

## ATTACHMENT TO VARIANCE APPLICATION

### THE COMMON STATEMENTS OF FACTS

This case is to ask for a variance from the enforcement of Zoning Ordinance 10.520 which provides for setbacks for decks and buildings to allow a deck on the back of the property which exceeds the maximum building coverage by 11%. The deck is 8 feet from the side set back which requires 10 feet on the side next to a parking area owned by the City of Portsmouth.

The property known as 44-46 Rockingham Street is a side-by-side residential multi-family building.

In 2002 or 2003, the back door for 46 Rockingham Street was moved and the back deck was expanded to allow ingress/egress to the back door by adding a 4 foot by 8-foot section to the deck. The deck had to be big enough to allow safe escape of occupants. The rear deck is 36 feet to the back line and well within the rear setback requirement.

This is request for Dimensional Variance.

The addition to the deck was built in 2002 after discussion and approval of the City Building Inspector at the time. Attached is the picture of the prior deck that was old and just partially replaced. It was believed that because the deck was depicted in the building permit in 2022 that it was allowed and in reliance upon that permit, the deck is today nearly complete with new flooring, rails, banisters and stairs.

## II. LEGAL ARGUMENT

### REQUEST FOR FINDINGS OF FACT:

#### 1. Not Diminish Surrounding Property Values:

All the direct and indirect abutting properties are multi family or a parking lot. The only impact from 8 feet instead of 10 feet to an abutter is to the City parking garage. The other side back is followed next to the abutting residential structure. single family residential use including the first floor. The deck is in the back and far more attractive than the previous deck. No abutters would even notice and as said the City Parking lot would not be affected by the deck proximity.

#### 2. Granting the variance will not be contrary to the public interest. The public interest for side lot setback to protect the abutter. Here a parking lot with stockade fence would not be seen nor impacted. Public interest is to upgrade a beautify property and this new deck is substantially more attractive.

3. A. There is an unnecessary hardship owing to special conditions of the property:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. The Ordinance indicates the general public interest to protect abutters but here there is absolutely no abutter impact.

ii. The proposed use is a reasonable one. The rear of the building has two existing, and the deck must be wide enough and deep enough to allow emergency egress and ingress.

3. B. There is an unnecessary hardship owing to the special condition of the property. The special conditions of the structure are its two rear doors for two separate apartments in this duplex. The Deck must be long enough to include both doors and deep enough so that persons may exist especially in an emergency. The building has been a duplex since before zoning and is an allowed use in this district. This district has many duplexes on small er lots.

4. Granting the variance would do substantial justice. Justice is to allow this deck and duplex to continue. It has been there since 2002 with no objection by anybody. The renovation plans were approved by the city and Code Department and this technicality was only discovered at the end of this two year process of renovations.

The uniqueness of this includes its duplex nature and fair sized but overly large back yard of the structure that dates back to the 1830s on a small sized lot and location in the City.

5. Granting the variance is not contrary to the spirit of the ordinance. The spirit of the ordinance was to protect abutters from crowding from an outdoor deck. Here a parking lot is the only affected abutter.



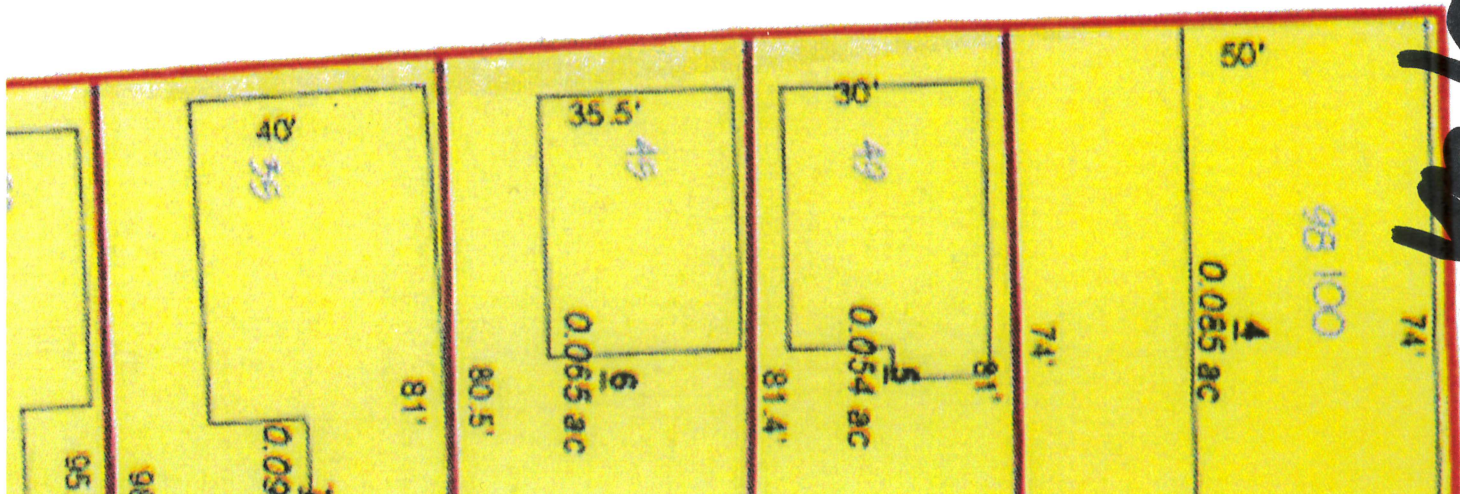
Mc Donough St

Site Plan

City Park  
0.129 ac



Rock-  
KINGHAM ST





UT #21-00  
25/2021  
UNITS

36'-3"

51 SIDEWALK

Flow P/av

CD

KIR3  
BUILT  
SPRIG'S  
PERSTAIR

TIPS  
OULD  
OL.

ASS HOOP  
ASSEMBLY

8'-4"

REPLACE OR  
REPAIR WOOD  
DECK, STAIRS & RAILINGS

PROPERTY LINE 0 FT  
WALLS (STAIR)  
1 HR PER UL-205  
OR ASTM E119

RECONSTRUCT  
DECK & STAIR

ADDITION

WOOD DECK  
8x10

RAIL

NEW SOLID TUBES  
@ 4' BELOW  
GRADE  
(TYP)

18

UNDER CONCRETE

STAIR 8 feet 6"

ABUTTER

2x6'S N  
W/OH-E  
W/CM-E

2'-10"

END  
JAN  
2021











Nov 2022

