## Findings of Fact | Detached Accessory Dwelling Unit City of Portsmouth Planning Board

Date: November 21, 2024

Property Address: 377 Maplewood

Application #: LU-24-133

Decision: Approve Deny Approve with Conditions

#### **Findings of Fact:**

Per RSA 676:3, I: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

1	10.814.621 The ADU complies with all		The design plans and written
-	applicable standards of this Section 10.814 or as may be modified by the conditional use permit.	Meets  Does Not Meet	narrative/statement submitted by the Applicant demonstrate that the ADU complies with the standards set forth in 10.814 with the proposed modification to Section 10.814.434 to allow the building footprint to exceed 750 sq. ft.
2	10.814.622 The exterior design of the ADU is architecturally consistent with or similar in appearance to the existing principal dwelling on a lot.	Meets  Does Not Meet	The proposed ADU is designed to have the appearance of a utilitarian out-building with simple exterior trim elements to make it appear subservient to the principal structure. It has a gabled roof, materials, trim and windows that are reflective of the principal residence.
3	10.814.623 The site plan provides adequate and appropriate open space and landscaping for both the ADU and the principal dwelling unit and complies with the off-street parking requirements of 10.814.26.	Meets  Does Not Meet	The proposed improvements to the property will result in a 4% increase in open space and 7.8% less building coverage. The property is mostly developed in its existing condition. The existing landscaping will be retained with the site improvements. The site plan allows for compliant off-street parking and improved, safer vehicular access to the Property.

Section 10.814.62	Finding (Meets Requirement/ Criteria)	Supporting Information
10.814.624 The ADU will maintain a compatible relationship with the character of adjacent and neighborhood properties in terms of location, design, and off-street parking layout, and will not significantly reduce the privacy of adjacent properties.	Meets  Does Not Meet	The proposed ADU is consistent in design and appearance to the principal residence on the Property and other similar structures in the surrounding area. The ADU will replace a dilapidated building that constitutes an eyesore for adjacent properties and the neighborhood. The ADU site plan calls for greater open space, less building coverage, and greater overall setback compliance than what exists. In addition, the existing landscaping on the Property will be retained. The privacy that adjacent properties currently enjoy will not be diminished from what exists.

#### 5 Other Board Findings:

The proposed modification from Section 10.814.434 of the Ordinance is justified to allow the building footprint to exceed 750 sq. ft. The footprint and size of the proposed building is smaller than what exists today. The garage associated with the DADU will occupy space on the Property that would otherwise be occupied by a vehicle if the modification is not granted. The proposed garage will be situated in the northeast corner of the Property where there is a hill and trees that will buffer it from the closest abutting structure. This lessens the impact that the proposed garage would otherwise have and further speaks to the unique circumstances that apply to the Property.



#### BY: VIEWPOINT & HAND DELIVERY

October 29, 2024

City of Portsmouth Attn: Peter Stith, Planner Planning Board 1 Junkins Avenue Portsmouth, NH 03801

RE: DADU CUP Application of Kevin Shitan Zeng, Trustee of the Kevin Shitan Zeng **Revocable Trust of 2017** 377 Maplewood Avenue, Portsmouth (Tax Map 141, Lot 22)

Dear Peter,

Please find a copy of the following materials associated with the above referenced DADU CUP application:

- 1. Landowner Authorization Form;
- 2. Written Narrative/Statement:
- 3. Existing and Proposed Conditions Plans;
- 4. Architectural Floor Plans and Renderings; and
- 5. Photographs.

A copy of the above application materials is being delivered to the Planning Department today. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

Derek R. Durbin, Esq.

#### LANDOWNER LETTER OF AUTHORIZATION

Kevin Shitan Zeng, Trustee of The Kevin Shitan Zeng Revocable Trust of 2017, owner of property located at 377 Maplewood Avenue, identified on Portsmouth Tax as Map 141, Lot 22 (the "Property), hereby authorizes **Durbin Law Offices**, **PLLC**, **Brendan McNamara**, and **TFMoran**, to file any zoning board, planning board, historic district commission or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.

Kevin Zeng	April 23, 2024
Kevin Shitan Zeng, Trustee	1 ,

## Landowner Authorization Form -4-23-2024

Final Audit Report 2024-04-24

Created: 2024-04-23

By: Derek Durbin (derek@durbinlawoffices.com)

Status: Signed

Transaction ID: CBJCHBCAABAAx9I4SAUtdmbM-8\_VfxidkKmCi6TMyAxv

### "Landowner Authorization Form -4-23-2024" History

Document created by Derek Durbin (derek@durbinlawoffices.com) 2024-04-23 - 2:12:43 PM GMT- IP address: 108.36.120.94

Document emailed to Kevin Zeng (kevin158499@gmail.com) for signature 2024-04-23 - 2:12:46 PM GMT

Email viewed by Kevin Zeng (kevin158499@gmail.com) 2024-04-24 - 12:03:20 PM GMT- IP address: 174.212.38.33

Document e-signed by Kevin Zeng (kevin158499@gmail.com)
Signature Date: 2024-04-24 - 12:03:42 PM GMT - Time Source: server- IP address: 174.212.38.33

Agreement completed. 2024-04-24 - 12:03:42 PM GMT

# CITY OF PORTSMOUTH PLANNING BOARD DADU CUP APPLICATION NARRATIVE

Kevin Shitan Zeng, Trustee
The Kevin Shitan Zeng Revocable Trust of 2017
377 Maplewood Avenue
Portsmouth, NH 03801
(Owner/Applicant)

#### **DADU PROJECT SUMMARY**

Kevin Shitan Zeng is the owner of the property located at 377 Maplewood Avenue, identified on Portsmouth Tax Map 141 as Lot 22 (the "Property"). The Property is zoned General Residence A ("GRA") and lies within the Historic District. It is a 5,277 square foot parcel of land that contains a two-story single-family home. Just to the rear of the existing home, there is a detached, wood-framed, single-story building that was built in the early 1900s and has been used for different purposes over the years. This building has fallen into significant disrepair. It is missing portions of the exterior walls and floor and is unsafe to enter. It has been determined, in consultation with the City's Historic District Commission ("HDC") that it would be infeasible to rehabilitate the building which does not have any unique architectural features.

Mr. Zeng would like to demolish the building in the rear of the Property and replace it with one (1) bedroom one (1) bathroom detached accessory dwelling unit ("DADU") with attached one-car garage. The DADU would be occupied initially by Mr. Zeng's elderly mother, who provides daily childcare for him while he operates a full-time business (Pink Bamboo) in downtown Portsmouth.

In conjunction with the construction of the DADU, the Applicant intends to improve rehab and improve the existing single-family home. The proposed DADU is designed in the Carriage House style, with historic type trim detailing and windows and doors. The Applicant held a work session with the HDC on June 12, 2024. The HDC had only favorable comments for the proposal and supports the demolition of the existing structure.

#### **DADU ORDINANCE CRITERIA**

#### All accessory dwelling units shall comply with the following standards:

10.814.21 The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership (including by condominium ownership).

The proposed DADU will comply with the requirement. No condominium use of the property is proposed or contemplated.

10.814.22 Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner's principal place of residence. The owner shall provide documentation demonstrating compliance with this provision to the satisfaction of the City.

The owner of the property, Kevin Zeng, occupies the existing residence on the Property. The plan is for the owner's mother to occupy the DADU.

10.814.221 When the property is owned by an entity, one of the dwelling units shall be the principal place of residence of one or more principals of that entity, such as a member or beneficiary.

See response to 10.814.22 above, which is incorporated by reference.

#### 10.814.23 Accessory dwelling units shall not have more than two bedrooms.

The proposed DADU will comply with the requirement. Only one bedroom is proposed for the DADU. Note that the Applicant's site plan has a note that two bedrooms are included in the DADU. That notation is incorrect. The floor plans are correct and show only 1 bedroom. A prior proposal for the property involved a 2-bedroom free standing dwelling (as opposed to a DADU).

10.814.24 Neither the principal dwelling unit nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

*No business use of the property is proposed or contemplated as part of the DADU.* 

10.814.25 Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

The property is serviced by municipal sewer and water.

10.814.26 1 off-street parking space shall be provided for an ADU in addition to the spaces that are required for the principal single-family dwelling.

The proposed DADU will have one dedicated parking space within an attached garage, as more specifically depicted on the site plan and floor plans submitted with the CUP application.

#### 10.814.40 Additional Standards for Detached Accessory Dwelling Units:

10.814.41 The DADU shall not be larger than 750 sq. ft. in gross living area.

The DADU will have 698 sq. ft. of "gross living area" as that term is defined by Section 10.1530.

10.814.411 A DADU that is created from an existing accessory building that does not comply with its minimum yard requirements shall not exceed 750 sq. ft. in gross living area.

N/A.

10.814.42 A DADU that is created from an existing accessory building that does not comply with its minimum yard requirements shall comply with the following additional requirements:

N/A.

10.814.43 The DADU shall be subordinate to the principal single-family dwelling in scale, height and appearance as follows:

10.814.431 The front wall of a DADU that is not created within an existing accessory building shall be set back at least 10 feet further from the front lot line than the existing front wall of the principal dwelling unit.

The proposed DADU complies with the requirement.

10.814.432 The building height of the building containing the DADU shall be no greater than 22 feet.

The proposed DADU complies with the requirement. The proposed building height of the DADU is 22'.

10.814.433 When the building containing the DADU is taller than the principal building, its required setback from all property lines shall be increased by the difference in building height between the DADU and the principal building.

The building containing the DADU will not be taller than the principal building on the Property.

## 10.814.434 The building footprint of the building containing the DADU shall be no greater than 750 sq. ft.

The building footprint of the building containing the DADU will be 1,104 sq. ft. (+/-); therefore, a modification is being requested from this provision of the Zoning Ordinance. The additional area is needed to accommodate an attached single-car garage, as more specifically explained in the written narrative associated with the modification request.

10.814.435 The gross floor area of the building containing the DADU shall be no greater than 1,600 sq. ft. gross floor area or 75 percent of the gross floor area of the principal dwelling unit, whichever is less.

The proposed DADU will comply with the requirement. The approximate gross floor area of the principal dwelling is 1,480 sq. ft, whereas the gross floor area of the proposed DADU is 1,104 sq. ft. (74.6%)

#### **Article 8 Supplemental Use Standards:**

10.814.436 The DADU may include roof dormers provided they are located outside the required setbacks from all property lines and occupy no greater than 33% of any individual roof plane.

No dormers are proposed as part of the DADU design.

#### 10.814.437 The DADU shall comply with the drainage requirements of this Ordinance.

The conditions of the property will be improved from the existing condition with an overall reduction in impervious surface coverage. To the extent required, a drainage plan will be submitted with the building permit application.

#### 10.814.438 The DADU shall comply with the lighting requirements of this Ordinance.

The proposed DADU will comply with any lighting requirements set forth in the Ordinance and will not create any light intrusion into abutting properties.

10.814.44 A newly constructed DADU shall be separated no less than 5 feet from the principal structure or as required by the Building Code, whichever is greater.

The proposed DADU will be separated from the principal building by approximately 18.9' at its closest point.

#### 10.814.50 Architectural Design Standards -

Where the creation of an accessory dwelling unit involves the construction of a new building or an addition to or expansion of an existing building, the exterior design shall be architecturally consistent with or similar in appearance to the principal building using the following design standards:

10.814.51 The new building, addition or expansion shall be architecturally consistent with or similar in appearance to the existing principal building with respect to the following elements:

- Massing, including the shape and form of the building footprint, roof or any projecting elements;
- Architectural style, design, and overall character;
- Roof forms, slopes, and projections;
- Siding material, texture, and profile;
- Window spacing, shapes, proportions, style and general detailing;
- Door style, material and general detailing;
- Trim details, including window and door casings, cornices, soffits, eaves, dormers, shutters, railings and other similar design elements;
- Exposed foundation materials and profiles.

The new building proposed is in the appearance of a secondary, utilitarian, out-building, with simpler, exterior trim elements. This makes the building subservient to the principal structure. Much as the existing structure has been.

The proposed DADU is designed to have the appearance of a utilitarian out-building with simple exterior trim elements. It is designed to appear subservient to the principal structure.

It matches the principal building in that it has a gable roof and has an architectural style reflective of this. This is reinforced with the choice of materials, trim and windows as shown in the elevations provided with the CUP application.

10.814.52 If provided, the following elements shall be architecturally consistent with or similar in appearance to the corresponding elements on the principal building in terms of proportions, materials, style and details:

- Projections such as dormers, porticos, bays, porches and door canopies;
- Chimneys, balconies, railings, gutters, shutters and other similar design elements.

None of the above design elements have been contemplated with the proposed DADU.

#### 10.814.53 If provided, all street-facing garage doors shall be limited to 9 feet in width.

The proposed DADU will comply with the requirement.

### PROPOSED ORDINANCE MODIFICATION Section 10.814.434

Because the footprint of the building is 1,104 sf., a modification from Section 10.814.434 is required. The gross floor area ("GFA") of the accessory dwelling itself is 749 sf., but the attached garage results in the GFA of the building being 1,104 sf., above what is permitted by the Ordinance. Based on the City's assessing records, the DADU building would comply with Section 10.814.435 of the Ordinance, as the GFA of the principal dwelling is at least 1,480 sf. (75% = 1,110 sf.), so the overall size of the building is consistent with what the Ordinance allows for.

The proposed DADU replaces an accessory building on the Property that is much larger. It has a larger building footprint and greater GFA than what is proposed. The DADU will result in the Property being brought into greater conformance with the dimensional requirements of the Zoning Ordinance, as shown on the table below.

Non-Conformity	Requirement	<b>Existing Condition</b>	<b>Proposed Condition</b>
Building Coverage	25% (maximum)	45.3%	37.5%
Open Space	30% (minimum)	20.5%	24.5%
Rear Setback	20'	2.2'	3.2'
Secondary Front Yard	10'	0.2'	6.1'
Left Side Setback	10'	4.5'	4.5'

In addition, the Property does not allow for safe vehicular egress. Vehicles are routinely forced to back into the public ROW to exit the Property due to the existing topography (hill to the East) and how the buildings are situated in relation to the driveway and parking area. This is demonstrated on the plans and photographs submitted herewith. The proposed DADU with attached garage will remedy this situation so that vehicles can properly exit the Property.

Section 10.5B74.30 allows for modification of the standards provided that the "Planning Board finds such modification will promote design flexibility and overall project quality...[.]"

The footprint and size of the proposed building is smaller than what exists today. The garage associated with the DADU will occupy space on the Property that would otherwise be occupied by a vehicle if the modification is not granted. The proposed garage will be situated in the northeast corner of the Property where there is a hill and trees that will buffer it from the closest abutting structure. This lessens the impact that the proposed garage would otherwise have and further speaks to the unique circumstances that apply to the Property.

In theory, the Applicant could construct a detached garage in approximately the same location on the Property without needing a modification, although Mr. Zeng does not believe it makes logical sense aesthetically or functionally. The modification allows for cohesive, high functioning DADU design that resembles the utilitarian architecture of the existing "historic" building while bringing the Property into greater conformance with the Ordinance. As stated above, the HDC informally endorsed the design of the DADU at a Work Session in June. The modification will allow the Applicant to have covered parking for one vehicle and some additional storage space where such space is scarce given the constraints of the Property. The principal dwelling on the Property has very little accessory space that can be used for storage of personal belongings. Mr. Zeng's elderly mother, who will be occupying the DADU, will also be able to access the garage directly from her living space. Allowing the modification results in a higher quality project with a greater aesthetic and functional benefit for the Property overall.

Mr. Zeng received several dimensional variances from the Zoning Board of Adjustment ("ZBA") on September 17, 2024 to allow the DADU to be built in the proposed location. As part of its decision, the Board found that the proposed DADU would be consistent with the spirit and intent of the Ordinance.

Mr. Zeng understands that the Planning Board disfavors GFA-related modifications. However, for the reasons outlined above, there are special conditions that apply to Mr. Zeng's Property that distinguish his request from other similar requests that have been brought before the Board.

Respectfully Submitted,

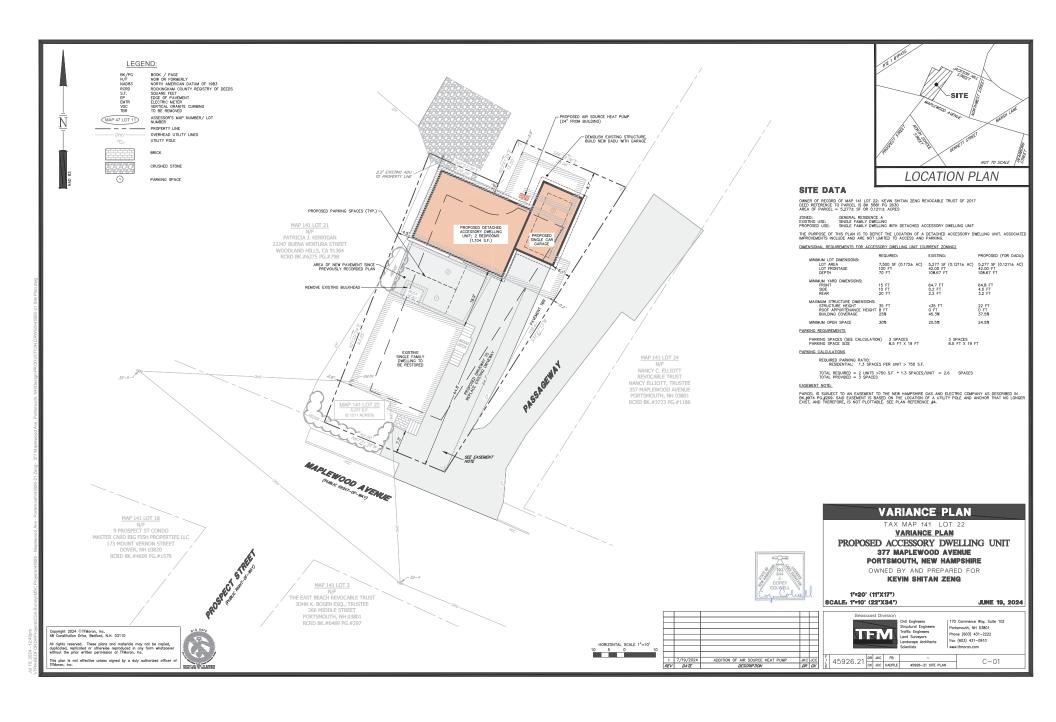
Kevin Shitan Zeng, Trustee

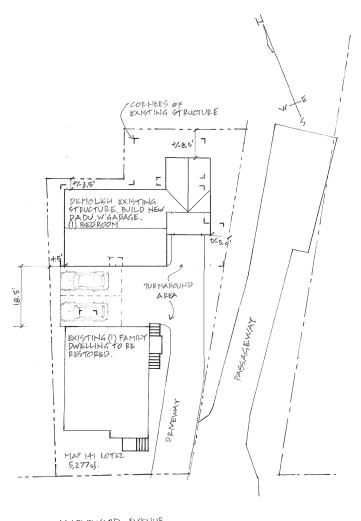
By and Through His Attorneys, Durbin Law Offices PLLC

By:

Derek R. Durbin, Esq. 144 Washington Street Portsmouth, NH 03801 (603)-287-4764 derek@durbinlawoffices.com

Dated: October 30, 2024





MAPLEWOOD AVEHUE

PROPOSED SITE PLAN 1=20



P X P X HZ 116 0 PAGEAI

THIE: PROPOSED SITE PLAN & EXPLINA

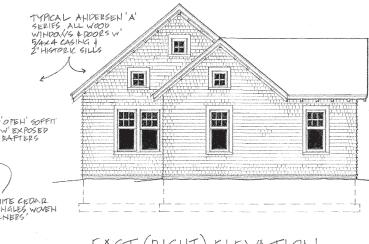
Brendan McNamara

603 682 1105 brenmcnamara@comcast.net



PAGE AZ.

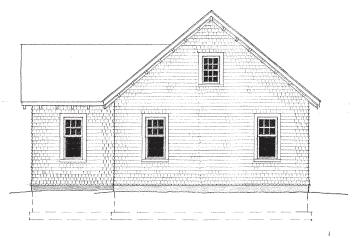




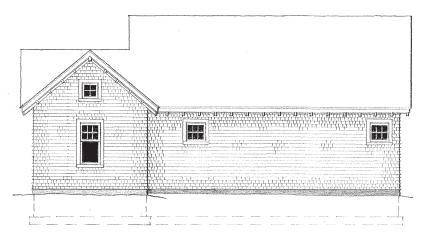
4 ARCHITECTURAL POOF SHINGLES -> ATTIC FL OPEH SOFFIT W'EXPOSED BAFTERS 151 FL. GLAB MORTAL "PAGGING" TO EXPOSED COHCRETE WHITE CEDAR SHINGLES WOVEN CORNERS CUSTOM, WOOD GARAGE SOUTH (FRONT) ELEVATION EAST (RIGHT) ELEVATION

Brendan McNamara RESIDENTIAL ARCHITECTURE

PAGE A3



WEST (LEFT) ELEVATION



NORTH (REAR) ELEVATION

Brendan McNamara RESIDENTIAL ARCHITECTURE



THLE: PROPOSED FLOOR PLANS X ZZ O

603 682 1105 brenmcnamara@comcast.net

Brendan McNamara

PAGE A4.



**Accessory Building (Front View)** 



**Accessory Building (Rear View)** 



**Accessory Building** 



**Accessory Building** 



Accessory Building – Interior



**Accessory Building – Interior** 



**Accessory Building – Interior** 



**Accessory Building – Interior** 



 $House \ and \ Accessory \ Building-Front \ / \ Right \ Side \ View$