

REGULAR MEETING*
BOARD OF ADJUSTMENT
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

*Members of the public also have the option to join the meeting over Zoom
(See below for more details)**

7:00 P.M.

June 27, 2023

AGENDA

I. NEW BUSINESS

- A.** The request of **JJCM Realty LLC and Topnotch Properties (Owners)**, for property located at **232 South Street** whereas relief is needed to construct a 12' x 20' garage which requires the following: 1) A Variance from Section 10.521 to a) permit a building coverage of 26% where 20% is permitted, and b) permit a side setback of 1.5 feet where 10 feet is required; and 2) A Variance from Section 10.571 to permit an accessory structure in the front yard. Said property is located on Assessor Map 111 Lot 2 and lies within the Single Residence B (SRB) and Historic District. (LU-23-80)
- B.** The request of **Sarnia Properties Inc. C/O CP Management Inc. (Owners)**, for property located at **933 US Route 1 BYP** whereas Special Exception is needed to allow a health club greater than 2,000 square feet GFA which requires the following: 1) Special Exception from Section 10.440, Use #4.42 to allow a health club where the use is permitted by Special Exception. Said property is located on Assessor Map 142 Lot 37 and lies within the Business and Highway Noise Overlay District. (LU-23-76)
- C.** The request of **Ashley J Brown and Lisa F Brown Living Trust (Owners)**, for property located at **176 Orchard Street** whereas relief is needed to construct an addition and deck to the rear of the existing structure and rebuild the existing rear staircase which requires the following: 1) Variance from Section 10.521 to allow 27% building coverage where 25% is allowed. 2) 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 located on Assessor Map 149 Lot 41 and lies within the General Residence A (GRA) District. (LU-23-82)

- D.** The request of **Point of View Condominium (Owner)**, for property located at **75 Salter Street #1** whereas relief is needed to relocate the existing residential structure landward of the highwater mark which requires the following: 1) Variance from Section 10.211 and Section 10.531 to allow the following: a) a 2' front yard where 30' is required, b) a 2' side yard where 30' is required; 2) Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance; 3) Variance from Section 10.516.40 to allow a heating vent to project 1' into the required side yard. Said property is located on Assessor Map 102 Lot 32-1 and lies within the Waterfront Business (WB) and Historic District. (LU-23-83)
- E.** The request of **Eric J. Gregg Revocable Trust (Owner)**, for property located at **112 Mechanic Street** whereas relief is needed to install a mechanical unit to the side of the primary structure which requires the following: 1) Variance from Section 10.515.14 to allow a 2' rear setback where 10 feet is required. Said property is located on Assessor Map 103 Lot 25 and lies within the General Residence B (GRB) and Historic District. (LU-23-73)
- F.** The request of **Karyn S. Denicola Revocable Trust (Owner)**, for property located at **281 Cabot Street** whereas relief is needed to demolish the existing single-family dwelling and detached one-story garage/shed and construct a new single family dwelling with attached garage which requires the following: 1) Variance from Section 10.521 to allow a) 3' front yard setback where 5' is required; b) a 5' south side yard setback where 10' is required; c) a 3.5' north side yard setback where 10' is required; and d) a 43% building coverage where 35% is allowed. Said property is located on Assessor Map 144 Lot 20 and lies within the General Residence C (GRC) District. (LU-23-84)
- G.** The request of **Sureya M Ennabe Revocable Living Trust (Owner)**, for property located at **800 Lafayette Road** whereas relief is needed to increase the height of the existing sign which requires the following: 1) Variance from Section 10.1281 to alter a nonconforming sign without bringing it into conformity; and 2) Variance from Section 10.1253.10 to increase the height to 20 feet and 1 inch where 20 feet is allowed. Said property is located on Assessor Map 244 lot 5 and lies within the Gateway Corridor (G1) District and Sign District 5. (LU-23-66)

II. OTHER BUSINESS

III. ADJOURNMENT

**Members of the public also have the option to join this meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_Axl1paXEQHW3ruLOdYpReQ



City of Portsmouth
Planning Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Jillian Harris, AICP, Planner
DATE: June 22, 2023
RE: Zoning Board of Adjustment June 27, 2023

The agenda items listed below can be found in the following analysis prepared by City Staff:

III. New Business

- A. 232 South Street
- B. 933 US Route 1 Bypass
- C. 176 Orchard Street
- D. 75 Salter Street #1
- E. 112 Mechanic Street
- F. 281 Cabot Street
- G. 800 Lafayette Road

III. NEW BUSINESS

- A.** The request of **JJCM Realty LLC and Topnotch Properties (Owners)**, for property located at **232 South Street** whereas relief is needed to construct a 12' x 20' garage which requires the following: 1) A Variance from Section 10.521 to a) permit a building coverage of 26% where 20% is permitted, and b) permit a side setback of 1.5 feet where 10 feet is required; and 2) A Variance from Section 10.571 to permit an accessory structure in the front yard. Said property is located on Assessor Map 111 Lot 2 and lies within the Single Residence B (SRB) and Historic District. (LU-23-80)

Existing & Proposed Conditions

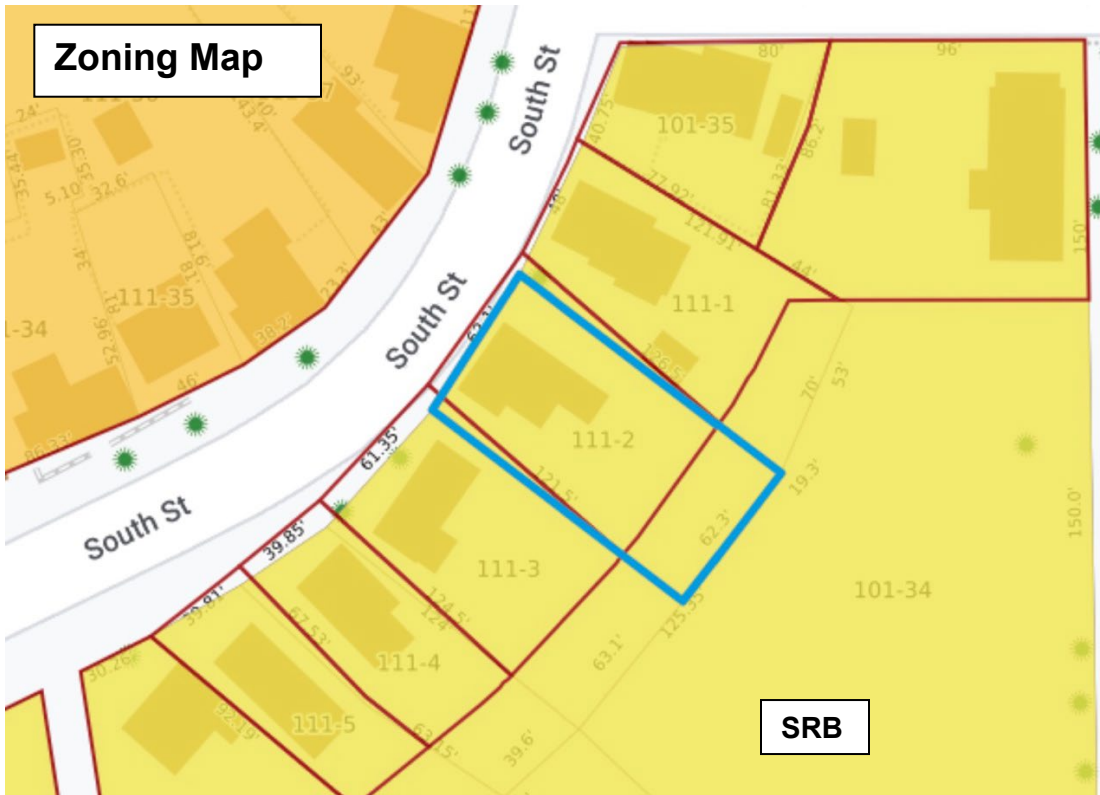
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Two-family	Construct a garage*	Primarily residential
<u>Lot area (sq. ft.):</u>	7,805	7,805	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,805	7,805	15,000 min.
<u>Lot depth (ft.):</u>	126	126	100 min.
<u>Street Frontage (ft.):</u>	64	64	100 min.
<u>Front Yard (Primary)(ft.):</u>	0	27	9 (per averaging calculation) min.
<u>Front Yard (Secondary) (ft.):</u>	N/A	N/A	30 min.
<u>Right Yard (ft.):</u>	14.5	1.5	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	23	26	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	3	3	3
<u>Estimated Age of Structure:</u>	1780	Variance request(s) shown in red.	

*Accessory structure located within the front yard

Other Permits/Approvals Required

- Certificate of Approval - Historic District Commission
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

January 26, 2021 – The Board granted a variance of 1) Section 10.521 to allow 23% building coverage where 20% is the maximum allowed; and 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.

Planning Department Comments

The applicants are seeking to construct a 12' x 20' single car garage with a height of 14' to the left side of the two-family dwelling. The house is nonconforming on the front where the existing structure is built to the property line. The new structure is proposed to be constructed 27' from the front property line and 1.5' from the side property line in line with the existing driveway, which will require variances for the location within the front yard and the side setback and an increase in building coverage from 23% to 26% where 20% is required. At the January 26, 2021 Zoning Board of Adjustment meeting, the Board granted a variance from Section 10.521 to allow 23% building coverage where 20% is the maximum allowed for the construction of a two-story rear addition and deck.

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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

To: Portsmouth Zoning Board of ADJ.

From: Gary Beaulieu Topnotch Properties LLC and Jim Maher JJCM Realty LLC”

May 24, 2023

Project: 232 South St

Tax Map 111/ Lot 2

SRB Zone

EXHIBITS:

- A) Setback boundaries layered on existing conditions site plan prepared by Ambit Eng.
- B) Existing condition site plan as drawn March 2023 by Ambit Eng.
- C) Architects rendering of proposed garage and existing house.
- D) Aerial photos of subject property showing neighborhood.

PROJECT:

To build a 12w by 20 deep single car garage with a height reaching 14 ft at the peak. It will be wood framed with a concrete floor. The siding, trim, roofing and paint color will match the existing house. The garage door will be wood and be as similar in panels to the front as possible. There will be a window in front and a 30 x 6'8 door off the back for access to rear yard and deck.

THE PROPERTY:

232 South St is a 7805 sq. ft non conforming lot upon which exist a 2 1/2 story non conforming two family dwelling occupying a footprint of 1753 sq. ft including deck, stairs and porches.

Note: a variance was granted on Jan. 9th 2021 to expand building coverage to 22.9%.

The current coverage us 22.46% where 20% is the limit.

RELIEF NEEDED:

1) PZO 10.521 - Table of Dimension Requirements: To permit building coverage of 26% where 20% is the limit and 22.46% currently exists.

2) PZO 10.521- Table Of Dimension Requirements: To permit a setback of 1.5 ft on the left side where 10 ft is required.

3) PZO 10.571- Accessory Structure in Front Yard: Garage is approximately 27 ft from front boundary where 30 ft is required.

* This last relief request may not be necessary as during our prior variance application for the 1/19/21 ZBA Meeting, the planning staff had remarked that we are entitled to determining the front setback by averaging the distances of homes on either side within 200ft. Doing so resulted in an estimate of about 9ft. According through council we were advised that the setback relief was not required.

VARIANCE REQUESTED:

1) The Variance will not be contrary to the public interest

Response- granting of these variances will not alter the essential character of the locality. Also granting these variances would in no way threaten the public health safety or welfare of the neighborhood.

2) Granting the variance would observe the spirit of the ordinance

Response- there is no change in use and the project will enhance the appearance of the property. Also the garage would not pose a threat to the health, safety and well being of the locality. The HDC will work with us and address the historical architecture objection. Also, at 65% open space the lot will remain well below the 40% minimum required.

3) Granting the variance will be substantial justice

Response- The garage is keeping in the character of the locality most immediate neighbors have garages.

4) Granting the variance would not diminish the values of surrounding property

Response- No, it would not diminish values. It would be in keeping with the overall

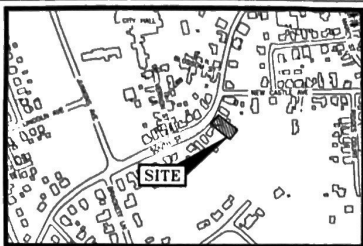
character of the neighborhood. The two family non conforming home already exists and the garage will be built in the same style and look of the existing house. It would not threaten the health, safety or welfare of the locality.

5) Owing to the special condition of the property that distinguish it from the other properties in the area

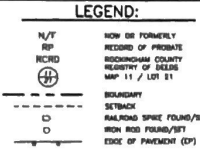
Response- No fair and substantial relationships exists between the general publics purposes of the ordinance and the specific application of the that those provisions to the property. In addition the proposed use is a reasonable one. The specific conditions of this property are that it is a narrow lot that has very little side yard space on either side and a wetland buffer that literally is the full rear yard (which would require a different set of reliefs). The left side yard shown on the plan is really the only place it can go and the driveway already exists that would lead naturally right into it. Accordingly to sum up, there is no benefit to the public outweighing the hardship to the applicant if the variances are denied.

CONCLUSION:

For all the reasons stated, Topnotch LLC and JJCM Realty LLC respectfully request that the Portsmouth Zoning Board of Adjustments grant the requested variances.



LOCATION MAP SCALE 1"=300'



PLAN REFERENCES:

- 1) STANDARD BULKHEAD CURVE AND TOPOGRAPHIC PLAN, TAX MAP 111 - LOT 2 (OWNER OF 111/2 CONDO UNIT) CONDO UNIT 234 SOUTH STREET, CITY OF PORTSMOUTH, NEW HAMPSHIRE, BUCKINGHAM COUNTY PREPARED BY JOHN H. SLASON CIVIL ENGINEERS, INC. DATED JUNE 2016. FINAL REVISION DATE MARCH 27, 2017. NOT RECORDED.
- 2) EXISTING CONCRETE PLAN FOR PROPERTY LOCATED AT 220-222 SOUTH STREET, PORTSMOUTH, NEW HAMPSHIRE, BUCKINGHAM COUNTY PREPARED BY HANCOCK HILL LAND SURVEYING SERVICES, INC. DATED JUNE 20, 2014. NOT RECORDED.
- 3) CONDOMINIUM SITE & FLOOR PLAN 232-234 SOUTH STREET, PORTSMOUTH, NEW HAMPSHIRE, ASSESSOR'S PARCEL 111-008 FOR RECORD B & B (BOOKS 1020). PREPARED BY JAMES WEBER AND ASSOCIATES, INC. DATED APRIL 3, 2015. P.C.R.D. PLAN D-28829.
- 4) PLAN OF LOTS 234-234 SOUTH ST., PORTSMOUTH, N.H., PREPARED BY JOHN H. SLASON CIVIL ENGINEERS, FILE NO. 1829 PLAN L-1786 DATED OCTOBER 1994. NOT RECORDED.
- 5) LOT LINE REVISION, PORTSMOUTH, N.H., TUNGER & MARCONI, PREPARED BY JOHN H. SLASON ASSOCIATES, INC. DATED SEPTEMBER 4, 1979. R.C.R.D. PLAN C-9155.

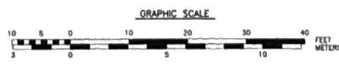
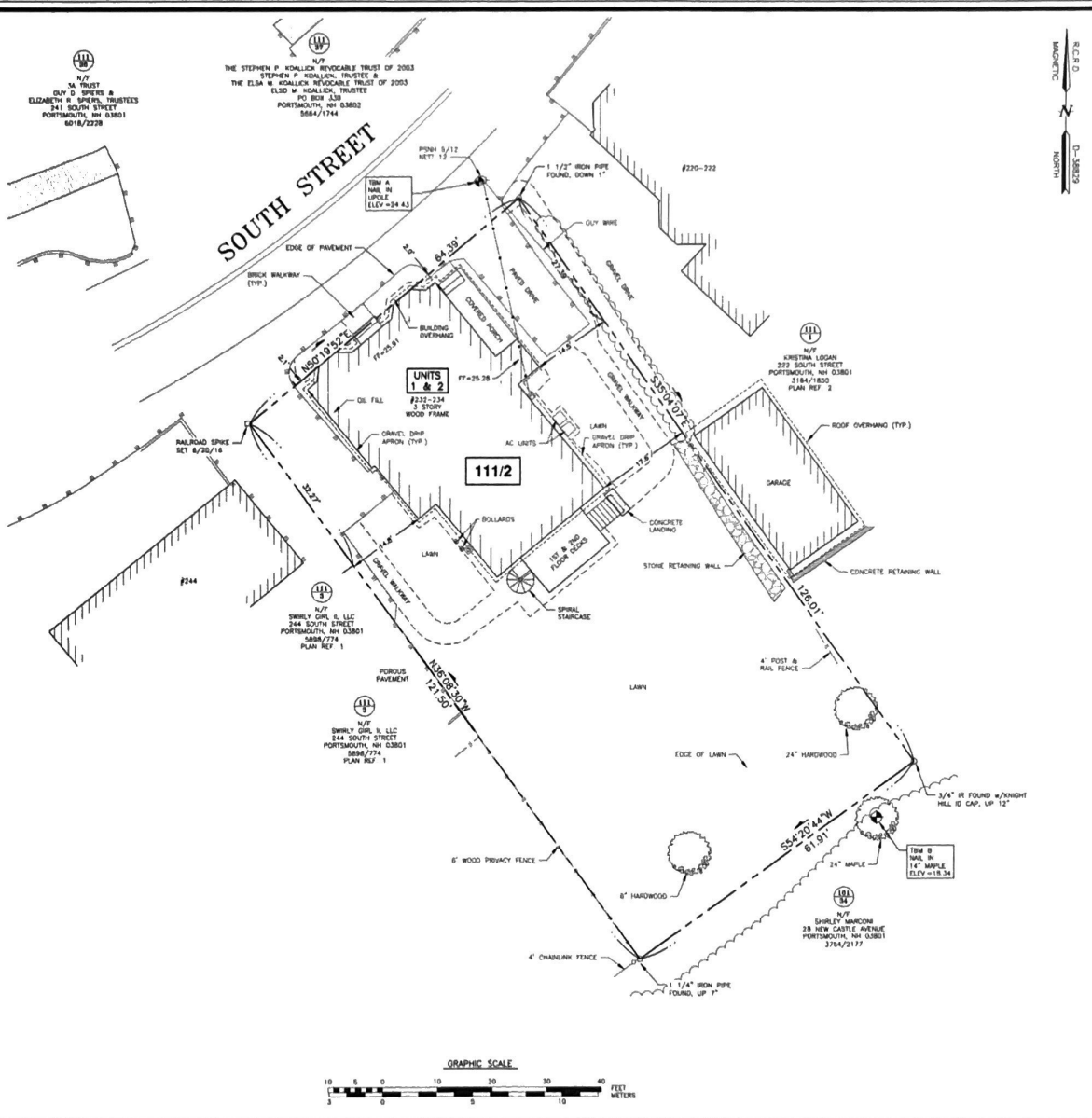
I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

- L. JOHN R. CHANDLER, LICENSED LAND SURVEYOR, HEREBY CERTIFY
- A) THAT THIS SITE PLAN ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS SHOWN HEREON, SPECIFICALLY UNITS 1 & 2 AND
 - B) THAT SAID UNITS 1 & 2 HAVE BEEN SUBSTANTIALLY COMPLETED, AND
 - C) THAT THIS PLAN COMPLIES WITH THE PROVISIONS OF RSA 356-B:20.

THIS PLAN IS A CONDOMINIUM INSTRUMENT UNDER RSA CHAPTER 356-B AND IS NOT A SUBDIVISION OF LAND.

I CERTIFY THAT THIS SURVEY PLAN IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

JOHN R. CHANDLER, L.S. #138 DATE



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
905 South Road - Unit B
Portsmouth, N.H. 03801-7114
Tel: (603) 430-8288
Fax: (603) 430-8318

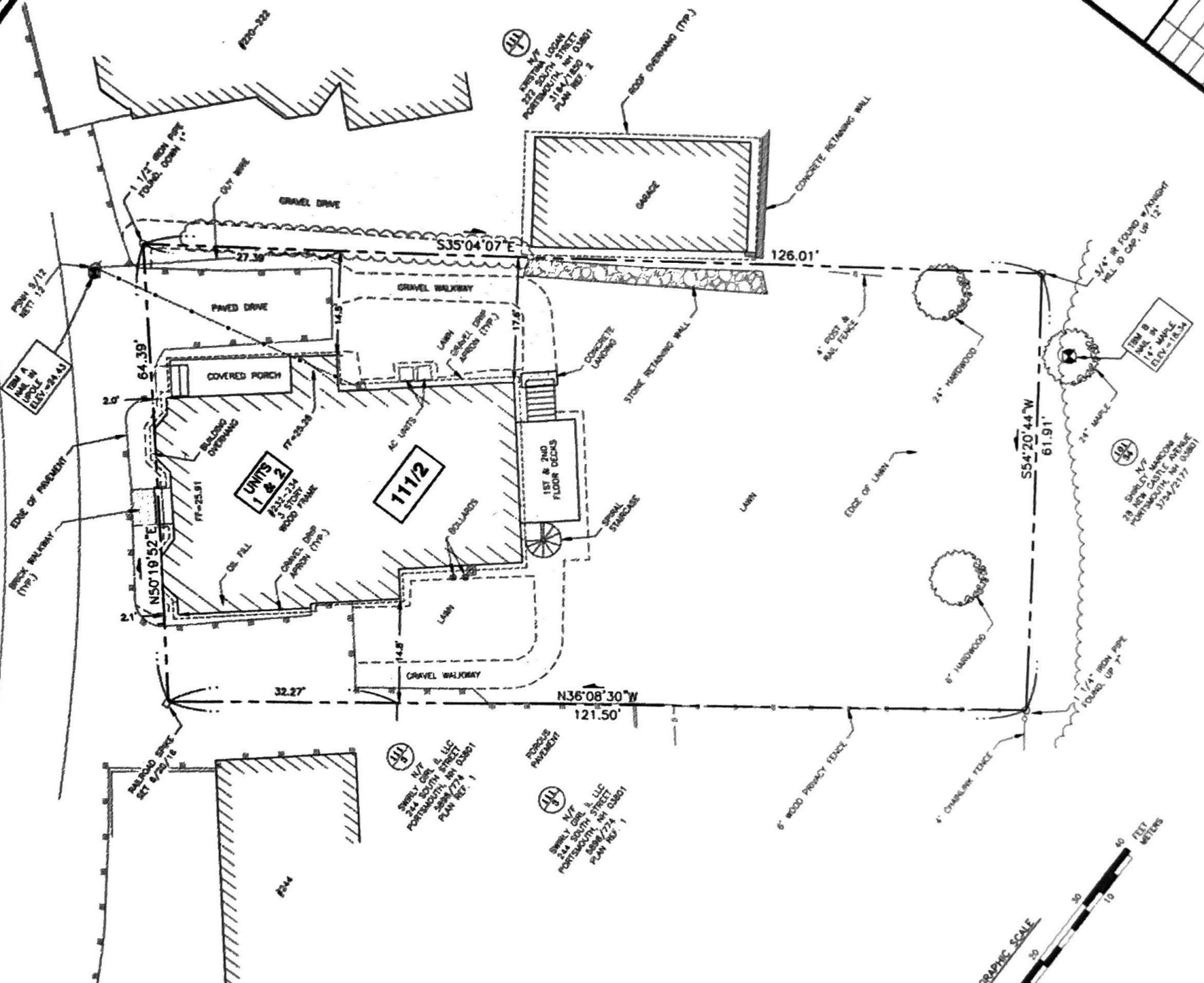
- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 111 AS LOT 2.
 - 2) OWNER OF RECORD: JJCM REALTY LLC & TOPNOTCH PROPERTIES, LLC
9 PASTURE LANE
BEDFORD, NH 03110
6198/478
 - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C02509. EFFECTIVE DATE JANUARY 29, 2021.
 - 4) EXISTING LOT AREA: 7,805 S.F. 0.1792 ACRES
SUBMITTED AREA: 7,805 S.F. 0.1792 ACRES
 - 5) THE PURPOSE OF THIS PLAN IS TO SHOW THE DECLARATION OF A 2 UNIT CONDOMINIUM ON THE PROPERTY AS ALLOWED BY RSA 356-B AND TO SHOW THE UNIT LAYOUT.
 - 6) VERTICAL DATUM IS HAVERS BASIS OF VERTICAL DATUM IS REDUNDANT WITH GAGES OBSERVATIONS. BENCHMARK: TBM A - NAIL SET IN POLE PSNH 5/12 ON SOUTH STREET. ELEV = 24.43
 - 7) OFFSETS SHOWN HEREON ARE TO SIDING AND ARE PERPENDICULAR TO BOUNDARY LINES.
 - 8) PARCEL BENEFITED BY A CONDITIONAL USE PERMIT APPROVED BY THE PORTSMOUTH PLANNING BOARD.

REVISIONS		
NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	3/21/23

CONDOMINIUM SITE PLAN
232 SOUTH STREET
CONDOMINIUM
TAX MAP 111 - LOT 2
OWNER/DECLARANT:
JJCM REALTY LLC & TOPNOTCH PROPERTIES, LLC
9 PASTURE LANE
BEDFORD, N.H. 03110
PROPERTY LOCATED AT:
232 & 234 SOUTH STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE
SCALE: 1" = 10'
OCTOBER 2022

SOUTH STREET

PLAN 1/12
 1/12 SOUTH STREET
 PORTSMOUTH, NH 03801
 J-75A/2-117

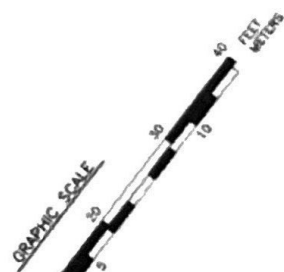


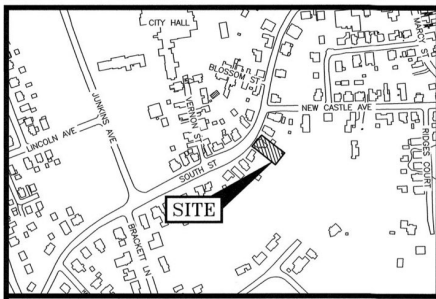
SMITHY GUY & LLC
 244 SOUTH STREET
 PORTSMOUTH, NH 03801
 603-888-7774
 PLAN REF. 1

SMITHY GUY & LLC
 244 SOUTH STREET
 PORTSMOUTH, NH 03801
 603-888-7774
 PLAN REF. 1

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 PLAN REF. 1

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 603-888-7774
 PLAN REF. 1





LOCATION MAP SCALE 1"=300'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY
- REGISTRY OF DEEDS
- MAP 11 / LOT 21
- BOUNDARY
- SETBACK
- RAILROAD SPIKE FOUND/SET
- IRON ROD FOUND/SET
- EDGE OF PAVEMENT (EP)

PLAN REFERENCES:

- 1) STANDARD BOUNDARY SURVEY AND TOPOGRAPHIC PLAN, TAX MAP 111 - LOT 3, OWNER OF RECORD SWIRLY GIRL II, LLC 244 SOUTH STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED JUNE 2016, FINAL REVISION DATE MARCH 27, 2017. NOT RECORDED.
- 2) EXISTING CONDITIONS PLAN FOR PREPERY LOCATED AT 220-222 SOUTH STREET PORTSMOUTH, NEW HAMPSHIRE, ROCKINGHAM COUNTY, PREPARED BY KNIGHT HILL LAND SURVEYING SERVICES, INC. DATED JUNE 20, 2014. NOT RECORDED.
- 3) CONDOMINIUM SITE & FLOOR PLAN 262-264 SOUTH STREET CONDOMINIUM, PORTSMOUTH, NEW HAMPSHIRE, ASSESSOR'S PARCEL 111-005 FOR MICHAEL R. & DENISE TODD, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., DATED APRIL 3, 2015. R.C.R.D. PLAN D-38829.
- 4) PLAN OF LOTS, NO. 254-264 SOUTH ST., PORTSMOUTH, N.H., PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, FILE NO. 1929 PLAN L-120, DATED OCTOBER 1954. NOT RECORDED.
- 5) LOT LINE REVISION, PORTSMOUTH, N.H., TUCKER & MARCONI, PREPARED BY JOHN W. DURGIN ASSOCIATES, INC., DATED SEPTEMBER 4, 1979. R.C.R.D. PLAN C-9159.

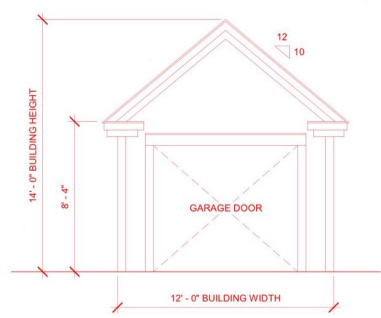
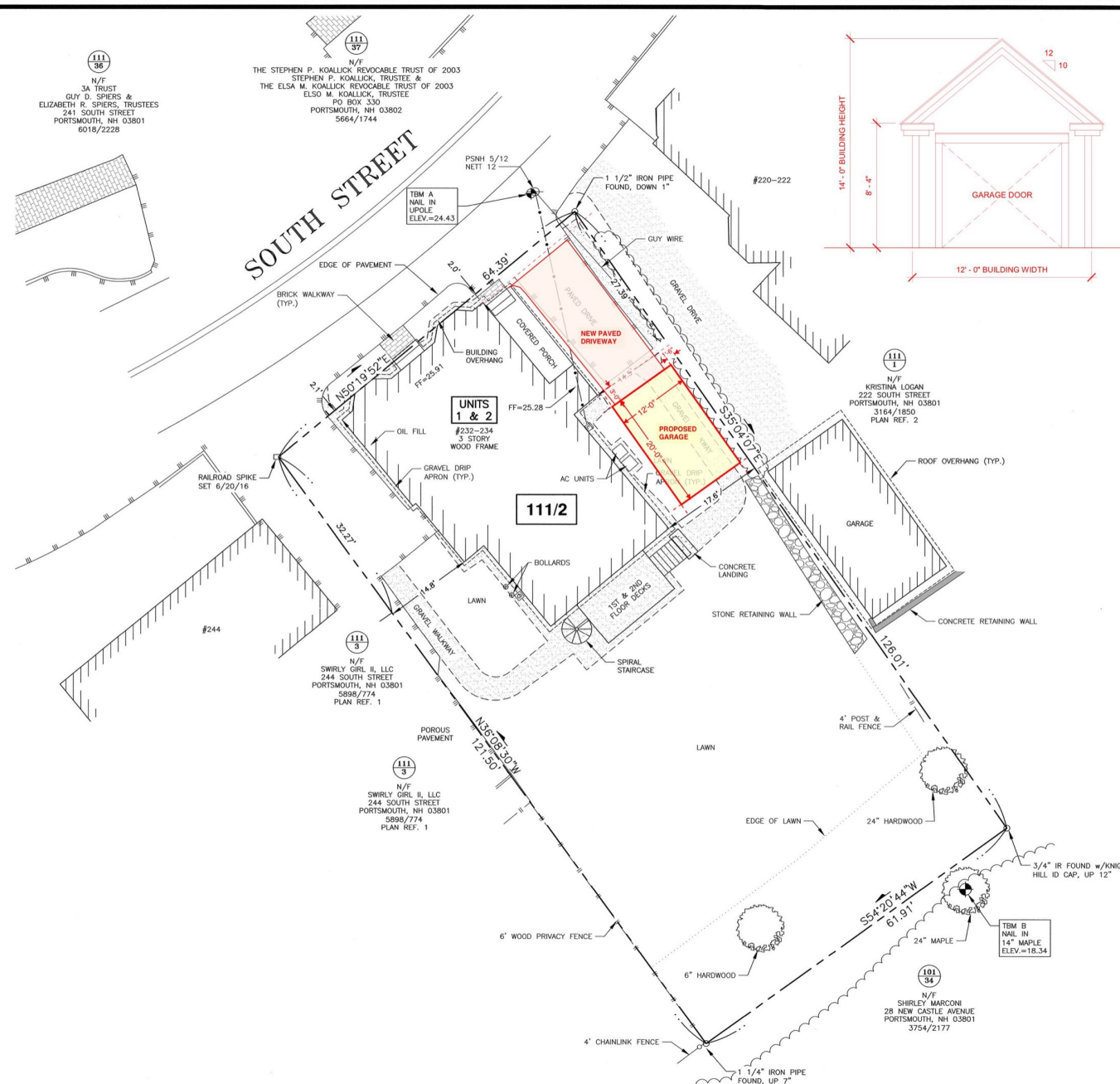
I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

- I, JOHN R. CHAGNON, LICENSED LAND SURVEYOR, HEREBY CERTIFY:
- A) THAT THIS SITE PLAN ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS SHOWN HEREON, SPECIFICALLY UNITS 1 & 2
 - B) THAT SAID UNITS 1 & 2 HAVE BEEN SUBSTANTIALLY COMPLETED, AND
 - C) THAT THIS PLAN COMPLIES WITH THE PROVISIONS OF RSA 356-B : 20.

THIS PLAN IS A CONDOMINIUM INSTRUMENT UNDER RSA CHAPTER 356-B AND IS NOT A SUBDIVISION OF LAND.

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

JOHN R. CHAGNON, LLS #738 DATE



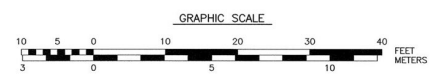
R.C.R.D. D-38829
MAGNETIC NORTH

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
280 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 430-2315

- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 111 AS LOT 2.
 - 2) OWNER OF RECORD: JJCM REALTY LLC & TOPNOTCH PROPERTIES, LLC 9 PASTURE LANE BEDFORD, NH 03110 6198/478
 - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE DATE JANUARY 29, 2021.
 - 4) EXISTING LOT AREA: 7,805 S.F. 0.1792 ACRES
SUBMITTED AREA: 7,805 S.F. 0.1792 ACRES
 - 5) THE PURPOSE OF THIS PLAN IS TO SHOW THE DECLARATION OF A 2 UNIT CONDOMINIUM ON THE PROPERTY AS ALLOWED BY RSA 356-B AND TO SHOW THE UNIT LAYOUT.
 - 6) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS. BENCHMARK: TBM A - NAIL SET IN POLE PSNH 5/12 ON SOUTH STREET. ELEV.=24.43
 - 7) OFFSETS SHOWN HEREON ARE TO SIDING AND ARE PERPENDICULAR TO BOUNDARY LINES.
 - 8) PARCEL BENEFITED BY A CONDITIONAL USE PERMIT APPROVED BY THE PORTSMOUTH PLANNING BOARD.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	3/21/23
REVISIONS		

CONDOMINIUM SITE PLAN
232 SOUTH STREET
CONDOMINIUM
TAX MAP 111 - LOT 2
OWNER/DECLARANT:
JJCM REALTY LLC & TOPNOTCH PROPERTIES, LLC
9 PASTURE LANE
BEDFORD, N.H. 03110
PROPERTY LOCATED AT:
232 & 234 SOUTH STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



NAIL IN
UPOLE
ELEV. = 24.43

OF PAVEMENT

BOLLARD

BUILDING
OVERHANG

52"E

FF=25.91

**UNITS
1 & 2**

#232-234
3 STORY
WOOD FRAME

111/2

64.39'

27.39'

GRAVEL DRIVE

WALKWAY

COVERED PORCH

**NEW PAVED
DRIVEWAY**

FF=25.28

14.5'

3'-0"

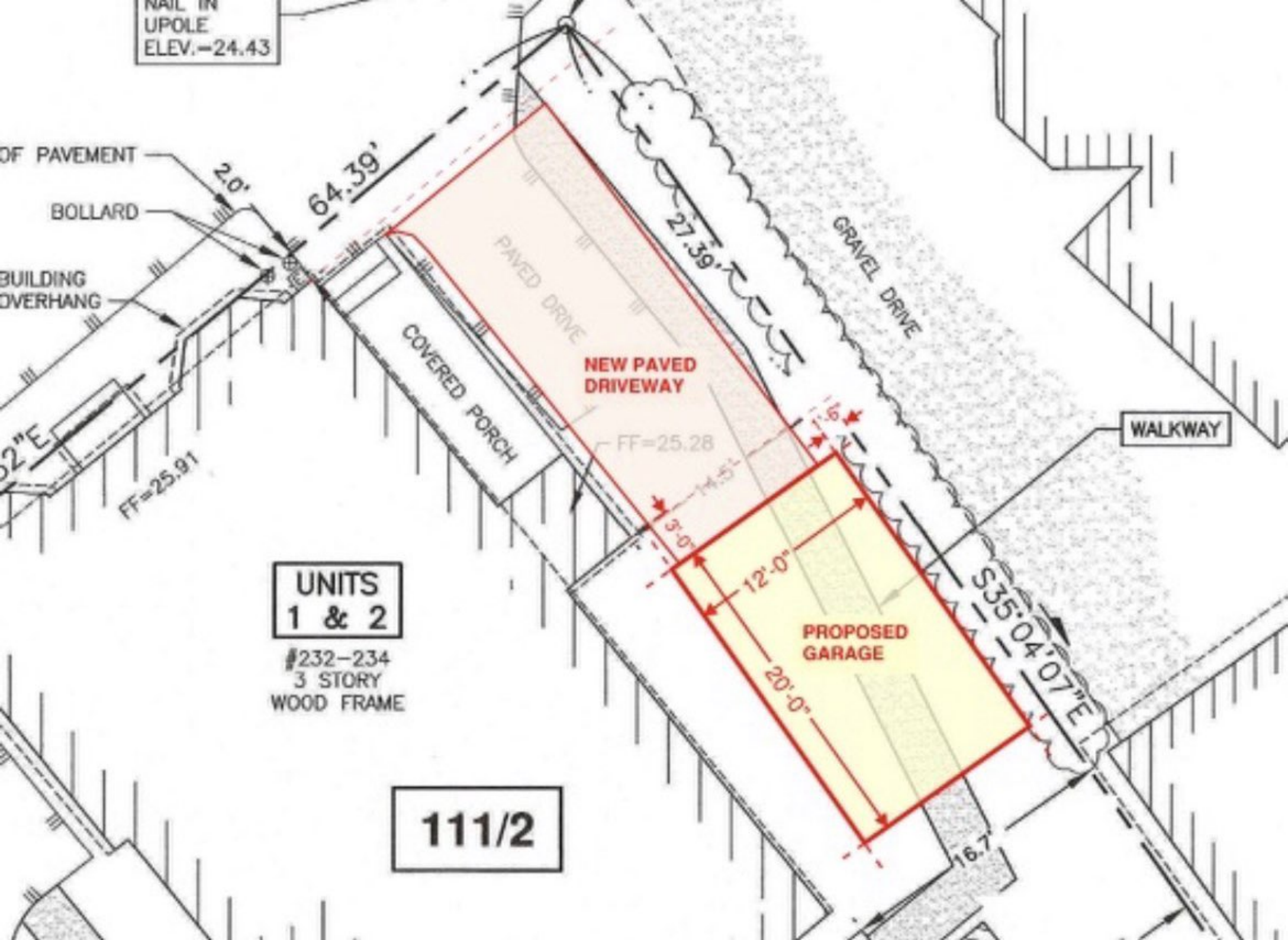
12'-0"

20'-0"

**PROPOSED
GARAGE**

S35°04'07"E

16.7







232 South St.

An aerial photograph of a residential neighborhood in winter. The ground is covered in snow, and many trees are bare. A white line with a circular end points to a specific house on a street. The text '232 South St.' is overlaid in white with a black outline. In the background, a large body of water is visible, along with a bridge and a city skyline under a clear blue sky.

232 South St.









III. NEW BUSINESS

- B. The request of **Sarnia Properties Inc. C/O CP Management Inc. (Owners)**, for property located at **933 US Route 1 BYP** whereas Special Exception is needed to allow a health club greater than 2,000 square feet GFA which requires the following: 1) Special Exception from Section 10.440, Use #4.42 to allow a health club where the use is permitted by Special Exception. Said property is located on Assessor Map 142 Lot 37 and lies within the Business and Highway Noise Overlay District. (LU-23-76)

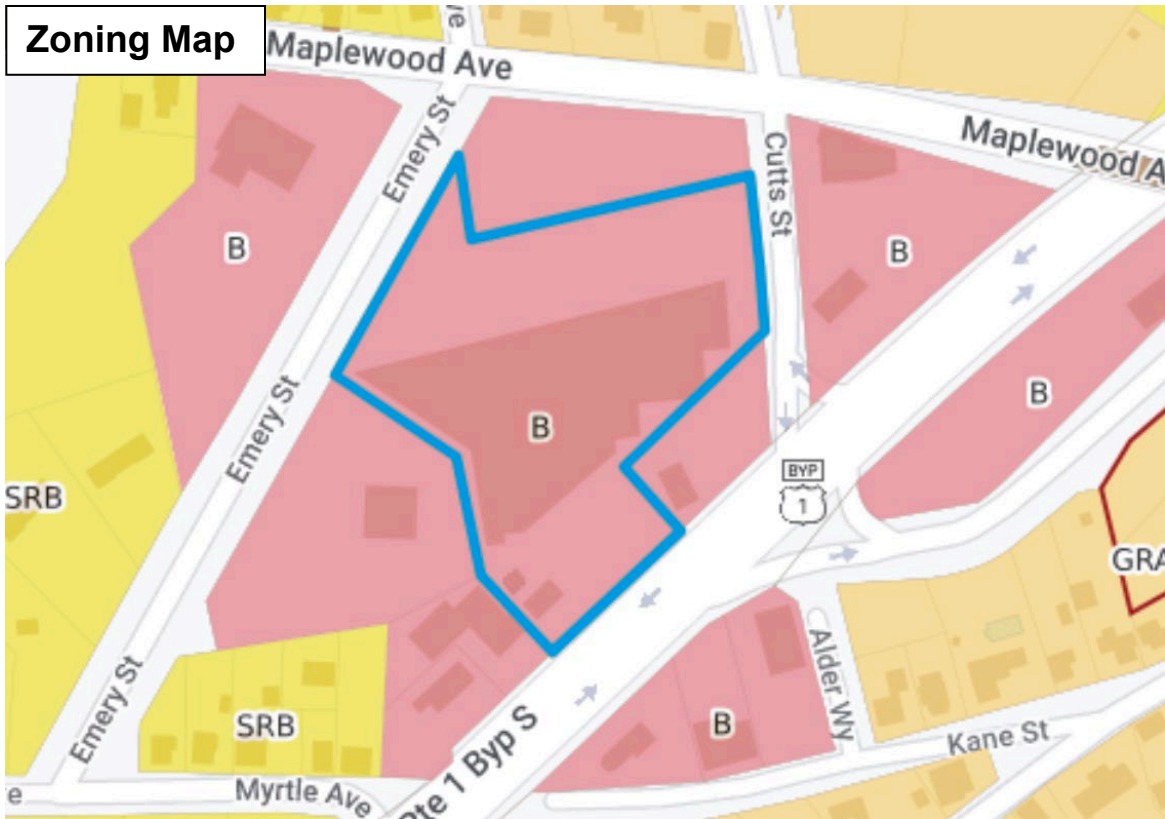
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Commercial	Change of Use – Health Club >2000SF	Primarily commercial
<u>Lot area (sq. ft.):</u>	152,460	152,460	20,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	N/A	N/A	2,500 min.
<u>Lot depth (ft.):</u>	>100	>100	80 min.
<u>Street Frontage (ft.):</u>	>150	>150	100 min.
<u>Front Yard (ft.):</u>	>20	>20	20 min.
<u>Side Yard (ft.):</u>	2	2	15 min.
<u>Rear Yard (ft.):</u>	>15	>15	15 min.
<u>Height (ft.):</u>	<50	<50	50 max.
<u>Building Coverage (%)</u> :	45	45	35 max.
<u>Open Space Coverage (%)</u> :	N/A	N/A	15 min.
<u>Parking:</u>	82	82	114
<u>Estimated Age of Structure:</u>	1962	Special Exception request(s) shown in red.	

Other Permits/Approvals Required

- Parking Conditional Use Permit - TAC & Planning Board
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

October 24, 1978 - The Board **granted** a variance to allow the construction of an addition to an existing building 2.5' from the left, 34' from the rear and 6.5' from the right property lines where 30', 50' and 30' respectively were required and a lot coverage of 47% where 30% was allowed.

January 5, 1988 - The Board **granted** a variance to allow the construction of a 14,570 s.f. addition to an existing structure with a 2' left yard where 30' was required, a 15' rear yard where 50' was required and building coverage of 63% where 30% was allowed. This was granted with the stipulation that (then) Plan R-9, Lot 89 and Plan U-42, Lot 37 be consolidated into one lot which would result in 50% coverage where 30% was allowed. The Board also granted an increase in the extent of a nonconforming use of a structure (Portsmouth Paper Company – wholesale and warehousing)

March 16, 2010 – The Board **granted** a request for a Special Exception to allow an auto dealership in the Business Zone and within 150' of a residential or mixed residential district where 200' was required and a Variance to allow auto dealership parking, outdoor storage or display less than 40' from a street right-of-way with the following stipulations: 1) That no more than six vehicles will be on the lot for sale at any one time; 2) That the approved use will be conducted within the 75' x 87' area shown on the plan submitted with the application; and 3) that there will be no repair or washing of vehicles.

June 24, 2016 – The Board **granted** a request for 1) A Variance under Section 10.440 to allow a light industry use in a district where this use is not allowed; and 2) A Variance from Section 10.1112.30 to allow 84 parking spaces where 103 parking spaces are required.

Planning Department Comments

The applicant is seeking a change of use to convert 12,000 SF of warehouse into a health club. Per Section 10.440.4.42, health clubs exceeding 2,000 SF GFA are permitted in the Business (B) District by special exception. The applicant is also seeking a conditional use permit from the Planning Board to provide less than the required number of parking spaces. The Technical Advisory Committee recommended approval of the conditional use permit at the June 6, 2023 meeting and Planning Board review is scheduled for the July 20, 2023 meeting.

Special Exception Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*

2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

APPLICATION OF CJA CORPORATION dba VANGUARD KEY CLUBS
933 US Route 1 By-Pass
Map 142, Lot 37

APPLICANT'S NARRATIVE

A. The Project.

The Applicant, CJA Corporation, dba Vanguard Key Clubs, wishes to relocate its Portsmouth gym facility from its present location at 1 Raynes Avenue, where it has operated for over twenty years, to existing vacant storage space in the former Portsmouth Paper Company building on the By-Pass. The proposal is to convert 12,000 square feet of currently vacant storage space into a health club. The Vanguard Key Club business model is a high-end, low density unstaffed fitness facility. It does not hold classes, so traffic into the facility is not concentrated but rather spread out over the entire day. It has operated harmoniously at the Raynes Avenue facility since its inception. The applicant and its principal, Craig Annis, operate Vanguard Key Club facilities in Portsmouth, Dover, North Hampton, Kingston, Newburyport and York.

The property is in the Business (B) zoning district, the purpose of which is “[t]o provide for a mix of retail, commercial and residential uses in areas of the City where a mix of such uses is desirable.” §10.410.

Health clubs exceeding 2,000 square feet gross floor area are permitted in the Business zone by special exception. §10.440.4.42.

B. The Special Exception.

The Applicant believes the proposal easily meets the criteria for the necessary special exception. Those criteria are set forth in the ordinance at §10.232.20.

First, the use proposed here, “Health club,” is permitted within this district by special exception, see §10.440 Table of Uses, no. 4.42. §10.232.10.

Second, the proposed use will pose no hazard to the public or adjacent properties on account of potential fire, explosion or release of toxic materials. §10.232.22. No explosives, toxic materials or accelerants of any type are involved in the operation of a health club and none will be stored on site.

Third, there will be no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat,

vibration, or unsightly outdoor storage of equipment, vehicles or other materials. §10.232.23. The buildings, structures, parking areas and accessways already exist and have since 1968 according to city tax records. Nothing about the proposed health club use would create odor, smoke, gas, dust, pollutants, noise, glare, heat or vibrations. There will be no outdoor storage of equipment associated with this use.

A variety of commercial uses, including storage, warehouses, offices and health clubs have existed on this fully developed site for many years with no discernible effect on property values in the vicinity. The property is immediately abutted by a gas station, a school bus depot, a PSNH facility and a motorcycle shop. It has been the applicant's experience that, given its 24 hour accessibility to members, these facilities generally tend to discourage loitering or other "unsavory" activity that might otherwise occur in a dark parking lot behind a warehouse, which is a benefit to the neighboring properties.

The building already exists and no new construction or site disturbance is contemplated.

Fourth, there will be no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. §10.232.23. The existing use is comprised of industrial/warehouse/retail and office use. The applicant's operation is geared towards a specialized clientele and does not generate significant traffic. A conditional use permit related to the parking load on site is concurrently being reviewed by the Planning Board.

Fifth, there will be no excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools. §10.232.24. None of these services will be implicated by this proposal.

Finally, the project will result in no significant increase of stormwater runoff onto adjacent property or streets. §10.232.25. There will be no change to the existing building footprint or impervious surfaces.

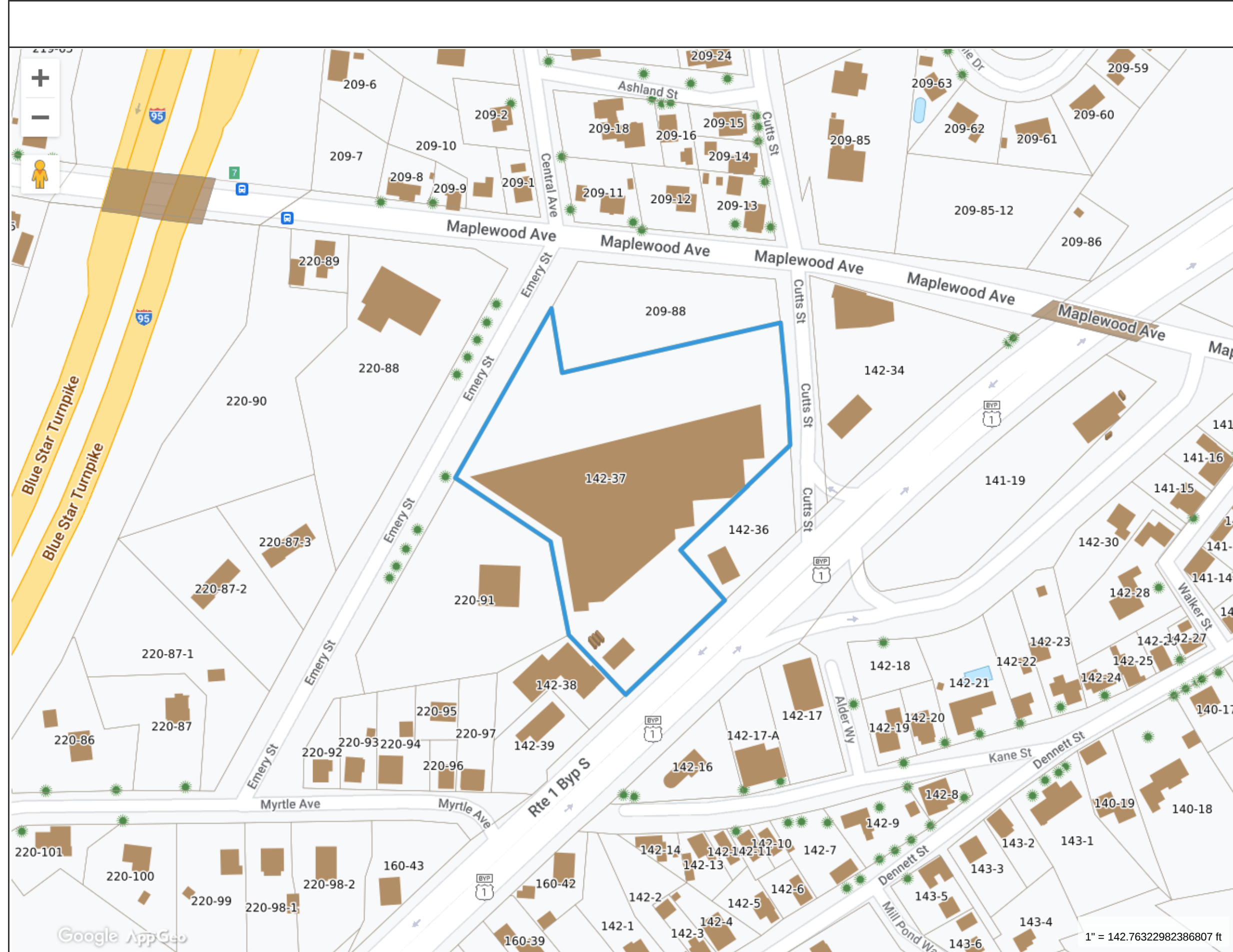
C. Conclusion.

For the foregoing reasons, the applicant respectfully requests the Board grant the special exception as requested and advertised.

Respectfully submitted,

Dated: May 29, 2023

By: */s/ Christopher P. Mulligan*
Christopher P. Mulligan, Esquire



Property Information
Property ID 0142-0037-0000
Location 933 US ROUTE 1 BYP
Owner SARNIA PROPERTIES INC



**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 09/21/2022
 Data updated 3/9/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

J:\JOBS\JN700s\Jn775\2010 Site Plan\Plans & Specs\Site\775wd02.dwg, C3_PROPOSED_PARKING PLAN



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

200 Griffin Road, Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

- 1) PARKING CALCULATION
 EXISTING STRUCTURE: 59,590 S.F.
 62,086 TOTAL G.S.F. INCLUDING MEZZANINES
 PROPOSED USE:
 BUSINESS OFFICE: 7,540 S.F. x 1/250 S.F. = 30.2 SPACES
 ADJACENT WAREHOUSE: 1,985 S.F. x 1/2000 S.F. = 1.0 SPACES
 INDOOR RECREATION (7,184 S.F.) 50 USER x 0.5 = 25.0 SPACES
 WAREHOUSE: 44,367 S.F. x 1/2000 S.F. = 22.2 SPACES
 BUSINESS OFFICE: 1,000 S.F. X 1/250 S.F. = 4.0 SPACES
 TOTAL REQUIRED: 82 SPACES
 TOTAL PROVIDED: 82 SPACES

2) THE PURPOSE OF THIS PLAN IS TO SHOW AN UPDATED USE OF A PORTION OF THE WAREHOUSE SPACE AT 933 U.S. ROUTE 1 BY-PASS.

BUILDING RE-USE
SARNIA PROPERTIES, INC.
933 U.S. ROUTE 1 BYPASS
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
3	REVISED PARKING CALCULATION, ADDED NOTE 2	7/27/11
2	REVISED COUNT TO 6 NEW SPACES	6/15/11
1	ADDED MORE PARKING SPACES, NOTE 1	6/6/11
0	ADDED TO PLAN SET	11/10/10

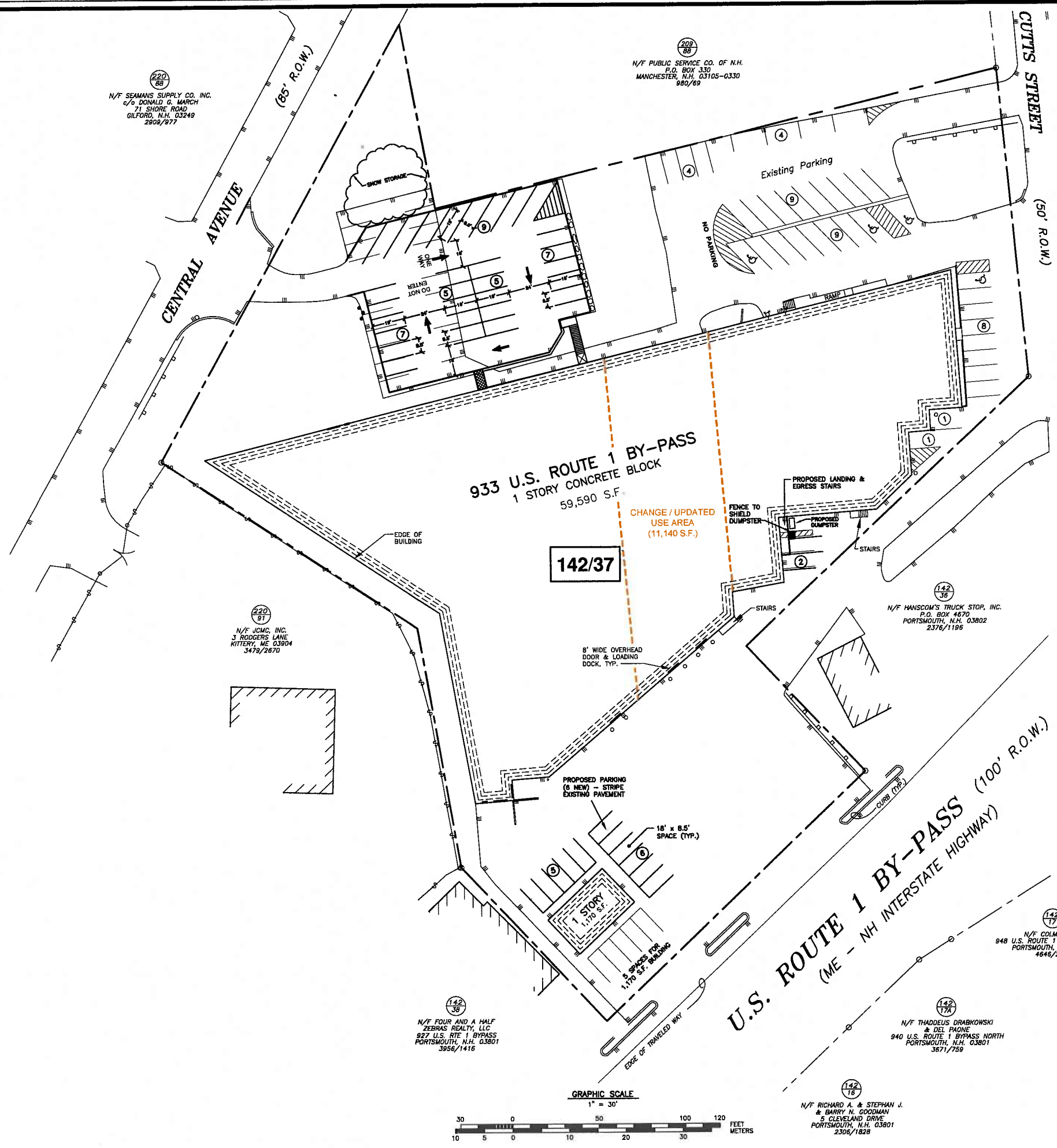
REVISIONS

NO.	DESCRIPTION	DATE

SCALE: 1" = 30' SEPTEMBER 2010

PROPOSED PARKING PLAN

C3



220 88
N/F SEAMANS SUPPLY CO. INC.
c/o DONALD G. MARCH
71 SHORE ROAD
GILFORD, N.H. 03249
2809/977

209 89
N/F PUBLIC SERVICE CO. OF N.H.
P.O. BOX 330
MANCHESTER, N.H. 03105-0330
980/69

142 34
N/F HANSCOM'S TRUCK STOP, INC.
P.O. BOX 4670
PORTSMOUTH, N.H. 03802
2846/1744

220 81
N/F JCMC, INC.
3 RODGERS LANE
KITTEERY, ME 03904
3479/2670

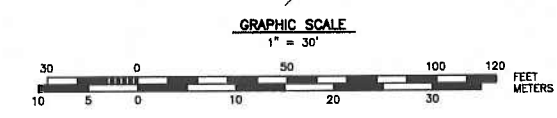
142 35
N/F HANSCOM'S TRUCK STOP, INC.
P.O. BOX 4670
PORTSMOUTH, N.H. 03802
2376/1196

142 33
N/F FOUR AND A HALF
ZEBRAS REALTY, LLC
927 U.S. RTE 1 BYPASS
PORTSMOUTH, N.H. 03801
3956/1416

142 17
N/F GOLMAX, LLC
& DEL FRANE
948 U.S. ROUTE 1 BYPASS, UNIT F
PORTSMOUTH, N.H. 03801
4846/2335

142 17A
N/F THADDEUS DRABKOWSKI
& DEL FRANE
940 U.S. ROUTE 1 BYPASS NORTH
PORTSMOUTH, N.H. 03801
3671/759

142 18
N/F RICHARD A. & STEPHAN J.
& BARRY N. GOODMAN
5 CLEVELAND DRIVE
PORTSMOUTH, N.H. 03801
2306/1828





AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

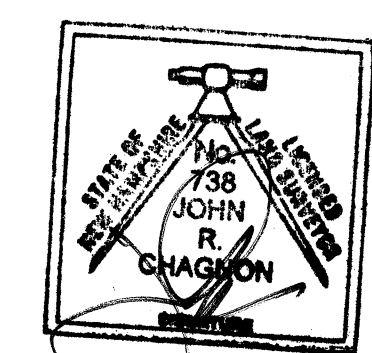
200 Griffin Road, Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

1) AREAS ARE CALCULATED FROM OUTSIDE FACE OF WALL TO CENTERLINE OF DEMISING WALL & FOR ZEN STONWORKS, TO OUTSIDE FACE OF LEASE AREA PROPOSED WALLS.

**PORTSMOUTH PAPER
BUILDING
933 US ROUTE ONE
BY-PASS
4 CUTTS STREET
PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	7/5/12
REVISIONS		



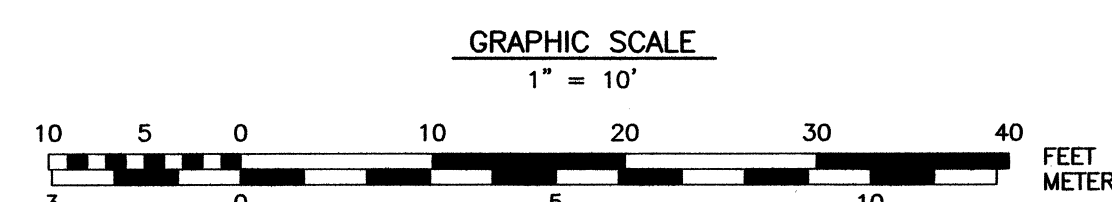
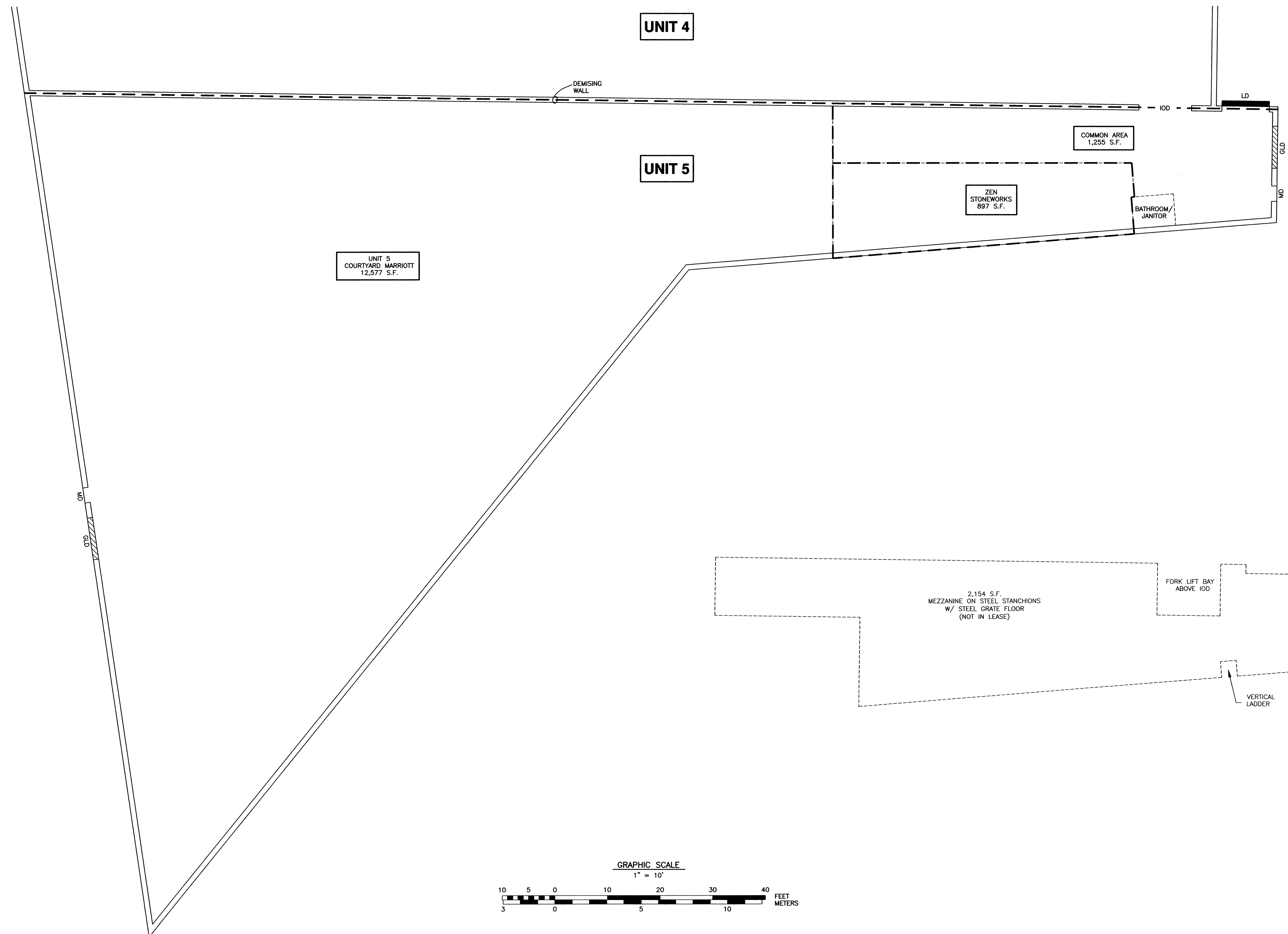
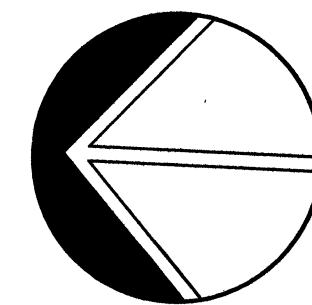
SCALE: 1" = 10' JULY 2012

**UNIT 5 SUB-LEASE
AREA PLAN**

C1

LEGEND:

- GLD GROUND LEVEL OVERHEAD GARAGE DOOR
- LD LOADING DOCK
- MD MAN DOOR
- IOD INTERIOR OVERHEAD DOOR
- UNIT/SUB-LEASE BOUNDARY



III. NEW BUSINESS

- C. The request of **Ashley J Brown and Lisa F Brown Living Trust (Owners)**, for property located at **176 Orchard Street** whereas relief is needed to construct an addition and deck to the rear of the existing structure and rebuild the existing rear staircase which requires the following: 1) Variance from Section 10.521 to allow 27% building coverage where 25% is allowed. 2) 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 located on Assessor Map 149 Lot 41 and lies within the General Residence A (GRA) District. (LU-23-82)

Existing & Proposed Conditions

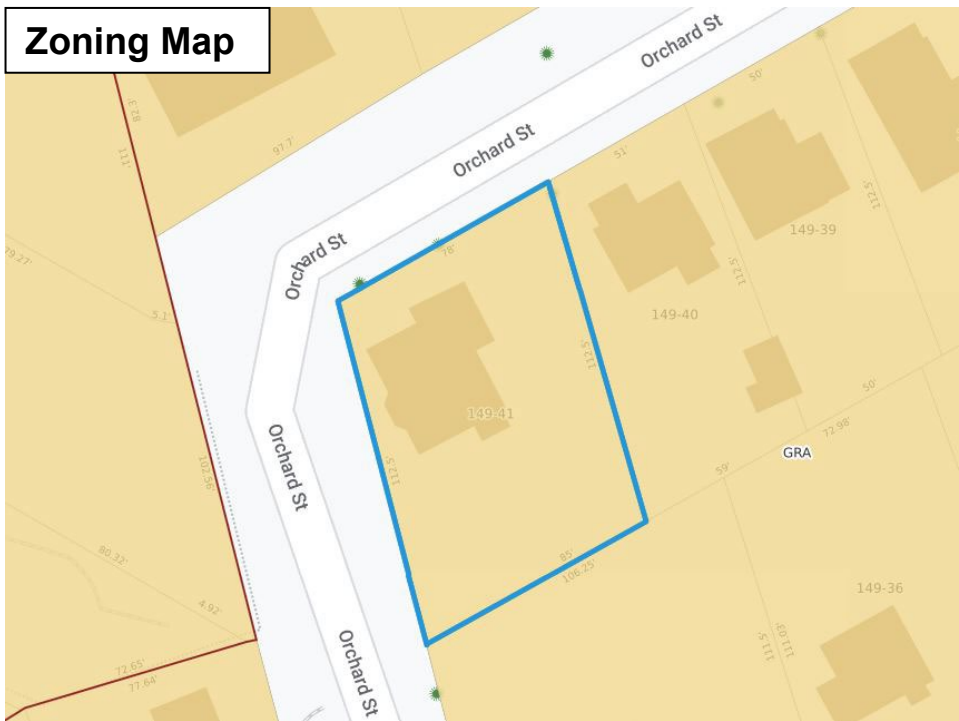
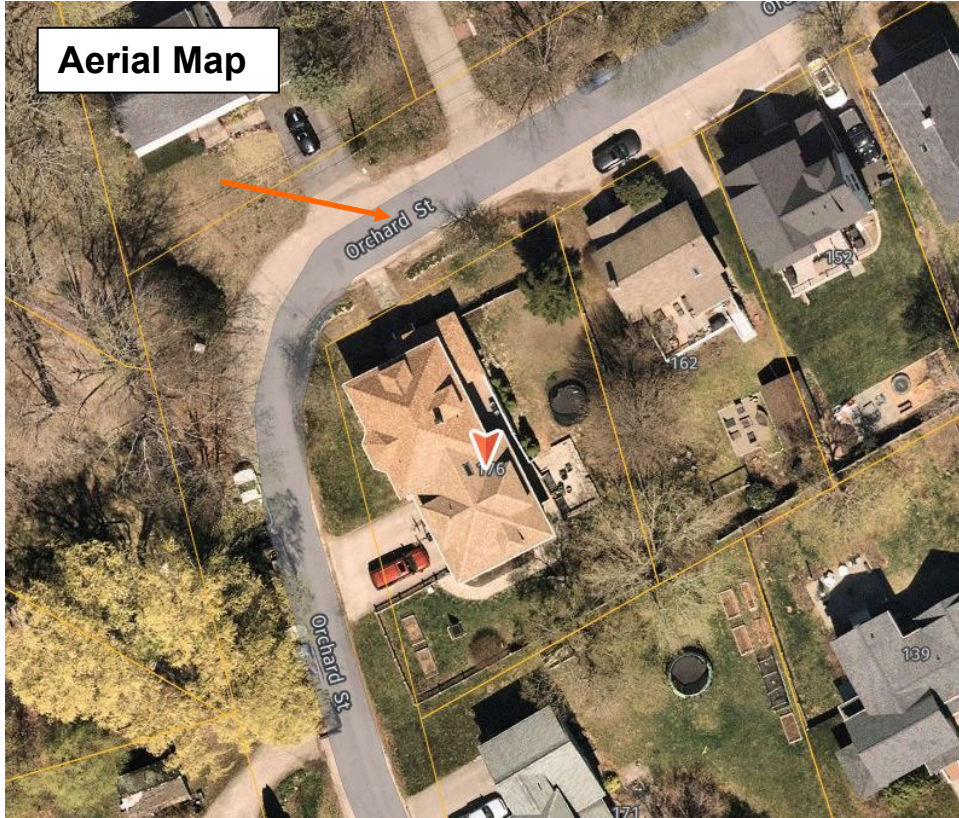
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Dwelling	Addition and Deck*	Primarily residential
<u>Lot area (sq. ft.):</u>	8,974	8,974	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,974	8,974	7,500 min.
<u>Street Frontage (ft.):</u>	190	190	100 min.
<u>Lot depth (ft.)</u>	78	78	70 min.
<u>Front Yard (ft.):</u>	7	7	15 min.
<u>Secondary Front Yard (ft.):</u>	12.5	12.5	15 min.
<u>Right Yard (ft.):</u>	24	24	10 min.
<u>Rear Yard (ft.):</u>	24	24	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u> :	24	27	25 max.
<u>Open Space Coverage (%)</u> :	>30	>30	30 min.
<u>Parking</u>	4	4	2
<u>Estimated Age of Structure:</u>	1903	Variance request(s) shown in red.	

*to allow a nonconforming structure to be extended, reconstructed, or enlarged.

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is requesting relief to construct a 256 square foot addition and a 234 square foot deck to the eastern side of the existing dwelling, where a portion of the existing covered porch now exists. The addition and deck will increase building coverage from 24% existing to 27% proposed, thus requiring relief from the 25% maximum requirement. The existing house is non-conforming as to front yard setbacks and therefore the enlargement and extension of the non-conforming structure also requires relief from Section 10.321.

Variance 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

**APPLICATION OF LISA F. BROWN, TRUSTEE OF THE LISA F. BROWN
LIVING TRUST and ASHLEY J. BROWN, TRUSTEE OF THE ASHLEY J.
BROWN LIVING TRUST
176 Orchard Street, Portsmouth, NH
Map 149, Lot 41**

APPLICANT'S NARRATIVE

I. THE PROPERTY:

The applicants, Lisa F. and Ashley J. Brown, own and reside at the property located at 176 Orchard Street, which consists of a single family dwelling with attached garage. This has been the primary residence of the applicants and their family since 2007. The property is in the GRA zone and is non-conforming as to front yard setbacks. The property is notable in that it is located at the inside of the bend in Orchard Street such that it is bounded on both its northern and western sides by the right of way. As such, it technically has no side yards. Whether considered as rear or side yards, the eastern and southern yards would comply with the required setbacks.

The applicants propose to add a modest 256 square foot addition and a 234.1 foot deck to the eastern side of the existing dwelling, where a portion of the existing covered porch now sits. The existing non-compliant front yard setbacks will remain as is. The net increase in the building footprint will be 240 square feet.

The project requires relief from Section 10.521 lot coverage of 26.7% where 25% is the maximum required and from Section 10.321 to extend or enlarge a lawful non-conforming structure.

II. CRITERIA:

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

Granting the requested variances will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

The essentially residential characteristics of the neighborhood would not be altered by this project. The existing structure and lot are already non-compliant with front setback requirements, and the modest increase in building footprint resulting from this project will in no way compromise the neighborhood.

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

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

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner. The setbacks to abutting properties are fully compliant, and the existing non-conforming front yard setbacks are to remain as is. The increase in building coverage, approximately 240 square feet, is entirely reasonable given the lot is located at the inside of the bend in Orchard Street where the paved portion public way tapers significantly and turns south in what is almost a private alley.

The applicants have reviewed their plans with their neighbors and have received universal support. Accordingly, the loss to the applicant clearly outweighs any gain to the public if the applicant were required to conform to the ordinance.

The values of surrounding properties will not be diminished by granting the variance. The proposal will improve the functionality and livability of the applicants' property and will increase the value of the applicant's property and those around it. The values of surrounding properties will not be negatively affected in any way.

There are special conditions associated with the property which distinguish it from other properties in the area such that literal enforcement of the ordinance would result in an unnecessary hardship. The property is non-conforming as to front yard setbacks. It is a trapezoidal shaped lot that lies on the inside of the bend in Orchard Street such that it has no rear yards. The proposed additions are on the eastern side of the house, which is the only logical placement for such additions given the dwelling's existing configuration on the lot. The property is at the western end of Orchard Street, where the public way turns and heads south, and where it is one of only two properties with driveways on that portion.

The use is a reasonable use. The proposal is a residential use in a residential zone.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The purpose of the building coverage requirement is to prevent overcrowding of lots and unsightly and inconsistent massing of structures. The amount of additional building coverage proposed, approximately 240 square feet, is minimal and not out of character for this neighborhood.

Accordingly, the relief requested here would not in any way frustrate the purpose of the ordinance and there is no fair and substantial relationship between the purpose of the setback requirements and their application to this property.

III. Conclusion.

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

Respectfully submitted,

Dated: 5-25-23

By: *Chris Mulligan*
Christopher P. Mulligan, Esquire



Property Information
Property ID 0149-0041-0000
Location 176 ORCHARD ST
Owner BROWN ASHLEY J LIVING TRUST



**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.

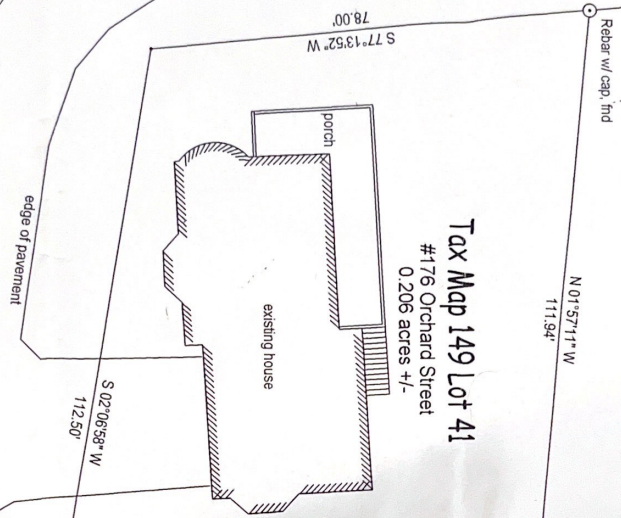
Geometry updated 09/21/2022
 Data updated 3/9/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

1" = 88.26596571033642 ft



Tax Map 149 Lot 41
#176 Orchard Street
0.206 acres +/-



Orchard Street

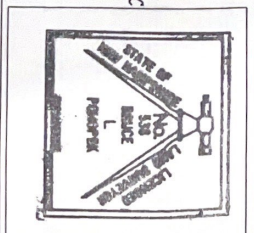


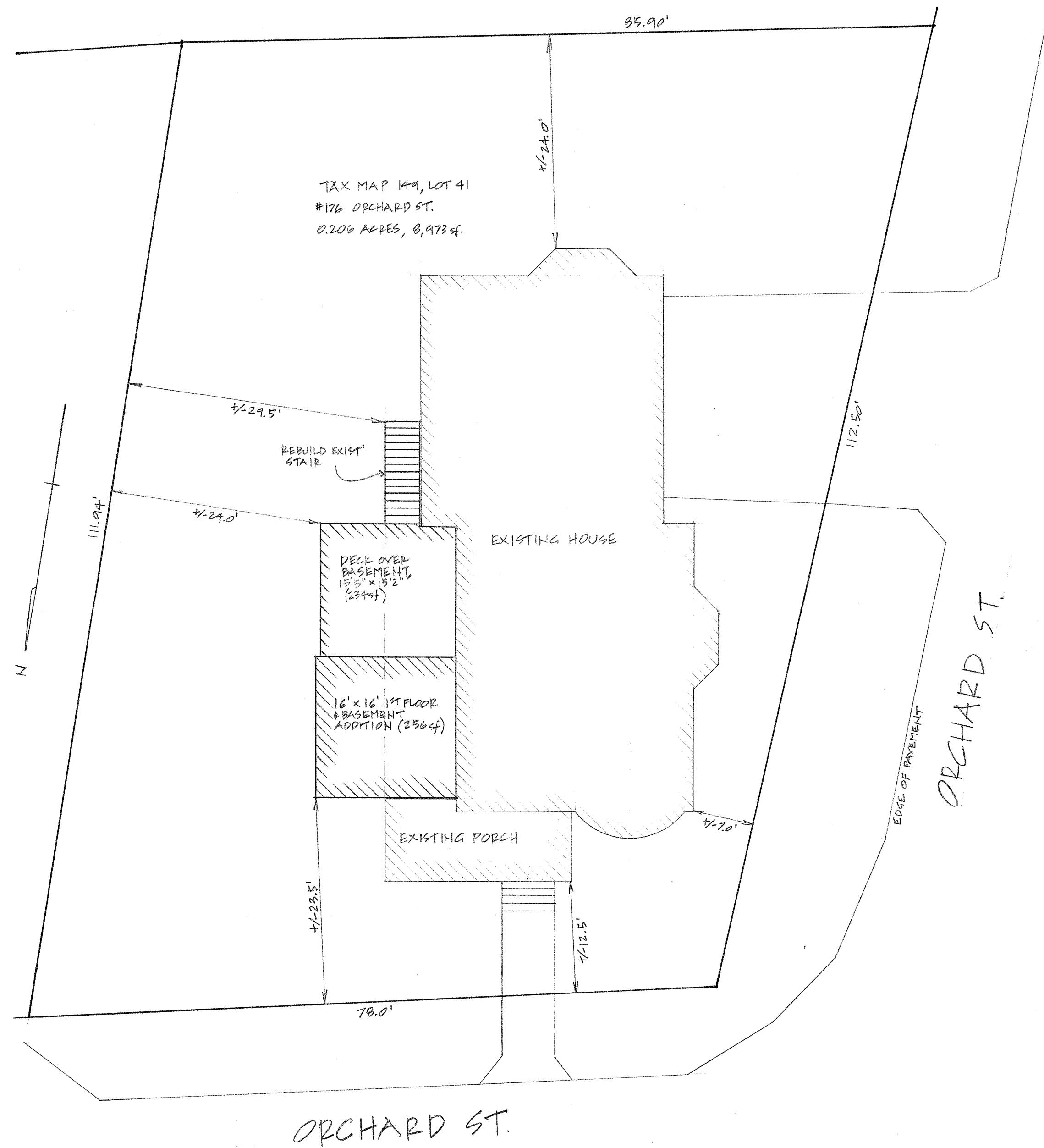
SCALE: 1" = 20' DATE: JUNE 10, 2008

FOR LAND LOCATED AT
#176 Orchard Street
City of Portsmouth Strafford County
New Hampshire

FOR
Lisa F. & Ashley J. Brown

PREPARED BY:
POHOPEK LAND SURVEYORS
& SEPTIC SYSTEM DESIGN, LLC
42 FLAG ROAD
ROCHESTER, NH 03839
(603) 330-3282





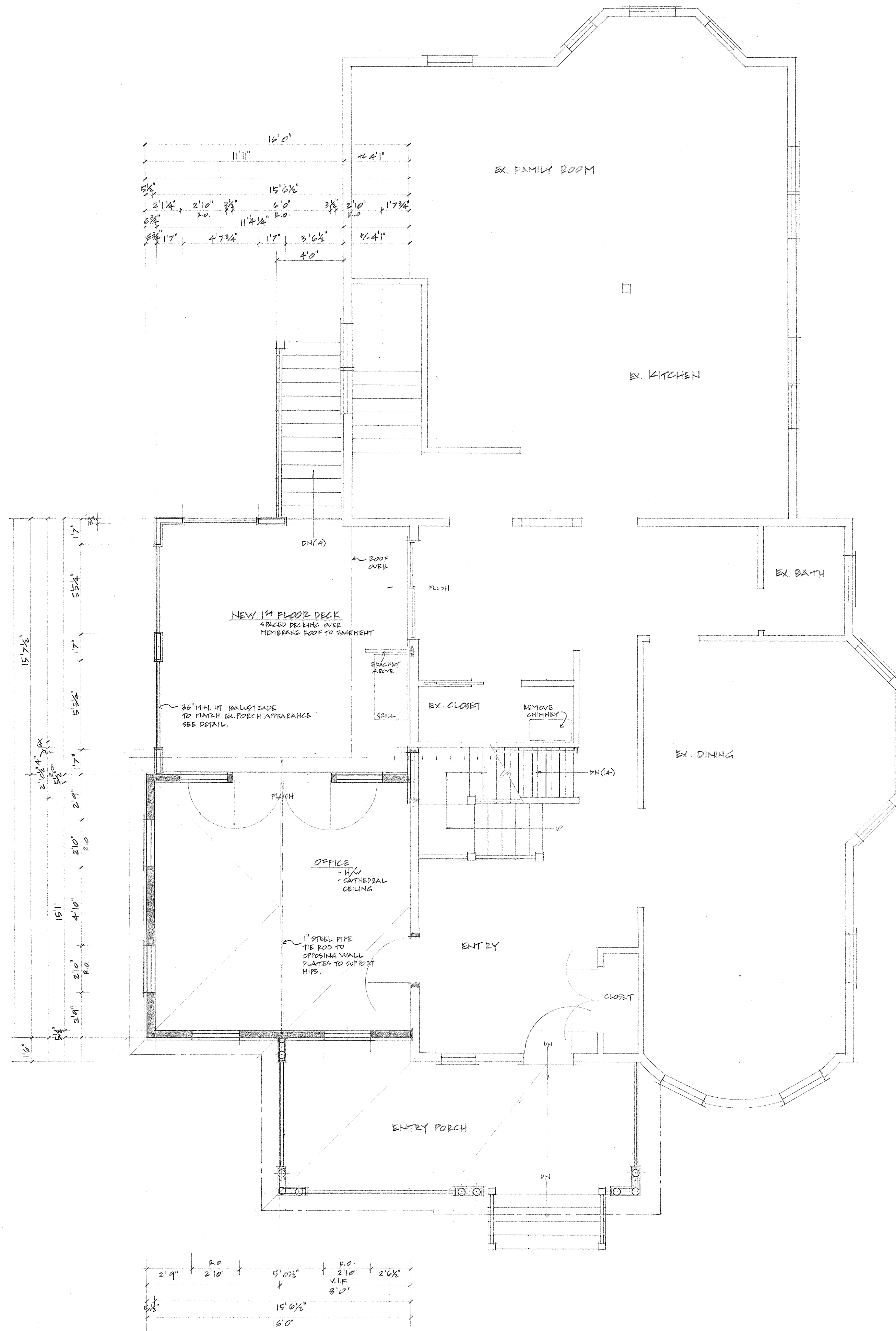
PROPOSED SITE PLAN 1"=10'

DIMENSIONAL TABLE (GRA)

ITEM	EXISTING	PROPOSED	CHANGE
Lot Area (Req. 7,500sf)	8,973sf	8,973f	0sf
Height (35' max.)	32'	32'	0'
Front Yard (Req. 15')	12.5'	12.5'	0'
Left Yard (Req. 10')	29.5'	24.0'	+5.5'
Right Front Yard (Req. 15')	7'	7'	0'
Rear Yard (Req. 20')	24'	24'	0'
House Area	2,153sf	2,393sf	+240sf
House Area % (25% max.)	23.99%	26.7%	+2.7%

OWNER OF RECORD;
ASHLEY J BROWN LIVING TRUST
176 ORCHARD ST.,
PORTSMOUTH, NH, 03801
MAP 149, LOT 41

PLAN TAKEN FROM "PLAN OF LAND", 6.10.2008, BY POHOPEK LAND SURVEYORS OF ROCHESTER, NH.



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

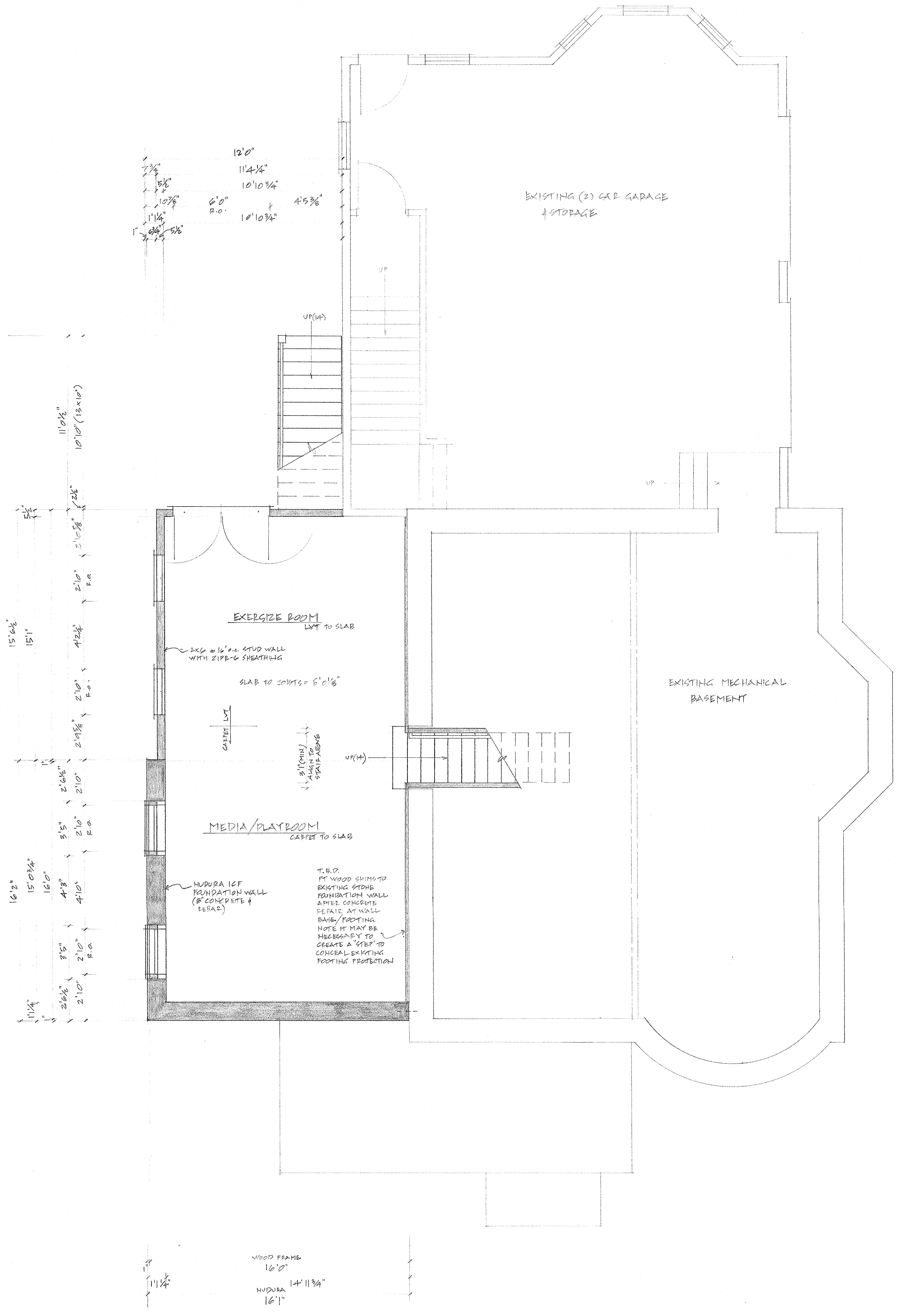
TITLE: PROPOSED SITE PLAN & FIRST FLOOR PLAN

SCALE: 1"=20' & 1/4"=1'0"

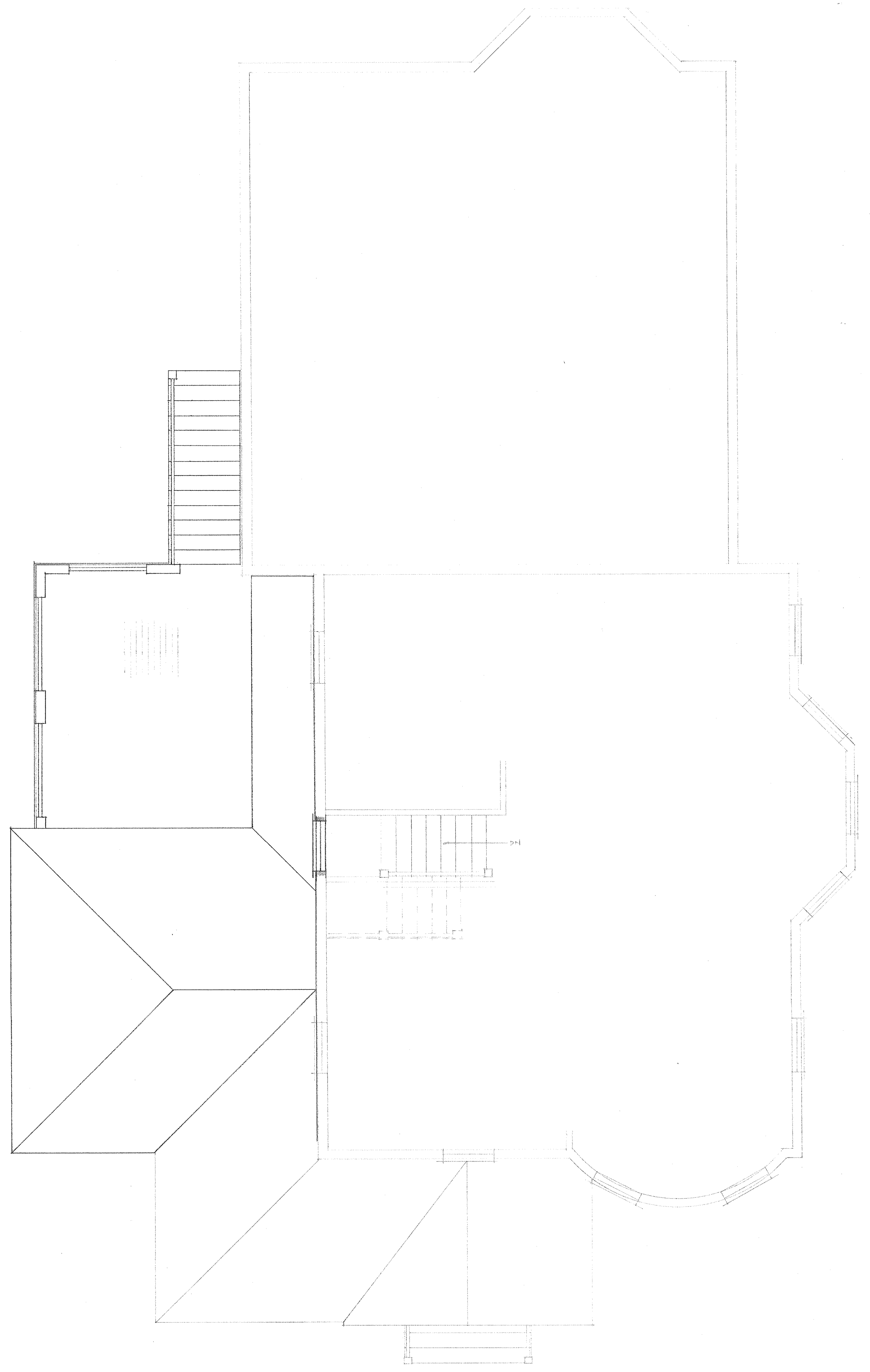
DATE: 4.28.2023

REVISIONS:

ADDITION AT
176 ORCHARD ST.,
PORTSMOUTH, NH.



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



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

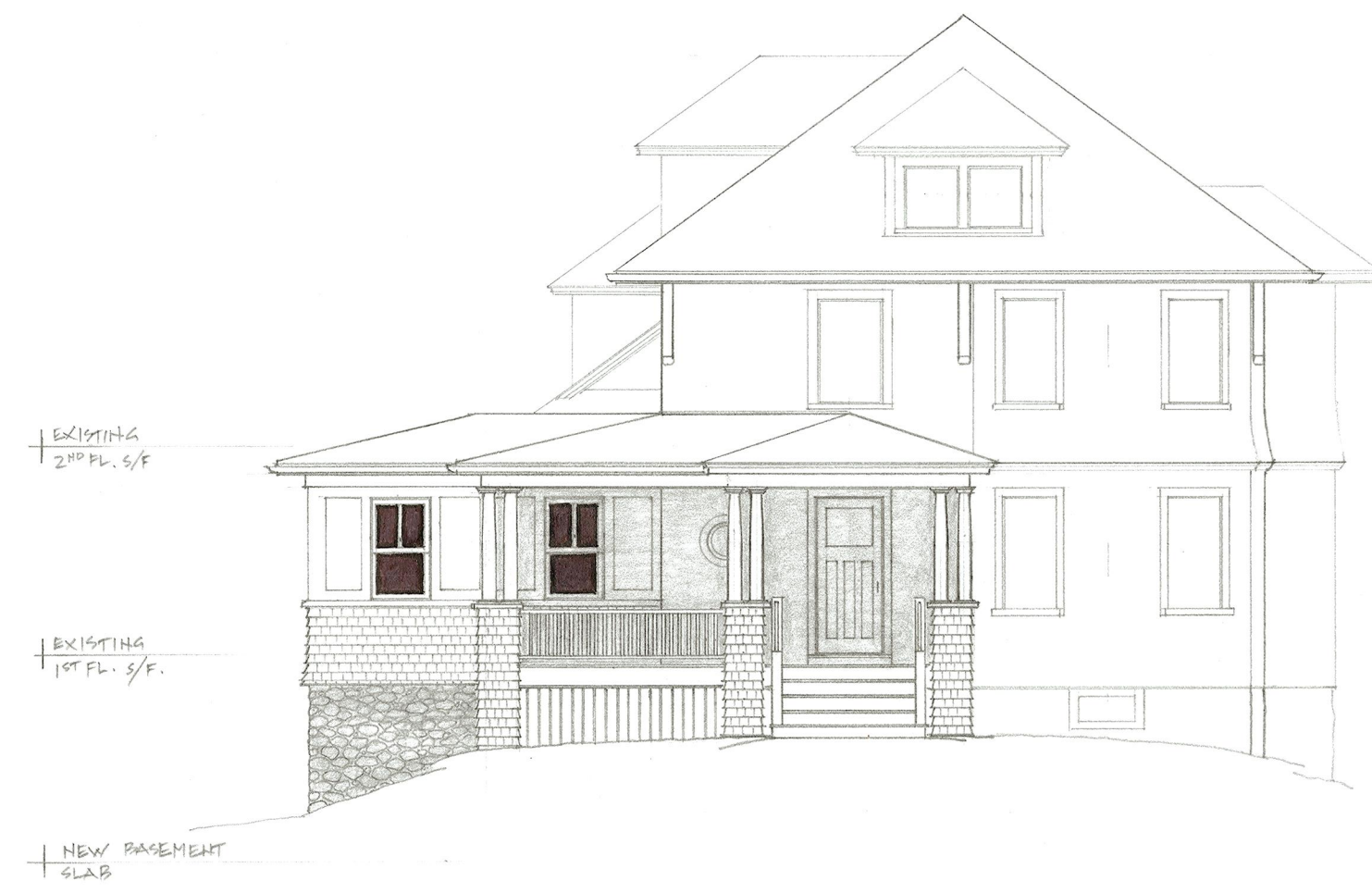
TITLE: PROPOSED BASEMENT + 2ND FLOOR PLAN

SCALE : 1/4"=1'0"

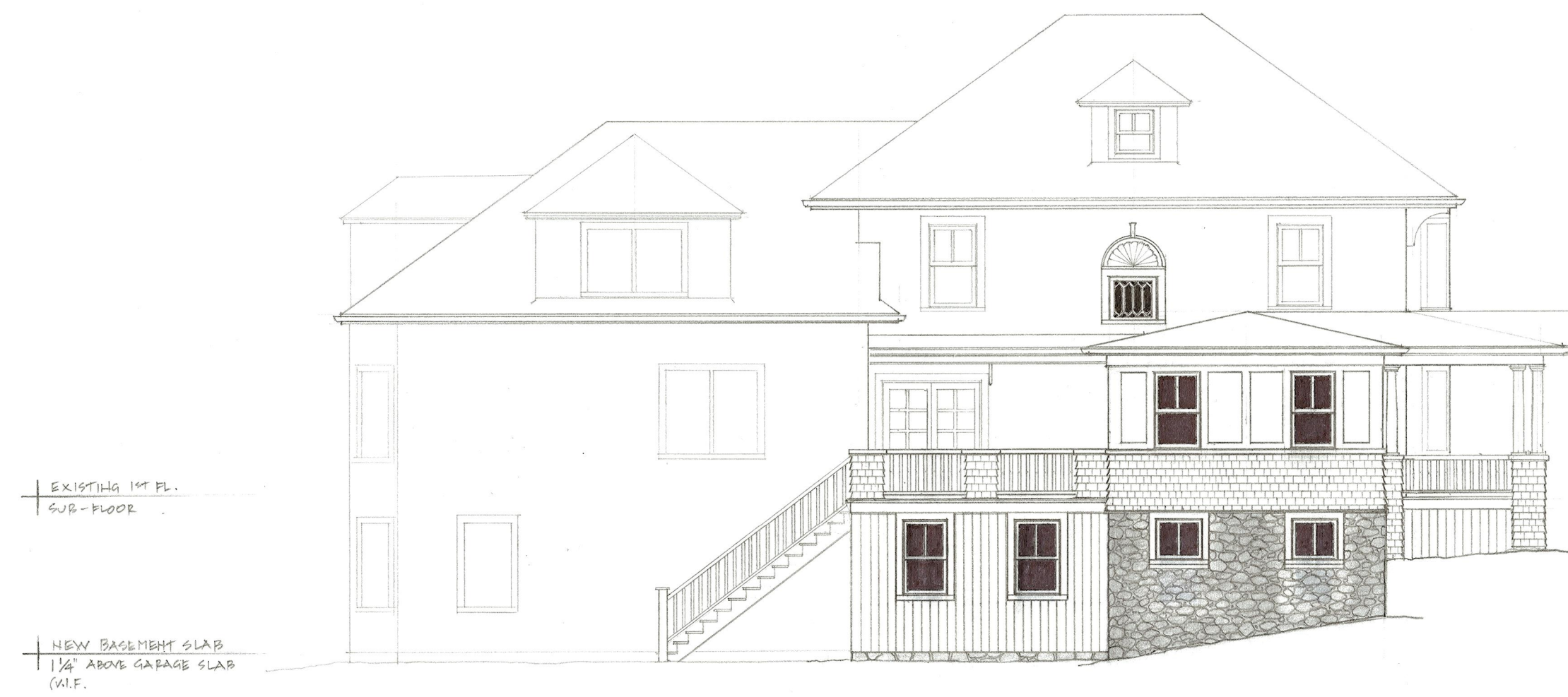
DATE : 4.28.2023

REVISIONS :

ADDITION AT
176 ORCHARD ST.,
PORTSMOUTH, NH.



PROPOSED NORTH ELEVATION



PROPOSED EAST ELEVATION 1/8"=1'0"



PROPOSED SOUTH ELEVATION 1/8"=1'0"

TITLE: EXISTING CONDITIONS PHOTOS & PROPOSED ELEVATIONS

SCALE : 1/8"=1'0"

DATE : 4.14.2023

REVISIONS:

ADDITION AT
176 ORCHARD ST.,
PORTSMOUTH, NH.

TO WHOM IT MAY CONCERN,
WE HAVE ABSOLUTELY
NO PROBLEM WITH THIS PROJECT.
ASSET TO NEIGHBORHOOD.

RICK & CHRIS MORGEN
155 ORCHARD ST.
603 812 3582

[Signature] 5/15/23

+ EXISTING
2ND FL. S/F

+ EXISTING
1ST FL. S/F

+ NEW BASEMENT
SLAB



PROPOSED NORTH ELEVATION

III. NEW BUSINESS

- D. The request of **Point of View Condominium (Owner)**, for property located at **75 Salter Street #1** whereas relief is needed to relocate the existing residential structure landward of the highwater mark which requires the following: 1) Variance from Section 10.211 and Section 10.531 to allow the following: a) a 2' front yard where 30' is required, b) a 2' side yard where 30' is required; 2) Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance; 3) Variance from Section 10.516.40 to allow a heating vent to project 1' into the required side yard. Said property is located on Assessor Map 102 Lot 32-1 and lies within the Waterfront Business (WB) and Historic District. (LU-23-83)

Existing & Proposed Conditions

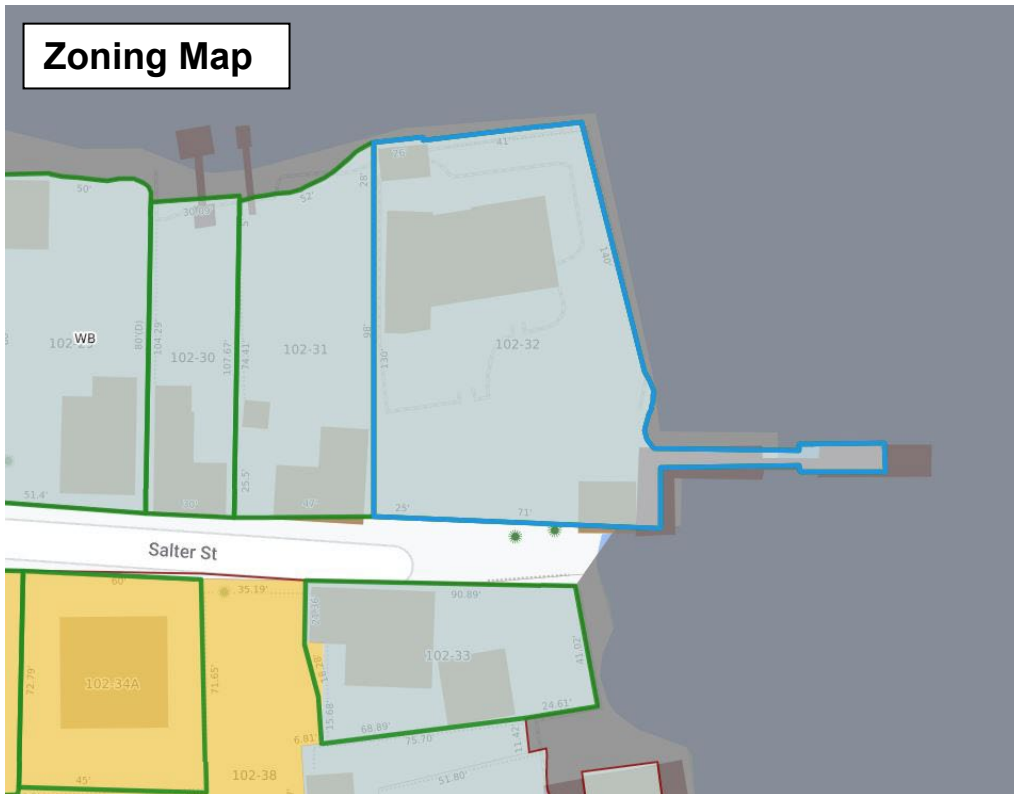
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two Single Family Condominium units	Relocate Unit 1*	Primarily residential
<u>Lot area (sq. ft.):</u>	11,327	11,327	20,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,663.5	5,663.5	NR min.
<u>Street Frontage (ft.):</u>	67	67	100 min.
<u>Lot depth (ft.)</u>	>100	>100	100 min.
<u>Front Yard (ft.):</u>	2	2	30 min.
<u>Left Yard (ft.):</u>	1.8	1.8	30 min.
<u>Right Yard (ft.):</u>	-5.6	2	30 min.
<u>Rear Yard (ft.):</u>	18	18	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	26	27	30 max.
<u>Open Space Coverage (%):</u>	52	53.5	20 min.
<u>Parking</u>	>3	>3	3
<u>Estimated Age of Structure:</u>	1991	Variance request(s) shown in red.	

*to allow a nonconforming structure to be extended, reconstructed, or enlarged.

Other Permits/Approvals Required

- Certificate of Approval - Historic District Commission
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

April 17, 1990 – The Board **granted** variances to allow the following: 1) development of a lot with 96' of frontage and 10,700 s.f. in area where 100' and 20,000 s.f. respectively are required; 2) the construction of a two story infill addition between the existing dwelling on lot 32 and that on lot 32A, creating one dwelling unit on a new lot having 96' frontage and being 10,700 s.f. in area; 3) two non-conforming dwellings to be combined and enlarged creating one non-conforming dwelling in a district where dwellings are not permitted increasing the extent of a non-conforming use of structure or land; 4a) a 19.2' rear yard for the infill addition where 20' was required; and 4b) 8.2', 15.5' and 17' left yards where 20' was required. The Board **denied** request 4c) to allow a proposed enclosed staircase to be constructed with a 0' front yard where 20' was required.

September 18, 1990 – The Board **granted** a request to appeal a decision (denial) of the Historic District Commission to be heard on October 16, 1990.

December 18, 1990 – The Board **granted** the appeal to overturn the decision made by the Historic District Commission at their July 25, 1990 meeting. (**after** a request to postpone a hearing in November and applicant working separately with HDC that ultimately issued a Certificate of Approval.)

December 18, 1990 – As noted in a separate letter of decision, the Board **denied** a variance to allow a 14.5' x 17' addition to a single-family dwelling with a 2.3' side yard where 20' was required.

December 18, 2018 – The Board **granted** the use of an existing structure as a dwelling unit, relocating stairs, and adding a dormer and two 19± s.f. entrance overhangs. Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;
- b) from Section 10.440, Use #1.10 to allow a single-family dwelling where the use is not allowed in this district; and variances from Section 10.311 and Section 10.531 to allow the following:
- c) a lot area of 11,327± s.f. where 20,000 s.f. is required;
- d) 67'± of continuous street frontage where 100' is required;
- e) a 4.1 '± front yard where 30' is required; and
- f) a 0'± side yard where 30' is required.

Planning Department Comments

The applicant is requesting relief necessary to relocate the existing two-story dwelling unit, as previously authorized by the Board in 2018. The building is currently located approximately 5.6 feet over the Piscataqua River and must be relocated back over the land in order to comply with a settlement with NHDES to remedy an alleged violation of RSA 482-A:26. The applicant requests that the Board re-affirm the prior grant of variances from December 2018. The applicant received a building permit within the required two year period to vest the prior

approvals and therefore staff does not believe that re-affirmation is required. The applicant requests relief from three additional requirements to move forward with the renovation and restoration of the building for residential use, as follows:

- 1) Variance from Section 10.211 and Section 10.531 to allow the following:
 - a) a 2' front yard where 30' is required,
 - b) a 2' side yard where 30' is required; and
- 2) Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance; and
- 3) Variance from Section 10.516.40 to allow a heating vent to project 1' into the required side yard.

The applicant's request for a variance from Section 10.516.40 to allow a heating vent to project 1' into the required side yard is not applicable in the Waterfront Business (WB) District and staff does not recommend any relief is needed for this request.

Variance 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

 - (c) *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.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



James J. Steinkrauss
Of Counsel
Attorney-At-Law
jjs@rathlaw.com
Please reply to: Concord Office

May 31, 2023

VIA HAND DELIVERY & ELECTRONIC MAIL

Phyllis Eldridge, Chair
Portsmouth Zoning Board of Adjustment
Municipal Complex
1 Junkins Avenue
Portsmouth, NH 03801

RE: 57 Salter Street – Tax Map 102, Lot 32, Unit 2

Dear Chair Eldridge and Members of the Zoning Board of Adjustment:

I am writing on behalf and in support of Margot Thompson for variance relief necessary to relocate the existing two-story \pm 680 square foot (s.f.) building and to allow for the use of the building as a dwelling unit, as previously authorized by the Zoning Board of Adjustment on December 18, 2018. The building is currently located approximately 5.6 feet over the Piscataqua River and must be relocated back over the land in accordance with a settlement with the New Hampshire Department of Environmental Protection (“NHDES”) to remedy an alleged violation of RSA 482-A:26. The City of Portsmouth (the “City”) previously applied to NHDES for an urbanized shoreland exemption to NHDES that was granted on September 2, 2022, providing the lot relief and exemption from the Shoreland Water Quality Protection Act (RSA 483-B). A copy of a letter from the NHDES dated May 15, 2023, is attached hereto in support of this application for variance relief that no additional wetlands permits or approvals are required.

Mrs. Thompson’s property is the fifth (and last) house on the north side of Salter Street. It is shown on City of Portsmouth Tax Map 102 as Lot 32 and has a lot area of 11,327 s.f. It has 67 linear feet of frontage on the north side of Salter Street and is 122 feet deep.¹ In the northwest

¹ The Tax Map indicates a lot area of 10,715 s.f. with 96 feet of frontage. The survey plan prepared by AMBIT Engineering dated November 28, 2018 identifies a lot area of \pm 11,327 s.f. and 67.0 feet of frontage on Salter Street.

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F (603) 226-2700

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Suite 307
Nashua, NH 03063
T (603) 889-9952
F (603) 595-7489

120 Water Street
2nd Floor
Boston, MA 02109
T (617) 523-8080
F (603) 226-2700

26 State Street
Suite 9
Montpelier, VT 05602
T (802) 552-4037
F (603) 226-2700

1855 Elm Street
Manchester NH 03104
T (603) 226-2600

INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

corner of the lot is a 90 s.f. shed that is believed to date to the early 1800s, while in the southeast corner of the lot is a structure with a \pm 340 s.f. footprint which has plumbing and heating allowing it to be used as a year-round office. Mrs. Thompson previously requested variance relief from Article 3, Section 10.321 Expansion of Nonconforming Structure, Article 4, Section 10.440 Single Family Dwelling, Article 5, Section 10.531 Lot Area, and Article 5, Section 10.531 Continuous Street Frontage, all of which was granted by the Zoning Board of Adjustment (the “Board”) on December 18, 2018. Mrs. Thompson applied for and the City issued Building Permit No. 35,117 on August 20, 2019, that perfected the grant of variances by the Board under Article 2, Section 10.236 for renovation and use of the year-round structure, including the variance relief. A copy of the building permit, Board meeting minutes and action sheet are attached for your review. Mrs. Thompson asks that the Board re-affirm the prior grant of variances from December 2018. Mrs. Thompson, to the extent required, requests similar variance relief as granted in 2018, with requests for relief from three (3) additional requirements.

To move forward with renovation and restoration of the building, Mrs. Thompson must relocate the existing building back approximately 7.6 feet so it is no longer situated over the Piscataqua River. Relocation of this existing building, in compliance with the terms of a settlement with NHDES, will allow Mrs. Thompson to complete renovations and utilize the building as a primary dwelling. Absent a grant of variance and building permit for relocation of the property, Mrs. Thompson will not be able to use it as a primary residence and will not be able to resolve their dispute with NHDES without further hardship. The residential use once the building is relocated is consistent with the relief previously sought and granted by the Zoning Board of Adjustments. Therefore, Mrs. Thompson respectfully requests the following variance relief:

1. Article 5, Section 10.531, Lot Area: The lot has 11,327 s.f. of lot area but, since a lot area of 20,000 s.f. is required in the Waterfront Business District, relief is sought. (Previously granted December 18, 2018).
2. Article 5, Section 10.531, Continuous Street Frontage: One hundred linear feet (100’) of continuous frontage is required in the Waterfront Business District while this particular lot has only 67 linear feet, therefore relief is sought. (Previously granted December 18, 2018).
3. Article 5, Section 10.531, Front Yard: Thirty feet (30’) of front yard is required in the Waterfront Business District while this particular lot has approximately two feet (\pm 2’), and approximately two feet (\pm 2’) will be provided upon relocation of the building, relief is sought.

4. Article 5, Section 10.531, Side Yard: Thirty feet (30') of side yard is required in the Waterfront Business District while this particular lot currently has negative 5.6 feet (-5.6') existing and the side yard proposed upon relocation of the building is two feet (2'), therefore relief is sought.

5. Article 5, Section 10.516.40, Projections into Required Yards: While not technically applicable to the Waterfront Business District, the Ordinance allows the projections of building elements into required yards and the relocated building would project a heating vent approximately twelve inches (12") on the side of the building into the required side yard to which relief is sought above; therefore, relief is requested for placement of the side heating vent.

6. Article 3, Section 10.321, Expansion of Nonconforming Structure: The structure for which dwelling unit status is sought is located within the existing setback, and relocation of the building will not increase the volume over and above the work previously constructed under Building Permit 35117. To the extent relocation of the building technically expands the nonconformity, relief is sought. (Previously granted December 18, 2018).

7. Article 4, Section 10.440, Single Family Dwelling: Single family dwellings are not a permitted use in the Waterfront Business District, and since variance relief is necessary to convert this structure to a residential use, relief is sought. (Previously granted December 18, 2018).

Property History:

The property was previously owned by Roger and Susan Gagnon, who acquired the property at the easterly end of Salter Street from Roger's parents on May 21, 1971.² The property was shown on the 1979 Tax Maps as consisting of two separate lots. Lot 32 consisted of 7,450 s.f. of lot area and 71' of frontage and included a large residential structure and the smaller structure in the southeast corner of the lot, for which the variance relief sought to relocate this dwelling unit is requested. The Tax Map also identified Lot 32A consisting of 3,250 s.f. of lot area and 25' of frontage. This lot included a single-family home and the ± 90 s.f. shed along the northwest boundary along the waterfront. The 1974 City Directory shows Roger Gagnon residing at 57

² Rockingham County Registry of Deeds (RCRD) Book 2070, Page 291.

Salter Street, while the home next door at 55 Salter was shown as being occupied by Donna Donnell. Roger Gagnon operated a wooden lobster trap manufacturing business and built and repaired fiberglass boats on this property in the 1970s. A 1980 revision of the Tax Maps shows the present configuration of the lot with two typically sized residential structures, as well as the “out-buildings” at the northwest and southeast corners of the lot.

Margot and Edward Thompson purchased the property (including both residential structures and the outbuildings) from Roger and Susan Gagnon by deed dated November 1, 1990.³ In 1990 and 1992, the Thompsons obtained approvals from the City and enlarged the more easterly structure and joined it to the structure previously listed as 55 Salter St., creating a single-family home where two separate single-family homes previously existed. Edward Thompson transferred the property to Margot Thompson by deed dated December 11, 1992.⁴

In November 2018, Mrs. Thompson submitted an application to the Board to renovate the ± 680 s.f. building to convert it to residential use. The renovation included the relocation of stairs to the second level, the addition of a dormer and two 19 s.f. entrance overhangs, and a change of use for the building from Waterfront Business to Residential Use. On December 18, 2018, the Board approved the application for these changes including the change in use to residential, as well as the additional variance relief cited above. Building Permit No. 35117 was issued by the City on August 20, 2019 to commence the renovations of the property so that Mrs. Thompson could utilize the building as a primary residence. Mrs. Thompsons also received two wetlands permits issued by NHDES for the proposed renovations to the property in July 2019 (NHDES File No. 2019-01730) and July 2020 (NHDES File No. 2020-01252).

On September 29, 2020, Mrs. Thompson filed a Declaration of Condominium⁵ for the Point of View Condominium Association, as well as Condominium Site and Floor Plans⁶ for the property at 57 Salter Street. The Declaration and Site Plans establish two condominium units, Unit 1 consisting of the subject building noted as #75 and Unit 2 being the building noted as #57. The common areas include the docks, a portion of the driveway and roadway access, as well as access to the docks and common utility rights. As stated above, the City treats this property as one parcel with two buildings, not as two separate parcels or newly created subdivided parcels. On October 1, 2020, Mrs. Thompson sold Unit 2 of the Condominium (the larger residential

³ RCRD Book 2875, Page 707.

⁴ RCRD Book 2959, Page 811.

⁵ RCRD Book 6171, Page 992

⁶ RCRD Plan Document No. 42392.

structure and surrounding property) to Daniel and Kristin Posternak.⁷ Mrs. Thompson retained ownership of Unit 1 and ownership in common of the Condominium common property.

The subject property and building at 75 Salter Street are described as Unit 1 of the Point of View Condominium Association by Declaration of Condominium. Mrs. Thompson's conversion of Unit 1 to a home for her and her husband is part of an overarching retirement plan whereby the Thompsons would create the 2-unit condominium, sell their Unit 2 larger residence, downsize their residence into the Unit 1 structure, and use the proceeds from the sale of Unit 2 for the renovations to Unit 1 and their retirement. The Thompsons planned to live in the same neighborhood in Portsmouth where they raised three children, and have many friends and neighbors which they have cultivated over the past 40 years. The Thompsons are active fundraisers for the community and participated in local non-profits, including service on the boards of the Strawberry Banke and Portsmouth Children's Museum.

In April 2021, while in the middle of the construction renovations, the Thompsons were informed by NHDES that they were in violation of the Wetlands Act (RSA 482-A) and Shoreland Water Quality Protection Act (RSA 483-B) related to their conversion of the building to residential use. On August 20, 2021, NHDES issued an Administrative Order that stopped all work, alleging a violation of the Wetlands Act because the residence (Unit 1) was located over State waters. The Administrative Order also alleged violations of the Shoreland Protection Act because the residence was located within 50 feet of the shoreline and the two-unit condominium violated the minimum shorefront requirements.

The Thompsons filed a Notice of Appeal in September 2021 with the Wetlands Council which was accepted. In April 2022, the Thompsons petitioned the City of Portsmouth for an Urbanized Shoreland Exemption to exempt the property from the Shoreland Water Quality Protection Act's requirement for a 50-foot setback for a primary residence as well as the minimum shorefront requirements for the two-Unit Condominium. The April 2022 petition proposed allowing the Thompsons to pull the structure back 7.6 feet so it is no longer over water, eliminating any Wetlands Act violations. The City Council approved this petition and filed the application on July 11, 2022. NHDES granted the application for Urbanized Shoreland Exemption on September 2, 2022 for 57 Salter Street, Lot 32 on Tax Map 102. A copy of the exemption is attached for your review. On May 12, 2023, the Thompsons executed a settlement with NHDES to relocate the building to resolve the Wetlands Act issues and to resolve the appeal which is currently stayed pending completion of the settlement terms.

⁷ RCRD Book 6172, Page 1975.

Variance Relief Sought from the Art. 5, Section 10.531 Requirements:

Variance relief is sought from the Lot Area, Frontage, Front Yard, and Side Area requirements contained in Article 5, Section 10.531 of the Ordinance. The minimum shorefront requirements under the Shoreland Protection Act require 150 feet of frontage for each residential lot. However, the September 2, 2022 grant of Urbanized Shoreland Exemption from NHDES removed this requirement.

There are thirty-two (32) lots east of Marcy Street with frontage on Salter Street, Pray, Partridge, Walden and Holmes Court. Thirteen (13) of these lots are zoned Waterfront Business (WB) while eighteen (18) are zoned General Residence B (GRB). In the WB District, the minimum lot area requirement is 20,000 s.f., while the GRB District has a minimum lot area of 5,000 s.f. The median size lot in the neighborhood is 5,161 s.f. and the median size lot in the WB District is 6,316 s.f. The lot at 57 Salter Street, Lot 32, Tax Map 102 is \pm 11,327 s.f. and is twice the size of the median sized lot in the general neighborhood. Pursuant to the Condominium Plans (as cited above), Mrs. Thompson's Unit 1 contains approximately 2,370 s.f.

The frontage requirement in the WB District is 100 linear feet, while the frontage requirement in the GRB District is 80 linear feet. The lot at 57 Salter Street, Lot 32, Tax Map 102 has 67 linear feet of frontage.

The Property Satisfies the Requirements of Art. 2, Section 10.233.20 of the Ordinance for the Board to Grant Variance Relief:

(1) *The granting of the variance will not be contrary to the public interest.*

The relocation of the building approximately \pm 7.6' from its current location and granting variances from area, frontage, front yard, and side yard requirements for the WB District will not be contrary to public interest because Mrs. Thompson will be able to complete the renovation of the building, utilize it as her primary residence, and resolve outstanding legal dispute with NHDES. The modifications as approved by the City and NHDES will reduce any impacts to stormwater runoff to adjacent properties and roadways and not result in any change or alteration to the essential character of the neighborhood. This property previously had two full sized residential buildings and the outbuildings for over 150 years. The granting of the requested variances is not contrary to public interest.

To be contrary to public interest or injurious to public rights of others, a variance must unduly and in a marked degree conflict with the Ordinance such that it violates the “basic zoning objectives” of the Ordinance. See *Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577, 581 (2005), and *Harborside Associates v. Parade Residence Hotel, LLC*, 162 N.H. 508 (2011). In *Chester*, the Court found that a variance would violate the basic zoning objections if it would alter the essential character of the neighborhood or threaten the public health, safety or welfare. See *Id.* In this case, a grant of variance relief will not alter the character of the neighborhood by moving a building that has existed in the neighborhood and will not impact public health, safety or welfare. In fact, relocating the building $\pm 7.6'$ landward removes ± 87 s.f. of covered river waterfront area, which may reduce any impacts upon the environment from any future residential use and makes the area more accessible to the public.

(2) *The granting of the variance will not be contrary to the spirit of the Ordinance.*

The area, frontage, front yard and side yard requirements are designed to create appropriate spacing of structures on lots to allow adequate air and light for each dwelling and to ensure spacing for fire safety purposes. Mrs. Thompson’s building has been located on the site since at least 1963 and relocating the building $\pm 7.6'$ will not change the appearance of the building or property, and it will not be located near any other structures. The property is surrounded by water on two sides, common condominium area, and a roadway.

The building will be relocated landward in the same plane so as not to move closer to the front property line. This will provide a \pm two-foot (2’) side yard setback, which is an improvement over the current negative 5.6 foot (-5.6’) side yard setback. Furthermore, providing a \pm two-foot (2’) side yard setback allows for the construction of a structurally sound retaining wall system that protects both the public waters and the relocated structure.

Relocation of this building and variances for the setback and frontage requirements will not be contrary to the intent or spirit of the Ordinance. This Board has previously found relief was appropriate for the lot and frontage requirements in granting the change in use as residential; therefore, allowing Mrs. Thompson to relocate the building $\pm 7.6'$ forward and granting variances so she can complete and utilize the building as a primary structure is consistent with the intent of the Ordinance and recent changes to allow accessory dwelling units.

(3) *The granting of the requested relief will do substantial justice.*

Granting the variances and relief requested will allow Mrs. Thompson to utilize her property fully as a primary residence. In determining whether the requirement for substantial justice is satisfied, the standard is whether there is any loss to the individual that is not outweighed by a gain to the general public. Denying the variance relief would prevent Mrs. Thompson from creating what is essentially an accessory dwelling unit, and would be a loss for the owner with no discernible gain to the public. In addition, the denial of relief would cause further impacts to Mrs. Thompson with regards to her pending appeal before the Wetlands Council resulting in additional legal fees, possible other remedial actions to restore the property, and result in further costs and losses. There are no gains to the public that would outweigh the losses incurred to date by Mrs. Thompson, in addition to the losses they would suffer further if variance relief is denied.

(4) The granting of the requested relief will not result in the diminution in value of surrounding properties.

The granting of relief from the lot area, frontage, front yard and side yard requirements of the Ordinance will have no effect on the surrounding property values because of the size and location of the Thompson property and the limited scope of the requested relief. This lot is located at the end of a dead-end street and both the lot and building, which is the subject of this application, are surrounded on two sides by water. Prior construction of the small dormer on the south side of the structure, addition of the exterior door overhang, stairway relocation, as well as the planned relocation of the building and addition of a side vent allowing for proper heating inside the unit will enhance the attractiveness of this unit. In addition, upon relocation of the building and completion of renovations, the completed conversion of this building from office space (which would increase traffic uses) to a primary residence consistent with the majority of buildings in the neighborhood should also enhance the value of surrounding properties. Absent a variance relief, Mrs. Thompson would be forced to restore the building to its prior state and utilize it as either an office or event space which could detract from the value of surrounding properties.

(5) The literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

Article 2, Section 10.233.30 of the Ordinance defines an “unnecessary hardship” as meeting both of the following conditions under 10.233.31, which is consistent with the variance criteria test set forth in RSA 674:33, I(b)(1):

Owing to special conditions of the property that distinguish it from other properties in the

area, (a) no fair and substantial relationship exists between the general public purpose of the Ordinance provision and the specific application of the provision to the property; and (b) the proposed use is a reasonable one.

There are special conditions and attributes to the building and subject property that distinguish it from other properties in the area and WB District. As stated above, Unit 1 was formerly a commercial boat repair shop, later converted into an office and subsequently granted relief for conversion and use as a primary residence. The property and lot are currently located within the WB District which does not have minimum density requirements for residential uses (which are either grandfathered or allowed by variance). In this section of the densely populated South End of Portsmouth, the use of lot area, setback and frontage requirements help to encourage safety through proper spacing between buildings. The Thompson property is unique in that it is surrounded on two sides by water and there is not another principal structure within twenty feet (20') of Unit 1.

Moving the building back from over the water allows for the construction of a concrete seawall. The seawall will help protect the public waters from erosion and the potential for a catastrophic event with the building collapsing from any unstable condition beneath the current structure. The existing structure is within the 100-year flood zone, and relocating the building allows Mrs. Thompson to have a code-compliant home which is in the public interest. In this case, there is no fair and substantial relationship between the general public purposes of the Ordinance and the frontage and side setback requirements application for this property. The proposed use of this existing structure as a primary residence, once it is relocated, is both consistent with this Board's prior findings but also a reasonable one.

Relief from Use in the Waterfront Business District

Mrs. Thompson's property lies in the Waterfront Business (WB) District. While this zone is designated for marine-related uses along the waterfront, there are very limited number of locations where the permitted uses in this zone, such as Sanders Lobster Co, Inc. at 54 Pray Street. The remaining business operations in the WB District are accessed by a relatively busy roadway, have adequate parking, have a limited number of residential neighbors in close proximity, and do not require driving (or backing) up and down past a half dozen homes on very small streets to access the property for waterfront business purposes, such as Salter Street.

INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

The uses permitted in the WB District are, at best, limited. The totality of those uses are as follows:

10.440.3.21	Primary or Secondary School
10.440.3.80	Municipally Operated Park and Related Activities
10.440.8.32	Marine Related Retail Sales
10.440.8.60	Fish Markets
10.440.12.12	Fish Boat Landings
10.440.12.13	Fish Boat Landing, I & Fish Boat Landing, II
10.440.12.21	Marinas with No Repair or Servicing or Fueling Utilities
10.440.12.22	Marinas with Repair, Servicing or Fueling Utilities (By Special Exception)
10.440.12.30	Repair of Commercial Marine Craft (By Special Exception)
10.440.12.40	Landside Support Facility for Commercial Passenger Vessels
10.440.14.22	Marine Dependent Research and Development
10.440.14.52	General Manufacturing - Marine Dependent
10.440.15.11	Utility Substations Essential to Service the Area in which they are Located (By Special Exception)
10.440.16.10	Wireless Telecommunications Facilities
10.440.16.11	Satellite Dishes (42 inches or less in diameter) building mounted.
10.440.16.12	Satellite Dishes (42 inches or less in diameter) ground mounted.
10.440.16.20	Satellite Dishes (exceeding 42 inches in diameter) building mounted. (By Special Exception)
10.440.16.	Satellite Dishes (exceeding 42 inches in diameter) ground mounted. (By Special Exception)
10.440.16.30	WHIP Antennas Not More than 30' in Height
10.440.18.10	Construction Trailers
10.440.18.21	Temporary Structures Up to 30 Days
10.440.18.22	Temporary Structures Up 31 to 90 Days (By Special Exception)
10.440.18.31	Manufactured Housing up to 180 Days
10.440.18.32	Manufactured Housing more than 180 Days (By Special Exception)
10.440.19.10	Accessory use to a permitted principal use, but not including outdoor storage.
10.440.19.30	Concession & Services Located within the Principal Building
10.440.20.10	Indoor Storage of Motor Vehicles as Accessory Use
10.440.20.20	Outdoor Storage of Registered Motor Vehicles

INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

- 10.440.20.31 Outdoor Storage of Boats – no more than one motorboat or sailboat longer than 12 feet.
- 10.440.20.31 Outdoor Storage of Boats – any number of motorboats or sailboats up to 12 feet, or hand-powered craft (canoe and kayaks) without length restrictions.
- 10.440.20.40 Outdoor Storage of Lobster Traps
- 10.440.20.62 Outdoor Storage of Marine Dependent Machinery or Equipment (By Special Exception)

In *Belanger v. City of Nashua*, 121 N.H. 389, 393 (1981), the N.H. Supreme Court dealt with a zoning concept relevant to this case. In *Belanger*, a neighborhood in Nashua was zoned exclusively for residential purposes but, over the years, the neighborhood had gone through “substantial changes from the time it was originally zoned for single residences” and the Court ruled that the ZBA’s denial of a real estate office was unreasonable.⁸ The Court additionally noted that municipalities have an obligation to have their Zoning Ordinances reflect current characteristics of the neighborhood.⁹

Salter Street has changed over the last 30 or 40 years. There has been tremendous residential investment on the entire street, and there is not a single permitted waterfront business use that would be appropriate anywhere on Salter Street.

The incompatibility of residential and permitted waterfront business uses was highlighted in a 1975 zoning case involving the very property which is the subject of this application: *Roger Gagnon v. City of Portsmouth*, Equity No. 1817-75. At the time, Mr. Gagnon was manufacturing lobster traps and building and repairing fiberglass fishing boats on the very property which is the subject of this application. The noise, smells, and traffic overwhelmed the neighborhood. Every large truck making deliveries of supplies and every fisherman’s pick-up truck acquiring supplies had to drive down (and in many instances back up) the entire length of Salter Street. In that case, the Court issued an injunction against various activities that were disrupting the peace and quiet of the neighborhood. In short, the zoning was not compatible with the land use patterns on this street.

Mrs. Thompson seeks relief to allow an additional small dwelling unit (680 s.f.) on a very large lot that is consistent with the predominant land use in this entire area. The Board granting

⁸ See *Belanger* at 393.

⁹ See *Id.*

INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

variance relief would be consistent with Article 2, Section 10.233.20 of the Ordinance because: (1) would not diminish the value of surrounding properties; (2) would not be contrary to the public interest; (3) will do substantial justice; (4) would not be contrary to the spirit and intent of the Ordinance; and certainly (5) the literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. As discussed above, there is no fair and substantial relationship between the general public purpose of the Ordinance and the specific application of the waterfront provisions to this property.

The Board has the power to grant variance relief is given to municipal zoning boards and boards of adjustment to prevent an unreasonable “taking” of a landowner’s rights when the land use regulation, as applied to a particular property, creates an unnecessary hardship for the owner. Here, the public purpose or benefit in denying the variance would not outweigh the existing loss and anticipated future losses that denial of relief would cause to the Thompsons.

The requirements for zoning relief are satisfied and Mrs. Thompson respectfully requests that the Board grant variance relief for use of the building as a single-family dwelling.

I will be a primary contact on this application and can be reached at (603) 410-4314 or via email at jjs@rathlaw.com. Another primary contact is Eric Weinrieb, P.E. with Altus Engineer, LLC, who can be reached at (603) 433-2335 or via email at eweinrieb@altus-eng.com. Attorney Lauren Kilmister with Rath, Young and Pignatelli is also an authorized representative for this project and can be reached at (603) 410-4348 or via email at lck@rathlaw.com. A list of enclosed documents, including all plans filed in 11 x 17 format which have also been uploaded online.

Thank you for your time and consideration.

Sincerely,



James J. Steinkrauss

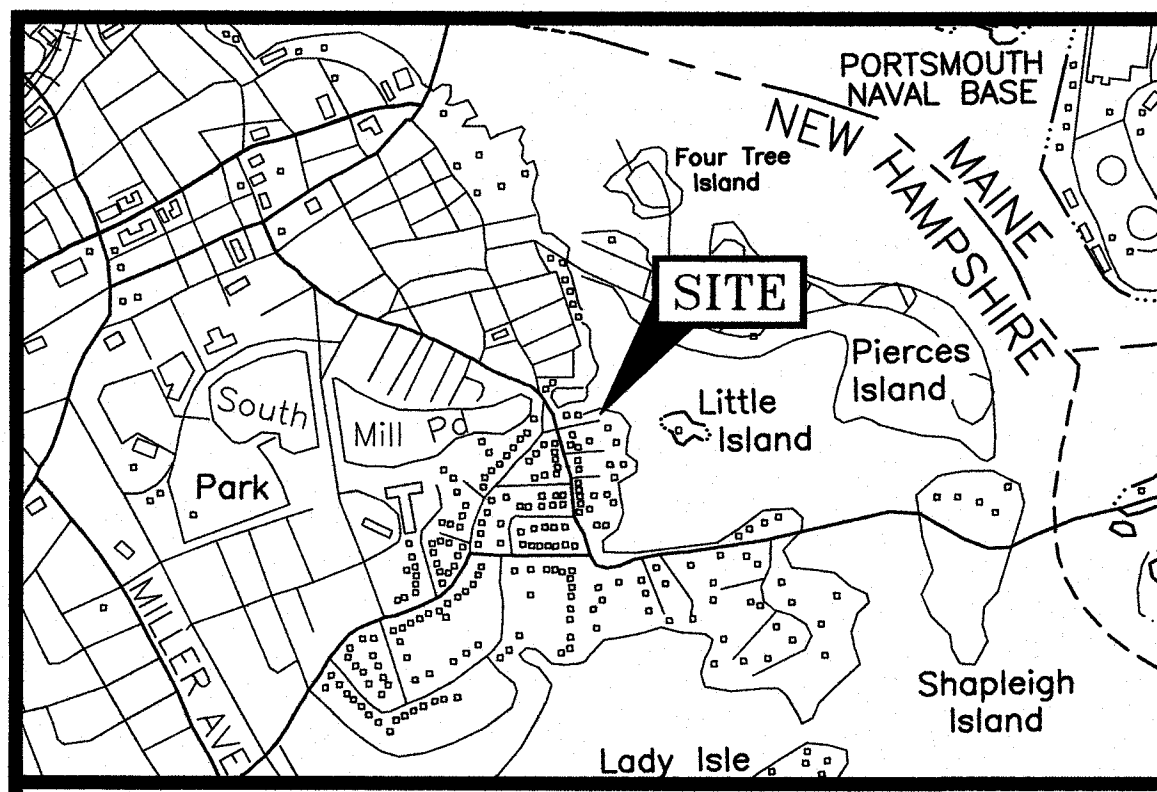
INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

Cc: Margot Thompson (*via electronic mail*)
Edward Thompson (*via electronic mail*)
Eric Weinrieb, P.E., Altus Engineering, LLC (*via electronic mail*)
Lauren C. Kilmister, Esq., Rath, Young, and Pignatelli, P.C. (*via electronic mail*)

Enclosure List:

1. Existing Conditions Survey (Ambit Engineering)
2. Board of Adjustment Overall Plan (Altus Engineering) (Sheet 1 of 2)
3. Board of Adjustment Area of Detail Condominium Unit 1 - Detailed Site Plan (Altus Engineering) (Sheet 2 of 2)
4. Architectural Plans and Renderings – 75 Salter Street (Somma Studios) (Sheets 1-4)
5. Landscape Architectural Plans – “Area of Detail Condominium Unit 1” - (Terra Firma Landscaping) (Sheet 1 of 1)
6. Site Photographs
7. Letter of Authorization from Owner
8. Letter of Authorization from Point of View Condominium
9. Email from Abutter and Owner of Unit 2 of the Condominium
10. City of Portsmouth Tax Map 102
11. Zoning Board of Adjustment Meeting Minutes – December 18, 2018
12. Zoning Board of Adjustment Action Sheet – December 18, 2018
13. Building Permit No. 35,177
14. City of Portsmouth Zoning Map
15. Evidence of Municipal Utilities
16. Lots in the Waterfront Business District
17. NHDES Letter dated May 15, 2023.
18. Application Fee (paid online)



LOCATION MAP SCALE 1"=1,000'

LEGEND:

- EXISTING**
- N/F
 - RP
 - RCRD
 - RR SPK FND
 - IR FND
 - IP FND
 - DH FND
 - NHHB FND
 - TB FND
 - BND w/DH
 - ST BND w/DH
 - HOTL
 - 100
 - 97x3
 - HYD
 - W/E
 - AC
 - CMP
 - PVC
 - RCP
 - EL
 - EP
 - F.F.
 - INV.
 - TBM
 - TYP.
 - LSA
- NOW OR FORMERLY RECORD OF PROBATE ROCKINGHAM COUNTY REGISTRY OF DEEDS MAP 11 / LOT 21**
- RR SPK SET
 - IR SET
 - IP SET
 - DH SET
 - BND w/DH
 - ST BND w/DH
- RAILROAD SPIKE FOUND/SET
IRON ROD FOUND/SET
IRON PIPE FOUND/SET
DRILL HOLE FOUND/SET
NH DOT BOUND FOUND
TOWN BOUND FOUND
BOUND w/ DRILL HOLE
STONE BOUND w/DRILL HOLE
HIGHEST OBSERVABLE TIDE LINE
WETLAND LINE
OVERHEAD ELECTRIC/WIRES
CONTOUR
SPOT ELEVATION
EDGE OF PAVEMENT (EP)
WOODS / TREE LINE
UTILITY POLE (w/ GUY)
HYDRANT
METER (GAS, WATER, ELECTRIC)
AIR CONDITIONER UNIT
SIGNS
EDGE OF WETLAND FLAGGING
SWAMP / MARSH
CORRUGATED METAL PIPE
POLYVINYL CHLORIDE PIPE
REINFORCED CONCRETE PIPE
ELEVATION
EDGE OF PAVEMENT
FINISHED FLOOR
INVERT
TEMPORARY BENCHMARK
TYPICAL
LANDSCAPED AREA

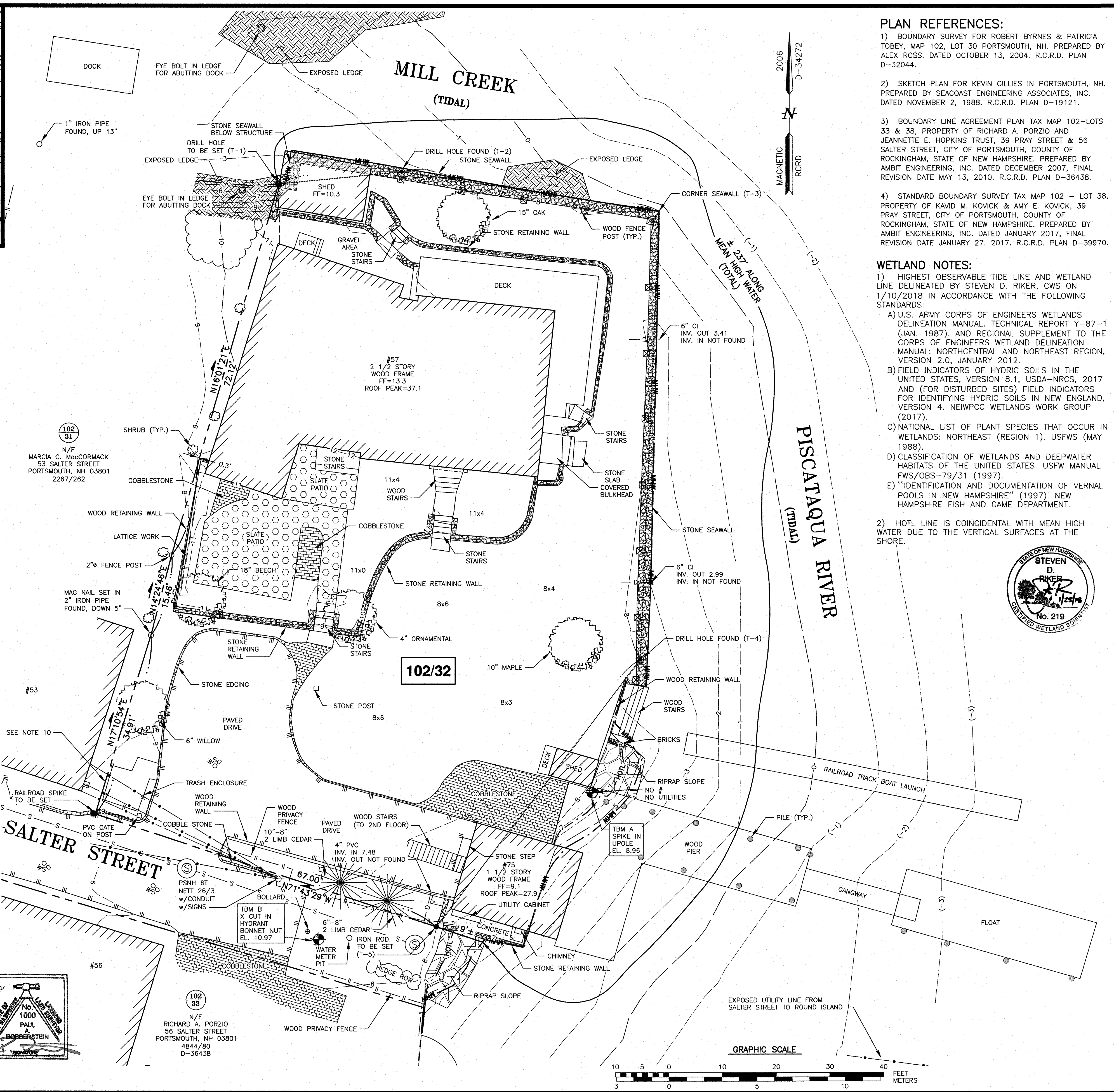
TIE LINES FOR CLOSURE - NOT BOUNDARY LINES

LINE SEGMENT	BEARING	DISTANCE
T-1 TO T-2	N84°15'47"E	23.07'
T-2 TO T-3	S81°21'44"E	48.56'
T-3 TO T-4	S02°22'38"W	83.80'
T-4 TO T-5	S37°13'44"W	62.71'

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

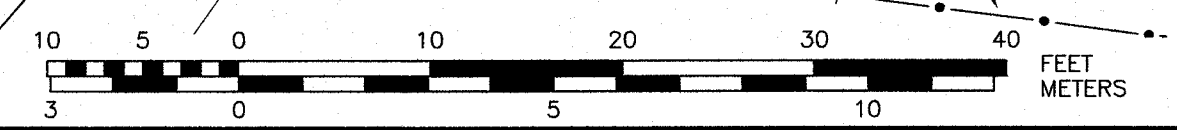
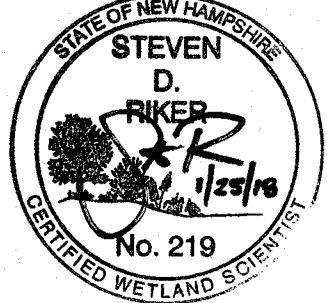
I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

PAUL A. DOBBERSTEIN, LLS #1000
DATE 1/25/2018



- PLAN REFERENCES:**
- BOUNDARY SURVEY FOR ROBERT BYRNES & PATRICIA TOBEY, MAP 102, LOT 30 PORTSMOUTH, NH. PREPARED BY ALEX ROSS. DATED OCTOBER 13, 2004. R.C.R.D. PLAN D-32044.
 - SKETCH PLAN FOR KEVIN GILLIES IN PORTSMOUTH, NH. PREPARED BY SEACOAST ENGINEERING ASSOCIATES, INC. DATED NOVEMBER 2, 1988. R.C.R.D. PLAN D-19121.
 - BOUNDARY LINE AGREEMENT PLAN TAX MAP 102-LOTS 33 & 38, PROPERTY OF RICHARD A. PORZIO AND JEANNETTE E. HOPKINS TRUST, 39 PRAY STREET & 56 SALTER STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED DECEMBER 2007, FINAL REVISION DATE MAY 13, 2010. R.C.R.D. PLAN D-36438.
 - STANDARD BOUNDARY SURVEY TAX MAP 102 - LOT 38, PROPERTY OF KAVI M. KOVICK & AMY E. KOVICK, 39 PRAY STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED JANUARY 2017, FINAL REVISION DATE JANUARY 27, 2017. R.C.R.D. PLAN D-39970.

- WETLAND NOTES:**
- HIGHEST OBSERVABLE TIDE LINE AND WETLAND LINE DELINEATED BY STEVEN D. RIKER, CWS ON 1/10/2018 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
 - A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, TECHNICAL REPORT Y-87-1 (JAN. 1987), AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
 - B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.1, USDA-NRCS, 2017 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4. NEWPCC WETLANDS WORK GROUP (2017).
 - C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1). USFWS (MAY 1988).
 - D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFWS MANUAL FWS/OBS-79/31 (1997).
 - E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.
 - HOTL LINE IS COINCIDENTAL WITH MEAN HIGH WATER DUE TO THE VERTICAL SURFACES AT THE SHORE.



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 436-9282
Fax (603) 436-2315

- NOTES:**
- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH, NH, ASSESSOR'S MAP 102 AS LOT 32.
 - OWNER OF RECORD:
MARGOT L. THOMPSON
57 SALTER STREET
PORTSMOUTH, NH 03801
2959/811
 - PARCEL IS IN A SPECIAL FLOOD HAZARD AREA (ZONE AE, EL. 9) AS SHOWN ON FIRM PANEL 33015C0278E. EFFECTIVE DATE MAY 17, 2005.
 - EXISTING LOT AREA: (TO MEAN HIGH WATER)
11,327 S.F. ±
0.2600 ACRE ±
 - PARCEL IS LOCATED IN (GRB) GENERAL RESIDENCE B AND THE HISTORIC DISTRICT.
 - DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 5,000 SQ. FT.
FRONTAGE: 80 FT.
SETBACKS:
FRONT 5 FT.
SIDE 10 FT.
REAR 25 FT.
MAXIMUM STRUCTURE HEIGHT: 35 FT.
MAXIMUM STRUCTURE COVERAGE: 30%
MINIMUM OPEN SPACE: 25%
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY OF TAX MAP 102 LOT 32.
 - VERTICAL DATUM IS MEAN SEA LEVEL NGVD 1929. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GPS OBSERVATIONS (±0.2').
 - MEAN HIGH WATER (MHW) LINE AS SHOWN IS BASED ON NOAA TIDE STATION 8419870 - SEAVEY ISLAND, PORTSMOUTH HARBOR. MHW LINE IS AT ELEVATION 4.59.
 - PARCEL IS SUBJECT TO AND BENEFITS FROM "A RIGHT TO USE, IN COMMON WITH SAID SCHLEGEL THE GATEWAY ON SALTER STREET, WHICH GATEWAY IS PARTLY ON EITHER SIDE OF SAID STRAIGHTENED BOUNDARY LINE." LAND OF SAID SCHLEGEL IS NOW LAND OF MacCORMACK. SEE RCRD 676/123.
 - LOT IS ENTIRELY WITHIN THE 100' TIDAL BUFFER ZONE.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	1/25/18

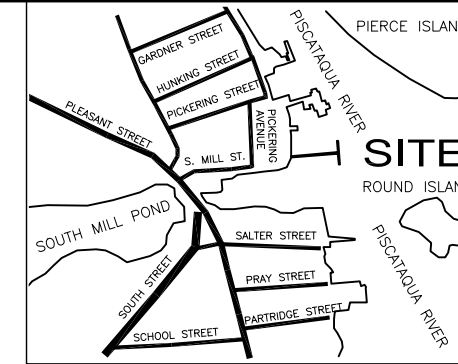
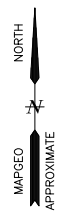
STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY
TAX MAP 102 - LOT 32
OWNER
MARGOT L. THOMPSON
57 SALTER STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

AREAS SUMMARY

	UNIT #1	UNIT #1
	EXISTING	PROPOSED
AREA:	±2,370 SF	±2,370 SF
BLDG. COVERAGE:	±377 SF (ON LAND)	±469 SF *
IMPERVIOUS COVERAGE:	±845 SF (±36%)	±664 SF (28%)
OPEN SPACE:	1,525 SF (±64%)	±1,706 SF (±72%) **
	UNIT #2	UNIT #2
	EXISTING	PROPOSED
AREA:	±8,487 SF	±8,487 SF
BLDG. COVERAGE:	±2,520 SF (±30%)	±2,520 SF (±30%)
IMPERVIOUS COVERAGE:	±4,975 SF (±59%)	±4,975 SF (59%)
OPEN SPACE:	±3,989 SF (±47%)	±3,989 SF (±47%) **
	COMMON AREAS (A&B)	COMMON AREAS (A&B)
	EXISTING	PROPOSED
AREA:	±470 SF	±470 SF
BLDG. COVERAGE:	0 SF	0 SF
IMPERVIOUS COVERAGE:	±115 SF (±24%)	±115 SF (±24%)
OPEN SPACE:	±355 SF (±76%)	±355 SF (±76%) **

* STRUCTURE IS OVER WATER. MOVING LANDWARD INCREASES LOT COVERAGE.

** OPEN SPACE INCLUDES WALKS

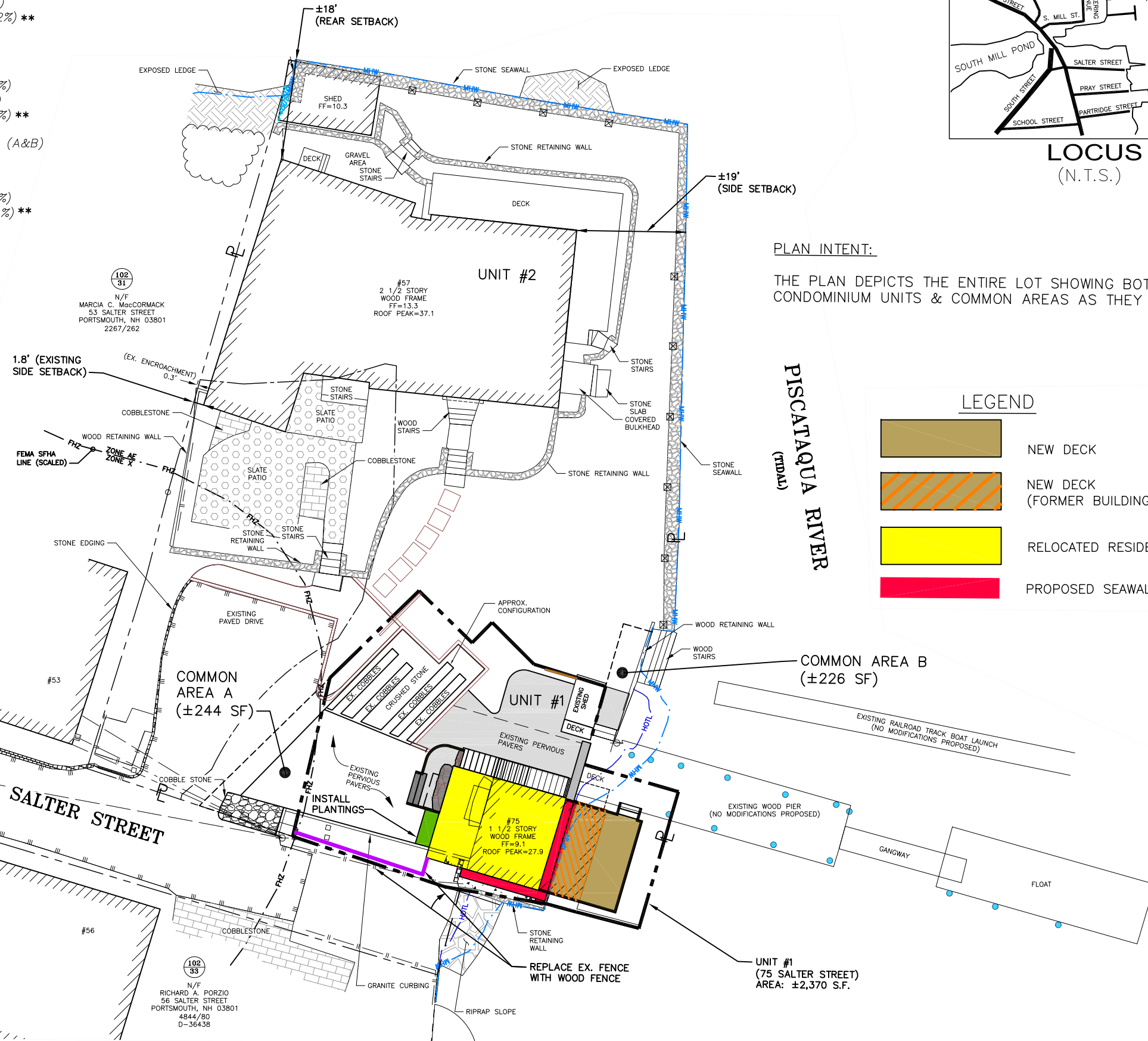


LOCUS
(N.T.S.)

ALTUS
ENGINEERING

133 Court Street
(603) 433-2335

Portsmouth, NH 03801
www.altus-eng.com

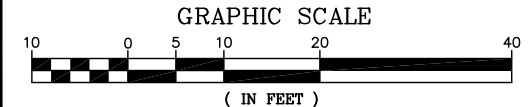


PLAN INTENT:
THE PLAN DEPICTS THE ENTIRE LOT SHOWING BOTH CONDOMINIUM UNITS & COMMON AREAS AS THEY EXIST.

LEGEND

- NEW DECK
- NEW DECK (FORMER BUILDING AREA)
- RELOCATED RESIDENCE
- PROPOSED SEAWALL

- PLAN REFERENCES:**
- "CONDOMINIUM SITE PLAN, POINT OF VIEW CONDOMINIUM, TAX MAP 102 - LOT 32", DATED JULY 2020, REV. 3 DATED 9/2/20, BY AMBIT ENGINEERING, INC.
 - PORTSMOUTH G.I.S. (MAPGEO) DATA BASE.
 - SITE OBSERVATIONS BY ALTUS ENGINEERING, LLC FEBRUARY 2023.



OVERALL PARCEL PLAN SCALE: 1" = 10'

NOT FOR CONSTRUCTION

ISSUED FOR: **APPROVAL**

ISSUE DATE: **MAY 30, 2023**

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	INITIAL BOA SUBMISSION	EDW	05/30/23

DRAWN BY: _____ RLH

APPROVED BY: _____ EDW

DRAWING FILE: 5397-BOA-SITE.DWG

SCALE:
(22"x34") - 1" = 10'
(11"x17") - 1" = 20'

OWNER:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

APPLICANT:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

PROJECT:
SITE IMPROVEMENTS
75 SALTER STREET (UNIT #1)
PORTSMOUTH, NH
MAP 102 LOT 32

TITLE:
BOARD OF ADJUSTMENT OVERALL PLAN

SHEET NUMBER:
1 OF 2

P5398





ZONING SUMMARY

ZONE: WATERFRONT BUSINESS (WB) – SINGLE FAMILY RESIDENCE – CONDOMINIUM UNIT #1 – EXISTING WORKSHOP TO BE REPLACED WITH SINGLE FAMILY RESIDENCE *
 EXISTING LOT AREA AND SUBMITTED LAND: 11,327 S.F.± (0.26 AC.±) – SEE REFERENCE PLAN

DIMENSIONAL REQUIREMENTS

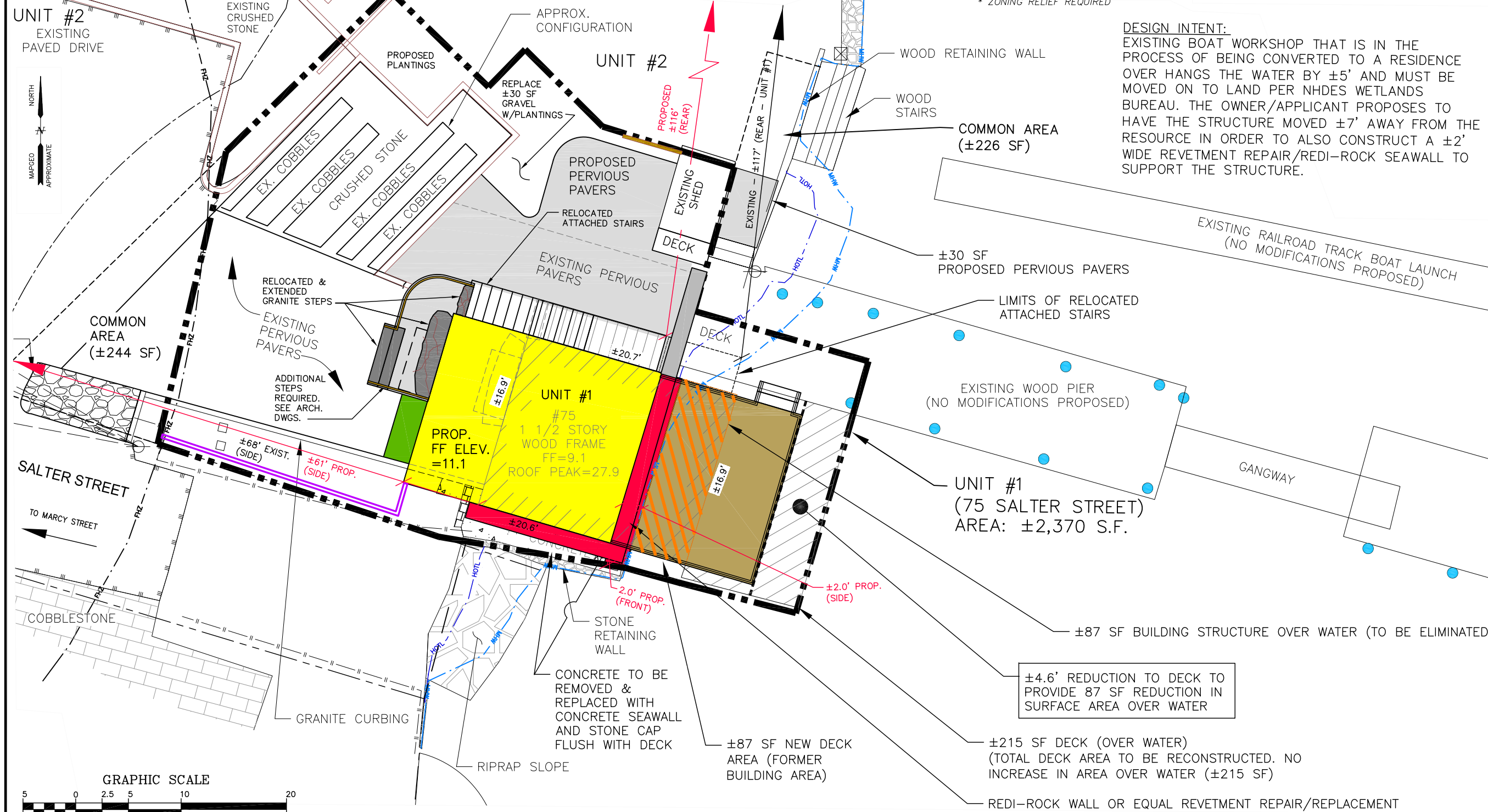
	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA:	20,000 S.F.	±11,327 S.F.	±11,327 S.F.(EXISTING) (NON-CONFORMING)
MIN. STREET FRONTAGE:	100'	67' (EX.) (SALTER)	±67' (EXISTING) (NON-CONFORMING)
DEPTH:	100'	±122'	±122'
FRONT SETBACK:	30'	±2.0' (EX.)	±2.0' (PROPOSED)
SIDE SETBACK (OCEAN)(RT):	30'	-5.6' (EX. UNIT #1)	±2' (PROPOSED) *
SIDE SETBACK (INTERIOR)(LT):	30'	±1.8' (EX. UNIT #2)	±1.8' (EX. UNIT #2)
REAR SETBACK:	20'	±18' (EX. UNIT #2)	±18' (EX. UNIT #2)
MAX. HEIGHT:	35'	<35' (EX. UNIT #1)	<35' (PROPOSED UNIT #1)
MAX. BUILDING COVERAGE:	30%	±25.6% (EX.)(±377 SF +2,520 SF)	±26.4% (±469 S.F. + 2,520 SF)
MIN. OPEN SPACE:	20%	±51.8% (±5,869 SF)	±53.4% (±6,050 SF)

LEGEND

-  NEW DECK
-  NEW DECK (FORMER BUILDING AREA)
-  RELOCATED RESIDENCE
-  PROPOSED SEAWALL

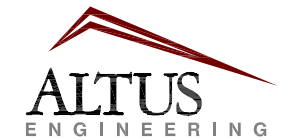
* ZONING RELIEF REQUIRED

DESIGN INTENT:
 EXISTING BOAT WORKSHOP THAT IS IN THE PROCESS OF BEING CONVERTED TO A RESIDENCE OVER HANGS THE WATER BY ±5' AND MUST BE MOVED ON TO LAND PER NHDES WETLANDS BUREAU. THE OWNER/APPLICANT PROPOSES TO HAVE THE STRUCTURE MOVED ±7' AWAY FROM THE RESOURCE IN ORDER TO ALSO CONSTRUCT A ±2' WIDE REVETMENT REPAIR/REDI-ROCK SEAWALL TO SUPPORT THE STRUCTURE.

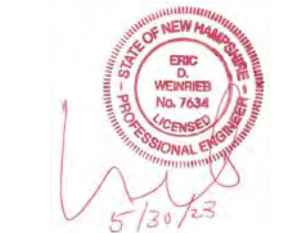


DETAILED SITE PLAN

SCALE: 1" = 5'



133 Court Street
 (603) 433-2335
 Portsmouth, NH 03801
 www.altus-eng.com



NOT FOR CONSTRUCTION

ISSUED FOR: APPROVAL

ISSUE DATE: MAY 30, 2023

REVISIONS
 NO. DESCRIPTION BY DATE
 0 INITIAL BOA SUBMISSION EDW 05/30/23

DRAWN BY: RLH
 APPROVED BY: EDW
 DRAWING FILE: 5397-BOA-SITE.DWG

SCALE:
 (22"x34") - 1" = 5'
 (11"x17") - 1" = 10'

OWNER:
POINT OF VIEW CONDOMINIUM
 57 SALTER STREET
 PORTSMOUTH, NH 03801

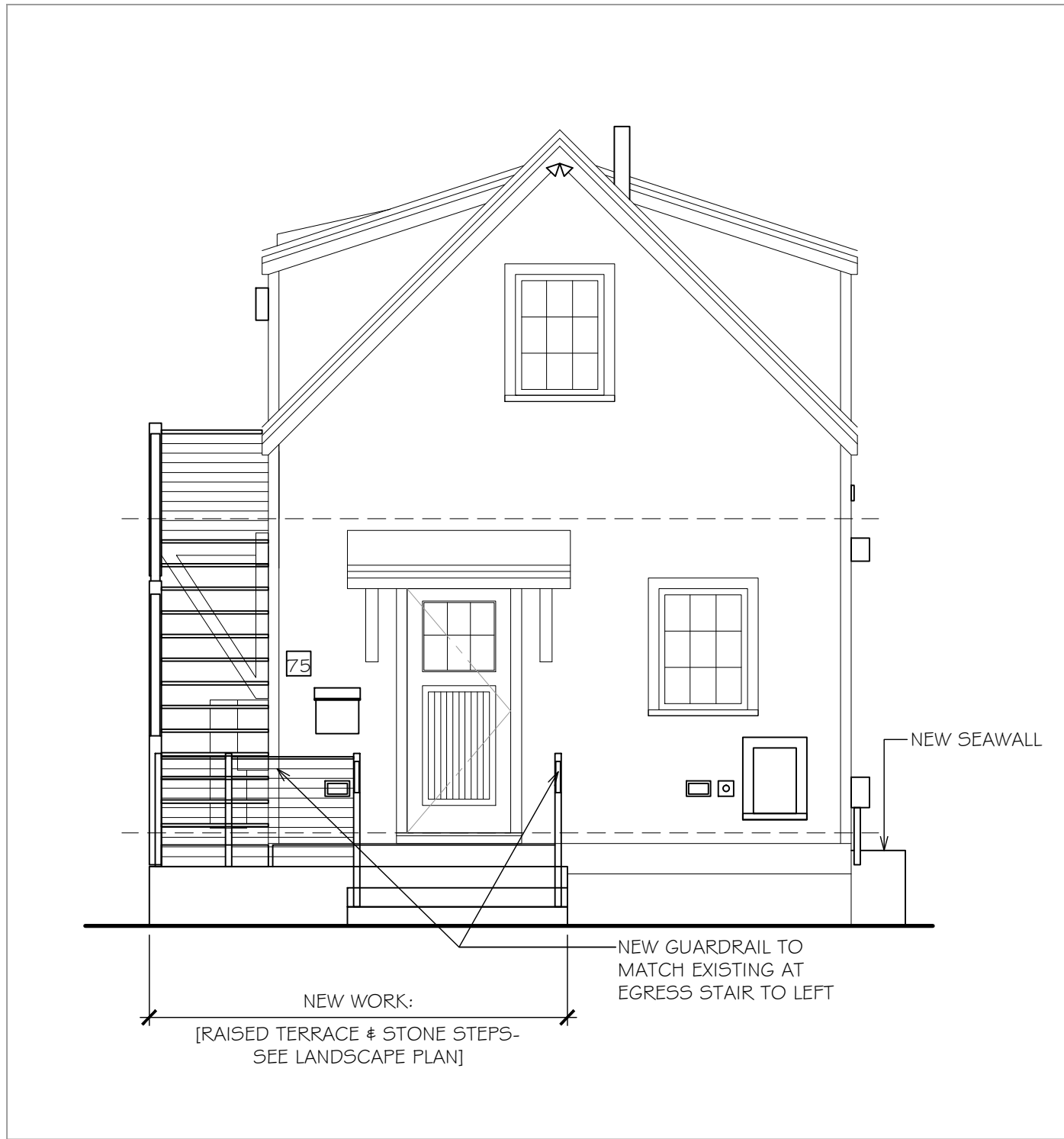
APPLICANT:
POINT OF VIEW CONDOMINIUM
 57 SALTER STREET
 PORTSMOUTH, NH 03801

PROJECT:
SITE IMPROVEMENTS
 75 SALTER STREET (UNIT #1)
 PORTSMOUTH, NH
 MAP 102 LOT 32

TITLE:
BOARD OF ADJUSTMENT AREA OF DETAIL CONDOMINIUM UNIT #1

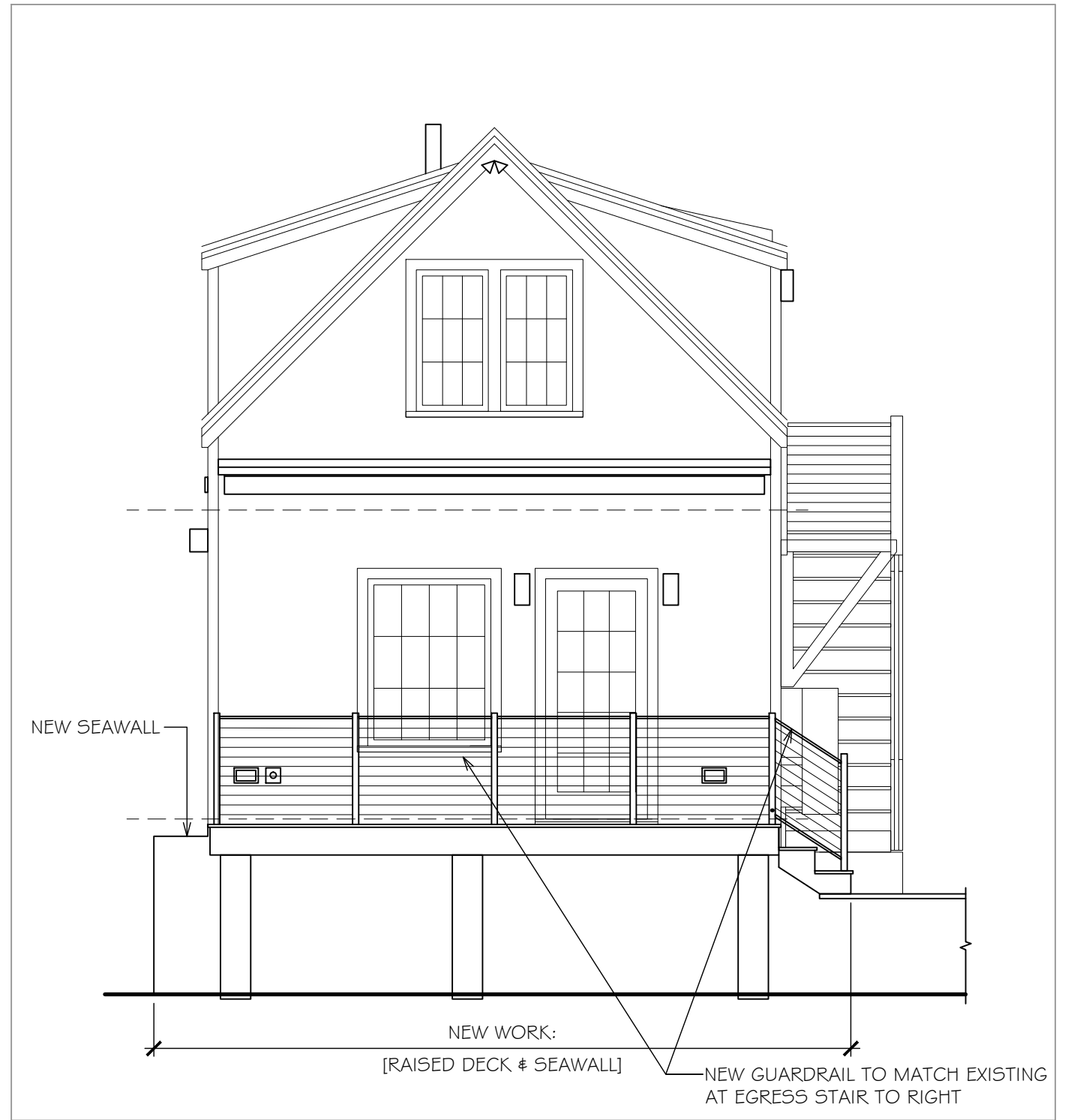
SHEET NUMBER:

P5398



Proposed West Elevation

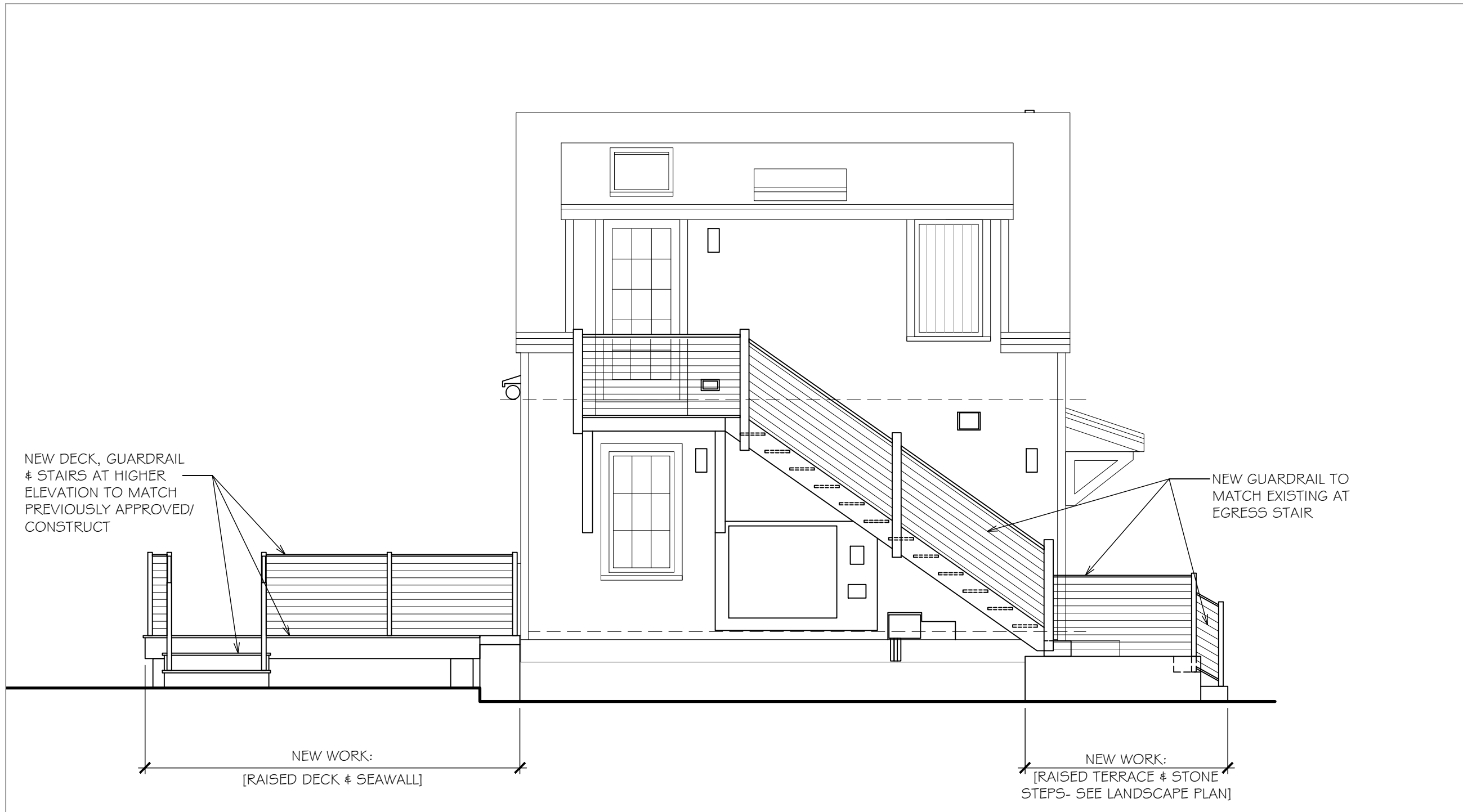
SCALE: 1/4" = 1'-0"



Proposed East Elevation

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

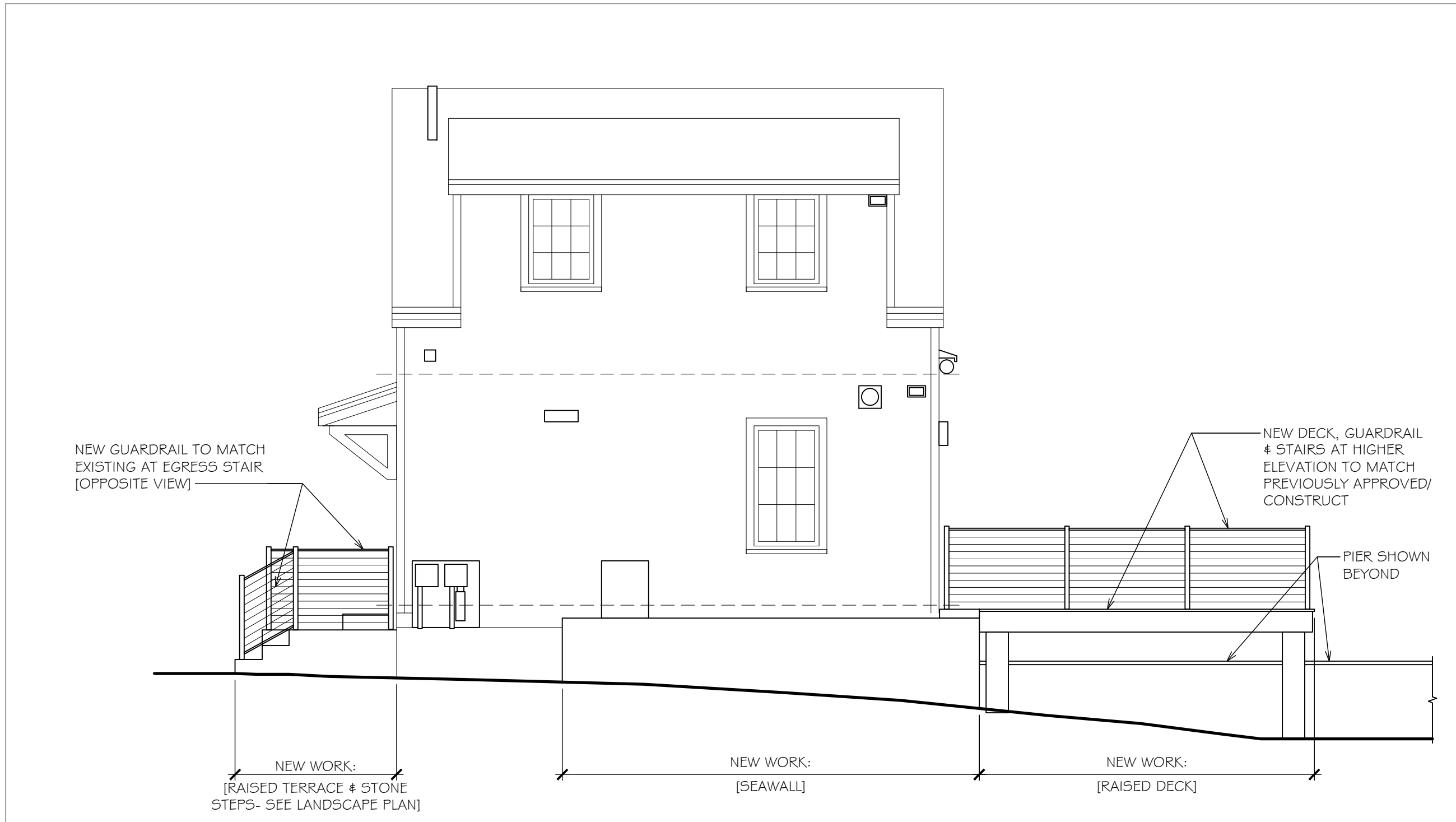




Proposed North Elevation

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

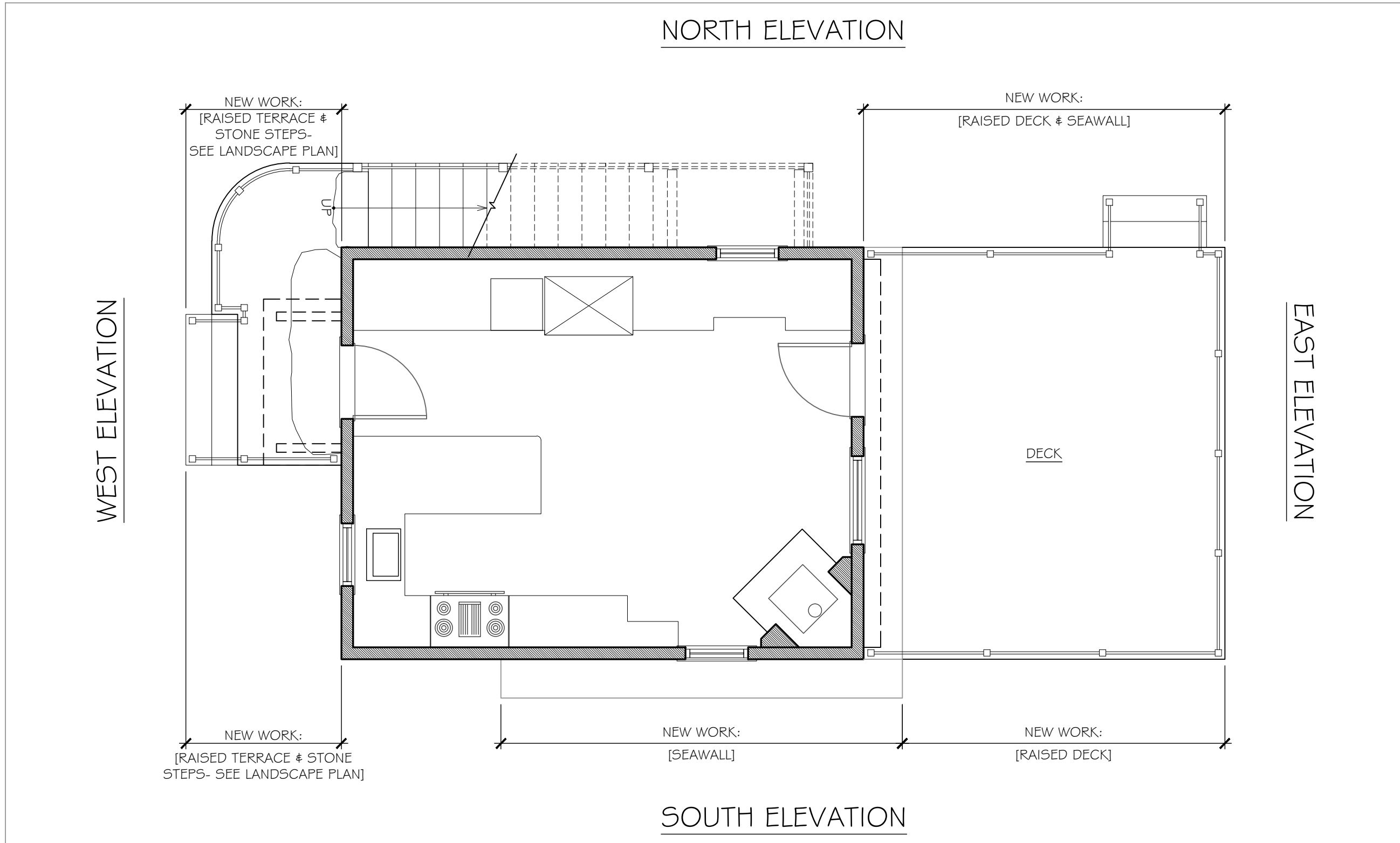




Proposed South Elevation

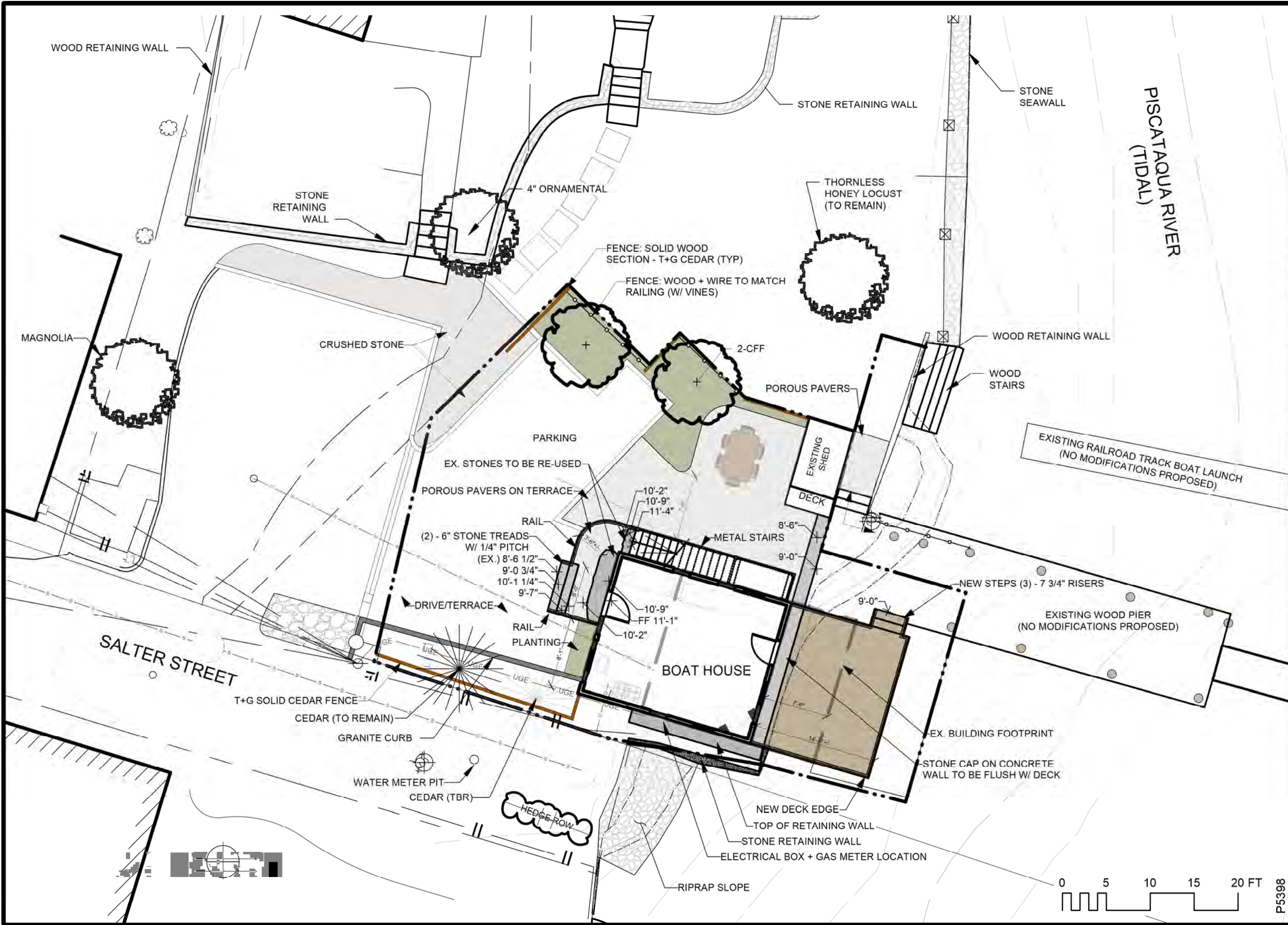
SCALE: 1/4" = 1'-0"





First Floor Plan w/Landscape
 SCALE: 1/4" = 1'-0"





REVISIONS

NO.	DESCRIPTION	BY	DATE

DRAWN BY: TMC
APPROVED BY: TPP
DRAWING FILE: THOMPSON_V2023

SCALE:
(22"x34") - 1" = 5'
(11"x17") - 1" = 10'

OWNER:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

APPLICANT:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

PROJECT:
SITE IMPROVEMENTS
75 SALTER STREET (UNIT #1)
PORTSMOUTH, NH
MAP 102 LOT 32

TITLE:
AREA OF DETAIL CONDOMINIUM UNIT #1
SHEET NUMBER:
1 OF 1

P5398



Photograph #1:

Looking east at the existing front entry area. May 30, 2023



Photograph #2:

Looking south at the existing building to be relocated. May 30, 2023



Photograph #3:

Looking west at the building & deck to be relocated landward. May 30, 2023



Photograph #4:

Looking north at the building to be relocated landward. May 30, 2023

Margot Thompson
75 Salter Street
Portsmouth, NH 03801
(603) 475-2764

May 24, 2023

Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue, 3rd Floor
Portsmouth, NH 03801

RE: Authorization to File – Application for Zoning Variances
57 Salter Street, Tax Map #102, Lot #32

To Whom it May Concern,

As owner of Unit 1 (75 Salter Street) located at 57 Salter Street, Tax Map #102, Lot #32, I hereby authorize James J. Steinkrauss, Attorney and Lauren C. Kilmister, Attorney with Rath, Young & Pignatelli, PC and Eric D. Weinrieb of Altus Engineering to either jointly or individually file a zoning variance application for 57 Salter Street, Unit 1 with the Portsmouth Zoning Board of Adjustment. I anticipate that the application will be filed by May 31, 2023 for consideration by the Board on June 20, 2023.

Thank you for your attention to this matter.

Sincerely,


By: Margot L. Thompson

Cc: Edward Thompson (via electronic mail) – ept1955@aol.com
Eric D. Weinrieb, P.E., Altus Engineering (via electronic mail) – eweinrieb@altus-eng.com
James J. Steinkrauss, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – jjis@rathlaw.com
Lauren C. Kilmister, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – lck@rathlaw.com

Point of View Condominium Association
57 Salter Street
Portsmouth, NH 03801

May 23, 2023

Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue, 3rd Floor
Portsmouth, NH 03801

RE: Authorization to File – Application for Zoning Variances
57 Salter Street, Tax Map #102, Lot #32

To Whom It May Concern,

As Trustee of the Point of View Condominium Association (“Association”) consisting of Units 1 and 2 located at 57 Salter Street, Tax Map #102, Lot #32, the Association authorizes James J. Steinkrauss, Attorney and Lauren C. Kilmister, Attorney with Rath, Young & Pignatelli, PC and Eric D. Weinrieb of Altus Engineering to either jointly or individually file a zoning variance application for 57 Salter Street, Unit 1 with the Portsmouth Zoning Board of Adjustment. We anticipate that the application will be filed by May 31, 2023 for consideration by the Board on June 20, 2023.

Thank you for your attention to this matter.

Sincerely,



Edward Thompson, Trustee
Point of View Condominium Association

Cc: Eric D. Weinrieb, P.E., Altus Engineering (via electronic mail) – eweinrieb@altus-eng.com
James J. Steinkrauss, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – jjst@rathlaw.com
Lauren C. Kilmister, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – lck@rathlaw.com

From: Dan Posternak <dan@roundaboutdiner.com>
Sent: Tuesday, May 30, 2023 8:33 AM
To: Ned Thompson
Cc: James J. Steinkrauss; Margot L. THOMPSON
Subject: Re: BOA Letter

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Morning

I forwarded to my attorney along with condo docs just to confirm no issues going forward. Will get to asap but not my Wednesday but seeing meeting not for 3 weeks I can't imagine that will be an issue. I'll reach out as soon as I have an update. Thank you

On Tue, May 30, 2023 at 8:25 AM Ned Thompson <ept1955@aol.com> wrote:

Dear Dan,

Hope you had a nice Memorial Day.

Just wanted to follow-up to see if you or Kristin had any thoughts regarding supporting our Board of Adjustment petition?

Would be pleased to address any concerns, please do not hesitate to contact any of us.

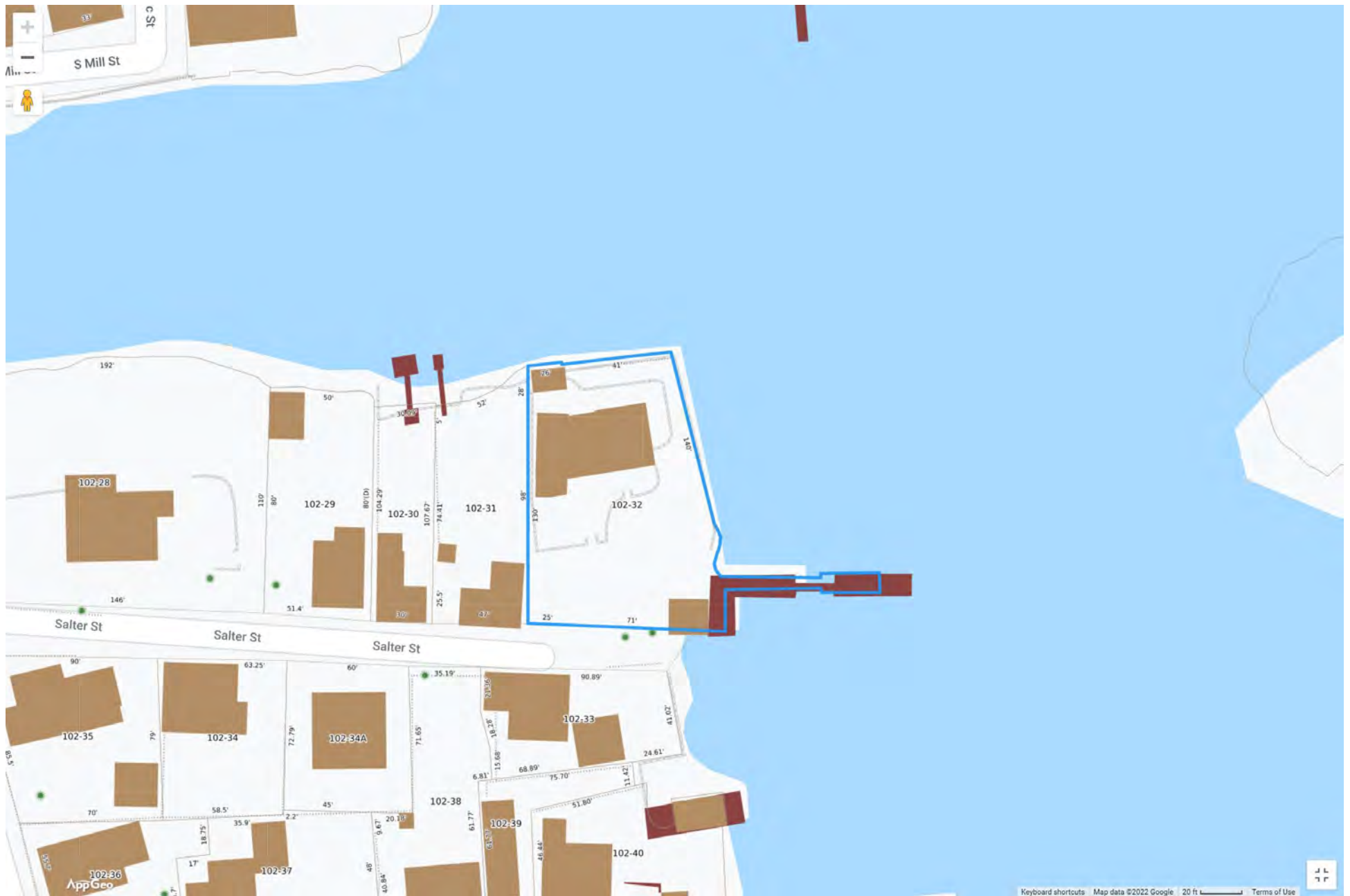
Enjoy the day...

Best,

Ned

Ned Thompson
[55 Salter Street](#)
[Portsmouth, NH 03801](#)
603.475.2764 (c)
EPT1955@aol.com

City of Portsmouth Tax Maps – 57 Salter Street – Map 102, Lot 0032



City of Portsmouth Tax Maps – 57 Salter Street – Map 102, Lot 0032



City of Portsmouth Tax Maps – 57 Salter Street – Map 102, Lot 0032



**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

December 18, 2018

MEMBERS PRESENT: Chairman David Rheaume, Vice-Chairman Jeremiah Johnson, John Formella, Peter McDonell, Christopher Mulligan, Arthur Parrott, Alternate Chase Hagaman

MEMBERS EXCUSED: Jim Lee, Alternate Phyllis Eldridge

ALSO PRESENT: Peter Stith, Planning Department

I. ELECTION OF OFFICERS

*It was moved, seconded and **passed** by unanimous voice vote to re-elect David Rheaume to serve as Chairman and Jeremiah Johnson to serve as Vice-Chairman until the next Election of Officers.*

Chairman Rheaume stated that Alternate Chase Hagaman would sit in on all the cases.

II. APPROVAL OF MINUTES

A) November 20, 2018

*It was moved, seconded, and **passed** by unanimous vote to approve the November 20, 2018 minutes as amended.*

III. PUBLIC HEARINGS - OLD BUSINESS

A) Case 11-1

Petitioners: Ryan and Karen Baker

Property: 137 Wibird Street

Assessor Plan: Map 134, Lot 48

Minutes Approved 1-15-19

Zoning District: General Residence A
Description: Construct semi-attached garage.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 10.521 to allow the following:
a) a 2.5' *left side yard* where 10' is required; and
b) 27%± building coverage where 25% is the maximum allowed.
(This petition was tabled at the November 20, 2018 meeting and has been revised with the changes in italics above.)

Mr. Parrott moved to take the petition off the table, and Mr. Hagaman seconded. The motion passed by unanimous vote, 7-0.

The applicant Ryan Baker was present to speak to the petition. He said he agreed with the Board that the zero-foot setback was too close, noting that was the reason he chose not to pursue the easement option. He said he chose Option 2, which would increase the side setback to 2.5 feet and make it less intrusive. In response to Mr. Hagaman's questions, Mr. Baker said the dormer was aesthetic, that the sketch for the garage was a placeholder instead of to scale, and that he knew exactly where the property line was.

*It was moved, seconded, and passed by unanimous vote to **re-open** the public hearing.*

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

DECISION OF THE BOARD

Mr. Stith recommended that homeowners with similar petitions include a survey confirming that the plus-minus distance was within two inches so that they did not have to return for another hearing.

*Mr. Parrott moved to **grant** the variances for the application as presented, with the following stipulation, with respect to Mr. Stith's comment:*

- *The left side yard is granted as 2.5' plus or minus a maximum of 6" to allow for changes in construction circumstances that would determine the final setback.*

Vice-Chair Johnson seconded.

Mr. Parrott said it was a simple situation and that the only concern he had with the initial proposal was the side setback. He said that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because there was no compelling indication that the public's health, safety, or welfare would be in danger. He said it was a modest proposal in a well-established neighborhood in which there were similar situations where the

buildings were too close to the property line. Substantial justice would be done because a garage was a clear benefit to the homeowner, and the garage was modest, not overbuilt for the lot, and in a logical location. He said granting the variances would not diminish the value of surrounding properties because the garage would be situated such that it would blend in with the neighborhood. He said the hardship was that the property was fairly large on a small lot and that the location of the garage was the only logical place to site it. He said the garage would look like it belonged and would have a beneficial effect on the homeowner's property as well as surrounding ones.

Vice-Chair Johnson concurred with Mr. Parrott and had nothing to add.

Chairman Rheaume said he would support the motion. He noted that the lot was subdivided with the idea that the house wouldn't require anything additional, but he realized that the applicant was the new homeowner and had heard the Board's concerns above moving the garage back. He said the structure was modest and that other garages in the neighborhood were very close to the property lines, so he was willing to support it.

The motion with the stipulation passed by unanimous vote, 7-0.

IV. PUBLIC HEARINGS - NEW BUSINESS

1) Case 12-1

Petitioners: Jon R. & Karin E. Allard

Property: 24 Burkitt Street

Assessor Plan: Map 160, Lot 23

Zoning District: General Residence A

Description: Replace an existing rear porch with a 10'± x 22'± enclosed porch and stairs.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) From Section 10.521 to allow a 5'± left side yard where 10' is required; and
- b) From Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

SPEAKING IN FAVOR OF THE PETITION

The owner Jon Allard was present to speak to the petition. He noted that the porch had a rotted corner and wasn't usable, so he and his wife wanted to replace it with a porch that matched the width of the house. He said they needed a lesser side setback to install a landing and stairs. He said his neighbors approved the project, including the most affected abutter.

SPEAKING IN OPPOSITION TO THE PETITION AND/OR

SPEAKING, TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

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

Mr. Mulligan said the applicant demonstrated that the existing porch needed to be replaced for several good reasons, and that what drove the relief was placing the landing and stairs into the side setback. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because the essential character of the neighborhood would not be affected. Substantial justice would be done because the loss to the applicant would require strict compliance with the side yard setback and would far outweigh any gain to the public. He noted that the home violated the setback but that the increase was just an incremental one. He said granting the variances would not diminish the values of surrounding properties, noting that the most affected neighbor was in favor and that the project would result in new construction that would enhance home values in the neighborhood.

Mr. Mulligan stated that literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property. The side yard setback was already nonconforming and there is no fair and substantial relationship between the side yard requirement and its specific application to this property as the applicant is proposing to simply replace the existing deficient porch with a more modern larger one with a better access point. The slight additional encroachment is not significant. He stated that this is a reasonable residential use in a residential zone.

Mr. McDonell concurred with Mr. Mulligan.

Chairman Rheume said the stairs would need to meet code. Mr. Stith verified that the stairs were being built to code and that the applicant had to comply with building code for egress. Mr. Mulligan asked whether the relief granted was the minimum needed for the landing and stairs to meet that code, and Mr. Stith agreed.

Mr. Mulligan amended his motion to add the following stipulation which was seconded by Mr. McDonell:

- *The left side yard may be adjusted as necessary to ensure that the proposed stairs and landing meet the minimum dimensions necessary to comply with the Building Code.*

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

2) Case 12-2

Minutes Approved 1-15-19

Petitioners: Jason R. and Natasha A. Karlin
Property: 88 Lincoln Avenue
Assessor Plan: Map 113, Lot 12
Zoning District: General Residence A
Description: Replace a detached garage with a garage plus attic and construct a two and a half story rear addition.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from the following:
a) from Section 10.521 to allow a rear yard of 3’7” ± where 20’ is required;
b) from Section 10.521 to allow 35%± building coverage where 25% is the maximum allowed; and
c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

SPEAKING IN FAVOR OF THE PETITION

The applicant Jason Karlin was present and reviewed the petition, noting that he wanted to enlarge the house for social gatherings. He explained why the extra space was needed and said the neighbors approved the project.

Chairman Rheume said that the neighbor at 43 McNabb Court was concerned about glazing and asked whether it had been addressed. Mr. Karlin said that he and the neighbor had agreed that frosted glass was okay for the south-facing window.

Chairman Rheume verified the two front yard setback dimensions with Mr. Stith.

In response to further questions from Chairman Rheume, Mr. Karlin said he would not re-use any existing slab on the garage and that he had not considered moving the garage closer to the house because he felt that it wasn’t encroaching more than existing.

SPEAKING IN OPPOSITION TO THE PETITION AND/OR SPEAKING, TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

Mr. Hagaman said it seemed like an opportunity to improve the setback. Vice-Chair Johnson said he had no problem with keeping the same setback because the lot was unique. He said the expansion was big but that everything was shifted to one side, leaving a lot of open space. Chairman Rheume said he was okay with it because it was closer to the side setback, even though he preferred to see an improvement in the rear setback.

*Mr. McDonell moved to **grant** the variances for the application as presented and advertised, and Mr. Parrott seconded.*

Mr. McDonell said he agreed with the concerns raised but felt that the main driver of the proposal was to get more living space. He said the two-car garage didn't look like it would fit into the space without getting close to the existing rear yard setback. He said it was a corner lot and that the neighbor thought of it as a side setback, so he felt that it was reasonable. He said that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He noted that the addition was a big one but didn't think that it would be so big that it would alter the essential character of the neighborhood or pose a threat to the public's health, safety, or welfare. He said substantial justice would be done because there would be no harm to the general public and the benefit would be to the applicant because the applicant wanted a bigger house with more living space, which he felt was a more reasonable use of the property. He said he had not heard anything that would diminish the value to surrounding properties. He said the hardship was that it was a corner lot and what was technically a rear yard setback was more like a side yard setback, so the relief requested would be more minimal. He said the other special condition of the property was the siting of the building, and he felt that the applicant did a good job of moving the mass of the addition toward the center of the property. He said the requested relief was therefore pretty minimal and that he saw no fair and substantial relationship between the purposes of the ordinance with the setback requirement and building coverage requirements and the special application of those provisions to the property. He said the proposed use was a reasonable one.

Mr. Parrott concurred with Mr. McDonell and noted that the lot was only 5,000 square feet and that the design was appropriate in getting the additional space and garage to make the house more usable. He said the proposed garage was as modest as possible to make a double garage.

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

3) Case 12-3

Petitioners: Jennifer & Dylan Thomas

Property: 279 Wibird Street

Assessor Plan: Map 133, Lot 35

Zoning District: General Residence A

Description: Construct a mudroom and 24'± x 26'± garage with second floor living space.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.521 to allow a right side yard of 5'3" ± where 10' is required;
- b) from Section 10.521 to allow 26% building coverage; and
- c) from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

SPEAKING IN FAVOR OF THE PETITION

Attorney Monica Kieser was present on behalf of the applicant to speak to the petition. She introduced the project designer Dennis Morrell. She reviewed the petition and criteria.

Mr. Mulligan asked why the existing wraparound porch would be removed. Attorney Kieser said it was to allow more room for lot coverage and that it was also dilapidated. She said it didn't get a lot of use because the homeowners preferred to be in the back yard, where there was a lot of open space. In response to further questions from the Board, Attorney Kieser said the new livable space would be over 3,000 square feet, compared to the existing space of 2,100 square feet. She said the garage's location was driven by the need for turning radius in the narrow lot.

Chairman Rheume said it was a substantial addition. He said he understood expanding off the third floor of the existing structure but felt that the additional structure and the second-floor master bedroom suite were impressive. He asked whether the applicant had considered trying to bring the second floor back in to make it more in line with the 10-ft setback so that the imposing nature of the 5-ft setback was not as much. Mr. Morrell said he made the garage large enough for two cars and that the owners were comfortable with the size.

Chairman Rheume asked whether the addition could be made fully compliant with the setback. Attorney Kieser said they could not do so because the garage had to be deep enough for two cars and some storage and that they also didn't want to take any space from the existing second floor.

Mr. Hagaman suggested narrowing and lengthening the garage to make it more usable for storage. Mr. Morrell said they hadn't considered it due to the bulkhead, the condensers, and the steps, but that they could review changing the shape of the garage.

**SPEAKING IN OPPOSITION TO THE PETITION AND/OR
SPEAKING, TO, FOR, OR AGAINST THE PETITION**

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

DECISION OF THE BOARD

The Board discussed the petition. Mr. Mulligan said the proposal was substantial but didn't think that the amount of requested relief was all that significant in light of the significant improvements to the property. Vice-Chair Johnson agreed. He said the garage was generously sized and thought the applicant could figure out a way to get under the one percent. He noted that it was a lot of house and thought the setback relief was less than it would be with the porch. He said it was a narrow lot with tightly-packed lots and that most of the impact would be internal to the site. Mr. Hagaman said he had the same concerns about the porch. He said he understood that the relief was modest in that it improved one of the right yard setbacks, but the nature of what was presented was character-wise very different from the original single-story porch that had open air and was not imposing. He said the applicant could meet the building coverage

variance by making minor tweaks to the garage and living space and pulling it off the lot line a bit to make it less imposing.

Mr. Stith said the condensers would typically require meeting the 10-ft setback. Chairman Rheume said what the Board would approve would include the condensers, so it wasn't a problem. He said the project was a substantial addition going up against the property line that included two big stories, a tall roof, a good-sized garage, and a master bedroom suite. He said that a reasonable house could have less and that he was torn about the imposing nature.

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

Mr. Mulligan noted that the applicant was proposing a significant improvement to the property but that the amount of relief requested was fairly minimal. He said granting the variances would not be contrary to the public interest and would not violate the spirit of the ordinance. He said the essential residential character of the neighborhood would not be changed by what was proposed and that the public's health, safety, and welfare would not be implicated by the building coverage increase or setback relief. He said substantial justice would be done because the lot could not have strict compliance and was already deficient as far as lot area, frontage, and side yard setbacks. He said granting the variances would not diminish the value of surrounding properties, noting that the applicant was prepared to sink a huge amount of money into the property and that the substantial and expansive new construction would increase surrounding values. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the property had special conditions, including that it was a large structure on a narrow lot and the lot lines were perfect right angles with Wibird Street, so there were issues as far as getting in and out of the garage and that the applicant needed an appropriate turning radius. He said he understood everyone's concern that the project could have been designed differently, but he felt that what was proposed was a very minimal increase in building coverage over what was allowed and that the setback proposed was a slight improvement over existing. He said it came down to the question of whether the setback of 2-1/2 stories of encroachment as opposed to one was significant enough that the hardship criteria was not met, and he didn't think it was significant enough. He said the applicant proposed to have the encroachment and it would not have a significant impact to the most immediate abutter. He noted that the Board always said that the purpose of setback requirements was to assure sufficient light and air as well as access to the property, and he thought that the applicant was clear about the existing front porch inhibiting light, air, and access. He said he credited the applicant's removal of the front porch to improve the property and stay as close to the building coverage percentage as they could. He said the project met all the criteria and should be approved.

Mr. Parrott concurred with Mr. Mulligan. He said that the most constraining aspect of the project was the width of the lot itself. He said the house was dated and needed substantial construction to bring it up to current standards, and that the net amount of relief requested was pretty modest.

*The motion **passed** by a vote of 6-1, with Mr. Hagaman voting in opposition.*

4) Case 12-4

Petitioner: Margot L. Thompson

Property: 57 Salter Street

Assessor Plan: Map 102, Lot 32

Zoning District: Waterfront Business

Description: Use an existing structure as a dwelling unit, relocating stairs, and adding a dormer and two 19± s.f. entrance overhangs.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;
- b) from Section 10.440, Use #1.10 to allow a single family dwelling where the use is not allowed in this district;
and variances from Section 10.311 and Section 10.531 to allow the following:
 - c) a lot area of 11,327± s.f. where 20,000 s.f. is required;
 - d) 67'± of continuous street frontage where 100' is required;
 - e) a 4.1'± front yard where 30' is required; and
 - f) a 0'± side yard where 30' is required.

SPEAKING IN FAVOR OF THE PETITION

Attorney Peter Loughlin was present on behalf of the applicant to speak to the petition, and he introduced the owners the Thompsons. He reviewed the petition, noting that what was requested was a use similar to a garden cottage under the ADU Ordinance. He said that dwelling units were not permitted in the Waterfront District, so a use variance was required. He said the owners wanted to convert a work shop to a dwelling unit and add a kitchen. He noted that, out of the 32 lots in the neighborhood, only two were used for waterfront business. He reviewed the criteria.

Mr. Parrott asked about the applicable parking requirements, noting that there wasn't much parking space. Attorney Loughlin replied that 1.3 parking spaces were allowed per dwelling unit and that four spaces could fit in that location. Mr. Parrott said the use wasn't allowed. Chairman Rheaume said that four parking spaces would make sense if the property was zoned residential. It was further discussed. Mr. Parrott said his point was that parking spaces were not addressed in the ordinance because it was a non-allowed use and that the Board had to go by the ordinance.

Mr. Stith said the existing house would have two parking spaces and that the new dwelling would have one. Vice-Chair Johnson noted that a residential use would have to meet residential parking requirements. Mr. Parrott asked about requirements relating to backing out into the street, and it was further discussed.

Chairman Rheume said the 1980 property tax map showed the frontage as 96 feet, yet the applicant indicated that it was only 67 feet. Attorney Loughlin said he used the dimensions on the present tax map but that there was less frontage when the property was surveyed, and the lot size was 1,000 feet more than what the tax map showed.

The zero-foot setback was discussed. Chairman Rheume said it was almost like a negative setback because the structure went over the water line. Mr. Stith said that Salter Street was four feet, the right side setback was zero feet, and it went over the mean water line.

Chairman Rheume noted that there were no floor plans provided and asked what would be on the first and second floors. Mr. Thompson said he was working with the Building Department about what type of internal stairs to put in. He said the top floor would have a bedroom and bath, and the second floor would have a kitchen. He said the total square footage between the two floors would be less than 600 square feet.

SPEAKING IN OPPOSITION TO THE PETITION

No one rose to speak.

SPEAKING, TO, FOR, OR AGAINST THE PETITION

Marsha McCormick of 53 Salter Street said her concern was that the structure would be another residence. She asked what would be permissible on the street that was still waterfront business and if the project would create the potential for a restaurant or similar projects.

Mr. Thompson said their property was divided and that two units were combined, and that the usage on the street had become less intense. He said they would increase it by one or two people.

No one else rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

The Board discussed the setback and whether the structure was an Accessory Dwelling Unit (ADU) or a single-family dwelling. Mr. Mulligan said the dimensional relief was based on existing conditions and that the project came down to a use variance for a second residential dwelling in a neighborhood that had evolved into a residential area.

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

Mr. Mulligan said the dimensional relief was self-explanatory, based on the existing conditions, and that there was no physical change to the property proposed. He said it came down to a use variance and whether or not it was appropriate to have a secondary residential use on the property. He said he thought it was and that it was the same policy as ADUs. He said that granting the variances would not be contrary to the public interest and would observe the spirit

of the ordinance because the essential character of the neighborhood would not be altered and the public's health, safety, or welfare would not be affected. Substantial justice would be done because the project was a modest amount of living space added to a large property. He said the values of surrounding properties would not be diminished. He said the hardship was that the lot was unique compared to other properties in the neighborhood because it was surrounded by water on two sides and was at the end of a dead-end street. He said it was a fairly large property that didn't lend itself to permitted uses in that zone and that he saw no fair and substantial relationship between the purpose of the uses permitted in the Waterfront Business zone and their application to the property. He said the proposed use was a reasonable one that met all the criteria and that it should be granted.

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

Chairman Rheume said he would support the motion. He noted that the Waterfront Business District was an odd one and that many of the properties didn't fit the idealized waterfront business concept due to constraints such as access on narrow streets, property value increases, and so on. He said if the property currently had a business use, he would be more defensive of it, but since it had a successful history of being a residential property, he was in approval.

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

Mr. Mulligan recused himself from the petition.

5) Case 12-5

Petitioner: 56 Middle St LLC

Property: 56 Middle Street

Assessor Plan: Map 126, Lot 19

Zoning Districts: Character District 4L-1 and the Downtown Overlay District

Description: Restore the property to a single family home,

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.642 and 10.5A32 to allow a residential principal use on the ground floor of a building; and
- b) from 10.5A41.10A to allow a 1.7'± rear yard where 5' is required.
- c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;

SPEAKING IN FAVOR OF THE PETITION

Attorney Tom Watson was present on behalf of the applicants to speak to the petition. He discussed the building's history and said the owners wanted to restore the building to a single-family residential use. He noted that they also wanted to replace the one-story office space in the

back with a two-car garage, including a bedroom suite on the second floor. He reviewed the criteria and said they would be met.

In response to Mr. Hagaman's questions, Attorney Watson said there was a part of the building that was currently used as office space, that the owners intended to keep the outside of the building similar to what it currently was, and that there were mixed-use commercial businesses along State Street that were near the property.

Chairman Rheume noted the easement rights that would allow access to the back garage over neighboring lots. He asked how vehicles would get to the garage. Attorney Watson explained how a public right-of-way that the applicant had rights to use.

SPEAKING IN OPPOSITION TO THE PETITION AND/OR SPEAKING, TO, FOR, OR AGAINST THE PETITION

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

DECISION OF THE BOARD

*Mr. Formella moved to **grant** the variances for the petition as presented and advertised, and Vice-Chair Johnson seconded.*

Mr. Formella noted that it was a self-explanatory request for a use variance for residential on the first floor. He said that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said that allowing a residential use on the first floor would not alter the essential character of the neighborhood, pointing out that it was on the edge of the Downtown Overlay District and that there were residential uses nearby. He said it looked like a residential use and wouldn't threaten the public's health, safety, or welfare. He said that granting the variances would do substantial justice because the loss to the applicant would outweigh any gain to the public. He said there was no evidence to suggest that the value of surrounding property values would not be diminished. He said the hardship was that there were special conditions about the property, including that it was on the edge of the Downtown Overlay District and was originally built as a single-family home. He said the Board was sort of restoring the property to its original purpose, so there was no real and substantial relationship between the purpose of the use limitation to maintain economic vitality of the area. He said the proposed use was a reasonable one and should be approved.

Vice-Chair Johnson concurred with Mr. Formella, noting that it was important to recognize that there were transition buffer zones in hard-lined zones and that the Downtown Overlay District had the same perimeter as the property. He said it was an intangible line, not a hard line, and noted that properties went both ways on either side of the overlay. He said it was a perfect place for the use and that the project should be approved.

Chairman Rheume said he would support the motion, noting that the new addition with a garage was a modest addition and that, even though it was a tight setback, it was a very short distance and wouldn't affect the public's light and air.

*The motion **passed** by unanimous vote, 6-0.*

V. OTHER BUSINESS

There was no other business.

VI. ADJOURMENT

*It was moved, seconded, and passed by unanimous vote to **adjourn** the meeting at 9:40 p.m.*

Respectfully submitted,

Joann Breault
BOA Recording Secretary

PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

ACTION SHEET

TO: John P. Bohenko, City Manager

FROM: Mary Koepenick, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on December 18, 2018** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Rheume, Vice Chairman Jeremiah Johnson, Arthur Parrott, John Formella, Peter McDonell, Christopher Mulligan, Alternate Chase Hagaman

EXCUSED: Jim Lee, Alternate Phyllis Eldridge

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I. ELECTION OF OFFICERS

It was moved, seconded and passed by unanimous voice vote to reelect David Rheume as Chairman and Jeremiah Johnson as Vice-Chairman to serve until the next Election of Officers.

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II. APPROVAL OF MINUTES

A) November 20, 2018

Action: The Board voted to accept the Minutes of the November 20, 2018 meeting as amended.

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III. PUBLIC HEARINGS - OLD BUSINESS

A) Case 11-1

Petitioners: Ryan and Karen Baker

Property: 137 Wibird Street

Assessor Plan: Map 134, Lot 48

Zoning District: General Residence A

Description: Construct semi-attached garage.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 10.521 to allow the following:

- a) a 2.5' left side yard where 10' is required; and
 - b) 27%± building coverage where 25% is the maximum allowed.
- (This petition was tabled at the November 20, 2018 meeting and has been revised with the changes in italics above.*

Action:

The Board voted to remove the application from the table and, after considering the revisions, voted to **grant** the revised petition as presented and advertised with the following stipulation:

Stipulation:

- The left side yard is granted as 2.5' plus or minus a maximum of 6" to allow for changes in construction circumstances that would determine the final setback.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. A modest proposal in a well-established neighborhood, with similar structures close to the property line, will not alter the essential character of the neighborhood nor threaten the public health safety or welfare.
- Substantial justice will be done as there will be a clear benefit to the property owner in granting the petition with no resulting harm to the general public.
- The value of surrounding properties will not be diminished. The proposed will be a modest garage, not over-built for the lot and in a logical location, which will blend with the existing structure on the lot and with the neighborhood.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property which include the placement of an existing larger house on a small lot so that the only logical location for a new garage requires relief. Adding a garage is a reasonable use of the property.

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IV. PUBLIC HEARINGS - NEW BUSINESS

1) Case 12-1

Petitioners: Jon R. & Karin E. Allard
 Property: 24 Burkitt Street
 Assessor Plan: Map 160, Lot 23
 Zoning District: General Residence A
 Description: Replace an existing rear porch with a 10'± x 22'± enclosed porch and stairs.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:
 a) From Section 10.521 to allow a 5'± left side yard where 10' is required; and

- b) From Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

Action:

The Board voted to **grant** the petition as presented and advertised with the following stipulation:

Stipulation:

- The left side yard setback may be adjusted as necessary to ensure that the proposed stairs and landing meet the minimum dimensions necessary to comply with the Building Code.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed as replacing the porch will not affect the essential character of the neighborhood.
- Substantial justice will be done as the loss to the applicant if required to strictly adhere to the side yard requirement would far outweigh any corresponding benefit to the general public.
- The new construction should enhance property values in the neighborhood and the most directly affect abutter expressed support for the project.
- Literal enforcement of the ordinance would result in unnecessary hardship due to a special distinguishing condition of the property on which the existing house and porch are already nonconforming. The proposal is to replace the existing deficient porch with a modern structure and a better access point and the additional encroachment is not significant. A residential use in a residential zone is a reasonable use of the property.

2) Case 12-2

Petitioners: Jason R. and Natasha A. Karlin

Property: 88 Lincoln Avenue

Assessor Plan: Map 113, Lot 12

Zoning District: General Residence A

Description: Replace a detached garage with a garage plus attic and construct a two and a half story rear addition.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from the following:

- a) from Section 10.521 to allow a rear yard of 3’7” ± where 20’ is required;
- b) from Section 10.521 to allow 35%± building coverage where 25% is the maximum allowed; and
- c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. While the proposed addition is substantial, the size will not alter the essential character of the neighborhood and there is nothing in the proposal that will threaten the public health, safety or welfare.
- Substantial justice will be done as granting the petition will benefit the applicant by providing a reasonable amount of additional living space with no detriment to the general public.
- The value of surrounding properties will not be diminished by a new structure and a number of neighbors have indicated support for the project.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property which include the impact of setbacks on a corner lot and the siting of the existing building, which the applicant has mitigated by moving the mass of the addition toward the center of the property. With these conditions, there is no fair and substantial relationship between the general public purposes of the ordinance provisions as to setback and building coverage requirements and their specific application to the property. The proposed use in a residential area is a reasonable one.

3) Case 12-3

Petitioners: Jennifer & Dylan Thomas

Property: 279 Wibird Street

Assessor Plan: Map 133, Lot 35

Zoning District: General Residence A

Description: Construct a mudroom and 24'± x 26'± garage with second floor living space.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.521 to allow a right side yard of 5'3" ± where 10' is required;
- b) from Section 10.521 to allow 26% building coverage; and
- c) from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. The essential residential character of the neighborhood will not be changed by what is proposed, nor will the public health, safety or welfare be threatened by the requested building coverage increase and setback relief.
- Substantial justice will be done as the harm to the applicant by requiring strict adherence to the ordinance would outweigh any possible detriment to the general public.
- Granting the variances and constructing an attractive addition will not diminish the value of surrounding properties and the most immediate abutter will not be significantly impacted.
- A hardship is created in achieving full use of the property due to the special conditions of the lot which include a large structure on a narrow lot and lot lines angled to create issues in access and egress to the garage with an appropriate turning radius. The proposal represents a minimal increase in building coverage and a slight improvement over the existing setback. Removal of the existing porch will also increase access to sufficient light and air, one of the purposes of setback requirements. For these reasons there is no fair and substantial relationship between the purposes of the ordinance provisions and their specific application to this property.

4) Case 12-4

Petitioner: Margot L. Thompson

Property: 57 Salter Street

Assessor Plan: Map 102, Lot 32

Zoning District: Waterfront Business

Description: Use an existing structure as a dwelling unit, relocating stairs, and adding a dormer and two 19± s.f. entrance overhangs.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;
- b) from Section 10.440, Use #1.10 to allow a single family dwelling where the use is not allowed in this district;
and variances from Section 10.311 and Section 10.531 to allow the following:
 - c) a lot area of 11,327± s.f. where 20,000 s.f. is required;
 - d) 67'± of continuous street frontage where 100' is required;
 - e) a 4.1'± front yard where 30' is required; and
 - f) a 0'± side yard where 30' is required.

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. With no footprint change to the property, the essential character of the neighborhood will not altered, nor will the public health, safety or welfare be threatened.
 - Substantial justice will be done as the gain to the applicant in granting the variances will not result in a corresponding detriment to the general public from a modest amount of living space added to the property.
 - The small enhancements to the existing structure will not diminish the value of surrounding properties.
 - Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property. These include its location at the end of a dead-end street bordered on two sides by water. This is a fairly large property in a district in which many properties don't fit the idealized waterfront business concept due to constraints such as access on narrow streets so that there is no fair and substantial relationship between the purposes of the uses permitted in the zone and their application to the property and the proposed use is a reasonable one.
-

5) Case 12-5

Petitioner: 56 Middle St LLC

Property: 56 Middle Street

Assessor Plan: Map 126, Lot 19

Zoning Districts: Character District 4L-1 and the Downtown Overlay District

Description: Restore the property to a single family home,

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.642 and 10.5A32 to allow a residential principal use on the ground floor of a building; and
- b) from 10.5A41.10A to allow a 1.7'± rear yard where 5' is required.
- c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. The required setback relief covers only a short distance along a lengthy property line. Allowing a residential use on the first floor, with nearby

residential uses, will not alter the essential character of the neighborhood nor threaten the public’s health, safety, or welfare.

- Substantial justice will be done as the loss to the applicant if the petition were denied would not be outweighed by any benefit to the general public.
- Restoring the property to a single family home will not diminish the value of surrounding properties.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property, which include the fact that it is on the periphery of the Downtown Overlay District and its long historical use as a single family home. Granting the variances will restore the property to its original purpose so that there is no fair and substantial relationship between the purpose of the use limitation and its specific application to the property. With nearby similar properties, this is a reasonable use.

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V. OTHER BUSINESS

No other business was presented.

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VI. ADJOURMENT

It was moved, seconded and passed to adjourn the meeting at 9:40 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary

Building: Additions or Renovations, Commercial or Residential

35117



Applicant

Margot L. Thompson

Location

57 SALTER ST

Portsmouth, NH 03801

[View location details \(/locations/27627\)](/locations/27627)

Created

Nov 28, 2018

Status

Active

Expires

Aug 19, 2020

Details **Files (0)**


Project Information

Lot Area (s.f.) *

11,327

Lot Area Source 

Ambit Survey

Cost of ALL Construction in whole numbers - no dollar signs or decimals (please do NOT include MEP costs) * 

124,000

Cost of FOUNDATION construction only in whole numbers -- no dollar signs or decimals * 

0

Brief Description of Existing Land Use * 

Single family home with detached 16 x 21 free standing, 1.5 story boathouse structure converted to home office. Note: No permit approved for the conversion of boathouse into conditioned space.

Detailed Description of Proposed Work *

Residential Alter/Addition: Convert existing detached outbuilding into new dwelling unit
Project to include:

Selective demolition of portions of the existing 1.5 story structure. Demolition to include removal of existing exterior stairs leading to second floor, Removal of masonry chimney and portion of south roof, removal of all windows and doors. Interior demolition to include removal of interior plumbing fixtures and interior walls as per plan by Somma, Sheet D1.0 dated April 23, 2019. Construct new south dormer addition, New exterior landing and stairs on north elevation, Frame in new second floor door opening, Construct new entry overhangs and install new doors and windows as plan by Somma, Sheet A1.1, dated April 23, 2019, and per Sheet S1, Framing Plans and Framing Details Construction includes the installation of new cable railing system and mahogany posts on existing deck/dock structure along with the installation of a new retractable rear awning. All work shall be completed in compliance with HDC Approval granted February 06, 2019 and as per BOA Approval granted December 18, 2018.

NOTE: See State NHDES Wetlands and Non-site specific permit #2019-01730 for the relocation of deck/landings and stairs and new overhangs.

75 SALTER STREET

Check here if this requires approval from the Zoning Board of Adjustment



Check here if this requires approval from the Historic District Commission



Check here if this is requires approval from the Planning Board 

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If your project is within the Historic District, please check here if your project is a replacement-in-kind (with the same material, profile and appearance).

--

Existing Buildings/Structures (REQUIRED)

Building / Structure Description	Total Gross Floor Area (s.f.)	Area of Footprint (s.f.)	...
Single family home	4,850	2,004	...
Outbuilding used for office	690	345	...

Existing Yards, Coverage, Parking, and Wetlands (REQUIRED)

Principal Front Yard (ft) ⓘ

60

Secondary Front Yard (ft) ⓘ

5

Rear Yard (ft) ⓘ

20

Right Side Yard (ft) ⓘ

20

Left Side Yard (ft) ⓘ

4

Total # of Residential Units *

1

Number of Parking Spaces *

5

Number of Loading Spaces

2

Area of Surface Parking & Driveways (sq ft) * ⓘ

1,603

Total Building Area (sq ft) * ⓘ

3,000

Other Impervious Surface Area (sq ft) * ⓘ

0

Is all or a portion of the property located in the wetland area and/or within 100' of the wetland boundary?



Proposed Building/Structures (REQUIRED)

Building / Structure Description	Total Gross Floor Area (sq ft)	Area of Footprint (s.f.)	...
new stairs and door overhangs and dormer	55	55	...

Proposed Yards, Coverage, Parking and Wetlands (REQUIRED)

Principal Front Yard (ft) ⓘ

60

Secondary Front Yard (ft) ⓘ

0

Rear Yard (ft) ⓘ

20

Right Side Yard (ft) ⓘ

20

Left Side Yard (ft) ⓘ

4

Total # of Residential Units * ⓘ

1

Number of Parking Spaces * ⓘ

5

Number of Loading Spaces ⓘ

2

Area of Surface Parking & Driveways (sq ft) * ⓘ

1,600

Total Building Area (sq ft) * ⓘ

2,500

Other Impervious Surface Area (sq ft) * ⓘ

0

Are you proposing to do any work in the wetland area or within 100' of the wetland boundary?



General Contractor Information

General Contractor Name

unknown

General Contractor Business Name

--

Mailing Address

--

Phone Number

--

Email address

--

Contractor has current workmen's compensation insurance or substantial equivalent. ⓘ

--

Contractor has current liability insurance or substantial equivalent. ⓘ

--

Engineer Information

Engineer Name

Ambit Engineering

Engineer Business Name

--

Mailing Address

200 Griffin Rd

Phone Number

436-9282

Email address

jrc@ambitengineering.com

Registration No

--

Engineer has current workmen's compensation insurance or substantial equivalent. 



Engineer has current liability insurance or substantial equivalent. 



Architect Information**Architect Name**

Jennifer Ramsey

Architect Business Name

Somma Studios

Mailing Address

PO Box 4273, Portsmouth, NH 03802-4273

Phone Number

603-766-3760

Registration No

--

Email address

jramsey@sommastudios.com

Architect has current workmen's compensation insurance or substantial equivalent. ?



Architect has current liability insurance of substantial equivalent. ?



Additional Construction Information

Sewerage System

City

City Water?



Fire Sprinkler System? (Separate Permit/Plans Required)

--

Fire Alarm System? (Separate Permit/Plans Required)

--

Is this a RESIDENTIAL dwelling built before 1978?



Is this a COMMERCIAL structure built before 1978 that will be used for CHILD CARE OCCUPANCY?

--

If you checked Yes to either of the previous two questions, is the contractor for this project an EPA-certified RRP contractor? ?

--

Total area to be demolished (sq. ft.)

--

Total Demolition Cost (\$)

0

National Flood Insurance Program Data

Map Panel #

330,150,278

FIRM Zone

AE

Elevation of lowest floor (feet (NGVD)) ⓘ

8.9

Elevation Certificate Submitted ⓘ



Is addition in a Special Flood Hazard Area (SFHA)? ⓘ

--

Plan Submission

I understand that this application will not be considered complete until I have provided the required plans as described above. (You will be prompted at the next screen to upload your plans.) *



Acknowledgement

I certify that the information given is true and correct to the best of my knowledge. No change from the information in this application will be made without approval of the Building Inspector. Construction activities shall not commence until the Building Permit is issued. I realize that when all necessary approvals have been acquired, a Building Permit may be granted by the Building Inspector to allow construction in conformance with this application and the plans/specifications submitted in support of said construction only. I further acknowledge that the proposed structure shall not be occupied or otherwise utilized without the issuance of a Building Certificate of Occupancy and only after all necessary inspections have been requested and completed. I am also aware that the disposal of waste generated from this project is my responsibility and not part of the City's Trash/Recycling Program. *



By checking this box, I agree that this is equivalent to a handwritten signature and is binding for all purposes related to this transaction *



I hereby certify that as the applicant for permit, I am the *
Owner's authorized agent

Zoning Information

Base Zoning District

Waterfront Business (WB)

Base Zoning District 2 ⓘ

Waterfront Business (WB)

Historic District



Flood Plain District

--

Downtown Overlay District

--

Osprey Landing Overlay District

--

Airport Approach Overlay District

--

Waterfront Use Overlay District

--

North End Incentive Overlay District

--

West End Incentive Overlay District

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Documents

Building Permit

Issued Aug 20, 2019

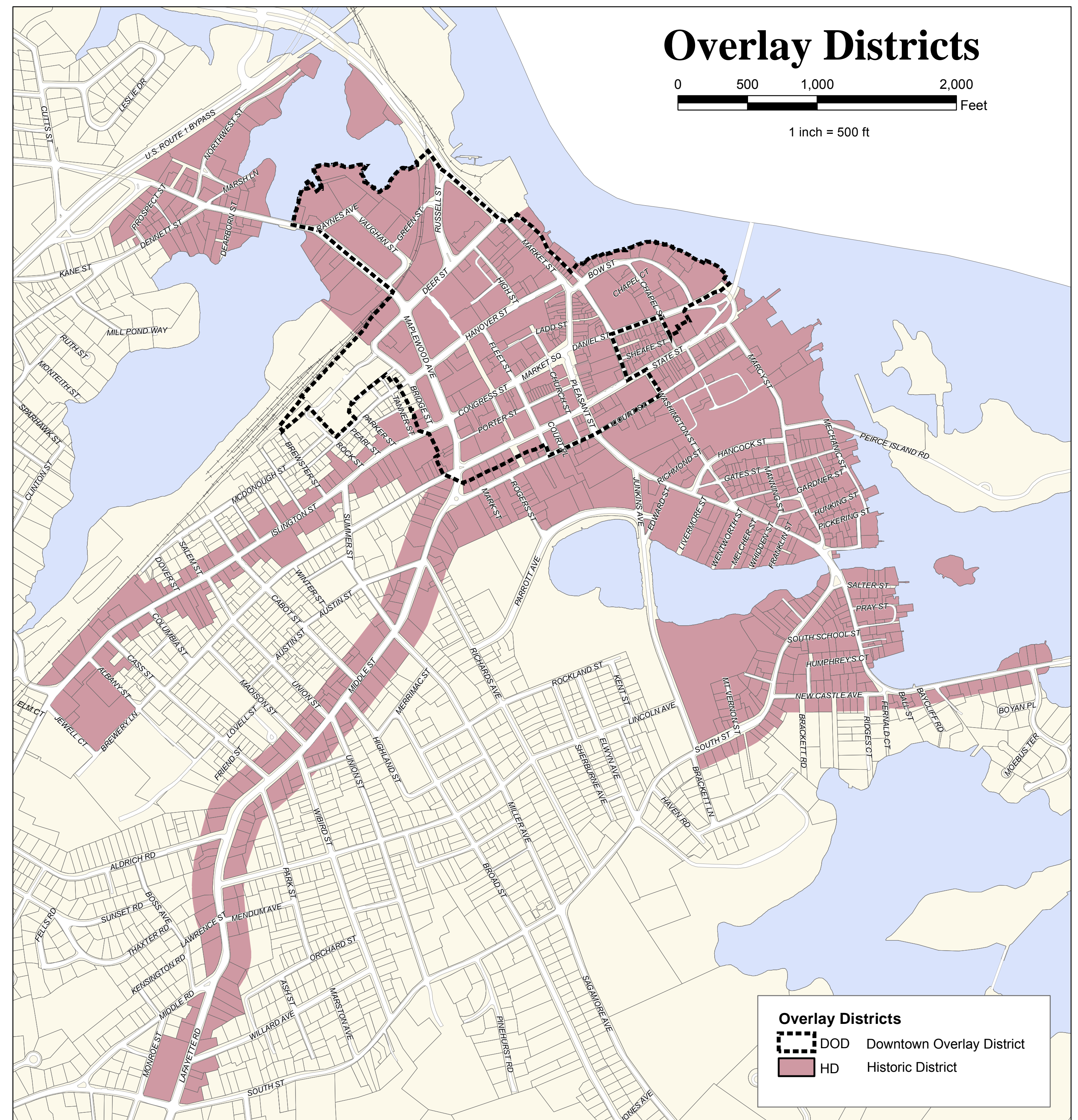
City of Portsmouth Zoning Map

Sheet 1 of 2



Legend

- Character Districts**
 [Dashed Line] Character-Based Zoning Area
 (Refer to Zoning Map Sheet 2 of 2 Character Districts Regulating Plan)
- Residential Districts**
- R Rural
 - SRA Single Residence A
 - SRB Single Residence B
 - GRA General Residence A
 - GRB General Residence B
 - GRC General Residence C
 - GAMH Garden Apartment/Mobile Home Park
- Mixed Residential Districts**
- MRO Mixed Residential Office
 - MRB Mixed Residential Business
 - G1 Gateway Corridor
 - G2 Gateway Center
- Business Districts**
- GB General Business
 - B Business
 - WB Waterfront Business
- Industrial Districts**
- OR Office Research
 - I Industrial
 - WI Waterfront Industrial
- Airport Districts**
- AIR Airport
 - AI Airport Industrial
 - PI Pease Industrial
 - ABC Airport Business Commercial
- Other Districts**
- M Municipal
 - NRP Natural Resource Protection
 - TC Transportation Corridor
- Overlay Districts**
- OLOD Osprey Landing Overlay District
 - HNOD Highway Noise Overlay District
 - DOD Downtown Overlay District (See Inset Map and Zoning Map Sheet 2 of 2 Character Districts Regulating Plan)
 - HD Historic District (See Inset Map)
 - FP Flood Plain District (See FEMA Flood Insurance Rate Map)



Amendments

- June 21, 2010 - Rezone Assessor's Map 201, Lots 3-8 (1-8 Sagamore Grove) from Waterfront Business (WB) to Single Residence B (SRB)
- October 18, 2010 - Rezone Assessor's Map 285, Lot 12 (2700 Lafayette Road) from Municipal (M) to Gateway (GW)
- June 6, 2011 - Rezone a portion of Assessor's Map 116, Lot 44 (54 Rogers Street) from Municipal (M) to Mixed Residence Office (MRO)
- November 13, 2012 - Rezone Assessor's Map 105, Lot 19 (143 Daniel Street) from Municipal (M) to Central Business B (CBB) and to place that property in the Downtown Overlay District (DOD)
- April 21, 2014 - Adoption of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- July 20, 2015 - Rezone the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW): Assessor's Map 163, Lots 33, 34 and 37; Assessor's Map 165, Lots 1, 2 and 14; Assessor's Map 172, Lots 1 and 2; and Assessor's Map 173, Lots 2 and 10
- August 17, 2015 - Expansion of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- December 21, 2015 - Portion of Map 201, Lot 1 rezoned from Waterfront Business to Single Residence B
- April 25, 2016 - Rezone to following lots or parts thereof to the Transportation Corridor District: Assessor's Map 165, Lot 4; Assessor's Map 234, Lot 2A; Part of Assessor's Map 124, Lot 13; Assessor's Map 119, Lot 3; and Part of Assessor's Map 119, Lot 5
- July 11, 2016 - Expansion of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- July 11, 2016 - Rezone the following lots from Character District 4.1, Mixed Residence Business, Business and Central Business B to General Residence C: Assessor's Map 139, Lots 2, 3, 4, 5 and 6; Assessor's Map 144, Lot 4; Assessor's Map 145, Lots 14, 19, 20, 21, 29 and 30; Assessor's Map 146, Lots 19, 20, 21, 22 and 23; Assessor's Map 147, Lots 22, 23, 24, 25, 26, 27, 28, 29, 30 and 30A; Assessor's Map 156, Lots 24 and 30; Assessor's Map 157, Lots 10, 11, 12, 13 and 14
- December 4, 2017 - Adoption of Gateway Mixed Use Districts, Gateway Corridor (G1) and Gateway Center (G2) including the following: Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Corridor (G1) that are located south of Campus Drive to the Portsmouth border. Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Corridor (G1) that are located south of Middle Road and north of Sagamore Creek. Rezone the following lots from Gateway to Gateway Neighborhood Mixed Use Corridor (G1): Assessor's Map 163 Lot 33, Map 163 Lot 34, Map 163 Lot 37, Map 165 Lot 2, Map 172 Lot 1, Map 172 Lot 2, Map 173 Lot 2, and Map 173 Lot 10. Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Center (G2) that are located south of Sagamore Creek and north of Wilson Road. Rezone the following lots from General Business to Gateway Neighborhood Mixed Use Corridor (G1) that are located along Spaulding Turnpike west of Echo Avenue to the Newington border and from the intersection of Woodbury Ave and Market St west to the Newington border along Woodbury Ave. Rezone a portion of the following lots from General Business to Gateway Neighborhood Mixed Use Corridor (G1): Assessor's Map 217 Lot 1, Map 217 Lot 2A. Rezone the following lots from General Business to Gateway Neighborhood Mixed Use Center (G2): Assessor's Map 218 Lot 22, Map 218 Lot 24, Map 218 Lot 25, Map 218 Lot 28, Map 218 Lot 29, Map 218 Lot 30, Map 218 Lot 32, Map 218 Lot 33, Map 218 Lot 34, Map 218 Lot 38, and Map 218 Lot 39. Rezone the following lots from Single Residence B to Gateway Neighborhood Mixed Use Center (G2): Assessor's Map 210 Lot 2, Map 210 Lot 3, Map 210 Lot 4, and Map 210 Lot 5. Rezone the following lots from Garden Apartment / Mobile Home to Gateway Neighborhood Mixed Use Corridor (G1): Assessor's Map 239 Lot 12. Rezone the following lots from Single Residence A to Gateway Neighborhood Mixed Use Corridor (G1): A portion of Assessor's Map 239 Lot 8
- August 20, 2018 - Rezone the following lots from Office Research (OR) to Character District 4 West End (CD4-W): Assessor's Map 157, Lots 1 and 2. Rezone a portion of NB 16, except land subject to the land use regulations of the Pease Development Authority, to the Transportation Corridor (TC) to CD4-W. Add new building height standards to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21B) to extend the West End Overlay District and add New Building Height Standards for Tax Map 157 Lots 1 and 2 and a Portion of Tax Map 164 Lot 4.
- October 15, 2018 (effective January 1, 2019) - Adoption of Highway Noise Overlay District (HNOD) which includes all land within 500 feet of the centerline of NB or NB 16, except land subject to the land use regulations of the Pease Development Authority.
- February 4, 2019 - Rezone Assessor's Map 213 Lot 1 from Waterfront Industrial (WI) to Office Research (OR).

0 1,000 2,000 4,000 6,000 Feet
 1 inch = 1,000 ft

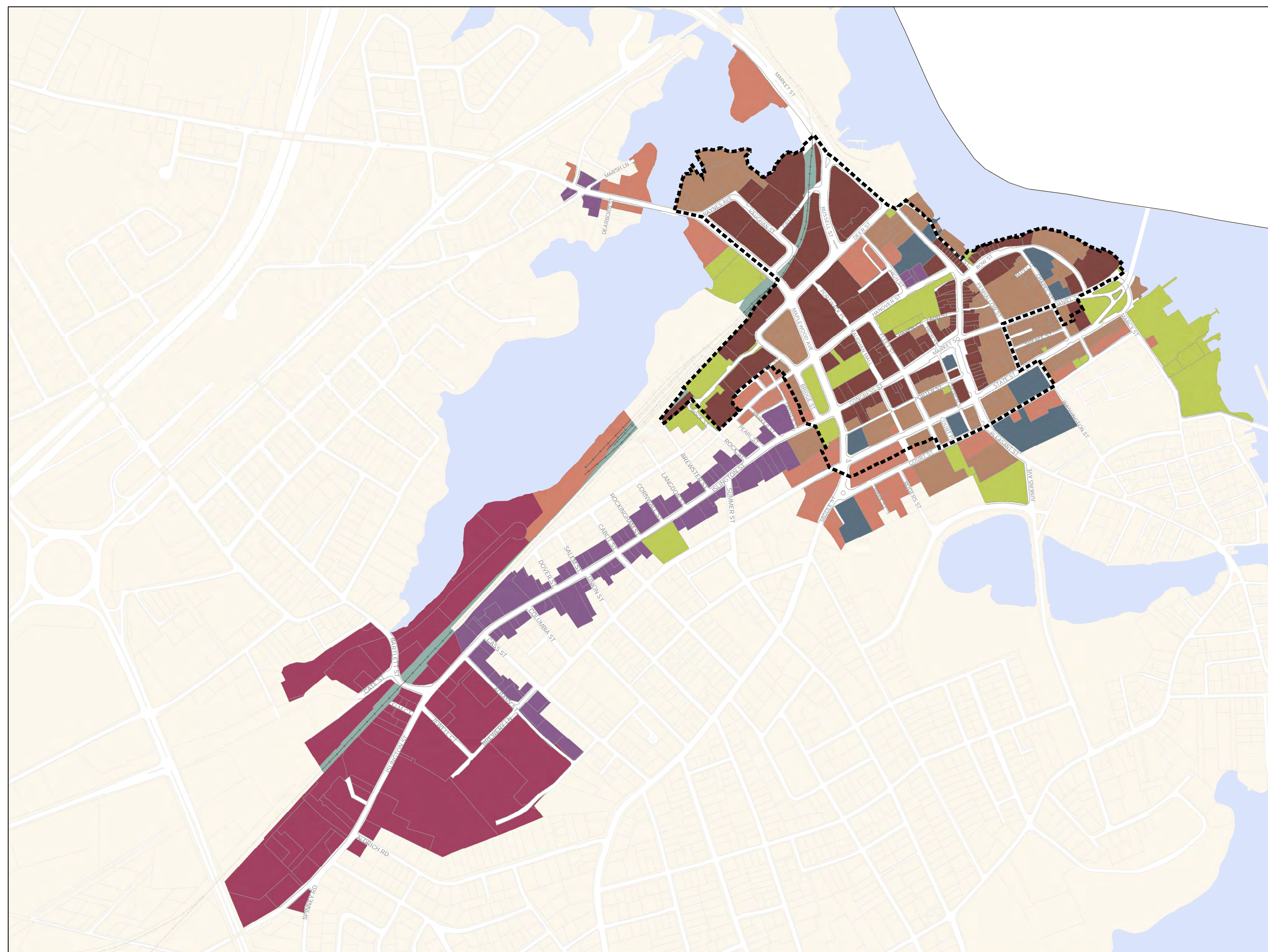
Adopted by City Council: December 21, 2009
 Effective date: January 1, 2010
 As Amended Through: February 4, 2019



Map prepared by Portsmouth Planning Department 3/1/2019

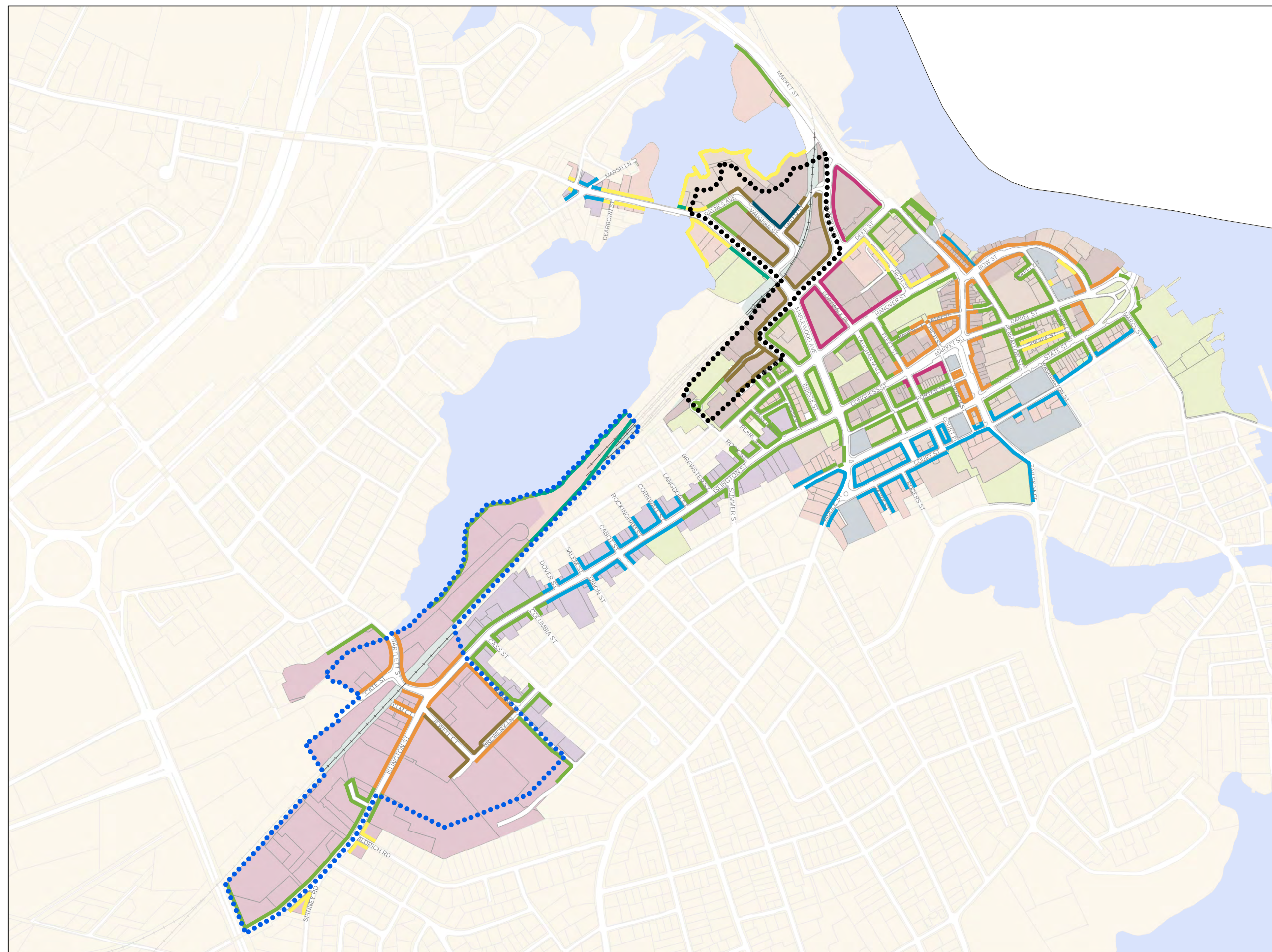
City of Portsmouth Zoning Map

Sheet 2 of 2 Character Districts Regulating Plan



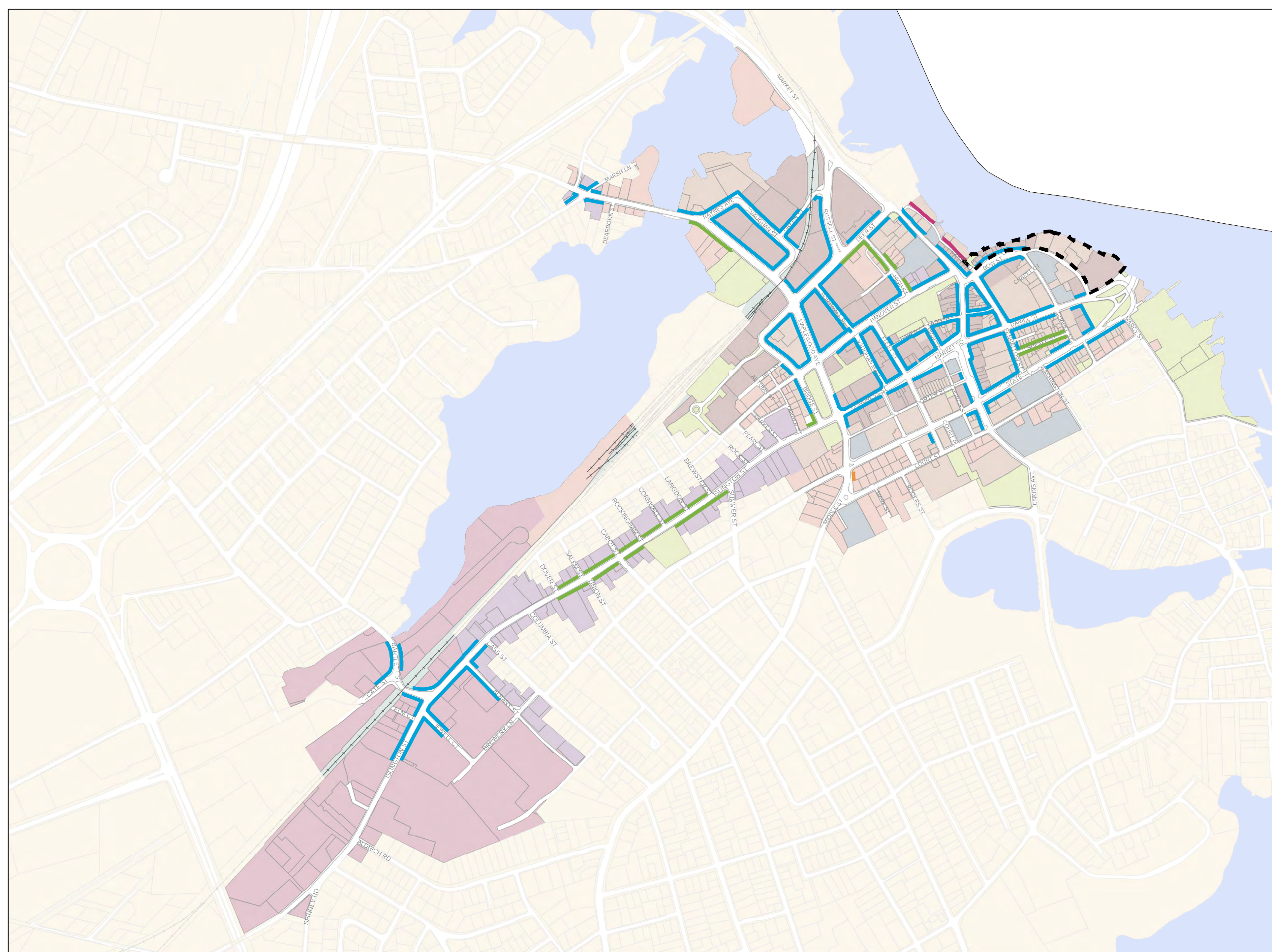
Map 10.5A21A
Character Districts
and Civic Districts

- Legend**
- DOD Downtown Overlay District
 - HD Historic District
- Character Districts**
- CD5 Character District 5
 - CD4 Character District 4
 - CD4-W Character District 4-B
 - CD4-L1 Character District 4-L1
 - CD4-L2 Character District 4-L2
- Civic District**
- CIVIC Civic District
- Other Districts**
- M Municipal District
 - TC Transportation Corridor



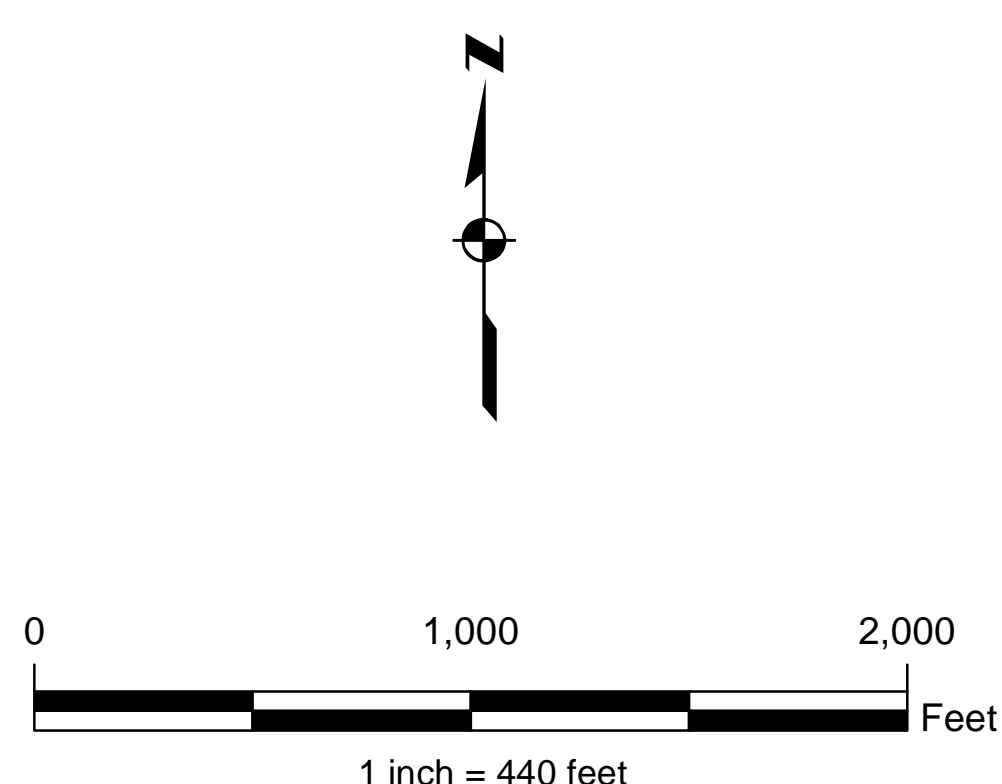
Map 10.5A21B
Building Height
Standards

- Legend**
- | Height requirement area | Maximum building height* |
|-------------------------|------------------------------|
| | 1 Story 20' |
| | 2 Stories 35' |
| | 2-3 Stories (short 3rd*) 35' |
| | 2-3 Stories 40' |
| | 2-3 Stories (short 4th*) 45' |
| | 2-4 Stories 50' |
| | 2-4 Stories (short 5th*) 60' |
| | 2-5 Stories 60' |
- *Penthouse Levels may exceed the building height by 2 feet.
- A short story includes either: 1) use of a top story below the cornice line of a sloped roof that is at least 20% shorter in height than the story below; or 2) a story within a mansard roof with a pitch no greater than 30:12.
 - When a lot is assigned to more than one height requirement standard refer to the requirements listed in Section 10.5A21.22.
 - Attic space within either a gable, gambrel, hip or hip-top mansard roof or a penthouse level on a flat roof is not considered a story. Attic space is permitted above the top story provided the proposed building is no greater than the maximum building height.
- Incentive Overlay Districts**
Within the Incentive Overlay Districts, certain specified development standards, including height, density and parking, may be modified pursuant to Section 10.5A46.
- North End Incentive Overlay District
Between Maplewood Avenue and Russell Street, the boundary of the North End Incentive Overlay District is established at 100 feet from the mean high water line.
 - West End Incentive Overlay District
The boundary of the West End Incentive Overlay District is established at 200 feet from the rear lot lines of the abutting Aldrich Road lots and/or 100 feet from the rear lot lines of lots that abut the public or private portions of Chevrolet Avenue, whichever is greater.



Map 10.5A21C
Special Requirements for
Façade Types, Front Lot
Line Buildout, and Uses

- Legend**
- Required Façade Types**
- Shopfront façade type
 - Step, stoop or recessed entry façade type
 - Officefront façade type
- Waterfront Lots**
- Waterfront Use Overlay
In addition to the uses permitted in the underlying Character districts, lots in the Waterfront Use Overlay shall also permit uses 9.60, 12.20, 12.22, and 12.40 as set forth in Section 10.440 (Table of Uses). (Section 10.5A34).
 - Waterfront lots on Ceres Street
For waterfront lots on Ceres Street, the maximum front lot line buildout shall be 50%, and buildings shall have a wood-sided appearance (Section 10.5A21.30).
- In addition to the uses permitted in Character District 4, waterfront lots on Ceres Street shall also permit the uses permitted in the Waterfront Industrial district as set forth in Section 10.440 (Section 10.5A35).



Adopted by City Council April 21, 2014
As Amended Through: October 24, 2022



Evidence of Municipalities – 57 Salter Street, Tax Map 102, Lot 32



City of Portsmouth Municipal Water (blue), Sewer (green), and Drain (purple) utilities on Salter Street.



City of Portsmouth Public Works Map showing Water (Blue), Sewer (Green), and Drain (Purple) facilities in the area of 57 Salter Street (★)

Evidence of Electrical Service – City of Portsmouth Electrical Permit No. 4459 (5-14-1991)

CITY OF PORTSMOUTH, N.H. — BUREAU OF INSPECTION
 1 JUNKINS AVENUE 431-2000 Ext. 243
ELECTRICAL PERMIT

Plans Submitted _____ Permit # 41-54-2
 Date 5-14-91
 Bldg. Permit # 4459

Address: 57 Salter St Contractor: Regan Elect.
 Owner: Ned Thompson Address: Portsmouth
 Fee Amount: 87 License # 1232 Phone # 436-9015

Paid: Check Cash Other chg Amount \$ 87 Collected By _____ Date _____

BUILDING DATA

Use: Residential Business Industrial Other _____ No. of Stories _____
 No. of Residential Units _____
 Type of Installation: New Alteration Repair Other _____
 Wiring Method: NM AC MC Busduct Conduit _____ Type _____ Other _____

Services

Voltage/Phase	Amperage	Conductors
<u>120/240/1φ</u>	<u>200A</u>	<u>4</u>
<u>110</u>	<u>100A</u>	<u>4</u>

Lighting Fixtures

No.	System	Individual Detectors #
<u>2</u>	<u>Flourescent</u>	
<u>24</u>	<u>Incandescent</u>	
<u>3</u>	<u>Other</u>	

Fire Detection:

Receptacles	Switches	Ranges	Dryers	Dishwashers	Disposals	Water Heaters	Signs	Other
<u>107</u>	<u>90</u>							

Emergency/Exit Lights # _____

Air Cond./HVAC

Type/Unit	H.P.	Voltage/Phase

Generators

No.	Size

Transformers

H.P.	Voltage/Phase	Conductors
<u>4</u>	<u>FAVS</u>	

Motors

H.P.	Voltage/Phase	Conductors

Oil or Gas Furnace

No.

Electric Heat

No.	Wattage

Swimming Pools (Installed in Conformance with NEC 680) _____

Applicant certifies that all information given is correct and that all pertinent electrical ordinances will be complied with in performing the work for which this permit is issued.
 Work must begin within six (6) months of permit issuance or the permit shall become invalid.

Description of Work: 100A Service for Boat house; 200A Service for House

Signature of Applicant or Authorized Representative: Allan Bishop
 Date: 5-14-91
 Signature of Building Official: John C. L...

Location of Work: 31 Salter
 (No. and Street)

6-14-91 Rough of Large Home with Livolt S.A. System (needs permit) Rx and various types of Boxes & Fixtures. very neat work. OK to cover 1st & 2nd Floor. J.C.

7/24/91 Rough in of "outbuilding" (shop-office) messy (owner's work) but adequate. feel

8-30-91 Final Insp. All electrical OK for use.
 ① Basement Lighting not complete yet.
 ② System smoke detectors by H security does not have a UL listed control.

8-30-91 3 PM. HVA has replaced home made control with UL listed Fire Burg control used only for fire at this time. OK for temp. C.O. J.C.

Evidence of Gas Service – City of Portsmouth Residential Plumbing/Mechanical/Gas Permit No. PMGR-20-483 (10-5-20)



City of Portsmouth Residential Plumbing/Mechanical/Gas Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
PMGR-20-483
Date of Issue:
October 5, 2020
Expires:
October 5, 2021
Const. Cost:
\$20000

Owner: THOMPSON MARGOT L
Applicant: Luis Catinchi
Contractor: Luis Catinchi
Company: Express P&H
Phone #: 6037556773
Location: 57 SALTER ST
Map/Lot: 0102-0032-0000-

Description of Plumbing Work: First floor rough in 1/2 bath, 2nd floor 3/4 bath, and laundry

Description of Mechanical/Gas Work: Gas hot water heater, gas fireplace, gas grill, 2 mini splits

Remarks:

-
-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon, and any stipulations imposed by a Land Use Board in conjunction with the project. The CONTRACTOR shall be responsible for notifying the Inspection Department 48 hours in advance, for FOUNDATION, FRAMING, and FINAL inspections. A Certificate of Occupancy is required for all Building Permits. Buildings shall not be occupied until ALL inspections (BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, and FIRE) are complete and Occupancy has been issued. By signing this permit, the owner or his/her representative (Permit Holder), authorizes property access by city officials to conduct interior and exterior inspections and property tax assessments during and/or after the construction process.

The Permit Card Shall Be Posted and Visible From the Street During Construction.

Code Official:

This is an e-permit. To learn more, scan this barcode or visit portsmouthnh.viewpointcloud.com/#records/49399



LOTS IN WATERFRONT BUSINESS DISTRICT

TAX MAP 101

Lot #	Address	Acreeage	Frontage	Waterfront Business District (Y/N)
1	54 Pray	0.145	52' on Pray	Y
2	40 Pray	0.395	160' on Pray	Y
3	445 Marcy	0.343	147' on Pray; 102' on Marcy and 62.44 on Pray	N
4	469 Marcy (corner of Partridge)	0.041	88' on Partridge	N
5	31 Partridge	0.037	66' on Partridge	N
6	39 Partridge	0.057	105' on Partridge	N
9	475 Marcy	0.098	38' on Partridge; 58' on Marcy	N
10	32 Partridge	0.234	135' on Partridge	Y
11	491 Marcy (corner of Holmes)	0.071	37' on Marcy; 82' on Holmes	N
12	33 Holmes	0.106	57'+ on Holmes	N
13	39 Holmes	0.058	0' on Holmes	Y
14	43 Holmes	0.126	0' on Holmes	Y
18	30 Walden	0.290	App. 25' end of Walden	N
19	28 Walden	0.065	33.8' on Walden	N
20	18 Walden	0.096	50' on Walden	N
21	0 Walden	0.02	11' on Walden	N
22	513 Marcy St.	0.112	48' on Walden; 22' and 82' on Marcy	N
22A	535 Marcy	.034	33' on Marcy	(Municipal)

TAX MAP 102

Lot #	Address	Acreage	Frontage	Waterfront Business District (Y/N)
28	13 Salter	0.458	146' on Salter	Y
29	35 Salter	0.130	51.4' on Salter	Y
30	41 Salter	0.073	30' on Salter	Y
31	53 Salter	0.121	47'' on Salter	Y
32	57 Salter	0.246	96' on Salter	Y
33	56 Salter	0.130	90.89' on Salter	Y
34	24 Salter	0.108	62.35' on Salter	N
34A	34 Salter	0.104	60' on Salter	N
35	419 Marcy	0.149	90' on Salter; 85' on Marcy	N
36	457 Marcy	0.99	55.7' on Marcy; 67' on Pray	N
37	17 Pray	0.170	99.5' on Pray	N
38	39 Pray	0.116	35.19' on Salter; 52' on Pray	N
39	45 Pray	0.52	22' on Pray	Y
40	53 Pray	0.95	67.6' on Pray	Y

Note: On Walden Street, Lots 16, 17, 18 and 12 are not in WFB
 Lots 22, 21, 20 and 19 are not in WFB; Lot 22A is zoned Municipal
 (Pumping station)

Median Size of ALL Lots (32)	0.1185 ac	5,161 s.f.
Median Size of Lots IN WBD (13)	0.1450 ac	6,316 s.f.
Median Size of Lots NOT in WBD (18)	0.1050 ac	4,574 s.f.



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



May 15, 2023

Peter Britz
Portsmouth Planning Department
1 Junkins Ave
Portsmouth Nh 03801

Re: Wetlands Bureau, NHDES File Number: 2021-02034
Subject Property: 57 Salter St, Portsmouth, Tax Map #102, Lot #32

Dear Mr. Britz:

It has come to the attention of the NH Department of Environmental Services (NHDES) Wetlands Bureau that the City of Portsmouth is hesitant to issue a building permit for the relocation of the residential structure on the lot referenced above until it receives confirmation that the owners of the structure have met the NHDES permitting requirements under RSA 482-A. I am writing to confirm that NHDES and the owners have entered into a settlement agreement that will result in the restoration of the site in order to come into compliance with RSA 482-A through the relocation of the residential structure. This work will be completed under a Restoration Approval and no other Wetlands Permits will be required for this specific restoration work from NHDES.

If you have any questions, please contact David Price at David.A.Price@des.nh.gov or (603) 559-1514.

Sincerely,

Darlene Forst
Administrator, Wetlands Bureau
Land Resources Management, Water Division

cc: Margot & Edward Thompson
James J. Steinkrauss, Rath, Young, & Pignatelli, P.C.
Christopher G. Aslin, NHDOJ
Municipal Clerk/Conservation Commission/Code Enforcement

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

III. NEW BUSINESS

- E. The request of **Eric J. Gregg Revocable Trust (Owner)**, for property located at **112 Mechanic Street** whereas relief is needed to install a mechanical unit to the side of the primary structure which requires the following: 1) Variance from Section 10.515.14 to allow a 2' rear setback where 10 feet is required. Said property is located on Assessor Map 103 Lot 25 and lies within the General Residence B (GRB) and Historic District. (LU-23-73)

Existing & Proposed Conditions

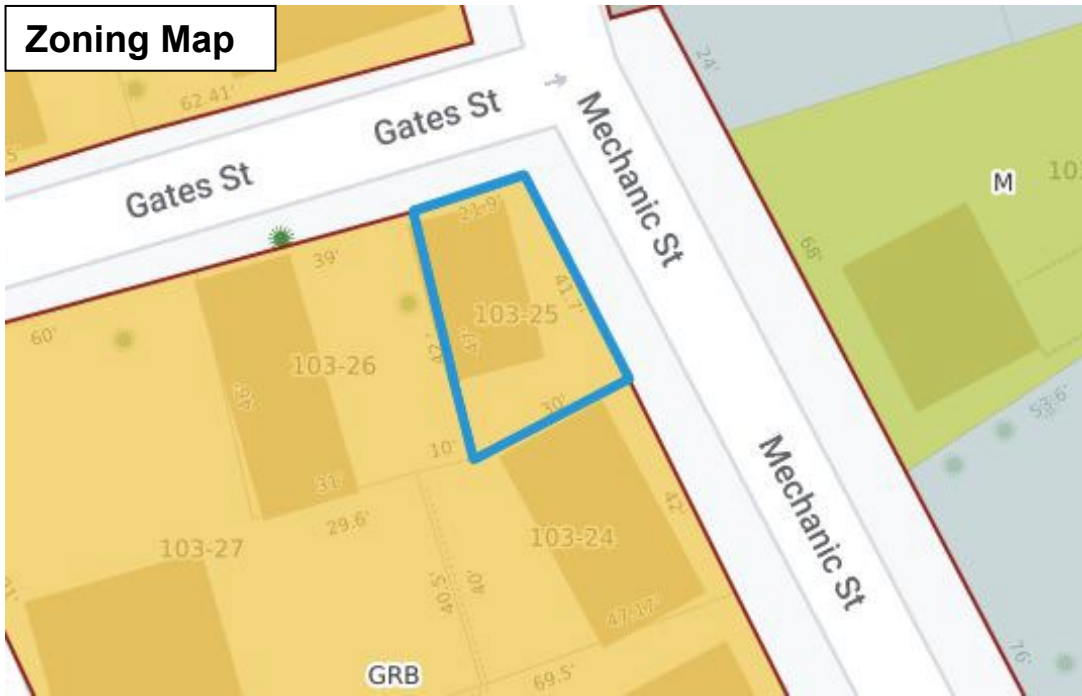
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	Mechanical Unit	Primarily residential
<u>Lot area (sq. ft.):</u>	871	871	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	871	871	5,000 min.
<u>Street Frontage (ft.):</u>	63.5	63.5	80 min.
<u>Lot depth (ft.)</u>	21.5	21.5	60 min.
<u>Front Yard (Mechanic St) (ft.):</u>	5	5	5 min.
<u>Secondary Front Yard (Gates St) (ft)</u>	0	0	5
<u>Left Yard (ft.):</u>	14	13	10 min.
<u>Rear Yard (ft.):</u>	0	6*	25 (primary structure) min. 10 (mechanical unit)
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	51.5	51.5	30 max.
<u>Open Space Coverage (%):</u>	<25	<25	25 min.
<u>Parking</u>	1	1	2
<u>Estimated Age of Structure:</u>	1920	Variance request(s) shown in red.	

*a mechanical system that is set back less than the 10 ft. required minimum distance from the property lines

Other Permits/Approvals Required

- Certificate of Approval - Historic District Commission
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is proposing to install an HVAC mechanical unit on the south side of the existing house. The unit is proposed to be located to the front side of the window within the driveway and the applicant is proposing to screen it with latticework painted to match the house. Since the original application, the applicant provided updated materials that more clearly outlined the placement of the unit to within 6 feet of the rear property line rather than 2 feet to avoid conflict with the existing window on the side of the house. If the Board wishes to approve the variance request, staff recommends the motion and condition as listed below or similar language:

Sample Motion: Approve the variance request with the following condition:

- 1) ***The mechanical unit is located to the side of the primary structure and 6 feet from the rear property line, as indicated in the applicant's submission materials.***

Variance 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

112 Mechanic St



1" = 40 ft

Property Information

**Property ID Location
Owner**

0103-0025-0000
112 MECHANIC ST
GREGG ERIC J REV TRUST



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.

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

City of Portsmouth, NH June 7, 2023

112 Mechanic



1" = 40 ft

Property Information

Property ID Location
Owner

0103-0025-0000
112 MECHANIC ST
GREGG ERIC J REV TRUST



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.

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



Placement of the Congress
will be six feet from the back property line
Properties are separated by a six foot two
inch high fence.

May 31, 2023 (Updated June 9, 2023)

Written Statement / Scope of Proposed Work

Author: Eric Gregg owner of 112 Mechanic St. Portsmouth

112 Mechanic has an old, inefficient central heating unit and no air conditioning (which has become increasingly uncomfortable/intolerable during the height of Summer). I would like to install a dual zone split (heat pump) that would be much more energy efficient than the current central heat furnace and also provide air conditioning. Ideally it would be great to get this done before August if the various Portsmouth committees can see fit to approve this minor project.

This requires a dimensional variance because the compressor is expected to be placed to the right of the window on the southern side of the house (side of the house that faces the driveway and it will be placed six (6) feet from the lot line at the back of the lot that abuts 210 Gates Street. The solid wood fence that separates 112 Mechanic from 210 Gates Street at the back of the driveway is 6'2" high so this compressor should be non-visible to 210 Gates Street from all but the highest perches on that property. I have discussed this potential minor improvement to the property with Clay Emery (owner of 114 Mechanic) whose home is adjacent to 112 Mechanic and across the driveway and he has indicated that he is fine with this proposed, minor renovation. I have spoken with David Adams (210 Gates Street) and he has stated that he has "no issue" with this minor project. There's more than 14' between 114 Mechanic and 112 Mechanic so there should be ~13' between the outside envelope of the latticework that will camouflage the compressor and 114 Mechanic) so no dimensional variance should be needed in that direction). The compressor is only ~13 inches wide, ~37 inches high and ~40 inches long. The plan is to enclose the compressor in latticework that is painted the same color as the home (to camouflage it). The intent is to have it placed up against and underneath or just to the side of the window on the southern side of the house. The intent is to have it back as far as possible from Mechanic Street so that it has as little visibility from the Mechanic Street as possible even though it should be well camouflaged with the lattice work enclosure.

Lee Mechanical (to be used for this project) successfully did the same type installation of a lattice work enclosed heat pump about six years ago two houses over from 112 Mechanic at 199 Gates Street. I am including pictures of how that turned out.

I thank the various committees of the city of Portsmouth in advance for their consideration of this proposed minor renovation.

Zoning Ordinance to be met, as per City Ordinance 10.233.20:

10.233.21 The variance will not be contrary to the public interest:

The proposed condenser will be placed in the least noticeable place on the property and will be camouflaged by latticework that will be painted the same distinct color as the home. Per the above, the two immediate abutters (114 Mechanic and 210 Gates Street) have verbally indicated they are each ok with this proposed minor improvement to the

property. Further, as per Trane (one of the largest HVAC manufacturers in the world) "a heat pump can transfer 300 percent more energy than it consumes. In contrast, a high-efficiency gas furnace is about 95 percent efficient." And to be clear, what this heat pump will be replacing is a gas furnace that is not high efficiency, so the pick-up in energy efficiency is going to be dramatic (4x+) which should be very good for the environment / emissions / global warming. Therefore, the variance will not be contrary to the public interest.

10.233.22 The spirit of the Ordinance will be observed:

The property at 112 Mechanic Street is very unusual. The home is situated right on the property line with 210 Gates Street. There's very little space between the home and the road on Gates Street (four feet). We have no interest in putting anything Mechanical in front of the home due to curb appeal and HDC considerations. If a variance is granted to accommodate for this unusual situation and with respect for the abutters, the spirit of the ordinance will be observed.

10.233.23 Substantial justice will be done:

The property owner wants to place the condenser on the side of home in the driveway as far back as is reasonably possible from the road where it will disrupt the neighbors and the general neighborhood as little as possible on this unusual lot, with immediate abutter approval. Substantial justice will be done for the owner and the neighborhood and the community in general (much higher efficiency HVAC/lower emissions/etc) if this variance is granted.

10.233.24 The values of the surrounding properties will not be diminished:

Because the proposed generator is well hidden and camouflaged it will not diminish the surrounding property valued.

10.233.25 Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship:

The proposed condenser constitutes a reasonable, minor improvement to this single family home. We have increasingly hot days during the summers and this home does not have adequate air conditioning. To try to address the need for air conditioning, window units are typically installed which are not attractive to look at for anyone in the neighborhood and are a real burden to install and uninstall every year. Further this homeowner does believe it to be the right thing (for the community, environment and their home) to be using a materially less efficient furnace than what can be achieved with the proposed heat pump installment. Given that this condenser will be put far back on the property, as far from sight as possible from the street and camouflaged with an appropriately painted latticework enclosure, this minor improvement should gain little to no attention from neighbors and passersby, but without it it would constitute an unnecessary hardship to the owner due to an insufficient HVAC situation that currently exists at the property.



199 Gates Street had a heat pump installed ~6 years ago by the same HVAC company (Stevens Mechanical) I would be using for this job. See in the right photo the latticework used to camouflage the compressor. We would be doing the same thing putting latticework around the compressor and painting it the same color as the house at 112 Mechanic.



112 Mechanic is on the right. Placement of the compressor would be near the end of the driveway either 6 feet from the fence on the lot line with 210 Gates Street and to the right of the window that can be seen (side view) to the right of the car on the South side of the house (not under the bay window on the far right of the photo above).

There's no suitable place to put the compressor in front of 112 Mechanic.

On the right side 112 Mechanic there's only four feet between the house and Gates Street and there's a row of hedges and lilacs.

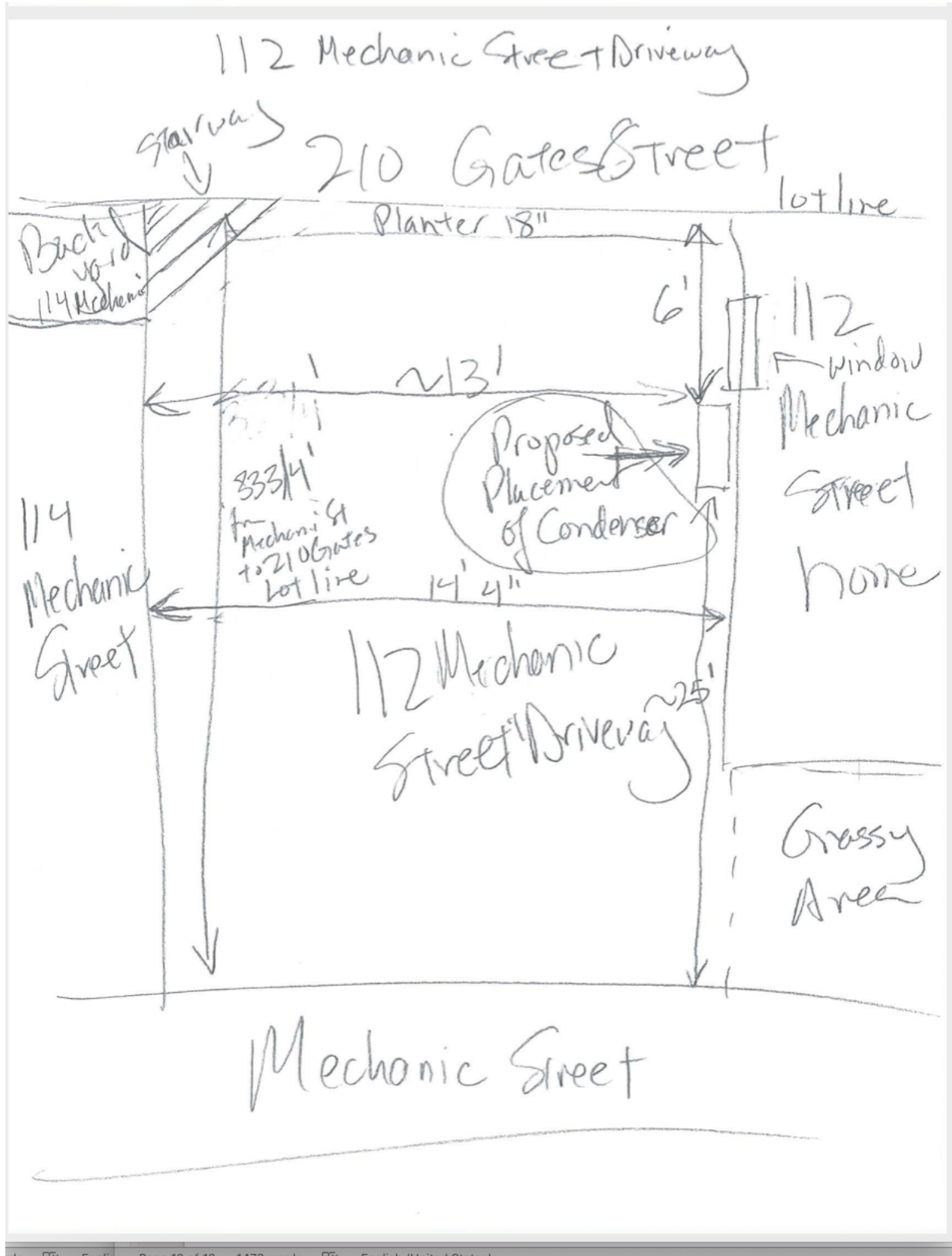
Note from Lee Stevens on need for placement where we are proposing placing it:

Jun 7, 2023,
9:11 PM (13
hours ago)

Evaluating the site left only one option for placement of the condenser. The front, back, and street (Gates) side of the property have little to no available area to meet the requirements due to property lines and street setbacks. The only location viable for the condensing unit is towards the rear of the driveway side of 112 Mechanic St up against home.

The condenser would be on a raised and level stand, surrounded by a paint matched lattice, and the refrigerant lines will be also paint matched as to blend in seamlessly.

Lee Stevens
STEVENS MECHANICAL
Rochester, NH
603-394-5151



STEVENS MECHANICAL, 24/7 HVAC Svc Co. LLC

151 Flagg Rd
Rochester, NH 03839 US
(603)394-5151
leestevens247@live.com
www.STEVENSMECHANICALNH.com

Estimate

ADDRESS

Eric Gregg
112 Mechanic St
Portsmouth, NH

SHIP TO

Eric Gregg
112 Mechanic St
Portsmouth, NH

ESTIMATE # 1017414

DATE 03/08/2023

ACTIVITY	QTY	RATE	AMOUNT
Air conditioning:Ductless unit Ductless unit includes condenser and evaporator head(s), line set and pad. 7K and 9K. With lattice covering and color matched to house	1	5,510.00	5,510.00
16 Electrical Sub contract electrical estimate	1	1,000.00	1,000.00
01 Plans and Permits Plans and Permits required by code and may vary on town or city.	2	100.00	200.00

Thank you for allowing us to quote your job.

TOTAL

\$6,710.00

Estimates are good for 15 days and are subject to change due to market fluctuations of equipment prices. This is only an **ESTIMATE** and job cost may change with additional parts or equipment needed to complete the job.

To confirm your estimate, please submit a 50% deposit to schedule your job and order materials, thank you.

Accepted By

Accepted Date



Search by keyword, part #, €

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Samsung JXH20S3B



Outdoor Unit 3-Port Heat Pump Max Heat FJM 20K BTU 208-230 Volt AJ020BXS3CH/AA

Account required to order

Installation Manual



Product Details

Brand	Samsung
Product Type	3-Port Heat Pump Max Heat FJM
Heating BTU	20KBTU
Voltage	208-230V
Phase	1PH
Refrigerant	R410A
Part Number	AJ020BXS3CH/AA
Finish	White
Length	13IN
Width	37IN
Height	39-5/16IN

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F.W. Webb Company
160 Middlesex Tpke
Bedford, MA 01730



III. NEW BUSINESS

- F. The request of **Karyn S. Denicola Revocable Trust (Owner)**, for property located at **281 Cabot Street** whereas relief is needed to demolish the existing single-family dwelling and detached one-story garage/shed and construct a new single family dwelling with attached garage which requires the following: 1) Variance from Section 10.521 to allow a) 3' front yard setback where 5' is required; b) a 5' south side yard setback where 10' is required; c) a 3.5' north side yard setback where 10' is required; and d) a 43% building coverage where 35% is allowed. Said property is located on Assessor Map 144 Lot 20 and lies within the General Residence C (GRC) District. (LU-23-84)

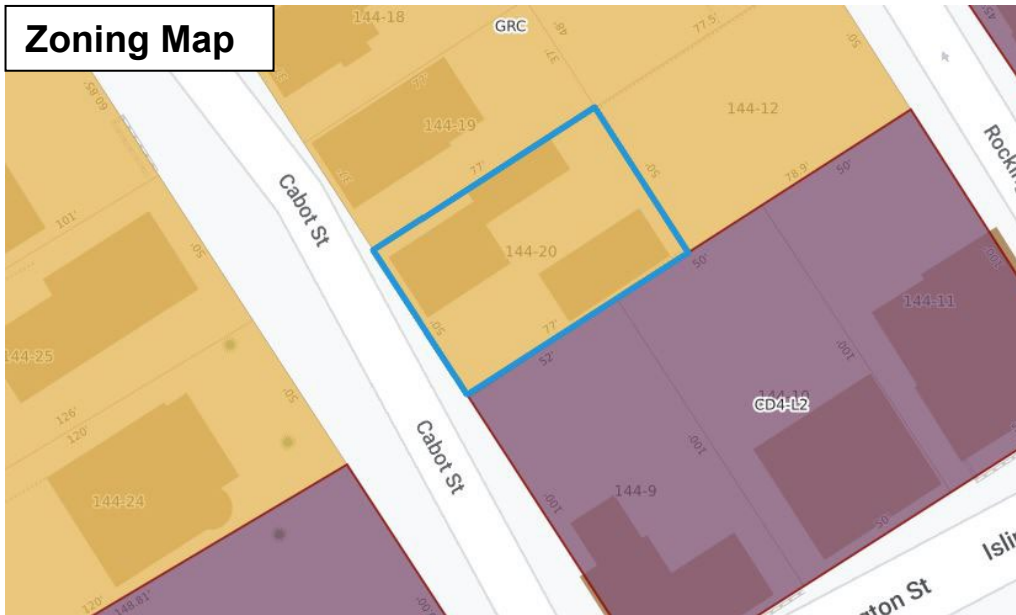
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Dwelling	Raze and Reconstruct	Primarily residential
<u>Lot area (sq. ft.):</u>	3,864	3,864	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,864	3,864	3,500 min.
<u>Street Frontage (ft.):</u>	49.5	49.5	70 min.
<u>Lot depth (ft.)</u>	77.5	77.5	50 min.
<u>Front Yard (ft.):</u>	1.8	3	5 min.
<u>Left Yard (ft.):</u>	0	3.5	10 min.
<u>Right Yard (ft.):</u>	2	5	10 min.
<u>Rear Yard (ft.):</u>	5.3	20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u> :	36	43	35 max.
<u>Open Space Coverage (%)</u> :	>20	>20	20 min.
<u>Parking</u>	3	3	2
<u>Estimated Age of Structure:</u>	1870	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing single-family dwelling and detached garage and to reconstruct a new dwelling with an attached garage in its place. The newly constructed dwelling is proposed within the front and side setbacks and with an increase in total building coverage from 36% to 43% where 35% is the maximum, which requires relief from the

dimensional requirements. The applicant included a request for a Variance from Section 10.321 to permit the reconstruction of a single-family dwelling on the property which is more non-conforming for building coverage than the existing conditions. As the proposal is for a complete demo and replacement of the existing structures, this section is not applicable to the proposal and does not require relief.

The GRC District requires 70 feet minimum street frontage whereas the existing lot has 49.5 feet.

Article 3, Section 10.312 outlines:

- 10.312 Notwithstanding the provision of Section 10.311, a **lot** that has the minimum **lot area** but has less than the minimum **street frontage** required by this Ordinance shall be considered to be in compliance with respect to the **frontage** requirement if one of the following conditions applies:
- 10.312.10 The **lot** was shown on a recorded plan or described in a recorded deed on or before March 21, 1966, and such **lot** was not held in common ownership with any adjoining or **contiguous lot** on or before March 21, 1966; or
 - 10.312.20 The **lot** was shown on a recorded plan or described in a recorded deed on or before March 21, 1966, and the Planning Board has approved a plat demonstrating that such **lot** and all adjoining or **contiguous lots** under common ownership have been combined to create a **lot** or **lots** most nearly consistent with the minimum **street frontage** requirement; or
 - 10.312.30 The **lot** was shown on a plan or described in a deed recorded after March 21, 1966, and such **lot** was created in compliance with the Zoning Ordinance, Subdivision Rules and Regulations and such other ordinances and regulations which properly apply and were in effect at the time of recording in the Rockingham County Registry of Deeds.

The applicant should clarify if one of the conditions is met for compliance with the street frontage requirement or the Board may consider postponing the application for notice that includes the request for relief of the frontage requirement.

Variance 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

 - (c) *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.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



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HAND DELIVERED

May 31, 2023

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

RE: 281 Cabot Street, Map 144, Lot 20
Karyn S. DeNicola Revocable Trust

Dear Chair Eldridge and Board Members:

Enclosed please find supporting materials to accompany the information submitted via the City's on-line permitting system for variance relief regarding the above referenced property.

We respectfully request that this matter be placed on the Board's June 21, 2023 agenda. In the meantime, if you have any questions or require additional information do not hesitate to contact me.

Very truly yours,
DONAHUE, TUCKER & CIANDELLA, PLLC

Justin L. Pasay
JLP/sac
Enclosures

cc: Karyn DeNicola
John Chagnon
CJ Architects

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DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

VARIANCE APPLICATION OF

Karyn S. DeNicola, Trustee of the Karyn S. DeNicola Revocable Trust (the “Applicant”) for property located at 281 Cabot Street, Portsmouth, NH 03801, which is further identified as City Assessor Map 144, Lot 20 (the “Property”). The Property is located within City’s General Residence C Zoning District (the “GRC District”).

A. Introduction and Factual Context

i. **Development Team and Application Materials**

The Applicant’s development team consists of John Chagnon, PE, LLS, of Ambit Engineering, Inc. (“Ambit”) and Carla Goodknight, AIA, NCARB of CJ Architects. Included herewith are the following enclosures:

- Aerial Photograph, Zoning Map and Assessor Map 144. See Enclosure 1.
- Tax Card. See Enclosure 2.
- DeNicola Residence, 281 Cabot Street, Portsmouth, N.H. plan set from Ambit, dated 24 May 2023, to include an Existing Conditions & Demolition Plan on C1 (the “**Existing Conditions Plan**”), and a Variance Plan on C2 (the “**Variance Plan**”). See Enclosure 3.
- DeNicola Residence renderings and elevations from CJ Architects Duplex dated 21 May 2023 to include Floor Plans & Elevations on sheet A1 and Existing & Proposed Views on sheet A2 (the “**Architectural Plans**”). See Enclosure 4.
- Existing Conditions Photographs. See Enclosure 5.

ii. **Property Description, Existing Conditions, Character of Neighborhood and Applicable Zoning Regulations**

The Property is situated within the GRC District, which was established to “provide for single-family, two-family and multifamily dwellings, with appropriate accessory uses, at moderate to high densities (ranging from approximately 5 to 12 dwelling units per acres), together with appropriate accessory uses and limited services.” Zoning Ordinance, Section 10.410.

The Property is located at the southern side of Cabot Street closer to Islington Street than Cabot Street’s intersection with McDonough Street. See Enclosures 1, 3. At 3,864 sf in size (0.089 acres) the Property is smaller than the average lot size of the neighborhood, which the Applicant defines here as the properties on either side of Cabot Street between Islington Street and McDonough Street. More specifically, the Property is roughly equivalent in size to its neighbors on the eastern side of Cabot Street to the north to include 287 Cabot Street (0.07 acres), 295 Cabot Street (0.07 acres), 303 Cabot Street (0.07 acres) and 311 Cabot Street (0.05 acres), as well as the property on the western side of Cabot Street located at 312 Cabot Street (0.09 acres), but smaller than the abutting property to the south at 323 Islington Street (0.12 acres) and the remaining properties on the western side of Cabot Street south of McDonough Street to include 361 Islington Street (0.35 acres), 278 Cabot Street (0.14 acres), 286 Cabot Street (0.14 acres), 304 Cabot Street (assessing data is not clear but the property appears to be

approximately 0.14 acres in size) and 312 Cabot Street.¹ See **Enclosure 1**. The average lot size in this area, as defined above, is 0.12 acres.

The land use composition of the existing neighborhood is largely residential and consistent with the purpose of the GRC District, as mentioned above. Most properties appear to have a single-family residential use per the City's assessing data, though the Property at 304 Cabot Street appears to be a four-unit multi-family condominium, the property at 286 Cabot Street appears to be a three-family multi-family use, and the property at 278 Cabot Street is assessed as boarding house. To the south of the Property and situated along Islington Street are the properties identified as 323 Islington Street, which is an office building, and 361 Islington Street, which is the former Getty gas station. Both of these properties are located within the City's CD4 Zoning District which was established to "promote the development of walkable, mixed-use, human-scaled places by providing standards for building form and placement and related elements of development." Zoning Ordinance, Article 4, Section 10.410.

Importantly, the Property is unique because the northern section of the commercial property located to the south of the Property (323 Islington Street) is unimproved by any structures, as that area accommodates a driveway. Similarly, the abutting property to the east (28 Rockingham Street) is currently unimproved, with no structures on same.

The Property is currently improved with a 2 ½ story wood frame single family dwelling and detached one (1) story garage/shed. See **Enclosures 1 – 5**. Pursuant to the City's assessing data, the existing dwelling has two (2) bedrooms, 1,301 sf of living area, and was constructed on or about 1870. See **Enclosure 2**. The improvements on the Property are in poor condition. More specifically, the single-family dwelling, kitchen ell and detached garage/shed have been neglected. The dwelling has significant foundation issues, sagging floors, rotten windows and siding and what appears to be an under-framed and leaking roof. See **Enclosure 5**.

The Property is currently non-conforming with the GRC District's dimensional requirements in the following ways:

- 1) **Frontage:** The Property has 49.86 ft of frontage where 70 ft of frontage is required in the GRC District.
- 2) **Side Yard Setback:** The existing garage/shed is located 2.1 ft from the southern (side) boundary where the GRC District has a 10 ft side setback requirement.
- 3) **Side Yard Setback:** The existing single-family dwelling is located, at its closest, 0.2 ft from the northern (side) boundary where the GRC District has a 10 ft side setback requirement.
- 4) **Rear Yard Setback:** The existing garage/shed is located 5.3 ft from the rear boundary where 20 ft is required in the GRC District.
- 5) **Front Yard Setback:** The front steps to the existing dwelling encroach over the Property line into the City's sidewalk. Further, the existing single-family dwelling is located 1.8 ft from the front yard boundary where the GRC District has a 5 ft front yard setback.

¹ With the exception of the Property at 281 Cabot Street which is the subject of this application, the lot size information was gleaned from the City's online GIS map.

- 6) **Existing Building Coverage:** The existing building coverage² is 36% where the maximum building coverage permitted in the GRC District is 35%.

The GRC District has the following dimensional requirements:

- Lot area: 3,500 sf
- Lot area per dwelling unit: 3,000 sf
- Continuance street frontage: 70 ft
- Depth: 50 ft
- Minimum front yard: 5 ft
- Minimum side yard: 10 ft
- Minimum rear yard: 20 ft
- Max Structure Height: 35 ft
- Max roof appurtenance: 8 ft
- Max Building Coverage: 35%
- Minimum open space: 20%

See Zoning Ordinance, Article 5, Section 10.520.

iii. Project Proposal

The Applicant proposes to raze and remove the existing single-family dwelling and garage/shed on the Property and replace the same with a new single-family dwelling and attached garage. See Enclosures 3, 4. As depicted in **Enclosure 4**, the new single-family dwelling will have a garage, kitchen, dining area, living room and master bedroom on the first floor. See Enclosure 4. The second floor will accommodate three (3) bedrooms and 1.5 bathrooms. Id.

The net result of the Project will be a property which is more dimensionally conforming with the Zoning Ordinance’s requirements than the existing conditions, with the exception of Building Coverage, though importantly, the total impervious surface area of the Property will decrease by 1.5% in the proposed conditions and further, the difference between the Building Coverage existing and that which is proposed, is approximately 270 sf. See Id. Further, the Project will beautify the Property in a manner that is consistent with surrounding properties, particularly with regard to building massing, which will align with similar adjacent buildings along the street scape and which will be generally consistent with the existing buildings’ shape, size and fenestration. See Enclosure 4.

² “Building Coverage” is defined by Article 15 of the Zoning Ordinance as “[t]he aggregate horizontal area or percentage (depending on the context) of a lot or development site covered by buildings and structures on the lot, excluding gutters, cornices and eaves projecting not more than 30 inches from a vertical wall, and structures less than 18 inches above ground level (such as decks and patios); balconies, bay windows or awnings projecting not more than 2 feet from a vertical wall, not exceeding 4 feet in width, and cumulatively not exceeding 50% of the width of the building face; fences; and mechanical system (i.e., HVAC, power generator, etc.) that is less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet). “Structure” is defined as [a]ny production or piece of work, artificially built up or composed of parts and joined together in some definite manner. Structures include, but are not limited to, buildings, fences over 4 feet in height, signs, and swimming pools.”

More specifically, the below table outlines the existing non-conformities as contrasted against the proposed conditions in all relevant contexts. The green highlight depicts improved conformity with the Zoning Ordinance’s dimensional requirements and the yellow highlight depicts the lone increased non-conformity with the Zoning Ordinance’s Building Coverage requirement.

<u>Dimensional Requirement Category</u>	<u>Requirement</u>	<u>Existing</u>	<u>Proposed</u>	<u>Net Result</u>
Front Yard Setback	5 ft	0.0 ft / 1.8 ft	3.0 ft	More Conforming by 3 ft
Side Yard Setback (South)	10 ft	2.1 ft	5.2 ft	More conforming by 3.1 ft
Side Yard Setback (North)	10 ft	0.2 ft	3.8 ft	More conforming by 3.6 ft
Rear Yard Setback	20 ft	5.3 ft	20.2 ft	More conforming by 14.9 ft ³
Building Coverage	35%	36%	43%	Less conforming ⁴

See Enclosure 3.

iv. Requested Relief

The Applicant requests the following variance relief to accommodate the Project:

- **Front Yard Setback Relief:** The Applicant requests variance relief from Article 5, Section 10.520 of the Zoning Ordinance to permit a front yard setback of 3.0 ft where 5 ft is required by the Zoning Ordinance, and where the existing conditions encroach beyond the front yard boundary.
- **Side Yard Setback (South) Relief:** The Applicant requests variance relief from Article 5, Section 10.520 of the Zoning Ordinance to permit a side yard setback (south) of 5.2 ft where 10 ft is required by the Zoning Ordinance, and where the existing garage/shed is located 2.1 ft from the side yard (south) boundary.
- **Side Yard Setback (North) Relief:** The Applicant requests variance relief from Article 5, Section 10.520 of the Zoning Ordinance to permit a side yard setback (north) of 3.8 ft

³ The result of the Project is a Property with conforming rear yard setback.

⁴ Though the building coverage will increase by 7%, the total impervious surface lot coverage on the Property will decrease by 1.5%. See Enclosure 3.

where 10 ft is required by the Zoning Ordinance, where the existing single-family dwelling is located 0.2 feet from the side yard (north) boundary.

- **Building Coverage:** The Applicant requests variance relief from Article 3, Section 10.321 of the Zoning Ordinance to permit the reconstruction of a single-family dwelling on the Property which is more non-conforming vis-à-vis building coverage (43%) than the existing conditions are (36%).
- **Building Coverage:** The Applicant requests variance relief from Article 5, Section 10.520 to permit a lot with Building Coverage of 43% where 35% is the maximum allowed by the Zoning Ordinance.

v. **Statutory Variance Criteria**

Pursuant to Article 2, Section 10.233 of the City’s Zoning Ordinance and RSA 674:33, to obtain a variance in Portsmouth, an applicant must show that: (1) the variance will not be contrary to the public interest; (2) the spirit of the ordinance is observed; (3) substantial justice is done; (4) the values of surrounding properties are not diminished; and (5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, where said term means that, owing to special conditions of the property that distinguish it from other properties in the area: no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and the Proposed use is a reasonable one; or if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, 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. See RSA 674:33, I (b).

Because the Applicant’s Project will be consistent with the essential character of the surrounding area, will not compromise the public health in any way, will provide substantial justice, will not compromise the property values of surrounding properties, and because there is no rational connection between the intent of the underlying ordinance provisions and their application to the Property under the unique circumstances of this case, as outlined below, we respectfully request that the requested variance be granted.

B. Analysis

1. The variances will not be contrary to the public interest.

The New Hampshire Supreme Court has indicated that the requirement that a variance not be “contrary to the public interest” is coextensive and related to the requirement that a variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005); Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 105-06 (2007); and Farrar v. City of Keene, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest only if it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives.” Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. See also Harborside Associates, L.P. v. Parade

Residence Hotel, LLC, 162 N.H. 508, 514 (2011) (“[m]ere conflict with the terms of the ordinance is insufficient.”) Moreover, these cases instruct boards of adjustment to make the determination as to whether a variance application “unduly” conflicts with the zoning objectives of the ordinance “to a marked degree” by analyzing whether granting the variance would “alter the essential character of the neighborhood” or “threaten the public health, safety or welfare” and to make that determination by examining, where possible, the language of the Zoning Ordinance. See supra.

As indicated above, the majority of the requested variances derive from Article 5, Section 10.520 (the Table of Dimensional Standards – Residential and Mixed Residential Districts), which pertains, in this case, to the intended aesthetic of the GRC District. Importantly, in this context, and with the exception of the Building Coverage variance requests, the dimensional components which are the basis for remaining variance requests constitute an improvement over existing conditions. See Enclosures 3, 4, 5. Further, despite increasing the Building Coverage on the Property from 36% to 43% (approximately 270 sf), and therefore technically making said nonconformity more nonconforming, the impervious surface coverage of the lot actually decreases by 1.5%, thus mitigating the impacts of the additional Building Coverage contemplated by the Project. Id.

As noted above, the specific purpose of the GRC District is to “provide for single-family, two-family and multifamily dwellings, with appropriate accessory uses, at moderate to high densities (ranging from approximately 5 to 12 dwelling units per acres), together with appropriate accessory uses and limited services.” Zoning Ordinance, Article 4, Section 10.410. The general purpose of the Zoning Ordinance as a whole, is to “promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan” via the regulation of, among other things, the intensity of land use and the preservation and enhancement of the visual environment. Zoning Ordinance, Article 1, Section 10.121. To summarize, the objectives of the GRC District and the dimensional and use restrictions inherent to same which are implicated by this application, are to facilitate residential development that is aesthetically consistent in the zoning district.

Here, as a foundational point, the Applicant’s proposal does not create any marked conflict with the underlying provisions of the Zoning Ordinance because, on the contrary, and due to the existing built environment of the Property and the surrounding properties, the Project is consistent with the existing neighborhood and ultimately advances the purpose of the ordinance to provide residential density which is aesthetically consistent with the underlying district.

More specifically, the Project proposes a new single-family dwelling and attached garage, which use is consistent with the purpose of the GRC District, which will be more conforming with the Zoning Ordinance’s dimensional requirements in the GRC District in all respects than the existing conditions, with the exception of Building Coverage. In that context, though there will be 7% more Building Coverage than the existing conditions (36% existing, 43% proposed, approximately 270 sf), the Property will actually have 1.5% less impervious coverage than the existing conditions because while the main structure contemplated by the proposed conditions plan is larger, the Project proposes to remove the existing garage/shed,

concrete surfaces and a significant portion of the existing paved driveway. See Enclosure 3. Further, the aesthetic, massing and fenestration of the new dwelling was specifically designed to be consistent with the surrounding neighborhood so to preserve the essence of the existing street view looking north on Cabot Street. See Enclosure 4. The Project contemplates the tasteful redevelopment of the Property in a manner consistent with its surrounds. For these reasons, there is no “marked conflict” between the Project proposal, and the objectives of the Zoning Ordinances in question.

For the same reasons, the Project also plainly satisfies the case law requirements because the essential character of the neighborhood will not be affected for the reasons explained throughout this narrative. The dimensional relief requested from Article 5, Section 10.520 will not alter the essential character of the neighborhood because the Property will be more conforming as to front yard setback, side yard (north and south) setback, and rear setback. See Enclosures 3 and 4. Further, though the Project contemplates approximately 270 sf more Building Coverage than the existing conditions, the Property will have less impervious surface coverage than what exists today. Id. This increased nonconformity is particularly insignificant due to the unique circumstances of the surrounding properties to include the unimproved nature of 28 Rockingham Street directly behind the Property and the unimproved (save for a driveway) rear yard of the property located at 323 Islington Street.

Ultimately, the Applicant’s Project will be consistent with the intent of the GRC District and the general purposes of the Zoning Ordinance, and because the Project will not alter the essential character of the neighborhood or threaten the public health or safety, it would be reasonable and appropriate for the Board of Adjustment to conclude that granting the Applicant’s variance requests will satisfy the public interest prong of the variance criteria.

2. The spirit of the Ordinance is observed.

As referenced above, the requested variances observe the spirit of the Zoning Ordinance and New Hampshire jurisprudence regarding the “public interest” prong of the variance criteria because the Applicant’s Project will be consistent with the general and implied purposes of the Zoning Ordinance provisions at issue in this case. Further, the Project will not compromise the character of the neighborhood or threaten the public health, safety, or welfare. As the New Hampshire Supreme Court has indicated in both Chester Rod & Gun Club and in Malachy Glen, the requirement that the variance not be “contrary to the public interest” is coextensive and is related to the requirement that the variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives.” Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. As discussed above, the requested variances are consistent with the general spirit of the Ordinances in question. As a result, for the reasons stated above, the Applicant respectfully asserts that it would be reasonable and appropriate for the Board of Adjustment to conclude that the requested variance will observe the spirit of the Zoning Ordinance.

3. Substantial justice is done.

As noted in Malachy Glen, supra, “perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, supra, citing 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)). In short, there must be some gain to the general public from denying the variance that outweighs the loss to the applicant from its denial.

In this case, the public does not gain anything by denying the requested variances. In its current improved conditions, the Property is in significant need for redevelopment and at bottom, this proposal artfully and beautifully proposes to accomplish same on a property which is extremely constrained by its minimal 49.86 ft of width. The Project will accomplish this redevelopment in an aesthetic which is consistent with the existing structure on the Property and which compliments the charm of the neighborhood and of the greater Portsmouth area. In this sense, the public benefits from the Project because it will conservatively advance essential character of the area, make a lot which is generally more conforming with the dimensional requirements of the Zoning Ordinance than what exists today, and will generate additional tax revenue.

On the contrary, if the variances are denied, it will be difficult to redevelop the Property and the public will not benefit from anticipated increases in tax revenue. Further, the Applicant will not be able to reasonably use Property for a use which is totally consistent with the existing use, the surrounding area, and purposes of the GRC District.

Certainly, the Applicant will benefit from the variances, if granted, as they will facilitate the reasonable use of the Property in furtherance of the Applicant’s goals.

As the requested variances benefit the Applicant and do not detriment the public, there is no gain to the general public from denying the request that outweighs the loss to the Applicant from its denial, and this prong of the variance criteria is satisfied.

4. The proposal will not diminish surrounding property values.

Given the nature of the existing and proposed conditions of the Property and the surrounding area, as discussed above and depicted in the Enclosures, the Applicant’s proposal will not diminish surrounding property values. The proposed residential redevelopment will be substantially consistent with the existing structures on the Property and the surrounding area. **See Enclosure 4.** The Applicant’s Project will obviously enhance the value of the Property, thereby likely enhancing the value of surrounding properties in turn. Further, the new single-family dwelling and attached garage will be more conforming as to front, side and rear setback requirements, and will only be more non-conforming as to Building Coverage, though the Project actually contemplates a decrease in impervious surface coverage. The lot’s open space will remain compliant. Certainly, there is no evidence in the record that could reasonably support the conclusion that the proposed Project will diminish surrounding property values. As

the weight of the evidence supports the conclusion that the Project will not diminish the value of surrounding properties, it would be reasonable for the Board of Adjustment to conclude that this prong of the variance criteria is satisfied.

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

a. Legal Standard

As set forth in the provisions of RSA 674:33, I, there are two options by which the Board of Adjustment can find that an unnecessary hardship exists:

(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (ii) The Proposed use is a reasonable one.

(the “First Hardship Test”)

or,

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, 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. (the “Section Hardship Test”).

The Applicant respectfully reminds the Board of Adjustment that the mere fact that the Applicant is seeking a variance from the express provisions of the Zoning Ordinance is not a valid reason for denying the variance. See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007); see also Harborside Associates, 162 N.H. at 2011 (“mere conflict with the terms of the ordinance is insufficient”).

b. Summary of Applicable Legal Standard

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying property which is the subject of a variance request. This requirement finds its origins in the Standard State Zoning Enabling Act of the 1920s “since it is the existence of those ‘special conditions’ which causes the application of the zoning ordinance to apply unfairly to a particular property, requiring that variance relief be available to prevent a taking.”⁵ The Supreme Court has determined that the physical improvements on a property can constitute the “special conditions” which are the subject of the first prong of the First Hardship Test. Harborside, 162 N.H. at 518 (the size and scale of the buildings on the lot could be

⁵ 15 Loughlin, New Hampshire Practice, Land Use Planning and Zoning, §24.20 (4th Ed.) citing The Standard State Zoning Enabling Act.

considered special conditions); *Cf Farrar*, 158, N.H. 689 (where variance sought to convert large, historical single use residence to mixed use of two residence and office space, size of residence was relevant to determining whether property was unique in its environment).

The second prong of the First Hardship Test analysis, pertaining to the relationship between the public purpose of the ordinance provision in question, and its application to the specific property in question, is the codified vestige of a New Hampshire Supreme Court case called *Simplex Technologies, Inc. v. Town of Newington* (“*Simplex*”).⁶ To summarize, the Board’s obligation in this portion of its hardship analysis is to determine the purpose of the regulation from which relief is being sought and if there is no specific purpose identified in the regulation, then to consider the general-purpose statements of the ordinance as a whole, so that the Board may determine whether the purpose of said ordinance is advanced by applying it to the property in question.

The final prong of the First Hardship Test analysis is whether the proposed use is “reasonable.”

The Applicant respectfully reminds the Board of Adjustment of the New Hampshire Supreme Court’s substantive pivot in *Simplex*. The *Simplex* case constituted a “sharp change in the New Hampshire Supreme Court’s treatment of the unnecessary hardship requirement.” The *Simplex* Court noted that under the unnecessary hardship standard, as it had been developed by the Court up until that time, variances were very difficult to obtain unless the evidence established that the property owner could not use his or her property in any reasonable manner.”⁷ This standard is no longer the required standard in New Hampshire. The Applicant does not have an obligation to affirmatively prove that the underlying Property cannot be reasonably used without the requested variance modification. Rather, the critical question under the First Hardship Test is whether the purpose of the Zoning Ordinance is fairly and substantially advanced by applying it to the Applicant’s Property considering the Property’s unique setting and environment. This approach is consistent with the Supreme Court’s pivot away from the overly restrictive pre-*Simplex* hardship analysis “to be more considerate of the constitutional right to enjoy property”.⁸

The Second Hardship Test, which we will not focus on in this narrative, is satisfied by establishing that owing to special conditions of the property that distinguish it from other properties in the area, 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.

c. Analysis

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying Property which distinguish it from others in the area. Here, as discussed at length in Section A above, which is incorporated herewith by reference, the Property does have special conditions that distinguish it from others in the area to specifically

⁶ 145 N.H. 727 (2001).

⁷ 15 Loughlin, 24.16.

⁸ *Id.* citing *Simplex*, 145 N.H. at 731.

include its smaller than average size when contrasted against the other properties along Cabot street, its location adjacent to the CD4 District, the Property's ability to accommodate the proposed redevelopment in a way that is substantially more conforming dimensionally than the existing conditions, and the Property's location proximate to 28 Rockingham Street, which is unimproved, and 323 Islington Street, the rear of which is unimproved but for a driveway. As a result, in the one aspect the Property will be more non-conforming, i.e., regarding Building Coverage, such limited increase (approximately 270 sf) in non-conformity is offset by the nature of the surrounding conditions. Through these unique characteristics, the Property is uniquely situated to accommodate the proposed Project which will constitute the highest and best use for this parcel.

As there are special conditions of the Property, the first prong of the First Hardship Test is satisfied.

The second prong of the First Hardship Test pertains to the relationship between the public purpose of the ordinance provisions in question, and their application to the specific property in question. To summarize, the Board of Adjustment must determine whether the purpose of the underlying ordinances are advanced by applying them to the property in question.

Here, as discussed above, the majority of the requested variances derive from Article 5's Table of Dimensional Standards – Residential and Mixed Residential Districts, and they pertain to the intended aesthetic of the GRC District, which was designed to “provide for single-family, two-family and multifamily dwellings, with appropriate accessory uses, at moderate to high densities (ranging from approximately 5 to 12 dwelling units per acres), together with appropriate accessory uses and limited services.” Zoning Ordinance, Section 10.410. Further, the general purpose of the Zoning Ordinance is to “promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan” via the regulation of, among other things, the intensity of land use and the preservation and enhancement of the visual environment. Zoning Ordinance, Article 1, Section 10.121. To summarize, the objective of the GRC District and the dimensional and use restrictions inherent to same which are implicated by this application, are to facilitate residential development in an aesthetically consistent manner within the district.

In this case, denying the variance will not advance the purposes of these ordinances because the opposite is true: granting the requested variances will facilitate the redevelopment of the Property in a way that is primarily more conforming as to Article 5's dimensional requirements than the existing conditions. The lone exception to this statement is the 7% (approximately 270 sf) increase in impervious surface area that the Project contemplates. As noted above, however, though Building Coverage is proposed to increase, impervious surface area of the Property will be decreased by 1.5%, thus mitigating the impact caused by the additional Building Coverage. Further, because of the Property's unique proximity to unimproved areas of 28 Rockingham Street and 323 Islington Street, the additional Building Coverage will be negligible, particularly when you consider the improvements to the site vis-à-vis front, side and rear yard setbacks.

The Applicant's proposal would advance the general and implied purposes of the Zoning Ordinances in question for all the reasons detailed in this narrative and denying the requested variance would only serve to frustrate the same. As such, the second prong of the hardship criteria is satisfied in this case.

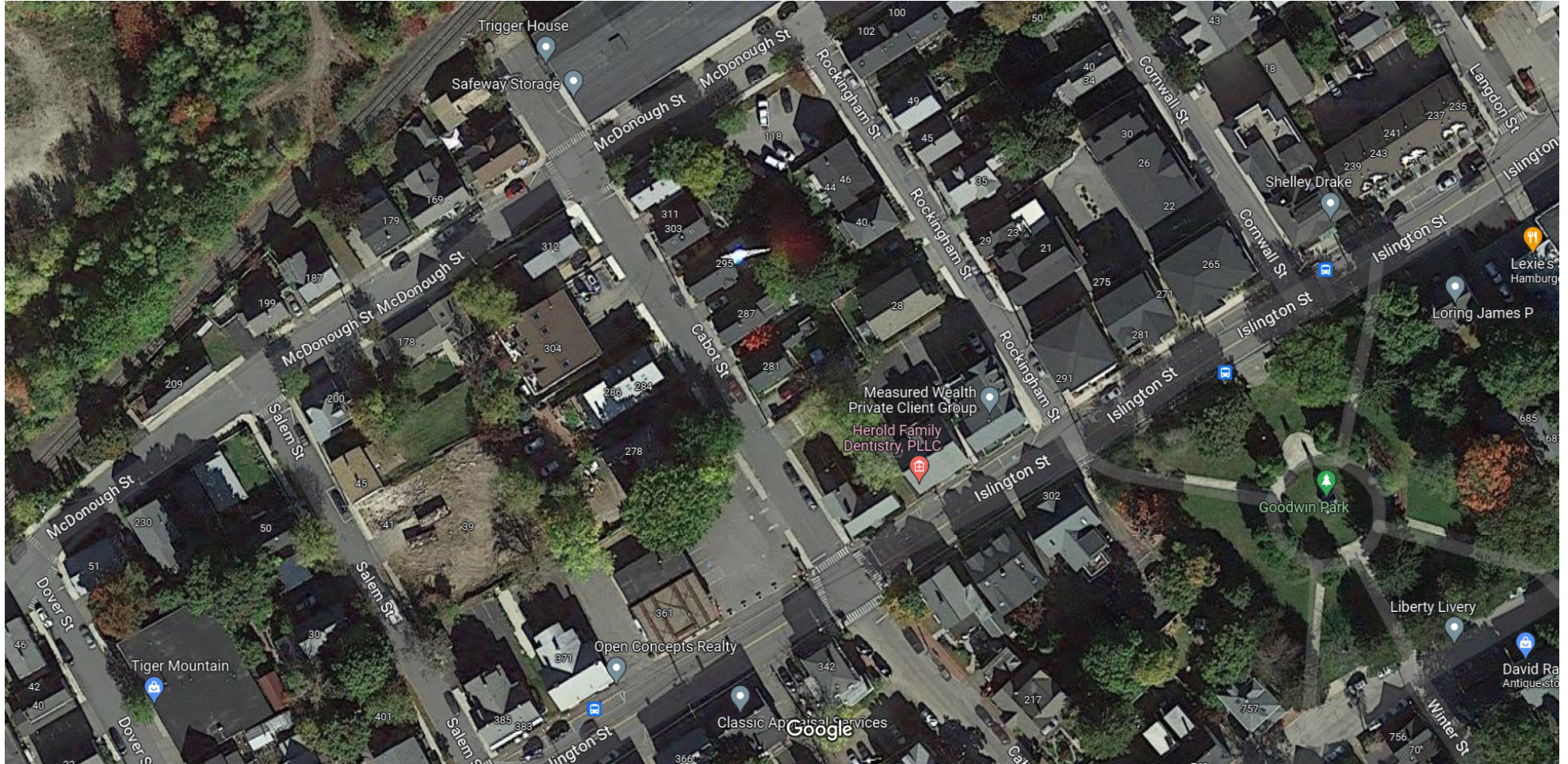
The final analysis under the First Hardship Test is to determine whether the proposed use is reasonable. Here, the proposed Project is reasonable because it constitutes the redevelopment of a single-family use to accommodate an improved single-family use in a manner consistent with the essential character of the neighborhood. As such, the Applicant's proposal is reasonable.

On these facts, the Applicant respectfully submits that its variance requests satisfy the final prong of the statutory variance criteria.

C. Conclusion

The Applicant respectfully submits that they have satisfied the statutory variance criteria in this matter and its Application should be approved.

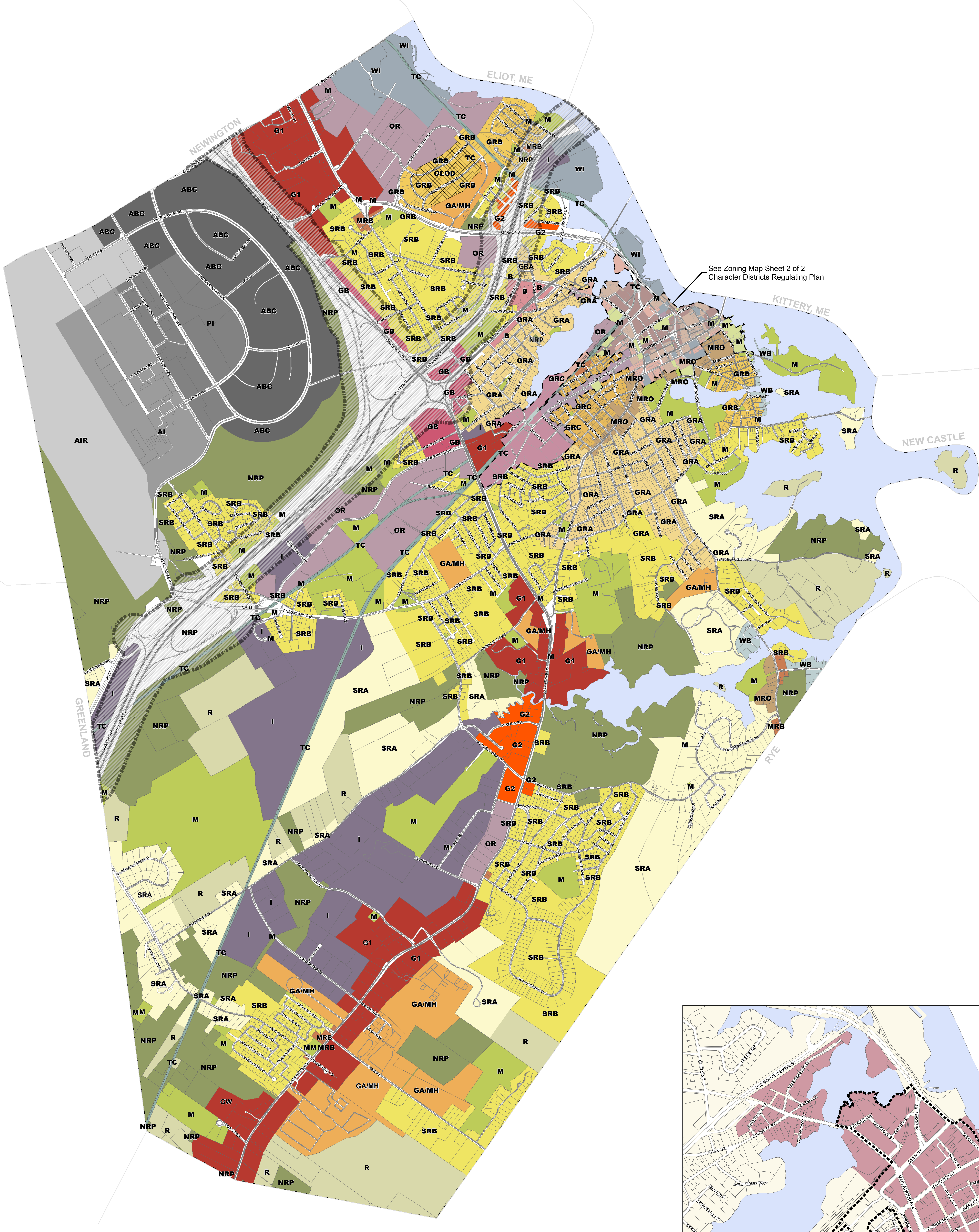
Enclosure 1



Imagery ©2023 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, Map data ©2023 50 ft

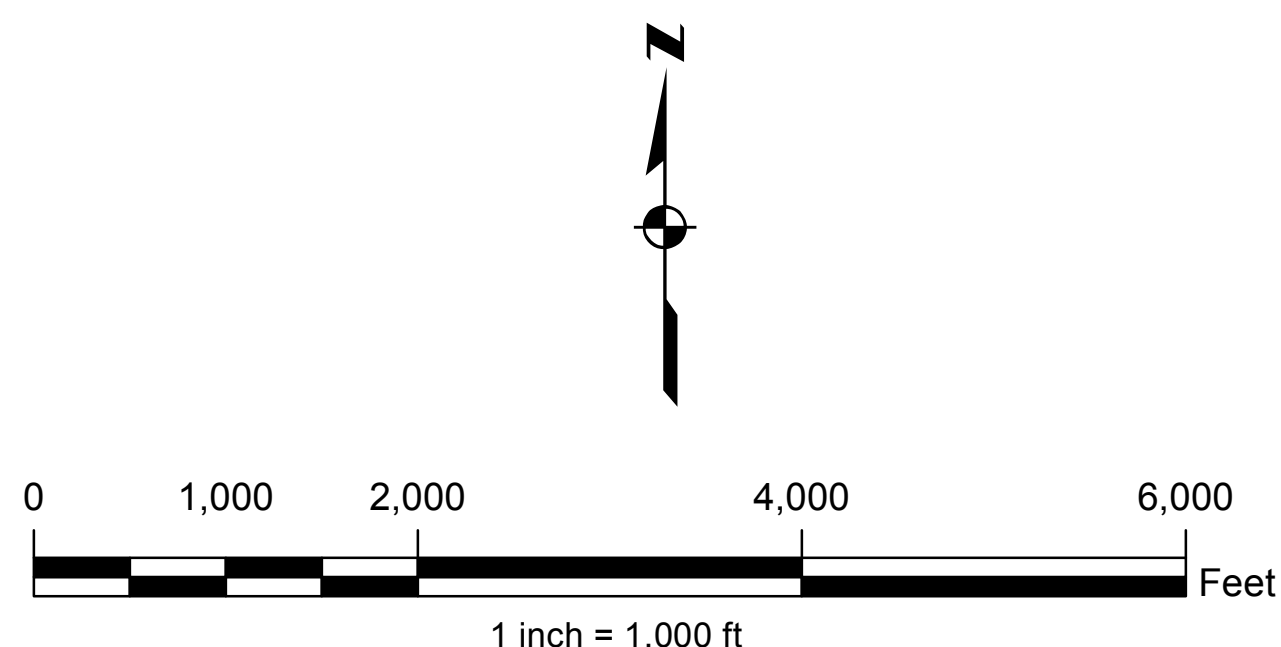
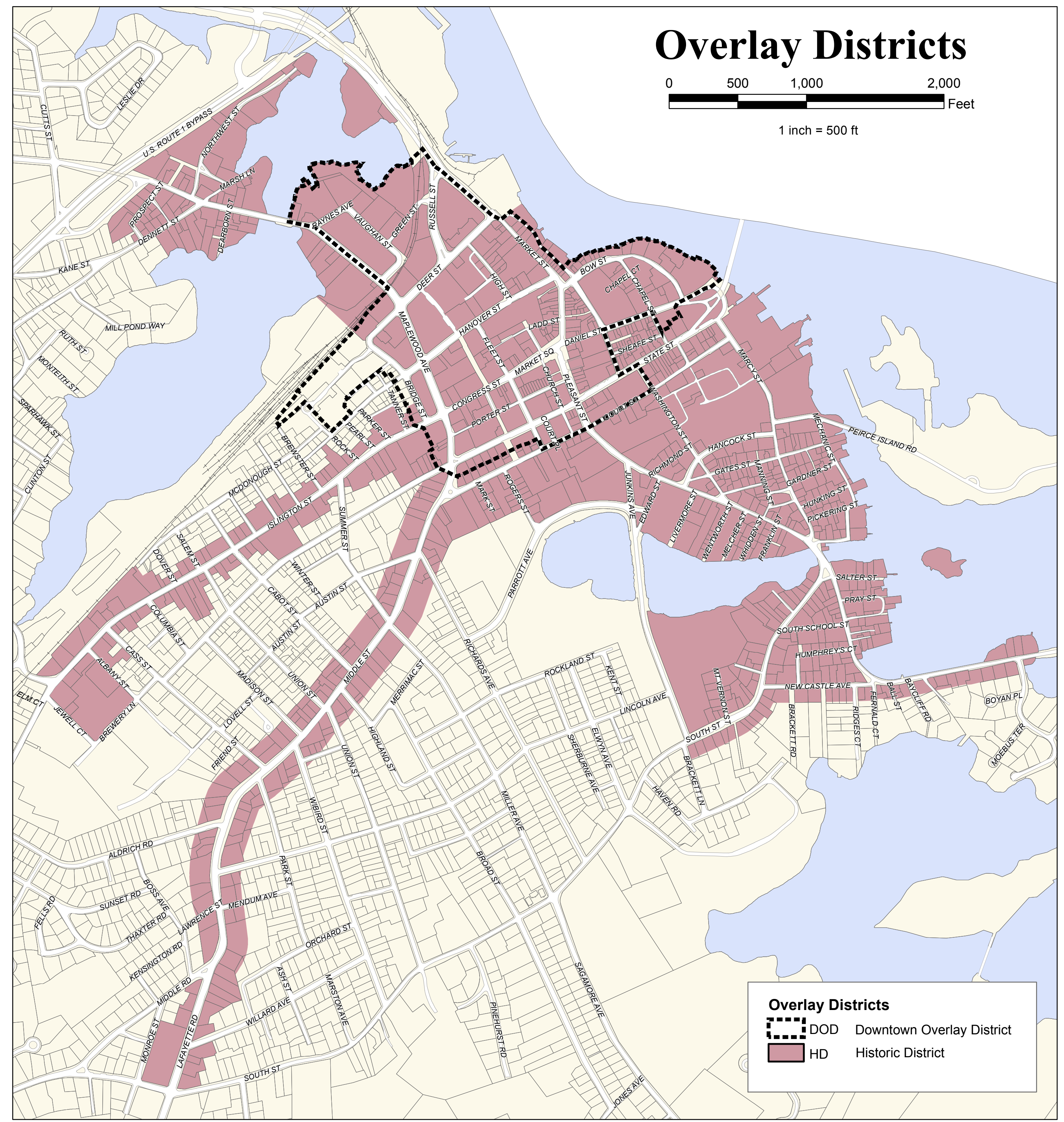
City of Portsmouth Zoning Map

Sheet 1 of 2



Legend

- Character Districts**
 [---] Character-Based Zoning Area
 (Refer to Zoning Map Sheet 2 of 2 Character Districts Regulating Plan)
- Residential Districts**
- R Rural
 - SRA Single Residence A
 - SRB Single Residence B
 - GRA General Residence A
 - GRB General Residence B
 - GRC General Residence C
 - GAMH Garden Apartment/Mobile Home Park
- Mixed Residential Districts**
- MRO Mixed Residential Office
 - MRB Mixed Residential Business
 - G1 Gateway Corridor
 - G2 Gateway Center
- Business Districts**
- GB General Business
 - B Business
 - WB Waterfront Business
- Industrial Districts**
- OR Office Research
 - I Industrial
 - WI Waterfront Industrial
- Airport Districts**
- AIR Airport
 - AI Airport Industrial
 - PI Pease Industrial
 - ABC Airport Business Commercial
- Other Districts**
- M Municipal
 - NRP Natural Resource Protection
 - TC Transportation Corridor
- Overlay Districts**
- OLOD Osprey Landing Overlay District
 - HNOD Highway Noise Overlay District
 - DOD Downtown Overlay District (See Inset Map and Zoning Map Sheet 2 of 2 Character Districts Regulating Plan)
 - HD Historic District (See Inset Map)
 - FP Flood Plain District (See FEMA Flood Insurance Rate Map)



Amendments

- June 21, 2010 - Rezone Assessor's Map 201, Lots 3-8 (1-8 Sagamore Grove) from Waterfront Business (WB) to Single Residence B (SRB)
- October 18, 2010 - Rezone Assessor's Map 285, Lot 12 (2700 Lafayette Road) from Municipal (M) to Gateway (GW)
- June 6, 2011 - Rezone a portion of Assessor's Map 116, Lot 44 (54 Rogers Street) from Municipal (M) to Mixed Residential Office (MRO)
- November 13, 2012 - Rezone Assessor's Map 105, Lot 19 (143 Daniel Street) from Municipal (M) to Central Business B (CBB) and to place that property in the Downtown Overlay District (DOD)
- April 21, 2014 - Adoption of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- July 20, 2015 - Rezone the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW): Assessors Map 163, Lots 33, 34 and 37; Assessors Map 165, Lots 1, 2 and 14; Assessors Map 172, Lots 1 and 2; and Assessors Map 173, Lots 2 and 10
- August 17, 2015 - Expansion of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- December 21, 2015 - Portion of Map 201, Lot 1 rezoned from Waterfront Business to Single Residence B
- April 25, 2016 - Rezone to following lots or parts thereof to the Transportation Corridor District: Assessor's Map 165, Lot 4; Assessor's Map 234, Lot 2A; Part of Assessors Map 124, Lot 13; Assessors Map 119, Lot 3; and Part of Assessors Map 119, Lot 5
- July 11, 2016 - Expansion of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- July 11, 2016 - Rezone the following lots from Character District 4.1, Mixed Residence Business, Business and Central Business B to General Residence C: Assessors Map 139, Lots 2, 3, 4, 5 and 6; Assessor's Map 144, Lot 4; Assessors Map 145, Lots 14, 19, 20, 21, 29 and 30; Assessors Map 146, Lots 19, 20, 21, 22 and 23; Assessors Map 147, Lots 22, 23, 24, 25, 26, 27, 28, 29, 30 and 30A; Assessors Map 156, Lots 24 and 30; Assessors Map 157, Lots 10, 11, 12, 13 and 14
- December 4, 2017 - Adoption of Gateway Mixed Use Districts, Gateway Corridor (G1) and Gateway Center (G2) including the following: Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Corridor (G1) that are located south of Campus Drive to the Portsmouth/Vine border. Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Corridor (G1) that are located south of Middle Road and north of Sagamore Creek. Rezone the following lots from Gateway to Gateway Neighborhood Mixed Use Corridor (G1): Assessors Map 163 Lot 33, Map 163 Lot 34, Map 163 Lot 37, Map 165 Lot 2, Map 172 Lot 1, Map 172 Lot 2, Map 173 Lot 2, and Map 173 Lot 10. Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Center (G2) that are located south of Sagamore Creek and north of Wilson Road. Rezone the following lots from General Business to Gateway Neighborhood Mixed Use Corridor (G1) that are located along Spaulding Turnpike west of Echo Avenue to the Newington border and from the intersection of Woodbury Ave and Market St west to the Newington border along Woodbury Ave. Rezone a portion of the following lots from General Business to Gateway Neighborhood Mixed Use Corridor (G1): Assessors Map 217 Lot 1, Map 217 Lot 2A. Rezone the following lots from General Business to Gateway Neighborhood Mixed Use Center (G2): Assessors Map 218 Lot 22, Map 218 Lot 24, Map 218 Lot 25, Map 218 Lot 28, Map 218 Lot 29, Map 218 Lot 30, Map 218 Lot 32, Map 218 Lot 33, Map 218 Lot 34, Map 218 Lot 38, and Map 218 Lot 39. Rezone the following lots from Single Residence B to Gateway Neighborhood Mixed Use Center (G2): Assessors Map 210 Lot 2, Map 210 Lot 3, Map 210 Lot 4, and Map 210 Lot 5. Rezone the following lots from Garden Apartment / Mobile Home to Gateway Neighborhood Mixed Use Corridor (G1): Assessors Map 239 Lot 12. Rezone the following lots from Single Residence A to Gateway Neighborhood Mixed Use Corridor (G1): A portion of Assessors Map 239 Lot 8
- August 20, 2018 - Rezone the following lots from Office Research (OR) to Character District 4 West End (CD4-W): Assessors Map 157, Lots 1 and 2. Rezone a portion of N16, except land subject to the land use regulations of the Pease Development Authority, to Transportation Corridor (TC) to CD4-W. Add new building height standards to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21B) to extend the West End Overlay District and add New Building Height Standards for Tax Map 157 Lots 1 and 2 and a Portion of Tax Map 164 Lot 4.
- October 15, 2018 (effective January 1, 2019) - Adoption of Highway Noise Overlay District (HNOD) which includes all land within 500 feet of the centerline of 65 or N16, except land subject to the land use regulations of the Pease Development Authority.
- February 4, 2019 - Rezone Assessor's Map 213 Lot 1 from Waterfront Industrial (WI) to Office Research (OR).

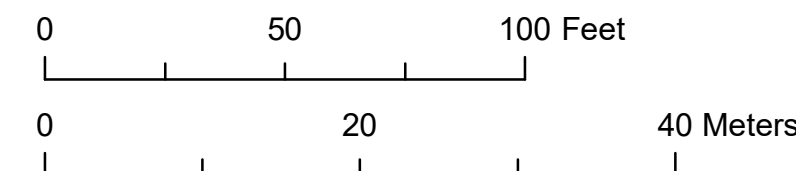


North Mill Pond

Partial Legend

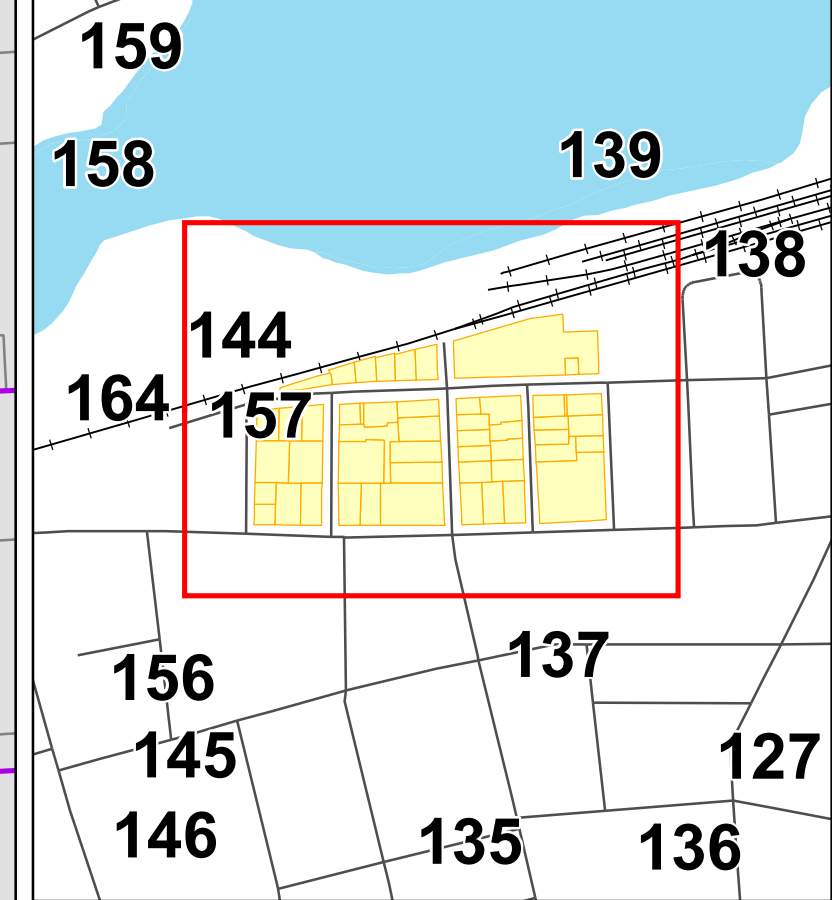
See the cover sheet for the complete legend.

- 7-5A** Lot or lot-unit number
- 2.56 ac Parcel area in acres (ac) or square feet (sf)
- 25 Address number
- 233-137 Parcel number from a neighboring map
- 68 Parcel line dimension
- SIMS AVE Street name
- Parcel/Parcel boundary
- Parcel/ROW boundary
- Water boundary
- Structure (1994 data)
- Parcel covered by this map
- Parcel from a neighboring map (see other map for current status)

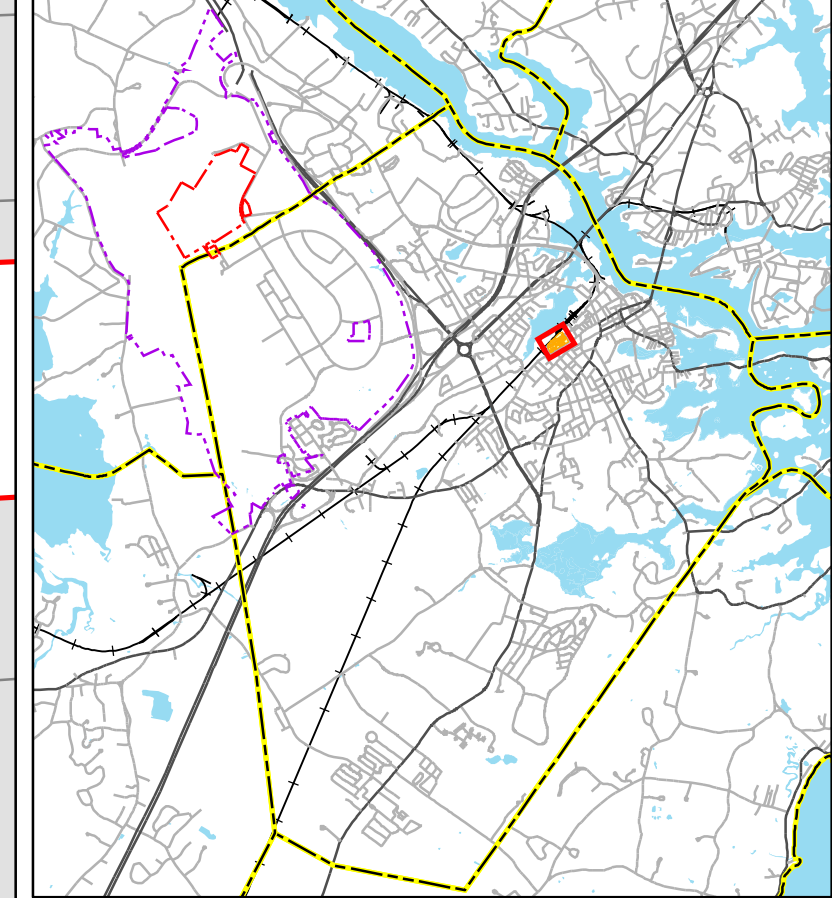


This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.

Nearby Tax Maps

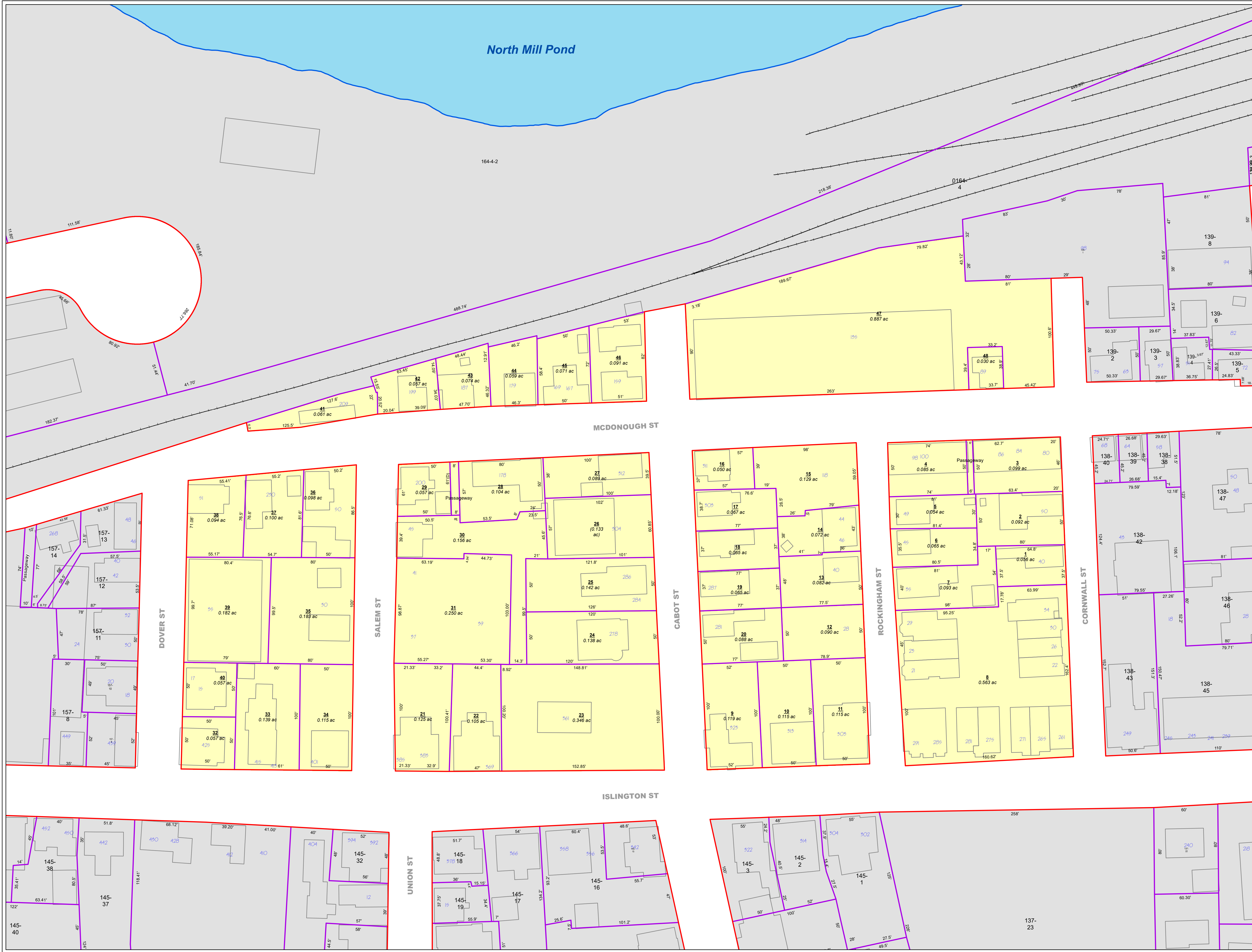


Map Location



Portsmouth, New Hampshire
2022

Tax Map 144



281 CABOT ST

Location 281 CABOT ST

Mblu 0144/ 0020/ 0000/ /

Acct# 34347

Owner DENICOLA KARYN S REV TRUST

PBN

Assessment \$397,700

Appraisal \$397,700

PID 34347

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$126,200	\$271,500	\$397,700

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$126,200	\$271,500	\$397,700

Owner of Record

Owner DENICOLA KARYN S REV TRUST Sale Price \$480,000
 Co-Owner DENICOLA KARYN S TRUSTEE Certificate
 Address 198 ISLINGTON ST UNIT 4 Book & Page 6461/1119
 PORTSMOUTH, NH 03801 Sale Date 01/04/2023
 Instrument

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
DENICOLA KARYN S REV TRUST	\$480,000		6461/1119		01/04/2023
GEIGER JOSEPH M JR	\$0		PROBATE/		09/26/2002
SOPHIE J GEIGER	\$0		1844/0046		11/18/1966
GEIGER JOSEPH M JR	\$0		1729/0270		08/14/1964

Building Information

Building 1 : Section 1

Year Built: 1870
Living Area: 1,301
Replacement Cost: \$231,154
Building Percent Good: 54
**Replacement Cost
Less Depreciation:** \$124,800

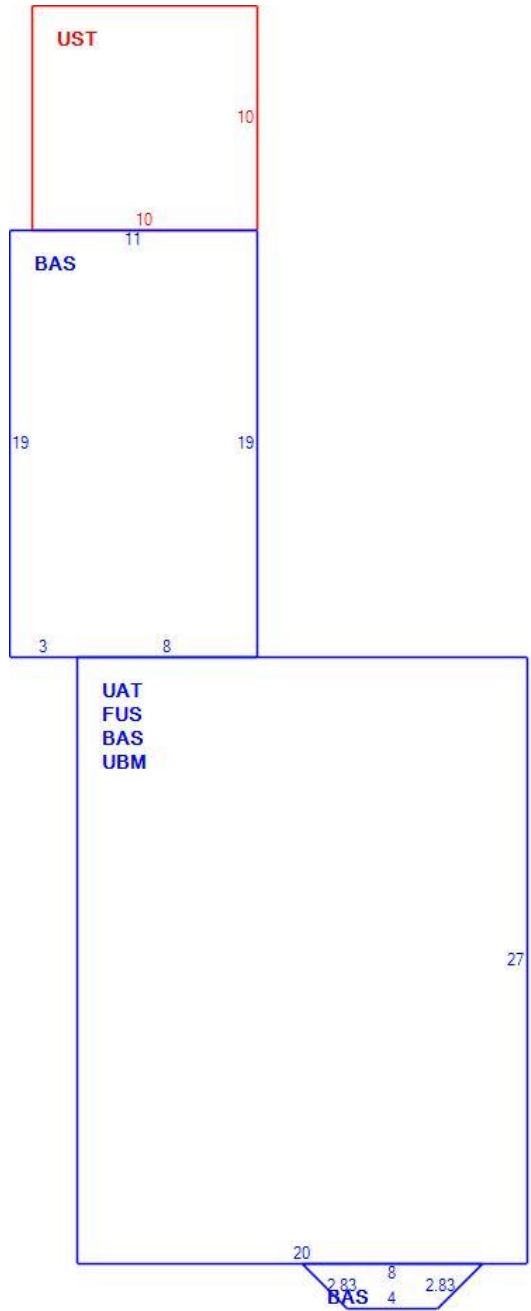
Building Attributes	
Field	Description
Style:	Conventional
Model	Residential
Grade:	C+
Stories:	2
Occupancy	1
Exterior Wall 1	Asbest Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Pine/Soft Wood
Interior Flr 2	Carpet
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	2 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	0
Total Rooms:	6
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	
WB Fireplaces	0
Extra Openings	0
Metal Fireplaces	0
Extra Openings 2	0
Bsmt Garage	

Building Photo



(<https://images.vgsi.com/photos2/PortsmouthNHPhotos/\00\01\96\35.jpg>)

Building Layout



(ParcelSketch.ashx?pid=34347&bid=34347)

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	761	761	
FUS	Upper Story, Finished	540	540	
UAT	Attic	540	0	
UBM	Basement, Unfinished	540	0	
UST	Utility, Storage, Unfinished	100	0	
		2,481	1,301	

Extra Features

Extra Features	<u>Legend</u>
No Data for Extra Features	

Land

Land Use		Land Line Valuation	
Use Code	1010	Size (Acres)	0.09
Description	SINGLE FAM MDL-01	Frontage	
Zone	GRC	Depth	
Neighborhood	105	Assessed Value	\$271,500
Alt Land Appr	No	Appraised Value	\$271,500
Category			

Outbuildings

Outbuildings						<u>Legend</u>
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
FGR3	GARAGE-POOR			288.00 S.F.	\$1,400	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$126,200	\$271,500	\$397,700
2020	\$126,200	\$271,500	\$397,700
2019	\$126,200	\$271,500	\$397,700

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$126,200	\$271,500	\$397,700
2020	\$126,200	\$271,500	\$397,700
2019	\$126,200	\$271,500	\$397,700

PROPOSED SITE PLAN

RESIDENTIAL STRUCTURE REPLACEMENT

281 CABOT STREET

PORTSMOUTH, NEW HAMPSHIRE

PERMIT PLANS

REQUIRED PERMITS:
PORTSMOUTH BOA: PENDING

OWNER & APPLICANT:

KARYN DENICOLA TRUST
198 ISLINGTON STREET, APARTMENT #4
PORTSMOUTH, NH 03801
Tel. (856) 630-9911

CIVIL ENGINEER & LAND SURVEYOR:

AMBIT ENGINEERING, INC.
A DIVISION OF HALEY WARD, INC.
200 GRIFFIN ROAD, UNIT 3
PORTSMOUTH, N.H. 03801
Tel. (603) 430-9282
Fax (603) 436-2315

ARCHITECT:

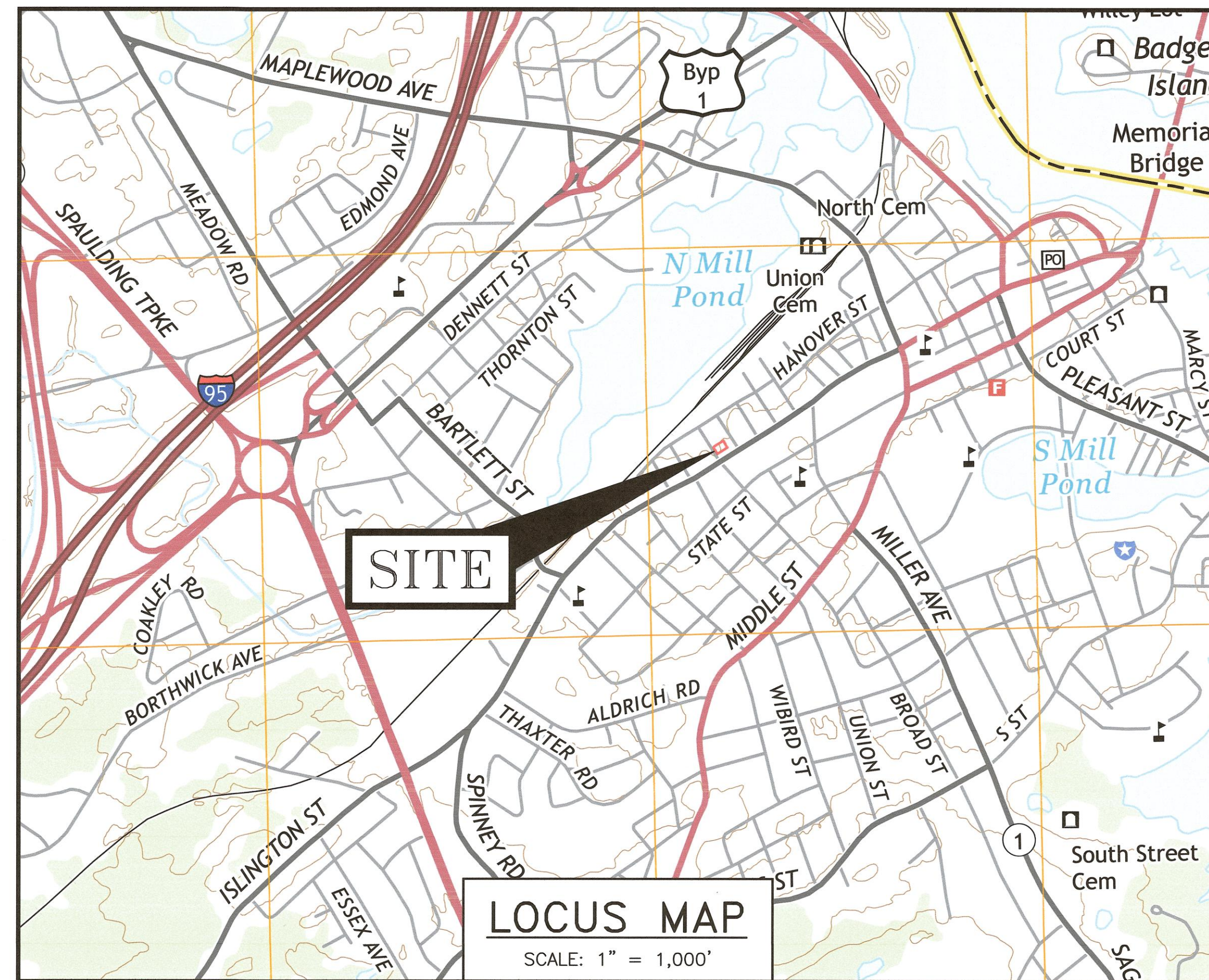
CJ ARCHITECTS
233 VAUGHAN STREET, SUITE 101
PORTSMOUTH, NH, 03801
Tel. (603) 431-2808

LEGAL REPRESENTATION:

DONAHUE, TUCKER & CIANDELLA, PLLC
111 MAPLEWOOD AVE., SUITE D
PORTSMOUTH, NH, 03801
Tel. (603) 766-1686

LEGEND:

EXISTING	PROPOSED	
---	---	PROPERTY LINE
---	---	SETBACK
S	S	SEWER PIPE
SL	SL	SEWER LATERAL
G	G	GAS LINE
D	D	STORM DRAIN
W	W	WATER LINE
WS	WS	WATER SERVICE
UGE	UGE	UNDERGROUND ELECTRIC
OHW	OHW	OVERHEAD ELECTRIC/WIRES
---	UD	FOUNDATION DRAIN
100	100	EDGE OF PAVEMENT (EP)
97x3	98x0	CONTOUR
○	○	SPOT ELEVATION
○	○	UTILITY POLE
☀	☀	WALL MOUNTED EXTERIOR LIGHTS
☀	☀	TRANSFORMER ON CONCRETE PAD
○	○	ELECTRIC HANDHOLD
○	○	SHUT OFFS (WATER/GAS)
⊗	⊗	GATE VALVE
⊗	⊗	HYDRANT
⊗	⊗	CATCH BASIN
⊗	⊗	SEWER MANHOLE
⊗	⊗	DRAIN MANHOLE
⊗	⊗	TELEPHONE MANHOLE
⊗	⊗	PARKING SPACE COUNT
⊗	⊗	PARKING METER
LSA	LSA	LANDSCAPED AREA
TBD	TBD	TO BE DETERMINED
CI	CI	CAST IRON PIPE
COP	COP	COPPER PIPE
DI	DI	DUCTILE IRON PIPE
PVC	PVC	POLYVINYL CHLORIDE PIPE
RCP	RCP	REINFORCED CONCRETE PIPE
AC	AC	ASBESTOS CEMENT PIPE
VC	VC	VITRIFIED CLAY PIPE
EP	EP	EDGE OF PAVEMENT
EL	EL	ELEVATION
FF	FF	FINISHED FLOOR
INV	INV	INVERT
S =	S =	SLOPE FT/FT
TBM	TBM	TEMPORARY BENCH MARK
TYP	TYP	TYPICAL



Legend

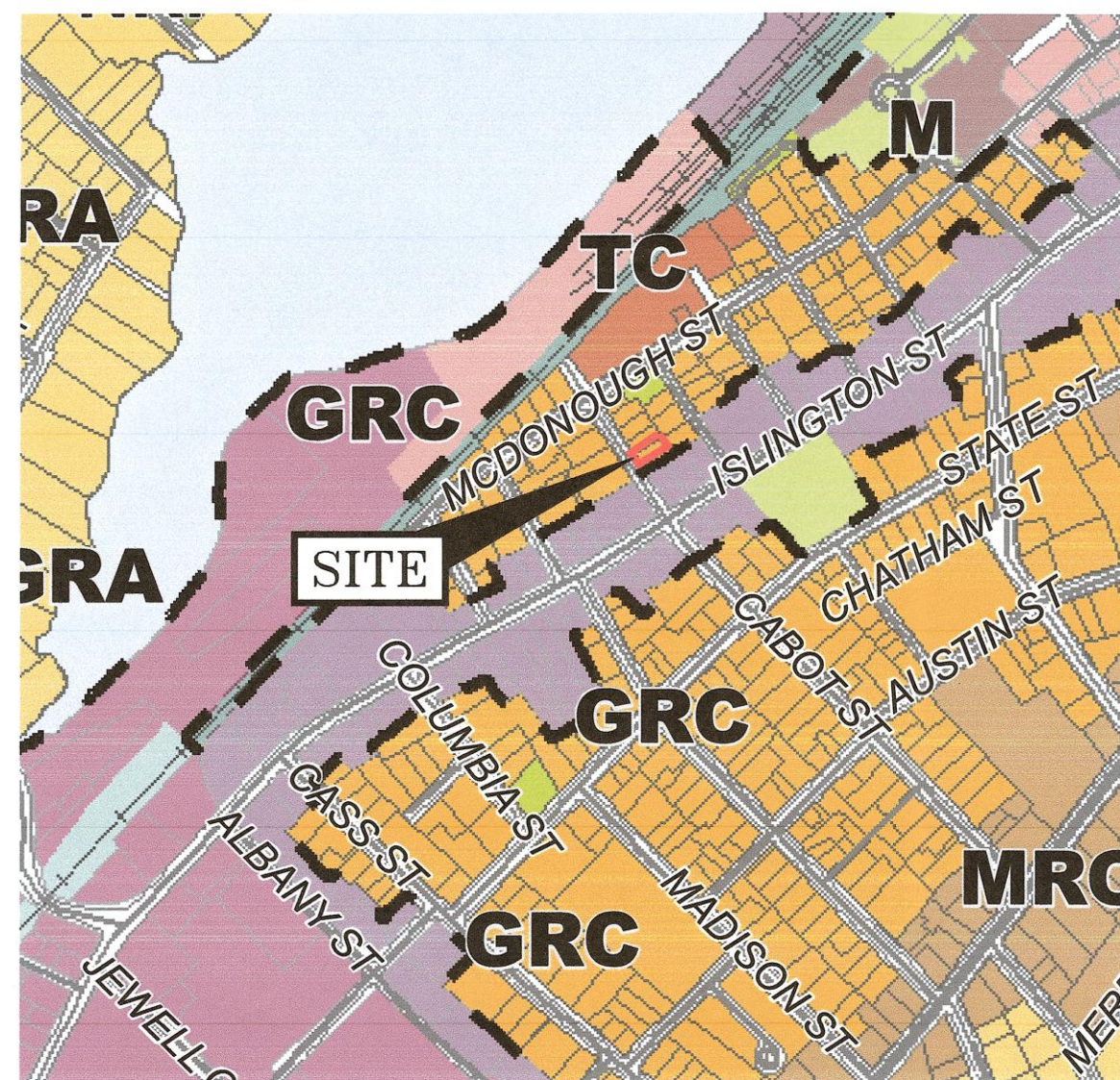
Character Districts
[---] Character-Based Zoning Area
(Refer to Zoning Map Sheet 2 of 2
Character Districts Regulating Plan)

Residential Districts

- R Rural
- SRA Single Residence A
- SRB Single Residence B
- GRA General Residence A
- GRB General Residence B
- GRC General Residence C
- GAMH Garden Apartment/Mobile Home Park

Mixed Residential Districts

- MRO Mixed Residential Office
- MRB Mixed Residential Business



INDEX OF SHEETS

DWG No.	Description
C1	EXISTING CONDITIONS & DEMOLITION PLAN
C2	VARIANCE PLAN

UTILITY CONTACTS

ELECTRIC:
EVERSOURCE
1700 LAFAYETTE ROAD
PORTSMOUTH, N.H. 03801
Tel. (603) 436-7708, Ext. 555.5678
ATTN: MICHAEL BUSBY, P.E. (MANAGER)

NATURAL GAS:
UNITIL
325 WEST ROAD
PORTSMOUTH, N.H. 03801
Tel. (603) 294-5144
ATTN: DAVE BEAULIEU

CABLE:
COMCAST
155 COMMERCE WAY
PORTSMOUTH, N.H. 03801
Tel. (603) 679-5695 (X1037)
ATTN: MIKE COLLINS

SEWER & WATER:
PORTSMOUTH DEPARTMENT OF PUBLIC WORKS
680 PEVERLY HILL ROAD
PORTSMOUTH, N.H. 03801
Tel. (603) 766-1438 ATTN: JIM TOW

COMMUNICATIONS:
FAIRPOINT COMMUNICATIONS
JOE CONSIDINE
1575 GREENLAND ROAD
GREENLAND, N.H. 03840
Tel. (603) 427-5525



APPROVED BY THE PORTSMOUTH ZONING BOARD

CHAIRMAN _____ DATE _____

PROPOSED SITE PLAN
RESIDENTIAL STRUCTURE REPLACEMENT
281 CABOT STREET
PORTSMOUTH, N.H.



WWW.HALEYWARD.COM

PLAN SET SUBMITTAL DATE: 24 MAY 2023

200 Griffin Road, Unit 3
Portsmouth, NH 03801
603.430.9282



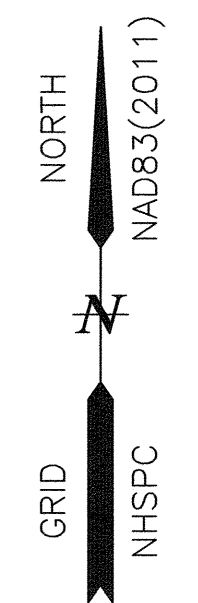
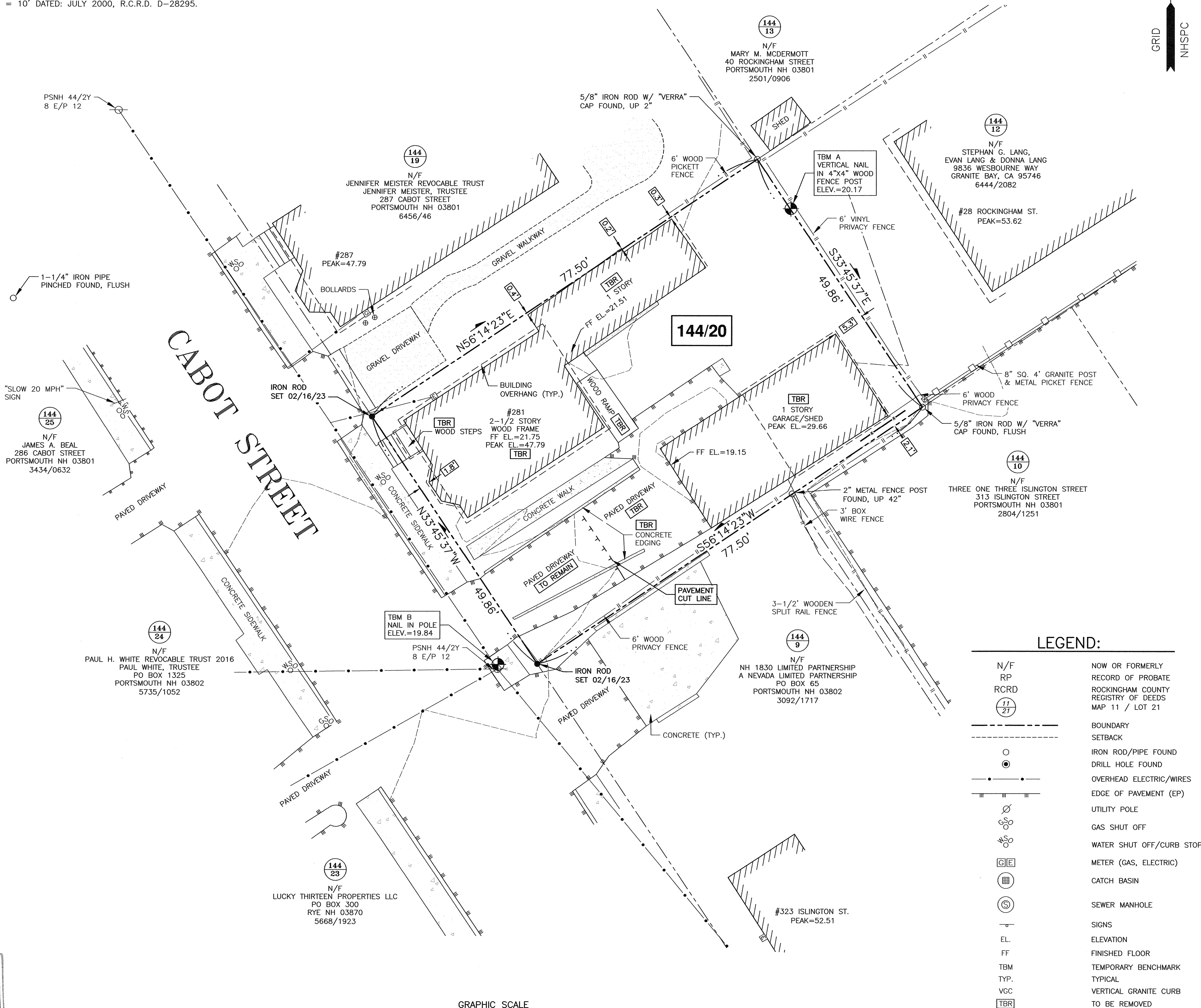
LOCATION MAP SCALE: 1"=200'

DEMOLITION NOTES

- A) THE LOCATIONS OF UNDERGROUND UTILITIES ARE APPROXIMATE AND THE LOCATIONS ARE NOT GUARANTEED BY THE OWNER OR THE DESIGNER. IT IS THE CONTRACTOR'S RESPONSIBILITY TO LOCATE UTILITIES AND ANTICIPATE CONFLICTS. CONTRACTOR SHALL REPAIR EXISTING UTILITIES DAMAGED BY THEIR WORK AND RELOCATE EXISTING UTILITIES THAT ARE REQUIRED TO BE RELOCATED PRIOR TO COMMENCING ANY WORK IN THE IMPACTED AREA OF THE PROJECT.
- B) ALL MATERIALS SCHEDULED TO BE REMOVED SHALL BECOME THE PROPERTY OF THE CONTRACTOR UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL DISPOSE OF ALL MATERIALS OFF-SITE IN ACCORDANCE WITH ALL FEDERAL, STATE, AND LOCAL REGULATIONS, ORDINANCES AND CODES. THE CONTRACTOR SHALL COORDINATE REMOVAL, RELOCATION, DISPOSAL, OR SALVAGE OF UTILITIES WITH THE OWNER AND APPROPRIATE UTILITY COMPANY.
- C) ANY EXISTING WORK OR PROPERTY DAMAGED OR DISRUPTED BY CONSTRUCTION/ DEMOLITION ACTIVITIES SHALL BE REPLACED OR REPAIRED TO THE ORIGINAL EXISTING CONDITIONS BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER.
- D) THE CONTRACTOR SHALL VERIFY LOCATION OF ALL EXISTING UTILITIES AND CALL DIG SAFE AT LEAST 72 HOURS PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION/CONSTRUCTION ACTIVITIES.
- E) SAWCUT AND REMOVE PAVEMENT ONE FOOT OFF PROPOSED EDGE OF PAVEMENT TRENCH IN AREAS WHERE PAVEMENT IS TO BE REMOVED.
- F) IT IS THE CONTRACTOR'S RESPONSIBILITY TO FAMILIARIZE THEMSELVES WITH THE CONDITIONS OF ALL THE PERMIT APPROVALS.
- G) THE CONTRACTOR SHALL OBTAIN AND PAY FOR ADDITIONAL CONSTRUCTION PERMITS, NOTICES AND FEES NECESSARY TO COMPLETE THE WORK AND ARRANGE FOR AND PAY FOR ANY INSPECTIONS AND APPROVALS FROM THE AUTHORITIES HAVING JURISDICTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY ADDITIONAL AND OFF-SITE DISPOSAL OF MATERIALS REQUIRED TO COMPLETE THE WORK.
- H) THE CONTRACTOR SHALL REMOVE AND DISPOSE OF ALL EXISTING STRUCTURES, CONCRETE, UTILITIES, VEGETATION, PAVEMENT, AND CONTAMINATED SOIL WITHIN THE WORK LIMITS SHOWN UNLESS SPECIFICALLY IDENTIFIED TO REMAIN. ANY EXISTING DOMESTIC / IRRIGATION SERVICE WELLS IN THE PROJECT AREA IDENTIFIED DURING THE CONSTRUCTION AND NOT CALLED OUT ON THE PLANS SHALL BE BROUGHT TO THE ATTENTION OF THE OWNER AND ENGINEER FOR POTENTIAL CAPPING / RE-USE.
- I) ALL WORK WITHIN THE CITY OF PORTSMOUTH RIGHT OF WAY SHALL BE COORDINATED WITH THE CITY OF PORTSMOUTH DEPARTMENT OF PUBLIC WORKS (DPW).
- J) REMOVE TREES AND BRUSH AS REQUIRED FOR COMPLETION OF WORK. CONTRACTOR SHALL GRUB AND REMOVE ALL SLUMPS WITHIN LIMITS OF WORK AND DISPOSE OF OFF-SITE IN ACCORDANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS.
- K) CONTRACTOR SHALL PROTECT ALL PROPERTY MONUMENTATION THROUGHOUT DEMOLITION AND CONSTRUCTION OPERATIONS. SHOULD ANY MONUMENTATION BE DISTURBED, THE CONTRACTOR SHALL EMPLOY A NH LICENSED LAND SURVEYOR TO REPLACE THEM.
- L) THE CONTRACTOR SHALL PAY ALL COSTS NECESSARY FOR TEMPORARY PARTITIONING, BARRICADING, FENCING, SECURITY AND SAFETY DEVICES REQUIRED FOR THE MAINTENANCE OF A CLEAN AND SAFE CONSTRUCTION SITE.
- M) ANY CONTAMINATED MATERIAL REMOVED DURING THE COURSE OF THE WORK WILL REQUIRE HANDLING IN ACCORDANCE WITH NHDES REGULATIONS. CONTRACTOR SHALL HAVE A HEALTH AND SAFETY PLAN IN PLACE, AND COMPLY WITH ALL APPLICABLE PERMITS, APPROVALS, AUTHORIZATIONS, AND REGULATIONS

PLAN REFERENCES:

- 1) EASEMENT PLAN OF LAND IN PORTSMOUTH, NH PREPARED FOR GETTY REALTY CORP., SCALE: 1"=20', DATED: 4/20/04, PREPARED BY HANCOCK ASSOCIATES, R.C.R.D. PLAN C-31604
- 2) PLAN OF ROCK FIELD IN THE TOWN OF PORTSMOUTH, SCALE: 40 FEET TO 1 INCH, DATED: 1815, PREPARED BY BENJAMIN AKERMAN, R.C.R.D. PLAN# 00562
- 3) CONDOMINIUM SITE PLAN GASLIGHT CONDOMINIUM MAP U44 - LOT 26 FOR STEVE KELM & ERIC BESSEMER, 304 CABOT STREET PORTSMOUTH, N.H., COUNTY OF ROCKINGHAM, SCALE: 1" = 10' DATED: JULY 2000, R.C.R.D. D-28295.



NOTES:

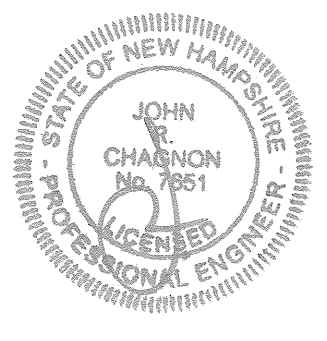
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 144 AS LOT 20.
- 2) OWNERS OF RECORD:
KARYN S. DENICOLA REVOCABLE TRUST OF 2015
KARYN S. DENICOLA TRUSTEE
198 ISLINGTON STREET, APT. 4
PORTSMOUTH, NH 03801
6461/1119
- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE 1/29/2021.
- 4) EXISTING LOT AREA:
3,864 S.F.
0.0887 ACRES
- 5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE C (GRC) DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 3,500 S.F.
FRONTAGE: 70 FEET
SETBACKS: FRONT 5 FEET
SIDE 10 FEET
REAR 20 FEET

MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 35%
MINIMUM OPEN SPACE: 20%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS & PLANNED DEMOLITION ON ASSESSOR'S MAP 144, LOT 20 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
- 9) ALL EXISTING BUILDINGS WILL BE REMOVED FROM THE PROPERTY.

DENICOLA RESIDENCE
281 CABOT STREET
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
2	ISSUED FOR PERMITS	5/24/23
1	MONUMENTS SET	2/16/23
0	ISSUED FOR COMMENT	2/16/23

NO.	DESCRIPTION	DATE
REVISIONS		

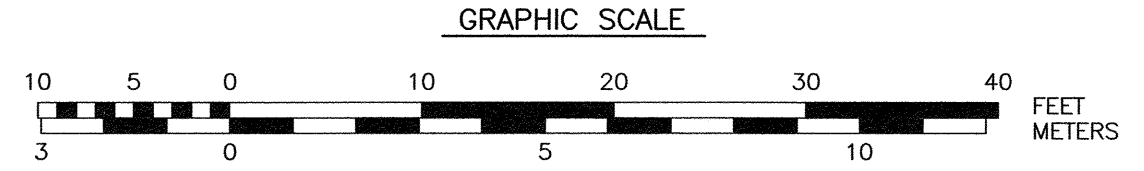
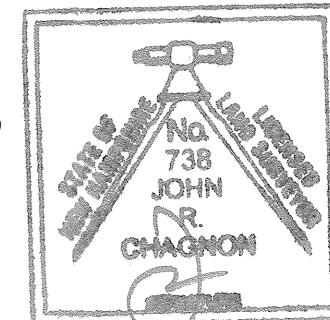


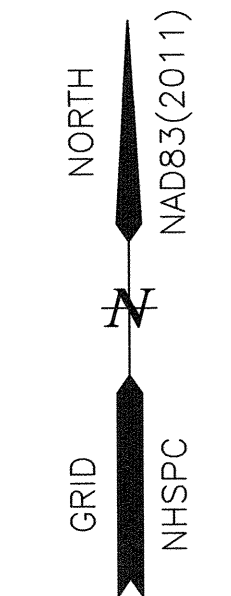
SCALE: 1" = 10' JANUARY 2023

EXISTING CONDITIONS & DEMOLITION PLAN **C1**

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

JOHN R. CHAGNON, LLS #738 DATE 5.24.23



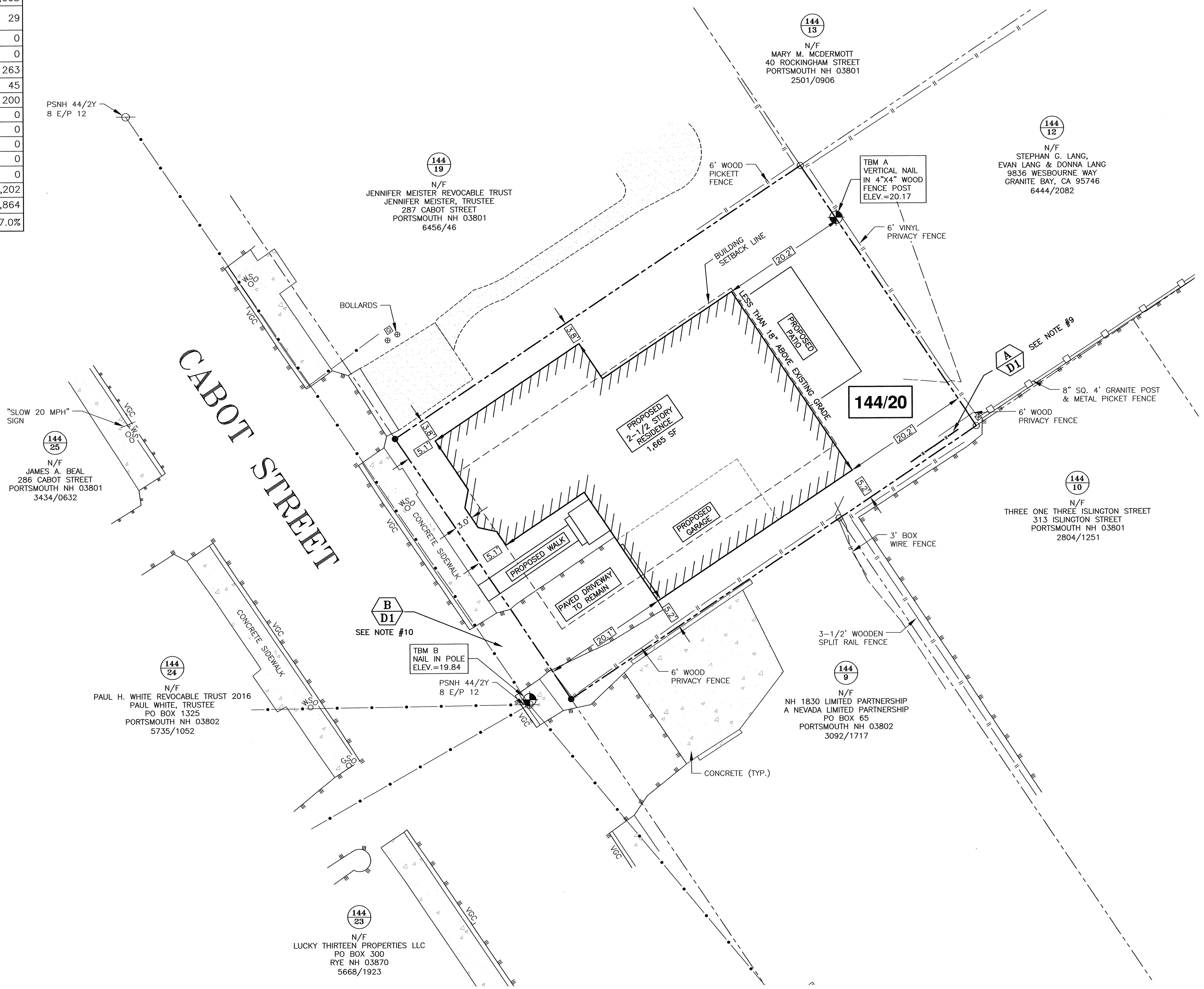


IMPERVIOUS SURFACE AREAS (TO PROPERTY LINES)		
STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURES	846	1,665
STAIRS/LANDING/RAMP	90	29
GARAGE/SHED	562	0
CONCRETE SURFACES	117	0
PAVED DRIVEWAY	644	263
WALKWAY	0	45
PATIO	0	200
	0	0
	0	0
	0	0
	0	0
	0	0
	0	0
TOTAL	2,259	2,202
LOT SIZE	3,864	3,864
% LOT COVERAGE	58.5%	57.0%

EXISTING BUILDING COVERAGE: 1,408 S.F./3,864 S.F. = 36%
 PROPOSED BUILDING COVERAGE: 1,665 S.F./3,864 S.F. = 43%
 PROPOSED OPEN SPACE: 1,662 S.F./3,864 S.F. = 43%
 BUILDING HEIGHT TO CONFORM TO ORDINANCE.

VARIANCE APPLICATION:

- ARTICLE #5, SECTION 10.520 TO PERMIT A FRONT SETBACK OF 3.0 FEET WHERE 5 FEET IS REQUIRED.
- ARTICLE #5, SECTION 10.520 TO PERMIT A RIGHT SETBACK OF 5.2 FEET WHERE 10 FEET IS REQUIRED.
- ARTICLE #5, SECTION 10.520 TO PERMIT A LEFT SETBACK OF 3.8 FEET WHERE 10 FEET IS REQUIRED.
- ARTICLE #3, SECTION 10.321 TO PERMIT RE-CONSTRUCTION OF A SINGLE FAMILY DWELLING MAKING BUILDING COVERAGE MORE NON-CONFORMING.
- ARTICLE #5, SECTION 10.520 TO PERMIT BUILDING COVERAGE OF 43% WHERE 35% IS THE MAXIMUM ALLOWED



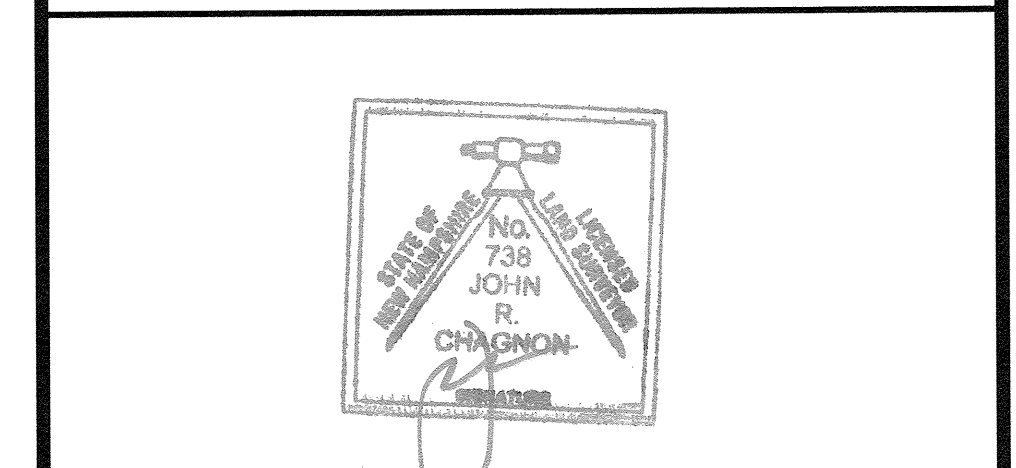
NOTES:

- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 144 AS LOT 20.
- OWNERS OF RECORD:
KARYN S. DENICOLA REVOCABLE TRUST OF 2015
KARYN S. DENICOLA TRUSTEE
198 ISLINGTON STREET, APT. 4
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- PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE 1/29/2021.
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3,864 S.F.
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- PARCEL IS LOCATED IN THE GENERAL RESIDENCE C (GRC) DISTRICT.
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MIN. LOT AREA: 3,500 S.F.
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REAR 20 FEET

MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 35%
MINIMUM OPEN SPACE: 20%
- THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED SITE IMPROVEMENTS ON ASSESSOR'S MAP 144, LOT 20 IN THE CITY OF PORTSMOUTH.
- VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
- INSTALL SILT SOXX AT SITE BOUNDARY PRIOR TO CONSTRUCTION.
- INSTALL FODS TRACK OUT SYSTEM DURING FOUNDATION CONSTRUCTION.

**DENICOLA RESIDENCE
281 CABOT STREET
PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS	5/24/23
0	ISSUED FOR COMMENT	5/8/23

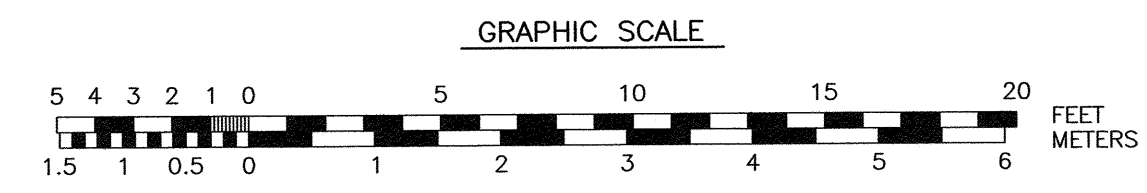


SCALE: 1" = 10' MAY 2023

VARIANCE PLAN C2

APPROVED BY THE PORTSMOUTH BOARD OF ADJUSTMENT

SIGNATURE _____ DATE _____



EROSION CONTROL NOTES

CONSTRUCTION SEQUENCE

DO NOT BEGIN CONSTRUCTION UNTIL ALL LOCAL, STATE AND FEDERAL PERMITS HAVE BEEN APPLIED FOR AND RECEIVED.

INSTALL INLET PROTECTION AND PERIMETER CONTROLS, I.E., SILT FENCING OR SILT/SOXX AROUND THE LIMITS OF DISTURBANCE AND CATCH BASIN FILTER BEFORE ANY EARTH MOVING OPERATIONS.

CUT AND GRUB ALL TREES, SHRUBS, SAPLINGS, BRUSH, VINES AND REMOVE OTHER DEBRIS AND RUBBISH AS REQUIRED.

REMOVE EXISTING SITE FEATURES TO BE REMOVED.

CONSTRUCT SITE IMPROVEMENTS.

REMOVE TRAPPED SEDIMENTS FROM COLLECTION DEVICES AS APPROPRIATE, AND THEN REMOVE TEMPORARY EROSION CONTROL MEASURES UPON COMPLETION OF FINAL STABILIZATION OF THE SITE.

PROJECT DESCRIPTION

THE PROJECT CONSISTS OF A BUILDING REPLACEMENT WITH ASSOCIATED UTILITIES, GRADING, AND SITE IMPROVEMENTS.

THE TOTAL AREA TO BE DISTURBED IS APPROXIMATELY 3,800 S.F.

BASED ON SITE OBSERVATIONS AND TEST PITS THE SOILS ON SITE CONSIST OF URBAN LAND-CANTON COMPLEX, 3 TO 15% SLOPE WHICH ARE WELL DRAINED SOILS WITH A HYDROLOGIC SOIL GROUP RATING OF A.

GENERAL CONSTRUCTION NOTES

THE EROSION CONTROL PROCEDURES SHALL CONFORM TO SECTION 645 OF THE "STANDARD SPECIFICATION FOR ROAD AND BRIDGE CONSTRUCTION" OF THE NHDOT, AND "STORM WATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL HANDBOOK FOR URBAN AND DEVELOPING AREAS IN NEW HAMPSHIRE". THE PROJECT IS TO BE MANAGED IN A MANNER THAT MEETS THE REQUIREMENTS AND INTENT OF RSA 430:53 AND CHAPTER AGR 3800 RELATIVE TO INVASIVE SPECIES.

DURING CONSTRUCTION AND THEREAFTER, EROSION CONTROL MEASURES ARE TO BE IMPLEMENTED AS NOTED, THE SMALLEST PRACTICAL AREA OF LAND SHOULD BE EXPOSED AT ANY ONE TIME DURING DEVELOPMENT. NO DISTURBED AREA SHALL BE LEFT UNSTABILIZED FOR MORE THAN 45 DAYS.

ANY DISTURBED AREAS WHICH ARE TO BE LEFT TEMPORARILY, AND WHICH WILL BE REGRADED LATER DURING CONSTRUCTION SHALL BE MACHINE HAY MULCHED AND SEEDED WITH RYE GRASS TO PREVENT EROSION.

THE PROJECT IS TO BE MANAGED IN A MANNER THAT MEETS THE REQUIREMENTS AND INTENT OF RSA 430:53 AND CHAPTER AGR 3800 RELATIVE TO INVASIVE SPECIES.

DUST CONTROL: DUST CONTROL MEASURES SHALL INCLUDE BUT ARE NOT LIMITED TO SPRINKLING WATER ON EXPOSED AREAS, COVERING LOADED DUMP TRUCKS LEAVING THE SITE, AND TEMPORARY MULCHING.

DUST CONTROL MEASURES SHALL BE UTILIZED SO AS TO PREVENT THE MIGRATION OF DUST FROM THE SITE TO ADJACENT AREAS.

IF TEMPORARY STABILIZATION PRACTICES, SUCH AS TEMPORARY VEGETATION AND MULCHING, DO NOT ADEQUATELY REDUCE DUST GENERATION, APPLICATION OF WATER OR CALCIUM CHLORIDE SHALL BE APPLIED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES.

SILT/SOXX SHALL BE PERIODICALLY INSPECTED DURING THE LIFE OF THE PROJECT AND AFTER EACH STORM. ALL DAMAGED SILT/SOXX SHALL BE REPAIRED. SEDIMENT DEPOSITS SHALL PERIODICALLY BE REMOVED AND DISPOSED IN A SECURED LOCATION.

ALL FILLS SHALL BE PLACED AND COMPACTED TO REDUCE EROSION, SLIPPAGE, SETTLEMENT, SUBSIDENCE OR OTHER RELATED PROBLEMS.

ALL NON-STRUCTURAL, SITE-FILL SHALL BE PLACED AND COMPACTED TO 90% MODIFIED PROCTOR DENSITY IN LAYERS NOT EXCEEDING 18 INCHES IN THICKNESS UNLESS OTHERWISE NOTED.

FROZEN MATERIAL OR SOFT, MUCKY OR HIGHLY COMPRESSIBLE MATERIAL, TRASH, WOODY DEBRIS, LEAVES, BRUSH OR ANY DELETERIOUS MATTER SHALL NOT BE INCORPORATED INTO FILLS.

FILL MATERIAL SHALL NOT BE PLACED ON FROZEN FOUNDATION SUBGRADE.

DURING CONSTRUCTION AND UNTIL ALL DEVELOPED AREAS ARE FULLY STABILIZED, ALL EROSION CONTROL MEASURES SHALL BE INSPECTED WEEKLY AND AFTER EACH ONE HALF INCH OF RAINFALL.

THE CONTRACTOR SHALL MODIFY OR ADD EROSION CONTROL MEASURES AS NECESSARY TO ACCOMMODATE PROJECT CONSTRUCTION.

ALL ROADWAYS AND PARKING AREAS SHALL BE STABILIZED WITHIN 72 HOURS OF ACHIEVING FINISHED GRADE. ALL CUT AND FILL SLOPES SHALL BE SEEDDED/LOADED WITHIN 72 HOURS OF ACHIEVING FINISHED GRADE.

AN AREA SHALL BE CONSIDERED STABLE IF ONE OF THE FOLLOWING HAS OCCURRED:

- BASE COURSE GRAVELS HAVE BEEN INSTALLED ON AREAS TO BE PAVED
 - A MINIMUM OF 85% VEGETATED GROWTH HAS BEEN ESTABLISHED
 - A MINIMUM OF 3 INCHES OF NON-EROSIVE MATERIAL SUCH AS STONE OR RIPRAP HAS BEEN INSTALLED
 - EROSION CONTROL BLANKETS HAVE BEEN INSTALLED.
- IN AREAS TO BE PAVED, "STABLE" MEANS THAT BASE COURSE GRAVELS MEETING THE REQUIREMENTS OF NHDOT STANDARD FOR ROAD AND BRIDGE CONSTRUCTION, 2016, ITEM 304.2 HAVE BEEN INSTALLED.

STABILIZATION SHALL BE INITIATED ON ALL LOAM STOCKPILES, AND DISTURBED AREAS, WHERE CONSTRUCTION ACTIVITY SHALL NOT OCCUR FOR MORE THAN TWENTY-ONE (21) CALENDAR DAYS BY THE FOURTEENTH (14TH) DAY AFTER CONSTRUCTION ACTIVITY HAS PERMANENTLY OR TEMPORARILY CEASED IN THAT AREA.

STABILIZATION MEASURES TO BE USED INCLUDE:

- TEMPORARY SEEDING;
- MULCHING.

1. ALL AREAS SHALL BE STABILIZED WITHIN 45 DAYS OF INITIAL DISTURBANCE.
2. WHEN CONSTRUCTION ACTIVITY PERMANENTLY OR TEMPORARILY CEASES WITHIN 100 FEET OF NEARBY SURFACE WATERS OR DELINEATED WETLANDS, THE AREA SHALL BE STABILIZED WITHIN SEVEN (7) DAYS OR PRIOR TO A RAIN EVENT. ONCE CONSTRUCTION ACTIVITY CEASES PERMANENTLY IN THESE AREAS, SILT/SOXX, MULCH BERMS, HAY BALE BARRIERS AND ANY EARTH/DIKES SHALL BE REMOVED ONCE PERMANENT MEASURES ARE ESTABLISHED.
3. DURING CONSTRUCTION, RUNOFF WILL BE DIVERTED AROUND THE SITE WITH EARTH DIKES, PIPING OR STABILIZED CHANNELS WHERE POSSIBLE. SHEET RUNOFF FROM THE SITE WILL BE FILTERED THROUGH SILT/SOXX, MULCH BERMS, HAY BALE BARRIERS, OR SILT SOCKS. ALL STORM DRAIN BASIN INLETS SHALL BE PROVIDED WITH FLARED END SECTIONS AND TRASH RACKS. THE SITE SHALL BE STABILIZED FOR THE WINTER BY OCTOBER 15.

MAINTENANCE AND PROTECTION

THE SILT/SOXX BARRIER SHALL BE CHECKED AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL.

SILT/SOXX SHALL BE REMOVED ONCE SITE IS STABILIZED, AND DISTURBED AREAS RESULTING FROM SILT/SOXX REMOVAL SHALL BE PERMANENTLY SEEDDED.

THE CATCH BASIN INLET BASKET SHALL BE INSPECTED WITHIN 24 HOURS AFTER EACH RAINFALL OR DAILY DURING EXTENDED PERIODS OF PRECIPITATION. REPAIRS SHALL BE MADE IMMEDIATELY, AS NECESSARY, TO PREVENT PARTICLES FROM REACHING THE DRAINAGE SYSTEM AND/OR CAUSING SURFACE FLOODING.

SEDIMENT DEPOSITS SHALL BE REMOVED AFTER EACH STORM EVENT, OR MORE OFTEN IF THE FABRIC BECOMES CLOGGED.

WINTER NOTES

ALL PROPOSED VEGETATED AREAS THAT DO NOT EXHIBIT A MINIMUM OF 85% VEGETATED GROWTH BY OCTOBER 15, OR WHICH ARE DISTURBED AFTER OCTOBER 15, SHALL BE STABILIZED BY SEEDING AND INSTALLING EROSION CONTROL BLANKETS ON SLOPES GREATER THAN 3:1, AND SEEDING AND PLACING 3 TO 4 TONS OF MULCH PER ACRE, SECURED WITH ANCHORED NETTING, ELSEWHERE, THE INSTALLATION OF EROSION CONTROL BLANKETS OR MULCH AND NETTING SHALL NOT OCCUR OVER ACCUMULATED SNOW OR ON FROZEN GROUND AND SHALL BE COMPLETED IN ADVANCE OF THAW OR SPRING MELT EVENTS.

ALL DITCHES OR SWALES WHICH DO NOT EXHIBIT A MINIMUM OF 85 PERCENT VEGETATIVE GROWTH BY OCTOBER 15, OR WHICH ARE DISTURBED AFTER OCTOBER 15, SHALL BE STABILIZED TEMPORARILY WITH STONE OR EROSION CONTROL BLANKETS APPROPRIATE FOR THE DESIGN FLOW CONDITIONS;

AFTER OCTOBER 15, INCOMPLETE DRIVEWAY SURFACES, WHERE WORK HAS STOPPED FOR THE WINTER SEASON, SHALL BE PROTECTED WITH A MINIMUM OF 3 INCHES OF CRUSHED GRAVEL PER NHDOT ITEM 304.3, OR IF CONSTRUCTION IS TO CONTINUE THROUGH THE WINTER SEASON BE CLEARED OF ANY ACCUMULATED SNOW AFTER EACH STORM EVENT;

STOCKPILES

1. LOCATE STOCKPILES A MINIMUM OF 50 FEET AWAY FROM CATCH BASINS, SWALES, AND CULVERTS.
2. ALL STOCKPILES SHOULD BE SURROUNDED WITH TEMPORARY EROSION CONTROL MEASURES PRIOR TO THE ONSET OF PRECIPITATION.
3. PERIMETER BARRIERS SHOULD BE MAINTAINED AT ALL TIMES, AND ADJUSTED AS NEEDED TO ACCOMMODATE THE DELIVERY AND REMOVAL OF MATERIALS FROM THE STOCKPILE. THE INTEGRITY OF THE BARRIER SHOULD BE INSPECTED AT THE END OF EACH WORKING DAY.
4. PROTECT ALL STOCKPILES FROM STORMWATER RUN-OFF USING TEMPORARY EROSION CONTROL MEASURES SUCH AS BERMS, SILT SOCK, OR OTHER APPROVED PRACTICE TO PREVENT MIGRATION OF MATERIAL BEYOND THE IMMEDIATE CONFINES OF THE STOCKPILES.

CONCRETE WASHOUT AREA

THE FOLLOWING ARE THE ONLY NON-STORMWATER DISCHARGES ALLOWED. ALL OTHER NON-STORMWATER DISCHARGES ARE PROHIBITED ON SITE:

1. THE CONCRETE DELIVERY TRUCKS SHALL, WHENEVER POSSIBLE, USE WASHOUT FACILITIES AT THEIR OWN PLANT OR DISPATCH FACILITY;
2. IF IT IS NECESSARY, SITE CONTRACTOR SHALL DESIGNATE SPECIFIC WASHOUT AREAS AND DESIGN FACILITIES TO HANDLE ANTICIPATED WASHOUT WATER;
3. CONTRACTOR SHALL LOCATE WASHOUT AREAS AT LEAST 150 FEET AWAY FROM STORM DRAINS, SWALES AND SURFACE WATERS OR DELINEATED WETLANDS;
4. INSPECT WASHOUT FACILITIES DAILY TO DETECT LEAKS OR TEARS AND TO IDENTIFY WHEN MATERIALS NEED TO BE REMOVED.

ALLOWABLE NON-STORMWATER DISCHARGES

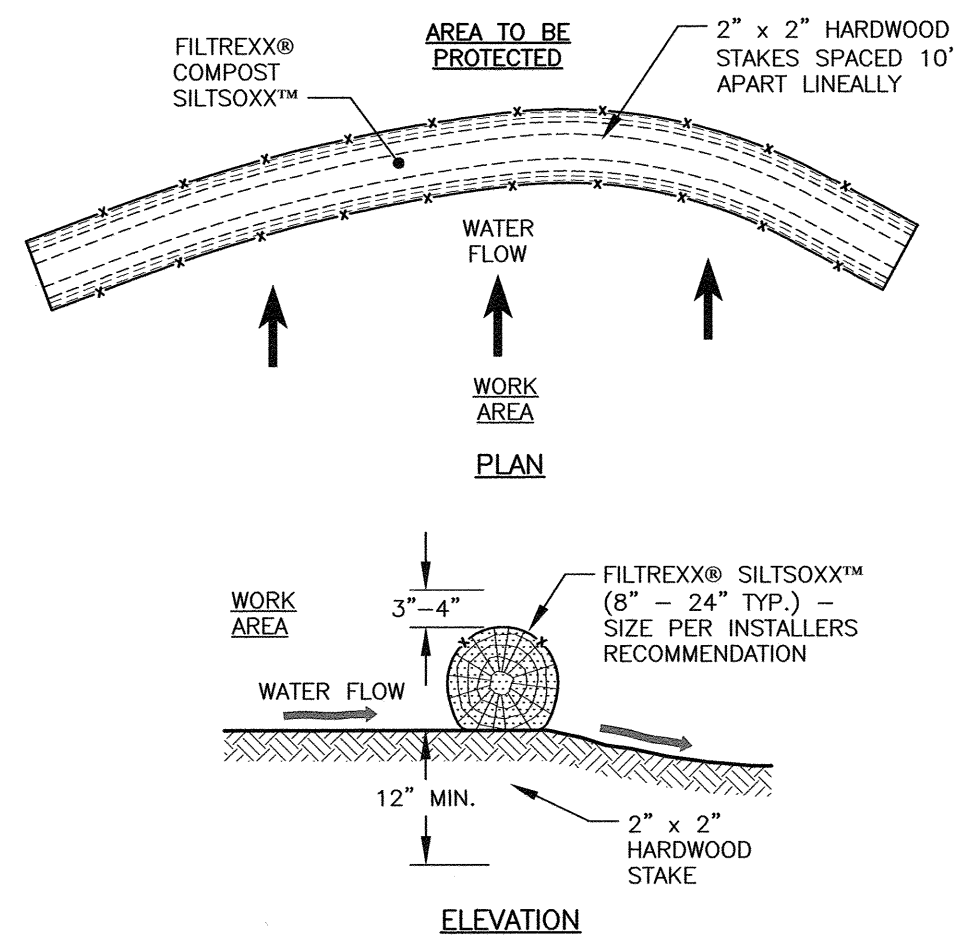
1. FIRE-FIGHTING ACTIVITIES;
2. FIRE HYDRANT FLUSHING;
3. WATERS USED TO WASH VEHICLES WHERE DETERGENTS ARE NOT USED;
4. WATER USED TO CONTROL DUST;
5. POTABLE WATER INCLUDING UNCONTAMINATED WATER LINE FLUSHING;
6. ROUTINE EXTERNAL BUILDING WASH DOWN WHERE DETERGENTS ARE NOT USED;
7. PAVEMENT WASH WATERS WHERE DETERGENTS ARE NOT USED;
8. UNCONTAMINATED AIR CONDITIONING/COMPRESSOR CONDENSATION;
9. UNCONTAMINATED GROUND WATER OR SPRING WATER;
10. FOUNDATION OR FOOTING DRAINS WHICH ARE UNCONTAMINATED;
11. UNCONTAMINATED EXCAVATION DEWATERING;
12. LANDSCAPE IRRIGATION.

WASTE DISPOSAL

1. WASTE MATERIAL
 - ALL WASTE MATERIALS SHALL BE COLLECTED AND STORED IN SECURELY LIDDED RECEPTACLES; ALL TRASH AND CONSTRUCTION DEBRIS FROM THE SITE SHALL BE DEPOSITED IN A DUMPSTER;
 - NO CONSTRUCTION WASTE MATERIALS SHALL BE BURIED ON SITE;
 - ALL PERSONNEL SHALL BE INSTRUCTED REGARDING THE CORRECT PROCEDURE FOR WASTE DISPOSAL BY THE SUPERINTENDENT.
2. HAZARDOUS WASTE
 - ALL HAZARDOUS WASTE MATERIALS SHALL BE DISPOSED OF IN THE MANNER SPECIFIED BY LOCAL OR STATE REGULATION OR BY THE MANUFACTURER;
 - SITE PERSONNEL SHALL BE INSTRUCTED IN THESE PRACTICES BY THE SUPERINTENDENT.
3. SANITARY WASTE
 - ALL SANITARY WASTE SHALL BE COLLECTED FROM THE PORTABLE UNITS A MINIMUM OF ONCE PER WEEK BY A LICENSED SANITARY WASTE MANAGEMENT CONTRACTOR.

BLASTING NOTES

1. CONTRACTOR SHALL CONTACT THE NHDES AND/OR LOCAL JURISDICTION PRIOR TO COMMENCING ANY BLASTING ACTIVITIES.
2. FOR ANY PROJECT FOR WHICH BLASTING OF BEDROCK IS ANTICIPATED, THE APPLICANT SHALL SUBMIT A BLASTING PLAN THAT IDENTIFIES:
 - WHERE THE BLASTING ACTIVITIES ARE ANTICIPATED TO OCCUR;
 - THE ESTIMATED QUANTITY OF BLAST ROCK IN CUBIC YARDS; AND
 - SITE-SPECIFIC BLASTING BEST MANAGEMENT PRACTICES.



NOTES:

1. ALL MATERIAL TO MEET FILTREXX SPECIFICATIONS.
2. FILTREXX SYSTEM SHALL BE INSTALLED BY A CERTIFIED FILTREXX INSTALLER.
3. THE CONTRACTOR SHALL MAINTAIN THE COMPOST FILTRATION SYSTEM IN A FUNCTIONAL CONDITION AT ALL TIMES. IT WILL BE ROUTINELY INSPECTED AND REPAIRED WHEN REQUIRED.
4. SILT/SOXX DEPICTED IS FOR MINIMUM SLOPES, GREATER SLOPES MAY REQUIRE ADDITIONAL PLACEMENTS.
5. THE COMPOST FILTER MATERIAL WILL BE DISPersed ON SITE WHEN NO LONGER REQUIRED, AS DETERMINED BY THE ENGINEER.



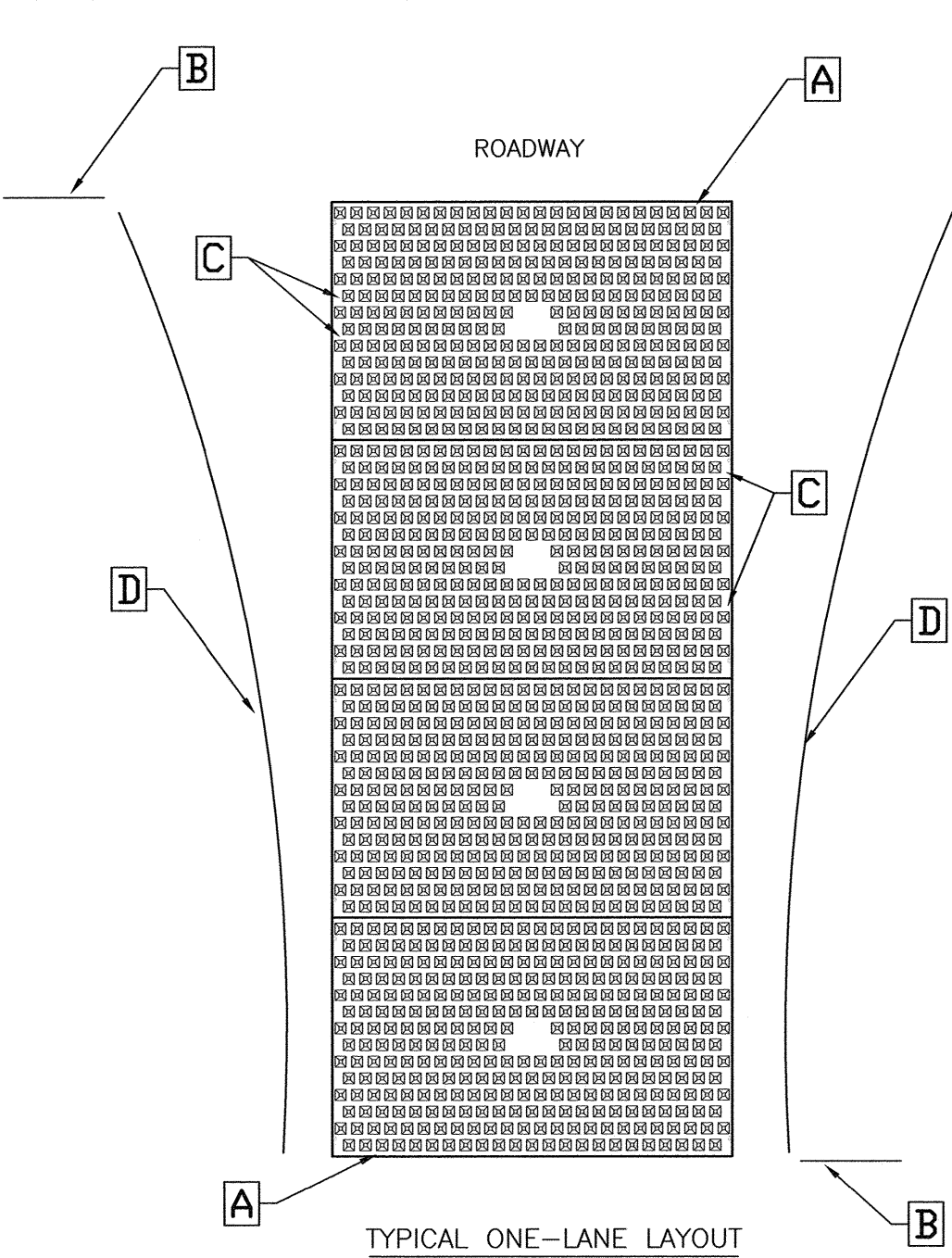
FODS TRACKOUT CONTROL SYSTEM

INSTALLATION:

THE PURPOSE AND DESIGN OF THE FODS TRACKOUT CONTROL SYSTEM IS TO EFFECTIVELY REMOVE MOST SEDIMENT FROM VEHICLE TIRES AS THEY EXIT A DISTURBED LAND AREA ONTO A PAVED STREET. THIS MANUAL IS A PLATFORM FROM WHICH TO INSTALL A FODS TRACKOUT CONTROL SYSTEM. (NOTE: THIS IS NOT A ONE SIZE FITS ALL GUIDE.) THE INSTALLATION MAY NEED TO BE MODIFIED TO MEET THE EXISTING CONDITIONS, EXPECTATIONS, OR DEMANDS OF A PARTICULAR SITE. THIS IS A GUIDELINE. ULTIMATELY THE FODS TRACKOUT CONTROL SYSTEM SHOULD BE INSTALLED SAFELY WITH PROPER ANCHORING AND SIGNS PLACED AT THE ENTRANCE AND EXIT TO CAUTION USERS AND OTHERS.

KEY NOTES:

- A. FODS TRACKOUT CONTROL SYSTEM MAT.
- B. FODS SAFETY SIGN.
- C. ANCHOR POINT.
- D. SILT OR ORANGE CONSTRUCTION FENCE.



INSTALLATION:

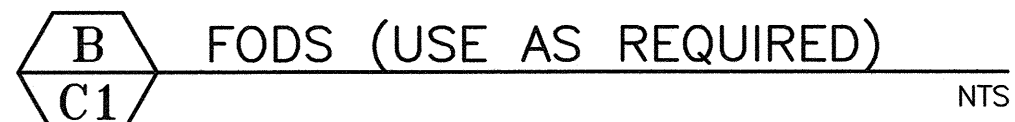
1. THE SITE WHERE THE FODS TRACKOUT CONTROL SYSTEM IS TO BE PLACED SHOULD CORRESPOND TO BEST MANAGEMENT PRACTICES AS MUCH AS POSSIBLE. THE SITE WHERE FODS TRACKOUT CONTROL SYSTEM IS PLACED SHOULD ALSO MEET OR EXCEED THE LOCAL JURISDICTION OR STORM WATER POLLUTION PREVENTION PLAN (SWPPP) REQUIREMENTS.
2. CALL FOR UTILITY LOCATES 3 BUSINESS DAYS IN ADVANCE OF THE FODS TRACKOUT CONTROL SYSTEM INSTALLATION FOR THE MARKING OF UNDERGROUND UTILITIES. CALL THE UTILITY NOTIFICATION CENTER AT 811.
3. ONCE THE SITE IS ESTABLISHED WHERE FODS TRACKOUT CONTROL SYSTEM IS TO BE PLACED, ANY EXCESSIVE UNEVEN TERRAIN SHOULD BE LEVELED OUT OR REMOVED SUCH AS LARGE ROCKS, LANDSCAPING MATERIALS, OR SUDDEN ABRUPT CHANGES IN ELEVATION.
4. THE INDIVIDUAL MATS CAN START TO BE PLACED INTO POSITION. THE FIRST MAT SHOULD BE PLACED NEXT TO THE CLOSEST POINT OF EGRESS. THIS WILL ENSURE THAT THE VEHICLE WILL EXIT STRAIGHT FROM THE SITE ONTO THE PAVED SURFACE.
5. AFTER THE FIRST MAT IS PLACED DOWN IN THE PROPER LOCATION, MATS SHOULD BE ANCHORED TO PREVENT THE POTENTIAL MOVEMENT WHILE THE ADJOINING MATS ARE INSTALLED. ANCHORS SHOULD BE PLACED AT EVERY ANCHOR POINT (IF FEASIBLE) TO HELP MAINTAIN THE MAT IN ITS CURRENT POSITION.
6. AFTER THE FIRST MAT IS ANCHORED IN ITS PROPER PLACE, AN H BRACKET SHOULD BE PLACED AT THE END OF THE FIRST MAT BEFORE ANOTHER MAT IS PLACED ADJACENT TO THE FIRST MAT.
7. ONCE THE SECOND MAT IS PLACED ADJACENT TO THE FIRST MAT, MAKE SURE THE H BRACKET IS CORRECTLY SITUATED BETWEEN THE TWO MATS, AND SLIDE MATS TOGETHER.
8. THE CONNECTOR STRAPS SHOULD BE INSTALLED TO CONNECT THE TWO MATS TOGETHER.
9. UPON PLACEMENT OF EACH NEW MAT IN THE SYSTEM, THAT MAT SHOULD BE ANCHORED AT EVERY ANCHOR POINT TO HELP STABILIZE THE MAT AND ENSURE THE SYSTEM IS CONTINUOUS WITH NO GAPS IN BETWEEN THE MATS.
10. SUCCESSIVE MATS CAN THEN BE PLACED TO CREATE THE FODS TRACKOUT CONTROL SYSTEM REPEATING THE ABOVE STEPS.

USE AND MAINTENANCE

1. VEHICLES SHOULD TRAVEL DOWN THE LENGTH OF THE TRACKOUT CONTROL SYSTEM AND NOT CUT ACROSS THE MATS.
2. DRIVERS SHOULD TURN THE WHEEL OF THEIR VEHICLES SUCH THAT THE VEHICLE WILL MAKE A SHALLOW S-TURN ROUTE DOWN THE LENGTH OF THE FODS TRACKOUT CONTROL SYSTEM.
3. MATS SHOULD BE CLEANED ONCE THE VOIDS BETWEEN THE PYRAMIDS BECOME FULL OF SEDIMENT. TYPICALLY THIS WILL NEED TO BE PERFORMED WITHIN TWO WEEKS AFTER A STORM EVENT. BRUSHING IS THE PREFERRED METHOD OF CLEANING, EITHER MANUALLY OR MECHANICALLY.
4. THE USE OF ICE MELT, ROCK SALT, SNOW MELT, DE-ICER, ETC. SHOULD BE UTILIZED AS NECESSARY DURING THE WINTER MONTHS AND AFTER A SNOW EVENT TO PREVENT ICE BUILDUP.

REMOVAL

1. REMOVAL OF FODS TRACKOUT CONTROL SYSTEM IS REVERSE ORDER OF INSTALLATION.
2. STARTING WITH THE LAST MAT, THE MAT THAT IS PLACED AT THE INNERMOST POINT OF THE SITE OR THE MAT FURTHEST FROM THE EXIT OR PAVED SURFACE SHOULD BE REMOVED FIRST.
3. THE ANCHORS SHOULD BE REMOVED.
4. THE CONNECTOR STRAPS SHOULD BE UNBOLTED AT ALL LOCATIONS IN THE FODS TRACKOUT CONTROL SYSTEM.
5. STARTING WITH THE LAST MAT IN THE SYSTEM, EACH SUCCESSIVE MAT SHOULD THEN BE MOVED AND STACKED FOR LOADING BY FORKLIFT OR EXCAVATOR ONTO A TRUCK FOR REMOVAL FROM THE SITE.



NOTES:

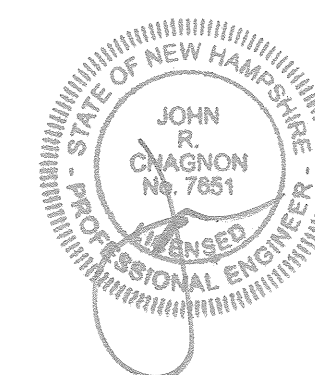
- 1) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY.
- 2) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.
- 3) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION. (NHDES DECEMBER 2008).

DENICOLA RESIDENCE

281 CABOT STREET

PORTSMOUTH, N.H.

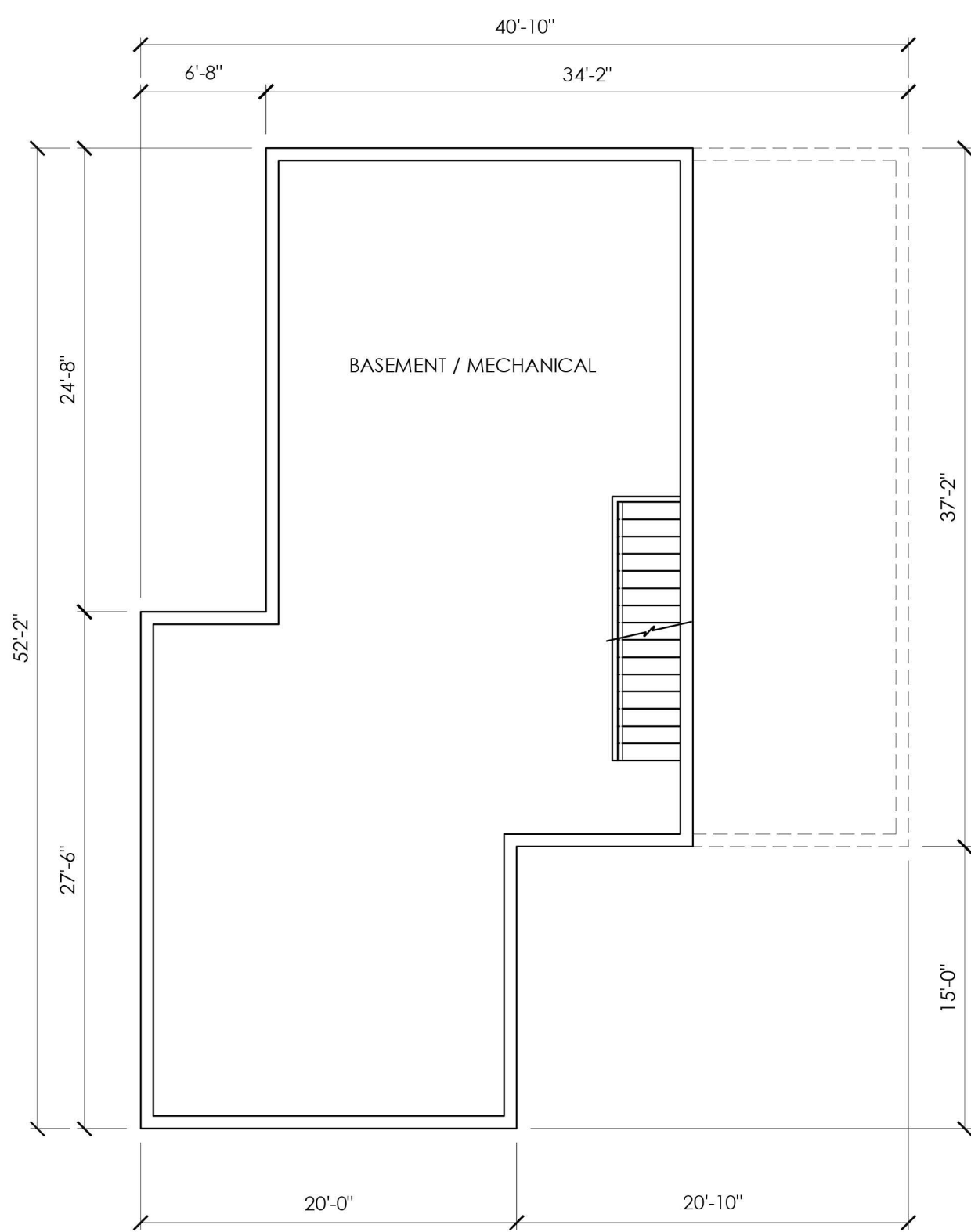
NO.	DESCRIPTION	DATE
1	REVISED NOTES	5/24/23
0	ISSUED FOR COMMENT	5/8/23
REVISIONS		



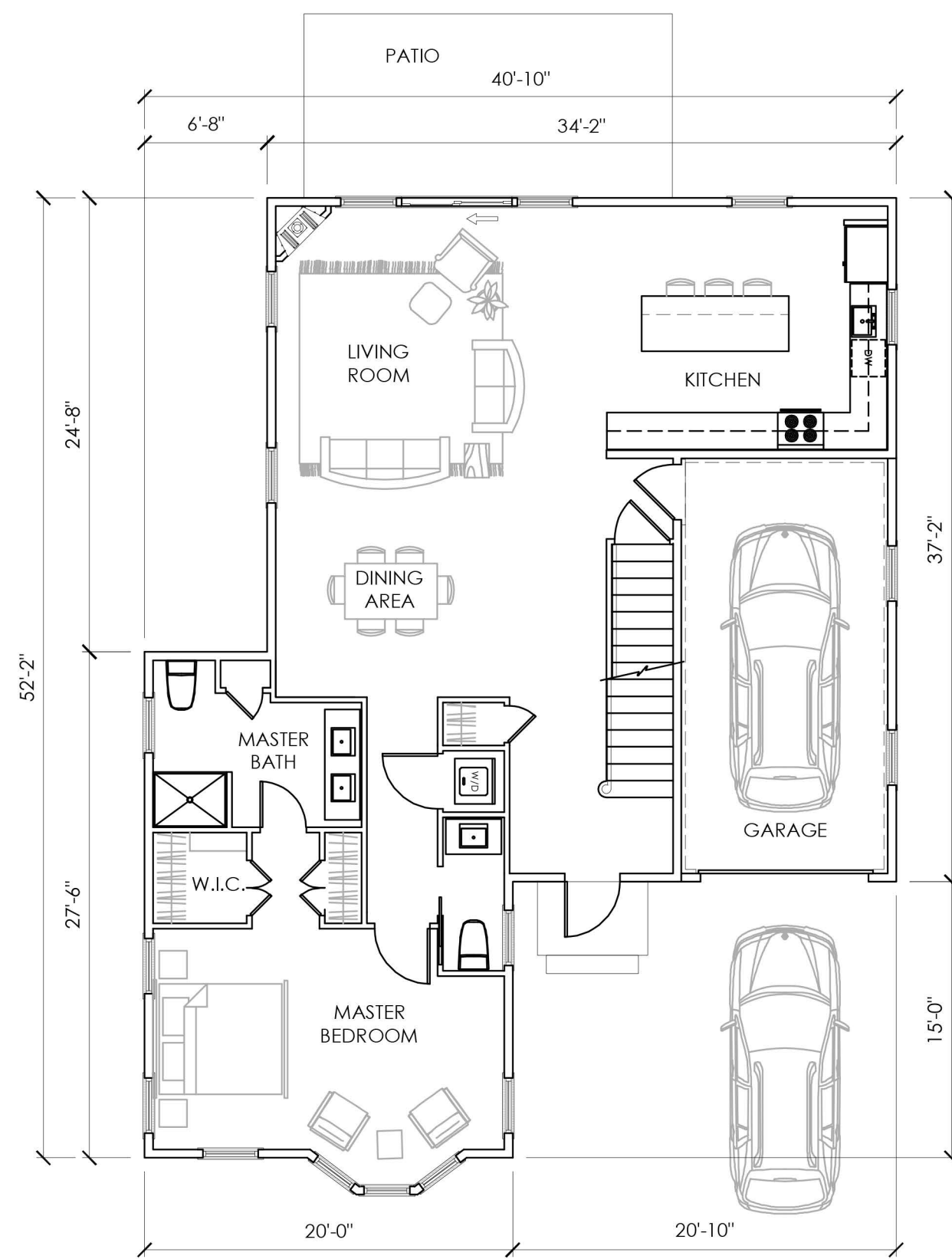
SCALE: 1" = 10' MAY 2023

**EROSION CONTROL
NOTES & DETAILS**

D1



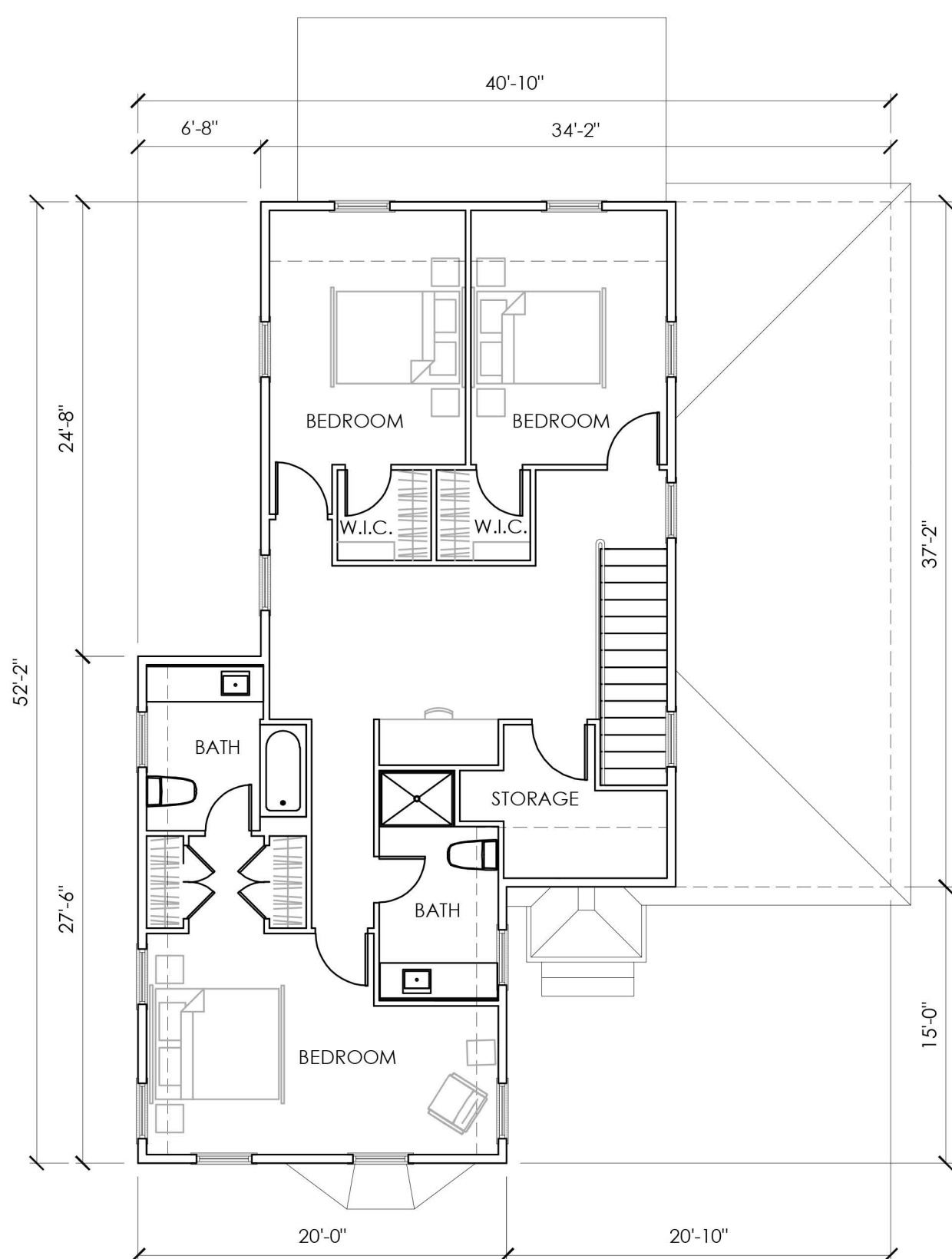
LOWER LEVEL FLOOR PLAN
1/8"=1'-0"



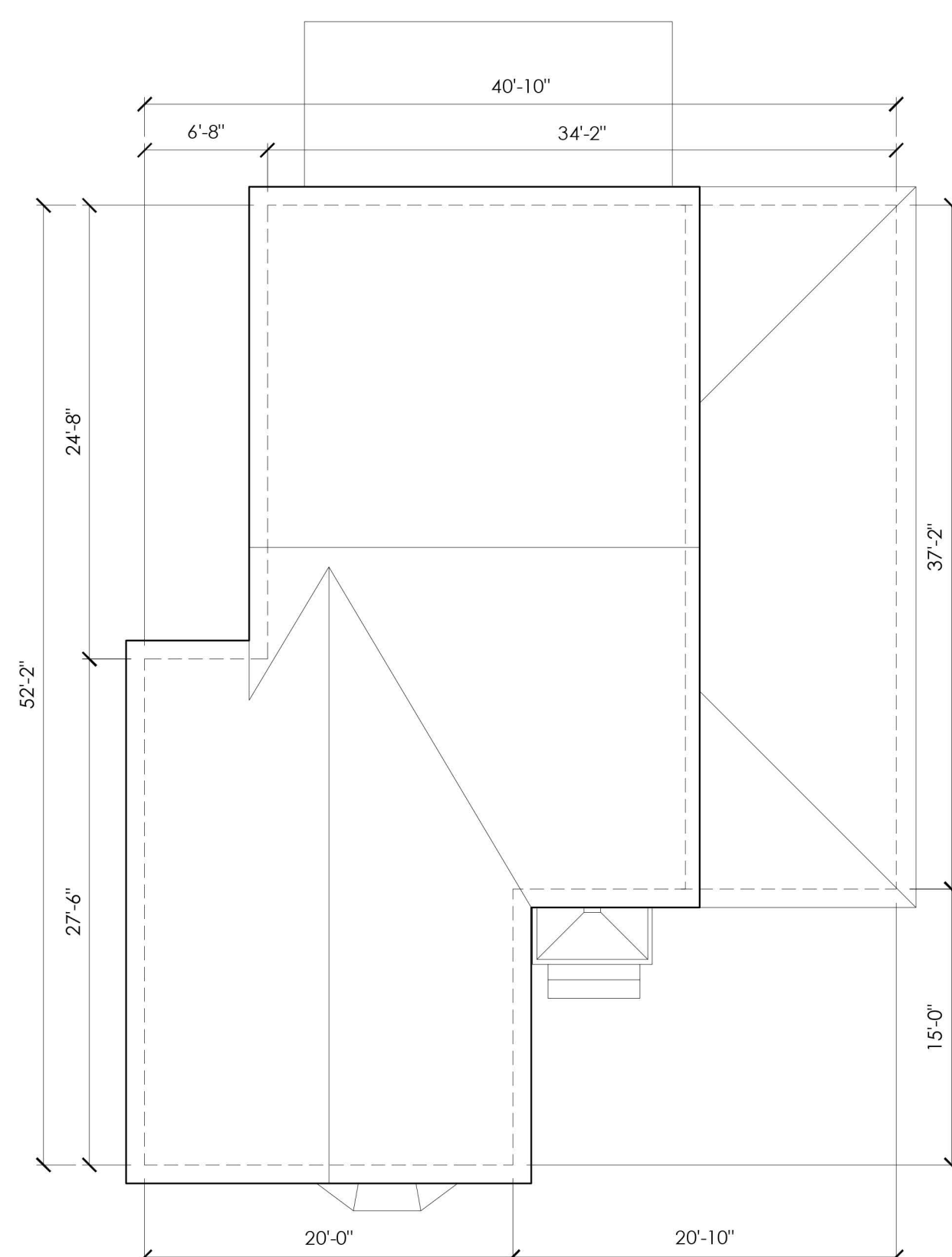
FIRST FLOOR PLAN
1/8"=1'-0"



PROPOSED VIEW



SECOND FLOOR PLAN
1/8"=1'-0"



ROOF PLAN
1/8"=1'-0"



FRONT ELEVATION
1/8"=1'-0"



RIGHT ELEVATION
1/8"=1'-0"



BACK ELEVATION
1/8"=1'-0"



LEFT ELEVATION
1/8"=1'-0"

NOT FOR CONSTRUCTION

REVISIONS:

DENICOLA RESIDENCE
281 CABOT STREET
PORTSMOUTH, NH



CJ ARCHITECTS
233 VAUGHAN STREET
SUITE 101
PORTSMOUTH, NH 03801
(603) 431-2808
www.cjarchitects.net

FLOOR PLANS
&
ELEVATIONS

DATE: 6/21/23
DRAWN BY: PDM
APPROVED BY: CJG
SCALE: 1/8" = 1'-0"
JOB NUMBER: 22303

A1



EXISTING VIEW OF CABOT STREET



PROPOSED VIEW OF CABOT STREET

REVISIONS:

DENICOLA RESIDENCE
 281 CABOT STREET
 PORTSMOUTH, NH



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 233 VAUGHAN STREET
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EXISTING &
 PROPOSED
 VIEWS

DATE:	6/21/23
DRAWN BY:	PDM
APPROVED BY:	CJG
SCALE:	1/8" = 1'-0"
JOB NUMBER:	22303

A2

NOT FOR CONSTRUCTION

















III. NEW BUSINESS

- G. The request of **Sureya M Ennabe Revocable Living Trust (Owner)**, for property located at **800 Lafayette Road** whereas relief is needed to increase the height of the existing sign which requires the following: 1) Variance from Section 10.1281 to alter a nonconforming sign without bringing it into conformity; and 2) Variance from Section 10.1253.10 to increase the height to 20 feet and 1 inch where 20 feet is allowed. Said property is located on Assessor Map 244 lot 5 and lies within the Gateway Corridor (G1) District and Sign District 5. (LU-23-66)

Existing & Proposed Conditions

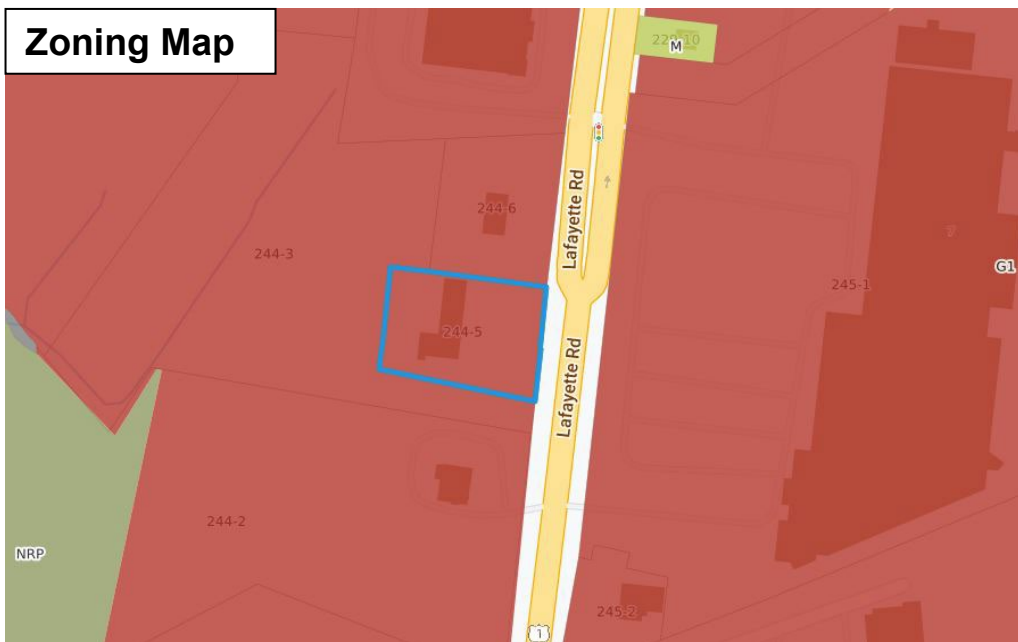
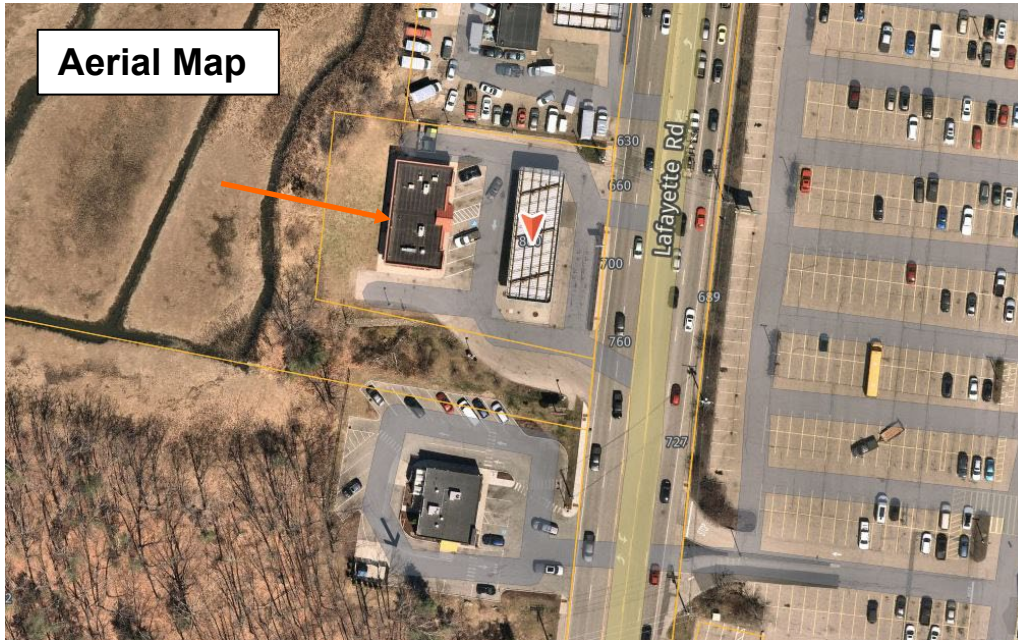
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	Add 18" height to existing sign*	Mixed Uses
<u>Aggregate Sign Area (sq. ft.):</u>	48	48	100 max.
<u>Freestanding Sign – Maximum Height (ft.):</u>	18.6	20.1	20 max.
<u>Estimated Age of Structure:</u>	2011	Variance request(s) shown in red.	

*alter a nonconforming sign without bringing it into conformity

Other Permits/Approvals Required

- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

January 26, 1965 – The Board **declined** to hear a request to construct a service station as the plans were not sufficient in scope to allow full consideration of the request.

April 25, 1972 – A petition for a proposed car wash was **withdrawn**.

June 29, 1976 – the Board **granted** a variance to vary the required front setback by erecting replacement signage with the stipulation that a total maximum signage of 270 s.f. be allowed for the entire lot.

June 29, 1976 – The Board **denied** a request to vary the required front setback for the erection of an expanded canopy over the gasoline pumps.

July 22, 1976 – the Board **granted** a rehearing on the above.

August 12, 1976 – the Board **granted** a variance to allow a canopy structure within the allowed 105' setback and a special exception to add 4 gasoline pumps, with the stipulation that the canopy be built as per plans submitted by the petitioner on that date.

February 18, 1986 – The Board **granted** a variance to construct a 10' x 29' addition to the rear of an existing building with a rear yard of 40' where 50' was required.

June 6, 1989 – The Board **granted** variances to allow a) a 4'6" x 10' section of a previously constructed cooler to maintain a 40' rear yard, 50' required and b) the previously constructed 10' x 29' addition to maintain a 28' left side yard where 30' was required.

November 17, 2009 – The Board **granted** a special exception for the use and variances to allow 1) a 30' front yard setback for a pump island canopy, 105' required along Lafayette Road; 2) the following setbacks in relation to the canopy structure: right, left, and front yard setbacks of 26', 23' and 30', where 30', 30' and 70' respectively were required; and 3) a tidal wetland setback of 50', where 100' was required.

April 20, 2010 – (postponed from March 23, 2010) The Board **granted** a variance to allow off street parking spaces between the principal building and the street right-of-way and, in order to obtain site plan approval, relief from Section 10.1113.20 of the Zoning Ordinance regarding the location of off-street parking spaces to allow parking between the principal building and the street.

June 21 & June 28, 2011 – The Board **denied** the request for a Variance from Section 1251.2 to allow canopy signs of 43.5± s.f. and 23± s.f. where 20 s.f. is the maximum sign area allowed for each individual canopy sign.

August 16, 2011 – An appeal for the June decision and a new petition to place striped on an existing canopy were **withdrawn**.

October 19, 2011 - The Board voted to **deny** the appeal to place colored markings on an existing canopy. The Board determined that the proposed colors and design constituted a sign as described in the Zoning Ordinance.

Planning Department Comments

The applicant is proposing to raise the height of the existing sign to 20' 1" by adding an 18" riser to the existing pole. This is proposed to alleviate a continuing problem of the sign being hit, as it was originally installed at a lower height than was necessary to provide clearance to taller vehicles and trucks entering and exiting the site.

Variance 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

 - (c) *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.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



ILLUMINATION VIEW

D/F ILLUMINATED PYLON MID SIGN: SCALE 3/8"=1'-0"

NEW CUSTOM CABINET AND POLE HEIGHT



EXISTING SIGN



PROPOSED SIGN



66 Gold Ledge Avenue,
Auburn, NH 03032

603.437.1200

FAX 603.437.1222

www.nhsigns.com

- DESIGN
- MANUFACTURE
- INSTALL
- SERVICE

CLIENT:

CN BROWN CITGO
PORTSMOUTH NH

LOCATION:

800 LAFAYETTE RD.
PORTSMOUTH, NH

DATE:

03/01/23

ACCT. REP:

NM

DESIGNER:

KAREN DAVIS

Rev# Date:

1- Note height
r2- total height 20'-1" 3/24/23

FILE NAME LOC:

CN Brown\Portsmouth
Lafayette Road
\ 2022 Digit Replacement

Please Note: it is the customers responsibility to provide primary electrical service (including ground wiring) directly from panel box, to within six ft. of sign(s). Installation to comply with N.E.C.600

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NH SIGNS RIGOROUSLY PURSUES COPYRIGHT INFRINGEMENTS

Addendum to Variance, Big Apple, 800 Lafayette Rd, Portsmouth, NH

We are requesting a variance to raise an existing sign at 800 Lafayette Rd by 18" to a total height of 20' 1" to alleviate the continuing problem of the sign being hit. The site is in Zone G1 and in sign zone 5.

The sign in question is a 48 sq ft sign that was permitted on May 23rd, 2011 with a height of 20ft. The sign was installed by others at a lower height and the bottom of the sign is at 12'7". We wish to add an 18" spacer to raise the sign up so that the bottom is 14'1". The top of the sign will thus be 20' 1" high.

The sign is non-conforming in that it does not meet the 20' setback. It is set back by 5 feet and is mounted in an island. The other side of the island is the station forecourt, which traffic uses to enter and exit the station. The sign overhangs this by about 2' 6", and this overhang creates the issue as at this point the sign is below the maximum allowed 13'6 for over the road traffic by about 10".

We are requesting variances in terms of:

Section 10.1281 A nonconforming sign or sign structure shall be brought into conformity with this Ordinance if it is altered, reconstructed, replaced, or relocated.

And

10.1253.10 The maximum and minimum heights and minimum setbacks for signs; we are requesting a setback of 5 feet where 10 is required and a height of 20'1" where 20' is allowed.

1. Granting this variance would not be contrary to the Public Interest

The requested changes are minimal enough that the Public would not necessarily notice the increase in height.

The sign overhangs the station side of the Big Apple property; this is a consequence of the location of the Gas Island, and this is the reason that vehicles hit it. It would be counterproductive to relocate it as this would make it less visible, but also, the setback issues would remain.

It is in the interest of the users of the station and the public that the sign is not a hazard to higher vehicles.

2. The proposed use will observe the spirit of the ordinance:

The purpose of the Sign code, among others, is to protect the public from hazardous displays. Certainly, raising it to prevent vehicles hitting it will reduce the hazards to the general public.

3. Substantial Justice would be done to the Property owner by granting the Variance:

The sign is in an island, and this is really the only logical place for it. Moving the sign away from the road would subject it to the same setback issues, and would attract considerable cost with no benefit. Leaving it where it is and raising it by an insignificant amount would be the just way to resolve this problem.

4. The proposed use will not diminish the values of surrounding properties:

Allowing this change will not result in a change in the essential character of the neighborhood. The change in height will not be noticeable and will have no effect on the values of other properties.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

Continuing with the sign as it is will subject motorists to unnecessary danger from the sign at its current height.

It makes sense to simply raise it by 18". This will eliminate the danger of vehicles of legal height hitting the sign.

We request the Boards favorable decision.