

CITY OF PORTSMOUTH

NARRATIVE TO VARIANCE APPLICATION

**Eric Benvin & James C. Dozier
("Applicants")**

**49 Cass Street Portsmouth, NH
Tax Map 156, Lot 10**

INTRODUCTION

Eric Benvin & James C. Dozier own the property located at 49 Cass Street (the "Property" or the "Applicants' Property"). The Property is 0.09 acre in size. There is a two story single-family home on the Property that the Applicants reside in. It is zoned General Residence C ("GRC"). The home on the Property was built in 1880 according to City records. The Property deed is included in the submittal for your review and for full legal description- labeled Exhibit A.

Existing Nonconformities

Non-Conformity	Requirement	Existing Condition	Feature
Left Yard Setback	10 feet	Ranging 3 feet to 6 Feet	Single Family Residence

PROPOSED CONDITIONS

Construct a 10 ft by 14 ft Addition on Rear of Home:

The Applicants would like to extend the Property footprint in the rear of the home by adding a 10 foot by 14 foot two story addition. This would accommodate a larger kitchen, add a kitchen pantry and expand the existing living space currently above to achieve a larger bonus room/office space. The addition would match the existing roofline and design of the existing home.

ZONING RELIEF SUMMARY

The Applicants seek the following variances from the Portsmouth Zoning Ordinance (the "Ordinance"):

Section 10.521: To allow 13.8 foot (+/-) rear setback where 20 foot (+/-) exists and is allowed. And to allow for a continued 3 foot (+/-) side setback on the left, rear side of the home. The current residence sits 3 feet from the property line as it stands now.

Section 10.321: To allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

VARIANCE CRITERIA

Sections 10.233.21 & 10.233.22 - Granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court observed that the requirements that a variance not be "contrary to the public interest" or "injure the public rights of others" are coextensive and are related to the requirement that the variance be consistent with the spirit of the ordinance. 152 N.H. 577 (2005). The Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives.'" "Id. "There are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." Harborside Assoc v. Parade Residence Hotel, 162 N.H. 508, 514 (2011).

In the present instance, the Applicants are seeking a 6.2 foot (+/-) deviation from what is allowed by the Ordinance. The Applicants would like this expansion of their home in order to gain more space in their kitchen and to add more room in the room currently above the kitchen. The Applicants plan on residing in the home long-term and this expansion would make that possible by giving them the space they need to accommodate their needs, adding more storage and increasing the functionality of their home.

What the Applicants have proposed is consistent with the prevailing character of the neighborhood. The properties that comply with the GRC Zone setback limitation in this area of Cass Street are the outliers.

The neighborhood itself is characterized by substandard single-family home lots that have structures that encroach into one or more setbacks - see Exhibit C.

The additions will have no negative impact upon the light, air and space of any abutting property, consistent with the objectives of the Ordinance.

For the foregoing reasons, granting the variances will not alter the essential character of the neighborhood or otherwise have any negative impact upon the public's health, safety or welfare.

The Applicants have included Letters of Support from their neighbors showing they are in favor of this proposal - see Exhibit D.

Section 10.233.23 - Substantial justice will be done

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

The public would not realize any gain by denying this variance. This addition to the home is reasonable and in keeping with the character of the neighborhood. The decrease in the rear building setback coverage below what is permitted by the Ordinance is minimal and will not overcrowd or otherwise overburden the Property or any neighboring properties. Denying the variances would constitute a loss to the Applicants.

Section 10.233.24 - The values of surrounding properties will not be diminished

As stated above, what is proposed is in keeping with the character of the neighborhood and other homes within it. The addition is tasteful and will integrate naturally with the existing design of the home. The improved appearance of the home should only add value to surrounding properties. Granting the variance will certainly not take value away from surrounding properties.

Section 10.233.25 - Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship

Current zoning does not reflect the character of the neighborhood, which consists primarily of small lots that exceed the GRC District's setback requirements. Municipalities have an obligation to have their zoning ordinances reflect the current character of neighborhoods. *Belanger v. Nashua*, 121 N.H. 389 (1981). Absent this, the Board must consider the prevailing character of a neighborhood as part of its hardship analysis.

The Property has minimal non-conformities as it stands now compared to other properties in the neighborhood. The Applicants have investigated another option for expansion of their kitchen but that option proved to pose a much more substantial financial hardship for them. For these reasons, there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their application to the Property.

The proposed use is reasonable. The Applicants will continue to use the Property as a single-family residence which is permitted and encouraged in the GRC Zoning District.

CONCLUSION

In conclusion, the Applicants have demonstrated why their application meets the criteria for granting the variance requested and respectfully request that the Board's approval of the same.

Respectfully Submitted,

Dated: September 19th, 2024

Eric Benvin
James C. Dozier

By and Through Their
Authorized Representative,
Generation Homes, INC.

Melanie Bisson

By: Melanie Bisson, Owner
Generation Homes, INC.
400 The Hill Suite 1
Portsmouth, NH 03801
603-978-5404
Hello@GenerationHomes207.com

Return To:

Eric Benvin
James Christopher Dozier
49 Cass Street
Portsmouth, NH 03801



LCHIP	ROA542692	25.00
TRANSFER TAX	RO103711	8,205.00
RECORDING		14.00
SURCHARGE		2.00

Transfer Tax: \$ 8205⁻

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That Thomas Niland, single, with a mailing address of 49 Cass Street, Portsmouth, NH 03801 and Patti Blanchette, acting as Commissioner for Alice Giordano, pursuant to the 7th Circuit – Family Division – Rochester, Case No. 670-2015-DM-00384, being single, with a mailing address of 49 Cass Street, Portsmouth, NH 03801, for consideration paid grant to Eric Benvin and James Christopher Dozier, a married couple, as joint tenants with rights of survivorship, with a mailing address of 4 Longfellow Place, 309, Boston, MA 02114, with WARRANTY COVENANTS:

A certain tract or parcel of land, with the buildings thereon situated on Cass Street in Portsmouth, County of Rockingham and State of New Hampshire, and bounded and described as follows:

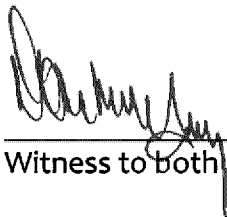
Easterly by Cass Street, fifty (50') feet, more or less; Northerly by land of Moses Philbrick, eighty-five (85') feet, more or less, Westerly by land of Michael Buckley fifty (50') feet, more or less, and Southerly by land of William and Pamela Stevens, eighty-five (85') feet, more or less.

Meaning and intending to describe and convey the same premises as conveyed to Thomas Niland and Alice Giordano by virtue of a deed dated June 26, 2014 recorded in the Rockingham County Registry of Deeds at Book 5717, Page 979.

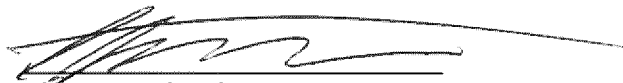
The grantor(s) hereby release all rights of homestead in the above-described property.

EXHIBIT A

Executed this 29th day of January, 2021.



Witness to both



Thomas Niland

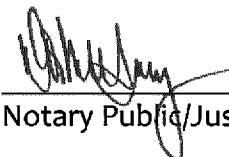


Patti Blanchette, Commissioner
on behalf of Alice Giordano

State of New Hampshire
County of Rockingham

Personally appeared the above named Thomas Niland and Patti Blanchette,
Commissioner on behalf of Alice Giordano, before me this 29th day of January, 2021
known to be the persons whose names are subscribed to the foregoing instrument
and acknowledged that they executed the same for the purposes therein contained.

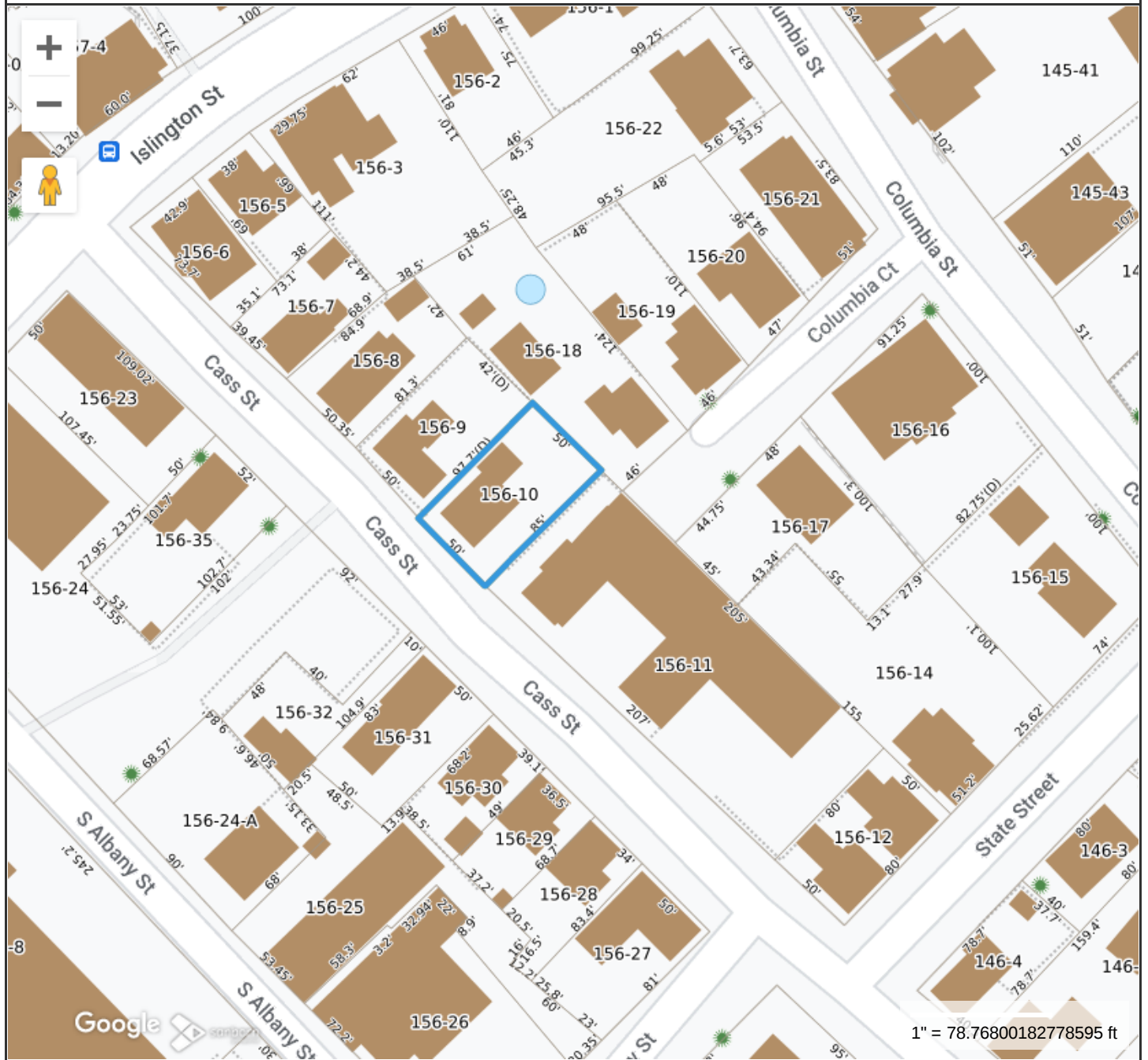
DONNA M. HARVEY, Notary Public
State of New Hampshire
My Commission Expires April 20, 2021



Notary Public/Justice of the Peace

My Commission Expires:

EXHIBIT B



Property Information

Property ID 0156-0010-0000
Location 49 CASS ST
Owner BENVIN ERIC



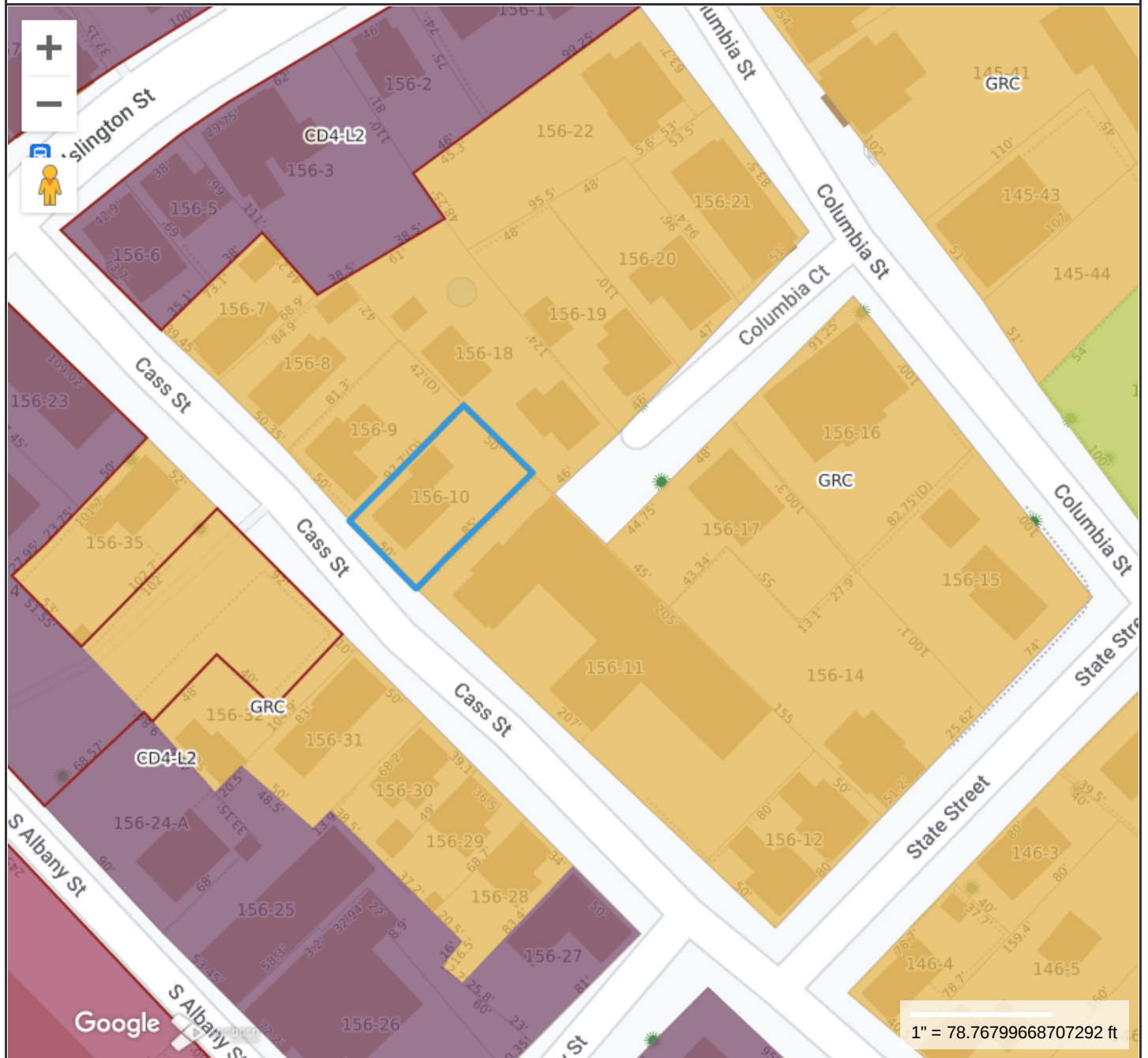
**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

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 09/18/2024
Data updated 3/9/2022

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

EXHIBIT B



Property Information

Property ID 0156-0010-0000
Location 49 CASS ST
Owner BENVIN ERIC



**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 09/18/2024
Data updated 3/9/2022

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

Zoning

Residential Districts

-  R Rural
-  SRA Single Residence A
-  SRB Single Residence B
-  GRA General Residence A
-  GRB General Residence B
-  GRC General Residence C
-  GA/MH Garden Apartment/Mobile Home Park




Mixed Residential Districts

-  MRO Mixed Residential Office
-  MRB Mixed Residential Business
-  G1 Gateway Corridor
-  G2 Gateway Center




Business Districts

-  GB General Business
-  B Business
-  WB Waterfront Business



Industrial Districts

-  OR Office Research
-  I Industrial
-  WI Waterfront Industrial






Airport Districts

-  AIR Airport
-  AI Airport Industrial
-  PI Pease Industrial
-  ABC Airport Business Commercial


Conservation Districts

-  M Municipal
-  NRP Natural Resource Protection

Character Districts

-  CD5 Character District 5
-  CD4 Character District 4
-  CD4W Character District 4-W
-  CD4-L1 Character District 4-L1
-  CD4-L2 Character District 4-L2




Civic District

-  Civic District

Municipal District

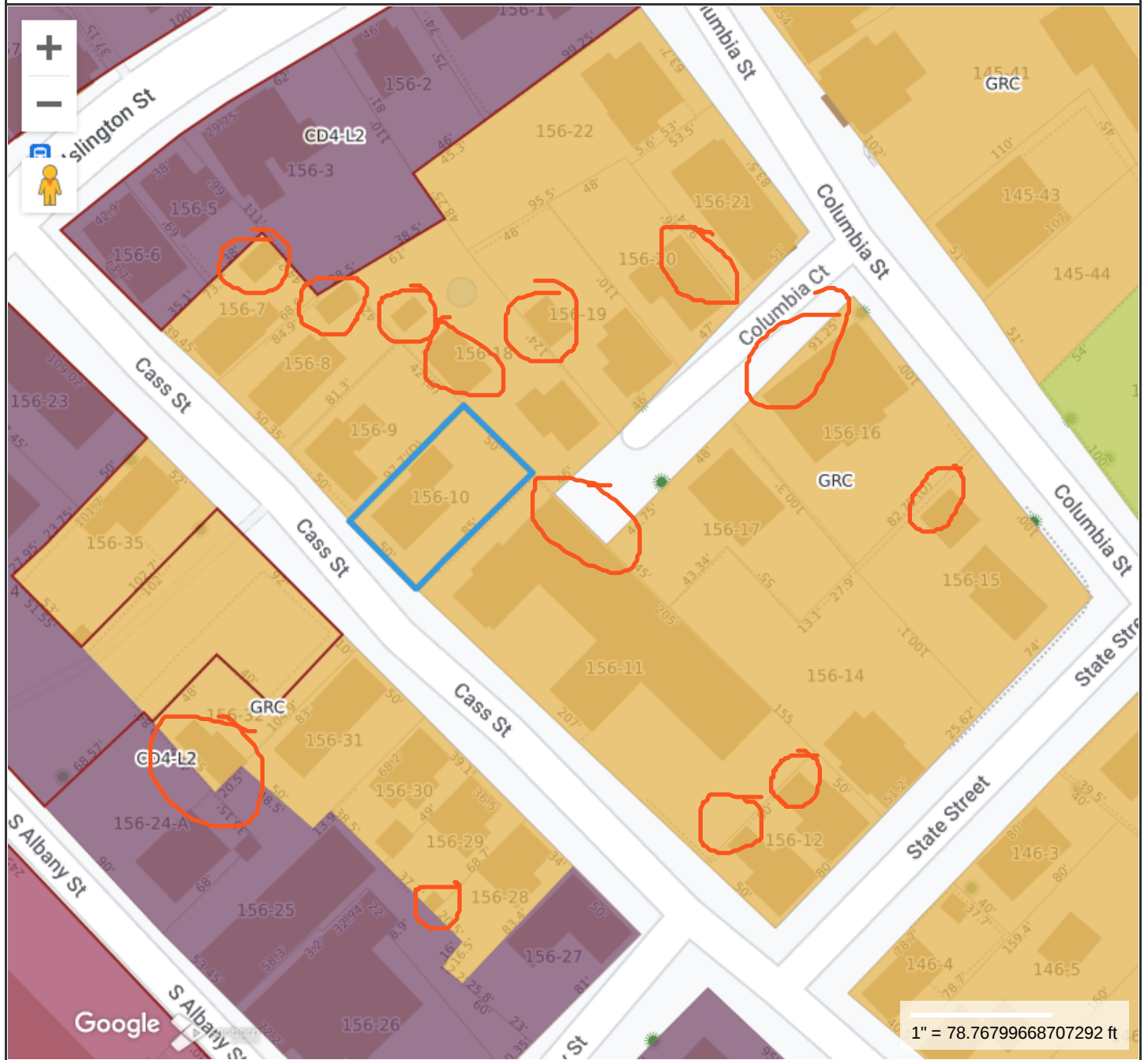
-  Municipal District

Overlay Districts

-  OLOD Osprey Landing Overlay District
-  Downtown Overlay District
-  Historic District

City of Portsmouth

EXHIBIT C



Property Information

Property ID 0156-0010-0000
Location 49 CASS ST
Owner BENVIN ERIC



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

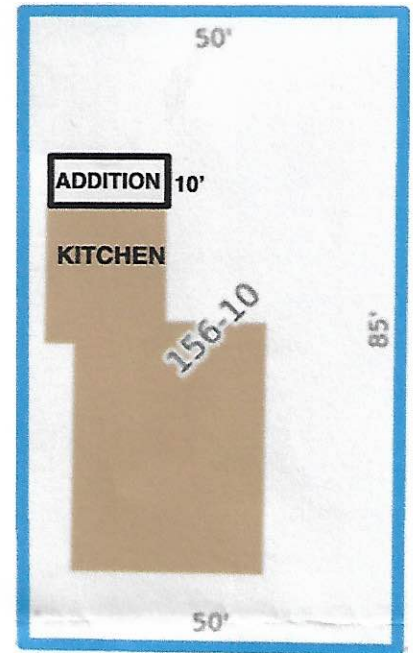
City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 09/18/2024
Data updated 3/9/2022

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

Eric Benvin and James Dozier
49 Cass Street
Portsmouth, NH 03801
cire7777@gmail.com
(516) 669-1087
7/18/2024

EXHIBIT D



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

Dear Members of the Planning Department,

We are writing to request a variance for a 10-foot, two-story addition off the kitchen of our home at 49 Cass Street. This addition is intended to create a pantry on the first floor and a small office space above it.

Over the past few years, we have dedicated significant time and effort to improving and updating our home, both inside and out. We take great pride in our property and have focused on meticulous landscaping and tasteful renovations to ensure it enhances the aesthetic of our neighborhood. Our commitment to maintaining a beautiful and functional home reflects our dedication to preserving and enhancing the character of our community.

In addition to our efforts as homeowners, we strive to be considerate and respectful neighbors, maintaining excellent standing within our community. We value the relationships we have built and are known for our kindness and willingness to assist our neighbors, fostering a sense of camaraderie and mutual respect.

Furthermore, we are actively involved in the Portsmouth community. We regularly participate in and contribute to city events, including Market Square Day, the Halloween Parade, Pride celebrations, Seacoast Repertory Theatre events, and Prescott Park activities. Our engagement in these events underscores our dedication to the vibrancy and cultural richness of our city.

The proposed addition will not only enhance the functionality of our home but also contribute positively to the overall value and appeal of the neighborhood. The pantry will provide much-needed storage and organizational space for the kitchen, while the office space above will offer a quiet and productive area for work, especially beneficial in our current times when many are working from home.

We have discussed our plans with our neighbors, and they are fully supportive of this addition. They have expressed no hesitation and believe that it will be a positive enhancement to our home and the neighborhood.

Thank you for your time and consideration.

Sincerely,

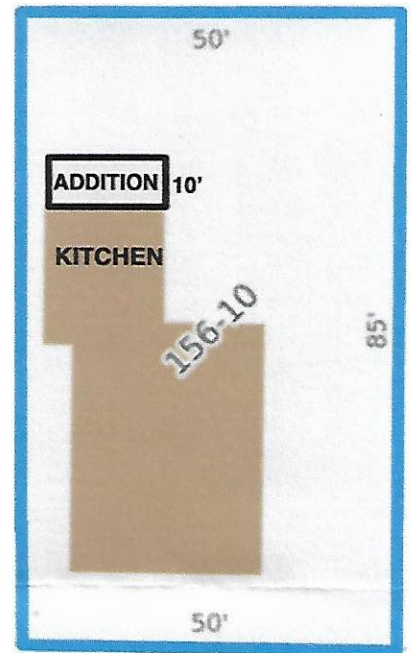
Eric Benvin and James Dozier

Neighbor:

Print Name:	Signature:	Street Address	Phone Number
Kristin Martin		39 Cass St	(978) 273 0198

Eric Benvin and James Dozier
 49 Cass Street
 Portsmouth, NH 03801
 cire7777@gmail.com
 (516) 669-1087
 7/18/2024

EXHIBIT D



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

Dear Members of the Planning Department,

We are writing to request a variance for a 10-foot, two-story addition off the kitchen of our home at 49 Cass Street. This addition is intended to create a pantry on the first floor and a small office space above it.

Over the past few years, we have dedicated significant time and effort to improving and updating our home, both inside and out. We take great pride in our property and have focused on meticulous landscaping and tasteful renovations to ensure it enhances the aesthetic of our neighborhood. Our commitment to maintaining a beautiful and functional home reflects our dedication to preserving and enhancing the character of our community.

In addition to our efforts as homeowners, we strive to be considerate and respectful neighbors, maintaining excellent standing within our community. We value the relationships we have built and are known for our kindness and willingness to assist our neighbors, fostering a sense of camaraderie and mutual respect.

Furthermore, we are actively involved in the Portsmouth community. We regularly participate in and contribute to city events, including Market Square Day, the Halloween Parade, Pride celebrations, Seacoast Repertory Theatre events, and Prescott Park activities. Our engagement in these events underscores our dedication to the vibrancy and cultural richness of our city.

The proposed addition will not only enhance the functionality of our home but also contribute positively to the overall value and appeal of the neighborhood. The pantry will provide much-needed storage and organizational space for the kitchen, while the office space above will offer a quiet and productive area for work, especially beneficial in our current times when many are working from home.

We have discussed our plans with our neighbors, and they are fully supportive of this addition. They have expressed no hesitation and believe that it will be a positive enhancement to our home and the neighborhood.

Thank you for your time and consideration.

Sincerely,

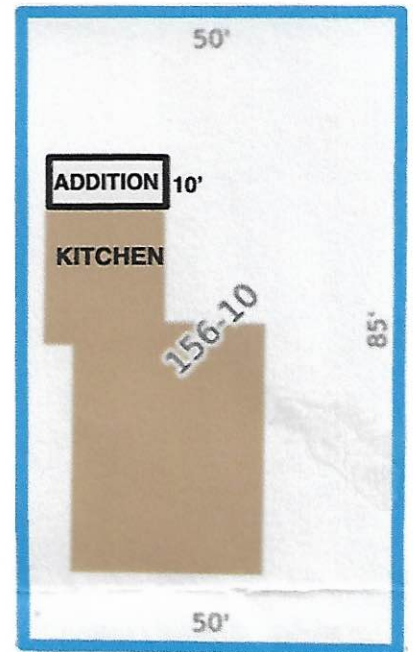
Eric Benvin and James Dozier

Neighbor:

Print Name:	Signature:	Street Address	Phone Number
Michael Ryan	Michael Ryan	33 Columbia Court	397-9904

Eric Benvin and James Dozier
49 Cass Street
Portsmouth, NH 03801
cire7777@gmail.com
(516) 669-1087
7/18/2024

EXHIBIT D



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

Dear Members of the Planning Department,

We are writing to request a variance for a 10-foot, two-story addition off the kitchen of our home at 49 Cass Street. This addition is intended to create a pantry on the first floor and a small office space above it.

Over the past few years, we have dedicated significant time and effort to improving and updating our home, both inside and out. We take great pride in our property and have focused on meticulous landscaping and tasteful renovations to ensure it enhances the aesthetic of our neighborhood. Our commitment to maintaining a beautiful and functional home reflects our dedication to preserving and enhancing the character of our community.

In addition to our efforts as homeowners, we strive to be considerate and respectful neighbors, maintaining excellent standing within our community. We value the relationships we have built and are known for our kindness and willingness to assist our neighbors, fostering a sense of camaraderie and mutual respect.

Furthermore, we are actively involved in the Portsmouth community. We regularly participate in and contribute to city events, including Market Square Day, the Halloween Parade, Pride celebrations, Seacoast Repertory Theatre events, and Prescott Park activities. Our engagement in these events underscores our dedication to the vibrancy and cultural richness of our city.

The proposed addition will not only enhance the functionality of our home but also contribute positively to the overall value and appeal of the neighborhood. The pantry will provide much-needed storage and organizational space for the kitchen, while the office space above will offer a quiet and productive area for work, especially beneficial in our current times when many are working from home.

We have discussed our plans with our neighbors, and they are fully supportive of this addition. They have expressed no hesitation and believe that it will be a positive enhancement to our home and the neighborhood.

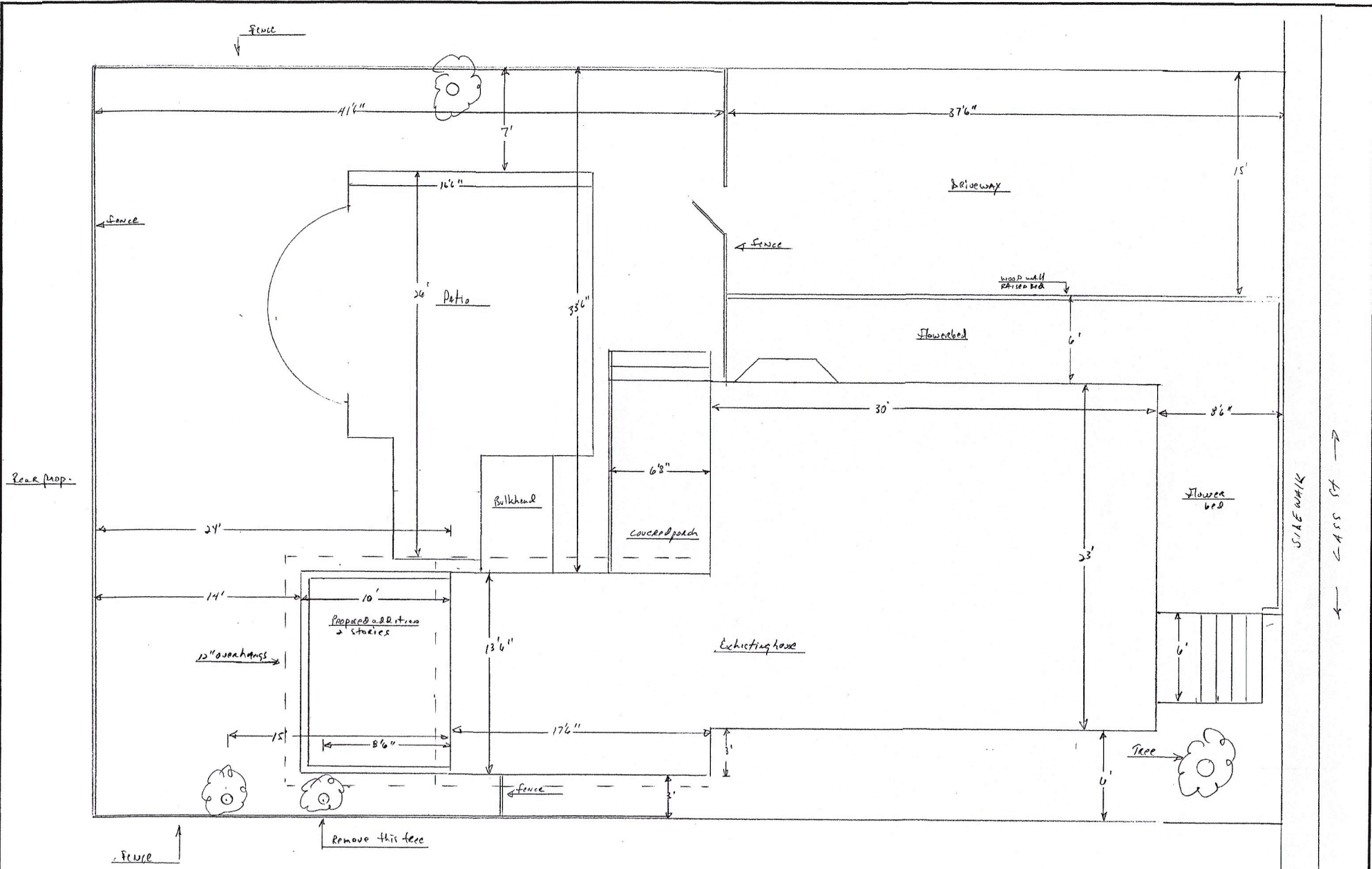
Thank you for your time and consideration.

Sincerely,

Eric Benvin and James Dozier

Neighbor:

Print Name:	Signature:	Street Address	Phone Number
Roband Ripley		59 Cass Street	603-436-1924



- 19' from ground to under eaves
- match existing roof line + overhangs

ERIC Benito		
SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY:
DATE:	REVISI	REVISI
49 Carr St Portsmouth		
		DRAWING NUMBER

49 CASS ST

Location 49 CASS ST

Mblu 0156/ 0010/ 0000/ /

Acct# 34854

Owner BENVIN ERIC

PBN

Assessment \$601,200

Appraisal \$601,200

PID 34854

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$328,400	\$272,800	\$601,200

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$328,400	\$272,800	\$601,200

Owner of Record

Owner	BENVIN ERIC	Sale Price	\$547,000
Co-Owner	DOZIER JAMES CHRISTOPHER	Certificate	
Address	49 CASS ST	Book & Page	6229/2615
	PORTSMOUTH, NH 03801	Sale Date	02/01/2021
		Instrument	39

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
BENVIN ERIC	\$547,000		6229/2615	39	02/01/2021
GIORDANO ALICE	\$0		5717/0979	38	05/25/2016
NILAND THOMAS	\$0		3102/0549		05/23/1995

Building Information

Building 1 : Section 1

Year Built: 1880
Living Area: 2,158
Replacement Cost: \$409,087
Building Percent Good: 79
Replacement Cost Less Depreciation: \$323,200

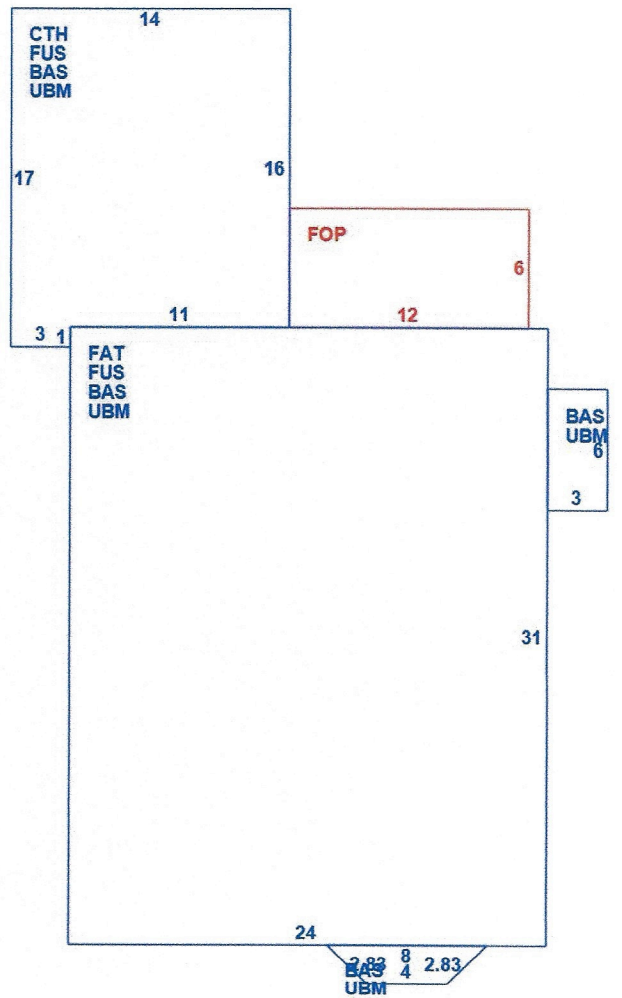
Building Attributes	
Field	Description
Style:	Conventional
Model	Residential
Grade:	B
Stories:	2
Occupancy	1
Exterior Wall 1	Clapboard
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	Drywall/Sheet
Interior Flr 1	Hardwood
Interior Flr 2	Ceram Clay Til
Heat Fuel	Gas
Heat Type:	Warm Air
AC Type:	Central
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	1
Total Xtra Fixtrs:	0
Total Rooms:	8
Bath Style:	Above Avg Qual
Kitchen Style:	Above Avg Qual
Kitchen Gr	
WB Fireplaces	0
Extra Openings	0
Metal Fireplaces	1
Extra Openings 2	0
Bsmt Garage	

Building Photo



(<https://images.vgsi.com/photos2/PortsmouthNHPhotos///0038/20230825>)

Building Layout



(ParcelSketch.ashx?pid=34854&bid=34854)

Building Sub-Areas (sq ft)	Legend
-----------------------------------	---------------

Code	Description	Gross Area	Living Area
BAS	First Floor	1,001	1,001
FUS	Upper Story, Finished	971	971
FAT	Attic	744	186
CTH	Cathedral Ceiling	227	0
FOP	Porch, Open	72	0
UBM	Basement, Unfinished	1,001	0
		4,016	2,158

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL	GAS FIREPLACE	1.00 UNITS	\$1,700	1

Land

Land Use

Use Code 1010
 Description SINGLE FAM MDL-01
 Zone GRC
 Neighborhood 105
 Alt Land Appr No
 Category

Land Line Valuation

Size (Acres) 0.09
 Frontage
 Depth
 Assessed Value \$272,800
 Appraised Value \$272,800

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAT1	PATIO-AVG			450.00 S.F.	\$3,500	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$328,400	\$272,800	\$601,200
2022	\$323,200	\$272,800	\$596,000
2021	\$258,700	\$272,800	\$531,500

Assessment			

Valuation Year	Improvements	Land	Total
2023	\$328,400	\$272,800	\$601,200
2022	\$323,200	\$272,800	\$596,000
2021	\$258,700	\$272,800	\$531,500

(c) 2024 Vision Government Solutions, Inc. All rights reserved.

49 Cass Street Portsmouth, NH



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

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

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

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





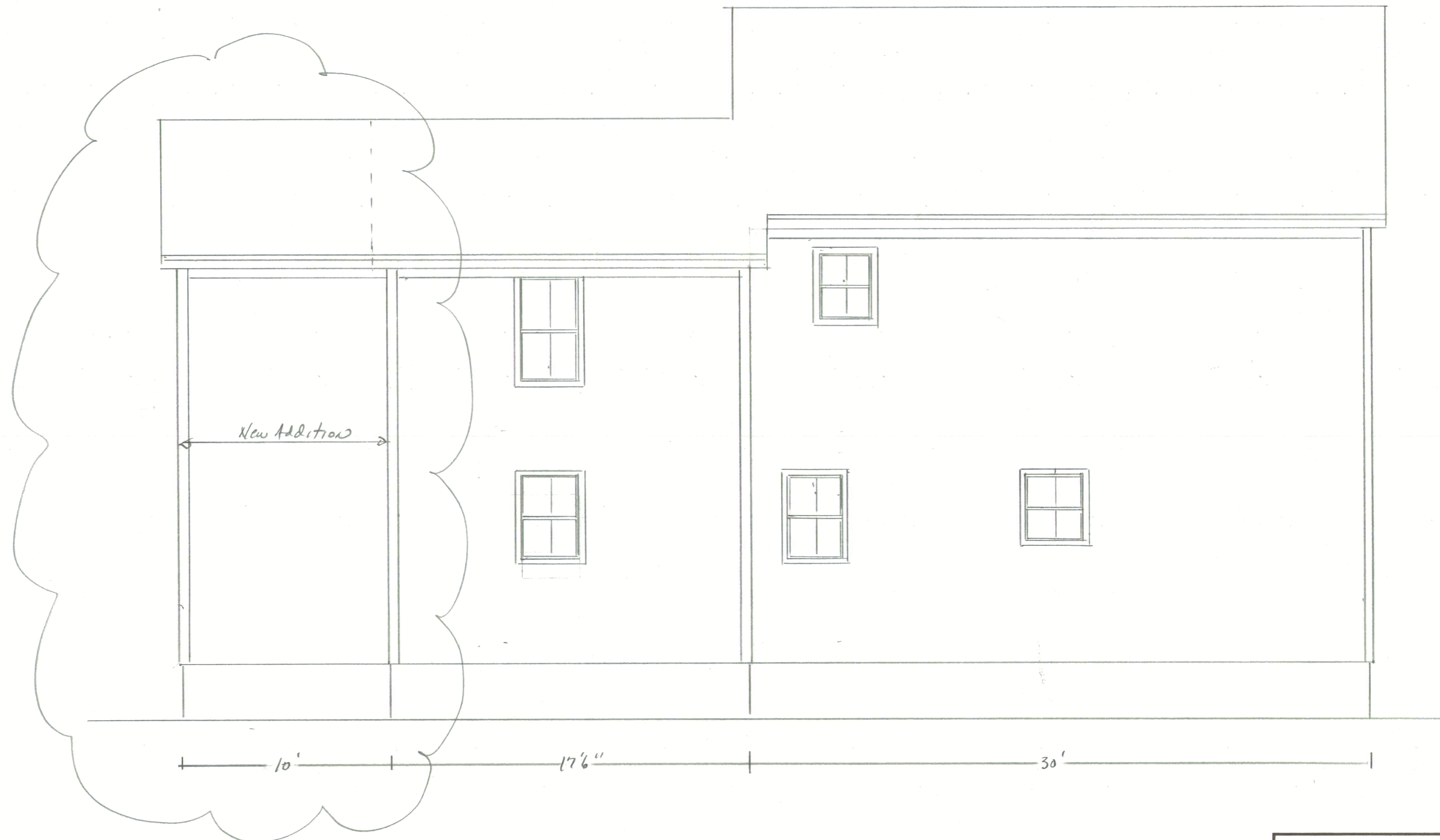
FRONT ELEVATION NOT CHANGING



SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY:
DATE: 9.12.24		REVISED:
Rear Elevation		
		DRAWING NUMBER



SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY
DATE: 9.12.24		REVISED
<i>Right side Elevation</i>		
		DRAWING NUMBER



SCALE: 1/4" = 1'	APPROVED BY:	DRAWN BY:
DATE: 9.12.24		REVISED:
LEFT SIDE Elevation		
		DRAWING NUMBER: