KALIL & LaCOUNT

ATTORNEYS AND COUNSELORS AT LAW

681 Wallis Road • Rye, NH 03870

Earl L. Kalil, Jr. Michelle LaCount Joseph R. Russell

Richard R. Rousseau

July 23, 2024

(603) 964-1414 (603) 964-7717 FAX ryelaw@ryelaw.net

By View Point and Hand Delivery

City of Portsmouth Attn: Planning Department Board of Adjustment 1 Junkins Avenue Portsmouth, NH 03801

Re: Application for Variance Thomas R. Kressler and Lisa M. Lapriore – 34 Garfield Road Tax Map 268, Lot 84

To whom it may concern:

This firm represents Thomas R. Kressler and Lisa M. Lapriore, the owners of real property situate at 34 Garfield Road, Portsmouth, New Hampshire. Please find the following materials for consideration of the Zoning Board of Adjustment at the August 20, 2024 meeting:

- Variance Application (filed online via View Point)
- Landowner Authorization
- Narrative of the Variance Request
- Exterior and Floor Plans
- Photographs of the Property
- Existing Site Survey
- Proposed Site Plan
- Tax Map with Zoning Overlay

Should you have any questions, please feel free to contact me.

Sincerely yours,

Richard R. Rousseau

RRR/

Enclosures

cc: Thomas Kressler; Lisa M. Lapriore

CITY OF PORTSMOUTH, NEW HAMPSHIRE

Aug P

IN RE: APPLICATION OF THOMAS R. KRESSLER AND LISA M. LAPRIORE 34 GARFIELD ROAD, PORTSMOUTH, NH 03801

<u>APPLICANT'S REQUEST FOR A</u> VARIANCE FROM ARTICLE V, SECTION 10.520

NOW COME the Applicants, Thomas R. Kressler and Lisa M. Lapriore, owners of Tax Map 268, Lot 84, also known as 34 Garfield Road, Portsmouth, New Hampshire (the "Property"), and respectfully requests that the Portsmouth Zoning Board of Adjustment grant their request for a Variance from Article V, Section 10.520 of the applicable Portsmouth Zoning Ordinance and in support thereof states the following:

- The Property contains approximately 0.2079 acres (approximately 9,058.00 square feet) and is located in the Single Residence B District. The Property currently consists of a single story single family home that is occupied by the owners. See Existing Conditions Plan attached hereto. The Applicant wishes to add a small single story addition to the front side of the home on the opposite side of the garage (the "Addition"). See Variance Plan attached hereto. The Addition as proposed would be 13 feet by 14 feet, and encompass 182 square feet. See Proposed Floor Plan attached hereto. The Addition will add a small bathroom and closet to the master bedroom. See id. The Property is uniquely situated as the back of the Property is near wetlands, resulting in substantially all of the .2079 acre lot falling within the 100 foot Wetlands Buffer Zone, including the entirety of the home. Additionally, given the small size of the lot, the existing home is almost completely encased by the front yard setback, rear yard setback, and side yard setback. The proposed location for the Addition is in the front corner of the home furthest away from the wetlands while still being attached to the existing home. The proposed location of the Addition is, however, within the 30 foot front yard setback. It is also notable if the addition was placed on the back of the home it would infringe on the 30 foot back yard setback and would also be closer to the wetlands near the rear of the Property. The Addition also slightly increases the Building Coverage from 21.8% currently to 23.8% of the lot.
- B. The Applicant seeks a variance from Article V, Section 10.520 of the Portsmouth Zoning Ordinance, with regard to the front yard 30 foot minimum setback and the maximum building coverage percentage of 20%, in order to allow the small Addition. Specifically with regards to the front yard, the proposed Addition would leave a front yard of 24.5 feet near the front yard facing portion of the Addition, where 30 feet is required. Specifically with regard to the building coverage ratio, the Addition would result in 23.8% coverage where 20% is allowed.

Note, the Applicants are separately seeking a conditional use permit for the Wetland Buffer encroachment resulting from this proposal. Haley Ward, Inc will handle the conditional use permit application on behalf of the Applicants.

C. This Application meets all five (5) of the statutory tests for a variance:

K. W. B

- 1. Granting the variance would not be contrary to the public interest. The Addition would result in a relatively minor 5.5 foot encroachment on the front yard setback and exceed the building coverage ratio by minuscule amount, 3.8%. These small deviations would not be harmful to the public as the general protections to the public afforded by the ordinances are still intact.
- 2. The spirit and intent of the Ordinance will be preserved. There are two ways of discerning whether a variance violates the basic zoning objectives. "One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would 'alter the essential character of the locality." Chester Rod & Gun Club, Inc. v. Town of Chester, 152 N.H. 577, 581 (2005). Another way is to "is to examine whether granting the variance would threaten the public health, safety or welfare." Id. Building setbacks are generally designed to preserve separation between buildings, maintain light and spacing, and protect against the spread of fire. Building Coverage ordinances are typically designed to prevent overcrowding of lots and preserve enough permeable surfaces in the surrounding area for water runoff. Given the proposed Addition is modestly sized, is for residential purposes, and designed to ascetically meld with the rest of the house, said Addition will not alter the essential character of the locality and is a reasonable use of the Property. Furthermore, the Addition does not threaten public health, safety, or welfare as the Addition only encroaches on the setback from the road by 5.5 feet for short span of the yard and only exceeds the building coverage ratio by 3.8%.
- 3. Granting the variance will result in substantial justice. "[T]he only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 109 (2007). The current home only has one bathroom. The Addition will add a much needed second bathroom and closet space to the three bedroom home. The deviations from the setback and building coverage requirements that would result from the proposed Addition are minor, therefore, any potential protections to the public by strict compliance are minute. Concurrently the owners would substantially benefit from a more functional home that more adequately meets their needs. Therefore, granting the variance would result in substantial justice because the loss by the property owners by strict compliance is not outweighed by the public interests served.
- 4. There will be no diminution in value to surrounding properties. The improvement to the Property will increase its value. The small Addition

will be attractively designed and not be out of character for the surrounding neighborhood. Furthermore, the Addition does not encroach on either of the side setbacks, and existing arborvitae help block the adjacent neighbors view of the Addition. As such, the Addition would not negatively impact the value of the surrounding properties.

5. Literal enforcement of the zoning ordinance will result in unnecessary hardship. Literal enforcement of the zoning ordinances will result in unnecessary hardship due to the small lot size, small home size, location of the wetland, and location of the home tightly squeezed within the setback restrictions. Given these unique characteristics of the Property, there is no other feasible location for a master bathroom and closet adjacent to the home without encroaching on the front, rear, or side setbacks. The existing living space is also relatively small at 1,061 square feet resulting in the need for a minor expansion. The proposed location of the Addition is the furthest from the wetlands, does not encroach on the side setbacks to the neighboring properties, is designed to be as small as possible while still remaining functionality, and the view is obscured from the property nearest the Addition by existing arborvitaes. The minor infractions of the front yard setback and building coverage do not usurp the primarily goals of the ordinances. Given the special conditions of this Property no fair and substantial relationship exists between the general purposes of the front yard setback restriction or the coverage limitation and its application to the proposed Addition.

WHEREFORE, the Applicant respectfully requests that the Board of Adjustment grant their request for a variance for the reasons stated herein, and for such other and further relief as may be deemed proper and just.

Respectfully submitted, Thomas R. Kressler and Lisa M. Lapriore

By its attorneys, KALIL & LaCOUNT

Dated: July 22, 2024

By:

Richard R. Rousseau, Esq.

Kalil & LaCount 681 Wallis Road

Rye, New Hampshire 03870

(603) 964-1414 Rich@ryelaw.net Bar # 275007

LANDOWNER AUTHORIZATION

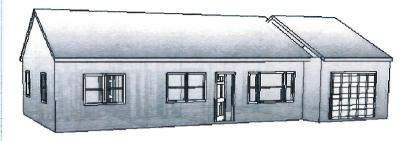
The undersigned, *Thomas R. Kressler* and *Lisa M. Lapriore*, owners of Tax Map 268, Lot 84, also known as 34 Garfield Road, Portsmouth, New Hampshire, do hereby authorize *Richard R. Rousseau*, *Esquire*, or any other attorney associated with the law firm *Kalil & LaCount* to file any applications on my behalf and/or appear on my behalf before the City of Portsmouth land use boards in association with said application(s) for the aforementioned property. The undersigned further hereby authorize *Haley Ward*, *Inc.*, *Stephen Ricker*, or any of their associated agents to file any applications on my behalf and/or appear on my behalf before the City of Portsmouth land use boards in association with said application(s) for the aforementioned property.

Thomas P. Wrossler

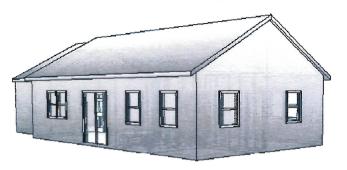
DATE 6/19/2024

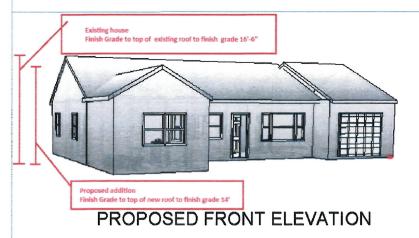
DATE 6/19/2024

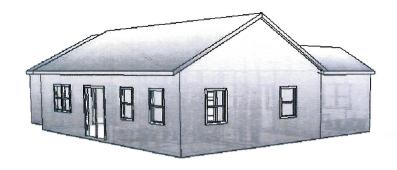
EXISTING FRONT ELEVATION



EXISTING SIDE-REAR ELEVATION





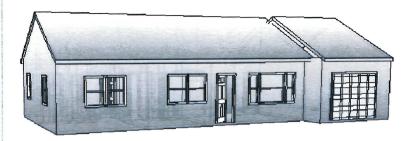


PROPOSDE SIDE-REAR ELEVATION

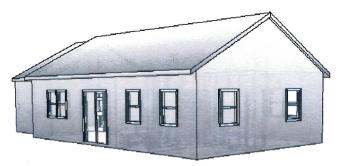
KRESSLER - LAPRIORE RESIDENCE 34 GARFIELD DRIVE PORTSMOUTH NH 03801

PROPOSED 14X10 ADDITION

EXISTING FRONT ELEVATION

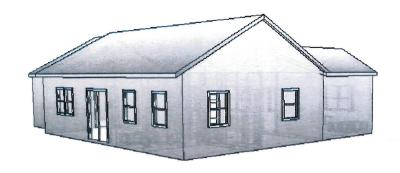


EXISTING SIDE-REAR ELEVATION





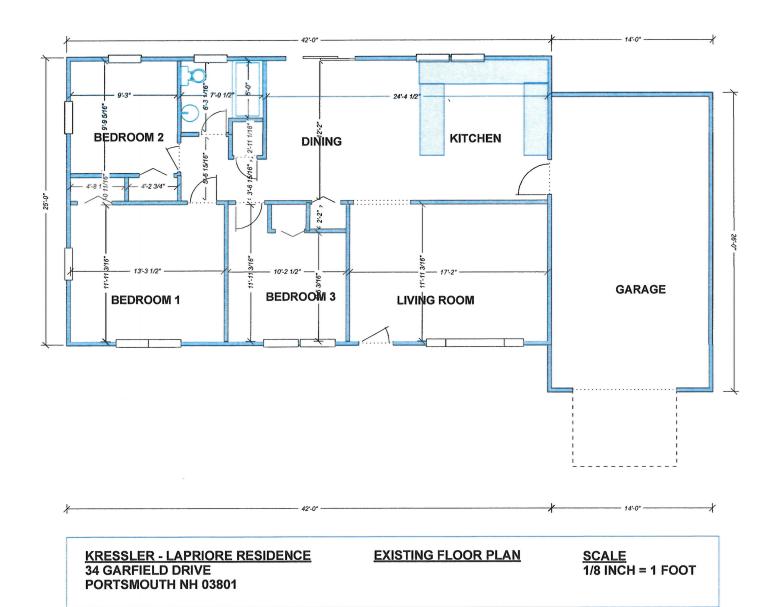
PROPOSED FRONT ELEVATION

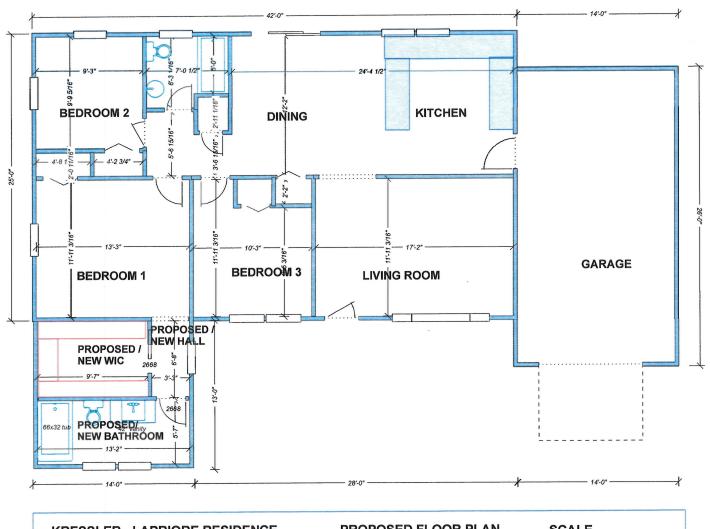


PROPOSDE SIDE-REAR ELEVATION

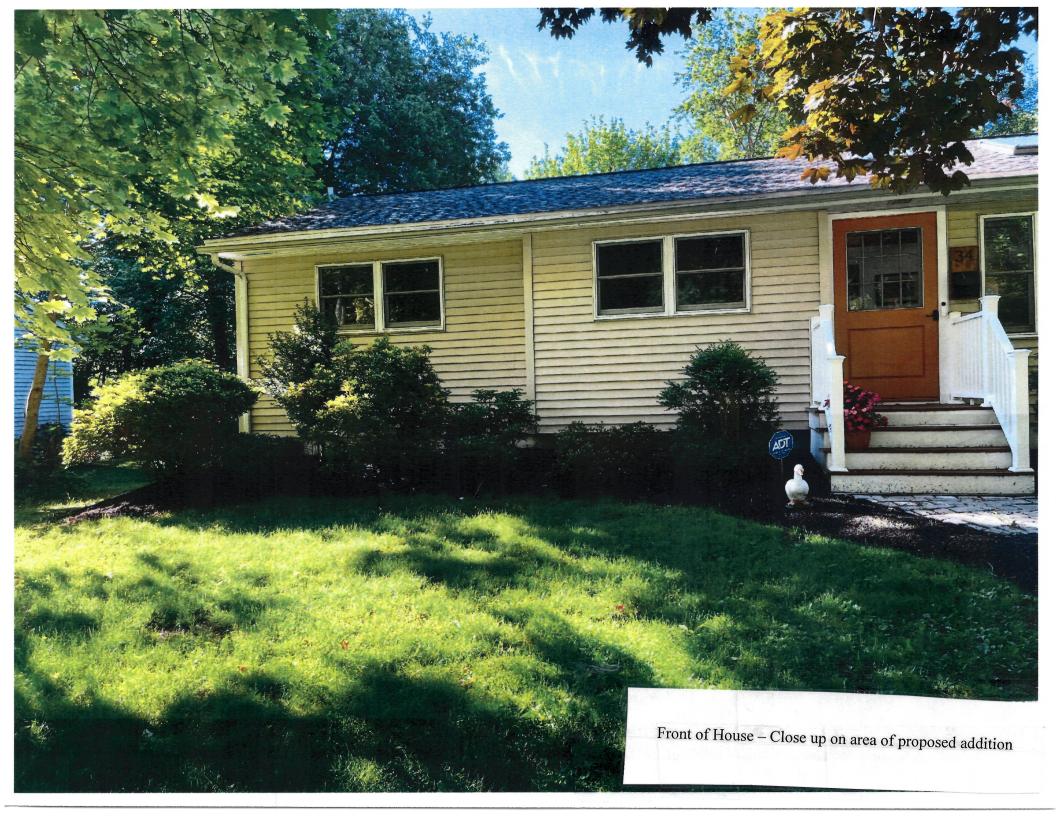
KRESSLER - LAPRIORE RESIDENCE 34 GARFIELD DRIVE PORTSMOUTH NH 03801

PROPOSED 14X10 ADDITION

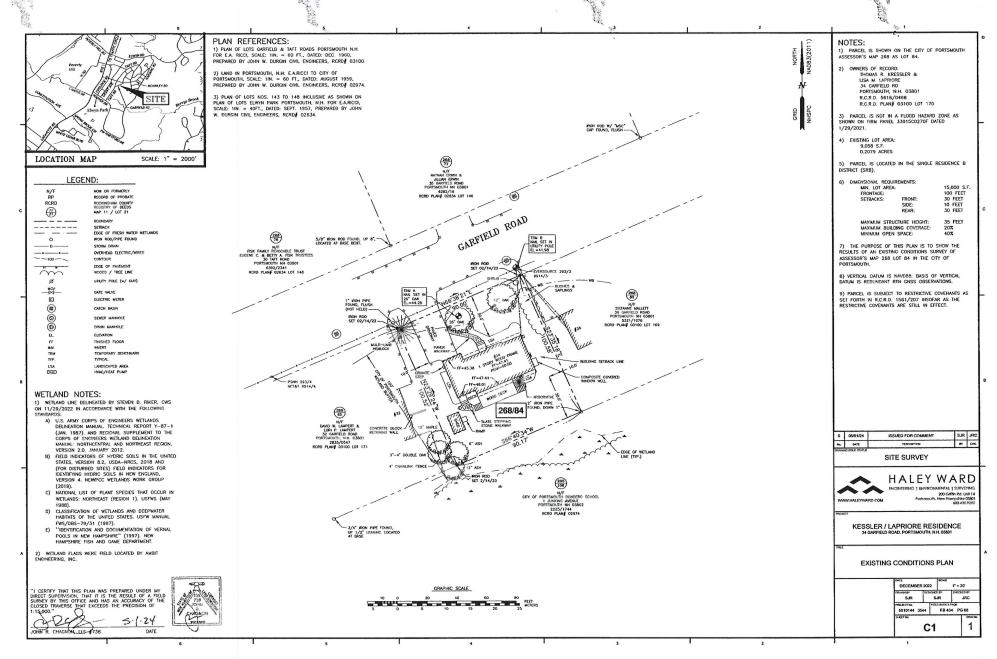




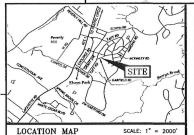
KRESSLER - LAPRIORE RESIDENCE 34 GARFIELD DRIVE PORTSMOUTH NH 03801 PROPOSED FLOOR PLAN MASTER BATH ROOM AND CLOSET ADDITION SCALE 1/8 INCH = 1 FOOT







smouth-MCOsA42022 Sunsyytims & Specifical S44 Site



NOW OR FORMERLY RECORD OF PROBATE

ROCKINGHAM COUNTY REGISTRY OF DEEDS MAP 11 / LOT 21

BOUNDARY SETBACK EDGE OF FRESH WATER WETLANDS IRON ROD/PIPE FOUND

STORM DRAIN

GATE VALVE

ELECTRIC METER

SEWER MANHOLE DRAIN MANHOLE E) EVATION FINISHED FLOOR INVERT TEMPORARY BENCHMARK TYPICAL

LANDSCAPED AREA HVAC/HEAT PUMP

1) WETLAND LINE DELINEATED BY STEVEN D. RIKER, CWS ON 11/29/2022 IN ACCORDANCE WITH THE FOLLOWING NOAMUS:

A) U.S. ARMY CORPS OF ENGINEERS WETLANDS
DELINEATION MANUAL. TECHNICAL REPORT Y-87-1
(JAN. 1987), AND REGIONAL SUPPLEMENT TO THE
CORPS OF EMGINEERS WETLAND DELINEATION

CORPS OF ENGINEERS WEILAND DELINEATION
MANUAL: NORTHCENTRAL AND NORTHEAST REGION,
VERSION 2.0, MINUARY 2012.

8) FIELD INDICATORS OF HYDRIC SOLLS IN THE UNITED
STATES, VERSION 8.2, USDA-NRCS, 2018 AND
(FOR DISTURBED SITES) FIELD INDICATORS FOR

IDENTIFYING HYDRIC SOILS IN NEW ENGLAND.

WETLAND FLAGS WERE FIELD LOCATED BY AMBIT ENGINEERING, INC.

VERSION 4. NEIWPCC WETLANDS WORK GROUP C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN

WETLANDS: NORTHEAST (REGION 1). USFWS (MAY 1988).

D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFW MANUAL PWS/085-79/31 (1997).
"IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.

CATCH BASIN

OVERHEAD ELECTRIC/MIRES CONTOUR EDGE OF PAVEMENT WOODS / TREE LINE

UTILITY POLE (w/ GUY)

LEGEND:

(1)

0

--100-

m

Ø

₩ĊV

E

B

© (©

LSA CSSO

WETLAND NOTES:

IMPERVIOUS SURFACE AREAS (TO PROPERTY LINES) PRE-CONSTRUCTION POST-CONSTRUCTION STRUCTURE IMPERVIOUS (S.F.) MAIN STRUCTURES 1,422 SHED STAIRS, STEPS, & RAMP 122 PAVED DRIVEWAY 648 648 325 325 2,738 2,920 9,058 9,058 % LOT COVERAGE 32.2% BUILDING COVERAGE:

EXISTING: 1,422+103+122+325=1,972/9,058= 21.8%
PROPOSED: 1,604+103+122+325=2,154/9,058= 23.8%

PLAN REFERENCES: 1) PLAN OF LOTS GARFIELD & TAFT ROADS PORTSMOUTH N.H. FOR E.A. RICCI, SCALE: 1IN. = 60 FT., DATED: DEC. 1960, PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, RCRD# 03100.

2) LAND IN PORTSMOUTH, N.H. E.A.RICCI TO CITY OF PORTSMOUTH, SCALE: 11N. = 60 FT., DATED: AUGUST 1959, PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, RCRD# 02974.

3) PLAN OF LOTS NOS. 143 TO 148 INCLUSIVE AS SHOWN ON PLAN OF LOTS ELWIN PARK PORTSMOUTH, N.H. FOR EA.RICCI, SCALE: INR. = 40FT, DATED: SEPT. 1957, PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, RCRO# 02634.

IRON ROD W/ "MSC"

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 268 AS LOT 84.

2) OWNERS OF RECORD: THOMAS R. KRESSLER & LISA M. LAPRIORE 34 GARFIELD RD PORTSMOUTH, N.H. 03801 R.C.R.D. 5616/0468 R.C.R.D. PLAN# 03100 LOT 170

3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0270F DATED 1/29/2021.

4) EXISTING LOT AREA: 9,058 S.F. 0.2079 ACRES

5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B DISTRICT (SRB).

6) DIMENSIONAL REQUIREMENTS: MIN. LOT AREA: FRONTAGE: 15.000 S.F. 100 FEET 30 FEET 10 FEET 30 FEET SETBACKS: FRONT:

MAXIMUM STRUCTURE HEIGHT: MAXIMUM BUILDING COVERAGE: 35 FEET

7) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED ADDITION TO AN EXISTING BUILDING LOCATED AT ASSESSOR'S MAP 268 LOT 84 IN THE CITY OF PORTSMOUTH, IN PURSUIT OF A VARIANCE.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

MINIMUM OPEN SPACE:

9) PARCEL IS SUBJECT TO RESTRICTIVE COVENANTS AS SET FORTH IN R.C.R.D. 1561/207 INSOFAR AS THE RESTRICTIVE COVENANTS ARE STILL IN EFFECT.

(10)
<u>₩</u>
MODEL TO SERVICE AS ASSESSMENT AS AS ASSESSMENT AS ASSESSMENT AS ASSESSMENT AS ASSESSMENT AS ASSESSM
35 CAPTELD ROUD PORTSHOUTH HAI JOSEY 828/1/6
8 2827/16 ROED PLANJ CZSSA LUT 146 — (B)
ROAD
SAY, BOW BOX FOUND IN BOX BOX BOX FOUND IN BOX BOX BOX FOUND IN BOX
5/8" BON BOD FOUND, UP 8". SAR FIRED STEP
PRE FAMALY REPORTED TRUST CHORDE C. & RETTIN A TISKE TRUSTED PROTECTION MIN 00001 PROTECTION MIN 00001 ROMANTID R
30 TAT ROUD PORTSIA/UNI NH 03001 6392/2341 84,00000 SCT 02/14/23
RODO FLAM 20254 LDT 146 SELECTION OF THE
1 - 10
TIBU A MAS SET IN MASSET I
1. BON PIPE 125 OK 10 ADDITION 102 S.C. (8)
RON 1000 Sc1 02/14/23 25 ON 25
SCT 02/14/23
MACRICAN PROPERTY AND
POMI 201/4 POMI 201/4 POMI 201/4 POMI 201/4 POMI 201/4
PSHI 293/4 NETAI 9914/4 NETAI 9914/4
PSHI 201/4 19 100 CONNECT CONSIGN
PORT 3914 SEAS 9944 SEAS 9
ABOUNTAL S
268/84 7 NON PIPE 17 NON PIPE
NATE STORAGE SALES SALES SALES STORAGE SALES SAL
DOVD W LIMPETT & CONCETT BLOCK 12" MAPLE 32 CAPTEL BLOCK PERMANNET SECONDERLY BLOCK PERMANNET SECONDERLY BLOCK PERMANNET SECONDERLY WAS ASSET SECONDERLY WAS ASSET SECONDERLY AS ASSET AS AS AS ASSET AS AS ASSET
3'- COURSE ON COMPAND LINE (TP)
4' CHAMALEK FENCE - 12' ASH
To was more more or w
(08)
GTY OF PORTSMOUTH SOUDCEN SCHOOL 1. JANUARS MERNIE PORTSMOUTH HIS MOSBOZ
1 JURIONIS MONIE PORTSAUCHI HIN 103602
222y/174 RKD TUMJ 0374
3/4" RON PIPE FOUND,
UP 1/2" LUNNIG, LOCATED AT BISC.
GRAPHIC SCALE
10 0 20 40 60 80



SITE PLAN



HALEY WARD ENGINEERING | ENVIRONMENTAL | SURVEYING

KESSLER / LAPRIORE RESIDENCE 34 GARFIELD ROAD, PORTSMOUTH, N.H. 03801

VARIANCE PLAN

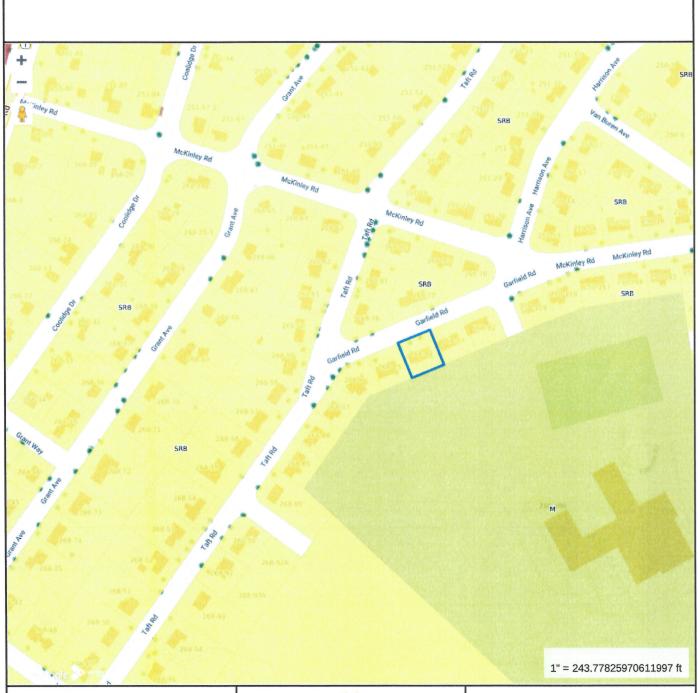
	2024.03.20		1° = 20'		
SJR	and the same of th		JRC		
5010144 :	5010144 3544		FB 434 PG 68		
944140				Ove	
1	•	2		1 2	

JOHN R. CHAGNON, LLS #738

51.24

DATE

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SUPEYER YITHIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1-15,000."



Property Information

Property ID 0268-0084-0000 Location 34 GARFIELD RD Owner KRESSLER THOMAS R



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.

Map Theme Legends

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				
Visite III III III III III III III III III I				
Airport Districts				
AIR Airport				
Al 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