

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.

July 18, 2023

AGENDA

I. VOTE TO APPOINT TEMPORARY CHAIR AND VICE CHAIR

II. APPROVAL OF MINUTES

- A. Approval of the June 21, 2023 minutes.
- B. Approval of the June 27, 2023 minutes.

III. OLD BUSINESS

- A. **Request for rehearing by Jared J Saulnier (Owner)**, for property located at **4 Sylvester Street** whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. Application was denied on May 16, 2023. (LU-23-27)
- B. The request of **Danielle Okula, Dennis Okula, and Irinia Okula (Owners)**, for property located at **2 Sewall Road** whereas relief is needed to Install a 6 foot fence where along the front of the property which requires a Variance from Section 10.515.13

to allow a 6 foot fence where 4 feet is allowed. Said property is located on Assessor Map 170 Lot 22 and lies within the Single Residence B (SRB) District. (LU-23-71)

IV. NEW BUSINESS – PUBLIC HEARING

- A. The request of **Peter Gamble (Owner)**, for property located at **170 Aldrich Road** whereas relief is needed to demolish the existing garage and construct a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7-foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed. Said property is located on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. (LU-23-47)

- B. The request of **John C. Wallen and Jeanine M. Girgenti (Owners)**, for property located at **5 Cleveland Drive** whereas relief is needed to install a 6 foot fence along the primary and secondary front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is located on Assessor Map 247 Lot 74 and lies within the Single Residence B (SRB) District. (LU-23-92)

- C. The request of **Thomas P. Rooney (Owner)**, for property located at **29 Spring Street** whereas relief is needed to install one mechanical unit on the left side of the primary structure which require a Variance from Section 10.515.14 to allow a 4-foot left side yard where 10 feet is required. Said property is located on Assessor Map 130 Lot 21 and lies within the General Residence A (GRA) District. (LU-23-93)

- D. The request of **Project No. 9, LLC (Owner)**, for property located at **261 South Street** whereas relief is needed to extend the hours of operation to 7:00 PM and expand the existing restaurant use to include the sale and consumption of wine and beer which requires a Variance from section 10.440 Use #9.41 to allow a restaurant where one is not allowed. Said property is located on Assessor Map 111 Lot 34-2 and lies within the General Residence B (GRB) and Historic Districts. (LU-23-97)

V. OTHER BUSINESS

VI. 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_IMcUd_ezTeaBXqqAyMFKdg

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

7:00 P.M.

June 21, 2023

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; David Rheame; Paul Mannle; Thomas Rossi; Jeffrey Mattson; ML Geffert, Alternate

MEMBERS EXCUSED: Jody Record, Alternate

ALSO PRESENT: Stefanie Casella, Planning Department; Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:03. She introduced City Staff Planner Jillian Harris, who will be assisting Ms. Casella moving forward. She briefly reviewed the items that would be heard at the June 27 meeting. She stated that Alternate Ms. Geffert would take a voting seat for all petitions and approvals.

I. APPROVAL OF MINUTES

A. Approval of the May 16, 2023 minutes.

*The May 16 minutes were **approved** as submitted by unanimous vote.*

B. Approval of the May 23, 2023 minutes.

*The May 23 minutes were **approved** as amended by unanimous vote.*

(The amendments were to reflect that the SRA zone should be the SRB zone on page 10, and Mr. Rossi's name was missing the 'I' in at the beginning of the minutes).

II. OLD BUSINESS

A. Request for 1-year extension - **420 Pleasant Street** (LU-21-126)

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the request for the 1-year extension, seconded by Mr. Mannle.*

Mr. Rheume said he would support the motion but cautioned that the pandemic was starting to run its course as an excuse for not getting a project done that had a building permit.

The motion passed by unanimous vote, 7-0.

- B. Request for rehearing on the appeal of 1 Raynes Avenue** - As ordered by the Superior Court on February 2, 2023, the Board will “determine, in the first instance, whether it has jurisdiction over the issues presented” by Duncan MacCallum (Attorney for the Appellants) in the January 14, 2022 appeal of the December 16, 2021 decision of the Planning Board for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** which granted the following: a) site plan approval b) wetlands conditional use permit; and c) certain other, miscellaneous approvals, including an approval related to valet parking. Said properties are shown on Assessor Map 123 Lot 14, Map 123 Lot 13, Map 123 Lot 12, Map 123 Lot 10 and lie within the Character District 4 (CD4) District, Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District. (LU-21-54)

DISCUSSION AND DECISION OF THE BOARD

Vice-Chair Margeson moved to deny the rehearing, seconded by Mr. Rossi.

Vice-Chair Margeson said she wasn't sure if the Board was allowed to do a motion for a rehearing on a remand from the Superior Court, but pursuant to Paragraphs 1 through 9 of the motion that related to Mr. Rheume's participation and the rehearing, she said it wasn't a matter that she thought was in the Board's purview to weigh in on. She said the ZBA was a board of statutory jurisdiction and the administrative code of the City and beyond the Board's jurisdiction. She said the issues raised in Paragraphs 11 through 13 as to the participation of Mr. Pezzullo was something dealt with in the remand from Superior Court and that she didn't find that the ZBA had jurisdiction over that matter as well. She said the rest of the appeal had to do with the parking that was a matter on the remand from the Superior Court but thought it wasn't well pleaded and didn't think it was appropriate to supplement the record at this time, given the limitations the Board was given when they first looked at it. Lastly, she said the issue of Paragraph 13 about the possible contamination of the site with hazardous waste was not something that was part of the remand from the Superior Court. Therefore, she said she did not find that the Board had any need to or were even allowed to hear the motion for rehearing. Mr. Rossi said he did not attend that meeting but familiarized himself with the facts of the matter and concurred with Vice-Chair Margeson's statements.

The motion passed by unanimous vote, 7-0.

- C. Request for Rehearing - 170 Aldrich Road (LU-23-47)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Rheume said he wasn't at the meeting but watched the proceedings on the video. He said that, due to the communication issues with the applicant and his presentation, one of the key factors that seemed to turn the Board's opinion about the case was the presentation by the attorney for an abutter who presented a lot of information and the applicant didn't have an effective opportunity to rebut that opinion due to technical issues. He said the applicant was attending remotely and the testimony by the opposing attorney was an influential discussion and that the applicant would normally have an opportunity to come back during the 'to, for, or against' section to rebut the information from the opposing attorney but wasn't able to due to technical issues. He said it made sense to rehear the case out of fairness. Ms. Geffert said the Board should encourage the applicant to be present in person for the rehearing. Mr. Mattson said he normally wouldn't take granting a rehearing lightly but thought the situation with the remote technical difficulties was unique. Chair Eldridge noted that the Board had questions for the applicant that they were not able to get answers to due to the technical difficulties. Ms. Casella said the applicant is always encouraged to participate in any way that they can, but in the past there had not been technical issues, so moving forward she thought presentations from a virtual source should be reconsidered.

*Mr. Mattson moved to **grant** the rehearing, with the **stipulation** that the applicant be required to attend in person. The motion was seconded by Mr. Rheume. The motion **passed** by a vote of 6-1, with Mr. Rossi voting in opposition.*

Mr. Rossi and Mr. Rheume recused themselves from the following request.

D. Request for Rehearing - 635 Sagamore Avenue (LU-22-209)

DECISION OF THE BOARD

*Vice-Chair Margeson moved to **grant** the rehearing.*

She said the process of the Board was perhaps not the cleanest that it could have been, but the reliance on Walker v. City of Manchester in terms of finding the abutting properties nonconforming was misplaced. She said Sagamore Court was property zoned General Apartment Mobile Home, and although the Tidewatch Condominiums was in the SRA zone, it was a planned unit development because it was over 10 acres.

No one seconded the motion.

*Mr. Mattson moved to **deny** the rehearing, seconded by Mr. Mannle.*

Mr. Mattson said Vice-Chair Margeson made an interesting point but that he hadn't received any extra information regarding Walker v. City of Manchester, so he was not convinced to change his previous position of not granting the rehearing. Mr. Mannle said he thought there were a few confusing parts of trying to single the parcel out and that it was unrelated to Tidewatch Condominiums. He said Tidewatch was a new development with ten acres, and if the applicant's parcel was 10.2 acres, the Board would be dealing with the same thing. He said it was in the SRA

zone and the zoning request was for a living unit. He said it could have been a duplex or triplex. He said if the applicant had a petition for two buildings with garages that were two units each and copied the same style and floorplan as Tidewatch, the Board would be doing this again. He said the original decision to deny was proper and that he would support the motion. Ms. Geffert said she appreciated the observation by Vice-Chair Margeson of the Walker v. City of Manchester case but thought the Board was looking at the character of the area on each side of Sagamore Avenue and the character of the current use, which was a dilapidated industrial nonconformance, so honoring the zoning ordinance took on a broader perspective based on the current nonconforming use. She thought the Board correctly assessed the four-unit residential development following the spirit of the ordinance and one of the things that swayed her was that the applicant changed it from five units to four to make it more in keeping with the surrounding area and lot coverages in the existing zoning. She said she understood how the Walker v. City of Manchester case could be interpreted but thought the applicant's parcel was a special one and its current nonconforming use made the Board's consideration different than the Walker case. Chair Eldridge said the request for rehearing relied on seeing the development as overly crowded when in fact each house was on about a half-acre and met all the setback requirements, and she felt that the Board judged it correctly.

*The motion **passed** by a vote of 4-1, with Vice-Chair Margeson voting in opposition.*

Mr. Rossi and Mr. Rheaume returned to their voting seats. Mr. Mattson recused himself from the following petition.

- E.** The request of **The Islamic Society of the Seacoast Area ISSA (Owner)**, and **Chinburg Development, LLC (Applicant)**, for property located at **686 Maplewood Avenue** whereas relief is needed to construct four (4) duplexes and one (1) single living unit to create a total of nine (9) living units which requires the following: 1) Variance from Section 10.440, Use # 1.30 to permit four (4) two-family unit structures where they are not permitted, 2) Variance from Section 10.513 to permit five (5) free standing buildings with dwellings where not more than one is permitted, 3) Variance from Section 10.520 to allow a) 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required; and b) 47 feet of frontage where 100 feet is required. Said property is located on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District and the Highway Noise Overlay District. (LU-23-57)

SPEAKING TO THE PETITION

[Timestamp 33:05] Attorney Justin Pasay was present on behalf of the applicant, with project engineer John Chagnon, architect Carl Goodnight, and realtor Colton Gove of the Gove Group. Attorney Pasay briefly reviewed the application and seven exhibits. He said nine condominium units were proposed, with one affordable unit, and he described what the units would look like.

[Timestamp 38:35] Mr. Chagnon reviewed the site plan and said they would meet with the Technical Advisory Committee (TAC) to review landscaping, utilities, and other features.

In response to Mr. Rossi's questions, Mr. Chagnon said the parking area at the back of the lot encroached into the easement and would be paved. He said it would require a joint use agreement with Public Service that would be part of future approvals.

[Timestamp 45:03] Attorney Pasay reviewed the criteria and said they would be met. In response to Mr. Rheume's questions, Attorney Pasay said the development would be a multi-family condominium one, and each of the units would be for sale and the owners would be part of the condo association. He said the timeframe and the proposed affordable unit were issues addressed at the site plan review. He said they hadn't designed which unit would be the affordable one but if the variance was granted, they would put a more formal proposal together regarding the specific nature of the affordable unit and reference the Statute with the Planning Board. It was further discussed.

Attorney Pasay said the recreation area was stated as an amenity to the neighborhood residents but would only be utilized by the owners for the condominiums. Mr. Rheume said that was something different than stating that it would be open to the neighborhood residents. Mr. Rheume referred to the square foot per dwelling units. He said if the units were reduced to eight, the calculation would be 7,847 sf per dwelling unit, which would be around 7,995 sf per unit. He said it was also a bit above the 7,500 sf per dwelling unit for the GRA district. He said the closest other residential area was all GRA, which would be at 7,500 square feet. He asked why the ninth unit was needed and what the negative impacts would be if the Board felt that eight units were more appropriate. Attorney Pasay said the proposal had already gone from 10 units to nine, and one of the units would be affordable. Mr. Gove said they could get rid of the affordable unit and the 7,800 square feet but figured that the affordable unit was more important to everyone. Mr. Mannle said the development would be in character with the rest of the neighborhood. Attorney Pasay said four units out of 14 in the immediate vicinity were multi-family or two-family units. Mr. Mannle said the chart stated that there were five multi-family units, and out of those six extra units, he asked how many were 2,100 square feet. Attorney Pasay said he didn't have that information. Mr. Mannle asked why the applicant would compare it with an ADU or an apartment that was 400 square feet and say it was the same. Attorney Pasay said they were comparing the number of units to the size of the lots and suggesting that their proposal with nine units was roughly equivalent to the density.

Mr. Rossi said the density calculations were perplexing to him, like having multiple units per structure v. one unit per structure, or two v. three and so on. He said how it would change if it were looked at in terms of the number of structures on the property as opposed to the number of units. He said he didn't see anything in the immediate area with that dense of an allocation or use of multiple structures on a similar-sized property. Attorney Pasay said it went to the uniqueness of the property, a 1.44 acre parcel that had an odd configuration. He said when the available upland on the property was contracted and the ability to develop it made economic sense against the idea of proposing a subdivision road and making lot sizes that were consistent, it became a question of feasibility and viability, and the result was a condo proposal. He said it was a novel approach to developing the property that avoided tons of impervious surface in the form of a big road that the City wants to accept and also avoided a subdivision process. He said they focused on the dwelling unit per lot area calculation because it was the most reasonable approach to comparing the density of the properties. Mr. Rossi said when seeking variances from both the number of dwelling units per

building and the number of square feet per dwelling unit, it got a bit hard to compare on an apples-to-apples basis with surrounding properties.

Vice-Chair Margeson commented that the most problematic part of the application was the two-family dwelling units, which were not allowed in the SRB zone, and the five freestanding buildings and the density relief. She said the parcel was about 1-1/2 acres, and an argument could be made that the applicant might have a hardship due to the small frontage from the street for putting three single-family dwellings on the property. Attorney Pasay said the basis and the law behind the hardship analysis went to whether there were unique circumstances of the property and whether or not applying the specific ordinance in question to the property due to the unique circumstances accomplished the goal of the ordinance. He said they had an ordinance that prohibited on some level multiple buildings and prohibited two-family dwellings. In that context, he said the question was whether or not applying the ordinance accomplished the prohibition on those types of uses in the zoning ordinance, and he said the answer had to be no. He said there were duplexes that surrounded the property and the purpose of the ordinance was not being satisfied by applying it to the property. He said the same applied to the density analysis, which he further explained. [Timestamp 1:05:58]

Vice-Chair Margeson said the property was subdivided and enough street frontage would be needed to access all three of the dwellings. She asked for further explanation about subdividing the property even with the 47-ft front line. Attorney Pasay said at some level, there needed to be a private road proposal or a condo development or relief to accommodate a city road so that the lots interior to the property had frontage in a manner consistent with the zoning ordinance. He said it would require a lot of relief. Mr. Chagnon said the existing lot was oddly shaped and if it were properly configured in a way that could be subdivided, it would be an equivalent area of property to a similar block. He said there were eight or nine units in that block and by today's standards, it couldn't be subdivided in the same way but by past standards it would have worked out to nine lots.

Ms. Geffert asked the applicant to address the noise overlay by creating dense housing units so close to a highway and to also address parking on the lot. Attorney Pasay said the design accounted for the fact that there would have to be additional design criteria and standards met. Mr. Chagnon said the driveways were at least 20 feet from the curb line, so each unit would have a garage space and room to park a car outside. He said other spaces could be dedicated for additional parking if TAC felt that there should be more.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Rheume said it came down to an SRB lot and whether a single residence was an appropriate use for the lot. He said the board previously on two occasions said no and agreed that a single residence use was not a proper use for the property. He said the Board generally didn't want

duplexes in an SRA district, but in that case the property was remote and not visible to most people, so he found that it was less of an issue. He said the property was in some ways misplaced in the SRB district because it was surrounded by businesses or other duplexes and was more akin to the GRA zone. He said he felt more comfortable putting the parcel into that envelope. He said the issue he most struggled with was the density issue. [Timestamp 1:19:50] Mr. Mannle said he thought nine units were too much for the lot. He noted that the applicant said they could get rid of the affordable unit if they lost a unit, and he said it didn't work that way. Mr. Rossi said he didn't place much value on the affordable unit because it was a difficult location for residential use and he couldn't see the units commanding a premium in the market.

Vice-Chair Margeson said she would not support the application because the request was turning the lot into something more like the GRA, GRB, and GRC zones, and that was moderate to high density. She said the GRA and GRB zones were not really contiguous to the lot but were more contiguous to the SRB lot across the street. She said in terms of the previous variances and special exceptions granted for the lot, the places of religious assembly are allowed by special exception for the SRB zone and the variance was for the 47 feet of street frontage. She said if the applicant didn't get it, they would not be able to build on the lot. She said she didn't think the applicant demonstrated hardship for the two-family dwellings and the amount of dwellings on the lot. She said she could probably find a hardship, given the street frontage and the size of the lot, for three single-family dwellings but couldn't find it for the two-family dwelling relief and the density relief. She said it was a large lot that could probably get three lots for the SRB calculation, which would bring it down to below what was allowed under the GRA, GRB or GRC zones. For those reasons, she said she could not support it but could support the frontage relief because if that was denied, the applicant would not be able to build. Mr. Rossi said he concurred in general. Chair Eldridge said it was a great project and if the rules were followed, it would be an exceptionally large lot for one home, but she couldn't see the hardship. She said the uniqueness of the property wasn't really driving the way that the applicant proposed to use it.

*Mr. Mannle moved to **grant** only the variance for the 47-ft variance (Item 3.b). Vice-Chair Margeson seconded.*

Mr. Mannle said approving the 47-ft variance request would not be contrary to the public interest because the frontage was big enough for cars but not big enough for zoning. He said it was an access point for a 1-1/2 acre lot. He said it would observe the spirit of the ordinance and substantial justice would be done because access to the property was needed. He said it would not diminish the values of surrounding properties because they would not be affected. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, noting that the lot's hardship was having the remnants of subdivisions that took effect when Route 95 was built. He said the original size of the lot went across the street and further down. He said the parcel was one huge one at the time and got cut up, and the sliver with 47 feet of frontage was left over. He said not granting the variance for it would result in a hardship. Vice-Chair Margeson said the special conditions of the property is that it has just 47 feet of street frontage, so owing to those special conditions, it can't be reasonably used and there is no fair and substantial relationship between the purposes of the zoning ordinance and its application to the property.

*The motion **passed** by unanimous vote, 6-0, with Mr. Mattson recused.*

*Vice-Chair Margeson moved to **deny** the request to construct four duplexes and one single living unit to create a total of nine living units which requires relief from Section 10.440 (use 1.30) to permit four two-family structures where they are not permitted, and Section 10.513 to permit five freestanding dwellings where not more than one is permitted, and Section 10.520 for 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required. Mr. Mannle seconded the motion.*

Vice-Chair Margeson said the two-family dwelling relief, the one dwelling per lot relief, and the density relief were contrary to the public interest and the spirit of the ordinance. She said the purpose and intent of the SRB district was to have one freestanding dwelling unit on the property and not to have any two-family dwellings on the subject lot. As far as the density relief request, she said the lot was big and the relief would bring the lot size down to 6,975 sf where 15,000 sf per dwelling unit was required, which was also directly contrary to the purpose and intent of the SRB district that required 15,000 sf of lot. She said the application failed the hardship test because the applicant did not demonstrate hardship for having a two-family dwelling unit and more than one dwelling unit per lot for the density relief. Mr. Mannle concurred and had nothing to add.

*The motion **passed** by unanimous vote, 6-0, with Mr. Mattson recused.*

Mr. Mattson returned to his voting seat.

III. NEW BUSINESS

- A.** The request of **Charles Silva Jr and Margaret Moran (Owners)**, for property located at **434 Marcy Street** whereas relief is needed to construct an addition to the rear of the existing structure, remove the existing shed, and construct a new shed which requires the following: 1) Variance from Section 10.521 to allow: a) 8 foot left yard setback where 10 feet is required; and b) 43% building coverage where 30% 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. 3) Variance from Section 10.573.20 to allow a) 1 foot rear yard where 11 feet is required; and b) 1 foot right side yard where 11 feet is required. Said property is located on Assessor Map 102 Lot 41 and lies within the General Residence B (GRB) and Historic District. (LU-23-53)

SPEAKING TO THE PETITION

Architect Anne Whitney was present on behalf of the applicant. She said the three immediate abutters were in support of the project. She reviewed the petition and the criteria. In response to Mr. Rheaume's questions, Ms. Whitney said the residents at 28 South Street had a 6-ft fence toward the back of the applicant's property that went down to around four feet. She said the existing shed became the fence on that side. She said the applicant would fill in that fence to keep it at the 6-ft

height and that the abutter agreed. She said the new shed would be about 11 feet tall and have a small gable roof that would stick up above the fence a bit, so the neighbors would see some siding and some roof. She said the ordinance's maximum for a fence was six feet.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Mattson moved to **grant** the variances for the petition, seconded by Mr. Mannle.*

Mr. Mattson said granting the variances would not be contrary to the public interest because the proposed use was not in conflict with the explicit and implicit purposes of the ordinance and would not alter the essential character of the neighborhood, threaten public health, safety or welfare or otherwise injure public rights. He said it would observe the spirit of the ordinance because it was a small and modest addition that would be minimally visible from the street and entirely within the character of the neighborhood. He noted that it would also be going before the Historic District Commission. He said granting the variances would do substantial justice because the benefit to the applicant would not be outweighed by any harm to the public or other individuals. He said it wouldn't really be visible from the street, and the improvements to the property would benefit the applicant and do no harm to others. He said granting the variance would not diminish the values of surrounding properties, noting that there was no suggestion that this would be the case. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. He said the property had special conditions that distinguished it from others in the area, and owing to those special conditions, a fair and substantial relationship does not exist between the general public purposes of the ordinance's provision and the specific application of that provision to the property. He said it was a reasonable proposed use of the single family residence on a small, undersized lot that was half the size of what was permitted in the already dense zone. He said the purpose of preserving air, light and privacy would be preserved with the very modest change to the structure. Mr. Mannle concurred. He said the property was in the south end, where nothing conformed. He said the request was small except for the shed, but the existing shed would be gotten rid of, which was a tradeoff that didn't bother him. Vice-Chair Margeson said she would not support the motion. She said the proposed shed brought the right and rear setbacks way out of conformance and thought a smaller shed could have been put in the existing footprint.

*The motion **passed** by a vote of 6-1, with Vice-Chair Margeson voting in opposition.*

- B.** The request of **David Hugh Mason** and **Lisa Ann Mason (Owners)**, for property located at **239 Cass Street** whereas relief is needed to demolish a single story addition on the rear of the primary structure, construct a two (2) story rear addition to the primary structure, and demolish and enlarge existing garage which requires the following: Variance from Section 10.521 to allow: a) 1 foot right yard where 10 is

required for the primary structure; b) 3 foot left yard where 10 is required for the accessory structure; c) 4 foot rear yard where 20 is required for the accessory structure; d) 37% building coverage where 30% is allowed on the lot. Said property is located on Assessor Map 147 Lot 4 and lies within the General Residence C (GRC) District. (LU-23-69)

SPEAKING TO THE PETITION

Project designer Amy Dutton was present on behalf of the applicant and reviewed the petition and the criteria. [Timestamp 2:03:50]

Mr. Rheume said the proposal was to get a full two stories in the descending topography as opposed to continuing the 1-1/2 story roofline. He said the request was for a lot more than what currently existed and asked if the applicant contemplated continuing the 1-1-2 story roofline and using some selective dormering, particularly on the side away from the neighbor. Ms. Dutton said they had 3'9" knee walls so they would have to do an addition and then dormer it. She said they were trying to not hit the 50 percent rule and impact the existing structure the least amount as possible. She explained that if they were to take 50 percent or more, they would have to comply with the building code 100 percent. She said they proposed about 30 percent, which meant that they would not have to take everything up to the current 2008 building code. She said they could improve the staircase but didn't have to bring it all the way up to a full code staircase. Mr. Rheume asked why the proposed more substantial structure would be less impactful than a 1-1/2 story roofline. Mr. Dutton said they couldn't get the living square footage out of the existing house. She said if the dormered out the existing house, they'd touch that roof and not gain anything. She said there was the issue of hitting the code in the bathroom. Mr. Rheume said the floor plan indicated that the bathroom would be swapped over from the 1-ft setback side to the driveway side and a new bath would be added, which he thought was a decent size in that new extension, but there was the compromise of what the applicant wanted v. what was fair to the neighbors in terms of the new structure being built one foot from the property line.

Mr. Mattson said the only variance the applicant would need would be for the right yard setback if they weren't changing the garage. Ms. Dutton said the existing garage sat one foot and two feet from the property lines and it would still be nonconforming. Mr. Mattson said it would be the expansion of a nonconforming structure. Ms. Dutton said the house didn't comply. Ms. Mattson asked Ms. Dutton to clarify how a 1-ft setback would be gained. Ms. Dutton said they would just be straightening out the foundation. The setback relief requests were further discussed. Vice-Chair Margeson said she shared Mr. Rheume's concerns about the addition on the back, noting that other homes on the street would not have that addition on the back. She said she was concerned about the character of the neighborhood, given the extension on the back, but wasn't sure if there was any basis in the application for that concern. Ms. Geffert confirmed that the applicant would experience a hardship if they weren't able to take the addition up to the proposed height.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the variances for the petition as presented and advertised, seconded by Ms. Geffert.*

Mr. Rossi referred to Sections 10.233.21 and .22 of the ordinance and said granting the variances would observe the spirit of the ordinance and there would be no loss to the public interest by allowing an extension to the rear of the home. Referring to Section 10.233.23, he said granting the variances would do substantial justice because there would be no loss to the community or the town in general that would outweigh the loss to the applicant if the variances were to be denied. Referring to Section 10.233.24, he said granting the variances would not diminish the values of surrounding properties. He noted that the abutters were notified and had the opportunity to express any concerns as to massing and the impact on their properties but didn't. Referring to Section 10.233.25 of the ordinance, he said the existing conditions of the lot are the 1-ft clearance to the right side lot line for the primary structure, so any change to the structure to bring it up to contemporary standards for livability would require a variance, which was a special condition of the property. He said it already existed with essentially a zero lot line clearance that would be increased to one foot and would bring it closer into compliance. He said the same was true for the variances related to the garage and the setback, noting that they were either within the requirements or decreased the amount of noncompliance. He said the current location of the garage was a special condition that allows the new garage to be less noncompliant than the current condition.. Ms. Geffert concurred.

Mr. Rheaume said he would not support the motion. He agreed that the existing 1-1/2 story was one foot off, and the addition on the back bowed out a bit and the applicant was correcting that, but he thought going up a whole story on a 1-1/2 story house wasn't warranted. He said the spirit of the ordinance was to prevent the imposition of light and air on abutters' properties. He said he was fine with the garage but thought the one-foot property line asked for was more than necessary to meet the fundamental objectives of having a larger house. Mr. Mannle agreed but thought the garage was the problem because it was driving three out of 4 variance requests. He said the request was to demolish the garage and have a clean slate. He said the applicant was only going down by a foot for a bigger garage and that he would want to see something more conforming with the zoning. Chair Eldridge said she would support the motion because the fact that the garage would be taller would keep its windows from looking into the neighbors' windows, and the view of the garage from the street would be the same.

*The motion **passed** by a vote of 5-2, with Vice-Chair Margeson and Mr. Rheaume voting in opposition.*

- C. The request of **Danielle Okula, Dennis Okula, and Irinia Okula (Owners)**, for property located at **2 Sewall Road** whereas relief is needed to install a 6 foot fence where along the front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is located on

Assessor Map 170 Lot 22 and lies within the Single Residence B (SRB) District.
(LU-23-71)

SPEAKING TO THE PETITION

The applicant was not present.

DECISION OF THE BOARD

*Mr. Rossi moved to **postpone** the petition to the July meeting, seconded by Mr. Mannle. The motion **passed** by unanimous vote, 7-0.*

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting adjourned at 9:28 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
CONFERENCE ROOM A
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

June 27, 2023

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; David Rheame; Paul Mannle; Jeffrey Mattson; Jody Record, Alternate

MEMBERS EXCUSED: ML Geffert, Alternate; Thomas Rossi

ALSO PRESENT: Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:00 p.m. Alternate Ms. Record took a voting seat for the evening.

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)

SPEAKING TO THE PETITION

The applicant/owner Gary Beaulieu of Bedford NH was present with realtor broker Matt Beaulieu and reviewed the petition. He said the garage would be the same color, texture, trim and roof pitch of the existing house. He reviewed the criteria and said they would be met.

In response to Vice Chair Margeson's questions, Mr. Beaulieu said the back part of the lot was owned in common between the two units. He said he could not push the garage back so that it was equal with the neighbor's because the neighbors went to the Conservation Commission to get their office/garage and that it would ruin the backyard. He said the wetlands weren't on the property and the back of the decks were about three feet over the wetland setback, which was why they got relief from the Conservation Commission. He said they were just outside of the buffer.

Mr. Rheame asked who owned each of the units. Mr. Beaulieu said he did, as the developer and condo association. Mr. Rheame asked what piece of water the applicant was within 100 feet of.

Mr. Beaulieu said it was a Type B soil and that the stakes in his yard were put in by the City. Mr. Rheume asked why the applicant didn't ask for the variance relief back in 2021 when he was granted a variance to expand his building coverage to 23 percent. Mr. Beaulieu said he assumed it was a done design from a young developer who was going bankrupt, so he ran with what was approved. He said the garage proposal was due to public sentiment. Mr. Rheume asked why the other condo wasn't getting a garage and when he would return for that. Mr. Beaulieu said he probably wouldn't because it would be a zero lot line. He said he didn't feel it was practical and would crowd the neighbor. Mr. Rheume asked what objection the Historic District Commission (HDC) had to the historical architecture. Mr. Beaulieu said the HDC wanted a final draft of what would be done with the driveway and that he would return to the HDC for the garage door approval. Mr. Rheume asked about the accessory structure in the front yard. Mr. Beaulieu said he met with the Planning Department and they took the common frontage distance of the surrounding homes. Ms. Harris said it was for the accessory structure located within the front yard and not necessarily the setback. Mr. Rheume said most of the neighbors had garages and asked if the applicant had a list of the properties he identified. Mr. Beaulieu said there were garages on both sides of him and across the street and but that he didn't have specific locations for the others in the neighborhood.

Realtor broker Matt Beaulieu said the garage component was crucial, noting that the neighbors had the same setback requirements and some had recent garages.

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

No one spoke.

SPEAKING IN OPPOSITION TO THE PETITION

Christina Logan and Michael Graf of 220 South Street said were the most affected abutters. Mr. Graf said the adjacent building was Ms. Logan's studio. He said the applicant's location was too close to the street and to his property line. He said he talked to the applicant about moving the building back but the applicant said he didn't want to go to the Conservation Commission for relief. He said he told the applicant there was a precedent because he and Ms. Logan had gotten relief. He said the applicant just wanted to do what they could to sell it. He clarified that there weren't that many garages in the neighborhood, but the ones that were couldn't be seen from South Street.

Laurie Kennedy of 244 South Street said she went before three land boards for her 2-car garage and that it could not be seen from the road. She said the applicant was very close to the lot line and if they sold it as two units, there wasn't enough room for two cars. Chair Eldridge asked Ms. Kennedy if she shared a driveway with the applicant. Ms. Kennedy said she had to get a variance for her 1-1/2' driveway. Mr. Rheume verified that there was an agreement recorded at the Registry of Deeds that indicated Ms. Kennedy had a 1-1/2 ft right-of-way.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Realtor Matt Beaulieu said they were getting a lot of interest in the property and most people wanted a garage. He said he had done a lot of projects in Portsmouth.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

Mr. Mattson said it was odd that there was only one garage proposed but felt that it wasn't something he couldn't get on board with. He noted, however, that the applicant had already been before the Board the past few years. He said he was on the fence about whether there was an actual hardship. Vice-Chair Margeson said she was conflicted also, noting that a garage is an appropriate and allowed use for a residential building, but she took the comments about the desire not to go before the Conservation Commission seriously. She said bringing a building completely out of the wetlands buffer was also a good thing. She said she had concerns about the applicant coming back two years later and the lot on Unit 2. Mr. Rheume said the applicant was asking for a modest 12'x20' garage but were adding in the additional relief because it was in the front yard, which he understood. He said he was conflicted about the allowable space standpoint that drove the garage and thought 1-1/2 feet was very tight. He said the hardship was more of an economic one. He said the properties around the applicant had variations of garages but that he found very few garages in the overall neighborhood. He said he understood the economic desire but thought the garage was too close to the property line and wasn't enough to meet the criteria. Chair Eldridge said she could not approve the project. She said she understood that the lots were narrow and it was hard not to build too close to a lot line in the south end, but she thought the applicant's statement of not wanting to go before the Conservation Commission wasn't really a hardship. She said that relief should be sought there before asking the Board for relief.

DECISION OF THE BOARD

*Mr. Rheume moved to **deny** the petition, seconded by Mr. Mannle.*

Mr. Rheume said the applicant had to meet all the variance criteria and that it failed two. He said it was contrary to the public interest due to the garage and its location and that the applicant provided no evidence specific to other properties that his proposal would have a similar look and feel. He said the positioning of the garage requires additional relief from the front yard requirement, which could be alleviated by repositioning it on the lot. He said the applicant brought up some economic hardships associated with the property. He said it was just part of living in the south end and he didn't hear anything related to unique characteristics of the property. He said it sounded like the applicant's property was in the 100-ft buffer and there was a potential leniency that other neighbors had gotten in the past and were able to build in another location. He said moving it would provide further setback from the property and eliminate the need for the front yard variance request.

Mr. Mannle concurred. He said he didn't see the hardship and that there was no obligation to get a garage. He said he found it odd that it was a two-family property and the proposal was only for a single-car garage, and he suspected that the applicant would be back.

The motion passed unanimously, 6-0.

- B.** The request of **Sarnia Properties Inc. C/O CP Management Inc. (Owners)**, for property located at **933 US Route 1 BYP** whereas a 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)

SPEAKING TO THE PETITION

Attorney John Bosen was present on behalf of the applicant, with the owner of the Vanguard Health Club Craig Annis. Attorney Bosen said the plan was to relocate the Raines Avenue gym. He reviewed the petition and the reasons why a special exception was needed.

Mr. Rheume asked what portion of the building the applicant would use. Mr. Annis pointed it out on the plan and said it would have a shared loading dock. Mr. Rheume asked if the mezzanine, steel gate and one floor were part of the application. Mr. Annis said they were but would be cut off at some point and would just be a warehouse space to sub out. Mr. Rheume said the applicant was applying for a parking Conditional Use Permit (CUP) and asked what the parking situation and the status with the Planning Board was. Attorney Bosen said 83 spots were available and the ordinance required 114, so they had a favorable meeting with the Technical Advisory Commission (TAC) and thought they would receive approval from the Planning Board in July. He said there was more than adequate parking, noting that the busiest times the gym was used were between 4 and 7 a.m. Mr. Rheume asked what the entry points to Unit 5 were. Mr. Annis said it was off Emery Street and that most of the clientele would be entering on that side. Mr. Rheume asked what drove the 114 parking spaces and who the other current building tenants were. Attorney Bosen said there were three office spaces, storage and warehouse space, and a small gym.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

Mr. Mattson moved to grant the special exception, seconded by Ms. Record.

Mr. Mattson said the standards as provided by the ordinance for the particular use of the health club were permitted by special exception. He said granting the special exception would pose no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials because that wasn't a concern for a health club and there would be no external changes. He said it would pose no detriment to property values in the vicinity or change to the essential characteristics of any area, including residential neighborhoods and businesses or industrial districts on account of the location and scale of buildings and other structures, parking area, accessways, gas, dust, noise, pollution, and so on. He said it would not be a problem because there would be no external changes. He said it would not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity because it would be in a location that would have almost twice the parking than the previous location and would have off-peak hours for traffic. He also noted that TAC approved it. He said it would pose no excessive demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection, schools and so on because that should not be a problem for a health club, which was allowed by special exception. He said it would pose no increase of stormwater on adjacent properties or streets because there were no external changes. Ms. Record concurred and had nothing to add.

Mr. Rheaume said he would support the motion because the applicant made a good argument that their parking needs were out of synchronicity with the other needs for the other uses within the building, and that heavy traffic and parking needs would be outside the times that those other users would be looking for the same types of capabilities.

The motion passed unanimously, 6-0.

- 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)

SPEAKING TO THE PETITION

Attorney John Bosen was present on behalf of the applicant, with the owners/applicants Ashley and Lisa Brown. He reviewed the petition and criteria. [Timestamp 1:03:19]

Mr. Rheaume said there was a discrepancy on the dimensional table, with a current condition of 24 feet for both the front yard and the right yard. Ms. Harris said it was a typo for the rear yard.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Rheume moved to **grant** the variances for the petition as presented and advertised, seconded by Mr. Mattson.*

Mr. Rheume said what was asked for was additional space on the property that was modest and that most people walking by would not notice. He said granting the variances would not be contrary to the public interest because the only thing asked for was the relief from the total building coverage, 27 percent when 25 percent is the maximum allowed. He said it would be essentially invisible on the inside of the property and would sort of expand off an existing porch area and would not change any of the neighborhood's characteristics. He said granting the variances would observe the spirit of the ordinance because the applicant's property line went to a certain point but there was a lot of extra property that would appear to be part of the property to a passerby on Orchard Street that was much greater than the two percent the applicant was going over. He said substantial justice would be done because the public would not have an interest that would outweigh the applicant's desire to add some living space. He said it would not diminish the values of surrounding properties because it was a modest addition toward the interior of the property and met all the setbacks and would add value to the applicant's property as well as others. He said the hardship was that the current property's unique aspect was that it was a corner lot with some additional land that had the look and feel of being part of the applicant's property, which negated any of the concerns that it would be an unreasonable use for the property. Mr. Mattson concurred and said there would be no threat posed to the public's health, safety, or welfare or to public rights.

*The motion **passed** unanimously, 6-0.*

- D.** The request of **Point of View Condominium (Owner)**, for property located at **57 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)

SPEAKING TO THE PETITION

Attorney James Steinkrauss was present on behalf of the applicant, joined by the applicants, project engineer Eric Weinrieb, and landscape architect Terence Parker. He asked for an additional five minutes for his presentation.

*Mr. Rheume moved to suspend the rules and allow the applicant 20 minutes for his presentation, seconded by Mr. Mannle. The motion **passed** unanimously, 6-0.*

Attorney Steinkrauss reviewed the petition and criteria. [Timestamp 1:16:33]

Vice-Chair Margeson said the 2018 variances were to allow for a single family dwelling, yet there were two units in the building. Attorney Steinkrauss said there was just one unit in the building but two units in the condo. On the parcel itself, he said there were two buildings and that Unit 2 was a single-family residence. He said his client's condo would also be a single-family residence.

Mr. Rheume said the same relief for the duplex units was before the Board at the last meeting. Mr. Weinrieb said they weren't involved in the original design and permitting but did the removal of the 87 feet over the water on the dwelling unit. He noted that there were detached condo structures on a single lot forming two residential units and the building was cantilevered on a concrete slab over the water. He said they would pick up the building and relocate it and remove the existing foundation and the concrete over the water. He said the retaining wall under the building on the south side was deteriorating so they proposed to have a vertical element between the building and the water and then do a foundation for the building behind it, which he further explained. He said they would raise it up a few feet higher to make it FEMA compliant. He said the unit dwelling area would stay the same but the structure would change, so the condo documentation would have to be updated.

Mr. Rheume said the building was now at a higher elevation than it was before and would have steps and so and asked if that was included in the total coverage calculation. Mr. Weinrieb agreed. Mr. Rheume said the applicant stated that they had a 2-ft setback from the water side but there was a deck that covered that, and that deck would be more than 18 inches above what the previous grade of the property would have been. Mr. Weinrieb said it was the existing wharf and they would cut off a portion of it and recreate it, so the elevation wouldn't change. Mr. Rheume asked if the setback would be two feet or zero feet. Mr. Weinrieb said the two feet would be the building and then there was the gap of the retaining wall because they could not connect the wharf to the building. Ms. Harris said what was changing was the building and moving back to a 2-ft setback. Mr. Rheume said all the structure was higher than what was there previously and noted that the Board denied a similar petition a few weeks back. It was further discussed. [Timestamp 1:41:50]

Mr. Rheume said the applicant was asking the Board to reaffirm its 2018 decision and asked what the applicant was looking for and why they thought the relief granted back in 2018 was in jeopardy. Attorney Steinkrauss said they were asking for the prior variances to be reaffirmed to the extent that it was necessary. Mr. Rheume asked what encroached within one foot into the front yard. Mr. Weinrieb said it was the mechanical vent and explained it further [Timestamp 1:57:00]. Mr. Rheume said the variance cited did not apply to the Waterfront Business District and asked how the Board could approve it. Ms. Harris said the Staff Memo commented that the section cited is not applicable in the Waterfront Business District, so the City Staff didn't think it was needed. It was further discussed. [Timestamp 2:00:40].

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

No one spoke.

SPEAKING IN OPPOSITION TO THE PETITION

Marcia MacCormack of 53 Salter Street said she was not notified that the building would be converted into condos and thought it wasn't appropriate for the area. She said the applicant expanded the parking area so that she was literally on top of a parking lot now and they were moving the house forward. She said the condition of the seawall was dangerous and she didn't understand why the City gave a building permit for the project.

Susan MacDougall of 39 Pray Street said she lost count of all the variances granted for the property starting in 1990. She said that the Board, by granting all those variances, changed the Waterfront Business District code *de facto* and set a precedent for her side of the road. She said the parking would be impacted if the building were moved back and the condo agreement would be changed, but there was no indication from the other owners that it would be acceptable. She said she was concerned about the 18 inches. She said the proposal was contrary to the public interest.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Attorney Steinkrauss said they were not aware of their obligation to notify neighbors of a conversion of a property, especially two units of a condo. He said the condo abutter did submit a letter of support. He said the variance was specific to the property and met the criteria.

Mr. Weinrieb said the building was getting higher and they weren't asking for a height variance and weren't impacting the parking. He said there was very little waterfront business left except for the Sanders Lobster Pound.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

Vice-Chair Margeson said the situation was complicated but she would support the application because it was about the front and right yard setbacks and the right yard setback was going from a negative 5.6' to 2', making it a more conforming use. She said the property had special conditions because it was over the water. Mr. Mandle said it was nice to go from a negative to a positive, but because the building was being moved, he'd like the setbacks to be less nonconforming. Mr. Mattson said he was inclined to support the project because, by the nature of it being in the Waterfront Business District, the setbacks were odd in terms of trying to meet the 30' setbacks in the front, left, and right yards, particularly for that size of lot. He said if a property was going to be moved and get a fresh start, it would be good to have it become more conforming. He noted that the DES criteria was triggering all of it in the first place.

Mr. Rheume said he was on board in 2018 when the original set of variances was approved. He said he empathized with the abutters about how much change was going on. He discussed how zoning originated [Timestamp 2:14:23] and said the Board didn't believe they were setting a precedent. He said they took the hardship criteria seriously, especially in the Waterfront Business District. He said the applicant got a building permit in 2018 and it took a long time to exercise that permit due to things out of their control. He said the parking concern wasn't really an issue. He said the open space coverage would slightly increase from what it was before, noting that over half of the lot was considered open space and the applicant by right could cover another 30 percent of it. He said the setbacks seemed like a lot of relief but wasn't. He said the property was essentially on a peninsula and would have no impact on the light and air of surrounding neighbors. He said the deck wasn't a real issue and hoped that additional relief would not be requested.

DECISION OF THE BOARD

*Mr. Rheume moved to **grant** the variances for the application as presented and advertised, with the following **condition**:*

- 1. The 1-ft encroachment by an exhaust vent would be recognized by the Board.*

Vice-Chair Margeson seconded the motion.

Mr. Rheume referred to his comments and said granting the variances would not be contrary to the public interest, noting that it had already been approved as a second dwelling unit in 2018, so they were talking about the net difference to the public of the building being over the water versus it being drawn slightly back from the water. He said it would essentially be the same building but would be raised and still within the allowed building coverage. He said it would not disrupt the nature of the neighborhood. He said the spirit of the ordinance would be observed because light and air requirements would be met. He said granting the variances would do substantial justice, noting that it was a balancing test and some concerns were addressed in 2018 and were not before the Board that night. He said the applicant would still have the full use of the property as was granted in 2018 and have the same size of structure. He said granting the variances would not diminish the values of surrounding properties because the structure would be moved a distance that would not impact them. He said the hardships were that the applicant was previously granted relief to make two dwelling units and ran into some legal issues that were identified late in the process, which required the applicant to move the structure back onto the land. He said the property was at the end of a narrow and short street. He said the use in the Waterfront Business District was decided upon in 2018 but some of the dimensions weren't fully applicable to the property. He said that, due to its location and nature of being surrounded by water on both sides, it was a reasonable use.

Vice-Chair Margeson concurred and had nothing to add.

*The vote **passed** by a vote of 5-1, with Mr. Mannle voting in opposition.*

- 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)

SPEAKING TO THE PETITION

The applicant/owner Eric Gregg was present to review the petition. He noted that he was seeking a 6' setback, not a 2' setback. He reviewed the criteria and said they would be met.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Mattson moved to **grant** the variance for the petition as approved and presented, with the following **condition**:*

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

Mr. Mannle seconded the motion.

(Note: the original motion was amended after Mr. Rheume's suggestion that it include the condition noting the 6' v. 2' setback discrepancy).

Mr. Mattson said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance because the proposed use would not conflict with the implicit or explicit purposes of the ordinance and would not alter the essential characteristics of the neighborhood, threaten the public's health, safety, or welfare, or otherwise injure public rights. He said the mini split condenser would do substantial justice because it would benefit the applicant and do no harm to the public. He said granting the variance would not diminish the values of surrounding properties because it was a small ask and the proposed lattice work would make it blend in without hindering the air flow, and the lot was very small so there wasn't any other suitable location to put the condenser in. He said literal enforcement of the provisions of the ordinance would result in unnecessary hardship because the property had special conditions that distinguished it from others in the area, and owing to those special conditions, a fair and substantial relationship does not exist between the general public purposes of the ordinance's provision and the specific application of that provision to the property. He said the proposed use was a reasonable one and the unique conditions of the property was that it was an extremely small size and the nonconforming

location of the structure on the property left no other viable alternatives for improving the HVAC system. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 6-0.

- 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)

SPEAKING TO THE PETITION

Attorney Justin Pasay was present on behalf of the applicant, with project engineer John Chagnon and Geoff Spitzer, developer for Chinburg Properties. Attorney Pasay said the Staff Memo indicated that the applicant did not need relief from the additional building coverage. He said they also did not apply for a frontage variance because the zoning ordinance allowed for a lot to be considered conforming as to frontage if certain conditions existed. He said Mr. Chagnon filed a supplemental letter to the Board stating that the property, as of March 1966, had the existing amount of frontage and satisfied the criteria because it was not owned in common with the other properties. Ms. Harris clarified that the relief for 43 percent building coverage was still needed. She said it was the request from Section 10.321 to permit the construction of a single-family dwelling on the property, which is more nonconforming for building coverage, that the Staff did not believe was needed. Attorney Pasay reviewed the petition and criteria. [Timestamp 2:46:33]

Vice-Chair Margeson said the applicant referred to the undeveloped lots on Islington Street and said the applicant's lot had a special condition. She said 28 Rockingham was improved and there was nothing preventing the backs of those buildings from being developed. She said she was struggling to find how that wasn't going to happen and why it was a special condition of the applicant's property. Attorney Pasay said the proximity to those properties is what made it unique. He said there were narrow properties further north on Cabot Street with single-family residences that filled up most of the lots. He said the applicant's property had a larger frontage of 50 feet on the eastern side of Cabot Street and the existing built condition of the garage, which was relevant because for decades the appearance of that property had been a single-family house with a garage offset to the right. He said there was also the proximity with the larger massing and scaling of the properties on Islington Street because now that area is used as a driveway and access to the building, and if they tried to develop more of that area, additional relief would be required.

Vice-Chair Margeson said the General Residence C District has the most building coverage outside of the MRO/MRB zone within the City because they're the smallest lots, 3,500 square feet, but the applicant was asking for something even more, three percent more than what's allowed throughout

the entire City for lot coverage. Attorney Pasay said it came down to the reasonableness analysis. Vice-Chair Margeson asked how that wasn't a marked conflict with the ordinance, given that the MRO/MRB zone is less than the three percent. Attorney Pasay said it pertained to the first and second criteria and whether the proposal would alter the essential characteristics of the neighborhood. He said the applicant laid out that analysis but the neighborhood has lots that are quite small and filled up with single-family residences, especially on the eastern side. He said there was a boarding house across the street and a multi-family going toward McDonough Street. He said they were taking a detached garage concept and attaching it to the main building, which alone made it more consistent with the neighborhood. He said it was in the public's interest that they were reducing encroachments in the setback.

Vice-Chair Margeson said the proposed residence was different on Cabot Street and was out of character with the other New Englanders on that street. In terms of setbacks, she said if the building were demolished, there would be plenty of room within the building envelope and the applicant would probably not need relief. She asked why the structure couldn't be reduced and built within the building envelope. Attorney Pasay said the goal was to maintain the property with a garage. He said the building wasn't in the Historic District and they could do a front door on the front façade as a condition of approval. He said what they were proposing for 2,500 sf of living area was consistent with what was just built at 28 Rockingham directly behind the property. Vice-Chair Margeson said the zoning ordinance protected buildings of historic or architectural interest and that the building was an 1870s structure in a line of New Englanders, which concerned her.

Mr. Mannle asked if the applicant considered rehabbing the house and getting rid of the garage. Mr. Spitzer said there were structural issues. Mr. Mannle said those were problems found during the building inspection when the house was sold in January, yet the applicant still bought the house. Mr. Spitzer said they did so with the intent that they would request a variance. He said the floor plan of the first floor and coverage spoke to an age in place option of having a master bedroom suite on the first floor. Mr. Rheume said the applicant did a good job for the streetscape but said a letter received from a nearby property owner raised a good point about the doorscape seen in all the gabled New Englanders up and down the street. He said putting a door in the first-floor master bedroom would be odd. Attorney Pasay said they could make it a condition of approval that a faux door be built to make the house more aesthetically consistent with the other homes.

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OF OR IN OPPOSITION TO THE PETITION

No one spoke.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Elizabeth Bratter of 159 McDonough Street and 342 Cabot Street said the garage was just a carport when she moved to that neighborhood. She said the building was missing the front door and steps, which was key to the neighborhood's character.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

Vice-Chair Margeson said she would not support the application because the addition would not prevent overcrowding of the property and she didn't find that the property had any special conditions. She said the undeveloped property on Islington Street was not a condition of the applicant's property and thought the applicant's property was bigger than what was allowed in the zone. She said the applicant was going against the highest building coverage in the ordinance, which was 40 percent. She said she didn't believe that a stipulation could be made about the front door because it would make exterior structural changes to the building and drive some of the interior changes, so it would be a different application. Mr. Mattson said he didn't understand why the applicant couldn't build the house within the envelope, given that the lot is bigger than required and regular-shaped one, but he said he had no problem with the rest of the application. Mr. Mannle said he couldn't support it. He said the applicant knew the condition the house was in when they bought it and should have taken a right of first refusal to see if the house could be fixed before they bought the property. He said the demolition of the house would be a clean slate, so he would expect the setbacks to be as close to conforming as possible. Mr. Rheaume said the Board had little control over a building's demolition and thought the house would be a difficult rehab. He said some relief was appropriate to give the property the feel that the neighborhood had but thought the Board didn't want the house to be set back much further and said the applicant was also allowing more room for building maintenance. He said the light and air for the neighbor would also be improved. He said his concern was the total building coverage and that the applicant was asking for a little too much house for the lot without enough justification. He said the door was also an issue because making it a condition that it be a front door would change the design and the front setback.

DECISION OF THE BOARD

*Vice-Chair Margeson moved to **deny** the application as presented and advertised, seconded by Mr. Mannle.*

Vice-Chair Margeson referred to her previous comments. She said the spirit and intent of the ordinance was to prevent overcrowding and the applicant was asking for 43 percent building coverage where the maximum coverage allowed was 35 percent. She said she did not think that the light and air issues on Islington Street cured this defect. She said the lot was larger than required by zoning and 43 percent would fill up that lot even more. She said the property was tight already. She said she didn't find that the property had an unnecessary hardship for the building coverage and all the requested setbacks, and she didn't think the empty parking lot on the other lots really helped the applicant in terms of a hardship. She said she could understand why the applicant wanted to do what they proposed but didn't feel that there was a hardship driving the variance request. Mr. Mannle concurred. He said the lot was a good-sized one and could have a good-sized house on it, and he didn't see the necessity or the hardship for all the setback relief, especially the building coverage relief, because the applicant was starting with a clean slate. Chair Eldridge said she was torn because the relief for the side lots was very narrow and the coverage was increased. She said a front door would continue the rhythm and without it but it wasn't something the Board could do just as

an add-on. Mr. Rheume said he would support the motion, noting that a more convincing argument from the applicant would have been to present the Board with the building coverage of all the surrounding buildings. He agreed that the door would require further building design.

*The motion **passed** by a vote of 4-2, with Ms. Record and Chair Eldridge voting in opposition.*

*At this point in the meeting, Mr. Mannle moved to go past 10:00, seconded by Vice-Chair Margeson. The motion **passed** unanimously, 6-0.*

Mr. Rheume recused himself from the following petition and left the meeting.

- 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)

SPEAKING TO THE PETITION

Peter March, the sign designer from NH Signs, was present on behalf of the applicant and reviewed the petition. He said the sign was permitted to be 20 feet high and had been consistently hit by cars in the last year. He said they wanted to raise the sign's bottom to 14'1" to prevent that. He reviewed the criteria and noted that the special conditions was that gas stations needed price signs and there was no other suitable place for the sign, and leaving it at its present height would subject motorists to unnecessary danger. He said the new sign would be the same as the old sign.

Mr. Mattson asked if the change was triggered by the sign being hit recently. Mr. March said the sign was hit in the winter and was repaired but it was always being hit.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Mattson moved to **grant** the variances for the petition as presented, seconded by Mr. Mannle.*

Mr. Mattson said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said the proposed use must not conflict with the implicit or explicit purposes of the ordinance and not alter the essential characteristics of the neighborhood nor threaten the public's health, safety, and welfare or otherwise injure public rights. He said the new

sign would look the same and have the same use as the existing sign and would improve the public's health, safety, and welfare. He said substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the public or other individuals. He said it would not diminish the values of surrounding properties, noting that there was no reason to believe that the small modification to the sign would do so. He said literal enforcement of the provisions of the ordinance would result in unnecessary hardship because the property has special conditions that distinguish it from other properties in the area, and owing to those special conditions, a fair and substantial relationship does not exist between the general public purpose of the ordinance's provision and the special application of that provision to the property, and the proposed use is a reasonable one. He said the proposed use would stay the same and was a reasonable use. He said the unique conditions of the property is that the small island area where the sign is located is one of the few places to locate it, and a sign was a critical feature for a gas station because it stated gas prices. He said those were unique conditions to the property compared to the surrounding ones. Mr. Mannle concurred and said it was a perfect example of what should have been an administrative approval because it was a one-inch difference.

The motion passed unanimously, 5-0, with Mr. Rheume recused.

II. OTHER BUSINESS

There was no other business.

III. ADJOURNMENT

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

II. OLD BUSINESS

- A. Request for rehearing by Jared J Saulnier (Owner)**, for property located at **4 Sylvester Street** whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. Application was denied on May 16, 2023. (LU-23-27)

Planning Department Comments

On Tuesday, May 16, 2023 the Board of Adjustment considered the request of Jared J Saulnier (Owner), for subdividing one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. A motion was made to deny the application because the request did not observe the spirit of the ordinance by creating 2 undersized lots with inadequate street access. The motion passed and the request was denied.

A request for rehearing has been filed within 30 days of the Board's decision and the Board must consider the request at the next scheduled meeting. The Board must vote to grant or deny the request or suspend the decision pending further consideration. If the Board votes to grant the request, a hearing will be scheduled for the next month's Board meeting or at another time to be determined by the Board.

It has been brought to the attention of Zoning enforcement that the property at 4 Sylvester has been operating a short-term rental and is currently in violation of the Zoning Ordinance. In light of the violation, Staff is recommending the Board suspend determination of the rehearing request until such time that the violation is absolved. The notice of violation is included in the meeting packet as provided to the Board and posted online.

The decision to grant or deny a rehearing request must occur at a public meeting, but this is not a public hearing. The Board should evaluate the information provided in the request and make its decision based upon that document. The Board should grant the rehearing request

if a majority of the Board is convinced that some error of procedure or law was committed during the original consideration of the case.

PORTSMOUTH ZONING BOARD OF ADJUSTMENT
REQUEST FOR REHEARING
4 Sylvester Street
LU-23-27

Now comes Jared Saulnier (“Saulnier”) and respectfully requests that the Zoning Board of Adjustment (“ZBA”) rehear and reverse its May 16, 2023 denial of the prerequisite dimensional relief required to create a new 6,421 sf. lot to support a single family home at 4 Sylvester Street¹, retaining a parent lot with a right side setback of 9.1 ft. where 10 ft. is required.

I. EXHIBITS

1. 5/23/2023 ZBA Notice of Decision.²
2. Email from abutter David Moody.
3. Cabin photo dated 2011.

II. INTRODUCTION

4 Sylvester Street is a 16,067 s.f. lot with 200 ft. of frontage comprised of five (5) historic lots (40 ft. by 80 ft.) depicted on the 1903 Plan of Prospect Park, Annex #3 (the “Property”). **(Exhibits A & B to March 1, 2023 Submission)**. Although Sylvester Street is laid out on the Prospect Park Plan, it is not developed past the Property, the last on the left due to ledge. A single property on the opposite side of the ledge appears to be accessed from Marjorie Street. The Property is developed with a single family home and garage on the left side of the lot, and a shed and wood storage structure on the right side of the lot. A 20 ft. utility easement benefiting the City crosses the Property between the home and garage. The Property contains nearly twice the required frontage but, like nearly all the historic lots in the neighborhood, is 80 ft. deep, failing to conform to today’s lot depth requirements for the Single Residence B District.

Given the size and configuration of the Property, its location at the end of Sylvester Street, and the fact that the home and garage were located all the way on the left side of the lot, on May 16, 2023, Saulnier appeared before the ZBA proposing to subdivide the Property into two lots based on the historic lot lines (the “Project”). As presented, proposed Lot 1 would be three lots (228, 229, and 230) and contain the existing home and garage, and proposed Lot 2 would be two historic lots (226 and 227) combined measuring 80 ft. by 80 ft. The Project offered

¹ Recently renumbered 6 Sylvester Street.

² Minutes of the May 6, 2023 Zoning Board of Adjustment Meeting are not yet posted.

the benefit of an additional, relatively affordable building lot in Portsmouth. The City’s housing opportunities are in high demand and many residential lots, particularly those surrounding the Property, fail to conform to current requirements for frontage, lot area, lot area/dwelling unit, and lot depth. **(Exhibit D to March 1, 2023 Submission)**. The following relief from the Portsmouth Zoning Ordinance (“PZO” or the “Ordinance”) was requested to create a lot prior to addressing further technical details of a subdivision with the Planning Board:

<u>Variance</u>	<u>Existing</u>	<u>Proposed</u>	<u>Comment</u>
<u>PZO §10.520/Table §10.521: Dimensional Standards</u> 15,000 s.f. Lot area 15,000 s.f. Lot area/dwelling unit	16,067 s.f.	Lot 1: 9,645 s.f. Lot 2: 6,421 s.f.	Compatible with surrounding lots
<u>PZO §10.520/Table §10.521: Dimensional Standards</u> 100’ Continuous Street Frontage	200.01’	Lot 1: 119.90’ (no relief) Lot 2: 40’ ³	Compatible with surrounding lots
<u>PZO §10.520/Table §10.521: Dimensional Standards</u> <u>100’ Lot Depth</u>	80’	80’	Compatible with surrounding lots
<u>PZO §10.520/Table §10.521: Dimensional Standards</u> <u>10’ Side Yard</u>	Lot 1: 9.7’ (left side)	Lot 1: 9.1’ (right side)	Lot 1 home centered on lot.

After hearing, the ZBA denied the requested relief by a vote of 4-3 because granting the requested relief would not observe the spirit of the Ordinance. **(Exhibit 1, Notice of Decision)**. The ZBA did not find or vote that any of the four criteria of the Ordinance were not met. Respectfully, the ZBA overlooked the legal framework which guides its consideration of the Project with regard to the spirit of the ordinance and unlawfully discounted the character of the neighborhood comprised of identically sized lots. In addition, direct abutter David Moody at 11 Marjorie Street, attempted to upload a letter of support for the Project, which included direct

³ Sylvester Street was depicted on a 1903 Plan recorded at the Rockingham County Registry of Deeds. The undeveloped portion of Sylvester Street continues for approximately 80 ft.; however, **frontage** is defined as the horizontal distance measured along a lot line dividing a lot from a **street**. **Street** is defined as a road formally accepted by the Town, or a road shown on a plan approved by the Planning Board and constructed to the required specifications. Only the first 40 ft. along Lot 1 is paved, accordingly relief was requested. Presumably, in 1903, parking was not required, so the lack of frontage on a developed street is a prior nonconforming condition.

evidence that a dwelling previously existed on proposed Lot 2. This evidence, not available before the hearing, directly supports Saulnier's claim that the proposed lot suits the character of the neighborhood. Accordingly, the ZBA must grant rehearing.

III. STANDARD OF REVIEW

Within 30 days after any... decision of the Zoning Board of Adjustment... any party to the action or proceedings... may apply for rehearing in respect to any matter determined in the action specifying in the motion for rehearing the grounds therefor; and the Board of Adjustment may grant such rehearing if in its opinion good reason therefor is stated in the motion. RSA 677:2.

A motion for rehearing. Shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. RSA 677:3, I.

The purpose of the statutory scheme is to allow the ZBA to have the first opportunity to pass upon any alleged errors in its decision so that the court may have the benefit of the board's judgment in hearing the appeal. Town of Bartlett Board of Selectmen v. Town of Bartlett Zoning Board of Adjustment, 164 NH 757 (2013). Rehearing is designed to afford local zoning boards of adjustment an opportunity to correct their own mistakes before appeals are filed with the courts. Fisher v. Boscawen, 121 NH 438 (1981). Rehearing is proper where the affected party can show technical error or produce new evidence that was not available at the time of the first hearing. Loughlin, 15 New Hampshire Practice, Land Use Planning and Zoning, Section 21.08 (4th Ed. 2010)(emphasis added).

IV. FACTS

The 1903 Prospect Park Plan created a neighborhood of over one-hundred 40 ft. by 80 ft. lots on Lois, Marjorie, and Sylvester Streets. **(Exhibit A to March 1, 2023 Submission)**. Over time, lots were purchased in groups with many homes constructed on double 80 ft. by 80 ft. lots. Today, excluding the Chase Home lot bordering Sylvester Street, there are 30 lots between the western side of Lois Street and the western side of Sylvester Street, 24 of which are developed with homes: All (100%) have insufficient lot depth, mostly 80 ft. where 100 ft. is required; 20 (83%) do not conform with the 15,000 s.f. (.344 ac) lot size or lot size/dwelling unit requirements; and 11 (46%) do not conform with the frontage requirement. The two smallest lots in the neighborhood are .07 acres or approximately 3,049 s.f.; 11 developed lots are 80 ft. by 80 ft. and approximately 0.147 or 6,403 s.f., one is slightly larger at 6,534 s.f.. A recently

unmerged lot on Sylvester Street, directly across from the Property is 80 ft. by +/- 82 ft. and 6,713 s.f. (**Exhibits C and D to March 1, 2023 Submission**). In this one hundred plus year old neighborhood, a significant majority of the developed lots fail to meet the lot area, lot area per dwelling unit, frontage and/or depth requirements. Id. Clearly, this neighborhood is an area of significant noncompliance with zoning ordinance density, setback and/or depth requirements.

As depicted on the Plan, the Property includes a home, garage, and patio on the northerly side. A shed and covered roof structure exist on the southern half of the Property. At the time of the ZBA hearing, we advised the ZBA that the shed and covered roof structure on proposed Lot 2 had prompted us to seek a variance rather than unmerger, although we also relayed to the Board that we had just learned that a small home (“cabin”) previously existed on proposed Lot 2 and was fairly recently demolished.

After the meeting, we learned that Abutter David Moody provided additional detail in the form of an email to Mr. Saulnier, representing content Moody believed he had uploaded to the City Council through the City Website.⁴ (**Exhibit 2**). The email to Saulnier, which was sent during the meeting, was not available to Counsel at the time the matter was presented to the ZBA. The historical information submitted by Moody, reasonably understood by Saulnier to have been submitted to the City, confirms that the cabin was a dwelling for many years. (**Exhibits 2**). The structure also continued to exist until approximately five years ago. (**See Exhibit 3 – image capture 2011**). Saulnier’s predecessor did not use it as a dwelling and demolished it in 2017. This information, unavailable at the time of the initial hearing, includes the support of a direct abutter as well as important historical context about the previous use of proposed Lot 2 which demonstrates the compatibility of an additional dwelling lot on Sylvester Street.

Also discussed at the hearing was the recent “subdivision” of Lot 43 resulting in Lot 43-1, 3 Sylvester Street. That lot was the product of an unmerger, and resulted in two 40 ft. by +/- 82 ft. lots being combined resulting in a 6,713 s.f. lot, just slightly larger than Saulnier proposed. In accordance with RSA 674:39-aa, V, then owner ARNE, LLC sought variances for lot size, depth, and frontage to enable building on the lot. A front yard setback variance was denied, but

⁴ Upon information and belief, Mr. Moody had attempted to submit this correspondence through the available email link to City Councilors but was having difficulty doing so and the correspondence was not received by the ZBA or Planning Staff.

a later rear yard setback variance invited by the ZBA was subsequently approved. 3 Sylvester Street now contains a 2,071 s.f., 4-bedroom 2.5 bath home with an incorporated two car garage and is well incorporated into the neighborhood.

The intent of Single Residence B District is “[t]o provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses. PZO §10.410. As proposed, Lot 1 with one dwelling on 9,645 s.f. equals 2.29 units per acre. Lot 2 at 6,421 s.f. exceeds three units per acre, but it is similar in size to eight nearby lots, including lots behind it and across the street. Proposed Lot 2 is also twice the size of two of the historic developed lots (Lots 32, 44).

At the May 16, 2023 hearing, after public comment, questions by board members, board members began deliberations. Review of the video (City of Portsmouth Zoning Board of Adjustment meeting May 16, 2023,

<https://www.youtube.com/watch?v=YFFWjo2Xut8&t=9347s> reveals the following paraphrased comments of board members in support of or opposition to the requested relief including a reference to the timestamp that the comments begin:⁵

Member Margeson – Although the building envelope was approximately 1212 s.f., granting the variances would create a very small lot, and she was concerned about a subsequent request for relief due to the size of the lot. (Meeting video at 2:22)

Member Rossi – noted that granting the variances would transform a conforming lot and create two nonconforming lots which almost guarantees that subsequent relief will be required. (2:22:31)

Chair Eldredge – [in response] noted that that those nonconforming lots conform to the streetscape “really well”. (2:22:58)

Member Mannle – [moves to deny] (2:22:05), granting the variances does not observe the spirit of the Ordinance because a conforming lot with double the frontage and just over the required lot area is made into two non-conforming lots, the first of which has appropriate frontage and 2/3 the required lot area; the second is only 1/3 the required lot size with less than half the required street frontage. He opines that observing the spirit of the ordinance means the lots should be as conforming as possible or to “get them into conforming”. Observing the spirit of the Ordinance might involve making a non-conforming lot less non-conforming, it “certainly does not involve making two non-conforming lots”. (2:23:42)

⁵ Written minutes of the May 16, 2023 ZBA meeting have not been published as of the date of this filing.

Member Rossi – [Seconds Mannle’s Motion] adds that the proposal does not observe the spirit of the Ordinance because the intent of the SRB district is low to medium density 1-3 units – 15,000 s.f. and this would be creating something well below that requirement. (2:23:56). He adds that it is not appropriate to consider Marjorie Street as part of the neighborhood because it is a separate street with its own density. (2:24:26)

Member Mannle – [responding] relates the proposal to his neighborhood which has large and small lots and opines that smaller lots nearby does not mean one can subdivide his conforming lot. (2:24:51). He adds that he does not think the ZBA should be in the business of creating more nonconforming lots. (2:25:44)

Member Rheaume – (2:26:04) Cannot support the motion to deny. While it concerns him that the existing lot conforms to the required square footage, applicant has made the case that the lot is fully buildable, particularly averaging the front yard setback. Under the Manchester case cited by Applicant, which considers the nonconformities of neighborhood properties, the prevalence of nonconforming lots in the area, including on Marjorie Street in an identical configuration to that proposed, or in some cases smaller, indicate the ZBA is on “shaky ground” to deny based on the spirit of the Ordinance. He adds that the 40 ft. frontage might be concerning, but the unique hardship of the lot coupled with the fact that development of the road will be at the expense of the Property owner leads him to conclude there is no value in forcing further development of a road that “goes nowhere”.

Member Mattson – (2:29:56) appreciates that creating a new lot will create housing where a scarcity of housing exists, but is concerned about creating two nonconforming lots.

Member Geffert – (2:30:31) believes there is something to be said about looking to the surrounding lots and the fact that what is proposed is similar to many of the surrounding lots. In order to determine that the proposal is not contrary to the public interest, she asks if a condition can be added requiring development of the road at owner’s expense, but is advised by Planning Staff that this is a detail best left to the Technical Advisory Committee.

Member Mannle – (2:32:30) [responding] although the proposed lots can be seen as conforming to neighborhood, the existing lot also conforms to the neighborhood. The subdivision creates two non-conforming lots, one of which is grossly nonconforming.

The motion to deny was then approved by a 4-3 vote. Subsequently, a Notice of Decision issued which adopted Member Mannle’s reasoning that granting the variances transforming one conforming lot into two nonconforming lots: one 2/3 of the required size and a second 1/3 the size does not observe the spirit of the Ordinance, which is to make lots as conforming as possible or get them into conformance. **(Exhibit 1)**. Given the discussion and Notice of Decision

focused on lot size with less discussion about frontage, we must conclude that the lot depth and setback variances were approved. Similarly, the only basis for denial cited is the spirit of the Ordinance, we therefore assume all other criteria were met.

V. **Rehearing is required where a majority of the ZBA erroneously interpreted and applied the spirit of the ordinance prong of the variance criteria, overlooking the importance of the surrounding nonconforming lots.**

A review of the meeting video demonstrates that the ZBA, spent virtually all of its deliberation considering whether the Project observed the spirit of the Ordinance, separate from whether granting the variance is contrary to the public interest. The New Hampshire Supreme Court has held that the first two prongs of the variance criteria to be considered together (public interest and spirit of the ordinance). Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. The Malachy Court goes on to provide an analytical framework to evaluate a variance request, which the ZBA failed to apply to Saulnier's request. Malachy requires the ZBA to determine whether granting a variance "would unduly and to a marked degree conflict with the ordinance *such that it violates the ordinance's basic zoning objectives*". Id. (Emphasis added). "Mere conflict with the zoning ordinance is not enough". Id. The deliberations demonstrate that ZBA members focused on the size of the proposed lots, lot area/dwelling unit, and reduced frontage – the reasons for the requested variances – and impermissibly relied on these alone to deny the requested relief. (See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) "The mere fact that the project encroaches on the buffer, which is the reason for the variance request, *cannot* be used by the ZBA to deny the variance." (Id. at 107; Emphasis added)). Therefore, the fact that Saulnier's requested relief creates two smaller lots which do not conform to the Ordinance, cannot alone be a basis for denial as a matter of law.

In considering whether variances "in a marked degree conflict with the ordinance such that they violate the ordinance's basic zoning objectives," Malachy Glen, supra, also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to determine whether it would alter the essential character of the locality... . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

The record reveals that the ZBA did not examine Portsmouth's zoning objectives, overlooked neighborhood conditions and/or erroneously discounted conditions on Marjorie Street finding the neighborhood was comprised solely of Sylvester Street. The Project meets Portsmouth's zoning objectives by creating two lots that definitively comply with the character of the neighborhood (i.e., small lots, insufficient frontage, etc.). PZO §10.121 identifies the general purposes and intent of the ordinance "to promote the health, safety and general welfare of Portsmouth...in accordance with the...Master Plan" and identifies the items regulated to achieve those goals:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The intended use of the property is and will remain residential. The requested relief will satisfy the need for additional housing with creation of an additional building lot on an underutilized area of land in a populated area where many similar sized lots exist. The respective sizes of Lot 1 and Lot 2 compare favorably with lot sizes in the surrounding neighborhood.
2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – Lot 2 has 40 ft. of frontage where 100 ft. is required, but is the last lot on a dead-street; though under the required 15,000 s.f., it can accommodate a modest sized home, similar to the home created in 2019 on an unmerged lot across the street without increasing the intensity of land use in the area. Many lots in the area are smaller than 15,000 s.f., lack 100 feet of frontage and/or depth, or required side yards, so the new lot fits in the area.
3. The design of facilities for vehicular access, circulation, parking and loading – Both lots will have sufficient space to accommodate appropriate facilities for these needs. Consultation with the Department of Public Works has already occurred to ensure the road is extended to City specifications.
4. The impact on properties on of outdoor lighting, noise, vibration, stormwater runoff and flooding – The creation of an additional residential lot which can accommodate a reasonably sized home meeting coverage requirements will not impact surrounding properties.
5. The preservation and enhancement of the visual environment – Allowance of an additional residential building lot at a dead end street among similarly sized developed lots will not negatively affect the visual environment.
6. The preservation of historic districts and building and structures of historic architectural interest – The Property is not located in the Historic Overlay District.
7. The protection of natural resources, including groundwater, surface water, wetlands, wild life habitat and air quality – Testimony established the property is not located within 100 ft. of the wetland. City water and sewer extend to the current home and need only be extended a short distance to serve proposed Lot 2. Accordingly, the granting of the variances will not undermine these purposes of the Ordinance.

The ZBA erred focusing only on the lots' characteristics conflict with the Ordinance at the expense of consideration of the Ordinance's basic objectives.

The record also lacks evidence supporting the conclusion that granting the variances would alter the essential character of the locality or threaten the public, health, safety or welfare. In fact, the evidence submitted demonstrates just the opposite phenomenon. As demonstrated in the original submission and summarized herein, a majority of the surrounding lots fail to conform to the required lot size, depth and frontage requirements and many are the 40 ft. by 80 ft. dimension here proposed. Mr. Moody's statements clearly indicate that the very lot which Saulnier seeks to create held an occupied home for many years. It follows that resumption of a residential use on proposed Lot 2 served by municipal water and sewer will not threaten the public health, safety, or welfare.

A hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect on the neighborhood. See Walker v. City of Manchester, 107 N.H. 382, 386 (1966). In Walker, an applicant sought to convert the use of a large building to a dwelling and funeral home in a residential zone. Denied by the Manchester Zoning Board of Adjustment, the Trial Court and Supreme Court found that a hardship existed, thus the variances should have been granted, where numerous other large dwellings in the area had been converted to office or other business use, and numerous funeral homes existed in an otherwise residential district via the issuance of variances. Here, the density, frontage, and lot configuration resulting from the requested variances are similar to the conditions in the surrounding area with similar sized developed lots and this lot will match those conditions, thus having no adverse effect on the neighborhood. Walker, supra. A municipality's ordinance must also reflect the current character of the neighborhood, See Belanger v. City of Nashua, 121 N.H. 389, 393 (1981). Granting the requested variances allow the subject lot to be in keeping with the character of other residential uses in the vicinity. Thus, the variances in this instance will allow the Ordinance to reflect the character of the area.

Variances exist to provide a relief valve from the strict requirements of the ordinance. Given the nature of the lots and homes in that neighborhood, there could be no greater need for such a relief valve, particularly in view of the undisputed recognition that the permitted home will create much-needed housing within Portsmouth. For these same reasons, the public interest and spirit of the Ordinance is fully supported and protected by this project and the relief needed to proceed with it. Given the nature of the area and the location of the lot, it cannot reasonably be found that granting the requested relief "would unduly and to a marked degree conflict with

the ordinance such that it violates the ordinance's basic zoning objectives.” Malachy Glen Assoc. v. Town of Chichester 155 N.H. 102 (2007). Nor can it reasonably be found that granting the variances alters the essential character of the locality or threatens the public health, safety, or welfare. Id. Accordingly, the ZBA must grant rehearing.

VI. Rehearing is required where the evidence demonstrates that substantial justice is done by granting the variances, granting the variances will not diminish the value of surrounding properties, and denial would result in an unnecessary hardship to Saulnier.

1. Granting the variances will not diminish surrounding property values.

Board Members did not comment on this prong of the variance criteria and as it was not a basis for denial, we presume the Board determined this factor was satisfied. We address this element of the criteria in an abundance of caution as Abutters Matthew Turner and Taylor Andrews addressed the Board. Turner is located at 3 Marjorie Street and directly abuts proposed Lot 1, which is already developed. He claimed, without evidence, that creation of Lot 2 would diminish property values and that only a very tiny home could fit on the Lot, yet his lot is the same exact size as proposed Lot 2 (80 ft. by 80 ft.). Ms. Andrews resides upgradient from the Property toward Middle Street. She erroneously claimed that the Property's recent Accessory Dwelling Unit prohibits creation of what she deems essentially a third dwelling on the Property. She also claimed, without evidence, that removal of trees, increased stormwater and traffic would negatively affect the value of the other properties. Notably, Ms. Andrews moved to the neighborhood after the cabin was removed. She also may be unaware that her predecessor unmerged a nearly identically sized lot resulting in the new home at 3 Sylvester Street. In contrast, David Moody who abuts the entire length of proposed Lot 2, supported Saulnier's requested variances, although his attempt to email the City Staff did not get through.

The evidence presented at the hearing and in the attached email from David Moody clearly demonstrate a previous dwelling existed on proposed Lot 2 for decades. The testimony of Saulnier's expert, Eric Saari regarding the 1212 s.f. building envelope illustrates that proposed Lot 2 can accommodate a reasonably sized new home, enhancing the value of the Property and those around it. The unmerging of the similarly sized lot across the street from the Property and construction of a new dwelling at 3 Sylvester have apparently had no negative effect on the value of the surrounding properties. Accordingly, there is no evidence that resumption of a residential

use on a lot which previously accommodated a dwelling will diminish the value of surrounding properties.

2. Denial of the variances clearly results in unnecessary hardship.

Again, the Board made no findings relating to hardship, it was not a basis for denial; we therefore assume this factor was satisfied. We address this element of the criteria in an abundance of caution.

a. Special Conditions exist which distinguish the property/project from others in the area.

Evidence in our March 1 submission demonstrates that the Property currently exceeds the lot size and frontage requirements. However, the lot is currently developed only on one side, leaving the southern portion of the lot underutilized. The existence of nearby ledge prevented development of the road along the Property's entire front lot line. At the hearing, we advised the ZBA that we had learned that the proposed Lot 2 had previously accommodated a small home for many years. These factors combine to create special conditions. Only Member Rheume commented on the special conditions of the lot, specifically noting the hardship that exists regarding frontage because the ledge prevented the road from being fully developed along the full length of the Property. We note as well that hardship may be found where there are a number of surrounding nonconforming uses and the proposed use has no adverse effect on the neighborhood. Walker v. City of Manchester, 107 N.H. 382, 386 (1966). Accordingly, special conditions exist.

b. No fair and substantial relationship exists between the general purposes of the ordinance and its specific application in this instance.

Density limits are intended to provide space, air, light, prevent overcrowding, protect against over bulking structures, maintain off street parking and protect against congestion. All eight of the lots directly abutting the Property are nonconforming with respect to lot depth; five of eight fail to conform to density, lot size, and frontage. The creation of an additional lot on a dead end street that both matches the surrounding area and accommodates parking and a reasonably sized building envelope will not overcrowd the land.

Setback and depth requirements are intended to provide adequate space between homes, sightlines, area for stormwater treatment, air, light and space. We note that the board declined to make any decision with respect to the requested setback or depth relief. Lot 1, holding the

existing home, requires nominal relief for a home 9 ft. from the side lot line where 10 ft. is required. Proposed Lot 2 provides a building envelope for a reasonably sized home which provides access to air, light, space, separation from neighbors, and meets the building coverage and open space requirements. There is also sufficient space for parking. Noting: the eclectic nature of the neighborhood, including several similarly sized lots developed with homes and driveways; the dead-end street, the common depth, lot size, lot size per dwelling unit and/or setback noncompliance in the area; and the permitted residential use, it cannot reasonably be found that there is a fair and substantial relationship between the purposes of these ordinance regulations and their application in this instance. Where the density is consistent with or better than many in the area, there is no fair and substantial relationship between the purpose of the regulations and its application to this proposal.

c. The proposed use is a reasonable one.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). The proposed use is that of a permitted single-family residence in the Single Residence B District among other homes on similar lots. Accordingly, the evidence demonstrated, and the ZBA evidently found, that the proposed use is reasonable, denial results in an unnecessary hardship to Saulnier.

3. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant, this factor is satisfied" Harborside Associates LP v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011). "Any loss to the[applicant] not outweighed by a gain to the general public is an injustice." Malachy Glen, supra at 109.

A review of the hearing video and Notice of Decision reveals no commentary or support for denial on this basis. Accordingly, we assume the ZBA found this element of the criteria is satisfied by the Project. The public purposes of setback, density, lot area, and depth requirements to prevent overcrowding, provide separation between neighbors, adequate air, light and space, sightlines, and stormwater treatment are all met by the Project. Saulnier affirmed that road construction would be the responsibility of the property owner, so there is no harm to the taxpayer resulting from granting the variances. Denial of the relief will deprive the applicant and property owners of the value of the land and its development, and will deny a family from purchasing a home in Portsmouth where housing is in short supply. It cannot reasonably be

found that the "public" is harmed by granting the variances to a property with a clear hardship, where single homes are permitted, and where a significant number of lots in the area also fail to meet one or more of the zoning requirements for which relief is here requested.

Balancing the owner/applicant's constitutional rights to own and develop property against the harm to the general public if the variances are granted clearly demonstrates that denial of the requested relief was in error. "The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it*. Burrows v. City of Keene, 121 N.H. 590, 597 (1981). (emphasis added).

The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001). Given the location and configuration of this lot and the characteristics of the surrounding area, there is no rational basis for denial and the result is an unconstitutional taking. Accordingly, the evidence demonstrated, and the ZBA evidently found, that substantial justice is done by granting the variance.

VI. CONCLUSION

For all of the foregoing reasons, and those presented in the previous submission and hearing, Saulnier respectfully requests that the ZBA grant rehearing.

Respectfully submitted
JARED SAULNIER

By: _____



R. Timothy Phoenix
Monica F. Kieser



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

EXHIBIT 1

ZONING BOARD OF ADJUSTMENT

May 23, 2023

Jared J Saulnier
4 Sylvester Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 4 Sylvester Street (LU-23-27)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 16, 2023**, considered your application for subdividing one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is shown on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **deny** the application as presented because the request does not observe the spirit of the ordinance by creating 2 undersized lots with inadequate street access.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Erik Saari, Altus Engineering, Inc.
R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-16-2023

Property Address: 4 Sylvester Street

Application #: LU-23-27

Decision: **Deny**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.	NO	<ul style="list-style-type: none"> • Granting the variances will not observe the spirit of the ordinance by changing a conforming single-family lot into two nonconforming lots. The first lot is two-thirds the size with appropriate street frontage and the second lot is a third with less than half of the street frontage. • The spirit of the ordinance is to have the lots be as conforming as possible or to get them in conformance.
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		

<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND</p> <p>(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</p> <p>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.</p>		
--	--	--



Jared Saulnier <jared.saulnier@gmail.com>

4 Sylvester st

1 message

David Moody <davemoody11@gmail.com>
To: jared.saulnier@gmail.com

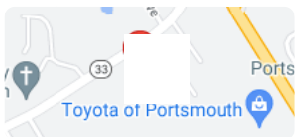
Tue, May 16, 2023 at 7:37 PM

Dear City of Portsmouth City Council,
My name is David A Moody and I own and reside at 11 Marjorie st Portsmouth NH. I am unable to attend tonights meeting do to work conflict. My property directly abuts the full length Mr.Saulnier's land.. I am very familiar with his Property as I have lived at My address My entire life.. It was My childhood home as well as the childhood home of My Father John W Moody (Deceased) whom lived at this address his entire life from 1942 until 2005.. The Home was build By My GrandFather in 1921 and the address in question 4 Sylvester st was built around the same time by My Great Uncle Linc Moody... I have a lots of history told to Me from many of the old timers that have since passed on... To the business at hand.. I do not object to Mr. Saulnier's request to divide his current property that it may possibly be built on. In fact up until less the 10 years ago there was House on the land in question that was lived in most of My life.. Small in nature and eventually was abandoned and fell into decay . The previous owner tore it down.. I have provided Mr. Saulnier with a photo of this building as it once stood taken taken in 1948 with My Father and his cousin Jackie sitting on the stoop.... This neighborhood is known as the Prescott Park annex and all of the lots of land on all 3 streets were originally designed and sold off as 40x80 parcels.. Some Buyers purchased several lots (2 and or 3 to give themselves a larger area to build or to just enjoy the extra yard space. 1 Marjorie st in itself is an existing home on a 40 x 80 lot and this new lot would be nearly double in size. I feel that there is plenty of land to build a very reasonable home that can fit the aesthetics of the current neighborhood..

David A Moody
[11 Marjorie st](#)
[Portsmouth NH](#)



Image capture: Sep 2011 © 2023 Google





CITY OF PORTSMOUTH

Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
(603) 431-2000

July 6, 2023

CERTIFIED MAIL 7017 2620 0000 4312 3682

Jared J. Saulnier
4 Sylvester Street
Portsmouth, NH 03801

RE: Notice of Violation, Non-Permitted USE, Short Term Rental Business

Dear Mr. Saulnier,

Your property located at 6 Sylvester Street, Portsmouth, NH, is located in the Single Residence B, (SRB) Zone and is operating a business, Short term rentals, in violation of the Zoning Ordinance of the City of Portsmouth.

In particular, Article 2, Section 10.220 sub-section, 10.221.10, "No construction, reconstruction or alteration of a building or change of use of a structure or parcel of land requiring a building permit by the Code Official shall be commenced without such permit."

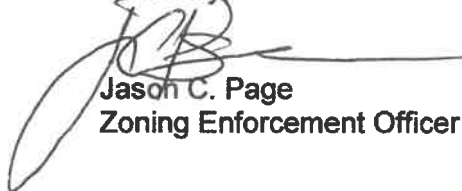
The business use of the property for Short term rentals, is being advertised and arranged on an internet rental website. (Airbnb)

Accordingly, you are hereby instructed to Cease and Desist any further business use of the property located at 6 Sylvester Street in violation of the City's Zoning Ordinance within Ten (10) days of receipt of this notice.

VARIANCES AND APPEALS, any order, requirement, and decision of the Code Official made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

Should you require any additional information on this matter, please call me at 603-610-7279

Sincerely,



Jason C. Page
Zoning Enforcement Officer

cc: Susan Morrell, City Attorney
Planning Department

II. OLD BUSINESS

- B. The request of **Jared J Saulnier (Owner)**, for property located at **4 Sylvester Street** whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from **Section 10.521** to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. (LU-23-27)

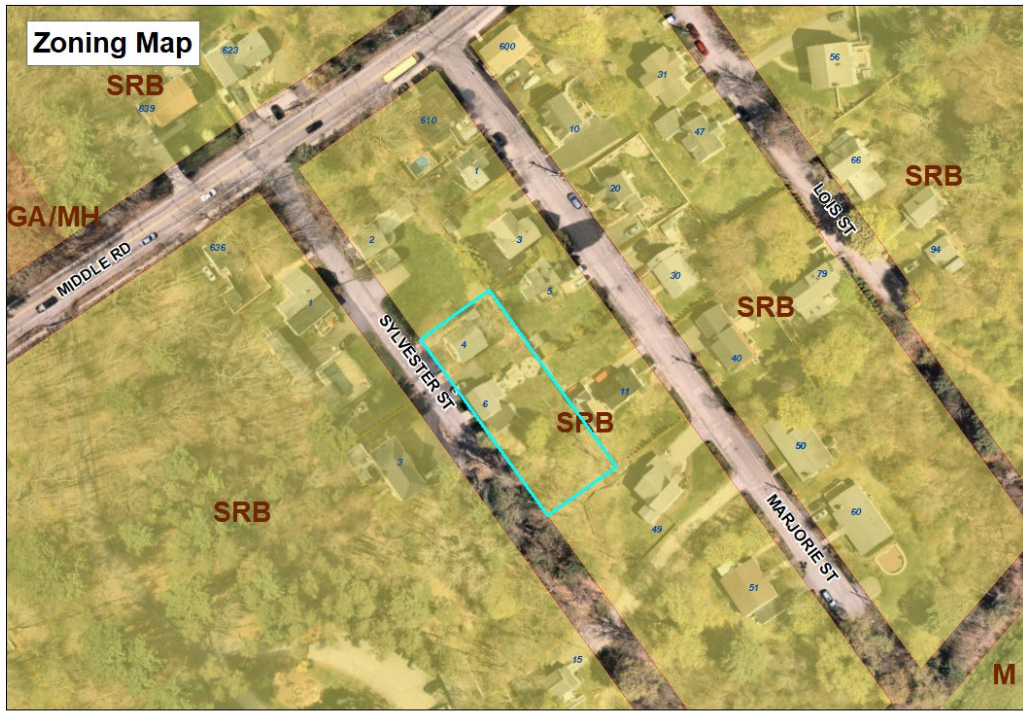
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>		<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Home	Lot 1	Lot 2	Primarily residential
<u>Lot area (sq. ft.):</u>	16,067	9,645	6,421	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	16,067	9,645	6,421	15,000 min.
<u>Lot depth (ft.):</u>	80	80	80	100 min.
<u>Street Frontage (ft.):</u>	200.01	119.9	40	100 min.
<u>Primary Front Yard (ft.):</u>	7.95	7.95	n/a	30 min.
<u>Right Yard (ft.):</u>	>10	9	10	10 min.
<u>Left Yard (ft.):</u>	9.7	9.7	10	10
<u>Rear Yard (ft.):</u>	33.9	33.9	30	30 min.
<u>Height (ft.):</u>	21.75	21.75	n/a	35 max.
<u>Building Coverage (%):</u>	11.1	18.5	0	20 max.
<u>Open Space Coverage (%):</u>	78.8	67.2	100	40 min.
<u>Parking:</u>	2	2	n/a	2
<u>Estimated Age of Structure:</u>	1910		Variance request(s) shown in red.	

Other Permits/Approvals Required

- Subdivision Review and Approval – TAC and Planning Board

Neighborhood Context



0 40 80 160 Feet
1 inch = 88.5 feet

4 Sylvester Street



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is proposing to divide the existing lot into two 2 lots. As the road dead ends at the applicant's property the applicant is proposing to extend the public road by 40 feet to provide access to the new lot.

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.

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

March 1, 2023

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Jared J. Saulnier, Owner/Applicant
4 Sylvester Street
Tax Map 232/Lot 36

Dear Mr. Stith & Zoning Board Members:

On behalf of Jared J. Saulnier (“Saulnier”), enclosed please find the following in support of a request for zoning relief:

- Digital Application submitted via Viewpoint earlier today.
- Owner Authorization.
- 3/1/2023 – Memorandum and exhibits in support of variance application.

We look forward to presenting this application to the Zoning Board at its March 21, 2023 meeting.

Very truly yours,



R. Timothy Phoenix
Monica F. Kieser

Encl.

cc: Jared J. Saulnier
Altus Engineering (email)

DANIEL C. HOEFLE	R. PETER TAYLOR	GREGORY D. ROBBINS	STEPHANIE J. JOHNSON
R. TIMOTHY PHOENIX	ALEC L. MCEACHERN	PETER V. DOYLE	OF COUNSEL:
LAWRENCE B. GORMLEY	KEVIN M. BAUM	MONICA F. KIESER	SAMUEL R. REID
STEPHEN H. ROBERTS	JACOB J.B. MARVELLEY	DUNCAN A. EDGAR	JOHN AHLGREN

OWNER'S AUTHORIZATION

I, Jared J. Saulnier, Owner/Applicant of 4 Sylvester Street, Tax Map 232/Lot 36, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent me before any and all City of Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date: 01-11-2023

Jared Saulnier

Jared J. Saulnier

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: R. Timothy Phoenix, Esquire
Monica F. Kieser, Esquire
DATE: March 1, 2023
RE: Jared J. Saulnier, Owner/Applicant
4 Sylvester Street
Tax Map 232/Lot 36
Single Residence B District

Dear Chair Eldridge and Zoning Board Members:

On behalf of the Owner/Applicant, Jared J. Saulnier (“Saulnier”), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief for the subdivision of the existing lot to be considered by the ZBA at its March 21, 2023 meeting.

I. EXHIBITS

- A. Prospect Park, Annex #3, 1903 – Rockingham County Registry of Deeds #00225
- B. Plat of Land & Limited Elevations – issued by James Verra & Associates, Inc.
- C. ZBA Plan – issued by Altus Engineering.
- D. Map of area depicting lots with less than required area, frontage, and/or depth.
- E. Site Photographs.
 - Satellite view
 - Street views
- F. Tax Map 233.

II. PROPERTY/PROJECT

4 Sylvester Street is a 16,067 s.f. lot with 200 ft. of frontage comprised of five (5) historic lots (40 ft. by 80 ft.) depicted on the 1903 Plan of Prospect Park, Annex #3 (the “Property”).

(Exhibits A & B). Although Sylvester Street is laid out on the Prospect Park Plan, it does not continue past the Property, which is the last house on the left, but continues on the other side of a wooded area with access from Marjorie. The Property is developed with a single family home and garage on the left side of the lot, and a shed and wood storage structure on the right side of the lot. A 20 ft. utility easement benefitting the City crosses the Property between the home and garage. The garage was constructed outside that easement area and is therefore 9.7 ft. from the left side lot line. The Property contains nearly twice the required frontage but like nearly all the historic lots, is 80 ft. deep, failing to conform to today’s Single Residence B District Requirements.

Saulnier proposes to subdivide the Property into two lots, Lot 1 containing 9,645 s.f., and

119.90 ft. of frontage and the existing home and barn, and Lot 2 containing 6,421 s.f., 80 ft. of frontage and an existing lot depth of 80 ft. (the “Project”). **(Exhibit C)**. The Project confers the benefit of an additional buildable lot in Portsmouth, where housing opportunities are in high demand and many lots fail to conform to current requirements for frontage, lot area, lot area/dwelling unit, and lot depth. **(Exhibit D)**. In anticipation of a Subdivision Application, Saulnier seeks variances to permit two lots with less than 15,000 s.f., one with a side yard of less than 10 ft., and one lot with less than 100 ft. of frontage and less than 100 ft. lot depth.

III. RELIEF REQUIRED

<u>Variance Section/Requirement</u>	<u>Existing</u>	<u>Proposed</u>
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> 15,000 s.f. Lot area 15,000 s.f. Lot area/dwelling unit	16,067 s.f.	Lot 1: 9,645 s.f. Lot 2: 6,421 s.f.
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> 100’ Continuous Street Frontage	200.01’	Lot 1: 119.90’ (no relief) Lot 2: 80.11’ ft.
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> 100’ Lot Depth	80’	80’
<u>PZO §10.520/Table §10.521:</u> <u>Dimensional Standards</u> 10’ Side Yard	Lot 1: 9.7’ (left side)	Lot 1: 9.1’ (right side)

IV. VARIANCE REQUIREMENTS

- 1. The variances will not be contrary to the public interest.**
- 2. The spirit of the ordinance is observed.**

The first step in the ZBA’s analysis is to determine whether granting the variances is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance “would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives”. Id. “Mere conflict with the zoning ordinance is not

enough”. *Id.*

Portsmouth Zoning Ordinance (“PZO”) Section 10.121 identifies the general purposes and intent of the ordinance “to promote the health, safety and general welfare of Portsmouth...in accordance with the...Master Plan” This is accomplished by regulating:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The intended use of the property is and will remain residential. The requested relief will satisfy the need for additional housing with creation of additional building lot on an underutilized area of land in a populated area where many similar sized lots exist.
2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – Lot 2 has 80.11 ft. of frontage where 100 ft. is required, but is the last lot on a dead-street; though under the required 15,000 s.f., it can accommodate a modest sized home without increasing the intensity of land use in the area. Many lots in the area are smaller than 15,000 s.f., lack 100 feet of frontage and/or depth, or required side yards, so the new lot fits in the area.
3. The design of facilities for vehicular access, circulation, parking and loading – Both lots will have sufficient space to accommodate appropriate facilities for these needs.
4. The impact on properties on of outdoor lighting, noise, vibration, stormwater runoff and flooding – The creation of an additional residential lot will not impact surrounding properties.
5. The preservation and enhancement of the visual environment – Allowance of an additional residential building lot among similarly sized developed lots will not negatively affect the visual environment.
6. The preservation of historic districts and building and structures of historic architectural interest – The Property is not located in the Historic Overlay District.
7. The protection of natural resources, including groundwater, surface water, wetlands, wild life habitat and air quality – The granting of the variances will not undermine these purposes of the Ordinance.

The intent of Single Residence B District is “[t]o provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses. PZO §10.410. The Property is comprised of five lots depicted on a plan recorded prior to zoning. The proposal meets the intentions of the Single Residence B District by providing another residential building lot that is consistent with many in the area. Given these factors, granting the limited requested variances will not conflict with the basic zoning objectives of the PZO.

In considering whether variances “in a marked degree conflict with the ordinance such that they violate the ordinance’s basic zoning objectives,” Malachy Glen, supra, also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to determine whether it would alter the essential character of the locality... . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

Notably, there are several properties in the immediate area with lot areas less than 15,000 s.f., less than 100 ft. of frontage, **and** less than 100 ft. lot depth; more yet lack required lot area **or** frontage, **or** depth. **(Exhibit D)**. The minimal deviation from the required side yard is not noticeable and also matches yard setbacks of the small lots nearby. Given the existence of many similar lots in the area, granting the variances for a lot on a major thoroughfare in this area will not alter the essential characteristics of the neighborhood.

Similarly, there will be no threat to the public health, safety or welfare by granting the requested variances when the relief required is for a building lot size, frontage, depth, and side yard comparable to several existing in the surrounding area. Allowance of an additional residential building lot in a populated residential zone satisfies the need for additional housing and affords Saulnier the highest and best use of his land.

The requested variances neither alter the essential character of the locality nor threaten the public health safety or welfare. Accordingly, none of the variances are contrary to the public interest and all observe the spirit of the ordinance.

3. Granting the variance will not diminish surrounding property values.

Granting the requested variances will not diminish surrounding property values. The proposal will satisfy the need for housing in Portsmouth through creation of an additional building lot on Sylvester Street comparable to others in the surrounding area. The later addition of a modest home on a lot similar in size to many in the area will not diminish surrounding property values.

4. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property from others in the area.

The Property contains nearly twice the required frontage and is comprised of five historic lots. The home and garage are located on the left side of the lot separated by a 20 ft. utility easement. This configuration under-utilizes prospective Lot #2 as an additional yard, when a more productive use would be as an additional residential building lot. A hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use

will have no adverse effect on the neighborhood. See Walker v. City of Manchester, 107 N.H. 382, 386 (1966). In Walker, an applicant sought to convert the use of a large building to a dwelling and funeral home in a residential zone. Denied by the Manchester Zoning Board of Adjustment, the Trial Court and Supreme Court found that a hardship existed, thus the variances should have been granted, where numerous other large dwellings in the area had been converted to office or other business use, and numerous funeral homes existed in an otherwise residential district via the issuance of variances. Here, the density, frontage, and lot configuration resulting from the requested variances are similar to the conditions in the surrounding area with similar sized developed lots and will have no adverse effect on the neighborhood, thus a hardship exists. Walker, supra.

Finally, a municipality's ordinance must reflect the current character of the neighborhood, See Belanger v. City of Nashua, 121 N.H. 389, 393 (1981). Granting the requested variances allow the subject lot to be in keeping with the character of other residential uses in the vicinity. Thus, the variances in this instance will allow the Ordinance to reflect the character of the area. In light of these conditions and restrictions, special conditions exist at the Property.

- b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

The purpose of dimensional requirements is to regulate density and prevent overcrowding of land and population. The purpose of frontage requirements is to provide air, light and promote visibility for motorists, cyclists, and pedestrians. The requested variances do not undermine the purpose of the Ordinance, particularly in the context of the Property's location at the end of Sylvester among many similar sized properties.

- c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential use is permitted and the creation of Lot 2 is consistent with the overall intent of the zoning district and similar conditions in the neighborhood. Thus, the improvements and variances required for them are reasonable.

5. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant" this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C., 162 N.H. 508

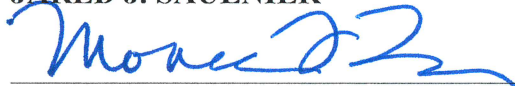
(2011). That is, “any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, *supra* at 109. The variances needed to create a building lot for a modestly sized residential home in a residential zone satisfy the need for housing and result in a lot comparable to many others in the surrounding area, so will not impact the general public. Conversely, Saulnier will be greatly harmed by denial of any of the variances, as he will lose the ability to create needed housing in Portsmouth. Without question, substantial justice will be done by granting each variance while a substantial injustice will be done by denying any of them.

V. **CONCLUSION**

For all of the reasons stated, Jared J. Saulnier respectfully requests that the Portsmouth Zoning Board of Adjustment grant each variance request.

Respectfully submitted,

JARED J. SAULNIER



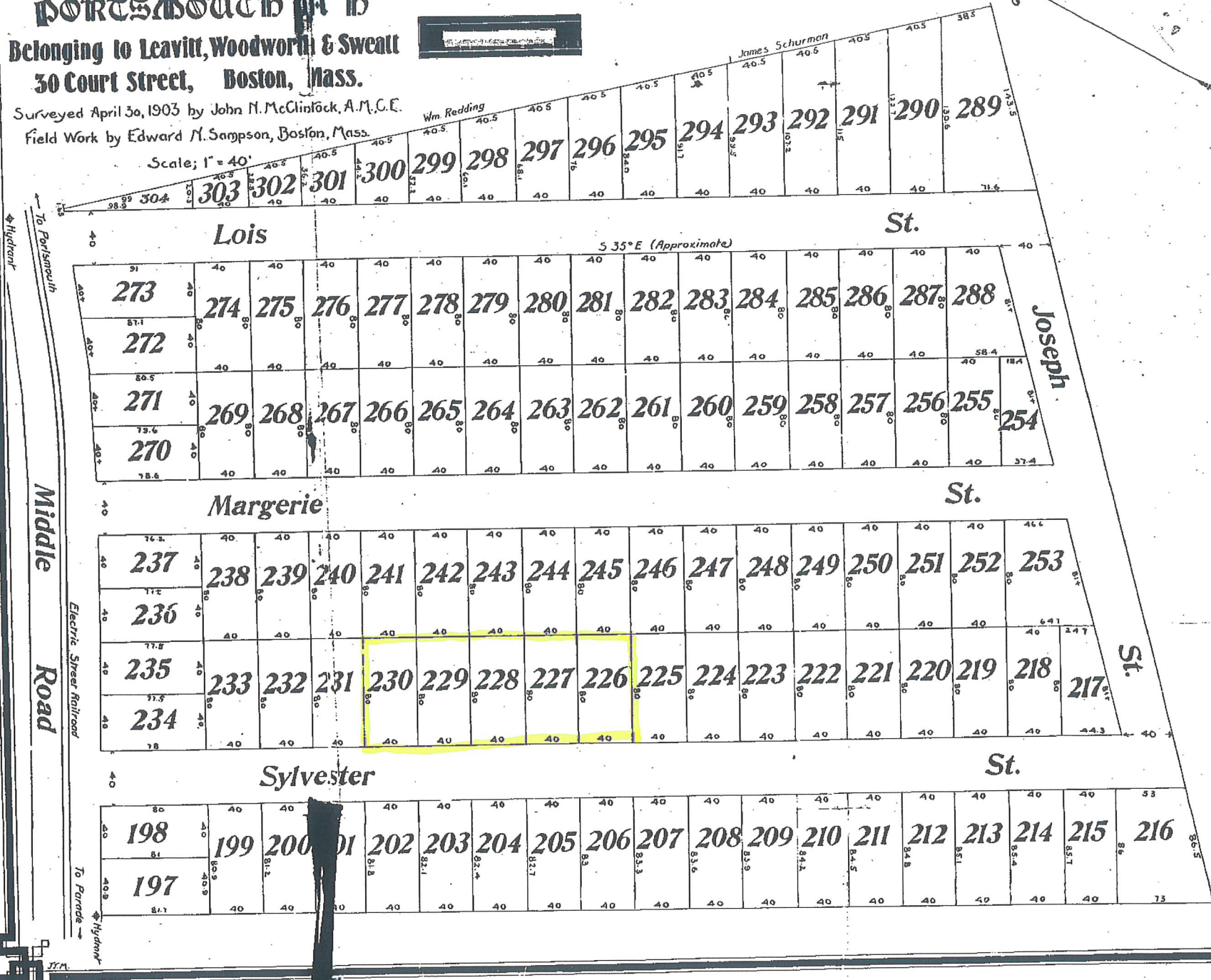
By: R. Timothy Phoenix
Monica F. Kieser

PROSPECT PARK PORTSMOUTH N.H. ANNEX NO.3.

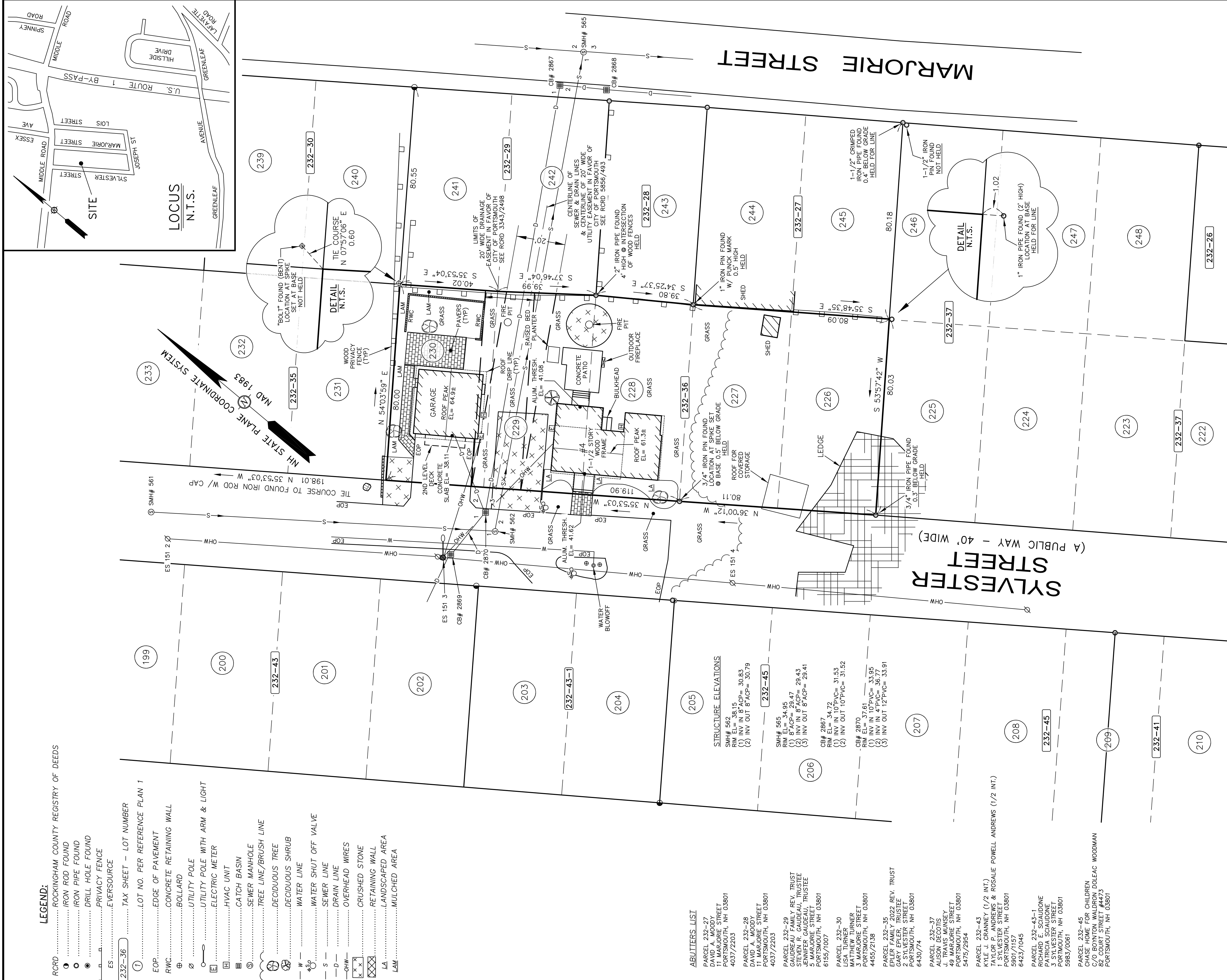
Belonging to Leavitt, Woodworth & Sweatt
30 Court Street, Boston, Mass.

Surveyed April 30, 1903 by John N. McClintock, A.M.C.E.
Field Work by Edward N. Sampson, Boston, Mass.

Scale; 1" = 40'



- LEGEND:**
- RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
 - IRON ROD FOUND
 - IRON PIPE FOUND
 - ⊙ DRILL HOLE FOUND
 - PRIVACY FENCE
 - ES EVERSOURCE
 - 232-36 TAX SHEET - LOT NUMBER
 - ① LOT NO. PER REFERENCE PLAN 1
 - EOP EDGE OF PAVEMENT
 - RWC CONCRETE RETAINING WALL
 - ⊕ BOLLARD
 - ⊕ UTILITY POLE
 - ⊕ UTILITY POLE WITH ARM & LIGHT
 - ⊕ ELECTRIC METER
 - ⊕ HVAC UNIT
 - ⊕ CATCH BASIN
 - ⊕ SEWER MANHOLE
 - ⊕ TREE LINE/BRUSH LINE
 - ⊕ DECIDUOUS TREE
 - ⊕ DECIDUOUS SHRUB
 - WATER LINE
 - WATER SHUT OFF VALVE
 - SEWER LINE
 - DRAIN LINE
 - OVERHEAD WIRES
 - CRUSHED STONE
 - RETAINING WALL
 - LA LANDSCAPED AREA
 - LAM MULCHED AREA



ABUTTERS LIST

PARCEL 232-27 DAVID A. MOODY 11 MARJORIE STREET PORTSMOUTH, NH 03801 4037/2203	PARCEL 232-28 DAVID A. MOODY 11 MARJORIE STREET PORTSMOUTH, NH 03801 4037/2203	PARCEL 232-29 CAROL E. FAHEY REV. TRUST JENNIFER GAUDEAU, TRUSTEE 5 MARJORIE STREET PORTSMOUTH, NH 03801 6155/1007	PARCEL 232-30 US44 WILSON TURNER 3 MARJORIE STREET PORTSMOUTH, NH 03801 4455/2138	PARCEL 232-35 EPLER FAMILY 2022 REV. TRUST GARY EPLER, TRUSTEE 5 MARJORIE STREET PORTSMOUTH, NH 03801 6430/74	PARCEL 232-37 J. TRAVIS MUNSEY 49 MARJORIE STREET PORTSMOUTH, NH 03801 5475/2984	PARCEL 232-43 KYLE J. CRANNEY (1/2 INT.) TAYLOR P. ANDREWS & ROSALIE POWELL ANDREWS (1/2 INT.) 5901/1157 6423/1045	PARCEL 232-43-1 RICHARD E. SGAUDONE PATRICIA SGAUDONE 3 SYLVESTER STREET PORTSMOUTH, NH 03801 5983/081	PARCEL 232-45 CHASE HOME FOR CHILDREN 1000 WOODMAN BOULEVARD 52 COURT STREET #423 PORTSMOUTH, NH 03801
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STRUCTURE ELEVATIONS

SMH# 562 RIM EL= 38.15 (1) INV IN 8"ACP= 30.83 (2) INV OUT 8"ACP= 30.79	SMH# 565 RIM EL= 34.95 (1) INV IN 8"ACP= 29.47 (2) INV IN 8"ACP= 29.43 (3) INV OUT 8"ACP= 29.41	CB# 2867 RIM EL= 34.72 (1) INV IN 10"PVC= 31.51 (2) INV OUT 10"PVC= 31.52	CB# 2870 RIM EL= 37.61 (1) INV IN 4"PVC= 33.95 (2) INV IN 4"PVC= 35.77 (3) INV OUT 12"PVC= 33.91
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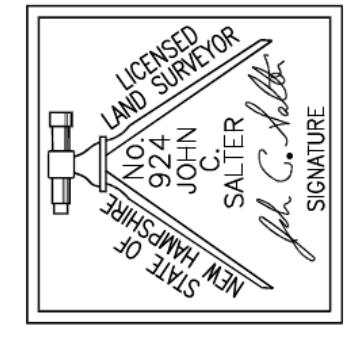
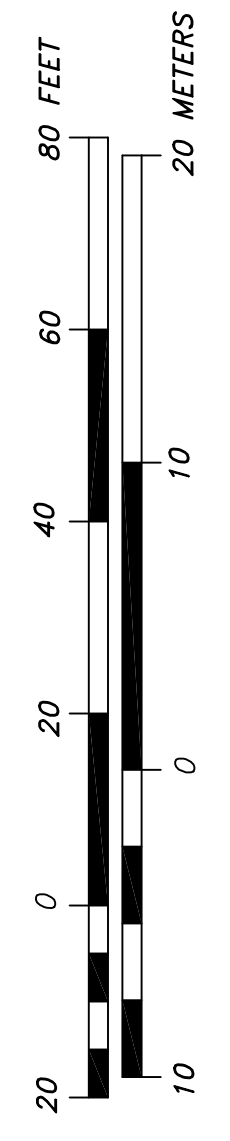
REFERENCE PLANS:

- PROSPECT PARK, ANNEX NO. 3, PORTSMOUTH, NH, BELONGING TO LEAVITT, WOODWORTH & SHEATT, SURVEYED 4/30/1903, RCRD PLAN 00225.
- PLAN OF LAND, PORTSMOUTH, N.H., FOR MAX MILTON, SCALE: 1"=30', DATED 7/1974, FILE NO. 72A, PLAN NO. 4336, BY JOHN W. DURGIN, CEPA, NOT RECORDED.
- A PLAN OF LAND IN PORTSMOUTH, N.H., FOR THE CHASE HOME FOR CHILDREN; SCALE: 1"=60', DATED 9/10/1980, BY JOHN W. DURGIN ASSOCIATES, INC., NOT RECORDED.
- EASEMENT PLAN, ACCESS EASEMENT, MARJORIE STREET, PORTSMOUTH, NH, DATED 3/2013, RCRD PLAN D-37716.
- PLAT OF LAND PREPARED FOR ARNE, LLC, 3 SYLVESTER STREET, PORTSMOUTH, NH, DATED 2/15/2019, RCRD PLAN D-41324.

NOTES:

- OWNER OF RECORD..... JARED J. SAULNIER
ADDRESS..... 4 SYLVESTER ST, PORTSMOUTH, NH 03801
DEED REFERENCE..... 6155/1007
TAX SHEET / LOT..... 232-36
PARCEL AREA 16,067 S.F.
- ZONED..... SRB
MINIMUM LOT AREA 15,000 S.F.
FRONTAGE..... 100'
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
- THIS PLAN IS BASED ON A FIELD SURVEY PERFORMED 8/2022 & 11/2022. ON SITE CONTROL ESTABLISHED USING SURVEY GRADE GPS UNITS. HORIZONTAL DATUM: NAD 1983 (2011) (EPOCH 2010.0000). VERTICAL DATUM: NAVD 1988. PRIMARY BM: CITY CONTROL POINT "ROBE"
- PARCEL 232-36 IS SUBJECT TO 2'0" WIDE UTILITY EASEMENTS IN FAVOR OF THE CITY OF PORTSMOUTH AS SHOWN HEREON.
- PARCEL 232-36 LIES IN ZONE X (NO SCREEN). AREA OF MINIMAL FLOOD HAZARD AS SHOWN ON FLOOD INSURANCE RATE MAP 33015C0270F, REVISED 1/29/2021, BY FEMA.

EXHIBIT B

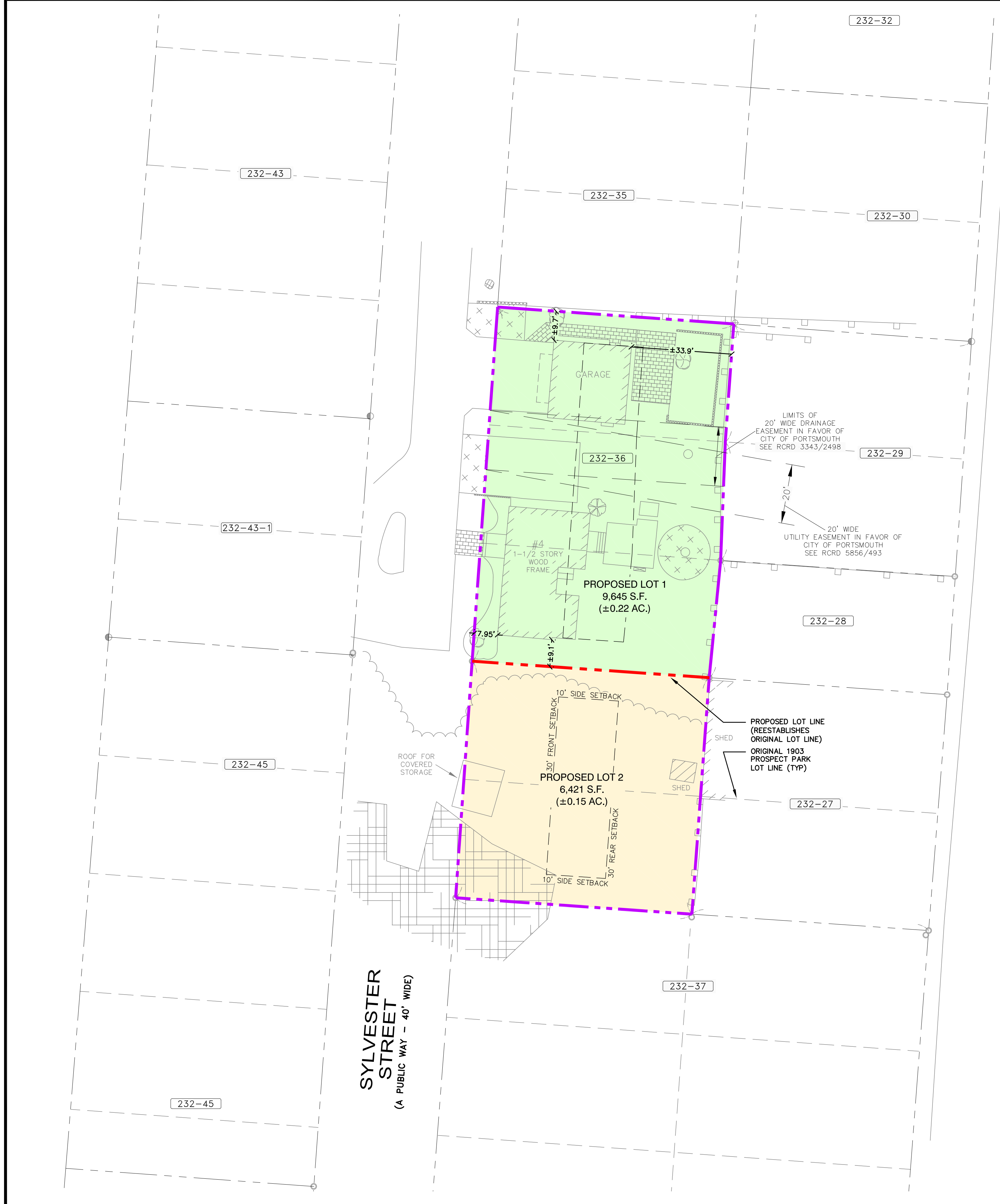


PLAT OF LAND & LIMITED ELEVATIONS
4 SYLVESTER STREET
PORTSMOUTH, NEW HAMPSHIRE
ASSESSOR'S PARCEL 232-36

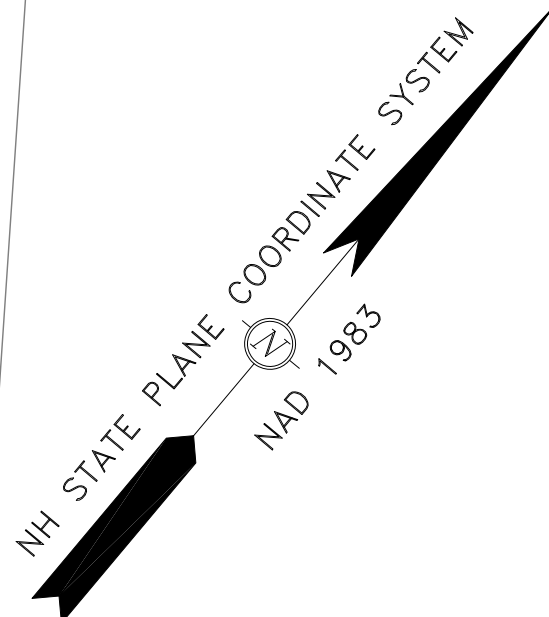
for
JARED J. SAULNIER
 and ASSOCIATES, INC.

JAMES VERRA and ASSOCIATES, INC.
 101 SHATTUCK WAY
 SUITE 8
 NEWINGTON, N.H. 03801-7876
 603-436-3597

DATE: 12/13/2022
 JOB NO: 24021
 SCALE: 1" = 20'
 DWG NAME: 24021
 PLAN NO: 24021
 SHEET: 1 OF 1



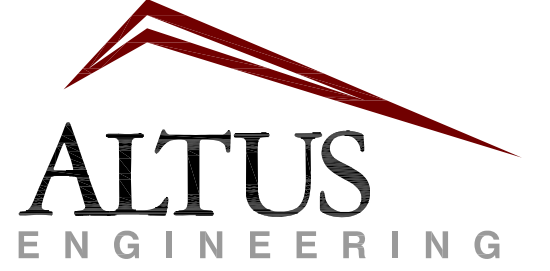
MARJORIE STREET



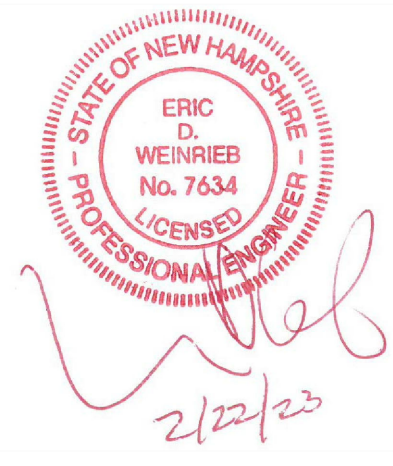
SITE NOTES

- DESIGN INTENT – THIS PLAN SET IS INTENDED TO DEPICT THE REESTABLISHMENT OF AN ABANDONED LOT LINE TO SUBDIVIDE LOT 232-36 INTO TWO RESIDENTIAL HOUSE LOTS.
- LOT AREA: 16,067 S.F. (±0.37 AC.)
- ZONE: SINGLE RESIDENCE B (SRB)
- DIMENSIONAL REQUIREMENTS:

	REQUIRED	EXIST.	LOT 1	LOT 2
MIN. LOT AREA:	15,000 S.F.	16,067	9,645	6,421
MIN. STREET FRONTAGE:	100'	200.01'	119.90'	80.11'
MIN. LOT DEPTH:	100'	80.02'	80.15'	80.17'
FRONT SETBACK*:	30'	7.95'	7.95'	30' MIN.
(*MAY BE REDUCED TO AVERAGE WITHIN 200' ON SAME SIDE OF STREET)				
SIDE SETBACK:	10'	±9.7'	±9.1'	10' MIN.
REAR SETBACK:	30'	±33.9'	±33.9'	30' MIN.
MAX. BUILDING HEIGHT:	35'	±21.75'	±21.75'	35' MAX.
MAX. BLDG. COVERAGE:	20%	11.1%	18.5%	20% MAX.
MIN. OPEN SPACE:	40%	78.8%	67.2%	40% MIN.
- THE FOLLOWING VARIANCES FROM THE PORTSMOUTH ZONING ORDINANCE ARE REQUIRED:
 - SECTION 10.520, TABLE 10.521 – VARIANCE REQUIRED TO ALLOW A LOT SIZE LESS THAN THE REQUIRED MINIMUM (9,645 S.F. AND 6,421 S.F. VS. 15,000 S.F.).
 - SECTION 10.520, TABLE 10.521 – VARIANCE REQUIRED TO ALLOW LOT FRONTAGE LESS THAN THE REQUIRED MINIMUM (80.11' VS. 100').
 - SECTION 10.520, TABLE 10.521 – VARIANCE REQUIRED TO ALLOW LOT DEPTH LESS THAN THE REQUIRED MINIMUM (80.17' VS. 100').
 - SECTION 10.520, TABLE 10.521 – VARIANCE REQUIRED TO ALLOW A SIDE SETBACK LESS THAN THE REQUIRED MINIMUM (9.1' VS. 10').



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



NOT FOR CONSTRUCTION

ISSUED FOR: ZBA

ISSUE DATE: FEBRUARY 21, 2023

NO.	DESCRIPTION	BY	DATE
0	ZBA	EBS	02/21/23

EXHIBIT C

DRAWN BY: EBS
APPROVED BY: EBS
DRAWING FILE: 5313-SUB.dwg

SCALE:
22" x 34" - 1" = 20'
11" x 17" - 1" = 40'

OWNER:
JARED SAULNIER
4 SYLVESTER STREET
PORTSMOUTH, NH 03801

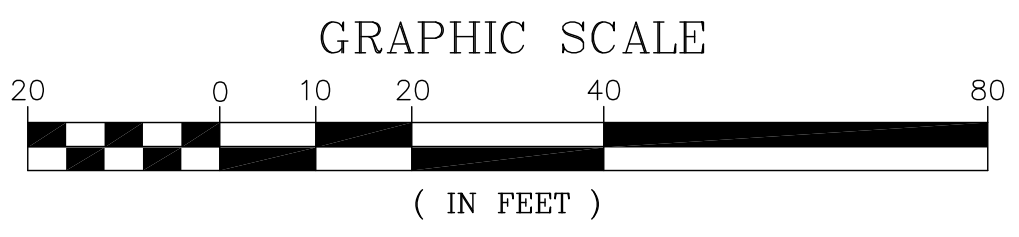
APPLICANT:
JARED SAULNIER
4 SYLVESTER STREET
PORTSMOUTH, NH 03801

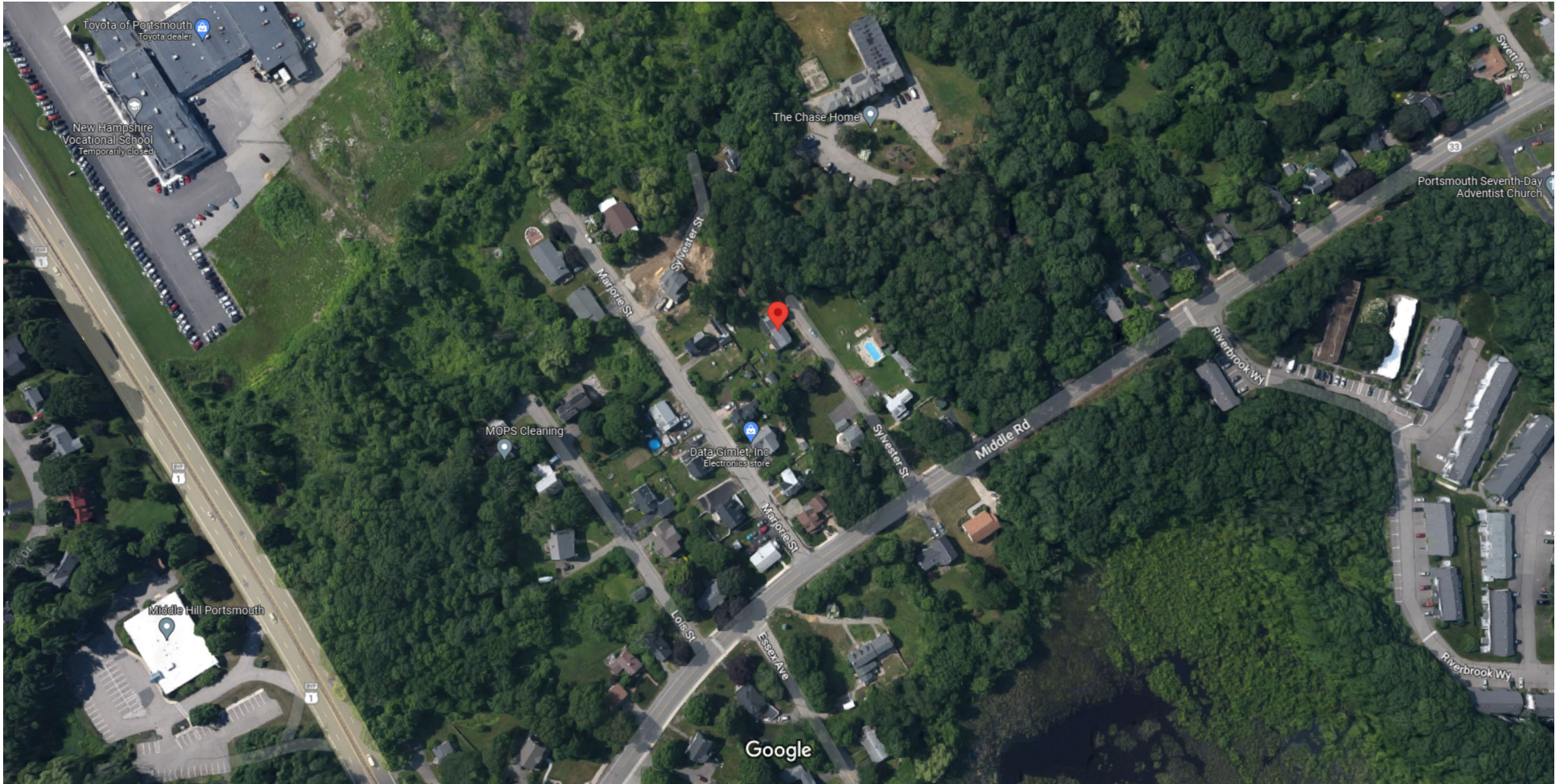
PROJECT:
SAULNIER
SUBDIVISION
TAX MAP 232 LOT 36
4 SYLVESTER STREET
PORTSMOUTH, NH

TITLE:

ZBA PLAN

SHEET NUMBER:
C-1





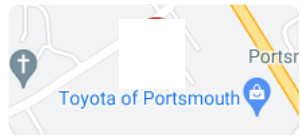
Imagery ©2023 Google, Imagery ©2023 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2023 100 ft

Portsmouth, New Hampshire
Google Street View
Sep 2019 See more dates



Google

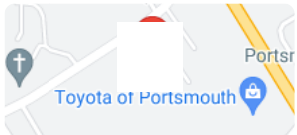
Image capture: Sep 2019 © 2023 Google

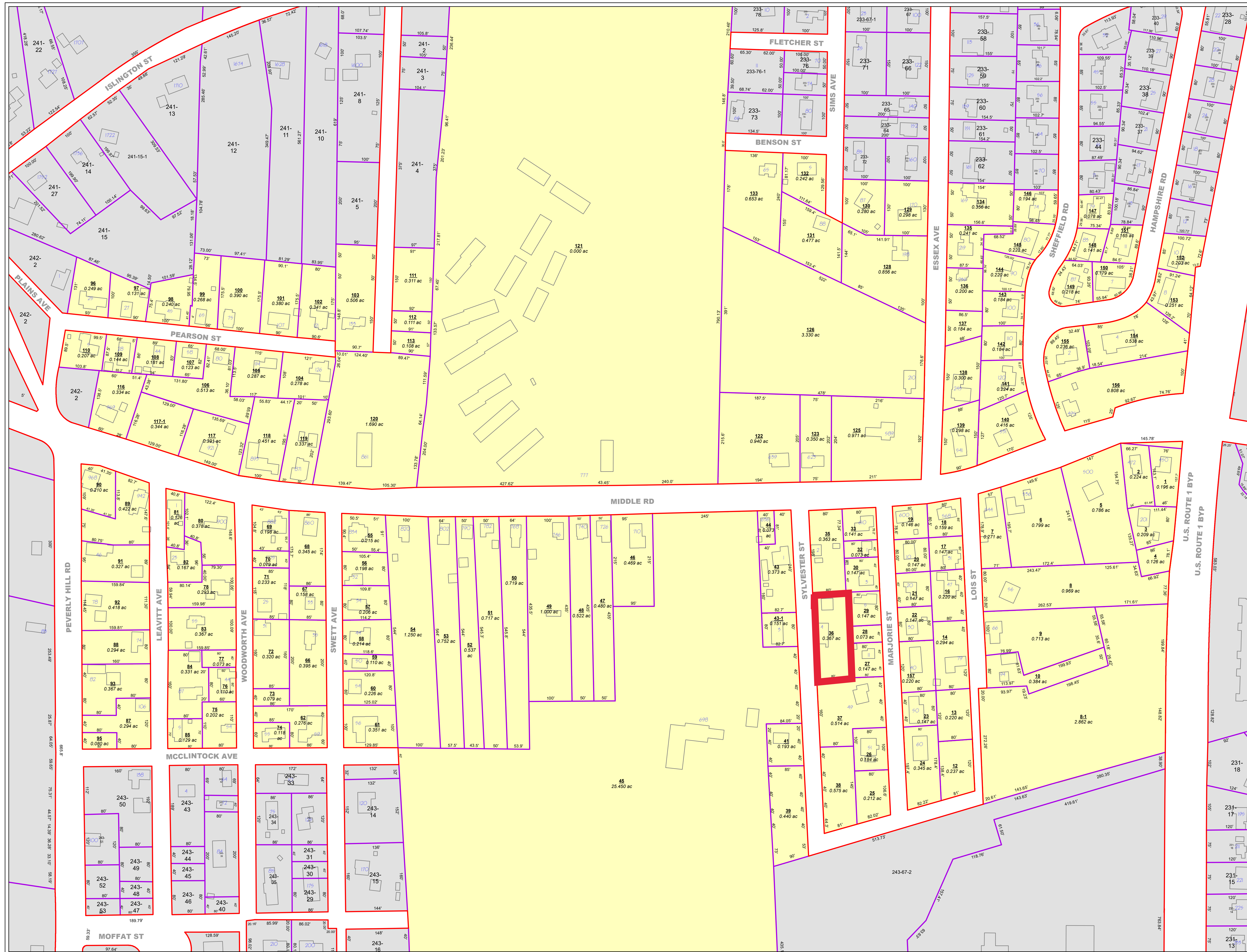


Portsmouth, New Hampshire
Google Street View
Sep 2019 See more dates



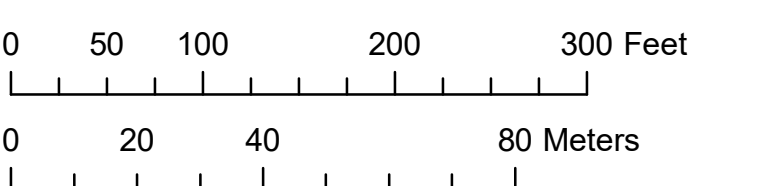
Image capture: Sep 2019 © 2023 Google



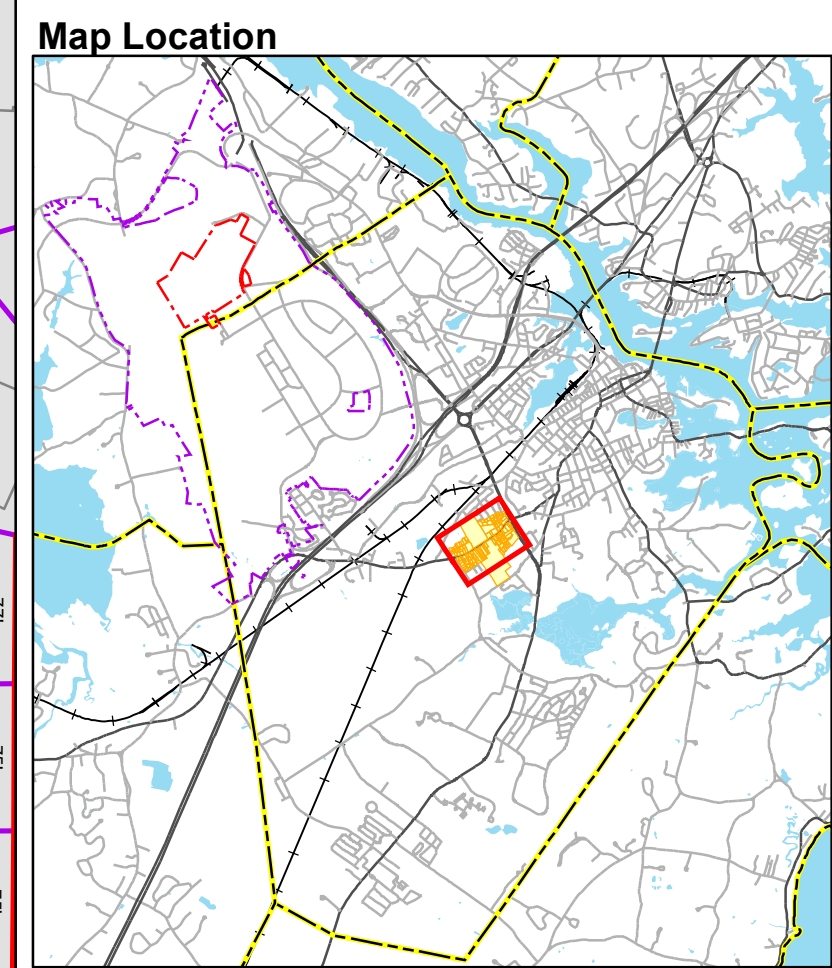
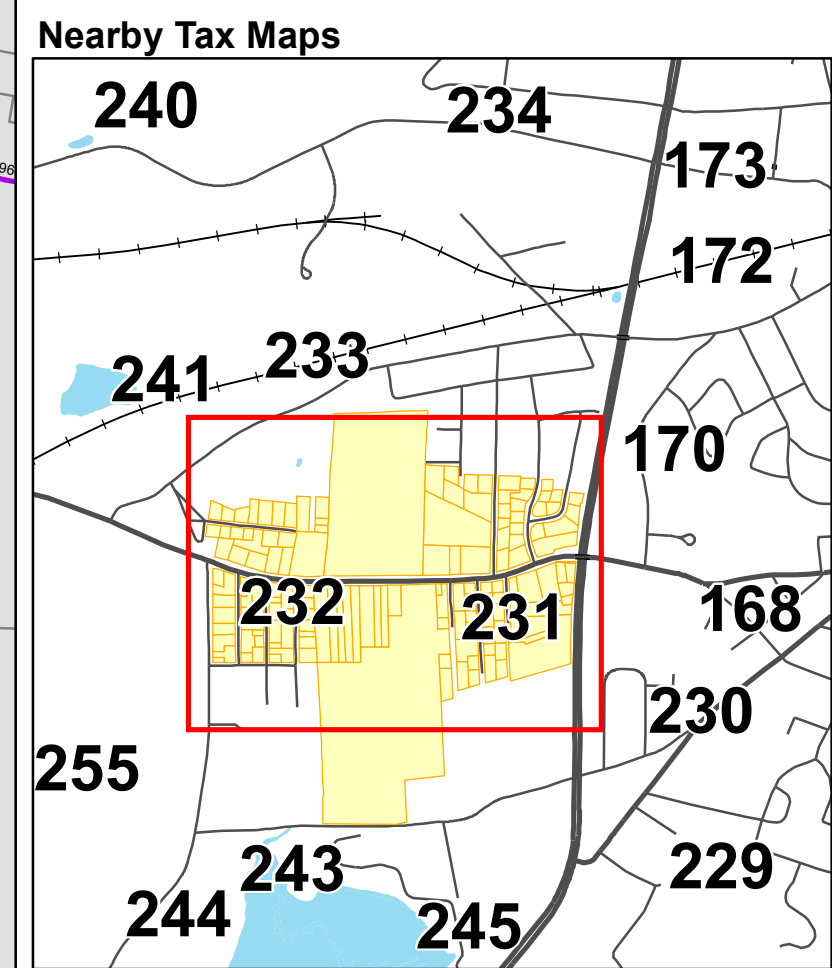


- Partial Legend**
 See the cover sheet for the complete legend.
- 7-5A Lot or lot-unit number
 - 2.56 ac Parcel area in acres (ac) or square feet (sf)
 - 25 Address number
 - 233-137 Parcel number from a neighboring map
 - 68' Parcel line dimension
 - Street name
- Parcel/Parcel boundary
 - Parcel/ROW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

EXHIBIT F



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.



II. OLD BUSINESS

- B. The request of **Danielle Okula, Dennis Okula, and Irinia Okula (Owners)**, for property located at **2 Sewall Road** whereas relief is needed to Install a 6 foot fence where along the front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is located on Assessor Map 170 Lot 22 and lies within the Single Residence B (SRB) District. (LU-23-71)

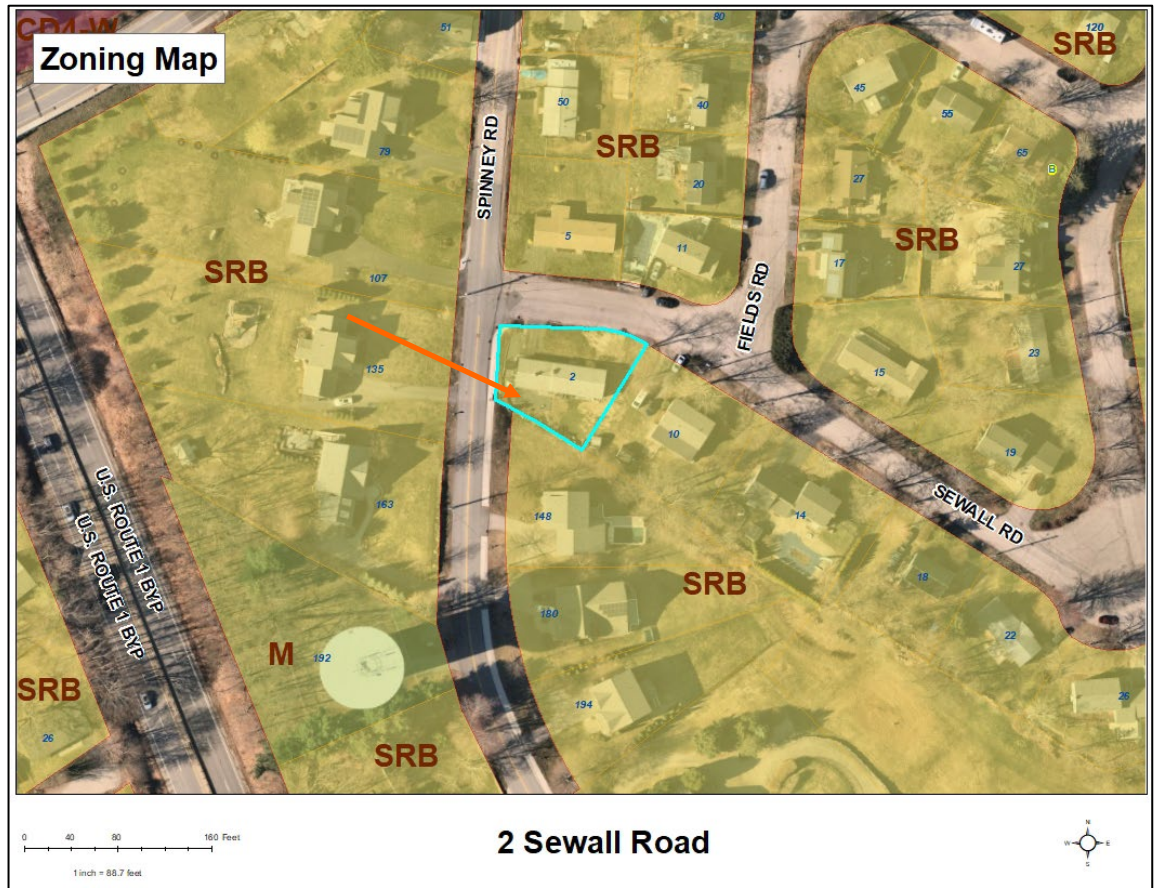
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Single Living Unit	6 Foot Fence	Primarily residential
<u>Lot area (sq. ft.):</u>	9,603	9,603	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,603	9,603	15,000 min.
<u>Street Frontage (ft.):</u>	>100	>100	100 min.
<u>Lot depth (ft.):</u>	60	60	100 min.
<u>Primary Front Yard Sewall Rd (ft.):</u>	20	20	30 min.
<u>Secondary Front Yard (Spinney Rd) (ft.):</u>	15	0 - Fence	30 min.
<u>Left Yard (ft.):</u>	10	10/0 - Fence	10 min
<u>Rear Yard (ft.):</u>	15	15/0 - Fence	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	21.6	21.6	20 max.
<u>Open Space Coverage (%):</u>	40	40	40 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1960	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

September 27, 1966 – **Granted** the variance to allow construction of an addition to an existing dwelling that affects the maximum percentage of building coverage for the lot as allowed within the SR II District relative to the proposed structure.

Planning Department Comments

Applicant is requesting a variance to install a 6 foot fence within the secondary front yard setback area where a maximum height of 4 feet is allowed.

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.

Danielle Okula
2 Sewall Rd
Portsmouth, NH

Dear Members of the Zoning Board fo Appeals,

I would like to request a variance to erect a 6 foot fence instead of a four foot fence along my property line and Spinney Road, which would continue along the 30 ft setback from the Spinney along the property line between 2 Sewall Rd and 148 Spinney Road. This would continue around the back side of the property.

There are three reasons I would like a variance.

1. Privacy.

My bedroom is the room that is closest to Spinney, with an approximate 15ft setback. People frequently walk this stretch of sidewalk, and have direct views into my bedroom. Because my property is significantly lower than the street, a four foot fence would not provide a decent amount of coverage.

Likewise my back deck has the same setback. People walking down the street look down into my deck.

The limited size of my lot, and the house and decks positioning close to Spinney Road makes using hedges as an alternative ineffective.

2. Dogs.

People frequently walk their dogs along Spinney Road. My dog, while she was sitting on my deck, has already been bit by a dog that got loose from its owner. I am concerned that a 4 foot fence would not be sufficient to keep another dog out and my dog in.

3. Noise

Since my bedroom is along Spinney Road that has a significant traffic, a six foot vinyl fence should improve the noise pollution, particularly at night.

I have spoken with my abutters, and they do not object to a 6 ft privacy fence.

This request respects the five principles variance enforcement as follows:

Section 10.233.20:10.233.21 The variance will not be contrary to the public interest;

As the map shows, the proposed fence would not limit light or circulating air to the abutters on 148 Spinney Street, since their house is set back 30 feet and is on the hill. The sidewalk along Spinney is fairly new, wide and the fence would not prevent anyone from coming down the street.

Other houses on Spinney towards Islington have 6ft fences, so this fence would not be "overly tall or obstruct views.

10.233.22 The spirit of the Ordinance will be observed;

The spirit of the Ordinance, to prevent unsightly, tall, fences will be respected. The uniqueness of the plot being so low in comparison with the street and the abutters, makes a four foot fence seem as tall as a 6 foot fence on a non-sunken. The intent is to provide similar privacy that an orthodox plot would benefit from a 4 foot fence and improve the lives of neighbors and pedestrians by providing sufficient separation between domestic animals.

10.233.23 Substantial justice will be done;

This request is substantiated by the lack of setback of 2 Sewall Rd and its low lying nature, not by the special need of the owner or disagreement with the ordinance in itself.

10.233.24 The values of surrounding properties will not be diminished;

The values of the surrounding properties will be improved by looking at a nice new fence rather than a neighbor's personal effects, that would typically be in a back yard. Likewise they will no longer need to be worried about my dog slipping their collar and coming into their yard, which occurred with the previous owner. The heat pump and air conditioning unit are along the sidewalk, and not seeing that would be an improvement to the pedestrians as well.

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

The literal enforcement of the ordinance would not provide the privacy and security intended by a four foot fence, because of the lack of setback between the house and the sidewalk, the sunken nature of the property (approximately 4 feet below grade) and the fact it is down the hill from the top of Spinney Road.

Finally due to the orientation of the house facing Sewall Road and the placement of the doors, there is no other way to create a backyard with a six foot fence that would respect the setback.

Thank you for your time,
Danielle

Proposed Complete Fence site:

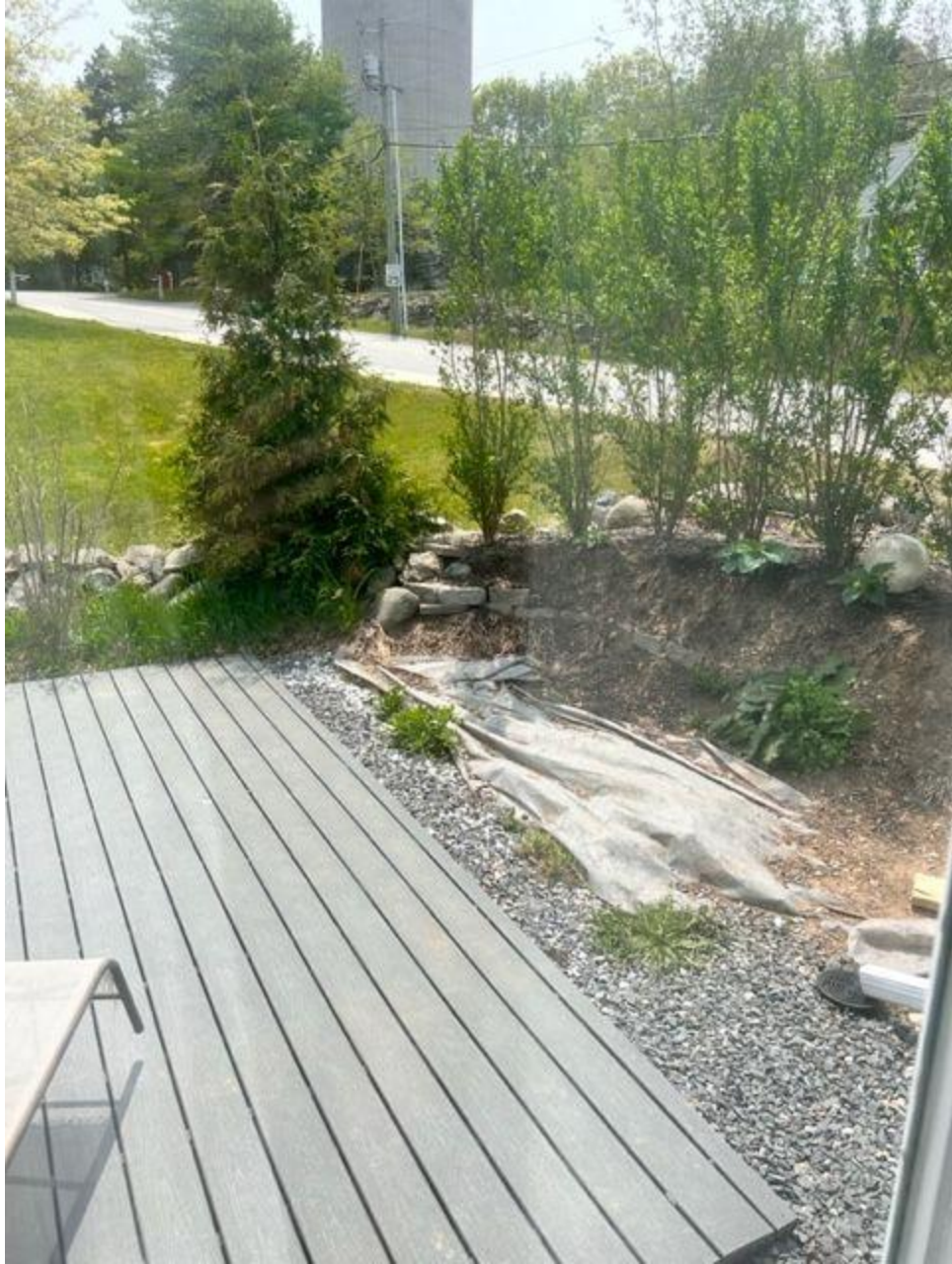


Proposed Fence Type



Views from the inside of my bedroom windows.





Views walking down Spinney sidewalk.



III. NEW BUSINESS

- A. The request of **Peter Gamble (Owner)**, for property located at **170 Aldrich Road** whereas relief is needed to demolish the existing garage and construct a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed. Said property is located on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. (LU-23-47)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Demo garage and construct new	Primarily residential
<u>Lot area (sq. ft.):</u>	10,912.5	10,912.5	1,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,912.5	10,912.5	1,500 min.
<u>Lot depth (ft.):</u>	120	120	100 min.
<u>Street Frontage (ft.)</u>	215	215	100 min.
<u>Primary Front Yard (ft.):</u>	22	22	30) min.
<u>Left Yard (ft.):</u>	15	15	10 min.
<u>Right Yard (ft.):</u>	7	7	10 min.
<u>Rear Yard (ft.):</u>	46	46	30 min.
<u>Height (ft.):</u>	<24	24	35 max.
<u>Building Coverage (%):</u>	20.6	23	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1930	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Previous Board of Adjustment Actions

September 5, 1978 – The Board of Adjustment **granted** the application to construct a garage on a lot whose frontage is 50' where 100' is required and whose area is 6,000 s.f. where 20,000 s.f. is required.

May 23, 2023 – The Board of Adjustment **denied** application for demolishing the existing garage and constructing a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed. The Board voted to deny the request because the proposal failed to observe the spirit of the ordinance and would be contrary to the public interest because the home is in an area of single-family dwellings and the design isn't consistent with continuing to use the property as a single-family dwelling one.

June 21, 2023 - The Board of Adjustment **granted the rehearing request** for the application which was **denied on May 23, 2023** to demolish the existing garage and constructing a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed.

Planning Department Comments

The applicant is requesting relief to demolish the existing garage and construct a new garage with a slightly larger footprint. The existing garage received variances for construction in 1978 when there were two separate lots. The properties have since been merged to create one lot which explains the discrepancy in the sought dimensional relief.

This application was denied at the May 23, 2023 Board of Adjustment meeting and subsequently granted a rehearing because *“the applicant did not have an effective opportunity to rebut the information presented by the abutter due to technical issues, with the stipulation that the applicant be required to attend in person.”*

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.

To: Portsmouth Board of Adjustment
 From: Peter Gamble
 Date: June 12, 2023
 Ref: Rehearing Application LU-23-47

Dear Madam Chair and members of the Zoning Board of Adjustment,

I am respectfully submitting my application LU-23-47 for property located at 170 Aldrich Road, Tax Map 153-21. This proposal was originally heard and denied at the May 23rd 2023 BOA meeting and a request for rehearing was granted at the June 21st 2023 meeting.

My proposal is to expand an existing 24 X 24 accessory structure to a 26 X 30 garage with a partial second floor for the purpose of creating more useable space for storage, garage parking, workshop space, and workout/recreational space. The current garage was permitted on August 4, 1978, showing a 12' side setback requiring no variance for side setback. To accurately show all setbacks and lot area I hired Ambit Engineering to conduct a property survey that is registered with the Rockingham County Register of Deeds. I also discussed this project with Paul Garand, Asst Building Inspector. He noted that to ensure proper foundation and footings for the new structure, the best course of action would be to demo and reconstruct around the outside of the existing footprint which is part of this proposal. Included is a proposed shower/bathroom on the garage second floor as this will primarily be used as a workout space. I am seeking a variance from Section 10.521 to allow a side setback of 7 feet where 10 is required and 22.4% building coverage where 20% is the maximum allowed.

My property at 170 Aldrich Road has been in lawful nonconforming use for over 60 years as a two-family home. It has been my primary residence for 17 years. The current garage is one story, is in need of repair, and has limited parking room. RSA 674:19, protects lawful nonconforming uses and prevents new zoning ordinances from impacting all lawfully existing uses. Nonconformity protections apply both to principle and accessory uses of a property. This provision does two things. It supports my request to update my accessory building consistent with the Single Residence B (SRB) district and prevents any additional living space under Section 10.440 which prohibits 3 family dwelling units in SRB district and prohibits an Accessory Dwelling Unit as per Section 10.814.12 of the Portsmouth Zoning Ordinance. As a condition to this variance, I suggest the Board state that living space in this accessory structure is prohibited.

The proposal is consistent with properties with that have recently updated existing accessory structures as permitted in the SRB district. Two specific properties within 300 feet of mine received relief by the BOA to construct a second floor to include plumbing. One is 19 Sunset Road, Tax Map 153-19 (BOA 4/18/17 and 1/17/2023) and the other is 161 Aldrich Road, Tax Map 153-32 (BOA 2016). Other close proximity properties with similar increase size and updates are 55 Aldrich, 196 Aldrich, 124 Kensington, and 2 Monroe Street (BOA 3/16/2021).

Attachments include: Signed/Stamped Survey, Property Deed, Tax Map locator, Westfield Park Plan, Aerial View, Setback/Sketch, Layout of 1st and 2nd floor, Frame Design, Height and Dimensions, Neighborhood Photos, Previous Permit, Current Lot Coverage, and supporting emails.

With respect to the 5 guiding criteria:

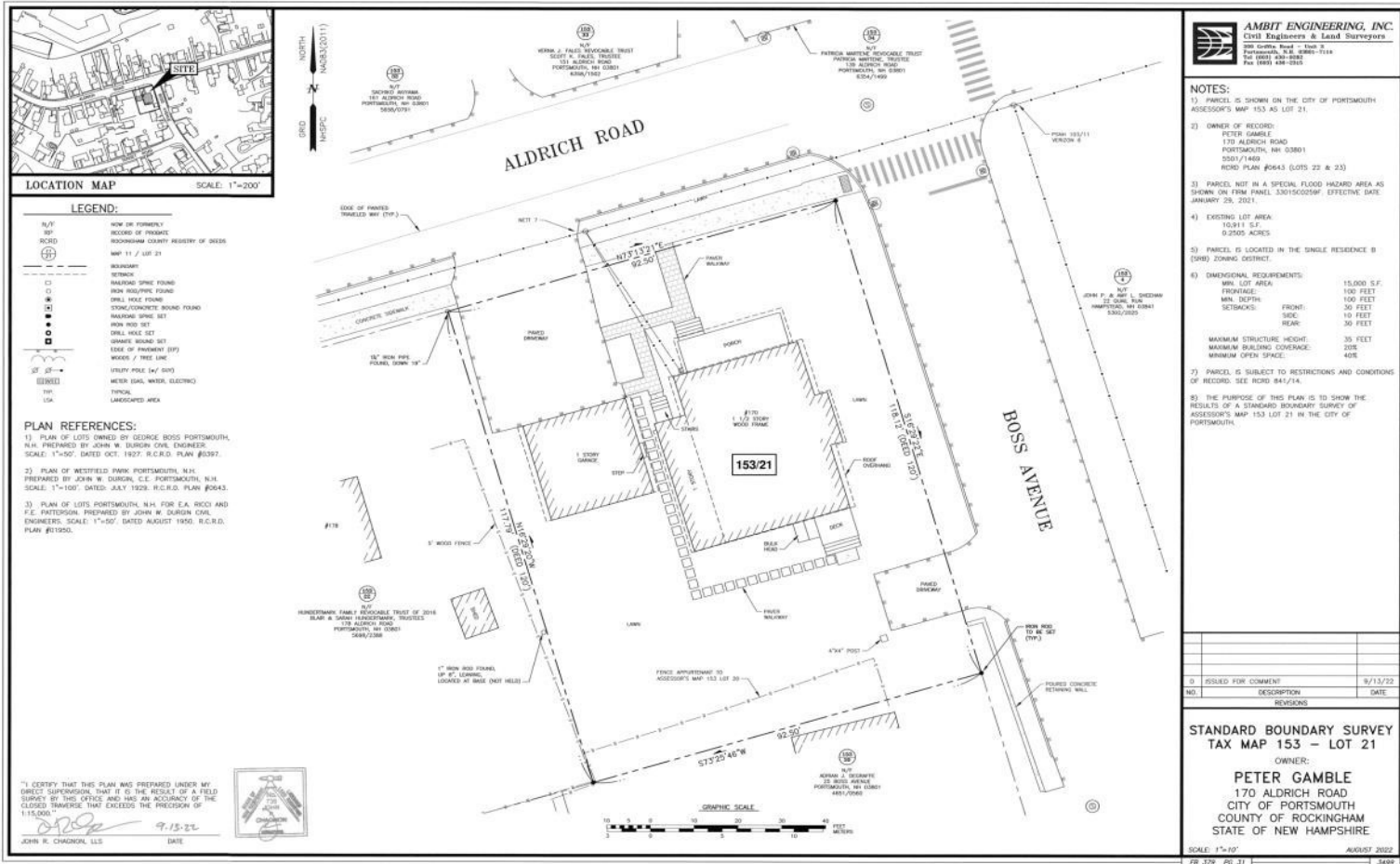
1. The variance will not be contrary to the public interest; The project is inline with the public interest as the structure was permitted in accordance with the ordinance in 1978 and this new proposal improves and updates to code the current structure that is permitted in the SRB district.
2. The spirit of the Ordinance will be observed; The spirit of the Ordinance will be observed as this project is in line with the current use of the property and consistent with surrounding properties as depicted in this proposal.
3. Substantial justice will be done; Substantial justice will be done as this proposal will improve upon the existing permitted garage, bring the structure to current building code and allow for needed space parking, workshop, storage, and workout/recreational area.

4. The values of surrounding properties will not be diminished; This project will increase the values of surrounding properties. This is consistent with the improvements on going in the Aldrich Road area.
5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship; The SRB district requires 15,000 sq ft coverage yet very few properties in my neighbor meet this requirement. The improvements to this accessory structure are in line with neighborhood improvements to include additional space, proper building code, and with a minimal impact. In the spirit of the ordinance, not granting relief would results in a hardship inconsistent with surrounding properties.

I thank you all for taking the time over these past few months to review my application and I look forward to meeting you all in person.

Sincerely,

Peter Gamble



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Goffe Road - Box 9
Portsmouth, N.H. 03801-1114
Tel: (603) 438-1315

NOTES:

- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 153 AS LOT 21.
- OWNER OF RECORD:
PETER GAMBLE
170 ALDRICH ROAD
PORTSMOUTH, NH 03801
2003/1489
RIRD PLAN #0643 (LOTS 22 & 23)
- PARCEL NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015G0059P EFFECTIVE DATE JANUARY 25, 2021.
- EXISTING LOT AREA:
10,911 S.F.
0.2505 ACRES
- PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING DISTRICT.
- DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 15,000 S.F.
FRONTAGE: 150 FEET
MIN. DEPTH: 100 FEET
REAR: 30 FEET
SIDE: 10 FEET
REAR: 30 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 20%
MINIMUM OPEN SPACE: 40%
- PARCEL IS SUBJECT TO RESTRICTIONS AND CONDITIONS OF RECORD. SEE RIRD #41/14.
- THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY SURVEY OF ASSESSOR'S MAP 153 LOT 21 IN THE CITY OF PORTSMOUTH.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	8/13/22
REVISIONS		

**STANDARD BOUNDARY SURVEY
TAX MAP 153 - LOT 21**

OWNER:
PETER GAMBLE
170 ALDRICH ROAD
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

SCALE: 1"=10' AUGUST 2022
78 379 PL 31 3499

- LEGEND:**
- R/W: RIGHT OF WAY
 - RD: RECORD OF PROTECT
 - ROCKINGHAM COUNTY REGISTRY OF DEEDS
 - MAP 11 / LOT 21
 - BOUNDARY
 - SETBACK
 - RAILROAD SPINE FOUND
 - IRON ROD/PIPE FOUND
 - DRILL HOLE FOUND
 - STONE/CONCRETE FOUND
 - RAILROAD SPINE SET
 - IRON ROD SET
 - DRILL HOLE SET
 - SHOWER BOUND SET
 - EDGE OF FURNACE (SPT)
 - WOODS / TREE LINE
 - UTILITY POLE (4" DIA)
 - METER (GAS, WATER, ELECTRIC)
 - TYP: TYPICAL
 - USA: UNASSIGNED AREA

- PLAN REFERENCES:**
- PLAN OF LOTS OWNED BY GEORGE BOSS PORTSMOUTH, N.H. PREPARED BY JOHN W. DURGIN CIVIL ENGINEER. SCALE: 1"=50'. DATED OCT. 1927. R.C.R.D. PLAN #6397.
 - PLAN OF WESTFIELD PARK PORTSMOUTH, N.H. PREPARED BY JOHN W. DURGIN, C.E. PORTSMOUTH, N.H. SCALE: 1"=100'. DATED: JULY 1928. R.C.R.D. PLAN #0643.
 - PLAN OF LOTS PORTSMOUTH, N.H. FOR E.A. RICE AND F.E. PATTERSON. PREPARED BY JOHN W. DURGIN CIVIL ENGINEER. SCALE: 1"=50'. DATED AUGUST 1950. R.C.R.D. PLAN #1250.

"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 TRANSVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

John R. Chagnon 9-15-22
JOHN R. CHAGNON, L.L.S. DATE

Deed 170 Aldrich Road. 92.5 X 120 feet

After Recording Return To:

PETER GAMBLE
170 ALDRICH RD
PORTSMOUTH, NH 03801-4906
APN# 0153-0021-0000

Return To:
TIMIOS, INC.
5716 Corsa Avenue
Suite 102
Westlake Village, CA 91362

Warranty Deed

KNOW ALL MEN BY THESE PRESENTS THAT I, SARA HOLLAND MACCORKLE, TRUSTEE OF THE NORTHSTAR REVOCABLE TRUST U/T/D JUNE 18, 2002, of 42 SUNNYSIDE DR, GREENLAND, NH 03840, County of ROCKINGHAM, State of New Hampshire, for consideration paid, grant to PETER GAMBLE, single man of 170 ALDRICH RD, PORTSMOUTH, NH 03801-4906, County of ROCKINGHAM, State of New Hampshire

With warranty covenants

All that certain property situated in the county of ROCKINGHAM, and State of NEW HAMPSHIRE, being described as follows: TWO CERTAIN LOTS OR PARCELS OF LAND, WITH THE BUILDINGS THEREON, SITUATE IN SAID PORTSMOUTH, ROCKINGHAM COUNTY, NEW HAMPSHIRE AND BOUNDED AND DESCRIBED AS FOLLOWS: BOUNDED NORTHERLY BY ALDRICH ROAD, NINETY-TWO AND FIVE TENTHS (92.5) FEET, MORE OR LESS, EASTERLY BY BOSS AVENUE, FORMERLY KNOWN AS AN EXTENSION OF LAWRENCE STREET, ONE HUNDRED TWENTY (120) FEET, MORE, OR LESS; SOUTHERLY BY LAND OF EARNEST WEEKS (FORMERLY OWNED BY KATHERINE G. NEAL) NINETY TWO AND FIVE TENTHS (92.5) FEET, MORE OR LESS; AND WESTERLY BY LAND OF ALEX MUNTON (FORMERLY OF ONE AUSTIN) ONE HUNDRED AND TWENTY (120) FEET, MORE OR LESS, SAID PREMISES ARE CONVEYED UNDER AND SUBJECT TO CERTAIN CONDITIONS AND RESERVATIONS INSOFAR AS THEY, SAME ARE NOW APPLICABLE, VIZ: NO DWELLING HOUSE TO BE ERRECTED ON SAID LAND TO COST LESS THAN \$3000; NO DWELLING HOUSE OR OTHER BUILDINGS SHALL BE ERRECTED NEARER THAN THIRTY (30) FEET TO SAID ALDRICH ROAD; ANY GARAGE OR OTHER OUT BUILDINGS SHALL BE ERRECTED IN FRONT OF THE REAR LINE OF ANY DWELLING HOUSE ERRECTED ON THE LOT. BEING THE SAME PROPERTY CONVEYED TO SARA HOLLAND MACCORKLE, TRUSTEE OF THE NORTHSTAR REVOCABLE TRUST U/T/D JUNE 18, 2002 BY DEED FROM SARA COOK HOLLAND, TRUSTEE OF THE SARA COOK HOLLAND REVOCABLE TRUST U/T/D JUNE 18, 2002 RECORDED 11/28/2011 IN DEED BOOK 5265 PAGE 255, IN THE REGISTER'S OFFICE OF ROCKINGHAM COUNTY, NEW HAMPSHIRE.

REGISTER

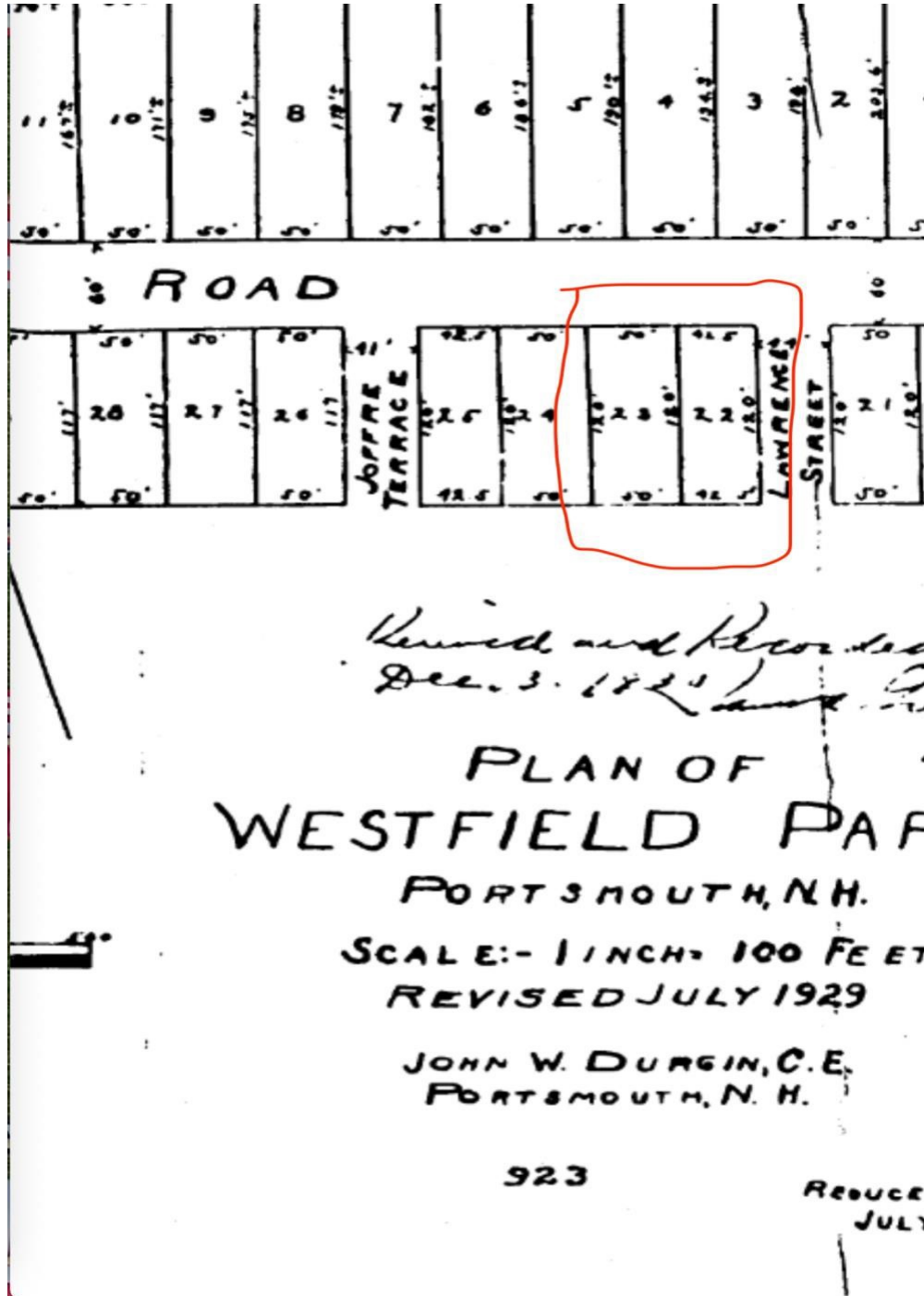
Meaning and intending to describe and convey the same premises conveyed to

I/We, SARA COOK HOLLAND, TRUSTEE OF THE SARA COOK, release to said grantee(s) all rights of homestead and other interests therein.

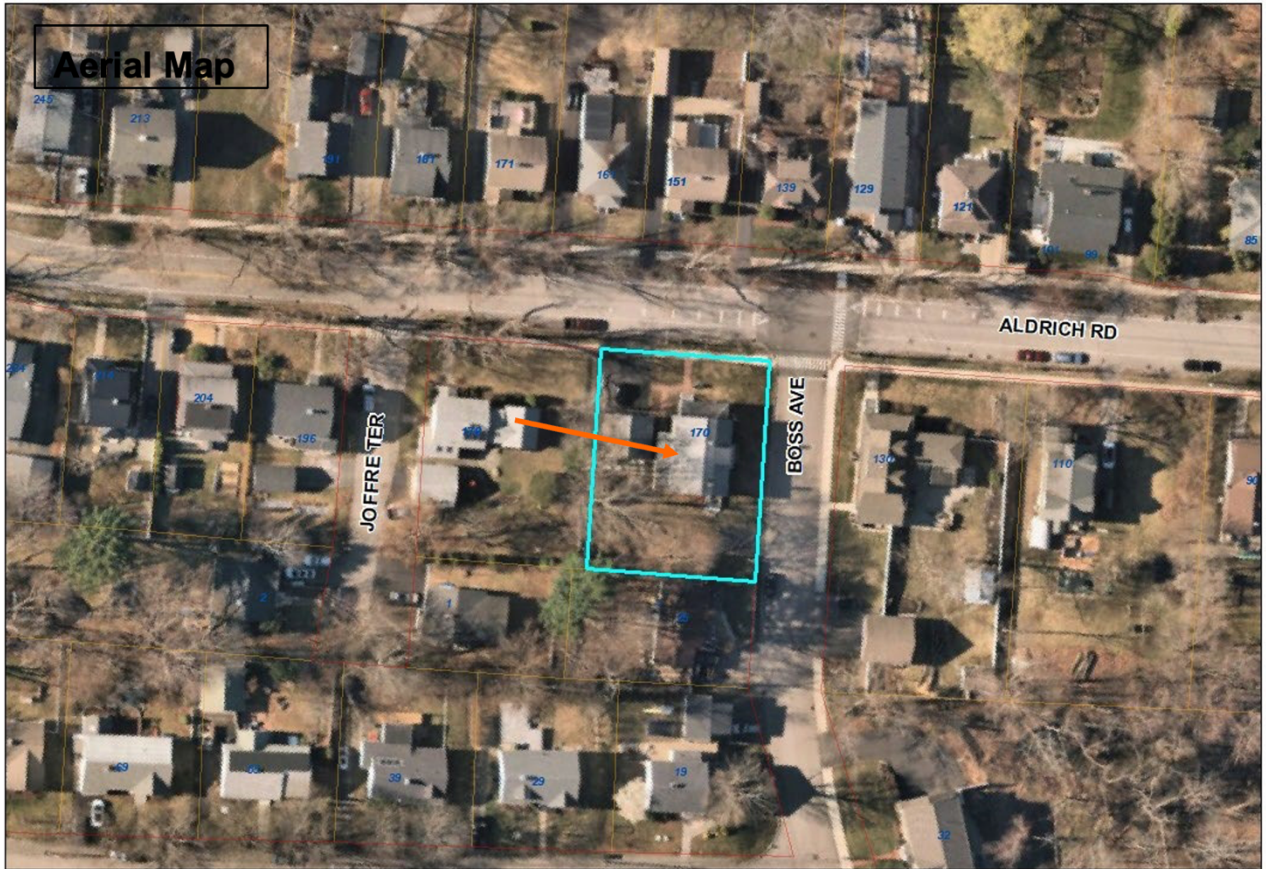
Current Tax Map
Green is 170 Aldrich
Yellow 19 Sunset, 161 Aldrich, and 196 Aldrich



Westfield Park Plan Lots 23 and 22. 92.5 X 120 feet



Neighborhood Context



0 30 60 120 Feet
1 inch = 62.5 feet

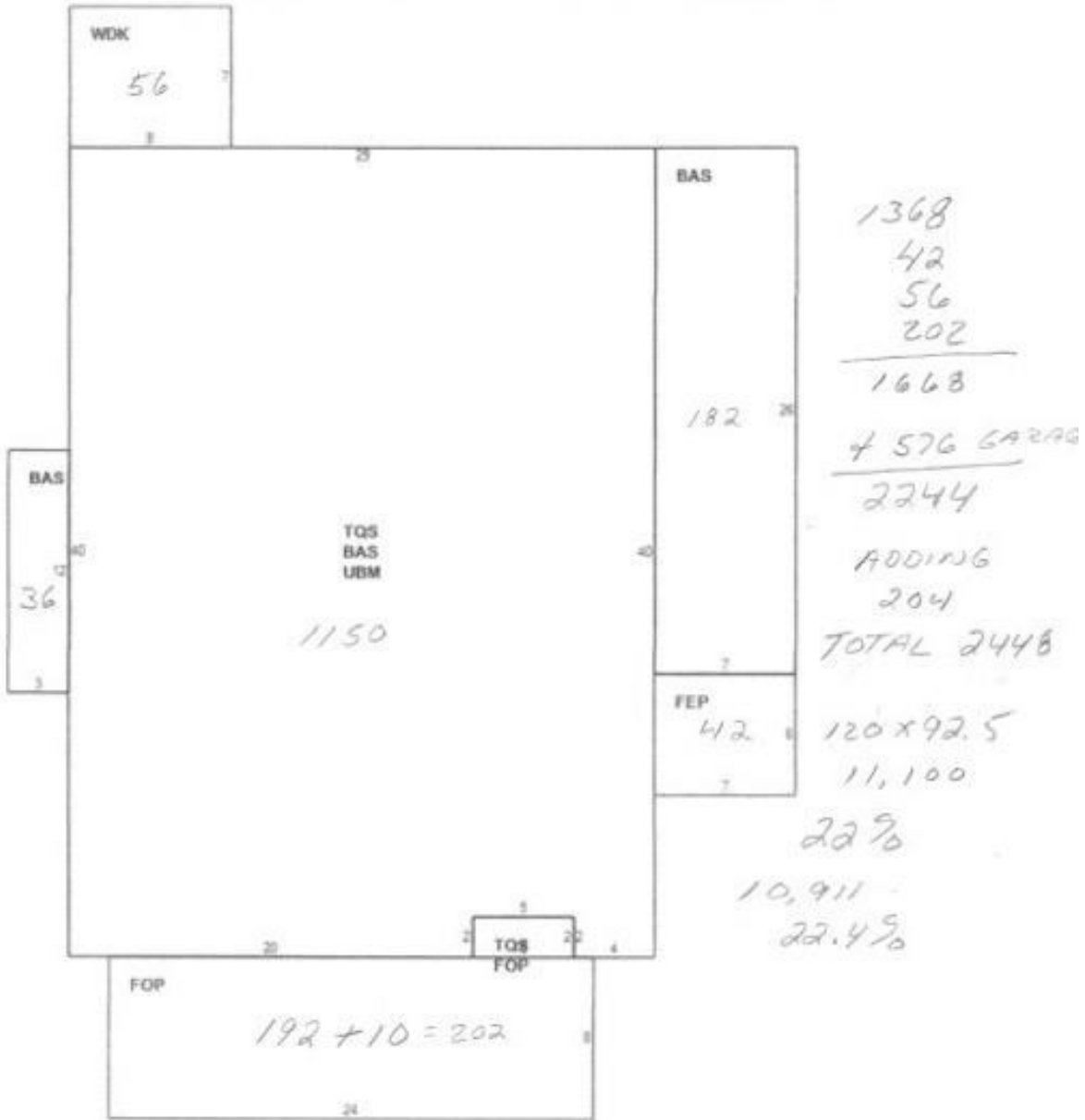
170 Aldrich Road







Building Layout



CITY OF PORTSMOUTH

APPLICATION FOR BUILDING PERMIT
OR CHANGE IN LAND USE

DATE Aug 4 1977
EST COST 1 3,700
FEE 18,000
PAID check - 00

OWNER MURRAY D LEVY PHONE 436-4517 8/4/78

ADDRESS 170 ALDRICH RD

Location of Work 170 ALDRICH RD Plan # 46A Lot # 23
Size of Lot Frontage 92' Depth 120 Zone SR II

Present Use of Land or Building LAWN
Number of Units on Property 1-2 car garage
Proposed Use of Land or Building New 2 car garage
Number of Units to be Utilized _____

Contractor's Name ART SPAINA Address Greenland RD
Business Phone 436-2631

Size of Present Bldg. _____ x _____ No. of stories _____
Size of Proposed Bldg. 34' x 24' No. of stories 1

Front Setback 35' Right Side Setback 12'
Left Side Setback 80' Rear Setback 61'

Construction _____
General Information In building a 2 car garage
since the one I had on Boss Ave will
have to be torn down in a year or two.

I certify that the information given is true and correct to the best of my knowledge. No change from the above information will be made without approval of the Building Inspector. Construction will not begin until Building Permit is issued.

SUBJECT TO CODE REQUIREMENTS

Murray Levy
Signature of Applicant

If not Owner, state relationship _____

- | | | |
|--------------------|------------------------------------|--|
| Date <u>8/8/77</u> | 1. Variance _____ | Zoning <input checked="" type="checkbox"/> |
| | 2. Spec. Exc. _____ | Disapproved <input checked="" type="checkbox"/> <u>RPT</u> |
| | 3. Historic District _____ | Approved <input checked="" type="checkbox"/> |
| | 4. Bldg. Code Bd. of Appeals _____ | |
| | 5. Site Review _____ | |

Reason Lot does not meet requirement of Art III Sec 10-30(2)
Fire Department Approval _____ K. J. Hutchinson

age - 18' x 18' - Boss Ave side of lot garage going on other lot
39' x 30' Present Building
Signed Paul Sampson Chief Building Inspector



BOARD OF ADJUSTMENT
CITY HALL
PORTSMOUTH, NEW HAMPSHIRE

September 19, 1978

Morris D. Levy
170 Aldrich Road
Portsmouth, N. H. 03801

RE: 170 Aldrich Road

The Board of Adjustment at its regular meeting of September 19, 1978, and after due public hearing completed its consideration of your application wherein you requested to be allowed to: construct a garage on a lot whose frontage is 50' where 100' is required and whose area is 6,000 s.f. where 20,000 s.f. is required. Said property is shown on Assessor Plan 46A as Lot 23 and lies within a Single Residence II District.

As a result of such consideration, it was voted that your request be granted with the following stipulations: N/A.

If your request of above has been acted upon favorably, it is necessary that you contact the Building Inspector prior to construction or change of use.

Respectfully submitted,

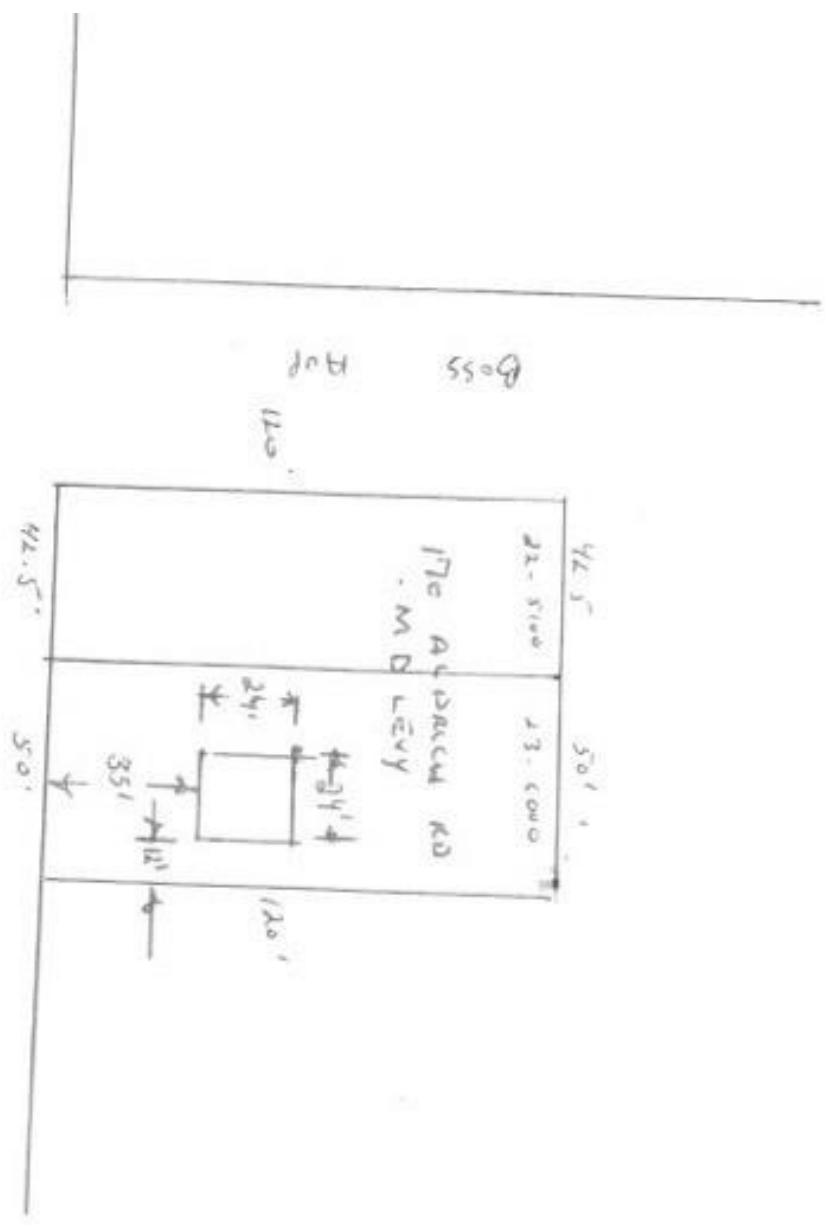
Nancy Carey
CHAIRMAN, BOARD OF ADJUSTMENT

cc: Building Inspector

NOTE: Please be advised that under N.H. RSA 31:74 any person or party to the action or proceeding of the Board of Adjustment may ask for a re-hearing within twenty days of the decision or order of the Board of Adjustment.

Planning Department
Portsmouth, N.H.
(431-5421)

bjs



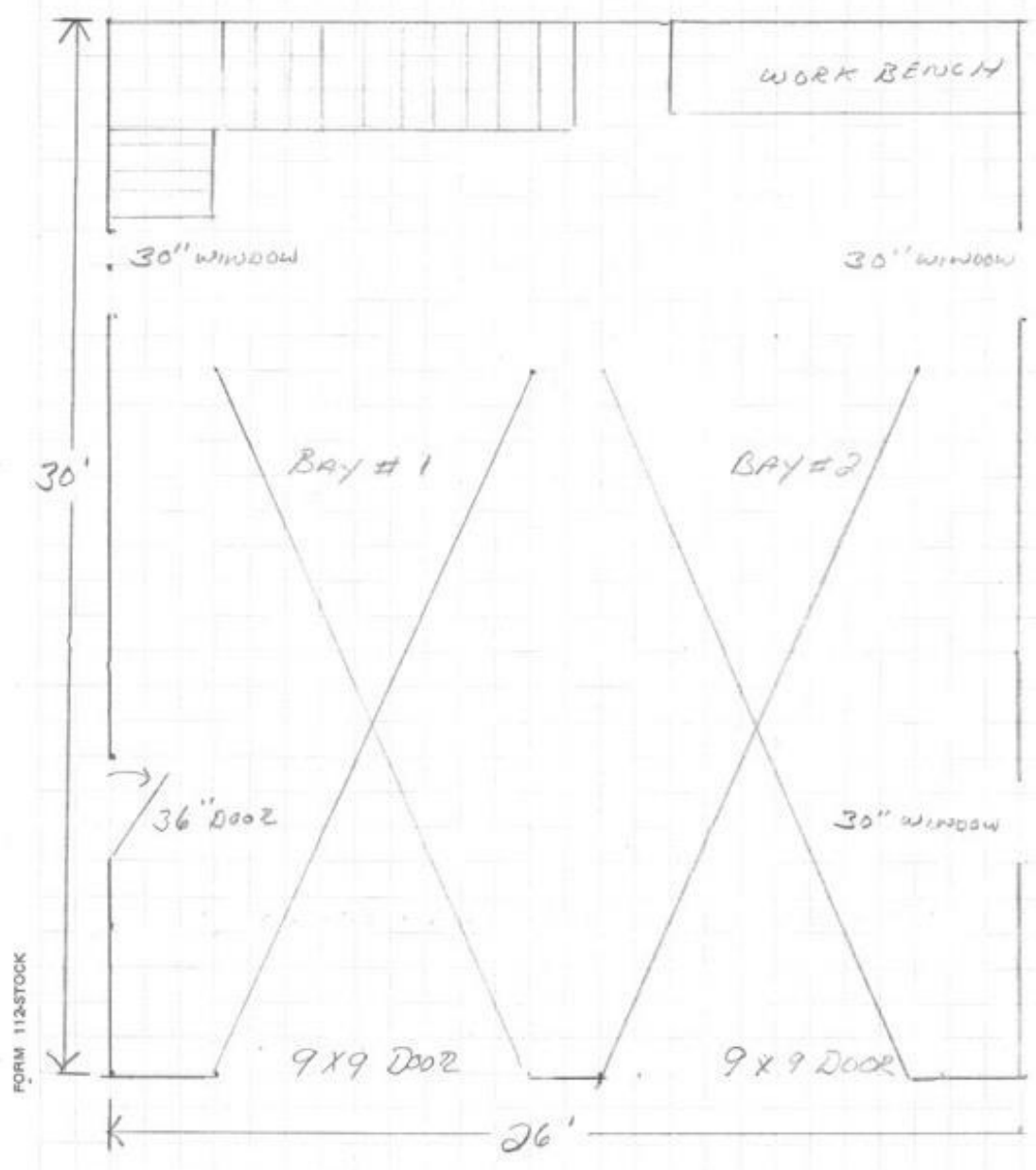
ALOKICH

House - 1170 S.F.
 Garage - 324
 Proposed - 576

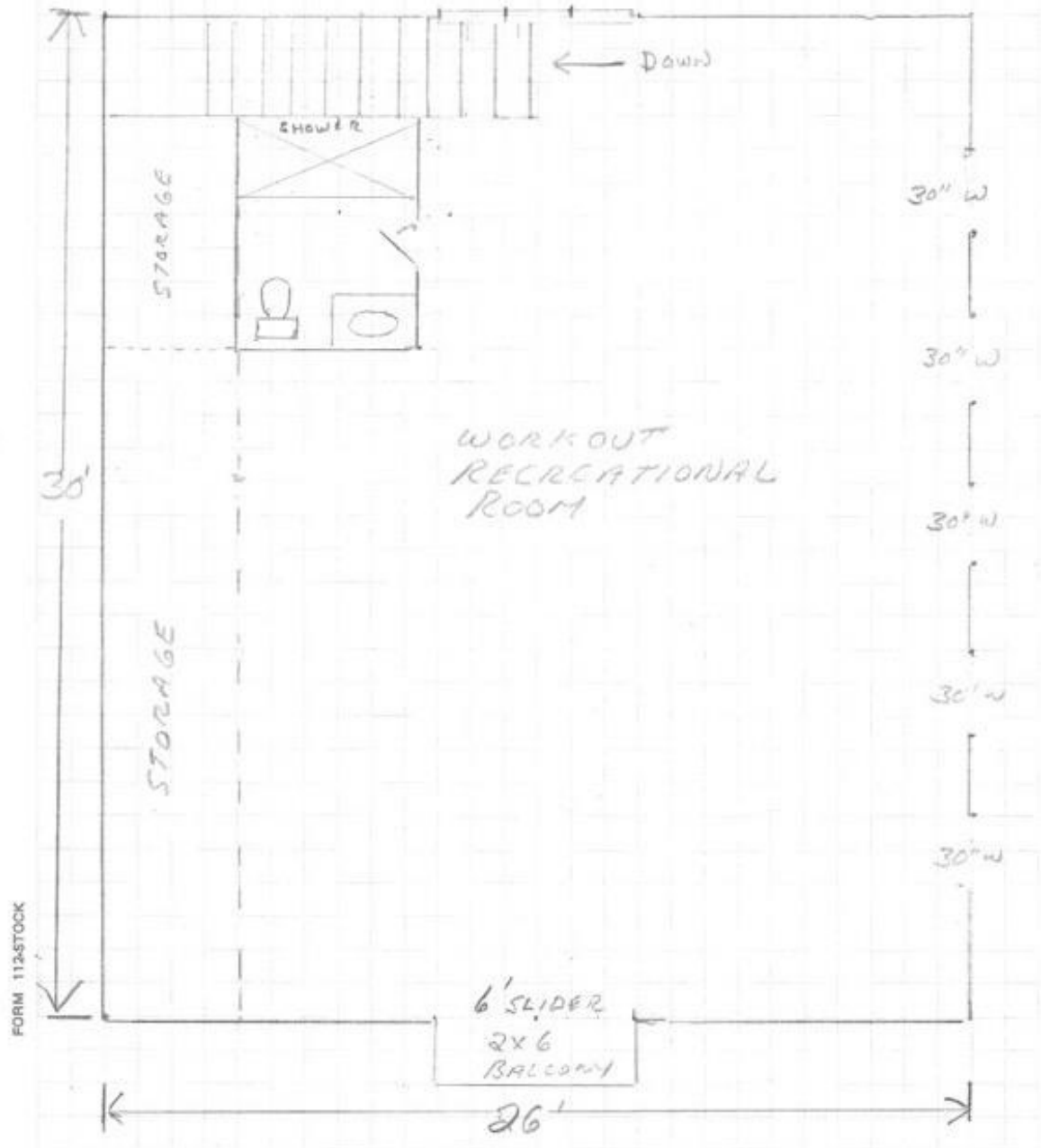
 2070 / 11100 = 18.6%

6/10 avg yield
 600 per 35x16

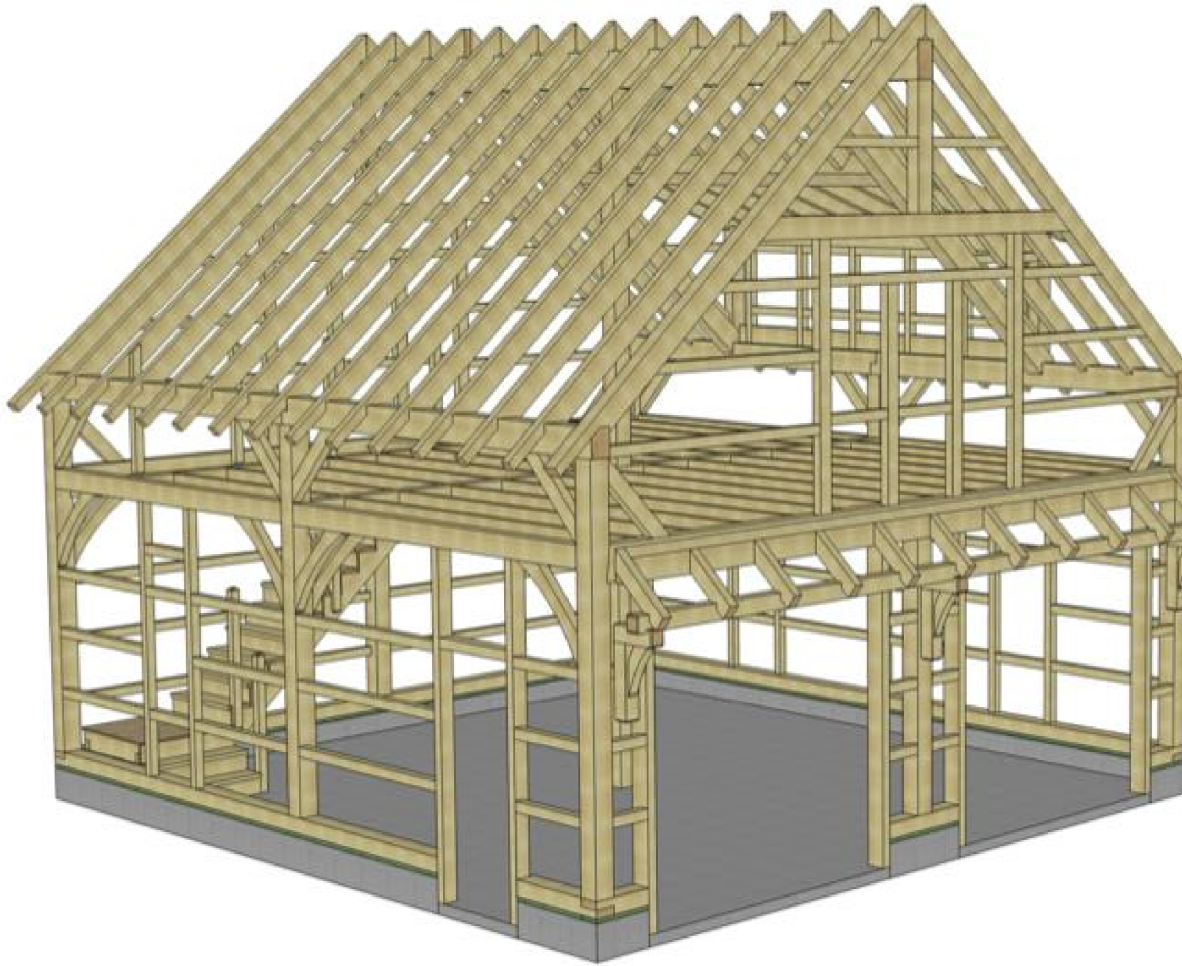
1ST FLOOR GARAGE



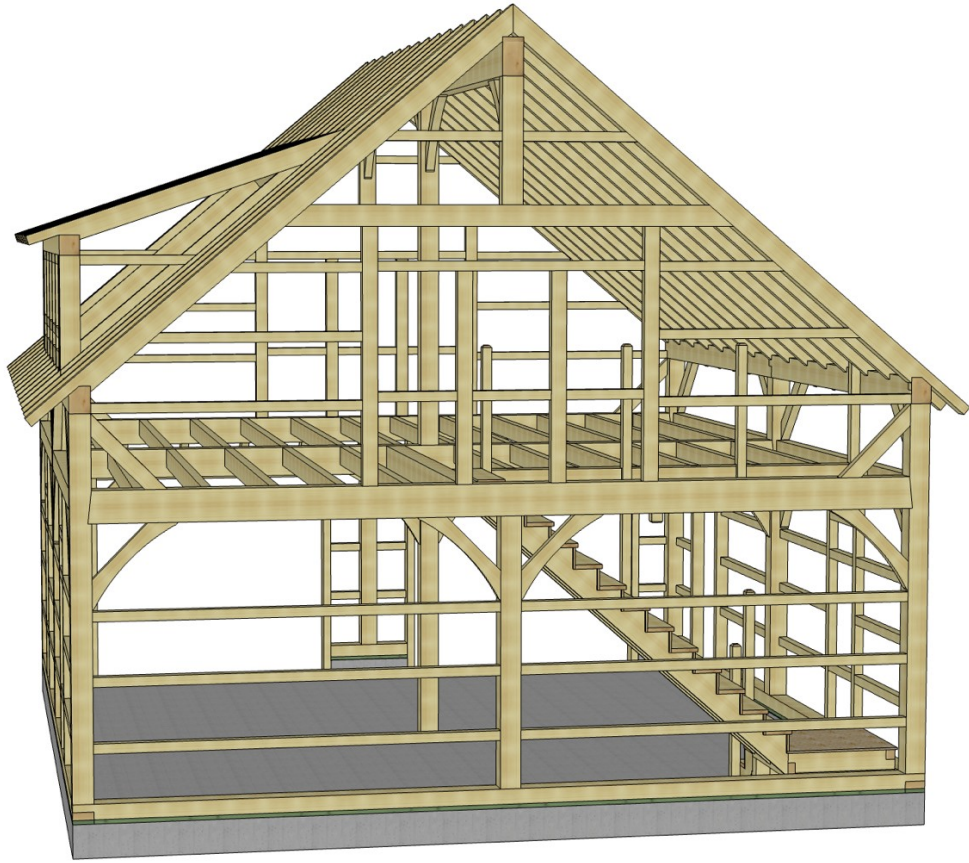
2ND FLOOR GARAGE

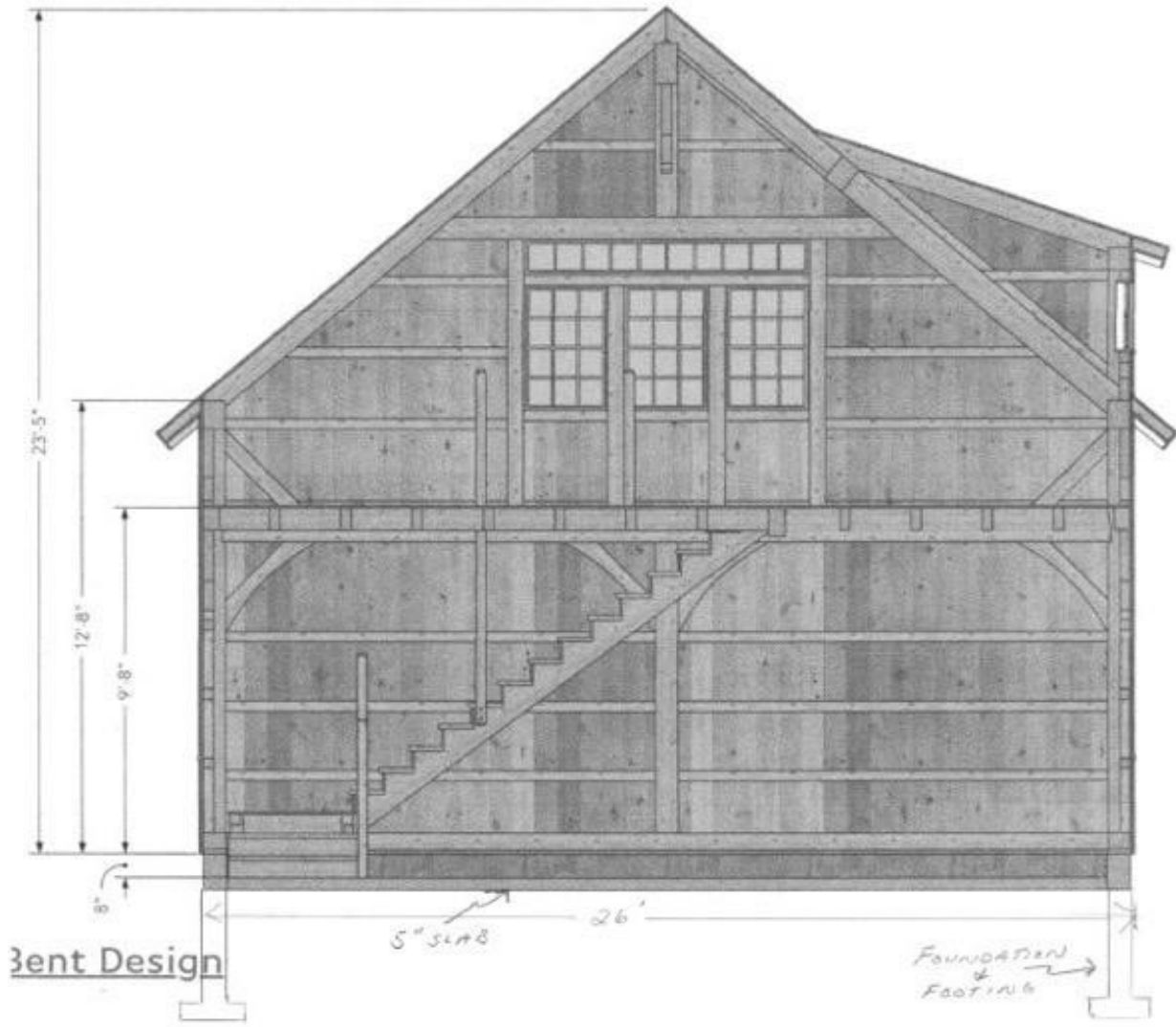


Frame for 1/1/2 story request

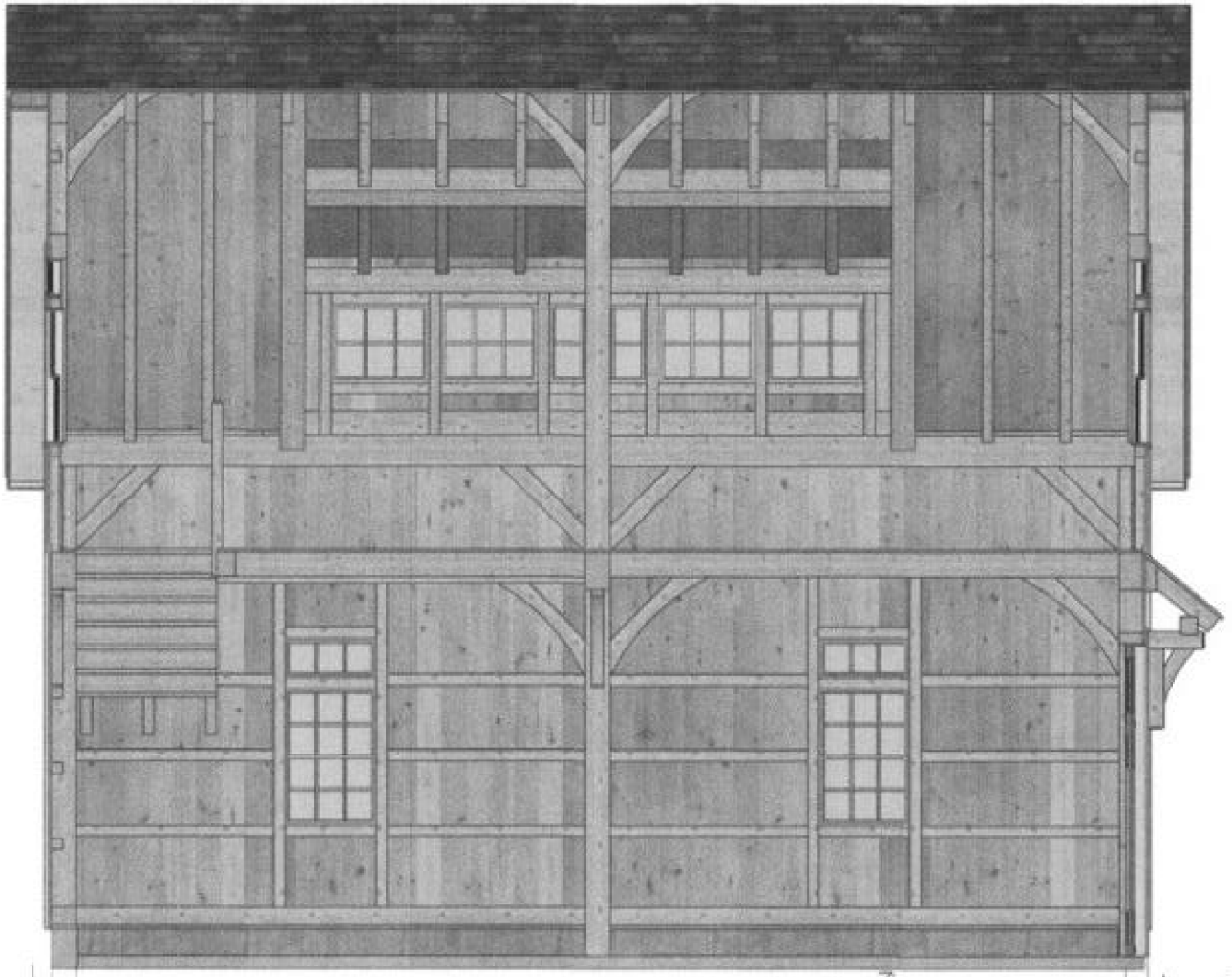


Frame for 1/1/2 story request





Bent Design



Bent Design

30'

5" SLAB

Foundations
& Footings





19 Sunset Road



161 Aldrich Road



55 Aldrich Road



From:

To: Subject: Date:

[Sachiko Akiyama](#)

[Planning Info](#)

Letter in Support of Peter Gamble Thursday, May 11, 2023 10:26:09 AM

To the Zoning Board -

I am writing in support of Peter Gamble's proposal to expand his garage. I live at 161 Aldrich Road which is across the street from Peter.

I am confident that this will not negatively impact me or my neighbors. He has already made improvements to his house which has made our neighborhood more beautiful.

I hope that the board will approve his plans.

Sincerely, Sachiko Akiyama 161 Aldrich Road

From:

To: Subject: Date:

[Brian Caffrey](#)

[Planning Info](#)

170 Aldrich
Tuesday, May 16, 2023 1:51:47 PM

Hello,

I am just emailing to voice my support for the project that will go before the board at:

170 Aldrich St Portsmouth, NH

I live behind the owner and received my abutters notice but will not be attending any meetings live or Zoom.

Thank You!

From:

To: Subject: Date:

[Scott Fales](#)

[Planning Info](#)

170 Aldrich Road
Tuesday, May 16, 2023 1:20:27 PM

Members of the Board, I am in favor of and fully support Peter Gamble's variance request at 170 Aldrich Road. I believe the proposed design and use of the new structure will greatly enhance the neighborhood and is not adverse or detrimental to surrounding properties.

I reside at 151 Aldrich Road, Portsmouth, NH, which is my childhood home and for which I am named Trustee of the Verna J. Fales Trust for this address.

Sincerely, Scott K. Fales

From:

To: Date:

[Verna](#)

[Planning Info](#)

Monday, May 15, 2023 5:58:07 PM

My name is Verna Fales and I reside at 151 Aldrich Road in Portsmouth. I have lived here since 1966. I live directly across the street of my neighbor Peter Gamble of 170 Aldrich Rd who has a proposal to construct a garage with a second floor to be used for more usable space. I am in favor of this proposal. Peter Gamble has always maintained his property and is very mindful of his surrounding neighbors. He is a wonderful and caring neighbor. Thank you for considering a yes to his proposal.

Sent from my iPad

From:

**To:
Cc: Subject: Date:**

[John Sheehan](#)

[Planning Info](#)
petere3@gmail.com
170 Aldrich road garage variance Thursday, May 11, 2023 1:23:46 PM

I've received notification as an abutter for the May 16, 2023, Board of Adjustments meeting for Peter Gamble 170 Aldrich Road Portsmouth. I have no objection to this situation and support this variance request.

Regards,

John Sheehan
130 Aldrich Road Portsmouth

From:

To: Subject: Date:

Hello,

[Erin Hichman](#)

[Planning Info](#)

170 Aldrich
Friday, May 12, 2023 7:43:23 AM

I live at 196 Aldrich Rd, Portsmouth, NH 03801 and fully support Peter Gamble's renovation plans.

Thank you, Erin Hichman

From:

To: Subject: Date:

patricia@yorkhousing.info

[Planning Info](#)

Peter Gamble 170 Aldrich Road Tuesday, May 23, 2023 11:40:20 AM

Planning Board City of Portsmouth;

I am writing to support the request for a new rebuilt structure at the above address.

neighbor at 139 Aldrich Road. Peter Gamble has done many renovations over the years and maintains the home in a superior fashion. I have no doubt that this garage will be a nice addition to his property. Setbacks in this neighborhood are should not be an issue because all of the homes were built very close together and most everyone has a non-conforming lot. It will be of no consequence to anyone.

Regards,

Patricia Martine

Home:

139 Aldrich Road Portsmouth, NH 03801

Patricia Martine

Executive Director

York Housing

Mailing Address: 4 Pine Grove Lane Physical Address: 117 Long Sands Road York, Maine 03909

Phone: 207-363-8444

Fax: 207-351-2801 patricia@yorkhousing.info www.Yorkhousing.info

III. NEW BUSINESS

- B. The request of **John C. Wallen and Jeanine M. Girgenti (Owners)**, for property located at **5 Cleveland Drive** whereas relief is needed to install a 6 foot fence along the primary and secondary front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is located on Assessor Map 247 Lot 74 and lies within the Single Residence B (SRB) District. (LU-23-92)

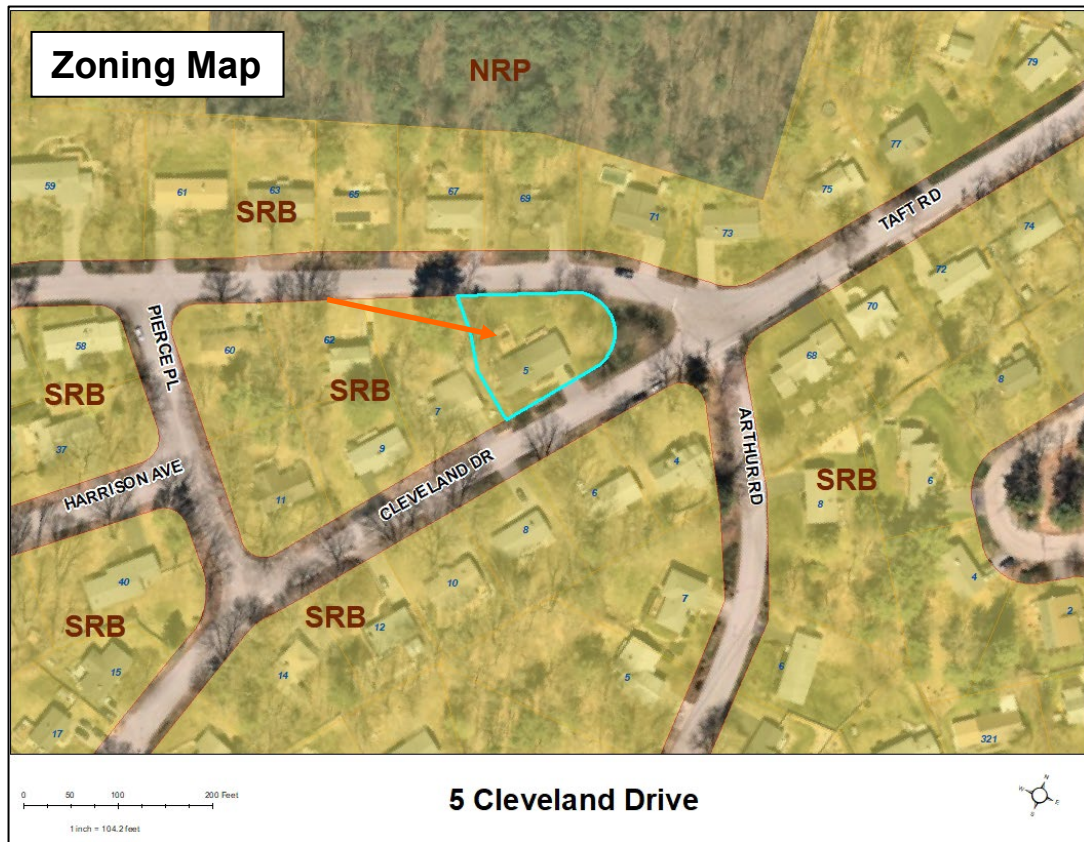
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Installation of 6 foot fence	Primarily residential
<u>Lot area (sq. ft.):</u>	13,095	13,095	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	13,095	13,095	15,000 min.
<u>Lot depth (ft.):</u>	105	105	100 min.
<u>Street Frontage (ft.)</u>	>200	>200	100 min.
<u>Primary Front Yard (Cleveland Dr) (ft.):</u>	20	20	30 min.
<u>Left Yard (ft.):</u>	15	15	10 min.
<u>Secondary Front Yard (Taft Rd) (ft.):</u>	30 (Primary Structure)	12 (Fence) 30 (Primary Structure)	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	18	18	20 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1962	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

February 20, 2001 – The Board **denied** the application for a Variance from Article II, Section 10-206(12) and Article XII, Section 10-1201(A)(3)(a)(3&4) to allow 200+ s.f. in an existing single family dwelling to be used for a nail salon with the existing driveway being provided for parking, having vehicles park one behind another and back out onto the street.

Planning Department Comments

The applicant is requesting the installation of a 6 foot fence in the secondary front yard of the property. The desired fence location is to the rear of the primary structure and would front on Taft Road. Other site improvements as part of this project include the installation of a patio and inground pool within the confines of the fenced area.

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.

June 21, 2023

Zoning Board of Adjustment
Phyllis Eldridge, Chair
City of Portsmouth
1 Junkins Avenue
Portsmouth, New Hampshire

Re: 5 Cleveland Drive Pool Fence Variance Request (Building Permit Application BLDG-22-309)

Dear Members of the Zoning Board of Appeals, we are requesting a variance to erect a six-foot fence along our property line with Taft Road in Portsmouth's Elwyn Park neighborhood. Our lot is uniquely situated at the intersection of Taft Road and Cleveland Drive and has a resulting street frontage which accounts for more than three-quarters of our total property line. As you can see from the attached images, our home is situated facing Cleveland Drive, with the rear of our house (our "backyard") facing the front yards of our neighbors on Taft Road.

As part of our proposed property renovations, we will be installing an in-ground pool and ground level patio in our backyard. The requested variance to erect a six-foot fence instead of a four-foot fence along our property line and Taft Road will provide privacy, safety and a more aesthetic yard for our neighbors and pedestrians to enjoy.

This fence would run along the Taft Road side of our property, coming as close as 12-feet from the edge of the road, measured 24 feet to the center of Taft Road (see diagram, attached). Based on the natural curve of Taft Road, this is the closest the fence would be to the road with other parts of the fence being 20 feet or further from Taft Road. The fence will join with the side of the existing house, to provide a seamless, aesthetic, secure barrier between pedestrians and the pool, consistent with the requirements and intent of the building code.

Because our property sits lower than our neighbors on the Taft Road side of our property, a four-foot fence would not provide a decent amount of coverage.

We have spoken with the abutters, and they do not object to a six-foot privacy fence consistent with the many other improvements we have made to our property since purchasing it in 2015.

This request respects the five principles variance enforcement as follows:

Section 10.233.20:10.233.21 The variance will not be contrary to the public interest.

As the map shows, the proposed fence would not limit light or circulating air to the abutters on 5 Cleveland Drive as their houses are set back considerably from our property line and one of them is set substantially higher than the proposed fence line. The fence and attendant landscaping would additionally provide them a more attractive view than a lower fence which would provide unobstructed views of the pool, equipment and personal effects.

Elwyn Park is a residential neighborhood without sidewalks, and erecting a higher fence will additionally provide privacy and safety for those walkers and joggers who come into the yards to avoid vehicle traffic.

Many other homes within the Elwyn Park neighborhood already have six-foot or higher fences which are much closer to the roads, and this fence will not be “overly tall” or obstruct views other than those intended to provide privacy for our neighbors.

10.233.22 The spirit of the Ordinance will be observed.

The spirit of the Ordinance, to prevent unsightly, tall, fences which obstruct or interfere with abutting properties, full access to air and light will be respected. The uniqueness of the plot having no backyard, as well as having abutting homes built at a higher level than our property, renders a four-foot fence insufficient to meet the substantial needs of privacy and security offered by a six-foot fence. The intent is to provide similar privacy that an orthodox plot would benefit from and improve the lives of neighbors and pedestrians by providing sufficient separation between the pool and personal effects at 5 Cleveland and our neighbors full use and enjoyment of their properties. At the same time, the additional height of the fence offers no impairment to abutters rights.

10.233.23 Substantial justice will be done; This request is substantiated by the unorthodox nature of the lot design and situation of the building on the property at time of construction, and not by the special need of the owner or disagreement with the ordinance.

10.233.24 The values of surrounding properties will not be diminished; The values of the surrounding properties will be improved by looking at an aesthetic fence consistent with the character of the neighborhood rather than a neighbor’s personal effects that would typically be in a backyard. Likewise, they will enjoy increased security and privacy with a higher fence providing adequate separation between our proposed improvement and their front-facing windows and doors. All mechanicals for the pool will be at a height which is sufficiently below the proposed six-foot fence, hiding them from view.

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

The literal enforcement of the ordinance would not provide the privacy and security offered by a six-foot fence along Taft Road. It would effectively render this unorthodox lot without the privacy and utility of a traditional backyard. The privacy and safety of a six-foot fence is desirable to both the property owner and abutters. Because of the orientation of the home on the lot, and the spacing between the one directly abutting neighbor, there is no other way to create a backyard with a six-foot fence that would respect the setback.

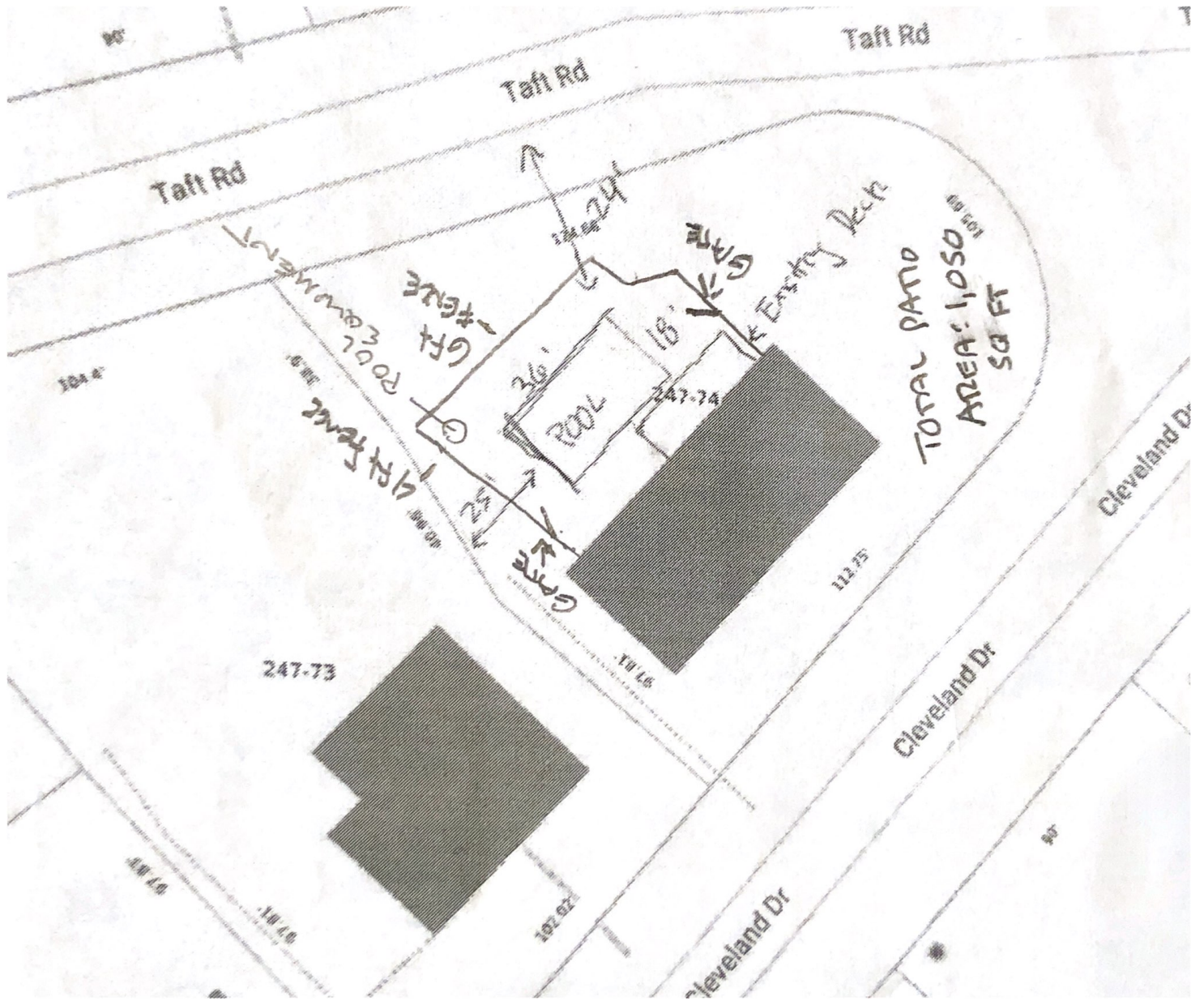
We appreciate your time in consideration of this request.

Respectfully submitted,

John Wallin & Jeanine Girgenti
5 Cleveland Drive
Portsmouth, NH

Attached: sample image of proposed fencing, lot map showing proposed fencing lines and heights, and three images of current rear yard and Taft Road.











III. NEW BUSINESS

- C. The request of **Thomas P. Rooney (Owner)**, for property located at **29 Spring Street** whereas relief is needed to install one mechanical unit on the left side of the primary structure which require a Variance from Section 10.515.14 to allow a 4-foot left side yard where 10 feet is required. Said property is located on Assessor Map 130 Lot 21 and lies within the General Residence A (GRA) District. (LU-23-93)

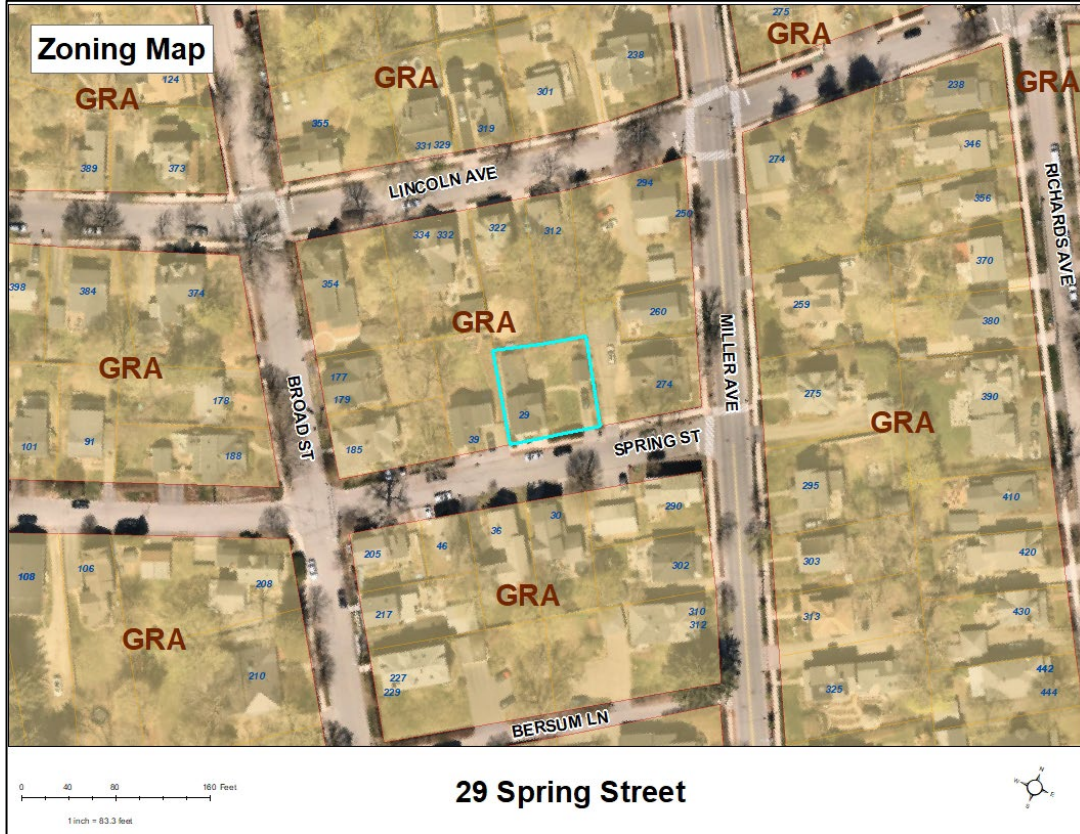
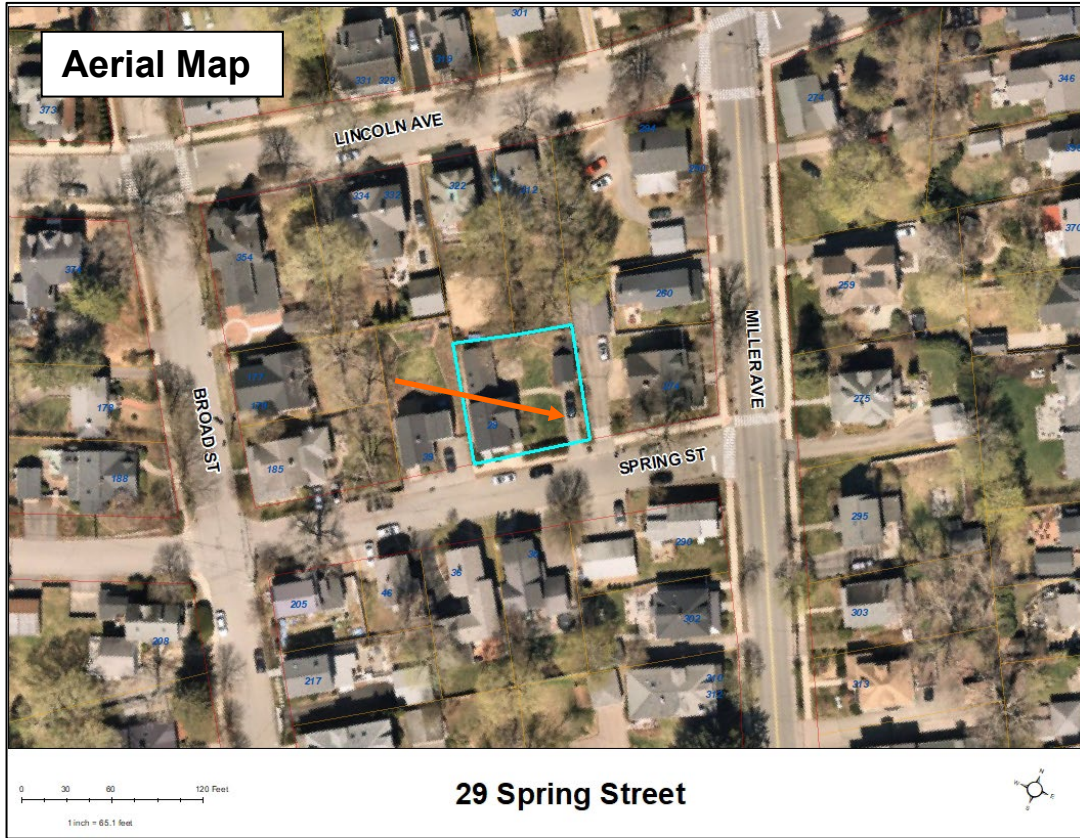
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Installation of 1 mechanical unit	Primarily residential
<u>Lot area (sq. ft.):</u>	6,547.5	6,547.5	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,547.5	6,547.5	7,500 min.
<u>Lot depth (ft.):</u>	80	80	70 min.
<u>Street Frontage (ft.)</u>	79	79	100 min.
<u>Primary Front Yard (ft.):</u>	5	5	15 min.
<u>Left Yard (ft.):</u>	6 (primary structure)	4 (mechanical unit)	10 min.
<u>Right Yard (ft.):</u>	2	2	10 min.
<u>Rear Yard (ft.):</u>	6	4 (previously approved unit)	10 min.
<u>Height (ft.):</u>	35	35	35 max.
<u>Building Coverage (%):</u>	28	28	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

April 21, 1974 – The Board **granted** a variance to construct a porch approximately 13' x 13' onto the existing building.

August 30, 2002 – The Board **granted** a variance to allow a 4' x 17' addition to the right side of the dwelling creating 25.7% building coverage where 25% is the maximum allowed.

April 29, 2003 – The Board **granted** a variance to allow a 5' x 14' porch to the right side of dwelling and expand the front entry to 5' x 7' creating 28.8% building coverage where 25% was the maximum allowed.

May 23, 2023 – The Board **granted** a variance to allow two mechanical units in the rear of the primary structure which require the following 1) Variance from Section 10.515.14 to allow a) 7-foot side yard where 10 feet is required; and b) 4 foot rear yard where 10 is required with the following condition:

- 1) Both mechanical units shall be located in the rear of the primary structure as Indicated in the applicant's submission materials.

Planning Department Comments

The applicant was previously before the Board in May and was granted variance approvals for two mechanical units. Upon further consultation from the installation company, it was discovered that one of the units should be moved to the new proposed location. The reason for moving locations is detailed in the applicant's submission materials.

This request is before the Board because of the change in location. The new proposed location is in a more non-conforming location that Staff believe was not contemplated in the first review by the Board. Therefore, Staff have determined that the new location will need approval from the Board in order to complete the installation.

If the Board wishes to grant the request, staff suggest the addition of the following or similar condition:

- 1) *This approval would replace the mechanical unit which required relief for a 7-foot side yard setback from the prior approval (LU-23-55) granted on May 23, 2023.*

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.

29 Spring Street

Map Lot 130-21

To permit the following:

- The installation of one heat pump outdoor mechanical unit with a 4-foot left side yard setback where 10 feet is required.

The property owner declares that:

- The house is positioned on this lot with a left side setback of approximately 6 feet with a solid fence at the property line. Positioning the outdoor heat pump unit on the right rear of the property would result in it being adjacent to the patio and near the fence gate. The desired location shown is below the fence line. The proposed location is screened from public view by the fence.
- We received approval to install this unit at the rear of the property and within the side setback but could not locate unit there for technical reasons (refrigerant line run too long).
- Placement of mechanical unit was reviewed with left side abutters, the Philps, and they have no issue.

Criteria for the Variance:

1. 10.233.21 - The Variance is not contrary to the public interest in that this location will have limited public view of the heat pump unit, screened by a 4 foot fence.
2. 10.233.22 - The Variance is consistent with the spirit of the ordinance as noted in Item 1.
3. 10.233.23 - Substantial justice will be done, as this work will allow the upgrade of the existing mechanical system without impacting the neighborhood.
4. 10.233.24 - This Variance will not diminish the value of surrounding properties as the unit is mostly screened by the fence.
5. 10.233.25 - The special condition of this property is the existing non-conforming side setback (structure near property lines), and location of unit on right side would be adjacent to patio and visible to abutters and from street.

6/26/23, Tom and Dani Rooney



Site plan for 29 Spring Street.



Side of property showing approximate location of heat pump unit, below fence line.



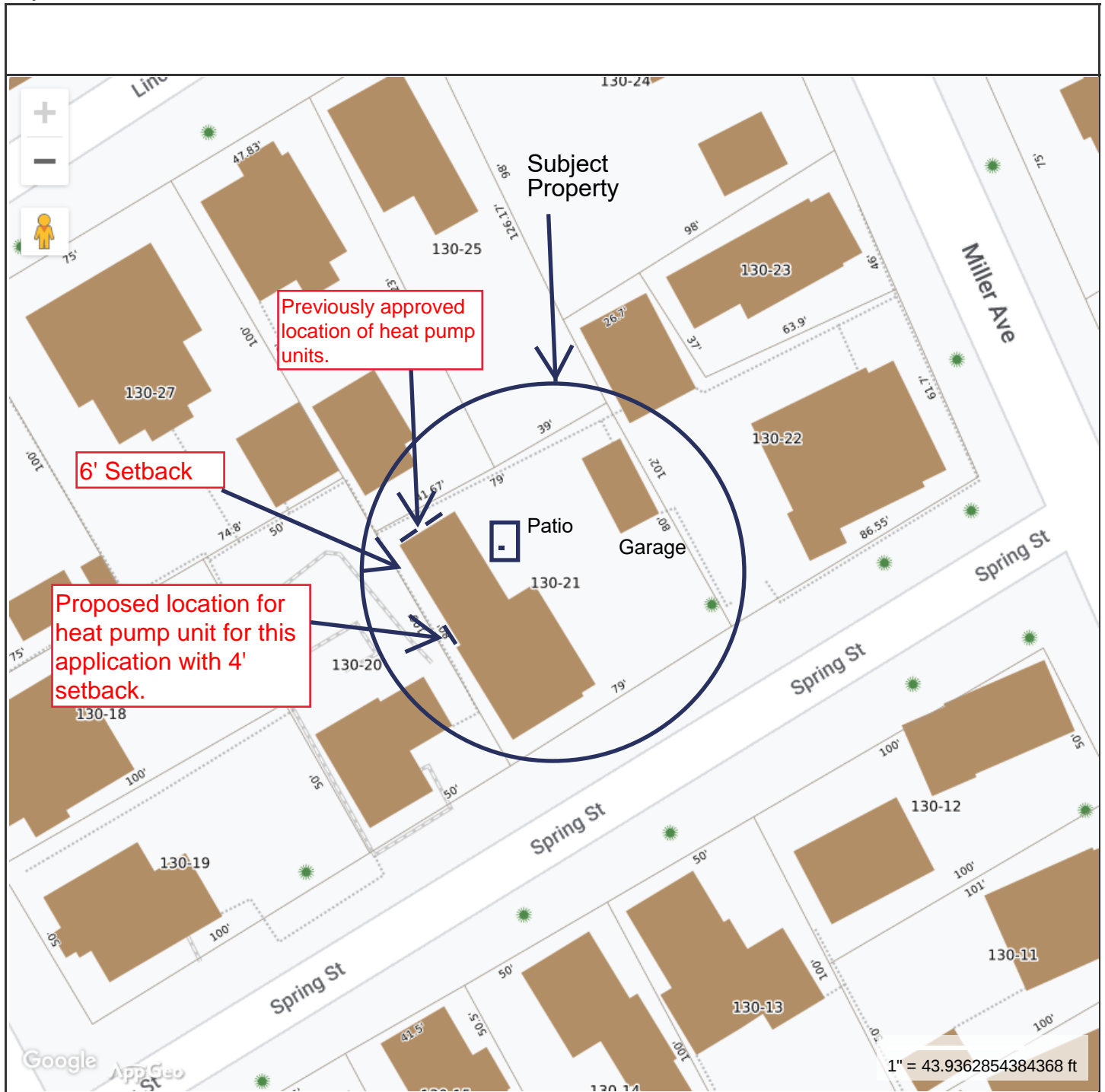
Example heat pump outdoor unit, 22" high with 24" inch stand. Total height 46" or 3' 10".



Side view of property indicating that alternate location for heat pump unit would be adjacent to patio and near fence gate.



View from side abutter's property, indicating that heat pump unit will be below fence line.



**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.

29 Spring Street

Map Lot 130-21

Additional specifications of the heat pump outdoor mechanical unit.

Mitsubishi 6,000 BTU H2i Outdoor Ductless Heat Pump Condenser

Model: MUZ-FS06NA-U1 Item Number: 110933



Not For Individual Sale

Specification Highlights

Condition	New ⓘ
Weight	82 Pounds ⓘ
Type	Outdoor Condenser
Product Line	M-Series

[View More](#)



Dimensions

Maximum Line Length	65 Feet
Gas Connection Size	3/8 Inch
Liquid Connection Size	1/4 Inch
Product Height	21 5/8 Inches
Product Width	31 1/2 Inches
Product Depth	11 1/4 Inches
Product Weight	82 Pounds
Shipping Weight	89 Pounds

III. NEW BUSINESS

- D. The request of **Project No. 9, LLC (Owner)**, for property located at **261 South Street** whereas relief is needed to extend the hours of operation to 7:00 PM and expand the existing restaurant use to include the sale and consumption of wine and beer which requires a Variance from section 10.440 Use #9.41 to allow a restaurant where one is not allowed. Said property is located on Assessor Map 111 Lot 34-2 and lies within the General Residence B (GRB) and Historic Districts. (LU-23-97)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Flower Shop and Cafe	Flower Shop and Café with beer and wine service available until 7:00 PM	Primarily residential
<u>Lot area (sq. ft.):</u>	8,293.5	8,293.5	5,000 min.
<u>Lot Dimensions</u>	No change is lot of building dimensions proposed		
<u>Parking:</u>	0	0	0 (Variance Granted)
<u>Estimated Age of Structure:</u>	1950	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Liquor Committee – Conditional Review Approval Granted
- Permit of Assemble – Fire Department

Neighborhood Context



Previous Board of Adjustment Actions

September 30, 1969 – the Board **granted** a Variance to extend a non-conforming use to cook and sell cooked foods at an existing grocery store, with the stipulation that the time was limited to Thursday, Friday and Saturday and that efforts be made to eliminate offensive odors or nuisance.

November 25, 1969 – the Board voted to change the approved days of operation to Wednesday, Thursday and Friday.

August 20, 1991 – the Board **granted** a Variance to permit the attachment of 6 s.f. of signage to an existing canvas valance, creating a total of 30 s.f. signage in a district where signage is not allowed.

May 16, 1995 – the Board **granted** Variances 1) to allow the existing kitchen to be used for a catering business in addition to its existing use as a convenience store; and 2) to eliminate one required parking space.

June 20, 1995 – the Board **denied** an abutter's request for rehearing on the above decision.

May 15, 2007 – a request to allow a skin care business in the rear portion of the building and an office/gallery in the front portion, both operating 6 days a week from 9AM to 8PM, was withdrawn by the owner.

June 19, 2007 – the Board **denied** Variances to allow the building to be used during specified hours as a catering kitchen in the rear and for retail sales of food products, beer and wine in the front, the prepared food prepared to be sold and consumed on the premises (counter with 5 stools); and to allow no parking to be provided where conforming onsite parking spaces are required.

August 28, 2007 – the Board **failed** to pass a motion to grant a petition to allow the building to be used as office space for the applicants and to allow the office without parking being provided where 5 parking spaces are required.

November 27, 2007 – the Board **granted** a special exception to restore the prior use of the property for sale of milk, bread, eggs, cheese, wine, soft drinks, newspapers, dry goods, canned goods and some prepared foods with no food cooked or prepared to order, with hours of operation from 7:00 a.m. to 7:00 p.m. seven days a week.

April 15, 2008 – The Board **granted** a Variance to allow a 14.25± s.f. free-standing sign in a district where business signs are not allowed.

October 16, 2012 – The Board of Adjustment **granted** the application to Amend the Special Exception granted November 27, 2007 to permit the sale under Section 10.335, of food and beverages cooked or prepared to order. The Board voted to **grant** the petition as presented and advertised with the addition of amending the request for a Special Exception, granted November 27, 2007, to clarify that the kitchen area may be used for catering. The petition was granted with the following stipulations.

- 1) That the principal use of the property is Convenience Goods 2, "A convenience goods establishment that sells food prepared on the premises (excluding fried food) for consumption off the premises."
- 2) That the catering of products is permitted under this use as an accessory use of the property.

- 3) That no more than 40% of the gross floor area of the existing structure shall be used for an accessory use.
- 4) That no on-street truck parking shall be permitted other than allowing 30 minutes for loading purposes.

Planning Department Comments

The applicant is proposing to extend the current hours of operation to 7:00 pm and include the consumption of beer and wine on site. The property has a history of commercial uses and was granted a variance to operate from 7:00 AM to 7:00 PM, seven days a week in 2007, however Staff thought it was important to include the hours as part of the request to ensure the proposed use was covered under any new approval granted by the Board.

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.

WILD VALENTINE

Project No. 9, LLC
261 South Street
Portsmouth, NH 03801

June 28, 2023

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

Re: Wild Valentine Letter of Intent for Variance Application

Dear Board of Adjustment Members,

As both property owner (Project No. 9, LLC) and business owner (Wild Valentine, LLC) at 261 South Street, I am requesting a use variance as outlined below. The proposed use adjustment would allow Wild Valentine the opportunity for continued growth while maintaining its charm as a valuable community gathering spot.

As you may know, Wild Valentine is a neighborhood café and flower shop operating seven days per week. On the café side, we offer a full coffee and espresso menu, other specialty beverages, plus several oat bowl and toast options for both breakfast and lunch. On the flower side, we offer flower arrangements for both pickup and delivery throughout the seacoast, plus have an in-store stem bar and retail shelves with cards and gifts.

Starting this summer, we will be extending our hours to 7pm a few days per week and adding some light bites appropriate for afternoon and early evening hours. We are seeking a use variance so that we may also expand our café menu to include a limited selection of wine and beer for on-site consumption to complement the new menu items. Wine and beer would be kept to inside service only, so as to limit the impact to neighboring properties. The proposal laid out is very closely aligned with an existing variance that permits businesses operating on the property to sell bottled wine and beer, including doing tastings on-site.

Outlined below, you will see how our proposal meets the analysis criteria:

1. **The variance will not be contrary to public interest:** Wild Valentine currently operates as a neighborhood hub. Pass by most any time of day and you'll likely see several South End neighbors gathered out front connecting with one another. Offering these new menu items will create further opportunity for community interaction... a family outing before dinner in a family-friendly

environment or an early evening glass of wine with a friend.

2. **The spirit of the Ordinance will be observed:** Approval of the variance would not have a negative impact on public health, safety or welfare. Even with the additional menu items, the focus of the business as a café (not a restaurant or bar) and flower/retail shop will remain unchanged and no additional entertainment, that might normally be associated with a restaurant such as live music or games, that could result in a negative impact to neighbors would be offered on-site. The intention behind Wild Valentine, to serve the residents of the surrounding neighborhoods in a community and family-friendly environment, will always remain the focus.
3. **Substantial justice will be done:** To the points noted in the above paragraph, Wild Valentine will continue to operate in the same general manor as it has to date should the variance be granted. Meaning, a denial would not result in significant gain to the general public and substantial justice would, therefore, be done in granting the variance.
4. **The value of surrounding properties will not be diminished:** No structural alterations of the property are proposed and all changes will remain in line with current and past uses as a café/market. Therefore, the variance requested will not have a negative impact on surrounding properties. In fact, many South End real estate listings tout that Wild Valentine is within walking distance to the advertised property as a value-add. (see attached listings for reference). Additionally, in the time that Wild Valentine has occupied the space, city assessments of the immediately abutting properties have either remained the same or increased. While likely not directly correlated to Wild Valentine's location, we can at least ascertain that Wild Valentine has not had a negative impact on property values.
5. **Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship:** The history of this unique property dates back to the 1920's having housed Pappas Market, Marconi's, The Red Ginger, South Street & Vine and Napoli Market. Over the years, the acknowledgment of the changing needs of small businesses to remain successful in modern times has led to a few variances granted to date on this property. These special circumstances have allowed the community to hold onto a piece of history at a time when most of the old neighborhood markets have gone by the wayside.

While I am honored to have taken the reins in seeing that this historically commercial space continues to be one that serves the neighborhood, the limitations associated with it do create hardships in regards to growth. In planning for sustained growth in a business, there are two factors to consider: number of orders and order value. Without the extensive foot traffic experienced by similar businesses in the downtown business district, we are limited in the extent to which we can grow year over year from an increase in number of transactions alone. Nor do we want to attract the lines that gather at these downtown businesses and lose the charm of our off-the-beaten-path neighborhood spot. Thus, we must look at our average order value and identify opportunities for growing this number.

Given the higher price point on wine and beer, adding them to our menu will greatly impact our average order value and, thus, our continued growth. Even while maintaining our focus as a coffee and retail flower shop, not a restaurant, we project a **significant increase in daily sales (dollar amount) of 42%**. This projection is based on **only 8% of orders including just two items from the wine and beer menu, in other words, one couple getting one drink each**; hardly constituting a bar atmosphere.

Attached, you will find a petition signed by 258 supporters of our variance request who live in Portsmouth, including some city employees and family members and 47 neighbors within 300 yards. Additionally, I'm including our menu, with current and planned items, along with a diagram of our space as it exists today.

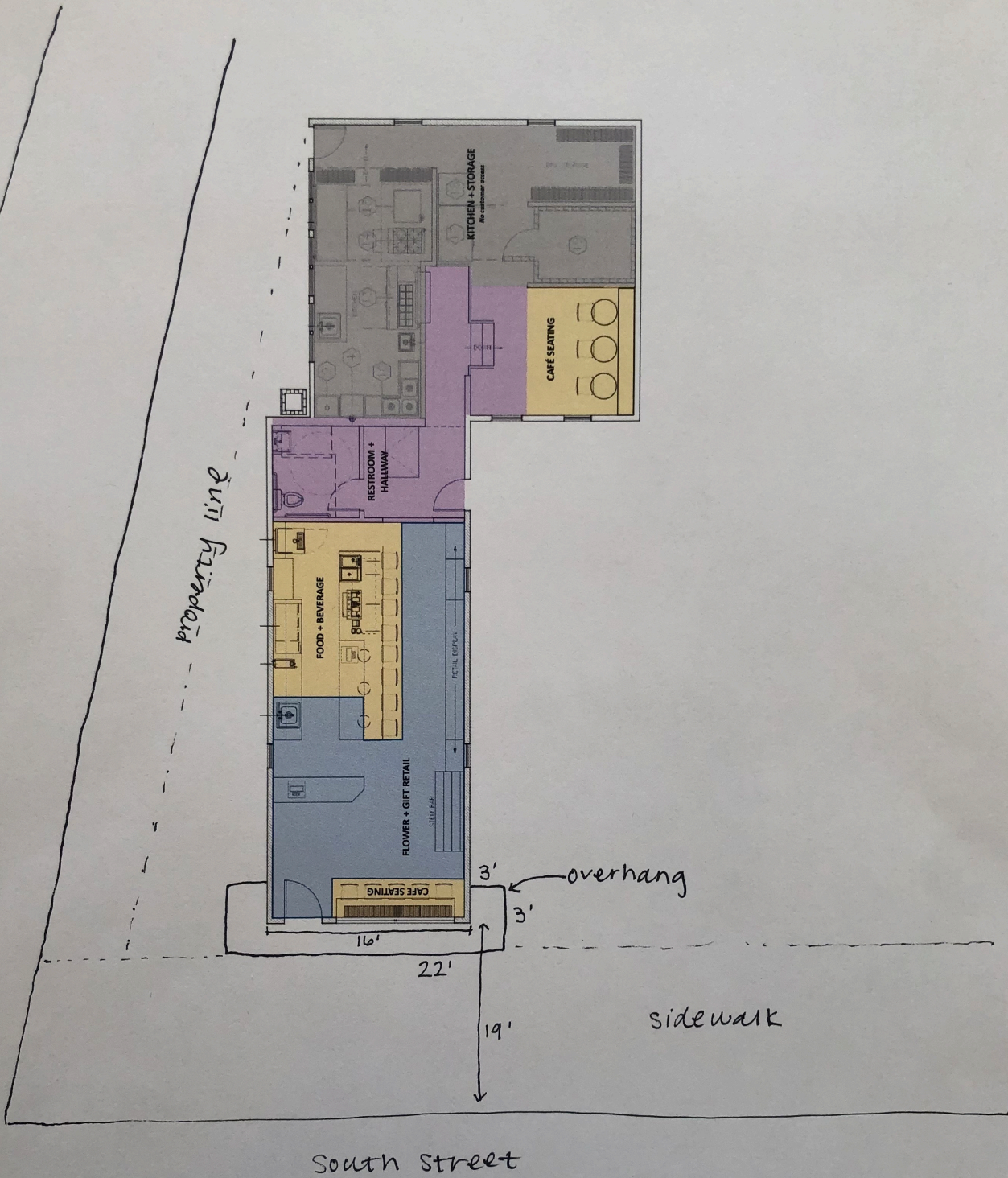
Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah', with a stylized flourish at the end.

Sarah DiCecca
Owner, Wild Valentine, LLC

261 South Street
site plan



Wild Valentine Exterior



Wild Valentine Flower Retail + Café Area



Wild Valentine Back Room + Hallway



Following Petition Includes:

- **258 supporters who live in Portsmouth**
 - Names with lines through them either do not live in Portsmouth, signed more than once, or to our knowledge, not of voting age
- **47 abutters** (who, as best we could determine, live within 300 yards of Wild Valentine)
 - Highlighted in orange

Wild Valentine Petition

Additional Menu Items + Extended Hours

We'll be applying for a variance to expand our menu to include natural wine and local beer and extend our hours a few days a week until 8pm. The neighborhood gathering spot and business model, focused on flowers and coffee, that you've come to love will remain exactly the same with only a couple of additions to the menu. We'd love your support as we prepare for our meeting with the city's Board of Adjustment in July. Thank you!

#	Printed Name	Address	Signature
1	MaryEllen McNamee	579 Sagamore Ave #19 Portsmouth	
2	Mary Luane	478 Colonial Dr. Portsmouth	
3	Tyrel MacDonell	110 State Unit 3 Portsmouth	
4	Rhianna Clewelyn	110 State Unit 3 Portsmouth	
5	Madeleine Doris	1001 Islington St. #47, Portsmouth	
6	ROBERT BEYER	111 RICHARDS AVE	
7	Emma Boniche	35 Hodgdon way Bldg B APT 2421 <small>PORTSMOUTH</small>	
8	Brie Boisvert	111 Great Bay Rd, Unit B, Greenland, NH 03840	
9	James Christie	149 Jones Ave, Portsmouth	
10	Molly Harrington	610 State St Apt D Portsmouth	
11	James Berger		
12	Laura Maddala	1 Joffree Ter. Portsmouth, NH	
13	Liza Martel	62 Kane St Portsmouth, NH	
14	Tara Sepp	151 Elwyn Ave Portsmouth, NH	
15	Gillian Holderson	99 Brackett Rd. Rye NH	
16	EFFIE MALLEY	428 Pleasant Portsmouth	
17	Megan LaFonte	21 Cabot St., Portsmouth, NH	
18	Laura Moran	214 Crescent way, Portsmouth, NH	
19	Ty Ueda	24B Young St. South Berwick ME	
20	Stephane Pasquand	152 Bennett St, B, Portsmouth, NH	

Wild Valentine Petition (continued) Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
21	GAVIN MINKFIELD	458 Broad St Portsmouth	
22	SARAH	" " " "	
23	Ann Shinnick	625 LINCOLN AVE PLASMOUTH	
24	Sally Minkin	10 McDONOUGH ST	
25	Frank Hger	250 Broad St.	
26	Matt Prescott	306 SOUTH STREET	
27	Washa Etkon	49 JONES AVE Portsmouth	
28	Joe P	379 Colonial Dr	
29	Koreley Gostrey	6 Nixon Park	
30	Ken Rolly	233 Bennett St 03801	
31	April Harranek	670 Middle St. 03801	
32	Leanne Gray	49 Rockingham St	
33	Norm Gray	49 Rockingham St	
34	Jaime Bove	17 Schooner Dr.	
35	Joe Demers	80 Haven Rd	
36	Thayer Demers	80 haven rd	
37	Jennifer Smith	69 New Castle Ave	
38	Eric Planchard	69 New Castle Ave	
39	W. Jeffrey Bolster	889 South St	
40	Molly Bolster	889 South St	
41	Ali Goldstein	70 Constitution #326	
42	Lara Prescott	306 South St.	
43	JEE Whittem	100 GILES RD. E. KINGSTON	
44	Kyra Shumway	1004 White Cedar Blvd. Portsmouth	
45	Elizabeth Wolff	2 Stonecraft #2	

not voting age

Wild Valentine Petition (continued) Additional Menu Items + Extended Hours

NOT actually
abutters, incorrectly
highlighted.

#	Printed Name	Address	Signature
46	ALEX LAVORATO	393 NEW CASTLE AVE, PORTS MOUTH, NH	Signature
47	FRANK Bozzo	393 NEW CASTLE AVE, PORTS MOUTH, NH	Signature
48	Karin Paradella	120 Ridges Ct, Portsmouth	Signature
49	MICHELE BRANCHETTI	76 S. SCHOOL ST PORTSMOUTH 0384	Signature
50	Max Zuckert	35 Hodgdon Way Portsmouth, NH	Signature
51	Sue Zuckert	35 Atkinson St New Castle, NH	Signature
52	Karen Zuckert	1558 Ponus Ridge, New Canaan Ct.	Signature
53	Andrew Zuckert	1558 Ponus Ridge, New Canaan Ct.	Signature
54	Abigail Zuckert	1558 Ponus Ridge, New Canaan Ct.	Signature
55	Sally Zuckert	1558 Ponus Ridge, New Canaan Ct.	Signature
56	Sophia LeBlanc	1004 White cedar blvd Portsmouth	Signature
57	Elizabeth Kromer	97 Richards Ave., Portsmouth NH 03801	Signature
58	Laurie McCray	Haven Rd / Portsmouth	Signature
59	Taylor Loughman	338 Islingsden St / Portsmouth NH	Signature
60	Colson Lang	39 Rathbone Rd / Chelmsford MA	Signature
61	FRANK STIEN	470 Richards Ave	Signature
62	Pamela Esposito	470 Richards Ave Portsmouth NH	Signature
63	Leah Bauer	500 Middle Rd PORTSMOUTH	Signature
64	Anne DeFombia	500 Middle Rd, Portsmouth, NH	Signature
65	Degan Costa	120 Hill St Portsmouth NH	Signature
66	Priyanka Shekhar	25 Albacore Way Portsmouth NH	Signature
67	Shan Razdan	25 Albacore Way Portsmouth NH	Signature
68	Kait Atwell	71 Summer st #3 Portsmouth NH	Signature
69	Tom Wicker	200 New Castle Ave Portsmouth	Signature
70	Eric Brassard	135 MARKET ST C Portsmouth	Signature
71	Austin Lakin	135 Market St C Portsmouth	Signature

**Wild Valentine Petition (continued)
Additional Menu Items + Extended Hours**

#	Printed Name	Address	Signature
71	Timothy Finelli	296 South Street	[Signature]
72	Otc Johnson III	3 Jenkins Ave	[Signature]
73	Shaykha Ben	96 Bellamy woods	[Signature]
74	Lindsay Gee	979 South St	[Signature]
75	In na Volovich	61 Jones Ave	[Signature]
76	Adam Hall	67 South St.	[Signature]
77	Katie Hodges	112 Lincoln Ave	[Signature]
78	Jeff Hodges	112 LINCOLN AVE	[Signature]
79	Nicole Bandera	152 South Street	[Signature]
80	Bethany Stokes	10 Pleasant St, Littleton	[Signature]
81	Kait Braseth	38 S School St Portsmouth NH	[Signature]
82	Emily Kociting	470 Greenside Ave Portsmouth NH	[Signature]
83	Elana Nelson	4 Beechstone #5 Portsmouth NH	[Signature]
84	CHRISTINE GUN	4 Beechstone #5 Portsmouth NH	[Signature]
85	TIM LIED	27 BAYCLIFF RD PORTSMOUTH NH	[Signature]
86	Brendan May	6 McDougall St Portsmouth NH	[Signature]
87	Sarah Landers	6 McDougall St Portsmouth NH	[Signature]
88	JOHNI ADAMS	579 SAGAMORE PORTSMOUTH	[Signature]
89	Natasha Kallay	799 South Street Portsmouth	[Signature]
90	REBECCA LEE	90 BREWER LN. PORTSMOUTH NH	[Signature]
91	Michael Cingari	90 Bury Ln Portsmouth NH	[Signature]
92	Heather Jeong	76 Bucks Hill Road Durham NH	[Signature]
93	Luke Gibney	117 Middle Rd Portsmouth NH	[Signature]
94	Michaela Abigail	117 middle Rd Portsmouth	[Signature]
95	Kate Lannon	35 Rivered New Castle	[Signature]

Wild Valentine Petition (continued)
Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
96	Cynthia Smith	206 Court St Portsmouth NH	Cynthia Smith
97	DANIEL GRAY	251 SOUTH ST. PORTS. (NEIGHBOR)	Daniel Gray
98	Jack Guillemin	72 Moses Court Rd Rollinsford	Jack Guillemin
99	Jennie Siegel	1215 South St. Portsmouth	Jennie Siegel
100	Seipen Fausak	960 SAGAMORE RD Portsmouth	Seipen Fausak
101	Lee Forgoth	960 Sagamore Portsmouth	Lee Forgoth
102	Tom Hammer	219 SAGAMORE PORTSMOUTH	Tom Hammer
103	Meghan Rice	196 South St Portsmouth	Meghan Rice
104	Darbene Chambers	90 Brewery Lane Portsmouth	Darbene Chambers
105	Andrew Opley	40 Chauncey Street	Andrew Opley
106	Janet Bagley	40 Chauncey St	Janet Bagley
107	Jessica Todd	510 Sherburne Rd Portsmouth	Jessica Todd
108	ERIN BEAD	18 S. School St Portsmouth NH	Erin Bead
109	ERIC ORTUP	25 ORTUP ST PORTSMOUTH	Eric Ortup
110	MAHMI MURKIN	18 MORNIN ST PORTSMOUTH	Mahmi Murkin
111	KEVIN DWYER	461 MIDDLE STREET PORTSMOUTH	Kevin Dwyer
112	Donna DeCosta	2 VICTORY RD RYE	Donna DeCosta
113	Tyler Whitton	197 Miller Ave. Portsmouth	Tyler Whitton
114	DANIELLE LEIGH	62 Marcy St. PORTSMOUTH	Danielle Leigh
115	Janie Adjimian	3 Foss Farm Rd, Durham	Janie Adjimian
116	Samantha Harrington	170 Swett Ave, Portsmouth	Samantha Harrington
117	Bridget Richer	563 Broad St PORTSMOUTH	Bridget Richer
118	John Miller	799 RIVER RD ELIOT ME	John Miller
119	Chris O'Connell	332 South St Portsmouth	Chris O'Connell
120	Erin Cuda	130 Spring St. Portsmouth	Erin Cuda

Wild Valentine Petition (continued)
Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
121	Patrick Bond	390 State St. DF Portsmouth, NH	<i>Patrick Bond</i>
122	Eliza Kozmits	121 A WINDUPLE RD. KITTERY ME	<i>Eliza Kozmits</i>
123	Austin Barros	145 Brewery Ln Portsmouth	<i>Austin Barros</i>
124	Liliana Pione	35 Hodgdon Way Apt. 1323 Portsmouth	<i>Liliana Pione</i>
125	Kathy Watson	200 New Castle Ave Portsmouth	<i>Kathy Watson</i>
126	Ashey Sneed	262 Cranberry Meadows Berwick	<i>Ashey Sneed</i>
127	Leah Danielsen	10 Patriots Way, Rye	<i>Leah Danielsen</i>
128	Jill Migliorini	5 Curriers Cv. Portsmouth, NH	<i>Jill Migliorini</i>
129	Scott Mignini	5 Curriers Cv. Portsmouth, NH	<i>Scott Mignini</i>
130	Katherine Smith	143 Pleasant St. " "	<i>Katherine Smith</i>
131	BOB LAMBERT	115 SW 11 ST Portsmouth	<i>Bob Lambert</i>
132	Janet Prince	54 Lincoln Ave Portsmouth	<i>Janet Prince</i>
133	Peter Bergh	54 Lincoln " "	<i>Peter Bergh</i>
134	Kristen Amato	843 Middle St " "	<i>Kristen Amato</i>
135	Kate Heaney	125 Elwyn Ave " "	<i>Kate Heaney</i>
136	Abigail Clark	125 Elwyn Ave	<i>Abigail Clark</i>
137	Elise Bolster	26 Alderwood Dr. Stratham NH	<i>Elise Bolster</i>
138	Rebecca Lyons	37 Wiggins Way Stratham NH	<i>Rebecca Lyons</i>
139	Holly Tennant	21 Bradford Terrace North Hampton	<i>Holly Tennant</i>
140	Albert Moreau	33 Johnson Ct, Portsmouth NH 03801	<i>Albert Moreau</i>
141	Kristen Morales	33 Johnson Ct, Portsmouth NH 03801	<i>Kristen Morales</i>
142	ROBERT THORSEN	100 KENSINGTON RD, PORTSMOUTH, NH	<i>Robert Thorsen</i>
143	Anne Moody	180 New Castle Ave, Portsmouth NH	<i>Anne Moody</i>
144	Micaela Purcell	8 Realeigh Way Portsmouth NH	<i>Micaela Purcell</i>
145	Lucy Gormley	28 Blossom St. Apt 1, Portsmouth NH	<i>Lucy Gormley</i>

**Wild Valentine Petition (continued)
Additional Menu Items + Extended Hours**

#	Printed Name	Address	Signature
146	Isabelle Brock	28 MCDONOUGH ST #2, PORTSMOUTH, NH	
147	^{Dana} Sarah Natt	76 Brackett Lane Portsmouth	
148	Julia Burke	28 Blossom St Apt 1 Portsmouth NH	
149	Kevin Dwyer	461 Middle Street Portsmouth NH	
150	Izzy Thompson	60 Lincoln Ave Portsmouth NH	
151	DEVIN LARSEN	267 RICHARDS AVE PORTSMOUTH NH	
152	Sally Collins	230 Park Street	
153	Martha Hyland	83B central road	
154	Brianna clark	2 victory in 	
155	Tina Nadeau	312 miles Ave Portsmouth	
156	Jenny Borczyk	22 Hulstead St. Kittery	
157	A Morgan White	56 Oliver St, Newcastle NH	
158	Tim Harrington	170 Graft Ave, Portsmouth, NH	
159	Martina DeBiaz	27 Broad St. Portsmouth NH	
160	Kathy Crowell	10UMERS CV Portsmouth	
161	Judy Zelin	70 Kensington Rd, Port	
162	Jennie Petros	285 Union St Portsmouth NH	
163	Jeff White	285 Union St, Portsmouth	
164	Colby Striber	41 Atkinson St. unit 1, Portsmouth	
165	Kaitlyn Handley	95 Jefferson St, Portsmouth	
166	JAMIE corda	756 State Street Portsmouth	
167	Ashley Bakos	145 Brewery Ln Portsmouth	
168	Daniel Okuniewicz	29 Highland St	
169	Megan Edmonds	208 Academy rd. Pembroke NH	
170	Taylor Dickinson	29 Highland Street Portsmouth	

signed twice

not voting age

Wild Valentine Petition (continued) Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
171	Kristin Martin	27 small Road, Portsmouth	
172	Charlie Christa	1001 18 LEXINGTON ST APT 47, PORTSMOUTH	
173	Sachariet Joshi	1163 SAGAMORE AVE, UNIT 30 PORTSMOUTH	
174	Montana Mirabella	B Acorn Acres	
175	Laura Stoll	55 Lovell St Portsmouth	
176	Katee Eden	85 Pinchurst Road, Portsmouth	Katee Eden
177	WAZLWENDE	44 Lookout Lane Portsmouth, NH	
178	Beth Finelli	299 South St, Portsmouth NH	
179	Emily Langlais	1860 Madison St Apt 18 Portsmouth NH	Emily Langlais
180	Fizza Shurri	324 Parrott Ave Portsmouth, NH	
181	Talia Spadito	270 Richards Ave Portsmouth	
182	Chaine Lindavis	335 Broad Street	
183	Scarlet Kay	33~ Bnd st	
184	Donald Scherer	55 FIDY RD Eliot maine	
185	Eis Doherty	799 South St. UNIT #4	
186	Eileen Doherty	799 South St. unit #4	
187	Andrew Samonas	460 Richards Ave	
188	monica Boghos	449 373 Broad St. Portsmouth	
189	Bridget Stephens	390 Richards Ave Portsmouth	
190	Shannon Van Splunder	133 Sagamore Ave Portsmouth, NH	
191	Gregg Van Splunder	133 Sagamore Ave Portsmouth, NH	
192	Katie Woodspeel	238 Highland St. Portsmouth	
193	Brendan Woodspeel	275 Sagamore Ave Rye	
194	Corey McAvoy	282 Rockland St Portsmouth	03801
195	Becky Kollmann	8 Hampton N. Hampton NH	

Wild Valentine Petition (continued)

Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
196	Dante Ferguson	233 Bennett St. Portsmouth NH 03801	<i>[Signature]</i>
197	Erica Fleury		<i>[Signature]</i>
198	Jena Jukins	175 Water Street, Exeter	<i>[Signature]</i>
199	Nick Merritt	"	<i>[Signature]</i>
200	ALEX BEINKE		<i>[Signature]</i>
201	Kelly Macdonald	452 Richards Ave Portsmouth, NH	<i>[Signature]</i>
202	Kara Crowe	1 Curriers Cv Portsmouth, NH	<i>[Signature]</i>
203	Doug Pinciano	53 Green St Portsmouth	<i>[Signature]</i>
204	Gavin Bloom	134 South St Portsmouth NH	<i>[Signature]</i>
205	Breanna Taylor	11	<i>[Signature]</i>
206	Lon Meacham	230 Thornton St Portsmouth	<i>[Signature]</i>
207	Shannon Tamison	160 Fw Hazard Dr.	<i>[Signature]</i>
208	Anita Koury	302 Miller Ave, Portsmouth	<i>[Signature]</i>
209	Tamara Rook	299 Bartlett St, Portsmouth	<i>[Signature]</i>
210	CAROLINE TURK	152 HILLSIDE DRIVE, PORTSMOUTH, NH.	<i>[Signature]</i>
211	Jonathan Wentworth	291 South St. Portsmouth, NH 03801	<i>[Signature]</i>
212	Andrea Borowiecki	87 Lincoln Ave, Portsmouth	<i>[Signature]</i>
213	CHARLES RINCON	258 WENTWORTH Rd. NEW CASTLE	<i>[Signature]</i>
214	Laura Clark	150 Bolthill Rd. Eliot, ME	<i>[Signature]</i>
215	Arielle Lavin	55 Freshet Rd Madbury NH 03823	<i>[Signature]</i>
216	Ellie Card	90 Brewery Lane PORTS. NH 03801	<i>[Signature]</i>
217	Susan Everest	45 Lincoln Ave. Ports. NH	<i>[Signature]</i>
218	Lama Keenan	PORTSMOUTH/DENMARK ME	<i>[Signature]</i>
219	Nicol Koants	121A Whipple Kd Kittery, Maine 03907	<i>[Signature]</i>
220	Nancy Murray	4 Fellows Newcastle	<i>[Signature]</i>

Wild Valentine Petition (continued)

Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
221	Amy Sterndale	Small Business Development Center, City Hall	Amy Sterndale
222	Dionna Porcello	134 South St Portsmouth	Dionna Porcello
223	Sarah Scott	Somersworth, NH	Sarah Scott
224	Alexandra Hampton	18 Teft Rd Portsmouth, NH 0	Alexandra Hampton
225	Victoria Parker	35 Middle Rd Portsmouth	Victoria Parker
226	Sarah Fleck	6 Rockaway St Portsmouth NH	Sarah Fleck
227	Natalie Safley	1121 South St Portsmouth	Natalie Safley
228	Sara Dyer	8 Bridge St Kittery, ME 03901	Sara Dyer
229	KATHRYN LYNN	3 Boyan Pl Portsmouth NH 03801	Kathryn Lynn
230	HANNAH CHASE	310 MILLER AVE, PORTSMOUTH NH 03801	Hannah Chase
231	LISA WOODMAN	20 MAIN ST, EXETER NH 03033	Lisa Woodman
232	Abby Armsstrong	21 Lobot Street Portsmouth NH 03801	Abby Armsstrong
233	Adrianna Bunker	85 Hodgdon Way 1109, PORTS. NH 03801	Adrianna Bunker
234	Mary Rice	510 Fells Rd Portsmouth NH 03801	Mary Rice
235	Tyler Bowdoin	91 Woodlawn Cir, Portsmouth, NH	Tyler Bowdoin
236	Victor Su	11 Doe Run Ln, Stratham NH 03885	Victor Su
237	Max Rice	56 Fells Rd Portsmouth NH 03801	Max Rice
238	Larrie Kennedy	244 South St Portsmouth	Larrie Kennedy
239	Stephen Lichtenstein	35 WILBIRD ST PORTSMOUTH NH	Stephen Lichtenstein
240	Chuck Smith	139 South St Unit A, Portsmouth NH	Chuck Smith
241	James Wood	980 South St Portsmouth NH	James Wood
242	Kate Bunker	505 School St Portsmouth NH	Kate Bunker
243	Terence Padis	126 1/2 St. Portsmouth, NH 03801	Terence Padis
244	Cathy Wood	346 Salmon Fells Rd, Portsmouth, NH 03801	Cathy Wood
245	Nell Black	24 Holmes Ct Portsmouth	Nell Black

Wild Valentine Petition (continued)

Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
246	Duncan Black	24 Hobbes Ct Portsmouth NH	Duncan Black
247	Amy Oungley	40 Mt Vernon Street Portsmouth NH	Amy Oungley
248	Halley Yachnick	8 Pioneer St Dover NH 03820	[Signature]
249	Charles Yachnick	8 minor st Dover NH 03820	[Signature]
250	Leslie Bisognan	736 River Road Elliot, ME 03943	[Signature]
251	Steve Langerh	673 Woodbury Ave, Portsmouth	[Signature]
252	Danielle Pollock	Po Box 1414 Biddeford, Me 04005	[Signature]
253	Etanmah Pollock	Po Box 1414 Biddeford, Me 04005	[Signature]
254	DICK CELIA	344 PARROTT AVE, PORTSMOUTH NH 03881	[Signature]
255	Nichole Muller	344 Parrott Ave, Portsmouth NH	[Signature]
256	Ann Joslyn	21 Hickory Lane, S. Berwick, ME 03908	[Signature]
257	Ben Joslyn	21 Hickory Lane, S. Berwick ME	[Signature]
258	Joanne W. Antkowiak	55 Gully Island Lane KY 40308	[Signature]
259	Maggie Noonan	234 1/2 Hill St, Dover NH 03820	[Signature]
260	ERIC KOSTEGAN	238 HIGHLAND ST, PORTSMOUTH NH 03801	[Signature]
261	Lauren Pittman	909 Islington St, Portsmouth NH 03800	[Signature]
262	Ellen Fox	10 Stonecroft, Apt 3, Portsmouth NH	[Signature]
263	Stef Hertz	10 Brewery Ln #411 Portsmouth	[Signature]
264	Chelsea Butvecc	43 Piscataqua St New Castle NH	[Signature]
265	Bridget Caselva	478 Middle St #3, Portsmouth NH	[Signature]
266	Matthew Pritchett	478 Middle St #3 Portsmouth, NH	[Signature]
267	Susan MacDuff	39 Pray St Portsmouth N.H.	[Signature]
268	Claire Sandler	49 Sagamore Ave Portsmouth	[Signature]
269	Mary Dolan	161 Austin St #5 Portsmouth	[Signature]
270	Susan LASHMORE	277 DURHAM POINT RD., DURHAM, NH	[Signature]

Wild Valentine Petition (continued) Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
271	Francie Kinney	89 Cliff Road Portsmouth	
272	Shayne Bowker	61 Mill Pond Way 03802	
273	DM KINNEY	89 CLIFF RD., PORTSMOUTH	
274	MIA VIBONE	19 SHEFFIELD RD. PORTSMOUTH	
275	Ethel Wong	544 Middle Rd - Portsmouth	
276	Jolanda Farnin	7 Brackett Lane Portsmouth	
277	Spencer Allen	225 Austin St Portsmouth, NH 03801	
278	Angela Bissonnette	220 Fw Hartford Dr Portsmouth NH	
279	Alyssa Venant	393 Main St, Elliot ME 03905	
280	Kelly Appenzeller	31 Hidden Meadows Ln, Elliot, ME 03905	
281	Louise Cameron	25 Hampshire Rd, Portsmouth	
282	Peter Rice	196 South St, Portsmouth	
283	Andrew Irwin	91A W BIRD ST, Portsmouth, NH	
284	Katie Irwin	91A W BIRD ST PORTSMOUTH NH	
285	Poland Dupuis	45 PORTSMOUTH AVENUE GREENLAND, NH 03040	
286	Kate Jesso	27 BRACKETT FARM GREENLAND, NH	
287	ALEX LABRECAUL	35 KANE ST, PORTSMOUTH, NH	
288	Seth Tondrault	17 Cleveland Dr. Portsmouth ME	
289	Patty Jarett	18 Shore Dr. Greenland, NH 03840	
290	Fatty Cohen	POB 208 Newcastle NH 03854	
291	Roln O'Shaughnessy	5 Benson St. Portsmouth NH 03801	
292	DYLAN SNOVER	60 LINCOLN AVE, PORTSMOUTH NH	
293	DAVID MARLES	7 BRACKETT LA Portsmouth	
294	Bernard Roesler	44 Gardner St, Portsmouth	
295	Bridget Regan	220 Cass Street	

Wild Valentine Petition (continued) Additional Menu Items + Extended Hours

#	Printed Name	Address	Signature
296	Seth Wytziel	1061 Maplewood Ave, Portsmouth	
297	Olivia Parks	25 Holden Way, #1425 Portsmouth	
298	Scott Pollock	7 Pamela Dr Portsmouth NH	
299	DANIEL HANKINS	1821 ISLINGTON St. Portsmouth NH	
300	Joannie Sowers	25 Ridges Ct., Portsmouth NH	
301	Erin Barber	28 New Castle Ave, Portsmouth	
302	Kimberly Poldrack	28 New Castle Ave, Portsmouth	
303	EMMA BURKE	80 HAVEN ROAD, PORTSMOUTH	
304	Kelsey Miller	683 State St., Portsmouth	
305	Sarah Mackinn	306 Hall Rd. Barrington NH	
306	Mark Sacca	54 ORCHARD ST. New York NY	
307	Claire Sasko	16 Oak Terrace Kittery ME	
308	Brox Gittel	404 South St Portsmouth NH	
309	LY CARZO	62 McKinley Rd Portsmouth	
310	Margot Hedlund	325 Miller Ave Portsmouth NH	
311	A. Rachel Peemer	55 Pine St. Portsmouth, NH	
312	Kaitie Larson	259 Raleigh Way Portsmouth, NH	
313	Sean Corcoran	58 McDonough St, Portsmouth 4, NH	
314	BARBARA CROSSMAN	50 MAPLEWOOD AV, PORTSMOUTH	
315	Whitney Miller	889 South St Portsmouth	
316	Tanna Claws	107 Walker Bungalow Portsmouth	
317	Christiane "Pip" Claws	" " " "	
318	Eric Blanchard	69 New Castle Ave, Portsmouth	
319	Jen Smith	" "	
320	Nancy Pearson	104 Lincoln Ave	

Edman
Jeff Dyer

63A Maplewood Ave
140 Sherburne Ave

signed twice

WILD VALENTINE MENU

(Existing)

OAT BOWLS

Available until 2:30pm

MAPLE BROWN SUGAR + APPLE 10.5

MAPLE SYRUP, BROWN SUGAR, ROASTED APPLES, TOASTED WALNUTS

PEANUT BUTTER + BANANA 10.5

PEANUT BUTTER, BANANA, TOASTED WALNUTS, HONEY, CINNAMON

RASPBERRY CRUNCH 10.5

RASPBERRIES, RASPBERRY COMPOTE, GRANOLA, ALMOND BUTTER, HONEY

BACON, EGG + CHEESE 13

SUNNY SIDE EGG, BACON, CHEDDAR, AVOCADO, SCALLIONS, SRIRACHA

CHICKEN + MUSHROOM 15.5

CHICKEN, MUSHROOMS, SCALLIONS, SOY SAUCE, CASHEW BUTTER, PARMESAN, BLACK SESAME

ROASTED VEGGIE CURRY 13

SUNNY SIDE EGG, SWEET POTATO, BRUSSELS SPROUTS, COCONUT CURRY BROTH, CASHEWS

BUILD-YOUR-OWN BOWLS

Available until 2:30pm

CHOOSE YOUR BASE SWEET OATS (MADE W/ OAT MILK) OR SAVORY OATS (MADE W/ VEGGIE BROTH) 5.75

FRUIT GOLDEN RAISINS, BANANA +.75 / ROASTED APPLES +2.5

BLUEBERRIES, RASPBERRIES, RASPBERRY COMPOTE +1.5

VEGGIES SCALLIONS, SWEET POTATO +.75

AVOCADO, BRUSSELS SPROUTS, GARLICKY MUSHROOMS +1.5

NUTS + SEEDS CHIA SEEDS +.5

ALMONDS, CASHEWS, WALNUTS, GRANOLA, +1.5

PROTEIN WHITE CHEDDAR, SHAVED PARMESAN +1.25

SIDE EGG, BACON +2 / ROASTED CHICKEN + 4

ALL BOWLS MADE WITH GLUTEN-FREE INGREDIENTS

TOAST

Available until 2:30pm

AVOCADO 7.75

SOURDOUGH, AVOCADO, BUTTER, SEA SALT, CRACKED PEPPER, CRUSHED RED PEPPER ADD SUNNY SIDE EGG +2

PEANUT BUTTER BANANA 6

HONEY WHEAT, SLICED BANANA, PEANUT BUTTER, HONEY, BUTTER, CINNAMON

TOAST + JAM 4.75

HONEY WHEAT, BLUEBERRY LAVENDER CHIA JAM, BUTTER

CINNAMON SUGAR 4.75

CLASSIC WHITE, LOADS OF CINNAMON SUGAR, BUTTER

WILD VALENTINE MENU

(Proposed)

BOARDS

Available after 2:30pm

CHEESE BOARD 16

SELECTION OF TWO CHEESES, ALMOND CRACKERS + ACCOMPANIMENT

MEAT + CHEESE BOARD 24

SELECTION OF TWO CHEESES + TWO MEATS, ALMOND CRACKERS + ACCOMPANIMENT

TINNED FISH BOARD 16+

TIN OF CHOICE, BAGUETTE, SALTED BUTTER + ACCOMPANIMENT

MORE

Available after 2:30pm

HEIRLOOM TOMATO + BURRATA SALAD 18

MIXED HEIRLOOM TOMATOES, CUCUMBER, RED ONION, BURRATA + MUSTARD VINAIGRETTE

WHITE BEAN DIP 11

CANNELLINI BEANS, OLIVE OIL, GARLIC, LEMON, CRUSHED RED PEPPER. TOASTED SOURDOUGH + SLICED CUCUMBERS.

CITRUS MARINATED OLIVES 6

CASTELVETRANOS, CITRUS + ROSEMARY

BOARD ADD-ONS

Available after 2:30pm

CHEESE ROTATING SELECTION OF CHEESES +6

MEATS ROTATING SELECTION OF MEATS +7

NUTS MARCONA ALMONDS +2

TINS SARDINES IN OLIVE OIL, MACKEREL IN OLIVE OIL, CHORIZO SPICED MUSSELS +16

SMOKED SALMON W/ CHILI CRISP,, TUNA BELLY IN OLIVE OIL +18

WILD VALENTINE MENU

(Coffee, espresso + tea existing / wine + beer proposed)

COFFEE

DRIP COFFEE 3.35
COLD BREW 5.25
W/ COFFEE ICE CUBES

ESPRESSO

ESPRESSO 3.5
AMERICANO 3.75
LATTE 5.5
SPECIALTY LATTE 6.25
LAVENDER VANILLA
CARDAMOM ROSE
CAPPUCCINO 4.5
CORTADO 4
MACCHIATO 4

MILKS: WHOLE, SKIM / ALMOND OR OAT +.75
HOUSEMADE SYRUPS +.75

MORE

CHAI LATTE 5.25
MATCHA LATTE 5.75
LONDON FOG LATTE 5.25
TEA (HOT OR ICED) 3
HOT CHOCOLATE 3.5
LAVENDER LEMONADE 4.75
KOMBUCHA 6
TOPO CHICO 3

WINE BY THE GLASS

Available after 11am

WHITE

ROTATING SELECTION 1
ROTATING SELECTION 2

RED

ROTATING SELECTION 1
ROTATING SELECTION 2

ORANGE + ROSE

ROTATING SELECTION 1
ROTATING SELECTION 2

BUBBLES

ROTATING SELECTION 1

BEER

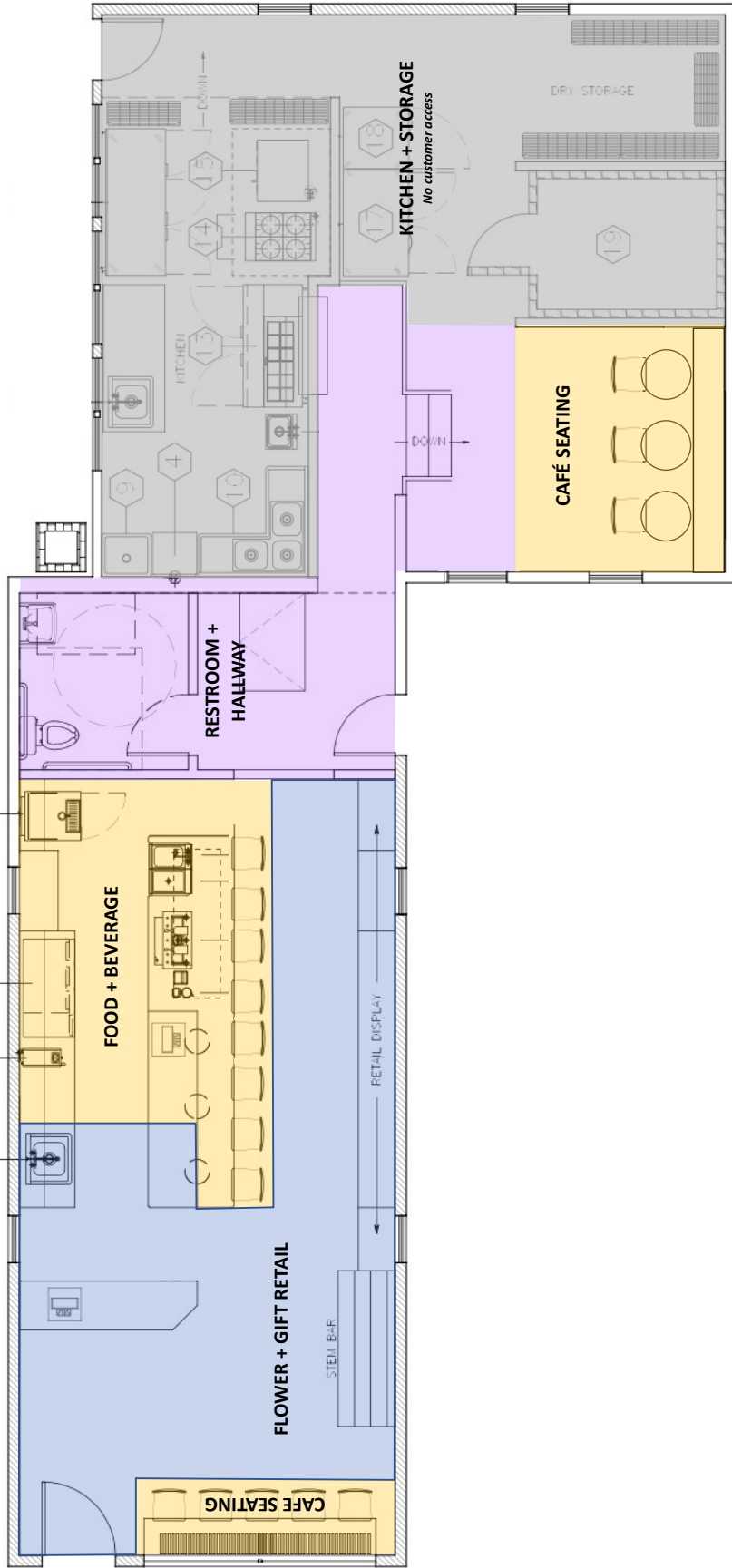
Available after 11am

DRAFT

ROTATING SELECTION 1
ROTATING SELECTION 2

CAN

ROTATING SELECTION 1
ROTATING SELECTION 2
ROTATING SELECTION 3
ROTATING SELECTION 4

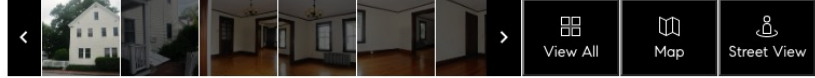


19 Blossom Street

Portsmouth, NH 03801

\$2,950 Price | **2** Beds | **1** Bath | **1,013** Sq. Ft. | **\$35 / Sq. Ft.** [Save](#) [Share](#)

Overview Location Property Info Property History Schools



LISTING UPDATED: 06/14/2023 09:49 PM

Status	Active
MLS #	4957163
Days on Market	4
Rental Incentives	-
Available Date	06/13/2023
Lease Term	Annual
Furnished	-
Compass Type	Rental
MLS Type	Rental / Duplex
Year Built	1900
Lot Size	-
County	Rockingham County

Listing Agent



Talia Sperduto
 KW Coastal and Lakes & Mountain...
 taliasperduto@gmail.com
 P: 603.545.7602
 M: 603.545.7602

Two bedroom, 1 bath second floor apartment in the quiet and highly desirable south end of Portsmouth. This well kept historic unit is filled with natural light with hardwood floors throughout. You'll fall in love with the charming original moldings, built-ins, and high ceilings! **Steps from Wild Valentine, the Farmers' Market, and the Library.** Downtown is just a quick walk away. Unit includes two assigned off street parking spaces, bonus room/office space, washer and dryer, new dishwasher and microwave, full basement storage, walk-in pantry, ample closet space throughout, and an outdoor patio space. Available 07/01/23 Pets and smoking are not allowed.

[Collapse](#)

Listed by Talia Sperduto · KW Coastal and Lakes & Mountains Realty

CONTACT AGENT(S)

Name

Email

Phone

I would like more information about 19 Blossom Street.

[Send Message](#)

Search by town, zip code, or address



ADVANCED SEARCH

MAP SEARCH

POPULAR SEARCHES

BOOK AN APPOINTMENT

68 South Street

PORTSMOUTH, NH 03801

\$610,000

SALE PRICE

\$569,000

LIST PRICE

2

BEDROOMS

2

BATHROOMS

1,621

SQUARE FEET

Listed by Erin Proulx of KW Coastal and Lakes & Mountains Realty/Portsmouth

Sold by Paula Viera of Bentley's



DOW REALTY GROUP
KELLER WILLIAMS
LAKES & MOUNTAINS REALTY | COASTAL REALTY

Keller Williams Lakes & Mountain

833-256-4554
750 Lafayette Road, Suite 201, Portsmouth, NH 03801

Contact Us
Our Agents

Contact Us Schedule a Visit

Full Name

Email Address

Phone

I would like to know more about 68 South Street Portsmouth NH 03801

SEND >

SHARE CONTACT PRINT MORTGAGE CALCULATOR

Welcome to 68 South Street! Located in the highly desirable South End neighborhood, this home is loaded with charm & curb appeal. Enter the home into the renovated kitchen with stainless steel appliances, granite countertops, & white cabinets. Open to the kitchen is an inviting dining/living room with a decorative mantel, crown molding and original interior shutters, perfectly sized for hosting or entertaining. There is also a separate spacious living room with ample natural light accented with a bright color palette, making this cheery spot for relaxing & hanging out simply superb. Rounding out the first floor is a half bath off of this living room. Head upstairs and off the landing is a small sun soaked room you can transform to your liking - making it an office, sitting room or convert to a 2nd full bath! Two generously sized bedrooms with lots of closet space, decorative mantels and rustic wide plank flooring & a full bath complete the second floor. A walk up attic offers excellent storage, & the basement, accessed off of the kitchen, is currently set up for laundry. Outside offers off-street parking for one car & your very own patio/yard space where you can spend an afternoon in the sun, or grill up a delicious dinner. The South End is a wonderful quiet neighborhood to call home, with local favorites, like Sanders Fish Market, South Street & Vine and Wild Valentine & just a half mile to all of Downtown Portsmouth's restaurants, shops & entertainment! Showings start Wed.

Never Miss New Listings

Never miss new listings between \$512,000 - \$626,000 in this neighborhood

Enter Your Full Name

Enter Your Email Address

SUBSCRIBE >

We will never spam you or sell your details. You can unsubscribe whenever you like.

PROPERTY DETAILS

134 South St #8

Portsmouth, NH 03801

1 Bed 1 Bath 650 sqft

\$2,150/mo

Taking Applications

Apply Now

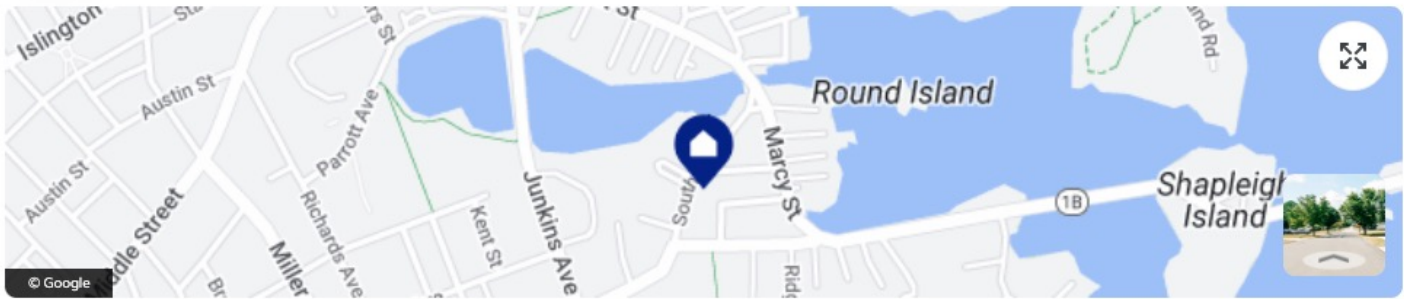
Powered by Zillow

Local Information

Map

Schools

Shop & Eat



Car icon -- mins to [Commute Destination](#)

INRIX

Description

Sunny 2nd floor 1 bedroom, 1 bath apartment with deck. Heat and hot water are included in rent! Hardwood flooring in living room and bedroom. **Short walk to Market Square, Sanders Fish Market, Wild Valentine, Prescott Park, and the farmer's market.** Off-street parking for one car. No smoking. On site coin operated washer and dryer. Small dog, cat considered for fee. 1 year lease, no short-term rentals.

1 year lease. Heat and hot water included. Non-smoking building. Off-street parking for 1 car. Laundry in building. Cat or small dog allowed with owner approval.

Home Highlights

Pets

Dogs & Cats

A/C

No

Parking

Open Parking

Utilities Included

Contact Manager

Outdoor

Contact Manager

Listed

3 days ago

Note on Condo Ownership

In the application, I was asked if this property is under condo ownership. I answered “yes” but am not sure that’s the correct answer. While 261 (our property) and 259 South Street do share common land as part of the 259-261 South Street Condo Association, we own the entirety of the unit at 261 South Street where the proposed variance would be contained, including the exterior, which I understand is unique versus how other condo associations are structured.