

*Application of Cindy and Michael Walker
46 Willow Lane, Portsmouth, NH Map/Lot
0133-0018-0000*

APPLICANT'S NARRATIVE

I. The Property

The applicants, Cindy and Michael Walker, (collectively “the Applicant”) own and reside at the property located at 46 Willow Lane, which consists of a single-family dwelling with a detached shed¹. The Walkers bought the property in 2017. While formerly splitting their time in Massachusetts, this house and neighborhood is where they came to love Portsmouth and its people, ultimately deciding to make the city and 46 Willow Lane their full-time residence. With a growing extended family, they desire to build an addition to their home so they can host family for years to come.

II. Specific Variance Requests

The Applicant proposes to construct an addition to the house (the “Project”), which will include a family room extending from the existing kitchen, a primary bedroom on the second floor, and two additional bathrooms. The existing structure was built in 1924, with only two bedrooms and a single bathroom. Please see Exhibit A and C below for the existing and proposed site plan. To complete this Project, the Applicant requests variances from the following ordinances:

1. Section 10.321 to accommodate the modest enlargement of a lawful non-conforming structure by new construction not conforming to the below (2.c.) dimensional requirements of the GRA zone.
2. Section 10.521 Table of Dimensional Standards:
 - a. Building coverage relief to allow the Project which would increase the existing 14.7% building coverage to 27.5% where maximum building coverage of 25% is required for the GRA Zone.
 - b. Front yard setback relief to accommodate a garage by new construction to be located 2 feet from the property border with 50 Willow Lane where a 15-foot front yard setback is required in the GRA zone.
 - c. Side yard setback relief to extend the back right corner of the house 6 feet to continue the non-conforming right side of the house. The side yard setback would continue to be 6 foot 6 inches where a 10-foot side yard setback is required in the GRA zone.
3. Section 10.571 to allow the garage to be in the front yard and closer to the street than the primary structure.

¹ Please note, the shed would be removed before any construction and is not included in the calculation of building coverage.

III. Criteria to Grant Variance

In seeking the aforementioned relief, the applicant will demonstrate that: (a) the variances will not be contrary to the public interest, but consistent with the spirit and intent of the ordinances; (b) special conditions exist such that a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; (c) substantial justice will be done; and (d) granting the variances will not diminish the value of surrounding properties (*see Malachy Glen Associates, Inc. v. Town of Chichester, 152 N.H. 102, 105 (2007)*). The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

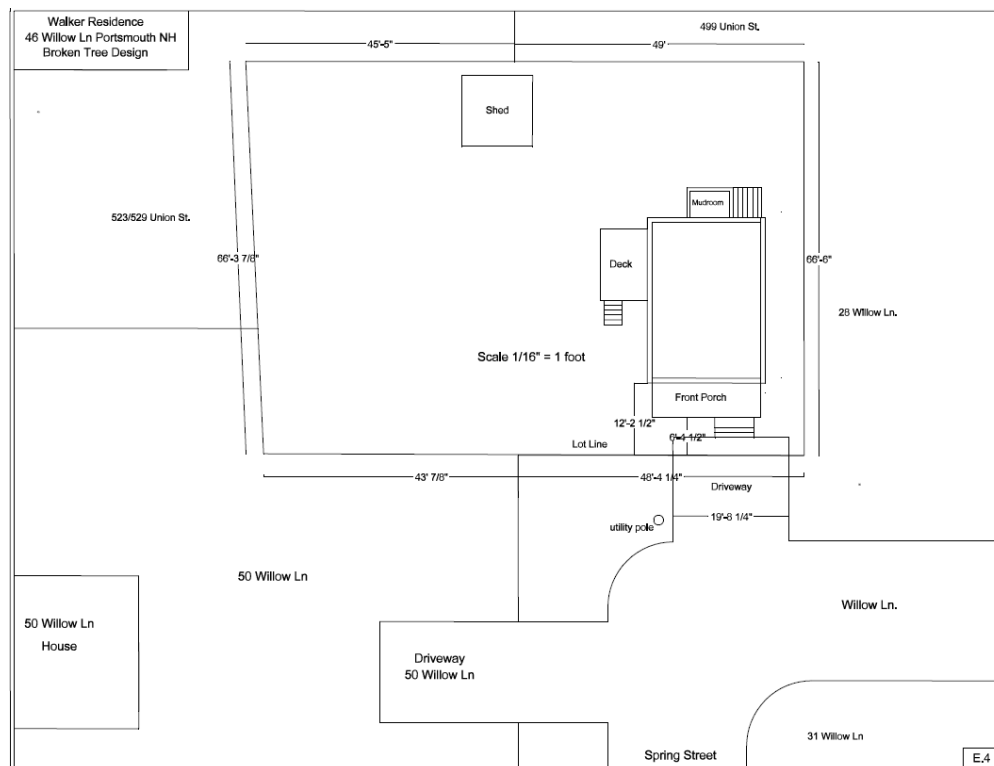
A. Granting the requested variances will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest.

The “public interest” and “spirit and intent” requirements are considered together here pursuant to *Malachy Glen Associates*. The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

The essential residential characteristics of the neighborhood would not be altered by this project and the modest increase in building footprint resulting from this project will in no way compromise the neighborhood.

The lot at 46 Willow Lane is unusual because it sits at the corner of two side streets – Willow Lane and Spring Street. As you can see in Exhibit A, which shows the existing site plan, part of the front yard borders the side of the neighbor’s lot at 50 Willow Lane.

Exhibit A. Existing Site Plan



This is relevant to the Applicant's proposal and request for relief because the area where the Applicant desires to build the garage, while closer to the edge of the property than the ordinance allows, will not abut a street or the neighbor's house. Instead, it will abut the front-most region of the neighbor's side yard, leaving plenty of space between their house and the new garage construction. Please see Exhibit B, which are photographs of the Applicant's and neighbor's yards, that indicate where the Applicant desires to build the garage foundation. The intent of the setback is to ensure that a new structure will not encroach upon a neighbor's home, nor be too close to the street. The proposal to build the driveway and garage as shown on Exhibit C (the "Proposed Site Plan") is an attempt to minimize the length of the driveway, while also preserving as much open and pervious space as possible. It also does not encroach on the neighbor's home, as one can see in Exhibit B. The Applicant has had oral conversations with the homeowner of 50 Willow Lane to discuss the Project and there have no objections to the plans.

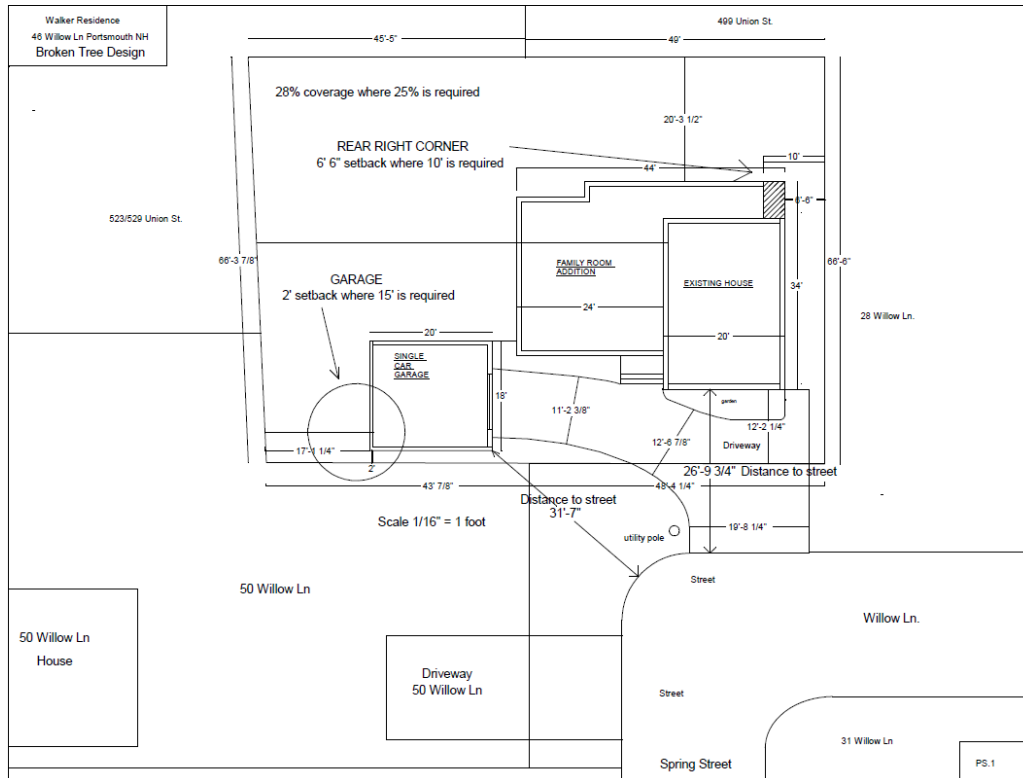
In addition, the number of off-street parking spots will increase by three. This will minimize the use of the corner of Willow and Spring Streets for parking. These streets have no sidewalks, but they have become a wonderfully quiet and safe walking and biking spot for the area. Cars on the street only get in the way.

Exhibit B. Proposal for Garage Placement





Exhibit C. Proposed Site Plan



Were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would public health, safety or welfare be threatened in any way.

1. The Project will not encroach on other surrounding properties, with the increased size of the house being consistent with other properties in the area.
2. The Project will enhance the existing structure and improve the esthetic of the area.
3. The Project will improve the safety and welfare of the neighbor by reducing vehicles in the roadway.
4. The 6 feet addition is an extension of the existing non-conforming right side of the house. The abutting house (28 Willow Ln) is approximately 50 feet.

B. Special conditions exist such that a literal enforcement of the ordinance would result in an unnecessary hardship.

There would be many benefits of adding a garage and longer driveway to this property, but the current site plan and configuration of the property requires a creative approach to making that a reality. Why does the Applicant desire these additions to their property? First, the lack of a garage in coastal New Hampshire can be challenging, especially during the winter. See Exhibit D below.

Exhibit D. Winter Hardship



Second, when family and friends visit, the Applicant would much prefer for them to park in a driveway. Neither Spring Street nor Willow Lane have sidewalks and parking on the street can make it difficult for both pedestrians and other drivers to navigate the turn. The

driveway and garage as proposed could increase off-street parking by a total of three vehicles, which would benefit the Applicant, neighbors, and the general public who use the street.

Regarding the request for setback relief in the back right corner of the house, there are also special conditions existing that a literal enforcement of the ordinance would result in an unnecessary hardship. One can see from the Existing Site Plan (Exhibit A) and the Proposed Site Plan (Exhibit C) that the existing right side of the house is non-conforming to the 10-foot side yard setback, as required in the GRA zone. As part of the Project, the Applicant would like to uniformly extend the back of the house by six feet, which would require extending the legal non-conforming side of the house by six feet. As one can see in Exhibit E below, the existing property already has an attached un-winterized shed with stairs leading down in the back right corner. These features were constructed well before the Applicant moved in. In asking for relief, the Applicant desires to clean up this back corner by extending the side and back of the house as proposed in Exhibit E and make the space useful again. Since this attached shed and set of stairs are already in place, extending the home to cover this space would not affect the actual footprint of the home, and would therefore have no negative impact on the neighbors and general public. The only impact would be improved use and livability of the existing space by the homeowner and increased property value.

Exhibit E. Proposed Back Corner Extension



C. Substantial justice would be done by granting the variance.

Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property.

To begin, the use is a reasonable use. The proposal is a residential use in a residential zone. In fact, the Applicant hopes to improve the residential use of the property, by using the space more effectively. In regard to the request to allow the Applicant to increase the building footprint to 2.5% above the maximum coverage allowed under the ordinance, there is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The purpose of the building coverage requirement is to prevent overcrowding of lots and unsightly and inconsistent massing of structures. The amount of additional building coverage proposed is minimal and not out of character for this neighborhood.

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner. This plan, particularly the proposal to build the garage and expand the driveway as shown on Exhibit C, will preserve as much of the backyard as possible for outdoor activities. A garage parking space is considered to be essential, if possible, in New Hampshire (see Exhibit D). The back right corner of the house is, arguably, a waste of space in its current design (see Exhibit E). The Applicant would like to improve the home by converting the space taken up by the attached unwinterized shed and stairs into a more useful, aesthetically pleasing, and logical extension of the house. Finally, the increase in building coverage is entirely reasonable given the size of the lot and the additional open space of all of the surrounding lots.

D. The values of surrounding properties will not be diminished by granting the variance.

The proposal will improve the functionality and livability of the Applicant's property and increase the value of the Applicant's Property and neighboring homes. The values of surrounding properties will not be negatively affected in any way. Accordingly, the relief requested here would not in any way frustrate the purpose of the ordinance and there is no fair and substantial relationship between the purpose of the setback requirements and their application to this property.

IV. Conclusion.

For the foregoing reasons, the Applicant respectfully requests the Board grant the variance as requested and advertised.

Respectfully submitted,

Dated: 1/31/24

By: _____

Michael and Cindy Walker

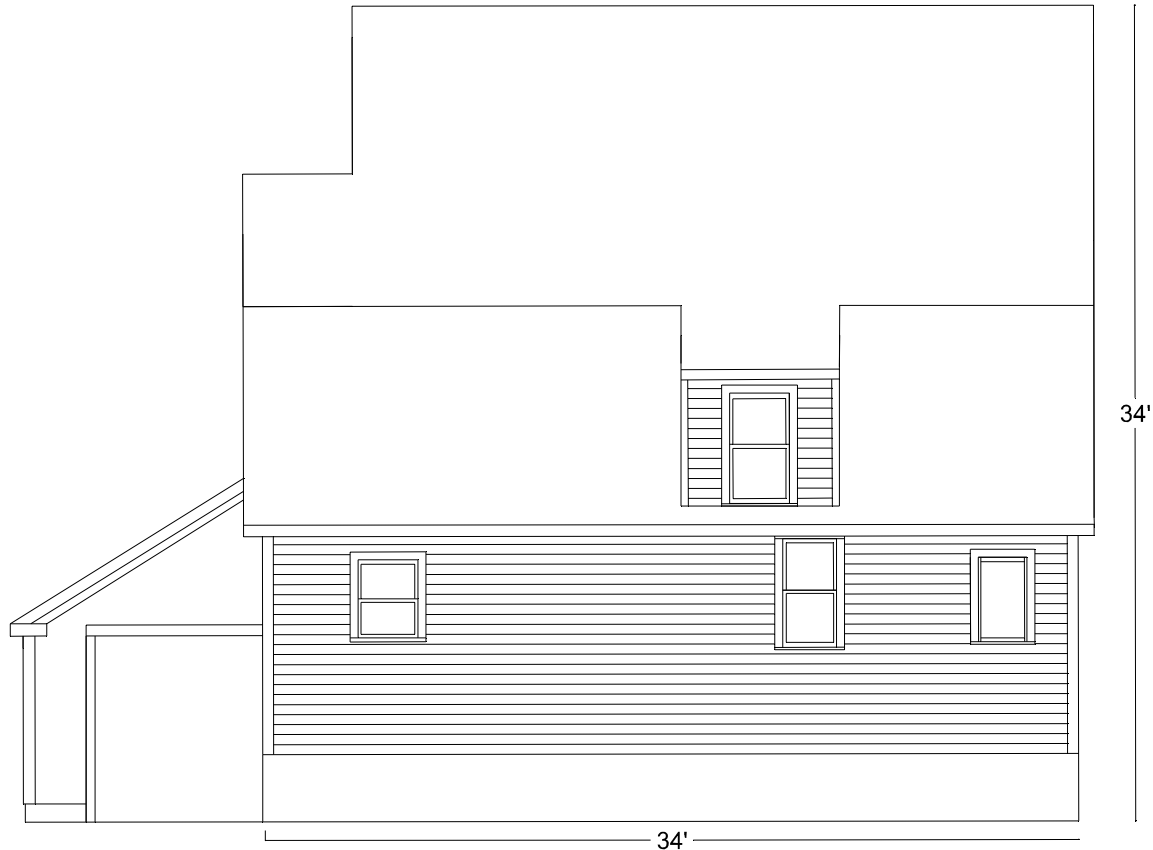
46 WILLOW LN.
FRONT ELEVATION



Scale 1/8" = 1ft.

Walker Residence
46 Willow Ln Portsmouth NH
Broken Tree Design

46 Willow Ln
Proposed Right Elevation



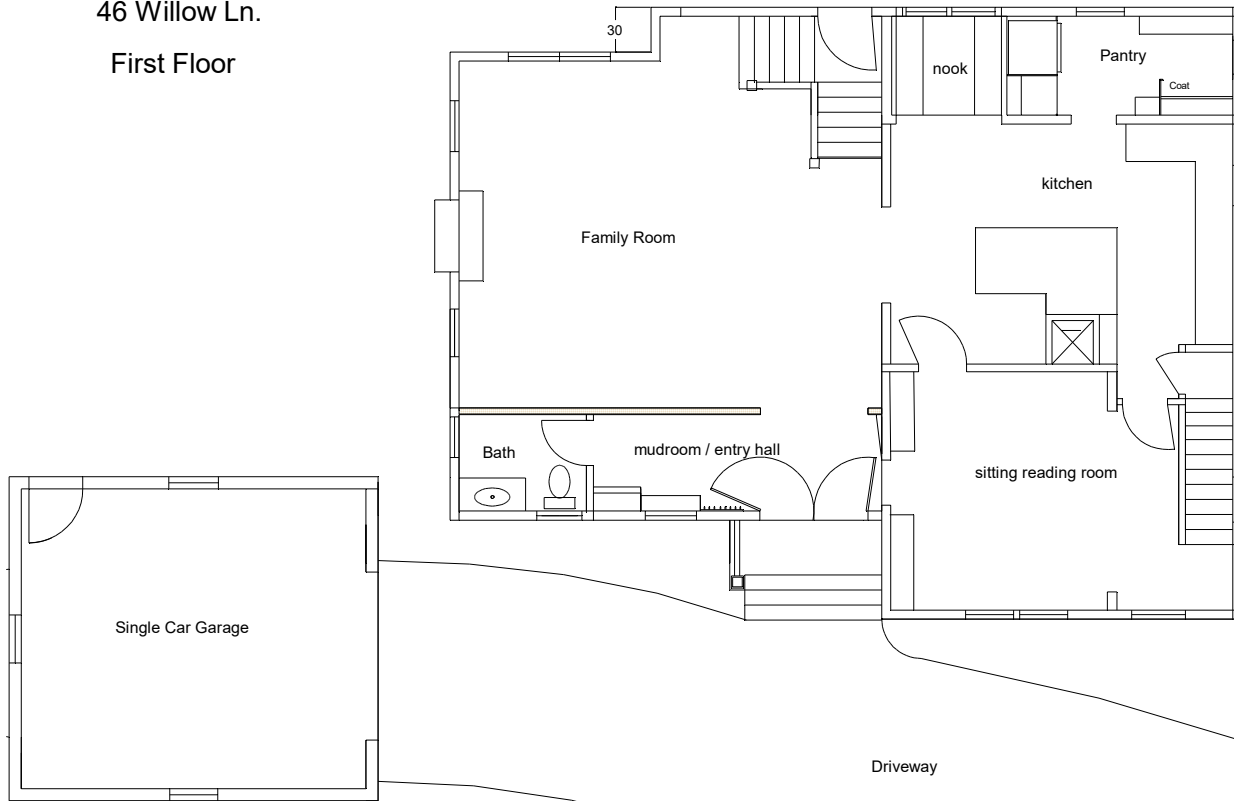
Scale 1/8" = 1 Foot

Walker Residence
46 Willow Ln Portsmouth NH
Broken Tree Design

46 Willow Ln.
First Floor

66'-3 1/4"

66'-6"



42'-5 1/8"

49'

Broken Tree Design
Scale 3/32=1ft.
46 Willow Ln.

utility pole

Willow Ln.