

**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.

August 15, 2023

AGENDA

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| <p><u>PLEASE NOTE:</u> DUE TO THE LARGE VOLUME OF AGENDA ITEMS SCHEDULED FOR AUGUST 2023, THE BOARD WILL HOLD A SECOND MEETING ON AUGUST 22, 2023.</p> |
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I. APPROVAL OF MINUTES

- A. Approval of the July 18, 2023 minutes.
- B. Approval of the July 25, 2023 summary.

II. OLD BUSINESS

- A. **Ashley Dickenson & Elyse Hambacher – 125 Elwyn Avenue** request a 1-year extension to the variances granted on November 16, 2021. (LU-21-172)

III. NEW BUSINESS – PUBLIC HEARING

- A. The request of **Alexandra Scott and Scott Scott (Owners)**, for property located at **271 Sagamore Avenue** whereas relief is needed to demolish the existing detached garage and construct an addition with attached garage which requires the following: 1) Variance from section 10.521 to allow a) 0.5 foot (6 inch) right yard where 10 feet is required; and b) 28% building coverage where 25% is maximum. Said property is located on Assessor Map 221 Lot 15 and lies within the General Residence A (GRA) District. (LU-23-103)

- B.** The request of **Tanner Family Revocable Trust (Owners)**, for property located at **380 Greenleaf Avenue** whereas relief is needed to construct a detached garage which requires a Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal building. Said property is located on Assessor Map 243 Lot 63 and lies within the Single Residence B (SRB) District. (LU-23-62)
- C.** The request of **Carl Douglas Overn and Tatiana Overn (Owners)**, for property located at **40 Wilson Road** whereas relief is needed to construct a sunroom and deck expansion at the rear of the property which requires the following: 1) Variance from Section 10.521 to allow an eight (8) foot rear yard where 30 feet are required; and 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 251 Lot 57 and lies within the Single Residence B (SRB) District. (LU-23-114)
- D.** The request of **Go-Lo Inc. c/o Labrie (Owner)**, for property located at **2059 Lafayette Road** whereas relief is needed to demolish the existing structure and construct a two-story residential building containing 16 living units which requires the following: 1) Variance from Section 10.1113.20 to allow parking to be located in front of the principal building; 2) Variance from Section 10.533 to allow a structure to be located 58 feet from the centerline of Lafayette Roads where 80 feet is required; 3) Variance from Section 10.521 to allow 1,715 square feet of lot area per dwelling unit where 7,500 square feet is required; and 4) Variance from Section 10.440 Use #1.53 to allow 16 units where eight (8) are permitted. Said property is located on Assessor Map 268 Lot 13 and lies within the Mixed Residential (MRB) District. (LU-23-116)
- E.** The request of **Creeley Family Trust, Sean Creeley and Andrea Creeley Trustees (Owners)**, for property located at **337 Richards Avenue** whereas relief is needed to demolish the existing detached garage and construct an addition and attached garage to the primary structure which requires a Variance from Section 10.521 to allow a one and a half (1.5) foot rear yard where 20 feet is required. Said property is located on Assessor Map 130 Lot 2 and lies within the General Residence A (GRA) District. (LU-23-113)
- F.** The request of **Kathryn Waldwick and Bryn Waldwick (Owners)**, for property located at **30 Parker Street** whereas relief is needed to demolish and remove the existing shed and covered porch and construct a new attached shed with a covered porch which requires the following: 1) Variance from section 10.521 to permit a) 45% building coverage where 35% is allowed, b) one and a half (1.5) foot right side yard where 10 feet is required, and c) two (2) foot rear yard where 20 feet is required; and 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 126 Lot 27 and lies within the General Residence C (GRC) District. (LU-23-117)

THE FOLLOWING PETITIONS WILL BE HEARD ON TUESDAY, AUGUST 22, 2023

1. The request of **Islamic Society of the Seacoast Area ISSA (Owners)**, for property located at **686 Maplewood Avenue**
2. The request of **Karyn S. DeNicola Rev Trust, Karen DeNicola Trustee (Owner)**, for property located at **281 Cabot Street**
3. The request of **Novocure Inc. (Owner)**, for property located at **64 Vaughan Street**
4. The request of **Cynthia Austin Smith and Peter Smith (Owners)**, for property located at **9 Kent Street**
5. The request of **Caleb E. Ginsberg and Samantha L. Ginsberg (Owners)**, for property located at **303 Bartlett Street**

IV. OTHER BUSINESS

V. 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_pM1b_xqAR5eKR2QA7KeGRg

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

7:00 P.M.

July 18, 2023

MEMBERS PRESENT: David Rheume; Paul Mannle; Thomas Rossi; Jeffrey Mattson; Jody Record, Alternate; ML Geffert, Alternate

MEMBERS EXCUSED: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair

ALSO PRESENT: Stefanie Casella, Planning Department

I. VOTE TO APPOINT TEMPORARY CHAIR AND VICE-CHAIR

Chair Eldridge and Vice Chair Margeson were excused from the meeting.

*Mr. Mattson moved to nominate Mr. Rheume as Acting Chair, seconded by Ms. Geffert. The motion **passed** by a vote of 5-1, with Mr. Rossi abstaining.*

Note: There was no Acting Vice-Chair nominated.

I. APPROVAL OF MINUTES

A. Approval of the **June 21, 2023 minutes.**

*The June 21 minutes were **approved** as amended by unanimous vote, 6-0.*

The amendment was to change ‘Ms. Mattson’ on page 10, last paragraph, to ‘Mr. Mattson’.

B. Approval of the **June 27, 2023 minutes.**

*The June 27 minutes were **approved** as amended by a vote of 4-2, with Mr. Rossi and Ms. Geffert abstaining.*

The amendments were: On page 2, top paragraph, the phrase “Mr. Rheume said most of the neighbors had garages” was changed to “Mr. Rheume said the **applicant claimed** that most of the neighbors had garages.” On page 9, first paragraph, the sentence “He said the deck wasn’t a real issue and hoped that additional relief would not be **requested**.” was changed to: “He said the deck wasn’t a real issue and hoped that additional relief would not be **required**.”

Acting Chair Rheume stated that New Business, Item D, Petition for 261 South Street was withdrawn by the applicant.

Note: Alternates Geffert and Record took voting seats for all petitions.

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)

Acting Chair Rheume said the application was denied at the May 16, 2023 meeting. He said the applicant then appealed the Board's decision and that there was an additional issue associated with the use of the property. Ms. Casella said it was brought to light after the Board's decision that the applicant may be operating an Airbnb, which was not allowed under the zoning ordinance. She said a Notice of Violation was sent to the applicant but that the applicant said they were operating a long-term lease of 30 or more days, so the violation was resolved.

Mr. Mattson said he did not take Requests for Rehearing lightly and that the Board stood solid in their decisions, but he struggled with the Board's decision for that application because the aspect of creating two nonconforming lots would seemingly not be in the spirit of the ordinance. He said, however, that lots of that size were in the neighborhood and would be in the essential character of the neighborhood, so it was a balancing act. Mr. Rossi said he would not support the Request for Rehearing because the request leaned heavily on *Malachy Glen Associates, Inc. v. Town of Chichester*, and he considered the wording, which was 'one way' and 'another approach' and so on. He said lawyers and judges choose their words carefully and he noted that 'one way' and 'another way' was not the English language equivalent of saying 'the way' and the 'other way' or the 'only other way'. He said if he translated them into everyday use by saying that one way to get to North Church was to go up Junkins and turn on Pleasant, and another way was to go up South Street and turn right on Middle, that would not imply that those were the only two ways to get to the church. He said he also did not think that the wording of the decision implied that those were the only two criteria by which the Board could make an assessment. He said trained attorneys were careful with wording and he believed it was intentional that the Superior Court left the zoning boards with some leeway as to how they would interpret and apply the spirit of the ordinance. He said he understood the *Malachy Glen* point that one is not to rely on the logic that states that if something is out of compliance with the zoning ordinance, it is therefore not necessarily in violation

of the spirit of the ordinance. He said he did not believe that's what the wording of Mr. Mannle's motion implied and that Mr. Mannle gave a reason that was rooted in the stated purpose of the SRB zone, which is low-to-medium densities. He said that, based on the leeway the Board was given on Malachy Glen, it was valid for the Board to consider that as part of their understanding of the spirit of the ordinance, and he did not believe that the Board's decision was either unlawful or unreasonable. He said there were many places within the request where it stated that, because the Board was silent on the other aspects of the criteria that are required to achieve a variance, it was implied that those criteria were met. He said no such implication could be drawn and that it was the practice of the Board that once they found that an application failed to meet one criterion that was required out of the multiple criteria required for approval of a variance, it wasn't necessary for them to articulate whether the application met or failed the remaining criteria.

Mr. Mannle said he would stand by the Board's previous decision. He said he made the motion to deny because it should not be the purpose of the Board to create nonconforming lots. He said he also believed that plot maps from over 100 years ago were irrelevant to today's zoning. Acting Chair Rheume said it was a close vote (4-3) in favor of denying, so he felt the Board was torn in their consideration, but he believed that the Request for Rehearing should be denied. He said the Board had approved variances for nonconforming lots in the past, but the arguments made by the applicant that it wasn't necessarily characteristic of the neighborhood could be true and not true, and the Board felt that the argument that it was not true outweighed the argument that it would be true. He said there was enough variation in the neighborhood that one could make an argument that the nearby lots predominated over any other considerations about the neighborhood. He said in that sense it was a fair and appropriate decision by the Board. He said the applicant provided additional information regarding the fact that a house that formerly stood on the property might have been occupied, but he didn't think that was a significant factor that would make the Board feel that there was a need to reconsider the information that was put before them.

There was no public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **deny** the Request for Rehearing, seconded by Ms. Geffert.*

Mr. Rossi said the Request for Rehearing in its content failed to demonstrate that the Board acted either unlawfully or unreasonably. He said that, despite the reliance of the request on Malachy Glen, he believed it was misapplied in this request to state that the Board's decision was unlawful. He said his reading of Malachy Glen allowed the Board to make the decision on the basis that they made it with regard to the spirit of the ordinance, particularly with the Board's latitude in referring to the stated purpose of the SRB zone, which was to maintain low-to-medium density, and that the Board was under no obligation to address other aspects of the criteria once they find that one criterion is not satisfied. Ms. Geffert concurred and said she agreed that finding that one criteria was not satisfied was adequate to deny. She said the Board did that and didn't have to rehear the petition, but if they were to, they could find other criteria that were not satisfied.

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

- 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)

SPEAKING TO THE PETITION

The applicant Danielle Okula was present to review the application. She said her front door faced Sewall Rd, so she wanted to place the fence along what would be the backyard. She said there was very little setback between the sidewalk and her bedroom and the traffic noise from Spinney Road was an issue. She said a 6-ft fence was necessary to keep her dog in the yard and prevent other dogs from getting in. She said the neighbors supported the proposal. She reviewed the criteria.

In response to Mr. Rossi's question, Ms. Okula said she didn't intend to put the fence right up to the sidewalk because there had to be space to clear the sidewalk. Ms. Casella said the zero foot clearance was at the property line and that it looked like it might be 6-7 feet off Spinney Road. She said the City owned the property up to the property line and thought it would be somewhere in-between the first foot or so of the rock wall. She said the corner lot had two fronts and the setback went back 30 feet into the property, so technically that portion would be 30 feet from Spinney Road and wouldn't go along the entire back of the property.

Acting Chair Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Acting Chair Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Rossi moved to **grant** the variance for the petition, seconded by Mr. Mannle.*

Mr. Rossi said granting the variance would not be contrary to the public interest or to the spirit of the ordinance. He said the spirit of the ordinance was to avoid encroachment by unsightly and tall fences right up against pedestrian and motoring areas and the fence would be sufficiently set back from the sidewalk and have enough clearance. He said granting the variance would do substantial justice because of the consideration of privacy, particularly regarding the location of the bedroom and the nuisance factor of aggravating the applicant's dog and the safety consideration of keeping the dog contained, justified the 6-ft fence, and there was no countervailing public interest to sacrifice making that happen. He said granting the variance would not diminish the values of surrounding properties, noting that the abutters had adequate notice and if anyone felt that it would diminish the value of their properties, their failure to say so was good evidence that there would be no impact on the values of surrounding properties. He said literal enforcement of the provision of

the ordinance would result in an unnecessary hardship due to the unique characteristics of the property, which were the terrain and the way it was below the road's grade level, which necessitated a taller fence to achieve the purposes of privacy and security.

Mr. Mannle concurred and said the hardship was due to a separate ordinance for corner lots. He said he didn't agree with that ordinance because it put an added layer of criteria that wasn't found in any lot that was not a corner lot, but he said he would support the ordinance.

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

III. 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)

SPEAKING TO THE PETITION

Acting Chair Rheume said the Board denied the item previously at the May 23, 2023 meeting and granted a Request for Rehearing at the June 21 meeting.

Attorney Christopher Fischer was present on behalf of the applicant Peter Gamble. He said he was there for a limited purpose that did not speak to the merits of the motion for rehearing. He said the abutters Adrian and Andrea DeGraffe via their lawyer Attorney John McGee Jr. said they were filing a Quiet Title Action claiming ownership of a portion of the 170 Aldrich Road property. He said it was not filed on time and that his clients intended to file their own Quiet Title Action in Rockingham County Superior Court to resolve the question of the lot's size for good. He said the significance was that the circumstances created the conditions where the Board could find that it lacked sufficient information to rule on the merits of the Request for Rehearing until a final decision on the merits was issued by Superior Court regarding who owned what at 170 Aldrich Road. He said his clients felt that they owned everything on the deed and map. He said the Board lacked sufficient information to rule on the merits, which implicated potential relief under RSA 674:33, Subsection 8, and allowed the Board to render a decision based on a lack of information to dismiss the variance request without prejudice and to allow his client's right to return the variance request.

Mr. Mannle asked why Attorney Fischer didn't simply submit a request to withdraw. Attorney Fischer said he did not think it was as clearcut as a dismissal without prejudice issued by the Board. He said if he withdrew the motion for rehearing and tried to resubmit a variance request at a future date, his client could make the same argument then. He said it was in an abundance of caution to make sure they did not prejudice themselves when they resubmitted a variance request. Mr. Rossi asked how the dispute over the property impacted the application and if the right side property line

was in question. Attorney Fischer said the DeGraffes intended to claim that they owned a portion of the lot, so it would affect the dimensions of the lot and the frontage requirements.

Assistant City Attorney Trevor McCourt was present and explained that the difference was that the dismissal without prejudice is specifically prescribed as one of the statutory powers available to the Board, and withdrawal was something prescribed by their rules. He said Attorney Fischer, out of an abundance of caution, wanted to avoid any perceived irregularity in the Board's decision-making and remove any chance that the Board's decision could be appealed.

Acting Chair Rheume opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

No one spoke.

SPEAKING IN OPPOSITON TO THE PETITION

Attorney John McGee Jr. representing the abutters Adrian and Andrea DeGraffe was present. He said he had expected to engage in a discussion of the merits but was told by Attorney Fischer that there would be a formal dismissal. He said the Statute gave the Board the discretion to determine whether it was appropriate to dismiss it. He said the reason the petition wasn't filed on time was due to a medical incident he had over the weekend. He said he had not decided whether to let Attorney Fischer file a Quiet Title Action or not, but he was sure it was coming. He said there was an issue raised at the May meeting of a three percent coverage that would be increased if he was successful. He said if the Board wanted to dismiss, it was fine with him, and if they wanted to go forward, he was ready. He said if it was dismissed and the applicant sought a building permit in the future, it might cause things to be smaller than what was proposed now and the applicant might be required to notify the DeGraffes due to other variances needed.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Acting Chair Rheume closed the public hearing.

DISCUSSION OF THE BOARD

Acting Chair Rheume said he was disappointed because the applicant brought counsel on recently and the decision was made to change things around from what the Board was originally presented with. Ms. Geffert noted that the Statute cited 'If the Board determines that sufficient information is lacking in order to make a final decision on an application, and the applicant does not consent to an extension, then the Board may at its discretion deny without prejudice'. She emphasized the word 'and' and said the Board had to figure out whether there was a consent to an extension. Attorney Fischer said they would agree to an extension as long as it coincides with the final decision issued by the Superior Court on the title dispute. Ms. Geffert said the extension she would like the applicant to consent to was a specific time period, and if the applicant could not do that now, she

thought Attorney Fischer was saying that they would not consent to an extension of a specific duration. Attorney Fischer agreed.

DECISION OF THE BOARD

*Mr. Mannle moved to **deny** the application without prejudice, seconded by Mr. Rossi.*

Mr. Mannle said he was following the advice of City Attorney McCourt and concurring with the applicant's attorney that until the applicant and abutters solve their legal issues in Superior Court, the application would be dismissed without prejudice. Mr. Rossi said the motion was consistent with RSA 674.33, Section 8, which grants the Board the authority to make such a denial without prejudice when the underlying facts of the application are sufficiently unclear that the Board doesn't have enough information to make an informed judgment. He said there was a dispute over the size of the property and the lot lines and therefore the Board couldn't make an informed judgment about the variance request until those issues were clarified. Mr. Mattson said it didn't look as good for the applicant to withdraw their application and come back without any context, whereas the denial without prejudice was slightly different. He said if the applicant just withdrew, the abutter could indefinitely delay their action until the applicant came before the Board again and just start the process then in an attempt to delay. It was further discussed.

Acting Chair Rheume said he would support the motion. He said he understood that the applicant was under unusual circumstances but thought it would have been preferable that the Board had more time to absorb the written information. He said the Board gave the applicant a great deal of deference throughout the process but understood the nature of what was being asked for and the reasons for it and why it would be appropriate for the Board to approve the motion as specified.

*The motion to deny the application without prejudice **passed** by a unanimous vote of 6-0.*

- B.** The request of **John C. Wallin 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)

SPEAKING TO THE PETITION

The applicants Jeanine Girgenti and John Wallin were present and reviewed the petition, noting that they wanted to put an inground pool in the backyard and needed permission to have a 6-ft fence for privacy and security for the pool. Mr. Wallin said the property had two front yards and said the closest neighbors had no objection to the fence. He and Ms. Girgenti reviewed the criteria.

In response to Mr. Mattson's question, Mr. Wallin said he did several measurements and found that the fence would be set back about 12 feet from the road and about nine feet from his property line.

Mr. Rossi asked for clarification that only the corner and not the entire length of the fence would encroach. Mr. Wallin said as the fence moved closer to the neighbor's property line at the far corner, it might not require a variance but he requested one for the whole fence just in case. He said the corner that really needed the variance had the stone wall and the shrubs.

Acting Chair Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Acting Chair Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Mattson moved to **grant** the variance for the application, seconded by Mr. Mannle.*

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 of adding the 6-ft fence does not conflict with the explicit or implicit purposes of the ordinance and does not alter the essential character of the neighborhood or threaten the public's health, safety, or welfare or otherwise injure public rights. He said it would do substantial justice because the benefit to the applicant would not be outweighed by any harm to the general public or other individuals, and the fence would clearly benefit the applicant. He said granting the variance would not diminish the values of surrounding properties, noting that there was no reason to see why adding the fence would do so. He said literal enforcement of the ordinance would result in an unnecessary hardship due to the special conditions of the property that distinguished it from others in the area, and there was no fair and substantial relationship between the public purpose of the ordinance's provision and the specific application of that provision to the property, and the proposed use was a reasonable one. He said it was a reasonable proposed use of a single-family home with a fence which, for all intents and purposes, would be in the applicant's backyard. He said the unique conditions of the property were that the lot was a corner one that surrounded the house on three sides, and the fence would still be set back further from the actual property line and would not inhibit any sight lines from the road or affect light, air, or privacy in a negative way on other properties.

Mr. Mannle concurred and said he appreciated that the fence would be placed directly behind the house and not on the promontory. Mr. Rossi said the factors that led him in support were the inground pool and the children in the neighborhood, and he thought having a 6-ft fence was an important safety feature.

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

- 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)

SPEAKING TO THE PETITION

The applicant Tom Rooney was present and said he wanted to install a heat pump mechanical unit on the left side of the house. He reviewed the petition and criteria and said the abutters on the left approved the proposal.

In response to Mr. Mattson's question, Mr. Rooney said the unit on the right would remain in place and the unit on the left would move to the side.

Acting Chair Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Acting Chair Rheume closed the public hearing.

DECISION OF THE BOARD

*Ms. Geffert moved to **grant** the variance for the petition, seconded by Mr. Mannle.*

Ms. Geffert referred to the discussion and analysis for the original variance request that was granted by the Board on May 23, 2023. She said granting the variance would not be contrary to the public interest, noting that the Board found then and found now that the public interest would not be disserved by placing the unit behind the fence on the side property line, and the abutting neighbor supported the application. She said granting the variance would observe the spirit of the ordinance because there was nothing in the ordinance that did not allow a single residence to continue with efficient heat. She said substantial justice would be done because a split condenser unit was more efficient than other heating and cooling systems that could be installed on the property. She said granting the variance would not diminish property values on surrounding properties because, as found in the first installation and in this installation, it would enhance the applicant's property value and would also enhance the values of surrounding ones. She said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. She said that, given where the Board stood with the first variance granted, denying this variance would mean that the applicant would go away with half of the heating and cooling system that he desired for his property, which would be a substantial hardship. She said there was no reason for it, particularly given that the modest incursion on the side lot line wasn't opposed by the abutting neighbor. Mr. Mannle concurred and had nothing to add.

Acting Chair Rheume said he would support the motion. He said he had a similar unit and it was very quiet. He said the applicant's house was tight up against the property line and making any kind of improvement by placing a condenser that was a necessity for modern living required some kind of relief from the Board. He said the applicant came before the Board due to technical issues associated with the condenser's location.

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

- D. WITHDRAWN** 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.
WITHDRAWN (LU-23-97)

The petition was withdrawn by the applicant.

IV. OTHER BUSINESS

- A.** Board of Adjustment Training on July 25, 2023 at 7:00 PM in Conference Room A

Ms. Casella said Attorney Stephen Buckley from the NH Municipal Association would give the training session and that it would be open to the public but there would be no public hearing. She said she could forward questions from the Board to Attorney Buckley before the session.

V. ADJOURNMENT

The meeting adjourned at 8:28 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

**MINUTES of the
BOARD OF ADJUSTMENT TRAINING SESSION
ON THE ZBA DECISION MAKING PROCESS
With Attorney Stephen Buckley, NH Municipal Association and
Jonathan Cowal, Municipal Services Counsel**

**Conference Room A
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

July 25 2023

MEMBERS PRESENT: Chair Phyllis Eldridge; Vice-Chair Beth Margeson; Members David Rheame, Thom Rossi, Jeff Mattson, Jody Record, and ML Geffert

MEMBERS ABSENT: Paul Mannle

ALSO PRESENT: City Attorney Susan Morrell; Jane Ferrini, Senior Assistant City Attorney; Trevor McCourt, Deputy City Attorney; Robert Sullivan, Of Counsel (Part-Time); Stefanie Casella, City Planner

I. Training Session with Attorney Stephen Buckley, *NH Municipal Association* and Jonathan Cowal, *Municipal Services Counsel*, regarding the ZBA Decision Making Process

Chair Eldridge called the meeting to order at 7:04 p.m. Mr. Cowal introduced himself and Attorney Stephen Buckley and said he and Attorney Buckley made up the Legal Services Team at NHMA. He said the presentation would focus on two separate parts: 1) a general overview of the Right-to-Know Law, ethics, conflicts of interest, disqualification, and case studies on conflicts, and 2) the role of the ZBA, ZBA jurisdiction, appeals, procedure, decisions, variance criteria, special exceptions, administrative appeals, motions for rehearing, and appeals.

Mr. Cowal discussed the Right-to-Know law and the four elements necessary to have a public meeting, beginning with Element 1, a quorum. Mr. Rheame asked if allowing a remote presentation should be voted on by the Board. Mr. Cowal said it was a great idea to have remote meeting attendance and wasn't necessarily a legal requirement that the Board had to vote but he thought it was good practice. As an example, he said if a person had a compromised immune system and asked to attend every meeting remotely and the Board announced that it was due to significant health concerns and agreed that they accepted it, it didn't need a vote unless there was a disagreement. Attorney Buckley said the statute required that the reason for the person not to be able to attend had to be stated in the minutes but voting solidified it. Mr. Rheame said therefore there was no threshold in the Statute of what would be an expected reason for being unable to attend and that it could be as simple as being out of town. Mr. Cowal agreed. He said

the Statute used the vague language of ‘not reasonably practicable’ and that it could be left up to interpretation. It was further discussed.

Mr. Cowal then discussed the next three elements: Public Body, Convening, and Discussing or Acting upon something over which the public body has supervision, control, jurisdiction, or advisory power. [Timestamp 23:19]

Mr. Cowal discussed the requirements for a public meeting and said a meeting needed to be publicly noticed in advance in two public places and posted 24 hours in advance of the meeting. Mr. Rossi said there were a few instances in the past year where people had come before the Board and the petition was substantially different than what was published in advance regarding materials about what would be discussed and the request and rationale for it. He asked if it was the Board’s duty or right to postpone a decision until the new materials could be published. Mr. Cowal said Statute 91:A didn’t require the Board to post information about what would be discussed at the meeting, it just required that notice be posed. Attorney Buckley said it was a bit different for the ZBA and that he would address it later.

Mr. Cowal then discussed requirements 2 and 3, making sure the meeting is open to the public and meeting minutes. ([Timestamp 38:22]

City Attorney Morrell asked if the quorum was three out of five people and two people were discussing business related to that public body, they might think since there was only two of them, they could discuss the business without having a meeting. Mr. Cowal said if the people thought they were missing a quorum (Element 1) and didn’t need Elements 2 and 3, they were violating RSA 91:A:II, which is abiding by the spirit of the Statute and limiting discussions of official business to public meetings. He said it could also create conflicts within the Board itself and could be seen as a conflict of interest. [Timestamp 42:00]

Mr. Cowal then discussed Ethics and said it came down to each individual’s understanding of ethics and what it means to be ethical, and that person decides whether they have a conflict and have to recuse themselves. Mr. Rossi asked if it was inadmissible for the Board to hold a vote in which they think an individual member should recuse themselves. Mr. Cowal said the land use boards had a specific Statute that allows for certain quasi-judicial decisions and that the ZBA had a specific mechanism that allowed them to take a vote to determine if they felt someone had a conflict of interest. He said it was non-binding but great evidence down the line if there was an appeal of that decision and the case was heard in Superior Court. It was further discussed.

Mr. Cowal addressed the topics of Disqualification of a Member and what it means to act in a judicial capacity and to act as a juror. [Timestamp 55:03]

Mr. Rheume said the Board members all had some degree of prejudice in terms of understanding their community. Mr. Cowal said the Board’s understanding of the community played a huge role in their decision making process. He said prejudice meant that a person is predisposed to answer in a certain way due to something that’s not legally recognized as a decision making factor, like someone’s race or religion, and that would be a reason to step down from making a decision. He said having feelings about issues related to the community would not be prejudicial.

Mr. Cowal compared the difference between legislative vs. quasi-judicial and the difference between recusing and abstaining, and he discussed how to avoid conflicts. Mr. Rheame clarified that there was no requirement that a Board member disclose their reason for recusal if they chose to recuse. Mr. Cowal agreed and said the member could simply say that they had a conflict and had to recuse.

Mr. Cowal reviewed a few case studies as examples of how a court would treat certain situations: Winslow v. Holderness Planning Board 1984 and W. Robert Foley, Trustee vs. Enfield 2018, and Z-1 Express vs. Manchester 2019. [Timestamp 1:07:48]

Attorney Stephen Buckley then discussed the role of the ZBA and the ZBA's jurisdiction, and what decisions could be appealed to the ZBA and its effects. He discussed the Fisher vs. Dover case. He discussed all the things that insured that the ZBA provides due process and how to continue a public hearing. [Timestamp 1:14:02]

Mr. Rheame said he thought the Board wasn't making people re-notice and that they were just asking for a postponement. Ms. Casella said it was read into the record and the reason for a request for postponement was stated and postponed to another date and time. Attorney Buckley said he read the Statute strictly according to the way it was worded, which is that the Board had to have the public hearing opened and wasn't able to complete the public hearing within the allotted time. He said it was problematic to say the Board never opened the public hearing and now they're going to grant a rehearing without new notice being provided because it wasn't open and they didn't discontinue it due to the lack of time to complete it that night. He said the Board had to go by the words of the Statute and it didn't say they could just postpone without opening the public hearing and not providing new notice. He noted that there was a need to apply discipline to the applicants and the process. It was further discussed. [Timestamp 1:33:15]

Attorney Buckley addressed who must be heard at a public hearing, non-abutters and their standing, what the Board does during a hearing, that the Board has discretion to choose between competing expert opinions, who must be heard at a public hearing, and the Board's decision. [Timestamp 1:37:28]

Mr. Rheame said there was a court case a few years ago that reduced some of that discretion regarding expert opinions and stated that the Board needed to listen to expert opinions. Attorney Buckley brought up that particular case and it was further discussed. [Timestamp 1:43:43]

Attorney Buckley discussed the topic Decision by the Board and said the Statute stated that three members must concur, although for the ZBA it was four members. He said it had to be a consistent voting method, that any change in the Board voting method would not take effect until 60 days after adoption, that the decision had to be in writing, that there had to be conditions of approval, and the decision had to be issued within five business days.

Chair Eldridge said the Board didn't have in writing how they closed the public hearing and asked for discussion and that it had been suggested that the Board shouldn't discuss the motions on the floor but they did and then they voted. She said that not all the Board members mentioned the criteria, and if they changed that procedure, it would need 60 days. Attorney Buckley agreed and said the Board would write it up and adopt it as a new rule of procedure. He said it did not

need a public hearing and would not go into effect for 60 days. It was further discussed.
[Timestamp 1:49:14]

Attorney Buckley then reviewed the new Statute RSA 676:3 for Findings of Fact and the new Statute 674:33 for Time for Decision and how to make the decision. He said the ZBA had the authority to rule that zoning relief was unnecessary. Mr. Rossi said the Board had debates about preexisting nonconforming uses and there was a lot of confusion about specific cases, which included one for replacing a trailer in a trailer park that was a nonconforming preexisting use. Attorney Buckley said it was allowed to continue and that it could expand as long as it was not unreasonable. It was further discussed.[Timestamp 2:01:38]

Attorney Buckley reviewed a new case, *Avanru Development vs. Swanzey*, which was an appeal of a denial of a 76-unit multi-family dwelling special exception request. He reviewed administrative appeals, special exceptions and variances, and the five variance criteria.

Mr. Mattson asked if the Board had to stick to the special conditions that distinguish it from other properties criteria in terms of it being unique from other properties as opposed to some other justification for hardship. He referenced the *Walker vs. Manchester* case where the application was similar to other properties in the area that already had the variance and this property didn't, so it wasn't distinguished from other properties. Attorney Buckley said the judge pointed out that there were not special conditions that distinguished it from others, that they were all the same, and he would oppose the granting of the variance. He said his dissent pointed out that something unique about the property itself was needed to said there were special conditions. He discussed it further. [Timestamp 2:13:40]

Attorney Buckley then reviewed special exceptions, the cumulative impact of the *Foley vs. Enfield* case, the time for exercising variances and special exceptions, rehearings, and the action on a motion for rehearing and beyond the rehearing. He concluded that the ZBA Handbook was a good resource and was available for digital download and that the NH Municipal Association was there to give the Board assistance and answer their questions.

The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary

II. OLD BUSINESS

- A. Ashley Dickenson & Elyse Hambacher – 125 Elwyn Avenue** request a 1-year extension to the variances granted on November 16, 2021. (LU-21-172)

Planning Department Comments

On Tuesday, November 16, 2023 the Board of Adjustment granted the following variances to construct an addition with an attached garage and living unit above as presented:

- 1) Variances from Section 10.521 to allow
 - a) lot area per dwelling of 2,559 square feet where 7,500 is required;
 - b) a 1' secondary front yard where 15' is required;
 - c) a 5' left side yard where 10' is required;
 - d) a 2' right side yard where 10' is required; and
 - e) 39% building coverage where 25% is the maximum allowed.
- 2) A Variance from Section 10.513 to allow more than one free-standing dwellings on a lot.
- 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

The approvals listed above are scheduled to expire on November 16, 2023. The Ordinance allows for a one-time, one-year extension if the request is acted on prior to the expiration date. The applicant has requested an extension as the building permit has not yet been obtained. A letter from the applicant and the 2023 letter of decision is included in the meeting packet.



August 7, 2023

Dear Portsmouth Board of Adjustment,

We are requesting an extension for variances granted at 125 Elwyn Avenue (LU-21-172) on November 16, 2021. Due to family obligations and the impacts of COVID-19 on building supplies and the availability of general contractors, it has been difficult to make significant progress. We would appreciate a one-year extension for our variances so that we can properly plan this project out.

Thank you for your consideration.

Best,

A handwritten signature in black ink, appearing to be "Elyse Hambacher" followed by a flourish and "Ashley Dickenson".

Elyse Hambacher & Ashley Dickenson



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

November 17, 2021

Ashley Dickenson
Elyse Hambacher
125 Elwyn Avenue
Portsmouth, NH 03801

RE: Board of Adjustment request for property located at 125 Elwyn Avenue (LU-21-172)

Dear Mr. Dickenson & Ms. Hambacher:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **November 16, 2021**, considered your application for demolition of an existing garage and rear addition on main structure and construct a new garage with dwelling unit above and reconstruct rear addition on main structure including two shed dormers which requires the following: 1) Variances from Section 10.521 to allow a) lot area per dwelling of 2,559 square feet where 7,500 is required; b) a 1' secondary front yard where 15' is required; c) a 5' left side yard where 10' is required; d) a 2' right side yard where 10' is required; and e) 39% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.513 to allow more than one free-standing dwellings on a lot. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 112 Lot 47 and lies within the General Residence A (GRA) district. As a result of said consideration, the Board voted to grant the request as presented and advertised.

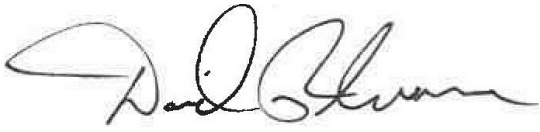
The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "David Rheume". The signature is fluid and cursive, with a large initial "D" and "R".

David Rheume, Chairman of the Zoning Board of Adjustment

cc: Paul Garand, Interim Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

III. NEW BUSINESS

- A. The request of **Alexandra Scott and Scott Scott (Owners)**, for property located at **271 Sagamore Avenue** whereas relief is needed to demolish the existing detached garage and construct an addition with attached garage which requires the following: 1) Variance from section 10.521 to allow a) 0.5 foot (6 inch) right yard where 10 feet is required; and b) 28% building coverage where 25% is maximum. Said property is located on Assessor Map 221 Lot 15 and lies within the General Residence A (GRA) District. (LU-23-103)

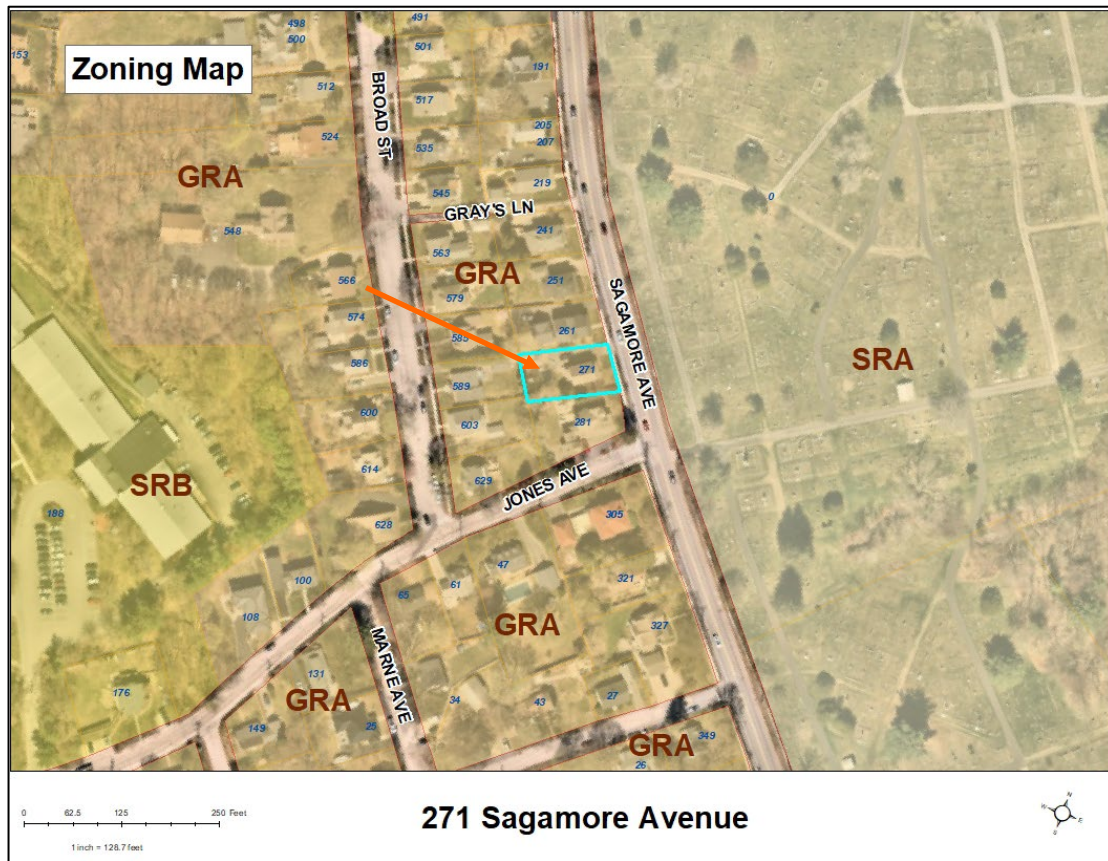
Existing & Proposed Conditions

| | <u>Existing</u> | <u>Proposed</u> | <u>Permitted / Required</u> |
|----------------------------------------------|--------------------|-----------------------------------------|-----------------------------|
| <u>Land Use</u> | Single Living Unit | Construct addition with attached garage | Primarily residential |
| <u>Lot area (sq. ft.):</u> | 6,970 | 6,970 | 7,500 min. |
| <u>Lot Area per Dwelling Unit (sq. ft.):</u> | 6,970 | 6,970 | 7,500 min. |
| <u>Street Frontage (ft.):</u> | 60.5 | 60.5 | 100 min. |
| <u>Lot depth (ft.):</u> | 112 | 112 | 70 min. |
| <u>Front Yard (ft.):</u> | 27 | 27 | 15 min. |
| <u>Right Yard (ft.):</u> | 0.75 | 0.5 | 10 min. |
| <u>Left Yard (ft.):</u> | 13 | 13 | 10 min. |
| <u>Rear Yard (ft.):</u> | 55 | 25 | 20 min. |
| <u>Height (ft.):</u> | <35 | <35 | 35 max. |
| <u>Building Coverage (%):</u> | 16 | 28 | 25 max. |
| <u>Open Space Coverage (%):</u> | >30 | >30 | 30 min. |
| <u>Parking:</u> | 2 | 2 | 2 |
| <u>Estimated Age of Structure:</u> | 1919 | Variance request(s) shown in red. | |

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

Applicant is requesting a variance to remove the existing detached garage and construct an addition to the right side of the existing structure that includes an attached garage.

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.

Portsmouth, NH - Board of Adjustment
Variance Statement for: 271 Sagamore Ave.

Date: 07.13.23

Chairman of the Board of Adjustment
C/O Planning Department City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801

To The Chairman of the Board of Adjustment,

Please find this statement as addressing the requirements for a variance on the proposed project located at 271 Sagamore Ave.

Overview: The existing New Englander single-family dwelling was purchased by Scott and Ali Scott in August 2021 moving from the New Franklin school district looking for a larger home. This spring they sold that home in order to fund the renovations for 271 Sagamore and welcomed their third child. They bought the home in a dilapidated state, cleaned it out and have put on a new front porch while we are designing this project. The goal is to bring this house back to life and create a home for the three girls to grow up in and call their family home for the five of them as well as parents who live away.

In order to accomplish this goal, we are proposing the removal of an existing small back addition and garage then adding on to the back of the house and a mudroom connector to a two-story garage.

The back addition will become a Dining Area and Family Room, a Primary Suite with laundry on the second and an additional bedroom on the 3rd. The mudroom connector will be a functional "Room of Doors" directing people into / out of the home and garage as well as up to the room over the garage – all are important for dogs, kids and guests alike. The space over the garage will function as a guest bedroom and much needed office as Ali works 100% from home.

Per Section 10.233.21 – The variance will not be contrary to public interest. Sagamore Ave is a beautiful street with light and traffic coming to / from Rye. Most people in the neighborhood enjoy walking / riding the street and it would be a vast improvement from what has been there for many years for all to enjoy.

Per Section 10.233.22 - The spirit of the Ordinance will be observed. This project is in line with other projects on the street with renovated houses and attached garages as depicted in this proposal.

Per Section 10.233.23 – Substantial Justice will be done. We can create a much more functional outdoor space by removing the existing garage and pulling it

forward to attach to the house providing privacy and safe play area for the girls away from Sagamore Ave. We will not be eliminating any parking since the driveway will still be long enough for three cars and one vehicle can be parked inside the garage (not currently possible)

Per Section 10.233.24 - The values of the surrounding properties will not be diminished. This project will directly impact the value of abutters (261 & 281) and neighbors alike. Both neighbors have already done significant projects similar to this project with renovating and attaching garages, they both support this project.

Per Section 10.233.25 – Literal enforcement of the provisions of the ordinance would result in hardship.

- a. Most of the properties in this neighborhood are on non-conforming lots and staying in line with all setbacks would be very difficult to accomplish our goals without a variance on this project.
- b. The property lines have changed since the abutters have had their survey completed and registered, however, MapGeo has not been updated. While we are using the city resource, it is difficult to see reality of the location of the existing garage and proposed garage.
- c. Not granting this relief would result in a hardship consistent with the surrounding properties.

We encourage the Portsmouth Board of Adjustment to grant the variance to the Scott Residence.

Submitted respectfully,

Amy Dutton
Amy Dutton Home
9 Walker Street
Kittery, Maine 03904
amy@amyduttonhome.com
207-337-2020

PHOTOS OF EXISTING PROPERTY:



FRONT VIEW



RIGHT SIDE VIEW



LEFT SIDE VIEW



BACK VIEW



EXISTING FRONT ELEVATION



EXISTING BACK ELEVATION

© AMY DUTTON HOME
DRAWINGS USED EXPRESSIVELY FOR
DESIGN ONLY FOR NOTED CLIENT. ALL
STRUCTURAL ENGINEERING PROVIDED BY
OTHER.

Building contractor / home owner to review and verify all
dimensions, specs and connections before construction
begins.
ELECTRICAL SYSTEM CODE: IEC 2018
MECHANICAL SYSTEM CODE: IMC 2018
PLUMBING SYSTEM CODE: 2021 Uniform Plumbing Code
NH-IECC 2018
NH-IRC 2018

FINAL CD SET DATE: 07.12.23

EXISTING

| LIVING AREA | |
|--------------|----------|
| MAIN FLOOR | 721 sqft |
| SECOND FLOOR | 638sqft |
| THIRD FLOOR | 0 sqft |
| TOTAL | 1369sqft |
| | |
| GARAGE | 240 sqft |

PROPOSED

| LIVING AREA | |
|--------------|-----------|
| MAIN FLOOR | 1312 sqft |
| SECOND FLOOR | 1176 sqft |
| THIRD FLOOR | 1101 sqft |
| TOTAL | 3589sqft |
| | |
| GARAGE | 448 sqft |

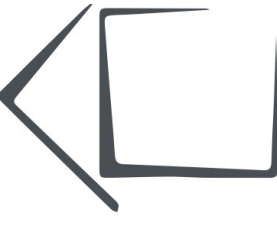
DIM DISCLAIMER

BUILDING CONTRACTOR/HOME OWNER
TO REVIEW AND VERIFY ALL DIMENSIONS,
SPECS, AND CONNECTIONS BEFORE
CONSTRUCTION BEGINS.

OVERVIEW

SCALE: NTS

| Layout Page Table | |
|-------------------|------------------------------|
| Label | Title |
| O-1 | OVERVIEW |
| A-1 | PLOT PLAN |
| A1 | DEMOLITION PLAN |
| A-2 | DEMOLITION PLAN |
| A-3 | RENOVATION PLAN |
| G-1 | GENERAL NOTES |
| G-2 | GENERAL NOTES |
| G-3 | GENERAL NOTES |
| A-4 | FOUNDATION |
| A-5 | FIRST FLOOR |
| A-6 | SECOND FLOOR |
| A-7 | THIRD FLOOR |
| A-8 | ROOFS |
| A-9 | ROOFS |
| A-10 | WINDOW SCHEDULE |
| A-11 | DOOR SCHEDULE |
| A-12 | DOOR SCHEDULE |
| A-13 | ELEVATIONS |
| A-14 | ELEVATIONS |
| A-15 | ELEVATIONS |
| A-16 | ELEVATIONS |
| A-17 | ELEVATIONS |
| A-18 | SECTION |
| A-19 | SECTION |
| A-20 | SECTION |
| A-21 | SECTION |
| F-1 | FRAMING |
| F-2 | FRAMING OVERVIEW |
| D-1 | DETAILS |
| E-1 | ELECTRICAL |
| P-1 | PLUMBING |
| C-1 | KITCHEN CABINETS |
| C-2 | BATH CABINETS |
| C-3 | CABINETS |
| C-4 | COUNTERTOP & TILE PLAN |
| C-5 | COUNTERTOP & TILE QUANTITIES |
| C-6 | CABINET SCHEDULE |
| L-1 | LANDSCAPE PLAN |
| FP-1 | FURNITURE PLAN |
| FP-2 | FURNITURE SCHEDULE |



| Revision Table | | |
|----------------|------|-------------|
| Number | Date | Description |
| | | |
| | | |

OVERVIEW

CLIENT:
SCOTT RESIDENCE
271 SAGAMORE AVE.
PORTSMOUTH, NH.

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.937.2020

DATE:
7/14/2023

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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
0-1

CALCULATIONS

ZONING MAXIMUMS: GRA

front setback: 15'
 rear setback: 20'
 side setbacks: 10'
 lot coverage: 25%

EXISTING CONDITIONS:

LOT SIZE: .16 AC
 FRONT/REAR HEIGHT:
 29' EXISTING RIDGE HT FROM FRONT GRADE
 29' EXISTING RIDGE HT FROM BACK GRADE
 LIVABLE SF: 1359 SF
 FIRST FLOOR 721 SF
 SECOND FLOOR 638
 ATTIC 0 SF
 BASEMENT 0 SF
 PORCH - FRONT 0 SF

GROSS SF: 3080 SF
 FIRST FLOOR 721 SF
 SECOND FLOOR 638 SF
 ATTIC 638 SF
 BASEMENT 703 SF
 PORCH - FRONT 120 SF
 PORCH - BACK 20 SF
 GARAGE 240 SF

AREA OF FOOTPRINT: 1101 SF

EXISTING SETBACKS:
 FRONT: 27'
 REAR: 55'
 LEFT: 13'
 RIGHT: 21'
 EXISTING LOT COVERAGE: 16%
 EXISTING PARCEL AREA: 6,969.6 SF

PROPOSED CONDITIONS:

FRONT/REAR HEIGHT:
 29.3' PROPOSED RIDGE HT FROM FRONT GRADE
 28.7' PROPOSED RIDGE HT FROM BACK GRADE
 LIVABLE SF: 4040 SF
 FIRST FLOOR 1312 SF
 SECOND FLOOR 1176 SF
 ATTIC 1101 SF
 BASEMENT 0 SF
 DECK 0 SF
 ROOM OVER GARAGE 451 SF

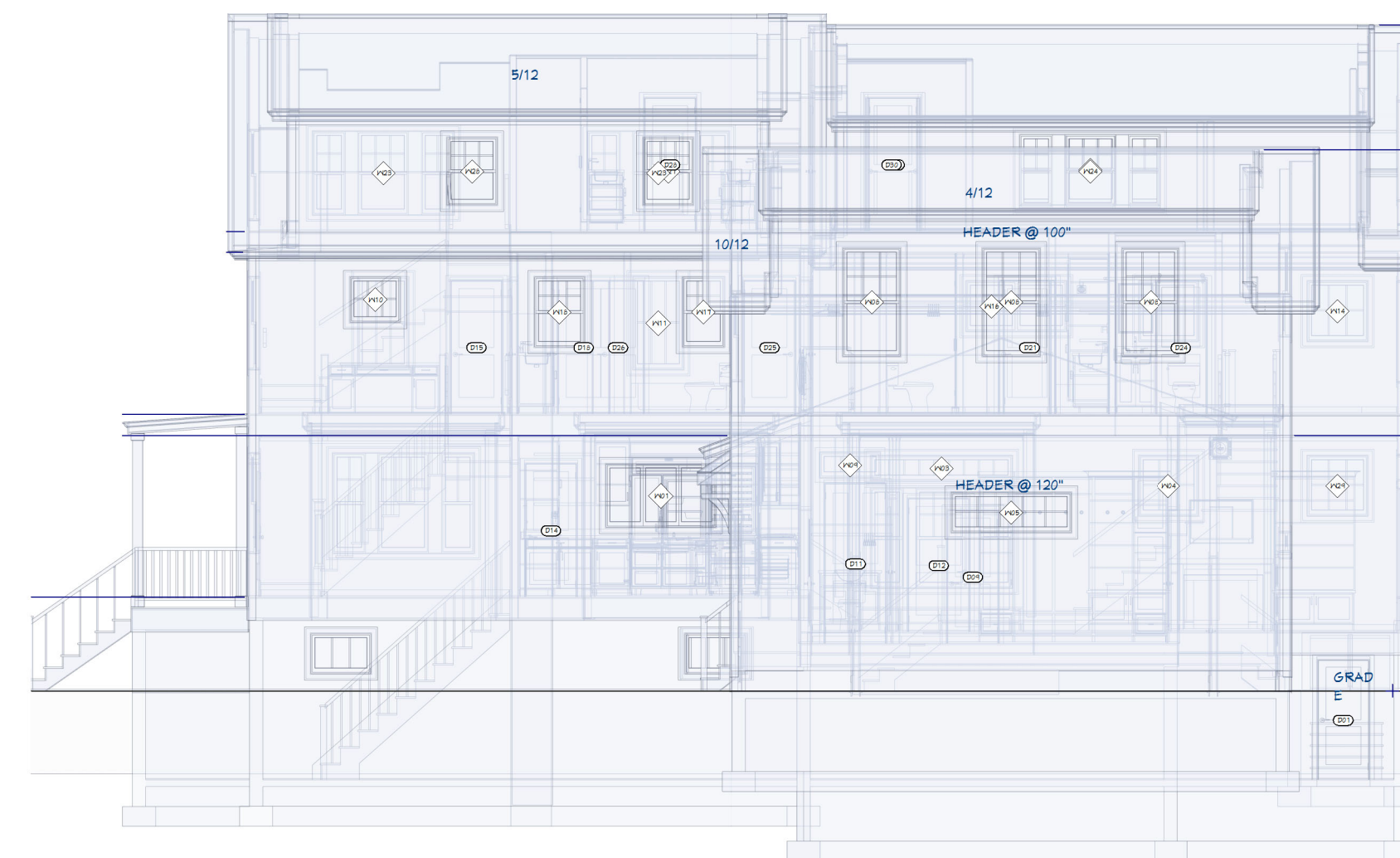
GROSS SF: 5851 SF
 FIRST FLOOR 1312 SF
 SECOND FLOOR 1176 SF
 ATTIC 1101 SF
 BASEMENT 1176 SF
 PORCH - FRONT 120 SF
 PORCH - BACK 70 SF
 ROOM OVER GARAGE 448 SF
 GARAGE 448 SF

AREA OF FOOTPRINT: 1953 SF

PROPOSED SETBACKS:
 FRONT: 27'
 REAR: 25'
 LEFT: 13'
 RIGHT: 9'
 PROPOSED LOT COVERAGE: 28%
 EXISTING PARCEL AREA: 6,969.6 SF



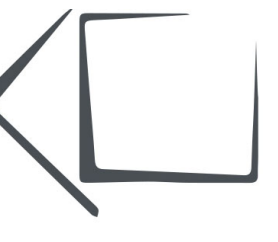
CITY OF PORTSMOUTH - MAP GEO GIS



GLASS HOUSE ELEVATION FROM EAST

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

NOTES:
 SLOPE FINISH GRADE AWAY FROM THE HOUSE @ 5% FOR 10' MIN
 LEAVE NATURAL DRAINAGE UNDISTURBED



| Revision Table | |
|----------------|-------------|
| Number | Description |
| | |
| | |
| | |

PLOT PLAN

CLIENT:
 SCOTT RESIDENCE
 271 SAGAMORE AVE.
 PORTSMOUTH, NH.

CONTACT:
 AMY DUTTON HOME
 9 WALKER STREET | KITTERY, ME
 amy@amyduttonhome.com
 207.937.2020

DATE:
 7/14/2023

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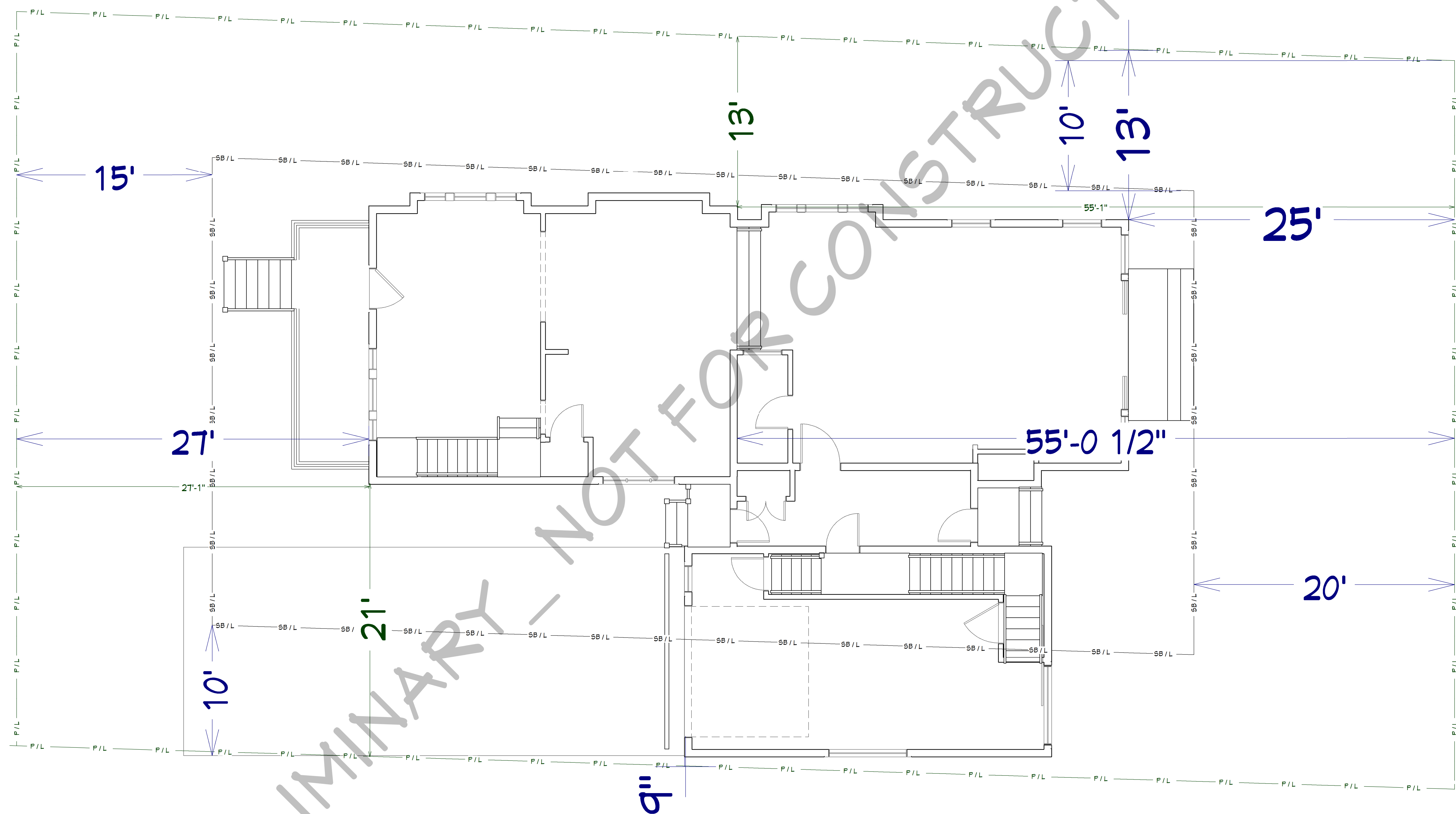
SCALED FOR:
 24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

SHEET:

A-1



SITE PLAN

1" = 10'-0"
 INFORMATION PROVIDED BY FORTSMOUTH MAP GEO / GIS

| Revision Table | | |
|----------------|------|-------------|
| Number | Date | Description |
| | | |
| | | |
| | | |

SITE PLAN

CLIENT:
 SCOTT RESIDENCE
 271 SAGAMORE AVE.
 FORTSMOUTH, NH.

CONTACT:
 AMY DUTTON HOME
 9 WALKER STREET | KITTERY, ME
 amy@amyduttonhome.com
 207.937.2020

DATE:
 7/14/2023

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SCALED FOR:
 24" X 36"

SCALE:
 SEE SCALE ON DRAWINGS

SHEET:

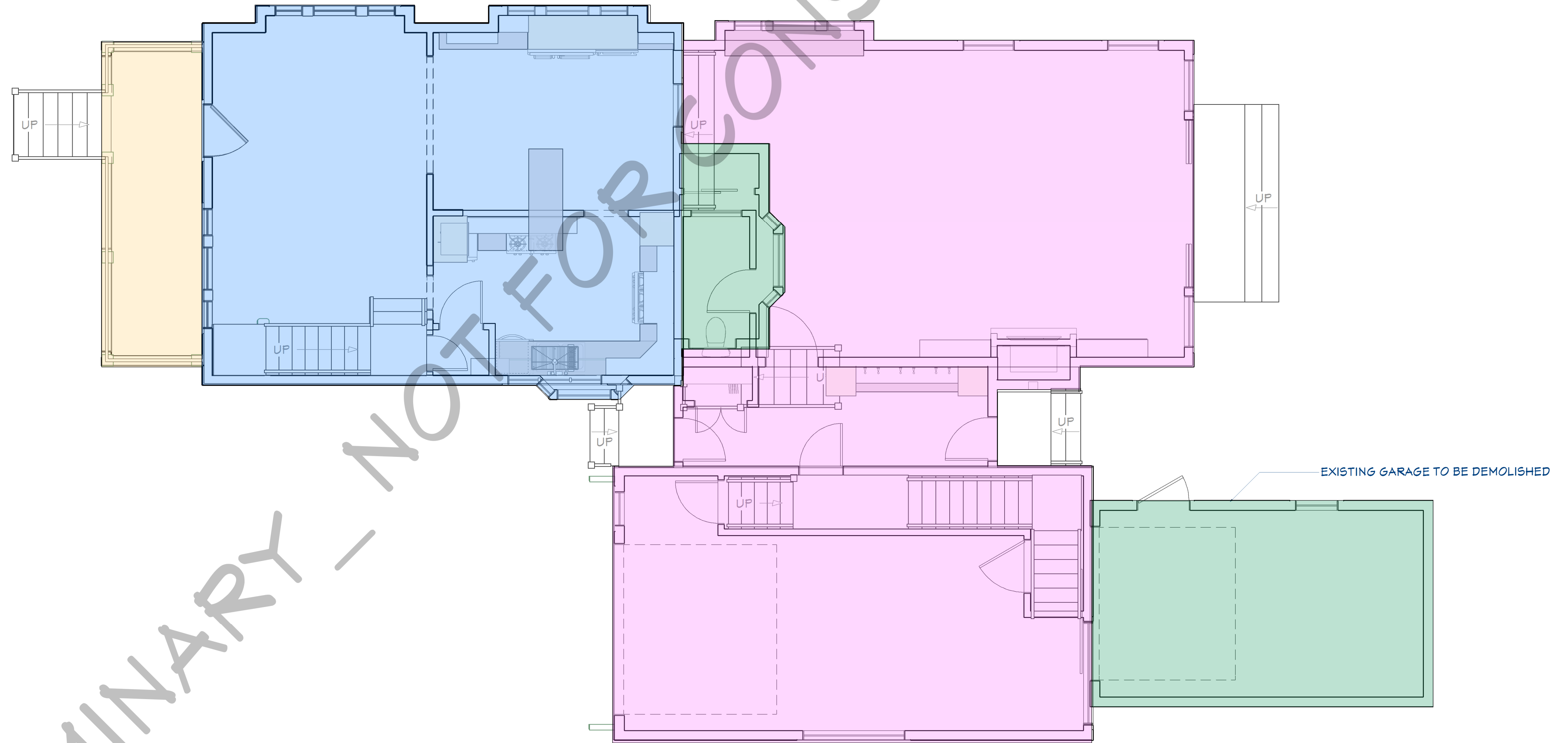
DEMOLITION NOTES

GENERAL NOTES

1. PROVIDE SELECTIVE DEMOLITION TO REMOVE EX. FLOOR, WALLS, CEILING, WINDOWS AND ROOF SYSTEMS IDENTIFIED. CONFIRM EXACT LOCATION W/ DESIGNER AND CIVIL ENGINEER PRIOR TO SELECTIVE DEMOLITION COMMENCEMENT. CONSULT WITH DESIGN PROFESSIONAL FOR ALL REQUIRED TEMPORARY SHORING AND SUPPORTS.
2. CUT EXISTING FOUNDATION TO LOCATION IDENTIFIED AND PREPARE FOR NEW FOUNDATION WALL.
3. EXISTING FOUNDATION WALL TO BE CUT AND REMAIN IN PLACE. REMOVE SILL PLATES OR OTHER LUMBER AND CUT BACK ANCHOR BOLTS TO TOP OF WALL. FILL VOID WITH SAND AND/ OR SOILS CONSISTENT WITH SURROUNDING MATERIALS.

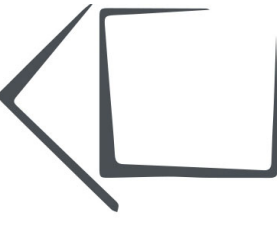
GAD BLOCK GUIDE

- EXISTING FOOTPRINT
- PROPOSED ADDITION
- EXISTING DECK
- EXISTING TO BE REMOVED



RENOVATION PLAN FIRST FLOOR

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



| Revision Table | | |
|----------------|------|-------------|
| Number | Date | Description |
| | | |
| | | |
| | | |

RENOVATION PLAN

CLIENT:
SCOTT RESIDENCE
 271 SAGAMORE AVE.
 FORTSMOUTH, NH.

CONTACT:
 AMY DUTTON HOME
 9 WALKER STREET | KITTERY, ME
 amy@amyduttonhome.com
 207.937.2020

DATE:
 7/14/2023

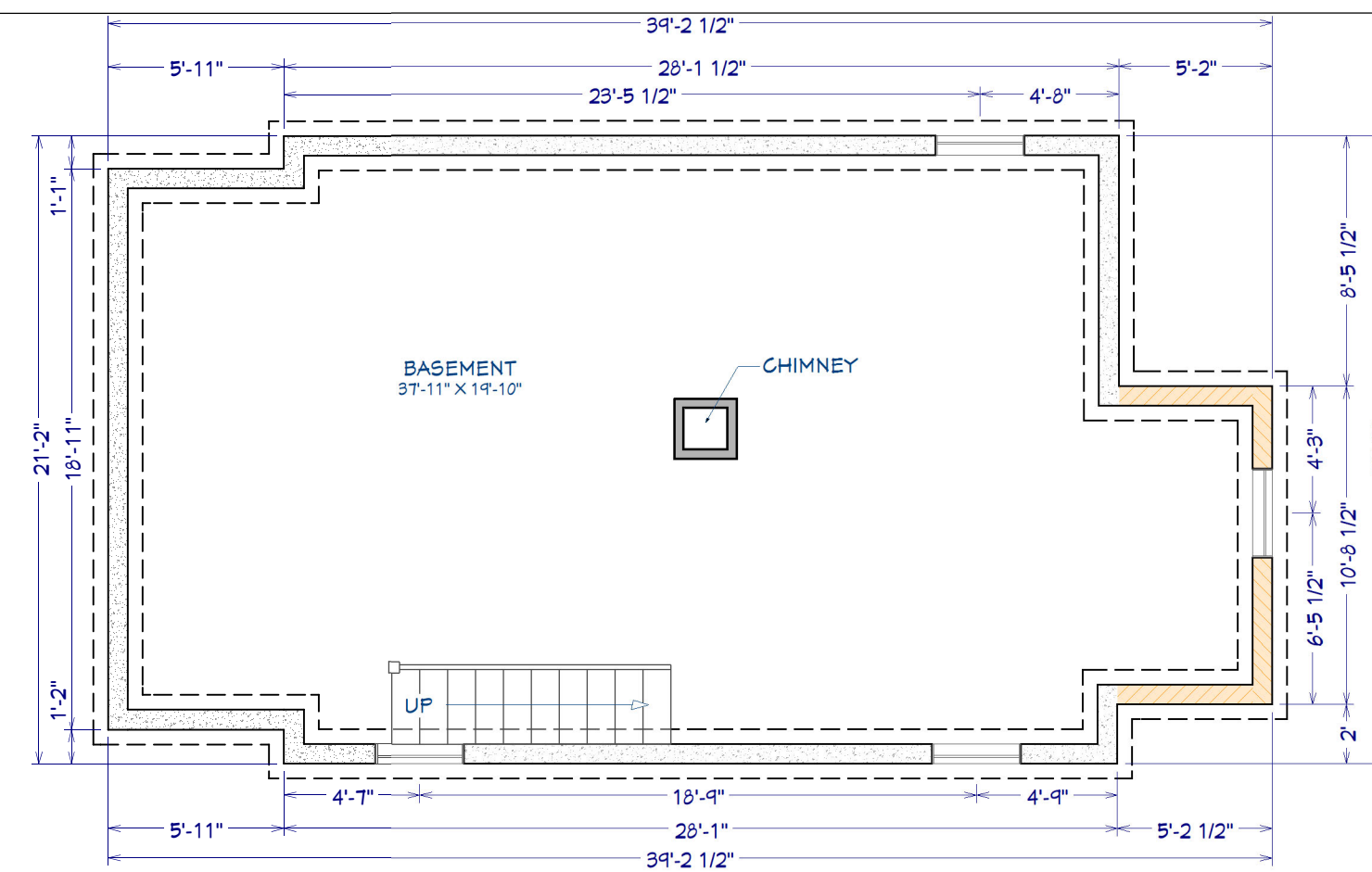
COPYRIGHT © ABRIGO HOME 2022

SCALED FOR:
 24" X 36"

SCALE:
 SEE SCALE ON DRAWINGS

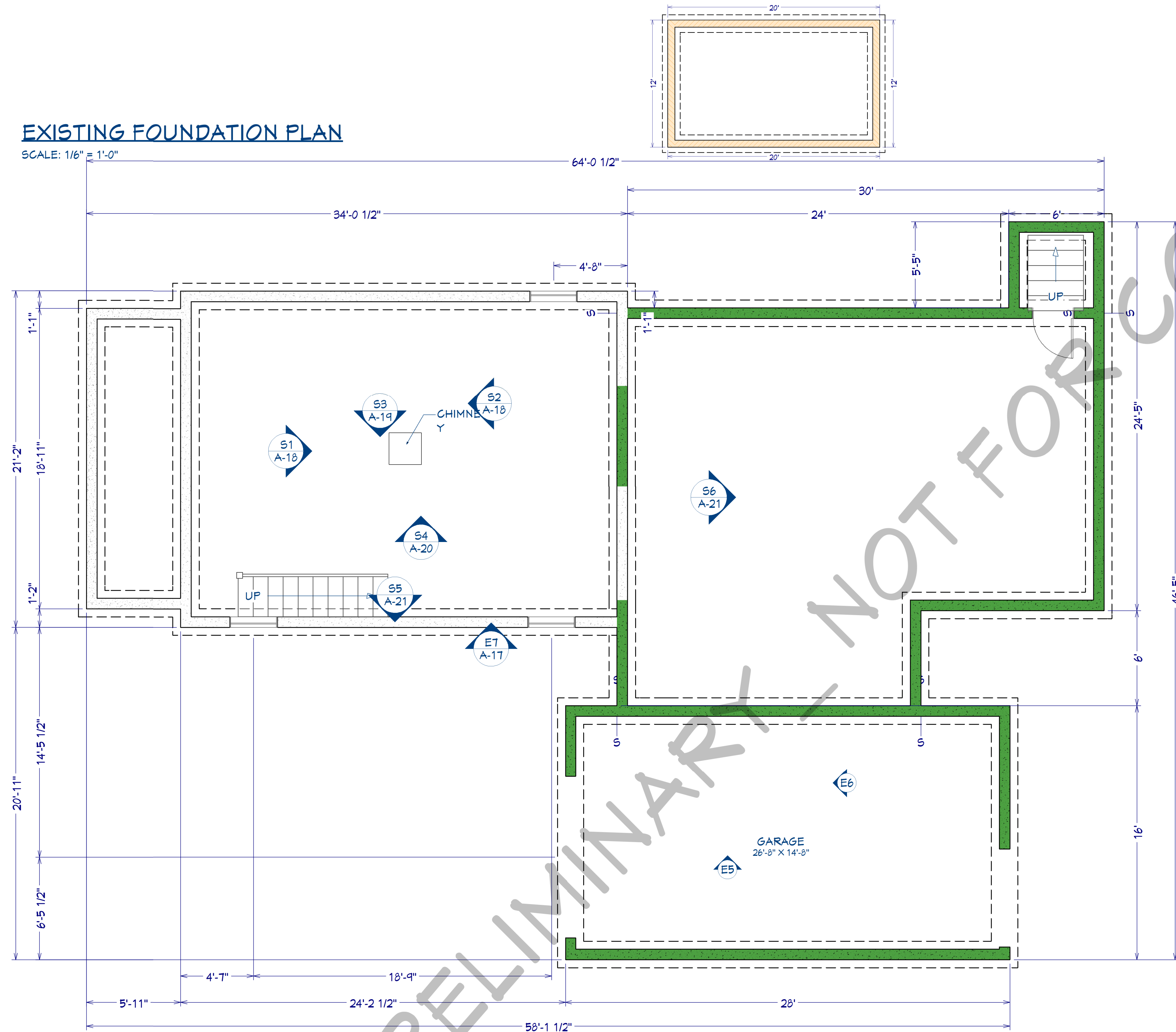
SHEET:

A-3



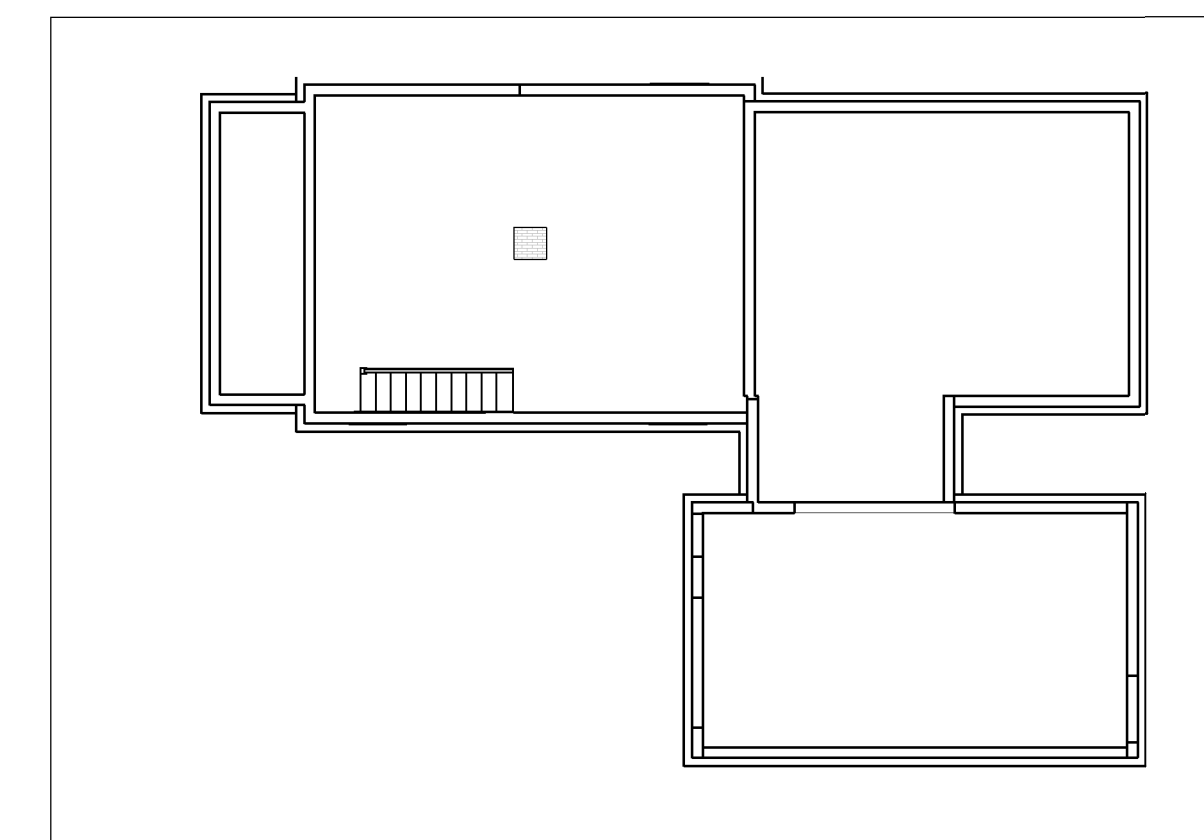
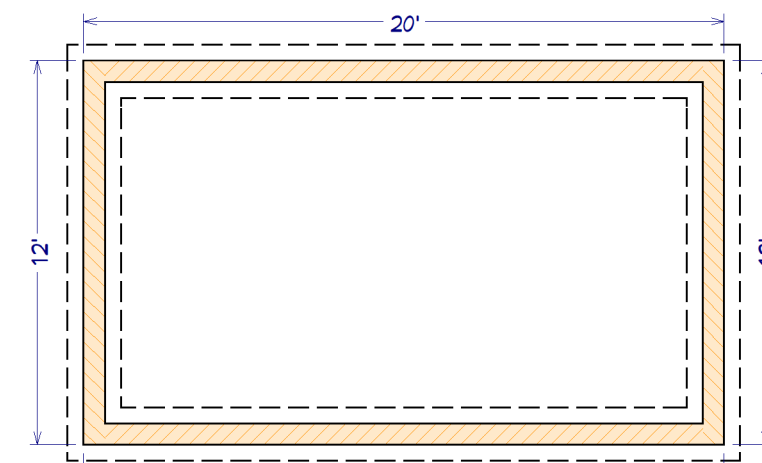
EXISTING FOUNDATION PLAN

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



PROPOSED FOUNDATION PLAN

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

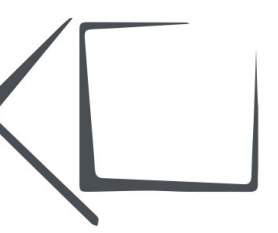


PERSPECTIVE VIEW

SCALE: NTS

WALL LEGEND

- = EXTERIOR WALL
- = INTERIOR 6
- = INTERIOR 4
- = NEW WALL
- = NEW FOUNDATION WALL
- = DEMO WALL
- = GLASS TOP TILE BOTTOM PONY WALL
- = GLASS SHOWER WALL



| Revision Table | | |
|----------------|------|-------------|
| Number | Date | Description |
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FOUNDATION

CLIENT:
SCOTT RESIDENCE
271 SAGAMORE AVE.
PORTSMOUTH, NH.

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.937.2020

DATE:

7/14/2023

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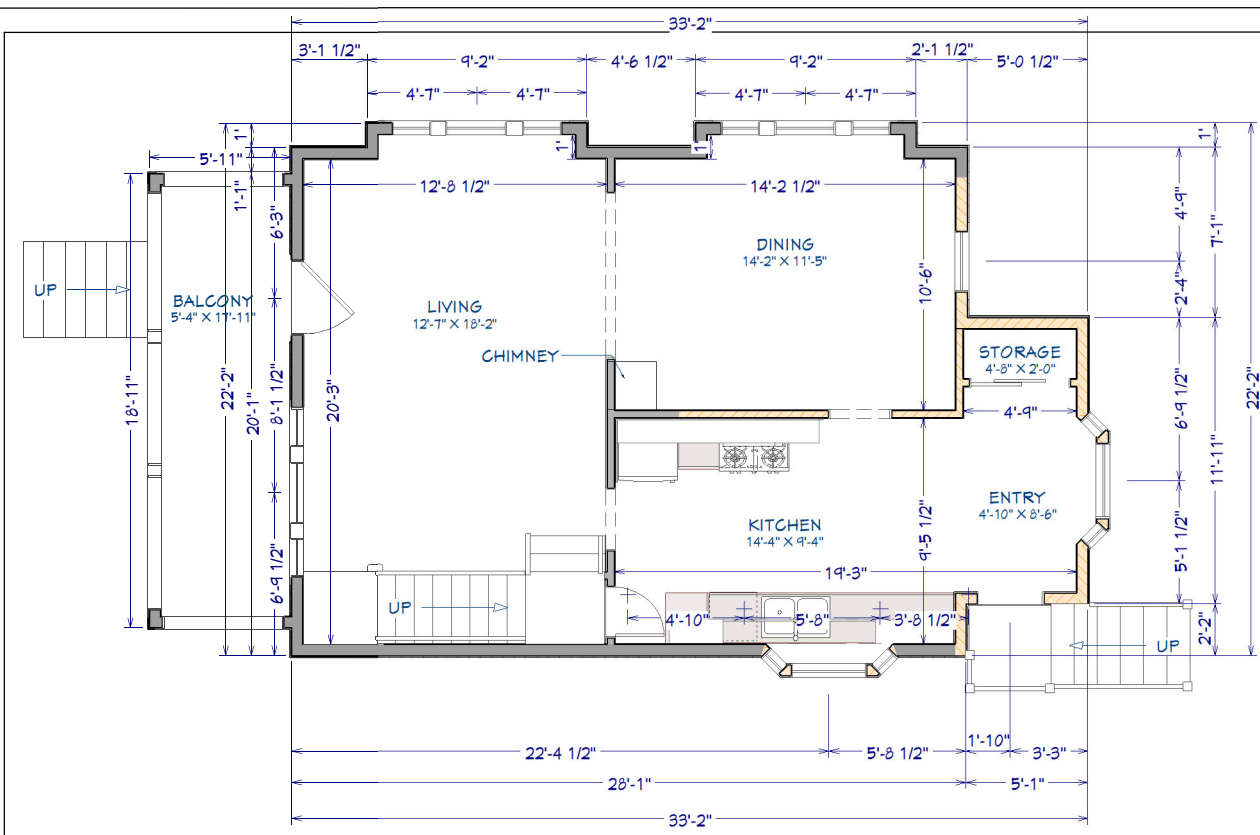
SCALED FOR: 24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

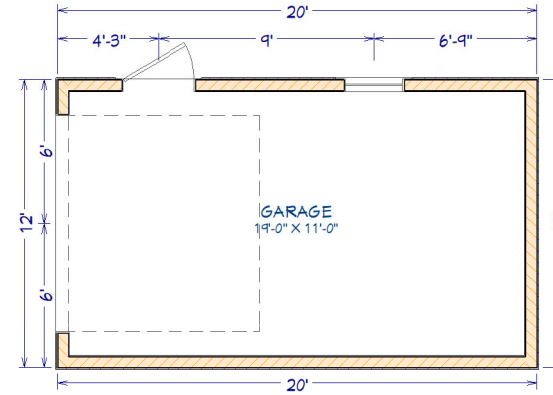
SHEET:

A-4

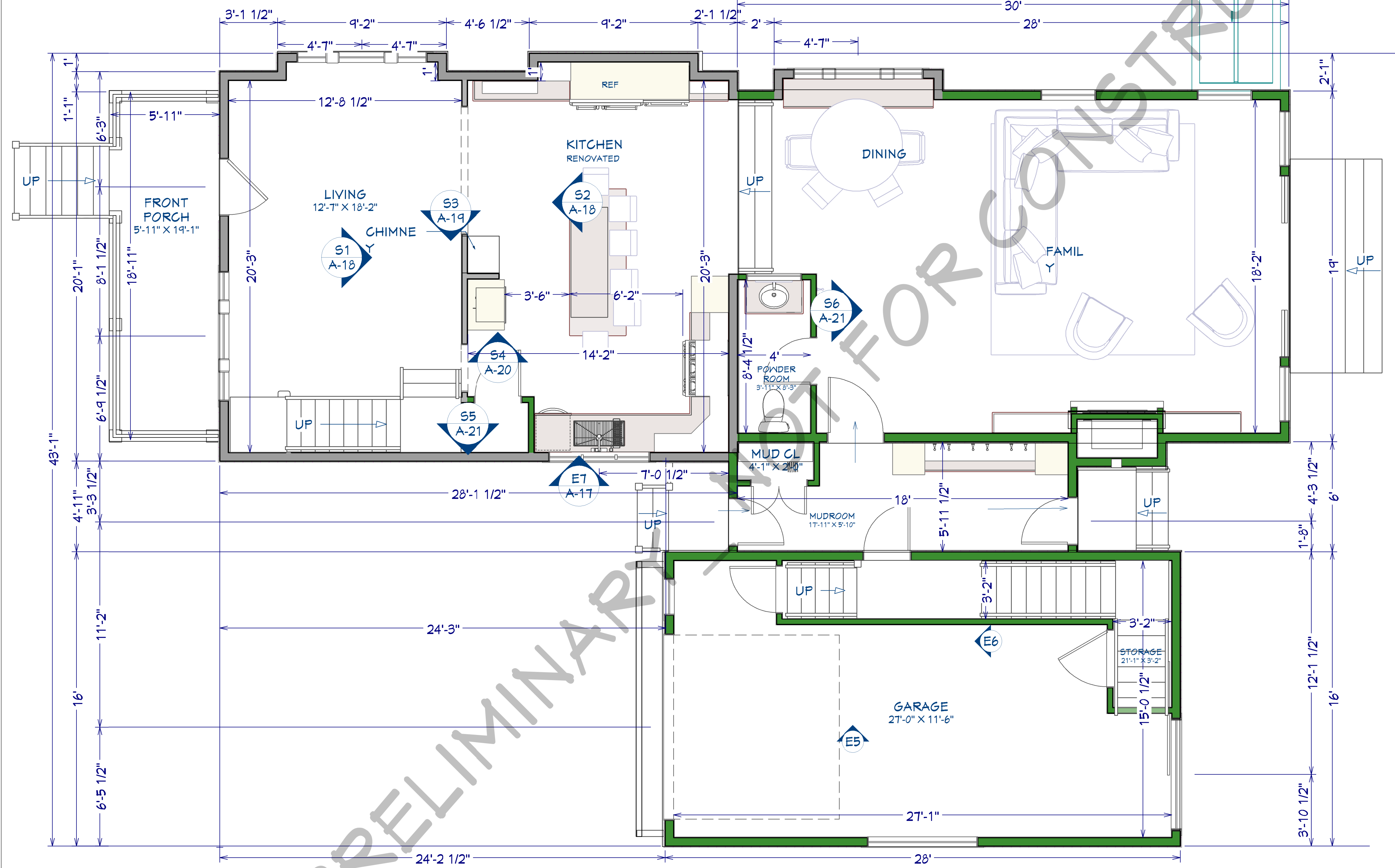


EXISTING FIRST FLOOR PLAN

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

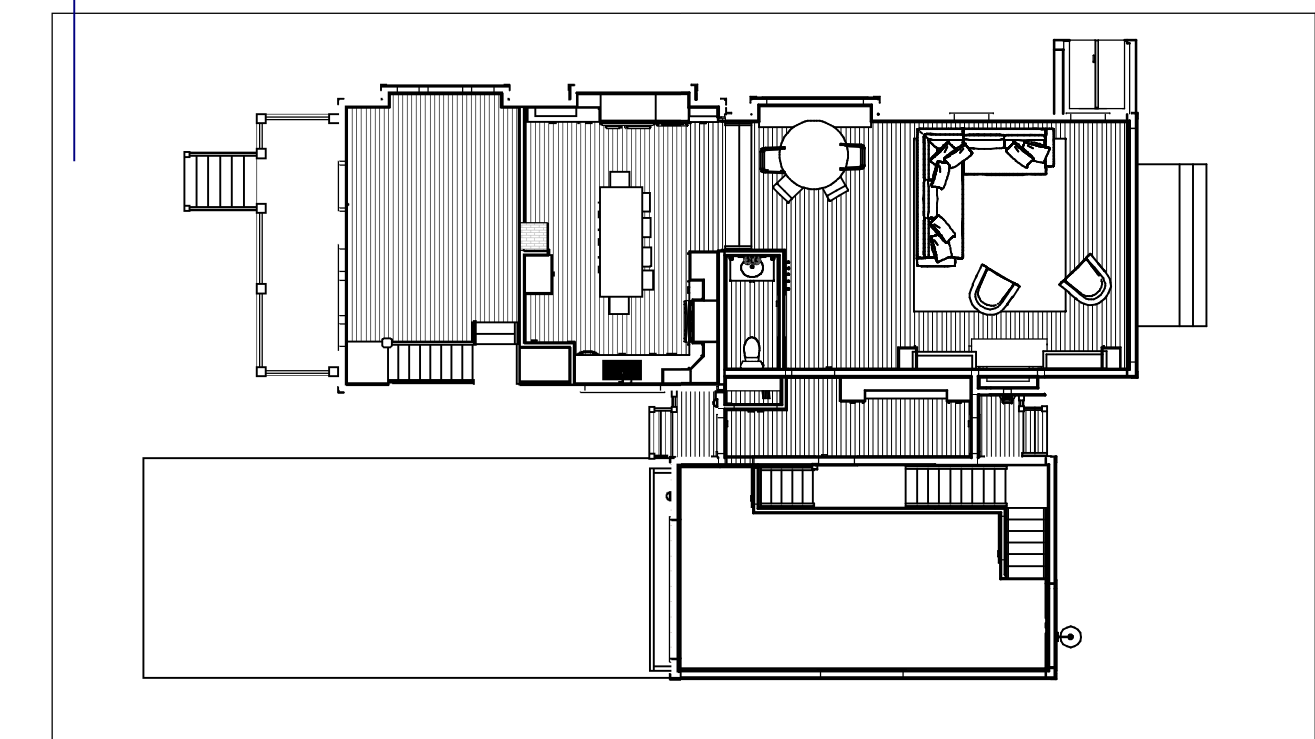


MOVE BULKHEAD TO OLDER PART OF HOUSE IF CRAWL



PROPOSED FIRST FLOOR PLAN

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

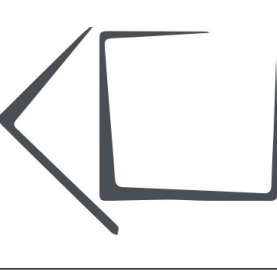


PERSPECTIVE VIEW

SCALE: NTS

WALL LEGEND

- = EXTERIOR WALL
- = INTERIOR 6
- = INTERIOR 4
- = NEW WALL
- = NEW FOUNDATION WALL
- = DEMO WALL
- = GLASS TOP TILE BOTTOM PONY WALL
- = GLASS SHOWER WALL



| Number | Date | Revision Table | Description |
|--------|------|----------------|-------------|
| | | | |
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FIRST FLOOR

CLIENT:
SCOTT RESIDENCE
271 SAGAMORE AVE.
PORTSMOUTH, NH.

CONTACT:
AMY DUTTON HOME
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amy@amyduttonhome.com
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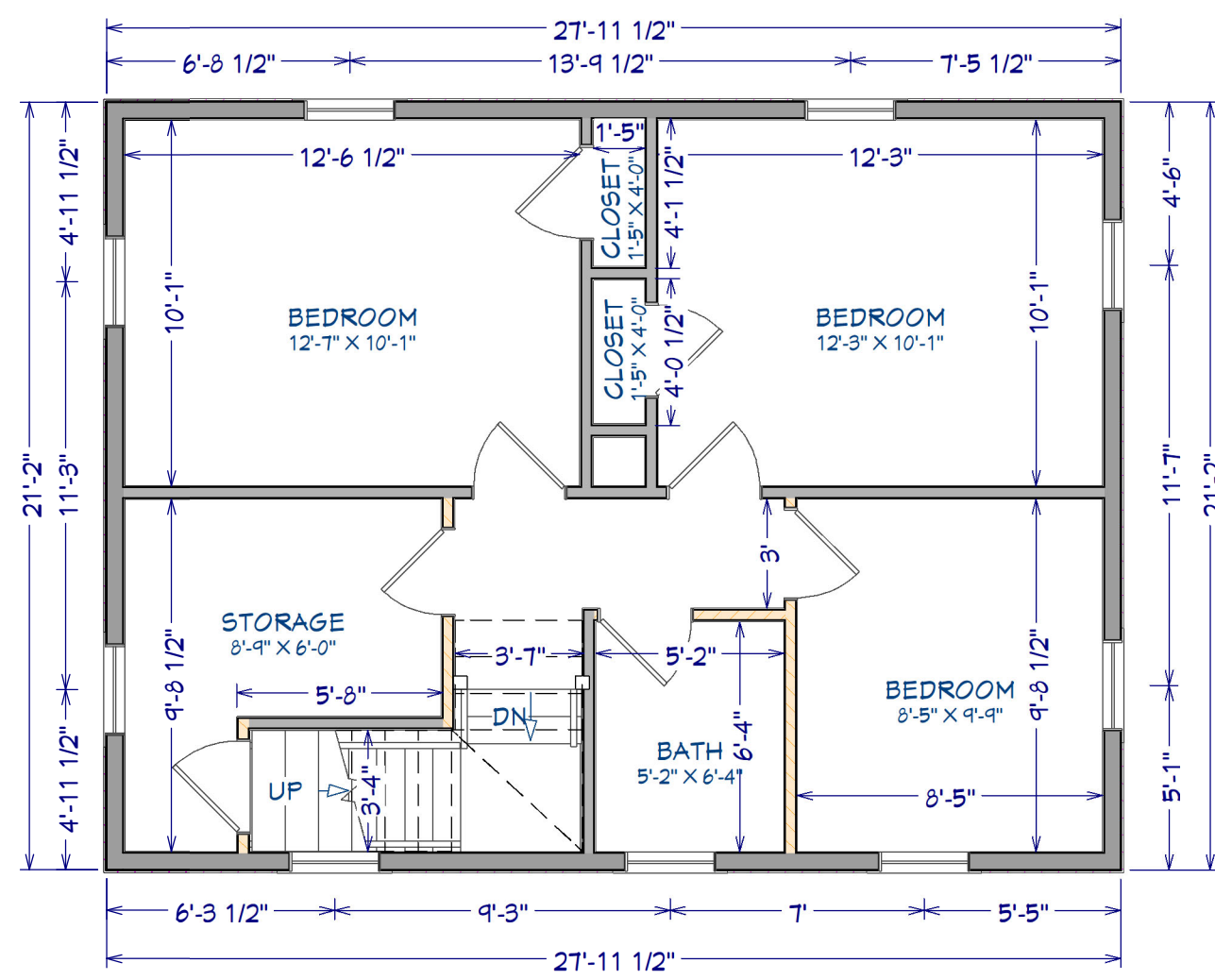
DATE:
7/14/2023

SCALE FOR:
24" X 36"

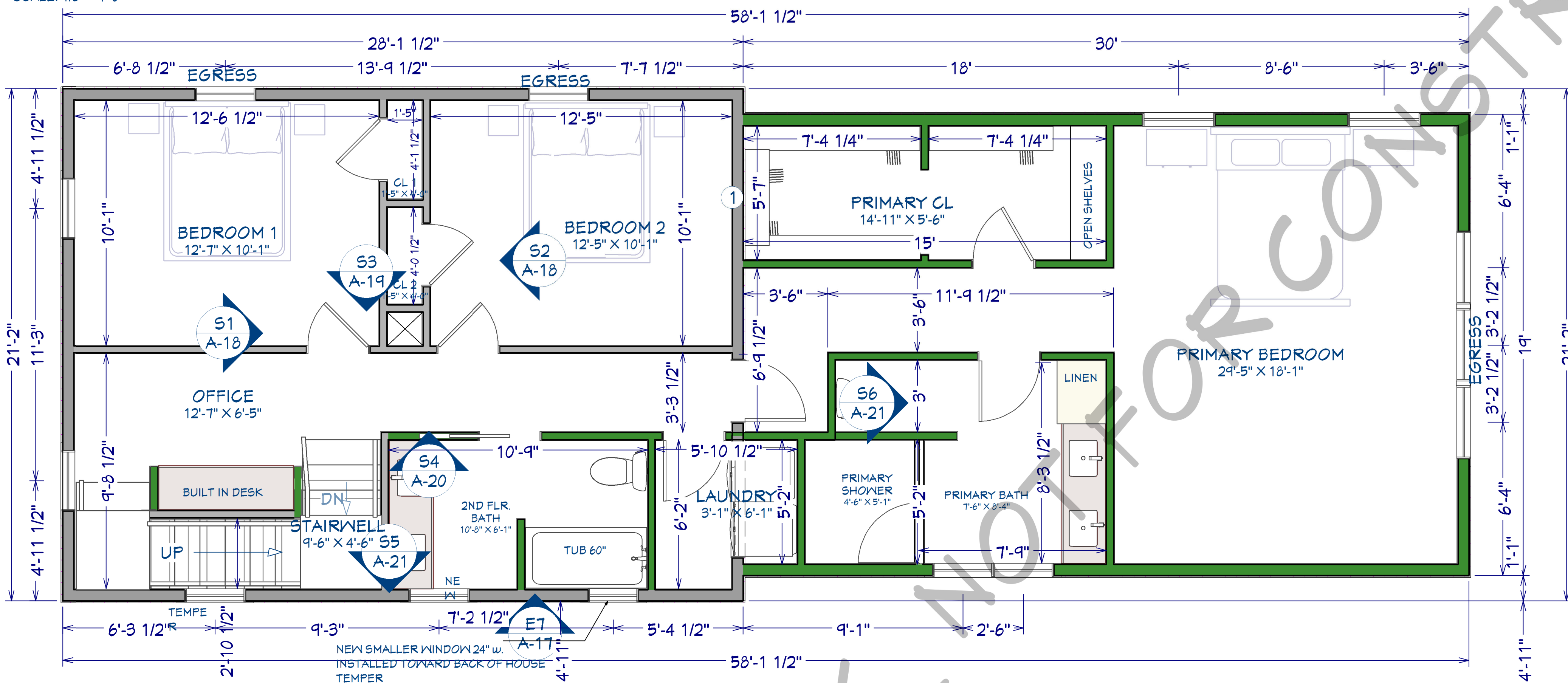
SCALE:
SEE SCALE ON DRAWINGS

SHEET:

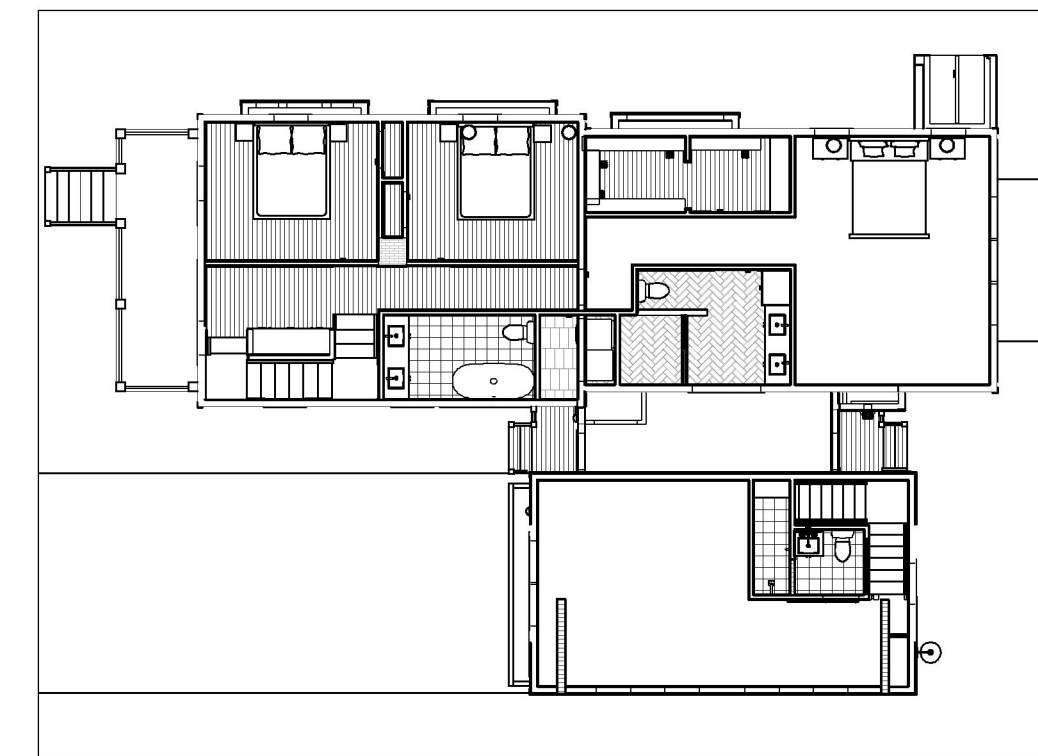
A-5



EXISTING SECOND FLOOR PLAN
SCALE: 1/5" = 1'-0"



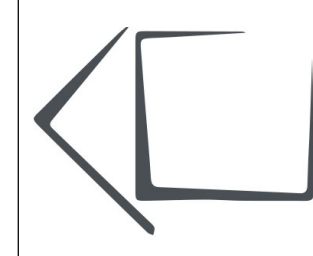
PROPOSED SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"



PERSPECTIVE VIEW
SCALE: NTS

WALL LEGEND

- = EXTERIOR WALL
- = INTERIOR 6
- = INTERIOR 4
- = NEW WALL
- = NEW FOUNDATION WALL
- = DEMO WALL
- = GLASS TOP TILE BOTTOM PONY WALL
- = GLASS SHOWER WALL



| Number | Date | Revision Table Description |
|--------|------|----------------------------|
| | | |
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SECOND FLOOR

CLIENT:
SCOTT RESIDENCE
271 SAGAMORE AVE.
PORTSMOUTH, NH.

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.937.2020

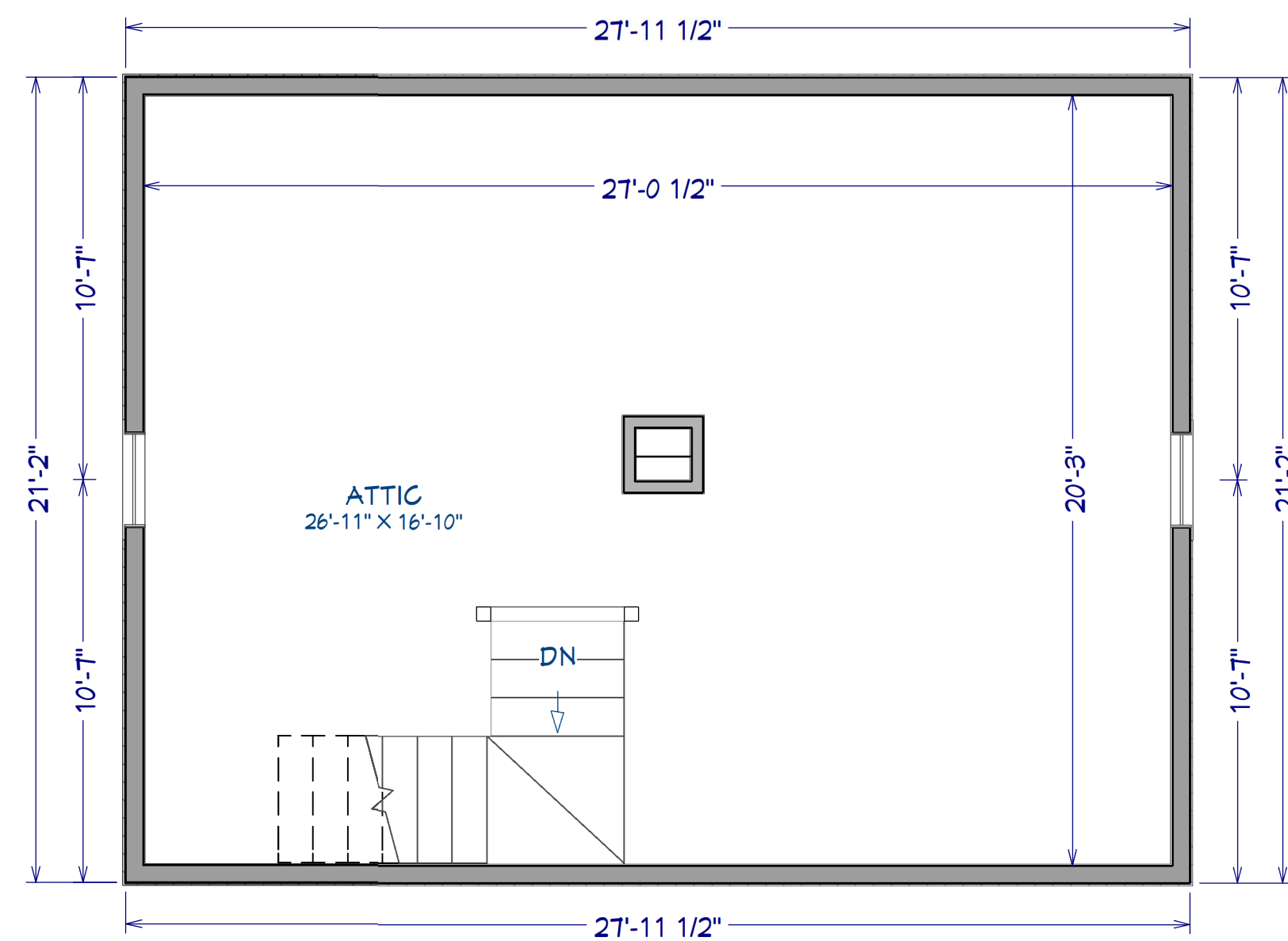
DATE:
7/14/2023

SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

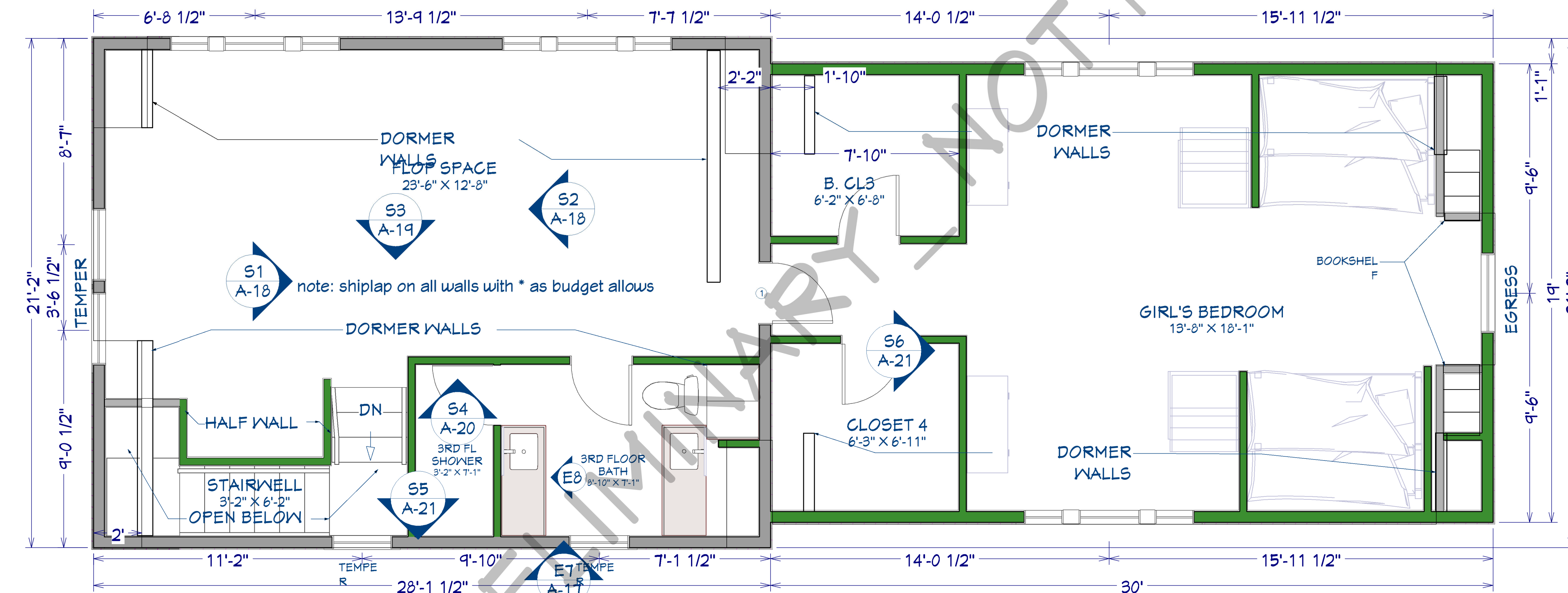
SHEET:

A-6



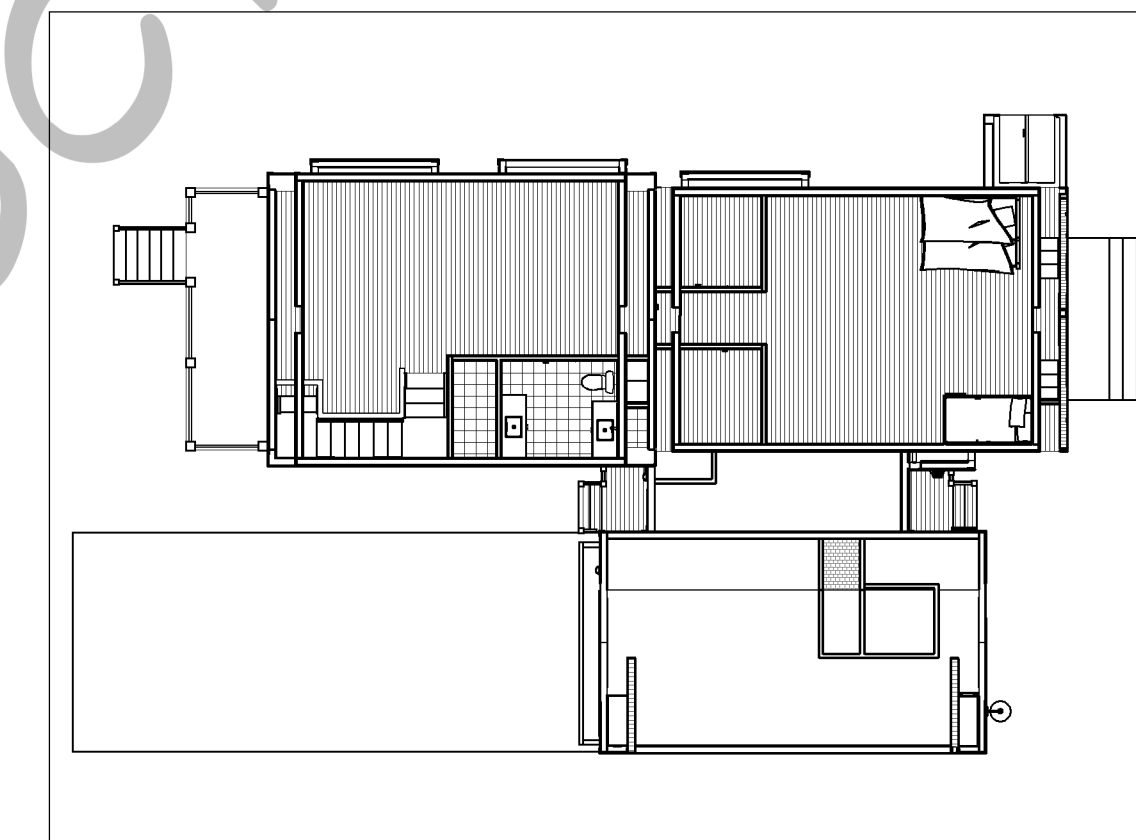
EXISTING THIRD FLOOR PLAN

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



PROPOSED THIRD FLOOR PLAN

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

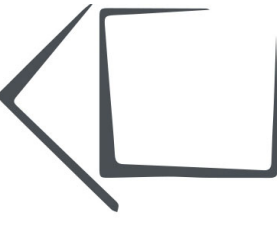


PERSPECTIVE VIEW

SCALE: NTS

WALL LEGEND

- = EXTERIOR WALL
- = INTERIOR 6
- = INTERIOR 4
- = NEW WALL
- = NEW FOUNDATION WALL
- = DEMO WALL
- = GLASS TOP TILE BOTTOM PONY WALL
- = GLASS SHOWER WALL



| Number | Date | Revision Table | Description |
|--------|------|----------------|-------------|
| | | | |
| | | | |

THIRD FLOOR

CLIENT:
SCOTT RESIDENCE
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 FORTSMOUTH, NH.

CONTACT:
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 amy@amyduttonhome.com
 207.937.2020

DATE:
 7/14/2023

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SCALED FOR:
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SCALE:
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SHEET:

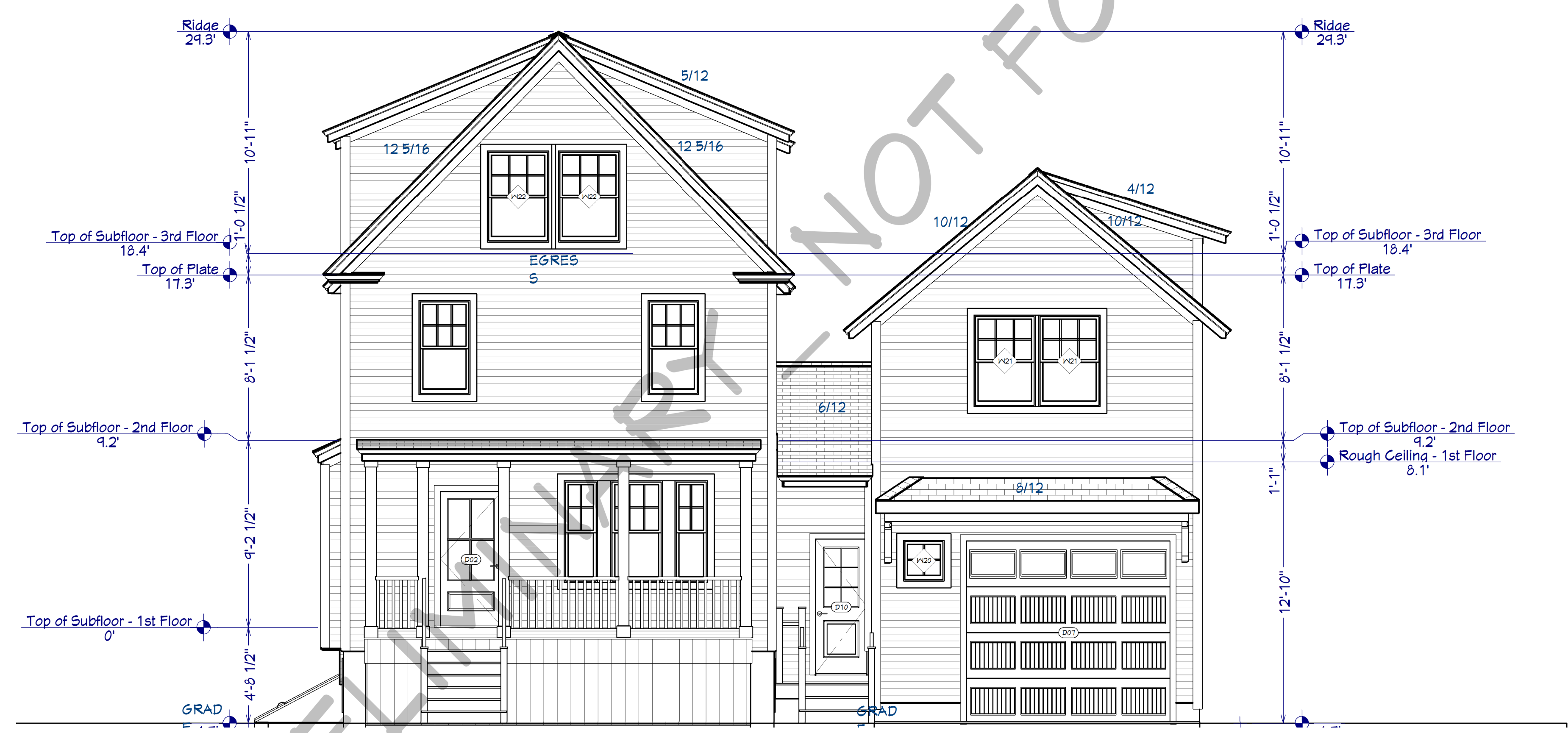
A-7



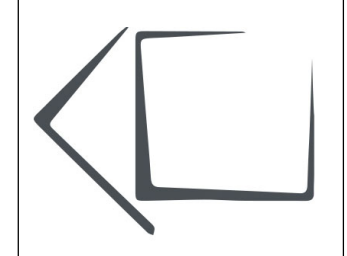
EXISTING NORTH ELEVATION | FRONT VIEW
SCALE: 1/4" = 1'-0"



EXISTING FRONT PHOTO



PROPOSED NORTH ELEVATION | FRONT VIEW
SCALE: 1/4" = 1'-0"



| Revision Table | |
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| Number | Date |
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ELEVATIONS

CLIENT:
SCOTT RESIDENCE
271 SAGAMORE AVE.
PORTSMOUTH, NH.

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.937.2020

DATE:
7/14/2023

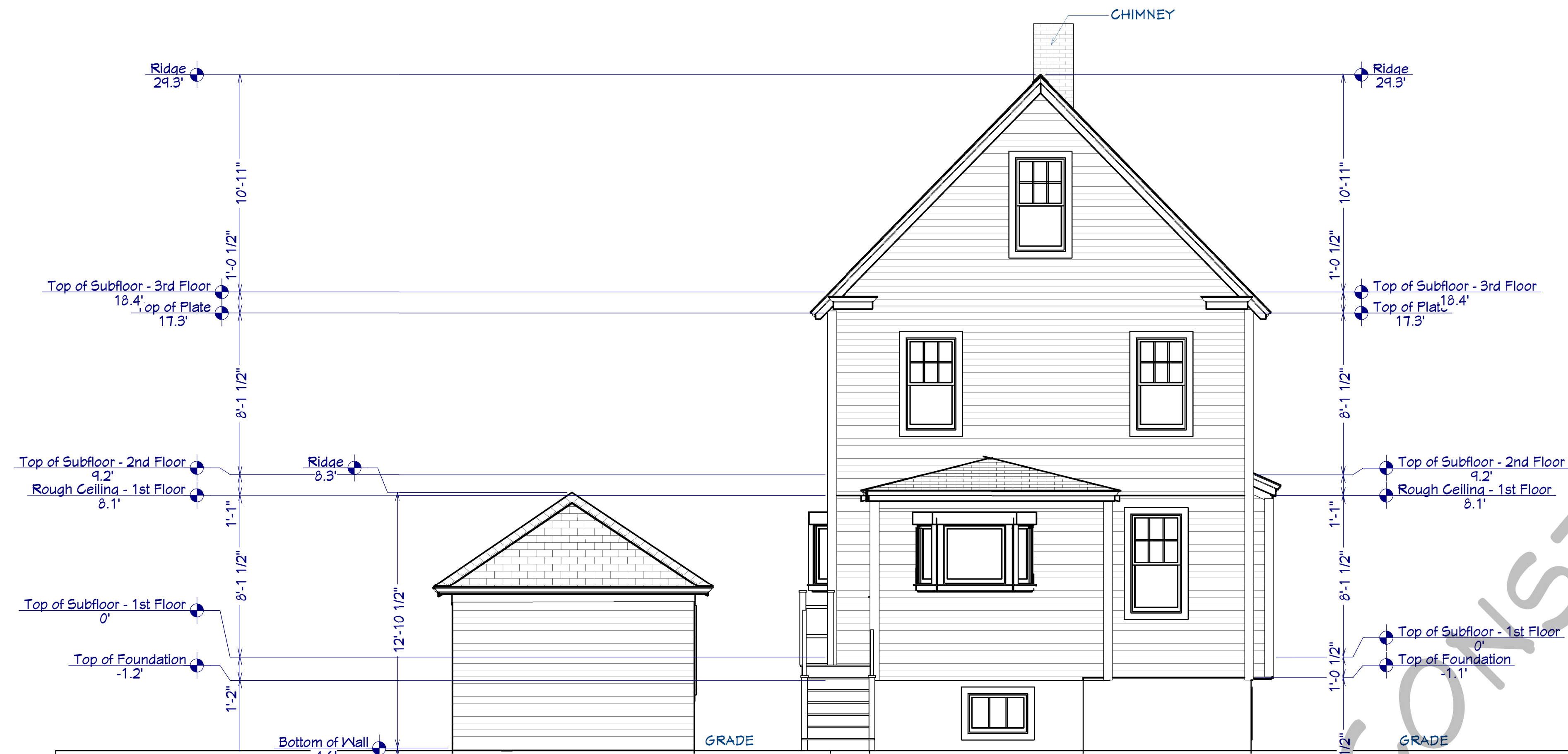
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SCALED FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:

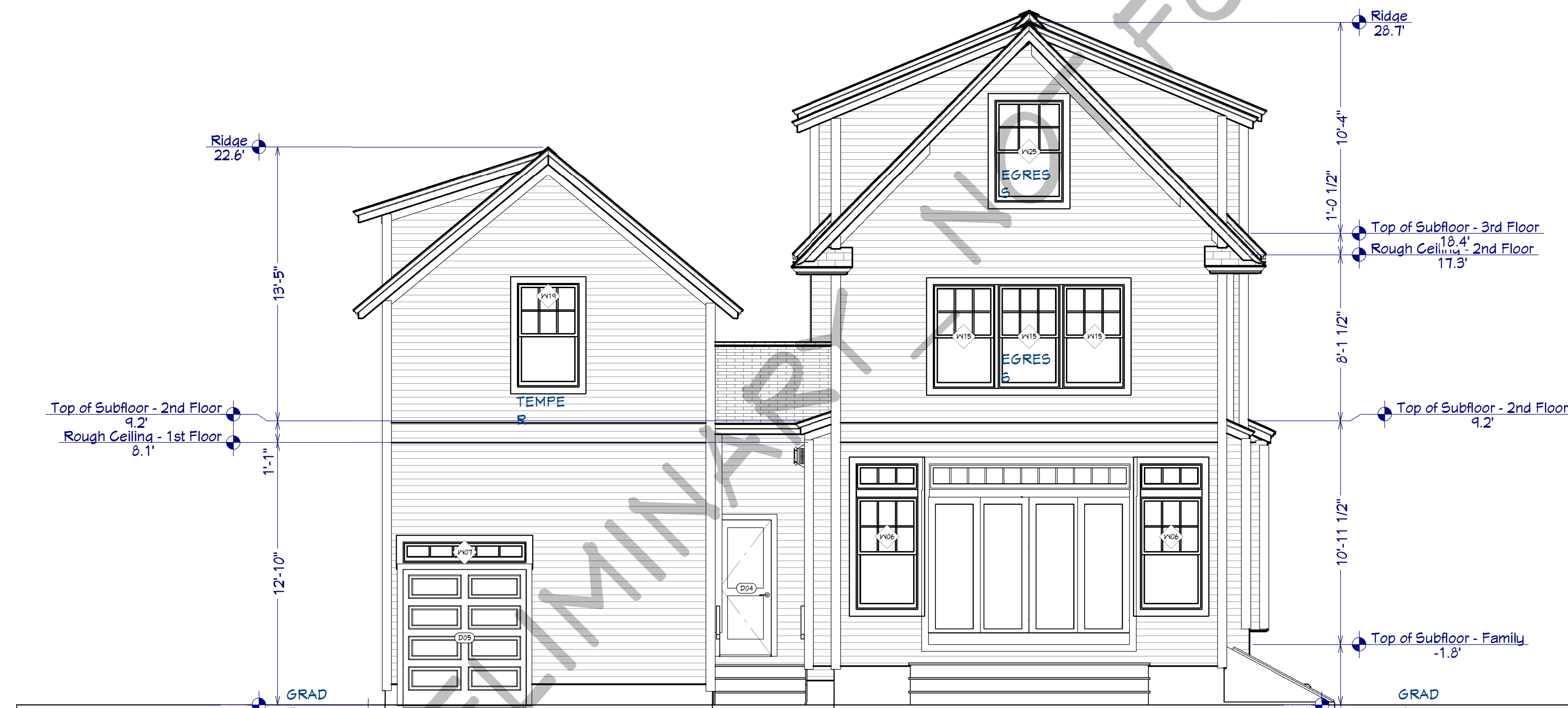
A-13



EXISTING SOUTH ELEVATION | REAR VIEW
SCALE: 1/4" = 1'-0"



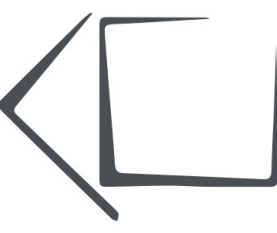
EXISTING BACK PHOTO



PROPOSED SOUTH ELEVATION | REAR VIEW
SCALE: 1/4" = 1'-0"



EXISTING BACK GARAGE PHOTO



| Revision Table | |
|----------------|------|
| Number | Date |
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ELEVATIONS

CLIENT:
SCOTT RESIDENCE
271 SAGAMORE AVE.
PORTSMOUTH, NH.

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.937.2020

DATE:
7/14/2023

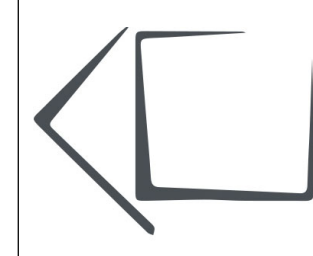
SCALE FOR:
24" X 36"

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-14

SCALE:
SEE SCALE ON DRAWINGS

SHEET:
A-14



| Revision Table | |
|----------------|-------------|
| Number | Description |
| | |
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| | |

ELEVATIONS

CLIENT:
SCOTT RESIDENCE
 271 SAGAMORE AVE.
 FORTSMOUTH, NH.

CONTACT:
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 9 WALKER STREET | KITTERY, ME
 amy@amyduttonhome.com
 207.937.2020

DATE:
 7/14/2023

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SCALED FOR:
 24" X 36"

SCALE:

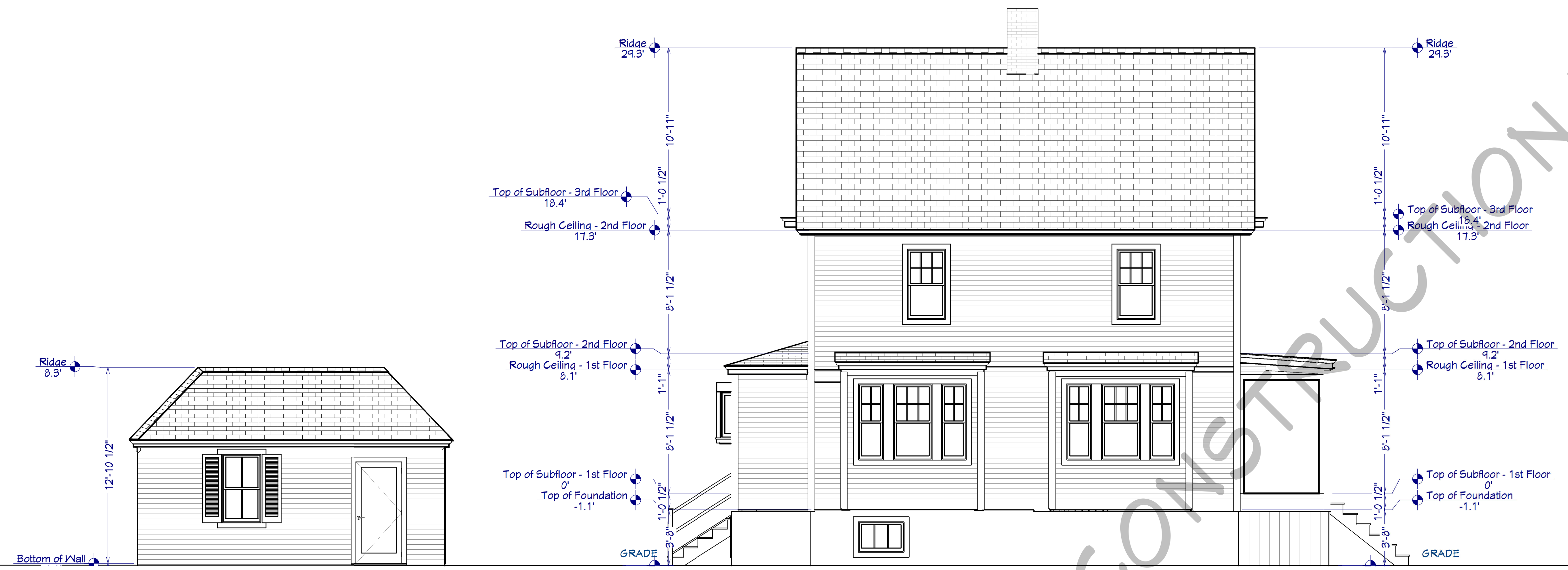
SEE SCALE ON DRAWINGS

SHEET:

A-15



EXISTING LEFT SIDE PHOTOS



EXISTING EAST ELEVATION | SIDE VIEW

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

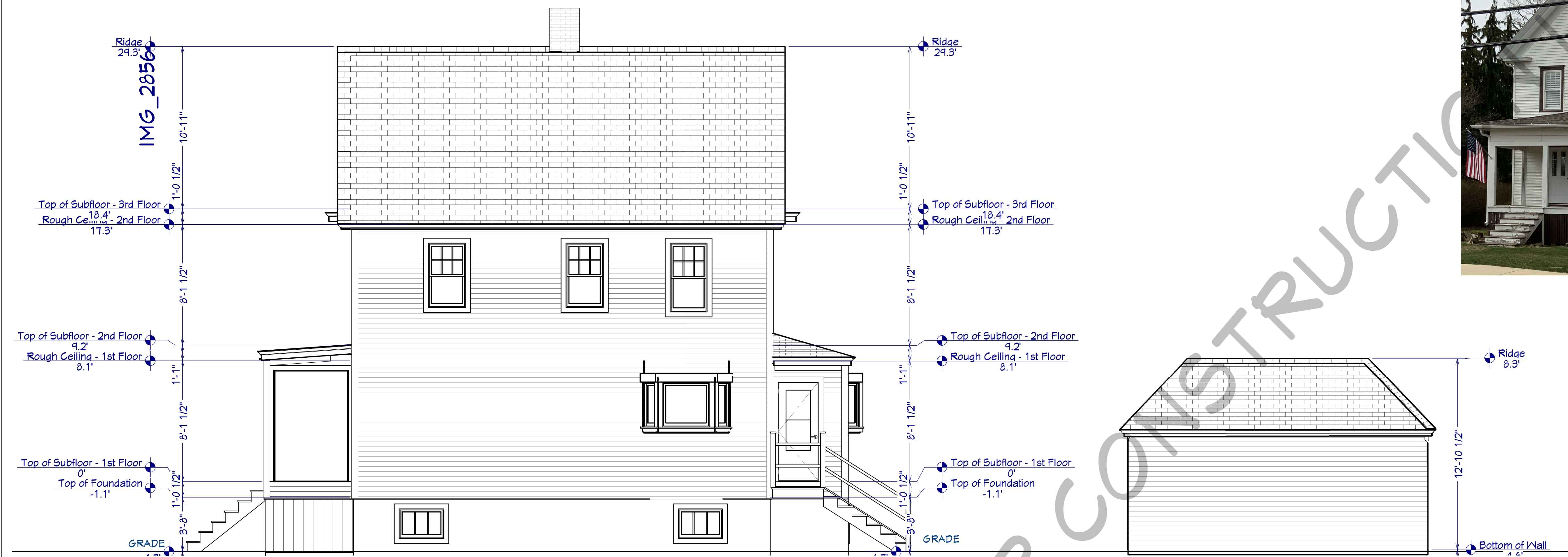


PROPOSED EAST ELEVATION | SIDE VIEW

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

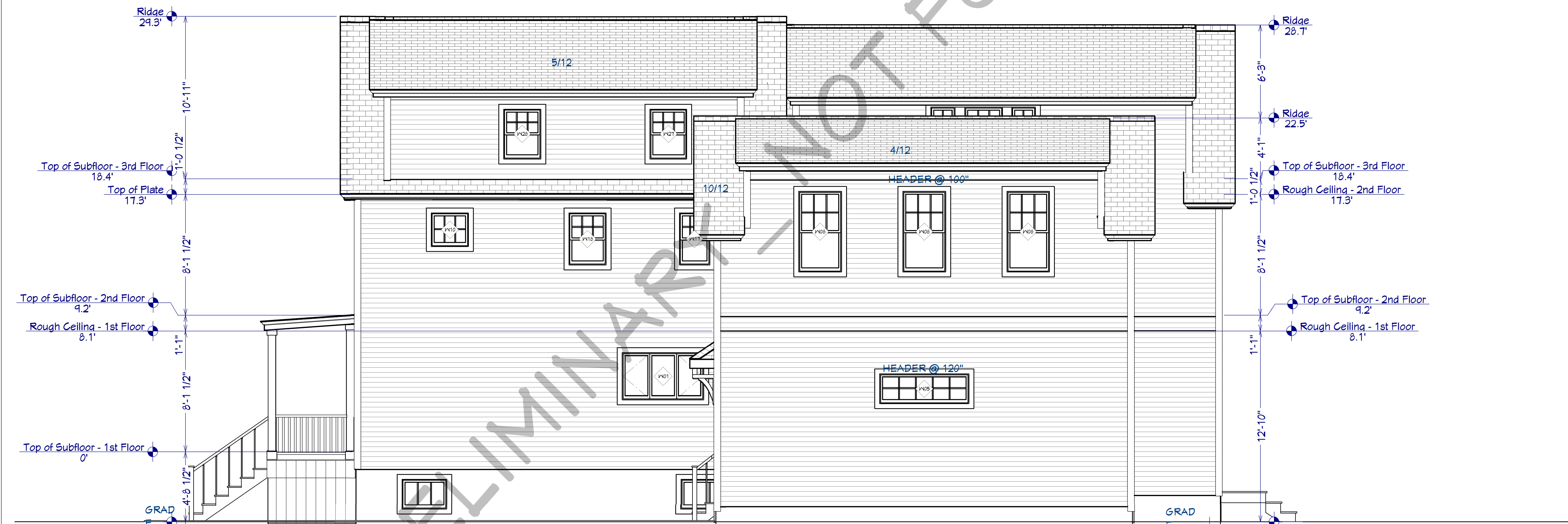
ELEVATIONS
 SCALE: 1/4" = 1'-0"

IMG_2860



EXISTING WEST ELEVATION | SIDE VIEW

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



PROPOSED WEST ELEVATION | SIDE VIEW

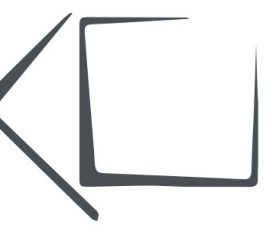
SCALE: 1/4" = 1'-0"

ELEVATIONS

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



EXISTING RIGHT SIDE PHOTOS



| Number | Date | Description |
|--------|------|-------------|
| | | |
| | | |
| | | |

ELEVATIONS

CLIENT:
SCOTT RESIDENCE
271 SAGAMORE AVE.
PORTSMOUTH, NH.

CONTACT:
AMY DUTTON HOME
9 WALKER STREET | KITTERY, ME
amy@amyduttonhome.com
207.937.2020

DATE:

7/14/2023

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SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

SHEET:

A-16

III. NEW BUSINESS

- B. The request of **Tanner Family Revocable Trust (Owners)**, for property located at **380 Greenleaf Avenue** whereas relief is needed to construct a detached garage which requires a Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal building. Said property is located on Assessor Map 243 Lot 63 and lies within the Single Residence B (SRB) District. (LU-23-62)

Existing & Proposed Conditions

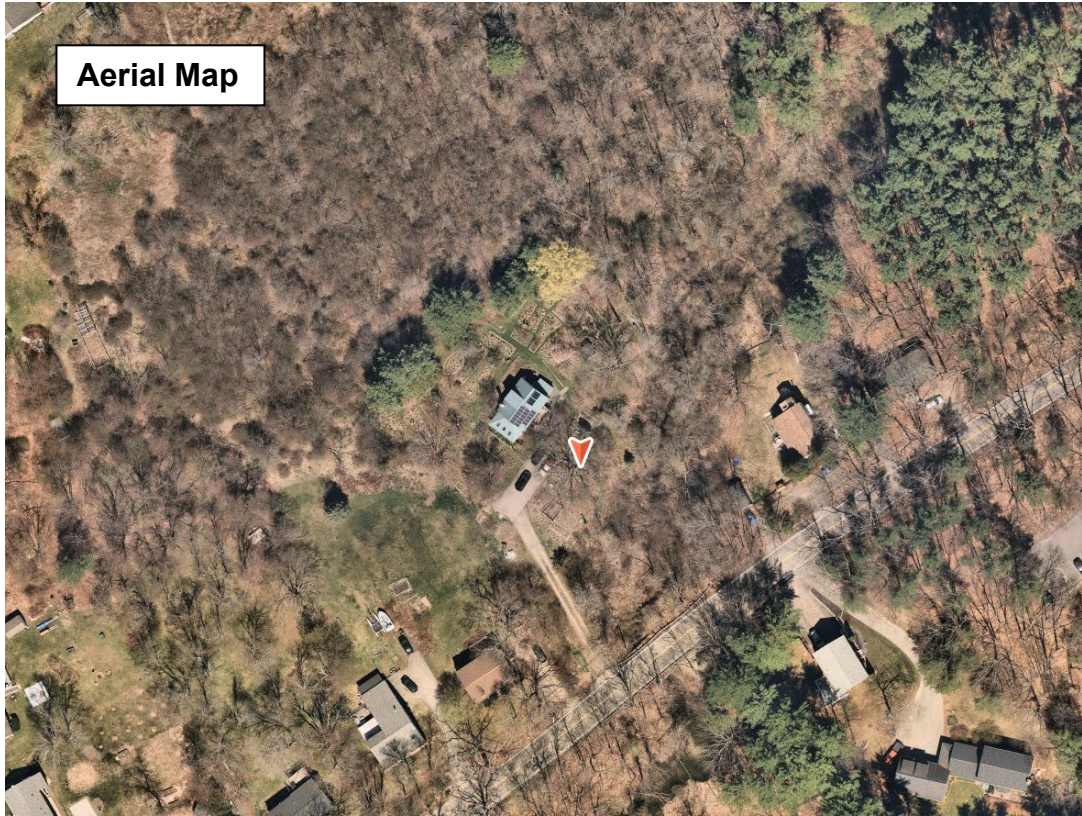
| | <u>Existing</u> | <u>Proposed</u> | <u>Permitted / Required</u> |
|----------------------------------------------|--------------------------|------------------------------------------|-----------------------------|
| <u>Land Use</u> | Single Living Unit | *Construction of detached garage | Primarily residential |
| <u>Lot area (sq. ft.):</u> | 49,658 | 49,658 | 15,000 min. |
| <u>Lot Area per Dwelling Unit (sq. ft.):</u> | 49,658 | 49,658 | 15,000 min. |
| <u>Street Frontage (ft.):</u> | 101 | 101 | 100 min. |
| <u>Lot depth (ft.):</u> | 282 | 282 | 100 min. |
| <u>Front Yard (ft.):</u> | >170 – Primary Structure | 150 – Garage >170 – Primary Structure | 30 min. |
| <u>Right Side Yard (ft.):</u> | >60 – Primary Structure | 100 – Garage 100 – Primary Structure | 10 min. |
| <u>Left Yard (ft.):</u> | >40 – Primary Structure | 40 – Garage >40 – Primary Structure | 10 min. |
| <u>Rear Yard (ft.):</u> | >50 – Primary Structure | 100 – Garage >50 – Primary Structure | 30 min. |
| <u>Height (ft.):</u> | <35 | <35 | 35 max. |
| <u>Building Coverage (%):</u> | 2 | 3 | 20 max. |
| <u>Open Space Coverage (%):</u> | >40 | >40 | 40 min. |
| <u>Parking:</u> | 2 | 2 | 2 |
| <u>Estimated Age of Structure:</u> | 1979 | Variance request(s) shown in red. | |

***Section 10.571 of the Zoning Ordinance states, “No accessory building, structure or use shall be located in any required front yard, or closer to a street than the principal building.”**

Other Permits/Approvals Required

- Building Permit
- Wetland Conditional Use Permit - Conservation Commission and Planning Board
 - Conservation Commission recommended approval to the Planning Board on June 14, 2023.

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is requesting a variance to build a detached 20 foot by 20 foot garage. This project will also require the approval of a Wetland Conditional Use Permit. On Wednesday, June 14, 2023, the Conservation Commission voted to recommend approval of the Wetland Conditional Use Permit with the following conditions:

1. The applicant shall provide detailed specifications for the proposed pervious pavers including a cross section plan and information about how they will be installed within the driveway area.
2. The applicant shall provide a maintenance plan for the proposed pervious pavers.

The proposed structure meets all dimensional requirements outlined in the [Zoning Ordinance](#) but is not in conformance with Section 10.571 as the proposed location is closer to a public way than the primary structure. The language from Section 10.571 has been provided below for the Board's convenience.

Section 10.570 Accessory Buildings, Structures and Uses

10.571 *No accessory building, structure or use shall be located in any required front yard, or closer to a street than the principal building.*

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.

Variance Permit
Detached, single-story, 2-car garage

Location:

380 Greenleaf Avenue
Portsmouth, NH 03801
603-431-4147
inventivetechnologies@comcast.net

Applicant/Owner:

Tanner Family Revocable trust
Allison and Mark Tanner trustees
603-431-4147
inventivetechnologies@comcast.net

Narrative:

This home was constructed in 1979, 15 years before wetland buffer restrictions existed. This home is occupied by the original owners. The total size of this lot is approximately 1.14 acres or 49,658.4 square feet. It is comprised of a wetland area of approximately 20,683 square feet and a buffer area of approximately 29,388 square feet. The entire buffer area on this lot has been cultivated with perennials, trees and shrubs. There is a very large oak tree under which the buffer area is mostly moss with some grass. There are a limited number of glossy buckthorn and honeysuckle invasive species that border a perennial stream running through the property. The total size of the jurisdictional wetland of the lot and surrounding areas is approx. 815,130.7 square feet or 18.71 acres.

To limit impact to the wetland buffer, we would like to construct a detached, single story, 20 x 20 foot, 2 car garage on a paved area of the driveway. The total impervious area of the paved driveway is currently 1285 square feet, and extends as close as 25 feet from the wetland. The distance of the proposed garage to the closest edge of the wetland is 45 feet, 20 feet further from the wetland. The entire paved area has no slope (it's flat) and is proposed to be removed, leaving only the 400 square foot garage footprint that would be impervious. This reduces the impervious area by 885 square feet. Drainage from the garage roof will be infiltrated through a 2 foot drip edge of crushed stone around the perimeter of the garage. A 484 square foot area at the entrance to the garage will be pervious pavers. To avoid further intrusion into the wetland buffer, the proposed garage would be located closer to the road than the house because this is where the currently impervious pavement of the driveway is located. The proposed garage would be located 150' from the roadway whereas the house is ~200' from the roadway. The proposed garage will be ~40ft from the southwest side-yard property line, 100 feet from the northeast property line, and 100' from the northwest property line.

Erosion control (silt sock or fence) will be in place during construction. No trees or shrubs will be disturbed for this garage. Some grass will be removed for the drip edge. After removal of the pavement to the north of the garage, the planting bed will be extended to the drip edge. Only organic low nitrogen/phosphate fertilizer is ever used on this property, and no pesticides/herbicides are applied. Wetland boundary markers have been installed.

Analysis Criteria (from section 10.223 of the Zoning Ordinance):

1. 10.233.20 In order to authorize a variance, the Board must find that the variance meets all of the following criteria:

2. 10.233.21 The variance will not be contrary to the public interest;

The proposed garage is located close to the center of a 1.14 acre private property, surrounded by trees, shrubs and perennial plantings. The garage will be barely visible from the road, and barely visible to the neighbor on the north-east, and no more visible to the neighbors on the south than the current driveway with parked cars.

3. 10.233.22 The spirit of the Ordinance will be observed;

The proposed garage is modest in size, will be 150 feet from the roadway and not be obstructive in any way.

4. 10.233.23 Substantial justice will be done;

This home was constructed in 1979, 15 years before wetland buffer restrictions existed. This home is occupied by the original owners. Due to the wetland and buffer, there is no more suitable area for the garage to be placed, since it will be sited on a currently paved area. The remainder of the pavement will be removed resulting in 885 square feet less impervious surface area.

5. 10.233.24 The values of surrounding properties will not be diminished; and

As stated previously, the garage will be barely visible from the road, and barely visible to the neighbor on the north-east, and no more visible to the neighbors on the south than the current driveway with parked cars.

6. 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

We recently purchased a new electric vehicle. We would like to protect our investment from damage due to inclement weather and falling acorns, as well as having a charging station under cover.



Approximate size of the wetland and buffer

Size calculations courtesy of Kate Homet



Proposed garage setbacks overlaid on wetland and buffer approximations

Size calculations courtesy of Kate Homet

380 Greenleaf Avenue



1" = 119.93915884738601 ft

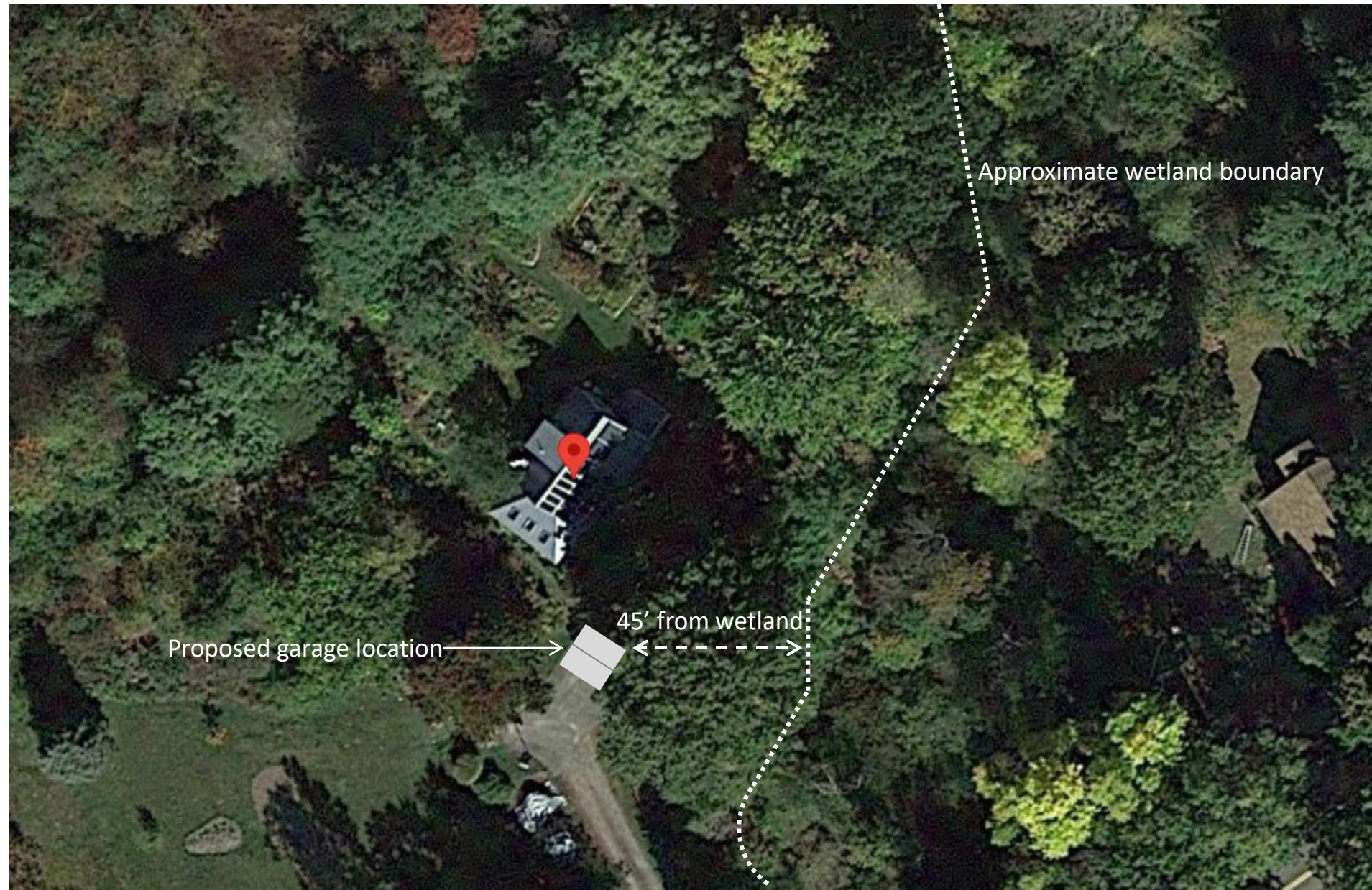


**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

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.



Approximate wetland boundary

Proposed garage location

45' from wetland



Front View (click to enlarge)

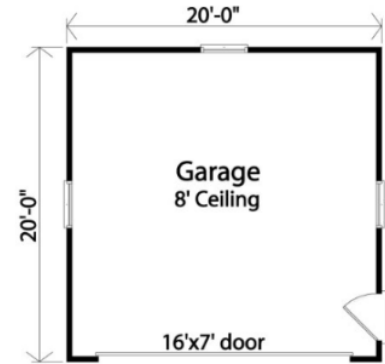


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Plan 2413

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Plan Features

- Front-entry
- Two car

Plan Details

| | |
|-----------------|-----------------------------|
| Square Footage | Total: 0 |
| Levels: | 1 |
| Width: | 20-0 |
| Depth: | 20-0 |
| Approx. Height: | 14-0 |
| Exterior Wall: | 2x4 |
| Foundation: | Footing and Foundation Wall |
| Roof Framing: | Truss |
| Roof Pitch: | 5-12 Main |
| Ceiling Height: | 1st Floor: 8-0 |

Order This Plan

Common Garage Plan Questions

Can I modify a garage plan?

Some of the designers are willing to make changes to their plans for an additional charge. For those designers that do not make changes to their plans, we have a third party designer that will.

[Learn more about plan modification](#)

Do these plans include everything I need to obtain a building permit?

These plans include almost everything you need to obtain a building permit. Your general contractor will be able to assist you with the additional material that needs to be gathered and submitted for permits. If you are serving as your own general contractor we suggest you contact the Building Department in the city or county in which you wish to build. They will be able to provide you with a list of what they require in addition to the architectural drawings (blueprints).

See All FAQs

This garage plan is proposed to be ordered if conditional use permit is received.

Permeability Simplified <https://www.techo-bloc.com/permeable-pavement>

1. Permeable Paver

Designed with larger joint space to allow storm water to percolate through.

2. Small Aggregate (2.5-10 mm)

Filters out contaminants and debris from the rainwater.

3. Medium Aggregate (5-28 mm)

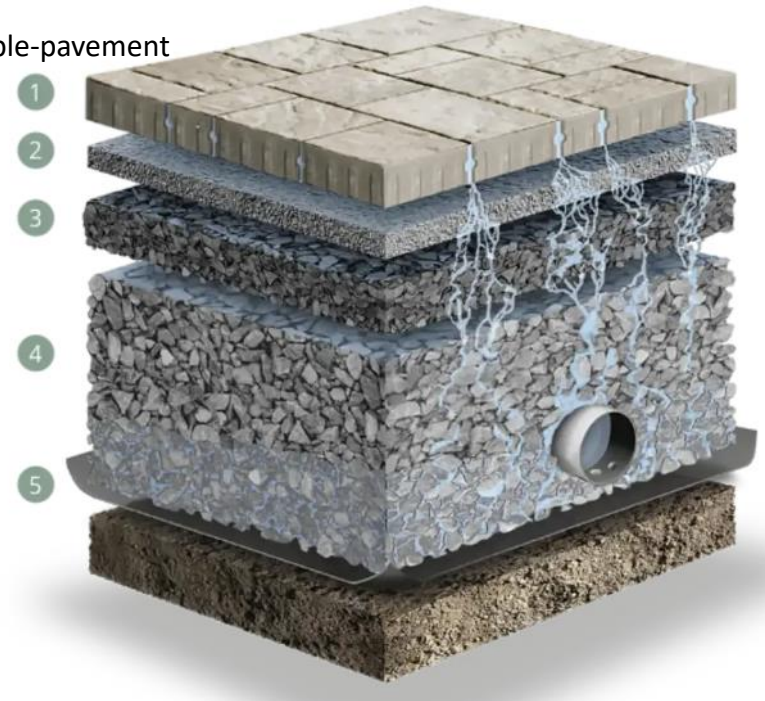
Transition layer that further filters out pollutants.

4. Large Aggregate (40-80 mm)

Reservoir layer for rainwater harvesting and the evacuation of excess water through a drain pipe.

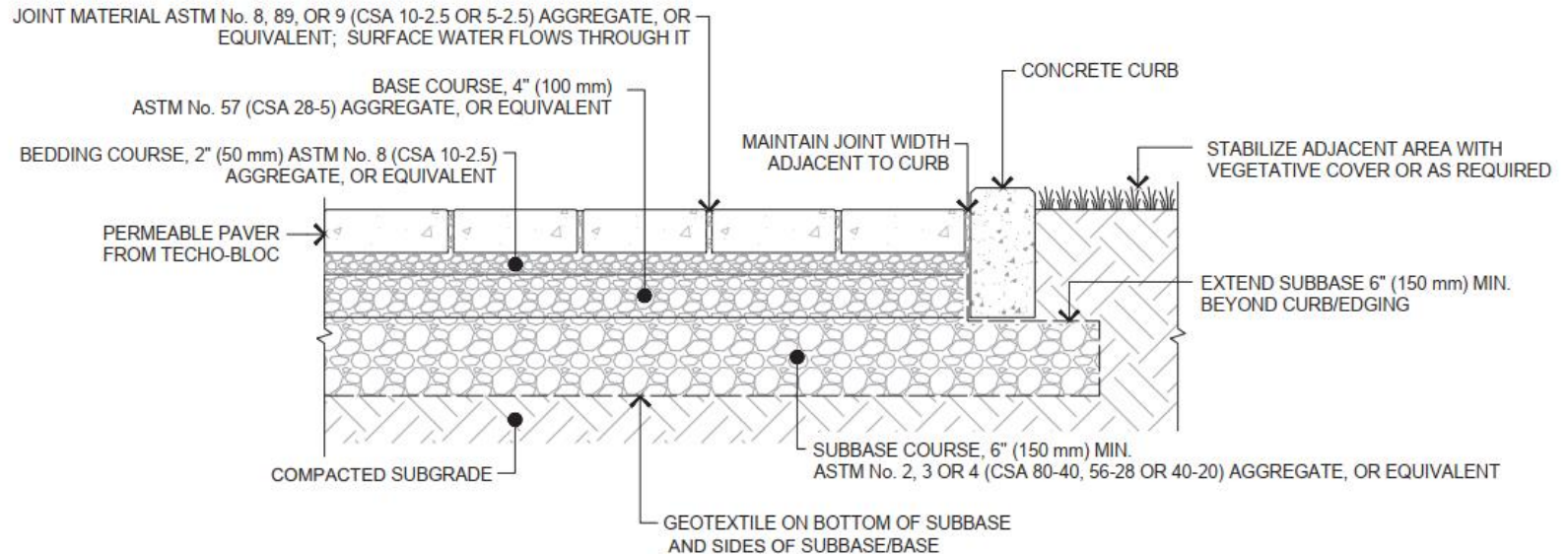
5. Geotextile

Filter fabric that separates large aggregate from the soil underneath.



INSTALLATION GUIDE

PERMEABLE PAVER - FULL INFILTRATION TO SOIL SUBGRADE



Permeable Paver Maintenance Plan

Permeable Pavement will be inspected following storms for the following:

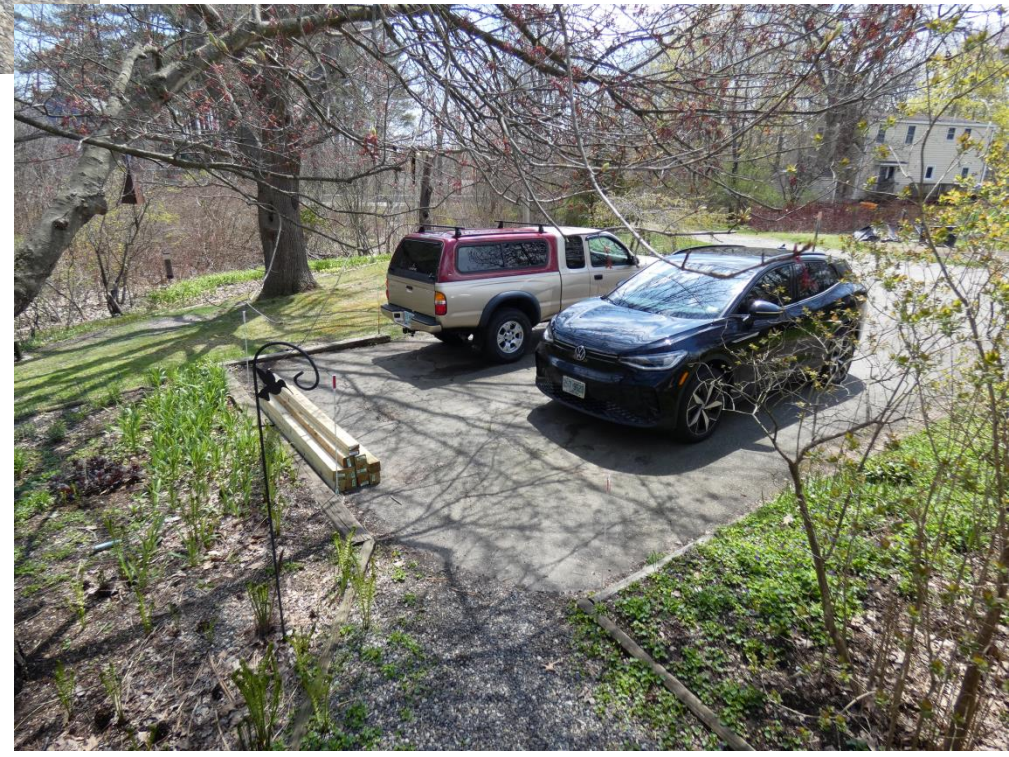
- Surface Clogging
- Depression
- Rutting
- Faulting
- Damaged pavers
- Edge restraint damage
- Excessive joint width
- Joint filler loss
- Horizontal creep
- Additional minor distresses

Routine maintenance will include quarterly sweeping or vacuuming to maintain drainage capability and replacement of small aggregate between pavers as needed. Professional installers will be called in if any greater damage occurs.



View looking north ↑

View looking south ↓





View looking west & over paved area for garage placement



View looking east toward wetland & garage placement on current pavement





View east toward wetland, planting bed & native plants ↑

View northeast toward wetland, native plants ↓





CITY OF PORTSMOUTH

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

CONSERVATION COMMISSION

June 27, 2023

Tanner Family Revocable Trust
Mark and Allison J. Tanner, Trustees
380 Greenleaf Avenue
Portsmouth, NH 03801

RE: Wetland Conditional Use Permit for property located at 380 Greenleaf Avenue (LU-23-62)

Dear Mr. and Ms. Tanner:

The Conservation Commission, at its regularly scheduled meeting of **Wednesday, June 14, 2023**, considered your application for the construction of a new 20 x 20' one-story garage on a residential property with various additions of native buffer plantings and areas of storm water improvement to mitigate any impervious impacts from the garage. This property consists of a large wetland system and is also completely within the 100' wetland buffer. The applicant is proposing to remove 885 square feet of impervious asphalt and place the garage on a portion of the area where impervious asphalt currently exists. The applicant is proposing a 2' drip edge of crushed stone around the perimeter of the garage and 484 square feet of pervious pavers leading up to the garage where asphalt currently exists. Additional planting beds are proposed in areas of existing asphalt. Said property is shown on Assessor Map 243, Lot 63 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Commission voted to **recommend** approval of the Wetland Conditional Use Permit with the following stipulations.

1. The applicant shall provide detailed specifications for the proposed pervious pavers including a cross section plan and information about how they will be installed within the driveway area.
2. The applicant shall provide a maintenance plan for the proposed pervious pavers.

This matter will be placed on the agenda for the Planning Board meeting scheduled for **Thursday, July 20, 2023**. One (1) hard copy of any revised plans and/or exhibits as well as an updated electronic file (in a PDF format) must be filed in the Planning Department and uploaded to the online permit system no later than Wednesday, June 28, 2023.

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

Very truly yours,

Barbara McMillen

Barbara McMillan, Vice-Chair
Conservation Commission

cc:

III. NEW BUSINESS

- C. The request of **Carl Douglas Overn and Tatiana Overn (Owners)**, for property located at **40 Wilson Road** whereas relief is needed to construct a sunroom and deck expansion at the rear of the property which requires the following: 1) Variance from Section 10.521 to allow an eight (8) foot rear yard where 30 feet are required; and 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 251 Lot 57 and lies within the Single Residence B (SRB) District. (LU-23-114)

Existing & Proposed Conditions

| | <u>Existing</u> | <u>Proposed</u> | <u>Permitted / Required</u> |
|------------------------------------------------|----------------------|------------------------------------------------|-----------------------------|
| <u>Land Use:</u> | Single – Living Unit | *Construct a sunroom and deck expansion | Primarily residential |
| <u>Lot area (sq. ft.):</u> | 18,769.5 | 18,769.5 | 15,000 min. |
| <u>Lot Area per Dwelling Unit (sq. ft.):</u> | 18,769.5 | 18,769.5 | 15,000 min. |
| <u>Lot depth (ft.):</u> | 77 | 77 | 100 min. |
| <u>Street Frontage (ft.)</u> | 307 | 307 | 100 min. |
| <u>Primary Front Yard (Wilson Rd) (ft.):</u> | 34 | 34 | 30 min. |
| <u>Secondary Front Yard (Grant Ave) (ft.):</u> | 77 | 77 – Existing Structure 82 – Deck Expansion | 30 min. |
| <u>Right Yard (ft.):</u> | 54 | 54 – Existing Structure 70 – Addition | 10 min. |
| <u>Rear Yard (ft.):</u> | 24 | 8 | 30 min. |
| <u>Height (ft.):</u> | <35 | 35 | 35 max. |
| <u>Building Coverage (%)</u> | 10 | 12.5 | 20 max. |
| <u>Open Space Coverage (%)</u> | >40 | >40 | 40 min. |
| <u>Parking</u> | 2 | 2 | 2 |
| <u>Estimated Age of Structure:</u> | 1952 | Variance request(s) shown in red. | |

* Relief from Section 10.321 is required to further increase the rear yard non-conformity.

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is requesting relief to construct a 16-foot by 14-foot sunroom addition on to the rear of the primary structure and to construct a 20-foot by 10-foot deck expansion to the existing deck. The existing structure is non-conforming as it sits within the rear yard area. Therefore, relief from Section 10.321 of the [Zoning Ordinance](#) is needed to further enlarge the structure and increase the rear yard non-conformity. Zoning language provided below.

10.321 A lawful nonconforming building or structure may continue and be maintained or repaired, but may not be extended, reconstructed or enlarged unless such extension, reconstruction or enlargement conforms to all the regulations of the district in which it is located.

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.

Board of Adjustment Application

Date: July 25, 2023 (updated: Aug 1, 2023)

Applicants: Carl and Tatiana Overn (property owners)

Property 40 Wilson Rd, Portsmouth NH 03801

Map-Lot# 0251-0057-0000

Zoning District Single Residence B (SRB)

Description: Sunroom addition and extension of existing deck

Variance Request: Variance from Section 10.521 to allow construction with rear setback of approximately 8' where 30' is required and 24' is existing. Variance from Section 10.321 which states that no existing non-conforming structure can be extended or enlarged unless the proposed expansion or extension is in conformance with the regulations of the district in which it is located.

| | |
|------------------------------------|----------|
| APPLICANT'S NARRATIVE | 1 |
| I. THE PROPERTY:..... | 1 |
| Proposal Rendering:..... | 2 |
| Property Photos..... | 3 |
| Contractor Proposal Images:..... | 9 |
| II. CRITERIA:..... | 13 |
| III. CONCLUSION..... | 14 |

APPLICANT'S NARRATIVE

I. THE PROPERTY:

The applicants, Carl D and Tatiana A Overn, own and reside at the property located at 40 Wilson, which consists of a single family dwelling with attached garage. This has been the primary residence of the applicants and their family since 2019. The property is notable in that it is located at the corner of Grant and Wilson streets with a generous 92' Grant Ave. setback to the East and trees blocking view of the backyard from the adjacent neighbor to the West making it so the new structure is only in the immediate proximity of our neighbor to the south (160 Grant Ave).

The applicants propose to add a modest 224 square foot sunroom addition to the southern wall of the breezeway which connects the original structure of the residence to the attached 2 car garage. The applicants also propose a 10' x 20' deck extension to the southern side of the existing 10' x 20' deck, creating a new deck 20' x 20' in size.

Property Photos

Property Photo #1 - Breezeway wall and existing 20'x10' deck



Property Photo #2 - Bi-level Breezeway



Photo #3 - Lower level of Breezeway

Note: to be extended 16' creating a new combined space 20'x14'.



Property Photo #4 - View of Breezeway wall looking NW.



Property Photo #5 View adjacent to Breezeway Wall looking SouthEast



Photo #6 - View to the East from 16' South of Breezeway wall

Note: wooden stakes center screen denote the depth of the new sunroom extension into the backyard.

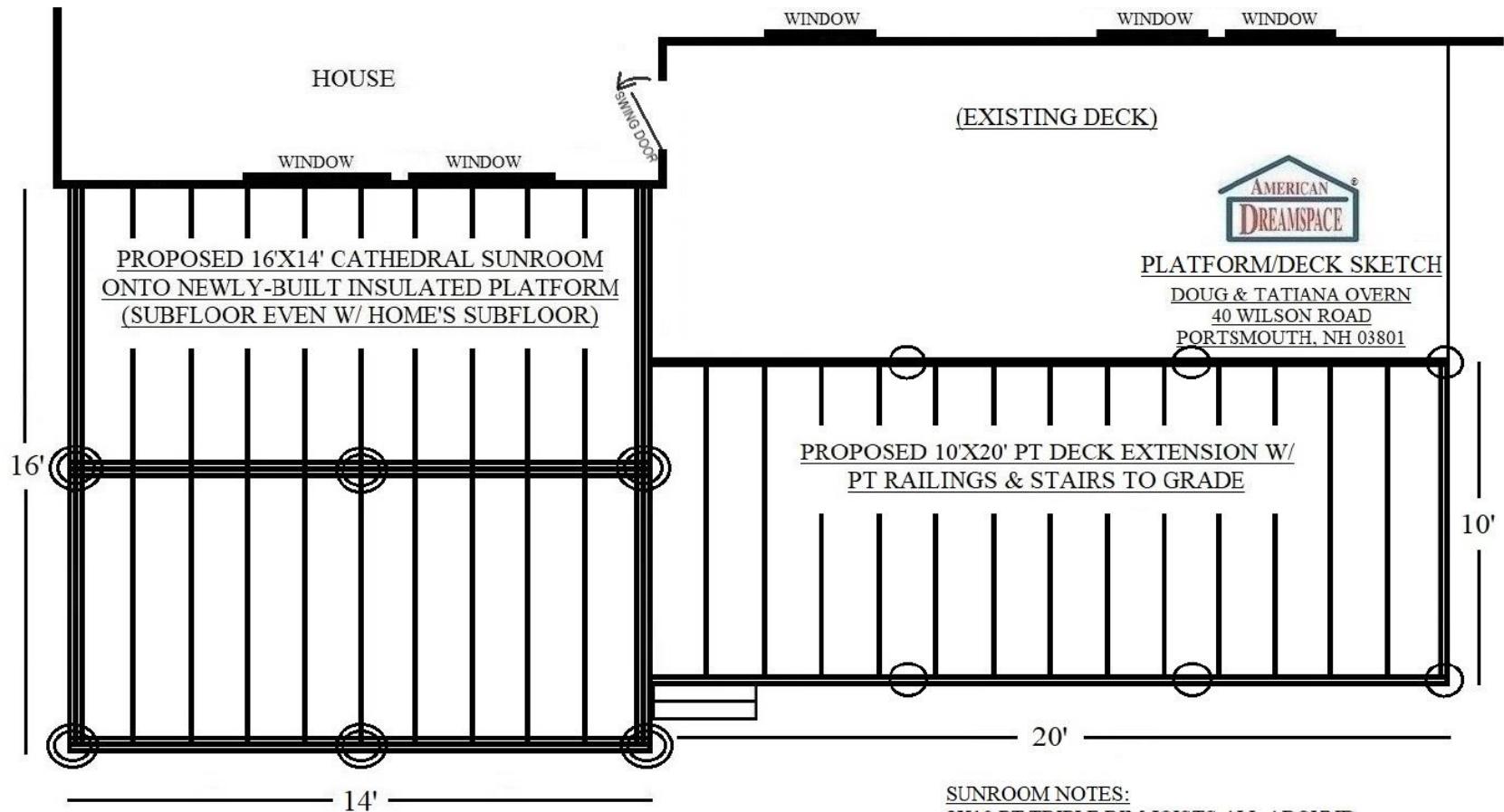




Contractor Proposal Images:



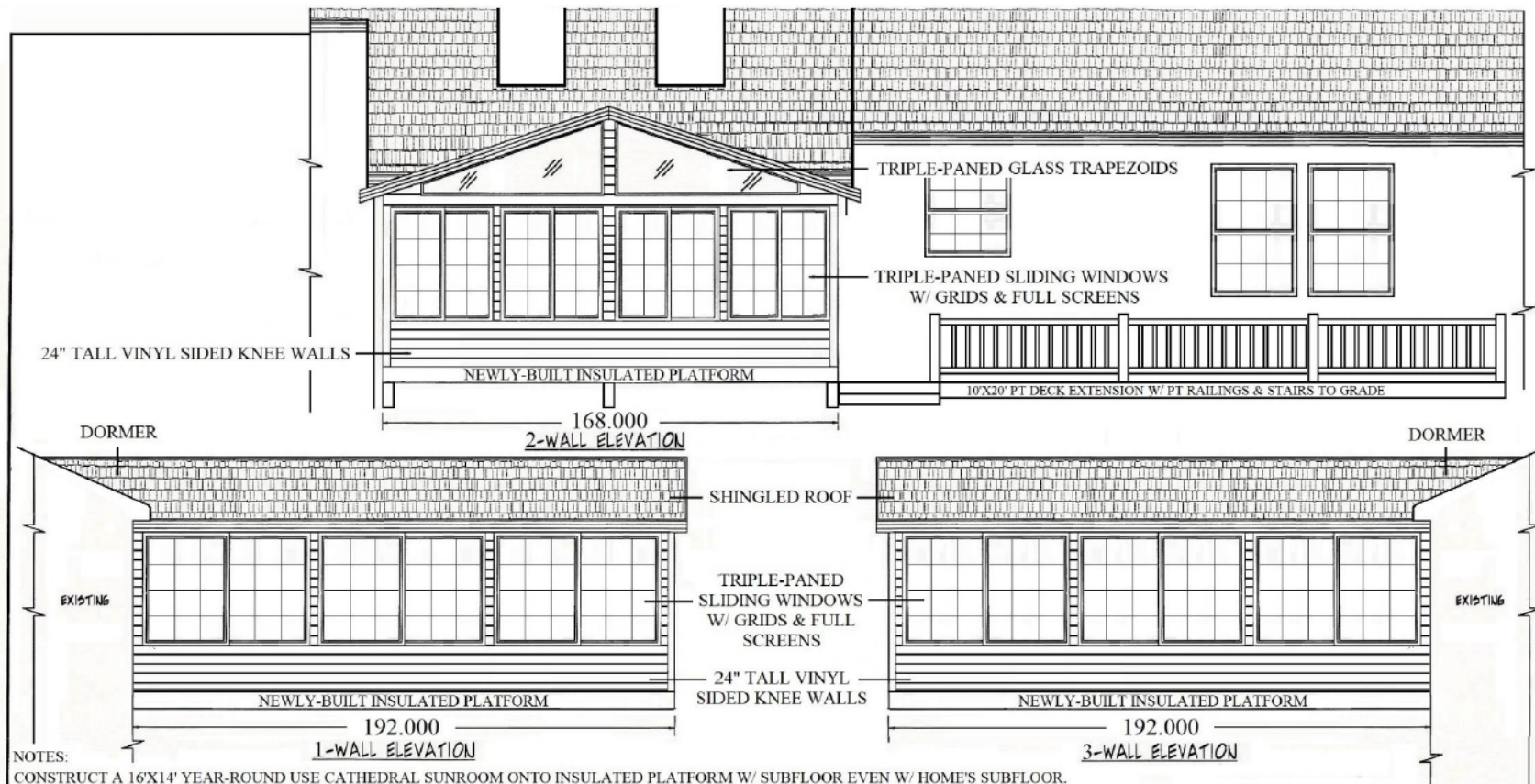
DOUG & TATIANA OVERN
40 WILSON ROAD
PORTSMOUTH, NH 03801



- = DENOTES 12" SONO TUBES
- ⊙ = DENOTES 12" SONO TUBES SITTING ON CONCRETE BISCUITS
- ▬▬ = DENOTES DOUBLE RIM JOISTS
- ▬▬▬ = DENOTES TRIPLE RIM JOISTS


DECK EXTENSION NOTES:
 2X8 PT DOUBLE RIM JOISTS ALL AROUND.
 ALL 2X8 PT JOISTS, 16 IOC, ON HANGERS.
 3 - 10" TUBES UNDER DECK AT ATTACHMENT & 3 - 10" TUBES UNDER PROJECTION SIDE (6 TOTAL FOOTINGS).
 PT DECKING, PT RAILINGS & PT STAIRS.

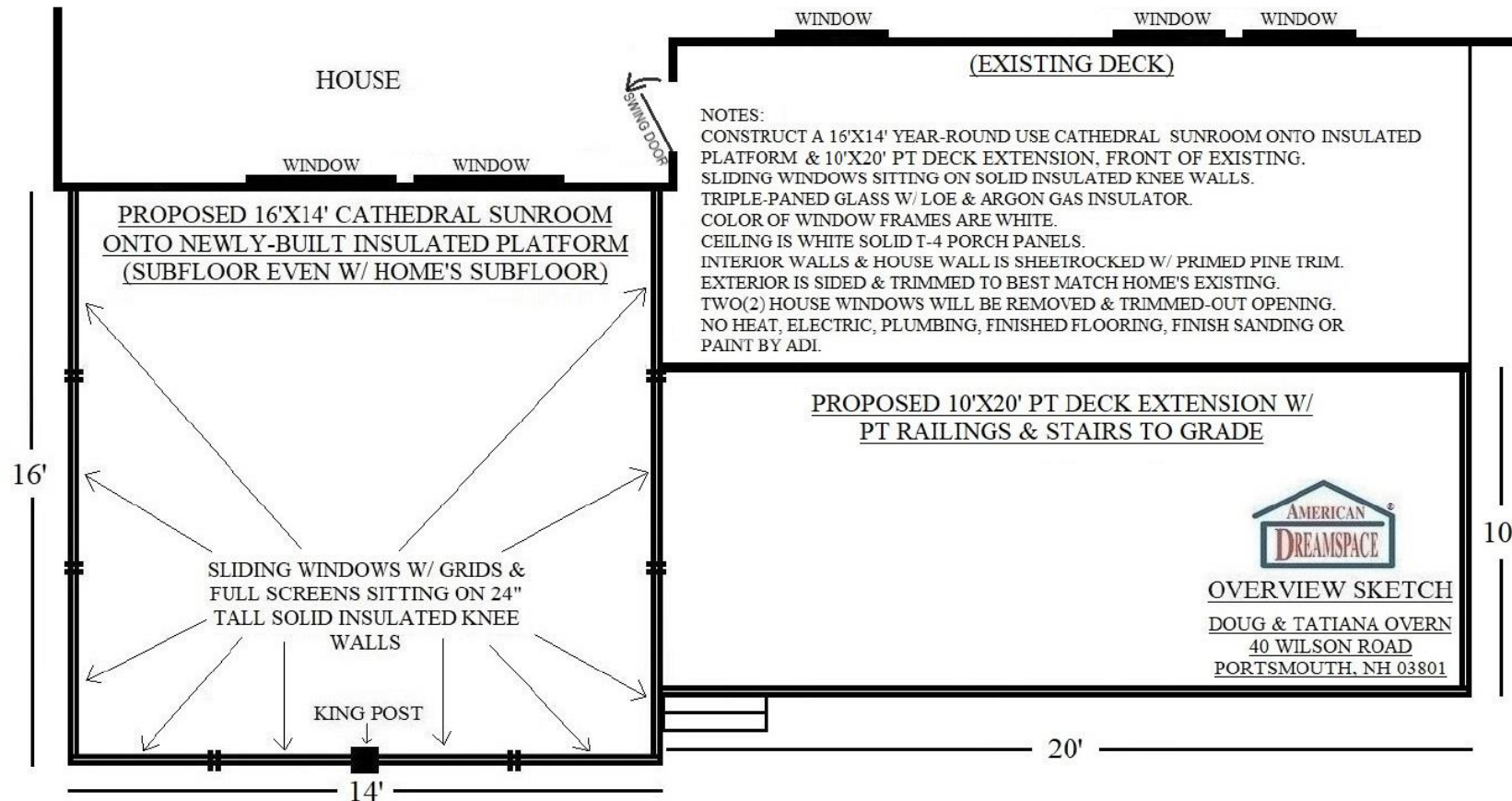
SUNROOM NOTES:
 2X10 PT TRIPLE RIM JOISTS ALL AROUND.
 2X10 PT JOISTS, 16 IOC, ON HANGERS.
 LEDGER LOCKED TO HOUSE.
 TRIPLE 2X10 PT CARRYING BEAM 8' OUT FROM HOUSE.
 12" SONO TUBE FOOTINGS AT 48" DEPTH.
 6"X18" CONCRETE BISCUITS UNDER 12" FOOTINGS.
 4X6 PT POSTS W/ METAL CONNECTORS
 ADVANTECH SUBFLOOR ON TOP
 VAPOR BARRIER LAID ON GROUND UNDER SUNROOM.



NOTES:

CONSTRUCT A 16'X14' YEAR-ROUND USE CATHEDRAL SUNROOM ONTO INSULATED PLATFORM W/ SUBFLOOR EVEN W/ HOME'S SUBFLOOR.
 SLIDING WINDOWS SITTING ON 24" TALL SOLID INSULATED KNEE WALLS.
 TRIPLE-PANED GLASS W/ LOE & ARGON GAS INSULATOR.
 COLOR OF WINDOW FRAMES ARE WHITE.
 CEILING IS WHITE SOLID T-4 PORCH PANELS.
 INTERIOR WALLS & HOUSE WALL IS SHEETROCKED W/ PRIMED PINE TRIM.
 EXTERIOR IS SIDED & TRIMMED TO BEST MATCH HOME'S EXISTING.
 TWO(2) HOUSE WINDOWS WILL BE REMOVED & TRIMMED-OUT OPENING.
 NO HEAT, ELECTRIC, PLUMBING, FINISHED FLOORING, FINISH SANDING OR PAINT BY ADL.

| | | | |
|-----------------------------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| NAME: DOUG & TATIANA OVERN ADDRESS: 40 WILSON ROAD PORTSMOUTH, NH 03801 | DRAWN PEARL | AMERICAN DREAMSPACE INC. 40 Market street P.O. Box 482 North Berwick Maine 03906 |  JOB NO. |
| | DATE 07/03/2023 | | |
| | SCALE NOT TO SCALE | | |
| | | | |



HOUSE

(EXISTING DECK)

PROPOSED 16'X14' CATHEDRAL SUNROOM
ONTO NEWLY-BUILT INSULATED PLATFORM
(SUBFLOOR EVEN W/ HOME'S SUBFLOOR)

NOTES:
 CONSTRUCT A 16'X14' YEAR-ROUND USE CATHEDRAL SUNROOM ONTO INSULATED PLATFORM & 10'X20' PT DECK EXTENSION, FRONT OF EXISTING.
 SLIDING WINDOWS SITTING ON SOLID INSULATED KNEE WALLS.
 TRIPLE-PANED GLASS W/ LOE & ARGON GAS INSULATOR.
 COLOR OF WINDOW FRAMES ARE WHITE.
 CEILING IS WHITE SOLID T-4 PORCH PANELS.
 INTERIOR WALLS & HOUSE WALL IS SHEETROCKED W/ PRIMED PINE TRIM.
 EXTERIOR IS SIDED & TRIMMED TO BEST MATCH HOME'S EXISTING.
 TWO(2) HOUSE WINDOWS WILL BE REMOVED & TRIMMED-OUT OPENING.
 NO HEAT, ELECTRIC, PLUMBING, FINISHED FLOORING, FINISH SANDING OR PAINT BY ADI.

PROPOSED 10'X20' PT DECK EXTENSION W/
PT RAILINGS & STAIRS TO GRADE



OVERVIEW SKETCH

DOUG & TATIANA OVERN
 40 WILSON ROAD
 PORTSMOUTH, NH 03801

16'

14'

20'

10'

II. CRITERIA:

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

Granting the requested variances will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The test for whether or not granting the variances would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variances being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public. The essentially residential characteristics of the neighborhood would not be altered by this project. The modest increase in building footprint resulting from this project will in no way compromise the neighborhood. Were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would public health, safety or welfare be threatened in any way

Substantial justice would be done by granting the variances. Whether or not substantial justice will be done by granting the variances requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variances, then substantial justice would be done by granting the variances. It is substantially just to allow a property owner the reasonable use of his or her property. In this case, there is no benefit to the public in denying the variances that are not outweighed by the hardship upon the owner. The increase in building coverage, approximately 224 square feet, and the increase in the deck coverage, approximately 200 square feet, is entirely reasonable given the size of the lot and how the backyard is mostly hidden from all adjacent neighbors except the one to our immediate south. The applicants have reviewed the proposal with this neighbor and have received support. Accordingly, the loss to the applicant clearly outweighs any gain to the public if the applicant were required to conform to the ordinance.

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

Literal enforcement of the ordinance would result in an unnecessary hardship. The proposed addition will extend a narrow 4' wide section of our breezeway into a multi-use sunroom and offer both aesthetic value and function as to how it is tied into the existing structure. Altering the location of the addition would require it to be larger in size or impact more of the existing home. Both instances would result in unnecessary costs to the homeowner while offering no benefit in either aesthetic or function.

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

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The purpose of the building coverage requirement is to prevent overcrowding of lots and unsightly and inconsistent massing of structures. The amount of additional building coverage proposed, approximately 224 square feet of indoor floor space and 200 square feet of outdoor deck, is minimal and not out of character for this neighborhood. Accordingly, the relief requested here would not in any way frustrate the purpose of the ordinance and there is no fair and substantial relationship between the purpose of the setback requirements and their application to this property.

III.CONCLUSION

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

Thank you for your consideration

Carl D and Tatiana A Overn

III. NEW BUSINESS

- D. The request of **Go-Lo Inc. c/o Labrie (Owner)**, for property located at **2059 Lafayette Road** whereas relief is needed to demolish the existing structure and construct a two-story residential building containing 16 living units which requires the following: 1) Variance from Section 10.1113.20 to allow parking to be located in front of the principal building; 2) Variance from Section 10.533 to allow a structure to be located 58 feet from the centerline of Lafayette Roads where 80 feet is required; 3) Variance from Section 10.521 to allow 1,715 square feet of lot area per dwelling unit where 7,500 square feet is required; and 4) Variance from Section 10.440 Use #1.53 to allow 16 units where eight (8) are permitted. Said property is located on Assessor Map 268 Lot 13 and lies within the Mixed Residential (MRB) District. (LU-23-116)

Existing & Proposed Conditions

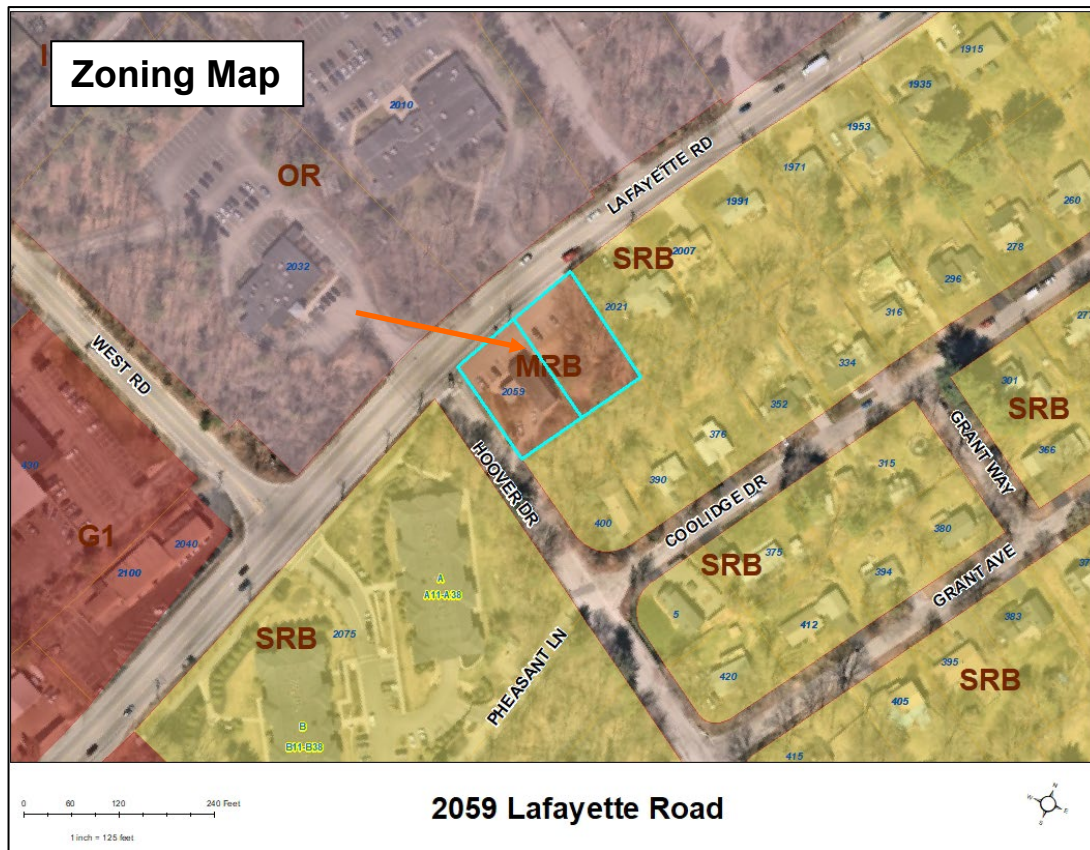
| | <u>Existing</u> | <u>Proposed</u> | <u>Permitted / Required</u> |
|-------------------------------------------------|---------------------------------------|-----------------------------------------------------------|---------------------------------------|
| <u>Land Use:</u> | Lot 12 - Vacant Lot 13 – Mixed-Use | **Merge lots and construct a 16-unit residential building | Mixed residential and commercial uses |
| <u>Lot area (sq. ft.):</u> | Lot 12 - 14,192 Lot 13 - 13,252 | 27,444 | 7,500 min. |
| <u>Lot Area per Dwelling Unit (sq. ft.):</u> | Lot 12 - n/a Lot 13 - 4,417 | 1,715 | 7,500 min. |
| <u>Street Frontage (ft.)</u> | Lot 12 - 90 Lot 13 - 229 | 319 | 100 min. |
| <u>Lot depth (ft.):</u> | 139 | 139 | 80 min. |
| <u>Primary Front Yard (Lafayette Rd) (ft.):</u> | Lot 12 - n/a Lot 13 - 42 | 58 | 80 (Section 10.533) min. |
| <u>Secondary Front Yard (Hoover Dr) (ft.):</u> | 25 | >5 | 5 min. |
| <u>Left Yard (ft.):</u> | 5 | 12 | 10 min. |
| <u>Rear Yard (ft.):</u> | 30 | 54 | 15 min. |
| <u>Height (ft.):</u> | <40 | 39.5 | 40 max. |
| <u>Building Coverage (%):</u> | Lot 12 - 0 Lot 13 - 18.6 | 32.1 | 40 max. |
| <u>Open Space Coverage (%):</u> | >25 | 62.4 | 25 min. |
| <u>Parking</u> | Lot 12 - 9 Lot 13 - 14 | 25 | 20 |
| <u>Estimated Age of Structure:</u> | 1980 | Variance request(s) shown in red. | |

** Variance to allow parking in front of the principal building (Hoover Street side), and a variance to allow 16 residential units where 8 are allowed

Other Permits/Approvals Required

- Site Plan Review – Technical Advisory Committee and Planning Board
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

April 8, 1976 – The following relief from the Zoning Ordinance was **granted**: 1) A variance to erect a free-standing sign 4' from the front property line of store at 2059 Lafayette Road where such signs are prohibited in Neighborhood Business Districts, note that total signage area is also currently in violation; with the following stipulation.

1)The post shall be not less that 7' from the front property line.

December 7, 1976 – The following relief from the Zoning Ordinance was **denied**: 1) variance for 26' x 26' building addition to existing mixed-use structure to house real estate offices space, and 2) setback variance where said addition does not conform to 105' front setback requirement on Lafayette Rd.

January 4, 1977 – The **request for a rehearing was granted** by the Portsmouth Board of Adjustment for the application that was **denied on December 7, 1975** where request for Use Variance and Set Back Variance was requested.

January 18, 2977 – The following relief from Zoning Ordinance was **granted**: 1) variance for 26' x 26' building addition to existing mixed-use structure to house real estate offices space, and 2) setback variance where said addition does not conform to 105' front setback requirement on Lafayette Rd; with the following stipulations:

1) Provided a privacy fence is erect by June 1, 1977, along the Steedman and Rollo property lines in the rear; and

2)The five parking spaces in the rear be used for tenant parking only.

March 16, 1993 – The following relief from Zoning Ordinance was **granted**: A Variance from Article II Section 10-206(3) to allow a professional office to occupy a 1250 S.F. business office in a district where professional offices are not allowed; with the amendment the use be limited to one professional person.

April 19, 1994 – The following relief from the Zoning Ordinance was **granted**: A Variance from Article II Section 10-206 (15) to allow an Animal Hospital and Veterinary practice with no crematorium, no outdoor kennels or exercising yards and no boarding of animals except for short stay hospitalization in 3,360± s.f. of an existing building where such used are not allowed; with the following stipulations:

1) The hours of operation will be from 8:00 a.m. to 8:00 p.m Monday through Friday, 9:00 a.m. to 1:00 p.m. on Saturdays, and closed on Sundays and holidays;

2) There are to be no exercising yards;

3) No boarding or animals except for short stay hospitalization;

4) No crematorium;

5) No outdoor kennels.

Planning Department Comments

The applicant's request includes merging lots 268-12 and 268-13. The existing conditions of the two project lots include one vacant lot and one developed with a mixed use building containing two commercial units and three residential units. The project as proposed in the presented materials reflected the lots in their post-merger layout. The existing and proposed conditions table, as found in this staff memo, identifies lot 268-12 as "lot 12" and lot 268-13 as "lot-13."

The proposed conditions create a corner lot that is subject to the Special Yard Requirements on Lafayette Road as found in Section 10.533 of the [Zoning Ordinance](#) and provided below.

10.533 Special Yard Requirements on Lafayette Road

Notwithstanding the minimum front yard requirements specified in Section 10.521 or Section 10.531, for any lot adjoining Lafayette Road between the Route 1 Bypass and the Rye town line, no building, structure, parking area, or display or storage area shall be located less than 80 feet from the centerline of Lafayette Road or 30 feet from the sideline of Lafayette Road, whichever represents the greater setback, except as otherwise permitted by this Ordinance.

This project will require site plan review and approval to be constructed. If the variances are granted, staff recommends the following stipulation for consideration:

1. The design of the structure may change as a result of Site Plan review and approval by TAC and Planning Board.

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.

BY: VIEWPOINT & HAND DELIVERY

July 25, 2023

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Go Lo, Inc. and James A. Labrie Revocable Trust of 1991
2059 Lafayette Road, Tax Map 268, Lots 12-13**

Dear Stefanie,

Please find a copy of the following materials relative to the above referenced zoning application filed through Viewpoint for property located at 2059 Lafayette Road, Portsmouth:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Existing and Proposed Conditions Plans;
- 4) Architectural Plan Set (Floor Plans, Elevations and Photographs);

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

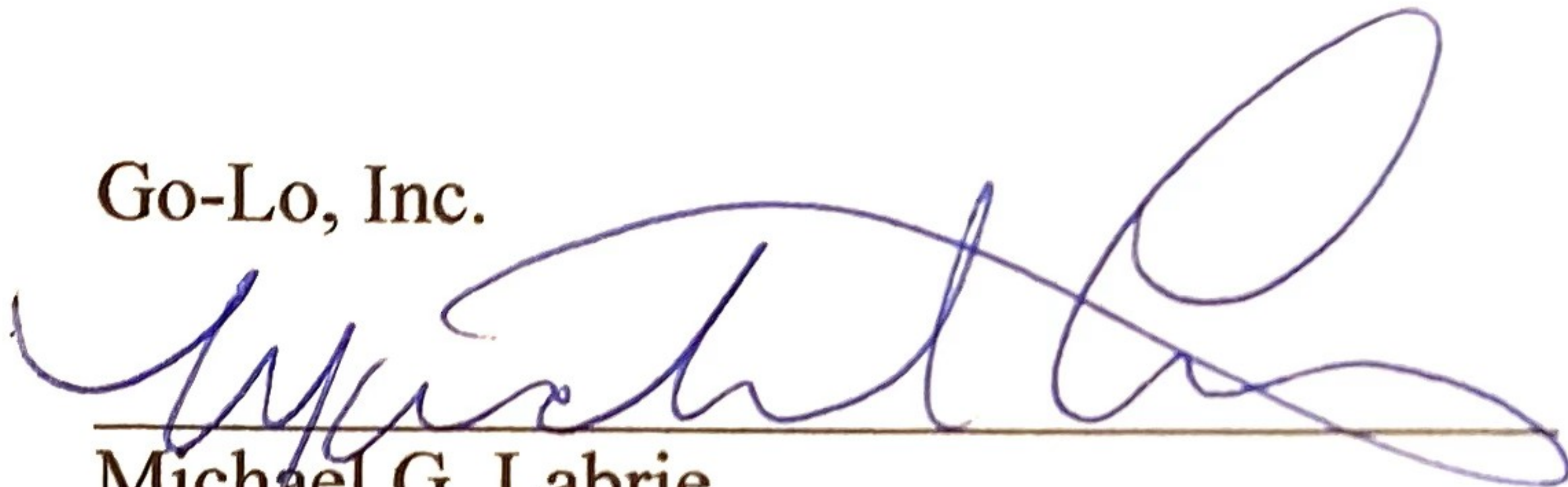


Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

Go-Lo, Inc. and James A. Labrie Revocable Trust of 1991, record owners of the properties located at 2059 Lafayette Road, Tax Map 268, Lot 12 and 13, Portsmouth, NH (the "Property"), hereby authorize **Durbin Law Offices, PLLC, Altus Engineering, Inc. and McHenry Architecture, PLLC** to file any zoning, planning or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.

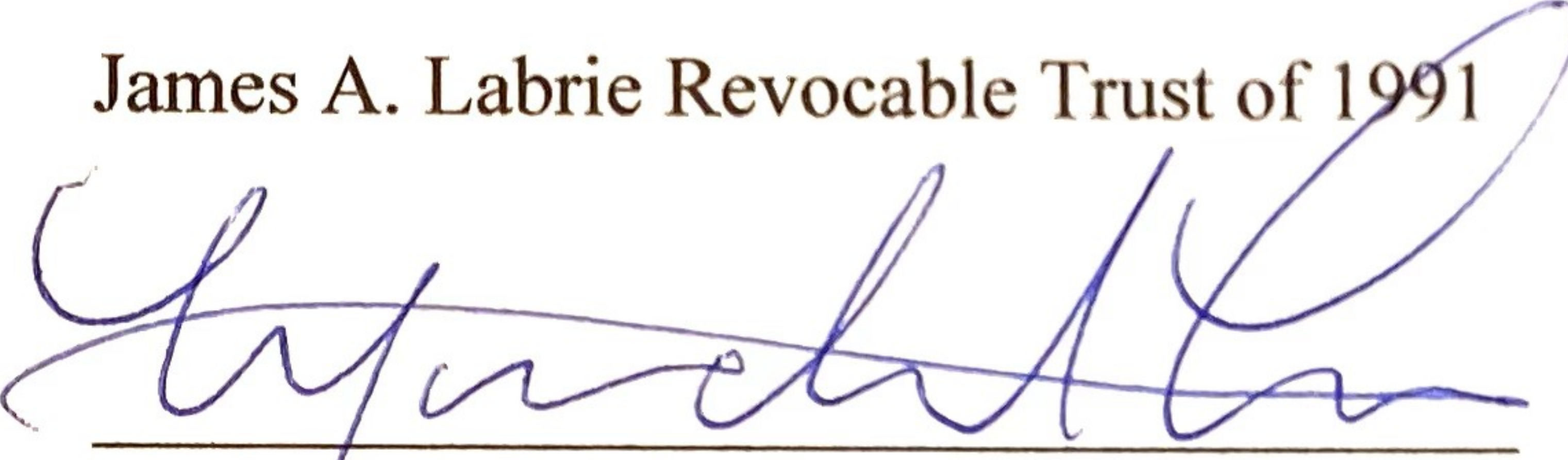
Go-Lo, Inc.



Michael G. Labrie,
Duly Authorized Officer

July 19, 2023

James A. Labrie Revocable Trust of 1991



Michael G. Labrie, Trustee
Duly Authorized

July 19, 2023

**CITY OF PORTSMOUTH
ZONING APPLICATION NARRATIVE**

Go-Lo, Inc
James A. Labrie Revocable Trust of 1991
(Owner/Applicant)
Tax Map 268, Lots 12, 13
2059 Lafayette Road
Portsmouth, NH 03801

Introduction

Existing Conditions

The Property consists of two separate lots located at 2059 Lafayette Road, identified on Tax Map 268 as Lots 12 and 13 (the “Property”). It is situated at the intersection of Lafayette Road and Hoover Drive. The Property is within the MRB Zoning District of Portsmouth. James Labrie first acquired an interest in the Property in 1967. Ownership of the Property has since passed on through his trust to his children. When considering both lots together, the Property consists of 27,444 sq. ft.

The Property contains a 2-story mixed use building with finished “basement” (lower level). The front of the building is accessed from Lafayette Road, while the rear of the building is accessed from Hoover Drive. There is a large parking area consisting of 17 spaces in front of the building and additional parking consisting of 6 spaces in the rear.¹ Because the Property slopes down from front to rear, the area that is assessed as a basement by the City is actually at ground level with the rear parking lot. The ground floor of the building is at the same elevation as Lafayette Road and the front parking area.

The Property is an island in terms of how it is zoned. It is the only MRB-zoned property in this area of Portsmouth. **Exhibit A**. The neighborhood immediately surrounding the Property is zoned SRB and consists primarily of single-family homes and some apartments. The large Elwyn Park neighborhood is situated immediately to the rear of the Property. The Westerly apartment complex is located directly to the south on the abutting property across Hoover Drive. It is zoned SRB but consists of two separate multi-family buildings each containing 24 units. The zoning relief necessary to construct this building was granted in 2017.

¹ These spaces are not shown on the Existing Conditions Survey.

Historical/Existing Use

The left bottom two floors of the existing building were occupied by the Lafayette Animal Hospital from the mid-1980s until it moved into a different building in 2021. The top floor contains 3 two-bedroom apartments that have existed since James Labrie acquired his ownership interest in the Property. Since the Lafayette Animal Hospital vacated, the Labries have had difficulty renting the commercial space. A change of use would require a full-scale renovation to bring the building into compliance with current code and make the space functional for a new tenant. The right side of the building, which is an addition that was constructed in the 1970s, is currently occupied by Dockham Builders and is used as professional office space.

Existing Non-Conformities

Parking in Front Yards

In its existing condition, the Property is non-conforming in multiple respects with respect to its parking configuration. Parking spaces for the building are located within both the primary and secondary front yards. *See* Z.O., Section 10.1113.20.

Setback to Centerline of Lafayette Road

Section 10.533 of the Ordinance provides in relevant part that no “building, structure, parking area, or display or storage area shall be located less than 80 feet from the centerline of Lafayette Road or 30 feet from the sideline of Lafayette Road, whichever represents the greater setback, except as otherwise permitted by this Ordinance.” The parking area associated with the existing building has a 0’ setback and actually appears to encroach into the right-of-way (“ROW”).

Proposed Improvements and Use

The Labries are proposing an 8,800 square foot, two-level, multi-family building with 16 residential units. The existing building and related parking areas would be eliminated in their entirety. The residential units would each be under 750 square feet in size. The immediate intent behind the construction of the building is to create housing for employees of the Labries’ businesses, hence the units are designed to be affordable in the context of the Portsmouth housing market.

The new building would have 21 parking spaces on the ground floor which would accommodate all of the residential units and 5 guest spaces, 1 of which would be ADA compliant. There would be an additional 4 guest spaces, including 1 ADA compliant space, provided in front of the building. Interior and exterior bike and moped parking would also be provided.

Much of the Property outside of the current building is a sea of asphalt with 140+’ of uncontrolled access on Lafayette Road that requires vehicles to back into the roadway. This is highly problematic from a public safety standpoint and is inconsistent with Portsmouth’s vision for new development, aesthetically and otherwise.

As part of the redevelopment plan, the front of the new building will be sited closer to Lafayette Road than the existing building where paved parking currently exists. Direct, uncontrolled access to the Property from Lafayette Road will be eliminated. Open space will increase by 7+%. Landscaping will be added throughout the Property to give it a greener appearance overall. A new fence and enhanced vegetated buffer are proposed for the rear (easterly) and left (northerly) borders of the Property. The lighting associated with the new building will be dark sky compliant. Impervious surface coverage on the Property will be reduced by approximately 0.5%. By moving the required parking inside the building and moving the bulk of the building closer to Lafayette Road, greater opportunity and flexibility exists to treat stormwater runoff. The Property was developed prior to any stormwater management permitting requirements, thus untreated runoff leaves the site discharging onto abutting properties.

Placing the new building approximately 15' closer to Lafayette Road than the existing building and putting the parking on the ground level will allow for safer access, less impervious coverage, more green space, enhanced vegetated buffers from abutting properties and better stormwater management. The redevelopment is also designed to accommodate the City's proposed 6' wide multi-use path, which will create a more walkable, pedestrian-bicycle friendly environment along Lafayette Road. The redevelopment will result in a significant improvements to the conditions of the Property and bring the use into greater conformity with the surrounding neighborhood.

Additional Approvals

In addition to needing zoning relief to redevelop the Property, the Labries will also need lot merger and site plan approval from the Planning Board. It can be reasonably anticipated through the Technical Review and Planning Board processes that some elements of the plans may change.

Summary of Zoning Relief

To redevelop the Property as proposed, the following variances are required:

1. Section 10.1113.20 to allow parking to be located in the front yard and in front of the principal building.
2. Section 10.553 to allow a setback of 58'(+/-) from the centerline of Lafayette Road where 80' is required.
3. Section 10.521 to allow 16 residential units where only 3 are permitted in the MRB Zoning District.
4. 10.440 (1.53) to allow more than 8 residential units in the MRB Zoning District.

Variance Criteria

Granting the variances will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives.'" Id. The Court observed that "[t]here are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." Id.

The existing building on the Property is "tired" and suffers from a significant degree of physical and functional obsolescence. This has made it difficult to rent the commercial space previously occupied by the Lafayette Animal Hospital which was used for a very particular purpose. The building no longer meets current building code and it would be economically infeasible for the Labries to try to rehabilitate the building. Moreover, rehabilitating the building would do little to improve the Property itself or bring the use into greater conformity with the surrounding properties and neighborhood.

With the redevelopment of the Property, parking in the primary front yard setback will be eliminated and replaced by a section of the new building, landscaping, and a future multi-use pathway. This will have a positive impact on the curbside appeal of the Property and upon public safety, including pedestrian/cyclist accessibility along Lafayette Road. Landscaping enhancements will be made throughout the Property to give it a much greener appearance and create better vegetated buffers for surrounding properties. Open space will be increased by 7+% and building coverage will remain well under the 40% maximum at 32.1%. All of the applicable building setbacks to surrounding properties will be met. As a result of bringing the building closer to Lafayette Road, the rear setback will be improved by 15', resulting in a 54' buffer to the nearest abutting property. The light, air and space of abutting properties will be improved with the proposed building.

Substantial improvements will be made to better manage stormwater runoff, including a slight reduction in impervious surface coverage. More than sufficient parking will be provided to accommodate the residential units. There will be 25 total spaces where only 20 are required, thus reducing the risk that residents or visitors of the apartments park on surrounding streets. While the parking in the secondary front yard could be removed to eliminate the need for the variance associated with it, it would serve no public benefit.

For the reasons articulated, the proposed redevelopment will bring the Property into greater overall conformance with the City's building, planning, and zoning regulations and spirit of the Ordinance. Therefore, public health, safety and welfare will be protected.

The proposed units are designed to be more affordable in nature based on their size and the location of the Property. The Labries intend to offer them to the employees of their businesses. They have found that it has become increasingly difficult to retain labor due to the unaffordable local housing market and other economic factors.

The request for 16 residential units may look like a big “ask” on paper but it is not when you consider the context. The proposed use is more conforming to surrounding properties than any of the potential alternative uses that are permitted by right under the MRB zoning designation. Some examples of uses that are permitted by right, include but are not limited to:

- Convenience Store – 6am – 11pm
- School
- Gym or similar use
- Business Office
- Bank
- Day Care Facility
- Laundromat
- Bed and Breakfast

The above permitted uses, even if combined with a lower density residential use, would create an undue burden on the surrounding residential neighborhood in terms of daily vehicular traffic and intensity of use, particularly when you consider that a much larger building could be constructed on the Property under MRB Zoning than what presently exists. A larger building used for a higher-intensity commercial purpose would also be out of character with the surrounding neighborhood which is solely residential and does not contain any mixed-use or commercial use properties. The Westerly abuts the Property to the south on the other side of Hoover Drive and consists of 48 apartments, split equally between 2 buildings, both with below-grade parking. The proposed building is similar to the Westerly in terms of its size, scale and use. While similar, it is also distinguishable in that the units in the Westerly are all well over 1,000 sq. ft. and are on 3 different floors, whereas the units proposed for 2059 Lafayette Road are under 750 sq. ft. and only 2 floors.

The proposed building is designed and scaled similarly to other multi-family projects recently developed in Portsmouth. **Exhibit B**. It will result in the addition of 16 residential dwelling units to an already scarce local housing market. Accordingly, granting the variances will not negatively alter the essential character of the neighborhood.

Substantial Justice will be done in granting the variances.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The “only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997); [*Malachy Glen Assocs., Inc. v. Town of Chichester*, 155 N.H. 102 \(2007\)](#).

There would be no public benefit served by denying the variances. Denying the variances would inevitably result in the development of a large commercial building on the Property with a more intense use that negatively alters the essential character of the surrounding area and serves no benefit to the residential abutters or general public. On the other hand, granting the variances will result in multiple improvements to the conditions of the Property that are designed to benefit abutters and the general public. It will also result in housing units that the Labries intend to make available to the employees of their businesses in Portsmouth and Rye. Accordingly, in the present case, the loss to the landowner outweighs any potential gain to be realized by the public.

Surrounding property values will not be diminished by granting the variance.

In determining whether surrounding properties values would be diminished by granting the variances, it is necessary to review the proposal in the context of how the Property could be used or redeveloped under MRB zoning. Any redevelopment and use of the Property in accordance with MRB zoning would inevitably involve the construction of a commercial building that is of a similar or greater scale to what is proposed and contains a higher-intensity use that is incompatible with and out of character with the surrounding residential neighborhood. It would also likely result in the relocation of parking to the north and east, thus moving it closer to the residential abutters.

The property at 2059 Lafayette Road and the adjacent Westerly property are situated at the entrance to Elwyn Park and act as the gateway to that neighborhood from Lafayette Road. Granting the variances necessary to redevelop the Property as proposed, which is consistent in scale and use to the adjacent Westerly property, makes common sense and would fit in naturally with and enhance the surrounding neighborhood. The other site improvements, including an increase in the rear setback by 15' and better vegetated buffers, will also benefit abutting properties. It is fair to conclude that surrounding property values are likely to increase by granting the variances, not be diminished.

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

The Property's unique conditions, which distinguish it from surrounding properties, include its existing non-conformities, location, size and perhaps most importantly, its zoning designation.

The Property is a "unicorn" in terms of its location, size and zoning. The Property is zoned MRB. However, there are no other properties zoned MRB in this area of Portsmouth. The closest properties that are zoned MRB are downtown and along a small section of Sagamore Road which is a significant distance away. It is likely that the City has not rezoned the Property because of its historical mixed commercial/residential use. Notwithstanding, the zoning is inconsistent with the area and is incompatible with the surrounding zoning and residential uses.

Other than the abutting Westerly property, which is zoned SRB and contains two 24-unit multi-family buildings on it, the Property is larger than surrounding properties. Under MRB zoning, the Property could be redeveloped to include a commercial building that is larger and less compatible with the surrounding residential neighborhood in terms of use and design than what is proposed. What is proposed is similar in scale, size and use to the Westerly property and will fit in naturally with the character of the area and surrounding Elwyn Park neighborhood.

The redevelopment of the Property will eliminate parking in the principal front yard, which presently consists of 17 spaces. This will bring the principle front yard into compliance with Section 10.1113.20 of the Ordinance. Parking spaces in the secondary front yard will also be reduced from 6 to 4.

While the proposed building cannot meet the setback requirement to Lafayette Road, bringing it closer to the ROW is consistent with the City's current planning and zoning objectives which encourage the placement of buildings closer to the street. It also brings the Property into greater conformity with Section 10.533 of the Ordinance by eliminating the front parking area which has no setback from Lafayette Road and represents a significant public safety concern. Granting the variances will improve public safety and create a more pedestrian/bicycle friendly environment along Lafayette Road, consistent with the City's objectives for this area. It will also allow for an enhanced rear yard setback and vegetated buffer thus improving the nearest abutting property's light, air, space and privacy. These changes coupled with a new code-compliant building and a slight reduction in impervious surface coverage and 7+% increase in open space will improve the conditions of the Property, which in turn will benefit the public.

Granting the variances associated with the proposed redevelopment will bring the Property into greater overall conformance with the City's building, planning, and zoning regulations and the goals and objectives underlying them. Accordingly, there is no fair and substantial relationship between the Ordinance provisions and their strict application to the Property. Moreover, the proposed use of the Property is reasonable.

Conclusion

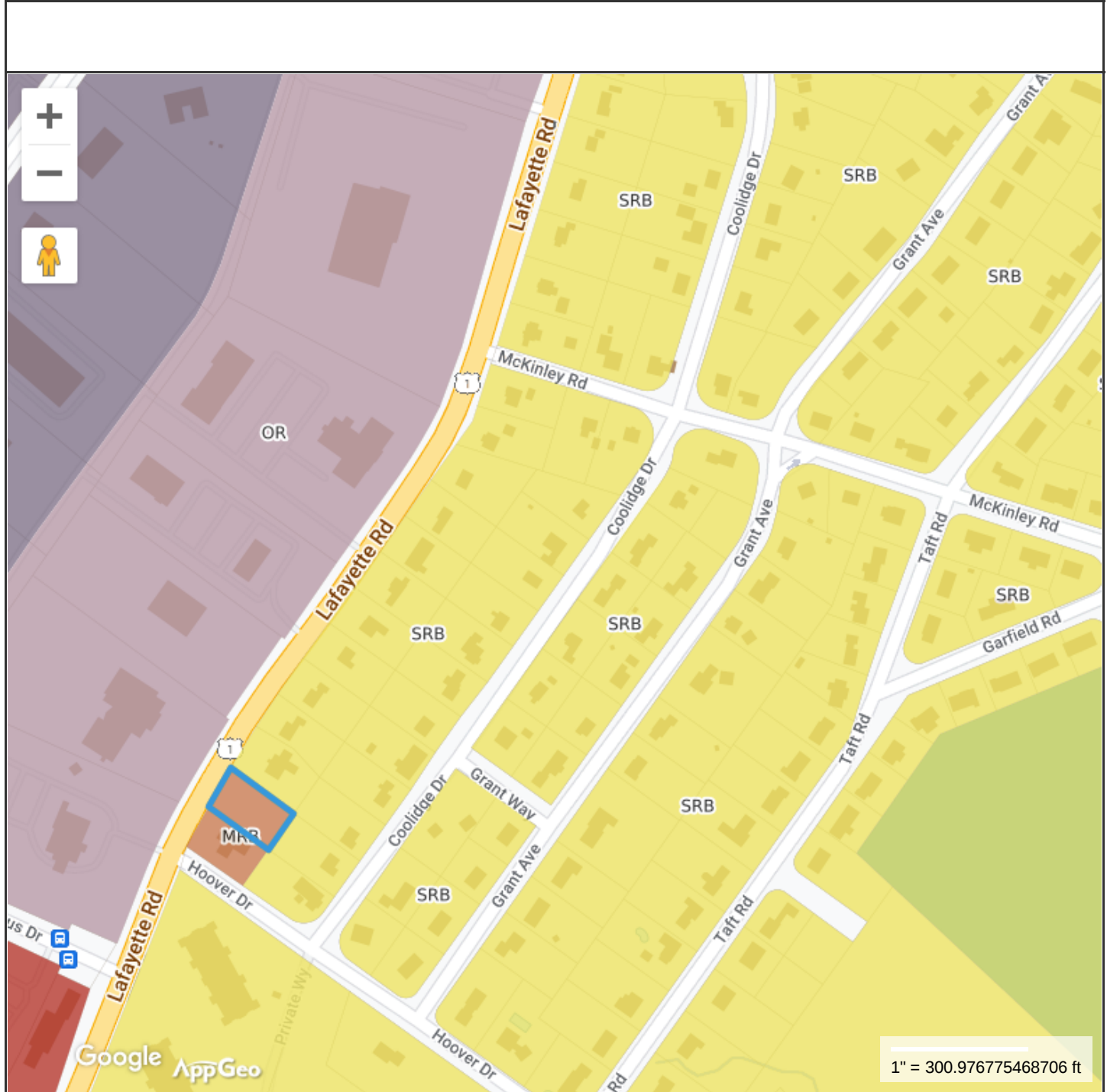
The Labries thank you for your time and consideration of their application and respectfully request your approval of the variances being requested.

Dated: July 25, 2023

Respectfully Submitted,
Go-Lo, Inc.
James A. Labrie Revocable Trust of 1991



By: Derek R. Durbin, Esq.
DURBIN LAW OFFICES PLLC
144 Washington Street
Portsmouth, NH 03801
(603)-287-4764
derek@durbinlawoffices.com



Property Information

Property ID 0268-0012-0000
Location LAFAYETTE RD
Owner LABRIE JAMES A REVO TRUST OF 1991



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 06/21/2023
 Data updated 3/9/2022

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

Map Theme Legends

Zoning

Residential Districts

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




Mixed Residential Districts

| | | |
|-----------------------------------------------------------------------------------|-----|----------------------------|
|  | MRO | Mixed Residential Office |
|  | MRB | Mixed Residential Business |
|  | G1 | Gateway Corridor |
|  | G2 | Gateway Center |


Business Districts

| | | |
|-----------------------------------------------------------------------------------|----|---------------------|
|  | GB | General Business |
|  | B | Business |
|  | WB | Waterfront Business |



Industrial Districts

| | | |
|-----------------------------------------------------------------------------------|----|-----------------------|
|  | OR | Office Research |
|  | I | Industrial |
|  | WI | Waterfront Industrial |






Airport Districts

| | | |
|-----------------------------------------------------------------------------------|-----|-----------------------------|
|  | AIR | Airport |
|  | AI | Airport Industrial |
|  | PI | Pease Industrial |
|  | ABC | Airport Business Commercial |


Conservation Districts

| | | |
|-------------------------------------------------------------------------------------|-----|-----------------------------|
|  | M | Municipal |
|  | NRP | Natural Resource Protection |


Character Districts

| | | |
|-------------------------------------------------------------------------------------|--------|-------------------------|
|  | CD5 | Character District 5 |
|  | CD4 | Character District 4 |
|  | CD4W | Character District 4-W |
|  | CD4-L1 | Character District 4-L1 |
|  | CD4-L2 | Character District 4-L2 |




Civic District

| | |
|-------------------------------------------------------------------------------------|----------------|
|  | Civic District |
|-------------------------------------------------------------------------------------|----------------|

Municipal District

| | |
|-------------------------------------------------------------------------------------|--------------------|
|  | Municipal District |
|-------------------------------------------------------------------------------------|--------------------|

Overlay Districts

| | | |
|-------------------------------------------------------------------------------------|---------------------------|---------------------------------|
|  | OLOD | Osprey Landing Overlay District |
|  | Downtown Overlay District | |
|  | Historic District | |

City of Portsmouth

Exhibit B



2075 LAFAYETTE ROAD (ABUTTER): 0.1 MILES AWAY



70 CONSTITUTION AVENUE: 0.7 MILES AWAY



55 OCEAN ROAD: 1.3 MILES AWAY



3400 LAFAYETTE ROAD: 1.5 MILES AWAY



150 US ROUTE 1 BYPASS: 1.7 MILES AWAY



35 HODGDON WAY: 2.4 MILES AWAY



30-50 CATE STREET: 2.5 MILES AWAY

© 2023 McHenry Architecture

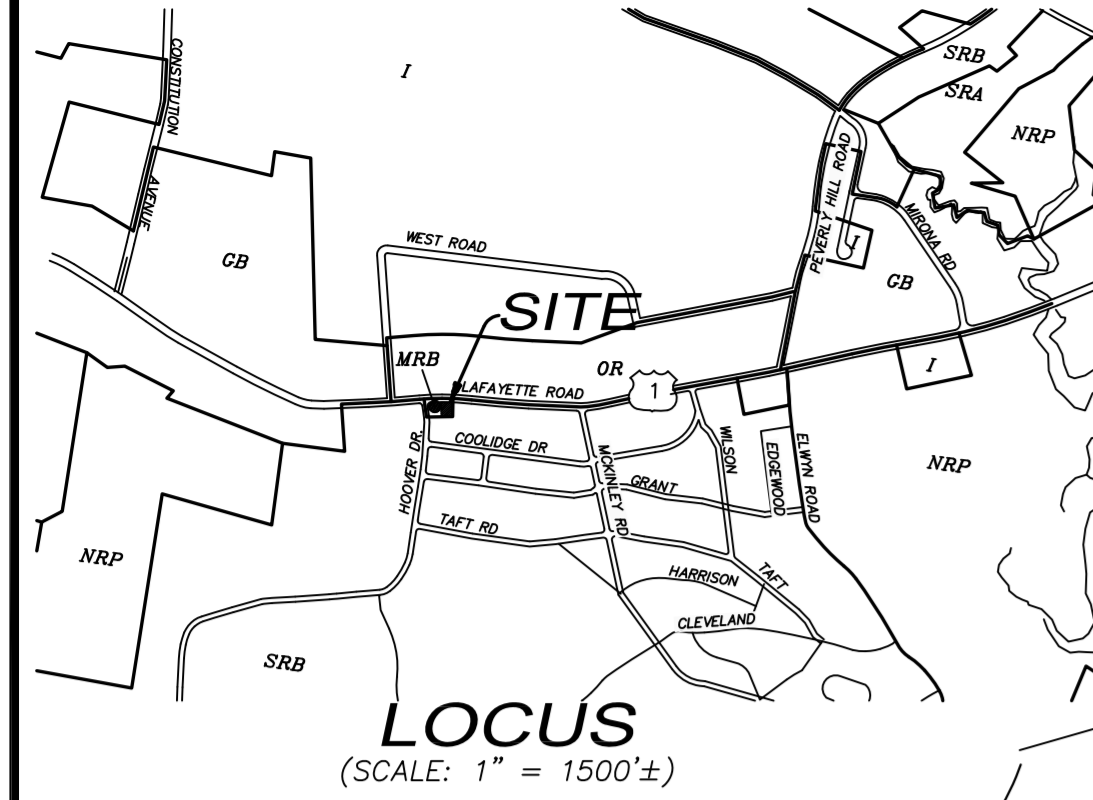
LAFAYETTE MULTI-FAMILY
2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

RTE 1 MULTI-FAMILY PRECEDENTS
ZONING BOARD OF ADJUSTMENT - AUGUST 2023

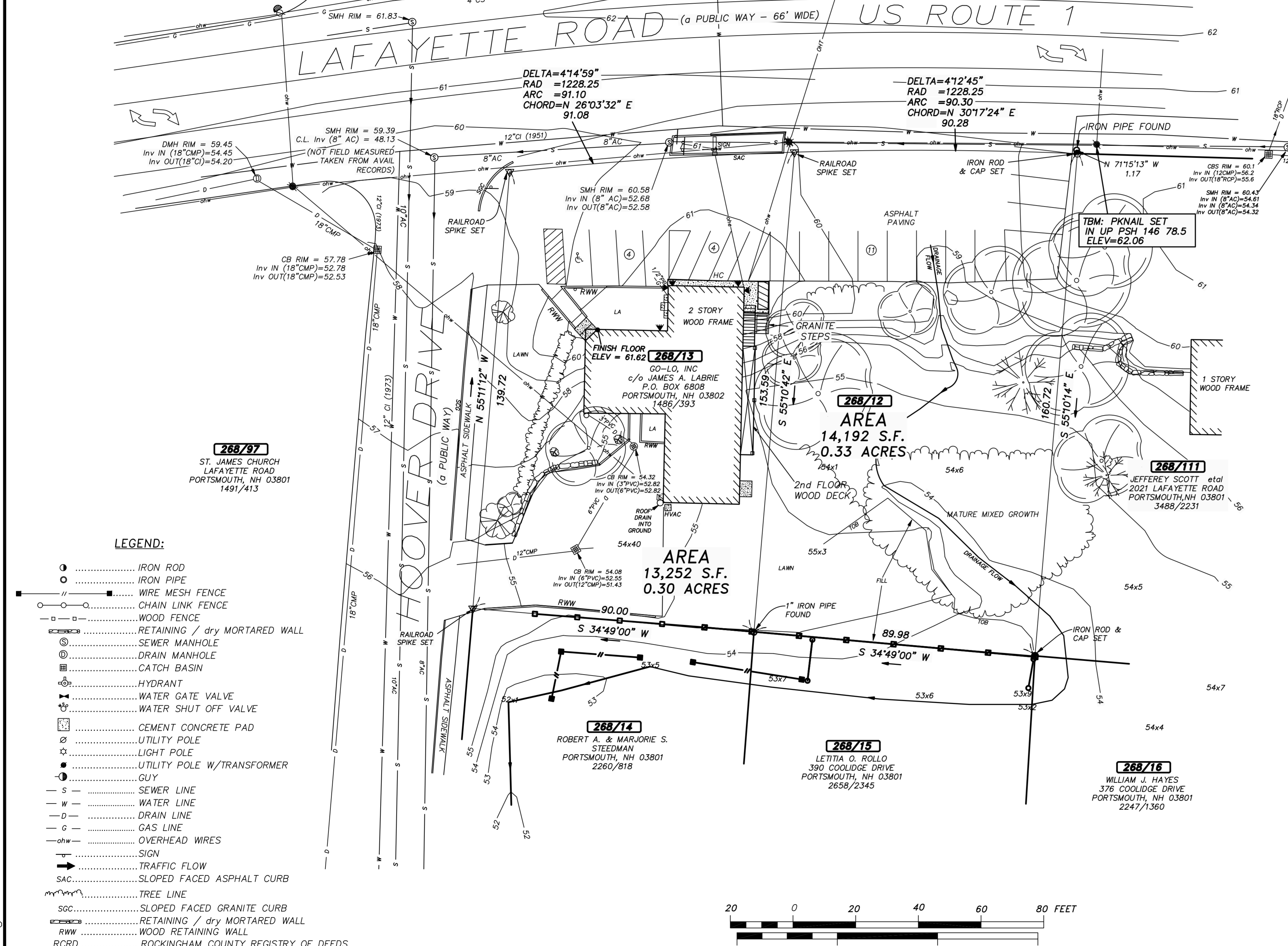
McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

C4

07/24/2023
McHA: RD / MG
NOT TO SCALE



LOCUS
(SCALE: 1" = 1500'±)



- LEGEND:**
- IRON ROD
 - IRON PIPE
 - WIRE MESH FENCE
 - CHAIN LINK FENCE
 - WOOD FENCE
 - RETAINING / dry MORTARED WALL
 - ⊙ SEWER MANHOLE
 - ⊙ DRAIN MANHOLE
 - ⊙ CATCH BASIN
 - ⊙ HYDRANT
 - ⊙ WATER GATE VALVE
 - ⊙ WATER SHUT OFF VALVE
 - ⊙ CEMENT CONCRETE PAD
 - ⊙ UTILITY POLE
 - ⊙ LIGHT POLE
 - ⊙ UTILITY POLE W/TRANSFORMER
 - ⊙ GUY
 - S— SEWER LINE
 - W— WATER LINE
 - D— DRAIN LINE
 - G— GAS LINE
 - ohw— OVERHEAD WIRES
 - S— SIGN
 - TRAFFIC FLOW
 - SAC— SLOPED FACED ASPHALT CURB
 - T— TREE LINE
 - SGC— SLOPED FACED GRANITE CURB
 - R— RETAINING / dry MORTARED WALL
 - RWW— WOOD RETAINING WALL
 - RCRD— ROCKINGHAM COUNTY REGISTRY OF DEEDS

3544.dwg 02/06/02 11:44:01 AM AM EST

P3534

267/1-2
SERVICE FEDERAL CREDIT UNION
P.O. BOX 1268
PORTSMOUTH, NH 03802
1599/7

267/6
STATE OF NEW HAMPSHIRE
c/o NH DEPT. EMPLOYMENT SECURITY
32 SOUTH MAIN STREET
CONCORD, NH 03301
3330/52

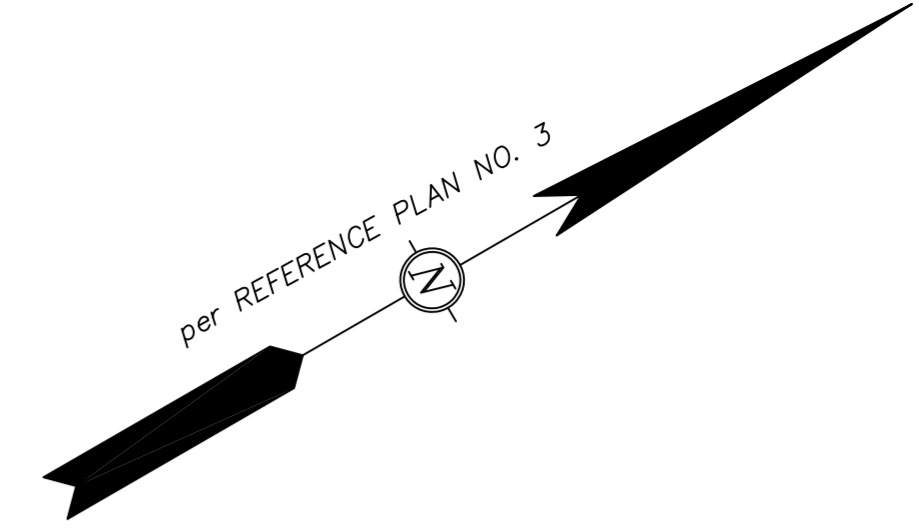
268/97
ST. JAMES CHURCH
LAFAYETTE ROAD
PORTSMOUTH, NH 03801
1491/413

268/13
CO-LO, INC
c/o JAMES A. LABRIE
P.O. BOX 6808
PORTSMOUTH, NH 03802
1486/393

268/14
ROBERT A. & MARJORIE S. STEEDMAN
PORTSMOUTH, NH 03801
2260/818

268/15
LETITIA O. ROLLO
390 COOLIDGE DRIVE
PORTSMOUTH, NH 03801
2658/2345

268/16
WILLIAM J. HAYES
376 COOLIDGE DRIVE
PORTSMOUTH, NH 03801
2247/1360

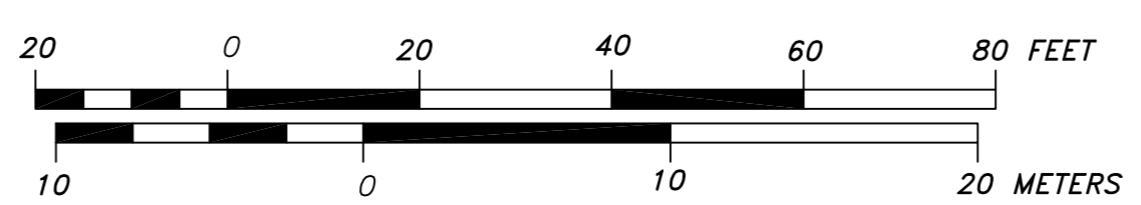


NOTES:

1. OWNER OF RECORD..... JAMES A. LABRIE
ADDRESS..... P.O. BOX 6808, PORTSMOUTH, NH 03802
DEED REFERENCE..... 2628/248
TAX SHEET / LOT..... 268/12
2. ZONED:..... MRB FRONT YARD SETBACK..... 5'
MINIMUM LOT AREA 7,500 S.F. SIDE YARD SETBACK..... 10'
FRONTAGE..... 100' REAR YARD SETBACK..... 15'
MAX. STRUCTURE COVERAGE...40% MIN. OPEN SPACE.....25%
3. THE RELATIVE ERROR OF CLOSURE WAS LESS THAN 1 FOOT IN 15,000 FEET.
4. 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.
5. THE PARCEL SHOWN HEREON DOES NOT LIE WITHIN THE 100-YEAR FLOOD HAZARD ZONE AS DEPICTED ON FLOOD INSURANCE RATE MAP CITY OF PORTSMOUTH, NEW HAMPSHIRE, ROCKINGHAM COUNTY, COMMUNITY-PANEL NO. 330139 0025B, EFFECTIVE DATE MAY 17,1982, BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
6. ELEVATION DATUM: NGVD 1929: PRIMARY BENCH MARK: NHDOT # 379-0630.

REFERENCE PLANS:

1. PLAN OF LOTS, ELWYN PARK, PORTSMOUTH, NH, DATED MAY 1947, RCRD PLAN BK. 45 PG 8 (#01321).
2. PLAN AND PROFILE OF PROPOSED FEDERAL AID PROJECT NO. 37, LAFAYETTE, ROAD, PORTSMOUTH, NH BY THE NH DEPARTMENT OF PUBLIC WORKS.
3. PLAN OF LOT NO. 69, "ELWYN PARK", PORTSMOUTH, N.H., DATED JUNE 1963, PLAN NO. L-373, FILE NO. 2320, BY JOHN W. DURGIN, CE.
4. PLAN OF LOT NO. 65, "ELWYN PARK", PORTSMOUTH, N.H., DATED JUNE 1963, PLAN NO. L-370, FILE NO. 2320, BY JOHN W. DURGIN, CE.
5. PLAN OF LOT NO'S 71-73, ELWYN PARK, PORTSMOUTH, N.H., DATED AUG. 1961, PLAN NO. 1-593, FILE NO. 2320, BY JOHN W. DURGIN, CE.



ALTUS
ENGINEERING, INC.

133 COURT STREET PORTSMOUTH, NH 03801
VOICE: (603) 433-2335

James Verra and Associates, Inc.
LAND SURVEYING REGULATORY APPROVALS
445 U.S. ROUTE 1 BYPASS, SUITE 2
PORTSMOUTH, N.H. 03801
603-436-3557 VOICE
JOB NO: 21468

ISSUED FOR: APPROVAL
ISSUE DATE: JANUARY 29, 2002
REVISIONS:

| NO. | DESC. | BY | DATE |
|-----|--------------------|-----|------|
| 0 | INITIAL SUBMISSION | EDW | |

DRAWN BY: HRM
APPROVED BY: JV
DRAWING FILE: 21468.DWG
SCALE: 1"=20'

OWNER: JAMES A. LABRIE
PROJECT: TAX MAP 268 LOT 12
LAFAYETTE RD
PORTSMOUTH, NH

TITLE: EXISTING CONDITIONS PLAN
SHEET NUMBER: C-1

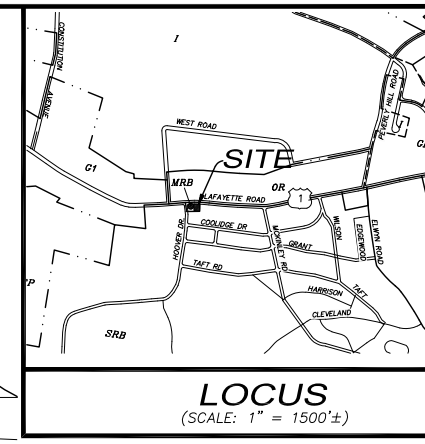
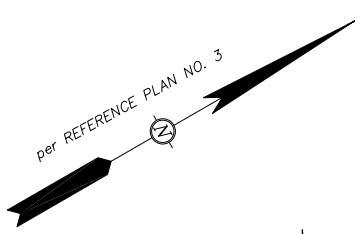
SITE NOTES

- DESIGN INTENT - THIS PLAN IS INTENDED TO DEPICT AN 16-UNIT RESIDENTIAL DEVELOPMENT SITE TOGETHER WITH ASSOCIATED PARKING ON GROUND LEVEL, 2 FLOORS ABOVE, ACCESS AND SITE IMPROVEMENTS.
- THE BASE PLAN USED HERE WAS DEVELOPED FROM PRELIMINARY "EXISTING CONDITIONS PLAN, LAFAYETTE ROAD, PORTSMOUTH, NH" BY JAMES VERRA AND ASSOCIATES, INC., DATED 1/29/2002.
- ZONE: MRB (MIXED RESIDENTIAL BUSINESS)
- DIMENSIONAL REQUIREMENTS:**

| | REQUIRED | EXISTING | PROPOSED |
|--------------------------|-------------------------------------------|--------------------------|-----------------------------|
| MIN. LOT AREA: | 7,500 S.F. (0.17 ACRE) | ±27,444 S.F. (±0.63 AC.) | ±27,444 S.F. (±0.63 AC.) |
| MIN. STREET FRONTAGE: | 100' (ON LAFAYETTE ROAD) | 181.36' (EXISTING) | 181.36' (EXISTING) |
| MIN. LOT DEPTH: | 80' | 139.72' (EXISTING) | 139.72' (EXISTING) |
| FRONT SETBACK: * | >80' TO LAFAYETTE RD. CL OR 30' TO R.O.W. | 0' TO R.O.W. | 58' TO CENTERLINE OF R.O.W. |
| SIDE SETBACK: ** | 10' | ±95' | ±12' |
| REAR SETBACK: ** | 15' | ±39' | ±54' |
| MAX. BUILDING HEIGHT: | 40' (SLOPED), 30' (FLAT) | <40' SLOPED | <40' SLOPED |
| MAX. BUILDING LENGTH: | 160' (MULTI-FAMILY) | ±70' | ±137' |
| MAX. BUILDING FOOTPRINT: | N/A | | |
| MAX. BUILDING COVERAGE: | 40% | 9.3% (±2,560 S.F.) | 32.1% (±8,800 S.F.) |
| LOT AREA/DWELLING UNIT: | 7,500 SF | N/A | ±1,715 SF/UNIT |
| MIN. OPEN SPACE: | 25% | 55.0% (±15,089 S.F.) | ±62.4% (±17,114 S.F.) |

* FRONT SETBACK IS FROM BOTH STREET ADDRESS STREET AND ACCESS STREET
 ** SIDE & REAR SETBACKS IN RELATION TO FRONT STREET ADDRESS STREET
 *** OPEN SPACE INCLUDES WALKS
- ZONING SECTION 10.521 - VARIANCE FROM ZONING BOARD OF ADJUSTMENT REQUIRED TO ALLOW 16 UNITS WHERE 3.7 UNITS ARE ALLOWED.
 ZONING SECTION 10.533 - VARIANCE TO ALLOW A FRONT SETBACK OF ±57' TO R.O.W. CL WHERE 80' IS REQUIRED.
 ZONING SECTION 10.1113.20 - TO ALLOW PARKING IN THE FRONT YARD AND IN FRONT OF THE PRINCIPAL BUILDING.
- DENSITY CALCULATIONS:**
 0.63 ACRES (27,444 S.F.)
 27,444 S.F. / 7,500 S.F. = 3.7 UNITS ALLOWED
 16 UNITS PROPOSED (±1,715 S.F./UNIT)

- LANDSCAPING BUFFER & PRIVACY FENCE SHALL BE INSTALLED AS APPROVED.
- PARKING REQUIREMENTS:**
 DWELLING UNITS: 1.0 SPACE PER DWELLING UNIT 501 - 749 S.F.
 16 UNITS x 1.0 = 16.0 SPACES REQUIRED PLUS
 VISITOR PARKING: 1 SPACE PER 5 D.U. OR PORTION = 4 SPACES REQUIRED = 20 SPACES REQUIRED, 25 SPACES PROVIDED
- THERE SHALL BE NO VISION OBSTRUCTIONS LOCATED IN THE AREA CREATED BY MEASURING 20' IN EACH DIRECTION FROM A CORNER LOT STREET PROPERTY LINE CORNER.
- IMPERVIOUS AREA COVERAGE NOTE:**
 EXISTING BUILDING & DECK (±2,560 SF) + EXISTING PAVMT/CONCRETE (±9,700 SF) + EXISTING WALK (±95 SF) = ±12,355 SF (45.0%)
 PROP. BUILDING (±8,800 SF) + PR. DECKS (±80 SF) + PR. PAVEMENT (±1,530 SF) + PR. WALKS (±1,915 SF) = ±12,325 SF (44.9%)



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

NOT FOR CONSTRUCTION
 ISSUED FOR:
BOARD OF ADJUSTMENT
 ISSUE DATE:
AUGUST 9, 2023

REVISIONS

| NO. | DESCRIPTION | BY | DATE |
|-----|--------------------|-----|----------|
| 0 | INITIAL SUBMISSION | EDW | 07/24/23 |
| 1 | DRAFTING REVISIONS | EDW | 08/09/23 |

DRAWN BY: _____ RLH
 APPROVED BY: _____ EDW
 DRAWING FILE: 5361-7-2023.DWG

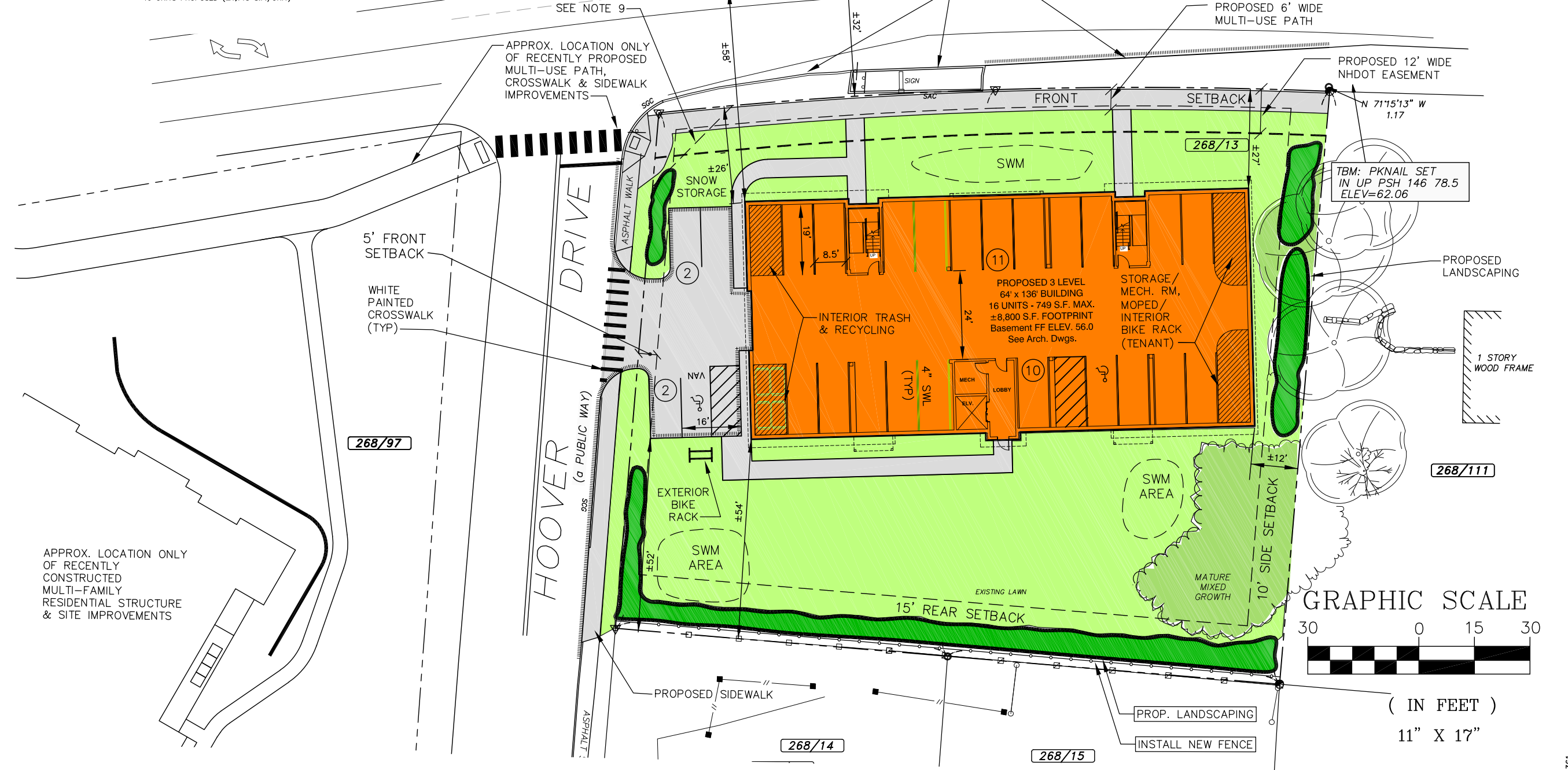
SCALE:
 22" x 34" - 1" = 15'
 11" x 17" - 1" = 30'

OWNER/APPLICANT:
 TAX MAP 268, LOT 12
JAMES A. LABRIE REV. TRUST OF 1991
 PO BOX 300 RYE, NH 03870
 RCRD BOOK 5378/PAGE 2236
 TAX MAP 268, LOT 13
 GO-LO, INC. c/o LABRIE
 P.O. BOX 300 RYE, NH 03870
 RCRD BOOK 1486/PAGE 0393

PROJECT:
SITE REDEVELOPMENT
 TAX MAP 268, LOT 12 & 13
 2059 LAFAYETTE ROAD PORTSMOUTH, NH 03801

TITLE:
BOARD OF ADJUSTMENT SITE PLAN
SHEET NUMBER:
1 of 1

LAFAYETTE ROAD (a PUBLIC WAY - 66' WIDE) **US ROUTE 1**



P5361

2059 LAFAYETTE MULTI-FAMILY

ZONING BOARD OF ADJUSTMENT - AUGUST 2023, PORTSMOUTH, NEW HAMPSHIRE

GENERAL PROJECT DESCRIPTION:

- REMOVAL OF THE EXISTING BUILDING IN ITS ENTIRETY
- VARIOUS SITE IMPROVEMENTS, REFER TO CIVIL DRAWINGS FOR MORE INFORMATION
- PROPOSED STRUCTURE:
 1. 3 STORY STRUCTURE: 1 LEVEL OF PARKING, 2 LEVELS OF RESIDENTIAL UNITS
 2. 16 RESIDENTIAL UNITS, ALL UNITS ARE LESS THAN OR EQUAL TO 749 SF
 3. 25 PARKING SPOTS: 21 INSIDE, 4 OUTSIDE

| SHEET LIST | |
|--------------|------------|
| Sheet Number | Sheet Name |

| | |
|----|-------------------------------|
| C1 | COVER |
| C2 | EXISTING BUILDING |
| C3 | CONTEXT IMAGES |
| C4 | RTE 1 MULTI-FAMILY PRECEDENTS |

| | |
|-----|-------------------------------|
| A1 | FIRST FLOOR PLAN |
| A2 | SECOND & THIRD FLOOR PLAN |
| A3 | ROOF PLAN |
| A4 | TYPICAL UNIT FLOOR PLAN |
| A5 | NORTH ELEVATION (LAFAYETTE) |
| A6 | WEST ELEVATION (HOOVER) |
| A7 | SOUTH ELEVATION (REAR) |
| A8 | EAST ELEVATION |
| A9 | RENDERING FROM LAFAYETTE ROAD |
| A10 | AERIAL RENDERING |
| A11 | RENDERING FROM HOOVER DRIVE |



2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801



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LAFAYETTE MULTI-FAMILY
2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

COVER
ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

C1

07/24/2023
McHA: RD / MG
NOT TO SCALE



2059 LAFAYETTE ROAD LOOKING SOUTH



2059 LAFAYETTE ROAD LOOKING EAST



2059 LAFAYETTE ROAD LOOKING NORTH



BUILDING APPROACH FROM SOUTH



BUILDING APPROACH FROM NORTH

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LAFAYETTE MULTI-FAMILY

2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

EXISTING BUILDING

ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE

4 Market Street
Portsmouth, New Hampshire

C2

07/24/2023
McHA: RD / MG
NOT TO SCALE

Locus



2021 LAFAYETTE ROAD: LEFT YARD ABUTTER



REAR YARD ABUTTERS FROM REAR YARD



COOLIDGE DRIVE: REAR YARD ABUTTERS



COOLIDGE DRIVE: REAR YARD ABUTTERS



COOLIDGE DRIVE: REAR YARD ABUTTERS



2010 LAFAYETTE ROAD



2032 LAFAYETTE ROAD



2100 LAFAYETTE ROAD

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LAFAYETTE MULTI-FAMILY

2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

CONTEXT IMAGES

ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE

4 Market Street
Portsmouth, New Hampshire

C3

07/24/2023
McHA: RD / MG
NOT TO SCALE



2075 LAFAYETTE ROAD (ABUTTER): 0.1 MILES AWAY



70 CONSTITUTION AVENUE: 0.7 MILES AWAY



55 OCEAN ROAD: 1.3 MILES AWAY



3400 LAFAYETTE ROAD: 1.5 MILES AWAY



150 US ROUTE 1 BYPASS: 1.7 MILES AWAY



35 HODGDON WAY: 2.4 MILES AWAY



30-50 CATE STREET: 2.5 MILES AWAY

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LAFAYETTE MULTI-FAMILY

2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

RTE 1 MULTI-FAMILY PRECEDENTS

ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE

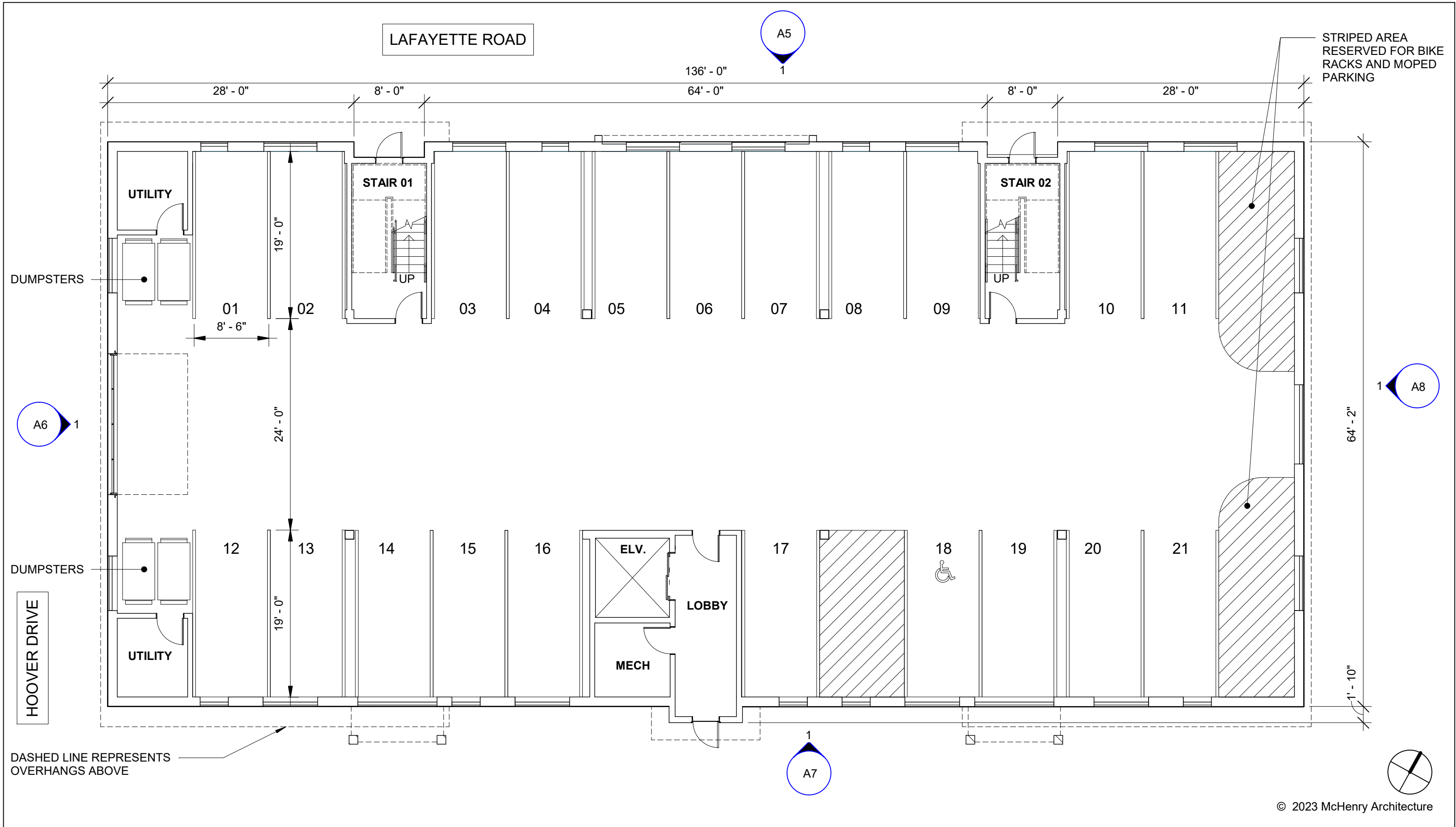
4 Market Street
Portsmouth, New Hampshire

C4

07/24/2023

McHA: RD / MG

NOT TO SCALE



LAFAYETTE MULTI-FAMILY
 2059 LAFAYETTE ROAD
 PORTSMOUTH, NH 03801

FIRST FLOOR PLAN
 ZONING BOARD OF ADJUSTMENT - AUGUST 2023

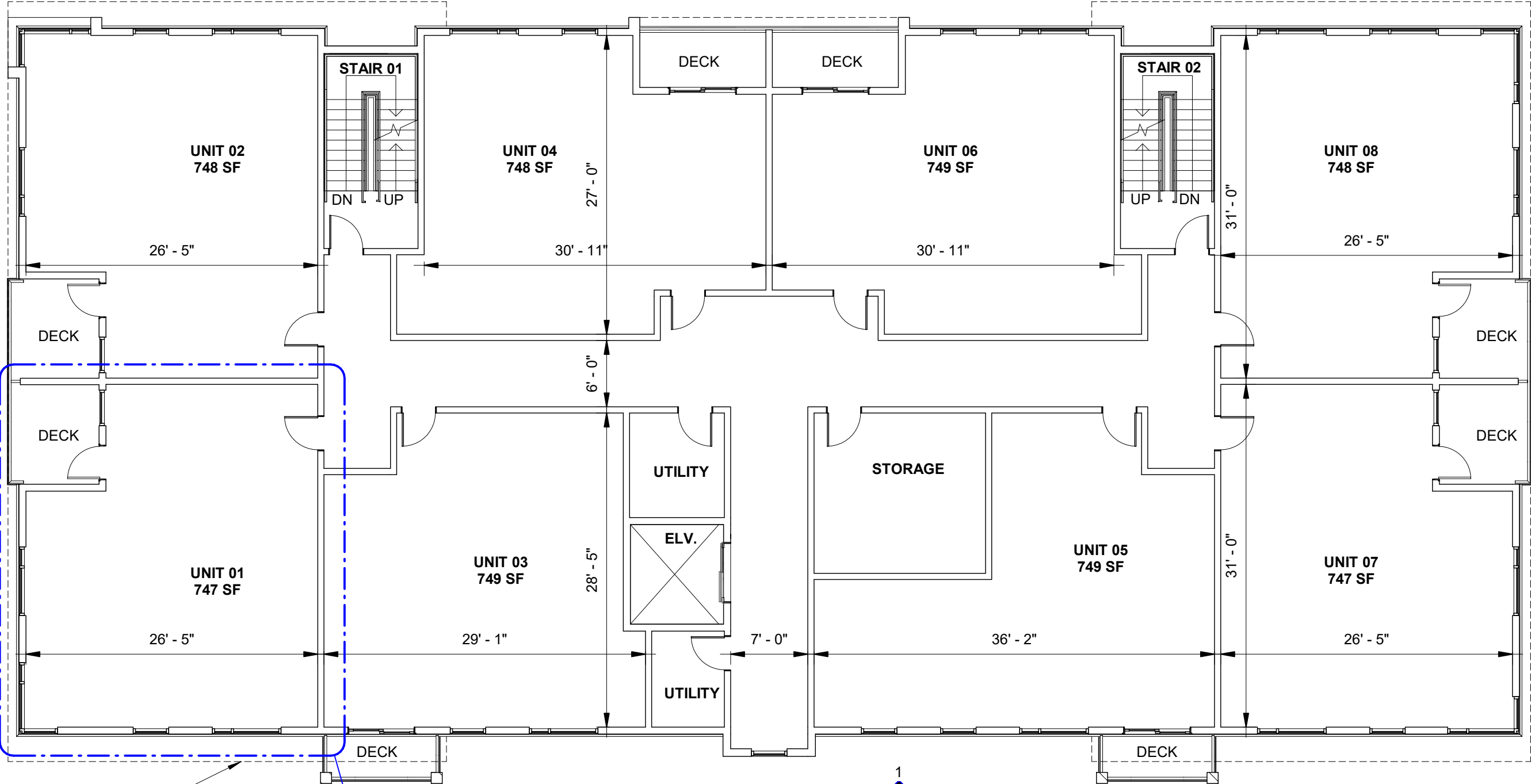
McHENRY ARCHITECTURE
 4 Market Street
 Portsmouth, New Hampshire

A1

07/24/2023
 McHA: RD / MG
 Scale: 1" = 10'-0"

LAFAYETTE ROAD

A5
1



A6
1

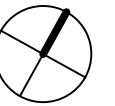
A8
1

HOOVER DRIVE

DASHED LINE REPRESENTS
OVERHANGS ABOVE

1
A4

1
A7



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LAFAYETTE MULTI-FAMILY
2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

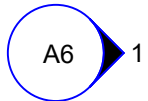
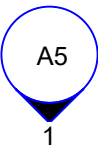
SECOND & THIRD FLOOR PLAN
ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

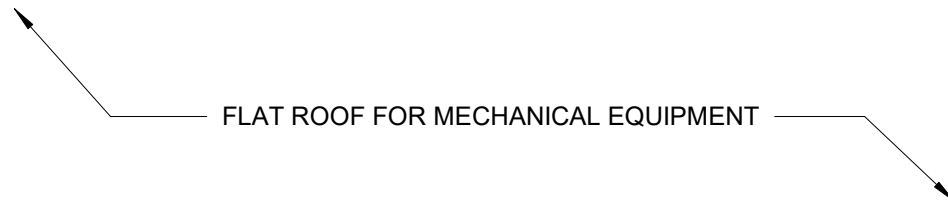
A2

07/24/2023
McHA: RD / MG
Scale: 1" = 10'-0"

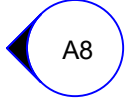
LAFAYETTE ROAD



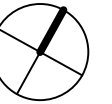
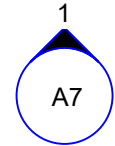
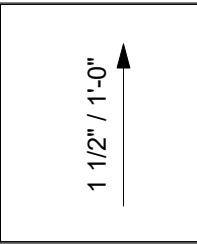
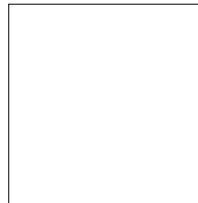
1 1/2" / 1'-0"



1 1/2" / 1'-0"



HOOVER DRIVE



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LAFAYETTE MULTI-FAMILY

2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

ROOF PLAN

ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE

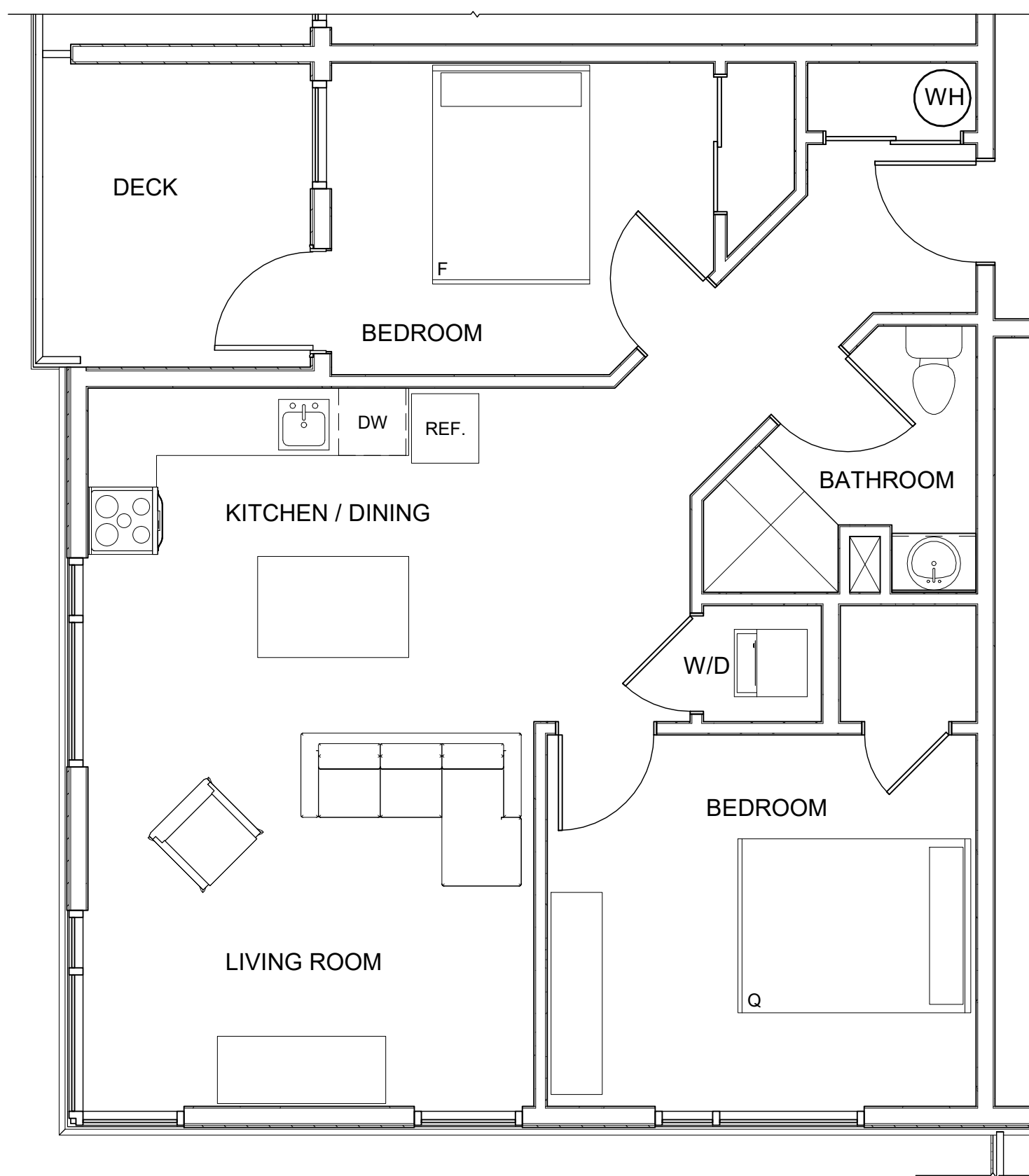
4 Market Street
Portsmouth, New Hampshire

A3

07/24/2023

McHA: RD / MG

Scale: 1" = 10'-0"



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LAFAYETTE MULTI-FAMILY
 2059 LAFAYETTE ROAD
 PORTSMOUTH, NH 03801

TYPICAL UNIT FLOOR PLAN
 ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
 4 Market Street
 Portsmouth, New Hampshire

A4

07/24/2023
 McHA: RD / MG
 Scale: 1/4" = 1'-0"



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LAFAYETTE MULTI-FAMILY
 2059 LAFAYETTE ROAD
 PORTSMOUTH, NH 03801

NORTH ELEVATION (LAFAYETTE)
 ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
 4 Market Street
 Portsmouth, New Hampshire

A5

07/24/2023
 McHA: RD / MG
 Scale: 1" = 10'-0"



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LAFAYETTE MULTI-FAMILY

2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

WEST ELEVATION (HOOVER)

ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE

4 Market Street
Portsmouth, New Hampshire

A6

07/24/2023

McHA: RD / MG

Scale: 1" = 10'-0"



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LAFAYETTE MULTI-FAMILY
 2059 LAFAYETTE ROAD
 PORTSMOUTH, NH 03801

SOUTH ELEVATION (REAR)
 ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
 4 Market Street
 Portsmouth, New Hampshire

A7

07/24/2023
 McHA: RD / MG
 Scale: 1" = 10'-0"



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LAFAYETTE MULTI-FAMILY
 2059 LAFAYETTE ROAD
 PORTSMOUTH, NH 03801

EAST ELEVATION

ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
 4 Market Street
 Portsmouth, New Hampshire

A8

07/24/2023
 McHA: RD / MG
 Scale: 1" = 10'-0"



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4 Market Street, Portsmouth, NH 03801

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LAFAYETTE MULTI-FAMILY
2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

RENDERING FROM LAFAYETTE ROAD
ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

A9

07/24/2023
McHA: EW / RD
NOT TO SCALE



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4 Market Street, Portsmouth, NH 03801

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LAFAYETTE MULTI-FAMILY

2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

AERIAL RENDERING

ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE

4 Market Street
Portsmouth, New Hampshire

A10

07/24/2023

McHA: EW / RD

NOT TO SCALE



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4 Market Street, Portsmouth, NH 03801

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LAFAYETTE MULTI-FAMILY
2059 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

RENDERING FROM HOOVER DRIVE
ZONING BOARD OF ADJUSTMENT - AUGUST 2023

McHENRY ARCHITECTURE
4 Market Street
Portsmouth, New Hampshire

A11

07/24/2023
McHA: EW / RD
NOT TO SCALE

III. NEW BUSINESS

- E. The request of **Creeley Family Trust, Sean Creeley and Andrea Creeley Trustees (Owners)**, for property located at **337 Richards Avenue** whereas relief is needed to demolish the existing detached garage and construct an addition and attached garage to the primary structure which requires a Variance from Section 10.521 to allow a one and a half (1.5) foot rear yard where 20 feet is required. Said property is located on Assessor Map 130 Lot 2 and lies within the General Residence A (GRA) District. (LU-23-113)

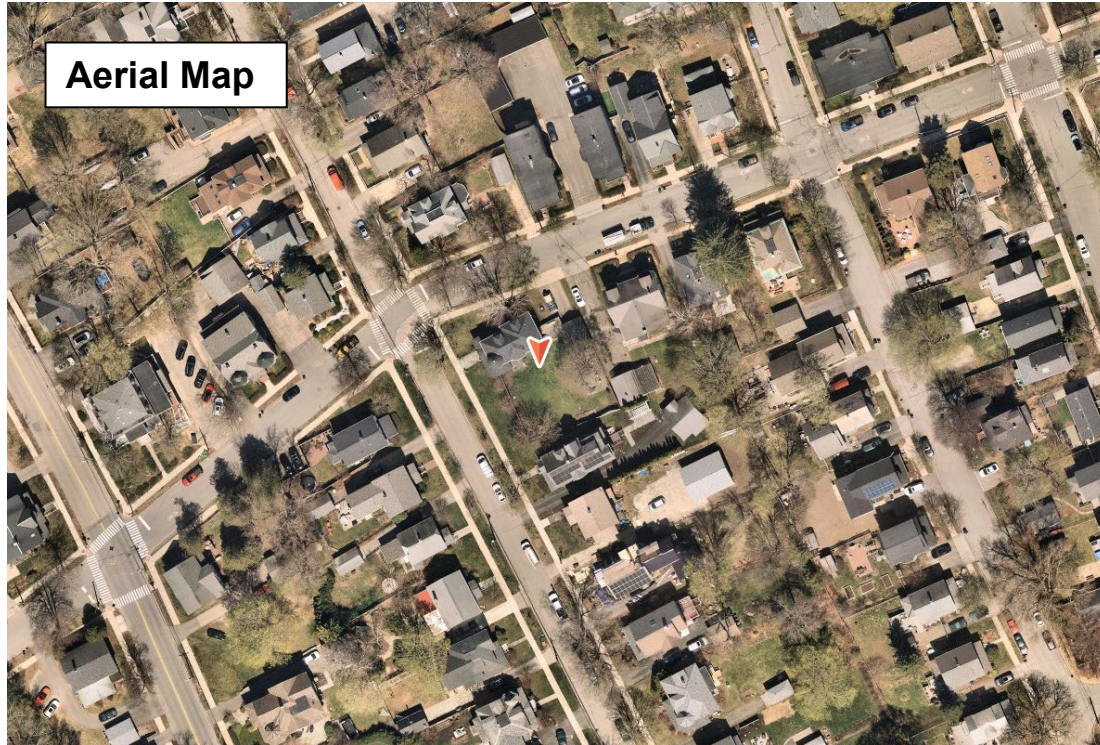
Existing & Proposed Conditions

| | <u>Existing</u> | <u>Proposed</u> | <u>Permitted / Required</u> |
|--------------------------------------------------|-----------------|--------------------------------------------|-----------------------------|
| <u>Land Use:</u> | Single-family | Construct an addition with attached garage | Primarily residential |
| <u>Lot area (sq. ft.):</u> | 10,881 | 10,881 | 7,500 min. |
| <u>Lot Area per Dwelling Unit (sq. ft.):</u> | 10,881 | 10,881 | 7,500 min. |
| <u>Street Frontage (ft.)</u> | 215.5 | 215.5 | 100 min. |
| <u>Lot depth (ft.):</u> | 104.5 | 104.5 | 70 min. |
| <u>Primary Front Yard (Richards Ave) (ft.):</u> | 17.3 | 17.3 | 15 min. |
| <u>Secondary Front Yard (Lincoln Ave) (ft.):</u> | 15.8 | 15.8 | 15 min. |
| <u>Right Yard (ft.):</u> | 52.8 | 41.2 | 10 min. |
| <u>Rear Yard (ft.):</u> | 1.4 | 1.5 | 20 min. |
| <u>Height (ft.):</u> | <35 | <35 | 35 max. |
| <u>Building Coverage (%):</u> | 15.1 | 14.9 | 25 max. |
| <u>Open Space Coverage (%):</u> | 68.6 | 62.3 | 30 min. |
| <u>Parking</u> | 2 | 2 | 2 |
| <u>Estimated Age of Structure:</u> | 1900 | Variance request(s) shown in red. | |

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is proposing the removal of the existing garage and the construction of an addition to the primary structure that includes an attached garage. The lot is located at the corner of Richards Avenue and Lincoln Avenue. The existing and proposed driveway is located on the Lincoln side of the lot.

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.

BY: VIEWPOINT & HAND DELIVERY

July 24, 2023

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Sean and Andrea Creeley, Trustees
of the Creeley Family Trust
337 Richards Avenue, Tax Map 130, Lot 2**

Dear Stefanie,

Our Office represents Sean and Andrea Creeley, owners of the property located at 337 Richards Avenue, Portsmouth. Enclosed herewith, please find the following materials relative to the variance application submitted to the Board of Adjustment on behalf of the Creeleys through Viewpoint:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Existing and Proposed Conditions Plans;
- 4) Existing and Proposed Floor Plans and Elevations;
- 5) Photographs;
- 6) Support Letter from Owner of 192 Lincoln Ave.

A copy of the above application materials is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,



Derek R. Durbin, Esq.

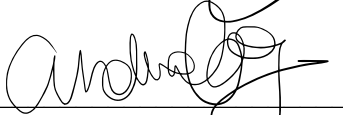
LANDOWNER LETTER OF AUTHORIZATION

Sean W. Creeley and Andrea T. Creeley, Trustees of the Creeley Family Trust, record owners of the property located at 337 Richards Avenue, Tax Map 130, Lot 2, Portsmouth, NH (the "Property"), hereby authorize **Durbin Law Offices, PLLC, Altus Engineering, Inc., and Somma Studios**, to file any zoning, planning or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.



Sean W. Creeley, Trustee

July 18, 2023



Andrea T. Creeley, Trustee

July 18, 2023

**CITY OF PORTSMOUTH
ZONING APPLICATION NARRATIVE**

Sean W. and Andrea T. Creeley, Trustees
Creeley Family Trust
(Owner/Applicant)
Tax Map 130, Lot 2
337 Richards Avenue
Portsmouth, NH 03801

Introduction

Sean and Andrea Creeley are the owners of property located at 337 Richards Avenue in Portsmouth (the “Property”). The Property is a corner lot, situated at the intersection of Richards and Lincoln Avenues. It is located in the General Residence A (“GRA”) zoning district. The Property contains a relatively small, narrow two-story, single-family home built in 1900 that serves at the Creeleys residence. There is also a non-conforming detached garage on the Property located along the easterly boundary that is accessed from a driveway off of Lincoln Avenue. The Creeleys and their guests use this driveway and the stone patio between it and the house as their primary access.

The Property itself is 10,881 square feet (+/-) in size, which makes it larger than the vast majority of properties in the surrounding area. Of those properties that are of similar size, most if not all have multiple dwelling units on them. The Creeley’s property is a true outlier for the neighborhood.

The detached garage is quite small at around 300 sq. ft. The garage has fallen into disrepair and shows signs of weather damage and rot throughout. It is generally in poor condition and suffers from physical and functional obsolescence. The garage has primarily served as storage for outdoor furniture, bikes and their children’s belongings. It is too small to fit a modern car and given its condition, it is not suitable for vehicular use.

Proposed Improvements

The Creeleys intend to do a full renovation of their home and related improvements to the Property to create a more functional, modern living environment for their family of 4. From the outside, the existing home looks larger than it actually is due to the turret design element, expansive wraparound porch, bay window features and ornate exterior detailing. The reality is that the existing home is relatively narrow in width (20’-6”) side to side) and the living space is compartmentalized into rooms that are relatively small by current standards. The kitchen is 11’ x 9’, the dining room is 11 x 10’, the living room is 13’-10” x 12’3”, and the bedrooms are 9’ x 12”. There is no true primary bedroom in the home.

The Creeleys would like to demolish the existing garage and chicken coop on the Property and replace it with a more functional, two-car addition that would tie in architecturally to a mudroom/living room addition that they will be constructing to the southerly side of their home. The garage addition would be in approximately the same location as the existing one and stone patio but would be taller than the existing structure at 18.3' versus 10.2' to allow for a primary bedroom above. This will improve the conditions of the Property and create some much-needed additional living (bedroom) space for the Creeleys without encroaching further into the rear yard setback than the existing garage. The garage addition will be slightly more conforming with respect to the rear yard setback than the existing one. It is also important to note that the most directly impacted abutter has been consulted concerning the proposed garage and has expressed his support for the Creeleys plans, as demonstrated by the letter of support submitted with the foregoing variance application.

Summary of Zoning Relief

1. Section 10.521

To allow a 1.7 (+/-) right yard setback where 1.4' (+/-) exists and 20' is required.

Variance Criteria

Granting the variance will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives.'" Id. The Court observed that "[t]here are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." Id.

There are numerous examples of similar setback encroachments throughout the South End of Portsmouth as a result of how properties in this area were historically developed. The proposed garage is designed to align stylistically with the existing house and mudroom/living room addition. It has been designed at the minimum height and width necessary to accommodate two vehicles and a reasonably sized bedroom above. It will not encroach further into the rear yard setback than the existing garage. To the contrary, the rear yard setback will be improved slightly beyond what exists. The new garage will be 1.7' from the rear yard boundary at its closest point and 3.6' at its furthest point. The existing garage has an existing setback of 1.4' at its closest point and 2.6' at its further point.

The height of the new garage will be only 8.1' above the existing garage. Any impact upon the light, air and space of abutting property to the rear beyond what exists would be minimal, particularly when you consider the fact that the area immediately adjacent to the proposed garage is a 17-19' wide driveway. There is no structure or usable yard area occupying the space adjacent to the proposed garage. The Creeleys have agreed to keep the mature, large maple tree that is situated immediately south of the existing garage at the abutting property owner's request. This tree has a far greater impact upon the light, air and space of the abutting property than the proposed garage addition would have.

Locating the proposed garage addition to the Richards Avenue side of the Property was considered but is impractical as a result of the layout and location of the home and other features, such as the existing access off of Lincoln Avenue. It is also disfavored by the neighbors who the Creeleys have spoken to. It would drastically alter the character of the streetscape in this area of Richards Avenue and would require a new curb cut and driveway, which would need approval from the Public Works Department, and would require abandonment of the existing curb cut and driveway off of Lincoln Avenue.

For the foregoing reasons, approving the variance request will not alter the essential character of the neighborhood or otherwise conflict with the basic objectives of the Zoning Ordinance. There are also no public health, safety or welfare concerns implicated by the proposed garage. To the contrary, the proposed garage and improvements being made to the home are all designed to meet current building and life safety codes.

Substantial Justice will be done in granting the variance.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The "only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." New Hampshire Office of State Planning, *The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997); [*Malachy Glen Assocs., Inc. v. Town of Chichester*, 155 N.H. 102 \(2007\)](#).

There would be no gain to the general public by denying the variance request. There is only one potentially impacted abutting property and the owner supports the proposed garage addition, as evidenced by the letter submitted with the foregoing variance application. Granting the variance will allow for some much-needed additional bedroom space, improved parking and storage space, and bring the Property into slightly greater conformance with the rear yard setback requirement. Therefore, the loss to the Creeleys in denying the variance request outweighs any potential gain to the public.

Surrounding property values will not be diminished by granting the variance.

The Board is justified in relying upon its own knowledge and expertise to reach the conclusion that surrounding property values will either remain the same or improve if the variance are granted. A garage already exists in approximately the same location as the proposed garage, which is abutted by the neighbor's driveway. Architecturally, the proposed garage will tie in naturally with the existing home and other improvements being made to it. Landscaping is also being added to soften the appearance of the proposed garage. It has been designed at the minimum height and width to support its intended use. The rear abutter's support of the proposed garage is evidence that surrounding values will not be negatively impacted by granting the variance.

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

The Property has several conditions that distinguish it from surrounding properties. It is a large, corner lot with a single-family home and detached garage on it that were constructed before current zoning regulations were adopted. While Richards Avenue is considered the "primary frontage" of the Property, access to the home has been historically achieved via Lincoln Avenue where the existing driveway, stone patio and garage are located. Trying to move the garage addition to the Richards Avenue side of the home is infeasible and would negatively alter the streetscape. As such, it would make little sense to try to construct the garage addition in any location other than where it is proposed. The proposed garage addition will be slightly more conforming to the rear yard setback requirement than the existing garage and will occupy an area that already serves as access to the home and is adjacent to the neighbor's driveway. Accordingly, as a result of these special conditions of the Property, there is no fair and substantial relationship between the general purposes of the rear yard setback requirement and its application to the proposed garage, and the use is reasonable. The Property will continue to be used for single-family residential purposes, which is an allowable use in the GRA Zoning District.

Conclusion

For the reasons set forth above, the Creeleys have demonstrated that their application meets the criteria for granting the variance request. As such, they respectfully request the Board's approval of the same.

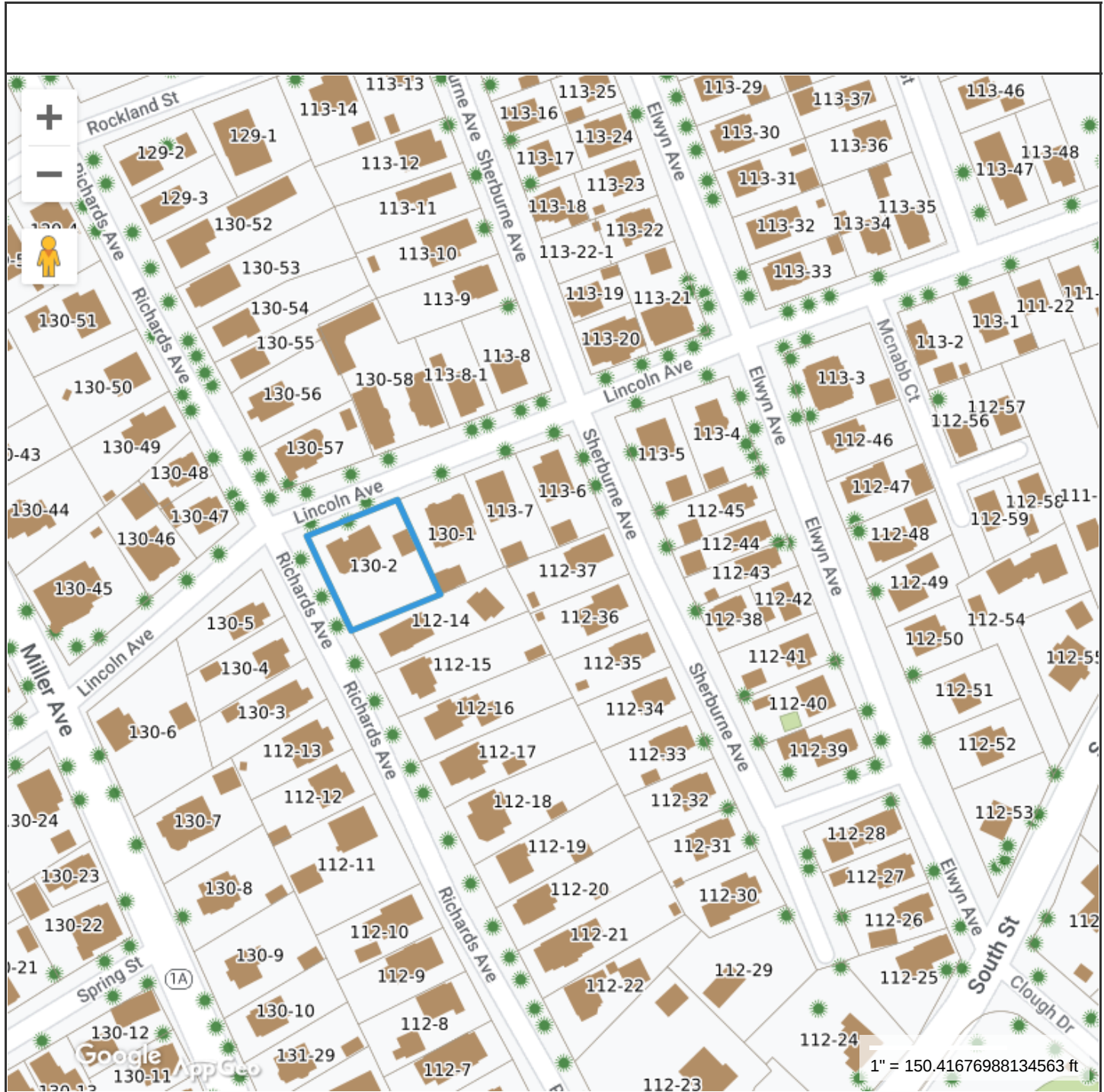
Respectfully Submitted,

Sean and Andrea Creeley, Trustees



By: Derek R. Durbin, Esq.
DURBIN LAW OFFICES PLLC
144 Washington Street
Portsmouth, NH 03801
(603)-287-4764
derek@durbinlawoffices.com

Dated: July 24, 2023



Property Information

Property ID 0130-0002-0000
Location 337 RICHARDS AVE
Owner CREELEY FAMILY TRUST

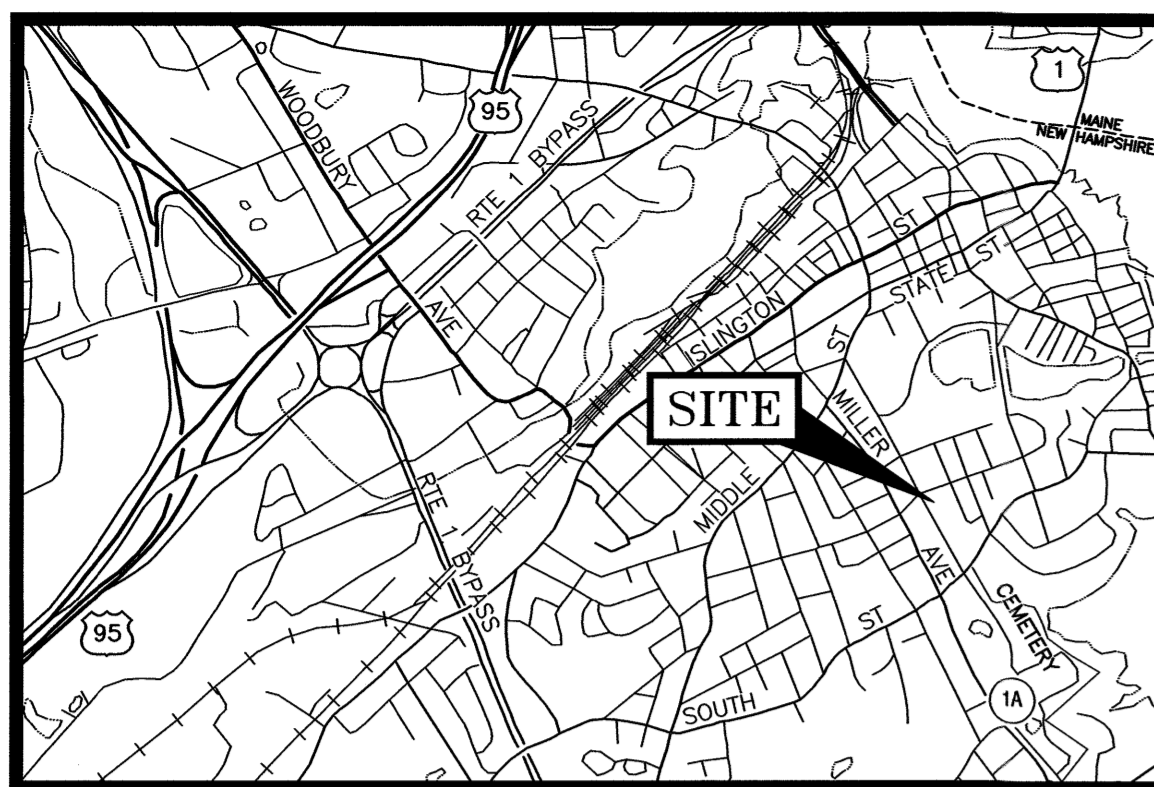


**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

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

Geometry updated 06/21/2023
Data updated 3/9/2022

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

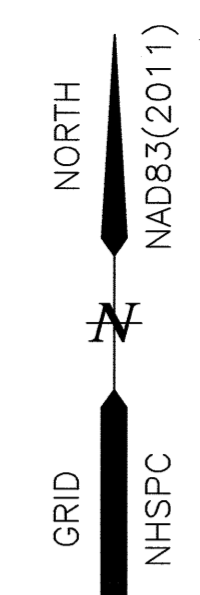
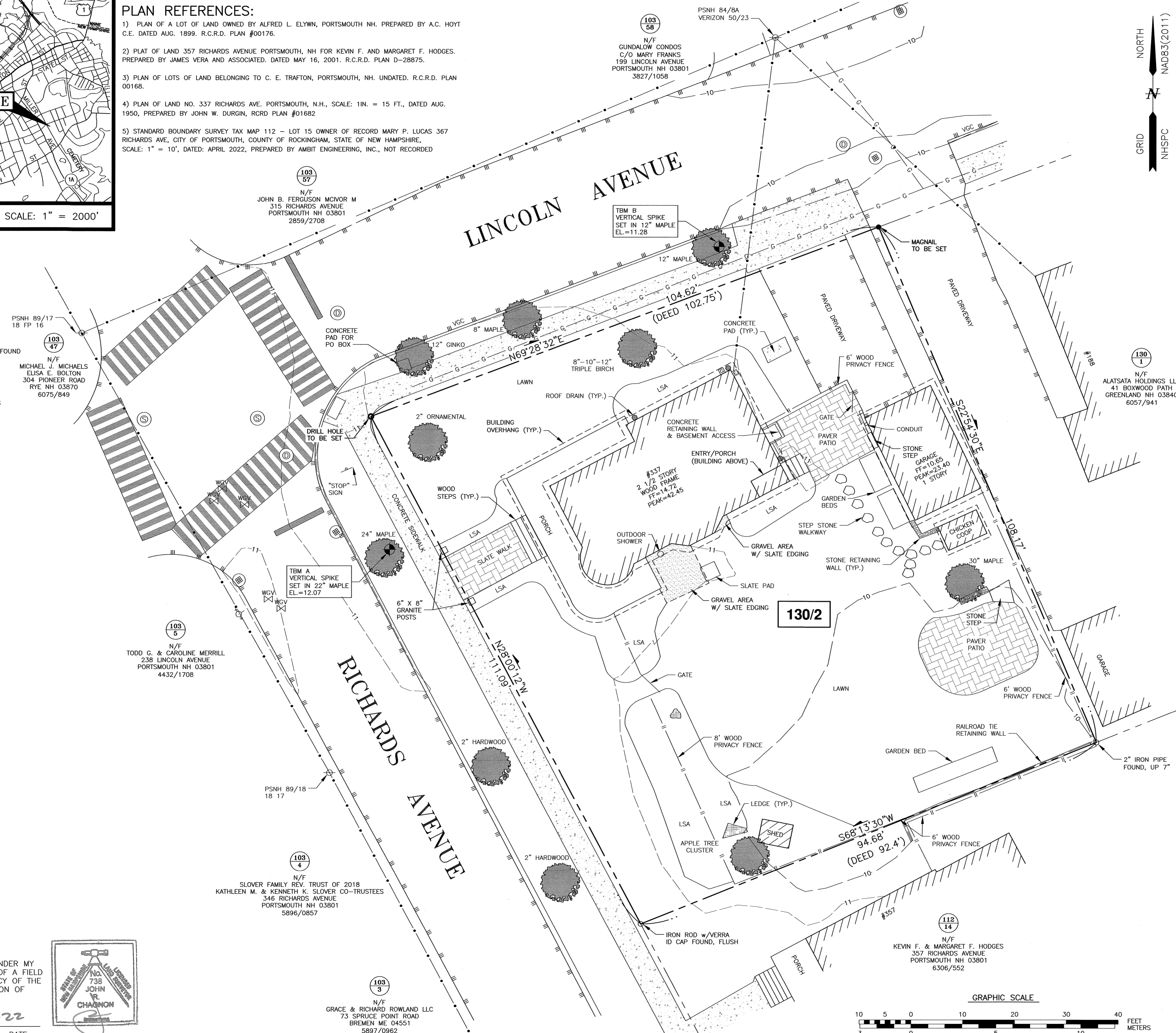


LOCATION MAP SCALE: 1" = 2000'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS MAP 11 / LOT 21
- BOUNDARY
- SETBACK
- IRON ROD/PIPE FOUND
- DRILL HOLE FOUND
- STONE/CONCRETE BOUND FOUND
- SEWER LINE
- GAS LINE
- STORM DRAIN
- WATER LINE
- OVERHEAD ELECTRIC/WIRES
- CONTOUR
- EDGE OF PAVEMENT
- UTILITY POLE (w/ GUY)
- WATER GATE VALVE
- HYDRANT
- METER (GAS & ELECTRIC)
- CATCH BASIN
- SEWER MANHOLE
- DRAIN MANHOLE
- SIGNS
- ELEVATION
- F.F. FINISHED FLOOR
- TBM TEMPORARY BENCHMARK
- TYP. TYPICAL
- VGC VERTICAL GRANITE CURB
- LSA LANDSCAPED AREA
- DECIDUOUS TREE

- PLAN REFERENCES:**
- 1) PLAN OF A LOT OF LAND OWNED BY ALFRED L. ELYWN, PORTSMOUTH NH. PREPARED BY A.C. HOYT C.E. DATED AUG. 1899. R.C.R.D. PLAN #00176.
 - 2) PLAT OF LAND 357 RICHARDS AVENUE PORTSMOUTH, NH FOR KEVIN F. AND MARGARET F. HODGES. PREPARED BY JAMES VERA AND ASSOCIATED. DATED MAY 16, 2001. R.C.R.D. PLAN D-28875.
 - 3) PLAN OF LOTS OF LAND BELONGING TO C. E. TRAFTON, PORTSMOUTH, NH. UNDATED. R.C.R.D. PLAN 00168.
 - 4) PLAN OF LAND NO. 337 RICHARDS AVE. PORTSMOUTH, N.H., SCALE: 1IN. = 15 FT., DATED AUG. 1950, PREPARED BY JOHN W. DURGIN, RCRD PLAN #01682
 - 5) STANDARD BOUNDARY SURVEY TAX MAP 112 - LOT 15 OWNER OF RECORD MARY P. LUCAS 367 RICHARDS AVE, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. SCALE: 1" = 10', DATED: APRIL 2022, PREPARED BY AMBIT ENGINEERING, INC., NOT RECORDED



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

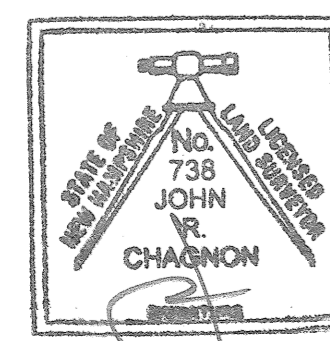
- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 130 AS LOT 2.
 - 2) OWNERS OF RECORD:
CREELEY FAMILY TRUST
SEAN W. CREELEY &
ANDREA T. CREELEY TRUSTEES
337 RICHARDS AVENUE
PORTSMOUTH, NH 03801
5845/0990
R.C.R.D. PLAN# 01682
 - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE DATE 1/29/2021.
 - 4) EXISTING LOT AREA:
10,881 S.F.
0.2498 ACRES
 - 5) PARCEL IS LOCATED IN (GRA) GENERAL RESIDENCE A ZONING DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 7,500 S.F.
FRONTAGE: 100 FEET
SETBACKS:
FRONT: 15 FEET
SIDE: 10 FEET
REAR: 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 25 %
MINIMUM OPEN SPACE: 30 %
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY OF ASSESSOR'S MAP 130 LOT 2 IN THE CITY OF PORTSMOUTH.
 - 8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

| NO. | DESCRIPTION | DATE |
|-----------|--------------------|---------|
| 0 | ISSUED FOR COMMENT | 8/30/22 |
| REVISIONS | | |

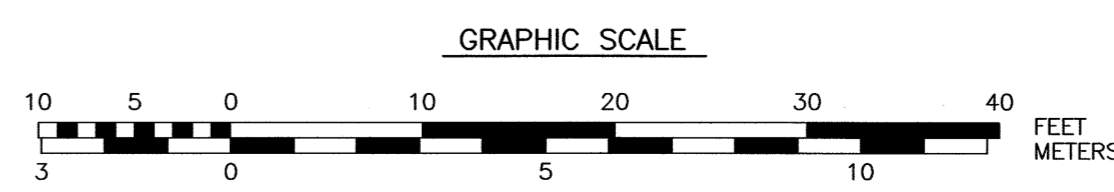
STANDARD BOUNDARY & TOPOGRAPHIC SURVEY
TAX MAP 130 - LOT 2
OWNER:
CREELEY FAMILY TRUST
337 RICHARDS AVENUE
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

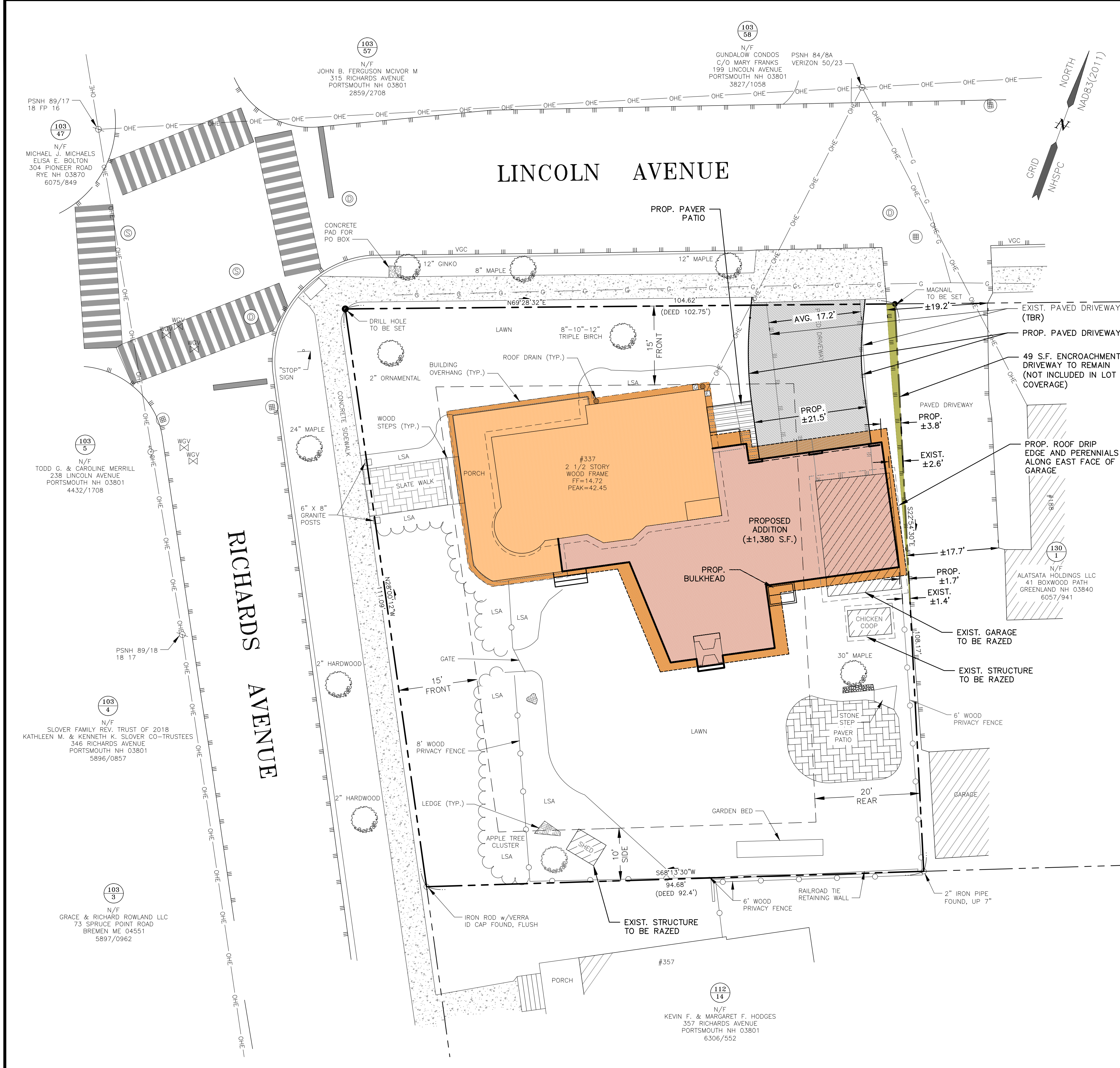
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

[Signature] 8-30-22
JOHN R. CHAGNON, LLS #738 DATE



N/F GRACE & RICHARD ROWLAND LLC
73 SPRUCE POINT ROAD
BREMEN ME 04551
5897/0962





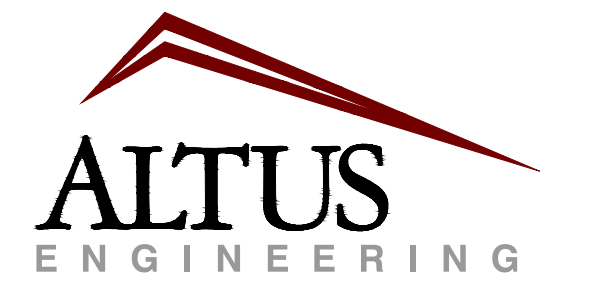
SITE NOTES

- DESIGN INTENT – THIS PLAN SET IS INTENDED TO DEPICT AN EXPANSION OF SINGLE FAMILY RESIDENCE.
- APPROXIMATE LOT AREA: 10,881 S.F.± (0.25 AC.±)
 - ZONE: (GRA) GENERAL RESIDENCE A
 - DIMENSIONAL REQUIREMENTS – (GRA) GENERAL RESIDENCE A

| | REQUIRED | EXISTING | PROVIDED |
|-------------------------|------------|------------------|------------------|
| MIN. LOT AREA: | 7,500 S.F. | 10,881 SF | |
| MIN. STREET FRONTAGE: | 100' | 104.62' | |
| FRONT SETBACK: | 15' | | |
| LINCOLN AVE. | | ±15.8' | ±15.8' |
| RICHARDS AVE. | | ±17.3' | ±17.3' |
| SIDE SETBACK: | 10' | ±52.8' | ±41.2' |
| REAR SETBACK: | 20' | ±1.4' | ±1.7' |
| MAX. BUILDING HEIGHT: | 35' | | |
| MAIN BUILDING | | 26.7' | 26.7' |
| GARAGE | | 10.2' | 18.3' |
| MAX. BUILDING COVERAGE: | 25% | 15.1% (1,642 SF) | 24.9% (2,709 SF) |
| MIN. OPEN SPACE: | 30% | 68.6% (7,463 SF) | 62.3% (6,782 SF) |
 - BASIS OF BEARING IS PER NH STATE PLANE COORDINATE SYSTEM NAD83(2011).
 - ELEVATION DATUM NAVD88.
 - PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA PER FEMA FIRM MAP NUMBER 33015C0259F, MAP REVISED 1/29/21.
 - ALL CONSTRUCTION SHALL MEET THE MINIMUM STANDARDS OF THE CITY OF PORTSMOUTH & NHDOT'S STANDARD SPECIFICATION FOR ROAD & BRIDGE CONSTRUCTION, LATEST EDITIONS. THE MORE STRINGENT SPECIFICATION SHALL GOVERN.
 - PER CITY OF PORTSMOUTH REQUIREMENTS, THIS PLAN MAY BE RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. THE APPROVED SITE PLAN WILL REQUIRE MINOR REVISIONS IN ORDER FOR THE PLAN TO MEET RECORDING REQUIREMENTS AT THE REGISTRY. THESE CHANGES WILL NOT ALTER THE APPROVED DESIGN OF THE SITE.

PLAN REFERENCE:

- "STANDARD BOUNDARY & TOPOGRAPHIC SURVEY, TAX MAP 130 – LOT 2, FOR CREELEY FAMILY TRUST, 337 RICHARDS AVENUE, CITY OF PORTSMOUTH, NH", DATED 8/30/22, BY AMBIT ENGINEERING, INC.



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

NOT FOR CONSTRUCTION

ISSUED FOR: BOA SUBMISSION

ISSUE DATE: JULY 19, 2023

REVISIONS

| NO. | DESCRIPTION | BY | DATE |
|-----|--------------------|-----|----------|
| 0 | INITIAL SUBMISSION | EDW | 07/19/23 |

DRAWN BY: RMB
APPROVED BY: EDW
DRAWING FILE: 5432SITE.DWG

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

OWNER/APPLICANT:

CREELEY FAMILY TRUST
SEAN W. & ANDREA T. CREELEY
TRUSTEES
337 RICHARDS AVENUE
PORTSMOUTH, NH 03801

PROJECT:

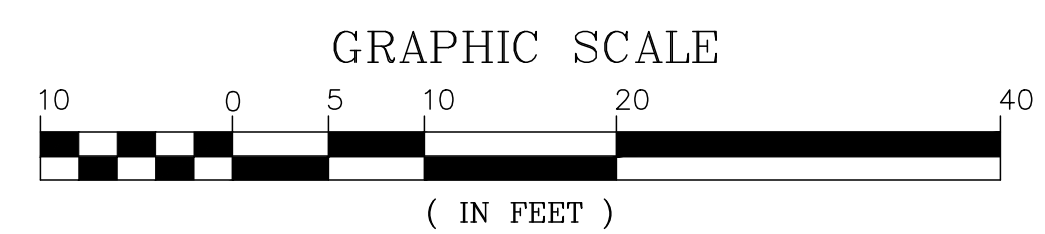
CREELEY
RESIDENCE
EXPANSION
TAX MAP 130 LOT 2
337 RICHARDS AVENUE
PORTSMOUTH, NH

TITLE:

BOA PLAN

SHEET NUMBER:

1 OF 1





NORTHWEST ELEVATION
(LINCOLN AVENUE)



NORTHEAST ELEVATION



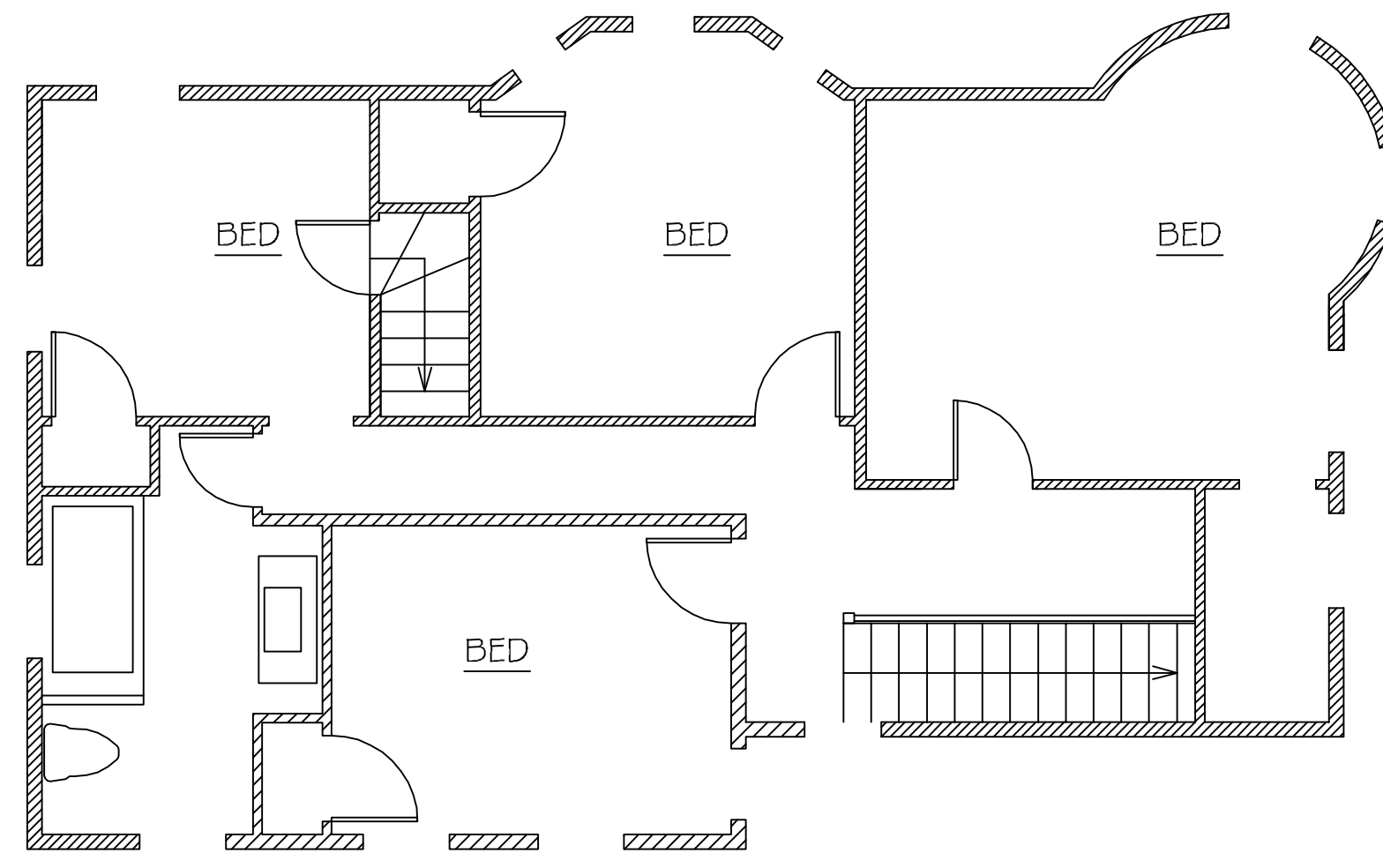
SOUTHEAST ELEVATION



SOUTHWEST ELEVATION
(RICHARDS AVENUE)

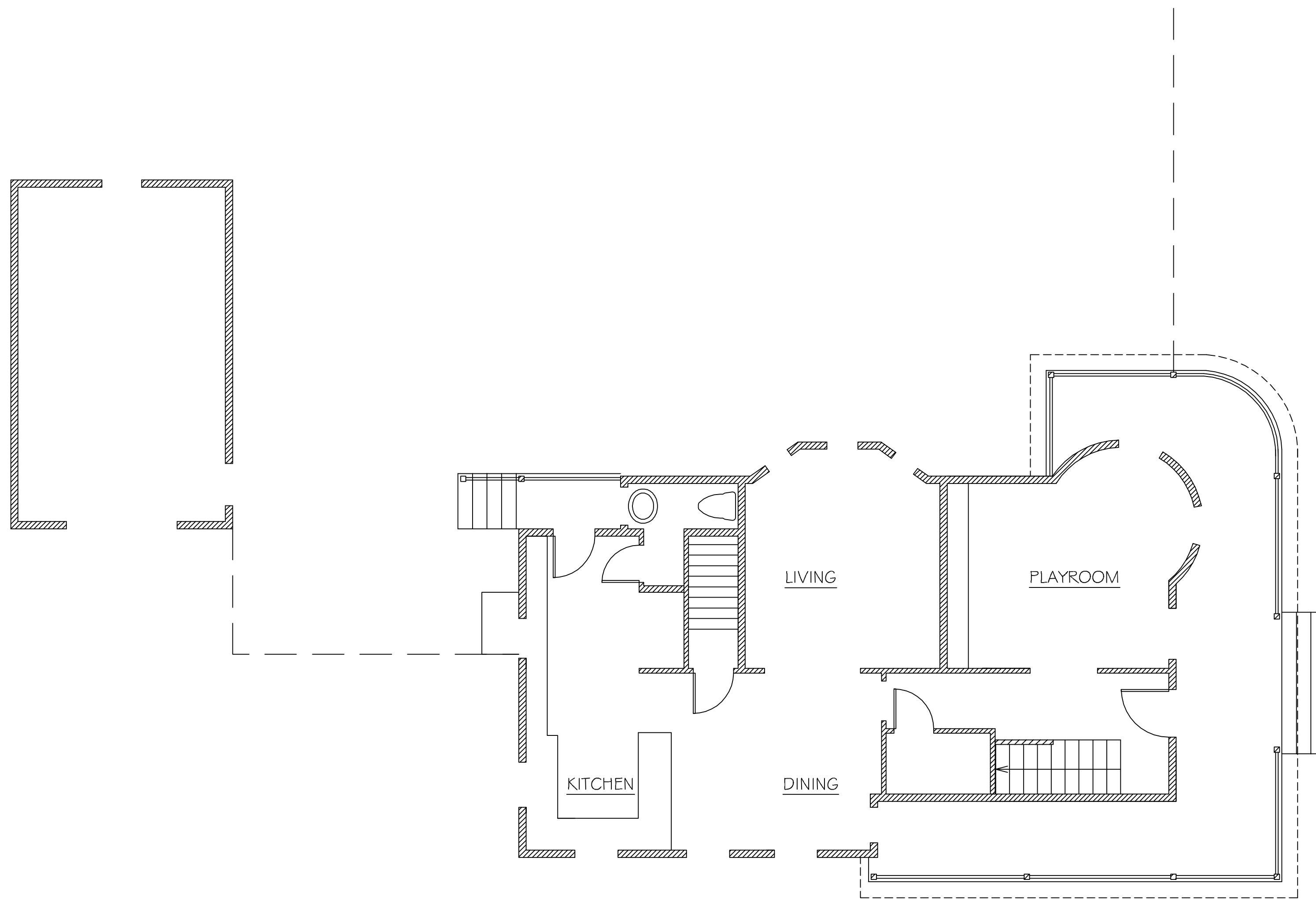
SECOND FLOOR

EXISTING FRAMING
NEW FRAMING



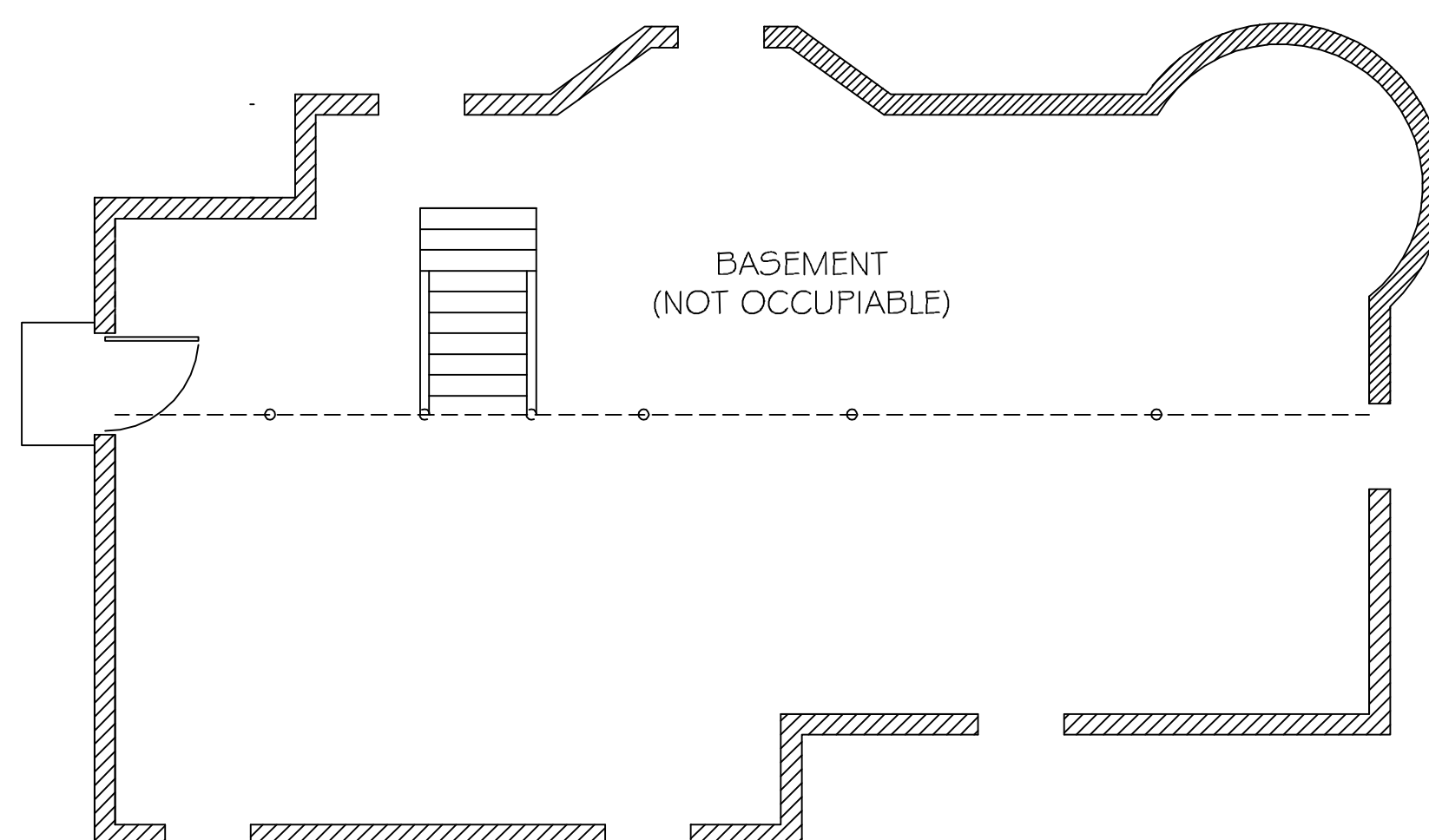
FIRST FLOOR

EXISTING FRAMING
NEW FRAMING



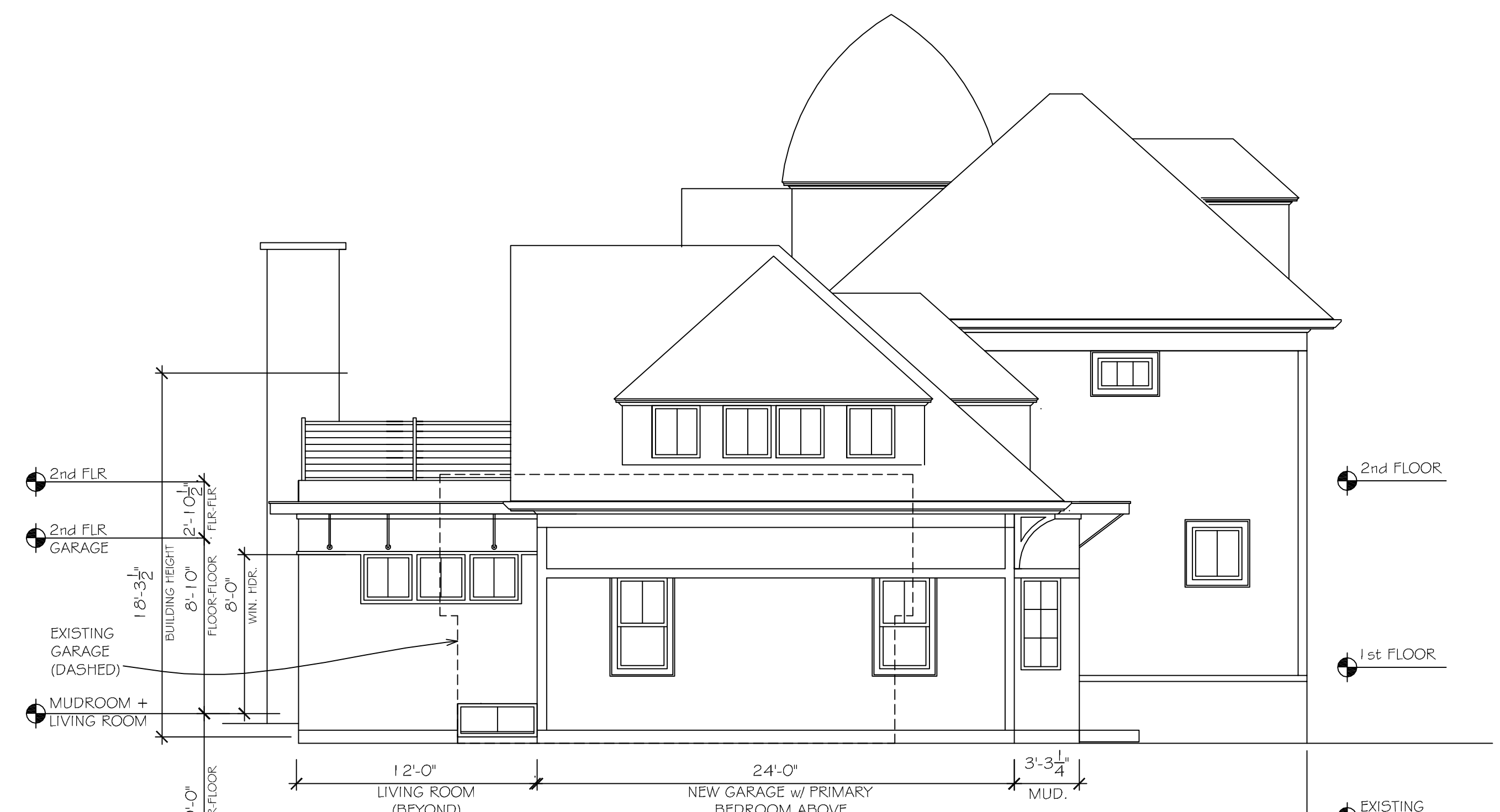
BASEMENT

EXISTING FRAMING
NEW FRAMING





NORTHWEST ELEVATION
(LINCOLN AVENUE)



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



SOUTHWEST ELEVATION
(RICHARDS AVENUE)



Front View of Property (Richards Ave)



Front - Left View of Property (Intersection of Richards & Lincoln Ave)



Left Side Yard View of Property (Lincoln Ave)



Left Side Yard View of Property & Garage (Lincoln Ave)



Left Side Yard of Property (Lincoln Ave)



Rear View of Property, Garage & Driveway (Lincoln Ave)



Front Right View of Property (Richards Ave)

Anthony Raizes
192 Lincoln Avenue
Portsmouth, NH 03801

July 24, 2023

Dear Board Members,

My name is Anthony Raizes. I am the owner of the property located at 192 Lincoln Avenue. My property directly abuts the Creeleys to the east on Lincoln Avenue. My driveway is situated next to the existing garage on the Creeley property. I have reviewed the Creeleys plans for the proposed garage addition and related improvements. I am in support of their variance requests and believe they are consistent with the spirit and intent of the zoning requirements.

To the extent that they may need an easement for future maintenance along our common boundary line, I have indicated that I will grant it to them.

Having grown up in Portsmouth, graduating from Portsmouth High School in 1974 and being the third generation of this property at 192 Lincoln Avenue, I have seen many changes in this area and I feel extremely fortunate to have neighbors like the Creeleys who have an interest in making improvements to their property which not only benefits them as property owners but adds aesthetic value to the neighborhood.

I thank you for your time and attention to this matter.

Sincerely,



Anthony Raizes
Alatsata Holdings LLC

III. NEW BUSINESS

F. The request of **Kathryn Waldwick and Bryn Waldwick (Owners)**, for property located at **30 Parker Street** whereas relief is needed to demolish and remove the existing shed and covered porch and construct a new attached shed with a covered porch which requires the following: 1) Variance from section 10.521 to permit a) 45% building coverage where 35% is allowed, b) one and a half (1.5) foot right side yard where 10 feet is required, and c) two (2) foot rear yard where 20 feet is required; and 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 126 Lot 27 and lies within the General Residence C (GRC) District. (LU-23-117)

Existing & Proposed Conditions

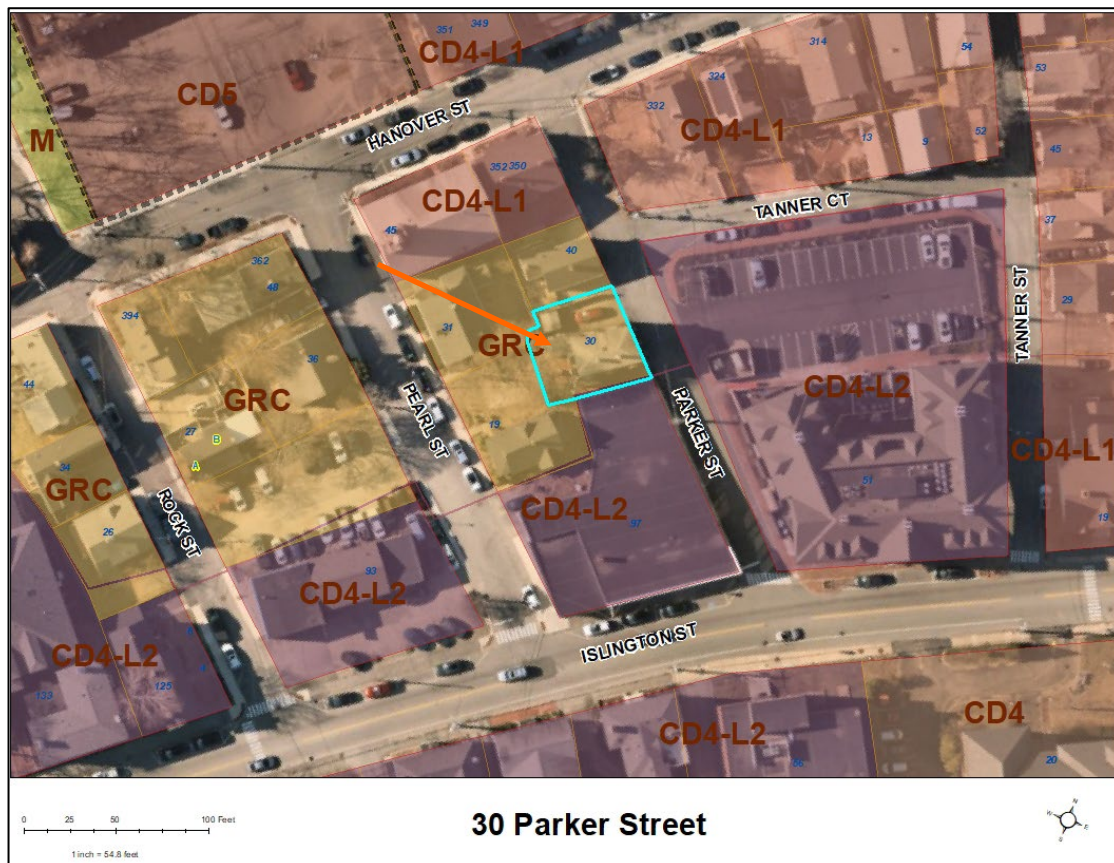
| | <u>Existing</u> | <u>Proposed</u> | <u>Permitted / Required</u> |
|----------------------------------------------|-----------------|-------------------------------------|-----------------------------|
| <u>Land Use:</u> | Single-family | *Construct a shed and covered porch | Primarily residential |
| <u>Lot area (sq. ft.):</u> | 2,619 | 2,619 | 3,500 min. |
| <u>Lot Area per Dwelling Unit (sq. ft.):</u> | 2,619 | 2,619 | 3,500 min. |
| <u>Street Frontage (ft.)</u> | 49.7 | 49.7 | 70 min. |
| <u>Lot depth (ft.):</u> | 46 | 46 | 50 min. |
| <u>Front Yard (ft.):</u> | 0.5 | 0.5 | 5 min. |
| <u>Left Yard (ft.):</u> | 6 | 6 | 10 min. |
| <u>Right Yard (ft.):</u> | 0 | 1.5 | 10 min. |
| <u>Rear Yard (ft.):</u> | 3 | 2 | 20 min. |
| <u>Height (ft.):</u> | <35 | <35 | 35 max. |
| <u>Building Coverage (%):</u> | 44 | 45 | 35 max. |
| <u>Open Space Coverage (%):</u> | >20 | >20 | 20 min. |
| <u>Parking</u> | 2 | 2 | 2 |
| <u>Estimated Age of Structure:</u> | 1900 | Variance request(s) shown in red. | |

* Relief required to allow an existing non-conforming structure to expand

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

July 9, 1985 – The following Special Exception and Variance requests were **denied**: A Special Exception from Article II Section 10-205 (3) (c) to permit the conversion of a residence into a duplex; and 2) a Variance from Article II Section 10-205 (3) (c) to allow the conversion with 1,346 s.f. of lot area per family where a minimum lot area of 2,000 s.f. per family is required.

Planning Department Comments

The applicant is proposing to remove the existing 8 foot by 10 foot shed and replace it with a 9 foot by 11 foot shed that will be attached to the primary structure by a porch passageway.

Staff determined that Section 10.573.20 of the Zoning Ordinance did not apply to this project as the proposed shed will be connected to the primary structure and will give the appearance of being attached.

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.

**30 Parker Street
Map 126 Lot 27**

Rebuilt Shed with Porch at Side Entry

To permit the following:

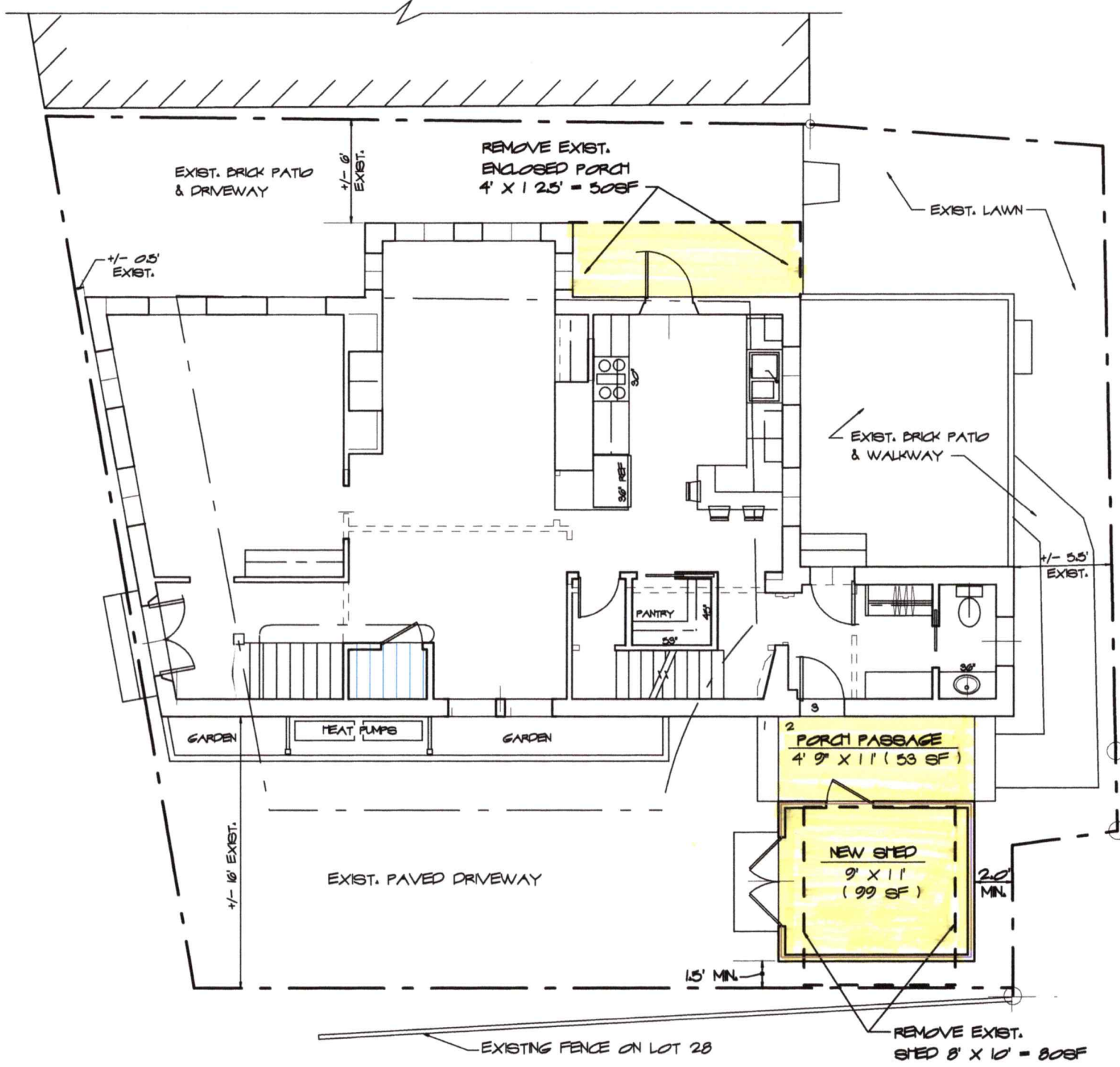
1. Building Coverage of 45% where 44% is existing & 35% is allowed.
2. A new larger Shed with a 1.5' Right Side & +/- 2.0' Rear Yard Setbacks.
3. Expansion of a non-conforming structure

The undersigned agrees that the following circumstances exist.....

1. The Proposed new Shed with Porch Passage will allow for covered access to the side entry door and to the rear yard. The 9' x 11' Shed will have access from both the Porch & Driveway and will provide needed storage. On the Left Side, a 1-Story Porch will be removed and the brick patio extended. These changes will result in a net 22 sf increase in Building Coverage.
2. Locating the Shed close to the Rear & Right Side will allow 2 cars to park in the driveway and allow for a covered side entry porch. A smaller shed is currently located on the Right Side Property Line.
3. The Existing Residence is non-conforming to both Building Coverage (44%) and Front, Rear, Right & Left Side Setbacks.

Criteria for the Variance:

1. The Variances are not contrary to the public interest in that many properties in this neighborhood are non-conforming to Building Area & Setbacks. The New Shed/Porch Structure is located to maintain parking and provide protected access to the Side Door
2. The Variances are consistent with the spirit of the ordinance in that it will allow this small footprint change, which will add needed access & storage space without adversely affecting the abutters & neighborhood.
3. Substantial justice will be done, as the Variances will allow this expansion with minimal changes to Building Coverage & Setbacks.
4. These Variances will not diminish the value of surrounding properties.
5. The special condition of this property is the non-conformity of the Existing Residence to all Yard Setbacks and Building Coverage.



SHED ADDITION & RENOVATIONS

30 PARKER STREET PORTSMOUTH, NH
 FOR: BRYN & KATIE WALDWICK

MAP 126 LOT 27
 GENERAL RESIDENCE C (GRC)

LOT AREA = 0.0614 ACRE, 2673 SF

ALLOW. BUILDING COVERAGE 35%

EXISTING BUILDING COVERAGE

| | |
|--------------------------------------|--------|
| 3 STORY RESIDENCE | 912 SF |
| 2 STORY REAR ELL | 96 SF |
| 1 STORY BAY | 46 SF |
| 1 STORY SIDE ENTRY (TO BE REMOVED) | 50 SF |
| SHED (TO BE REMOVED) | 80 SF |
| 1184 SF (44%) | |

PROPOSED BUILDING COVERAGE

| | |
|------------------------------------|--------|
| 3 STORY RESIDENCE | 912 SF |
| 2 STORY REAR ELL | 96 SF |
| 1 STORY BAY | 46 SF |
| NEW SHED WITH PORCH PASSAGE | 152 SF |
| 1206 SF (45%) | |
| (A NET INCREASE OF 22 SF) | |

SCHEMATIC 1ST FLOOR & LOT PLAN
 SCALE : 1/8" = 1'-0"

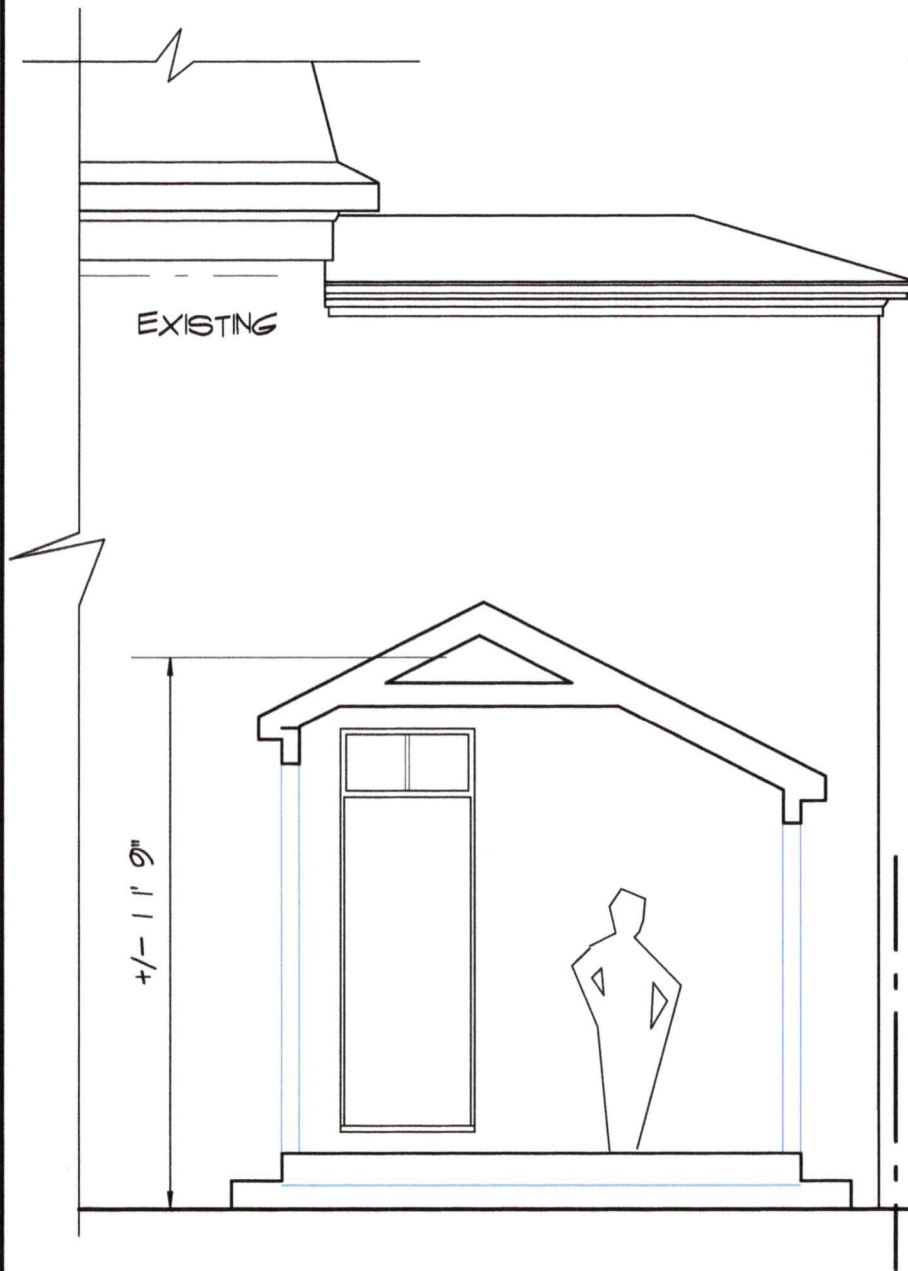
NOTE: LOT PLAN GENERATED FROM 6/20/23, BOUNDARY SURVEY
 BY AMBIT ENGINEERING INC., DIVISION OF MALEY WARD INC.



KEY

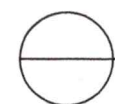
| | |
|--|----------------------|
| | NEW WALL |
| | EXIST. WALL |
| | EXIST. TO BE REMOVED |

| | | |
|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| <p>SCHEMATIC DESIGN</p> <p>RENOVATIONS, WALDWICK RESIDENCE</p> <p>30 PARKER STREET PORTSMOUTH, NH</p> | <p>801 Islington St, Suite 32 Portsmouth NH 03801 603-502-4987 archwhit@aol.com</p> <p>ANNE WHITNEY ARCHITECT</p> | <p>Project: 2206 Date: 7/25/23</p> |
| | <p>Revisions:</p> | |



EXISTING

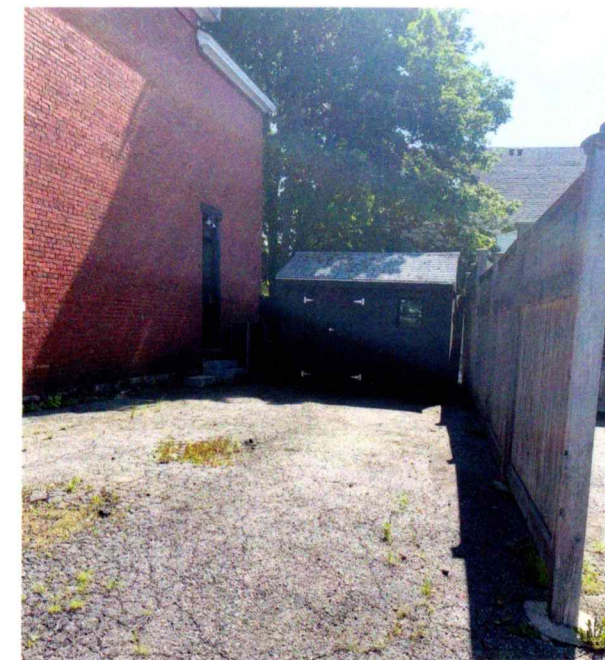
+/- 1' 9"



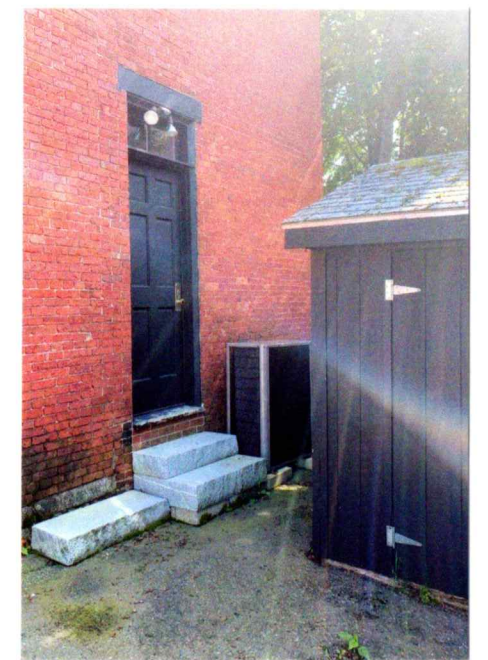
SHED & PORCH SECTION & DRIVEWAY ELEVATION
SCALE: 1/4" = 1'-0"



VIEW OF 1 STORY AT LEFT SIDE

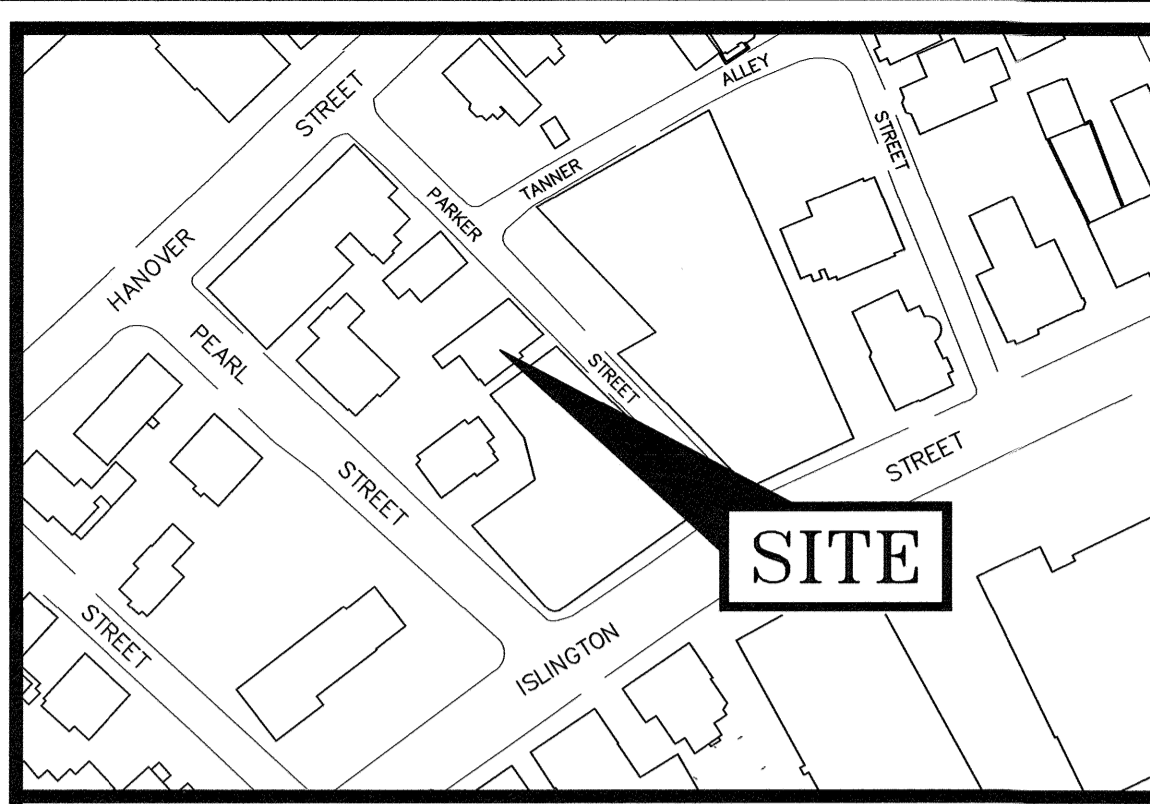


VIEW OF EXIST. SIDE DOOR & SHED



VIEW OF EXIST. RIGHT SIDE DRIVEWAY & SHED

| | | | |
|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| <p>Schematic Design</p> <p>RENOVATIONS, WALDWICK RESIDENCE</p> <p>30 PARKER STREET PORTSMOUTH, NH</p> | <p>801 Islington St, Suite 32 Portsmouth NH 03801 603-502-4387 archwhit@aol.com</p> <p>ANNE WHITNEY ARCHITECT</p> | <p>Project: 2206</p> | <p>Date: 7/25/23</p> |
| | | <p>Revisions:</p> | |



LOCATION MAP SCALE: 1" = 100'

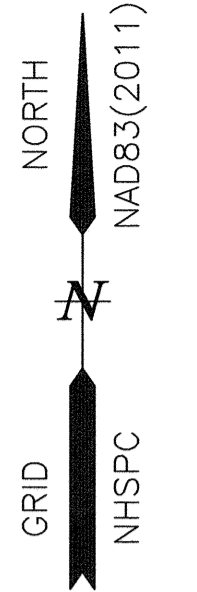
LEGEND:

| | |
|---------|-------------------------------------|
| N/F | NOW OR FORMERLY |
| RP | RECORD OF PROBATE |
| RCRD | ROCKINGHAM COUNTY REGISTRY OF DEEDS |
| (11/21) | MAP 11 / LOT 21 |
| --- | BOUNDARY |
| - - - | SETBACK |
| ○ | RAILROAD SPIKE FOUND |
| ○ | IRON ROD/PIPE FOUND |
| ○ | DRILL HOLE FOUND |
| ■ | STONE/CONCRETE BOUND FOUND |
| ■ | RAILROAD SPIKE SET |
| ● | IRON ROD SET |
| ● | DRILL HOLE SET |
| ■ | GRANITE BOUND SET |
| --- | EDGE OF PAVEMENT (EP) |
| --- | WOODS / TREE LINE |
| ○ | UTILITY POLE (w/ GUY) |
| □ | METER (GAS, WATER, ELECTRIC) |
| TYP. | TYPICAL |
| LSA | LANDSCAPED AREA |

- PLAN REFERENCES:**
- 1) CONDOMINIUM SITE PLAN MAP 126 LOT 32, 19 PEARL STREET CONDOMINIUM FOR GREGORY MAHANNA. PREPARED BY AMBIT ENGINEERING, INC. SCALE: 1"=10', DATED: OCTOBER 2002, RCRD D-30944.
 - 2) STANDARD BOUNDARY SURVEY PLAN, 63 ISLINGTON STREET PORTSMOUTH, NH, COUNTY OF ROCKINGHAM, OWNED BY RAP REALTY. PREPARED BY T.F. MORAN, INC. SCALE: 1"=10', DATED JULY 25, 2019. RCRD D-41959
 - 3) PROPOSED PROPERTY TRANSFER & ACCESS EASEMENT PLAN, TAX MAP 126 LOT 33, 51 ISLINGTON STREET, LLC TO THE CITY OF PORTSMOUTH. PREPARED BY AMBIT ENGINEERING, INC. SCALE: 1"=10', DATED: JULY 2010, RCRD D-36601.
 - 4) LOT CONSOLIDATION PLAN FOR GERTRUDE K BORDEN LIVING TRUST, PARKER, ISLINGTON, TANNER STREETS, & TANNER ALLEY, COUNTY OF ROCKINGHAM, PORTSMOUTH NH. PREPARED BY MILLETET, SPRAGUE, & COLWELL INC. SCALE: 1"=20', DATED: MAY 1, 1998, RCRD D-26280.
 - 5) PLAN OF LAND FOR NETTY AND GERALD TAUBE, HANOVER STREET, COUNTY OF ROCKINGHAM, PORTSMOUTH NH. PREPARED BY MILLETTE, SPRAGUE, & COLWELL. SCALE: 1"=40', DATED: AUGUST 20, 2004, RCRD D-32051.

LENGTH TABLE

| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | N35°44'16"W | 4.51' |
| L2 | N45°29'51"E | 6.00' |
| L3 | N34°48'30"W | 8.25' |



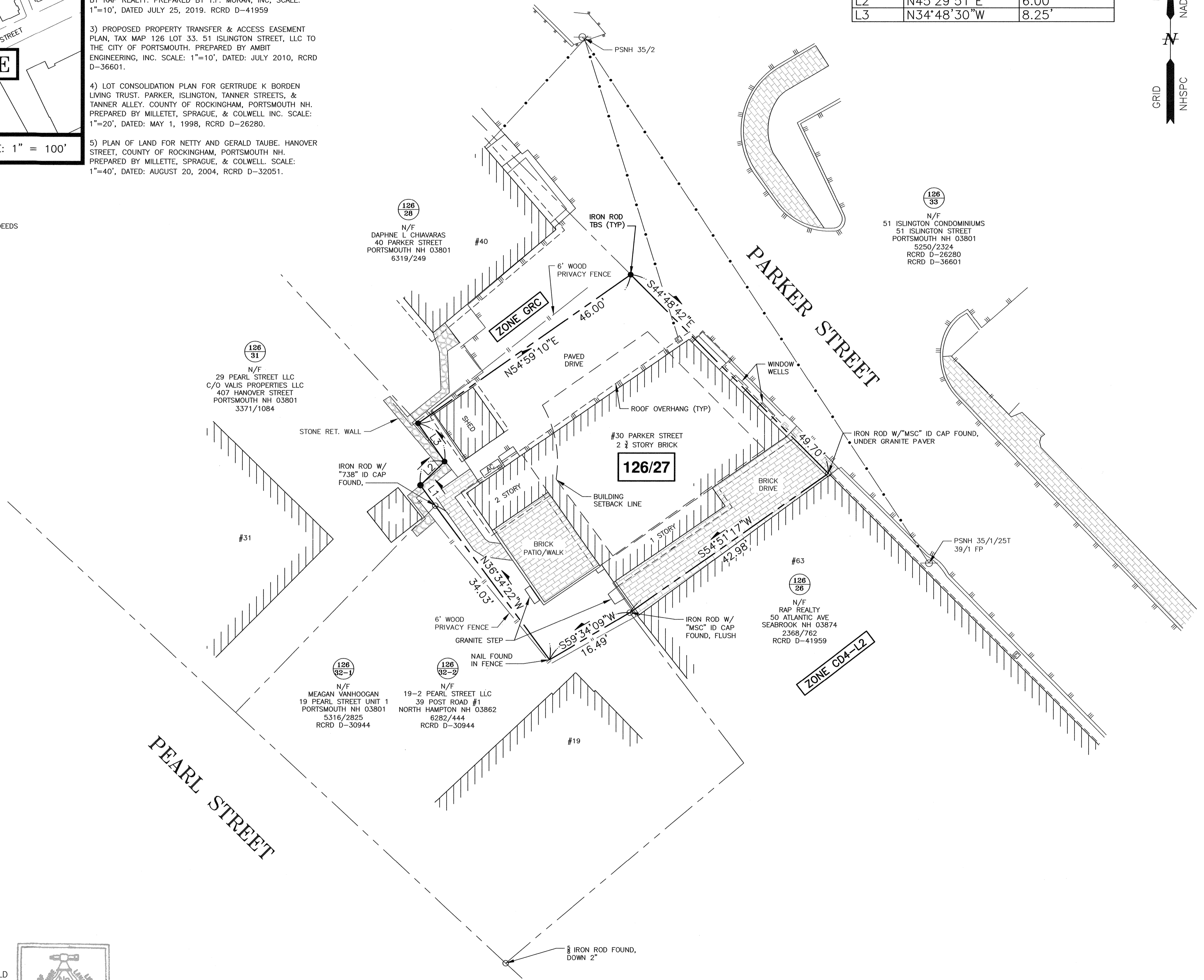
AMBIT ENGINEERING, INC.
A DIVISION OF HALEY WARD, INC.

200 Griffin Road, Unit 3
Portsmouth, NH 03801
603.430.9282

WWW.HALEYWARD.COM

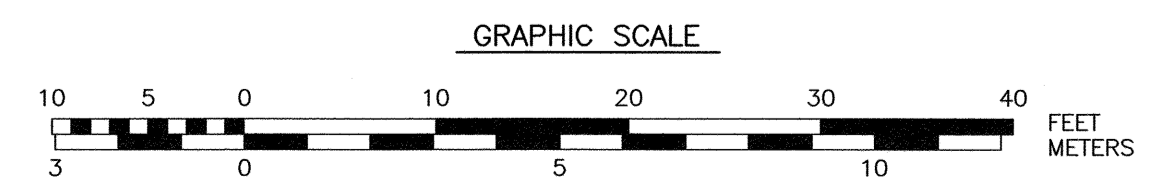
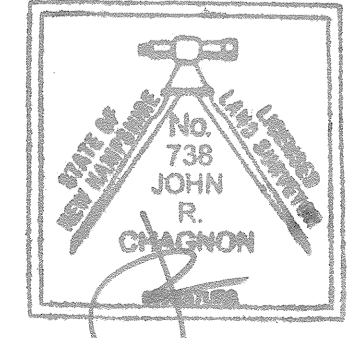
- NOTES:**
- 1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S MAP 126 AS LOT 27.
 - 2) OWNER OF RECORD:
KATHRYN WALDWICK &
BRYN WALDWICK
30 PARKER STREET
PORTSMOUTH, NH 03801
6263/2897
PARCEL I & PARCEL II
 - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE JANUARY 29, 2021.
 - 4) EXISTING LOT AREA:
2,673 S.F.
0.0614 ACRES
 - 5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE C (GRC) ZONING DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:

| | |
|----------------------------|------------|
| MINIMUM LOT AREA: | 3,500 S.F. |
| FRONTAGE: | 70 FEET |
| SETBACKS: FRONT | 5 FEET |
| SIDE | 10 FEET |
| REAR | 20 FEET |
| MAXIMUM STRUCTURE HEIGHT: | 35 FEET |
| MAXIMUM BUILDING COVERAGE: | 35% |
| MINIMUM OPEN SPACE: | 20% |
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY SURVEY OF ASSESSOR'S MAP 126 LOT 27 IN THE CITY OF PORTSMOUTH.



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

John R. Chagnon
JOHN R. CHAGNON, LLS #738
DATE: 6-20-23



| NO. | DESCRIPTION | DATE |
|-----|--------------------|---------|
| 0 | ISSUED FOR COMMENT | 6/20/23 |

REVISIONS

**STANDARD BOUNDARY SURVEY
TAX MAP 126 - LOT 27**

OWNERS:
**KATHRYN WALDWICK &
BRYN WALDWICK**
30 PARKER STREET
CITY PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

From: [Robert Campbell](#)
To: [Planning Info](#)
Subject: Board of Adjustment Meeting Item on Aug. 15th
Date: Wednesday, August 9, 2023 4:30:26 PM

Re: Request of Go-Lo Inc. c/o Labrie (owner) for variances.

I wish to go on record as opposing the granting of all easements requested by Go-Lo Inc for the property at 2059 Lafayette Road. I am only in favour of allowing development of this property according to the existing permitted uses.

Robert Campbell

2075 Lafayette Rd, Portsmouth, NH 03801

From: [Bonham, Jeanette](#)
To: [Planning Info](#)
Subject: 72 Islington Against 30 Parker Street
Date: Tuesday, August 8, 2023 6:44:14 AM

Good morning,

I called on Friday am and again this am. I have not been called back in regard to the memorandum I got for 30 Parker street.

I have many of these notices and what is blatantly apparent is we are building a Houston TX right here in Portsmouth. Too much building and concrete and not enough land. We already have big issues with storm run off and too much water. We pump into a dry well 24/7 out of our carriage house and when we talk to the city, they tell us it is our problem. Yet, we have been told since 2008 that the city is aware of the high water table and are discussing what to do about it, yet, nothing has been done. The most recent example is the new building going up near the new garage that several years ago David D. questioned the water table being too high and it was not approved (for many reasons), yet, suddenly it is now going up. Another five story building got approved around the corner from the garage. It is 2023 and nothing has been done in regard to this situation, yet, we continue to build more hotels.

I am writing about the Parker street variance. However, an even bigger problem is all but one of these items request variances from section 10.521 where permission is being requested (and in 95% of the instances, granted) to take up more land. We are against giving variances to everyone who requests one, which is what the city is doing in 95% of the requests. I have collected all the letters we have received over the years. Letting the Waldwick's be 1.5 feet where 10 feet is required and 2 feet where 20 feet is required is outrageous. They will have no lawn and 3.5 total feet of drainage/ vs. 30 feet. This is a perfect example of what I stated at the beginning of this email, the fact that we are turning any open land into building and concrete.

Jeanette Bonham

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