

**BOARD OF ADJUSTMENT
PORTSMOUTH, NEW HAMPSHIRE**

Remote Meeting Via Zoom Conference Call

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You are required to register to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Public comments can be emailed in advance to planning@cityofportsmouth.com. For technical assistance, please contact the Planning Department by email (planning@cityofportsmouth.com) or phone (603) 610-7216.

Per NH RSA 91-A:2, III (b) the Chair has declared the COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2021-01, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

7:00 P.M.

MARCH 16, 2021

AGENDA

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meeting of February 16, 2021.

II. OLD BUSINESS

A) Petition of **Andrew & Katy DiPasquale, Owners**, for property located at **80 Fields Road** whereas relief is needed from the Zoning Ordinance to remove an existing shed and construct a new 12' x 16' shed which requires the following: 1) A Variance from Section 10.521 to allow a) a 3 foot rear yard where 9 feet is required; b) a 3 foot left side yard where 9 feet is required; and c) to allow 20.5% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 171 Lot 8 and lies within the Single Residence B (SRB) District.

B) **WITHDRAWN** Petition of the **Elizabeth Larson Trust of 2012, Owner**, for property located at **668 Middle Street (off Chevrolet Avenue)** whereas relief is needed from the Zoning Ordinance to subdivide one lot into two lots and construct 4, 2-family structures on proposed Lot 2 which requires the following: 1) A Variance from Section 10.513 to allow 5 free-standing dwellings on a lot where only one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 4,517 square feet where 7,500 square feet per dwelling unit is required.

Said property is shown on Assessor Map 147 Lot 18 and lies within the General Residence A (GRA) District. **WITHDRAWN**

III. PUBLIC HEARINGS – NEW BUSINESS

A) Petition of **Richard & Susan Shea, Owners**, for property located at **412 Colonial Drive** whereas relief is needed from the Zoning Ordinance to construct an attached 18' x 24' garage with new entry which requires the following: 1) A Variance from Section 10.521 to allow a) a 7 foot left side yard where 10 feet is required, and b) a 20 foot front yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 260 Lot 54 and lies within the Single Residence B (SRB) District.

B) Petition of **The Prendergast Family Revocable Trust of 2012, Owner**, for property located at **70 Sheffield Road** whereas relief is needed from the Zoning Ordinance to construct an 8' x 22' farmers porch which requires the following: 1) A Variance from Section 10.521 to allow a) a 19 foot front yard where 30 feet is required and b) to allow 25% building coverage where 20% is the maximum allowed. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 233 Lot 46 and lies within the Single Residence B (SRB) District.

C) Petition of **Peter MacDonald, Owner** for property located at **58 Taft Road** whereas relief is needed from the Zoning Ordinance to construct a 12' x 16' rear addition with attached deck which requires the following: 1) A Variance from Section 10.521 to allow 24% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 251 Lot 12 and lies within the Single Residence B (SRB) District.

D) Petition of **Joel & Jessica Harris, Owners**, for property located at **2 Monroe Street** whereas relief is needed from the Zoning Ordinance to demolish the existing garage and construct new 1 1/2 story garage which requires the following: 1) A Variance from Section 10.521 to allow 26.5% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 152 Lot 8 and lies within the General Residence A (GRA) District.

IV. OTHER BUSINESS

V. ADJOURNMENT

**BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE
Remote Meeting via Zoom Conference Call**

7:00 P.M.

FEBRUARY 16, 2021

MINUTES

MEMBERS PRESENT: Chairman David Rheaume, Vice-Chairman Peter McDonell, Jim Lee, David MacDonald, Christopher Mulligan, John Formella, Arthur Parrott, Alternate Phyllis Eldridge, Alternate Chase Hagaman

MEMBERS ABSENT: None

ALSO PRESENT: Peter Stith, Planning Department

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meetings of January 19 and 26, 2021.

*The January 19 and January 26, 2021 meeting minutes were **approved** as presented by unanimous vote, 7-0.*

Chairman Rheaume stated that Item E was withdrawn by the applicant. He said Petitions C and G were requested to be postponed by the applicants.

*It was moved, seconded, and **passed** by unanimous vote (7-0) to take Item C, 80 Fields Road, and Item G, 668 Middle Street, out of order.*

Note: The Board addressed Items C and G and then heard the other petitions in order.

II. OLD BUSINESS

A) Petition of **Karona, LLC, Owner**, for property located at **36 Artwill Avenue** whereas relief was needed from the Zoning Ordinance to convert an existing garage into a Detached Accessory Dwelling Unit which requires the following: 1) A Variance from Section 10.521 to allow 0 feet of street frontage where 100 feet is required. Said property is shown on Assessor Map 229 Lot 4 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE PETITION

Attorney Tim Phoenix was present on behalf of the applicant, and the applicant Mr. Butch Ricci was also present. Attorney Phoenix reviewed the history of the lot and why the Detached

Accessory Dwelling Unit (DADU) met the current zoning requirements. He said the neighbor's concerns about an easement and sewer rerouting were resolved. He reviewed the criteria in full.

Mr. MacDonald asked about the DADU use. Chairman Rheume explained that the State passed a new law associated with DADUs that allowed for a second unit and that the applicant would go before the Planning Board to get a Conditional Use Permit (CUP).

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Mulligan moved to **grant** the variance for the petition as presented and advertised, and Vice-Chair McDonell seconded.*

Mr. Mulligan said the petition had been before the Board in a few iterations and the application was identical to the one that was approved in 2017, and he saw nothing that would change his mind as to why the variance should not be granted. He said granting the variance would not be contrary to the public interest, and the public's health, safety and welfare would not be negatively impacted. He said the Planning Board still had to approve the CUP for the use, and the frontage would not violate the spirit of the ordinance. He said granting the variance would not diminish the values of surrounding properties, noting that the construction was already completed and had been in place for some time and hadn't had any negative impact on property values, and putting that construction to use wouldn't either. He said substantial justice would be done because the loss to the applicant would far outweigh any gain to the public if the Board required strict compliance with the frontage requirement. He said denying the petition would result in unnecessary hardship because the property had special conditions, including that it was on a private road and couldn't comply with the frontage requirement no matter what was there, so there was no fair and substantial relationship between the frontage requirement and its application to the property. He said the road was private, but there was sufficient access and adequate space, light, and air. He said that everything that was intended by the ordinance when the frontage requirement was imposed was already in place. He said it was a residential use in a residential zone and met all the criteria.

Vice-Chair McDonell concurred and had nothing to add.

*The motion **passed** by unanimous vote, 7-0.*

III. PUBLIC HEARING – NEW BUSINESS

A) Petition of **Brian Short, LLC, Owner**, and **Alex Vandermark, Applicant**, for property located at **2225 Lafayette Road** whereas relief was needed from the Zoning Ordinance to add a mobile juicery trailer to the property which requires the following: 1) A Special Exception according to Section 10.440 Use #18.40 where this use is allowed by Special Exception. Said property is shown on Assessor Map 272 Lot 2 and lies within the (G1) District.

SPEAKING TO THE PETITION

The applicant Alex Vandermark was present. He reviewed the petition, noting that the trailer would sit on an existing concrete patio and that customers would park in the Custom Pools parking lot. He said the trailer would be designed by a reputable food truck company.

Mr. Parrott asked whether the business would be seasonal or full time and what the hours of operation would be. Mr. Vandermark said the hours in the downtown location were 7 am to 7 pm and that the new location would be open year-round but on a case-by-case business in the winter. Mr. Parrott asked if additional signage close to the road would be applied for. Mr. Vandermark said he would probably have signage within the Custom Pools sign but no additional signage.

Chairman Rheume asked if the utilities would be drawn from the main building or if the trailer would be self-sufficient. Mr. Vandermark said the goal was to eventually have a propane tank for the trailer, but that hooking up to Custom Pool's utilities might be more efficient. Chairman Rheume noted that the CUP was for temporary use and asked what the future plan was. Mr. Vandermark said a drive-through structure was too cost prohibitive, so he wanted to test the market by using a trailer and eventually have a freestanding unit. The temporary use permitted under the ordinance was further discussed.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheume closed the public hearing.

DISCUSSION OF THE BOARD

Mr. Lee said there was no time limit put on the variance the Board granted to the Wrap Shack. Chairman Rheume said it was a different circumstance because hours of operation were stipulated and it was a long-term solution, with partial building use. Vice-Chair McDonell said that everything under Section 18 of the ordinance was considered a temporary use, but it included construction trailers and so on. He said the Board would approve the special exception under Section 18.40, which was a use for the seasonal sale of products like Christmas trees, so he thought Section 18.40 likely presumed that the use would be seasonal and Section 18 as a whole presumed a temporary use. He said there was no other place to shoehorn it because it was a trailer and presumed to be temporary or seasonal. He said the request was reasonable and met the

requirements for a special exception. Mr. Formella said the Planning Department would decide how seasonal the business had to be or if it fell within what the Board granted.

DECISION OF THE BOARD

*Mr. Formella moved to **grant** the special exception as presented and advertised, and Mr. Lee seconded.*

Mr. Formella said the petition met the requirements for special exception standards as provided in the ordinance. He said the seasonal aspect of the business seemed to fit and that, even though the applicant said he didn't have a time limit that he could commit to, the trailer use would be seasonal in some way, based on the fact that it wouldn't operate much in winter. He said the Planning Department would do a good job in keeping the business within the parameters of the ordinance requirements. He said granting the special exception would pose no hazard to the public or adjacent properties on account of fire, explosion, or release of toxic chemicals, noting that the use was less impactful than the surrounding uses. He said there would be no detriment to property values on account of the location or scale of the trailer, parking areas, accessways, odors, and so on. He said he didn't see any creation of a traffic safety hazard or a substantial increase in the level of traffic congestion because the trailer would not be right on the road, and there was existing parking. He said the trailer would pose no excessive demand on municipal services and no significant increase of stormwater runoff onto adjacent properties or streets. He said the special exception should be granted.

Mr. Lee concurred and had nothing to add. Chairman Rheume said he would support the motion. He said food trucks were becoming more popular and the Planning Department might need to further address what constituted a food truck's permanent or temporary use.

*The motion **passed** by unanimous vote, 7-0.*

B) Petition of **Michael & Cathi Stetson, Owners**, for property located at **406 Lang Road** whereas relief was needed from the Zoning Ordinance for the keeping of chickens which requires the following: 1) A Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where the use is permitted by Special Exception. Said property is shown on Assessor Map 289 Lot 7 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE PETITION

The applicants Michael and Cathi Stetson were present. Ms. Stetson said they had over eight acres of property and that the coop was located between the house and the woods. She said the coop would meet all the special exception criteria and would not affect her neighbors. She said they wanted no more than 6-8 hens, and no roosters.

In response to Mr. MacDonald's questions, Mr. Stetson said they hadn't raised chickens before but knew other people who had. He said he and his wife did a lot of research and were prepared.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Parrott moved to **grant** the special exception, and Mr. MacDonald seconded.*

Mr. Parrott said the special exception request met the standards as provided by the ordinance and that chickens were farm animals and were permitted in that district. He said granting the special exception would pose no hazard to the public or adjacent properties on account of fire, explosion, or release of toxic materials because the other properties were quite a distance away and the activity was a benign one. He said it would pose no detriment to property values in the vicinity or change in the essential character of the area because the area was more of a rural type, with long distances between the residences, and there were no concerns about parking, access, odors, and so on. He said granting the special exception would pose no creation of a traffic safety hazard or substantial increase in the level of traffic, no excessive demand on municipal services, and no increase of stormwater runoff onto adjacent properties or streets because of the chicken coop's nature. He said the petition met all the special exception criteria and should be approved.

Chairman Rheume said the Planning Staff recommended a stipulation that no more than eight chickens be allowed, and no roosters. Mr. Parrott said he would include the stipulation in his motion, and Mr. MacDonald agreed.

The amended motion was:

*Mr. Parrott moved to **grant** the special exception, with the following stipulation:*

- *That there be no more than eight chickens, and no roosters.*

*Mr. MacDonald seconded. The motion **passed** by unanimous vote, 7-0.*

C) REQUEST TO POSTPONE Petition of **Andrew & Katy DiPasquale, Owners**, for property located at **80 Fields Road** whereas relief is needed from the Zoning Ordinance to remove an existing shed and construct a new 117 square foot shed on a 12' x 15' platform which requires the following: 1) A Variance from Section 10.521 to allow a) a 3 foot rear yard where 9 feet is required; and b) a 3 foot left side yard where 9 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 171 Lot 8 and lies within the Single Residence B (SRB) District.

REQUEST TO POSTPONE

Mr. Stith said the homeowner sent an email requesting a postponement to the March meeting due to revised plans that required the resending of the legal advertisement.

*Mr. MacDonald moved to **postpone** the petition to the March 16 meeting, and Vice-Chair McDonell seconded.*

Mr. MacDonald said there was nothing urgent about the petition and that the Board could wait until the applicant was ready to appear before the Board. Mr. McDonell concurred.

*The motion **passed** by unanimous vote, 7-0.*

Vice-Chair McDonell recused himself from the following petition, and Ms. Eldridge took a voting seat.

D) Petition of **Blair Rowlett & Carolina Hoell, Owners**, for property located at **53 Decatur Road** whereas relief was needed from the Zoning Ordinance for the keeping of chickens which requires the following: 1) A Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where the use is permitted by Special Exception. Said property is shown on Assessor Map 260 Lot 101 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE PETITION

The applicants Blair Rowlett and Carolina Hoell were present and said they wanted to have four chickens. Mr. Rowlett said the property was fenced in and the neighbors were supportive.

There were no questions from the Board. Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

Chairman Rheume said the Planning Staff recommended stipulating no more than four chickens and no roosters. Mr. Mulligan asked to modify the stipulation to six hens, which was typically allowed, so that the applicant would have more flexibility and wouldn't have to return.

*Mr. Mulligan moved to **grant** the special exception, with the following stipulation:*

- *That there be no more than six hens, and no roosters.*

Mr. Lee seconded.

Mr. Mulligan said farm animals such as chickens were permitted under the ordinance and would pose no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials. He said granting the exception would pose no detriment to the properties in the vicinity or change in the essential character of the area due to odors, dust, pollutants, unsightly storage of equipment and so on because none of that applied. He said it would pose no excessive demand on municipal services and would not result in increased stormwater runoff onto adjacent streets or properties. He said the petition met all the criteria.

Mr. Lee concurred and had nothing to add.

*The motion **passed** by unanimous vote, 7-0.*

E) Petition of **Melissa Williamson, Owner**, for property located at **295 Thornton Street** whereas relief was needed from the Zoning Ordinance to construct a two-story addition which requires the following: 1) A Variance from Section 10.521 to allow a 5 foot front yard where 15 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 162 Lot 4 and lies within the General Residence A (GRA) District.

The petition was withdrawn by the applicant.

Chairman Rheume recused himself from the following petition and Vice-Chair McDonell took his seat as Acting Chair. Mr. Hagaman took a voting seat.

F) Petition of **SAI Builders, LLC, Owner**, for property located at **27 Elwyn Avenue** whereas relief was needed from the Zoning Ordinance to install an AC condensing unit which requires the following: 1) A Variance from Section 10.521 to allow an 8 foot right side yard where 10 feet is required. Said property is shown on Assessor Map 113 Lot 28-1 and lies within the General Residence A (GRA) District.

Acting-Chair McDonell stated that the request came before the Board in November 2020, when the request was for a different location and the abutter was concerned with noise, so the petition was denied. He said there was now a new location and a quieter condenser model. He asked whether Fisher v. Dover applied. Mr. Hagaman said he found the application sufficiently changed due to the different location and equipment. Acting-Chair McDonell agreed.

SPEAKING TO THE PETITION

Attorney Derek Durbin representing the applicant and the building contractor Patrick Nyson were present. Attorney Durbin said the condenser units were quieter and were relocated to the middle of the house so that they would have less of an impact on the abutter. He said the abutter submitted a letter of approval. He reviewed the criteria and said they would be met.

Mr. Hagaman asked if the new units were small enough relative to the size of the house that they would need to run all summer long. Attorney Durbin he wasn't sure how often the units would run but knew they were not designed to constantly run. He said the new models were more efficient and most likely adequate for the home's size. Mr. Hagaman asked if the condensers could be located elsewhere on the house if the petition was denied. Attorney Durbin said they considered all the possible locations and determined that the middle of the home was the only feasible alternative due to the way the home was built out. Mr. Nyson said they consulted with the HVAC vendor and felt it was an acceptably sized unit for the house. He said the units were configured differently from the previous ones, which was why the setback was increased from seven to eight feet. He agreed that there wasn't any other feasible location to put the condenser. He said they met with the abutter and that she was in approval.

Acting-Chair McDonell opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present. Acting-Chair McDonell noted that the abutter's letter of support was received. He closed the public hearing.

DECISION OF THE BOARD

*Mr. Mulligan moved to **grant** the variance for the petition as presented and advertised, and Mr. Hagaman seconded.*

Mr. Mulligan said the applicant did a nice job of building the house and making it fit in with the neighborhood, and that he also did a good job in cooperating with the abutter and resolving the concern that led to the denial of the original request. He said it was unfortunate that a mistake was made in the condenser's initial design that led to the requirement of the setback relief, but the only other solution would be a substantial redesign of the house, which would be grossly punitive to the applicant. He said granting the variance would not be contrary to the public interest or the spirit of the ordinance because the essential character of the neighborhood would remain residential and the public's health, safety, and welfare would not be threatened. He said substantial justice would be done because the loss to the applicant if the Board required strict compliance with the 10-ft side yard setback meant that the applicant would have to redesign the house and there would be no gain to the public in doing that. He said the values of surrounding properties would not be diminished because the amount of relief requested was very minor. He said literal enforcement of the ordinance would result in unnecessary hardship because the lot was nonconforming and there was no fair and substantial relationship between the purpose of the setback and its application to the property. He said the purpose of the setback ordinance was to ensure sufficient light, air, and emergency access between properties, and putting in small condensers would not negatively impact those purposes. He said the use was a reasonable one, a residential use in a residential zone, and should be approved.

Mr. Hagaman concurred with Mr. Mulligan and had nothing to add.

*The motion **passed** by unanimous vote, 7-0.*

G) Petition of the **Elizabeth Larson Trust of 2012, Owner**, for property located at **668 Middle Street (off Chevrolet Avenue)** whereas relief was needed from the Zoning Ordinance to subdivide one lot into two lots and construct 4, 2-family structures on proposed Lot 2 which requires the following: 1) A Variance from Section 10.513 to allow 5 free-standing dwellings on a lot where only one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 4,517 square feet where 7,500 square feet per dwelling unit is required. Said property is shown on Assessor Map 147 Lot 18 and lies within the General Residence A (GRA) District.

REQUEST TO POSTPONE

Chairman Rheume said the applicant submitted an email noting that the abutter may not have been properly noticed or fully aware of the applicant's intentions, so he was asking to postpone his petition to allow the abutter to review it and provide input to the Board.

*Vice-Chair McDonell moved to **grant** the request for postponement, and Mr. Parrott seconded.*

Vice-Chair McDonell said the reasons were reasonable enough to grant a postponement and that the Board postponed petitions as a matter of course the first time around. Mr. Parrott agreed.

*The motion **passed** by unanimous vote, 7-0.*

Chairman Rheume was recused from the following petition, and Vice-Chair McDonell assumed his seat at Acting-Chair. Ms. Eldridge took a voting seat.

H) Petition of **Gregory & Amanda Morneault, Owners**, for property located at **137 Northwest Street** whereas relief was needed from the Zoning Ordinance to subdivide one lot into two lots and construct a new single family dwelling which requires the following: 1) Variances from Section 10.521 to allow: a) a lot depth of 44.7 feet for Lot 1 and 25.4 feet for Lot 2 where 70 feet is required for each; b) a 3 foot front yard where 15 feet is required; and c) a 6.5 foot rear yard where 20 feet is required. Said property is shown on Assessor Map 122 Lot 2 and lies within the General Residence A (GRA) District.

Acting-Chair McDonell noted that the request in November 2020 to subdivide the lot and build a duplex was denied and that the current request was different because it no longer required relief from lot-area-per-dwelling and required less relief from front and rear yard setbacks. He asked whether Fisher v. Dover should apply. Ms. Eldridge said the petition was substantially different because it was for a single-family home and didn't need a variance for the lot size. Mr. Parrott and Acting-Chair McDonell agreed.

SPEAKING TO THE PETITION

Attorney Tim Phoenix was present on behalf of the applicant. The applicants Daryl and Reginald Moreau, owners Amanda and Gregory Morneault, and project engineer John Chagnon, were also present. Attorney Phoenix said the relief sought was driven by the lot's width and that the applicant would have to go before the Planning Board for subdivision approval. He said the single-family home would fit much better on the lot than the duplex and that the concern about the turnaround and its use by the city was resolved with the easement. He said they also had letters of support from several abutters. He reviewed the criteria and said they would be met.

Mr. MacDonald said the difference in elevation between the roadway and the lot where the house would be built was tall and steep, and he was concerned about the soil's stability once the plantings were cleared. He asked if a study had been done to ensure that the soil was stable enough to support the roadway with a house there, or whether the applicant had considered steps to mitigate the risk of the road caving in. Attorney Phoenix said most of the steep hill was up the hill and not on the lot, so the applicant wouldn't have the right to remove any shrubbery. He said it was an issue that would be vetted by the Planning Board. Mr. Chagnon said the area where the house would be constructed was flat and below the slope and could be addressed when the construction was reviewed. In response to Mr. Hagaman's questions, Mr. Chagnon said the hillside would run a bit through the property line but there would be a flat area between the house and the property line and a side yard that could be utilized for outdoor activities. He said it would not require a retaining wall because they would add fill and raise the grade. Attorney Phoenix said the easement area had been agreed to by the developers and the City and was wide enough for small and large trucks to maneuver. He said the proposed driveway was for the property owner's use. Mr. Chagnon said the easement would not be exclusive, so the owner could use it to gain access to the garage and Northwest Street. He noted that the petition still had to go through site review, and it was further discussed.

Acting-Chair McDonell opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Andrea Arcito of 121 Northwest Street said she was in support of the project and thought it was a wonderful place to site a small home and mitigate some noise from the bypass.

SPEAKING IN OPPOSITION TO THE PETITION

Attorney Joseph Russell representing the abutter Mary Mahoney of 206 Northwest Street said none of their previous concerns had been satisfied. He said the proposed four-bedroom home would command a substantial price instead of being affordable housing, and the existing turnaround would still align with Ms. Mahoney's home and impact her. He said the proposed home had a more traditional look, but the design and layout still didn't fit in with the neighborhood's character because most homes in the area had no connected garages or any garage at all. He said the density and massing would be out of character with the neighborhood due to the lot's configuration, minimal setbacks, and lack of depth. He said the project would

diminish Ms. Mahoney's property's value by having an 84-ft long home and creating a canyon effect between the two homes, and the size and length of the proposed home would dwarf Ms. Mahoney's home. He said the proposed subdivision created the hardship.

Michael Petrin of 239 Northwest Street said he was concerned that the proposed maintenance on the turnaround might cause snow pileup and waters runoff on his property.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney Phoenix said he never stated that the home would be affordable housing, but rather that a house of whatever size would be more affordable due to the lot's location near by the bypass. He said the house would have three bedrooms, not four, and the trucks would back out into the street instead of looping near the abutter's home. He said the density was significant because there was 47 feet between the two homes and the wide expanse of a bypass. He said Ms. Mahoney just did not want a house there. He said the rights of a property owner who had a lot that was more than sufficient to put a home on were balanced against the rights of the neighbor, and he thought there was no comparison in this case.

No one else was present to speak, and Acting-Chair McDonell closed the public hearing.

DISCUSSION OF THE BOARD

Mr. Formella said the request was a reasonable one because the applicant was reducing the proposed home from a duplex to a single-family, which was a significant change, and the lot's shape and size made it unique. He said he could empathize with Ms. Mahoney but wasn't convinced that the project would reduce her property's value because her house was on the water and was sizable. He said when the rights of the property owner were balanced and the criteria were considered, it was more reasonable to allow something to be built on the lot instead of nothing. Mr. Lee said he had supported the duplex and was in more support for the single-family. He said there was a condominium at 250 Northwest Street selling for \$900,000, so he didn't think that building a nice new house in a challenging location was a problem. Mr. MacDonald said he was more concerned about the safety of the public and roadway and thought the Board should view the lot in person to see how steep the grades were and how small the spaces were for retaining soil. Ms. Eldridge said TAC would address the safety issue, and that Mr. Lee had assured the Board that the project would not diminish property values, so she was in favor of the project. Mr. Parrott said he had supported the previous proposal and thought the revised one was even better, and the engineering report made him even more confident that the location was feasible to build upon. He said the embankment had been there a long time and the road wasn't tipping or falling down, so it was a stable site. As a former landlord of various residential properties, he said some people across the street would like the vacant lot as it was and other people would be happy to have a nice new house on it. He said just because an overgrown vacant lot would be changed didn't mean that any nearby property would diminish in value.

Acting-Chair McDonell said he had been opposed to the previous request because he hadn't thought that it met all the criteria, and he had been primarily concerned with the duplex, which he felt would have diminished surrounding property values and altered the essential character of

the neighborhood. He said he thought the neighbor across the street might be affected but that it wouldn't lead to her property's diminishment in value or a change in the essential character of the neighborhood. He said the lot was still wide but was dictated by its shape, and the house wasn't huge but had to look wide enough to get a garage on a lot that was shaped that way. He said there were valid issues about water on neighboring properties and the slope but that they would be addressed during the subdivision process.

DECISION OF THE COMMISSION

*Mr. Formella moved to **grant** the variance for the petition as presented and advertised, and Mr. Parrott seconded.*

Mr. Formella referred to his previous comments. He said granting the variance would not be contrary to the public interest or to the spirit of the ordinance. He said subdividing the lot and creating a second lot and granting the relief necessary to build the home would not alter the essential character of the neighborhood because it was a neighborhood of single-family homes that tended to be pretty close to the property line, including the property across the street. He said it would not be a threat to the public's health, safety, or welfare based on Board's purview, and that a subsequent land board could address issues like grading or stormwater runoff. He said substantial justice would be done because if the Board didn't grant the variance, there would be a loss to the applicant and property owner, and he didn't see any gain to the public. He said there would be some impact to the property across the street but that it wouldn't be significant enough to justify leaving the spot vacant. He said granting the variance would not diminish the values of surrounding properties, noting that a few of the Board members with realtor experience agreed. He said the neighbor across the street would be impacted, but he didn't see how her property's value would be diminished because it was oriented toward the water and the fact that there would be a house on the other side of the street between the neighborhood and the bypass didn't convince him that property values in the area would be diminished. He said the property's special conditions included the fact that the lot was uniquely large and shaped, so it was uniquely suitable to be subdivided into a second lot to allow for another home in the neighborhood. He said the relief request was only lot depth and dimension relief to support space, light, and air, and the home would be up against a highway on one side and a house oriented toward the water on the other side, so there was no fair and substantial relationship between the applicant's property and the purpose of the criteria. He said the proposed use was reasonable, a single-family home and not a duplex, and that the project met all the criteria and should be approved.

Mr. Parrott concurred. He said the Board gave the petition a thorough airing and considered all the aspects, listened to the opinions, and addressed the neighbor's concerns. He said the five criteria had not been an easy task to review but had been thorough.

*The motion **passed** by unanimous vote, 7-0.*

*It was moved, seconded, and **passed** by unanimous vote (7-0) to go beyond the 10:00 p.m. time limit.*

Chairman Rheaume was recused from the following petition, and Vice-Chair McDonell assumed his seat at Acting-Chair. Mr. Hagaman took a voting seat.

I) Petition of **CLJR, LLC, Owner**, for property located at **6 Robert Avenue** whereas relief was needed from the Zoning Ordinance allow a martial arts studio which requires the following:
1) A Special Exception from Section 10.440 Use #4.42 to allow a martial arts studio with more than 2,000 square feet gross floor area where the use is permitted by Special Exception. Said property is shown on Assessor Map 286 Lot 17 and lies within the (G1) District.

SPEAKING TO THE PETITION

Robert Marchewka was present on behalf of the applicant. He said the martial arts studio would have less of an impact on the property and surrounding properties than the previous medical product company did. He reviewed the special exception criteria and said they would be met.

Mr. Hagaman asked if the second-floor deck would be enclosed or have a railing. Mr. Marchewka said the deck area most likely would not be used and would be sectioned off. Mr. MacDonald verified that an item listed in the introductory letter to the Board had a typographical error and that there would not be stormwater runoff onto adjacent properties or streets.

Acting-Chair McDonell opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Acting-Chair McDonell closed the public hearing.

DECISION OF THE BOARD

*Mr. Lee moved to **grant** the special exception for the petition as presented, and Mr. Parrott seconded.*

Mr. Lee said the request was permitted by special exception and that granting it would not cause any hazard to the public on account of potential fire, explosion, or release of toxic materials. He said there would be no detriment to property values in the area or any change in the essential character of the neighborhood on account of the location or scale of the building, parking, noise, pollutants and so on because it would be just an internal change. He said granting the special exception would pose no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion because it would be a small operation. He said it would pose no excessive demand on municipal services and no significant increase in stormwater runoff onto adjacent properties or streets. Mr. Parrott concurred. He said it would be a quiet activity in an industrial building in a mixed-use area and would be a good use of the property.

*The motion **passed** by unanimous vote, 7-0.*

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting was adjourned at 10:17 p.m.

Respectfully submitted,

Joann Breault
BOA Meeting Recording Secretary

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: March 9, 2021
RE: Zoning Board of Adjustment March 16, 2021 Meeting

OLD BUSINESS

1. 80 Fields Road
2. 668 Middle Street – Request to Withdraw

NEW BUSINESS

1. 412 Colonial Drive
2. 70 Sheffield Road
3. 58 Taft Road
4. 2 Monroe Street

OLD BUSINESS

1.

Petition of **Andrew & Katy DiPasquale, Owners**, for property located at **80 Fields Road** whereas relief is needed from the Zoning Ordinance to remove an existing shed and construct a new 12' x 16' shed which requires the following: 1) Variance from Section 10.521 to allow: a) a 3 foot rear yard where 9 feet is required; b) a 3 foot left side yard where 9 feet is required; and c) to allow 20.5% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 171 Lot 8 and lies within the Single Residence B (SRB) District.

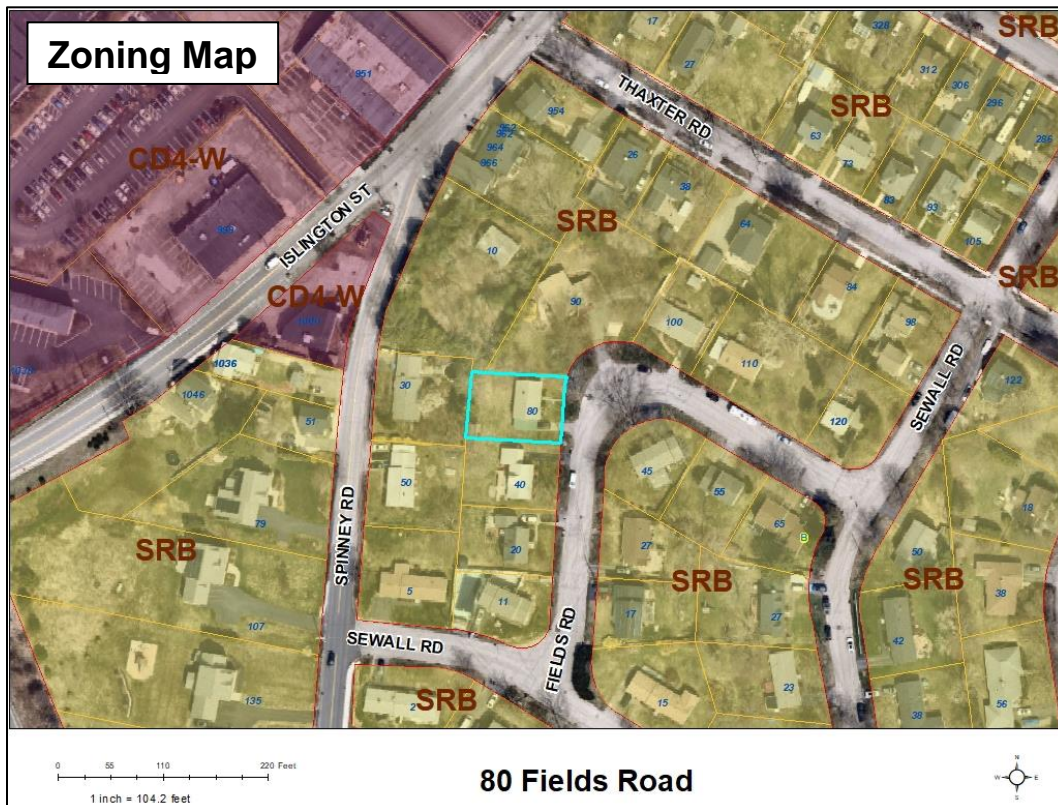
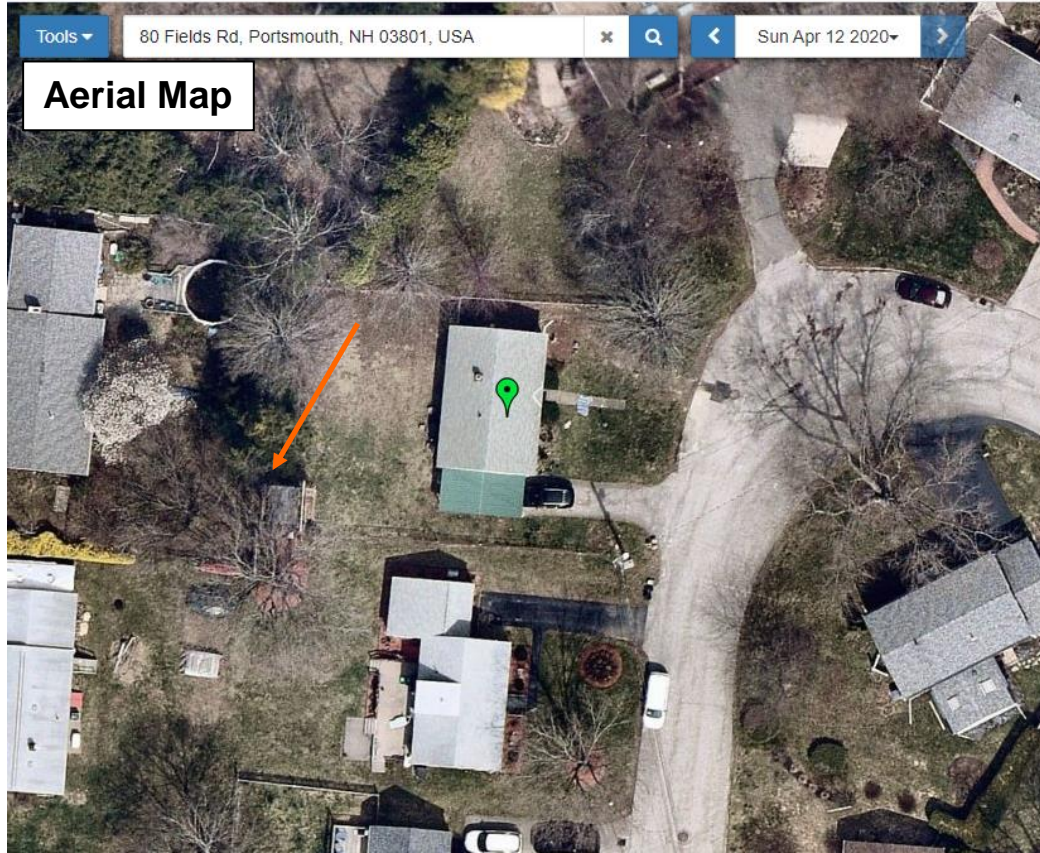
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo shed/construct new shed	Primarily residential uses
<u>Lot area (sq. ft.):</u>	6,969.6	6,969.6	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,969.6	6,969.6	15,000 min.
<u>Street Frontage (ft.):</u>	70	70	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Front Yard (ft.):</u>	89	85	30 min.
<u>Right Yard (ft.):</u>	57	51	10 min.
<u>Left Yard (ft.):</u>	3	3	10 min.
<u>Rear Yard (ft.):</u>	3	3	30 min.
<u>Height (ft.):</u>	8	9	35 (9 for shed) max.
<u>Building Coverage (%):</u>	18	20.5	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1957	Variance request(s) shown in red.	

Other Permits/Approvals Required

None

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing shed and replace it with a new, slightly larger shed maintaining the existing rear and left side yard setbacks of 3 feet. The larger shed will increase the building coverage slightly over the maximum allowed at 20.5%.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
- Planning Department Comments* 2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

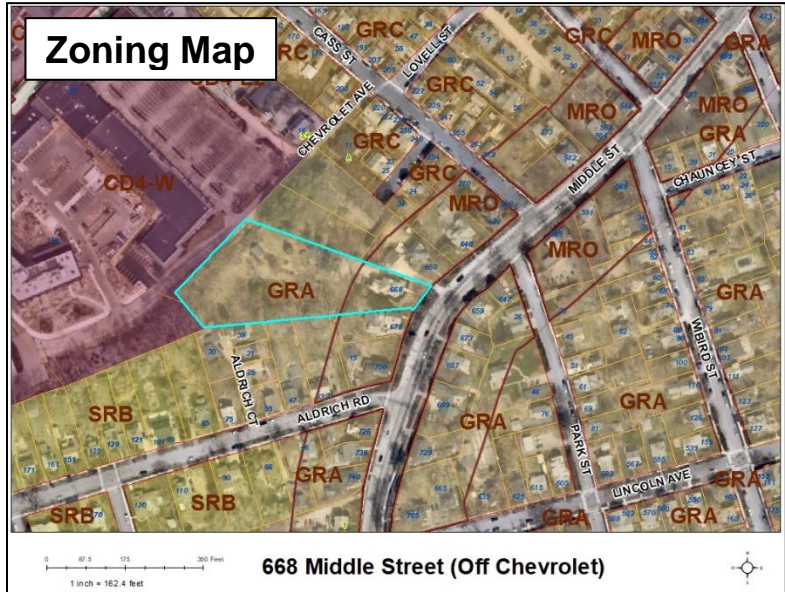
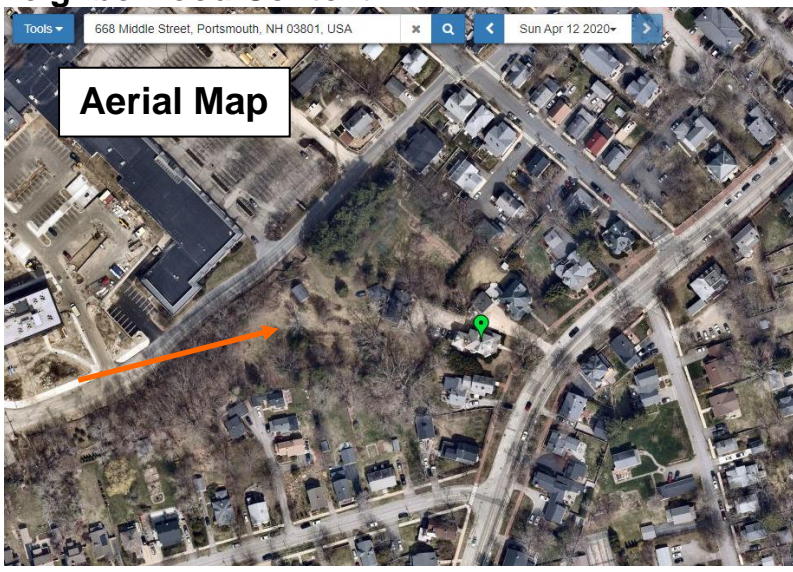
Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

2. Request to Withdraw

Petition of the **Elizabeth Larson Trust of 2012, Owner**, for property located at **668 Middle Street (off Chevrolet Avenue)** whereas relief is needed from the Zoning Ordinance to subdivide one lot into two lots and construct 4, 2-family structures on proposed Lot 2 which requires the following: 1) A Variance from Section 10.513 to allow 5 free-standing dwellings on a lot where only one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 4,517 square feet where 7,500 square feet per dwelling unit is required. Said property is shown on Assessor Map 147 Lot 18 and lies within the General Residence A (GRA) District.

The applicant has submitted a letter to withdraw the application.

Neighborhood Context



NEW BUSINESS

1.

Petition of **Richard & Susan Shea, Owners**, for property located at **412 Colonial Drive** whereas relief is needed from the Zoning Ordinance to construct an attached 18' x 24' garage with new entry which requires the following: 1) Variances from Section 10.521 to allow: a) a 7 foot left side yard where 10 feet is required, and b) a 20 foot front yard where 30 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 260 Lot 54 and lies within the Single Residence B (SRB) District.

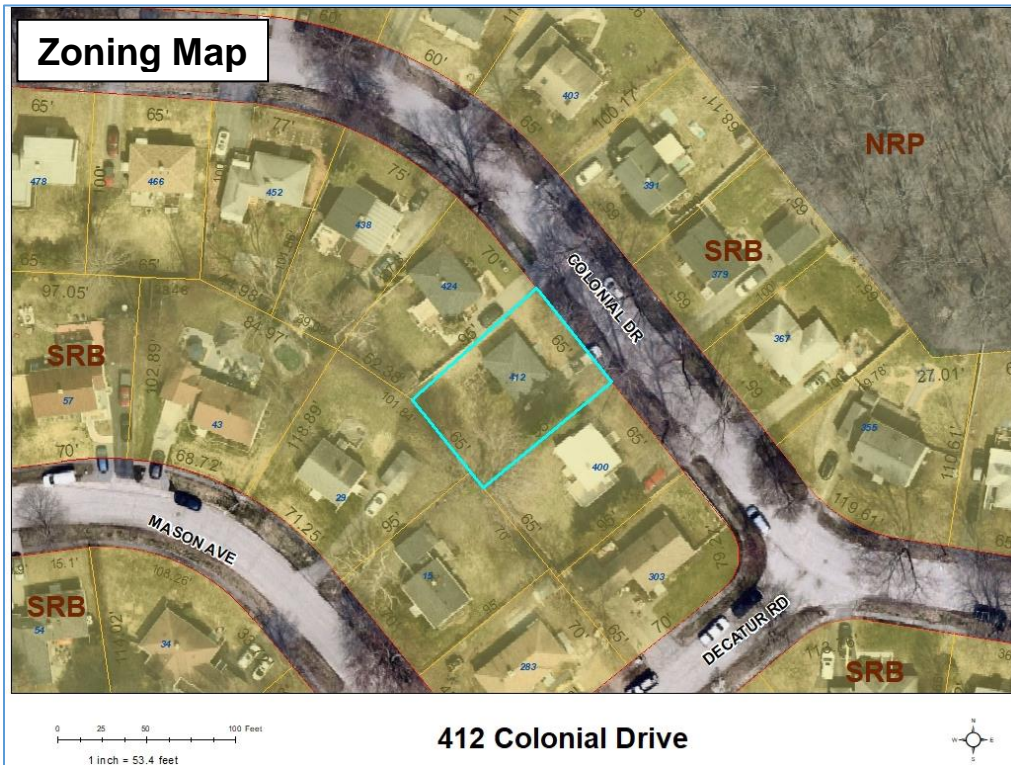
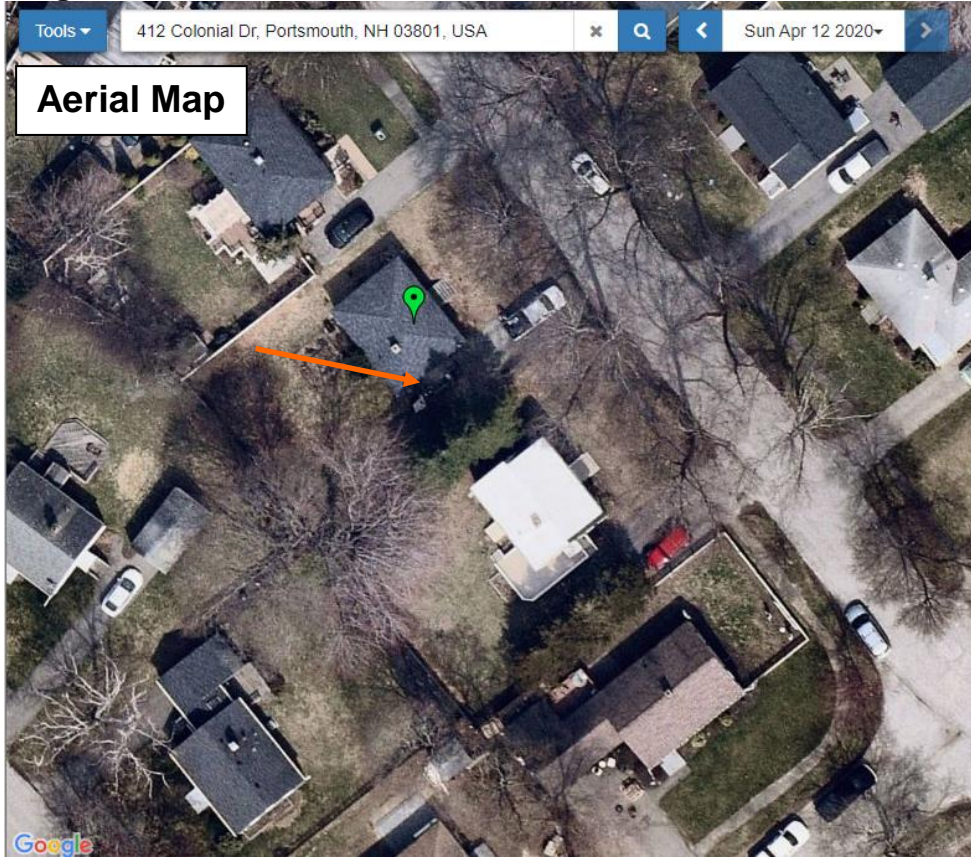
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add an attached garage	Primarily residential uses
<u>Lot area (sq. ft.):</u>	6,175	6,175	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,175	6,175	15,000 min.
<u>Street Frontage (ft.):</u>	65	65	100 min.
<u>Lot depth (ft.):</u>	95	95	100 min.
<u>Front Yard (ft.):</u>	20	20	30 min.
<u>Right Yard (ft.):</u>	10	10	10 min.
<u>Left Yard (ft.):</u>	18	7	10 min.
<u>Rear Yard (ft.):</u>	46	46	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	11.6	18.6	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1940	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to add an attached garage on the left side of the existing dwelling with a new front entry. The legal notice stated the applicant was requesting a 3 foot left side yard, however the relief needed is 7 feet for the left side yard. If the Board grants approval of the request, the motion should include the 7 foot left side yard.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

2.

Petition of **The Prendergast Family Revocable Trust of 2012, Owner**, for property located at **70 Sheffield Road** whereas relief is needed from the Zoning Ordinance to construct an 8' x 22' farmers porch which requires the following: 1) Variances from Section 10.521 to allow: a) a 19 foot front yard where 30 feet is required and b) to allow 25% building coverage where 20% is the maximum allowed. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 233 Lot 46 and lies within the Single Residence B (SRB) District.

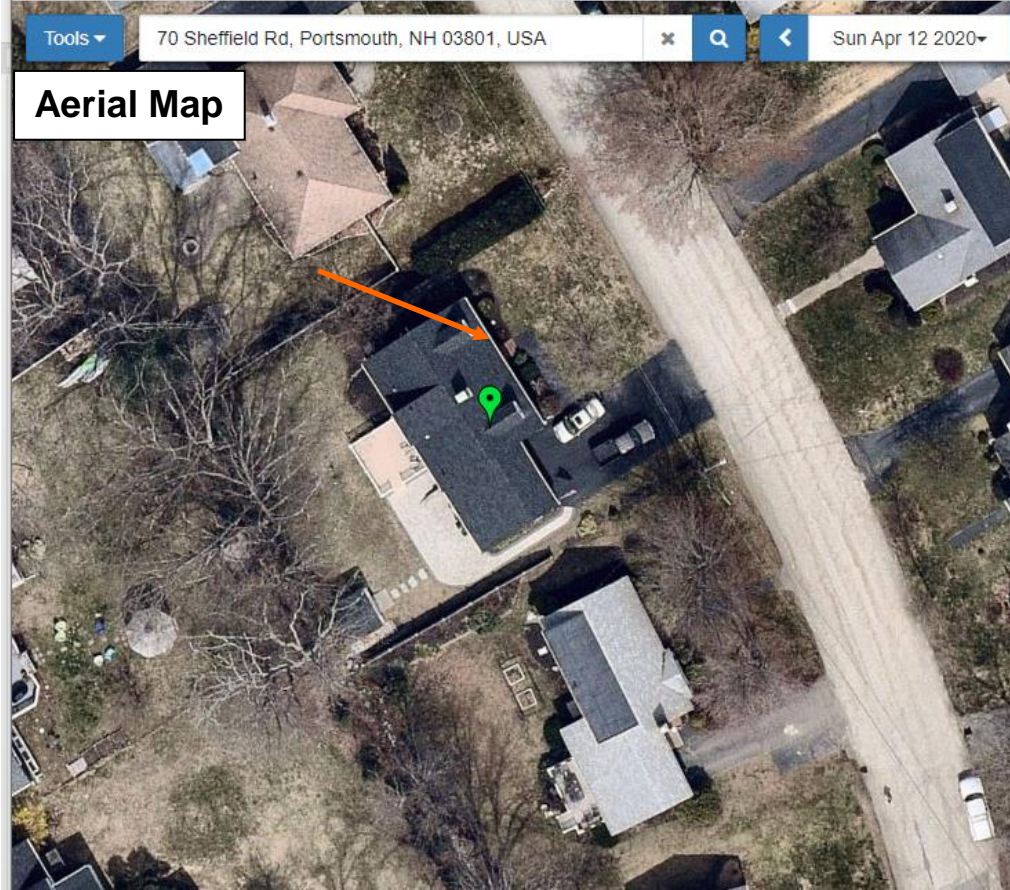
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Farmer's porch	Primarily residential uses
<u>Lot area (sq. ft.):</u>	8,712	8,712	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,712	8,712	15,000 min.
<u>Street Frontage (ft.):</u>	85	85	100 min.
<u>Lot depth (ft.):</u>	102	102	100 min.
<u>Front Yard (ft.):</u>	27	19	30 min.
<u>Right Yard (ft.):</u>	13	13	10 min.
<u>Left Yard (ft.):</u>	12	12	10 min.
<u>Rear Yard (ft.):</u>	26	26	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	22.6	25	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1956	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to add a 22' x8' front porch to the existing dwelling. The dwelling is currently nonconforming for the front yard as well as building coverage.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
- Planning Department Comments* 2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

3.

Petition of **Peter MacDonald, Owner** for property located at **58 Taft Road** whereas relief is needed from the Zoning Ordinance to construct a 12' x 16' rear addition with attached deck which requires the following: 1) A Variance from Section 10.521 to allow 24% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 251 Lot 12 and lies within the Single Residence B (SRB) District.

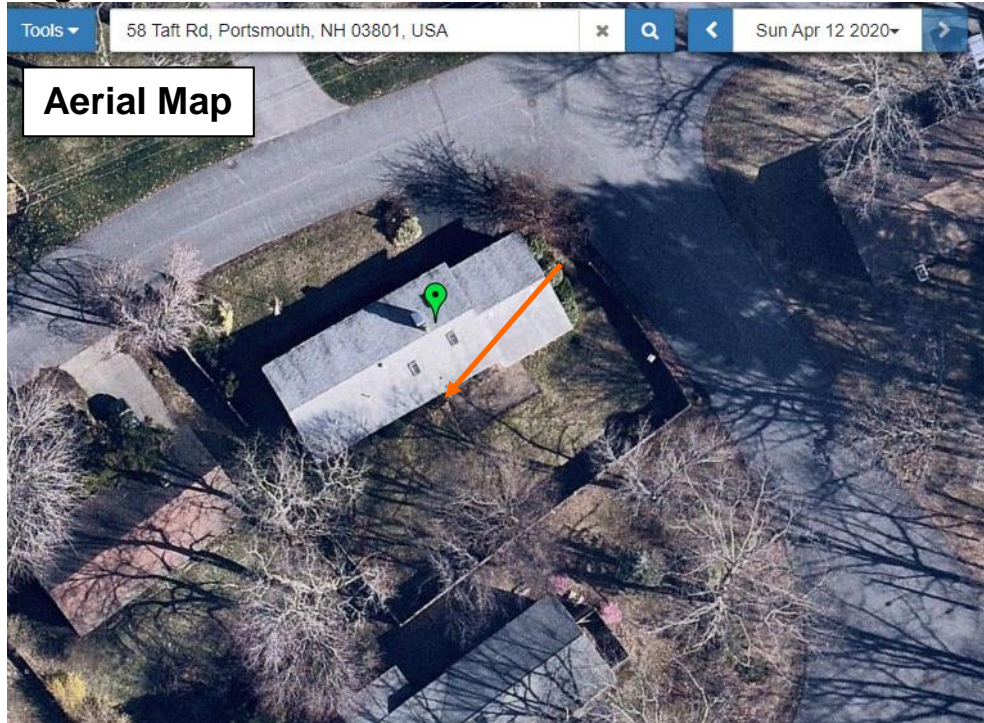
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Rear addition and deck	Primarily residential uses
<u>Lot area (sq. ft.):</u>	9,,583	9,583	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,583	9,583	15,000 min.
<u>Street Frontage (ft.):</u>	177	177	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Front Yard (ft.):</u>	10	10	30 min.
<u>Right Yard (ft.):</u>	8	8	10 min.
<u>Secondary Front Yard (ft.):</u>	10	10	30 min.
<u>Rear Yard (ft.):</u>	42	36	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20.5	24	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1958	Special Exception request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

September 20, 1988 – the Board **denied** the following variance:

March 16, 2021 Meeting

- Article III, Section 10-302 to construct a 1 story (24'x24') garage with the following: a) a 10 foot front yard in a district where the front yard shall be 30 feet, b) an 8'3" side yard where 10 feet is required, and c) building coverage on the lot of 21% where 20% is the maximum building lot coverage allowed.

November 1, 1988 – the Board **granted** the following variance:

- Article III, Section 10-302 to allow the construction of a 24'x22' attached garage with a 10 foot front yard where a 30 foot front hard is required and a lot coverage of 20.54% where 20% lot coverage is the maximum allowed.

Planning Department Comments

The applicant is proposing a rear addition with attached deck that will comply with yard requirements, however the building coverage will increase to 24%. Prior variances were granted for the garage and to allow 20.54% coverage as shown in the history above.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

- (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

4.

Petition of **Joel & Jessica Harris, Owners**, for property located at **2 Monroe Street** whereas relief is needed from the Zoning Ordinance to demolish the existing garage and construct new 1 1/2 story garage which requires the following: 1) A Variance from Section 10.521 to allow 26.5% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 152 Lot 8 and lies within the General Residence A (GRA) District.

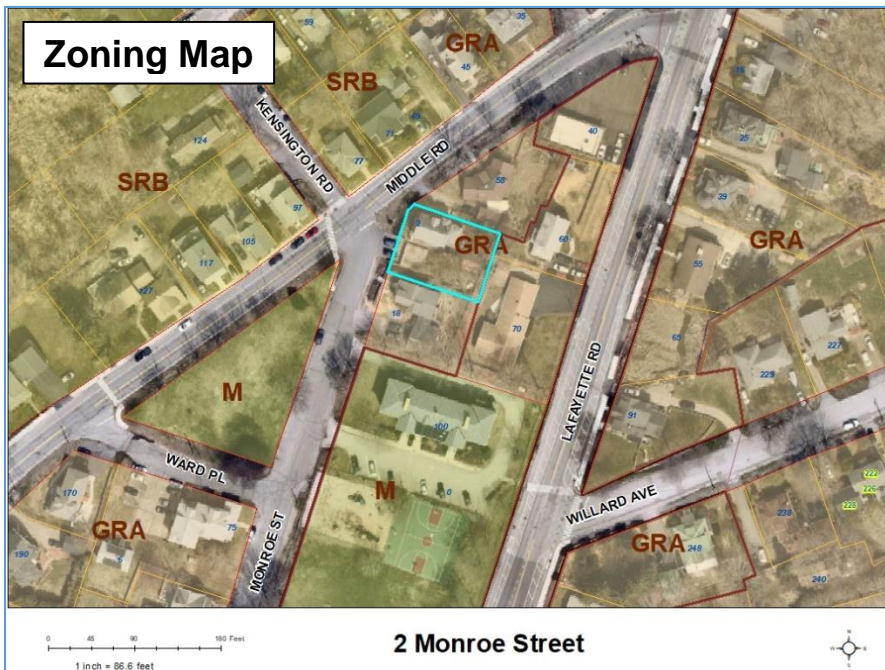
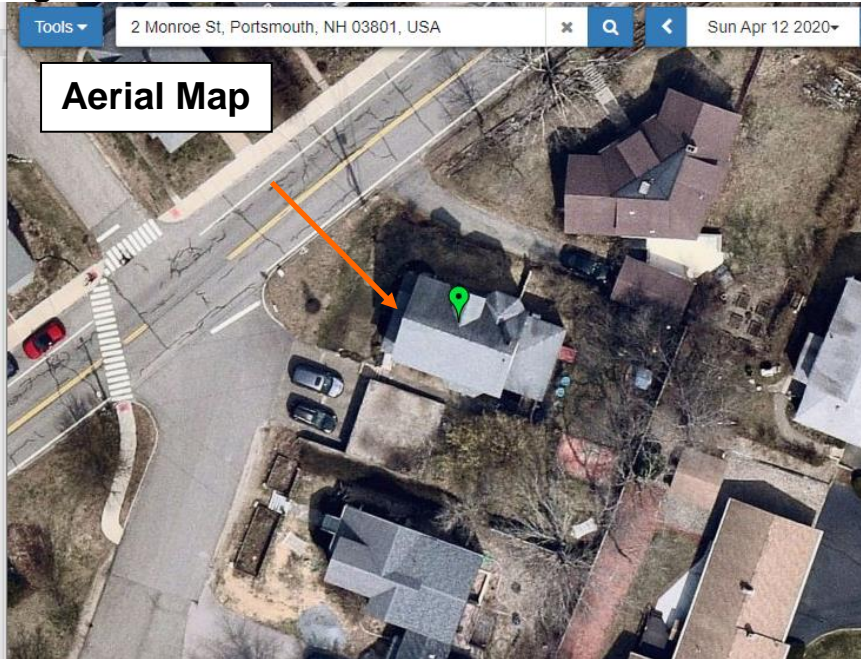
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Demo garage/construct new garage	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	7,492	7,492	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,492	7,492	7,500 min.
<u>Street Frontage (ft.):</u>	70	70	100 min.
<u>Lot depth (ft.):</u>	98	98	70 min.
<u>Primary Front Yard (ft.):</u>	19	19	15 min.
<u>Left Yard (ft.):</u>	5 (house)	5 (house)	10 min.
<u>Right Yard (ft.):</u>	8.25	10.25	10 min.
<u>Rear Yard (ft.):</u>	60 (garage)	60 (garage)	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	25.7	26.5	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1900	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing garage and construct a new two car garage with porch. The proposed garage and porch will increase the building coverage slightly to 26.5%, where it is currently nonconforming.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
 2. *Granting the variance would observe the spirit of the Ordinance.*
 3. *Granting the variance would do substantial justice.*
 4. *Granting the variance would not diminish the values of surrounding properties.*
 5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
 - AND**
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
- OR**
- Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

This report is to formally request a variance on position and location of a new garden shed at 80 Fields Rd. Portsmouth NH 03801

Report created by and for owners Katy and Andrew DiPasquale 80 Fields Rd. Portsmouth NH 03801

- Total Number of Dwelling Units (for residential projects)
 - 1 Dwelling Unit will be replaced (Shed)
 - Existing/Remaining House
 - Existing/Remaining Carport
 - Existing/REPLACING shed
- Lot area
 - .16 Acres or 6969.6 SF
- Description of proposed project
 - We have a current 80 SF garden shed that is well past its life. We intend to replace the existing shed with a new shed that is a ground Square footage of 192 sf and 9' tall. Our request is for a variance of the following
 - Keep the side yard variance at 3' for this new shed
 - Keep the rear yard variance at 3' for this new shed
 - Approve the slight overage in maximum building coverage for our district (20.5%)
 - Because the new proposed shed is over 100 SF, we would like to remain in the same “grandfather’ed” location that the original shed is in and allow for the slight overage in maximum building coverage. Otherwise, our new shed will encroach on our backyard much more as well as create unusable and unseeable space behind and to the side of the new shed location. Currently, the old shed sits in the back corner at the junction of a chainlink fence with about 3 feet of setback on the left and rear. We would like to utilize this existing starting corner for our new shed.
 - The net increase in shed is 112 SF.
 - We’re currently at about 18% of the allowable 20% build limit since our covered carport counts 276 SF of building coverage. This request would take us from about 18% to about ~20.5% with the proposed shed. Our request is to keep the same setbacks as to not encroach any further into our usable yard space and to allow for the small overage into the maximum building coverage.

Responding to section 10.233

- 10.233.21 The variance will not be contrary to the public interest;
 - This is a simple shed and won’t impact or change the neighborhood aesthetic
- 10.233.22 The spirit of the Ordinance will be observed;
 - We’re already out of compliance with the current shed that existed prior to our purchase and so we’re requesting the board to approve an update that adheres to

the current setup of the building and does not create an encroachment of our yard any further than the current sheds setback.

- 10.233.23 Substantial justice will be done;
 - By allowing this setback exception, we can keep the current setup of the yard, improve the general appearance of the property and maintain a clean line of sight on our property, since there will not be a blind spot behind the shed that we won't be able to see.
- 10.233.24 The values of surrounding properties will not be diminished;
 - The style of shed will be minimalist and fit into the aesthetics of the neighborhood. Surrounding properties may even see an uptick in value since we're removing the dilapidated shed and replacing with a new shed.
- 20.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
 - We feel that the following the ordinance here would decrease the value of our home and general aesthetic of our home. Moving the new shed in another 9 feet would create a virtually unusable space behind the shed and further decrease our yard use. Allowing us to maintain the current setbacks would be in line with virtually every home in our neighborhood's current shed placement (back corner of their property) and would allow us to utilize the shed and yard space appropriately. Furthermore, we'd like to expand the capacity of our shed so that we can adequately store our gear since our home is very tiny to begin with. All of these would not be possible without a variance in this ordinance.
- Description of existing land use
 - This is a single family home with an existing shed and carport. The home is our primary residence and home.
- Project representatives – names and contact information
 - Andrew (Drew) and Katy DiPasquale
- Description and dimensions of existing and proposed buildings (including building footprint, total gross floor area, and height)
 - Old Shed - gable style shed with double door and window
 - 8x10 and ~8 ft tall
 - New Shed - single slope style
 - 12x16', 9' tall (192 SF)
- Existing and proposed front, side and rear setback / yard dimensions (this is the distance from a structure to the lot line)
 - Total Lot is (front to back) 100'x (left to right) 70'
 - Existing setbacks
 - Rear - 3'; Left - 3'; Right - 57' ; Front - 89'

- Proposed setbacks
 - Rear - 3'; Left - 3'; Right - 51'; Front - 85'
- Site Plan(s) showing existing and proposed conditions including:



Setbacks labeled:



- Abutting street(s) and street names
 - Spinney and Fields
- Driveways / accessways
 - Front and ~240 SF
- Dimensions (size and height) of structures
 - Existing Home - 1 story, 960 SF
 - Existing Carport - 1 story, 276 SF
 - Existing Shed - 8' tall, 80 SF
 - Proposed Shed - 9' tall, 192 SF
- Dimensions and location of parking spaces
 - Same as driveways
- Scale of all drawings and plans (the scale is the ratio of the drawing's size relative to the actual size)

- 12x16x9' Single slope roof.



- Labeled photo(s) of existing conditions



View from Carport (front looking to back)



Inside shed, its rotting and needs replaced.



View from back of home far right side of lot looking back to left, rear



View from left on neighbors side



Shed in back left corner of lot

- Building plans and elevations of any proposed structures or additions



- Interior floor plans for any renovations or expansion to existing structures
 - This is going to be a net new shed - not a renovation or expansion on the existing structure

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue, P.O. Box 4480 | Portsmouth, NH, 03802-4480
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

March 8, 2021

HAND DELIVERED

David Rheume, Chair
Portsmouth Zoning Board of Adjustment
City Hall
1 Junkins Avenue
Portsmouth, NH 03801

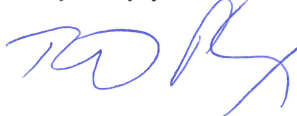
Re: Tuck Realty Corp.-Applicant
Project Location: 668 Middle Street
Tax Map 147/Lot 18
GRA Zone
LU21-23

Dear Chair Rheume and Zoning Board Member:

With the authority of Applicant Tuck Realty Corporation this is to advise the Board that the design intent for the 668 Middle St. project is under review for potential amendment.

Accordingly, please accept this letter as our request to withdraw the pending Zoning Relief application. A copy of this letter will be forward electronically to Peter Stith and uploaded on viewpoint to LU 21-23.

Very truly yours,



R. Timothy Phoenix

RTP/msw

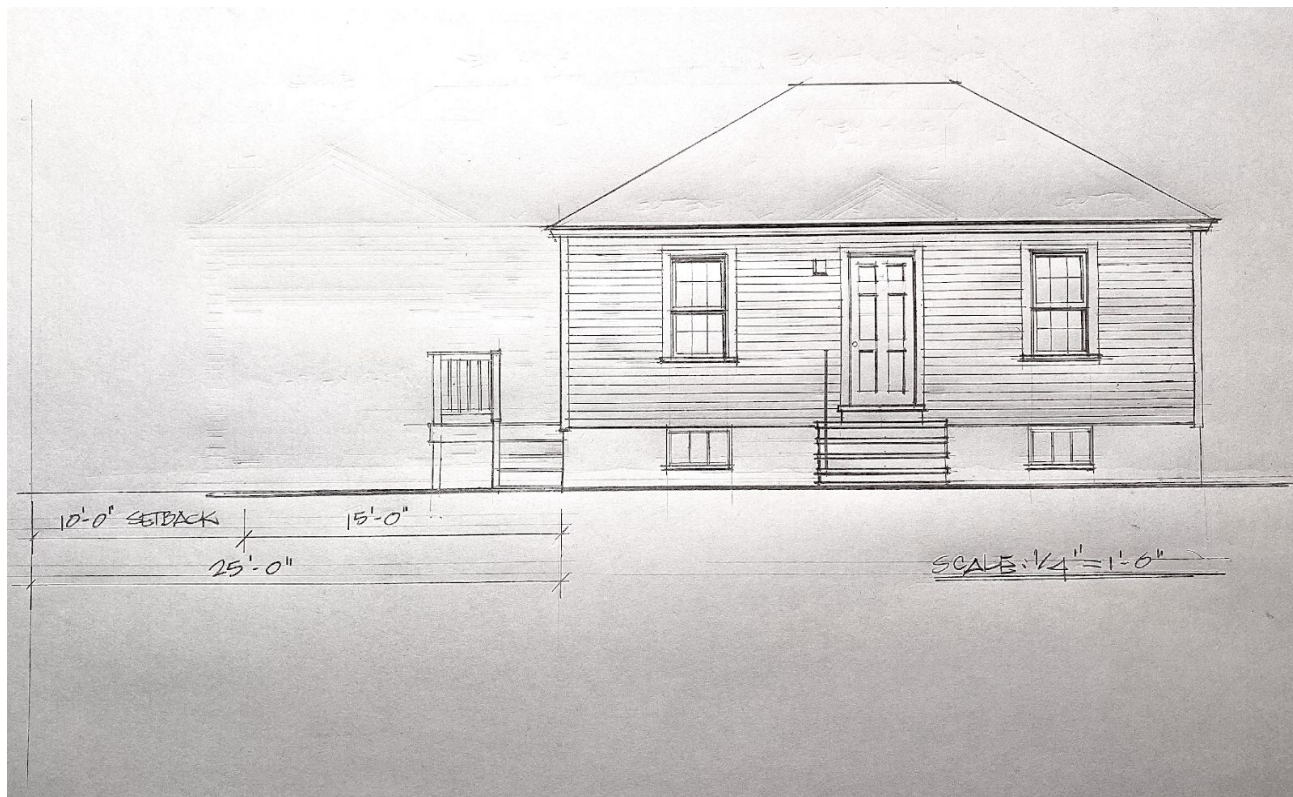
cc: Michael Garrepy-Tuck Realty Corp.
Jones and Beach Engineers
Peter Stith

DANIEL C. HOEFLE	R. PETER TAYLOR	GREGORY D. ROBBINS	DUNCAN A. EDGAR
R. TIMOTHY PHOENIX	JOHN AHLGREN	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	KIMBERLY J.H. MEMMESHEIMER	SAMUEL HARKINSON	SAMUEL R. REID
STEPHEN H. ROBERTS	KEVIN M. BAUM	JACOB J.B. MARVELLEY	

Proposed addition to 412 Colonial Drive – Variance requested: owner Richard Shea

Existing conditions:

This existing home was built in 1940, known as Panaway Manor, for Navy Housing. The footprint of the existing small two bedroom, one bathroom ranch is 24 feet x 30 feet containing 720 sq ft. The lot has 65 foot frontage. Lot size is 65 feet wide x 95 feet deep for a total of 6,175 square feet. I am proposing to add on a new garage and mud room with a footprint of 18 feet wide x 24 feet deep for an additional 432 sq ft. If approved, the total square footage for the building will be 1,152 square feet. We are allowed 20% lot coverage. Currently the existing coverage is 720 sq ft of the 6,175 foot lot, or 11.6% coverage. With the addition, the new total building coverage will be 1,152 sq ft of the 6,175 foot lot for a total of 18.6% coverage. Still under the allowable lot coverage. The allowable set backs are 10 feet on the side yards and 30 feet on the front yard. The existing house is set back 25 feet from the front lot line, (which is very typical for the neighborhood). My addition as proposed lines up with the front of the house, which in turn makes the front need 5 feet relief from this 30 foot set back requirement. The side lot currently has a 25 foot set back where 10 feet is required. The proposal is asking for an 18 foot wide addition which would allow for a 7 foot set back to remain. I am seeking for 3 feet of relief from the 10 foot side yard setback.



Existing Conditions: location of proposed 18'x24' garage and foyer



A Proposed 18 foot wide x 24 foot deep addition, to house a one car garage, new front door, closets, and a slightly expanded kitchen table area.

Front Elevation as seen from Colonial Drive



Rear elevation, right side is location of Garage addition.



Proposal:

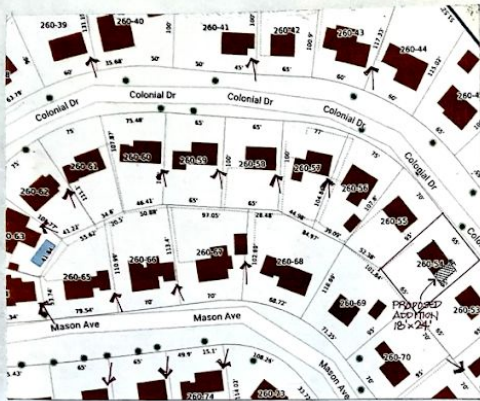
A Proposed 18 foot wide x 24 foot deep addition. This addition contains a one car garage, a new front door, two closets, and a slightly expanded kitchen table area.

10.233 Variance:

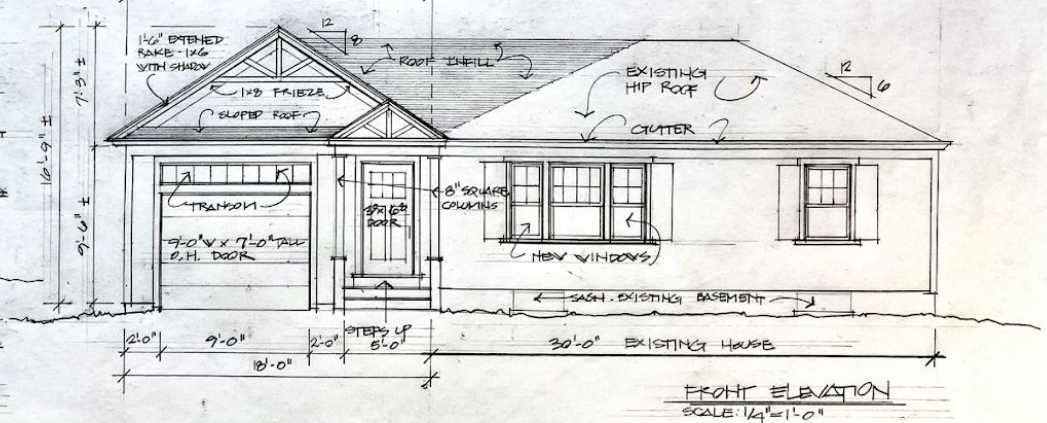
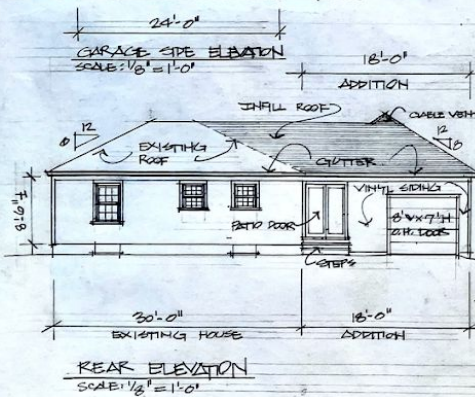
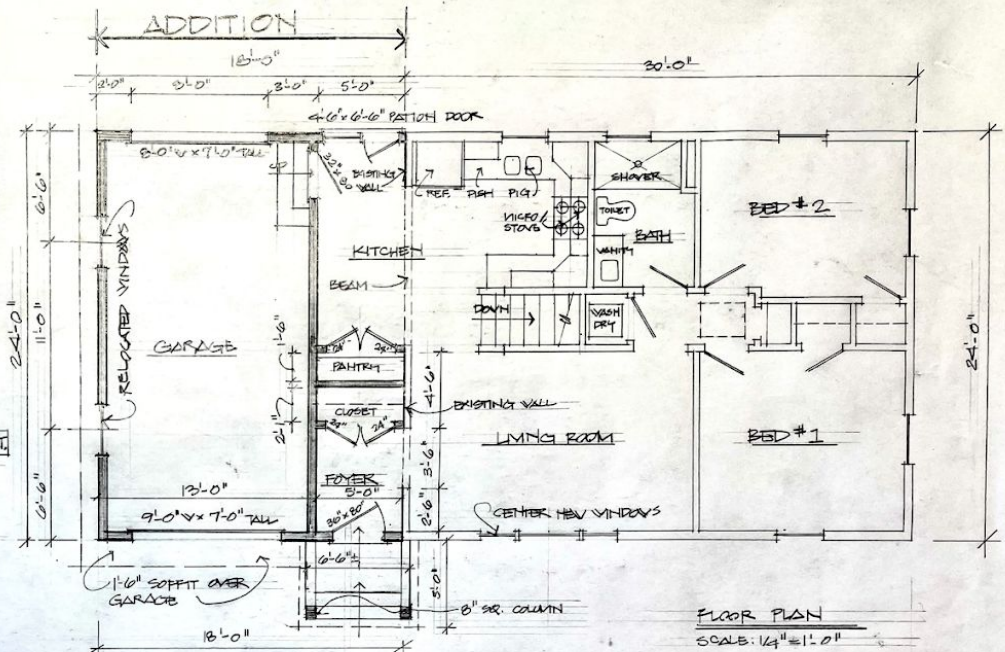
By allowing this Variance, this will not be contrary to the public interest. The spirit of the ordinance will be observed by minimally impacting the site or the neighborhood. By allowing this Variance, justice will be done for the homeowners to enjoy a one car garage and an entry foyer, additional closets, and a small area for a kitchen table. The value of this property will increase and will help the values of other homes in this neighborhood to increase. This house is currently an eyesore and if this variance is approved, this property will become a house that people can be proud of. If this Variance is disapproved, then the owners will not be able to construct a single car garage and entrances shown. A vehicle parked in a garage during the winter does make it safer for the driver from slips on ice and snow. My father is 83 and will be living here, and we ask that you allow for the addition of the addition.

There are dozens of examples of homes in this neighborhood that already exceed allowable lot coverages, and also encroach on the allowable set-backs. Some buildings are right on the property line. The precedent for non conforming lot coverages and non conforming setbacks has been set in this neighborhood, and I am only asking that we be granted a small lot line setback variance as others obviously have over the years. Thank you for your consideration. Richard Shea

Locus Plan, Floor Plan, and Elevations:



412 COLONIAL DRIVE 65' x 95'
 EXISTING: 720 sq ft PLUS 432 sq ft ADDITION = TOTAL 1,152 sq ft
 LOT SIZE: 6,175 sq ft (65' x 95')



Photos of neighborhood homes that are with-in 10 foot side yard setbacks.

















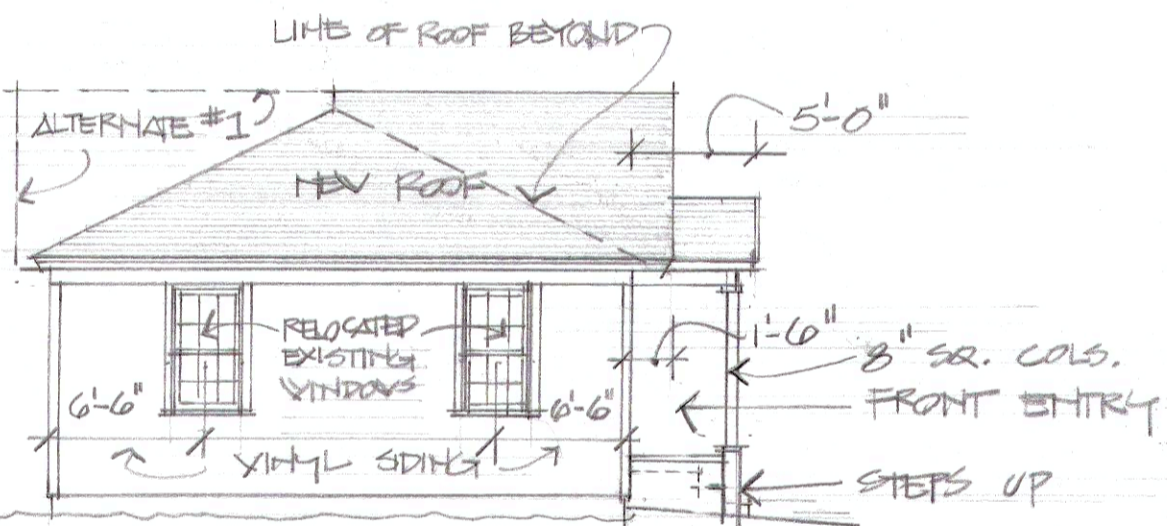




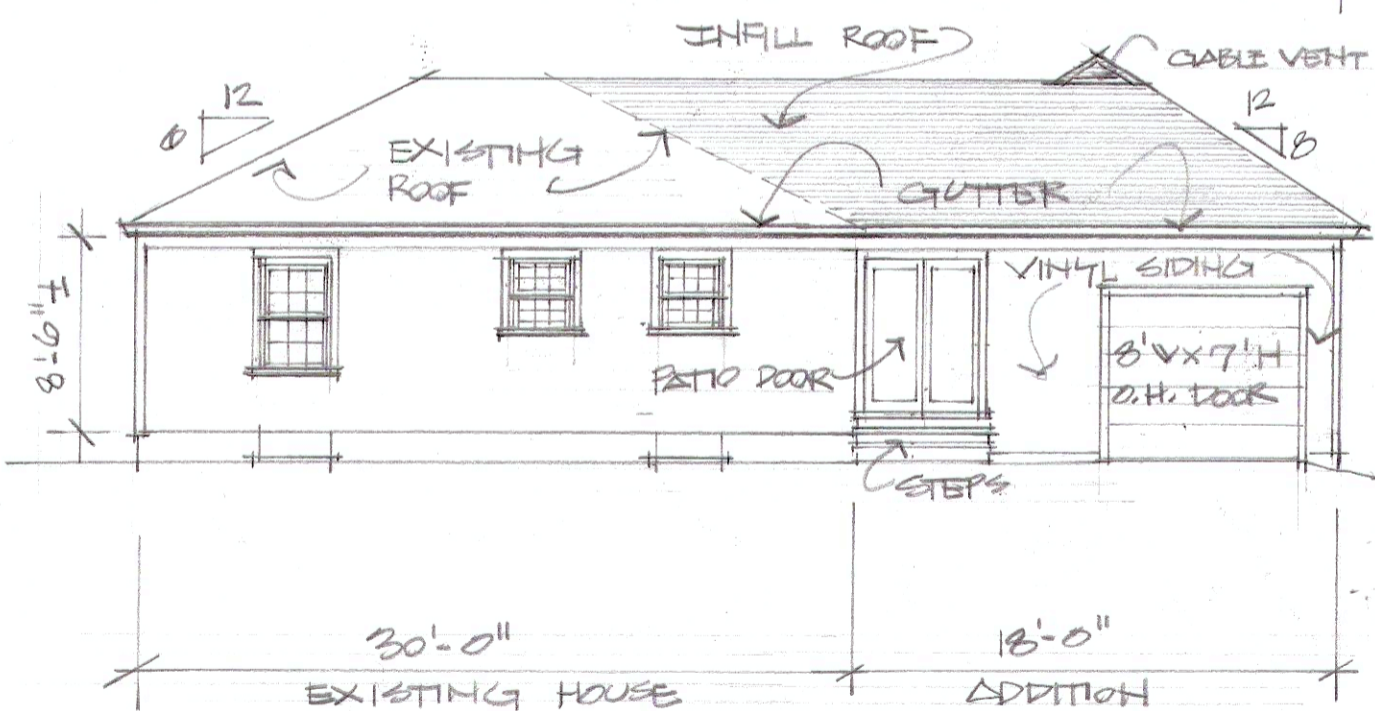


412 COLONIAL DRIVE 65'x95'

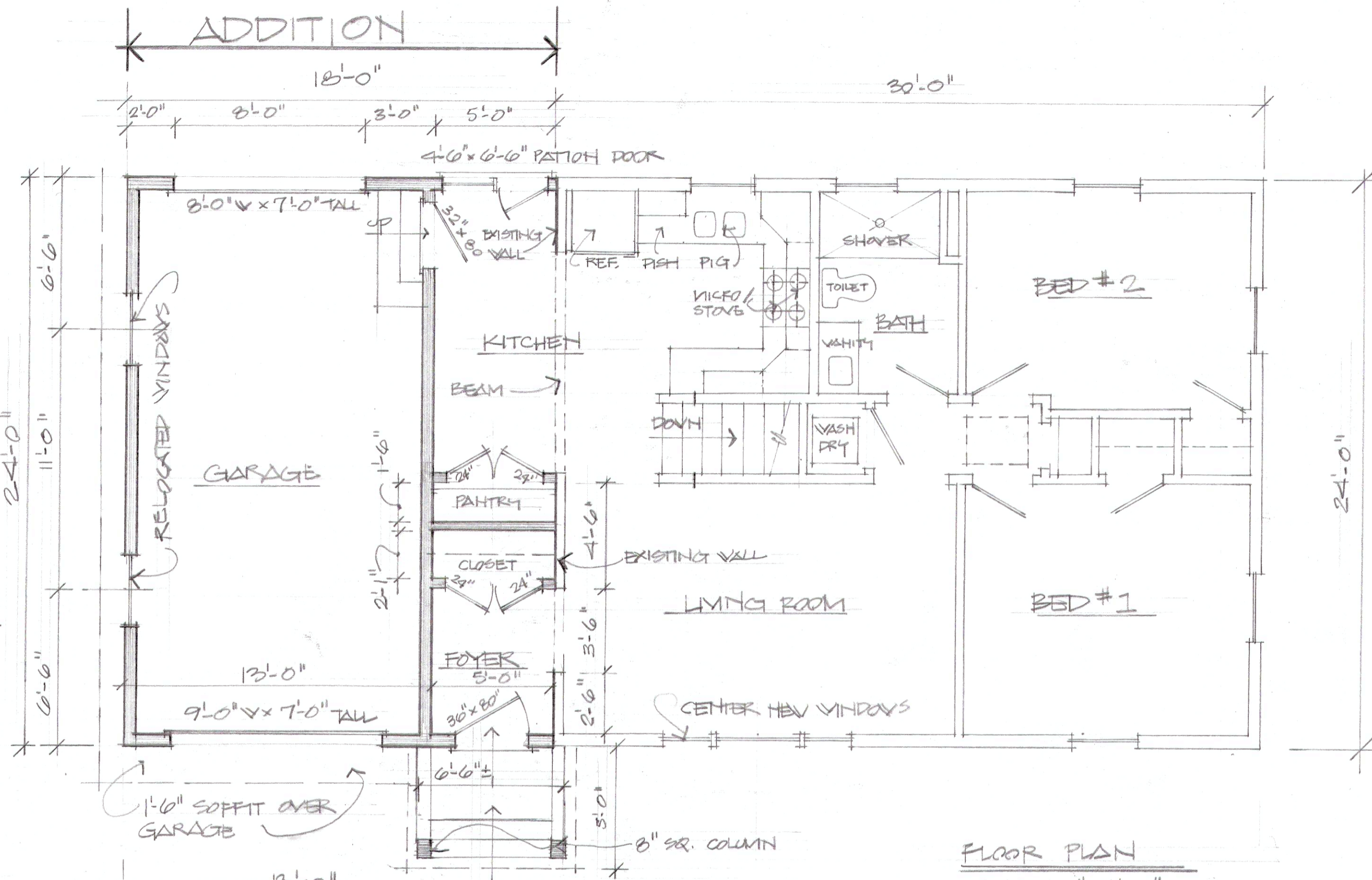
EXISTING: 720 # PLUS 432 # ADDITION = TOTAL 1,152 SQ. FT.
 LOT SIZE: 6,175 SQ. FT (65'x95')



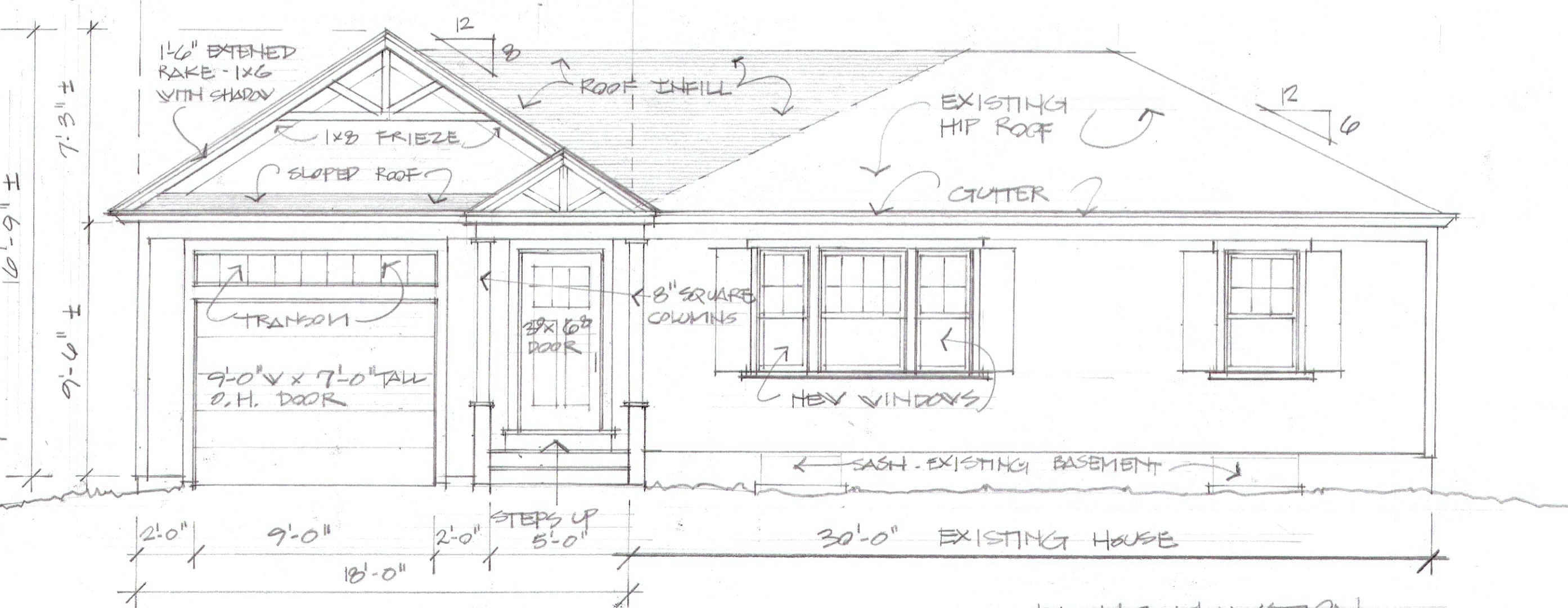
GARAGE SIDE ELEVATION
 SCALE: 1/8" = 1'-0"



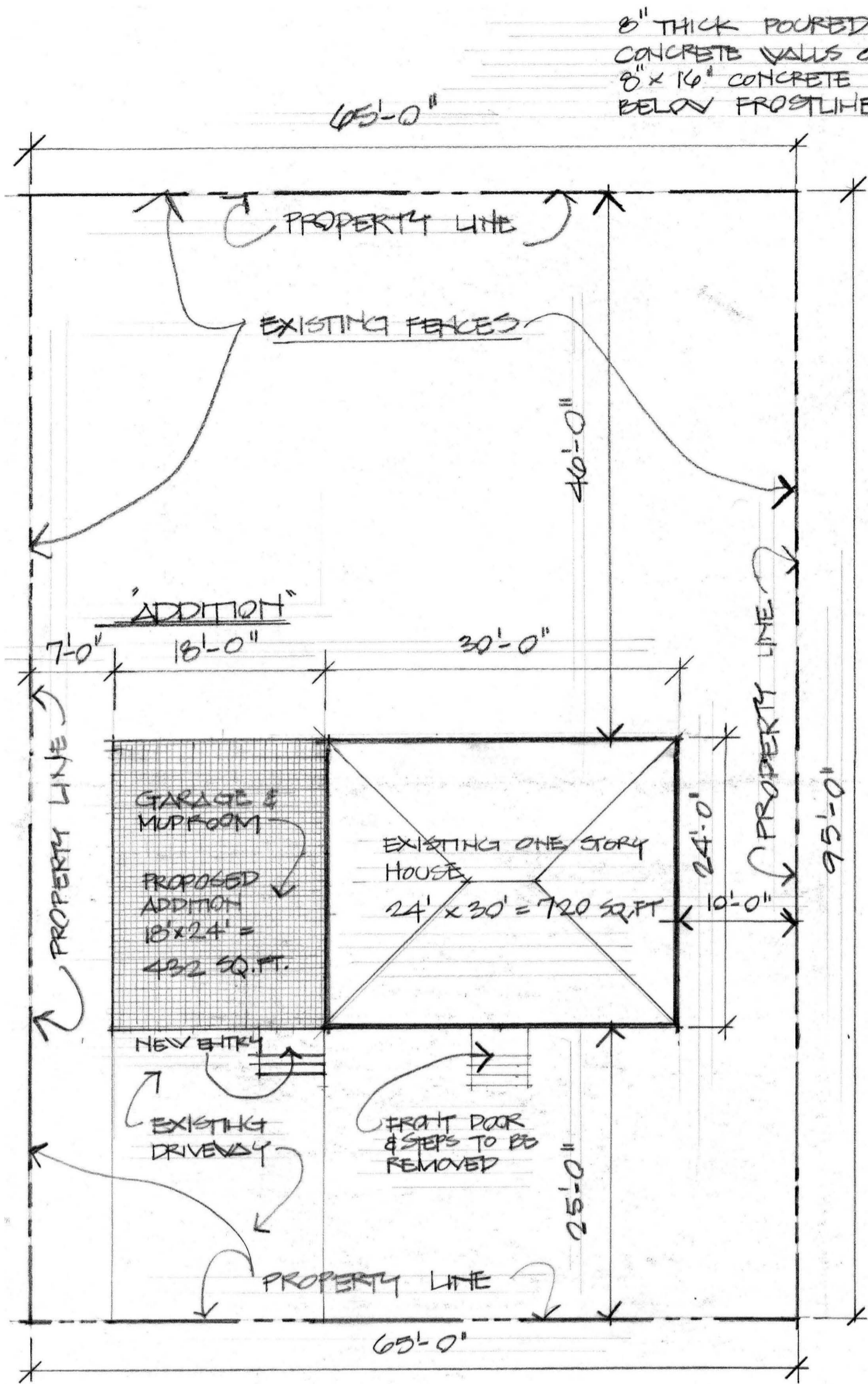
REAR ELEVATION
 SCALE: 1/8" = 1'-0"



FLOOR PLAN
 SCALE: 1/4" = 1'-0"



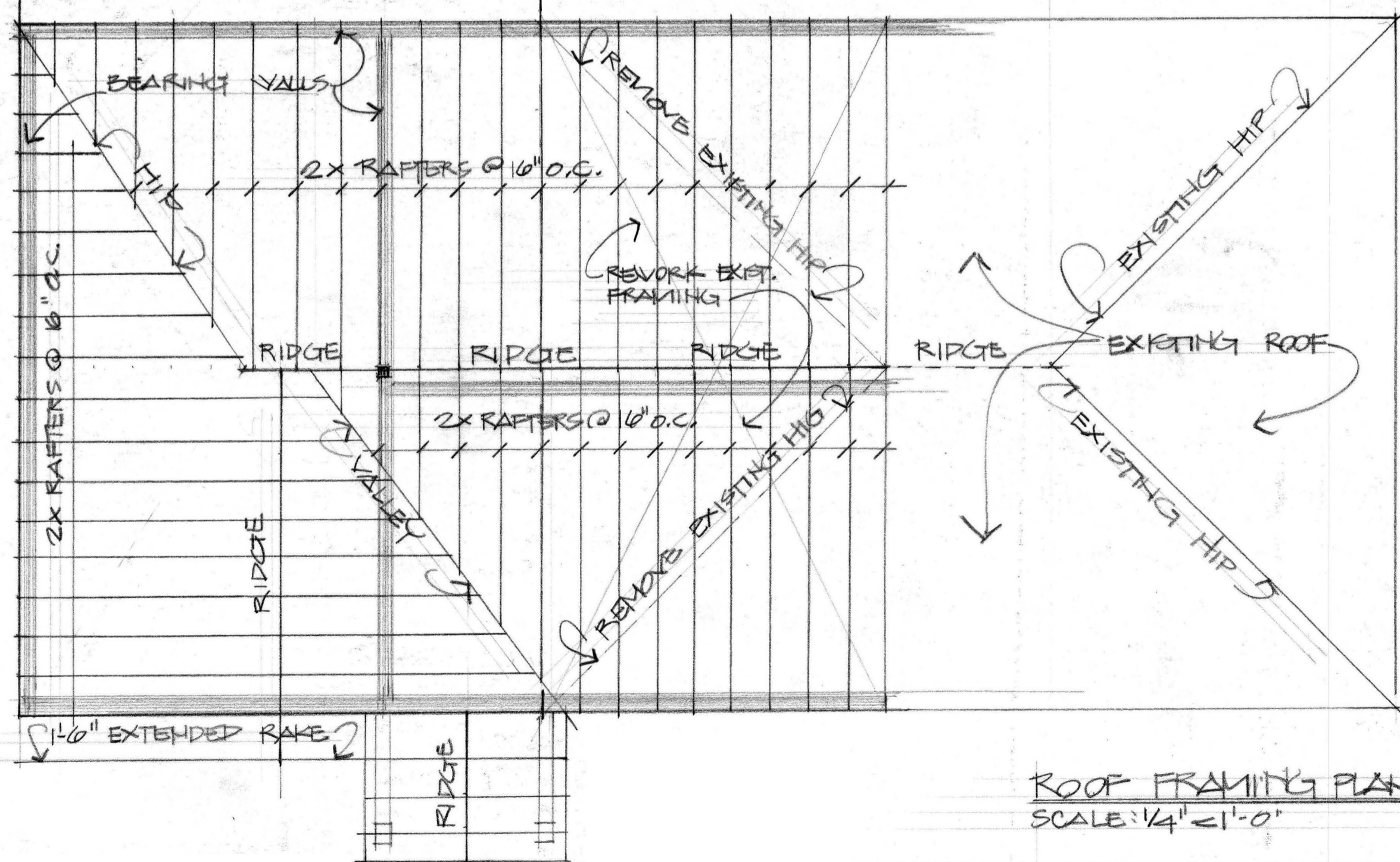
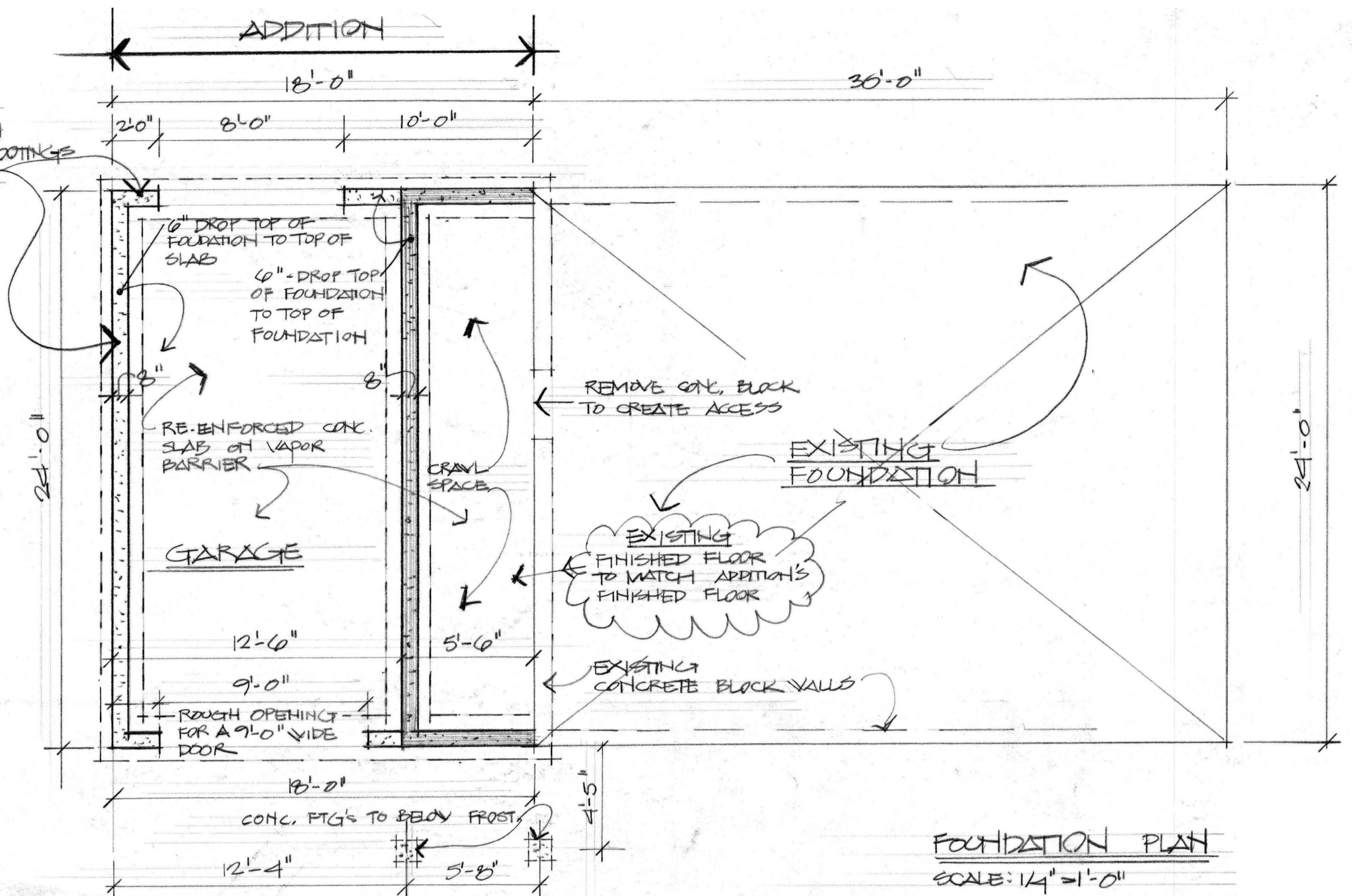
FRONT ELEVATION
 SCALE: 1/4" = 1'-0"



65' x 95' LOT = 6,175 SQ. FT.
 TOTAL LOT COVERAGE w/ ADDITION = 1,152 SQ. FT.

412 COLONIAL DRIVE

PROPOSED SIDE YARD SETBACK OF 7'-0" WHERE
 10'-0" SETBACK IS REQUIRED



Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: 70 Sheffield Road, Portsmouth
MLB 0233-0046-0000
PID 30413

Proposed improvement:

Our plan is to build a 22 x 8 foot covered farmer's porch on the front northeastern side of our home located at 70 Sheffield Road in Portsmouth. The proposed covered porch, with white vinyl railings, gray composite decking and a roof with black architectural shingles to match those used on the house, will blend beautifully with the cape cod style of our home and will add considerable charm and curb-appeal. The porch will provide us with a shaded and inviting outdoor space, a place where we can comfortably relax and enjoy time with our family and grandchildren.

The property is in the SRB zone and was built in 1956. It is already nonconforming as to building coverage and setbacks. Most of the houses in this neighborhood are nonconforming as well, given that this neighborhood was built in the 1950s and early 1960s. We believe this application meets the criteria necessary for the Board to grant the requested variances. Our plan to build a farmer's porch is enthusiastically supported by our abutting neighbors on each side and across the street.

Variance relief requested:

1. Front Setback: to allow a 19 foot setback in front of the porch addition where a 30 foot setback is required. Current front setback of the house is 27 feet.
2. Building Coverage: to allow a 24.7% coverage where a 20% coverage limit is required. Current coverage is 22.6%.

10.233.21 The variance will not be contrary to the public interest, and
10.233.22 The spirit of the ordinance will be observed

Our property, like many of the properties in the neighborhood, does not comply with setback or coverage requirements as the homes were built primarily in the 1950s and early 1960s. Our adding an attractive front farmer's porch would not be contrary to the public interest and would improve the look and curb appeal of the house, and the value of the property. It would not encroach on light or air, and would still be set well back from the street. Although with the front porch addition the front setback will be 19 feet from the front property line, because there is an 8-10 foot wide strip of grass covered city-owned land that spans the length of our property between our lot and the street, our front yard appears to be larger than it is. Several homes in this neighborhood have farmer's porches, and our adding one will be in character with other nearby houses. Were the variances to be granted, this porch addition would not alter the residential characteristics of the neighborhood and would not have an adverse effect on the health, safety or welfare of the public.

10.233.23 Substantial justice will be done by granting the variance

There is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner. We believe the requested front setback and building coverage relief is reasonable. The house immediately to the side of the farmer's porch addition is 33 feet from the side of the proposed porch, and there is a 6 foot tall holly hedge that runs along the property line between the two lots. None of our neighbors will suffer the loss of any privacy, light or air. Our direct abutting neighbors, on each side and across the street, enthusiastically support our adding a farmer's porch, as evidenced by their letters/emails of support. As homeowners, we would greatly benefit from having a front farmer's porch to personally enjoy and to improve the look and value of our property.

10.233.24 The values of surrounding properties will not be diminished

The proposed farmer's porch and new landscaping will improve the look of the property and will increase its value. As individual properties are improved in an area, the overall appearance of the neighborhood is improved, as well. The values of surrounding properties will not be diminished in any way.

10.233.25 Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship

The property is already non-conforming as to frontage, lot area, building coverage and front setback requirements. The purpose of the setback requirements is to provide sufficient access, light, air and privacy, and physical separation between properties. None of these purposes are negatively impacted by the proposed addition of a farmer's porch. The porch will increase the front yard setback nonconformity, but will not encroach into the side yard setback. The amount of additional building coverage proposed is 2.1% (176 square feet) which is minimal and not out of character for the neighborhood. Granting the variances is within the spirit of the ordinance and is a reasonable request. Not granting the request for variances would result in an unnecessary hardship for the homeowner.

In conclusion, based on the information provided above, we respectfully request that the Board grant the variances we are seeking. As retirees we hope to spend many years enjoying the outdoors on our new farmer's porch. We thank you for your consideration.

James and Jeanne Prendergast
70 Sheffield Road

70 Sheffield Rd

Sheffield Rd

Existing House and Shed


Lot size = 8712 sq ft





Property Information
Property ID 0233-0046-0000
Location 70 SHEFFIELD RD
Owner PRENDERGAST FAMILY REVOC TRUST OF 2012

Lot size = .20 acre
 8712 sq ft
 Zoned = SRB



MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT

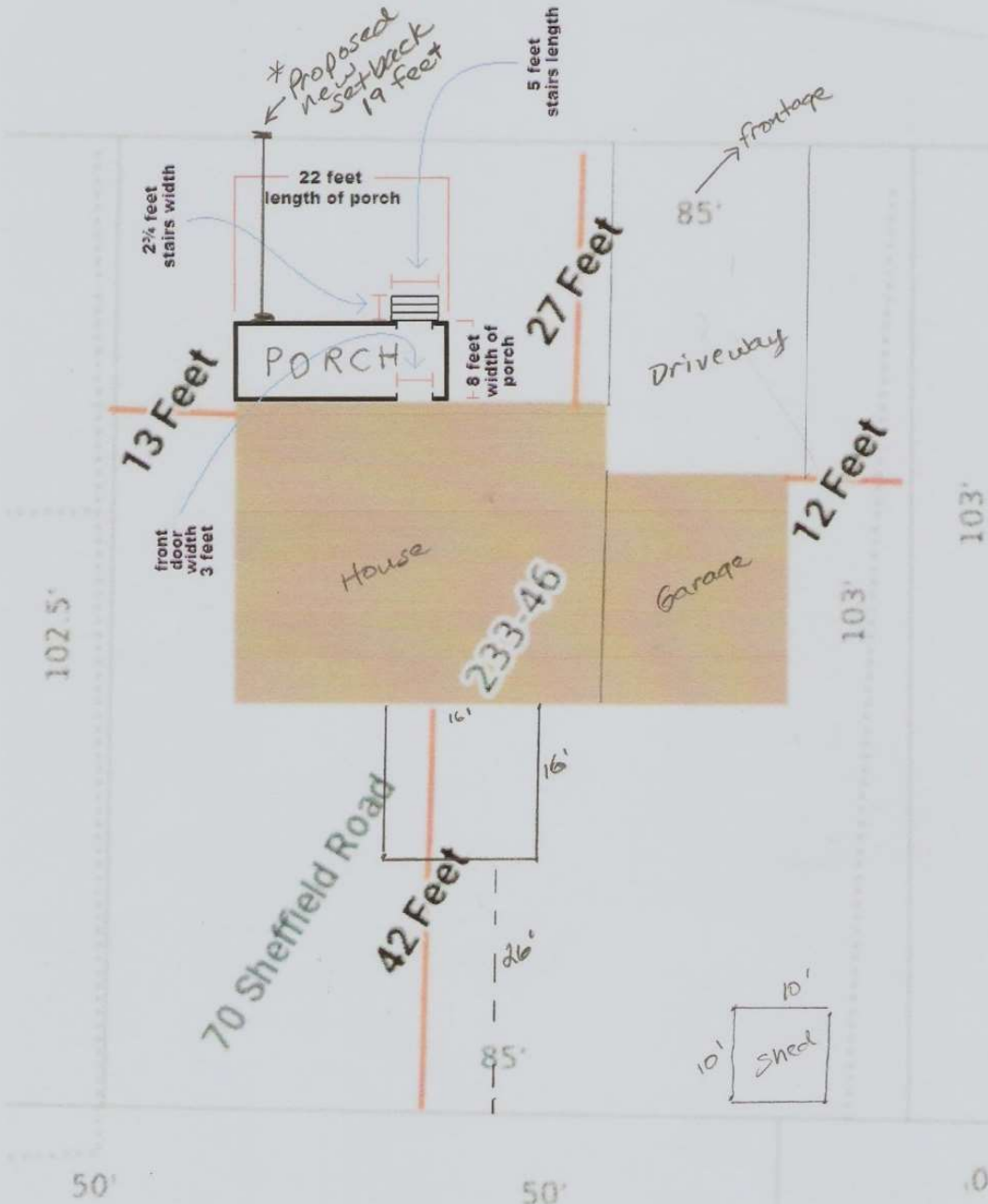
City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 4/1/2019
 Data updated 7/17/2019

1" = 42 ft

Proposed Porch
70 Sheffield Road

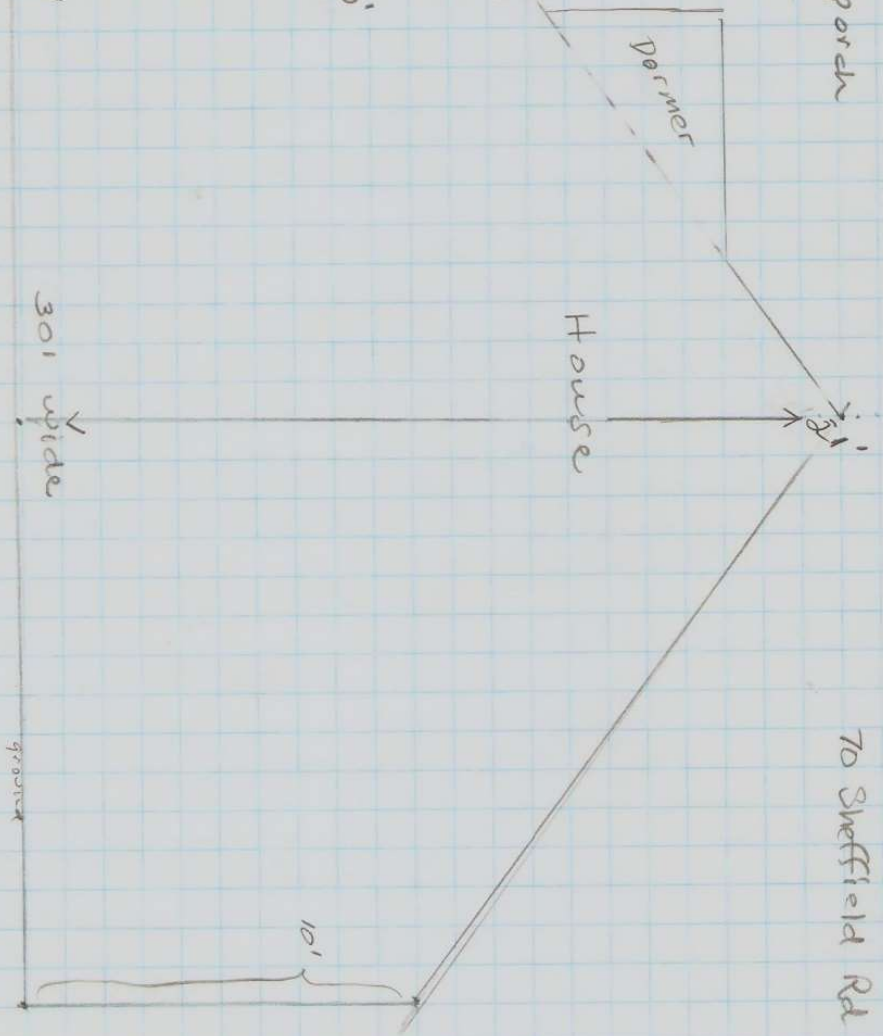
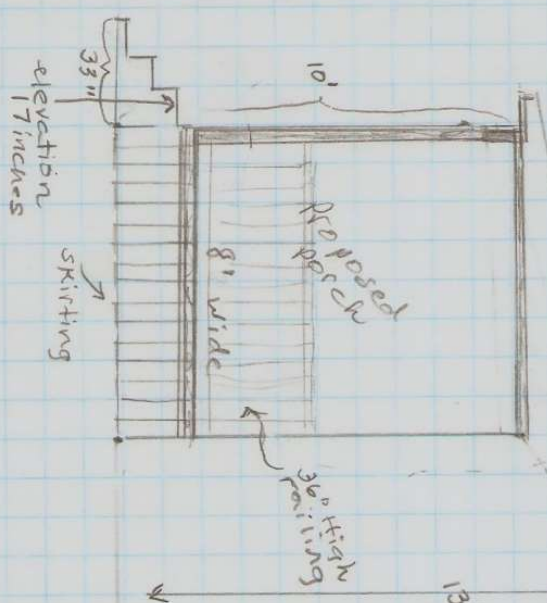
Sheffield Rd



1sq = 1'

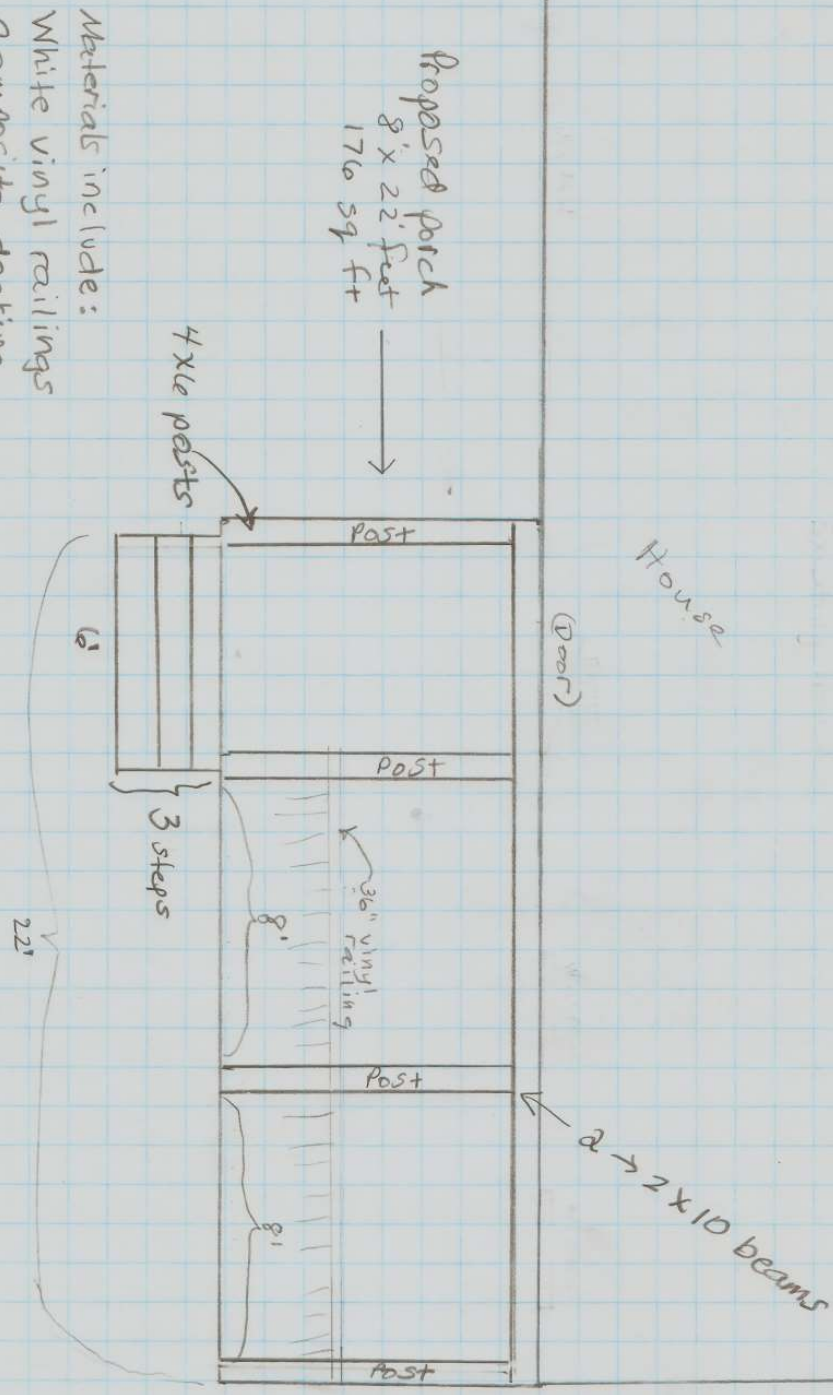
Side view of house and proposed porch
Shows elevations

Proposed
8 x 22 porch
with railings



Scale 1/4" = 1'

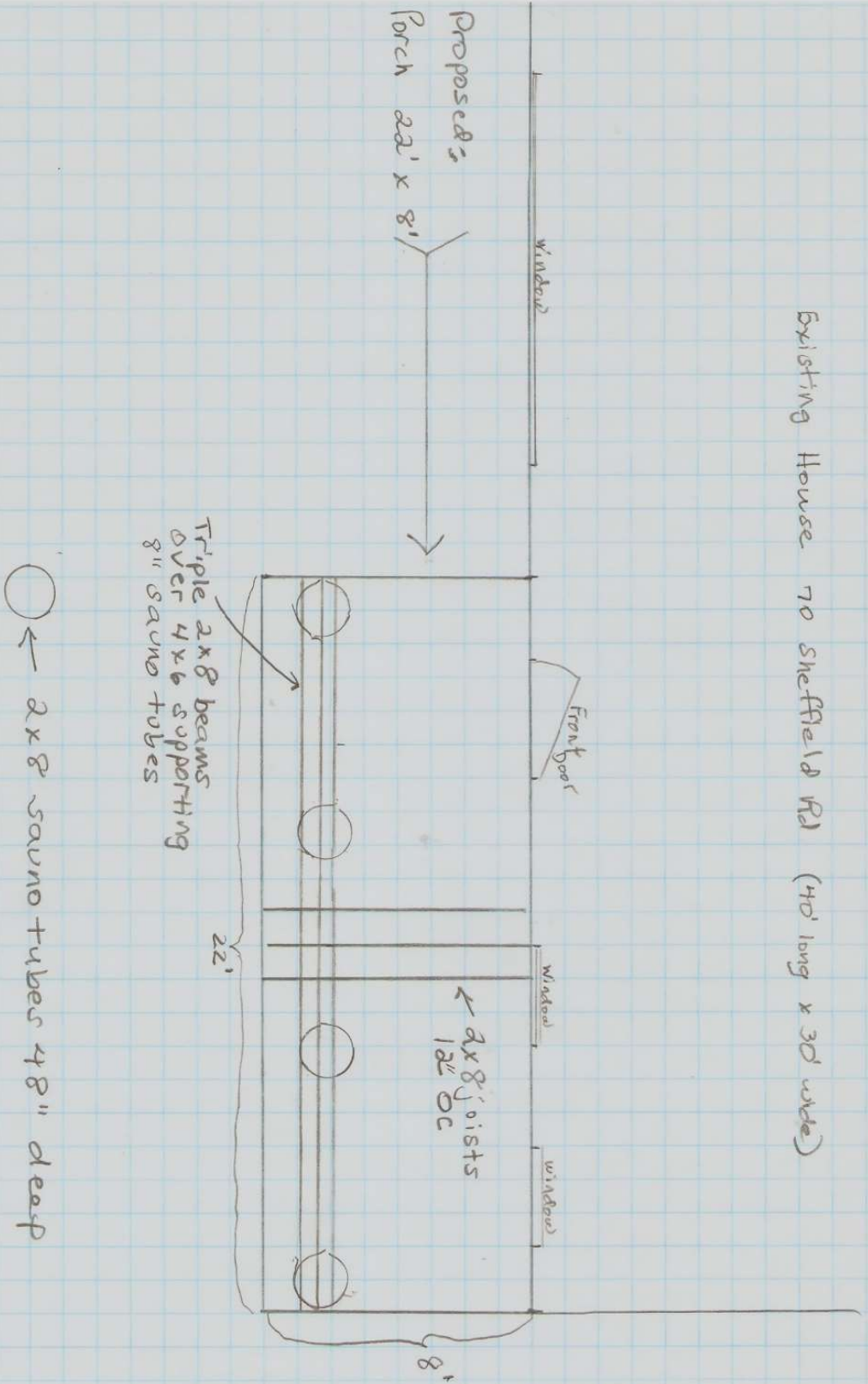
70 Sheffield Rd
FRONT VIEW of Proposed Porch



- Materials include:
- White vinyl railings
 - Composite decking
 - Black architectural roof shingles
 - White vertical PVC skirting

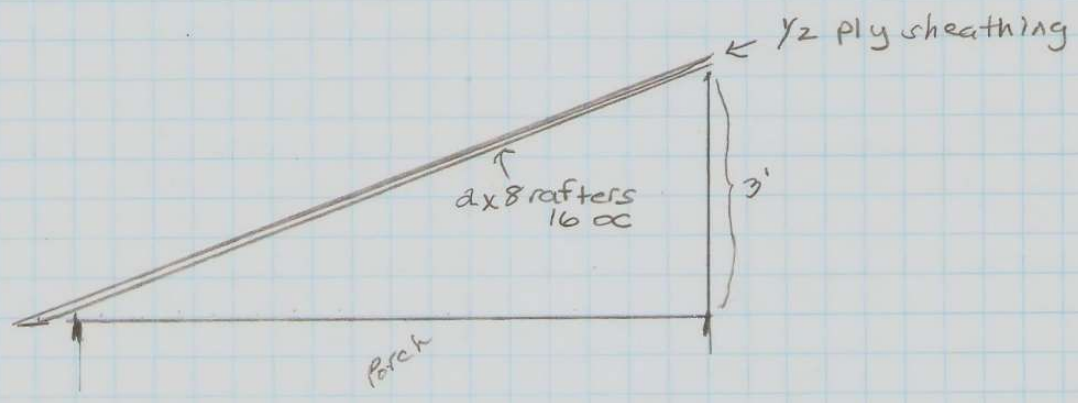
Scale 1/4" = 1'

Existing House 70 Sheffield Rd (40' long x 30' wide)



Proposed Porch
Roof - side view

$\frac{1}{2}'' = 1'$
Scale



70 Sheffield Rd

Kennedy property distance to 70 Sheffield



Property Information
Property ID: 0233-0046-0000
Location: 70 SHEFFIELD RD
Owner: PRENDERGAST FAMILY REVOC TRUST OF 2012



**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 4/1/2019
Data updated 7/17/2019

Current view of home
70 Sheffield Road



Porch will be located
this side of house



Side view of house
70 Sheffield Rd



Porch to
be
located
in the
front on
this end
of the
house



This porch is located at 79 Sheffield and is similar to the one proposed for 70 Sheffield Road

From: Elisabeth Kennedy (lkjknk@aol.com)

To: pmstith@cityofportsmouth.com

Cc: jprender50@yahoo.com

Date: Sunday, February 7, 2021, 10:48 PM EST

Mr. Stith,

I am writing to you in support of my neighbors, Jeanne & James Pendergast, request for a variance to build a farmers porch onto the front of their property at 70 Sheffield Road.

Jeanne has kept me and our immediate community informed of their proposed plans and I see no reason why it would adversely affect our neighborhood. I always enjoy sitting on my front porch, engaging with the neighbors passing by, and hope that they will be able to do the same.

Should you have any questions please don't hesitate to contact me.

Elisabeth Kennedy
64 Sheffield Road
Portsmouth, NH 03801
(603)770-2522

From: Fay Ham <fayham@icloud.com>
Date: February 7, 2021 at 4:01:01 PM EST
To: pmstith@cityofportsmouth.com
Subject: 70 Sheffield Rd.

Dear Peter Stith and the planning department of the City of Portsmouth,

My name is Fay Ham and I am a resident of 71 Sheffield Rd. Directly across from the Prendergast residence. They have done an outstanding job on their home and understand they would like to add on a farmers porch, I hope that they will be able to go forth with their wishes. I am certainly looking forward to seeing that completed.

Thank you for your consideration,

Fay Ham

Sent from my iPhone

Properties within
300 feet of 70
Sheffield Road

Property ID	Site Address	Account	Owner Name	Owner Name 2	Owner Address	City	State	Zip
0233-0041-0000	35 HAMPSHIRE RD	30408	WELSH FAMILY REVOCABLE TRUST OF 1999	WELSH MARCIA J & TRACY B TRUSTEES	35 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0042-0000	45 SHEFFIELD RD	30409	GUARRERA DONNA		45 SHEFFIELD RD	PORTSMOUTH	NH	3801
0233-0043-0000	55 SHEFFIELD RD	30410	VACCARO KATHLEEN A REV TST OF 2020	VACCARO KATHLEEN TRUSTEE	55 SHEFFIELD RD	PORTSMOUTH	NH	3801
0233-0044-0000	71 SHEFFIELD RD	30411	SULLY ROSE		61 SHEFFIELD RD	PORTSMOUTH	NH	3801
0233-0047-0000	64 SHEFFIELD RD	30412	HAM FAY B IRREVOCABLE TRUST	HAM FBME & NELSON KL & GAGNE JL TRTEES	71 SHEFFIELD RD	PORTSMOUTH	NH	3801
0233-0048-0000	64 SHEFFIELD RD	30414	KENNEDY ELISABETH REVO TRUST	KENNEDY ELISABETH TRUSTEE	64 SHEFFIELD RD	PORTSMOUTH	NH	3801
0233-0048-0000	56 SHEFFIELD RD	30415	MCGRIMLEY SEAN M	MCGRIMLEY ALLISON W	56 SHEFFIELD RD	PORTSMOUTH	NH	3801
0233-0049-0000	46 SHEFFIELD RD	30416	ADDORIO FAMILY REVO TRUST	ADDORIO R P & E J TRUSTEES	70 SEPTEMBER DR	GREENLAND	NH	3840
0233-0058-0000	113 ESSEX AVE	30424	ABSHER CAROLYN M TROSKY		113 ESSEX AVE	PORTSMOUTH	NH	3801
0233-0059-0000	125 ESSEX AVE	30425	LAUX EVELYN L	ABSHER RANDALL PAUL	125 ESSEX AVE	PORTSMOUTH	NH	3801
0233-0060-0000	139 ESSEX AVE	30426	MORROW PEGGI L		139 ESSEX AVE	PORTSMOUTH	NH	3801
0233-0061-0000	151 ESSEX AVE	30427	BERLING CHRISTIAN L		117 ASH ST	PORTSMOUTH	NH	3801
0233-0062-0000	161 ESSEX AVE	30428	WIERBONICS MICHAEL S	WIERBONICS LILI L	161 ESSEX AVE	PORTSMOUTH	NH	3801
0233-0063-0000	160 ESSEX AVE	30429	PARSONS SHANNON M	PARSONS STEPHEN E	160 ESSEX AVE	PORTSMOUTH	NH	3801
0233-0064-0000	152 ESSEX AVE	30430	CLARK COREY J	CLARK JANELLE B	152 ESSEX AVE	PORTSMOUTH	NH	3801
0233-0065-0000	140 ESSEX AVE	30431	DOOLEY WILLIAM E	DOOLEY WHITNEY S	140 ESSEX AVE	PORTSMOUTH	NH	3801
0233-0066-0000	122 ESSEX AVE	30432	SALTUS CASSANDRA M DECLARATION OF TRUST	SALTUS CASSANDRA M TRUSTEE	122 ESSEX AVE	PORTSMOUTH	NH	3801
0232-0128-0000	198 ESSEX AVE	30267	WESTHELLE ROBERT	WESTHELLE WHITNEY	198 ESSEX AVE	PORTSMOUTH	NH	3801
0232-0129-0000	170 ESSEX AVE	30268	NEVIN JOEL F		170 ESSEX AVE	PORTSMOUTH	NH	3801
0232-0134-0000	169 ESSEX AVE	30273	WADE ROBT S		169 ESSEX AVE	PORTSMOUTH	NH	3801
0232-0135-0000	219 ESSEX AVE	30274	YAJUN MARION J		219 ESSEX AVE	PORTSMOUTH	NH	3801
0232-0136-0000	239 ESSEX AVE	30275	GOLDEN BRIAR K		239 ESSEX AVE	PORTSMOUTH	NH	3801
0232-0137-0000	ESSEX AVE	30276	LOUGHLIN MARY R		245 ESSEX AVE	PORTSMOUTH	NH	3801
0232-0143-0000	100 SHEFFIELD RD	30282	BONITO GLORIA	FREEDMAN ROBERT H TRUSTEE	100 SHEFFIELD RD	PORTSMOUTH	NH	3801
0232-0144-0000	90 SHEFFIELD RD	30283	90 SHEFFIELD ROAD REALTY TRUST		90 SHEFFIELD ROAD	PORTSMOUTH	NH	3801
0232-0145-0000	80 SHEFFIELD RD	30284	BURNETT SHERRY A		80 SHEFFIELD ROAD	PORTSMOUTH	NH	3801
0232-0146-0000	74 SHEFFIELD RD	30285	HAZEL KAREN F		74 SHEFFIELD RD	PORTSMOUTH	NH	3801
0232-0147-0000	79 SHEFFIELD RD	30286	BOSTON SHIRLEY L		79 SHEFFIELD ROAD	PORTSMOUTH	NH	3801
0232-0148-0000	83 SHEFFIELD RD	30287	ULIANO FAMILY REVOCABLE TRUST OF 2015	ULIANO EMIL R III & DAWN ELLEN TRUSTEES	457 SAGAMORE RD	RYE	NH	3870
0232-0149-0000	87 SHEFFIELD RD	30288	STEVENS JAMES K		87 SHEFFIELD RD	PORTSMOUTH	NH	3801
0232-0150-0000	7 HAMPSHIRE RD	30289	GIOVANDO KATHERINE	MATHES CAROL M	7 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0232-0151-0000	11 HAMPSHIRE RD	30290	MEDLOCK TODD A		11 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0232-0152-0000	10 HAMPSHIRE RD	30291	MCCONNAUGHEY GEORGE H		10 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0232-0153-0000	8 HAMPSHIRE RD	30292	MCCONNAUGHEY GEORGE		8 HAMPSHIRE ROAD	PORTSMOUTH	NH	3801
0233-0031-0000	24 HAMPSHIRE RD	30398	BOLDUC JAMES G	MCCONNAUGHEY GEORGE II	24 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0032-0000	18 HAMPSHIRE RD	30399	WISINSKI FRANK & JO ANN FAMILY TR 2016	EGAN CK POLTRINO MA & WISINSKI GT TRTEES	18 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0033-0000	16 HAMPSHIRE RD	30400	KAT MARIEKE CHARLOTTE	PEYSER KEVIN DAVID	16 HAMPSHIRE RD	PORTSMOUTH	NH	03801-4816
0233-0034-0000	12 HAMPSHIRE RD	30401	LEVENSON JACOB A		12 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0035-0000	13 HAMPSHIRE RD	30402	REEVES LINDA A		13 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0036-0000	17 HAMPSHIRE RD	30403	THOMAS CAROLYN A 2004 TRUST	THOMAS CAROLYN A TRUSTEE	17 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0037-0000	21 HAMPSHIRE RD	30404	BROWN MARK J REVOCABLE TRUST	BROWN MARK J TRUSTEE	21 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0038-0000	25 HAMPSHIRE RD	30405	CAMERON JOHN H	CAMERON LOUISE BEAULIEU	25 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0039-0000	27 HAMPSHIRE RD	30406	FISHBEIN FAMILY REALTY TRUST	FISHBEIN SHIRLEY TRUSTEE	27 HAMPSHIRE RD	PORTSMOUTH	NH	3801
0233-0050-0000	36 SHEFFIELD RD	35496	1 ALDEN AVE LLC		348 BAYSIDE RD	GREENLAND	NH	3840

APPLICATION OF PETER MACDONALD
58 TAFT ROAD

APPLICANT'S NARRATIVE

I. THE PROPERTY.

The subject property is located at 58 Taft Road at the southwesterly corner of the intersection of Taft Road and Pierce Place. Presently, the property contains a single family ranch style dwelling unit with attached two car garage. The property is located in a Single Residence B District and is approximately 9,400 square feet in size.

The property is surrounded by single family residential dwellings. Like all of the Elwyn Park neighborhood it was constructed in the late 1950's.

II. THE PROPSOAL.

The Applicant proposes to construct a small addition 12 feet by 16 feet to the rear of the property. A 6 foot by 16 foot deck will be attached to the proposed addition. Because the existing structure has a ten foot front yard and existing lot coverage of 20.54% (Variances were granted by the Board in November of 1988) it is a nonconforming structure and variances are required for a lot coverage of 23.6%. and for the expansion of a non conforming structure.

III. RELIEF REQUESTED.

The Applicant is requesting a variance from Article 5 Section 10.521 to allow a lot coverage of 23.6% where 20% is the maximum allowed and 20.54% exists. The applicant is also seeking a variance from Article 3 Section 10.321 to allow the expansion of a nonconforming structure.

IV. ARGUMENT.

It is the Applicant's position that the within application meets the five (5) criteria necessary for the board to grant the Applicant's request.

The proposed addition would add 192 square feet of lot coverage. While the proposed deck would add an additional 96 square feet. As a result, the lot coverage goes from 20.54% to 23.6 % which is not inconsistent with lot coverages in the neighborhood. This neighborhood consists primarily of single-family homes on relatively small lots. The proposed additions are to the rear of the property. Many of the homes in the neighborhood have rear yard additions

Granting the requested variance would not be contrary to the spirit and intent of the ordinance nor be contrary to the public interest. To grant the requested variances would not result in any change in the essential characteristics of the neighborhood nor would public health, safety, or welfare be threatened. Thus, the variance request meet the tests set forth by the New Hampshire Supreme Court in the case of Malachy Glen v. Town of Chichester 155 NH 102 (2007), and also in the case of Chester Road & Gun Club v. Town of Chester 152 NH 577 (2005).

Granting the requested variances would not result in any diminution in value. As can be seen from the photographs of the existing conditions and the renderings of the proposed additions, the additions to the existing structure would certainly not result in a diminution in value of surrounding properties.

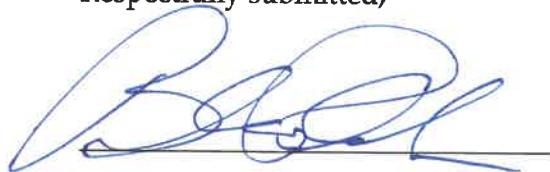
Substantial justice would be done by granting the requested variances. Granting the Applicant's request for variances would result in substantial justice being done, as the hardship upon the Applicant were the variances to be denied would not be outweighed by some perceived benefit to the general public. The structure as presently configured has no deck, and the existing kitchen area is tiny. The applicant's proposal would allow the kitchen to be relocated to the proposed addition and provide a small deck. There would be no benefit to the general public in denying the requested variances. The use of the property would be unchanged and is an allowed use and the number of parking spaces meets the requirements of the zoning ordinance. The proposal would not be out of character with the uses and structures in the neighborhood.

Due to special conditions of the property, in order for the Applicant to have the proper enjoyment of his property under the strict terms of the zoning ordinance, the variances are necessary due to the unnecessary hardship. The size and shape of the building and its location upon the property make it nonconforming and are such that any type of addition whatsoever would require variances. The Applicant's proposed addition to the building is located in the rear yard and will not be visible from the street. The second proposed addition, a 6' x 16' deck also in the rear of the property would not be visible from Taft Road. The 3.06% increase in lot coverage is minimal. The use is reasonable and allowed by the zoning ordinance and thus there is no fair and substantial relationship between the intent of the ordinance as it is applied to this particular piece of property. The special conditions of the property are its size and the shape and location of the building thereon. Given these special conditions an unnecessary hardship is created which requires relief by the board.

IV. CONCLUSION.

In conclusion it is the Applicant's position that the five (5) criteria necessary for the board to grant the necessary variances are met by the within application and it is respectfully requested that the board grant the requested variances as presented and advertised.

Respectfully submitted,



Dated: February 12, 2021



Property Information

Property ID 0251-0012-0000
Location 58 TAFT RD
Owner MACDONALD PETER J



**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 4/1/2019
Data updated 7/17/2019

CURRENT OWNER		UTILITIES		STRT/ROAD		LOCATION		CURRENT ASSESSMENT	
ANASTOS SPIRO A REVOC TRUST	ANASTOS SPIRO A TRUSTEE	1 Level	0 All Public	1 Paved	7 2 Off-St PKG	RESIDENTL	RES LAND	Code	Assessed
								1010	201,600
								1010	175,700
58 TAFT RD								Total	377,300
PORTSMOUTH NH 03801								Total	377,300

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC
ANASTOS SPIRO A REVOC TRUST	MURPHY JOHN W REVO TRUST	5450 1363	06-17-2013	Q	I	339,900	00
		3537 0406	01-22-2001	I		0	
Total							

EXEMPTIONS		Year	Code	Description	Amount	Number	Comm Int
Total							

ASSESSING NEIGHBORHOOD		Nbrhd	Nbrhd Name	Batch
		114		
Total				

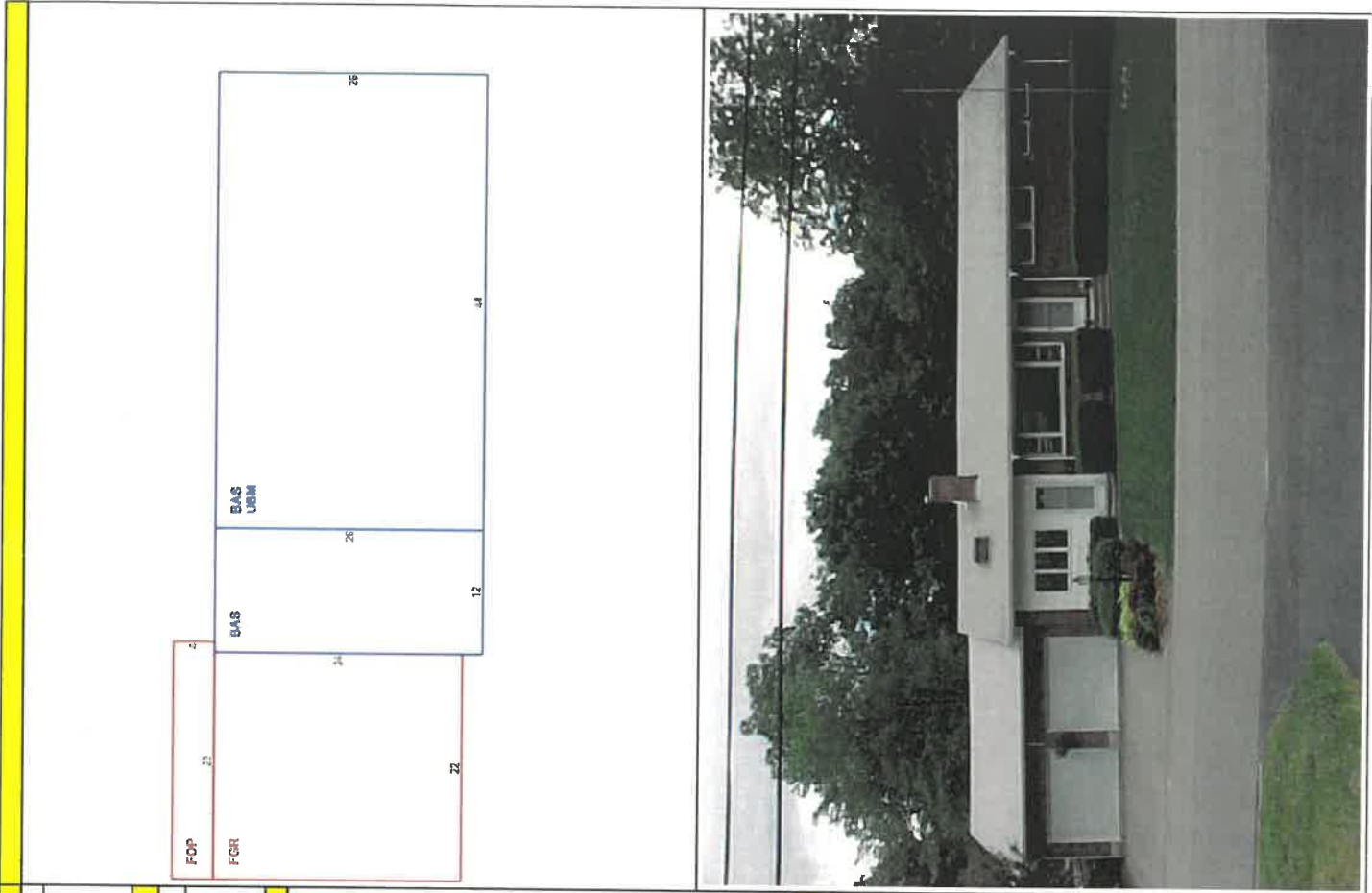
06/12- REMOVED PATIO

APPOINTMENT LETTER JUNE 14, 2012

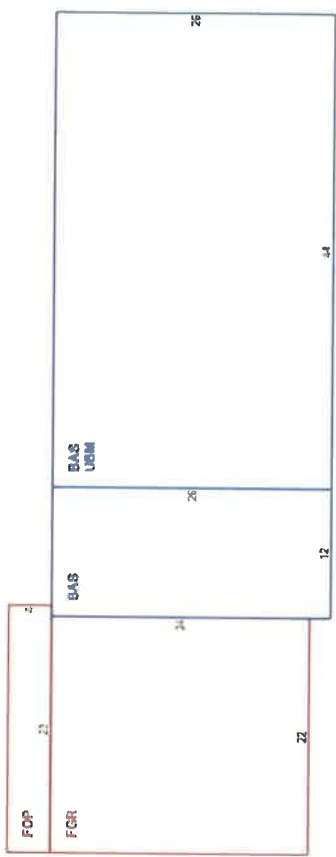
BUILDING PERMIT RECORD		Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments
Total Appraised Parcel Value										

LAND LINE VALUATION SECTION		B Use Code	Description	Zone	Frontage	Depth	Land Units	Unit Price	Size Ad	Site Cond.	ST Idx	S.I. Adj	Notes-Adj	Special Pricing	Adj Unit P	Land Value
1	1010	SINGLE FAM M	SRB		9,403 SF		9,403 SF	16.99	1.0000	1	1.00	114	1,100	0	1.0000	175,700
Total Card Land Units																
Parcel Total Land Area																
Total Appraised Parcel Value																377,300

VISIT / CHANGE HISTORY		Date	Id	Type	Is	Cd	Purpose/Result
		08-28-2017	KL			41	Hearing Change
		06-22-2017	PM			FR	Field Review Stat Update
		02-27-2015	DG			FR	Field Review Stat Update
		05-23-2014	LS			DE	Data Entry
		11-13-2013	EH			ML	MLS Review
		09-11-2012	AD			DE	Data Entry
		06-25-2012	JM			10	Measur/TrSnt Letter Sent



CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)									
Element	Cd	Description	Description								
Style:	01	Ranch									
Model:	01	Residential									
Grade:	C+	C+									
Stories:	1										
Occupancy	1	Brick/Stne Ven									
Exterior Wall 1	19										
Exterior Wall 2											
Roof Structure:	03	Gable/Hip	Percentage 100								
Roof Cover	03	Asph/F GlS/Cmp	0								
Interior Wall 1	05	Drywall/Sheet	0								
Interior Wall 2											
Interior Fir 1	14	Carpet									
Interior Fir 2											
Heat Fuel	02	Oil	129.29								
Heat Type:	04	Hot Water	247,460								
AC Type:	01	None	1958								
Total Bedrooms	02	2 Bedrooms	1997								
Total Half Baths	0		GD								
Total Xtra Fixtrs	0										
Total Rooms:	6		22								
Bath Style:	1	Avg Quality									
Kitchen Style:	1	Avg Quality									
Kitchen Gr											
WB Fireplaces	1										
Extra Openings	0										
Metal Fireplace	0										
Extra Openings	0										
Bsmt Garage	0										
OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)											
Code	Description	L/B	Units	Unit Price	Yr Bld	Cond.	Cd	% Gd	Grade	Grade Adj.	Appr. Value
REC	REC ROOM	B	440	25.00	1997	00		78	C	1.00	8,600
BUILDING SUB-AREA SUMMARY SECTION											
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value					
BAS	First Floor	1,456	1,456	1,456	129.29	188,245					
FGR	Garage, Attached	0	528	211	51.67	27,280					
FOP	Porch, Open	0	92	18	25.30	2,327					
UBM	Basement, Unfinished	0	1,144	229	25.88	29,607					
Ttl Gross Liv / Lease Area						247,459					





CITY OF PORTSMOUTH

City Hall, 126 Daniel Street
Portsmouth, New Hampshire 03801
(603) 431-2000

November 2, 1988

Mr. and Mrs. John W. Murphy
58 Taft Road
Portsmouth, NH 03801

RE: Property at 58 Taft Road

Dear Mr. and Mrs. Murphy:

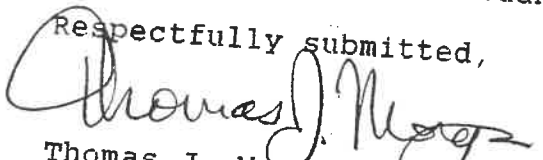
The Board of Adjustment at its regular meeting of November 1, 1988 and after due Public Hearing, completed its consideration of your application wherein the following was requested: a Variance from Article III, Section 10-302 to allow the construction of a 24' x 22' attached garage with a 10' front yard where a 30' front yard is required and a lot coverage of 20.54% where 20% lot coverage is the maximum allowed.

As a result of such consideration, it was voted that your request be granted as advertised.

Please be advised that under NH RSA 677:2 any person or party to the action or proceeding of the Board of Adjustment may ask for a rehearing within twenty days of the decision or order of the Board of Adjustment.

Prior to the issuance of a building permit, the Building Inspector will need to review and approve construction drawings/sketches. Contact the Inspector at 431-200, ext. 215/243 between 8:30-10:00 a.m. Applicants should also note that other approvals may also be required from other committees and/or boards prior to the issuance of a Building Permit.

Respectfully submitted,


Thomas J. Morgan, Chairman
Board of Adjustment

TJM/jmw

cc: Richard A. Hopley, Building Inspector

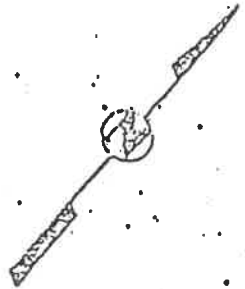
58 TAFT RD.
PORTSMOUTH, N.H.

TAX MAP -
R51
LOT 012

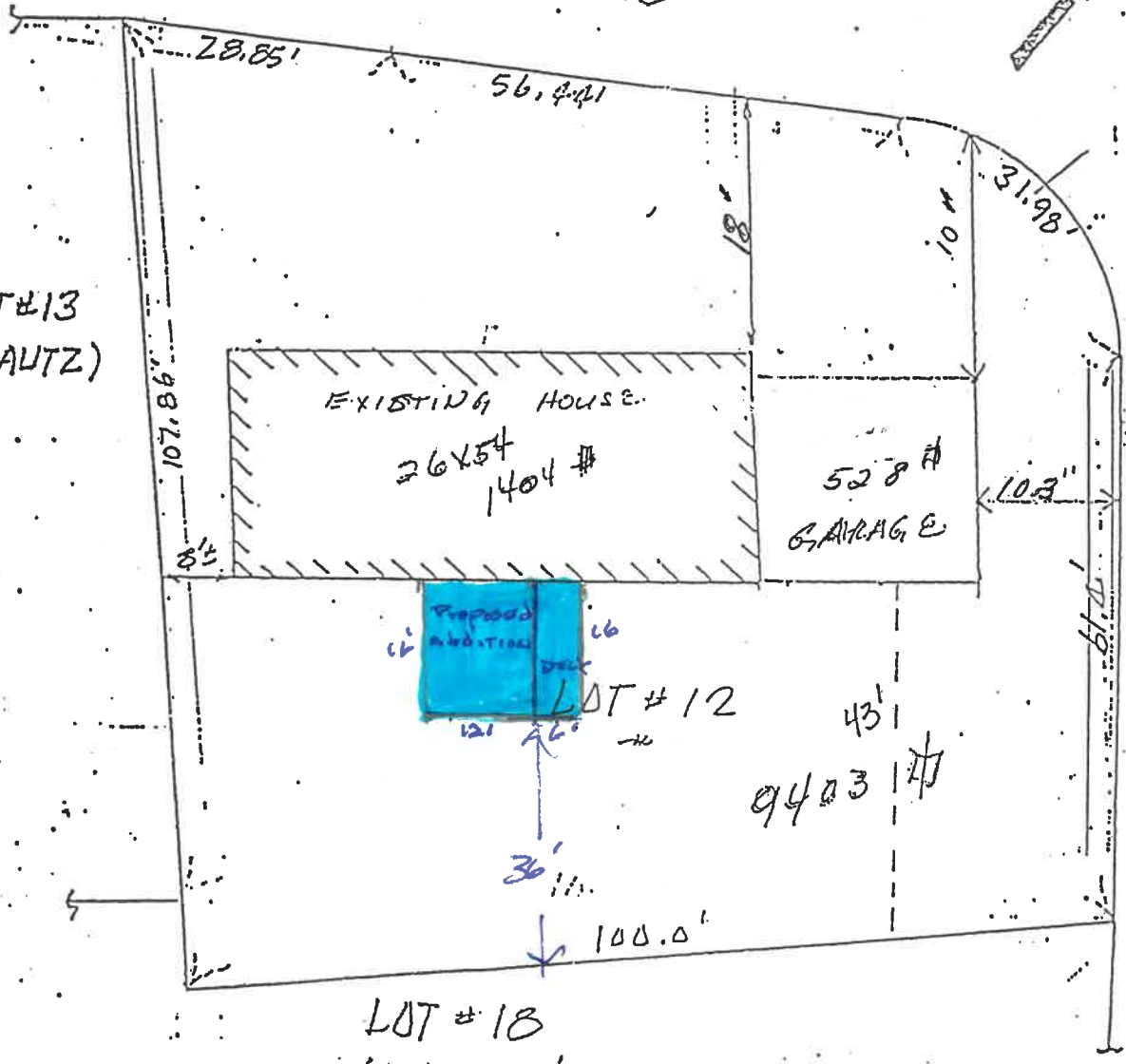
NOT TO SCALE

DEED REF.: 2217/12

TAFT ROAD



LOT #13
(PLAUTZ)



PIERCE PLACE

LOT #18
(MASSARI)

REF: TAX MAP, SHEET # R51, LOT #12

Seacoast Engineering Associates, Inc.

73 DANIEL STREET
DATE: APRIL 10, 1985

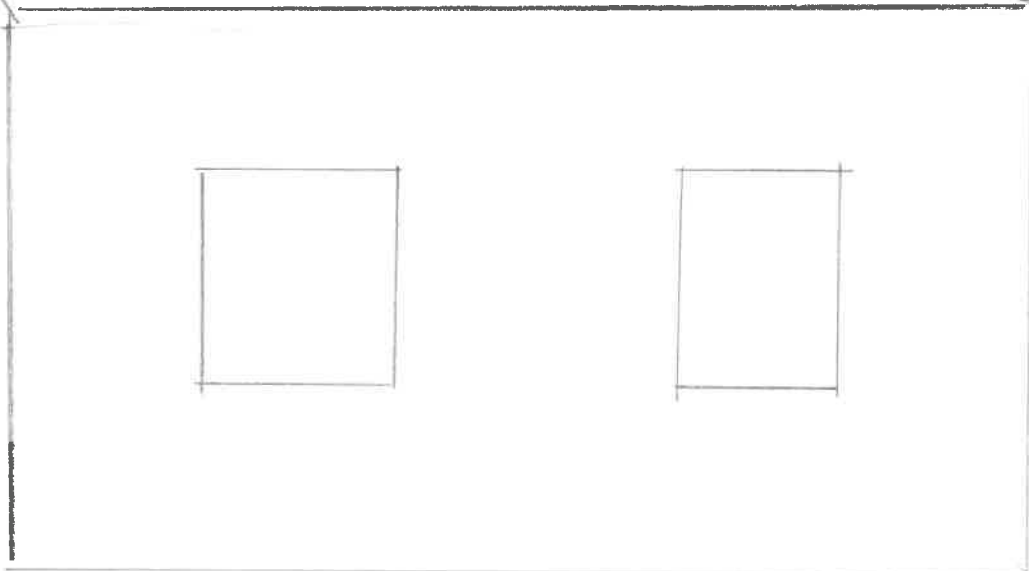
PORTSMOUTH, NEW HAMPSHIRE

(FOR MORTGAGE PURPOSES ONLY)

SCALE: 1" = 20'

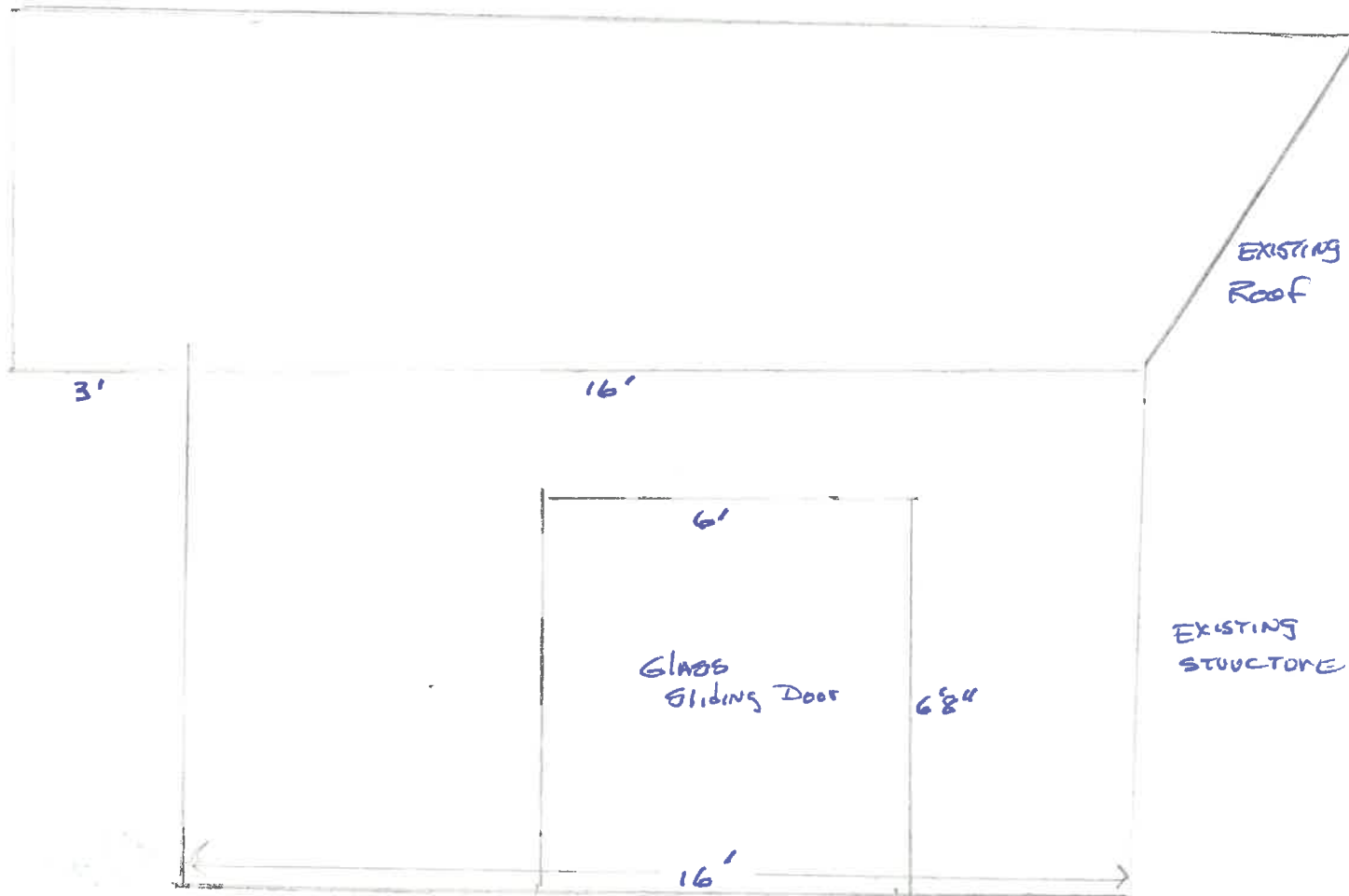
EXISTING
Roof

EXISTING
STRUCTURE

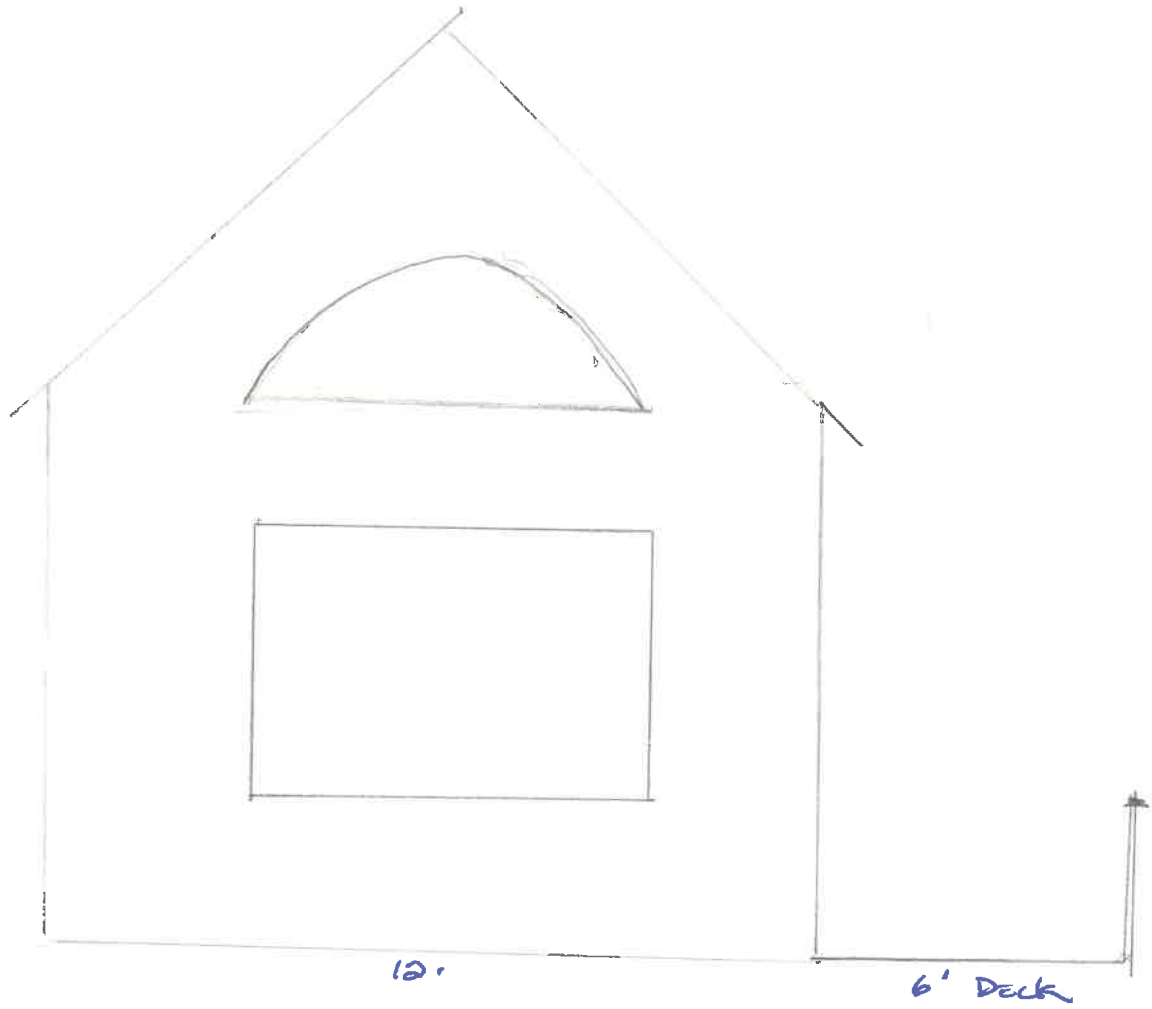


16'

LEFT ELEVATION



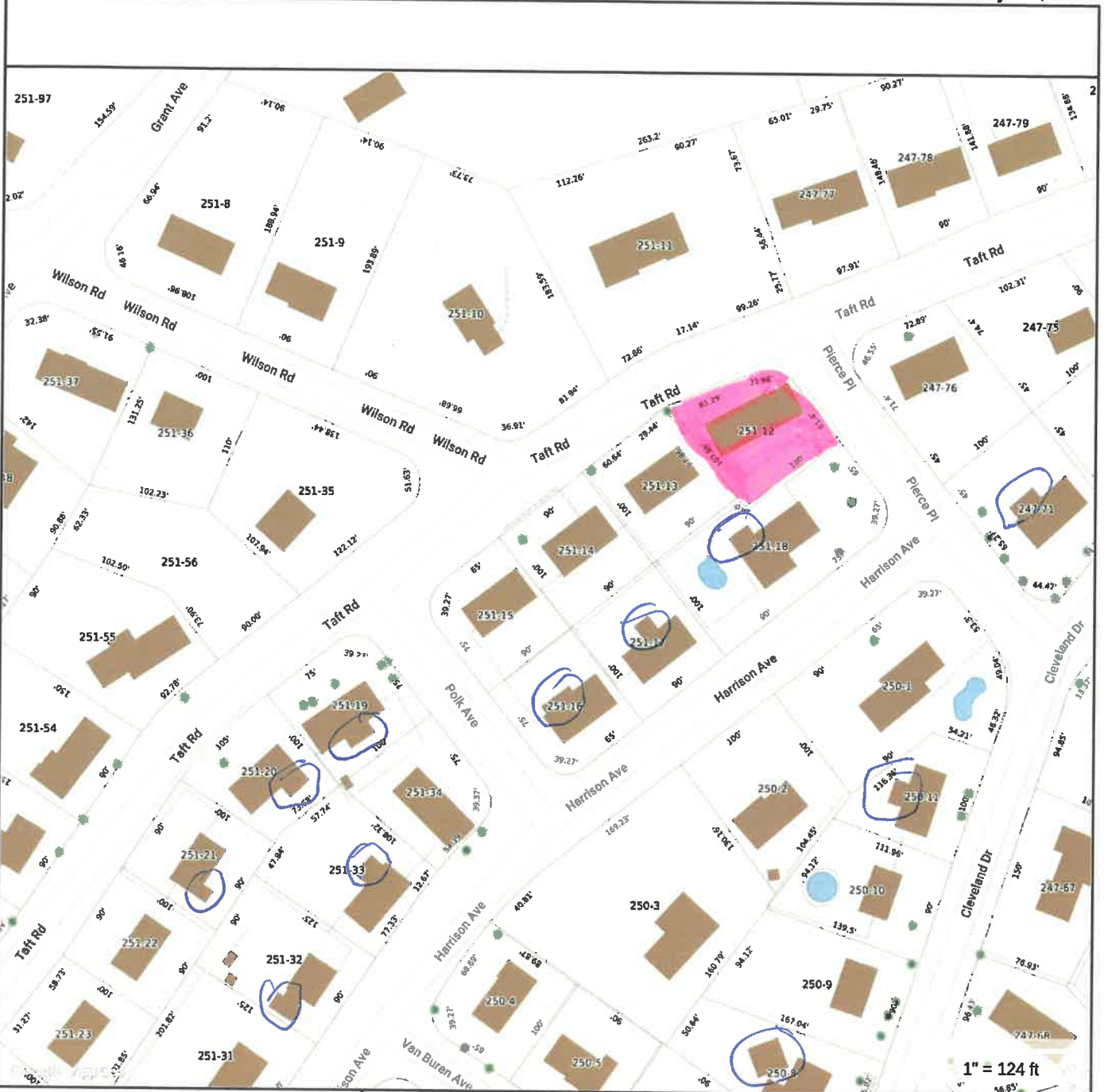
RIGHT ELEVATION



12'

6' DECK

REAR ELEVATION



**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 4/1/2019
Data updated 7/17/2019

*Neighborhood
Properties with
PEAR Additions*











**CONTENTS, BOA APPLICATION FOR PROPOSED REMODEL AND ADDITION AT #2
MONROE ST., PORTSMOUTH, NH.**

***2-Narrative**

***3-Tax Map, locating property.**

***4-Plan Set, including Existing and Proposed Site Plans and Proposed Floor Plans
and Elevations.**

***5-Dimensional Table.**

***6-Addressing the (5) "criteria" and "unnecessary hardship".**

**PROPOSED REMODEL AND ADDITION AT #2 MONROE ST.,
PORTSMOUTH, NH.**

NARRATIVE

The property is on the corner of Monroe and Middle Streets. The House is a classic "New Englander" with Victorian influences. Tax card information suggests the original structure was built in 1900.

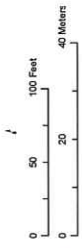
The existing structure consists of a 2 ½ story house with enclosed Front Porch and a Detached, Basement style Garage, with the foundation dug into the topography. The flat roof of the Garage is approximately aligned to the First Floor level of the House. The Garage is 8.25' from the right side lot line. The Lot coverage is at 25.7%.

It is proposed to demolish the existing Garage and build a new, slightly smaller one, with 1 ½ story's above. The New Garage would be 10.25' from the right side lot line. The New Garage front would align to the existing. A Porch and steps, linking structure would be built to give First Floor access to both buildings. The New Lot Coverage would be 26.3%.

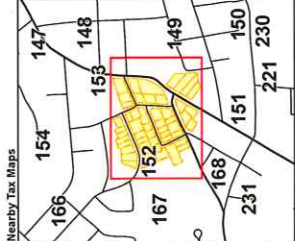
The area of Impervious Surface slightly less (-4sf) since the New Garage is slightly smaller and the added linking structure occurs over existing pavement/concrete. A stone drip edge (12" deep, 20" wide) will act as an infiltration trench on (3) sides of the New structure.

Partial Legend

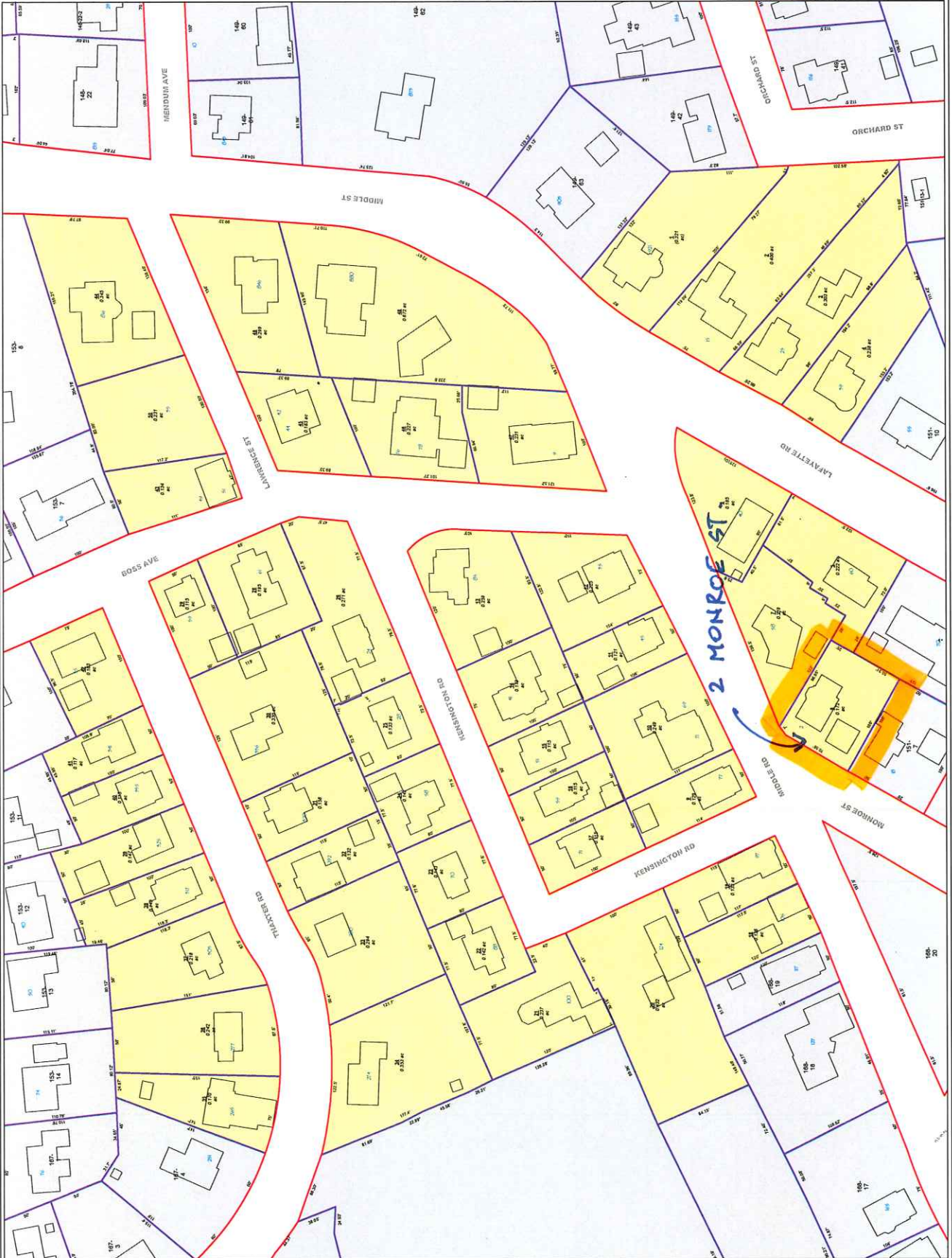
- See the cover sheet for the complete legend
- 7.5.1** Lot or parcel number (lot or square feet)
- 7.5.2** Address number
- 7.5.3** Parcel number from a neighboring map or Parcel line dimension
- 7.5.4** Street name
- 7.5.5** Parcel shown by this map
- 7.5.6** Parcel not shown by this map (see other map for correct status)
- 7.5.7** Parcel boundary
- 7.5.8** Water boundary
- 7.5.9** Structure (1984 data)
- 7.5.10** Parcel shown by this map
- 7.5.11** Parcel not shown by this map (see other map for correct status)

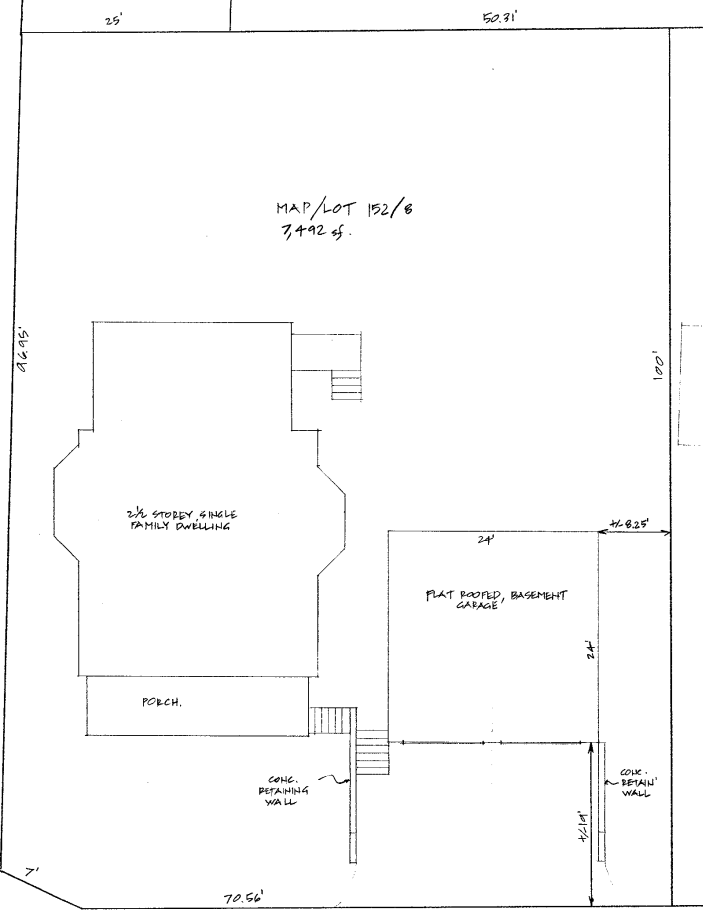


This map is for assessment purposes only. It is not to be used for legal or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent precise or legal addresses.



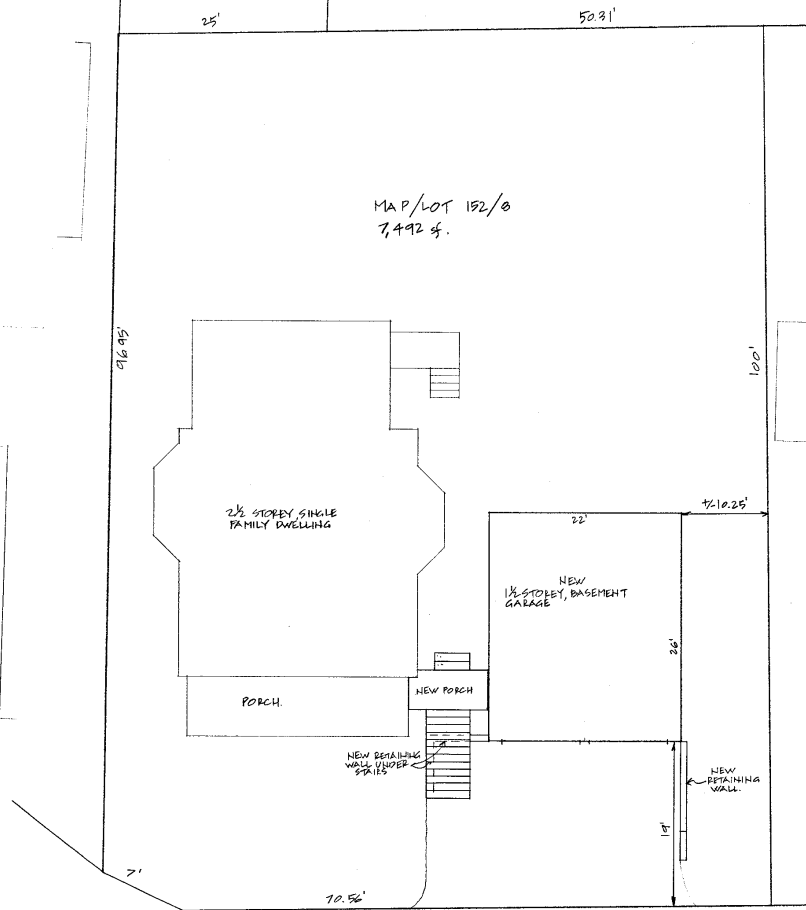
Portsmouth, New Hampshire
2019
Tax Map 152





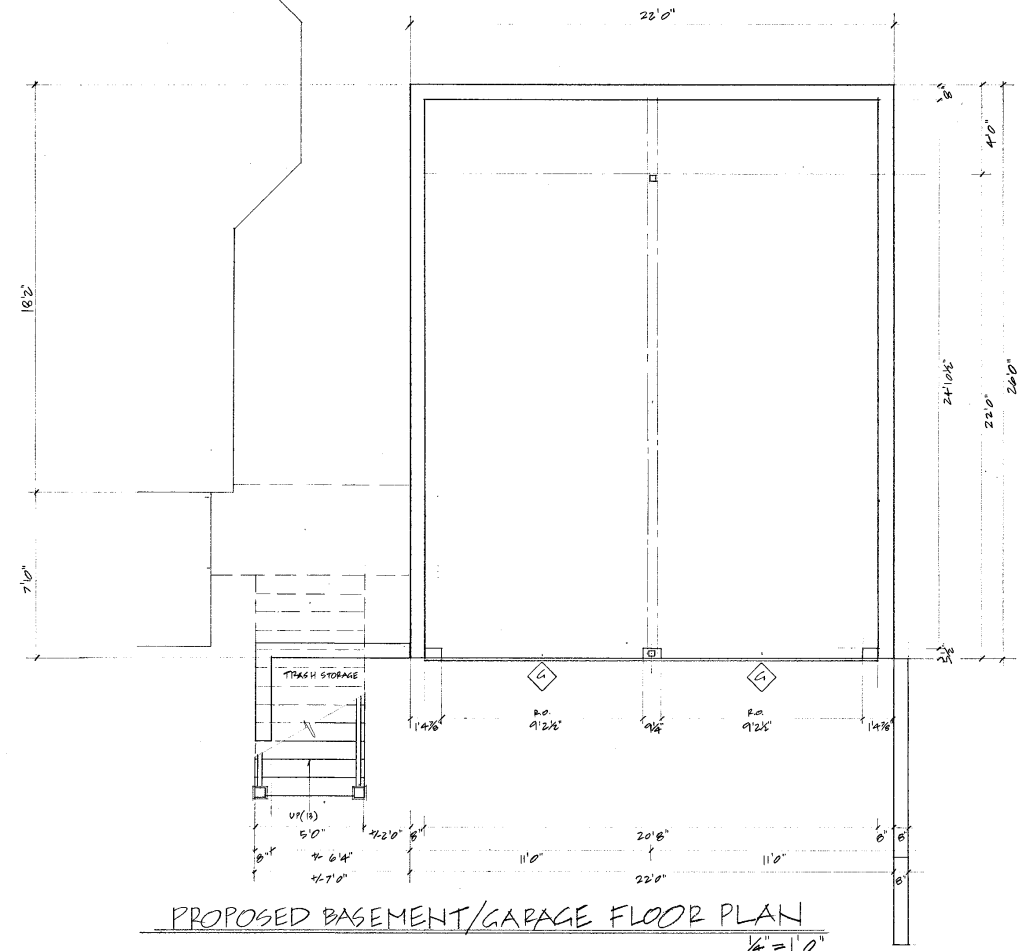
MONROE STREET

EXISTING CONDITIONS SITE PLAN 1"=10'
(FROM TAX MAP)



MONROE STREET

PROPOSED CONDITIONS SITE PLAN 1"=10'



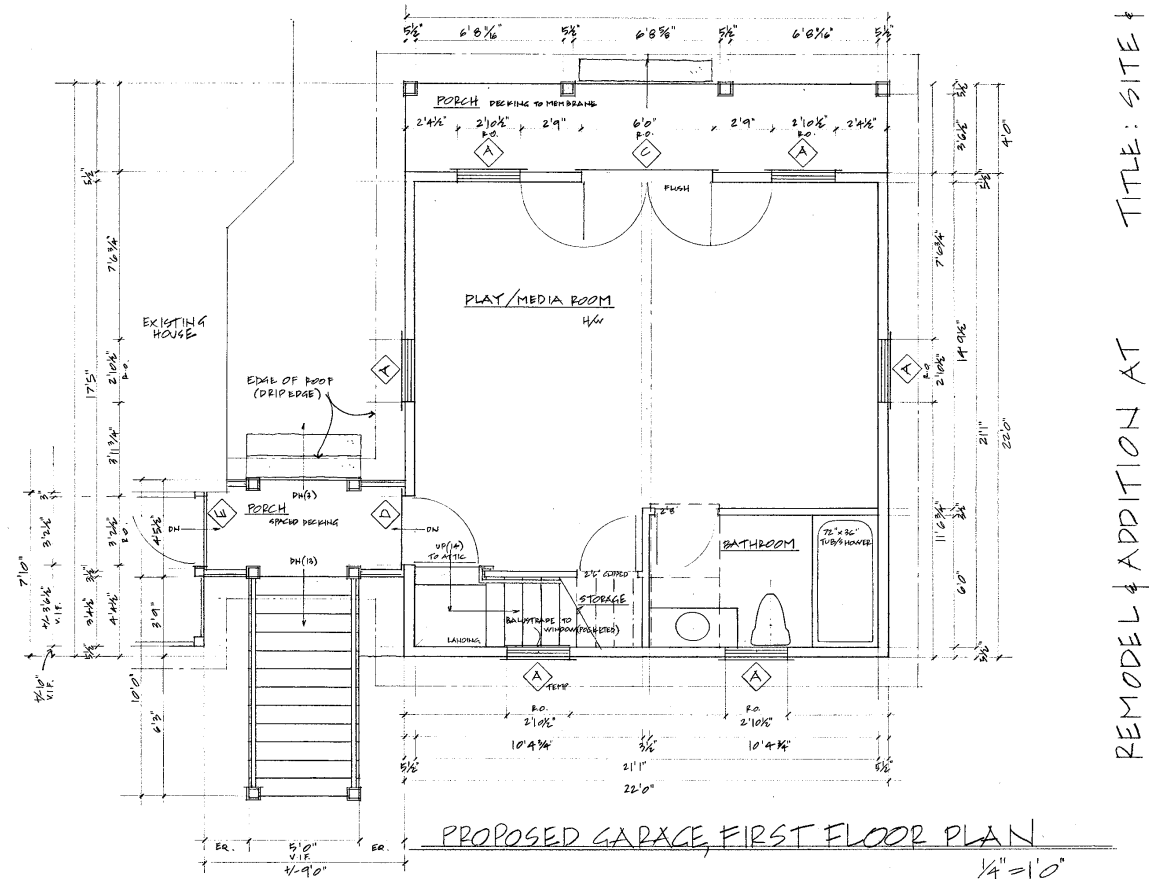
PROPOSED BASEMENT/GARAGE FLOOR PLAN



EXISTING CONDITIONS
(VIEW FROM RIGHT)



EXISTING CONDITIONS
(STREET VIEW)



PROPOSED GARAGE, FIRST FLOOR PLAN

TITLE: SITE & FLOOR PLANS & PHOTOS

SCALE: 1"=10' & 1/4"=1'0'

DATE: 1.28.2021

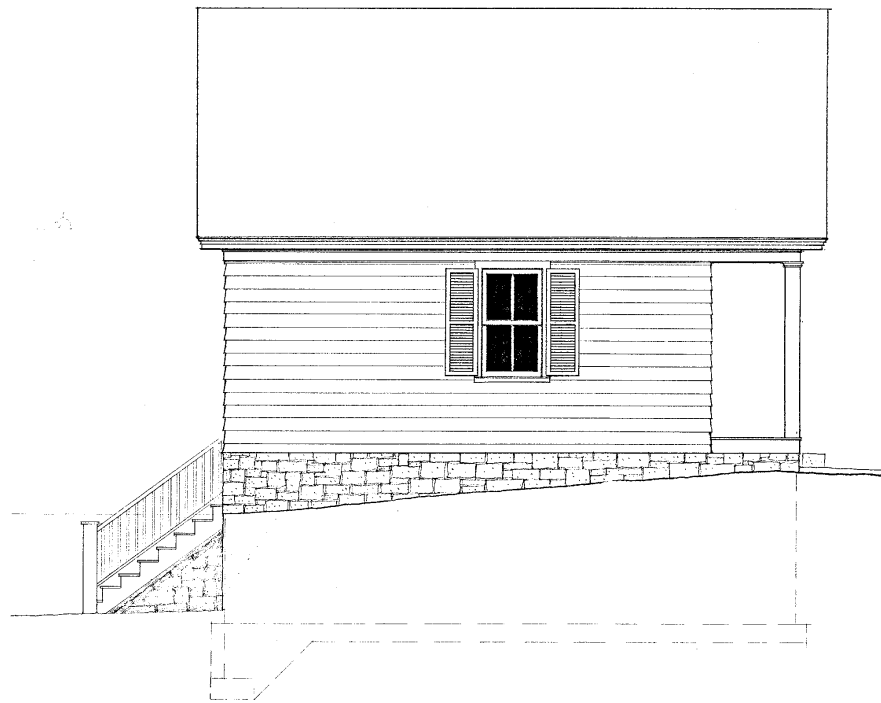
REVISIONS:

REMODEL & ADDITION AT
THE HARRIS RESIDENCE

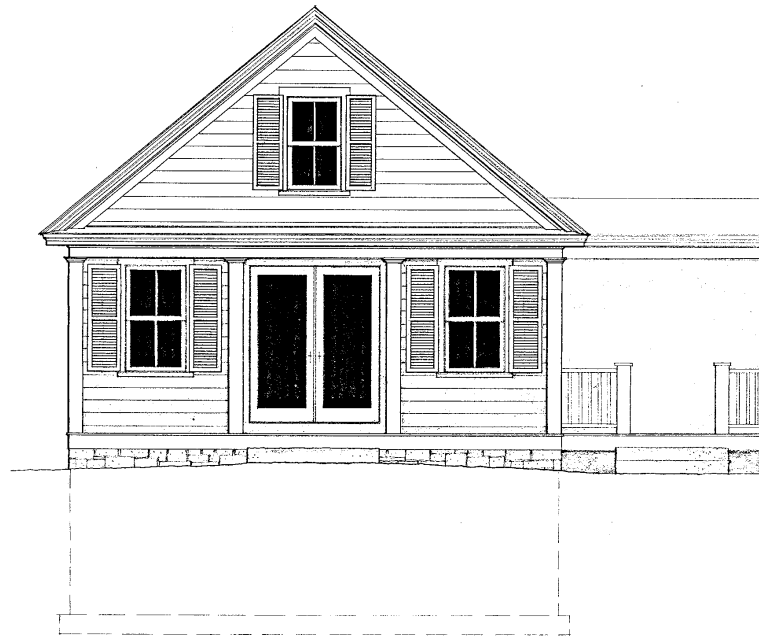
2 MONROE STREET
PORTSMOUTH, NH.



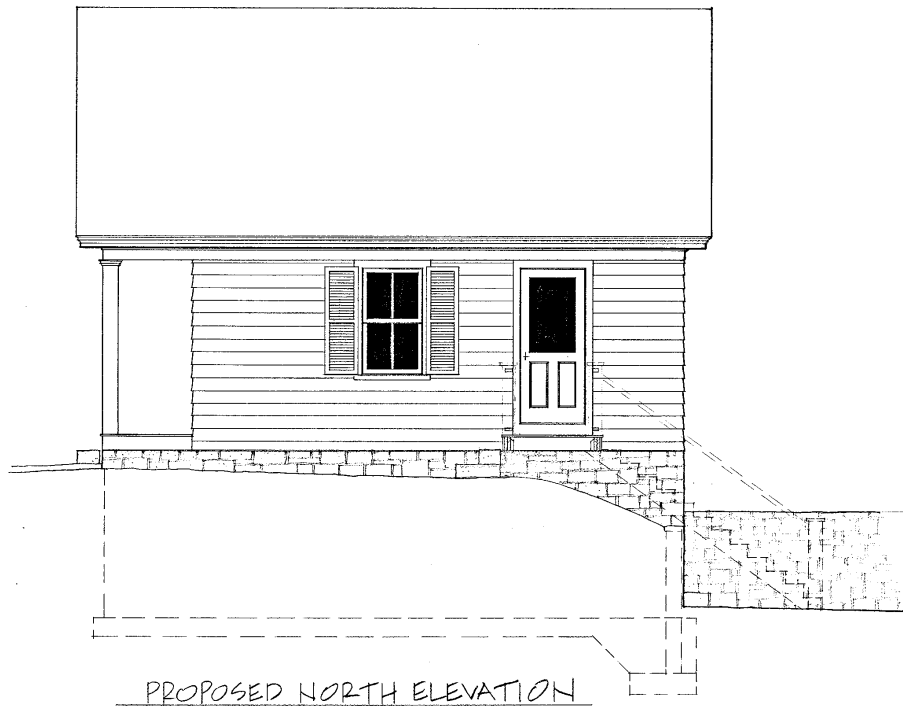
PROPOSED WEST (FRONT) ELEVATION



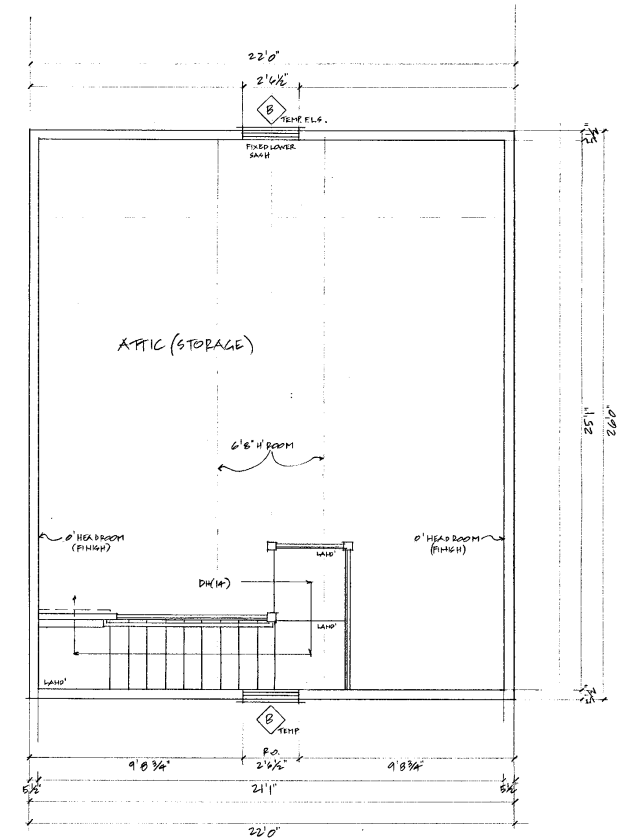
PROPOSED SOUTH ELEVATION



PROPOSED EAST ELEVATION



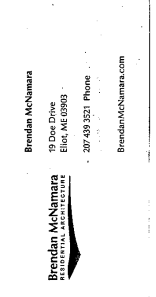
PROPOSED NORTH ELEVATION



PROPOSED ATTIC FLOOR PLAN
1/4" = 1'0"

REMODEL & ADDITION AT
THE HARRIS RESIDENCE
2 MONROE STREET
PORTSMOUTH, NH.

TITLE: PROPOSED GARAGE ELEVATIONS & ATTIC PLAN
SCALE: 1/4" = 1'0"
DATE: 1.28.2021
REVISIONS:



REMODEL & ADDITION

2 MUNROE ST. PORTSMOUTH, NH

DIMENSIONAL TABLE

CONDITIONS	EXISTING	%	PROPOSED	%
LOT SIZE	7,492sf	-	7,492sf	-
LOT COVERAGE	1,927sf	25.7%	1,967sf	26.3%
RIGHT SIDE SETBACK	8.25'	-	10.25'	-
FRONT YARD TO GARAGE	7'19"	-	7'19"	-
FRONT YARD TO STEPS	15'	-	12.5'	-

ADDRESSING THE (5) "CRITERIA" AND "HARDSHIP", #2 MONROE ST., PORTSMOUTH, NH.

1: PUBLIC INTEREST.

The existing Garage is non-conforming due to Right side and Front yard setbacks (and contributory to Lot Coverage). The proposal decreases the set-back non-conformity and only slightly increases the Lot Coverage non-conformity. The existing Garage structure is an oddity and its incorporation into the "look" of the main house will enhance the essential character of the neighborhood. Through the necessity of meeting code compliance, the buildings will become more safe, and energy efficient. There does not appear to be any Public Interest contrary to this proposal.

2: SPIRIT OF THE ORDINANCE.

The proposal continues some of the original building's historic non-conforming use, but reduces the level of non-conformity. The re-developed structure will be more in keeping with the intent of the Zoning Ordinance.

3: SUBSTANTIAL JUSTICE.

The proposed use does not cause any harm to the general public or other individuals and accommodates substantive and costly renovation and improvements to the property.

4: VALUE OF SURROUNDING PROPERTIES WILL NOT BE DIMINISHED.

The increased investment and preservation of this property will enhance and elevate the value of the properties surrounding it.

5: LITERAL ENFORCEMENT WOULD RESULT IN "UNNECESSARY HARDSHIP".

The property is unique given its period of development and its historic use in its current form. This use predates the implementation of the current zoning ordinance. The proposed use, while continuing some non-conformities, more aligns with the intent of the ordinance. The period nature of this property, and the existing structure, make it a special case to accommodate moderate development in line, and enhancing, existing use.