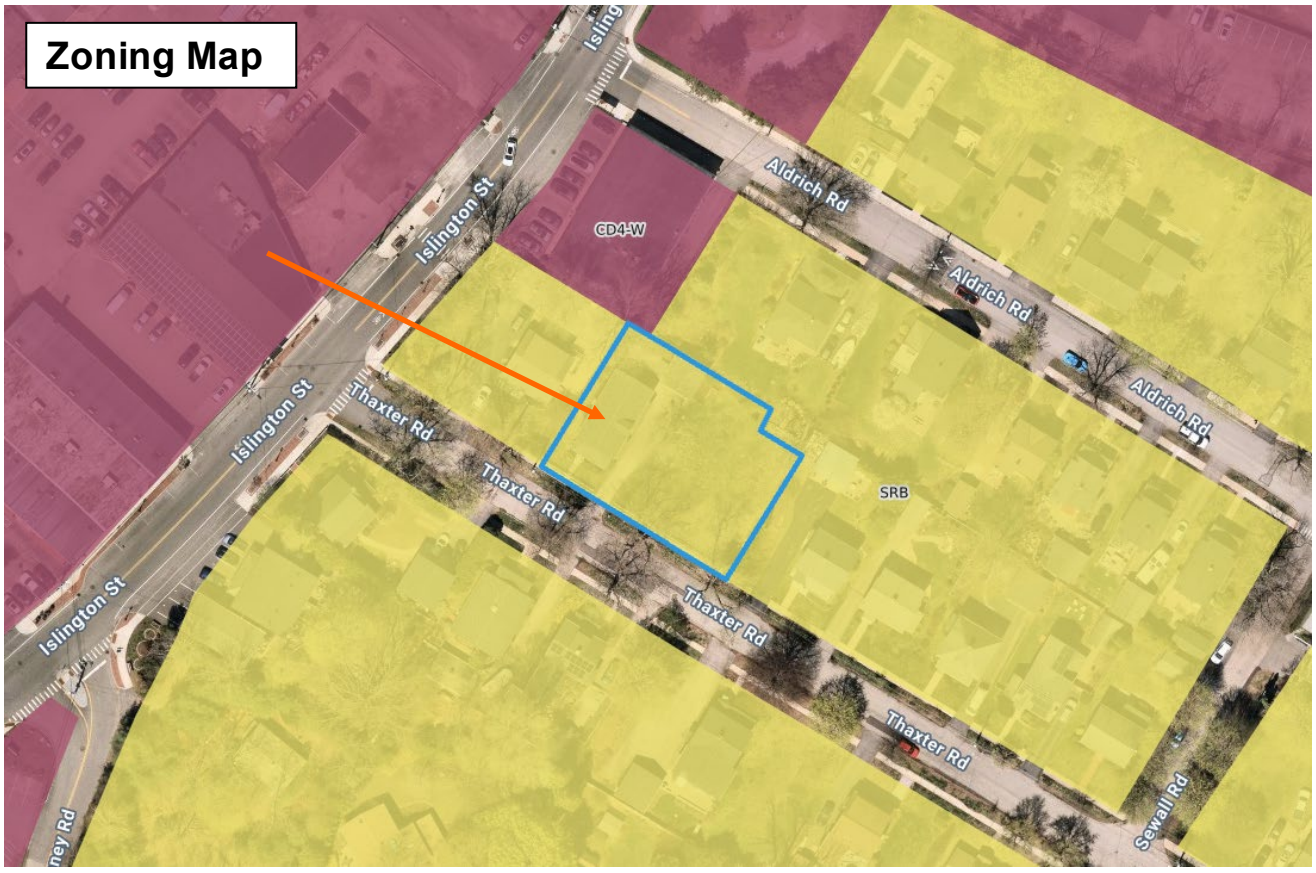
	Existing	Proposed	Permitted / Required	
Land Use:	Residential	Rebuild front porch	Primarily Residential	
Lot area (sq. ft.):	12,589	12,589	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	12,589	12,589	15,000	min.
Building Coverage	13	13	20	max
Front Yard	14.5	14.5	30	min
Left Side Yard	10	10	10	min
Right Side Yard	>10	>10	10	min
Rear Yard	House: 34 Garage:<30	House: 34 Garage: <30	30	Min
Parking Spaces	2	2	1	
Estimated Age of Structure:	2011	Variance request(s) shown in red.		

Other Permits/Approvals Required

- Building Permit

Neighborhood Context





Previous Board of Adjustment Actions

May 25, 2004 – The Board granted the request for a subdivision which required variances to allow lot area for lot 52 at 10,475 and lot 39 at 12,580 where the minimum lot area is 15,000.

February 15, 2011 – The Board granted the request for the following: Variance from Section 10.321 to allow the expansion of a nonconforming structure, Variance from Section 10.521 to allow a left side yard of 9 feet where 10 feet are required, and Variance from Section 10.521 to allow a rear yard of 26 feet where 30 feet are required.

Planning Department Comments

The applicant is proposing reconstruct the front porch which requires relief as it currently sits in the front yard. This project would not qualify for the front yard averaging provision as it currently sits closer to the street than the neighboring properties.

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.

DOCKHAM
BUILDERS

October 8, 2026

City of Portsmouth
Atten: Stefanie Casella, Planner
Zoning Board of Adjustments
1 Junkins Ave
Portsmouth, NH 03801

RE: Application for Zoning Variance - 27 Thaxter Street (Tax Map 166, Lot 39)

Dear Stefanie,

We are writing to respectfully submit our application for a zoning variance for the property located at 27 Thaxter Street Portsmouth, NH (Tax Map 166, Lot 39). The property is located in the Single-Family Residence B (SRB) zoning district.

We are requesting relief from City of Portsmouth Zoning Ordinance Section 10.321 – Nonconforming Building and Structures and Section 10.521 Table of Dimensional Standards in order to reconstruct an existing finish porch with a new covered porch with the same footprint (7ft 8in by 22ft) per plans attached to this application. The porch will maintain its existing 14.8ft front setback where 30ft is required.

This variance is being sought to allow for reasonable use of the property in a manner consistent with the surrounding neighborhood, while respecting the spirit and intent of the City of Portsmouth Zoning Ordinance. We believe the proposed request meets the criteria for a variance as outlined by New Hampshire law.

We appreciate your time and attention to this matter and look forward to discussing our application at the upcoming public hearing. Please do not hesitate to contact us at (603) 775-7035 and/or Jeff@dockhambuilders.com if you require any additional information.

Sincerely,

Jeffrey Kisiel
General Manager
Dockham Builders Inc
676 Portsmouth Avenue
Greenland, NH 03801

DOCKHAM
BUILDERS

TO: Portsmouth Zoning Board of Adjustments
FROM: Jeffrey Kisiel, Dockham Builders Inc
DATE: October 8, 2026
RE: Carolyn and Tim Biba
27 Thaxter Street, Tax Map 166 Lot 39
Single-Family Residence B (SRB)

Dear Chair Margeson and Zoning Board Members:

On behalf of Carolyn and Tim Biba, please accept this application for zoning relief to be considered by the Zoning Board of Adjustment at its November 17, 2026, meeting.

I. Exhibits
   a. Existing and proposed Site Plans
   b. Construction drawings and elevations
   c. Site Photographs
   d. Tax Map
   e. Tax Cards

II. Project Narrative

The residence currently has an enclosed front porch. Its existing construction and finishes are poor, and the owners seek to address the condition of the porch while restoring a more traditional, open residential porch appearance. Rather than retaining the enclosed walls and windows, the proposed work removes the enclosure and rebuilds the necessary structural support within the existing porch area.

Construction will include temporarily bracing and supporting the existing porch roof; removing the existing enclosure and deficient supporting components as required; installing new code-compliant footings; rebuilding the deck framing and joists; and installing new structural columns and appropriate connections and finishes. The existing roof is intended to be retained and supported during construction, subject to field verification and any required structural engineering.

The proposal will maintain the same overall porch size and location. No additional enclosed living area will be created by this work, and the reconstructed porch will remain open to the outdoors. The proposal therefore reduces the enclosed building mass

and intensity associated with the current porch while improving its structural integrity, appearance, and long-term durability.

The submitted construction drawings identify the replacement front porch and show new structural columns and porch framing. This request is confined to the front-porch work; other additions or renovations depicted in the broader drawing set are not included in the relief requested.

III. Request for Variance

On behalf of the property owners, Dockham Builders respectfully requests a variance from Sections 10.321 and 10.521 (Table of Dimensional Standards) of the City of Portsmouth Zoning Ordinance to permit the reconstruction of the existing enclosed front porch into a traditional open front porch.

The existing porch is located approximately 14.8 feet from the front property line, where a 30-foot front yard setback is required under Section 10.521. The proposed reconstruction will maintain the existing location, dimensions, and overall footprint of the porch, with no enlargement of the structure or further encroachment into the required front yard setback.

Section 10.321 provides: “A lawful nonconforming building or structure may continue and be maintained or repaired, but may not be extended, reconstructed or enlarged unless such extension, reconstruction or enlargement conforms to all the regulations of the district in which it is located.”

Accordingly, the applicants are requesting relief from Section 10.321 to allow reconstruction of the existing nonconforming porch and from Section 10.521 to permit the reconstructed porch to remain at the existing 14.8-foot front setback, where 30 feet is otherwise required.

The proposed improvements will provide a safer, structurally sound, and more traditionally designed open front porch while reducing the amount of enclosed space on the property. The project will not increase the building footprint, expand the existing setback encroachment, or create additional enclosed living space.

The intent of this request is to improve the safety, structural integrity, and architectural character of the existing residence while maintaining the established footprint and reducing the intensity of the existing nonconforming structure.

DOCKHAM
BUILDERS

IV. Responses to the Five Variance Criteria

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

Granting the requested variances from Sections 10.321 and 10.521 will not be contrary to the public interest, as the proposed improvements will enhance the safety, appearance, and overall condition of the existing residence without increasing the building's footprint or further encroaching into the required front yard setback.

Converting the existing enclosed porch into a traditional open front porch will reduce the amount of enclosed space on the property and create a more open and visually compatible streetscape. The improvements will provide a safer, more attractive, and less intensive structure, consistent with the public interest.

2. The spirit of the Ordinance will be observed.

The intent of Sections 10.321 and 10.521 is to regulate nonconforming structures, establish appropriate building setbacks, and prevent development that would adversely affect neighboring properties or the character of the surrounding neighborhood.

The proposed work is consistent with the underlying purpose of Section 10.321 because it does not seek to enlarge or intensify an existing nonconforming structure. Rather, the applicants are proposing to improve its structural integrity while reducing its enclosed character.

Granting the requested variances will therefore allow a reasonable improvement to an established residential structure while preserving the intent of the ordinance to prevent increased nonconformity and protect neighborhood character.

3. Substantial justice will be done.

Granting the requested variances will result in substantial justice by allowing the property owners to make necessary structural and safety improvements to an existing portion of their home without creating any additional impact on the surrounding neighborhood.

The hardship imposed on the property owners by requiring strict compliance with Sections 10.321 and 10.521 would outweigh any identifiable public benefit from denying the variances. Requiring the existing porch to be removed or relocated to satisfy the 30-foot setback would result in unnecessary expense and disruption to the existing

residence, without producing a corresponding improvement to public safety, neighborhood character, or adjacent properties.

Conversely, granting the variances will allow the existing porch to be reconstructed in a safer and more appropriate manner while reducing the amount of enclosed space on the property.

The proposed improvements represent a reasonable and responsible investment in the existing residence, and the public will experience no additional dimensional encroachment or intensification of the existing nonconforming condition.

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

The proposed reconstruction will not diminish the values of surrounding properties. Rather, the improvements are intended to enhance the appearance, safety, and overall quality of the existing residence. This design will provide a more attractive and visually open appearance along Thaxter Road. There will be no additional encroachment toward the street, no increase in building coverage attributable to the porch reconstruction, and no additional enclosed living area.

The conversion to an open porch will also reduce the visual mass of the existing structure, improving its relationship with neighboring homes and the surrounding streetscape.

The reconstruction is expected to improve the overall condition and appearance of the property.

5. Literal enforcement would result in unnecessary hardship.

Literal enforcement of Sections 10.321 and 10.521 would result in unnecessary hardship due to the existing configuration of the residence, the established location of the front porch, and the physical relationship between the porch and the front property line.

The residence was constructed with an enclosed front porch extending into the required 30-foot front yard setback. The existing porch is located approximately 14.8 feet from the front property line and is an established component of the home's architectural design and configuration.

These existing physical conditions distinguish the property and create practical limitations on reconstructing the porch in compliance with current dimensional requirements.

A. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application to this property.

The applicants are not proposing a new encroachment or an enlargement of the existing structure. The reconstructed porch will maintain the existing 14.8-foot front setback and will not extend farther into the required 30-foot setback. Furthermore, removing the existing enclosure and converting the structure into an open porch will reduce its visual mass and enclosed character.

The proposed reconstruction will also address existing structural deficiencies through the installation of new footings, framing, decking, and supporting columns, improving the overall safety and condition of the residence.

B. The proposed use is a reasonable one.

The proposed reconstruction represents a reasonable continuation and improvement of an existing residential feature.

The proposed improvements are reasonable in scope, preserve the existing architectural relationship between the porch and residence, and avoid creating additional impacts on neighboring properties.

V. Conclusion

The applicants respectfully request that the Portsmouth Zoning Board of Adjustment grant the requested variances from Sections 10.321 and 10.521 of the Portsmouth Zoning Ordinance to allow the reconstruction of the existing enclosed front porch into a traditional open front porch, maintaining the existing 14.8-foot front yard setback where 30 feet is required.

The proposed project represents a reasonable improvement to an existing lawful nonconforming structure. The reconstruction will address deteriorated and inadequately constructed structural components, improve the safety and long-term integrity of the porch, and enhance the overall architectural appearance of the residence.

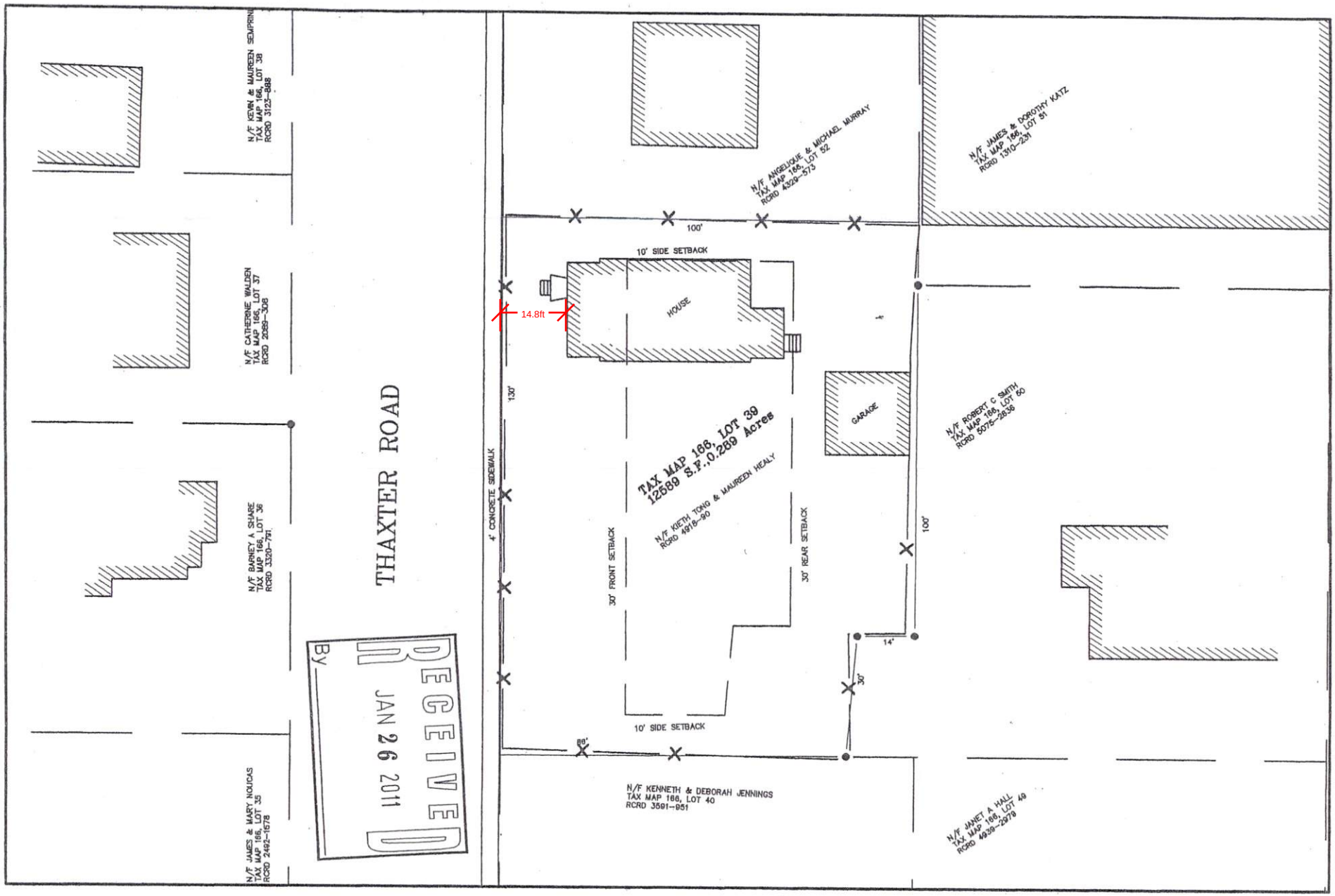
DOCKHAM
BUILDERS

The applicants believe the requested relief is consistent with the public interest and the spirit of the ordinance, will result in substantial justice, will not diminish surrounding property values, and is justified by the existing physical conditions of the property.

For these reasons, we respectfully request that the Zoning Board of Adjustment approve both variances, allowing the property owners to make necessary structural improvements while maintaining the existing footprint and reducing the intensity of the nonconforming structure.

Respectfully,

Jeffrey Kisiel
General Manager
Dockham Builders Inc
676 Portsmouth Avenue
Greenland, NH 03801



TITLE: EXISTING SITE PLAN		TONG RESIDENCE	LITTLE GREEN HOMES, LLC
SCALE: 1/32" = 1'-0"	DATE: 17 JAN 2011	27 Thaxter Road, Portsmouth, NH	CHRIS REDMOND - Designer 23 Autumn Pond Park - Greenland, NH 03840 603-319-8095 www.littlegreenhomes.com

Wall Types

Exterior walls 2x6 wood stud
Interior walls 2x4 wood stud, unless noted otherwise

Wall Keys

(2) 2x wood studs on the flat

(6) 2x6 wood stud wall, 16" oc

(8) 2x8 wood stud wall, 16" oc

Note: 2x4 wood stud wall, 16" oc unless otherwise noted

Key Notes

(A) 30" x 22" Minimum Attic Access Panel - Insulated (RO 34" x 26")

(F) Field locate for plumbing or mechanical

(V) Verify size of fixture or appliance Adjust dimensions to accommodate

(C) Center - Place door or window centered on wall

(SD) Smoke Detector (HD) Heat Detector

(CO) Carbon Monoxide Detector

Dimensions

1 Dimensions are to face of stud, unless noted otherwise.

Square Footages

1 Sq ft numbers are interior to room for use in calculating finishes.
2 Cabinets and fixtures not subtracted.
3 Add for doorways when floor finishes run through.

Notes

1 Exterior walls 2x6 wood stud @ 16" oc. Provide insulation & vapor barrier conforming to state or local codes with step flashing at walls adjacent to roof planes. Interior sheathing 1/2" gypsum board. Unless noted otherwise on elevations provide 1/2" exterior rated sheathing, house wrap with drainage plane and siding.

2 Interior walls 2x4 wood stud @ 16" oc, unless noted otherwise.

3 Roof - For rafter and roof beam sizing, see Roof Framing Plan. Provide 5/8" exterior rated roof sheathing.
Per IRC 2021 - 905 Roof Coverings: Provide the following and install per manufacturer's instructions at applicable locations:
- Single layer of roof underlayment NOTE: For roof slopes between 2:12 and 4:12 two layers of underlayment is required
- Ice Barriers at all rakes, eaves and valleys
- Drip edge at all rakes and eaves
- Valley liners
- Flashing at all side walls, penetrations, and chimneys.

NOTE: Roof system is designed for asphalt shingles or metal roof panels. If an alternate roof covering is to be used client is to contact Art Form prior to install to ensure code conformance.

4 Provide roof and/or ceiling insulation per code. Provide soffit and ridge vents where required for insulation strategy. (Verify with code officer - closed cell spray foam or dense-pack cellulose installed at rafters and filling ridge and eaves generally contra-indicates venting, batt insulation always requires venting).

5 Provide smoke, carbon monoxide, and heat detectors where shown and where required by code and where required by local authorities.

6 Provide fire resistive materials where required by code, including but not limited to, firestopping at penetrations, 5/8" Type X drywall on walls and ceilings to separate garage (where garage present in design) from dwelling, and separation of dwellings (where more than one dwelling present in design), and protection of flammable insulation materials. See Table R302.6 IRC 2021.

7 Compliance with code requirements for rooms size and clearances, (hallway widths, room sizes, etc) assume 1/2" drywall on walls and 1/2" drywall on 3/4" strapping on ceilings. Adjust as required if materials differ.

8 Shear is only called out where continuous sheathing wood structural panel method will not suffice. See plans for locations where alternate shear methods are required.

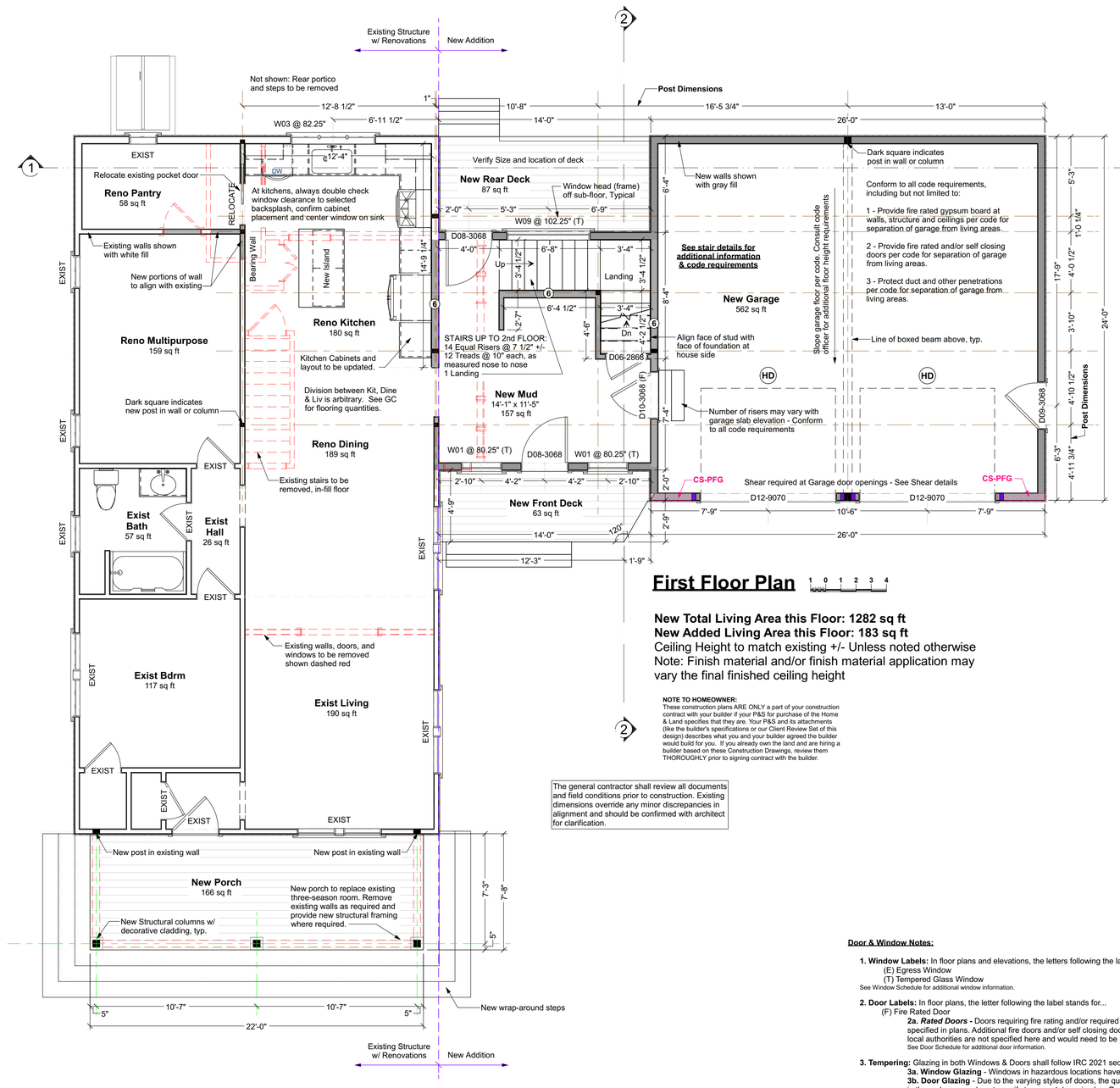
General Design Notes

1 Builder shall consult and follow the building code and other regulations in effect for the building site for all construction details not shown in these drawings. Requirements described here are specific to this design and/or are provided as reference. Additional building code or local requirements may apply.

2 Builder shall maintain a safe worksite, including but not limited to, provision of temporary supports where appropriate and adherence to applicable safety standards.

3 Design is based on the snow load listed on the framing plans.

4 Design is based on the basic wind speed of 115 MPH, Exposure type B, soil bearing capacity of 2000 psf, and Seismic Category C, unless otherwise noted on the framing plans. Builder shall promptly inform Artform Home Plans of differing conditions.



First Floor Plan

1 0 1 2 3 4

New Total Living Area this Floor: 1282 sq ft
New Added Living Area this Floor: 183 sq ft
Ceiling Height to match existing +/- Unless noted otherwise
Note: Finish material and/or finish material application may vary the final finished ceiling height

NOTE TO HOMEOWNER:
These construction plans ARE ONLY a part of your construction contract with your builder if your P&S for purchase of the Home & Land specifies that they are. Your P&S and its attachments (like the builder's specifications or our Client Review Set of this design) describes what you and your builder agreed the builder would build for you. If you already own the land and are hiring a builder based on these Construction Drawings, review them THOROUGHLY prior to signing contract with the builder.

The general contractor shall review all documents and field conditions prior to construction. Existing dimensions override any minor discrepancies in alignment and should be confirmed with architect for clarification.



Add-Reno: Biba Residence

Dear Code Officer,

These construction drawings are designed to bring good design and construction drawings to people at more affordable prices and faster time frames than traditional architecture. We split responsibility between us (Artform) and the owner. We encourage the future homeowners to use a quality builder who can assist them with this. They are responsible for thermal and moisture decisions and for meeting code in ways that a quality builder should know without an explicit detail. We are responsible for things that are directly related to the design and/or that a quality builder couldn't reasonably figure out on their own - specifically the following IRC 2021 code sections:

1 - Room sizes (Section R304)
2 - Ceiling Height (Section R305)
3 - Floor space & ceiling height at Toilet, Bath and Shower Spaces (Section R307 & Section 305)
4 - Hallway widths (Section R311.6)
5 - Door types & sizes (Section R311.2)
6 - Floor space in front of doors (Section R311.3)
7 - Stair width - The stairs in our designs will be a minimum of 36" wide measured wall surface to wall surface, allowing compliance with R311.7.1 with installation of correct handrail.
8 - Stairway headroom (Section R311.7.2)
9 - Stair treads and risers (Section R311.7.5)
10 - Landings for stairways (Section R311.7.6)
11 - Emergency Escape Window Sizes (Section R310.2). Windows may require manufacturer's emergency escape window hardware. Will also comply with NFPA 101.
12 - Structural Floor Framing (Section R502.3) Where dimensional lumber is shown, framing members will be sized according to this section of the code. Where engineered wood products are shown, those framing members will be size according to the manufacturer's tables for loads and spans, or sizes will have been calculating using manufacturer's published materials properties.
13 - See structural sheets for additional notes.

The builder can and should add information to this set, such as Rescheck, a hand markup of our sections indicating insulation, additional information about doors and windows (such as fire rating, tempering, etc), foundation drops relative to site grading, and sometimes their chosen method of basement egress. These drawings are not intended to be used without that additional information.

While we may have inspected the site, final grading, septic, adherence to zoning or other site conditions is the responsibility of the homeowner and/or their builder.

Please do feel free to call us with any questions. We can and do update our drawings and standard notes to address specific concerns.

Dear Everybody,

With these drawings a copyright license is granted for a single construction only at 27 Thaxter Rd, Portsmouth, NH. This is a License to Build, and does not include a License to Modify, except as required to conform to building code or fulfill builder's/owners responsibilities.

Permissible uses of these drawings:
1 All activities associated with construction at the listed address.
2 Pricing or preliminary discussions with zoning or code officials for construction at other addresses, with prior notification to Artform Home Plans - just use the Contact form on the web site – https://www.artform.us/terms-conditions/

Not Permitted:
1 Application for any permits or other approvals for construction at properties other than the listed address, including but not limited to construction, zoning, conservation, or design review.
2 Modification of the basic design.

Use of these drawings outside these parameters is a violation of federal copyright law, punishable by both civil action and criminal prosecution, as it is stealing or enabling theft of "intellectual property". Making modifications to plans, even significant ones, does not change this, under copyright law, that's considered "derivative works".

We can provide drawings suitable for use in obtaining design or zoning approvals without incurring the expense of a full set of construction drawings. Contact us for more information.

AFHP CD Commons 26.2 X16 - IRC 2021

These drawings are intended for use by an experienced professional builder in responsible charge of the entire project, including but not limited to mechanical, electrical and sitework. Any additional adaptation for these trades or other trades must be determined prior to start of construction. Contact Artform for any adjustments needed.

Your use of these drawings constitutes an acceptance of responsibility as outlined in "Dear Code Officer" on the first page of these drawings, and on our web site: https://www.artform.us/terms-conditions/

If you have any concerns or questions, please feel free to contact us. We are happy to clarify matters that fall within our scope, as listed on the first page. We can also often provide affordable support for issues that are your responsibility, such as energy design/calcs, or additional detailing.

Art Form Architecture, LLC
AFHP Design # Add-Reno
© 2026 Art Form Architecture, LLC 603.431.9559

Add-Reno: Biba Residence
27 Thaxter Rd
Portsmouth, NH

1

1/4"=1'-0" unless noted otherwise / Print @ 1:1
PDF created on: 9/29/2026

Issued for:
Construction

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Door & Window Notes:

1. Window Labels: In floor plans and elevations, the letters following the label stand for...
(E) Egress Window
(T) Tempered Glass Window
See Window Schedule for additional window information.

2. Door Labels: In floor plans, the letter following the label stands for...
(F) Fire Rated Door
2a. *Rated Doors* - Doors requiring fire rating and/or required to be self-closing per IRC 2021 are specified in plans. Additional fire doors and/or self closing doors that may be required by local codes or local authorities are not specified here and would need to be provided.
See Door Schedule for additional door information.

3. Tempering: Glazing in both Windows & Doors shall follow IRC 2021 section R308.
3a. Window Glazing - Windows in hazardous locations have been specified as tempered in plan.
3b. Door Glazing - Due to the varying styles of doors, the quantity of glass, glass type/glass styling in those doors, we do not specify tempered doors in plan. Provide tempered doors as required by IRC 2021 and local codes or local authorities

4. Window Fall Protection: Windows requiring fall protection are noted in schedule. Builder to provide window fall prevention or opening control device in accordance with IRC 2021 Sections R312.2.1 & R312.2.2

5. Trimmed Openings: Trimmed openings not shown on schedule. See Plan.

6. Window RO: 1/4" on each of (4) sides shown for window RO, typical. Review framing size vs RO size. Adjust per manufacturer's requirements and/or builder preference.

7. Emergency Escape & Rescue Opening: Provide minimum one exterior door, window or similar device meeting egress requirements in basement, in each sleeping room, in each potential sleeping room, and other locations required by local code. The window sill of an egress window shall be no more than 44" above the floor per R310.2.3. Note that some windows coded by manufacturer as meeting IRC 2021 egress requirements typically need to be ordered with specific hardware or required modifications. Emergency Escape Window & Door Sizes must meet minimum opening area. (IRC 2021 Section R310.2.1 and R310.3). Will also comply with NFPA 101.

8. Basement Windows: Add basement windows as required to meet state or local code requirements, including but not limited to egress and light/ventilation.

9. Skylights: Skylights are not shown on this schedule, but may be required. Consult builder and/or see floor plan.

LICENSED ARCHITECT
WENDY L. WELTON
No. 3104
THE STATE OF NEW HAMPSHIRE

CODE OFFICER,

if signature is identical on all stamps, drawings have been electronically signed. To verify authenticity, contact accounting@artform.us to request an original with IP address based audit trail, be sent directly to you.

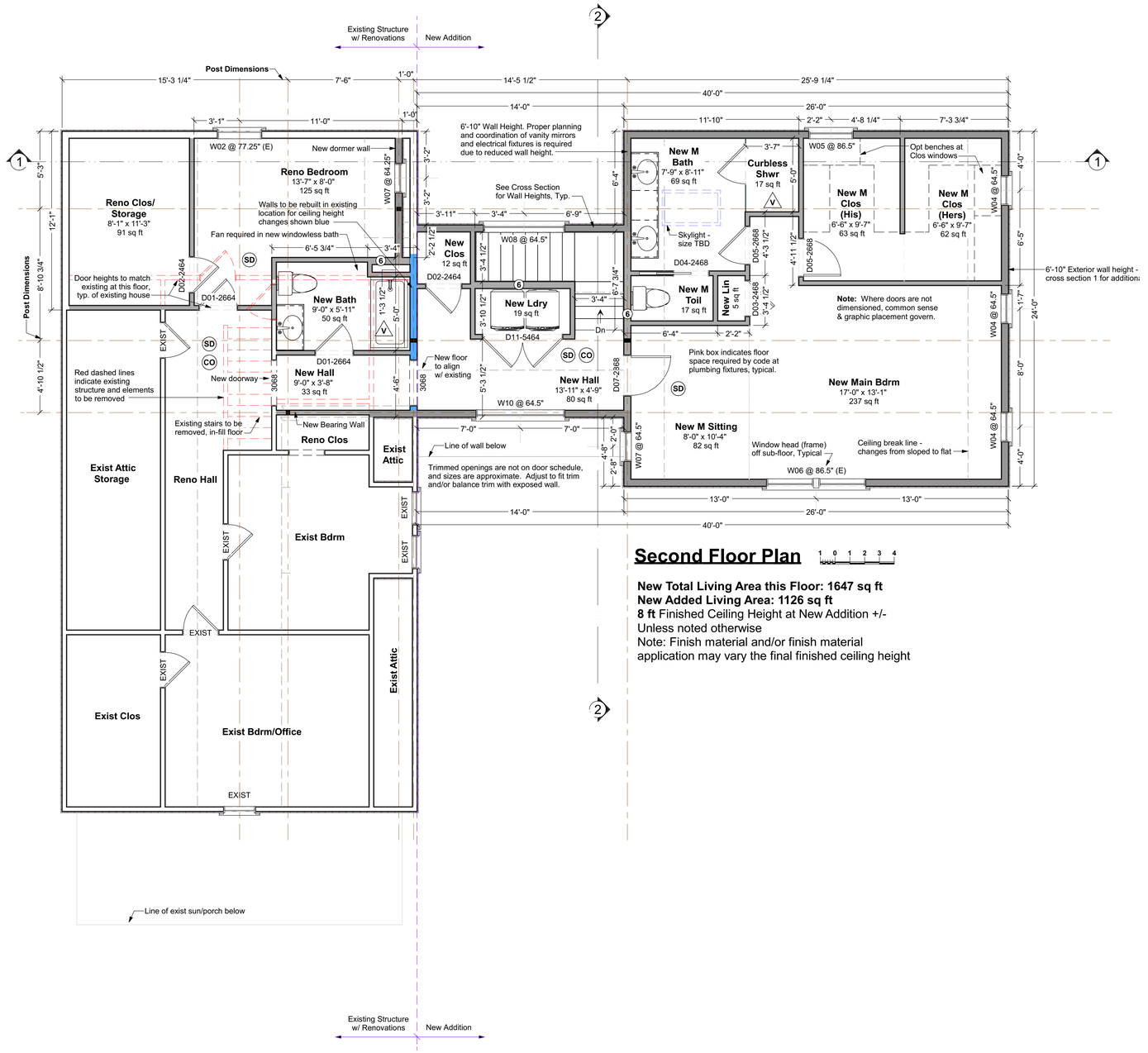
DOOR SCHEDULE

NUMBER	QTY	FLOOR	SIZE	WIDTH	HEIGHT	FIRE	TYPE	COMMENTS
D01	2	2	2864 L IN	30"	76"		HINGED	
D02	2	2	2464 R IN	28"	76"		HINGED	
D03	1	2	2468 L IN	28"	80"		HINGED	
D04	1	2	2468 R	28"	80"		POCKET	
D05	2	2	2668 R IN	30"	80"		HINGED	
D06	1	1	2868 L IN	32"	80"		HINGED	
D07	1	2	2868 L IN	32"	80"		HINGED	
D08	2	1	3068 R EX	36"	80"		HINGED	
D09	1	1	3068 L EX	36"	80"		HINGED	
D10	1	1	3068 R EX	36"	80"	YES	HINGED	
D11	1	2	5464 L/R IN	64"	76"		DOUBLE HINGED	
D12	2	1	9070	108"	84"		GARAGE	

WINDOW SCHEDULE

NUMBER	QTY	WIDTH	HEIGHT	R/O	EGRESS	TEMPERED	DESCRIPTION	CODE	MANUFACTURER	COMMENTS
W01	2	32"	32"	32 1/2"X32 1/2"		YES	SINGLE AWNING			
W02	1	36"	48"	36 1/2"X48 1/2"	YES		SINGLE CASEMENT-HL			
W03	1	67"	40"	67 1/2"X40 1/2"			TRIPLE CASEMENT-LHL/RHR			
W04	3	24"	36"	24 1/2"X36 1/2"			DOUBLE HUNG			
W05	1	36"	48"	36 1/2"X48 1/2"			DOUBLE HUNG			
W06	1	80 1/2"	61 1/2"	81"X62"	YES		2X DH			
W07	2	24"	24"	24 1/2"X24 1/2"			FIXED GLASS			
W08	1	66"	30"	66 1/2"X30 1/2"			FIXED GLASS			
W09	1	66"	30"	66 1/2"X30 1/2"		YES	FIXED GLASS			
W10	1	72"	30"	72 1/2"X30 1/2"			FIXED GLASS			

9/29/2026 4:11:00 PM
Tim & Carolyn Biba
//AFDiskstation/AFA Staff/Access - Home Designs/WIP - Add-Reno/Biba - 27 Thaxter Rd Portsmouth Add-Reno/CD Add-Reno - Biba Residence - 27 Thaxter Rd.layout



Second Floor Plan

1 0 1 2 3 4

New Total Living Area this Floor: 1647 sq ft
New Added Living Area: 1126 sq ft
8 ft Finished Ceiling Height at New Addition +/-
Unless noted otherwise
Note: Finish material and/or finish material application may vary the final finished ceiling height

Your use of these drawings constitutes an acceptance of responsibility as outlined in "Dear Code Officer" on the first page of these drawings, and on our web site:
https://www.artform.us/terms-conditions/

If you have any concerns or questions, please feel free to contact us. We are happy to clarify matters that fall within our scope, as listed on the first page. We can also often provide affordable support for issues that are your responsibility, such as energy design/calcs, or additional detailing.

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AFHP Design # Add-Reno
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27 Thaxter Rd
Portsmouth, NH

2

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PDF created on: 9/29/2026

Issued for:
Construction

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9/29/2026 4:11:01 PM
Tim & Carolyn Biba

Foundations

1 No footing shall be poured on loose or unsuitable soils, in water or on frozen ground.

2 All exterior footings to conform to all applicable code requirements for frost protection.

3 All concrete shall have a minimum compressive strength of at least 3000 PSI at 28 days.

4 Foundation anchorage to comply with IRC 2021 Section R403.1.6, it shall consist of minimum size 1/2" diameter anchor bolts with washers and nuts, at a maximum of 72" oc for two stories or 48" oc for more than two stories, max of 12" from each corner, min of 2 bolts per wall. Anchor bolt shall extend 7" into concrete or grouted cells of concrete masonry units. Be aware that a garage under may be counted by your code officer as a story. Additional anchorage may be required at braced walls.

5 Foundation reinforcing steel is to be installed in accordance with all applicable provisions of IRC 2021 Section 404.1.3.2

TYPICAL PERIMETER FOUNDATION WALL :

- 8" poured concrete, 8 ft forms, min 7'-10" finished, with total of 3 rebar, as follows:
- (1) #4 rebar, 4" from top
- (1) #4 rebar @ vertical midpoint. Omit this rebar at walls 4 ft high or less.
- (1) #4 rebar, min 3" from bottom or per code
- Lap corners & splices of rebar per code.
- Secure sill to foundation with 1/2" diameter anchor bolts that extend 7" into concrete and tightened with a nut and washer @ 6' oc & max 12" from each corner & each end @ wood sill splices - if built-up sill, bolts must extend through all sill plates or straps must secure all sill plates.

TYPICAL PERIMETER FOOTING:

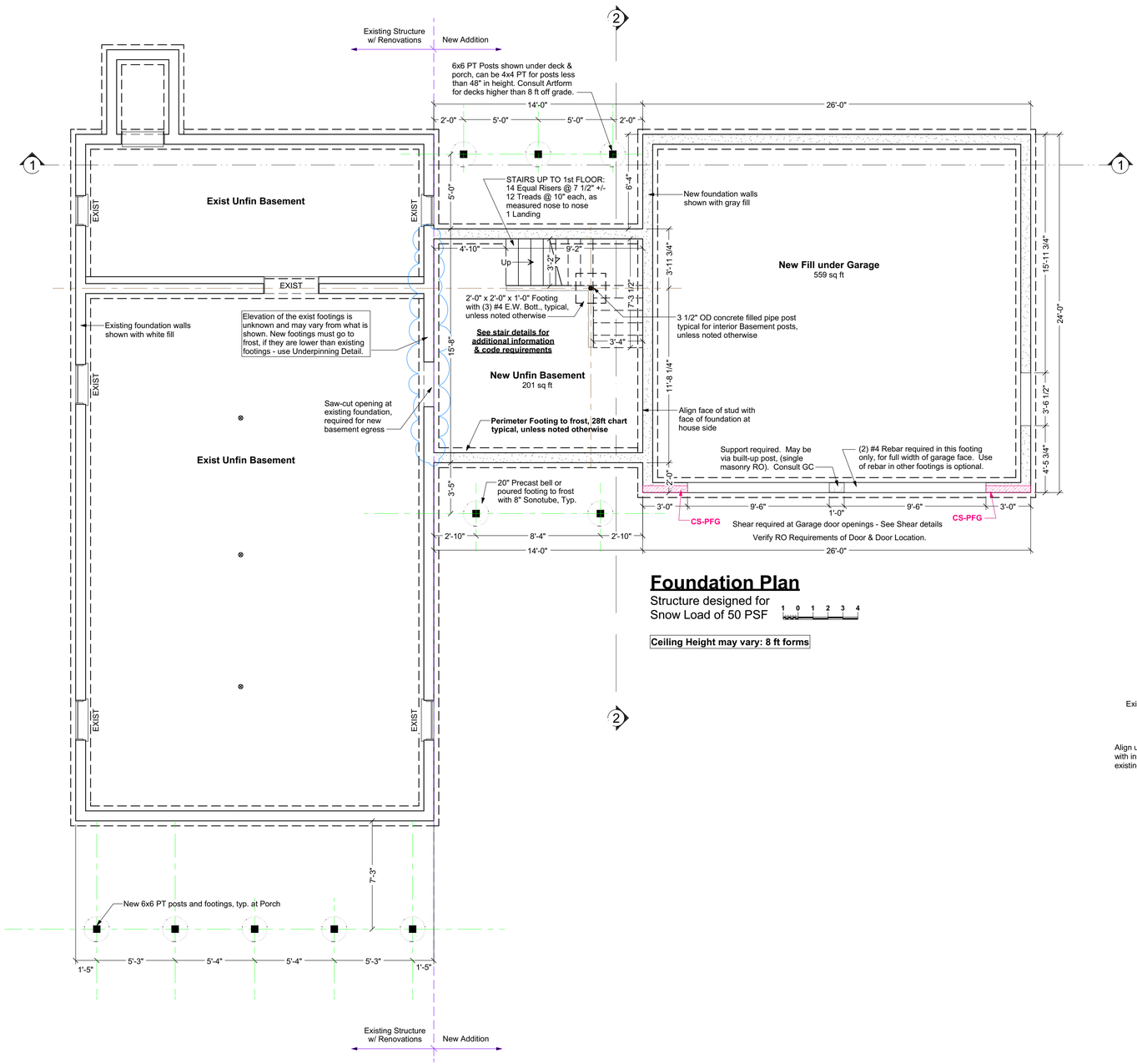
1. Use Footing chart(s) below to verify that depth of home matches chart. Depth is foundation dimension eave to eave. Contact Artform Home Plans if you believe the chart does not match the plan.
2. Select row for snow load shown on the structural plans.
3. Select a column for soil bearing pressure based on soil type and/or consultation with code officer.
4. The required footing size is at the intersection of the Snow Load and Soil PSF. Rebar is not required. Key or pin foundation wall to footing per code.
   FAQ - Adding rebar to footings does not reduce the required width. Rebar affects performance with earth movement, like an earthquake and has near zero effect on bearing capacity.

Guide to Soil PSF

3,000	Sandy gravel and/or gravel (GW and GP)
2,000	Sand, silty sand, clayey sand, silty gravel and clayey gravel (SW, SP, SM, SC, GM and GC)
1,500	Clay, sandy clay, silty clay, clayey silt, silt and sandy silt (CL, ML, MH and CH)

8" wall - Footing Size for 28 Ft wide house

Snow Load	Story and type of structure	Load Bearing Value of Soil (PSF) 1500 PSF	2000 PSF	3000 PSF
50 PSF	2 Story – Plus Basement	23 x 7.5	17 x 6	12 x 6
55 PSF	2 Story – Plus Basement	23.5 x 7.75	17.25 x 6	12 x 6
60 PSF	2 Story – Plus Basement	24 x 8	17.5 x 6	12 x 6
65 PSF	2 Story – Plus Basement	24.5 x 8.25	17.75 x 6	12 x 6
70 PSF	2 Story – Plus Basement	25 x 8.5	18 x 6	12 x 6

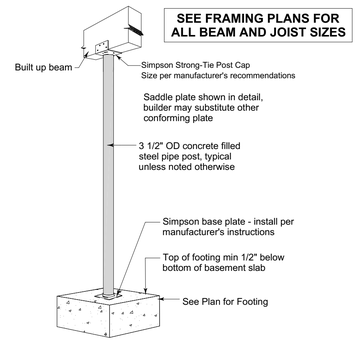


Foundation Plan

Structure designed for Snow Load of 50 PSF

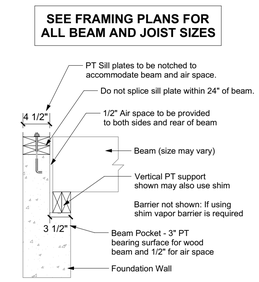
1 0 1 2 3 4

Ceiling Height may vary: 8 ft forms



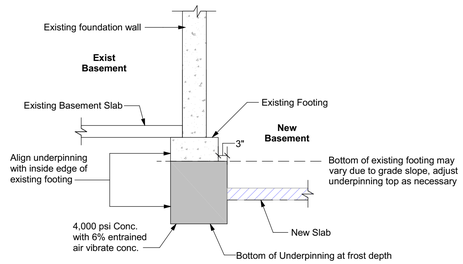
Typical Basement Post

Not to Scale



Beam Pocket

Scale 1"=1'-0"



Underpinning Section at New Footing

Exist Basement and New Basement under Mud Room
Not to scale

NOTE: Do not excavate more than 4 ft section under existing footings.

Foundation Contractor Check List
Confirm or review the following prior to forming & pouring foundation

Initials Date Checked

____ _____ Confirmed soil bearing
____ _____ Checked w/GC for added foundation steps to suit grade
____ _____ Confirm sill plate thickness (foundation bolts to extend through all)
____ _____ Confirmed garage door size
____ _____ Checked w/GC for added basement windows
____ _____ Checked w/GC for added basement man doors
____ _____ Confirmed sizes & locations mech/plbg penetrations
____ _____ Confirmed sizes and locations of beams w/GC, added or adjusted beam pockets
____ _____ Confirmed location and installed electrical service grounding - See GC for location

MINIMUM VERTICAL REINFORCEMENT FOR 8-INCH (203MM) NOMINAL FLAT CONCRETE BASEMENT WALL

MAXIMUM UNSUPPORTED WALL HEIGHT (feet)	MAXIMUM UNBALANCED BACKFILL HEIGHT (feet)	MINIMUM VERTICAL REINFORCEMENT - BAR SIZE AND SPACING (inches)		
		Soil classes and design lateral soil (psf per foot of depth)		
		GW, GP, SW, SP 30	GM, GC, SM, SM-SC and ML 45	SC, ML-CL and inorganic CL 60
8	4	NR	NR	NR
	5	NR	NR	NR
	6	NR	NR	6 @ 37
	7	NR	6 @ 36	6 @ 35
	8	6 @ 41	6 @ 35	6 @ 26

NOTE: Per R404.1.3.3.7.3 Vertical wall reinforcement required by Section R404.1.3.2 that is interrupted by wall openings shall have additional vertical reinforcement the same size placed withing 12" of each side of the opening.

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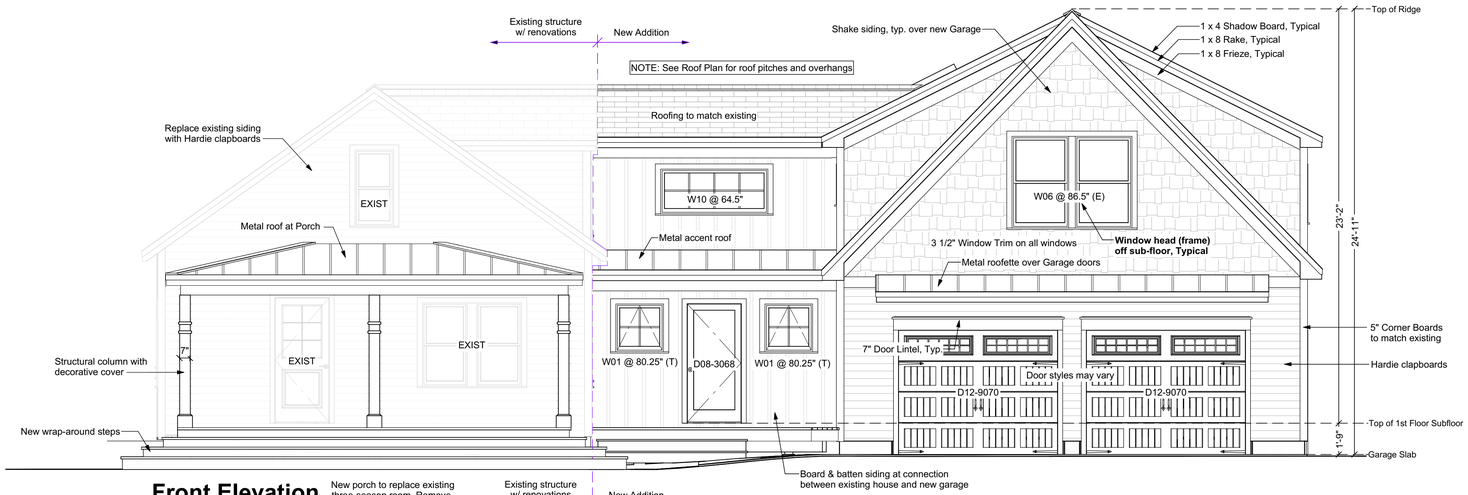
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Front Elevation

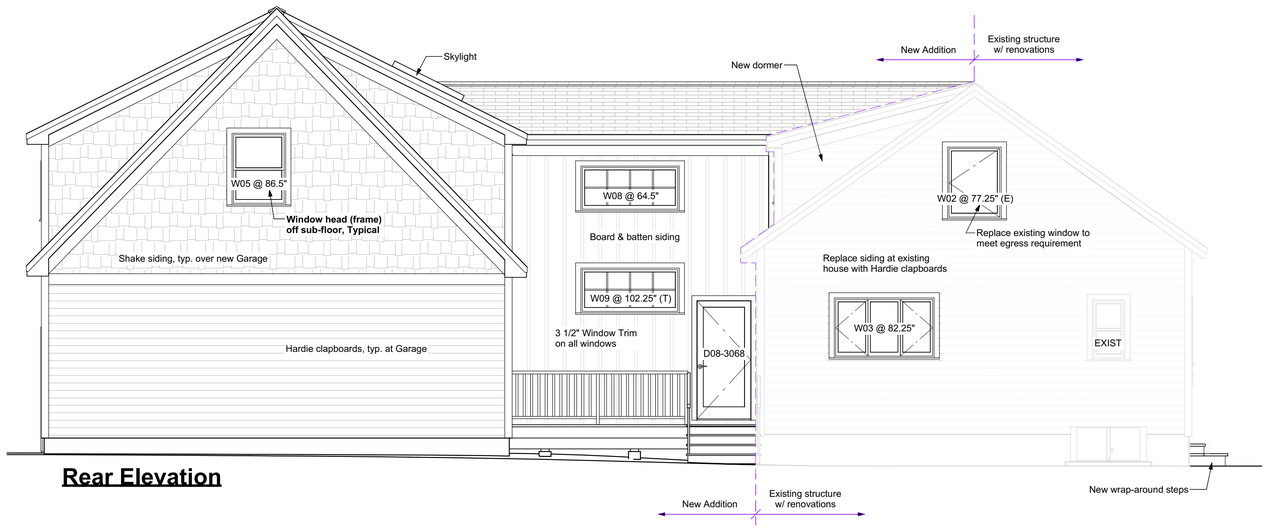
New porch to replace existing three-season room. Remove existing walls as required and provide new structural framing where required.

Exterior wood framing shall be preservative-treated for the exposure condition. provide awpa uc3b min. for above-ground exterior framing with adequate drainage and ventilation. provide awpa uc4a min. (ground-contact treatment) where framing is within 6" of finished grade, subject to poor ventilation or prolonged wetting, or otherwise exposed to ground-contact-type conditions.

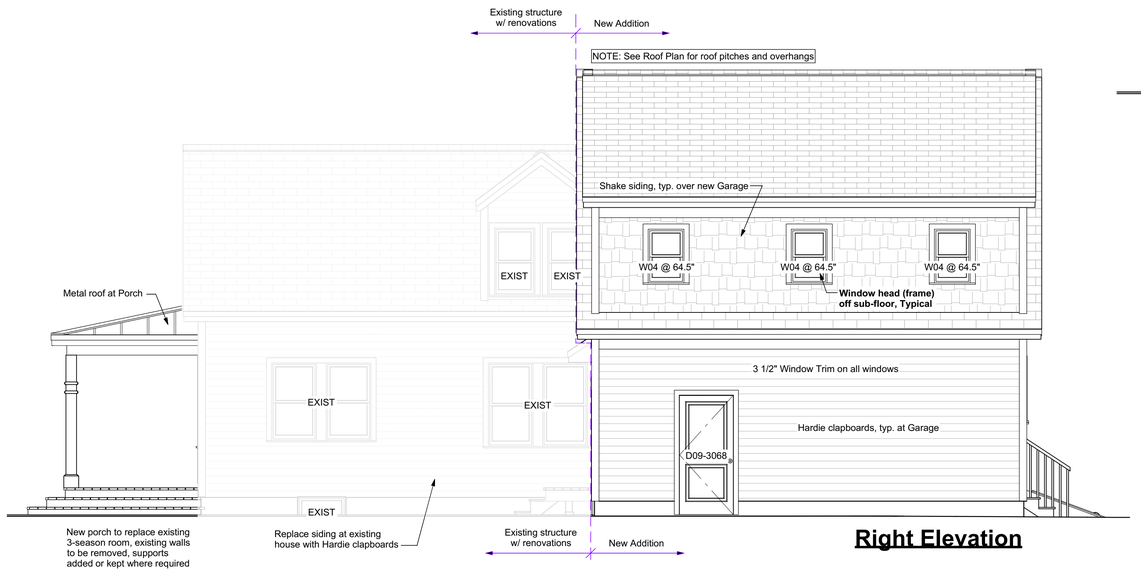


Column Detail

Note: Dimensions are approximate, builder may exercise some latitude



Rear Elevation



Right Elevation

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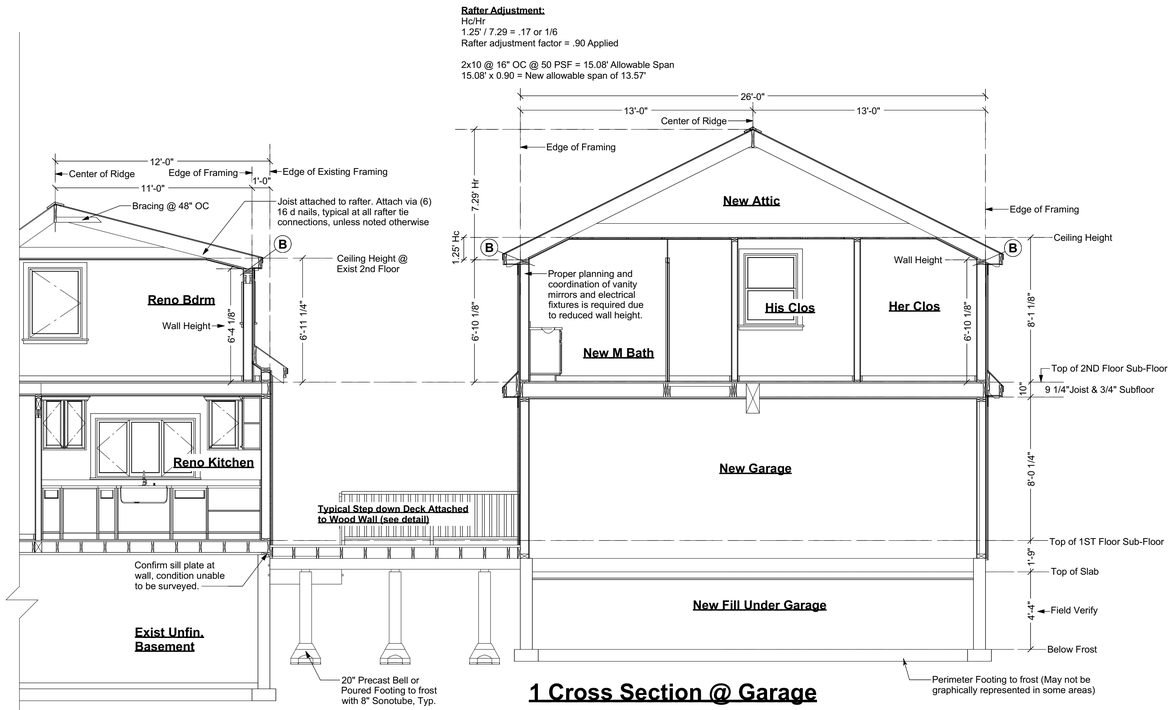
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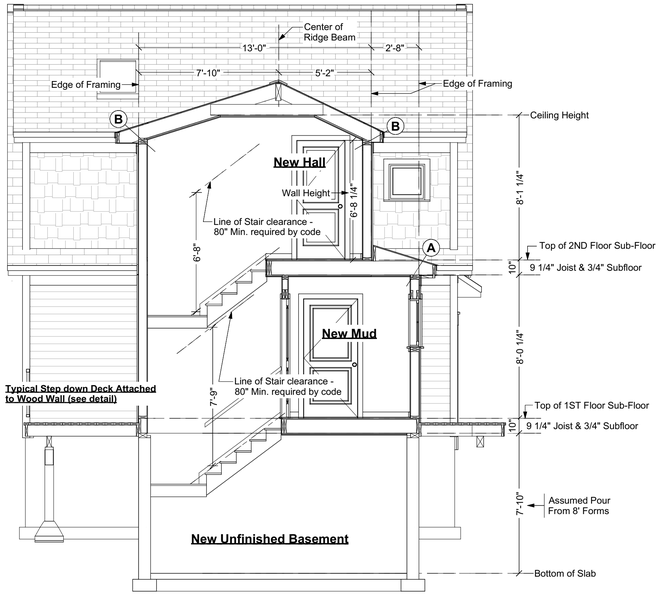
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Rafter Adjustment:
Hc/Hr
1.25' / 7.29 = .17 or 1/6
Rafter adjustment factor = .90 Applied

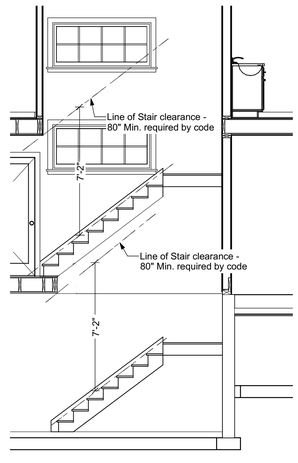
2x10 @ 16" OC @ 50 PSF = 15.08' Allowable Span
15.08' x 0.90 = New allowable span of 13.57"



1 Cross Section @ Garage

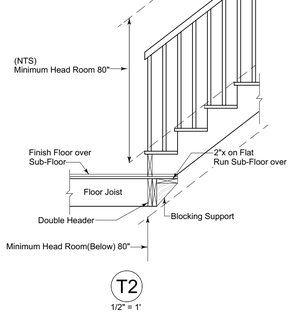


2 Cross Section @ Mud



Line of Stair Clearance (Lower)

Clearances shown do not assume insulation under the basement slab. If that insulation is added to meet local energy codes, adjust stairs as needed, see Detail T2 for framing adjustment to gain addition headroom.



Stair Notes

1. Stair Width: Stairs may not decrease in width (including at landing) in direction of egress. Do not alter stair width or landing depth at stairs, in any way without consulting architect.

a. R311.7.1 - Stairways shall be not less than 36 inches in clear width at all points above the permitted handrail height and below the required headroom height. The clear width of stairways at and below the handrail height, including treads and landings, shall be not less than 31-1/2 inches where a handrail is installed on one side and 27 inches where handrails are installed on both sides.

Exception: The width of spiral stairways shall be in accordance with Section R311.7.10.1.

2. Stair Landing: R311.7.6 - There shall be a floor or landing at the top and bottom of each stairway. The width perpendicular to the direction of travel shall be not less than the width of the flight served. Landings of shapes other than square or rectangular shall be permitted provided that the depth at the walk line and the total area is not less than that of a quarter circle with a radius equal to the required landing width. Where the stairway has a straight run, the depth in the direction of travel shall be not less than 36 inches (914 mm).

Exception: A floor or landing is not required at the top of an interior flight of stairs, including stairs in an enclosed garage, provided that a door does not swing over the stairs.

3. Handrails: R311.7.8.2 - Handrails for stairways shall be continuous for the full length of the flight, from a point directly above the top riser of the flight to a point directly above the lowest riser of the flight. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1-1/2 inches between the wall and the handrails.

Exception: Handrails shall be permitted to be interrupted by a newel post at the turn.

4. Guards: 312.1.2 **-** Required guards at open-sided walking surfaces, including stairs, porches, balconies or landings, shall be not less than 36 inches in height measured vertically above the adjacent walking surface or the line connecting the leading edges of the treads.

Exception:
1. Guards on the open sides of stairs shall have a height of not less than 34 inches (864 mm) measured vertically from a line connecting the nosings.
2. Where the top of the guard also serves as a handrail on the open sides of stairs, the top of the guard shall be not less than 34 inches and not more than 38 inches measured vertically from a line connecting the nosings.

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R602.10.4 Construction Methods for Braced Wall Panels

Intermittent and continuously sheathed braced wall panels shall be constructed in accordance with this section and the methods listed in Table R602.10.4.

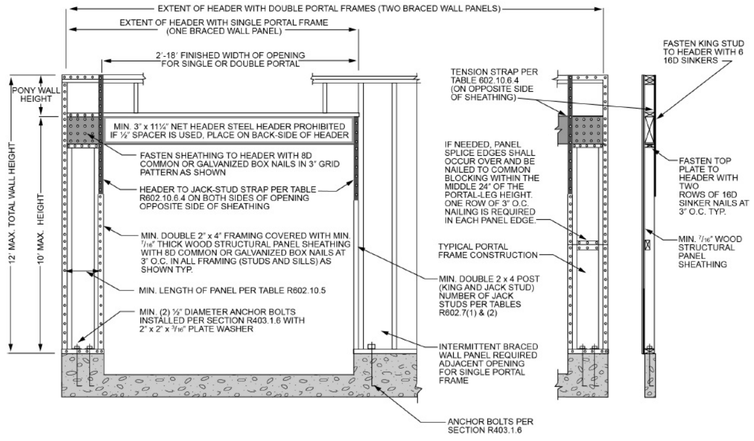
METHODS, MATERIAL		MINIMUM THICKNESS	FIGURE	CONNECTION CRITERIAa	
				Fasteners	Spacing
Intermittent Bracing Method	**PFG** Portal frame at garage	7/16"		See Section R602.10.6.3	See Section R602.10.6.3
Continuous Sheathing Methods	**CS-WSP** Continuously sheathed wood structural panel	3/8"		Per Table 602.3(3) use 8d Common nails	6" edges 12" field
				Interior sheathing per Table R602.3(1) or R602.3(2)	Varies by fastener

Shear Wall Details

Not to Scale

Notes:

- Shear is only called out where continuous sheathing wood structural panel method will not suffice. See plans for locations where alternate shear methods are required.
- Per R602.10.4.4 Vertical joints of panel sheathing shall occur over and be fastened to common studs. Horizontal joints of panel sheathing in braced wall panels shall occur over and be fastened to common blocking of a thickness of 1 1/2" or greater
- Details shown here are for one method and for typical conditions. An alternate shear method allowed per code or approved by the code officer may be substituted.
- For Shear information reference section R602.10 of the IRC 2021.



FRONT ELEVATION SECTION

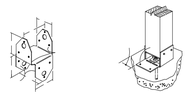
For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.

FIGURE R602.10.6.3
METHOD PFG—PORTAL FRAME AT GARAGE DOOR OPENINGS IN SEISMIC DESIGN CATEGORIES A, B AND C

TABLE R602.10.6.4
TENSION STRAP CAPACITY FOR RESISTING WIND PRESSURES PERPENDICULAR TO METHODS PFH, PFG AND CS-PF BRACED WALL PANELS[a]

MINIMUM WALL STUD FRAMING NOMINAL SIZE AND GRADE	MAXIMUM PONY WALL HEIGHT (feet)	MAXIMUM TOTAL WALL HEIGHT (feet)	MAXIMUM OPENING WIDTH (feet)	TENSION STRAP CAPACITY REQUIRED (pounds)[c]					
				Ultimate Design Wind Speed V_{ult} (mph)					
				≤ 110	115	130	≤ 110	115	130
				Exposure B			Exposure C		
2 × 4 No. 2 Grade	0	10	18	1,000	1,000	1,000	1,000	1,000	1,050
	1	10	9	1,000	1,000	1,000	1,000	1,000	1,750
			16	1,000	1,025	2,050	2,075	2,500	3,950
			18	1,000	1,275	2,375	2,400	2,850	DR
	2	10	9	1,000	1,000	1,475	1,500	1,875	3,125
			16	1,775	2,175	3,525	3,550	4,125	DR
			18	2,075	2,500	3,950	3,975	DR	DR
	2	12	9	1,150	1,500	2,650	2,675	3,175	DR
			16	2,875	3,375	DR	DR	DR	DR
			18	3,425	3,975	DR	DR	DR	DR
	4	12	9	2,275	2,750	DR	DR	DR	DR
			12	3,225	3,775	DR	DR	DR	DR
2 × 6 Stud Grade	2	12	9	1,000	1,000	1,700	1,700	2,025	3,050
			16	1,825	2,150	3,225	3,225	3,675	DR
			18	2,200	2,550	3,725	3,750	DR	DR
	4	12	9	1,450	1,750	2,700	2,725	3,125	DR
			16	2,050	2,400	DR	DR	DR	DR
			18	3,350	3,800	DR	DR	DR	DR

For SI: 1 foot = 304.8 mm, 1 pound = 4.45 N, 1 mile per hour = 0.447 m/s.
DR = Design Required.
a. Straps shall be installed in accordance with manufacturer's recommendations.


POST CAP

POST STAND OFF

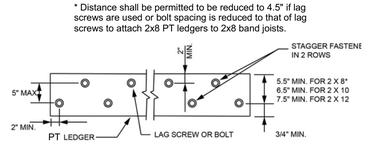
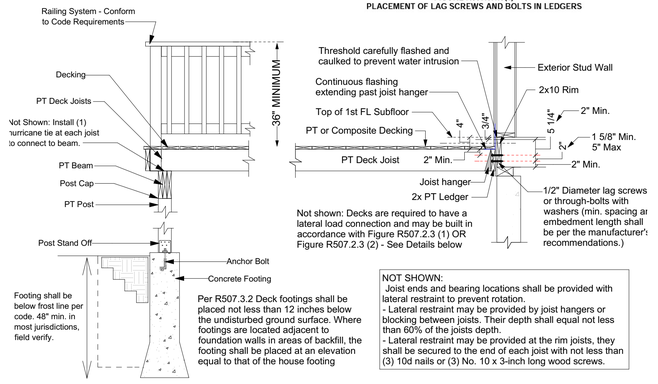


FIGURE R507.9.1.3(1)
PLACEMENT OF LAG SCREWS AND BOLTS IN LEDGERS

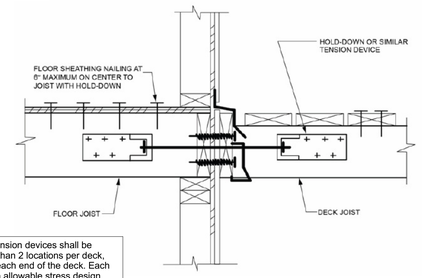


Per R507.3.2 Deck footings shall be placed not less than 12 inches below the undisturbed ground surface. Where footings are located adjacent to foundation walls in areas of backfill, the footing shall be placed at an elevation equal to that of the house footing

NOT SHOWN:
Joist ends and bearing locations shall be provided with lateral restraint to prevent rotation.
- Lateral restraint may be provided by joist hangers or blocking between joists. Their depth shall equal not less than 60% of the joists depth.
- Lateral restraint may be provided at the rim joists, they shall be secured to the end of each joist with not less than (3) 10d nails or (3) No. 10 x 3-inch long wood screws.

Deck Ledger Attachment Detail for Step Down

Scale: 1/2" = 1'-0"



NOTE: hold down tension devices shall be installed in not less than 2 locations per deck, within 24 inches of each end of the deck. Each device shall have an allowable stress design capacity of not less than 1,500 lbs.

FIGURE R507.9.2(1)
DECK ATTACHMENT FOR LATERAL LOADS

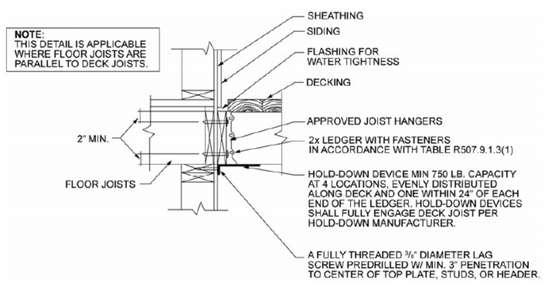


FIGURE R507.9.2(2)
DECK ATTACHMENT FOR LATERAL LOADS

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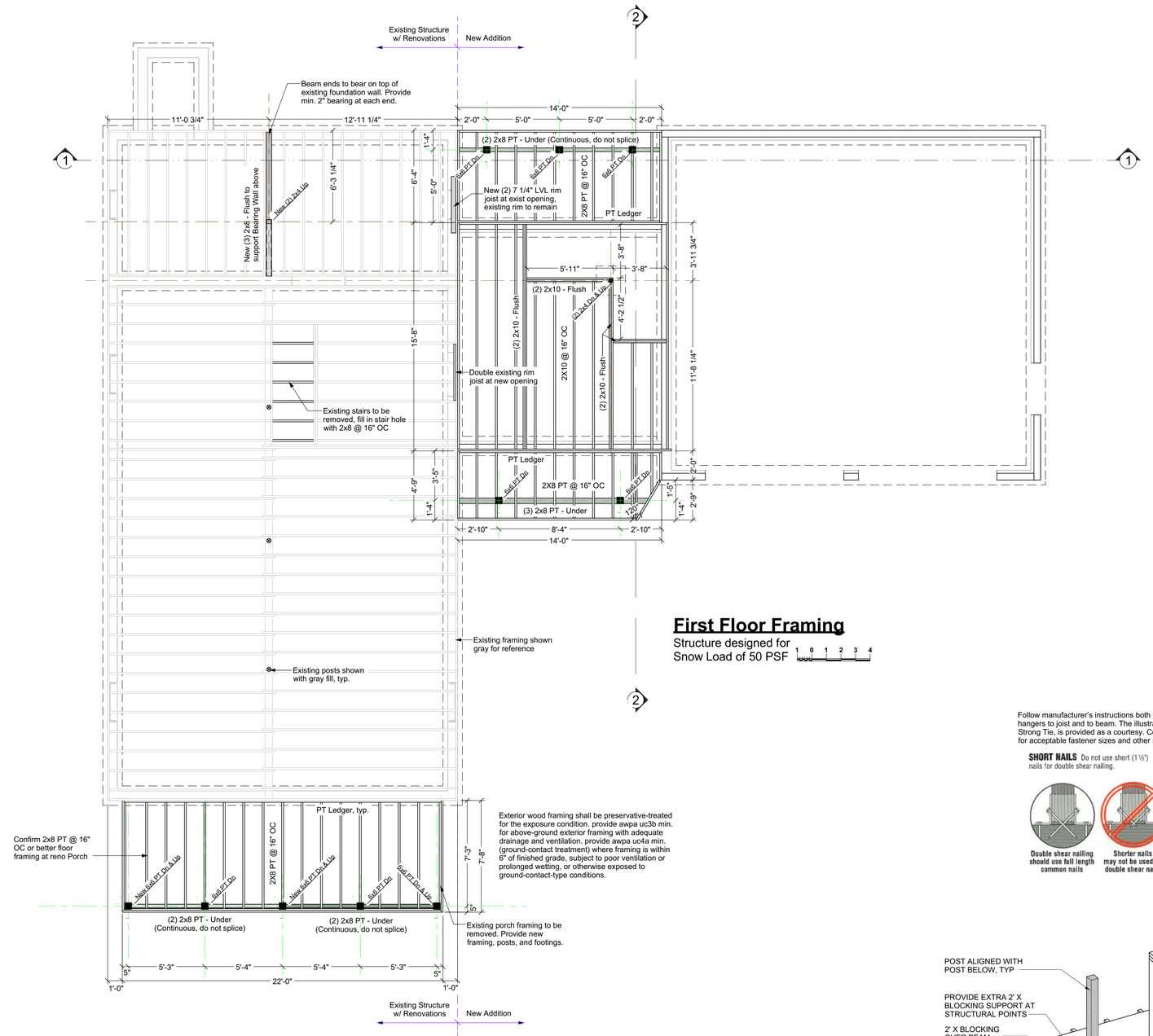
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Wood Framing Notes:

1. All structural wood shall be identified by a grade mark or certificate of inspection by a recognized inspection agency.
2. Structural wood shall be Spruce-Pine-Fir (SPF) #2 or better.
3. When used, LVL or PSL indicate Laminated Veneer Lumber or Parallel Strand Lumber, respectively. Products used shall equal or exceed the strength properties for the size indicated as manufactured by TrusJoist.
4. When used, TJI indicates wood I-joists as manufactured by TrusJoist. Products of alternate manufacturers may be substituted provided they meet or exceed the strength properties for the member specified.
5. All floor joists shall have bridging installed at mid-span or at 8'-0" oc maximum.
6. For *performance* reasons, Artform suggests sub-floor be glued and screwed. Alternate fastening options include 8d common nails or Deformed 2 3/8" × 0.113" × 0.266" head. All fastening options to be spaced 6" on edges and 12" on intermediate supports.
7. Per code R502.6.1 Floor joists splicing over bearing walls allowed, shall lap a min 3" over walls and shall be nailed together with a minimum of (3) 10d face nails. Also permitted is a wood or metal splice with strength equal to or greater than that provided by the nailed lap.
8. Per code R802.5.2.1 Ends of ceiling joists shall be lapped not less than 3 inches (76 mm) or butted over bearing partitions or beams and toenailed to the bearing member. Where ceiling joists are used to provide resistance to rafter thrust, lapped joists shall be nailed together in accordance with Table R802.5.2 and butted joists shall be tied together in a manner to resist such thrust. Joists that do not resist thrust shall be permitted to be nailed in accordance with Table R602.3(1). Wood structural panel roof sheathing, in accordance with Table R503.2.1.1(1), shall not cantilever more than 9 inches (229 mm) beyond the gable endwall unless supported by gable overhang framing.
9. Provide blocking in the floor at all structural points including over bearing walls and beams where joists are spliced. Blocking at structural posts may be 2x's or solid, but must have grain of wood vertical.
10. All wood permanently exposed to the weather, in contact with concrete or in contact with the ground shall meet code requirements for wood in these environments.
11. Deck ledgers shall be securely attached to the structure and/ or independently supported. Deck lateral load connection required see IRC 2021 Section R507.8
12. Wherever beams are noted as Flush framed, install joist hangers at all joists, sized appropriately for the members being connected.
13. Support the lower end of roof beams via minimum 2" horizontal bearing on a post, ledger or via an appropriately sized and configured hanger.
14. The ends of each joist, beam or girder shall have not less than 1.5" of bearing on wood or metal and not less then 3" on masonry or concrete except where supported on a 1" x 4" ribbon strip and nailed to the adjacent stud or by the use of approved joist hangers.
15. Hangers, post caps, post bases, ties and other connectors shall be manufactured by Simpson Strong Tie. Selection shall be designed to carry the loading on these framing plans and connect the total width of the members shown, and shall be installed per manufacturer's instructions. Contact Art Form if additional information is needed.

Prefabricated Wood Trusses

1. Where trusses are indicated on the drawings, truss design shall be provided by truss manufacturer.
2. Trusses shall be designed in accordance with applicable provisions of the latest edition of the National Design Specifications for Wood Construction (NDS), American Forest and Paper Association (APA), and Design Specifications for Metal Plate Connected Wood Trusses (ANSI/TPI 1), Truss Plate Institute (TPI) and code of jurisdiction.
3. Manufacturer shall furnish design drawings bearing seal and registration number of a structural engineer licensed in the state where project will be built.



First Floor Framing

Structure designed for Snow Load of 50 PSF

1 0 1 2 3 4

Notes about beam & joist sizing

1. Our beams sizes often differ from prescriptive code, because our designs are rarely the old style box colonial or cape with a center bearing wall upon which prescriptive code is based. We size our beams via calculations for this specific design, which may carry those loads separately via second floor beams and/or roof transfer beams. Beam or joist sizes, types and/or spacing may not be reduced or alternates substituted without our express permission.
2. Walls intended to be bearing are labeled as such. This information is provided to aid code officer in understanding the framing. It does not indicate permission to add loads to those walls, or any other walls.
3. Framing is sized for normal residential conditions. Contact Artform if additional loads are anticipated, including but not limited to waterbeds, large fish tanks, indoor hot tubs, multiple framed soffits or coffers.
4. In states where the designer is a licensed architect, (NH, MA, ME, & CT as of the date of issue) we are happy to stamp our drawings at no additional charge. In other states we are happy to provide calculations. Administration fees apply with provision of calculations. Code officer is encouraged to call with any questions about our methodology.

Fastening for Built-up Beams:

Unless otherwise noted, connect multiple 1 3/4" ply beams as follows:

NOTE: Not all of the built-up beams in the following list are shown in this plan. A complete list is provided due to the frequency of requested changes and substitutions. Any substitutions must be reviewed and approved by Art Form Architecture.

2-Ply LVL

(2) 5 1/2" LVL - 9 1/4" LVL
- (2) Rows of 3 3/8" TrussLOK @ 24" OC (Installed on one side) OR
- (2) Rows of 3 1/2" FlatLOK @ 24" OC (Installed on one side) OR
- (2) Rows SDS 1/4" x 3 1/2" @ 24" OC (Installed on one side)

(2) 11 1/4" LVL - 16" LVL
- (2) Rows of 3 3/8" TrussLOK @ 19.2" OC (Installed on one side) OR
- (2) Rows of 3 1/2" FlatLOK @ 19.2" OC (Installed on one side) OR
- (2) Rows SDS 1/4" x 3 1/2" @ 19.2" OC (Installed on one side)

(2) 18" LVL - 24" LVL
- (3) Rows of 3 3/8" TrussLOK @ 16" OC (Installed on one side) OR
- (3) Rows of 3 1/2" FlatLOK @ 16" OC (Installed on one side) OR
- (3) Rows of SDS 1/4" x 3 1/2" @ 16" OC (Installed on one side)

3-Ply LVL

(3) 5 1/2" LVL - 9 1/4" LVL
- (2) Rows of 3 3/8" TrussLOK @ 24" OC (Installed on BOTH sides) OR
- (2) Rows of 3 1/2" FlatLOK @ 24" OC (Installed on BOTH sides) OR
- (2) Rows SDS 1/4" x 3 1/2" @ 24" OC (Installed on BOTH sides)

(3) 11 1/4" LVL - 16" LVL
- (2) Rows of 3 3/8" TrussLOK @ 19.2" OC (Installed on BOTH sides) OR
- (2) Rows of 3 1/2" FlatLOK @ 19.2" OC (Installed on BOTH sides) OR
- (2) Rows SDS 1/4" x 3 1/2" @ 19.2" OC (Installed on BOTH sides)

(3) 18" LVL - 24" LVL
- (3) Rows of 3 3/8" TrussLOK @ 16" OC (Installed on BOTH sides) OR
- (3) Rows of 3 1/2" FlatLOK @ 16" OC (Installed on BOTH sides) OR
- (3) Rows SDS 1/4" x 3 1/2" @ 16" OC (Installed on BOTH sides)

4-Ply LVL

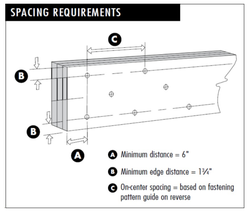
(4) 5 1/2" LVL - 9 1/4" LVL
- (2) Rows of 5" TrussLOK @ 24" OC (Installed on BOTH sides) OR
- (2) Rows of 5" FlatLOK @ 24" OC (Installed on BOTH sides) OR
- (2) Rows SDS 1/4" x 5" @ 24" OC (Installed on BOTH sides)

(4) 11 1/4" LVL - 16" LVL
- (2) Rows of 5" TrussLOK @ 19.2" OC (Installed on BOTH sides) OR
- (2) Rows of 5" FlatLOK @ 19.2" OC (Installed on BOTH sides) OR
- (2) Rows SDS 1/4" x 5" @ 19.2" OC (Installed on BOTH sides)

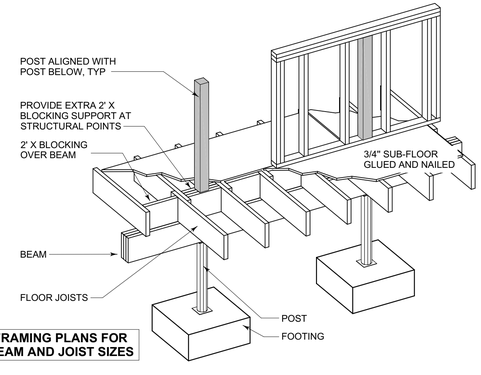
(4) 18" LVL - 24" LVL
- (3) Rows of 5" TrussLOK @ 16" OC (Installed on BOTH sides) OR
- (3) Rows of 5" FlatLOK @ 16" OC (Installed on BOTH sides) OR
- (3) Rows SDS 1/4 x 5 @ 16" OC (Installed on BOTH sides)

NOTES:

1. For 5-Ply Beams see details provided separately.
2. We specify LVL beams as built up members to allow framers to use existing stock. You may substitute single piece LVLs of equivalent overall size for built-up members, unless otherwise noted. Built-up members MAY NOT replace single piece LVLs where specified.
3. Where a beam of 1 3/4" or less in width is specified as framed under, either brace at 48" or double member for lateral stability.



Follow manufacturer's instructions both for installation of joist hangers to joist and to beam. The illustration below, by Simpson Strong Tie, is provided as a courtesy. Consult their full manual for acceptable fastener sizes and other important instructions.



SEE FRAMING PLANS FOR ALL BEAM AND JOIST SIZES

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AFHP Design # Add-Reno
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Add-Reno: Biba Residence
27 Thaxter Rd
Portsmouth, NH

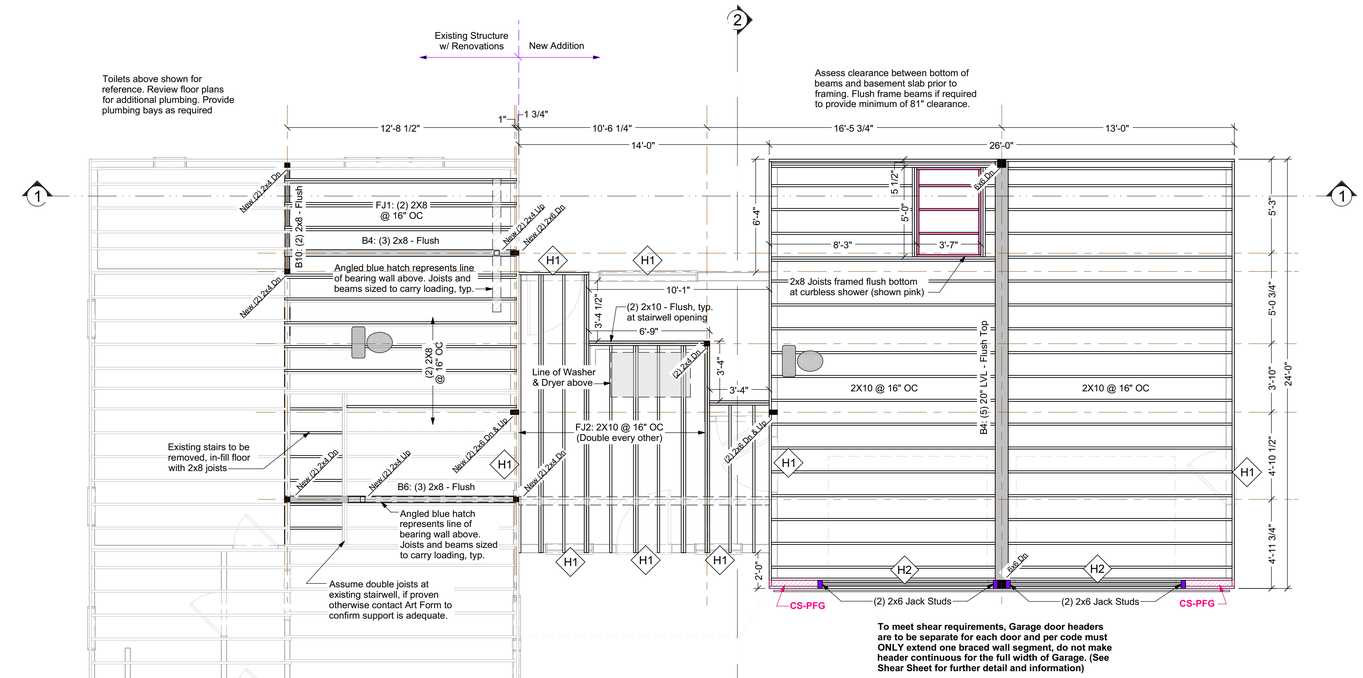
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1/4"=1'-0" unless noted otherwise / Print @ 1:1
PDF created on: 9/29/2026

Issued for: Construction

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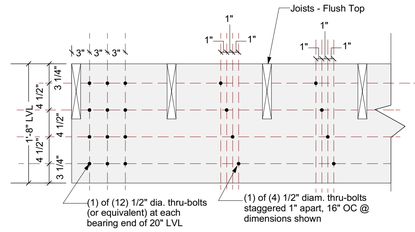
9/29/2026 4:11:01 PM
Tim & Carolyn Biba
//AFDiskstation/AFA Staff Access/- Home Designs/WIP - Add-Reno/Biba - 27 Thaxter Rd Portsmouth Add-Reno/CD Add-Reno - Biba Residence - 27 Thaxter Rd.layout



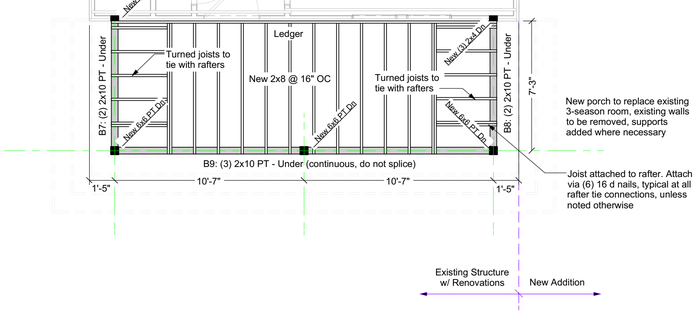
To meet shear requirements, Garage door headers are to be separate for each door and per code must ONLY extend one braced wall segment, do not make header continuous for the full width of Garage. (See Shear Sheet for further detail and information)

Second Floor Framing

Structure designed for Snow Load of 50 PSF



Bolting pattern on (5) Ply 20" LVL

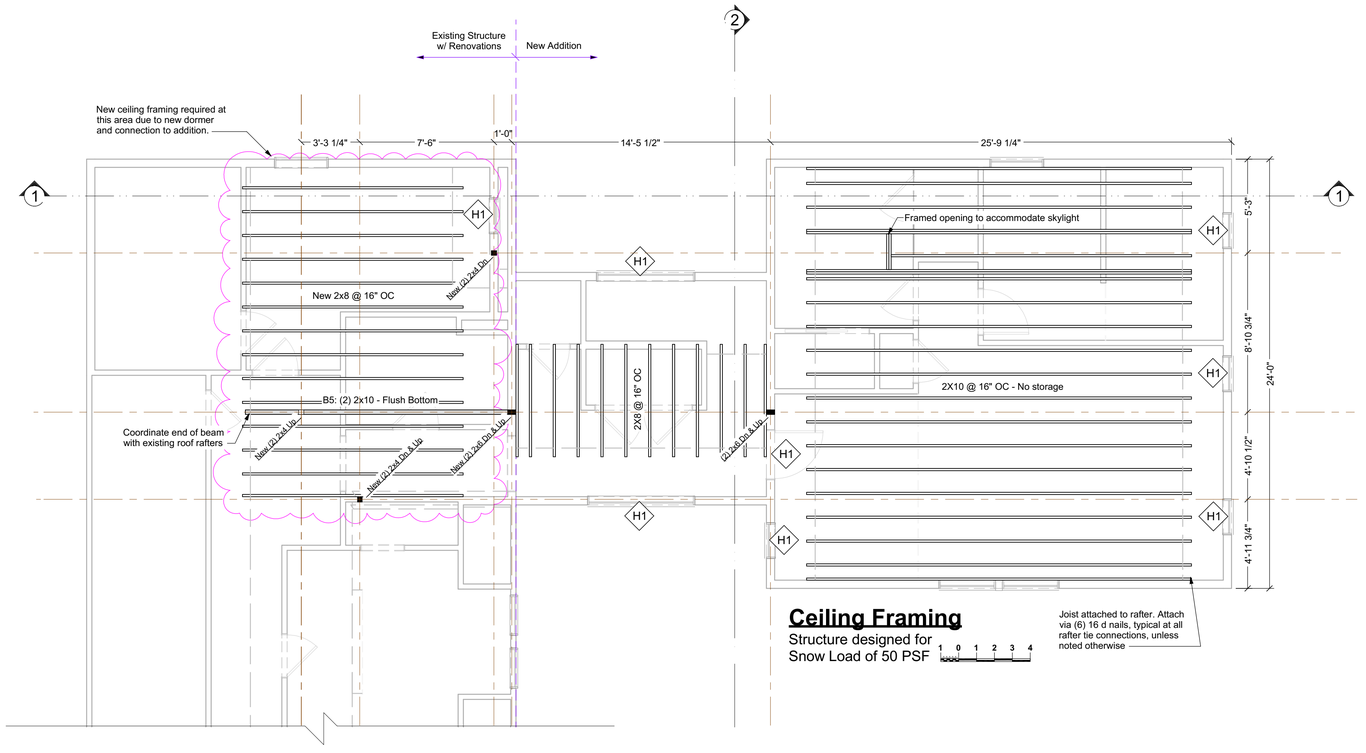


New porch to replace existing 3-season room, existing walls to be removed, supports added where necessary

Joist attached to rafter. Attach via (6) 16 d nails, typical at all rafter tie connections, unless noted otherwise

Header Schedule			
Number	Header Size	No. of Jack Studs (each side)	No. of King Studs (each side)
H1	(2) 2x8	2	1
H2	(2) 2x12	2	2

See Framing Plans for further information.



Ceiling Framing

Structure designed for Snow Load of 50 PSF

Joist attached to rafter. Attach via (6) 16 d nails, typical at all rafter tie connections, unless noted otherwise

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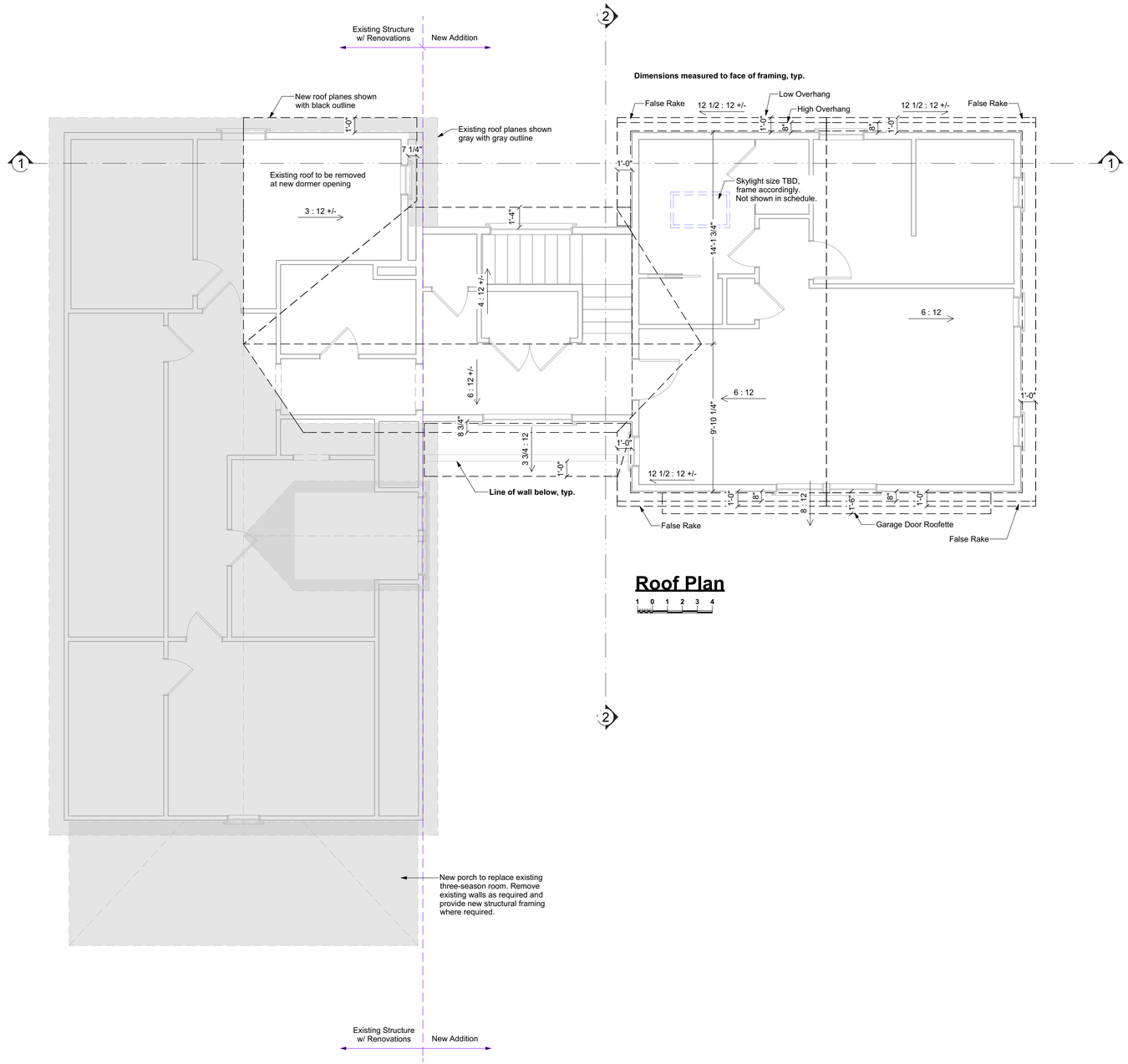
8

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Tim & Carolyn Biba
//AFDiskstation/AFA Staff/Access/- Home Designs/WIP - Add-Reno/Biba - 27 Thaxter Rd Portsmouth Add-Reno/CD Add-Reno - Biba Residence - 27 Thaxter Rd.layout

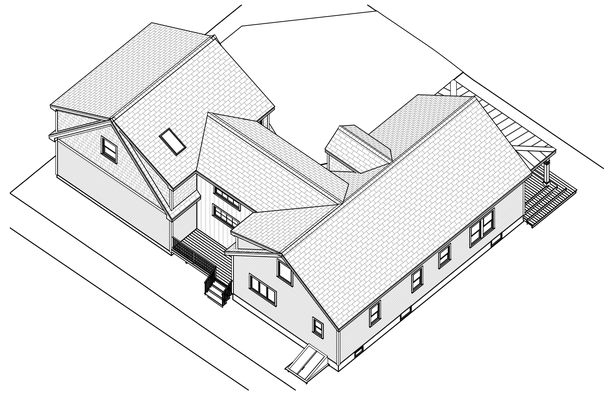


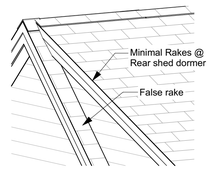
Roof Plan

1 0 1 2 3 4



3D Roof Overviews





Alternate:
12" False Rake and a 6" Shed Dormer Rake

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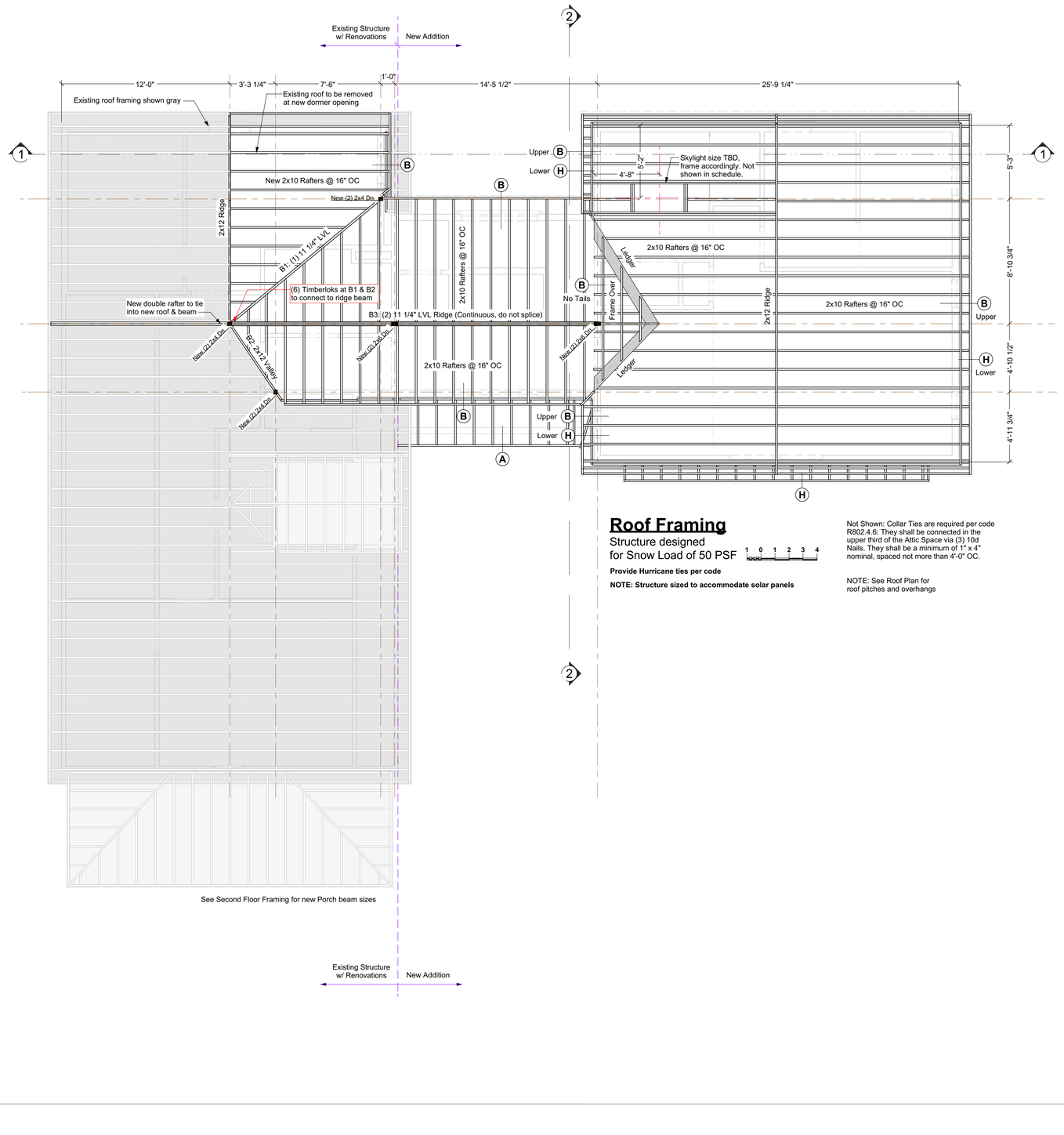
Add-Reno: Biba Residence
27 Thaxter Rd
Portsmouth, NH

9

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Roof Framing

Structure designed
for Snow Load of 50 PSF

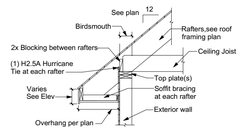
1 0 1 2 3 4

Provide Hurricane ties per code

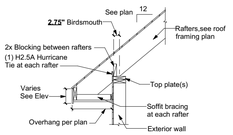
NOTE: Structure sized to accommodate solar panels

Not Shown: Collar Ties are required per code R802.4.6: They shall be connected in the upper third of the Attic Space via (3) 10d Nails. They shall be a minimum of 1" x 4" nominal, spaced not more than 4'-0" OC.

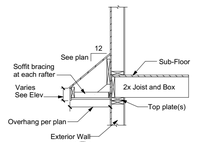
NOTE: See Roof Plan for roof pitches and overhangs



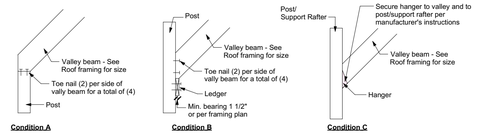
A Typical at each rafter of roof edge denoted by callout
Not to scale



B Typical at each rafter of roof edge denoted by callout
Not to scale



H Typical at full return
Not to scale



Valley Beam Attachment Options

NOTE: Supporting valley beams on face of vertical post via toe nailing alone is not allowed

Changed 12/15/21

Alternate Sheathing

"Zip" Structural Roof Sheathing as follows shall be an allowed alternate:

Follow manufacturer's instructions for edge support and taping



7/16" Sheathing, 4' × 8'

PS-2 SPAN RATING 24/16 STRUCTURAL 1

Stamped 24/16

Up to Snow Load 128 psf
16" oc rafters or trusses only
Allowed but not recommended

NOT allowed at 24" member spacing



1/2" Sheathing, 4' × 8'

PS-2 SPAN RATING 32/16 STRUCTURAL 1

Stamped 32/16

Up to Snow Load 188 psf
16" oc rafters or trusses
Allowed

Up to Snow Load 50 psf
24" oc rafters or trusses
Allowed but not recommended.



5/8" Sheathing, 4' × 8'

PS-2 SPAN RATING 40/20 STRUCTURAL 1

Stamped 40/20

All Roofs
5/8" meets prescriptive code
Allowed for all
Recommended for 24" truss spacing

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PDF created on: 9/29/2026

Issued for:
Construction

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Property Information

Property ID	0166-0039-0000
Location	27 THAXTER RD
Owner	KUSSMAUL CAROLYN J REV TST OF 2021

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 09/15/2026

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

Property Location 27 THAXTER RD | Map ID 0166/ 0039/ 0000/ / | Bldg Name | State Use 1010
Vision ID 35172 | Account # 35172 | Bldg # 1 | Sec # 1 of 2 | Card # 1 of 2 | Print Date 11/11/2025 12:03:56 P

CURRENT OWNER

KUSSMAUL CAROLYN J REV TST OF
KUSSMAUL CAROLYN J TRUSTEE
27 THAXTER RD

PORTSMOUTH NH 03801

TOPO	UTILITIES	STRT / ROAD	LOCATION
1 Level	0 All Public	1 Paved	
		8 2+ Off-St PKG	

SUPPLEMENTAL DATA

Alt Prcl ID	0166-0039-0000-0000	CONDO C	
OLDACTN	60690	INLAW Y/	
PHOTO		LOT SPLIT	
WARD		2015 Reva	JM
PREC.		Ex/Cr Appli	
1/2 HSE			
GIS ID	35172	Assoc Pid#	

CURRENT ASSESSMENT

Description	Code	Appraisec	Assessed
RESIDNTL	1010	357,100	357,100
RES LAND	1010	578,400	578,400
RESIDNTL	1010	11,200	11,200
	Total	946,700	946,700

2229

PORTSMOUTH, NH

VISION

RECORD OF OWNERSHIP

RECORD OF OWNERSHIP	BK-VOL/PAGE		SALE DATE	Q/U	V/I	SALE PRICE	VC
KUSSMAUL CAROLYN J REV TST OF 2021	6274	217	05-03-2021	Q	I	830,000	00
CALLIHAN CHAD	5926	0768	06-29-2018	Q	I	665,000	00
TONG KIETH L	4918	0090	05-19-2008	Q	I	350,000	00

PREVIOUS ASSESSMENTS (HISTORY)

Year	Code	Assessed	Year	Code	Assessed V	Year	Code	Assessed
2025	1010	357,100	2024	1010	353,400	2023	1010	229,200
	1010	578,400		1010	578,400		1010	369,300
	1010	11,200		1010	11,200		1010	6,600
	Total	946,700		Total	943,000		Total	605,100

EXEMPTIONS

Year	Code	Description	Amount
		Total	0.00

OTHER ASSESSMENTS

Code	Description	Number	Amount	Comm Int

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ASSESSING NEIGHBORHOOD

Nbhd	Nbhd Name	B	Tracing	Batch
104				

NOTES

RESTORATION OF INVOL MERGED LOTS DENIED
BY COUNCIL 4/20/2020
02/12 SOME ORIGINAL BUILT-INS
05/13- CHNG FOP TO CAN; REPL WINDS
3/20-EST NO CHANGES FOR 2020; NCIV
6/25BP: INST HP SYSTEM

APPRAISED VALUE SUMMARY

Appraised Bldg. Value (Card)	357,100
Appraised Xf (B) Value (Bldg)	0
Appraised Ob (B) Value (Bldg)	11,200
Appraised Land Value (Bldg)	578,400
Special Land Value	0
Total Appraised Parcel Value	946,700
Valuation Method	C
Total Appraised Parcel Value	946,700

BUILDING PERMIT RECORD

Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments
MECH-24-3	06-04-2024			19,916	06-30-2025	100		Install ground mounted Mitsubi
ER-24-300	06-04-2024	EL	Electric	2,288	06-30-2025	100		25amp circuit, disconnect with
RC	10-30-2021	RC			06-09-2022	100		**STOPPED** RESTORE INV
1	10-18-2019	AL		0	06-09-2022	100		**STOPPED** PLANNING DE
11-51	03-21-2011			90,000	11-08-2011	100	06-23-2011	CONSTRUCT 2 ADDITIONS

VISIT / CHANGE HISTORY

Date	Id	Type	Is	Cd	Purpose/Result
06-30-2025	JW	03	3	50	Building Permit
08-18-2024	SW			FR	Field Review Stat Update
07-29-2024	SMU	08		ER	Exterior Review
06-09-2022	TL			50	Building Permit
03-01-2022	SAS	03	5	SR	Sales Review
03-30-2020	BH	03		50	Building Permit
07-25-2019	LS			AD	Address Change

LAND LINE VALUATION SECTION

B	Use Code	Description	Zone	Frontage	Depth	Land Units		Unit Price	Size Ad	Site	Cond.	ST Idx	S.I. Adj.	Notes- Adj	Special Pricing	Adj Unit P	Land Value
1	1010	SINGLE FAM M	SRB			12,580	SF	19.57	1.0000	1	1.00	104	2.350	0	1.0000	45.98	578,400

Total Card Land Units 0 AC | Parcel Total Land Area 0 | Total Land Value 578,400

Property Location 27 THAXTER RD | Map ID 0166/ 0039/ 0000/ / | Bldg Name | State Use 1010
Vision ID 35172 | Account # 35172 | Bldg # 1 | Sec # 1 of 2 | Card # 1 of 2 | Print Date

CONSTRUCTION DETAIL

Element	Cd	Description
Style:	05	Bungalow
Model	01	Residential
Grade:	C+	C+
Stories:	1	
Occupancy	1	
Exterior Wall 1	14	Wood Shingle
Exterior Wall 2		
Roof Structure:	03	Gable/Hip
Roof Cover	03	Asph/F Gls/Cmp
Interior Wall 1	03	Plastered
Interior Wall 2	05	Drywall/Sheet
Interior Flr 1	12	Hardwood
Interior Flr 2	11	Ceram Clay Til
Heat Fuel	03	Gas
Heat Type:	04	Hot Water
AC Type:	02	Heat Pump
Total Bedrooms	04	4 Bedrooms
Total Bthrms:	1	
Total Half Baths	1	
Total Xtra Fixtrs	1	
Total Rooms:	7	
Bath Style:	1	Avg Quality
Kitchen Style:	1	Avg Quality
Kitchen Gr	B	
WB Fireplaces	0	
Extra Openings	0	
Metal Fireplace	0	
Extra Openings	0	
Bsmt Garage		

CONSTRUCTION DETAIL (CONTINUED)

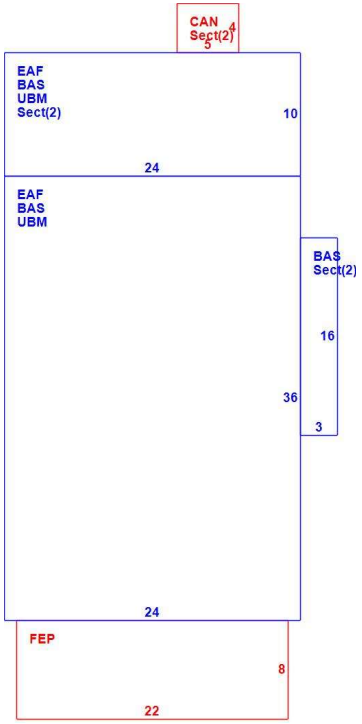
Element	Cd	Description

MIXED USE

Code	Description	Percentage
1010	SINGLE FAM MDL-01	100
		0
		0

COST / MARKET VALUATION

Adj. Base Rate	324.51
Building Value New	474,437
Year Built	1929
Effective Year Built	1995
Depreciation Code	GD
Remodel Rating	
Year Remodeled	
Depreciation %	29
Functional Obsol	
External Obsol	
Trend Factor	1
Condition	
Condition %	
Percent Good	71
RCNLD	357,100
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)

Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
FGR1	GARAGE-AVE	L	400	50.00	1940	A	50	C	1.00	10,000
PAT1	PATIO-AVG	L	288	8.00	2011	A	50	C	1.00	1,200

BUILDING SUB-AREA SUMMARY SECTION

Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BAS	First Floor	864	864	864	247.48	213,822
EAF	Attic Expansion	302	864	302	86.50	74,739
FEP	Porch, Enclosed	0	176	123	172.95	30,440
UBM	Basement, Unfinished	0	864	173	49.55	42,814
	Ttl Gross Liv / Lease Area	1,166	2,768	1,462		361,815



Property Location 27 THAXTER RD | Map ID 0166/ 0039/ 0000/ / | Bldg Name | State Use 1010
Vision ID 35172 | Account # 35172 | Bldg # 1 | Sec # 2 of 2 | Card # 2 of 2 | Print Date 11/11/2025 12:03:57 P

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KUSSMAUL CAROLYN J TRUSTEE
27 THAXTER RD

PORTSMOUTH NH 03801

TOPO	UTILITIES	STRT / ROAD	LOCATION
1 Level	0 All Public	1 Paved	
		8 2+ Off-St PKG	

SUPPLEMENTAL DATA

Alt Prcl ID 0166-0039-0000-0000
OLDACTN 60690
PHOTO
WARD
PREC.
1/2 HSE
GIS ID 35172

CONDO C
INLAW Y/
LOT SPLIT
2015 Reva JM
Ex/Cr Appli
Assoc Pid#

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ER-24-300	06-04-2024	EL	Electric	2,288	06-30-2025	100		25amp circuit, disconnect with
RC	10-30-2021	RC			06-09-2022	100		**STOPPED** RESTORE INV
1	10-18-2019	AL		0	06-09-2022	100		**STOPPED** PLANNING DE
11-51	03-21-2011			90,000	11-08-2011	100	06-23-2011	CONSTRUCT 2 ADDITIONS

VISIT / CHANGE HISTORY

Date	Id	Type	Is	Cd	Purpose/Result
06-30-2025	JW	03	3	50	Building Permit
08-18-2024	SW			FR	Field Review Stat Update
07-29-2024	SMU	08		ER	Exterior Review
06-09-2022	TL			50	Building Permit
03-01-2022	SAS	03	5	SR	Sales Review
03-30-2020	BH	03		50	Building Permit
07-25-2019	LS			AD	Address Change

LAND LINE VALUATION SECTION

B	Use Code	Description	Zone	Frontage	Depth	Land Units		Unit Price	Size Ad	Site	Cond.	ST Idx	S.I. Adj.	Notes- Adj	Special Pricing	Adj Unit P	Land Value
1	1010	SINGLE FAM M	SRB			12,580	SF	19.57	1.0000	1	1.00	104	2.350	0	1.0000	45.98	578,400

Total Card Land Units 0 AC | Parcel Total Land Area 0 | Total Land Value 578,400

Property Location	27 THAXTER RD		Map ID	0166/ 0039/ 0000/ /	Bldg Name		State Use 1010
Vision ID 35172		Account # 35172		Bldg # 1	Sec # 2 of 2	Card # 2 of 2	Print Date

CONSTRUCTION DETAIL

Element	Cd	Description
Style:	05	Bungalow
Model	01	Residential
Grade:	C+	C+
Stories:	1	
Occupancy	1	
Exterior Wall 1	14	Wood Shingle
Exterior Wall 2		
Roof Structure:	03	Gable/Hip
Roof Cover	03	Asph/F Gls/Cmp
Interior Wall 1	03	Plastered
Interior Wall 2	05	Drywall/Sheet
Interior Flr 1	12	Hardwood
Interior Flr 2	11	Ceram Clay Til
Heat Fuel	03	Gas
Heat Type:	05	Steam
AC Type:	02	Heat Pump
Total Bedrooms	04	4 Bedrooms
Total Bthrms:	1	
Total Half Baths	1	
Total Xtra Fixtrs	1	
Total Rooms:	7	
Bath Style:	1	Avg Quality
Kitchen Style:	1	Avg Quality
Kitchen Gr	B	
WB Fireplaces	0	
Extra Openings	0	
Metal Fireplace	0	
Extra Openings	0	
Bsmt Garage		

CONSTRUCTION DETAIL (CONTINUED)

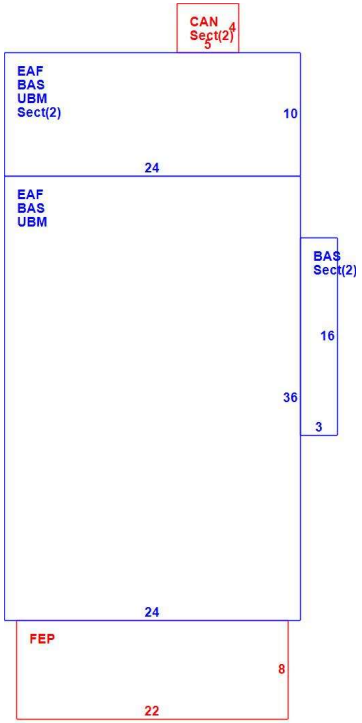
Element	Cd	Description

MIXED USE

Code	Description	Percentage
1010	SINGLE FAM MDL-01	100
		0
		0

COST / MARKET VALUATION

Adj. Base Rate	1,118.96
Building Value New	474,437
Year Built	2011
Effective Year Built	2013
Depreciation Code	AV
Remodel Rating	
Year Remodeled	
Depreciation %	11
Functional Obsol	
External Obsol	
Trend Factor	1
Condition	
Condition %	
Percent Good	89
RCNLD	357,100
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)

Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value

BUILDING SUB-AREA SUMMARY SECTION

Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BAS	First Floor	288	288	288	265.62	76,499
CAN	Canopy	0	20	4	53.12	1,062
EAF	Attic Expansion	84	240	84	92.97	22,312
UBM	Basement, Unfinished	0	240	48	53.12	12,750
	Ttl Gross Liv / Lease Area	372	788	424		112,623



27 THAXTER RD

Location	27 THAXTER RD	**Mblu**	0166/ 0039/ 0000/ /
Acct#	35172	**Owner**	KUSSMAUL CAROLYN J REV TST OF 2021
PBN		**Total Market Va...**	$946,700
Appraisal	$946,700	**PID**	35172
Building Count	1		

Current Value

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2025	$368,300	$578,400	$946,700
Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2025	$368,300	$578,400	$946,700

Owner of Record

Owner	KUSSMAUL CAROLYN J REV TST OF 2021	Sale Price	$830,000
Co-Owner	KUSSMAUL CAROLYN J TRUSTEE	Certificate	
Address	27 THAXTER RD PORTSMOUTH, NH 03801	Book & Page	6274/217
		Sale Date	05/03/2021
		Instrument	00

Ownership History

Ownership History					
Owner	**Sale Price**	**Certificate**	**Book & Page**	**Instrument**	**Sale Date**
KUSSMAUL CAROLYN J REV TST OF 2021	$830,000		6274/217	00	05/03/2021
CALLIHAN CHAD	$665,000		5926/0768	00	06/29/2018
TONG KIETH L	$350,000		4918/0090	00	05/19/2008

Building Information

Building 1 : Section 1

Year Built:	1929
Living Area:	1,166
Replacement Cost:	$361,814
Building Percent Good:	71
Replacement Cost Less Depreciation:	$256,900

Building Attributes	
Field	**Description**
Style:	Bungalow

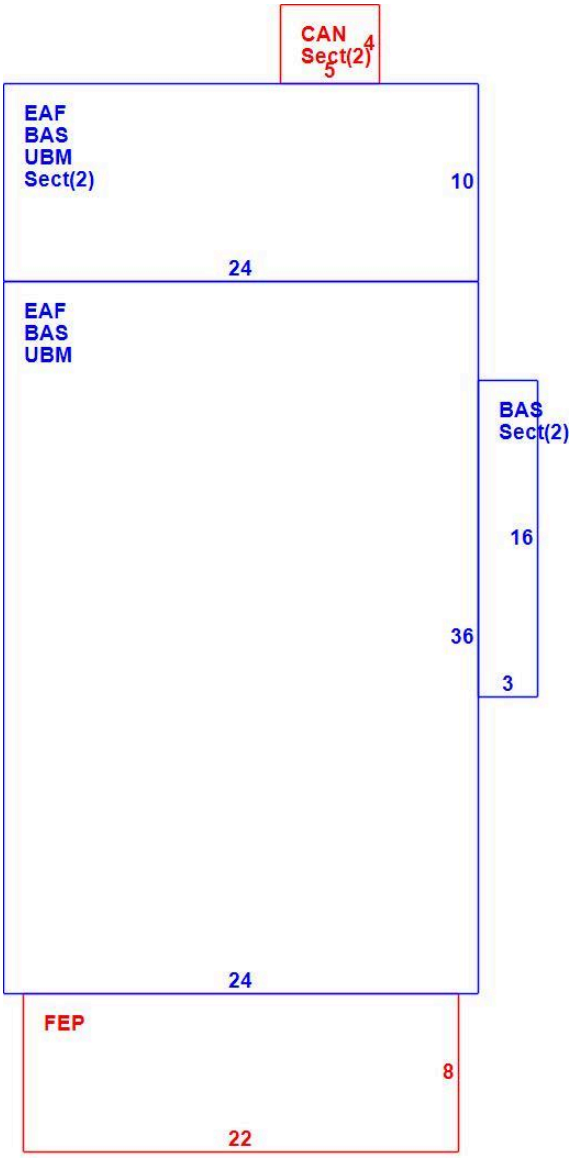
Model	Residential
Grade:	C+
Stories:	1
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	Drywall/Sheet
Interior Flr 1	Hardwood
Interior Flr 2	Ceram Clay Til
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	Heat Pump
Total Bedrooms:	4 Bedrooms
Total Bthrms:	1
Total Half Baths:	1
Total Xtra Fixtrs:	1
Total Rooms:	7
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	B
WB Fireplaces	0
Extra Openings	0
Metal Fireplaces	0
Extra Openings 2	0
Primary Bldg Use	SINGLE FAM MDL-01
Bsmt Garage	

Building Photo



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Building Layout



(ParcelSketch.ashx?pid=35172&bid=35172)

Building Sub-Areas (sq ft)			Legend
Code	**Description**	**Gross Area**	**Living Area**
BAS	First Floor	864	864

EAF	Attic Expansion	864	302
FEP	Porch, Enclosed	176	0
UBM	Basement, Unfinished	864	0
		2,768	1,166

Building 1 : Section 2

Year Built:	2011
Living Area:	372
Replacement Cost:	$112,623
Building Percent Good:	89
Replacement Cost Less Depreciation:	$100,200

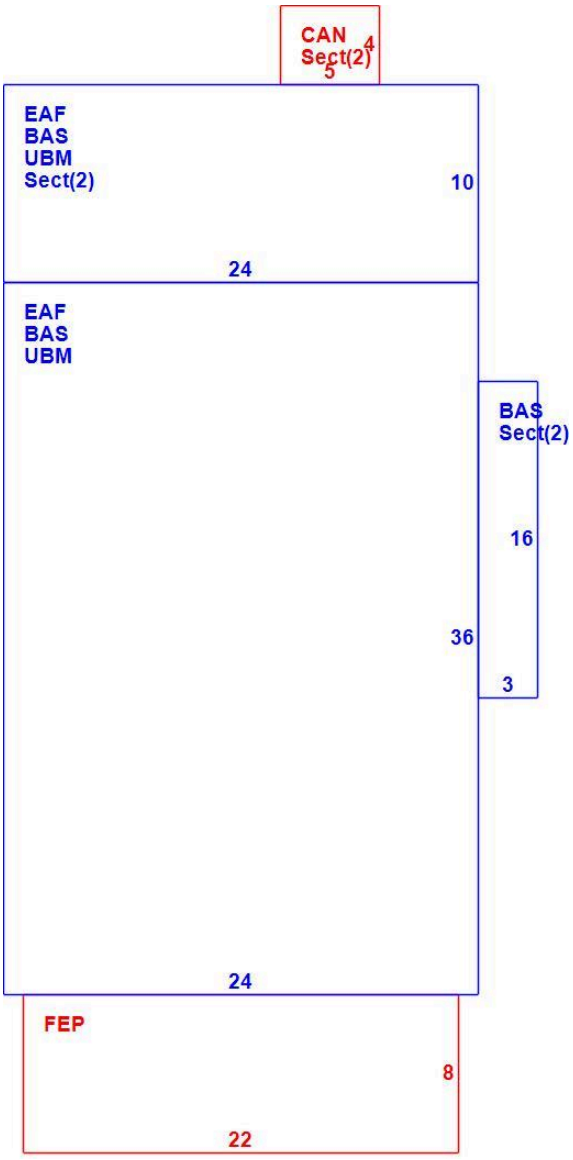
Building Attributes : Section 2 of 2	
Field	**Description**
Style:	Bungalow
Model	Residential
Grade:	C+
Stories:	1
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	Drywall/Sheet
Interior Flr 1	Hardwood
Interior Flr 2	Ceram Clay Til
Heat Fuel	Gas
Heat Type:	Steam
AC Type:	Heat Pump
Total Bedrooms:	4 Bedrooms
Total Bthrms:	1
Total Half Baths:	1
Total Xtra Fixtrs:	1
Total Rooms:	7
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	B
WB Fireplaces	0
Extra Openings	0
Metal Fireplaces	0
Extra Openings 2	0
Primary Bldg Use	SINGLE FAM MDL-01
Bsmt Garage	

Building Photo



(/photos/PortsmouthNHPhotos//\0048\35172_35172_1_1.

Building Layout



(ParcelSketch.ashx?pid=35172&bid=35172)

Building Sub-Areas (sq ft)			Legend
Code	**Description**	**Gross Area**	**Living Area**
BAS	First Floor	288	288
EAF	Attic Expansion	240	84
CAN	Canopy	20	0
UBM	Basement, Unfinished	240	0
		788	372

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code	1010
Description	SINGLE FAM MDL-01
Zone	SRB
Neighborhood	104
Alt Land Appr	No
Category	

Land Line Valuation

Size (Acres)	0.29
Frontage	
Depth	
Total Market Land	$578,400
Appraised Value	$578,400

Outbuildings

Outbuildings						Legend
Code	**Description**	**Sub Code**	**Sub Description**	**Size**	**Value**	**Bldg #**
FGR1	GARAGE-AVE	02	DETACHED	400.00 S.F.	$10,000	1
PAT1	PATIO-AVG			288.00 S.F.	$1,200	1

Valuation History

Appraisal			
Valuation Year	**Improvements**	**Land**	**Total**
2024	$364,600	$578,400	$943,000
2023	$235,800	$369,300	$605,100
2022	$235,800	$369,300	$605,100

Assessment			
Valuation Year	**Improvements**	**Land**	**Total**
2024	$364,600	$578,400	$943,000
2023	$235,800	$369,300	$605,100
2022	$235,800	$369,300	$605,100

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Property Information

Property ID	0166-0039-0000
Location	27 THAXTER RD
Owner	KUSSMAUL CAROLYN J REV TST OF 2021

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 09/15/2026

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

June 30, 2026

City of Portsmouth NH
Inspections Department
1 Junkins Ave
Portsmouth, NH 03801

C/O – Shanti Wolph
Chief Building Inspector

RE: 27 Thaxter Road Building Permit

To Whom it may concern:

This letter is submitted to authorize Dockham Builders Inc. to file any necessary documents and permits on behalf of our property located at 27 Thaxter Road.

Sincerely,

Carolyn and Tim Biba

Timothy Biba

Signature

6/30/26
Date

Timothy Biba

Printed Name

DOCKHAM
BUILDERS



III. NEW BUSINESS

B. The request of **Andrew Super (Owner),** for property located at **310 Dennett Street** whereas relief is needed to reconstruct a deck which requires the following: 1) Variance from Section 10.521 to allow a) a 5.5-foot right side yard where 10 feet is required and b) building coverage of 39% where 25% is required. Said property is located on Assessor Map 143 Lot 27 and lies within the General residence A (GRA) District. (LU-26-143)

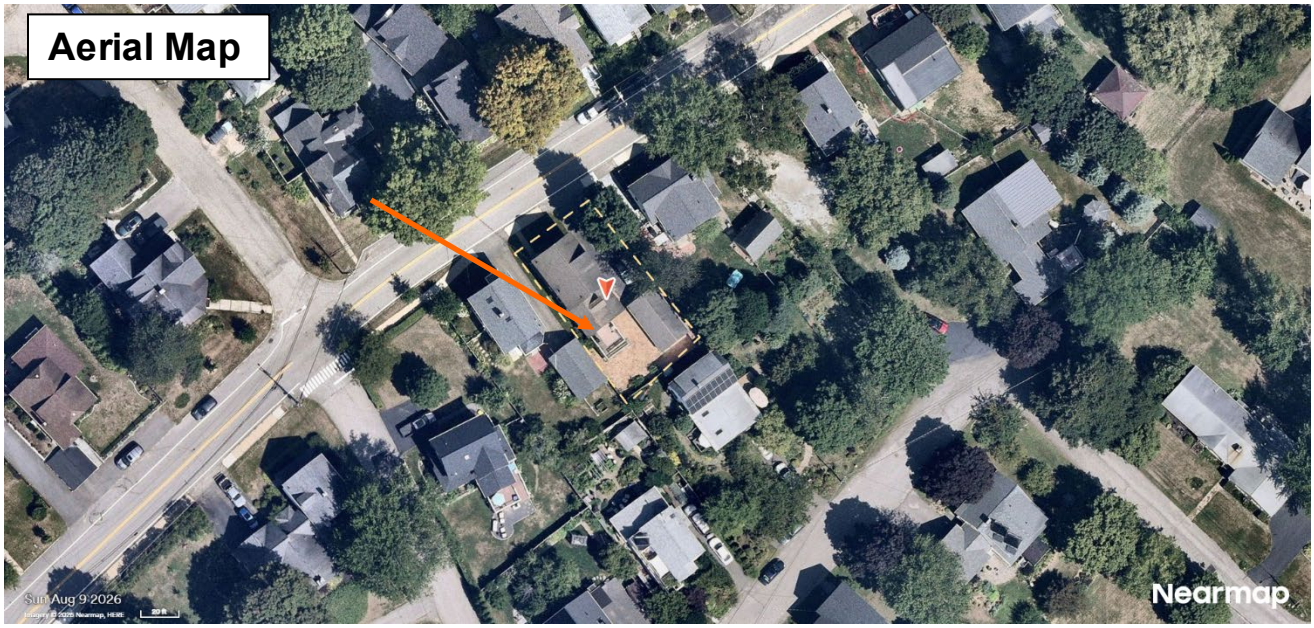
Existing & Proposed Conditions

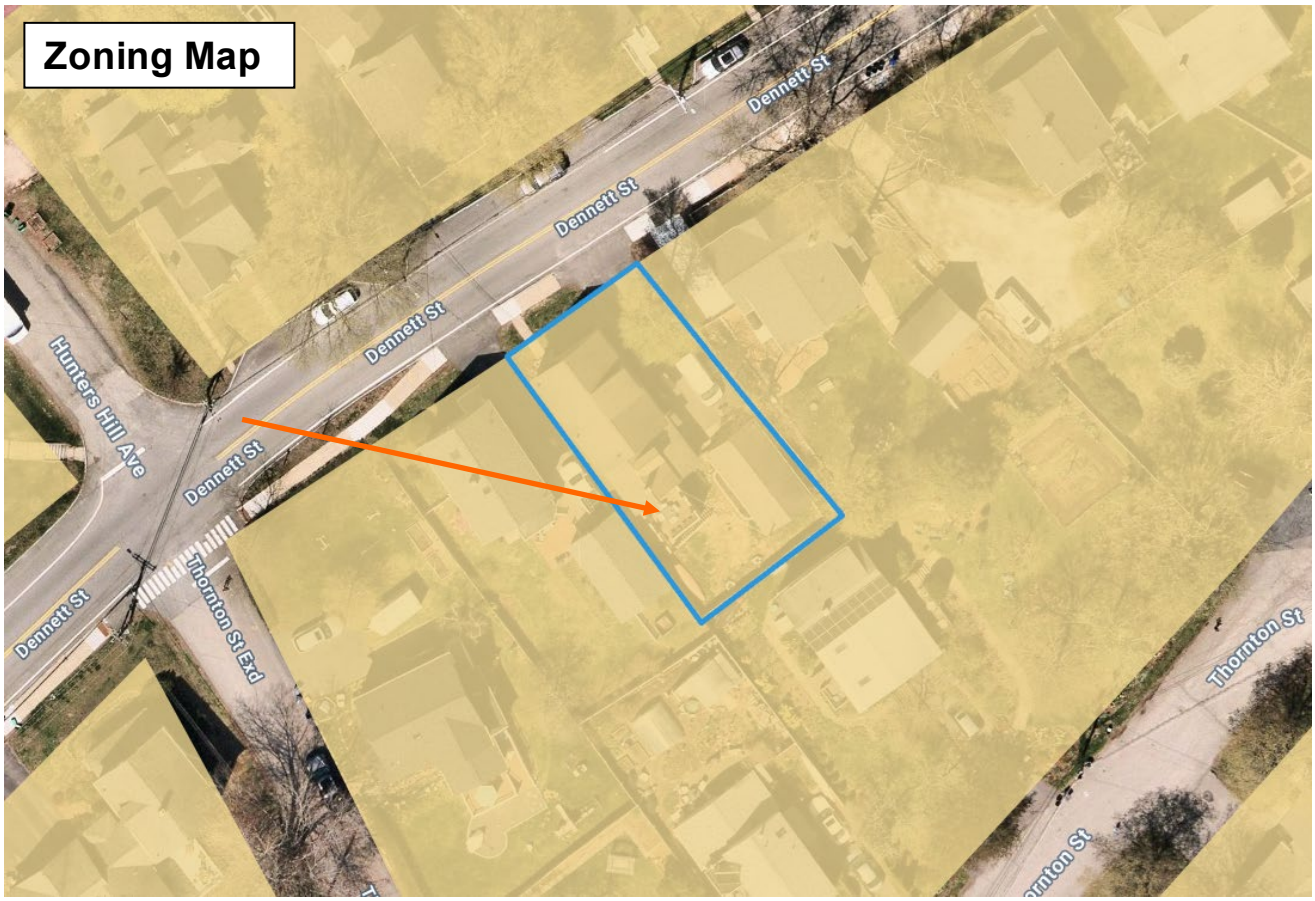
	Existing	Proposed	Permitted / Required	
Land Use:	Residential	Rebuild back porch	2-Family	
Lot area (sq. ft.):	4,792	4,792	7,500	min.
Lot Area per Dwelling Unit (sq. ft.):	2,396	2,396	7,500	min.
Building Coverage	39	39	25	max
Front Yard	≈10	≈10	15	min
Left Side Yard	33	33	10	min
Right Side Yard	5.5	5.5	10	min
Rear Yard	House: 22 Garage:8	House: 22 Garage: 8	20	Min
Parking Spaces	2	2	1	
Estimated Age of Structure:	1890	Variance request(s) shown in red.		

Other Permits/Approvals Required

- Building Permit

Neighborhood Context





Previous Board of Adjustment Actions

March 9, 1976 – The Board granted the request to construct a 16' x 26' garage 2' from the left side property line and 8' from the rear property line.

Planning Department Comments

The applicant is proposing reconstruct the rear porch. The dimensions will remain the same but as the structure is being removed it triggers the listed dimensional variances.

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.

APPLICATION OF ANDREW SUPER
310 Dennett Street, Portsmouth

Map 143, Lot 27

APPLICANT'S NARRATIVE

PROJECT SUMMARY

Subject property:	310 Dennett Street, Portsmouth
Applicant:	Andrew Super, Owner of 310 Dennett Street
Location:	310 Dennett Street (Zoning GRA)
Relief requested:	Variance from Section 10.521 – Table of Dimensional Standards to permit a right side setback of 5.5 feet where 10 feet is required in order to reconstruct an existing deck as well as a variance from Section 10.521 to permit a proposed building coverage of 39% where 25% is required.
Proposal:	The applicant proposes to rebuild an existing deck at the same dimensions (13.5' x 13.5') with new framing. The current deck is unsafe due to age and the replacement will allow for the stairs and supports to be code compliant.

VARIANCE CRITERIA

A. The variance will not be contrary to public interest

Granting the requested variance to allow the replacement of the current deck at the existing scale and in the existing location will not substantially alter the characteristics of the neighborhood nor threaten public health, safety, or welfare. The proposal preserves the property's existing layout, use, and scale. The proposed deck does not create any new dimensional impacts beyond those historically present on the property.

B. The spirit of the ordinance is observed

The main structure at 310 Dennett Street was built in 1890, well before Portsmouth adopted zoning. The current deck is non-conforming, but the proposed replacement will not materially reduce light, air, or privacy for neighboring lots given that there will be no increase overall size.

C. Substantial justice will be done

Denial of the variance would impose a significant personal and practical burden on the homeowner by preventing the currently unsafe deck to be replaced. The deck is the second point of egress for the property and should be replaced for safety purposes. The deck is accessed via a sliding glass door and constructing it with a 10 foot setback to the closest property line would place the railing of deck in the middle of the sliding glass door, requiring a substantial alteration to the construction of the house. Likewise, the deck is already modestly sized and reducing its overall footprint to conform for building coverage would hinder its

functionality and decrease the property value of the home. The public gains no meaningful benefit from denying this request because the project does not measurably harm public health, safety, or welfare, and does not undermine the ordinance's objectives in any substantive way. The applicant has proactively engaged all immediate neighbors and has obtained their support.

D. Surrounding property values will not be diminished

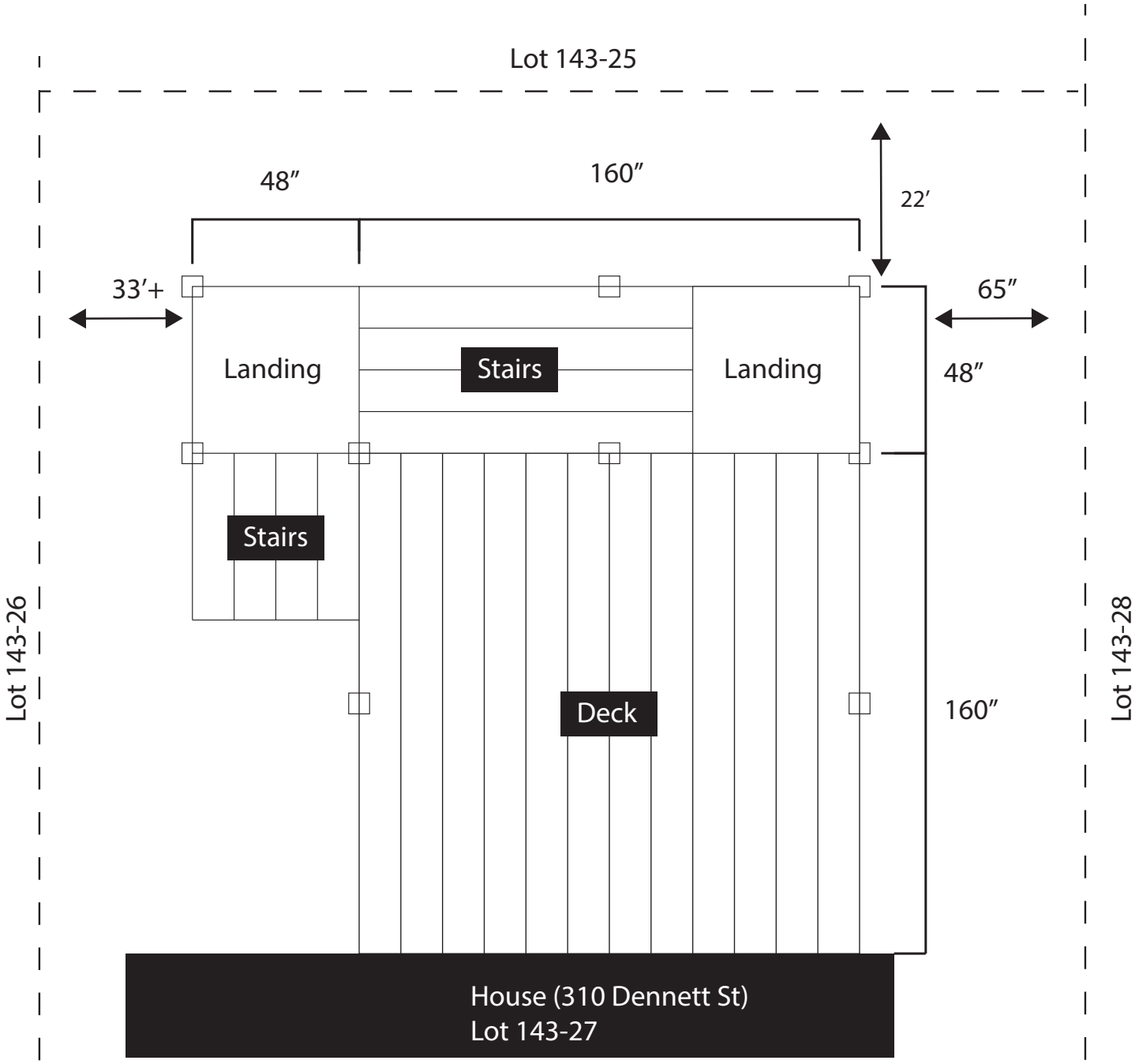
There is no credible basis to conclude that the proposed deck replacement will diminish surrounding property values.

E. Literal enforcement of the ordinance results in unnecessary hardship

Literal enforcement of the 10-foot side setback requirement and the 25% building coverage would result in unnecessary hardship as defined in 10.233.32. The main structure at 310 Dennett Street is approximately 5 feet from the property line separating plot 143-27 and 143-28. Site constraints prohibit the construction of a conforming deck without substantively altering its size and functionality. Moving the deck to allow for the 10-foot side setback would place the side of the deck in the middle of the sliding glass door used to access the deck. This change would also force the deck to be at most 6 feet wide, completely altering its use as an outdoor space. It would be impossible to maintain the same scale of the deck and allow for the setback requirement without first demolishing and rebuilding a side porch to allow for the ledger board to be properly attached to the structure. The lot at 143-27 is modest in size and the settled location of the existing house and side porch are unique conditions that leave no practical alternative than to rebuild the deck in its current location. This request does not introduce a new use to the property and does not materially change the property's relationship to neighboring lots. However, denial of this request will materially change the functionality of the property and negatively impact its market value.

CONCLUSION AND RELIEF REQUESTED

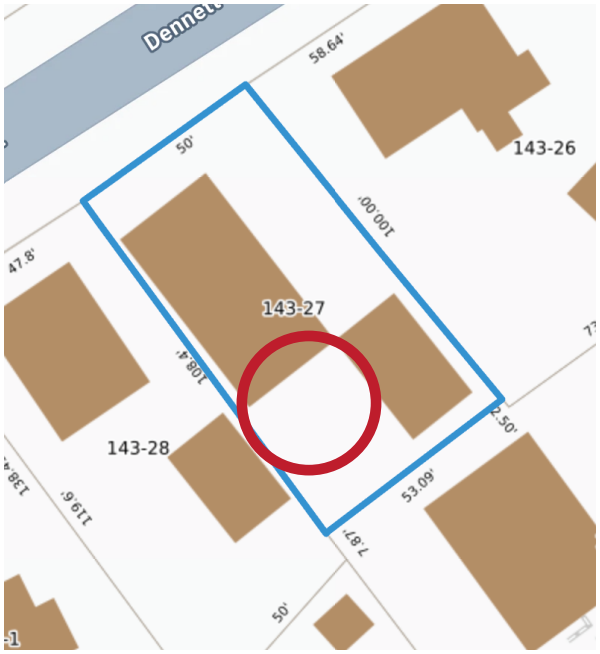
For the reasons set forth above, the proposed reconstruction of the 13.5'x13.5' deck satisfies the statutory variance criteria. The applicant requests that the Zoning Board grant a variance from Section 10.521 to permit the right side setback of 5.5 feet and a variance of the same section to allow for a 39% building coverage rather than the 25% required and to allow the reconstruction of the described deck. The application package includes a drawing of the proposed deck, photographs of the existing deck, and the available MapGeo property information showing the proximity of the existing structure to the abutting lot lines.



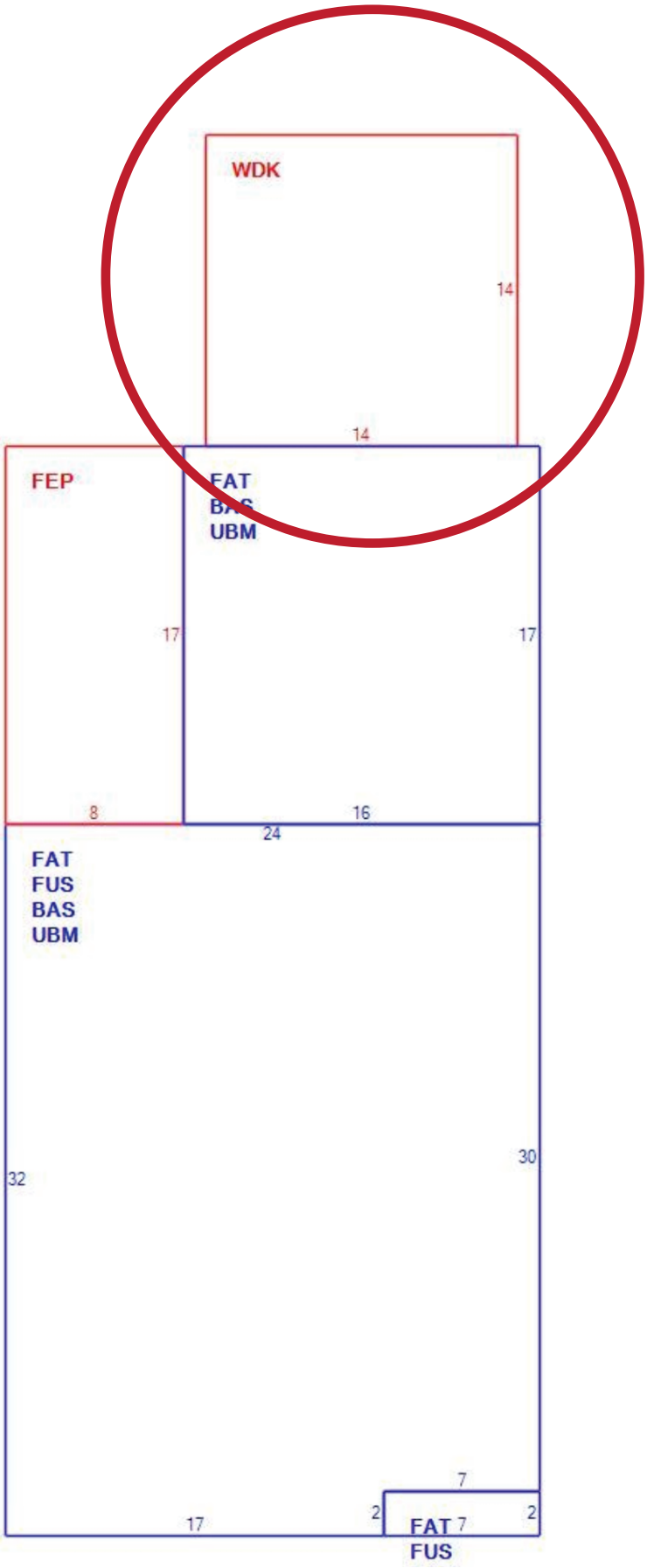
Diamond pier footings (5 for main deck, 4 for staircase and landing)
Joists 12″ on center
5 stringers for stairs
New deck will be located in exact location of current deck 65″ FROM THE CLOSEST PROPERTY LINE AND 22′+ FROM THE PROPERTIES TO THE NORTH AND EAST







Location of deck to be replaced.



III. NEW BUSINESS

C. The request of **Arundo Group Grantor Trust (Owner),** for property located at **125 Echo Avenue** whereas relief is needed to remove and replace the front porch which requires the following: 1) Variance from Section 10.521 to allow a 20.5 foot front yard where 30 feet are required. Said property is located on Assessor Map 237 Lot 61 and lies within the Single Residence B (SRB) District. (LU-26-135)

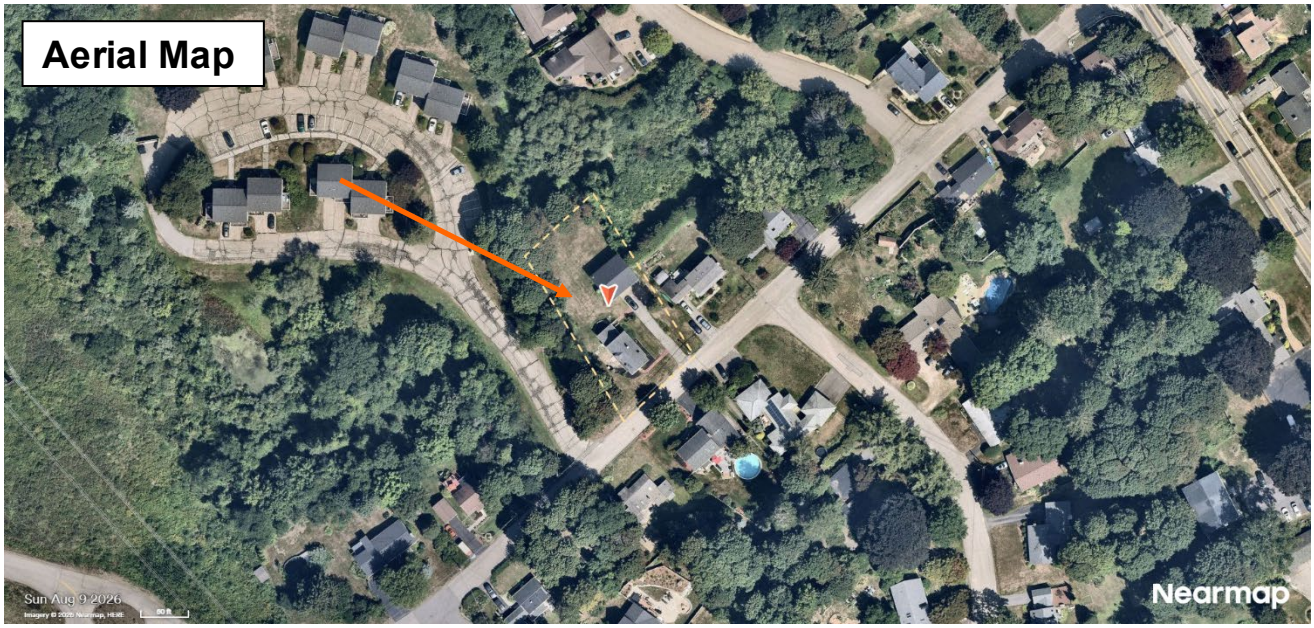
Existing & Proposed Conditions

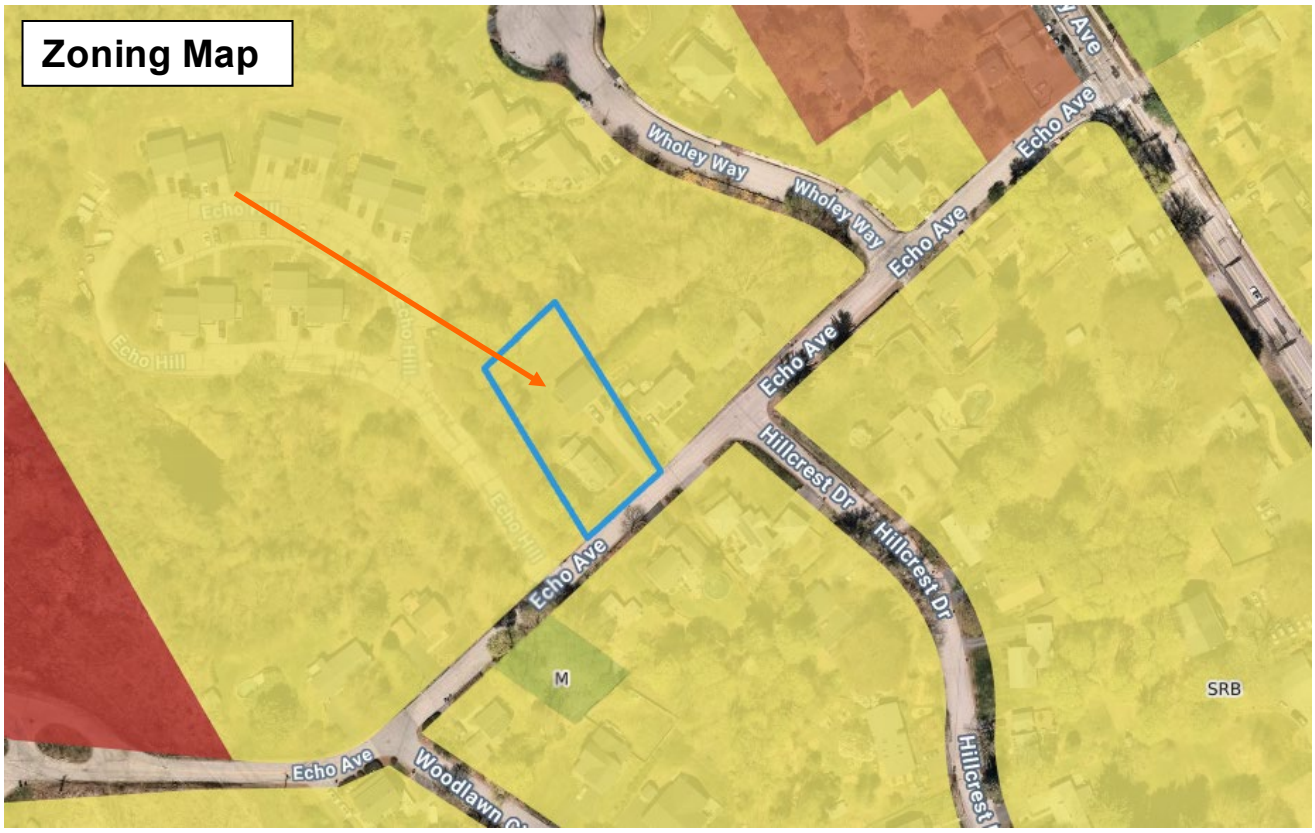
	Existing	Proposed	Permitted / Required	
Land Use:	Residential	Rebuild front porch	Primarily Residential	
Lot area (sq. ft.):	19,558	19,558	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	19,558	19,558	15,000	min.
Building Coverage	14.5	14.5	20	max
Front Yard	20.5	20.5	30	min
Left Side Yard	30	30	10	min
Right Side Yard	45	45	10	min
Rear Yard	>30	>30	30	Min
Parking Spaces	2	2	1	
Estimated Age of Structure:	1875	Variance request(s) shown in red.		

Other Permits/Approvals Required

- Building Permit

Neighborhood Context





Previous Board of Adjustment Actions

No previous history found

Planning Department Comments

The applicant is proposing reconstruct the front porch which requires relief as it currently sits in the front yard. This project would not qualify for the front yard averaging provision as it currently sits closer to the street than the neighboring properties.

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 / BOARD OF ADJUSTMENT

DIMENSIONAL VARIANCE APPLICATION SUPPORT

Existing covered front porch reconstruction | 125 Echo Avenue, Portsmouth, NH 03801

REQUESTED RELIEF - FRONT YARD

Variance from Section 10.521 (SRB front-yard setback) to reconstruct the existing 22 ft x 6 ft covered front porch in the same location, at an approximate 21 ft front setback, instead of the ordinary 30 ft requirement (approximately 9 ft of relief). Final relief depends on field-verified boundaries and any applicable exception under Section 10.516.10.

PROPERTY AND APPLICANTS

Property	125 Echo Avenue, Portsmouth, NH 03801
Parcel	Tax Map 237 / Lot 61
Zoning / land area	Single Residence B (SRB)	approx. 0.449 acres (19,558 sq ft)
Owners / applicants	Sara Reed and Glynn Reed [confirm recorded ownership]
Applicant / filer	Property owners filing directly; no third-party representative designated
Application contact	Owner-provided email and telephone number [enter in City application]
Related permit	BLDG-26-749
Existing use	Residential dwelling [confirm number of dwelling units: ____]

WORK PROPOSED

The property contains an existing house and a covered front porch. The applicant proposes to remove deteriorated porch-deck components and rebuild the deck structure, footings, posts, decking, railings and steps in the same 22 ft by 6 ft footprint. Temporary shoring will support the existing covered roof during the work. The existing porch-roof framing and roofline will remain unaltered. No porch expansion, enclosure, additional dwelling area, building relocation or new structure footprint is proposed.

The proposed deck height is approximately 24 inches above adjacent grade. Four concrete piers or approved helical-pile foundations and code-compliant framing connections are detailed in the attached drawings. This is a request to make a structurally sound replacement within the long-established building configuration, not to enlarge the dimensional nonconformity.

REQUESTED ZONING ACTION

Approve the front-yard dimensional relief needed to permit reconstruction of the existing covered porch in its present location, as depicted on the accompanying plot plan and construction sheets. The applicant does not seek relief for any increase in porch size, change in use, or roof alteration.

VARIANCE REQUEST | PROJECT FACTS

Existing and proposed conditions

Dimension / component	Existing	Proposed	Standard
Front setback (Echo Ave)	~21 ft	~21 ft	30 ft
North side setback	~45 ft	~45 ft	10 ft
South side setback	~30 ft	~30 ft	10 ft
Rear setback	~165 ft	~165 ft	30 ft
Covered porch footprint	22 x 6 ft	22 x 6 ft	No increase
Covered porch area	132 sq ft	132 sq ft	N/A
Porch deck height	~24 in	~24 in	Building code
Porch roof	Existing	Unaltered	No change
House footprint / GFA	[confirm]	Unchanged	[confirm]
Roof / building height	[confirm]	Unchanged	[confirm]

BASIS FOR THE REQUEST

Existing arrangement. The existing front entry, dwelling wall, covered roof and porch supports form a single building configuration. The porch is already located forward of the usual SRB setback line; its projection is not being increased.

Minimum intervention. Moving the porch back to a different line would require a materially different entry design and potentially changes to the roof/structural supports that the project otherwise proposes to retain. The application seeks only the relief necessary to retain the present footprint.

Safety and maintenance. Replacement of deteriorated structural elements provides an opportunity to achieve safe, code-compliant support for the existing roof and front access. These safety benefits support the reasonableness of the proposal; they do not, by themselves, satisfy the hardship requirement.

VARIANCE REQUEST | FINDINGS

Five statutory variance criteria

Written statement under Portsmouth Zoning Ordinance Section 10.233.20. The applicant respectfully submits the following reasons for approval, subject to the factual verifications identified in this packet.

1 Not contrary to the public interest. The rebuilt porch will occupy the identical existing footprint, with the same street-facing placement and covered roof. There is no proposed encroachment closer to Echo Avenue, no new residential floor area, and no added building bulk. Restoring the deteriorated deck and supports will improve structural safety and appearance without creating a new setback impact beyond the existing condition.

2 Spirit of the ordinance observed. The front-yard standard generally protects building separation, open space and an orderly streetscape. The proposal preserves the existing relationship between the house, its front entry and the street; it does not extend the porch farther into the yard. Granting limited relief for in-place reconstruction respects those purposes more closely than an expansion or new encroachment would.

3 Substantial justice will be done. Denial would prevent the owners from rebuilding the existing porch in its present configuration and could require redesign of an existing roof-supported entrance rather than straightforward replacement of deteriorated structural components. The public receives little additional setback benefit from compelling a relocation where the existing porch and roofline are already established and the proposed footprint is unchanged.

4 Surrounding property values will not be diminished. The replacement will keep the present massing, open-porch appearance and site arrangement. New deck framing, supports, surface materials, railing and steps are intended to replace deteriorated components. With no expansion or change of use, the work is not expected to cause adverse privacy, traffic or building-mass impacts on adjoining lots. Existing-condition photographs and elevations are provided.

5 Literal enforcement would result in unnecessary hardship. The special circumstances asserted here arise from the specific siting and construction of this property: the established dwelling location and a covered front porch whose roof, posts and access are tied to that location. Requiring the porch to move behind the ordinary 30-foot line would disrupt that integrated arrangement even though the rebuilding would not extend the existing yard encroachment. On these facts, a strict setback applied to in-kind reconstruction bears little fair and substantial relation to the setback purpose at this property, and the continued covered front entrance is a reasonable residential use. This analysis relies on Section 10.233.31; the Board must determine whether the site-specific conditions are legally sufficient.

REQUESTED ACTION AND LIMITATIONS

The applicants request approval for the replacement of the existing 22 ft x 6 ft covered front porch/deck at a verified front-yard setback no less than the existing setback, with the current porch roof retained. This filing does not request approval of other site changes. All construction remains subject to building permits, structural review and other applicable approvals.

OWNER SIGNATURES | SIGNATURES REQUIRED

Owner acknowledgment of variance application

To the Portsmouth Planning and Sustainability Department / Zoning Board of Adjustment:

We, the undersigned owners of the property at 125 Echo Avenue, Portsmouth, New Hampshire, are applying in our own names for the dimensional variance associated with reconstruction of the existing covered front porch. We request the zoning relief described in this application and the attached plans. No third-party applicant representative is designated in this packet.

We have reviewed the proposed scope of work and the accompanying materials. We understand that the application proposes to retain the covered porch in its existing footprint and that a variance, if granted, does not replace building permits or other approvals.

_____ _____

Sara Reed - property owner Date

_____ _____

Glynn Reed - property owner Date

EXHIBIT INDEX | INCORPORATED IN ATTACHED PDF

EXHIBIT A | SP1 - Existing condition / setback plot plan (10/07/2026, draft, NTS)

EXHIBIT B | A0 - Existing-condition labeled front and side photographs and scope

EXHIBIT C | S1 - Foundation and framing plan

EXHIBIT D | S2 - Elevations and building section

EXHIBIT E | S3 - Structural connection details

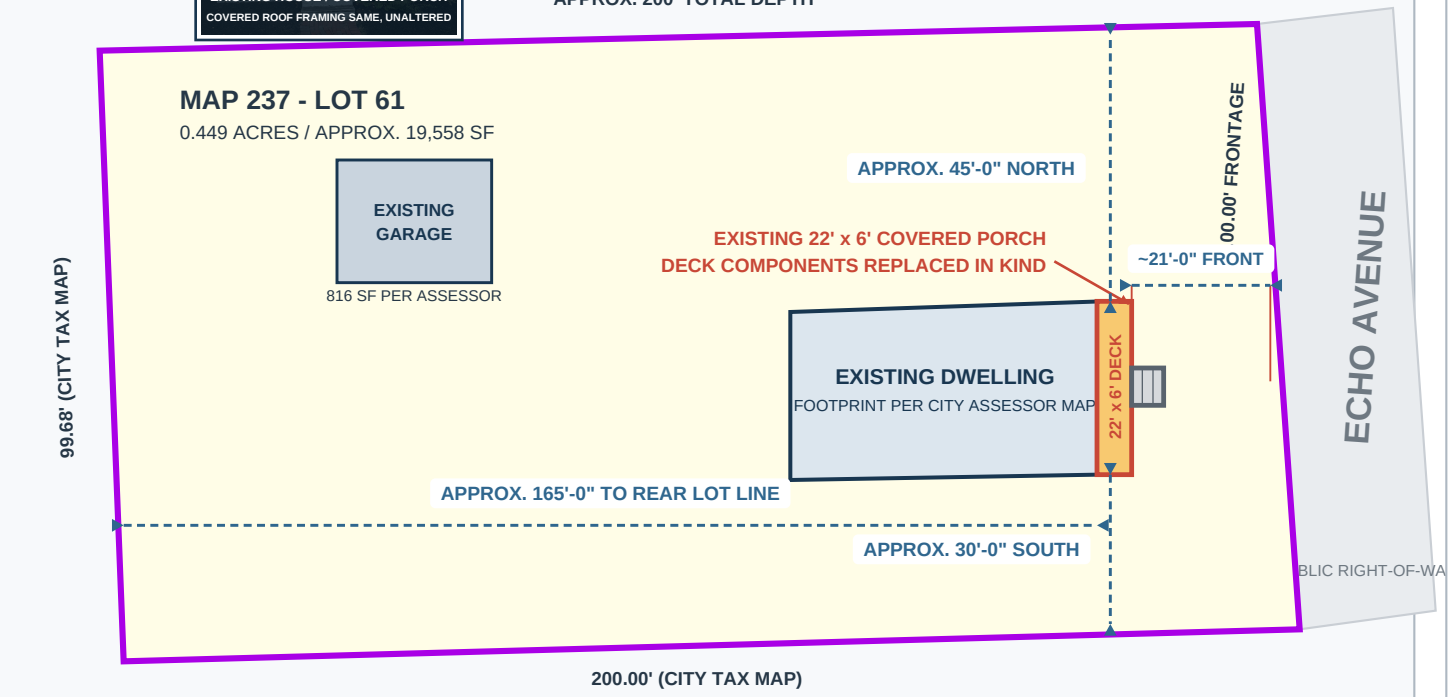
SITE PLAN - EXISTING COVERED FRONT PORCH / DECK

DRAFT FOR REVIEW - EXISTING FOOTPRINT

ASSESSOR-MAP-BASED SITE PLAN

NOT A BOUNDARY SURVEY | NTS





LEGEND

- PROPERTY LINE
- DECK - SAME FOOTPRINT
- EXISTING STRUCTURE
- APPROX. DIMENSION

PROJECT DATA

125 ECHO AVENUE

Portsmouth, New Hampshire 03801

Assessor parcel:	Map 237 / Lot 61
Lot area:	0.449 ac (19,558 SF)
Zoning:	Single Residence B (SRB)
Permit:	BLDG-26-749

SCOPE

- Replacement of deteriorated deck components in kind.
- Same existing 22'-0" x 6'-0" covered porch/deck footprint.
- Covered roof framing - same, unaltered.
- No expansion, relocation or enclosure proposed.

APPROXIMATE SETBACKS

Front / Echo Avenue	**21'-0" approx.**
North side	**45'-0" approx.**
South side	**30'-0" approx.**
Rear	**165'-0" approx.**

BASIS AND LIMITATIONS

- Parcel outline, lot dimensions and structure locations are based on the City of Portsmouth 2025 Rural Tax Map 237 and assessor records.
- This drawing is not a survey and does not establish property boundaries.
- All setback dimensions are scaled estimates and must be field verified from known boundary monuments.
- Written deck dimensions govern. Do not scale construction dimensions from this site plan.

125 ECHO AVENUE - SITE PLAN Portsmouth, NH 03801 | Existing 22'-0" x 6'-0" covered porch footprint	**DECK COMPONENT REPLACEMENT IN KIND** Same existing location - no footprint expansion Source: City tax map and assessor card	DATE: 10/07/2026 REV: DRAFT 7 SCALE: NTS VERIFY SETBACKS	**SP1**

COVERED FRONT PORCH / DECK RECONSTRUCTION

Permit drawing - existing footprint





SCOPE OF WORK

- Remove and replace the existing 22'-0" long x 6'-0" wide porch deck, existing deck footings, deck framing, decking, rails, and front steps.
- Existing porch roof, roof framing, roof covering, and front roof header remain. Provide independent temporary shoring before disturbing any post or deck framing.
- Install four 12-inch diameter straight-sided concrete Sonotube piers, one below each lower post and existing roof-column line. Approved helical piles may be used in lieu of concrete piers.
- Maintain the existing footprint and approximate deck elevation of 24 inches above adjacent grade. No enclosure and no roof alteration are proposed.
- Before construction, verify actual roof-post spacing, roof/header condition, house rim/band condition, finished deck height, stair grade, utilities, and soils. Maintain direct roof-column-to-pier alignment.

DESIGN BASIS

- 2021 IRC with current New Hampshire amendments.
- Deck live load: 40 psf; deck dead load: 10 psf.
- Portsmouth ground snow load: 50 psf. Existing roof remains; its reactions must align over new supports.
- Concrete piers: 12-inch diameter, straight-sided; bottom at least 48 inches below finished grade. Approved helical piles may be used in lieu of concrete piers.

GENERAL CONSTRUCTION NOTES

- All lumber No. 2 or better pressure-treated for exposure. Use UC4B for posts near grade and field-treat cuts per AWPA M4.
- Use ZMAX, hot-dip galvanized, or stainless connectors and fasteners compatible with treatment. Use manufacturer-specified fasteners in every connector hole.
- Do not attach a ledger through siding or to brick veneer. Remove siding locally and flash the ledger continuously.

DRAWING LIMITATIONS

- This contractor-generated plan is based on photographs and dimensions supplied by the contractor; it is not a stamped engineering design.
- Permit approval and field inspection govern. Obtain a New Hampshire professional engineer if required by the building official or if concealed conditions differ materially from this plan.
- Do not scale field dimensions from photographs or diagrams. Written dimensions govern.

SHEET INDEX

- A0 - Cover, photographs, scope, design basis, and general notes.
- S1 - Foundation layout and deck framing plan.
- S2 - Front/side elevations, transverse section, and granite stair detail.
- S3 - Structural connection details and Simpson Strong-Tie hardware schedule.

125 ECHO AVENUE - FRONT PORCH / DECK RECONSTRUCTION

Portsmouth, New Hampshire 03801 | Existing 22'-0" x 6'-0" covered porch footprint

COVER / EXISTING CONDITIONS

Prepared for: Slepoy Home Renovations

DATE: 10/04/2026
REV: 6 - PORCH ROOF ARROWS

SCALE: NTS

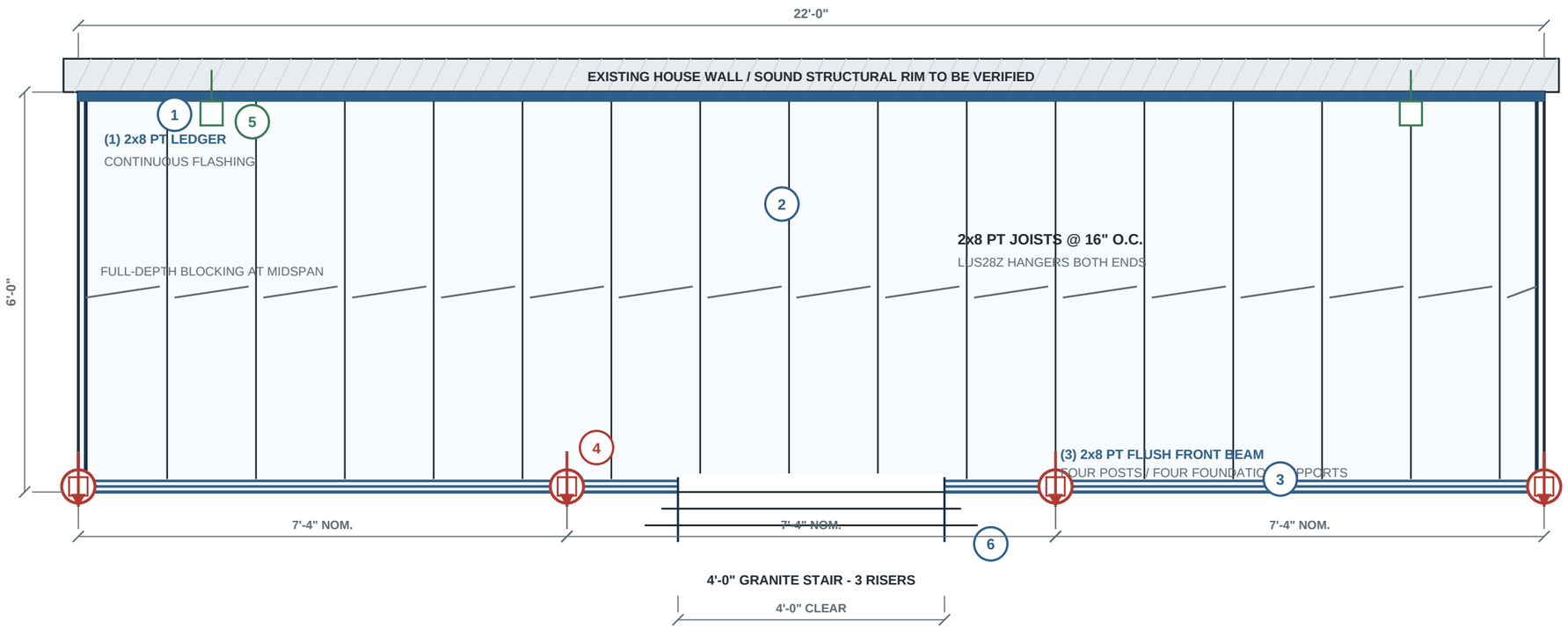
A0
CONTRACTOR-GENERATED PLAN

FOUNDATION AND FRAMING PLAN

Written dimensions govern

FRAMING PLAN

SCALE: 1/2" = 1'-0"

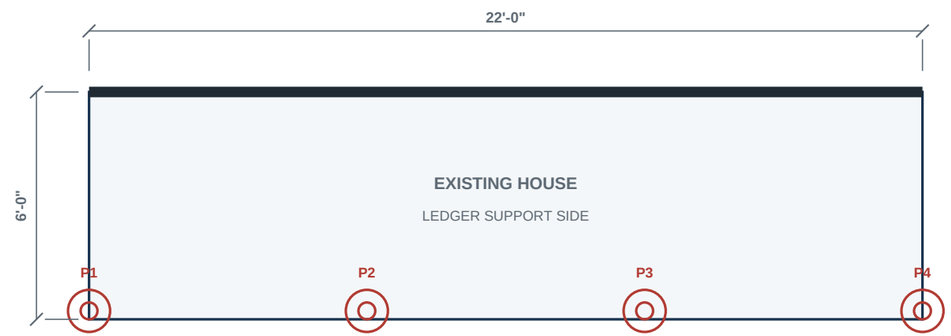


KEYED FRAMING NOTES

1. 2x8 PT ledger attached only to verified solid house rim/band framing. Remove siding locally; provide continuous metal cap flashing and self-adhered membrane. No attachment to veneer.
2. 2x8 PT No. 2 or better joists at 16 inches o.c. Maximum clear span 6'-0". Install one full-depth row of blocking at midspan.
3. Flush front beam: three 2x8 PT plies, No. 2 or better. Maximum support spacing 7'-4". Fasten plies together in staggered rows with approved HDG structural fasteners.
4. Four new 6x6 PT lower posts over four straight-sided concrete piers, or approved helical piles, centered below the existing roof columns. Maintain a direct vertical load path through beam, post, approved base/cap, and foundation.
5. Provide two DTT2Z 1,500 lb lateral deck-to-house ties, one within 2 feet of each end, into verified house floor framing.
6. Granite stair centered at existing opening: three equal risers and two treads. Total rise shall not exceed 23-1/4 inches; establish the finished bottom landing elevation before fabrication.

FOUNDATION LAYOUT

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



P1-P4: FOUR 12-INCH STRAIGHT-SIDED CONCRETE PIERS OR APPROVED HELICAL PILES

CONCRETE: BOTTOM 48-INCH MIN. BELOW GRADE. HELICAL: SEE FOUNDATION NOTES.

MEMBER SCHEDULE

- Ledger: one 2x8 PT, continuous, fully flashed.
- Joists: 2x8 PT No. 2 or better at 16 inches o.c.; maximum 6-foot span.
- Front beam: three 2x8 PT plies; maximum 7'-4" between support centerlines.
- Lower posts: 6x6 PT UC4B. Upper roof columns: existing or matching replacement; direct bearing over lower posts.
- Decking: minimum 5/4 PT or approved composite installed per manufacturer. Maintain drainage gaps.
- Guards: 36 inches high where installed, with openings less than 4 inches. Structurally anchor 4x4 posts to framing.

FOUNDATION OPTIONS

- Concrete option: four 12-inch diameter straight-sided concrete Sonotube piers, one at each P1-P4 centerline. Extend bottom at least 48 inches below finished grade onto suitable undisturbed bearing soil.

- No reinforcing is shown in the concrete piers; provide reinforcing only if required by the inspector or engineer. Keep the pier straight-sided for its full depth.

- Concrete post connection: Simpson ABU66Z or approved equal 6x6 standoff base with anchor and manufacturer-specified fasteners; provide a positive connection.

- Helical alternative: four corrosion-protected piles with a current ICC-ES report to AC358; listed 6x6 caps. Each pile: 5.0-kip minimum allowable compression or greater approved demand, plus required uplift/lateral capacity; bearing helix below 48-inch frost depth.

- Pile manufacturer or NH PE shall verify pile/helix/cap selection and capacities. Qualified installer shall provide installation depth, torque, and capacity report. Obtain foundation approval before framing.

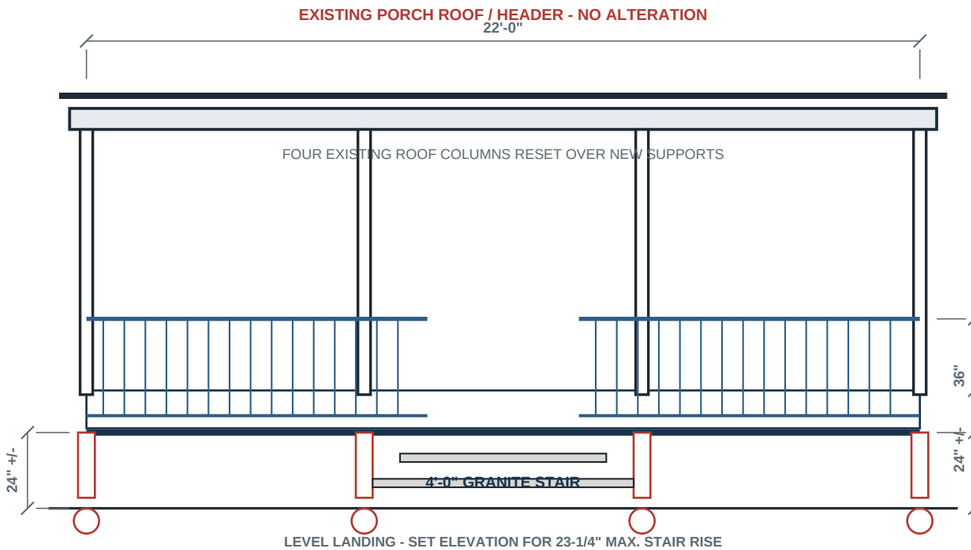
125 ECHO AVENUE - FRONT PORCH / DECK RECONSTRUCTION Portsmouth, New Hampshire 03801 | Existing 22'-0" x 6'-0" covered porch footprint	**FOUNDATION AND FRAMING PLAN** Prepared for: Slepoy Home Renovations	DATE: 10/04/2026 REV: 6 - PORCH ROOF ARROWS SCALE: AS NOTED	**S1** CONTRACTOR-GENERATED PLAN

ELEVATIONS AND BUILDING SECTION

Existing roof remains unchanged

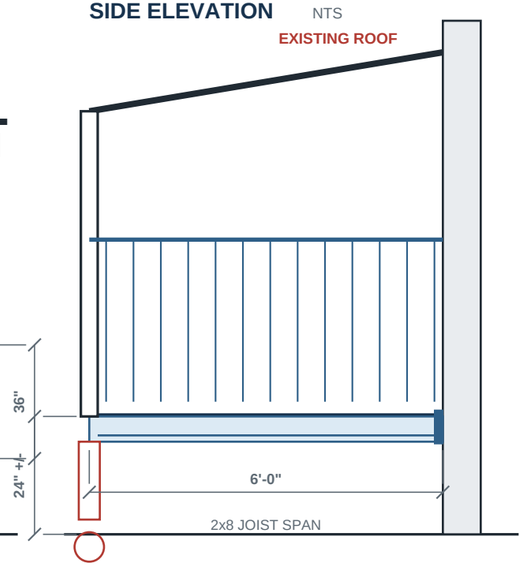
FRONT ELEVATION

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



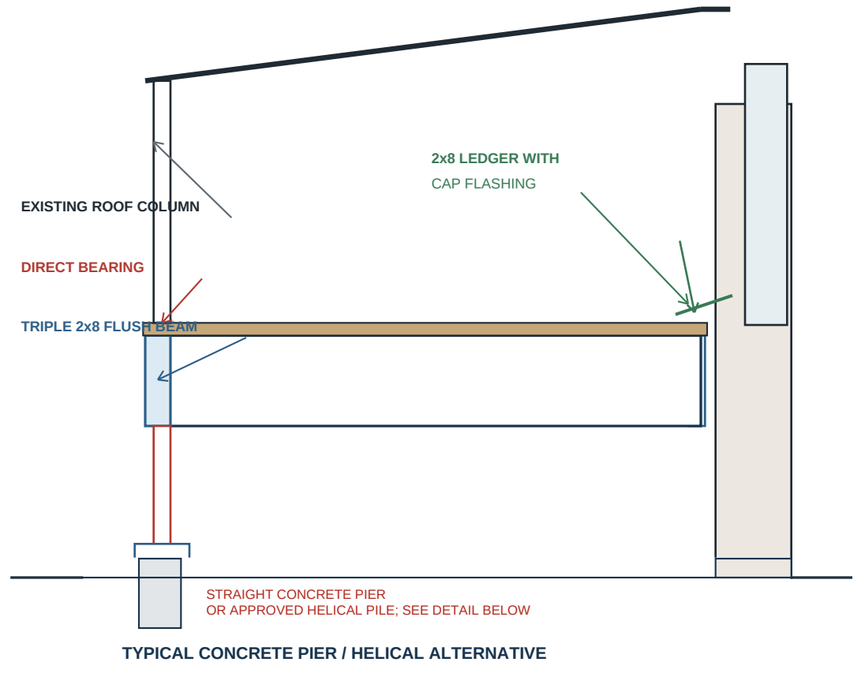
SIDE ELEVATION

NTS



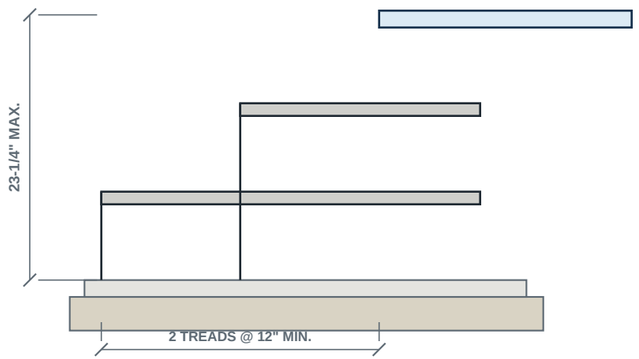
TRANSVERSE SECTION A-A

NTS



GRANITE STAIR ELEVATION / SECTION

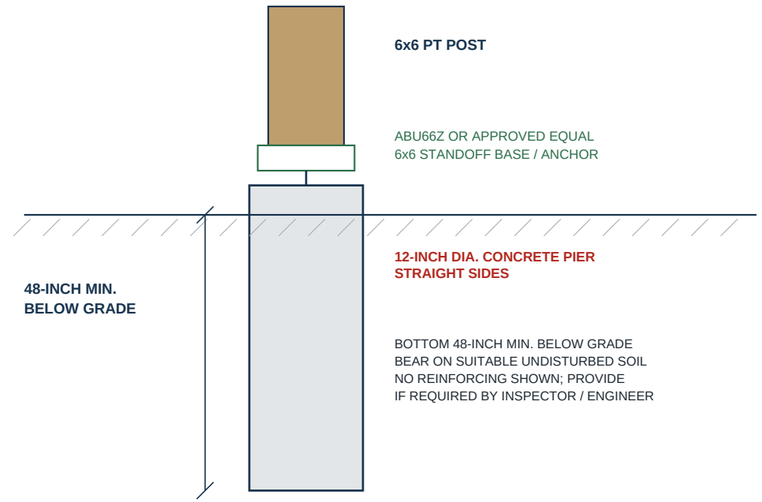
3 EQUAL RISERS - NO STAIR HANDRAIL



STAIR AND LANDING NOTES

- Provide three equal risers. Maximum riser 7-3/4 inches; minimum tread depth 10 inches; total finished landing-to-deck rise shall not exceed 23-1/4 inches.
- No stair handrail is proposed for this three-riser flight. Field-verify the finished bottom landing elevation before ordering granite. If total rise exceeds 23-1/4 inches, stop and revise the approved plan.
- Granite treads: 48 inches minimum clear width; 12 inches minimum depth recommended; slip-resistant finish and eased/nosed front edge.
- Set independent granite assembly on 6-inch reinforced concrete pad over 12 inches compacted crushed stone, or on an alternate frost-protected system approved by the building official. Maintain 1-inch isolation gap from wood framing.
- Existing brick walk may serve as bottom landing only if level, stable, and at least 36 inches deep in the direction of travel and at least stair width.

TYPICAL CONCRETE PIER / HELICAL ALTERNATIVE



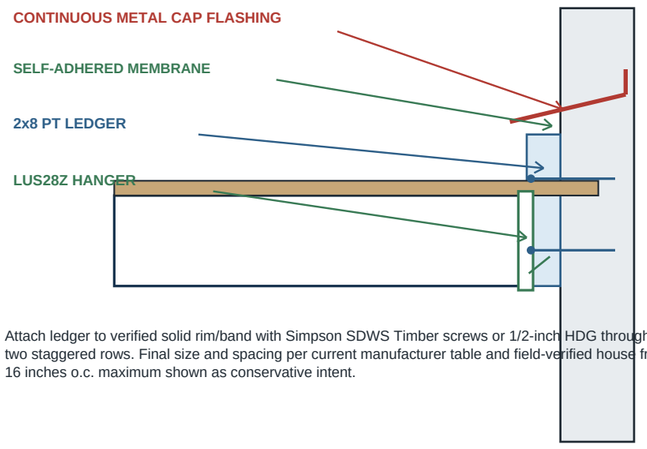
HELICAL ALTERNATIVE: approved AC358 pile with listed 6x6 cap; 5.0-kip minimum allowable compression or greater approved demand. Helix below 48-inch frost depth; verify uplift/lateral capacity and submit installation report.

125 ECHO AVENUE - FRONT PORCH / DECK RECONSTRUCTION Portsmouth, New Hampshire 03801 | Existing 22'-0" x 6'-0" covered porch footprint	**ELEVATIONS AND BUILDING SECTION** Prepared for: Slepoy Home Renovations	DATE: 10/04/2026 REV: 6 - PORCH ROOF ARROWS SCALE: AS NOTED	**S2** CONTRACTOR-GENERATED PLAN

STRUCTURAL CONNECTION DETAILS

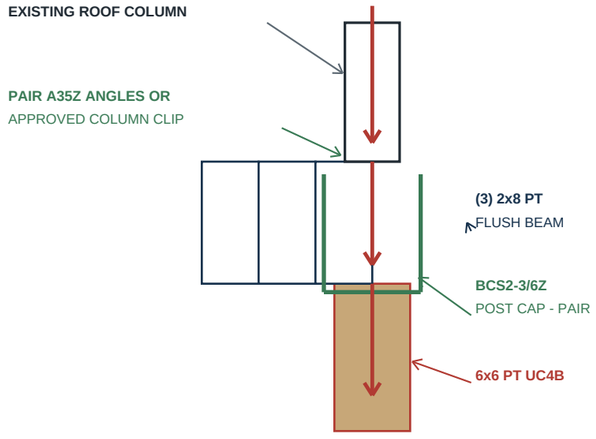
Use only listed connector fasteners

1 LEDGER, FLASHING, AND JOIST HANGER



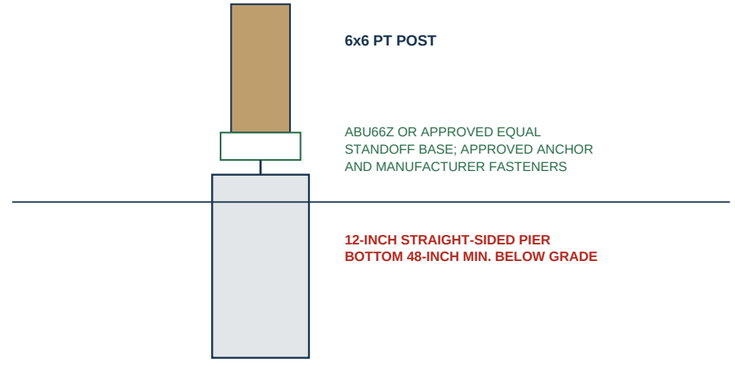
Attach ledger to verified solid rim/band with Simpson SDWS Timber screws or 1/2-inch HDG through-bolts in two staggered rows. Final size and spacing per current manufacturer table and field-verified house framing; 16 inches o.c. maximum shown as conservative intent.

2 ALIGNED ROOF-COLUMN AND DECK-BEAM LOAD PATH



Roof column centerline, beam support, lower post, and concrete-pier or helical-pile support must align. Maximum offset: 1 inch unless approved by a New Hampshire PE or the building official.

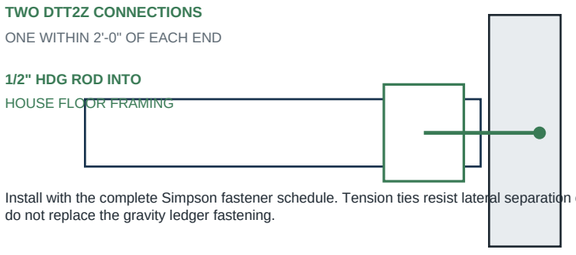
3 POST BASE - CONCRETE OR HELICAL



Concrete option: straight-sided 12-inch diameter pier, at least 48 inches below grade. No reinforcing shown; provide if required by inspector/engineer.

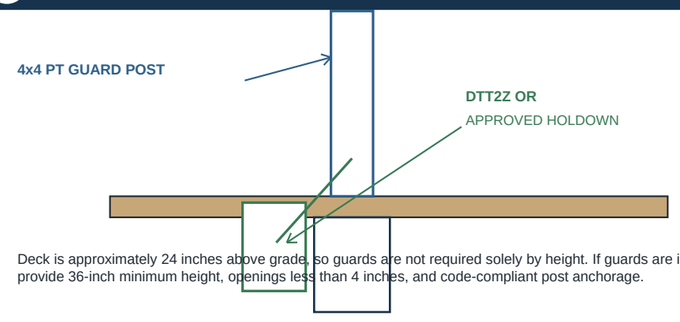
ALTERNATIVE: approved AC358 helical pile with listed 6x6 cap; minimum 5.0-kip allowable compression or greater approved demand, required uplift/lateral resistance, helix below frost depth, and installer depth/torque/capacity report.

4 DECK-TO-HOUSE LATERAL TIE



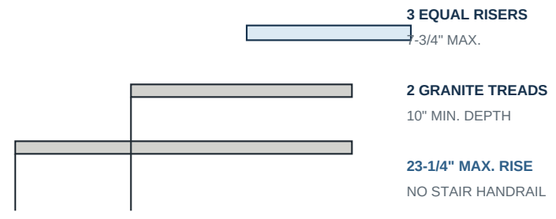
Install with the complete Simpson fastener schedule. Tension ties resist lateral separation only and do not replace the gravity ledger fastening.

5 GUARD POST CONNECTION WHERE GUARDS ARE INSTALLED



Deck is approximately 24 inches above grade, so guards are not required solely by height. If guards are installed, provide 36-inch minimum height, openings less than 4 inches, and code-compliant post anchorage.

6 GRANITE STAIR - THREE RISERS



SIMPSON STRONG-TIE HARDWARE SCHEDULE

MARK	APPLICATION	SPECIFIED CONNECTOR	INSTALLATION REQUIREMENT
H1	2x8 joist to ledger / flush front beam	LUS28Z	Fill all required holes with listed HDG nails or SD Connector screws.
H2	Triple 2x8 beam to 6x6 lower post	BCS2-3/6Z, installed as required pair	Full bearing; use exact catalog fasteners. No unsupported side-bolted beam.
H3	6x6 lower post to concrete pier / helical pile	ABU66Z or approved equal / listed 6x6 pile cap	Concrete: approved anchor and fasteners. Helical: listed cap/fasteners per approved pile system.
H4	Deck-to-house lateral connection	DTT2Z - two total	1,500 lb connection at two locations; connect into house floor framing.
H5	Roof column stabilization over beam	Paired A35Z angles or approved column clip	Column bears directly over lower post. Connector is for lateral/uplift restraint.
H6	Guard post connection where installed	DTT2Z or approved guard holdown	Through-bolt/fasten to full-depth blocking and rim framing.

Connector substitutions are permitted only when equal or greater capacity, corrosion resistance, member fit, and code listing are documented. Install current manufacturer fasteners; no drywall or generic deck screws.

125 ECHO AVENUE - FRONT PORCH / DECK RECONSTRUCTION

Portsmouth, New Hampshire 03801 | Existing 22'-0" x 6'-0" covered porch footprint

STRUCTURAL CONNECTION DETAILS

Prepared for: Slepoy Home Renovations

DATE: 10/04/2026
REV: 6 - PORCH ROOF ARROWS

SCALE: NTS

S3
CONTRACTOR-GENERATED PLAN