

**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.**

**October 17, 2023**

**AGENDA**

**I. APPROVAL OF MINUTES**

- A. Approval of the September 19, 2023 minutes.
- B. Approval of the September 26, 2023 minutes

**II. OLD BUSINESS**

- A. 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) two (2) 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)

**III. NEW BUSINESS – PUBLIC HEARING**

- A. The request of **2422 Lafayette Road Assoc LLC c/o Waterstone Retail (Owner)**, for property located at **2454 Lafayette Road** whereas relief is needed conduct a motor vehicle sales storefront which requires the following:1) A Special Exception from Section 10.440 Use # 11.10 to allow motor vehicle sales which is permitted by Special Exception. Said property is located on Assessor Map 273 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-23-160)

- B.** The request of **EIGHTKPH LLC (Owner)**, for property located at **70 Maplewood Avenue** whereas relief is needed to install a free-standing sign which requires the following: 1) Variance from Section 10.1251.20 to allow 48 square feet of sign area where 20 square feet is allowed; and 2) Variance from Section 10.1253.10 to allow a freestanding sign to be setback two and a half (2.5) feet from the lot line where five (5) feet is required. Said property is located on Assessor Map 125 Lot 17-3 and lies within the Character District 5 (CD5), Downtown Overlay District, North End Incentive Overlay District, and Historic District (LU-23-141)
- C.** The request of **Frances E. Mouflouze Revoc Trust of 2015 (Owner)**, for property located at **550 Sagamore Road** whereas relief is needed to demolish the existing structure and construct two duplexes (creating a total of 4 living units) which requires the following: 1) Variance from Section 10.513 to allow more than one free-standing dwelling unit on a lot; and 2) Variance from Section 10.440 Use #1.30 to allow the construction of duplexes where they are not permitted. Said property is located on Assessor Map 222 Lot 11 and lies within the Single Residence B (SRB) District. (LU-23-164)
- D.** The request of **Ports Submarine Memorial Association (Owner)**, for property located at **569 Submarine Way** whereas relief is needed to construct an addition to the existing building to substantially increase the use which requires the following: 1) Variance from Section 10.440 Use #3.40 to allow a museum where the use is not permitted. Said property is located on Assessor Map 209 Lot 87 and lies within the Single Residence B (SRB) District. (LU-23-165)
- E.** The request of **Cate Street Development LLC (Owner)** and **Buffalo Wild Wings (Applicant)**, for property located at **360 US Route 1 Byp** whereas relief is needed to install a sign on the northern facing façade which requires the following: 1) Variance from Section 10.1271 to allow a sign on the side of a building where there is no public entrance or street frontage. Said property is located on Assessor Map 172 Lot 1 and lies within the Gateway Corridor (G1) District. (LU-23-162)
- F.** The request of **Creeley Family Trust, Sean and Andrea Creely Trustees (Owners)**, for property located at **337 Richards Avenue** whereas relief is needed to construct an addition to the existing structure which requires the following: 1) Variance from Section 10.521 to allow a 12.5 rear yard where 20 feet are required. Said property is located on Assessor Map 130 Lot 2 and lies within the General Residence A (GRA) District. (LU-23-163)
- G.** The request of **Bobby and Angela Braswell (Owners)**, for property located at **82 Wibird Street** whereas relief is needed to demolish the existing accessory structure and construct a new detached garage which requires the following: 1) Variance from



Section 10.521 to allow: a) a zero (0) foot rear yard where 20 feet is required; and b) a six (6) foot right yard where 10 feet are required. Said property is located on Assessor Map 148 Lot 59 and lies within the General Residence A (GRA) District. (LU-23-128)

#### **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\\_M0ffyPi8QleHViFHxD8Kcg](https://us06web.zoom.us/webinar/register/WN_M0ffyPi8QleHViFHxD8Kcg)

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

**7:00 P.M.**

**September 19, 2023**

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

**MEMBERS EXCUSED:** None.

**ALSO PRESENT:** Stefanie Casella, Planning Department

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Chair Eldridge asked for motions to take Items D through F of Section III, New Business, out of order and to postpone them.

*Mr. Rossi moved to take Section III, Items D through F out of order, seconded by Mr. Mannle. The motion **passed** unanimously, 7-0.*

*Mr. Rossi moved to **postpone** Items D through F of Section III, New Business, to the September 26 meeting. Mr. Mannle seconded. The motion **passed** unanimously, 7-0.*

## **I. APPROVAL OF MINUTES**

### **A. Approval of the August 15, 2023 minutes.**

Mr. Mattson asked that the phrase on Page 12, first paragraph, 5<sup>th</sup> sentence from the bottom be changed from “he said it was spot zoning” to “he said it was similar to spot zoning”.

*Mr. Mannle moved to **approve** the August 15 minutes as amended, seconded by Mr. Rossi. The motion **passed** unanimously, 7-0, with Alternate Geffert abstaining from the vote.*

### **B. Approval of the August 22, 2023 minutes**

Mr. Mattson requested that the last sentence of the second-to-last paragraph on page 8 be changed from “he noted that the penthouse would not be visible to the other setbacks” to “he noted that the penthouse would be less visible due to the setbacks”.

*Mr. Mannle moved to **approve** the August 22 minutes as amended, seconded by Mr. Rossi. The motion **passed** unanimously, 7-0, with Alternate Geffert abstaining from the vote.*

## II. OLD BUSINESS

- A. REQUEST TO POSTPONE** 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. **REQUEST TO POSTPONE (LU-23-117)**

Alternate Geffert was seated for voting.

### DECISION OF THE BOARD

*Mr. Rheaume moved to **grant** the request to postpone for one month until the October 17, 2023 meeting, seconded by Mr. Mannle.*

Mr. Rheaume noted that the Board already postponed it once, but there were concerns from the nearby property owner and the applicant was working hard to address those concerns.

Vice-Chair Margeson confirmed with City Staff that the application would be re-noticed before the application could be heard.

*The motion **passed** unanimously, 7-0.*

- B.** The request of **Cynthia Austin Smith and Peter Smith (Owners)** for property located at **9 Kent Street** whereas relief is needed to demolish the existing two (2) living unit structure and construct a one (1) living unit structure which requires a Variance from Section 10.521 to allow a) 5,000 square feet of lot area where 7,500 square feet are required and b) 5,000 square feet of lot area per dwelling unit where 7,500 square feet are required. Said property is located on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. (LU-23-119) This item was continued from the August 22, 2023 meeting to request more information from the applicant.

Chair Eldridge said the rules needed to be suspended to open the public hearing.

*Mr. Rheaume moved to **reopen** the public hearing, seconded by Mr. Mannle.*

Mr. Rheaume said the Board had prior deliberation on the petition but it was a complicated case and there was some lack of clarify, so the postponed was made to give the application the opportunity to get more information and the Board also wanted to hear more from the public.

*The motion **passed** unanimously, 7-0.*

*Mr. Rossi moved to accept the new information and hear the presentation from the applicant, seconded by Mr. Mannle. The motion **passed** unanimously, 7-0.*

## **SPEAKING TO THE PETITION**

Attorney Tim Phoenix was present on behalf of the applicant, with the owners Peter and Cynthia Smith, Attorney Monica Kaiser, project designer Jennifer Ramsey, landscape architect Robbie Woodburn, and project engineer John Chagnon via Zoom. Attorney Phoenix asked for an additional five minutes for his presentation.

*Mr. Mannle moved to **grant** the additional five minutes, seconded by Mr. Rossi. The motion **passed** unanimously, 7-0.*

Attorney Phoenix said the petition was continued from the August 22 meeting and there were several new exhibits relating to requests from the Board for answers to certain questions. He addressed those questions, which related to the height as defined by the zoning ordinance of the structure to be demolished; the height defined by the zoning ordinance of the proposed building; the exemption of the spa from the setback requirements; how the garage would be built; whether the application proposed to use City property to a greater degree than other residents; what the interior square footage of the proposed residence was; a survey plan showing the building envelope, a two-scale streetscape; and the overall design scale and compatibility. [Recording timestamp 9:52]

Chair Eldridge opened the public hearing.

## **SPEAKING IN FAVOR OF THE PETITION**

Adam George of 134 Lincoln Avenue said the neighborhood had seen a surge of renovations, extensions, and modern projects and the owners went back to the drawing board to address the neighbors' concerns. He asked that the revised proposal be approved.

Kevin O'Connell of 140 Elwyn Avenue said the owners complied with the request for a conforming home, yet a motion was made to deny the request. He said homeowners should not have to wonder if their complying plans will be denied by the Board. He said the petition should be approved.

Jessica Kaiser of 30 Spring Street said the owners developed a structure that was in full compliance with the zoning ordinance and the only remaining challenge was the lot. She said almost every lot in the neighborhood faced the same challenge. She reviewed the criteria and said they would be met.

## **SPEAKING IN OPPOSITION TO THE PETITION**

The abutter David Mikolaities of 19 Kent Street explained all the reasons he thought that nothing changed from the earlier submittal. He reviewed the criteria in detail and said there was no hardship. [Timestamp 43:54]

Jim Lee of 520 Sagamore Avenue said the petition had to fail only one criterion and that it failed the hardship one. He said tearing down the building and replacing it with another one would be an unreasonable use and was the type of thing that drove up the prices of houses in Portsmouth.

Bill Arakelian of 18 Kent Street said the proposed house's mass went beyond any of the examples of nearby homes shown by the applicant. He said one of the largest existing homes on Kent Street would be replaced with one that was 64 percent bigger. He said the cement wall, spa and patio should be included in the building coverage computation.

Cliff Hodgdon of 10 Kent Street said the proposed structure was still long, large, and tall and clashed with the surrounding character and the modern design was in sharp conflict with all the other homes and that there was no hardship. He said the photos of other homes were misleading.

Barbara Adams of 75 Kent Street said most of the houses shown in photos were not on Kent Street. She said the issues were the same as before and there was no hardship. She said the project would alter the essential character of the Kent Street neighborhood and approval would set a precedent for other people to buy small lots and develop them to the maximum.

Esther Kennedy of 41 Pickering Avenue told the Board to do the right thing, noting that people gave them a good rationale of why the petition should be denied.

Rick Becksted of 1395 Islington Street said demolitions made land values rise, which contributed to the City's unaffordable real estate. He said the essential character of the neighborhood was also in the Board's guidelines and should be used to deny the application.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

Jeff Hodges of 112 Lincoln Avenue (via Zoom) said the new design conformed with all the technical guidelines in the ordinance other than the lot size. He said allowing a property owner to build a fully conforming house was not contrary to the public interest. He said similar projects had been approved and that the proposal met all the criteria.

Erin Proulx of 99 Daniel Street (via Zoom) said she was in support of the application because it met all the guidelines and the only variance requested was for the nonconforming lot. She said the house wasn't in the Historic District and would enhance the values of surrounding properties.

Jessica Kaiser said the new plans were in compliance and design wasn't an issue. She said the variance request had nothing to do with the structure itself.

Attorney Phoenix said the spa was included in the 25 percent and the City Staff found that the applicant didn't need a variance for the spa or the patio. He said the stone enclosures did not apply

because the front was less than 18 inches and the rear was seen as a fence. He said it was not an expansion of a nonconforming use but for a nonconforming lot. He said the hardship was that the lot cannot be fixed and has special conditions of being located on a corner with an open area behind it and next to it. He said it would not violate the public interest or diminish property values and that the only applicable requirement was the need for a variance due to the size of the lot.

Cliff Hodgdon of 10 Kent Street said all accessory structures should be included in the building coverage, including the spa. He said it wasn't shown in the proposal. He said the front walls were referenced in the proposal as landscaped walls and the side and back walls as fence walls and that they should all be considered structures.

Project landscape architect Robbie Woodburn said at the bottom of the steps of the rear yard patio, the spot grade was 28.8 inches and the patio pitched to the east toward the fence, so it was lower in that corner. She said it wasn't higher than 18 inches. She cited more grades and said the 6-ft wall would be measured from existing grade and would qualify as a fence. She said the wall/fence along the front and sides would not be higher than four feet and the spa was included in the calculations.

Cliff Hodgdon of 10 Kent Street asked who would pay for digging the drainage trench through the park and to the tennis courts, noting that it wasn't on the proposal previously.

Attorney Phoenix said the drainage calculations were provided previously but the applicant was decreasing the impervious coverage, which would create more lot for drainage. He said the drainage would have areas for treatment but wasn't really the Board's purview.

Chair Eldridge closed the public comment session but kept the public hearing open in case there were questions from the Board.

Mr. Rossi said it wasn't a complicated application because the Board was there to consider the lot size, but there was the issue of the essential character of the neighborhood and whether the structure would be consistent with it. Attorney Phoenix said the essential character of the neighborhood, along with each of the other variance requirements, related to the variance needed and not the project that was being done, so the issue was whether the lot and the variance for it would change the essential character of the neighborhood, not the building.

Chair Eldridge closed the public hearing.

## **DISCUSSION OF THE BOARD**

Mr. Rossi said when he read the minutes from the previous meeting, he realized that his logic about the expansion of a nonconforming use was incorrect, so now his position changed because he agreed with Attorney Phoenix's logic and felt that it was more compelling than what he was thinking at the previous meeting. Mr. Mattson said there were more variances requested before and he had not seen an unnecessary hardship within the side yard setback, but since it was no longer asked for, the only thing left was whether the lot size was an unnecessary change, and he said the applicant could not change the lot size. Vice-Chair Margeson said she did not find Attorney

Phoenix's view of the essential character of the locale so narrowly and wasn't sure that by granting the variances, the Board was not violating the spirit and intent of the ordinance in terms of the central character of the locality. However, she said in almost all respects, the application improved the conformity with the zoning ordinance in terms of the right and rear yard setbacks, and the building coverage was decreased to meet the zoning ordinance. She said it was tough but thought there might be a problem with the spirit and intent, not with air and light.

Mr. Rheume said it came back to what was relevant to the Board. He said traditionally a request of this sort was, "Is this a buildable lot?". He said other lots in the neighborhood had buildings placed on them, but other aspects of the petition poked at other issues, like demolition. He said he was disheartened by the trend of demolition across the City. He said the value of the land was of greater intrinsic value to someone who wants to buy the land than the structure on it, which would change the characteristics of the City, but it wasn't something the Board had purview over. He said there was the Demolition Committee but that it was very limited in its powers. He said a homebuyer could do what he wanted to with a house outside the Historic District. He said the issue of property values needed to be legislatively looked at and might require State action but it wasn't applicable to what the Board was reviewing. He said the essential character of the neighborhood was tied to the actual relief asked for, and the question was whether the lot was buildable. He said the Board could say there were much smaller homes on the smaller lots and that the applicant's home had to be in conformance with a lower standard than the ordinance would require, but there were other buildings in the neighborhood that were very close to the applicant's building. He said the dormering on the park side was appropriate but the one on the other side but a bit much, but the applicant was building within the allowed envelope. Regarding the fence and the spa, he said the Board would approve the allowable 25 percent and that it was up to the applicant to figure out if that as missed for the fence and spa. He said he didn't think there was enough to say that the application didn't meet the essential character of the neighborhood in terms of the zoning relief being asked for.

Mr. Rossi said he had seen that phenomena of the land in New Jersey, especially along the shore where property became more valuable than the homes built there decades ago. He said the nature of the housing stock in Portsmouth will change unless there are changes made to the zoning ordinance itself to prevent that, but it was outside of the Board's purview.

## **DECISION OF THE BOARD**

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

Mr. Rheume referred to his previous comments. He said he had a lot of empathy for the neighbors but there was always a tradeoff between the needs of the property owner and the neighborhood. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said he explained the essential character of the neighborhood specific to what was asked for relief and that the applicant was meeting that aspect. He said there were a lot of large structures on the substandard 5,000-sf lots in the neighborhood, some of them with high roof lines and with dormers, particular placement of windows and so on, and he said the Board couldn't go that far. He said substantial justice would be done, which was a balancing test specific to what's

being asked for in terms of whether the lot is a buildable one. He said the applicant demonstrated what was currently there and what was available on similar lots throughout the neighborhood and what was asked for fell in the balance and was something granted to many others in the past. He said he didn't think there were other substantial characteristics put forward relating to competing concerns that outweighed the fundamental right to develop a property in conformance with the ordinance. He said granting the variance would not diminish the values of surrounding properties, noting that the structure was replacing a 2-family home and losing some dwelling units but would be a more conforming building that would not have a different use, and a single-family residence was allowed in the area. He said it was doubtful that it would diminish the values. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the question being asked was regarding if the lot was buildable. Numerous lots in the neighborhood were of a similar substandard size because the original subdivision was set up that way. He said the property had a structure on it for many years and what was proposed was fully conforming on a lot that was a characteristic size of the neighborhood, even though it was somewhat below the requirements of the zoning applied in general to the neighborhood. He said there was no general public purpose of the ordinance that said this specific home should not be built. He agreed that the owner was maxing out the height, especially on the side approaching the neighbors, but there wasn't enough to say that it was out of the nature of other uses on the 5,000-sf lots on other properties in the area and throughout the City. He said it was reasonable and recommended approval.

Ms. Geffert said there was ample evidence that granting the variance would not diminish the values of surrounding properties. Chair Eldridge said she would support the motion because the land was the hardship and the applicant decided to build up to the required dimensions.

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

- C. The request of **Caleb E. Ginsberg and Samantha L. Ginsberg (Owners)**, for property located at **303 Bartlett Street** whereas relief is needed to demolish the existing detached garage and construct an addition with attached garage which requires a Variance from Section 10.521 to allow a) seven (7) foot left yard where ten (10) feet is required; b) a two (2) foot right yard where ten (10) feet is required; c) building coverage of 27.5% where 25% is allowed; 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 162 Lot 13 and lies within the General Residence A (GRA) District. (LU-23-120)

## **SPEAKING TO THE PETITION**

Attorney Monica Kaiser was present on behalf of the applicant, along with the owner Samantha Ginsberg, the direct abutters Peter and Donna Splaine, and project engineer Alex Ross. She noted that seven letters of support were received from the neighbors. She handed a written statement to the Board members and asked for an addition five minutes for her presentation.



*Vice Chair Margeson moved to grant the additional five minutes, seconded by Mr. Mattson. The motion **passed** unanimously, 7-0.*

[Timestamp 2:13:35] Attorney Kaiser reviewed the petition. She noted that the tax map showed the deeded property to be more than it really was and explained that the deed error was not noticed before. She said the plan was to adjust the property line to make the T-shape of the property go away and apportion parts of it to the two abutters.

Mr. Rossi asked if the addition was moving over to the right or would be in line of where the current garage was. Attorney Kaiser said the addition would move a bit, explaining that there was a little jog in the lot line before and the garage would slide up by adjusting the lot line. Mr. Rossi said the new lot line seemed strange with the little zigzag but knew that the lot line was changing to bring the building closer in conformance rather than the building changing to become more conforming. Attorney Kaiser said the parties involved explored different ways of doing it and were comfortable with the proposed plan and that the Planning Board would evaluate the lot line. Vice-Chair Margeson said the left yard was seven feet the entire way but not in the beginning, and she asked how that seven feet was right at the front of Bartlett Street. Attorney Kaiser said the house was on an angle compared to the lot line, and the setback to the house was 3.6 feet, seven feet at the corner, and then 9.3 feet at the deck. She said the reason they were asking for the seven feet was because that's where they would fill in and attach to the existing house. Vice-Chair Margeson said the existing conditions stated that it was seven feet but it seemed like three feet. Attorney Kaiser said the three feet would not be expanded and the addition would be put in at the seven feet. Ms. Casella referred to the Staff Memo and clarified that the front portion of the house would not change. Mr. Mattson asked if the applicant considered turning the garage to have a bigger setback. Project engineer Mr. Ross said the turning radius would be too tight and there wouldn't be enough width. Mr. Rheume said it was more of a house addition with a small garage than a garage addition because the size of the addition was about the size of the original house. He said the applicant could have avoided coming before the Board if the lot line was drawn closer to the 295-299 Bartlett Street house and an easement for driving and parking on the property was processed, which would get the 10-ft setback. Attorney Kaiser said the Splaines could claim most of the T-shape because of the way they used and maintained it and it was a tough sell for them to give it up legally. Mr. Rheume asked if the applicant included any maintenance easement on the new addition on the Splaine side of the property as a legal basis for the applicant to do maintenance. Attorney Kaiser said all the parties were willing to do that. Mr. Rheume asked if the planter boxes behind the proposed addition were the basis for choosing the property line to go to that area. Attorney Kaiser agreed.

Chair Eldridge opened the public hearing.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

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

### **DECISION OF THE BOARD**

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

- 1. A suitable maintenance easement shall be provided on the new lot being created, Lot 162-14, with its increase in size; and*
- 2. The subdivision review and approval by the Planning Board shall be required for the proposed lot line adjustment.*

*Vice-Chair Margeson seconded the motion.*

Mr. Rheume said he was concerned at first as to why the Board didn't try to avoid the situation of creating a new property line and including a 2-ft setback on an addition that didn't exist yet. He said it was an important data point for the Board to say that they could live with it as long as some provision was put into the new agreement between the two new properties that there's a substantial structure that will be very close to the property line that will need maintenance and the owner of the 303 Bartlett Street side will properly maintain that. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because there were tight property lines in that neighborhood. He said it might have seemed like an opportunity to create something more conforming, but there was a historic use of the two properties and the applicant was trying to recognize that *de facto* use of each of the properties. He said the two neighbors amicably worked out the result and understand the impacts, so he thought that reduced some of the concerns about the right setback, which he explained further [Timestamp 2:52:24]. He said there was nothing in the public interest that would outweigh the applicant's and neighbor's decision to run the property line where they did. He said substantial justice would be done because there was no public concern, just the one between the two neighboring properties. He said granting the variances would not diminish the values of surrounding properties because it defined something that was already in existence and the addition would be tasteful and add significantly to the size of the existing home, so it should increase its value and the value of other properties. He said the hardship was the undefined property line that was owned by someone else who didn't realize it and the historical usage, so two property owners were coming up with a solution to meet everyone's needs. He said the addition was a reasonable one, considering the very small size of the existing house. He said there was already a garage and the new one would be moved under the addition. He said there was nothing in the petition that was unreasonable, and he recommended approval. Vice-Chair Margeson concurred and commended the applicant for the thorough application and said it was a good example of negotiating differences with the abutters and coming to an agreement.

Mr. Mattson said what convinced him to approve the petition was the 37'x42' wide lot, which was narrow and drove a lot of the issues. He said that, even with the increased land that would result from the proposed lot line revision, it would still be smaller than what was allowed. He said he would normally be hesitant about approving something so close to the side yard setback, but given the nature of the property and the agreement reached between the neighbors, he was convinced. Mr. Rheume added that the lot coverage was just 2-1/2 percent over and less than what existed in terms of all the other structures being removed to allow the addition, which was not egregious.

*The motion passed unanimously, 7-0.*

### **III. NEW BUSINESS – PUBLIC HEARING**

Alternate Geffert took a voting seat for the following petition.

- A.** The request of **J & J's Drop and Drive LLC (Owner)** for property located at **459 Islington Street** whereas relief is needed to install a 54 square foot mural which requires the following: 1) Variance from Section 10.1251.10 to allow 54 square feet of aggregate sign area where 48.5 is allowed; and 2) Variance from Section 10.1251.20 to allow 54 square feet of individual sign area where 16 square feet is allowed. Said property is located on Assessor Map 157 Lot 7 and lies within the Character District 4-L2 (CD4-L2) and Historic District. (LU-23-129)

#### **SPEAKING TO THE PETITION**

Landscape architect and site artist Terrence Parker was present on behalf of Liar's Bench Brewery and J & J's Drop and Drive LLC, the brewery's landlord. He said the mural was part of the History Through Art project in the City. He said the variances from the sign ordinance were needed due to the special exceptions of the brewery, the dimensional requirements that were exceeded, and the fact that the west side of the brewery had no street frontage so the mural had to be on that side, which faced the parking lot and bank drive-thru. He reviewed the criteria.

Mr. Rossi asked why the applicant was asking for 54 square feet of aggregate sign area instead of the allowed 48.5 square feet. Mr. Parker said the mural was designed to meet the open space of the portion between the side entrance and one of the garage doors. He said it was aesthetic decision to create a boundary of blue around the mural and that the mural had to be large enough to be read due to its historic graphics and text. Mr. Rossi asked about the durability of the vinyl print fixed to an aluminum sheet. Mr. Parker said it would be solar-sealed onto the aluminum backing and would have a 12-year life span.

Chair Eldridge opened the public hearing.

#### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

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

#### **DISCUSSION OF THE BOARD**

Mr. Rheume said he wished the ordinance would better reflect the idea of public art of that large of a magnitude being displayed and put it in the sign ordinance even though it wasn't a sign. He said in this case, it was completely divorced from anything taking place inside the business, and if the Board had to apply the sign ordinance to it, that would be the hardship. He said the mural was a reasonably-sized piece of art work and in a parking lot that would not distract drivers. Vice-Chair

Margeson said she would not support the petition. She said the concept was great but thought putting the request within the sign ordinance was tricky. She asked what would happen if the Board got a request from a business that wanted to go larger. She said one standard was applied for a public art mural and another for businesses and hoped that the City Council would consider passing a public art mural ordinance to allow these things, but she didn't feel the variance requests fit into the sign ordinance. Mr. Mattson said that, for similar reasons, he supported it because the hardship was that there was no fair and substantial relationship between the purpose of the sign ordinance and the mural that would protect from a situation of an actual sign advertising something for a business. He said he preferred that the issue be dealt with by the City Council and the ordinance itself but didn't think it set the Board up for a precedent. Mr. Rossi said the last time the Board approved a mural, they thought about it as possibly a public mural fitting into the definition of a museum, which is a permitted use in the CD4L1 District because it is art and for public access. He said because no one was charging for it and someone didn't have to walk inside a building, it was a hybrid use that a commercial signage would not benefit from.

## **DECISION OF THE BOARD**

*Ms. Geffert moved to **grant** the variances, seconded by Mr. Mattson.*

Ms. Geffert said granting the variances would not be contrary to the public interest because the variances requested were for a particular expansion, a tasteful mural, as part of the history project. She said it would observe the spirit of the ordinance because the ordinance did not want obnoxious signs and that the sign would not do a disservice to the area and would be better than advertising Liar's Bench. She said the applicant made a good case of why a larger sign was required. She said granting the variances would do substantial justice, given the location and the abutting uses and the absence of anyone protesting, and that it would advance the information presented on the sign. She said it would not diminish the values of surrounding properties because there was no evidence that it would and she thought it would enhance the values of surrounding properties. She said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the property had special conditions of not fronting on Islington Street that distinguished it from other properties, and owing to those special conditions, a fair and substantial relationship does not exist between the public purposes of the sign ordinance and the application of that provision. She said the sign would be on the side of the building and would not create any traffic hazard or visual problems for anyone because it would face a bank drive-thru. She said all the criteria were satisfied. Mr. Mattson concurred and said the proposed use was a reasonable one that would not threaten public health, safety, or welfare.

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

Mr. Rheume recused himself from the following petition, and both alternates Ms. Geffert and Ms. Record took voting seats.

- B.** The request of **Wayne G. Clough (Owner) and Sophary Sar (Applicant)**, for property located at **100 Islington Street Unit 6** whereas relief is needed to allow an esthetician business which requires a special exception from Section 10.440, Use # 7.20 where it is permitted by Special Exception. Said property is located on Assessor Map 137 Lot 25-6 and lies within the Character District 4-L2 (CD4-L2) and Historic District. (LU-23-122)

### **SPEAKING TO THE PETITION**

The applicant Sophary Sar was present and said she was a licensed aesthetician. She said she would structure her appointments so that they would not overlap between clients. She reviewed the special exception criteria and said they would be met.

There were no questions from the Board. Chair Eldridge opened the public hearing.

### **SPEAKING IN FAVOR OF THE PETITION**

Dick Gamester of 176 Dexter Road said he supported the application because it would not impinge on any of the special exception criteria and would be the least intensive use on the property.

### **SPEAKING IN OPPOSITION OR TO, FOR, OR AGAINST THE PETITION**

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

### **DECISION OF THE BOARD**

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

Mr. Mattson referred to Section 10.233.21 and said the standards as provided by the ordinance for the particular use were permitted by special exception. He referred to Section 10.233.22 and said there would be no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials because those were not an issue. Referring to Section 10.233.23, he said granting the special exception would pose no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods, business or industrial districts on account of the location and scale of buildings and other structures, parking areas, accessways, odors, smoke, gas, dust or other pollutants, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles, or other materials. He said it was a minimally impactful use with no exterior changes to the building. Referring to Section 10.233.24, he said granting the special exception would pose no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity because there was adequate and reasonable parking and the applicant would base her appointment scheduling to handle the flow of visitors. Referring to Section 10.233.25, he said there would be no increase in or excessive demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection, and schools, given the nature of the business. Referring to Section 10.233.26, he said granting the special exception would pose no significant increase of stormwater runoff onto

adjacent properties or streets because exterior changes in this case were not an issue. Mr. Mannle concurred and had nothing to add.

*The motion passed unanimously, 7-0.*

Mr. Rheume resumed his voting seat and Ms. Record resumed her alternate status.

- C. The request of **Davenport Inn LLC (Owner)**, for property located at **70 Court Street** whereas relief is needed for the following: 1) An after-the-fact Variance from Section 10.515.14 for six (6) existing permitted mechanical units with a setback of 0.5 feet from the property line; 2) Variance from Section 10.515.14 to install a seventh mechanical unit with a setback of 0.5 feet from the property line whereas 10 feet is required; and, in the alternative; 3) Equitable Waiver from Section 10.515.14 for the installation of six mechanical units with a 0.5 side yard setback. Said property is located on Assessor Map 116 Lot 49 and lies within the Character District 4-L1 (CD4-L1) and Historic District. (LU-22-10)

## **SPEAKING TO THE PETITION**

Attorney Chris Mulligan was present on behalf of the applicant, along with Andrew Samonas, one of the principals of Davenport Inn LLC. Attorney Mulligan said the petition was before the Board the previous year to allow the use as an inn and for dimensional variances. He said the applicant had to upgrade the various mechanical systems including the HVAC system as part of the property's renovation and restoration and obtained an administrative approval to site and install a bank of HVAC units to support mini-splits on the left side yard. He said his client had the units installed but was informed by the installer that a seventh unit was necessary, which was installed, so when the client went before the HDC for another administrative approval, he learned that a variance was required for all seven units because they were in the side yard setback. Attorney Mulligan said the requested variances were needed to permit the currently installed units to stay where they were, and if it wasn't granted, he would ask for an equitable waiver from the dimensional requirements. He said the setback was impossible to meet unless all the units were sited behind the building, which would be expensive and inappropriate. He said the area they needed approval for siting the units was the space between the two buildings. He said that space was not usable for any other purpose and the light and air between the buildings would not be affected. He reviewed the criteria.

Mr. Rossi asked if all seven units were installed. Attorney Mulligan agreed, noting that the first six units were installed before anyone realized that a variance was needed and the seventh unit was installed before the applicant applied for an administrative approval. Mr. Rheume said there were two prior condensers along the side of the building. Attorney Mulligan agreed and said the photos showing them were part of the submission to the HDC. He said those two units were gone. Mr. Rheume asked if the applicant and the City Staff discovered that there was a variance granted for those two units. Attorney Mulligan said they did not but it was possible that there should have been. Mr. Rheume asked if the installer indicated a technical reason that moving the HVAC equipment behind the building would be an issue, like pipe runs. Attorney Mulligan agreed.

Chair Eldridge opened the public hearing.

**SPEAKING TO, FOR, OR AGAINST THE PETITION**

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

**DECISION OF THE BOARD**

The Board discussed the issue of dealing with the petition as a variance request instead of an equitable waiver one and decided to grant the variances.

*Vice-Chair Margeson moved to **grant** the variances for the six condensers after the fact and for the seventh to be installed. seconded by Mr. Mattson.*

Vice-Chair Margeson referred to Sections 10.233.21 and .22 of the ordinance and said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because it would not alter the essential character of the neighborhood and would not affect the public's health, safety, and welfare. She said the issue was the setback requirements for the left yard and the movement of air and light around the building, and that the Board found that the location of the HVAC units did not implicate those concerns. She referred to Section 10.233.23 and said granting the variances would do substantial justice because there would be no benefit to the public in denying the variance request and it would be a tremendous injustice to the applicant. Referring to Section 10.233.24, she said granting the variances would not diminish the values of surrounding properties because the seven HVAC units were in-between buildings. Referring to Section 10.233.24, she said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. She said the property had special conditions that distinguished it from others in the area, and owing to those special conditions, a fair and substantial relationship did not exist between the general public purposes of the ordinance's provision and the specific application of that provision to the property. She said the proposed use was a reasonable one because HVAC systems would be provided to an approved inn within the Historic District and the special conditions of the property were that it was a very historic one. She said the applicant's representative stated that there would be problems installing HVAC units in the back of the inn, so she found that the property did have special conditions that do not relate to the public purpose of the ordinance as applied to the property. Mr. Mattson concurred and said the units could not be placed on the other side or the front, so there was no other location.

*The motion **passed** unanimously, 7-0.*

**THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, SEPTEMBER 26, 2023**

- D.** The request of **Marcella F. Hoekstra (Owner)**, for property located at **35 Whipple Court** whereas relief is needed in the form of an equitable waiver for 1) an accessory structure with an 8.5-foot right yard where 10 feet was permitted and an 8-foot rear yard where 17 feet was permitted; or in the alternative 2.a) Variance from Section 10.521 to allow an 8,324 SF lot area/dwelling unit where 15,000 SF is required; b) to allow a

frontage of 45.83 feet where 100 feet is required; c) to allow an accessory structure with an 8.5 foot right yard where 10 feet is required; d) to allow an accessory structure with an 8 foot rear yard where 9 feet is required; and e) to allow a building coverage of 26% where 20% is allowed. Said property is located on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District. (LU-23-147)

- E.** The request of **Lawrence Brewer (Owner)**, for property located at **253 Broad Street** whereas relief is needed to construct an attached garage and add a second driveway, which requires the following: 1) Variance from Section 10.521 to allow a 7 foot side setback where 10 feet is required; and 2) Variance from Section 10.1114.31 to allow more than one driveway per lot. Said property is located on Assessor Map 131 Lot 16 and lies within the General Residence A (GRA) District (LU-23-148)
- F.** The request of **Prospect North (Owner)**, for property located at **815 Lafayette Road** whereas relief is needed for the demolition of the existing building and tower and the construction of three 4-story, 24-unit multi-family buildings (72 total units) with first floor parking and associated site improvements, which requires the following: 1) Variance from Section 10.5B33.20 (Front Build-out) to permit a front build out of less than 50% of the total front yard width; and 2) Variance from Section 10.5B33.30 (Façade Orientation) to permit a façade orientation that is not parallel with the front property line. Said property is located on Assessor Map 245 Lot 3 and lies within the Gateway Corridor (G1) District and the FEMA 100yr flood and extended flood hazard area. (LU-23-149)

*It was moved, seconded, and approved to **postpone** the above three items to the September 26 meeting.*

#### **IV. OTHER BUSINESS**

There was no other business.

#### **V. ADJOURNMENT**

The meeting adjourned at 10:48 p.m.

Respectfully submitted,

Joann Breault  
BOA Recording Secretary



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

**7:00 P.M.**

**September 26, 2023**

**MEMBERS PRESENT:** Phyllis Eldridge, Chair; Beth Margeson, Vice-Chair; Members David Rheaume; Paul Mannle; Thomas Rossi; Jeffrey Mattson; ML Geffert, Alternate; Jody Record, Alternate

**MEMBERS EXCUSED:** None.

**ALSO PRESENT:** Jillian Harris, Planning Department

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**PLEASE NOTE: ITEMS (III.) D. THROUGH F. WERE POSTPONED  
AT THE SEPTEMBER 19, 2023 BOARD OF ADJUSTMENT MEETING.**

**Note:** the timestamp denotes the time of the meeting video.

**I. NEW BUSINESS – PUBLIC HEARING**

- A.** The request of **Marcella F. Hoekstra (Owner)**, for property located at **35 Whipple Court** whereas relief is needed in the form of an equitable waiver for 1) an accessory structure with an 8.5-foot right yard where 10 feet was permitted and an 8-foot rear yard where 17 feet was permitted; or in the alternative 2.a) Variance from Section 10.521 to allow an 8,324 SF lot area/dwelling unit where 15,000 SF is required; b) to allow a frontage of 45.83 feet where 100 feet is required; c) to allow an accessory structure with an 8.5 foot right yard where 10 feet is required; d) to allow an accessory structure with an 8 foot rear yard where 9 feet is required; and e) to allow a building coverage of 26% where 20% is allowed. Said property is located on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District. (LU-23-147)

Alternate Ms. Geffert was seated for voting.

**SPEAKING TO THE PETITION**

[Timestamp 3:30] Attorney Monica Kaiser was present on behalf of the applicant and addressed the equitable waiver first. She said the proposal was to convert the garage structure to an Accessory

Dwelling Unit (ADU) to be used for rental income or to house the applicant's father in the future if necessary. She explained that someone filed a request for a variance in 1968 to place a garage ten feet from the right side lot line and 17 feet from the rear lot line, but what they built seemed to be larger and closer the right side lot line. She said the front corner of the garage is closer than was intended and that the garage was enlarged so that it now includes a shed. She said the applicant had to establish the legality of the existing detached accessory structure that had existed for 10 years or more and that they were asking for approval for what was already there. She reviewed the requirements for the equitable waiver.

Mr. Rheume said the shed was shown off the back of the garage about 6-8 feet and that it looked like the garage might have been shifted. He asked if the proposed ADU shown in the packet was just in the area that would be considered to be the garage or if it would include the area with the shorter roof shed. Attorney Kaiser said it was just the original garage and that the shed flat roof area would remain a shed for storage. Mr. Rheume then verified the basis for the distance for an accessory structure height dimension. Ms. Geffert asked about the prior owners and whether Attorney Kaiser knew the intention of the person who built the garage in a way that didn't conform to the variance granted in 1968. Attorney Kaiser said she did not know if the person who got the 1968 approval decided to build something bigger or if someone tagged on something else later. She said she checked the building permit file and only saw the variance information and no subsequent request for a building permit. She said she inferred from the diagram that the violating right side setback was a mistake and that it looked like it had been there for a long time.

The Board discussed whether the petition should be heard as an equitable waiver or a variance.  
[Timestamp 15:17]

Chair Eldridge opened the public hearing.

### **SPEAKING TO FOR, OR AGAINST THE EQUITABLE WAIVER**

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

### **DECISION OF THE BOARD**

Mr. Rossi said he would prefer to move forward with the equitable waiver. Chair Eldridge said she felt that Part 2 of the equitable waiver information in lieu of the findings required by the Board demonstrated that the violation existed for ten years or more and said she was also in favor of moving forward with the waiver. [Timestamp 19:36]

*Ms. Geffert moved that the Board grant an equitable waiver for the existing garage at 35 Whipple Court, seconded by Mr. Mannle.*

Ms. Harris recommended that Ms. Geffert amend her motion to reflect what was in the Notice, and Ms. Geffert agreed. [Timestamp 21:20]

*Ms. Geffert **amended** her motion to move that the Board grant an equitable waiver for the property located at 35 Whipple Court for the accessory structure, with an 8-1/2 foot right yard where 10 feet was permitted and an 8-ft rear yard where 17 feet was permitted.*

*Mr. Mannle seconded the amended motion.*

Ms. Geffert said it had been demonstrated that the violation has existed for more than 10 years and no enforcement action was taken. The physical and dimensional violation does not constitute a public nuisance or diminish the value of the other property in the area or interfere or adversely affect with any present or permissible uses of such property, as demonstrated by the uniform support of the neighbors. She said due to the degree of past construction or investment made in ignorance of the facts constituting the violation of the cause of correction so far outweighs any public benefit to be gained, it would be inequitable to require the violation to be corrected. She said the violation came forward in 2021 for a variance and the issue didn't come up. Mr. Mannle concurred and had nothing to add.

*The motion **passed** unanimously, 7-0.*

There was further discussion about the attached ADU being permitted vs. a detached ADU.  
[Timestamp 25:27]

- B.** The request of **Lawrence Brewer (Owner)**, for property located at **253 Broad Street** whereas relief is needed to construct an attached garage and add a second driveway, which requires the following: 1) Variance from Section 10.521 to allow a 7 foot side setback where 10 feet is required; and 2) Variance from Section 10.1114.31 to allow more than one driveway per lot. Said property is located on Assessor Map 131 Lot 16 and lies within the General Residence A (GRA) District (LU-23-148)

Ms. Record was seated for voting and Ms. Geffert resumed alternate status.

## **SPEAKING TO THE PETITION**

The applicant Lawrence Brewer was present to speak to the petition. He said he wanted to modernize the house with the addition of a two-car garage and also wanted to explore the possibility of adding an ADU in the addition's basement. He said they received positive feedback from the neighbors. He said the second driveway was to accommodate parking for the potential ADU. He reviewed the petition and criteria in detail. [Timestamp 27:10]

Ms. Record asked where the existing driveway was. Mr. Brewer said it was at the north side of the house. Mr. Rheume verified that four parking spots were requested, two for the garage and two in front of the garage, and that it would meet the need for parking if the ADU was added. He asked what Mr. Brewer's concern was for the second driveway. Mr. Brewer said he would want to put the driveway on the right side of the house down below for the ADU. He said there was a curb cut on either side, so it wouldn't make any sense to do it any other way. Mr. Rheume asked if Mr. Brewer

thought his property was unique by having the double lot size compared to the neighbors. Mr. Brewer agreed and said the house was in the center of the lot. He said it was deep enough to maintain the setbacks except in that area. He said he didn't know if they would pursue an ADU but was advised by the City Staff to include the second driveway ADU-request in the petition.

Mr. Rossi said when the Board was asked to approve a setback variance, the situation was an existing structure being remodeled that already encroached upon the setback, but in this case it was new construction. He said it was a bigger ask than what the Board typically saw. He asked if a setback would still be needed if the garage were placed on the right side and the proposed ADU on the left, or if there was another more conforming configuration that would work within the constraints of the property. Mr. Brewer explained that the slope went down from the front of house and there was a 6-ft difference on the back of the house. He said the driveway was not at grade halfway to the house so it wouldn't be as far back on the left side of the house. He agreed that it was new construction and that he considered putting it in the back yard but there were drainage issues. He said it was the most logical path because that's where the existing driveway was. Mr. Rossi asked if the potential ADU floor level would be the same as the house, and Mr. Brewer said it would be the level of the basement.

Chair Eldridge opened the public hearing.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

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

### **DISCUSSION OF THE BOARD**

[Timestamp 41:00] Mr. Rossi asked if the applicant would have to get an extension if the driveway were approved and the driveway or the ADU wasn't built in the two-year time frame. Ms. Harris agreed. Mr. Rossi said the applicant would then be eligible for a maximum of a one-year extension. Mr. Rheame said he was okay with the setback variance and what drove the need to put the addition in that location but he had concerns about the driveway. He said the second curb cut probably gave the applicant justification, but he noted the concerns brought forward by Mr. Rossi and said that part of the hardship would be if the applicant actually built the ADU, which would drive the need for a driveway in that location, but if the ADU didn't get built, he could not see a hardship for a driveway being in that location. Mr. Mattson said the double lot was a special condition and that two driveways would be consistent with the streetscape. Vice-Chair Margeson said she had no problem with the dimensional relief but was concerned with the second driveway. She said the zoning ordinance was amended to allow for ADUs that would be nestled or fit in well with the neighborhood. She said a second structure with a second driveway would violate that because it would basically be two houses and two driveways on one lot. Mr. Mattson said he didn't think it was that big of an ask because it was in the GRA District where two-family homes are allowed. Mr. Mannle said the setback for the two-car garage was minimal and the ADU was proposed as a Phase 2 scenario and would be in the basement of the addition, and the addition would have no need for variances. He said the applicant was trying to take care of everything now.

He said the lot was wide enough and he had no problem with the second driveway. Chair Eldridge said the driveway would not be built until the ADU was, but she felt that the problem was time running out and the applicant having to come back.

## **DECISION OF THE BOARD**

*Mr. Rheume moved to **grant** the first variance to allow a 7-ft side setback. Vice-Chair Margeson seconded.*

Mr. Rheume said it was a modest structure that would be positioned in a way that would avoid the outcropping of the neighbor's property that looked like it was close to the existing property line, so there's a small separation there on the neighbor's part. He said granting the variance would not be contrary to the public interest because the main public interest was for the abutter's light and air. He said it would be a small infringement on it but that it was a modest-sized structure in a neighborhood of homes that were very tight to the property lines, so it wasn't like there would be an unusual change in the character of the neighborhood. He said it would observe the spirit of the ordinance because a small encroachment was being asked for. He said substantial justice would be done because the applicant's ability to enjoy a two-car garage attached to his property and make improvements to the driveway in front of it would cause no public purposes that would outweigh the enjoyment it would bring to the applicant. He said granting the variance would not diminish the values of surrounding properties and would likely add value to the current home, with no negative impact to any of the surrounding properties. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, noting that one of the special conditions of the property was that it's a double lot in which the applicant has more room to add on an addition than his neighbors would. He said it was a logical location due to topography issues in other potential locations. He said those were unique characteristics and it was a reasonable request to create the modest addition within the setback. Vice-Chair Margeson concurred and had nothing to add.

*The motion **passed** unanimously, 7-0.*

## **DISCUSSION OF THE BOARD FOR THE SECOND VARIANCE**

[Timestamp 52:29] The Board discussed the options for the second requested variance and whether it would invoke Fisher v. Dover if denied. Ms. Harris said the options were to approve, deny, deny without prejudice, or postpone with justification. Mr. Rossi said he would move to deny without prejudice, but Vice-Chair Margeson said she never heard of a denial without prejudice. Mr. Mattson suggested reopening the public hearing to ask the applicant a question.

*Mr. Mannle moved to **suspend the rules** and re-open the public hearing, seconded by Mr. Mattson.*

Mr. Mannle asked the applicant what his timeframe for the ADU was. Mr. Brewer said he preferred to do it at the same time as the addition but didn't know the regulations for ADUs. He said if the garage were approved, he could hopefully start construction on the ADU a year from now. He said

he would need plumbing and utilities and would like to have it all done at the same time, within a year or two. He noted that the curb cut already existed.

Mr. Mannle said he had no problem with the driveway because of the ADU, which would be Phase 2. He said the applicant would not have to return for any variances for the ADU. He asked if the Board could approve the second driveway contingent upon the applicant getting approval for the ADU in the next two years. Ms. Harris agreed he could add a condition to the approval.

## DECISION OF THE BOARD

*Mr. Mannle moved to **grant** the second variance to allow more than one driveway per lot, with the following condition:*

- 1. Contingent that the applicant shall get an approved ADU within two years.*

*Mr. Mattson seconded.*

Mr. Mannle said granting the variance would not be contrary to the public interest because a curb cut already existed. He said it would observe the spirit of the ordinance and do substantial justice as well. He said the driveway was requested because the applicant wanted to have a separate private entrance to a potential ADU, and the ADU would be on the lower level of the addition at the right hand side of the house in the back yard. He said granting the variance would not diminish the values of surrounding properties. He said literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, noting that it was a double lot and the home was built in the middle of it, so there was room on either side. Owing to those special conditions, he said the applicant had a hardship, especially if he wanted to put the ADU in the back. Mr. Mattson concurred and said it was a reasonable use.

Mr. Rheume said he would not support the motion because he thought the applicant should readvertise so that the Board would have a better idea of the ADU and the need for it, with some justification and a clearer hardship. He said he wasn't seeing it at this point.

*The motion **passed** by a vote of 4-3, with Vice-Chair Margeson, Mr. Rheume, and Mr. Rossi voting in opposition to the motion.*

- C.** The request of **Prospect North (Owner)**, for property located at **815 Lafayette Road** whereas relief is needed for the demolition of the existing building and tower and the construction of three 4-story, 24-unit multi-family buildings (72 total units) with first floor parking and associated site improvements, which requires the following: 1) Variance from Section 10.5B33.20 (Front Build-out) to permit a front build out of less than 50% of the total front yard width; and 2) Variance from Section 10.5B33.30 (Façade Orientation) to permit a façade orientation that is not parallel with the front property line. Said property is located on Assessor Map 245 Lot 3 and

lies within the Gateway Corridor (G1) District and the FEMA 100yr flood and extended flood hazard area. (LU-23-149)

Ms. Geffert was seating for voting and Ms. Record resumed her alternate status.

### **SPEAKING TO THE PETITION**

Attorney F. X. Bruton was present on behalf of the applicant and reviewed the petition and criteria. [Timestamp 1:06:20]

Mr. Rheaume noted that the Staff Memo noted a front lot line buildout of 0 and not about the 21 percent buildout ~~was different from the applicant's packet~~the applicant had noted in his presentation. Ms. Harris said it may have been a different interpretation by the applicant of the front lot line buildout, and it was further discussed. [Timestamp 1:18:24]

Chair Eldridge opened the public hearing.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

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

### **DECISION OF THE BOARD**

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

Vice-Chair Margeson said the spirit and intent of Sections 10.233.21 and .22 of the ordinance were that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. She said it was the Gateway District that was meant to be mixed use, walkable , and provide housing stock for the changing demographics of the area, which presumably meant having a façade along the street to invite people in. She said there were differences of opinion as to whether it was a zero percent buildout or a 21 percent buildouting, but if it was 21 percent, that was more than what was advertised and it was fine. She found that the proposal did meet the spirit and intent of the ordinance for those reasons because there will be buildings visible to Lafayette Road that are not presently visible. In terms of protection of natural resources, she said one of the public purposes of the ordinance was to protect wetlands. She said the buildings would be situated outside of the wetlands for the creek, which is a valuable natural resource, so the proposal meets the public interest and the spirit of the ordinance. Referring to Section 10.233.23, she said granting the variances would do substantial justice because there would be no detriment to the public if the variances were denied that would outweigh the benefit to the applicant. Referring to Section 10.233.24, she said granting the variances would not diminish the values of surrounding properties because it was a commercial area with some residential, and it was all zoned Gateway One, so there would be no diminution of values to surrounding properties by building the multi-family dwelling. Referring to Section 10.233.25, she said literal enforcement of the provisions of the ordinance

would result in an unnecessary hardship. She said the property has special conditions that distinguish it from others in the area, and owing to those special conditions, a fair and substantial relationship does not exist between the general public purposes of the ordinance's provisions and their specific application to the property. She said the property has special conditions of having a drainage easement on the front of the property as well as the wetland buffers that make it impossible to comply with the provisions of the zoning ordinance as it applies to the property. She said the proposed use is a reasonable one, a multi-family dwelling in the Gateway District, which is one of the purposes of the Gateway District.

Mr. Mannle concurred. He said the ordinance supported having more walkable streets, so it was anticipated having large frontages on a major road so that the building is close to the major road which was the 50 percent requirement. He said the parking would in the rear was so that people will want to walk down the streets and drive around the back. He said the applicant's parcel was not the ideal Gateway parcel because it's restricted by the drainage easement and wetland buffers, but the applicant did a great job for the area that's now cleared to the present radio station. He said it would be impossible to move the buildings 90 degrees to justify the provisions of the ordinance.

Mr. Rossi said he would not support the motion. He agreed that the special conditions of the property did speak to the percentage of use for the front of the property, but he did not agree that a building like the first one could not be placed perpendicular to the road as specified in the ordinance, so he didn't think a hardship exists for the non-parallel placement of the front of the building that borders the road. He said it might be a smaller building but he didn't think it was impossible to put a building there that complied with the ordinance, despite the special conditions of the property. Mr. Rheaume noted that the zero percent buildout figure was only in the Staff Report and not what was advertised for and it referenced less than 50 percent, so he had wanted to ensure that he understood any concerns that the Planning Department might have before moving forward.

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

## **II. OTHER BUSINESS**

The ability to deny an application without prejudice was briefly discussed.

## **III. ADJOURNMENT**

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Joann Breault  
BOA Recording Secretary



## II. OLD BUSINESS

- A. 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) two (2) 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

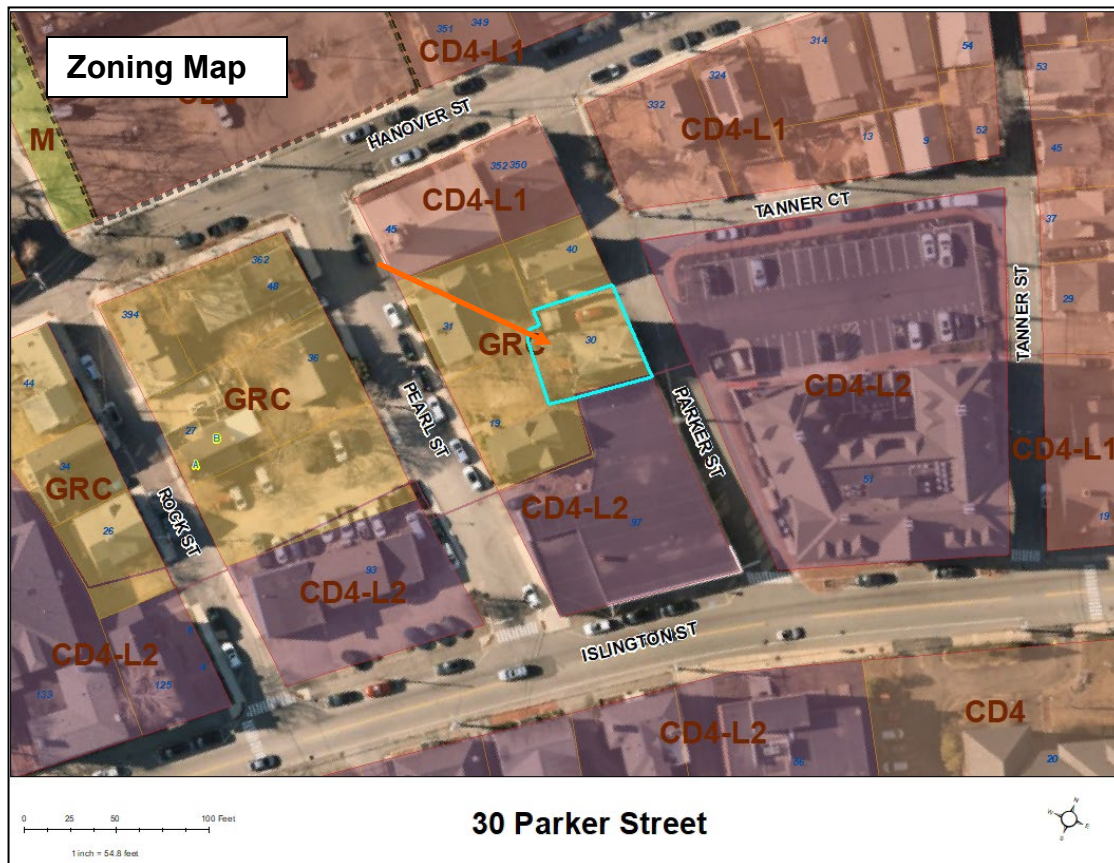
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	*Construct a shed and covered porch	Primarily residential
<u>Lot area (sq. ft.):</u>	2,619	2,619	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,619	2,619	3,500 min.
<u>Street Frontage (ft.)</u>	49.7	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	2	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.

## 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.



**30 Parker Street  
Map 126 Lot 27**

**Rebuilt Shed with Porch at Side Entry**

**To permit the following:**

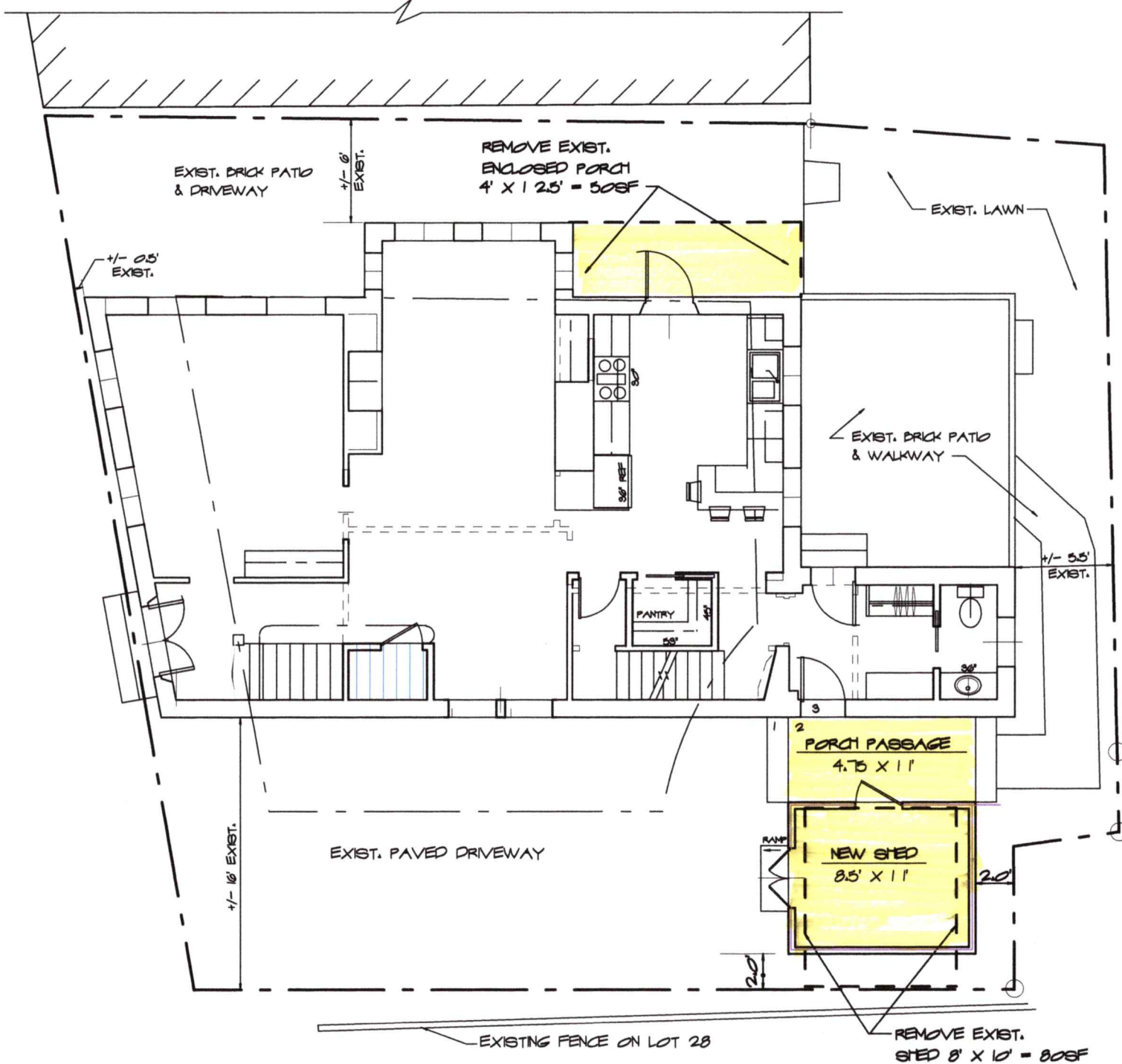
1. Building Coverage of 45% where 44% is existing & 35% is allowed.
2. A new larger Shed with a 2.0' Right Side & Rear Yard Setbacks.
3. Expansion of a non-conforming structure

**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 8.5' 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 16 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. The height of the structure was set to maintain the transom window above the side door of this historic home. 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**

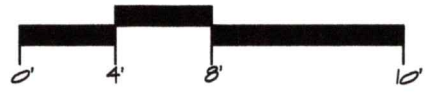
3 STORY RESIDENCE	912 SF
2 STORY REAR ELL	96 SF
1 STORY BAY	46 SF
1 STORY SIDE ENTRY ( TO BE REMOVED )	50 SF
SHED ( TO BE REMOVED )	80 SF
<b>1184 SF ( 44% )</b>	

**PROPOSED BUILDING COVERAGE**

3 STORY RESIDENCE	912 SF
2 STORY REAR ELL	96 SF
1 STORY BAY	46 SF
NEW SHED WITH PORCH PASSAGE	146 SF
<b>1200 SF ( 45% )</b>	
<b>( A NET INCREASE OF 16 SF )</b>	

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**

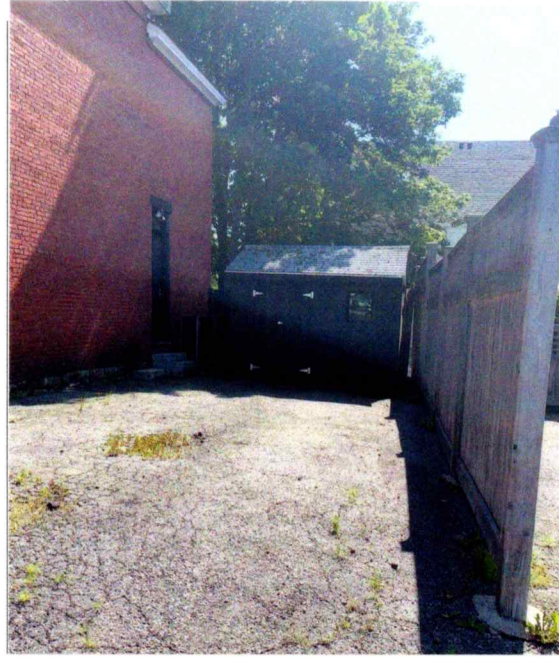
	NEW WALL
	EXIST. WALL
	EXIST. TO BE REMOVED

<b>SCHEMATIC DESIGN</b> RENOVATIONS, WALDWICK RESIDENCE 30 PARKER STREET PORTSMOUTH, NH	801 Islington St, Suite 32 Portsmouth NH 03801 603-502-4387 archwhit@aol.com		Project: <b>2206</b> Revisions: <b>9/21/23</b>	Date: <b>7/25/23</b>
	<b>ANNE WHITNEY ARCHITECT</b>			

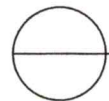
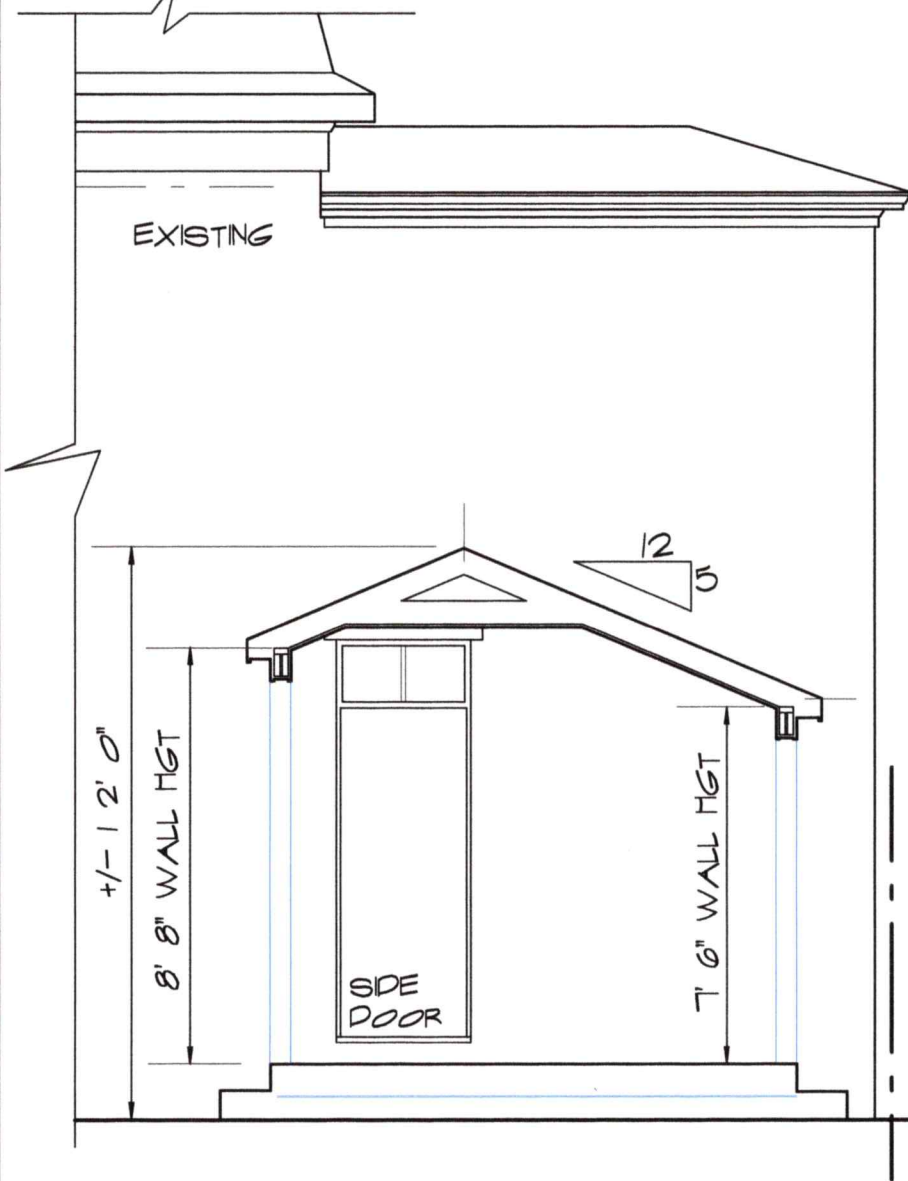
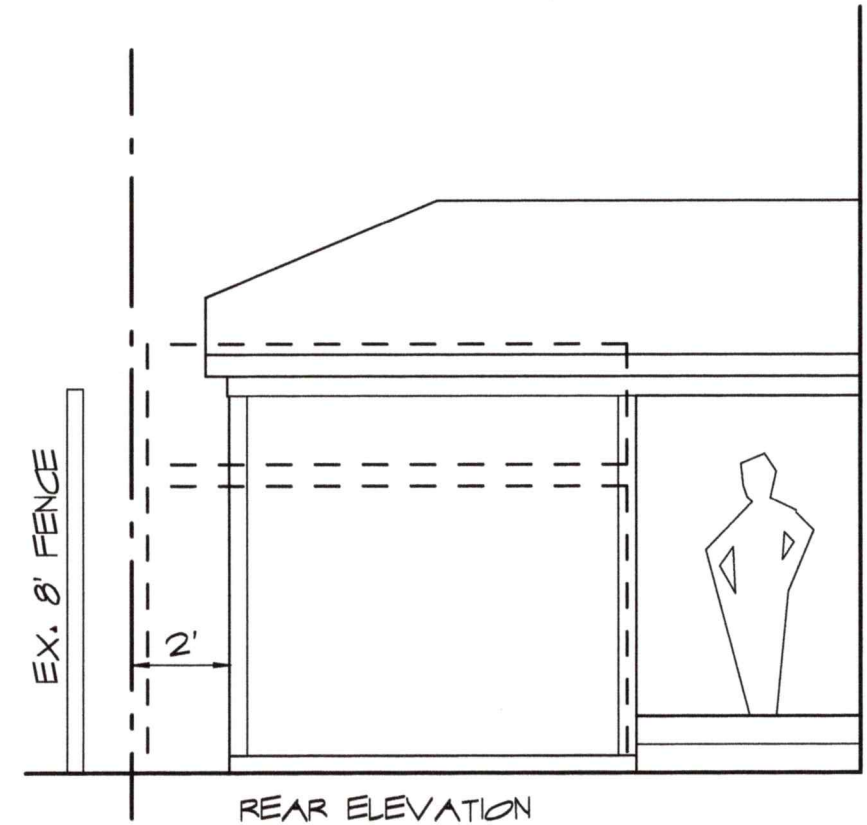
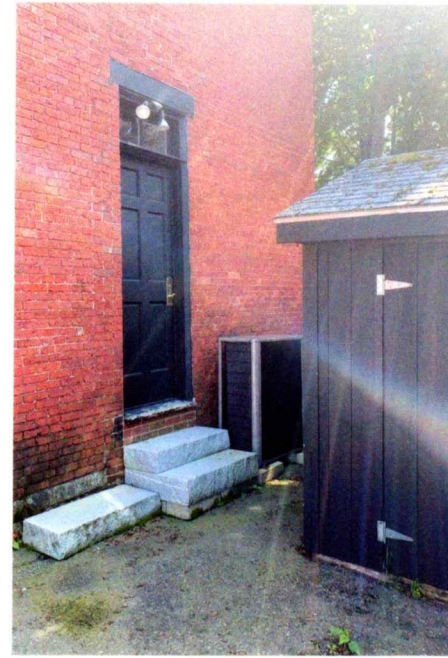




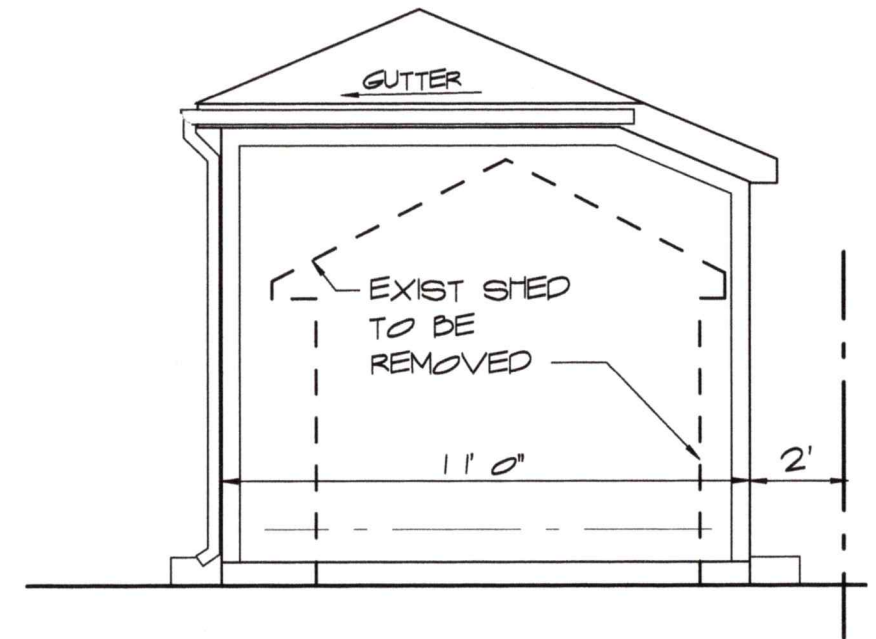
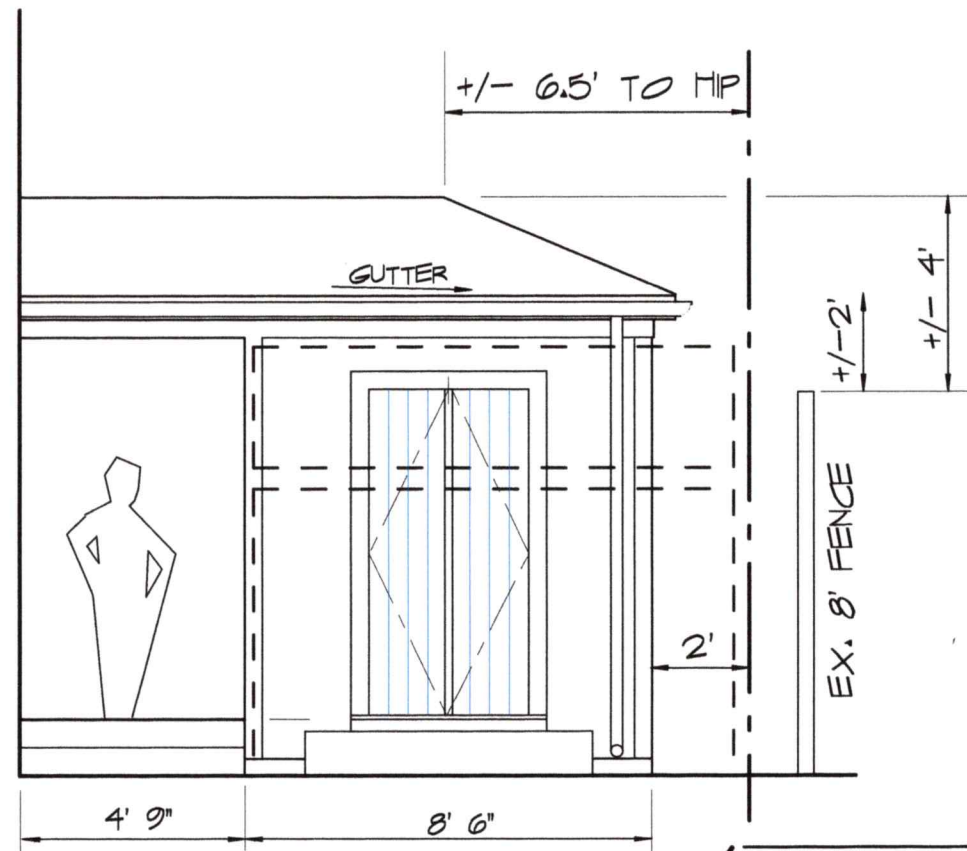
LEFT SIDE 1-STORY TO BE REMOVED



VIEW OF EXIST. SIDE DOOR & SHED

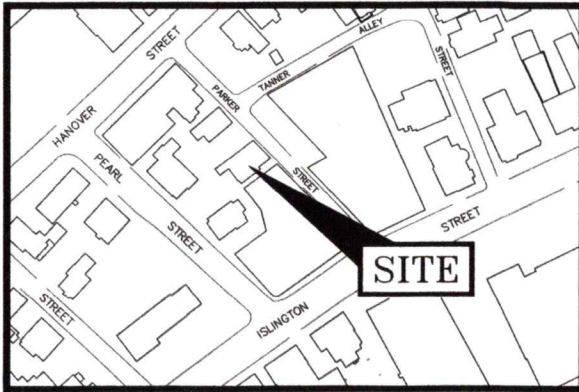


SHED & PORCH SECTION & DRIVEWAY & RIGHT SIDE ELEVATION  
SCALE: 1/4" = 1'-0"



<p><b>SCHMATIC DESIGN</b></p> <p>RENOVATIONS, WALDWICK RESIDENCE</p> <p>30 PARKER STREET</p>	<p>801 Islington St, Suite 32 Portsmouth NH 03801 603-502-4387 archwhit@aol.com</p> <p><b>AWA</b></p> <p><b>ANNE WHITNEY ARCHITECT</b></p> <p>PORTSMOUTH, NH</p>	<p>Project: 2206</p>	<p>Date: 7/25/23</p>
		<p>Revisions: 9/21/23</p>	





LOCATION MAP SCALE: 1" = 100'

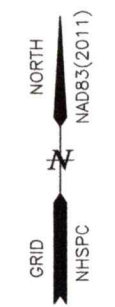
- PLAN REFERENCES:**
- 1) CONDOMINIUM SITE PLAN MAP 126 LOT 32. 19 PEARL STREET CONDOMINIUM FOR GREGORY MAHANNA. PREPARED BY AMBIT ENGINEERING, INC. SCALE: 1"=10', DATED: OCTOBER 2002, RCRD D-30944.
  - 2) STANDARD BOUNDARY SURVEY PLAN, 63 ISLINGTON STREET PORTSMOUTH, NH, COUNTY OF ROCKINGHAM, OWNED 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 MILLETT, 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 MILLETT, SPRAGUE, & COLWELL. SCALE: 1"=40', DATED: AUGUST 20, 2004, RCRD D-32051.

**LEGEND:**

- |                 |                                     |
|-----------------|-------------------------------------|
| N/F             | NOW OR FORMERLY                     |
| RP              | RECORD OF PROBATE                   |
| RCRD            | ROCKINGHAM COUNTY REGISTRY OF DEEDS |
| (11/27)         | MAP 11 / LOT 21                     |
| <b>BOUNDARY</b> |                                     |
| ---             | 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                     |

**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'

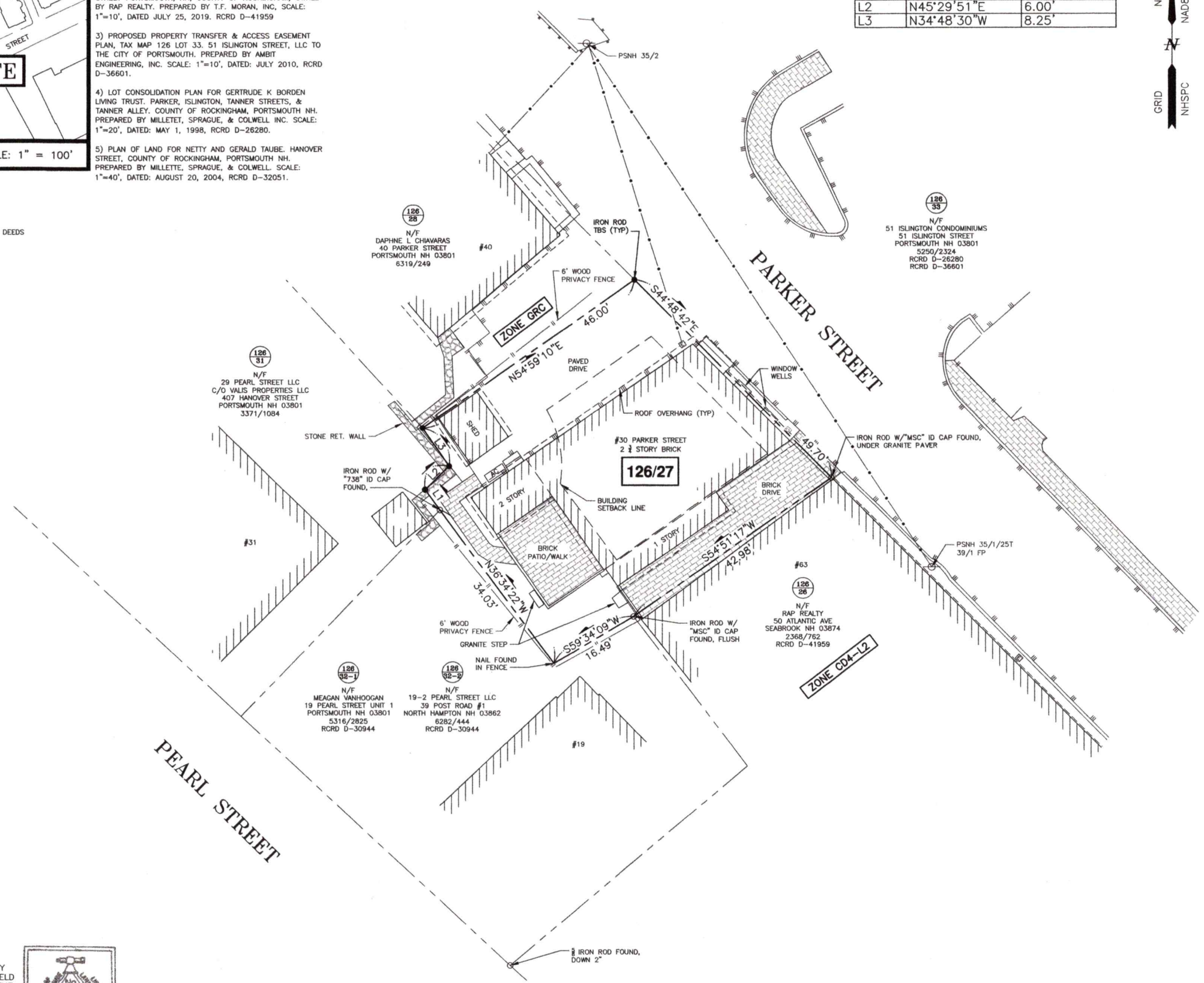


**AMBIT ENGINEERING, INC.**  
A DIVISION OF HALEY WARD, INC.

200 Griffin Road, Unit 3  
Portsmouth, NH 03801  
603.430.9282

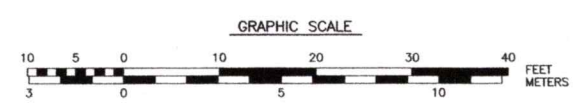
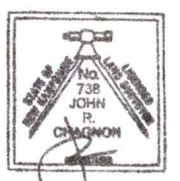
WWW.HALEYWARD.COM

- 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."

*[Signature]* 6-20-23  
JOHN R. CHAGNON, LLS #738 DATE



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

### III. NEW BUSINESS

- A. The request of **2422 Lafayette Road Assoc LLC c/o Waterstone Retail (Owner)**, for property located at **2454 Lafayette Road** whereas relief is needed conduct a motor vehicle sales storefront which requires the following: 1) A Special Exception from Section 10.440 Use # 11.10 to allow motor vehicle sales which is permitted by Special Exception. Said property is located on Assessor Map 273 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-23-160)

#### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	*Motor Vehicle Sales	Mixed Use
<u>Unit Area:</u>	3230	3230	n/a min.
<u>Parking</u>	795	**793	654 min
<u>Estimated Age of Structure:</u>	2013	Special Exception(s) shown in red.	

\*Motor vehicle sales allowed by special exception in the G1 District

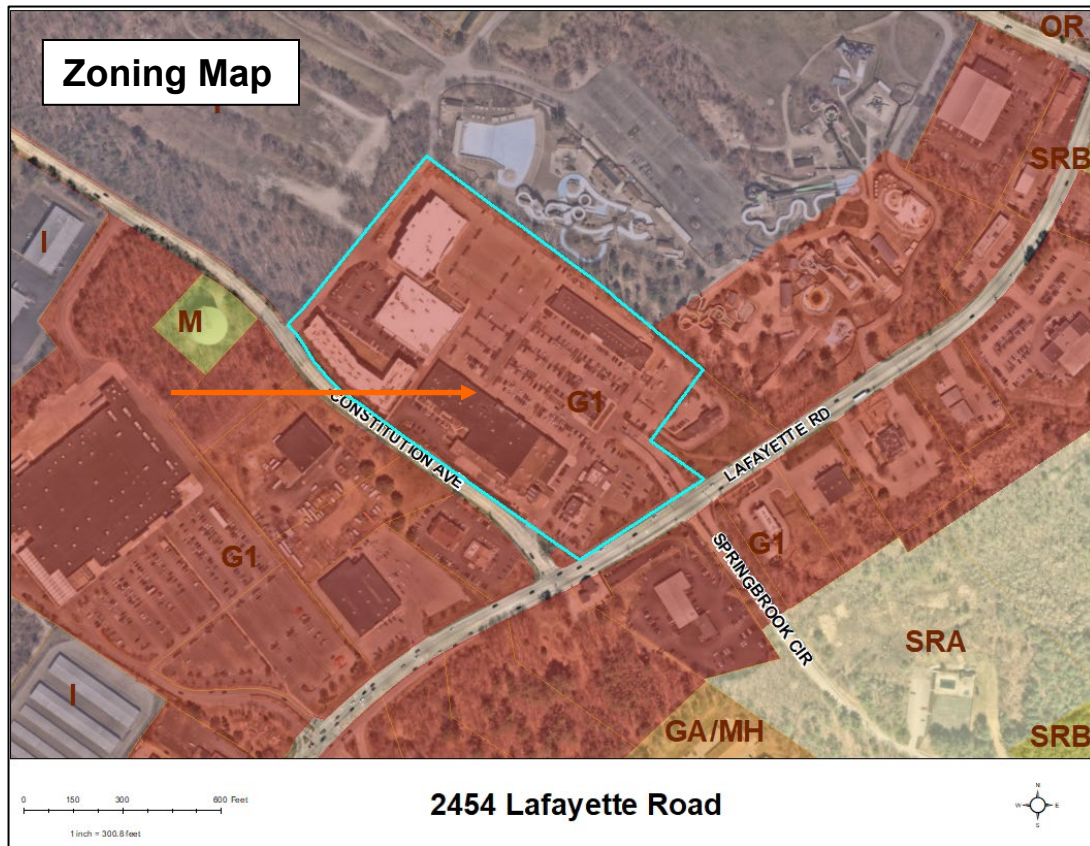
\*\* 2 Parking spaces are proposed to be used for the use of test vehicles, creating a 2 space deficit from the existing space inventory

#### Other Permits/Approvals Required

- Building Permit (Tenant Fit Up)
- Site Plan Amendment



### Neighborhood Context



## Previous Board of Adjustment Actions

March 23, 2004 – the Board **granted** a variance to allow a 75' front yard where 105' is the minimum required. The Board **denied** a Special Exception to allow a 2,400± s.f. car wash in a district where such use is allowed by Special Exception.

April 21, 2009 – The Board **granted** a variance to allow 731 parking spaces to be provided where 1,090 parking spaces are required in conjunction with renovations to the existing shopping center.

September 15, 2009 – The Board **granted** variances to allow the following the following:

- A primary free standing sign of 350 s.f. where 150 s.f. is allowed;
- A sign 17'10" in height where 25' is the maximum allowed;
- Two additional signs at the primary entrance where they are not allowed;
  - The placement of structures within the right-of-way along Route 1 with a setback of 20' where 105' is required;
- The placement of a structure within the right-of-way along Route 1 with a setback of 50' where 105' is required.

The variances were **granted** with the stipulation that there be no lettering on the two stone walls at the main entryway, which were solely approved as an architectural element.

July 24, 2012 – The Board **granted** a variance to allow 859 parking spaces where 457 parking spaces are required and 503 parking spaces are the maximum allowed.

October 15, 2013 – The Board **granted** a variance to install a 225 s.f. sign on a cinema parapet where 100 s.f. is the maximum sign area allowed for a parapet sign.

August 18, 2015 – The Board **granted** variances to allow the following: (a) required off street parking spaces (for an existing parking area) to be located between a principal building and a street; and (b) a front yard setback of 151' where 90' was the maximum allowed (measured from the centerline of Lafayette Road).

October 25, 2016 – The Board **granted** the following: a) a sign on a façade of a building that does not face a street and where no public entrance exists; b) two directional signs each 7s.f. in area where 4 s.f. is the maximum allowed; c) 2 free-standing pre-order menu boards where they were not visible from a public right-of-way; and d) an existing non-conforming pylon sign to be modified without bringing it into conformance.

June 18, 2019 – The Board **granted** special exceptions to allow the following: a) from Section 10.440, Use #9.12 to allow a nightclub or bar with an occupant load from 250 to 500 where the use is only allowed by special exception; and b) from Section 10.440, Use #4.20 to allow an indoor amusement use where the use is only allowed by special exception. With the following stipulation:

- A suitable barrier will be provided around the outdoor seating area to protect it from vehicular traffic.

August 17, 2021 – The Board **denied** a Variance from Section 10.1530 to allow an automated teller machine (ATM) as defined in this section to be a freestanding structure and not located on the outside of a building, or in an access-controlled entrance to a building, or within a principal use in a building.

May 24, 2022 – The Board granted the following: 1) A Special Exception from Section 10.440 Use #7.50 to allow a Veterinary Care use where the use is allowed by Special Exception.

## Planning Department Comments

The applicant is proposing to establish a motor vehicle storefront where the use is allowed by Special Exception. The proposal includes the use of a temporary ramp, the installation of two electric vehicle charging stations, and the use of two parking spaces to keep two test vehicles. The proposed exterior changes will require an update to the existing site plan on file.

## Special Exception Review Criteria

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

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

## 10.235 Certain Representations Deemed Conditions

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

**APPLICATION OF 2422 LAFAYETTE ROAD ASSOCIATION, LLC**  
**2454 LAFAYETTE ROAD**  
**Map 273, Lot 10**

**APPLICANT'S NARRATIVE**

**A. The Project.**

The Applicant, 2422 Lafayette Road Association, LLC, is seeking to lease 3230 square feet of retail space at the mall property located at 2454 Lafayette Road for a Tesla Sales Gallery. The space is currently vacant, having last housed the Empire Beauty School, and is located next to the McKinnon's supermarket. The property is in the G-1 zoning district.

The location would be a Tesla Sales Gallery offering test drives for potential customers to learn more about the vehicles, educate them on the vehicles' features, and ultimately purchase a vehicle from this location. Inside the space will be 2-3 demo models for potential customers to touch and feel. There will also be information about charging and Tesla's other products such as solar panels. There will be an 8' wide storefront entrance door that will allow intermittent access to the space for the vehicles but the vehicles inside the space will be moved infrequently.

In addition, two parking spaces within the shopping center will be equipped with EV chargers so that up to two Tesla demo vehicles can be charged for test drives. These will NOT be the same vehicles as the demo models that will be in the showroom.

Motor vehicle sales are permitted in the G-1 zone by special exception. §10.440.11.10.

**The Special Exception.**

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

First, the use proposed here, "motor vehicle sales," is permitted within this district by special exception, see §10.440 Table of Uses, no. 11.10. §10.232.10.

Second, the proposed use will pose no hazard to the public or adjacent properties on account of potential fire, explosion or release of toxic materials. §10.232.22. No explosives, toxic materials or unusual accelerants will be stored on site. No servicing or repairs of motor vehicles will occur at this location, and no motor vehicle fluids are anticipated to escape the vehicles. In the unlikely event that this does occur, any fluids will be disposed of properly by the Applicant privately in accordance with accepted practices.

Third, there will be no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures,

parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials. §10.232.23. The location is in an existing, fully developed shopping center. There will be, at most, three vehicles stored outdoors in the existing parking lot. There is no other outdoor storage of product or equipment on site. The proposed use does not produce odor, smoke, gas, dust, noise, glare, heat, or vibration.

Although there will be some work on the storefront, the building already exists and no new construction or site disturbance is contemplated except for minor work to create a temporary ramp in front of the 8' wide entrance. There will be no detriment to property values or change in the essential characteristics of the vicinity.

Fourth, there will be no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. §10.232.23. The proposal is for a retail use in a retail shopping center that has more than adequate parking and site circulation.

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

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

### **Conclusion.**

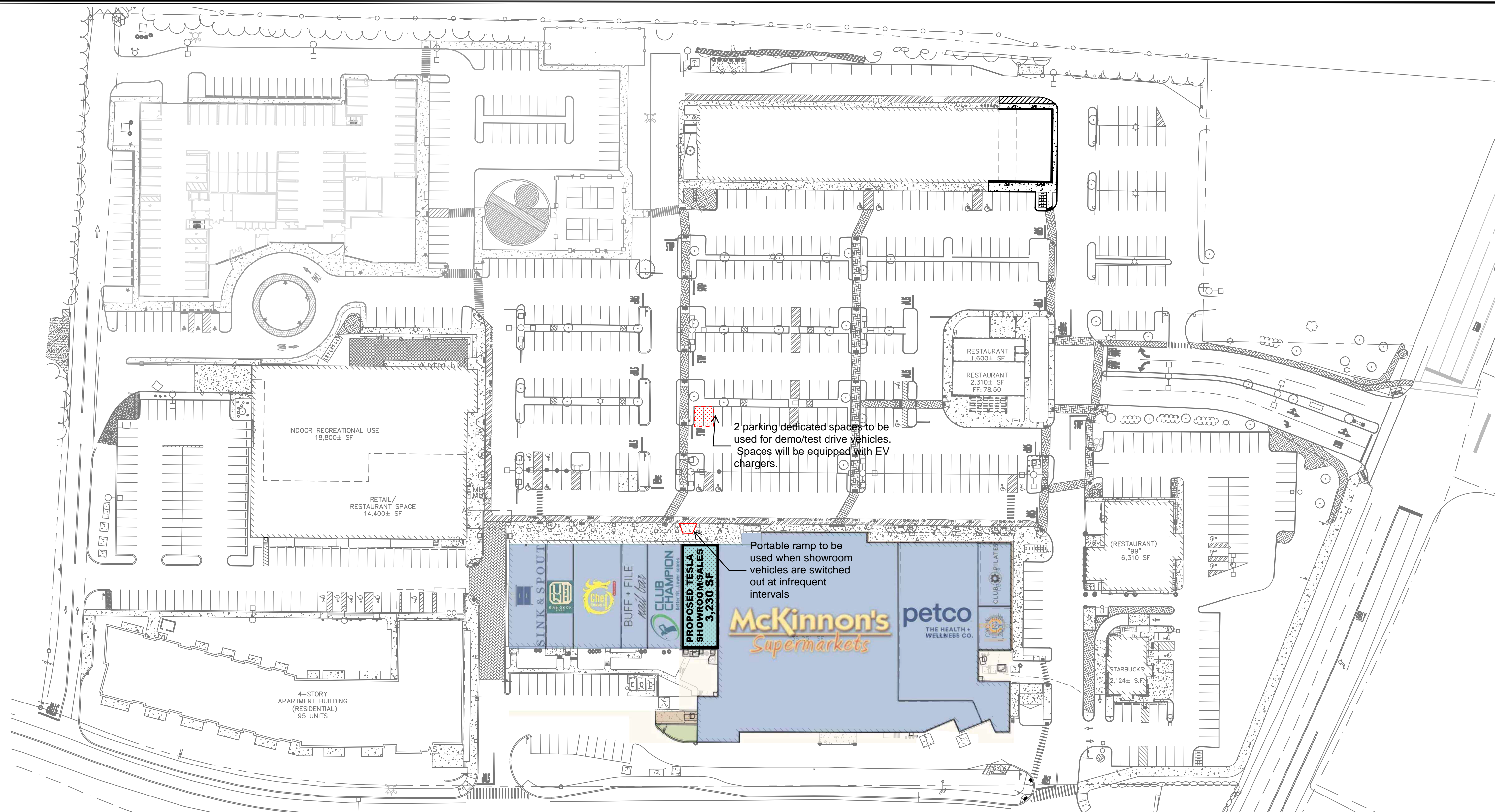
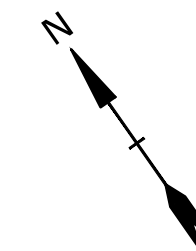
For the foregoing reasons, the applicant respectfully requests the Board grant the special exception as requested and advertised.

Respectfully submitted,

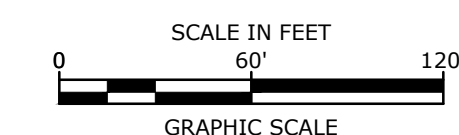
Dated: 10-6-23

By: *John K. Bosen*  
John K. Bosen, Esquire





**PROPOSED TESLA SALES AND SHOWROOM**



**OVERALL PLAZA SITE DATA:**

LOCATION: TAX MAP 273, LOT 3 OWNER: 2422 LAFAYETTE ROAD ASSOCIATES, LLC  
C/O WATERSTONE RETAIL DEVELOPMENT  
250 FIRST AVENUE, SUITE 202  
NEEDHAM, MASSACHUSETTS 02494

ZONING DISTRICT: GATEWAY CORRIDOR (G1)  
PROPOSED USE: SHOPPING CENTER/RESIDENTIAL  
PROPOSED LOT SIZE: ±18.71 ACRES (±814,896 SF)

**OVERALL PLAZA PARKING REQUIREMENTS**

**PARKING CALCULATIONS:**  
RETAIL: 1 SPACE PER 300 GFA  
RESTAURANT: 1 SPACE PER 100 GFA  
INDOOR RECREATION: 1 SPACE PER 4 PERSONS  
RESIDENTIAL: 0.5 SPACES PER UNIT <500 SF  
1 SPACE PER UNIT 500 SF - 750 SF  
1.3 SPACES PER UNIT >750 SF

**LOADING CALCULATIONS:**  
RETAIL: 0 SPACES FOR 0 - 10,000 SF  
1 SPACE FOR 10,001 - 25,000 SF  
2 SPACES FOR 25,001 - 60,000 SF  
0 SPACES FOR 0 - 10,000 SF  
1 SPACE FOR 10,001 SF - 40,000 SF

**OVERALL PLAZA BUILDING PLACEMENT & LOT STANDARDS**

BUILDING STANDARDS:	REQUIRED	PROVIDED
MINIMUM LOT DEPTH:	NR	NR
MINIMUM STREET FRONTAGE:	50 FT	±450 FT
FRONT BUILDING SETBACK:	10 FT MIN, 30 FT MAX	± 419 FT <sup>(1)</sup>
MINIMUM SIDE BUILDING SETBACK:	15 FT	± 57 FT
MINIMUM REAR BUILDING SETBACK:	20 FT	± 52 FT
MINIMUM OPEN SPACE COVERAGE:	20%	±21.6%
FRONT LOT LINE BUILDOUT:	75%	0% <sup>(4)</sup>

BUILDING DESIGN STANDARDS:	REQUIRED	PROVIDED
MAXIMUM BUILDING HEIGHT:	4 STORIES	5 STORIES <sup>(2)</sup>
MINIMUM STREET FACING FACADE HEIGHT:	50 FT	<60 FT <sup>(2)</sup>
MAXIMUM FINISHED FLOOR SURFACE OF GROUND FLOOR ABOVE SIDEWALK GRADE:	24 FT	>24 FT
MAXIMUM BUILDING FOOTPRINT:	NR	<36 IN
MAXIMUM FACADE MODULATION LENGTH:	50 FT	<50 FT
MINIMUM STREET FACING FACADE GLAZING:	20% GROUND FLOOR	>20%

DEVELOPMENT SITE STANDARDS: <sup>(3)</sup>	REQUIRED	PROVIDED
MINIMUM DEVELOPMENT SITE AREA:	20,000 SF	±814,896 SF
MINIMUM SITE WIDTH:	100 FT	±721 FT
MINIMUM SITE DEPTH:	100 FT	±1,137 FT
MINIMUM PERIMETER BUFFER FROM RESIDENTIAL, MIXED RESIDENTIAL, OR CD4-L1 DISTRICTS:	75 FT	N/A
MAXIMUM DEVELOPMENT BLOCK DIMENSIONS:	800 FT	±1,137 FT <sup>(4)</sup>
BLOCK LENGTH:	2,200 FT	±3,780 FT <sup>(4)</sup>
MAXIMUM BUILDING COVERAGE:	70%	25.6%
MINIMUM OPEN SPACE COVERAGE:	20%	±21.6%
FRONT LOT LINE BUILDOUT:	75%	0% <sup>(4)</sup>

DENSITY THRESHOLDS AND BONUSES:	REQUIRED	PROVIDED
DWELLING UNITS PER ACRE:	16 UNITS	10.2 UNITS
DWELLING UNITS PER BUILDING:	36 UNITS	95 UNITS <sup>(1)(3)</sup>
PLUS 1-STORY, MAX 10 FT	5 STORIES	5 STORIES <sup>(3)</sup>
	60 FT	<60 FT <sup>(2)</sup>

- (1) - MODIFICATION OF STANDARDS ALLOWED AS PART OF CONDITIONAL USE PERMIT PER 10.5B74.30, APPROVED JANUARY 19, 2022.
- (2) - ALLOWED BY CONDITIONAL USE PERMIT PER 10.5B72 FOR PROVIDING 20% WORK FORCE HOUSING AND PUBLIC REALM IMPROVEMENTS, APPROVED JANUARY 19, 2022.
- (3) - USE OF DEVELOPMENT SITE STANDARDS ALLOWED BY CONDITIONAL USE PERMIT PER 10.5B40, APPROVED JANUARY 19, 2022.
- (4) - EXISTING NON-CONFORMING CONDITION, MODIFICATION OF STANDARDS ALLOWED AS PART OF CONDITIONAL USE PERMIT PER 10.5B74.30, APPROVED JANUARY 19, 2022.

SHOPPING CENTER:	AREA (SF):	MINIMUM	PROVIDED	LOADING SPACES:
RETAIL:				MINIMUM
PETCO	±12,588		1	PROVIDED
CYCLE FIERCE	±1,200		0	
EXISTING RETAIL/RESTAURANT	±20,075		0	
PROPOSED RETAIL AREA	±3,650		0	
EXISTING RETAIL/RESTAURANT (MUSE)	±3,616		0	
EXISTING RETAIL/RESTAURANT (SHIO JAPANESE)	±7,400		0	
PROPOSED RESTAURANT (OLD BIG LOTS)	±14,400		1	
INDOOR RECREATIONAL (PINZ)	±18,800		1	
SUBWAY	±1,800		0	
THE 99	±6,310		0	
McKINNON'S	±36,251		2	
RETAIL	±9,134		0	
PROPOSED RESTAURANT	±1,600		1	
PROPOSED RESTAURANT	±2,310		0	
STARBUCKS	±2,124		0	
TOTAL SHOPPING CENTER	±141,258	406 SPACES <sup>(1)</sup>	8	15
RESIDENTIAL:				
PREVIOUSLY APPROVED DWELLING UNITS				95 UNITS
EXISTING DWELLING UNITS				95 UNITS
VISITOR PARKING				
TOTAL:		654 SPACES <sup>(1)</sup>	795 SPACES	9 15

(1) - PER PARKING DEMAND ANALYSIS PERFORMED BY TIGHE & BOND DATED OCTOBER 18, 2021, BASED ON A TOTAL SHOPPING CENTER AREA OF ±139,441 SF.

ACCESSIBLE SPACES (2% OF TOTAL):	REQUIRED	PROVIDED
VAN ACCESSIBLE SPACES	15	32
(1 PER 6 ACCESSIBLE SPACES):	2	24
PARKING STALL SIZE:	8.5 FT X 19 FT	8.5 FT X 19 FT
DRIVE AISLE:	24 FT	24 FT, 26 FT

BIKE SPACES REQUIRED:	REQUIRED	PROVIDED
SHOPPING CENTER:		
1 BIKE SPACE / 10 PARKING SPACES	30 SPACES	42 SPACES
MAXIMUM OF 30 SPACES		

RESIDENTIAL:	REQUIRED	PROVIDED
EXISTING 95 DWELLING UNITS	19 SPACES	30 SPACES
PREVIOUSLY APPROVED 95 DWELLING UNITS	19 SPACES	20 SPACES

**LEGEND**

	PROPERTY LINE
	PROPOSED PROPERTY LINE
	PROPOSED EDGE OF PAVEMENT
	PROPOSED CURB
	PROPOSED BUILDING
	PROPOSED PAVEMENT SECTION
	PROPOSED CONCRETE SIDEWALK
	PROPOSED BRICK SIDEWALK
	PROPOSED BOLLARD
	BUILDING TYP
	COORD
	30'R
	VGC
	SGC

Waterstone Properties Group, Inc.

Portsmouth, New Hampshire

MARK	DATE	DESCRIPTION
B	4/27/2022	PB Submission
A	3/22/2022	Amended Site Plan Review Submission

PROJECT NO: W5008-008A

DATE: 3/22/2022

FILE: W5008-008A\_C-DSGN.DWG

DRAWN BY: CML

CHECKED: NAH

APPROVED: PMC

**OVERALL PROPOSED PLAZA PLAN**

SCALE: AS SHOWN



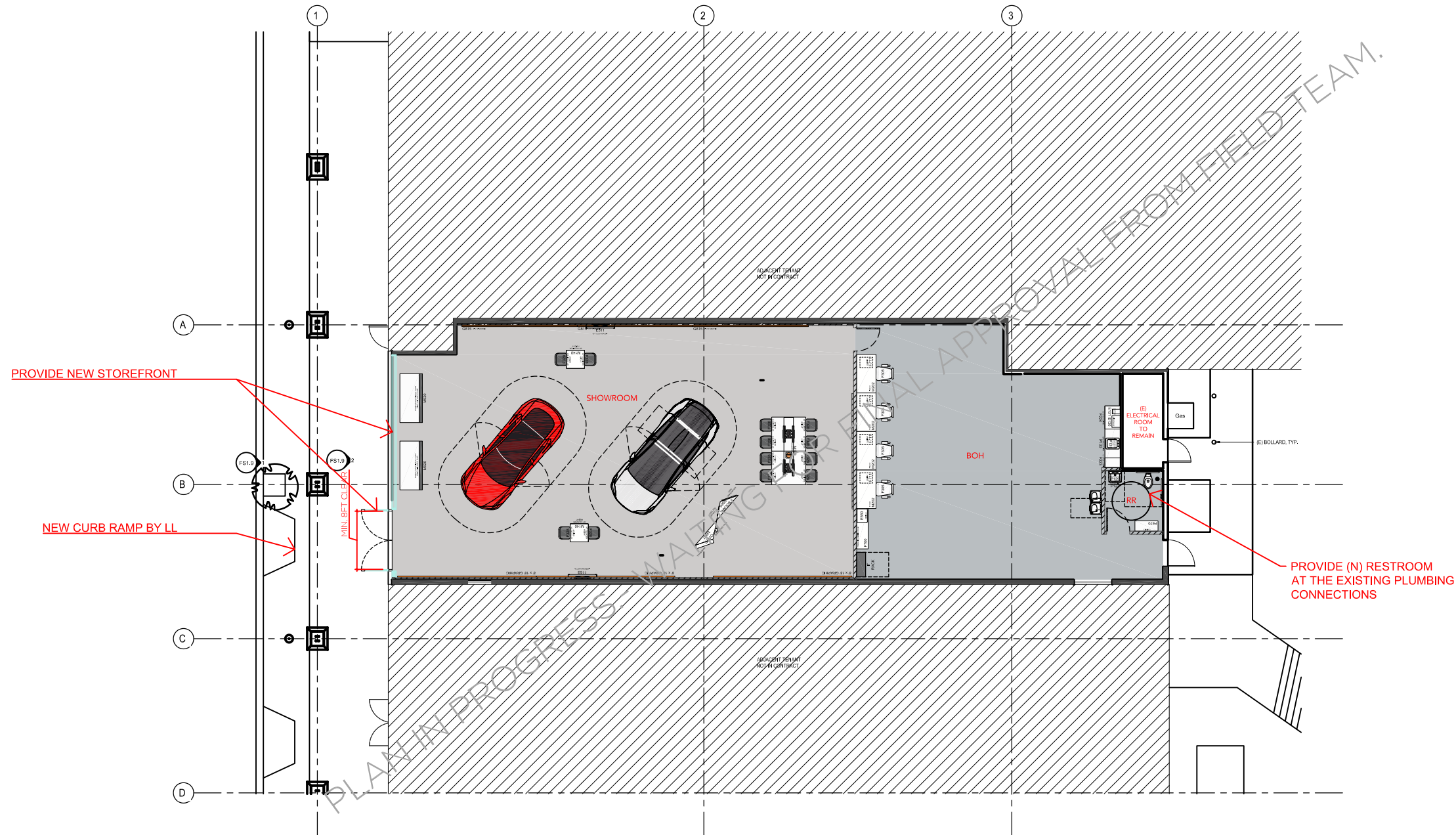
# PORTSMOUTH - RETAIL - COLD CLIMATE

CONCEPT FLOOR PLAN

TRT ID - 58562

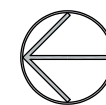
PARKING SPACES: TEST DRIVE SPOTS TBC

- SPECIAL CONDITIONS:**
- NEW STOREFRONT
  - NEW RESTROOM AND BREAK AREA



**AREA BREAKDOWN (SF):**

Category	SF	%
GROSS TOTAL:	3,098	-
FIRST FLOOR:	3,098	-
SECOND FLOOR:	0	-
NET TOTAL:	3,098	100
SERVICE SHOP:	0	0
PARTS AND STORAGE:	0	0
LOUNGE:	0	0
BOH:	1,127	36
SHOWROOM:	1,971	64
DELIVERY:	0	0
UNBUILT/OTHER:	0	0



SCALE: 1/16" = 1'-0"

**TESLA** August 11, 2023

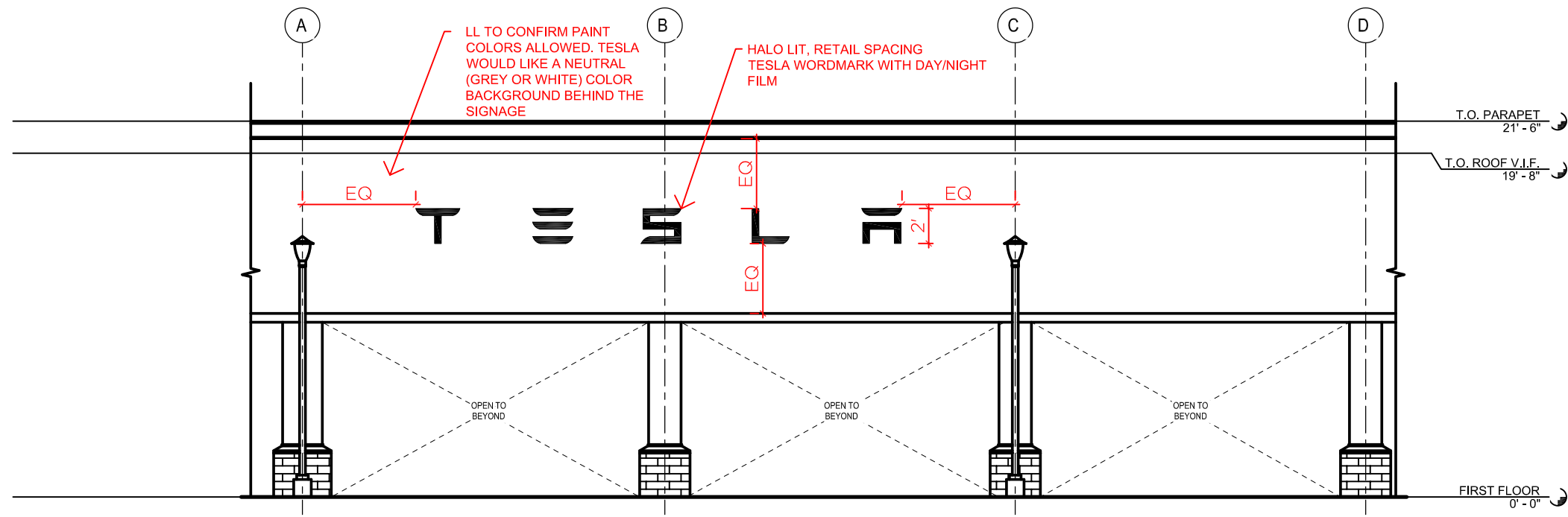
- EXISTING WALL
- NEW WALL
- SERVICE CIRCULATION
- DELIVERY CIRCULATION
- COLLISION REPAIR CIRCULATION

NA | 2454 Lafayette Rd, Unit 8B Portsmouth, NH 03801 | USA

\*PLEASE NOTE: ANY SUBSEQUENT REVISION TO AN APPROVED CONCEPT WILL CAUSE DELAY AND IMPACT COST

# PORTSMOUTH - RETAIL - COLD CLIMATE

ELEVATION  
TRT ID - 58562



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

**TESLA** August 11, 2023

NA | 2454 Lafayette Rd, Unit 8B Portsmouth, NH 03801 | USA

\*PLEASE NOTE: ANY SUBSEQUENT REVISION TO AN APPROVED CONCEPT WILL CAUSE DELAY AND IMPACT COST



**III. NEW BUSINESS**

**B.** The request of **EIGHTKPH LLC (Owner)**, for property located at **70 Maplewood Avenue** whereas relief is needed to install a free-standing sign which requires the following: 1) Variance from Section 10.1251.20 to allow 48 square feet of sign area where 20 square feet is allowed; and 2) Variance from Section 10.1253.10 to allow a freestanding sign to be setback 2.5 feet from the lot line where five (5) feet is required. Said property is located on Assessor Map 125 Lot 17-3 and lies within the Character District 5 (CD5), Downtown Overlay District, North End Incentive Overlay District, and Historic District (LU-23-141)

**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	Install a freestanding fence sign	Mixed Use
<u>Individual sign area (sq. ft.):</u>	0	<b>48</b>	20 max.
<u>Setback (ft.):</u>	n/a	<b>2.5</b>	5 min.
<u>Estimated Age of Structure:</u>	Under Construction	<b>Variance request(s) shown in red.</b>	

**Other Permits/Approvals Required**

- Building Permit
- Sign Permit

### Neighborhood Context



## Previous Board of Adjustment Actions

No previous BOA history found.

## Planning Department Comments

The applicant is proposing to install the fence sign to screen a transformer located at the northernmost corner of the property. The design was approved by HDC by admin approval, however the location and dimensions still need BOA approval.

## 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.

August 25, 2023

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

RE: 70 Maplewood Ave: North End Mural (Not a Sign) Variance Application

Dear Chair Eldridge and Board Members:

The applicant requests variances from Sections 10.1251.20 and 10.1251.30 and 10.1253.10 of the City of Portsmouth’s Zoning Ordinance for signage.

This application is for a proposed history themed mural on a transform screen/fence, not a sign, at 70 Maplewood Avenue.

Please consider the information included below when evaluating the merits of this request.

Respectfully,

Terrence Parker, terra firma landscape architecture

**Property:** 70 Maplewood Ave | Assessor Map: 125 | Lot 17-3

**Property:** CD5-L2 | Historic District

**Sign District:** 3

**Variances:**           **1) From Section 10.1251.20:**

- **Max Allowed** sign area for individual signs = 20 sf
- **Proposed** Individual Mural Area:
  - o    Mural with Text = 48 sf

**Exceeds sign ordinance by 28 sf**

**2) From Section 10.1251.30**

“A freestanding sign can only be located where there is a driveway.”

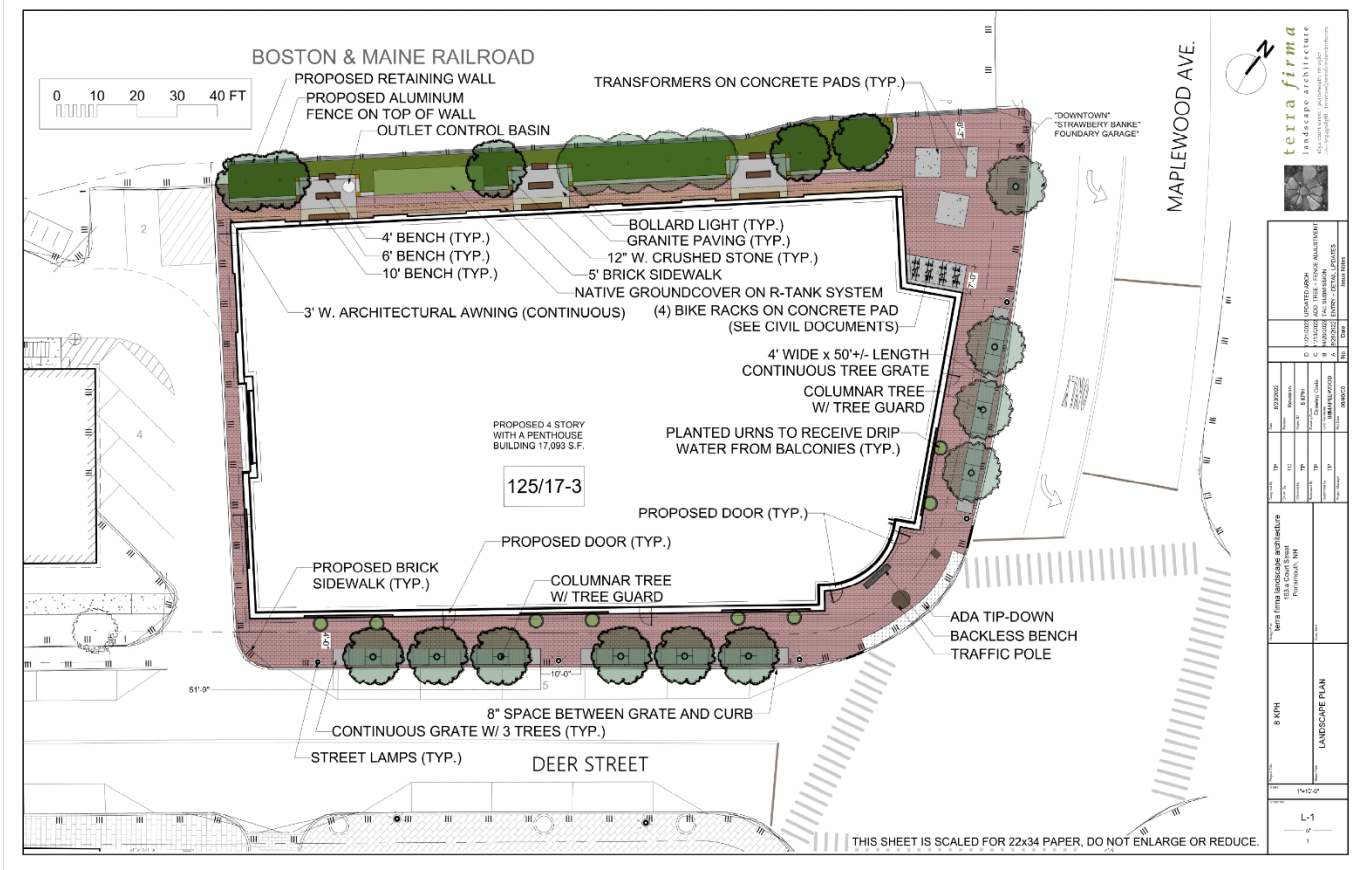


**Proposed:** The proposed mural is not a sign but rather a mural fence designated and approved by the HDC to screen the view of one of the existing electrical utility boxes, therefore, it must be located where the utilities are and can't be where the driveway is proposed.

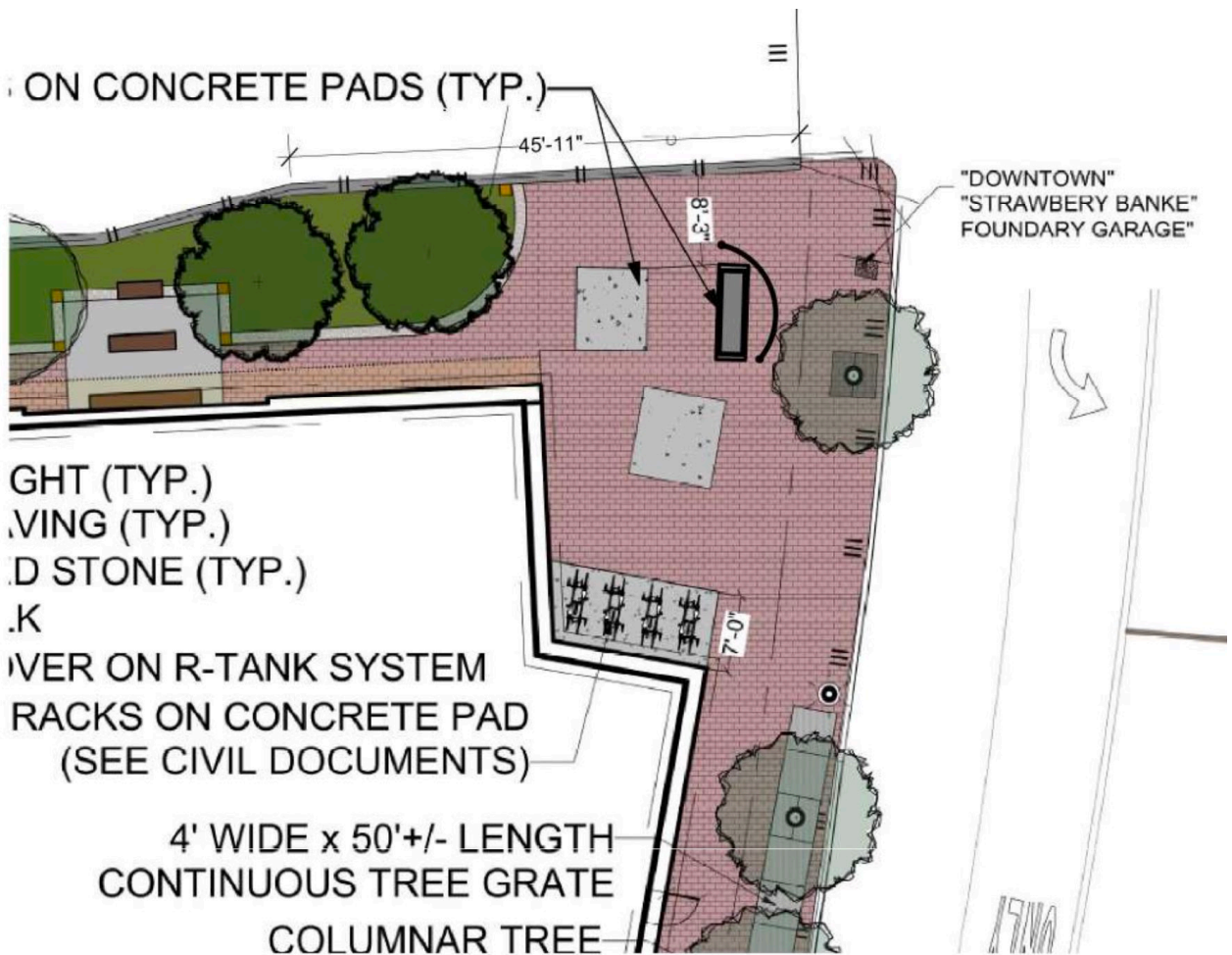
**3) From Section 10.123.10**

“Setback for a sign is 5’ from the property line.”

**Proposed:** The proposed mural screen fence is located within the 5’ setback because the electrical utility box is located approximately on the setback line and therefore to screen the utility box the mural fence must be within the setback. The Screen is still fully within the property line.



**APPROVED LANDSCAPE PLAN**



AREA BLOW-UP WITH DIMENSION

AREA BLOW-UP WITH DIMENSION

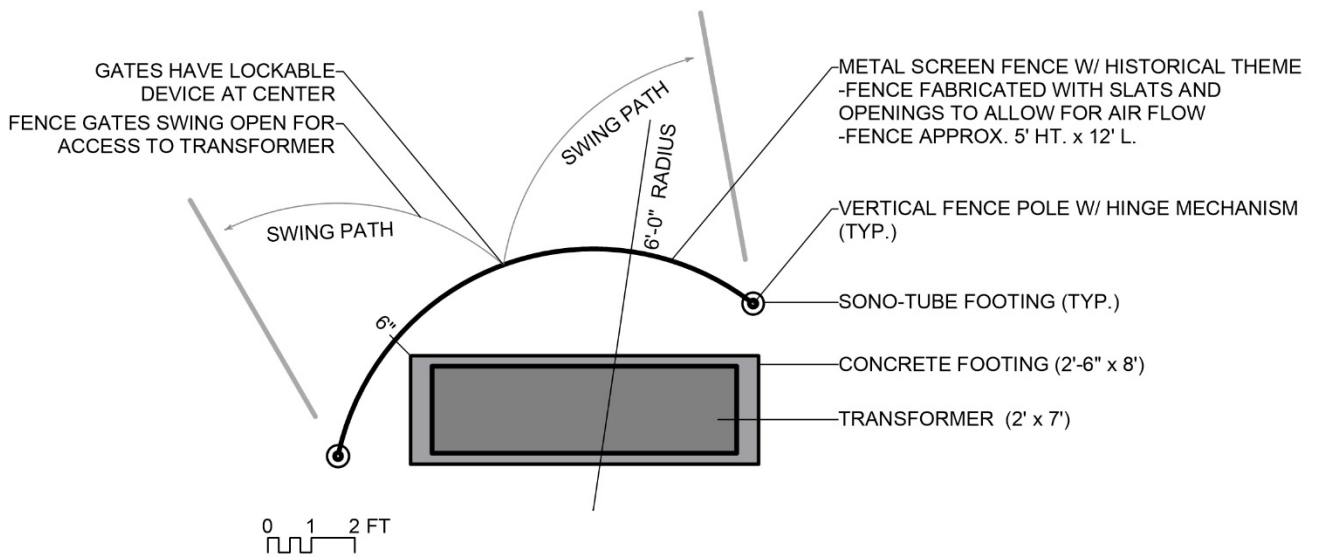


EXISTING SITE (VIEW FROM RAILROAD TRACKS)





GATE ELEVATION



GATE PLAN VIEW

## Introduction

This mural fence located at 70 Maplewood Ave have been approved by the HDC as an Art History screen to screen an existing transformer.

The Portsmouth Zoning Ordinance categorizes murals as signage, and the crux of this variance request revolves around two elements: one, this is a screen fence requested by the HDC and as such is not intended as a sign, and two, complying with the required dimensional standards for signage within Sign District 3 ought not to apply because the utility transformer is an existing condition and screening that utility requires that the dimensional criteria to be waived.

The owners of the property, EightKph, are fully funding the fabrication of this mural fence as part of the on-going mural project called "History Through Art" which seeks to bring awareness to the important contributions of people from all walks of life that are under-appreciated in our culture. This mural recognizes the contributions of the community activist Rose Fiandaca during the mid 1900's and the early maritime history of this property then known as the site of the Underwood rope walk. The mural consists of images from these eras and a historic map.

This mural is proposed to be placed just off the sidewalk to screen existing utility transformers and further identifies the entrance to a public pocket park behind the new building.

This mural offers no distraction to drivers (is not lit internally or externally) on Maplewood Avenue and is strictly an art project designed for the benefit of the general public dedicated to the North End in which it stands. It also offers no connection to, or promotion of any business in the proposed building.

The Ordinance's stated purpose is to *"...maintain and enhance the character of the city's commercial districts and residential neighborhoods and to protect the public from hazardous and distracting displays."* Although the proposed mural fence does not meet all the dimensional and location requirements of the signage ordinance it has been purposely and thoughtfully designed to meet the intent of the ordinance's purpose. Please refer to the following pages for artist's renderings, relevant project info, and variance criteria.





**Site Location from Tax Map**

**Mural Fence Text:**

***The Evolving History of the North End:***

Near this site was the ropewalk, a long, covered lane where hemp and yarn were spindled and twined into cordage and rigging for Portsmouth's shipyards. John Underwood's ropewalk was later superseded by the railroads in the 1800's. A century later, Rose Fiandaca, 1893-1980, a Sicilian immigrant, pictured with her husband and sons, was a midwife and a prominent community leader in and beyond Portsmouth's vibrant Italian North End, which was demolished in 1969 as an Urban Renewal project. Rose lived near the railroad station, learned English at the movies and as one of the first to have a telephone she became a critical voice for other immigrants. Her many descendants remember Rose as a bastion of strength and compassion in her family, neighborhood, and city.



## Materials

The mural image will be printed as a polyvinyl graphic mounted on a two-dimensional metal plate with cut-outs to create dimensional variation. Material will be similar to the image below.



**Mural on Court Street with Similar Material**

## **Variance Criteria**

1. The variance is not contrary to the public interest.
2. The spirit of the ordinance is observed.
  - Eclectic mixed-use neighborhood surrounded by office, retail, municipal and residential uses.
  - Variety of signage, graphics, statues, and memorials in the immediate commercial area
  - Enhances the character of the region by promoting its rich history.
  - Location not on street frontage does not create a hazard or distraction.
  - Size of mural does not create a hazard or distraction as the design is subdued in its color scheme and content.
3. Substantial justice is done.
  - There is no obvious harm to the public that would be created by the installation of this mural (see above comments for 1. and 2.)
  - There would be a benefit to the public due to the educational components of the mural and its tasteful design.
4. The values of surrounding properties are not diminished.
  - This is a mixed-use neighborhood with an abundance of signage, colorful graphics, statues, memorials, etc.
  - The addition of this mural into the neighborhood context would not alter or diminish the property values within the surrounding neighborhood.
5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship means:  
Because of special conditions of the property that distinguish it from other properties in the area:



- a. There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property;  
and
- b. The proposed use is a reasonable one.

Alternatively, unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance.

- The purpose of the mural is to be viewed and be comprehensible from the public way – due to the size of the utilities screened, the proposed mural must exceed the required sign area with the implicit goal of achieving its purpose to screen the utilities.
- Rate of travel on Maplewood Avenue is modest and the mural is well off the roadway and tasteful in design and color selection – this creates a situation where a sign that is larger than allowed does not create a hazardous or distracting experience to those that are passing by.
- The proposed use is reasonable and fits harmoniously with the surrounding context.

### III. NEW BUSINESS

- C. The request of **Frances E. Mouflouze Revoc Trust of 2015 (Owner)**, for property located at **550 Sagamore Road** whereas relief is needed to demolish the existing structure and construct two duplexes (creating a total of 4 living units) which requires the following: 1) Variance from Section 10.513 to allow more than one free-standing dwelling unit on a lot; and 2) Variance from Section 10.440 Use #1.30 to allow the construction of duplexes where they are not permitted. Said property is located on Assessor Map 222 Lot 11 and lies within the Single Residence B (SRB) District. (LU-23-164)

#### Existing & Proposed Conditions

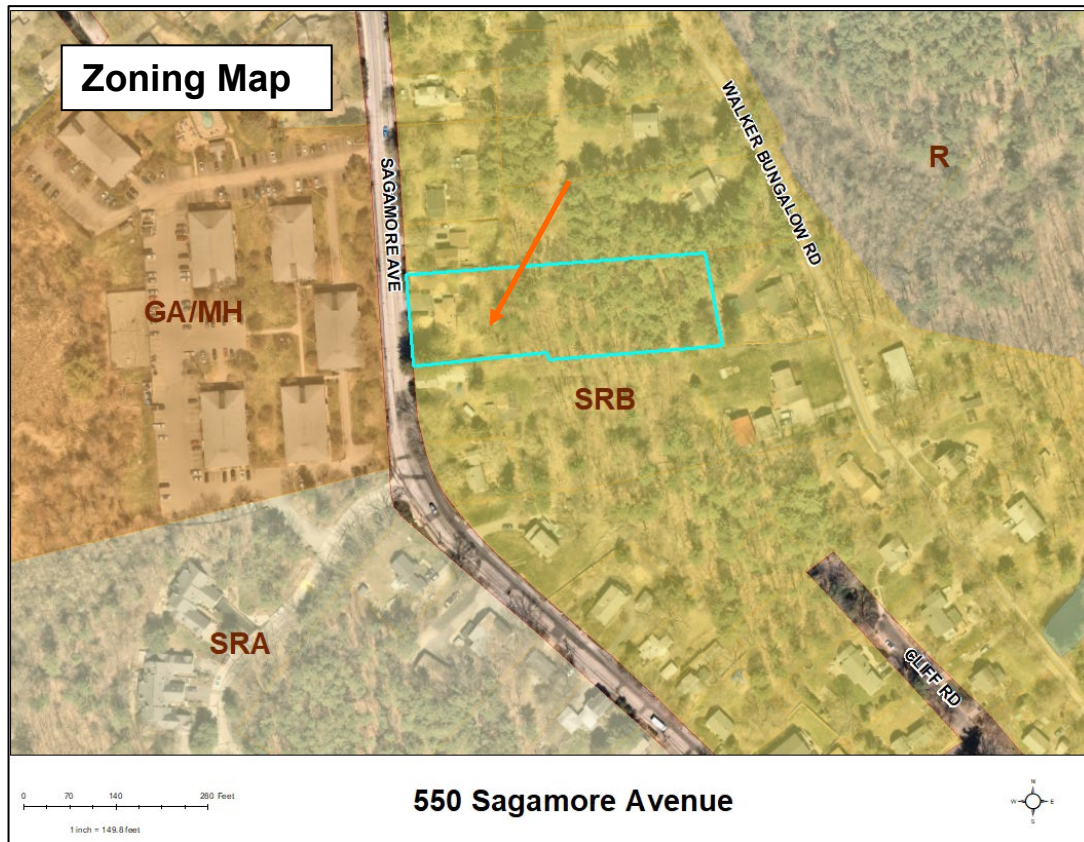
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	*Two duplexes (4 units)	Primarily residential
<u>Lot area (sq. ft.):</u>	62,754	62,754	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	62,754	15,688	15,000 min.
<u>Street Frontage (ft.):</u>	139.8	139.8	100 min.
<u>Lot depth (ft.)</u>	434	434	100 min.
<u>Front Yard (ft.):</u>	33	48	30 min.
<u>Left Yard (ft.):</u>	45	40	10 min.
<u>Right Yard (ft.):</u>	40	11	10 min.
<u>Rear Yard (ft.):</u>	>300	177	30 min.
<u>Height (ft.):</u>	13.1	<35	35 max.
<u>Building Coverage (%)</u> :	5.8	10.5	20 max.
<u>Open Space Coverage (%)</u> :	98.2	77	40 min.
<u>Parking</u>	2	16	6
<u>Estimated Age of Structure:</u>	1960	Variance request(s) shown in red.	

\*2 Variances required to build two free standing duplexes.

#### Other Permits/Approvals Required

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

### Neighborhood Context



## Previous Board of Adjustment Actions

No previous BOA history found.

## Planning Department Comments

The applicant is proposing to demolish the existing single unit structure and construct two duplexes, bringing the total living units from one to four. Variances are required to construct two primary structures on the lot (see section 10.513 of the [Zoning Ordinance](#) below for reference) and duplexes where they are not permitted.

### **10.513 One Dwelling Per Lot**

*No more than one free-standing dwelling shall be built on any lot in a Rural, Single Residence A or B, or General Residence A or B district, except where specifically exempted by other provisions of this Ordinance.*

If approved, this project will require Site Plan Review Approval from the Technical Advisory Committee and the Planning Board. Through this review, it is possible that the layout and orientation of the site may change. If the Board wishes to approve the applicant's variance requests, Staff recommend the following Condition of approval.

### **1) Site layout may change as a result of TAC and Planning Board review and approval.**

## Variance Review Criteria

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

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

## 10.235 Certain Representations Deemed Conditions

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



HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC  
ATTORNEYS AT LAW

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

September 26, 2023

**HAND DELIVERED**

Stephanie Casella, Planner  
Portsmouth City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: The Frances E. Mouflouze Revocable Trust of 2015  
Owner/Applicant  
Project location: 550 Sagamore Avenue  
Tax Map 222, Lot 11  
Single Residence B (SRB) District

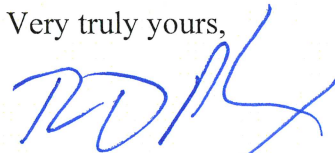
Dear Ms. Casella & Zoning Board Members:

On behalf of Frances E. Mouflouze, Ted W. Alex and Patricia Cameron, Trustees, The Frances E. Mouflouze Revocable Trust of 2015 (“Mouflouze” or “Applicant”), enclosed please find the following in support of a request for zoning relief:

- Digital Application submitted via Viewpoint today.
- Owner’s Authorization.
- 09/26/23– Memorandum and exhibits in support of Variance Application.

We look forward to presenting this application to the Zoning Board at its October 17, 2023 meeting.

Very truly yours,



R. Timothy Phoenix

Enclosure

cc: Ted Alex  
Altus Engineering (email)  
Artform Architecture, Inc. (email)  
White Appraisal (email)

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

## MEMORANDUM

**To:** Portsmouth Zoning Board of Adjustment (“ZBA”)  
**From:** R. Timothy Phoenix, Esq.  
Monica F. Kieser, Esq.  
**Date:** September 26, 2023  
**Re:** The Frances E. Mouflouze Revocable Trust of 2015  
Owner/Applicant  
Project location: 550 Sagamore Avenue  
Tax Map 222, Lot 11  
Single Residence B (SRB) District

Dear Chair Eldridge and Zoning Board Members:

On behalf of Frances E. Mouflouze, Ted W. Alex and Patricia Cameron, Trustees, The Frances E. Mouflouze Revocable Trust of 2015 (“Mouflouze” or “Applicant”) we are pleased to submit this memorandum and attached exhibits in support of zoning relief to be considered by the ZBA at its October 17, 2023 meeting.

### I. EXHIBITS

- A. Plan Set
  - 1/9/23 Existing Conditions Plan – by Easterly Survey.
  - 8/28/23 C-2 Board of Adjustment Site Plan – by Altus Engineering.
- B. Architectural Elevations and Floor Plans (8 pages) – by Artform Architecture, Inc.
- C. 9/18/23 Property Value Impact Report, by White Appraisal.
- D. Site photographs.
- E. Tax Assessors Card.
- F. Tax Map 222.
- G. City GIS Map – identifying nearby zoning districts and surrounding area.
- H. Conceptual 3-Lot Subdivision Plan by Altus Engineering.

### II. PROPERTY/PROPOSAL

550 Sagamore Ave. is a 1.44 acre (62,754 sf) lot with 139.8 feet of frontage, upon which is located an existing circa 1960 single-family home with the front steps slightly encroaching into the front setback (**Exhibit A**). Mouflouze proposes to raze the existing dated building and other improvements in favor of two (2) duplex buildings (four (4) total units). (**Exhibits A,B**).

While the SRB district envisions primarily single-family dwellings, the two duplex, four unit proposal on 1.44 acres at (62726 s.f.) equals one (1) unit per .36 acre/15,682 sf or 2.78 units/acre thus meets the underlying purpose of the SRB district to provide dwellings “at low to

medium densities (approximately 1 to 3 dwellings per acre).” (1 unit per .33 acre/14,520 sf). The subject lot is along an area of Sagamore Avenue where several different zoning districts meet. Directly across the street are the Sagamore Court apartments in the GA/MH district with 144 units on 15.01 acres, a density of 1 unit per .10 acre/4,541 sf, or 9.6 units per acre. The GA/MH district provides for garden apartments at moderate densities of up to 4 dwellings per acre or 1 dwelling per .25 acre/10,890 sf. Also across the street, next to the Sagamore Court apartments is the Tidewater Condominium complex, in the SRA zone (requiring 1 dwelling per acre/43,560 sf), the purpose of which is to provide “low to medium densities at 1 to 3 dwellings per acre/14,520 sf. Tidewater has 117 units on 53.59 acres, a density of one unit per .46 acre/19,952 sf, or 2.18 units per acre.

While the SRB zone along Sagamore Avenue is mostly single-family dwellings, the two duplexes, 4 units, (the closest of which, at 48 feet from the front property line, is set back farther than the slightly encroaching existing home) makes sense given the proximity to other zones and significant densities of the apartments and condominiums across the street. Additionally, while there are a few relatively large lots immediately abutting the subject, there are also many homes on small lots heading south in the area of Cliff Road and north in the area of Verdun Avenue. **(Exhibit F, G)** Considering the overall densities within approximately 2/10 of a mile north or south of the subject, 4 units on a 62,754 s.f. lot (15,682 sf/unit) compares favorably. Consider as well that the subject lot is large enough for a city street with a cul-de-sac that could permit up to three units, but which would significantly increase pavement and result in the loss of the significant proposed wooded area to the lot’s rear. **(EXHIBIT H)** Comparatively, the proposal is superior as it requires far less pavement and preserves significant forest area to the rear. Duplex units will also be sold at what is likely to be a relatively more affordable price for each unit than would each of three single-family homes.

Noteworthy is the fact that, in recognition of the similar densities and multiple dwelling units on the nearby Tidewater Condominiums and Sagamore Court apartments, the ZBA recently and properly granted relief across the street at 635 Sagamore Ave. to permit four single-family homes on a 1.95 acre lot in the SRA zone where one dwelling building is permitted, and a density of 21,198 square feet per dwelling unit where 43,560 sf (1 acre) is required

### III. RELIEF REQUIRED

The Project meets the density (15,000 sf per unit), lot size, frontage, setback, building/lot coverage, open space and height requirements of PZO sec 10.521, Table of Density Standards. (Exhibits A,B). The only relief required:

- 1) **PZO §10.513 One Freestanding Dwelling/Lot** – to permit two dwelling buildings (four units) on a 1.44 acre lot where one dwelling is permitted.
- 2) **PZO §10.440 Table of Uses** – to permit two duplexes where duplexes are prohibited.

### IV. VARIANCE REQUIREMENTS

1. **The variance will not be contrary to the public interest**
2. **The spirit of the ordinances observed**

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

The Portsmouth Zoning Ordinance (PZO§10.121) was enacted for the general purpose of promoting the health, safety and welfare in accordance with the Master plan by regulating:

1. **The use of land, buildings and structures for business, industrial, residential and other purposes** – The existing 60+ year old home, comparatively close to the lot line, with extensive pavement, will be removed in favor of two (2) duplex buildings set back nearly 20 feet farther from the street than the existing home. Use of this relatively large lot for four compliant units, with density compatible with numerous single-family lots nearby, and with the condominium and apartment complexes directly across the street is a reasonable use of the land.
2. **The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space** – The Project complies with all dimensional requirements, (See Sec. III supra), needing only relief for multiple dwelling buildings and duplexes on a single lot, significantly better density than the apartments and comparable to the condominiums directly across the street, while less impactful than a standard three (3) lot subdivision which would significantly increase pavement and lose much rear wooded area. The proposal is compatible with the density of a number of nearby single-family homes in the area.

3. The design of facilities for vehicular access, circulation, parking and loading- The existing quite wide curb cut will be reduced, providing a single ingress/egress paved driveway together with each unit having a two-car garage and adequate turnaround for homeowners and emergency vehicles. **(Exhibit A)**.
4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – The existing wooded lot will be cleared only as necessary for the duplexes. Vegetative buffers and/or fences are proposed along the north and south boundaries. The rear of the lot will be left heavily wooded. The proposed 77% open space and 10.5% building coverage where 40% and 20% are required respectively, further demonstrate the reasonableness of this proposal, particularly when compared to a full-on subdivision.
5. The preservation and enhancement of the visual environment – Reduction of the wide paved driveway, setting the nearest building at a proximally 48 feet from the front property line where less than 30 feet exists, proposed landscaping/fences in the side setbacks, and leaving the rear of the property wooded as it is today, clearly preserve and enhance the visual environment again compared to a full subdivision. **(Exhibit A)**.
6. The preservation of historic districts buildings and structures of historic or architectural interest – The Property and the existing structure to be removed is not in the historic district and is of no known historic or architectural interest.
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The property will be served by municipal water and sewer. The proposed landscaping and preserved wooded area to the rear (approximately one-third of the area) will protect natural resources.

Whether a variance "in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Malachy Glen, supra, the New Hampshire Supreme Court also held:

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

The Property is located on busy Sagamore Avenue. While many homes nearby are single-family, a number nearby are on relatively small lots. The lot's location directly across the street from very large condominium and apartment complexes demonstrates that four density compliant units on this relatively large lot will not alter the essential character of the locality. The pavement will be significantly reduced in width, with the four (4) units fully 2023 building code-compliant, thus protecting, not threatening the public health safety or welfare.



**3. Granting the variances will not diminish surrounding property values**

From the street, only the first of four (4) density compliant duplex units will be readily seen. The driveway reduction, the elimination of a slight front setback nonconformity, additional setback of the front duplex at 48 feet, together with the proposed landscaping/ fencing and preservation of the rear wooded area demonstrate that property values will not be diminished, as the value of surrounding homes are based upon the location along the busy Sagamore Avenue and the proximity of the large condominium and apartment complexes across the street. The White property value report (**Exhibit C**) fully supports this conclusion.

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

a. Special conditions distinguish the property/project from others in the area-

This portion of the SRB District north of Sagamore Creek is comprised of mostly single-family residences, some with compliant lots/densities and some nearby noncompliant (**Exhibit E,F**). The lot is relatively large given the SRB density of 15,000 sf per unit, which the proposal meets. Its location is along the busy Sagamore Avenue, in immediate proximity to large condominium and apartment complexes. Only approximately a handful of lots are within similar proximity to these large complexes. (**Id.**) Since the project meets the density requirement of at least 15,000 sf per lot, whereas the condominium and apartment complexes Avenue directly across Sagamore do not fully meet their respective density requirements, relief is appropriate. (See § II discussion p.1, supra). See Walker v. City of Manchester, 107 N.H. 382, 386 (1966) (hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect on the neighborhood). Clearly, the subject parcel size, shape, and location near other densely developed residential parcels combine to create special conditions.

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

The purposes of allowing one free standing dwelling per lot are to avoid overcrowding, allow for air, light, site distances, separation between neighbors and to permit stormwater treatment. The Project meets all ordinance dimensional requirements including lot area per dwelling unit, lot size, building coverage and open space, height and front rear and side setbacks.

The purpose of single family homes in SRB is to attempt compatibility. Given: density compliance on a relatively large lot; the proposed location of the nearest duplex unit to Sagamore Avenue; the landscaping/fences proposed for the north and south boundaries; the protection of a large wooded area; the significant density of the condominium and apartment complex directly across the street; and single family homes on small lot within approximately .2 miles north and south, the overall goals of the zoning ordinance with respect to over crowding air, light, separation from neighbors, sightlines, stormwater treatment preservation of undeveloped are and compatibility are met. Thus, the restriction of one dwelling building per lot and prohibited duplexes in the transition area has no fair and substantial relationship as applied in this instance. In sum, the proposal is reasonably consistent with the surrounding area, which includes very dense condominium and apartment complexes and numerous homes on relatively small lots in relatively close proximity. **(Exhibit F, G)**. Moreover, granting the requested variances will significantly improve the Property and surrounding area, additionally providing relatively less expensive housing near downtown compared to a large single family home(s). This transitional location is well suited for the proposed two building, four unit development.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 NH 747 (2005). The proposal is a density and dimensional compliant residential use in a residential zone and thus is reasonable.

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

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

“The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions.” N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that “no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the

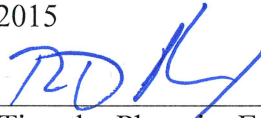
people.” Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). “Property” in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it*. Burrows v. City of Keene, 121 N.H. 590, 597 (1981) (emphasis added). Sagamore is constitutionally entitled to the use of the lot as it sees fit subject only to the effect of the lot size and density requirements.

The proposal removes a somewhat aged slightly setback-noncompliant single-family home with a wide curb cut at Sagamore Avenue in favor of a much narrower curb cut, two code-compliant duplex buildings farther from Sagamore Avenue. The proposal adds significant north and south landscaping/fences and preserves the rear wooded area. for the benefit of those neighbors, while providing relatively more affordable housing near downtown Portsmouth housing compared to larger single family dwellings. As such, there will be no benefit to the general public from denial and no harm to the general public by granting the variances. Conversely, denial of the variance deprives Mouflouze the opportunity for reasonable and tasteful redevelopment of the property while simultaneously denying four purchasers, such as families, the opportunity to live near downtown Portsmouth at a price less than new single-family homes on this lot. Accordingly, substantial justice is done by granting the variances.

**V. CONCLUSION**

For all of the reasons herein stated, Mouflouze respectfully requests that the Portsmouth Zoning of Adjustment grant the requested variances.

Respectfully submitted,  
 The Frances E. Mouflouze Revocable Trust  
 of 2015

By:   
 \_\_\_\_\_  
 R. Timothy Phoenix, Esq.  
 Monica F. Kieser, Esq.

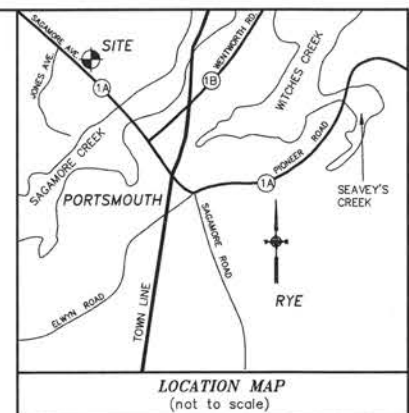


**PLAN REFERENCES:**

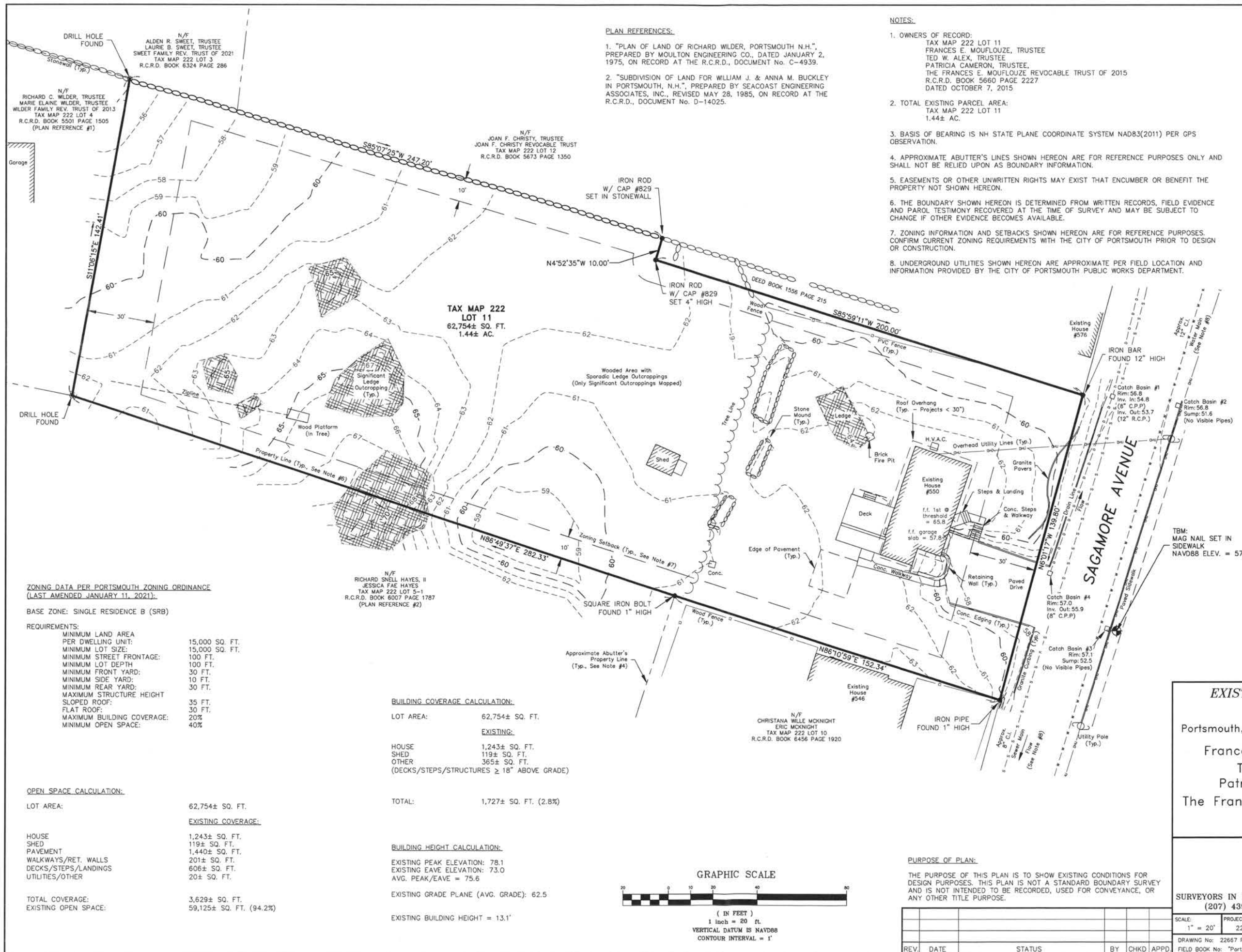
- "PLAN OF LAND OF RICHARD WILDER, PORTSMOUTH N.H.", PREPARED BY MOULTON ENGINEERING CO., DATED JANUARY 2, 1975, ON RECORD AT THE R.C.R.D., DOCUMENT No. C-4939.
- "SUBDIVISION OF LAND FOR WILLIAM J. & ANNA M. BUCKLEY IN PORTSMOUTH, N.H.", PREPARED BY SEACOAST ENGINEERING ASSOCIATES, INC., REVISED MAY 28, 1985, ON RECORD AT THE R.C.R.D., DOCUMENT No. D-14025.

**NOTES:**

- OWNERS OF RECORD:  
TAX MAP 222 LOT 11  
FRANCES E. MOUFLOUZE, TRUSTEE  
TED W. ALEX, TRUSTEE  
PATRICIA CAMERON, TRUSTEE.  
THE FRANCES E. MOUFLOUZE REVOCABLE TRUST OF 2015  
R.C.R.D. BOOK 5660 PAGE 2227  
DATED OCTOBER 7, 2015
- TOTAL EXISTING PARCEL AREA:  
TAX MAP 222 LOT 11  
1.44± AC.
- BASIS OF BEARING IS NH STATE PLANE COORDINATE SYSTEM NAD83(2011) PER GPS OBSERVATION.
- APPROXIMATE ABUTTER'S LINES SHOWN HEREON ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
- EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
- THE BOUNDARY SHOWN HEREON IS DETERMINED FROM WRITTEN RECORDS, FIELD EVIDENCE AND PAROL TESTIMONY RECOVERED AT THE TIME OF SURVEY AND MAY BE SUBJECT TO CHANGE IF OTHER EVIDENCE BECOMES AVAILABLE.
- ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE CITY OF PORTSMOUTH PRIOR TO DESIGN OR CONSTRUCTION.
- UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE PER FIELD LOCATION AND INFORMATION PROVIDED BY THE CITY OF PORTSMOUTH PUBLIC WORKS DEPARTMENT.



**EXHIBIT A**



**ZONING DATA PER PORTSMOUTH ZONING ORDINANCE (LAST AMENDED JANUARY 11, 2021):**

BASE ZONE: SINGLE RESIDENCE B (SRB)

**REQUIREMENTS:**

MINIMUM LAND AREA PER DWELLING UNIT:	15,000 SQ. FT.
MINIMUM LOT SIZE:	15,000 SQ. FT.
MINIMUM STREET FRONTAGE:	100 FT.
MINIMUM LOT DEPTH:	100 FT.
MINIMUM FRONT YARD:	30 FT.
MINIMUM SIDE YARD:	10 FT.
MINIMUM REAR YARD:	30 FT.
MAXIMUM STRUCTURE HEIGHT:	35 FT.
SLOPED ROOF:	30 FT.
FLAT ROOF:	20%
MAXIMUM BUILDING COVERAGE:	40%
MINIMUM OPEN SPACE:	40%

**OPEN SPACE CALCULATION:**

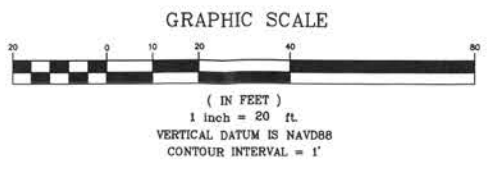
LOT AREA:	62,754± SQ. FT.
EXISTING COVERAGE:	
HOUSE	1,243± SQ. FT.
SHED	119± SQ. FT.
PAVEMENT	1,440± SQ. FT.
WALKWAYS/RET. WALLS	201± SQ. FT.
DECKS/STEPS/LANDINGS	606± SQ. FT.
UTILITIES/OTHER	20± SQ. FT.
TOTAL COVERAGE:	3,629± SQ. FT.
EXISTING OPEN SPACE:	59,125± SQ. FT. (94.2%)

**BUILDING COVERAGE CALCULATION:**

LOT AREA:	62,754± SQ. FT.
EXISTING:	
HOUSE	1,243± SQ. FT.
SHED	119± SQ. FT.
OTHER	365± SQ. FT.
(DECKS/STEPS/STRUCTURES ≥ 18" ABOVE GRADE)	
TOTAL:	1,727± SQ. FT. (2.8%)

**BUILDING HEIGHT CALCULATION:**

EXISTING PEAK ELEVATION:	78.1
EXISTING EAVE ELEVATION:	73.0
AVG. PEAK/EAVE =	75.6
EXISTING GRADE PLANE (AVG. GRADE):	62.5
EXISTING BUILDING HEIGHT =	13.1'



**EXISTING CONDITIONS PLAN**  
FOR PROPERTY AT  
550 Sagamore Avenue  
Portsmouth, Rockingham Co., New Hampshire  
OWNED BY  
Frances E. Mouflouze, Trustee  
Ted W. Alex, Trustee  
Patricia Cameron, Trustee  
The Frances E. Mouflouze Revocable Trust of 2015  
c/o Ted W. Alex  
104 Locke Road, Rye, NH 03870

**North**  
**EASTERLY**  
**SURVEYING, Inc.**  
SURVEYORS IN N.H. & MAINE 191 STATE ROAD, SUITE #1  
(207) 439-6333 KITTERY, MAINE 03904

SCALE:	PROJECT NO.:	DATE:	SHEET:	DRAWN BY:	CHECKED BY:
1" = 20'	22667	1/9/2023	1 OF 1	A.P.M./J.D.S.	P.L.A.
DRAWING No: 22667 PROP SURVEY NHSPC					
FIELD BOOK No: "Portsmouth #18"					
REV.	DATE	STATUS	BY	CHKD	APPD.

**Tax Map 222 Lot 11**



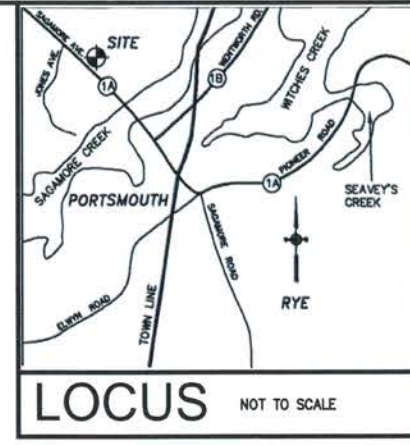
**SITE NOTES**

- DESIGN INTENT - THIS PLAN IS INTENDED TO DEPICT A SET OF APPROVAL DRAWINGS FOR TWO (2) RESIDENTIAL DUPLEX UNITS.
- APPROXIMATE LOT AREA: 1.44 AC.± (TAX MAP 222, LOT 11)
- ZONE: SINGLE RESIDENCE B (SRB)
- DIMENSIONAL REQUIREMENTS:
 

	EXISTING	PROPOSED
MIN. LOT AREA:	15,000 S.F.	±62,754 S.F.
MIN. LAND AREA PER DWELLING UNIT:	15,000 S.F.	±62,754 S.F.
MIN. STREET FRONTAGE:	100'	±139.8'
MIN. LOT DEPTH:	100'	±434'
FRONT SETBACK:	30'	±33'
SIDE SETBACK:	10' (RIGHT)	±40'
	10' (LEFT)	±45'
REAR SETBACK:	30'	±300'+
MAX. BUILDING HEIGHT:	35'	±13.1'
MAX. BLDG. COVERAGE:	20%	±5.6%
MIN. OPEN SPACE:	40%	±94.2%

- PARKING REQUIREMENTS:  
 DUPLEX RESIDENCES: 1.3 SPACES/UNIT - OFF-STREET PARKING  
 1.3 SPACES/UNIT x 4 UNITS = 5.2 SPACES  
 TOTAL PARKING REQUIRED = 6 SPACES  
 TOTAL PARKING PROVIDED = 16 SPACES (8 STACKED VISITOR SPACES PROVIDED)
- THERE ARE NO WETLANDS ON THE PARCEL.
- OVERALL AREA OF DISTURBANCE UNDER 100,000 S.F., NHDES ALTERATION OF TERRAIN PERMIT NOT REQUIRED.
- AREA OF DISTURBANCE IS APPROXIMATELY 36,000 S.F. THEREFORE UNDER 43,560 SF. COVERAGE UNDER EPA NPDES PHASE II CONSTRUCTION GENERAL PERMIT NOT REQUIRED.
- BUILDING AREA SHOWN IS BASED ON FOOTPRINT MEASURED TO THE EDGE OF FOUNDATIONS AND/OR SLABS. ACTUAL INTERIOR SPACE WILL DIFFER.
- THE FOLLOWING VARIANCES FROM THE PORTSMOUTH ZONING ORDINANCE ARE REQUIRED:  
 SECTION 10.440 - TO ALLOW TWO (2) 2-FAMILY DWELLINGS WHERE THEY ARE NOT PERMITTED.
- RESERVED
- SNOW SHALL BE STORED AT THE EDGE OF PAVEMENT, IN AREAS SHOWN HEREON, AND/OR TRUCKED OFF SITE AS APPROPRIATE.
- PAVEMENT MARKINGS SHALL BE CONSTRUCTED USING WHITE, YELLOW OR BLUE TRAFFIC PAINT (WHERE SPECIFIED) MEETING THE REQUIREMENTS OF AASHTO M248, TYPE F OR EQUAL. PAINTED ISLANDS AND LOADING ZONES SHALL BE 4"-WIDE DIAGONAL WHITE LINES 3'-0" O.C. BORDERED BY 4"-WIDE WHITE LINES. PARKING STALLS SHALL BE SEPARATED BY 4"-WIDE WHITE LINES. SEE DETAILS FOR HANDICAP SYMBOLS, SIGNS AND SIGN DETAILS.

- PAVEMENT MARKINGS AND SIGNS SHALL CONFORM TO THE REQUIREMENTS OF THE "MANUAL ON UNIFORM TRAFFIC DEVICES," "STANDARD ALPHABETS FOR HIGHWAY SIGNS AND PAVEMENT MARKINGS" AND THE AMERICANS WITH DISABILITIES ACT (ADA), LATEST EDITIONS.
- 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.
- CLEAN AND COAT VERTICAL FACE OF EXISTING PAVEMENT AT SAWCUT LINES WITH RS-1 IMMEDIATELY PRIOR TO PLACING NEW BITUMINOUS CONCRETE.
- ALL BONDS AND FEES SHALL BE PAID/POSTED PRIOR TO INITIATING CONSTRUCTION.
- THE CONTRACTOR SHALL VERIFY ALL BENCHMARKS AND TOPOGRAPHY IN THE FIELD PRIOR TO CONSTRUCTION.
- UNLESS OTHERWISE NOTED, ALL NEW CURBING SHALL BE VERTICAL GRANITE WITH A MINIMUM RADIUS OF 4'.
- THE CONTRACTOR SHALL VERIFY ALL BUILDING DIMENSIONS WITH THE ARCHITECTURAL AND STRUCTURAL PLANS PRIOR TO CONSTRUCTION. ALL DISCREPANCIES SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE ARCHITECT AND ENGINEER FOR RESOLUTION.
- DWELLING UNITS TO BE SERVED WITH MUNICIPAL WATER & SEWER.



**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 28, 2023

REVISIONS	NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION		EDW	08/28/23

DRAWN BY: RLH  
 APPROVED BY: EDW  
 DRAWING FILE: 5385SUBD.DWG

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

OWNER:  
 FRANCES E. MOUFLOUZE,  
 TED W. ALEX &  
 PATRICIA CAMERON, TRUSTEES  
 THE FRANCES E. MOUFLOUZE  
 REVOCABLE TRUST OF 2015  
 936 SOUTH STREET #1  
 PORTSMOUTH, NH 03801

APPLICANT:  
 FRANCES E. MOUFLOUZE,  
 TED W. ALEX &  
 PATRICIA CAMERON, TRUSTEES  
 THE FRANCES E. MOUFLOUZE  
 REVOCABLE TRUST OF 2015  
 936 SOUTH STREET #1  
 PORTSMOUTH, NH 03801

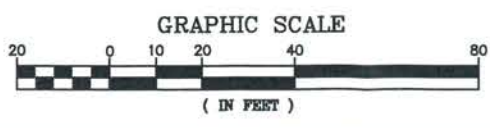
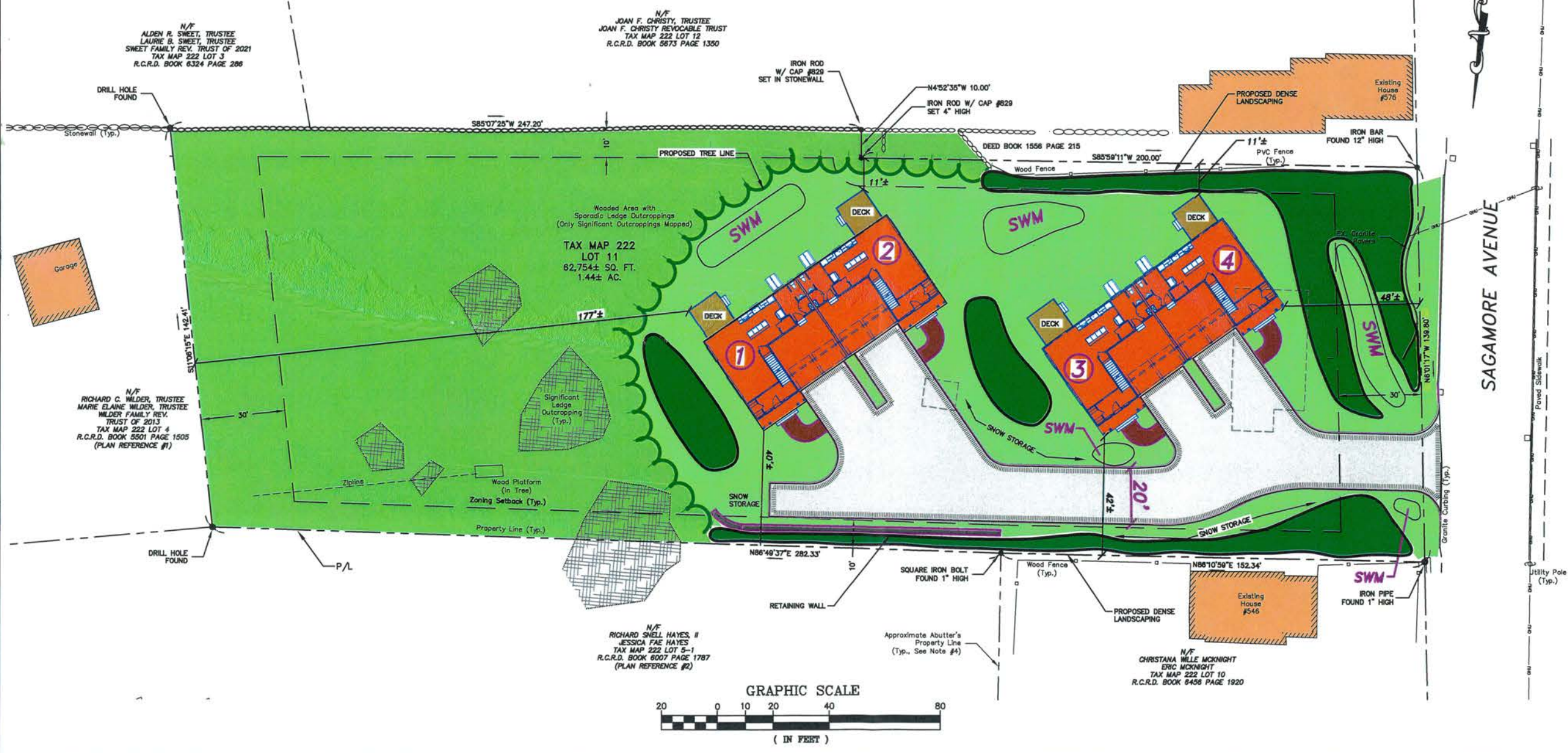
PROJECT:  
 RESIDENTIAL  
 DEVELOPMENT  
 550 SAGAMORE AVENUE  
 PORTSMOUTH, NH

TITLE:  
 BOARD OF  
 ADJUSTMENT  
 SITE PLAN  
 (RESIDENTIAL  
 DWELLING UNITS)

SHEET NUMBER:  
**C - 1**

**PLAN REFERENCES:**

- EXISTING CONDITIONS PLAN FOR PROPERTY AT 550 SAGAMORE AVENUE, PORTSMOUTH, NH, BY EASTERLY SURVEYING DATED 1/9/23.
- "STANDARD PROPERTY SURVEY FOR PROPERTY LOCATED AT 550 SAGAMORE AVENUE", BY EASTERLY SURVEYING, DATED 1/9/23.
- PORTSMOUTH G.I.S. DATA (MAP GEO), AUGUST 16, 2023.



P5385



8/8/2023  
**Sweet Peekaboo Duplex**  
418.224 (8/8/2023)

NOTE: To scale as noted only if printed on 11x17 paper with "no scaling" (do not "Fit").

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**EXHIBIT B**

Art Form Architecture, LLC

603-431-9559



**Dear Builders and Home Buyers,**

In addition to our Terms and Conditions (the "Terms"), please be aware of the following:

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**Sweet Peekaboo Duplex**  
418.224 (8/8/2023)

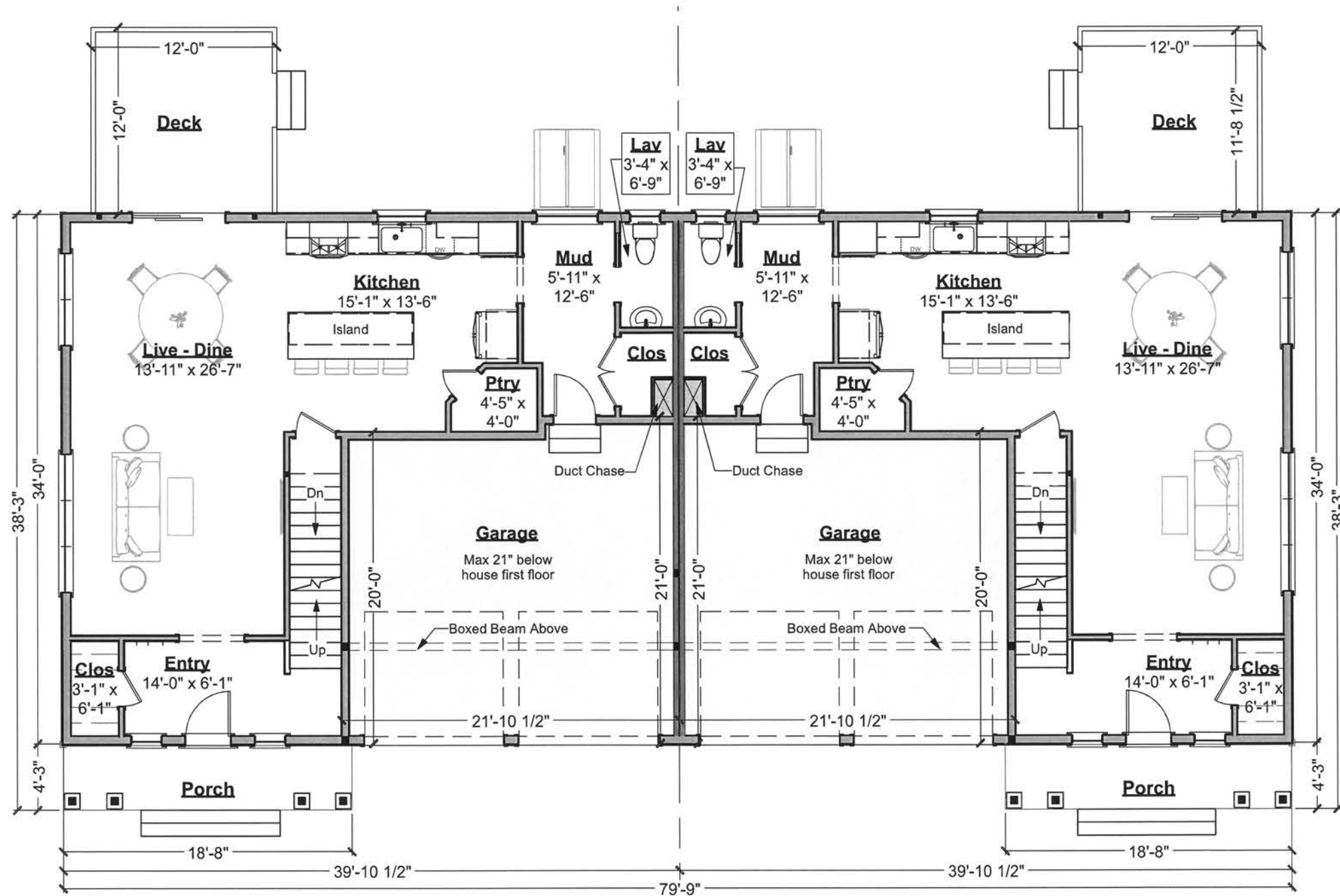
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603-431-9559



**Living Area this Floor:**  
**Typical - 929 sq ft per unit** (to the outside face of framing, for comparison to similar single family)  
**Condo - 863 sq ft per unit** (to the inside face of framing, usual Condo ownership)  
**9 ft Ceilings**

**First Floor Plan**  
Scale: 1/8" = 1'-0"

# Sweet Peekaboo Duplex

418.224 (8/8/2023)

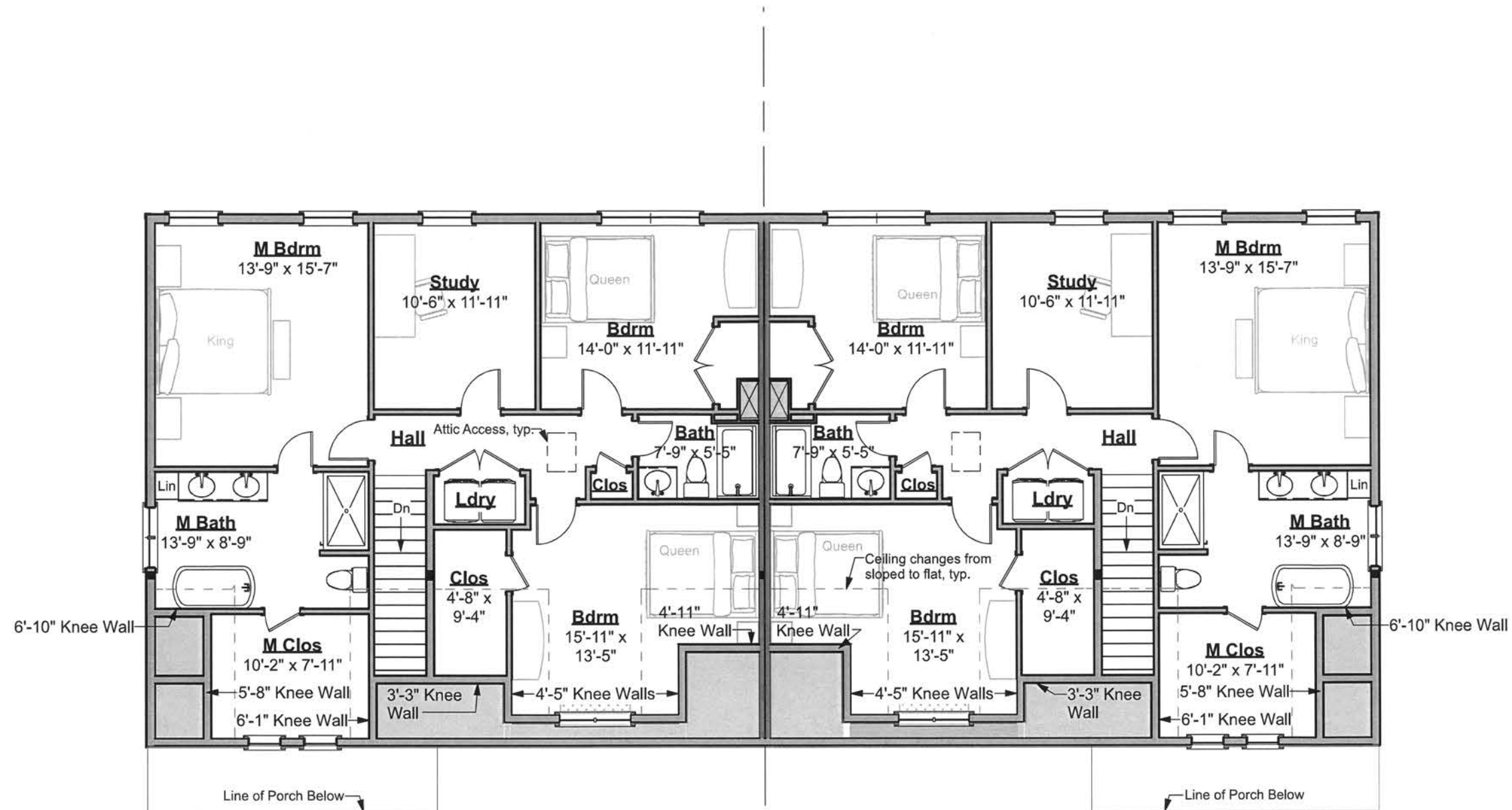
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### Living Area this Floor:

Typical - 1244 sq ft per unit (to the outside face of framing, for comparison to similar single family)

Condo - 1178 sq ft per unit (to the inside face of framing, usual Condo ownership)

8 ft Ceilings

## Second Floor Plan

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

# Sweet Peekaboo Duplex

418.224 (8/8/2023)

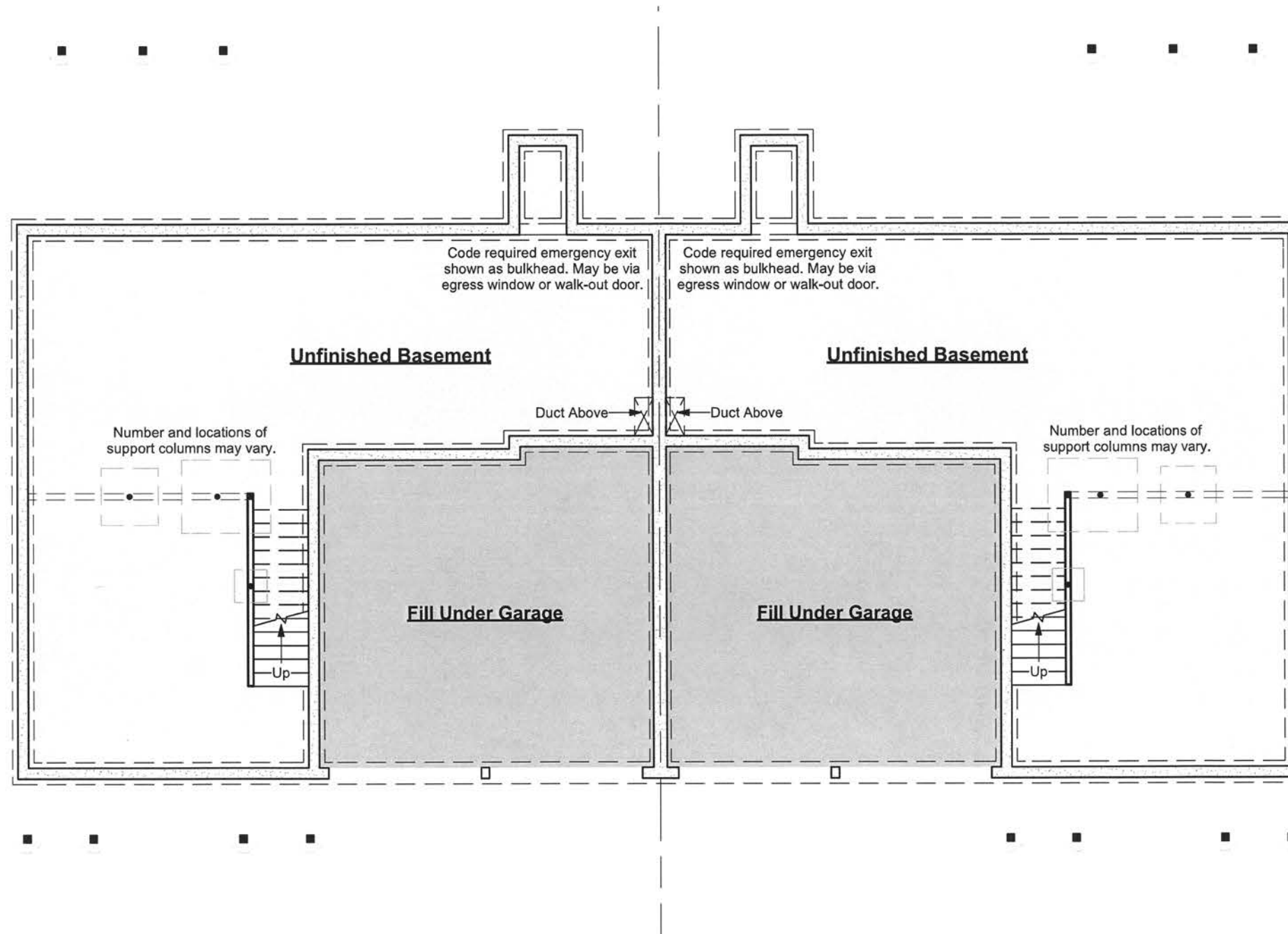
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## Foundation Plan

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

# Sweet Peekaboo Duplex

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**Elevations**  
Scale: 1/8" = 1'-0"



# Sweet Peekaboo Duplex

418.224 (8/8/2023)

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Rear



Left

Elevations

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

# Sweet Peekaboo Duplex

418.224 (8/8/2023)

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**Interior Views - First Floor**  
Left Side Unit (Right Side Unit is Mirror Image)



08/8/2023  
**Sweet Peekaboo Duplex**  
418.224 (8/8/2023)

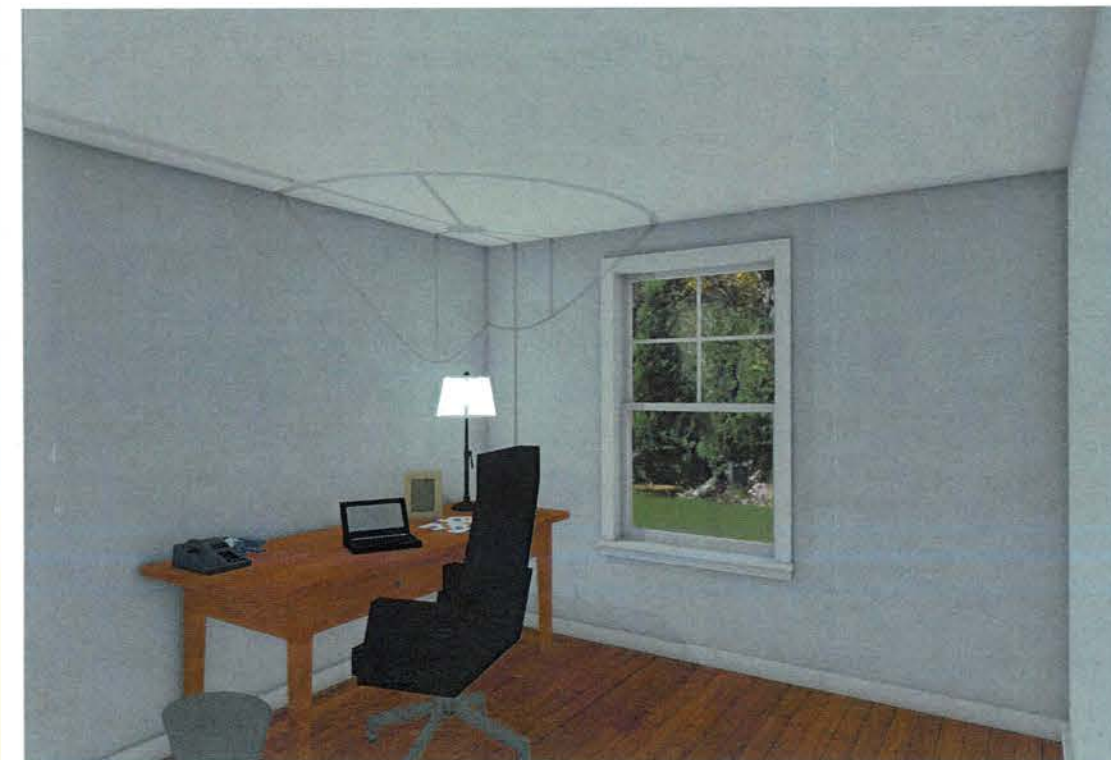
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**Interior Views - Second Floor**  
Left Side Unit (Right Side Unit is Mirror Image)

# WHITE APPRAISAL

REAL ESTATE APPRAISING & CONSULTING

Brian W. White, MAI, SRA



September 18, 2023

Timothy Phoenix, Esquire  
Hoefle, Phoenix, Gormley & Roberts, PLLC  
127 Parrott Avenue  
P.O. Box 4480  
Portsmouth, NH 03802-4480

RE: The Variance application for two residential duplex buildings to be located on 550 Sagamore Avenue in Portsmouth, New Hampshire.

Attorney Phoenix:

At your request, I have been asked to investigate the impact on the value of the abutting properties for the proposed two residential duplex buildings to be located on 550 Sagamore Avenue (Map 222, Lot 11) and to prepare an analysis and opinion on the matter. I have reviewed the Portsmouth Zoning Ordinance that addresses the standards for the requested variance. I have also reviewed your Memorandum to the Portsmouth ZBA regarding the variance request. To prepare this letter, I have completed research on the proposed subject property, the neighborhood and the greater Portsmouth marketplace. The following letter summarizes my analysis, findings and conclusions:

## ***1. The Existing Development:***

The subject property is a 1.44-acre parcel of land located on the eastern side of Sagamore Avenue in the Single Residence B (SRB) zone. The subject property is currently improved with an older 1,092 square-foot single-family residence with an at-grade lower-level that contains a one-car garage and unfinished storage space. The improvements were constructed in 1960 with renovations made over the years. The residence appears to be in above average overall condition for a residence of its age in the Sagamore Avenue area. The front portion of the parcel has paved drive and parking area that accesses the one-car garage. There are interior and exterior stairways that provide access up to the first-floor area of the residence. There is a 448 square foot rear deck. Approximately one-third of the mostly level to gently sloping parcel is improved or landscaped. The rear two-thirds of the parcel is undeveloped natural wooded area. This rear wooded area has a combination of larger evergreens and deciduous trees. The terrain for the parcel is mostly level to gently sloping. The rear portion of the parcel has a high-point area that has a few exposed ledge areas. The terrain gently slopes downward from this high-point to both the front and the rear of the parcel. The parcel is serviced with municipal water and sewer, electricity, telephone, cable and internet. There are no wetland areas located on the parcel.

## ***2. The Proposed Development:***

The older wood-frame single-family building will be razed and a new paved drive will be installed off of Sagamore Avenue in the northwestern portion of the subject's parcel. This paved drive will extend into the western and central portions of the parcel providing access to two new duplex residences. There will be a vehicle turn-around and snow storage area located at the end of the paved drive area. Each of the duplex buildings will have a front paved driveway that will provide access to the two-car garage areas of the two residential units. The residences will each contain two levels of finished living area. The units will have quality interior and exterior finishes that are commensurate with other similar new construction residences located in Portsmouth. Based on the proposed site and building plans, the proposed townhouse style single-family residences will contain approximately 2,173 square feet of above ground space, a two-car garage and a basement storage area. The two duplex residential buildings will be surrounded by landscaped and grassed areas and each unit will have a rear deck area. There will be dense landscaped area located to the front, sides and rear of the development along with an elongated area located in between the two duplex buildings. The improved and developed areas of the parcel will utilize approximately 60% of the 1.44-acres of the parcel with the rear approximate 40% of the parcel will remain in a natural wooded state.

## ***3. The Concept Plan for Three Residential Lots:***

A conceptual site plan on the subject property has been completed by Altus Engineering, as of March 6, 2023. This plan identifies a three-lot residential subdivision which the subject property could accommodate based on the dimensional requirements in the SRB zone. The concept plan locates a short entry road off of Sagamore Avenue in the northeastern portion of the subject property. This road extends approximately 225' into the central portion of the parcel terminating in a cul-de-sac. Each of the three lots would have over 15,000 square feet of space, a minimum of 100' of road frontage and a buildable envelope suitable for accommodating a single-family residence. This concept plan demonstrates that the subject property has a sufficient amount of site area to accommodate a traditional three-lot residential subdivision. It also shows that in order to accomplish this the entire property is required to accommodate this three-lot plan.

## ***4. Neighborhood & Abutting Properties:***

The subject property is located in a Single Residence B (SRB) zone with the parcel being located directly across from the subject property being zoned Garden Apartments/Mobile Home Park (GA/MH). Sagamore Court is a large 144-unit multi-unit garden-style condominium and apartment development. The subject property looks directly at the front building in the center of the development. This development dominates the subject's immediate area on Sagamore Avenue. The SRB zone is largely a single-family zone while the GA/MH zone is largely a multi-dwelling unit zone. There are large Single Residence A (SRA) zoned areas located to the north and to the south of the subject's area on Sagamore Avenue. The SRA zone allows for the same uses as the subject's SRB zone with the difference being that the subject's SRB zone allows for a much higher density as the SRA zones requires 43,560 SF/dwelling unit and 150' of road frontage while the subject's SRB zone only requires 15,000 SF/dwelling unit and only 100' of road frontage. The parcels located in the SRA and the SRB zones in the surrounding area are largely developed with



single-family homes on parcels of varying sizes. There are a few multi-unit properties in the subject's immediate area along Sagamore Avenue. In addition to the forementioned Sagamore Court, the Tidewatch Condominium is a 116-unit condominium development that is located just south of the subject's area. There is a recently approved four-unit residential development located near the access road for the Tidewatch Condominium that is located at 635 Sagamore Avenue. Slightly further south on Sagamore Avenue, there is a 3-unit condominium development located at 792 Sagamore Avenue. The remainder of the residential properties located in the subject's immediate area along Sagamore Avenue are single-family residences. It is noted that further north and further south of the subject's area Sagamore Avenue is developed with a mixture of single-family homes, multi-unit developments and several scattered commercial properties.

The rear portion of the subject property abuts three single-family homes that are located on Walker Bungalow Road (40, 58 & 72 Walker Bungalow Road). This road is an interior road located off of Little Harbor Road that terminates in a cul-de-sac near Sagamore Creek. The rear portions of these homes can be seen through the natural wooded growth in the rear portion of the subject property. Any development located in the rear portion of the subject property would have an obstructed view of the improved portion of these neighboring properties while any development located in the central portion of the subject property would have a distant and very obstructed view of the improved portion of these neighboring properties. It is assumed that the same would be the case when viewing these portions of the subject property from these neighboring properties.

The subject property is currently an above average condition single-family residence. The other single-family homes in the surrounding area on Sagamore Avenue are generally in average to very good overall condition. The abutting properties on Sagamore Avenue are both older wood-frame single family homes constructed in the 1800's that appear to be in above average overall condition. To the rear of the subject property, the subject property abuts three single family homes that are located on Walker Bungalow Road. These homes, which were constructed in the 1960's and 1980's, appear to be in good overall condition. Over the past five years, the single-family homes located in the subject's immediate area have sold from approximately \$600,000 to \$1,100,000 while the residential condominium units in the area have sold from approximately \$600,000 to \$1,500,000. It is noted that there are two fairly recent sales of smaller garden-style condominiums located in the Sagamore Court development that sold for \$225,000 and \$245,000, respectively. Based on MLS data, the anticipated market values of the subject's proposed townhouse duplex condominium units would be in the range of \$1,000,000 or more.

##### **5. *Factors that impact Value and the Application to the Subject Property:***

For the subject property, there are three potential factors that could directly impact the market value of the abutting properties. These factors are noise, view and use.

###### *Noise:*

It was previously noted that the proposed subject property will contain a single-entry drive and two duplex residential buildings. One of the proposed duplex buildings will be located in the rear of the existing single-family residence and the back yard of this residence while the other duplex buildings will be located in the center portion of the parcel in the area of the

existing shed structure and the start of the wooded area. The rear 40% of the parcel will remain undeveloped and treed. At the present time, the subject's single-family home likely emits noises that are typical for a residence in the area. There would be sounds of cars entering and exiting the property, property maintenance sounds and the sounds of people enjoying the exterior deck and yard areas. The sounds for the proposed duplex residential buildings would likely be similar to what is in place with the difference being that there will be four residences and more vehicles entering and exiting the property. In comparison, the sounds for subject property under the concept development plan would likely be greater than for the proposed two building duplex development. While the subject's proposed development will contain one more unit than the three-lot conceptual plan contains, the developed area for the subject property only extends approximately 60% into the parcel while the developed area for the concept plan calls for developing almost all of the parcel. The fact that the concept plan extends to the rear of the parcel and the two-building duplex plan does not, makes it likely that the two-building duplex plan would be emitting much less overall noise to the three rear abutting residences. The fact that the duplex plan calls for the garage areas to be located in the middle of the duplex building structure would also be a noise mitigating factor as typical single-family residences have their garage on one end of the residence or they are located in a detached building. The single-family garage areas would also likely be located closer to the side or rear lot lines as compared to the central garage location of the proposed two building duplex plan. It would be reasonable to conclude that the proposed two building duplex plan would emit a higher level of residential noises that is currently in place but it would emit a lower level of residential noises that would come from the three-lot concept plan.

*View:*

At the present time, the subject's single-family residence can be viewed from Sagamore Avenue, from the Sagamore Court development across from the subject property and from the two abutting single-family residence. The three single-family residences located along Walker Bungalow Road are completely obstructed by the existing central and wooded areas of the subject property. The existing view is of a fairly well maintained older raised ranch residence that was constructed in 1960. From the street, the residence, drive area and front landscaped areas can be seen. The view from the improved residential area of the two abutting residences located along Sagamore Avenue is of these same areas along with that of the rear yard areas. These abutter views are all slightly obstructed by the location of existing fence areas that run along the front area of the subject property and the abutting properties. The three single family residences located along Walker Bungalow Road all have views of the subject's rear and central wooded areas.

The proposed two building duplex development plan will locate the duplex buildings in the front and central portions of the parcel. The drive area will extend from Sagamore Avenue and it will extend straight to the front duplex building, then with a slight bend, it will extend to the centrally located duplex building. The two duplex building will be oriented at a slight angle with the fronts of the buildings facing northwest. There will be a combination of wood and PVC fences located along the southern side of the subject property. The northern side of the subject property has an existing wood fence located on the neighboring property. In addition to these existing and proposed fences, there will be several areas that will have dense landscaped areas. These areas will be located to the front of the property along Sagamore Avenue (all but the location of the drive area), along the sides of the front and

central areas of the parcel and to the rear of both of the duplex buildings. All of the existing and proposed screening features will result in the subject's building being largely screened from both Sagamore Avenue and from the three residential properties located on Walker Bungalow Road. The two abutting single-family residences located on Sagamore Avenue will have as much new screening as possible for the proposed two duplex building plan. The views of the subject property from these two abutting residences will change but not to the extent that any negative impact will result. It could be argued that the views of the neighboring properties will be enhanced by replacing the older above average condition single-family residence with two new construction duplex townhouse residences that will be in very good condition with retail values that will exceed that of most of the neighboring single-family homes in the immediate area.

*Use:*

The subject property is proposed for development with two new residential duplex buildings. In the surrounding neighborhood, the Sagamore Avenue area is developed with a variety of residential uses (single-family, residential condominiums and apartments) and several scattered commercial and mixed-use developments. The interior streets located off of Sagamore Avenue are largely developed with residential uses. The proposed residential duplex development of the subject property will be in-line with that of the surrounding uses. It is noted that the subject's immediate area along Sagamore Avenue is unique where within 300' of the subject property there are properties that are located in four different zones (SRA, SRB, GA/MH & GRA). The unique location of the subject property has created an area along Sagamore Avenue where there are a variety of different residential properties (single-family, townhouse, apartment & condominium) in the immediate area. The fact that the subject property, and a few other older single-family residences are directly across from a 144-unit garden-style residential development (Sagamore Court) demonstrates the variety of residence types in the immediate neighborhood.

The proposed use for the subject's 1.44-acre parcel is for development with four townhouses-style residential units. This translates into a property density of 2.78-units/acre. It is noted that the Sagamore Court Condominiums, directly across Sagamore Court from the subject property and located in the GA/MH zone, is a 144-unit development on 15.01-acres (9.59-units/acre). The Tidewatch Condominium development, to the south and west of the subject property on Sagamore Avenue, is located in the SRA zone. This townhouse-style condominium development contains 116 units located on 53.59 acres of land. This translates into a density of 2.16-units per acre. On 635 Sagamore Avenue, to the south and west of the subject property, a 1.947-acre parcel was recently granted relief by the Portsmouth ZBA allowing for the property to be developed with 4 residential units (2.05-units/acre). On 792-796 Sagamore Avenue, to the south of the subject property by Cliff Road, a small 0.28-acre parcel was improved with an older duplex building. Several years ago, this building was renovated and expanded into 3 condominium units (10.71-units/acre). This property is located in the SRB zone similar to the subject property. Considering the density of these nearby residential developments, the subject's proposed density (2.78-units/acre) is reasonably in-line with the existing density in the immediate area. It can reasonably be concluded that the proposed use of the subject property with four townhouse-style residential units is a use that will be compatible with the surrounding neighborhood.

## **6. *Specific Standards – Variances:***

The owners are requesting a Variance from the following – Portsmouth Zoning Ordinance – 10.513 – One Freestanding Dwelling/Lot – to permit two dwelling buildings (four units) on a 1.44-acre lot where one dwelling is permitted and 10.440 Table of Uses – to permit two duplexes where duplexes are prohibited.

I spoke with Scott Scott, Tax Assessor II for the City of Portsmouth. I wanted to get his opinion on the subject's proposed two residential duplex building development and that of several other similar developments in the area. He stated that he is very familiar with the Sagamore Avenue area. He indicated that the best nearby comparable for the subject property is the three-unit condominium development that is located to the south of the subject property at 792-796 Sagamore Avenue. This development is a three-unit residential condominium located in the same SRB zone as the subject property. Rosanne Maurice-Lentz, City Assessor, was on vacation for the week so I asked Mr. Scott for his opinion on any diminishing property values due to the three-unit residential condominium being located nearby. He indicated that the existence of this multi-unit residential development in the SRB zone on Sagamore Avenue has not led to diminishing the values of the surrounding properties. This is good evidence that multiple units located on the subject property would also not have a negative impact on surrounding properties but it does not speak to the exact relief that is being requested by the applicant. In order to address these specific variance requests, the appraiser has expanded his search to other municipalities located in the greater Seacoast area of New Hampshire.

In the nearby City of Dover, a variance was granted in 2021 to a residential parcel located on 400 Gulf Road which allowed for two residential buildings to be constructed on a 5.0-acre parcel where only one dwelling is permitted. These residences are currently under construction. The property is located in a very desirable rural area of Dover near many waterfront homes. According to Donna Langley, the Dover Assessor, while this property is new construction, she has not had anyone approach her asking for assessment relief because of their nearby location to this multiple dwelling development. In the nearby Town of Durham, there are a couple of multiple dwelling developments that are fairly comparable to the subject's proposed multiple dwelling development. On 9 Bayview Road, there is a two-residence development that was developed in 1983. This property is located on Bayview Road which, other than this property, is developed entirely with single-family homes. On 20 Strafford Avenue, there is a two-residence development that has an older residence that was constructed in 1935. In 2009, they were permitted to construct a second residence in the location of an older building creating an upgraded two-residence development. This property is located on Strafford Avenue which is developed with a mixture of single-family homes, multi-unit residential developments and university properties. Jim Rice, the Durham Assessor, indicated that there has not been any negative impact on the values of the surrounding properties that are in close proximity to these two multiple dwelling developments.

Two slightly older student housing buildings located at 26 & 28 Young Drive and 34 & 36 Young Drive in Durham that were constructed in 1968 were recently renovated into duplex residences. A new duplex residence was constructed at 7 Young Drive in 2022. All of these duplex residences are located in a residential zone in Durham that does not allow for duplex



residences. Young Drive also contains a couple of free-standing single-family homes. The surrounding area consists of a mixture of single-family homes, multi-tenant apartment buildings and scattered commercial developments. Jim Rice, the Durham Assessor, indicated that there has not been any negative impact on the values of the surrounding properties that are in close proximity to these duplex residential developments.

In the greater Portsmouth area, there is no exactly similar property from which to extract paired-sales. Therefore, only general observations can be made based on my experience in the marketplace. Over the past several years in the greater Sagamore Avenue area of Portsmouth, several new multi-unit residential developments have been constructed or are currently proposed. In general, the addition of these new residential developments has resulted in upgrading the overall condition of the neighborhood and therefore enhancing the overall desirability of the area.

It is my opinion that granting the requested variances for the subject property to be improved with two duplex residential buildings would not result in the diminution in value of the abutting property values in the immediate vicinity of the subject property and the proposed subject property would not change the characteristics of the neighborhood. In fact, the addition of the proposed subject property will add two attractive and modern duplex residences to the neighborhood that very well could enhance the value of the surrounding properties as it will add new residential units to a location that is currently under improved for the area.

Respectively submitted,



**Brian W. White, MAI, SRA NHC#52**

# **ADDENDA**

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## PHOTOGRAPHS OF THE SUBJECT PROPERTY



Front of the Subject Property  
Looking Northeast from Sagamore Avenue - (9/2023)



Front of the Subject Property  
Looking East from Sagamore Avenue - (9/2023)



**PHOTOGRAPHS OF THE SUBJECT PROPERTY**



Street Scene - Front of the Subject Property  
Looking South on Sagamore Avenue - (9/2023)



Street Scene - Front of the Subject Property  
Looking North on Sagamore Avenue - (9/2023)

## PHOTOGRAPHS OF THE SUBJECT PROPERTY



Front of the Subject Property  
Looking Northeast from Sagamore Avenue - (9/2023)



Front of the Subject Property  
Looking Southeast from Sagamore Avenue - (9/2023)



**PHOTOGRAPHS OF THE SUBJECT PROPERTY**



Subject Property – Rear of the Residence  
Looking Northwest from Rear Yard Area – (9/2023)



Subject Property – Rear of the Residence  
Looking Northwest from Rear Yard Area – (9/2023)

## PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Rear Deck & Yard & Proposed Location of Front Duplex  
Looking South from Rear Yard Area – (9/2023)



Subject Property – Rear Shed & Proposed Location of Rear Duplex  
Looking South from Rear Yard Area – (9/2023)



**PHOTOGRAPHS OF THE SUBJECT PROPERTY**



Subject Property – Front of the Subject Property  
Looking South – (9/2023)



Subject Property – Proposed Access Drive Location – Duplex Development  
Looking West – (9/2023)

## PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Proposed Access Drive Location – Conceptual Development  
Looking East – (9/2023)



Subject Property – Southern Side of Residence  
Looking East – (9/2023)



**PHOTOGRAPHS OF THE NEIGHBORING PROPERTIES**



View of Abutting Residence to the South of the Subject Property  
Looking East - (9/2023)



View of Abutting Residence to the North of the Subject Property  
Looking Northeast - (9/2023)

**PHOTOGRAPHS OF THE REAR NEIGHBORING PROPERTIES**



View of Rear Abutting residence from Rear of Subject Property  
Looking Southeast - (9/2023)



View of Rear Abutting residence from Rear of Subject Property  
Looking East - (9/2023)



**PHOTOGRAPHS OF THE REAR NEIGHBORING PROPERTIES**



View of Rear Abutting Residence from Rear of Subject Property  
Looking Northeast - (9/2023)



View of Rear Abutting Garage & Residence from Rear of Subject Property  
Looking Northeast - (9/2023)

**PHOTOGRAPHS OF NEIGHBORING/COMPARABLE PROPERTIES**



View of Sagamore Court Building – Directly Across from the Subject Property  
Looking West - (9/2023)



View of Tidewatch Condominium development – Typical Townhouse Building  
Looking East - (9/2023)



**PHOTOGRAPHS OF NEIGHBORING/COMPARABLE PROPERTIES**



View of Sagamore Court Development – Neighborhood Development  
Looking Northwest from Tidewatch Access Road - (9/2023)



View of 635 Sagamore Avenue – Neighborhood Development  
Looking Southwest from Sagamore Avenue - (9/2023)

**PHOTOGRAPHS OF NEIGHBORING/COMPARABLE PROPERTIES**



View of 792-796 Sagamore Avenue – Neighborhood Development  
Looking Northeast from Sagamore Avenue - (9/2023)



View of 400 Guld Road, Dover, NH – Multiple Residence Development  
Looking Northwest from Entry Drive - (9/2023)



**PHOTOGRAPHS OF NEIGHBORING/COMPARABLE PROPERTIES**



View of 9 Bayview Road, Durham, NH - Multiple Residence Development  
Looking Southwest from Bayview Road - (9/2023)



View of 20 Strafford Avenue, Durham, NH - Multiple Residence Development  
Looking North from Entry Drive - (9/2023)

**PHOTOGRAPHS OF NEIGHBORING/COMPARABLE PROPERTIES**



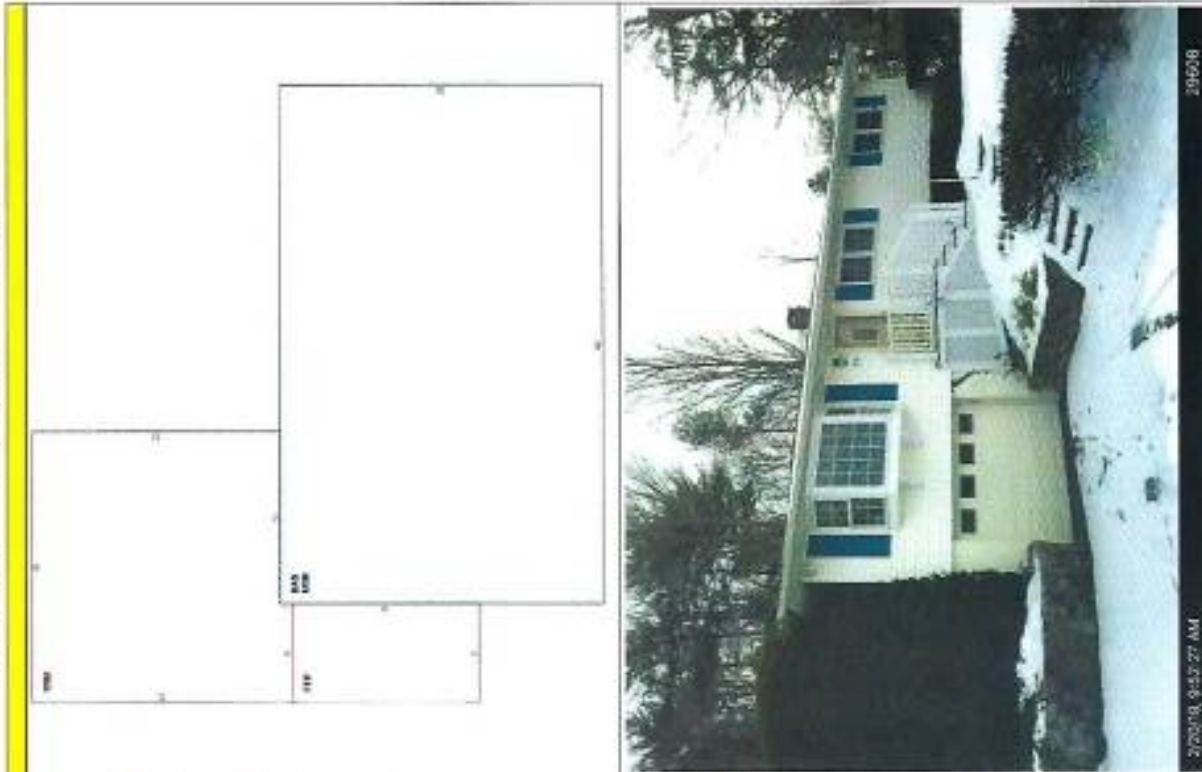
View of 26-36 Young Road, Durham, NH – Duplex Development  
Looking North on Young Road - (9/2023)



View of 7 Young Road, Durham, NH - Duplex Development  
Looking West from Young Road - (9/2023)



Property Location		Map D		Bldg Name		State Use	
550 SAGAMORE AVE	29608	0222/0011/0005/	1	0222/0011/0005/	1	1010	1010
Parcel ID	Account #	TOPO	UTILITIES	STRT/ROAD	LOCATION	Card #	Print Date
29608	29608	1 Local	0 All Public	1 Paved		1 of 1	10/31/2022 1:08:43 P
<b>CURRENT OWNER</b>		<b>APPROVALS</b>		<b>CURRENT ASSESSMENT</b>		<b>ASSESSMENT</b>	
MOUFLOUZE FRANCES E REVOC T		8 Landscapes		RESIDENTL		175,000	
MOUFLOUZE F ALEX T CAMERON P				RES LAND		270,100	
550 SAGAMORE AVE				RESIDENTL		300	
PORTSMOUTH NH 03801		SUPPLEMENTAL DATA				2228	
PREC 1/2 HSE		CORRIDOR					
GIS ID 29608		INLAW W					
RECORD OF OWNERSHIP		LOT SPLIT					
MOUFLOUZE FRANCES E REVOC TR OF 20		2019 Rev JIM					
MOUFLOUZE FRANCES		ExCz Appt					
BK VOL/PAGE		SALE DATE		DU W		SALE PRICE	
3690 2227		10-07-2013		U		0 44	
3485 0942		04-04-1984		I		0	
Year		Code		Description		Amount	
2028		1		VETERAN-1		500.00	
Total		500.00		Total		500.00	
Mined		Notes		Tracing		Branch	
912		ASSESSING NEIGHBORHOOD					
0713- REPL WINDS; CHNG SHD; COND TO 30		NOTES					
APPT LETTER 67/13		BUILDING PERMIT RECORD					
3405		1400		02-20-2019		100	
35111		500		02-20-2019		100	
Issue Date		Type		Description		Unit Price	
12-03-2018		PL		Plumbing		4.96 1.0000	
11-30-2018		EL		Electric		16.500 1.0000	
Permit ID		Amount		Inse Date		% Comp	
3405		1,400		02-20-2019		100	
35111		500		02-20-2019		100	
Date Comp		Date Comp		Comments		S.I	
				REPLACING HOT WATER HE		1.500	
				REPLACE WIRING FROM CL		1.500	
Date		ID		Type		Is	
02-20-2019		BN		02		50	
07-04-2017		PN				FR	
04-17-2015		RT				FR	
07-01-2013		JM				10	
10-13-2000		SS				1	
Purpose/Result		Special Pricing		Ad Unit P		Land Value	
FR Field Review Stat Update		1.0000		5.93		258,200	
FR Field Review Stat Update		1.0000		24,750		11,900	
MassLuTrSmt No Responses							
Entry + Sign INACTIVE							
Total Appraised Parcel Value		445,400		Total Appraised Parcel Value		445,400	
APPROXIMATED VALUE SUMMARY		Appraised Bldg. Value (Card)		170,360			
		Appraised XI (B) Value (Bldg)		4,700			
		Appraised Ob (B) Value (Bldg)		360			
		Appraised Land Value (Bldg)		270,100			
		Special Land Value		0			
		Total Appraised Parcel Value		445,400			
		Valuation Method		C			
VISIT/CHANGE HISTORY		Total Appraised Parcel Value		445,400			
Date		ID		Type		Is	
02-20-2019		BN		02		50	
07-04-2017		PN				FR	
04-17-2015		RT				FR	
07-01-2013		JM				10	
10-13-2000		SS				1	
LAMP LINE VALUATION SECTION		S.I		S.I		S.I	
43.9001 SF		4.96		1.0000		1.500	
0.480 AC		16.500		1.0000		1.500	
Parcel Total Land Area		Parcel Total Land Area		Parcel Total Land Area		Parcel Total Land Area	
1 AC		1 AC		1 AC		1 AC	
Total Land Value		270,100		Total Land Value		270,100	



Element	Code	Description	Element	Cd	Description
Style:	01	Ranch			
Model:	01	Residential			
Grade:	C+				
Stories:	1				
Occupancy:	1				
Exterior Wall 1:	25	Vinyl Siding			
Exterior Wall 2:					
Roof Structure:	03	Gable/Hp			
Roof Cover:	03	Asph/F Gls/Comp			
Interior Wall 1:	05	Drywall/Sheet			
Interior Wall 2:					
Interior Flt 1:	14	Carpet			
Interior Flt 2:	06	Hard Shl Gds			
Heat Fuel:	02	Oil			
Heat Type:	02	Warm Air			
AC Type:	03	Central			
Total Bedrooms:	03	3 Bedrooms			
Total Baths:	1				
Total Half Baths:	1				
Total Xtra Rm:	0				
Total Rooms:	5				
Bath Style:	1	Avg Quality			
Kitchen Style:	1	Avg Quality			
Kitchen Gr:					
WB Appliances:	0				
Extra Openings:	0				
Metal Finishes:	0				
Extra Openings:	0				
Basement:	1				

Code	Description	Unit Price	Yr Blt	Cond.	Cd	% Gld	Grade	Adj.	Appt. Value
REC ROOM	B	240	1987	A	78	C	1.00		4,700
SHD1 SHED FRAME	L	96	13-00	F	30	D	0.90		300

BUILDING SUB-AREA SUMMARY SECTION					
Code	Description	Living Area	Floor Area	Unit Cost	Underpin Value
BAS	First Floor	1,092	1,092	151.74	165,702
FEP	Porch, Enclosed	0	94	166.22	12,746
UBM	Basement, Unfinished	0	213	30.25	33,080
WDK	Deck, Wood	0	448	15.24	6,828
Tl Gross Liv / Usable Area		1,092	2,752	1,439	218,356



044882



2015 OCT -7 AM 10: 17

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS: That **FRANCES E. MOUFLOUZE**, a single person, of 550 Sagamore Avenue, Portsmouth, County of Rockingham, New Hampshire, for consideration paid, grants to **FRANCES E. MOUFLOUZE, AS CO-TRUSTEE OF THE FRANCES E. MOUFLOUZE REVOCABLE TRUST OF 2015 u/d/t dated September 24, 2015**, having a mailing address of 550 Sagamore Avenue, Portsmouth, County of Rockingham, New Hampshire, **TED W. ALEX, AS CO-TRUSTEE OF THE FRANCES E. MOUFLOUZE REVOCABLE TRUST OF 2015 u/d/t dated September 24, 2015**, having a mailing address of 104 Locke Road, Rye, New Hampshire and **PATRICIA CAMERON, AS CO-TRUSTEE OF THE FRANCES E. MOUFLOUZE REVOCABLE TRUST OF 2015 u/d/t dated September 24, 2015**, having a mailing address of 59 Old Mountain Road, Cape Neddick, Maine, with

WARRANTY COVENANTS,

the following described premises:

A certain lot or parcel of land with the buildings thereon, situate in Portsmouth, County of Rockingham and State of New Hampshire, bounded and described as follows:

Beginning at a point in the easterly sideline of Sagamore Avenue, so-called, at the northwesterly corner of the land herein conveyed, and at the southwesterly corner of land of one Michaud, formerly of Mary T. Trefethen, and thence running easterly by said land of said Michaud and land now or formerly of John Brownell, 450 feet, more or less, to a point at land of Richard C. and Marie E. Wilder; thence turning and running southerly by land of said Wilder, 143.82 feet to a set drill hole at land of Mildred Hewitt and Grace Bowden; thence turning and running westerly by said Hewitt and Bowden land and land now or formerly of one Fenwick, 271 feet, more or less, to a point; thence turning and running northerly 10 feet, thence turning and running westerly 200 feet, all by said Fenwick land, to Sagamore Avenue; thence turning and

running northerly by and along Sagamore Avenue, 140 feet, more or less, to the point of beginning.

Being the same premises conveyed to **FRANCES E. MOUFLOUZE** and **GEORGE S. MOUFLOUZE** by deed of Frances E. Moufrouze dated April 4, 1984, recorded in Rockingham County Registry of Deeds, Book 2485, Page 0342 and identified as 55 Sagamore Avenue, Portsmouth, New Hampshire.

**GEORGE S. MOUFLOUZE** is deceased as of August 25, 2015. Please see Death Certificate to be recorded prior hereto.

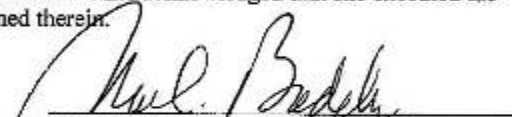
This conveyance is a non-contractual transfer pursuant to NH R.S.A. 78-B:2(IX) and only minimum state transfer tax applies.

Executed this 24<sup>th</sup> day of September, 2015.

  
FRANCES E. MOUFLOUZE

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

On this 24<sup>th</sup> day of September, 2015, before me, the undersigned officer, personally appeared **FRANCES E. MOUFLOUZE**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and further acknowledged that she executed the foregoing instrument for the purposes contained therein.

  
Justice of the Peace: Mae C. Bradshaw, Esq.  
My Commission Expires: 02/08/2017

### AERIAL VIEW



**Property Information**  
Property ID: 0322-0011-0000  
Location: 550 SAGAMORE AVE  
Owner: MOUFOUZE FRANCES E REVOC TR OF 2015

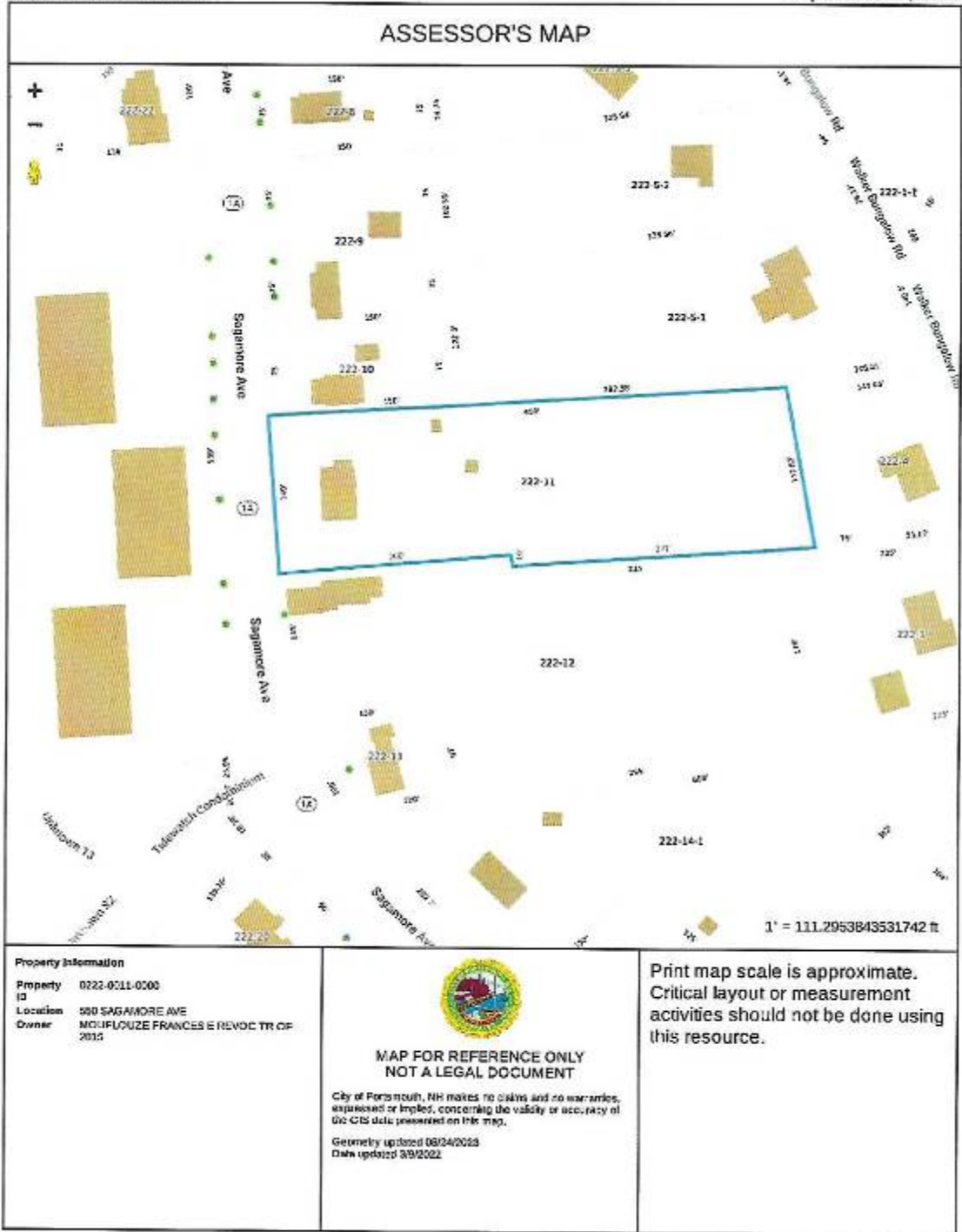


**VAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

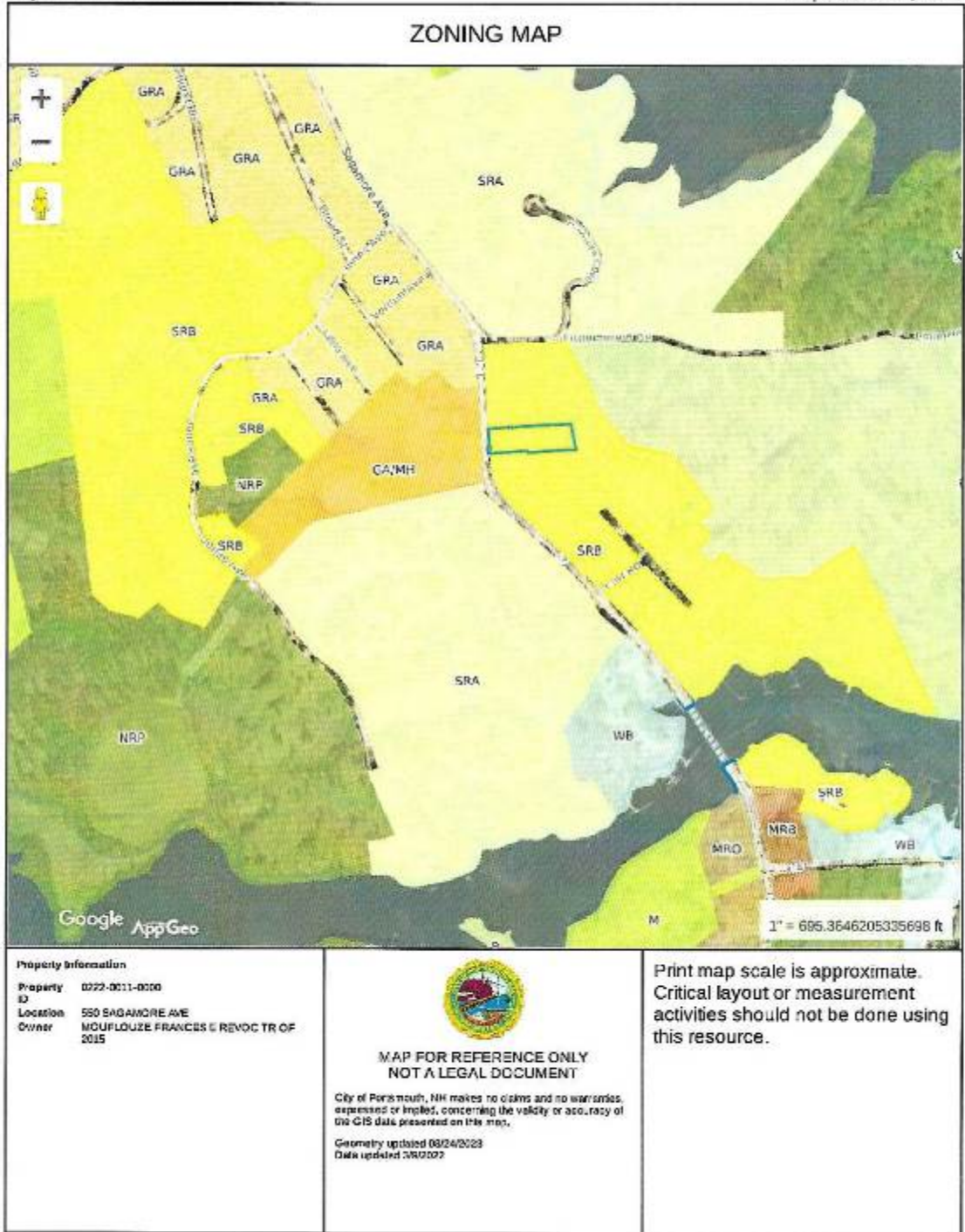
City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.  
Geometry updated 05/24/2023  
Data updated 05/02/23

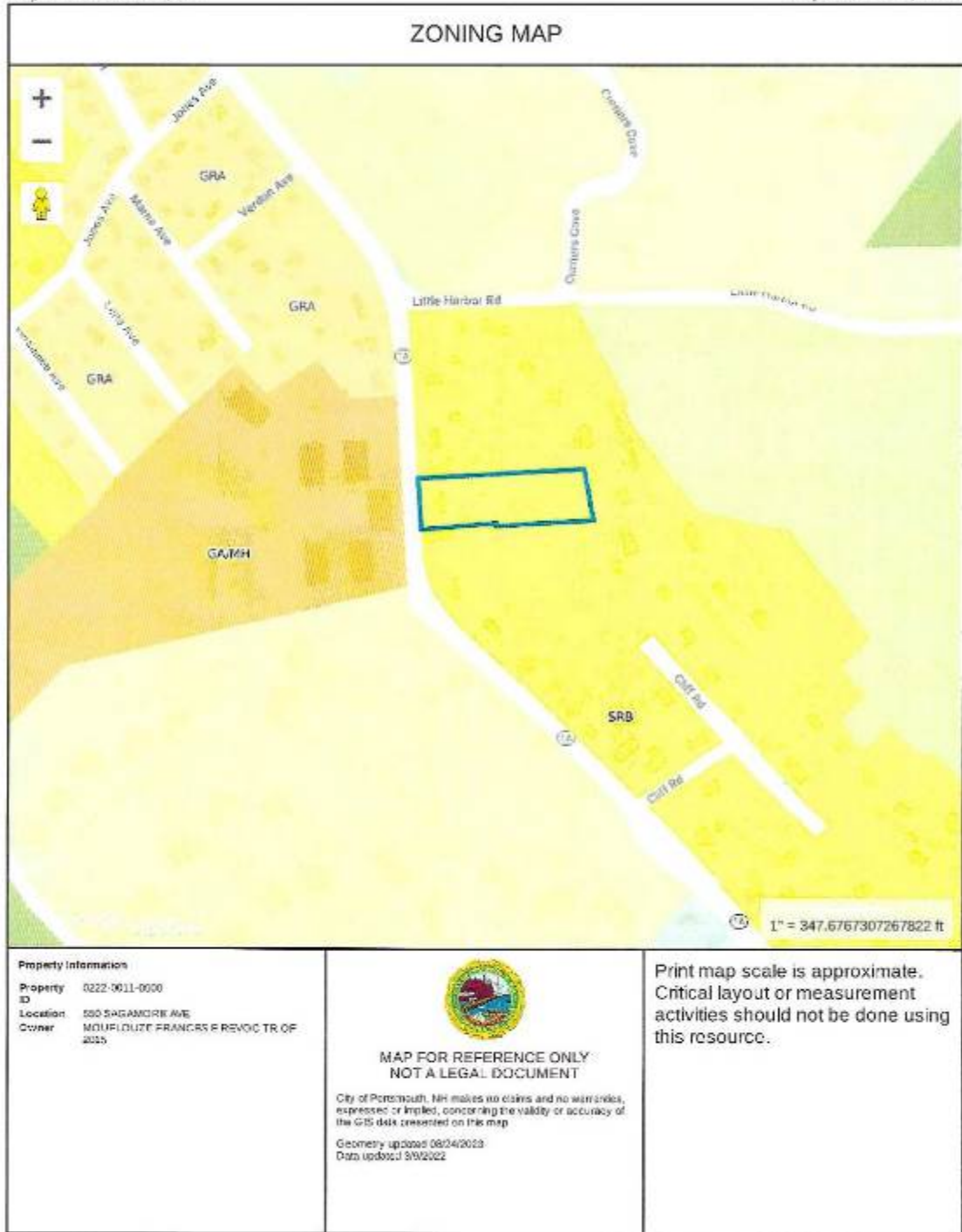
Print map scale is approximate.  
Critical layout or measurement activities should not be done using this resource.











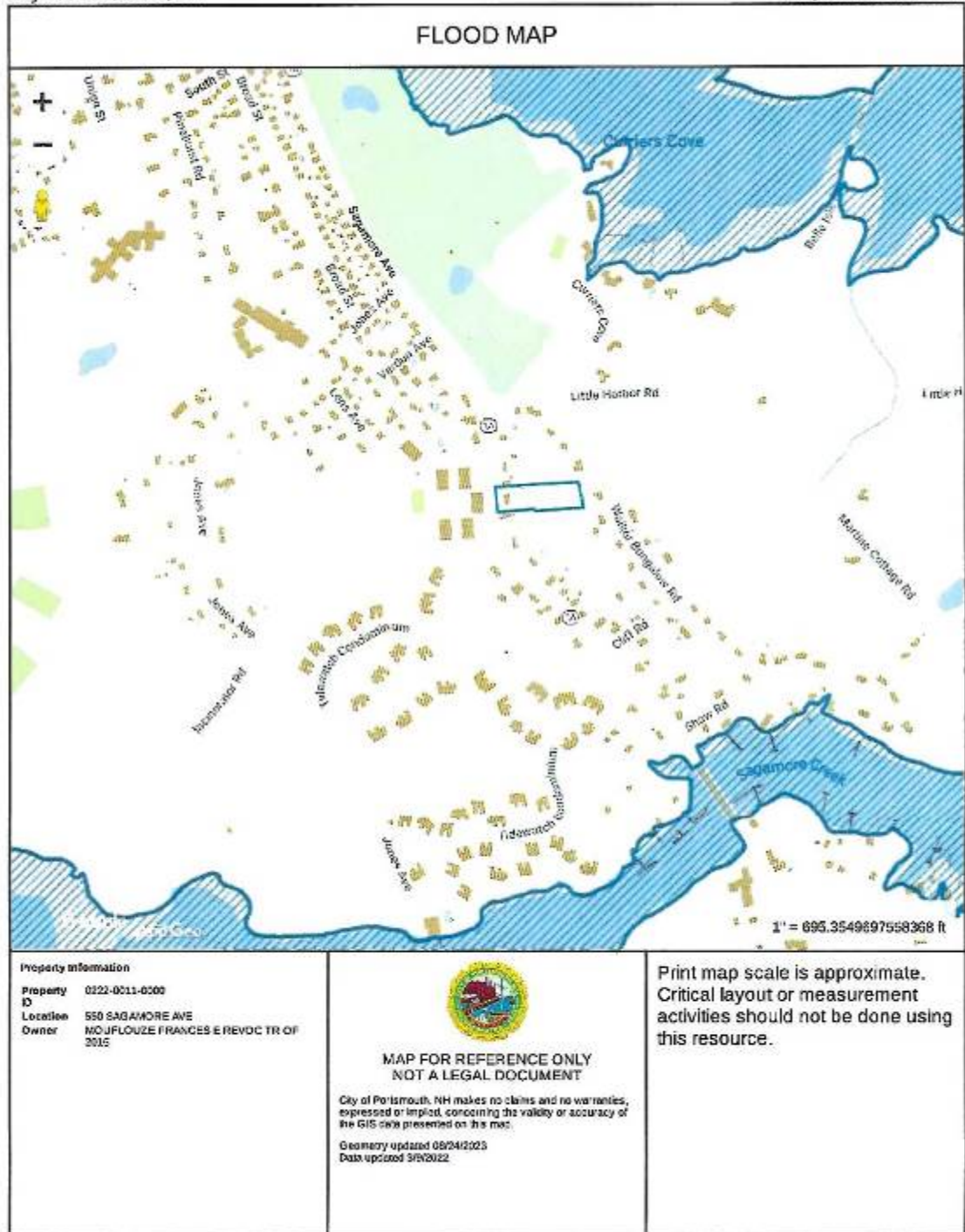
## Map Theme Legends

### Zoning

<b>Residential Districts</b>	
	R Rural
	SRA Single Residence A
	SRB Single Residence B
	GRA General Residence A
	GRB General Residence B
	GRC General Residence C
	GAM Garden Apartments/Mobile Home Park
<b>Mixed Residential Districts</b>	
	MRO Mixed Residential Office
	MRB Mixed Residential Business
	C1 Condominium/Condo
	G2 Gateway Center
<b>Business Districts</b>	
	GB General Business
	B Business
	NB Neighborhood Business
<b>Industrial Districts</b>	
	OR Office/Research
	I Industrial
	WI Waterfront Industrial
<b>Airport Districts</b>	
	AIR Airport
	AI Airport Industrial
	PI Peak Industrial
	ABC Airport Business/Commercial
<b>Conservation Districts</b>	
	M Municipal
	NRP National Resource Protection
<b>Character Districts</b>	
	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
<b>Civic District</b>	
	CIV Civic District
<b>Municipal District</b>	
	MUN Municipal District
<b>Overlay Districts</b>	
	CLOD Cooper Landing Overlay District
	DOW Downtown Overlay District
	HIS Historic District

City of Portsmouth





P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts

Use	R	SRA	GRA	GRC	GA/	MRD	CD4-	MRB	CD5	GB	G1	G2	CD4-	WB	OR	I	WI	Supplemental Regulations
		SRB	GRB	(A)	ME	L1		L2	CDM									
<b>I. Residential Uses</b>																		
1.10 Single family dwelling	P	P	P	P	N	P	P	P	N	N	P	P	N	N	N	N	N	
1.20 Accessory dwelling unit																		10.814 (Accessory Dwelling Units)
1.21 Attached accessory dwelling unit (AADU)	AP	AP	AP	AP	N	AP	AP	AP	CU	N	CU	CU	N	N	N	N	N	
1.211 Up to 750 sq. ft. GLA and entirely within an existing single-family dwelling																		
1.212 Up to 750 sq. ft. GLA and in an expansion of an existing single-family dwelling	CU	CU	CU	CU	N	CU	CU	CU	N	N	CU	CU	N	N	N	N	N	

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Use	R		SRA		GRA		GRC		GA/		MRO		CD4-		MRB		CD5		GB		G1		G2		CD4-		WB		OR		1		WT		Supplemental Regulations					
	SRB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB	GRB	ARB					
1.22 Detached accessory dwelling unit (DADU)	CU	CU	AP	AP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N			
1.221 Up to 600 sq. ft. GLA and entirely within an existing accessory building that conforms with the dimensional requirements of this Ordinance	CU	CU	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		
1.222 Up to 750 sq. ft. GLA and entirely within an existing accessory building that conforms with the dimensional requirements of this Ordinance.	CU	CU	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
1.223 Up to 600 sq. ft. GLA in an existing accessory building that does not conform with the dimensional requirements of this Ordinance or includes the expansion of the existing accessory building.	CU	CU	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
1.224 Up to 750 sq. ft. GLA on a lot and in a new building that complies with all lot and building dimensional standards of this Ordinance for a single-family dwelling.	CU	CU	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N



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Use	R		SRA		GRA		GRC		GA/		MRO		CD5		G1		G2		CD4-		WB		OR		1		W1		Supplemental Regulations	
	SRA	SRB	GRA	GRB	GA	GB	GC	GD	GE	GF	GH	GI	GJ	GK	GL	GM	GN	GO	GP	GQ	GR	GS	GT	GU	GV	GW	1	W1		
1.30 Two-family dwelling	N	N	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.640 (Downtown Overlay district)		
1.40 Townhouse	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.640 (Downtown Overlay district)		
1.50 Multifamily dwelling	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.5A32 (Charter district permitted uses)		
1.51 3 or 4 dwelling units	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.640 (Downtown Overlay district)		
1.52 5 to 8 dwelling units	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.813 (Multifamily Dwellings in the Business District)		
1.53 More than 8 dwelling units	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.640 (Downtown Overlay District)		
1.60 Conversion of a building existing on January 1, 1980, with less than the required minimum lot area per dwelling unit specified in Article 5	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.812 (Conversion of Existing Dwelling to Multifamily Dwelling)		
1.61 To 2 dwelling units	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N			
1.62 To 3 or 4 dwelling units	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N			
1.63 To 5 to 8 dwelling units	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N			
1.64 To more than 8 dwelling units	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N			
1.70 Live/work unit	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N			
1.80 Manufactured housing park	N	N	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	10.816 (Manufactured Housing Park Dimensional Standards)		
1.90 Planned unit development (PUD)	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.720 (Planned Unit Developments)		
1.91 Open space PUD	CU	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N			

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Use	R	SRA SRB	GRA GRB	GRC (A)	MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	CD4- WB W	OR	I	WI	Supplemental Regulations
1.92 Residential density incentive PUD	N	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>2. Institutional Residence or Care Facilities</b>																	
2.10 Assisted living facility	N	N	N	N	N	N	N	N	N	P	S	S	S	P	N	N	
2.11 Assisted living center	S	S	S	S	S	S	S	S	N	N	S	S	N	N	N	N	
2.12 Assisted living home	S	S	S	S	S	S	S	S	N	N	S	S	N	N	N	N	
2.20 Residential care facility	S	S	S	S	S	S	S	S	N	N	S	S	S	N	N	N	
2.21 5 or fewer residents	N	N	N	N	N	S	S	S	P	S	S	S	S	N	S	N	
2.22 More than 5 residents	N	N	N	N	N	S	S	S	P	S	S	S	S	N	S	N	
<b>3. Educational, Religious, Charitable, Cultural and Public Uses</b>																	
3.10 Place of assembly	S	S	S	N	N	S	S	S	S	S	S	S	S	S	N	N	
3.11 Religious	N	N	N	N	N	S	S	S	S	S	S	S	S	S	N	N	
3.12 Other nonprofit	N	N	N	N	N	S	S	S	S	S	S	S	S	S	N	N	
3.20 School	N	N	N	N	N	S	S	S	P	P	S	S	S	P	N	N	
3.21 Primary or secondary	N	N	N	N	N	S	S	S	P	P	S	S	S	P	N	N	
3.30 Post-secondary	N	N	N	N	N	S	S	S	P	P	S	S	S	P	N	N	

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Use	R		SRA		GRC		GA/		MH		MRO		CD4-		MRB		CD5		G1		G2		CD4-		WB		OR		I		WJ		Supplemental Regulations		
	S	N	S	R	S	R	S	A	S	R	G	A	M	H	L1	L2	L2	CD4	CD4	G1	G1	G2	G2	CD4	CD4	WB	WB	OR	OR	I	I	WJ	WJ		
3.30 Historic preservation building	S	N	S	R	S	R	S	A	S	R	G	A	M	H	L1	L2	CD4	CD4	G1	G1	G2	G2	CD4	CD4	WB	WB	OR	OR	I	I	WJ	WJ	10.821 (Historic Preservation Buildings and Museums)		
3.40 Museum	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.821 (Historic Preservation Buildings and Museums)		
3.50 Performance facility																																			
3.51 Indoor performance facility																																			
3.511 Occupancy up to 500 persons	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.592 (location)	
3.512 Occupancy more than 500	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.860 (hours of operation)	
3.52 Outdoor performance facility																																			
3.521 Occupancy up to 500 persons	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.822 (yards)	
3.522 Occupancy more than 500	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.860 (hours of operation)	
3.60 Cemetery	S	N	S	R	S	R	S	A	S	R	G	A	M	H	L1	L2	CD4	CD4	G1	G1	G2	G2	CD4	CD4	WB	WB	OR	OR	I	I	WJ	WJ			
3.70 Club, fraternal or service organization	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		
3.80 Municipally operated park and related activities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	For other municipal uses see Section 10.460 (Municipal districts)	
<b>4. Recreational Uses</b>																																			
4.10 Religious, sectarian or private non-profit recreational use	N	S	N	N	N	N	N	N	N	N	S	S	N	S	S	N	S	S	N	S	S	N	S	S	N	S	S	N	S	S	N	S	N		
4.20 Casino or similar indoor amusement use with no live performance	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.825 (misc) 10.860 (hours of operation)	

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Use	R	SRA SRB	GRA GRB	CRC (A)	GA/ MIT	MRD CD4- L1	CD4- L2	M3B	CD5 CD4	GB	G1	G2	CD4- W	WB	OR	I	WI	Supplemental Regulations
4.30 Indoor recreation use, such as bowling alley or arcade	N	N	N	N	N	N	N	N	P	P	S	S	P	N	N	N	N	10.825 (noise) 10.860 (hours of operation)
4.40 Health club, yoga studio, martial arts school, or similar use	N	N	N	N	N	S	S	P	P	P	P	P	P	N	N	S	N	
4.41 Up to 2,000 sq. ft. GFA*	N	N	N	N	N	N	N	N	S	P	S	S	S	N	N	S	N	
4.42 More than 2,000 sq. ft. GFA	N	N	N	N	N	N	N	N	N	S	P	P	P	N	N	N	N	10.592 (location) 10.860 (hours of operation)
4.50 Outdoor recreation use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
4.60 Amusement park, water park or theme park	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>S. Office Uses, Non-Medical</b>																		
5.10 Professional office	N	N	N	N	N	P	P	S	P	P	P	P	P	P	P	P	N	10.833 (Mixed Residential districts)
5.20 Business office (incl. real estate office)	N	N	N	N	N	P	P	P	P	P	P	P	P	P	P	P	N	10.833 (Mixed Residential districts)
5.30 Financial Institution																		
5.31 Financial services office	N	N	N	N	N	P	P	P	P	P	P	P	P	P	P	P	N	
5.32 Retail bank	N	N	N	N	N	N	S	P	P	P	P	P	P	P	P	S	N	
5.40 Social service campus																		
5.41 Nonresidential	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.823

\*GFA = gross floor area.

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Use	R	SEA	GRA	CIRC	GAJ	MRO	CD4-	MRB	CD4	GB	G1	G2	CD4-	WB	OR	I	W1	Supplemental Regulations	
		SRB	CRB	(A)	MH	L1	L2						W						
5.42 Residential	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N		
5.50 Media studio	N	N	N	N	N	S	S	S	P	P	S	S	P	N	N	P	N		
5.51 Excluding any transmitting antennas tower	N	N	N	N	N	N	N	N	N	S	N	N	S	N	N	S	N	10.834	
5.52 Including accessory transmitting antennas tower	N	N	N	N	N	S	S	S	P	P	P	P	P	N	P	P	N		
5.60 Publishing facility or similar electronic production operation	N	N	N	N	N	N	N	N	N	P	N	N	N	N	N	S	N		
5.70 Call Center	N	N	N	N	N	N	N	N	N	P	N	N	N	N	N	S	N		
<b>6. Medical Services and Health Care</b>																			
6.10 Hospital	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N		
6.20 Medical offices and clinics (outpatient only)	N	N	N	N	N	S	S	S	P	P	P	P	P	P	P	N	N		
6.30 Clinics with inpatient care	N	N	N	N	N	N	N	N	N	S	S	N	S	N	S	N	N		
6.40 Ambulatory surgical center	N	N	N	N	N	N	N	N	N	S	S	N	S	N	S	N	N		
6.50 Substance abuse treatment facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		
6.60 Psychiatric hospital for the criminally insane	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		
<b>7. Services, Other Than Health Care</b>																			
7.10 Day Care																			

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Use	SRA		GRA		GRC		GA/		MRO		CD4- MIB		CD5		GB		GI		G2		CD4- WB		OR		1		WT		Supplemental Regulations	
	R	SRB	GRB	(A)	MH	LI	CD4- L2	CD4- MIB	CD5	GB	GI	G2	CD4- W	WB	OR	1	WT													
7.70 Underlying establishment, funeral parlor or mortuary chapel, excluding crematorium	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		
<b>8. Retail Trade</b>																														
<b>8.10 Convenience goods</b>																														
<b>8.11 Convenience goods 1</b>																														
8.111 Hours of operation between 6:00 AM and 11:00 PM	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
8.112 24 hours per day operation	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>8.12 Convenience goods 2</b>																														
8.121 Hours of operation between 6:00 AM and 11:00 PM	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
8.122 24 hours per day operation	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>8.30 Retail sales conducted within a building</b>																														
8.31 Not marine-related	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
8.32 Marine-related	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>8.40 Shopping center</b>																														
<b>8.50 Retail sales, large format</b>																														
<b>8.60 Fish market</b>																														
	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10,860 (hours of operation)

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Use	R	SRA SRB	GRA GRB	G/A (A) MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	GI	G2	B CD4- W	WB OR W	I	WI	Supplemental Regulations
8.70 Manufacture of goods sold at retail on the premises, such as crafts, coffee roasting and bakery goods	N	N	N	N	N	S	S	P	P	P	P	P	N	N	N	Maximum of 5 persons employed in manufacture
8.80 Sexually oriented business	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	10.930 (Sexually Oriented Businesses)
<b>9. Eating and Drinking Places</b>																
<b>9.10 Nightclub or bar</b>																
9.11 Occupant load less than 250	N	N	N	N	N	N	N	P	P	P	S	N	N	N	N	10.590 (location)
9.12 Occupant load from 250 to 500	N	N	N	N	N	N	N	S	S	S	S	N	N	N	N	
9.13 Occupant load greater than 500	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>9.20 Restaurant, take-out only</b>																
<b>9.30 Restaurant, fast food</b>																
9.40 Restaurant, place of public assembly or function room	N	N	N	N	N	N	N	P	P	P	P	P	N	N	N	
9.41 Occupant load less than 50	N	N	N	N	N	P	N	P	P	P	P	P	N	N	N	
9.42 Occupant load from 50 to 250	N	N	N	N	N	N	N	P	P	P	S	S	N	N	N	
9.43 Occupant load from 250 to 500	N	N	N	N	N	N	N	P	S	S	S	S	N	N	N	
9.44 Occupant load greater than 500	N	N	N	N	N	N	N	S	S	N	N	N	N	N	N	
9.50 Permanently moored vessel used as restaurant or bar, with occupant load less than 250	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.590 (location) 10.860 (hours of operation)

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Use	R	SRA	GRA	GRC	GA/	MRO	CD4-	MRB	CD5	GB	G1	G2	B	CD4-	WB	OR	I	WI	Supplemental Regulations
		SRB	GRB	(A)	MH	LI	L1	L2	CD4				W						
<b>10. Lodging Establishments</b>																			
10.10 Boarding house	N	N	N	N	N	N	N	N	N	S	S	N	S	N	N	N	N	N	
10.20 Bed and breakfast	N	N	S	N	N	S	S	P	P	N	S	S	P	N	N	N	N	N	
10.21 Bed and Breakfast 1	N	N	N	N	N	S	S	P	P	N	S	S	P	N	N	N	N	N	
10.22 Bed and Breakfast 2	N	N	N	N	N	S	S	P	P	N	S	S	P	N	N	N	N	N	
10.30 Inn	N	N	N	N	N	N	S	S	P	P	S	S	P	N	N	N	N	N	
10.40 Hotel or motel	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	P	N	N	10.836 (Office Research districts)
10.41 Up to 125 rooms	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	P	N	N	
10.42 126 to 250 rooms	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	S	N	N	
10.42 251 to 500 rooms	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	N	N	N	
10.43 More than 500 rooms	N	N	N	N	N	N	N	N	P	S	S	S	N	N	N	N	N	N	
10.50 Conference hotel	N	N	N	N	N	N	N	N	P	P	S	N	N	N	N	N	N	N	
10.60 Conference center	N	N	N	N	N	N	N	N	P	P	S	N	N	N	N	N	N	N	
<b>11. Motor Vehicle-Related Uses</b>																			
11.10 Sales, renting or leasing of passenger cars and light trucks, motorcycles, tractors, snowmobiles and small power equipment (e.g., lawnmowers), including necessary repair services	N	N	N	N	N	N	N	N	N	P	S	N	S	N	S	N	N	N	10.592 (location) 10.843 (motor vehicle related uses)

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Use	R	SR	RA	GRC	GA	MIRG	CD4-	MRB	CD5	GB	G1	G2	CD4-	WB	OR	J	WI	Supplemental Regulations
	SRB	CIRB	(A)	MH	LI	CD4-	L2	CDN	CDN				W					
11.20 Motor vehicle service station, motor vehicle repair or washing facility for passenger cars and light trucks	N	N	N	N	N	N	N	N	N	S	S	S	N	S	N	S	N	10.581 (or area) 10.592 (location) 10.843 (motor vehicle related uses)
11.30 Sales, rental, leasing, distribution, and repair of trucks over 10,000 lb gross vehicle weight (GVW), recreational vehicles, marine craft or manufactured housing, and related equipment	N	N	N	N	N	N	N	N	N	S	S	S	N	S	N	S	N	10.581 (or area) 10.592 (location) 10.843 (motor vehicle related uses)
11.40 Impound lot (principal or accessory use)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
11.50 Truck fueling facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.581 (or area) 10.592 (location) 10.843 (motor vehicle related uses)
11.60 Truck terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.581 (or area) 10.592 (location) 10.843 (motor vehicle related uses)
<b>12. Marine Craft Related Uses</b>																		
12.10 Boat landings, boat docks, boatbuses and associated marine uses																		
12.11 Non-commercial	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N	
12.12 Fishing boat landing 1	N	S	S	N	N	N	N	N	P	P	N	N	N	N	P	N	N	0.837.10 (Residential districts)
12.13 Fishing boat landing 2	N	N	N	N	N	N	N	N	N	S	N	N	N	N	S	N	N	
12.20 Marinas																		

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Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MEH	MRD CD4- L1	CD4- L2	MRB	CD5 CD4	GB	GI	G2	B CD4- W	WB	OR	I	WI	Supplemental Regulations
12.21 With no repair, servicing or fueling facilities.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
12.22 With repair, servicing or fueling facilities.	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	N	N	10.581 (lot area) 10.592 (location) 10.860 (hours of operation)
12.30 Repair of commercial marine craft and marine-related structures.	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	S	P	10.581 (lot area) 10.592 (location) 10.860 (hours of operation)
12.40 Landside support facility for commercial passenger vessel	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	N	P	
<b>13. Wholesale Trade, Warehousing and Distribution</b>																		
<b>13.10 Wholesale use</b>																		
13.11 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
13.12 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	
13.20 Wholesale sales devoted to, and in the same establishment as, a permitted retail use																		
13.21 Occupying up to 20% of gross floor area of establishment	N	N	N	N	N	N	N	N	P	P	S	N	P	N	N	N	N	

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Use	R	SRA	GRA	GRC	GA/	MRO	CD4-	CD4-	CD4-	CD5	GB	G1	G2	CD4-	WB	OR	I	WI	Supplemental Regulations
		SRB	GRB	(A)	MH	L1	L2	L3	MIK	CTM				W					
13.22 Occupying 21% to 40% of gross floor area of establishment	N	N	N	N	N	N	N	N	N	N	P	N	N	P	N	N	N	N	
13.30 Wholesale lumber yards, lumber and contractor sales																			
13.31 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N
13.32 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	S
13.40 Warehousing or distribution of non-flammable, non-hazardous materials, not classified as a high hazard use																			
13.41 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N
13.42 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	P
<b>14. Industrial Uses</b>																			
<b>14.10 Light Industry</b>																			
14.11 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	S	S	S	N	N	N	N	P	N
14.12 Marine-dependent	N	N	N	N	N	N	N	N	N	N	S	S	N	N	N	N	N	P	P
<b>14.20 Research and development</b>																			
14.21 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	S	S	S	N	S	N	S	P	N
14.22 Marine-dependent	N	N	N	N	N	N	N	N	N	N	S	S	N	S	P	S	P	P	P

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Use	R	SRA	GRA	GRC	GA/	MRO	CDM-	MIRB	CD5	GB	G1	G2	CD4-	WB	OR	I	W1	Supplemental Regulations
		SRB	GRB	(A)	MH	L1	L2	CD4-	CD4				W					
<b>14.30 Food processing</b>																		
14.31 Not including seafood processing	N	N	N	N	N	N	N	N	N	P	S	N	N	N	N	P	P	10.592 (location) 10.851 (use contained in building)
14.32 Including seafood processing	N	N	N	N	N	N	N	N	N	S	N	N	N	N	N	S	S	
<b>14.40 Electronics manufacturing</b>																		
14.40 Electronics manufacturing	N	N	N	N	N	N	N	N	N	S	S	N	S	N	N	P	N	
<b>14.50 General manufacturing</b>																		
14.51 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	S	S	N	N	N	P	N	
14.52 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P	P	S	
<b>14.60 Biological or chemical laboratory</b>																		
14.61 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	
14.62 Marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	S	
<b>14.70 Recycling facility or recycling plant</b>																		
14.70 Recycling facility or recycling plant	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.592 (location) 10.853
<b>14.80 High hazard use, including other uses listed in this section but not including uses described in 14.90</b>																		
14.80 High hazard use, including other uses listed in this section but not including uses described in 14.90	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	10.593 (location)

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Use	R		SRA		GRA		GRC		GA/		MRO		CD4-		CD4-		CD4-		WB		OR		I		WI		Supplemental Regulations		
	SRB	GRB	GRB	(A)	MH	LI	CD4-	L2	MEB	CD4	CD5	GB	G1	G2	CD4-	WB	OR	W	OR	OR	OR	OR	OR	OR	OR	OR	OR	OR	
14.00 Storage (other than normal accessory use), processing, disposal, or transfer of petroleum, petrochemicals, natural gas and liquid petroleum products, coal, alcohol, wood pulp, solid or liquid waste, junk or hazardous waste as classified by Federal or State law	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>15. Transportation and Utilities</b>																													
15.10 Public or private transformer station, substation, pumping station or automatic telephone exchange, not including any business office, storage yard or storage building																													
15.11 Essential to service the area in which it is located	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
15.12 Providing community-wide or regional service	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>15.20 Heliport or helipad</b>																													
15.21 Helipad, as an accessory use to a permitted hospital use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
15.22 Heliport	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N



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Use	R		SIA		GRA		GRC		GA/		MRD		CD4-		CD4-		CD4-		B		CD4-		WB		OR		I		WI		Supplemental Regulations	
	S	P	SIA	GRB	GRA	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	GRB	
<b>17. Agricultural Uses</b>																																
17.10 Farms, not including the keeping of farm animals	P	P	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
17.20 Keeping of farm animals	S	S	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>18. Temporary Uses</b>																																
18.10 Construction trailer	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
18.20 Temporary structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
18.21 Up to 30 days	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
18.22 31 to 90 days	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
18.23 91 to 180 days	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
18.24 More than 180 days	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
18.30 Manufactured housing not on a foundation, or temporary replacement housing for a dwelling on the same lot destroyed by natural causes, provided that there is an active building permit for rebuilding the destroyed dwelling	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
18.31 Up to 180 days	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
18.32 More than 180 days	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	



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Use	SRA		GRA		GRC		GA/		MRO		CD5		B		CD4-		WB	OR	I	WI	Supplemental Regulations
	R	SRB	GRB	ARB	GRB	ARB	GA	MA	CD4-	L1	CD4-	L2	MRB	CD4-	L1	G1					
18.40 Carts or trailers, including outdoor display area, used for the seasonal sale of dry goods, Christmas trees, flowers, fruits, vegetables, seasonal products and prepared food	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P
<b>19. Accessory Uses</b>																					
19.10 Accessory use to a permitted principal use, but not including any outdoor storage	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	10.811 (residential accessory uses)
19.20 Home occupation																					
19.21 Home occupation 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	N	N
19.22 Home occupation 2	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	N	N
19.30 Concessions and services located within the principal building	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	P
19.40 Drive-through facility, as accessory use to a permitted principal use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	10.835 (necessary drive-through uses)
19.50 Outdoor dining or drinking area, as accessory use to a permitted principal use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
<b>20. Accessory Storage</b>																					
20.10 Indoor storage of motor vehicles or boats as an accessory use	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

As Amended Through August 7, 2023



P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

Use	R		SKA		GRA		GRC		GA/		MRO		CD4-		MRB		CD4-		CDS		GB		G1		G2		CD4-		WB		OR		I		W1		Supplemental Regulations		
	SRB	GRB	(A)	MH	CD4-	L1	CD4-	L2	CD4-	L2	CD4-	L1	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	CD4-	L2	
20.60 Outdoor storage of machinery, equipment and vehicles	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
20.61 Not marine-dependent	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
20.62 Marine-dependent (other than allowed by 20.30 or 20.40 above)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

Section 10.520 Residential and Mixed Residential Districts

10.521 Table of Dimensional Standards – Residential and Mixed Residential Districts<sup>1</sup>

	R	SRA	SRB	GRA	GRB	GRC	GA/MH	MRO	MRB
Minimum Lot Dimensions									
<b>Lot area</b>	5 acres	1 acre	15,000 sf	7,500 sf	5,000 sf	3,500 sf	5 acres	7,500 sf	7,500 sf
<b>Lot area per dwelling unit</b>	5 acres	1 acre	15,000 sf	7,500 sf	5,000 sf	3,500 sf	10,000 sf	7,500 sf	7,500 sf
<b>Continuous street frontage</b>	NA	150'	100'	100'	80'	70'	N/A	100'	100'
<b>Depth</b>	NA	200'	100'	70'	60'	50'	N/A	80'	80'
Minimum Yard Dimensions									
<b>Front</b>	50'	30'	30' <sup>2</sup>	15'	5'	5'	30' <sup>2,4</sup>	5'	5' <sup>2</sup>
<b>Side</b>	20'	20'	10'	10'	10'	10'	25'	10'	10'
<b>Rear</b>	40'	40'	30'	20'	25'	20'	25'	15'	15'
Maximum Structure Dimensions									
<b>Structure height</b>									
<b>Sloped roof</b>	35'	35'	35'	35'	35'	35' <sup>3</sup>	35' <sup>3,4</sup>	40'	40'
<b>Flat roof</b>	35'	30'	30'	30'	30'	30'	35' <sup>3,4</sup>	30'	30'
<b>Roof appurtenance height</b>	8'	8'	8'	8'	8'	8'	8'	10'	10'
<b>Building coverage</b>	5%	10%	20%	25%	30%	35%	20% <sup>4</sup>	40%	40%
<b>Minimum open space</b>	75%	50%	40%	30%	25%	20%	50%	25%	25%

Notes:  
 1. See Article 5A and Article 5B for dimensional standards in Character and Gateway Neighborhood Mixed Use Districts.  
 2. See Section 10.533 for special front yard requirements on Lafayette Road.  
 3. Within the General Residence C and Garden Apartment/Mobile Home Park districts an additional 8' of height may be added to the maximum structure height in order to provide for multifamily dwellings that include vehicular parking spaces located within the residential building itself, if the additional height results in increased open space when compared to a site plan showing what open spaces would remain if required parking spaces were located in the open and in accessory structures.  
 4. See Section 10.816 for requirements within a manufactured housing park.

NA = Not Applicable NR = No Requirement



10.522 Multifamily Dwellings

The maximum **building length** of a **multifamily dwelling** shall not exceed 160 feet.

Section 10.530 Business and Industrial Districts

10.531 Table of Dimensional Standards – Business and Industrial Districts<sup>1</sup>

	B	GB	WB	I	WI	OR
Minimum Lot Dimensions						
<b>Lot Area</b>	20,000 sf	43,560 sf	20,000 sf	2 acres	2 acres	3 acres <sup>2</sup>
<b>Lot Area per dwelling unit</b>	2,500 sf	NR	NR	N/A	N/A	N/A
<b>Continuous street frontage</b>	100'	200'	100'	200'	200'	300' <sup>2</sup>
<b>Depth</b>	80'	100'	100'	200'	200'	300' <sup>2</sup>
Minimum Yard Dimensions						
<b>Front</b>	20'	30'	30'	70'	70'	50' <sup>2</sup>
<b>Side</b>	15'	30'	30'	50'	50'	75' <sup>2</sup>
<b>Rear</b>	15'	50'	20'	50'	50'	50'
Maximum Structure Dimensions						
<b>Structure height</b>	50'	60'	35'	70' <sup>3</sup>	70' <sup>3</sup>	60' <sup>3</sup>
<b>Roof appurtenance height</b>	10'	10'	10'	10'	10'	10'
<b>Building coverage</b>	35%	30%	30%	50%	50%	30%
<b>Floor Area Ratio</b>	NR	NR	NR	NR	NR	NR
<b>Minimum open space</b>	15%	20%	20%	20%	20%	30%

Notes:  
 1. See Article 5A and Article 5B for dimensional standards in Character and Gateway Neighborhood Mixed Use Districts.  
 2. See Section 10.532.10 for requirements for lots adjacent to North Mill Pond.  
 3. See Section 10.532.20 for reduced structure height within 200' of North Mill Pond or Piscataqua River.  
 N/A – Not Applicable NR = No Requirement











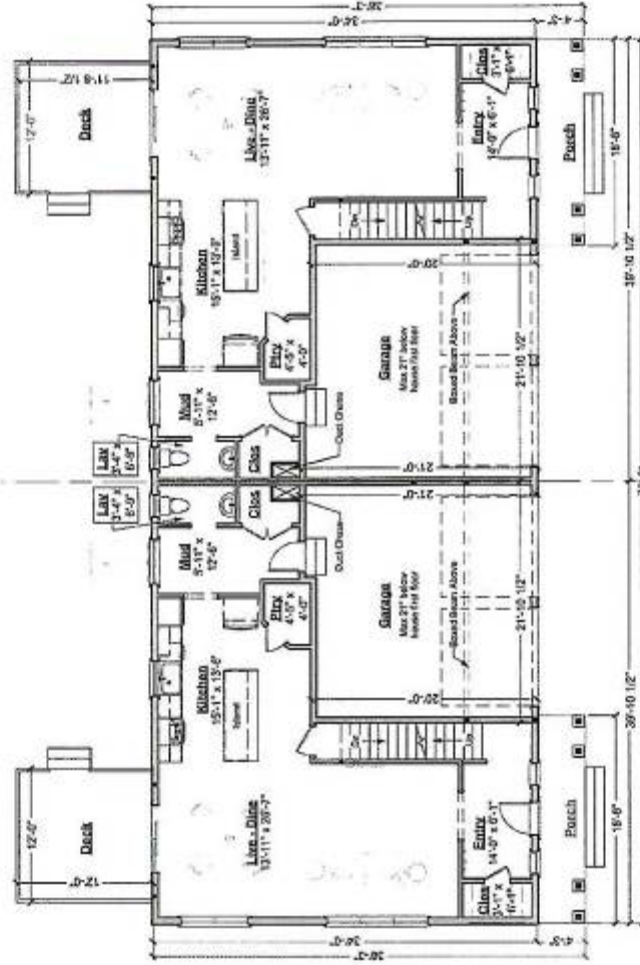
**Sweet Peekaboo Duplex**  
418.224 (08/2023)

NOTE: To scale as noted only if printed on 11x17 paper with no scaling (as not "fit").

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Art Form Architecture, LLC  
603-431-8550



Living Area: 13'-11" x 28'-7"  
 Typical - 529 sq ft per unit (to the outside face of framing, for comparison to similar single family)  
 Condo - 863 sq ft per unit (to the inside face of framing, usual Condo measurement)  
 8 ft Ceilings

**First Floor Plan**  
Scale: 1/8" = 1'-0"

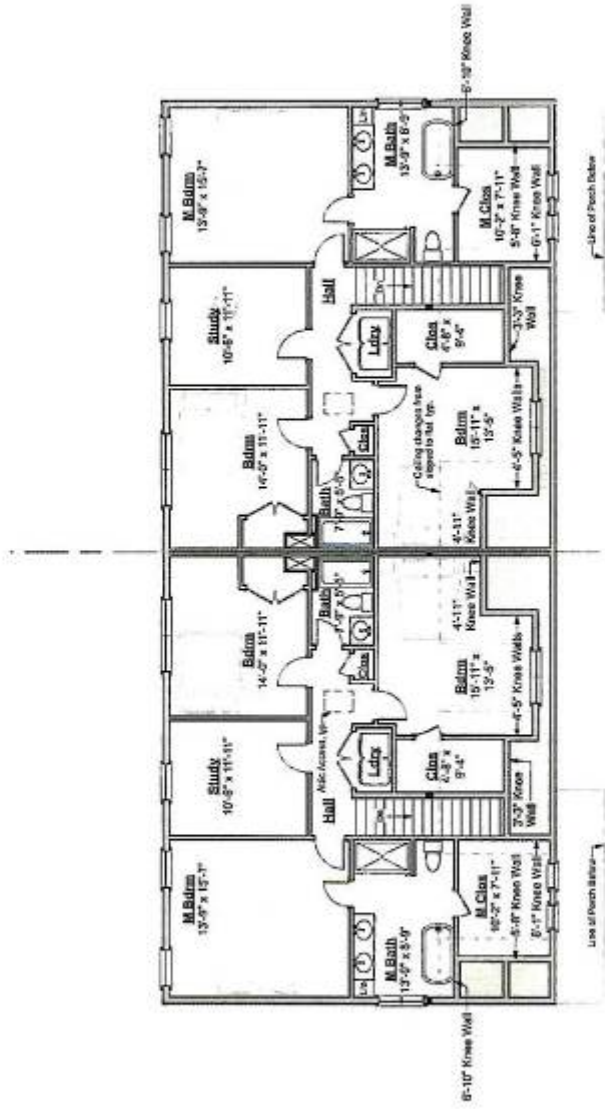
**Sweet Peekaboo Duplex**  
418.224 (8/8/2023)

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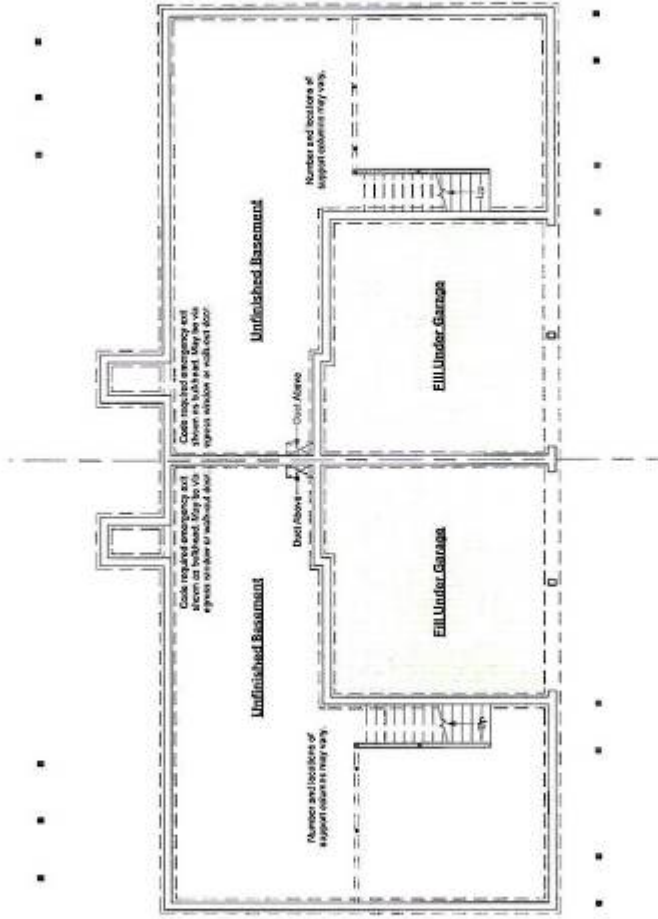
603-631-6039



**Living Area this Floor:**  
Typical - 1244 sq ft per unit (to this outside face of framing, for comparison to similar single family)  
Condo - 1178 sq ft per unit (to the inside face of framing, usual Condo convention)  
8 ft Ceilings

**Second Floor Plan**  
Scale: 1/8" = 1'-0"





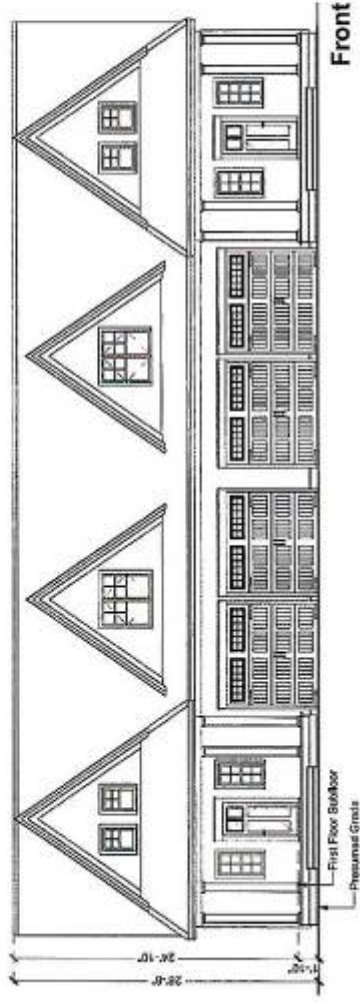
**Foundation Plan**  
Scale: 1/8" = 1'-0"

**Sweet Peekaboo Duplex**  
418.224 (08/2023)

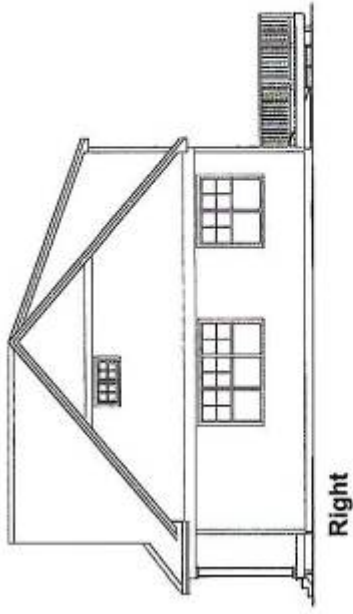
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**Front**



**Right**

**Elevations**  
Scale: 1/8" = 1'-0"

**Sweet Peekaboo Duplex**  
4.18.224 (8/9/2023)

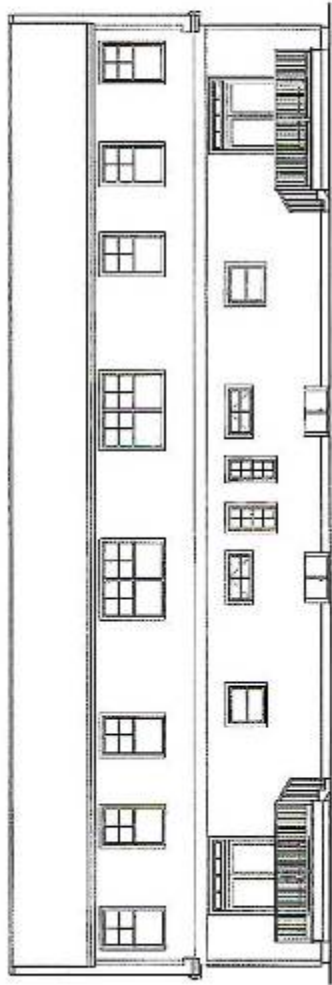
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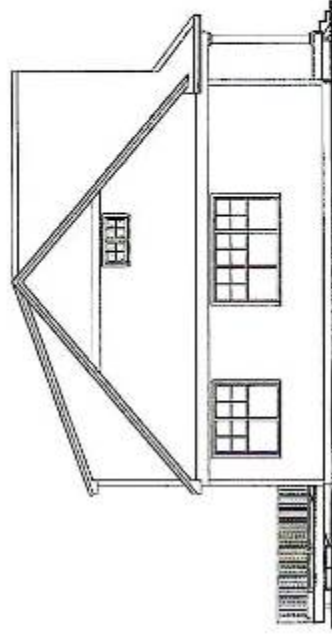


Art Farm Architecture, LLC

603-437-8559



Rear



Left

**Elevations**  
Scale: 1/8" = 1'-0"

**Sweet Peekaboo Duplex**  
41B.224 (6/8/2023)

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Art Farm Architecture, LLC

603-431-6689



**Interior Views - First Floor**  
Left Side Unit (Right Side Unit is Mirror Image)



**Sweet Peekaboo Duplex**  
418.224 (6/8/2023)

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603-431-9569



**Interior Views - Second Floor**  
Left Side Unit (Right Side Unit is Mirror Image)



## CERTIFICATION

I do hereby certify that, except as otherwise noted in this report:

1. the statements of fact contained in this report are true and correct;
2. the reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, unbiased professional analyses, opinions and conclusions;
3. I have no present or prospective interest in the property which is the subject of this report and I have no personal interest or bias with respect to the parties involved;
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment;
5. my engagement in this assignment was not contingent upon developing or reporting predetermined results;
6. my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal;
7. my analysis, opinions, and conclusions, were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice;
8. Brian W. White, MAI, SRA a made a personal inspection of the property that is the subject of this report;
9. no one has provided significant real property appraisal assistance to the persons signing this certification;
10. I have prepared no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment;
11. the reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute;
12. the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives;
13. as of the date of this report, Brian W. White, MAI, SRA, has completed the continuing education program for Designated Members of the Appraisal Institute.

Respectively submitted,

A handwritten signature in black ink, appearing to read "Brian W. White".

**Brian W. White, MAI, SRA NHC#52**

## Qualifications of the Appraiser

Brian W. White, MAI, SRA

### ***Professional Designations:***

Member, Appraisal Institute (**MAI**) – Awarded by the Appraisal Institute. MAI #9104  
Senior Residential Appraiser (**SRA**)

### ***Employment:***

1989 to Present      White Appraisal – Dover, NH  
President – Senior Appraiser  
Owner of White Appraisal, a commercial and residential  
real estate appraisal firm. Complete appraisals on all  
types of commercial and residential properties.  
Consulting.

1988                  Finlay Appraisal Services – Portsmouth, NH  
Senior Vice President/Chief Operations Officer  
Oversaw the operation of four appraisal offices. Completed commercial  
and residential appraisals on all types of properties.

1985                  Finlay Appraisal Services – Portsmouth, NH  
and Appraisal Services Manager – South Portland, ME. Completed  
commercial and residential appraisals on all types of properties.

### ***Education:***

Mitchell College  
Associate of Arts, Liberal Studies

University of Southern Maine  
Bachelors of Science, Business Administration  
Bus 022 Real Estate Law  
Bus 023 Real Estate Practice  
Bus 025 Real Estate Valuation

American Institute of Real Estate Appraisers  
1A-1 Real Estate Appraisal Principles  
1A-2 Basic Valuation Procedures  
1B-A Cap. Theory and Technique (A)  
1B-B Cap. Theory and Technique (B)  
2-3 Standards of Pro. Practice  
2-4 Exam #7 Industrial Valuation

Society of Real Estate Appraisers  
101 Intro. To Appraising Real Property  
102 Applied Residential Property Valuation  
201 Prin. Of Income Property Appraising  
202 Applied Income Property Valuation

Recent Appraisal Institute Classes:  
Introduction to Appraising Green Buildings – 2011  
USPAP Update - 2013  
USPAP Update - 2015  
Introduction to Land Valuation - 2016  
USPAP Update- 2017

**Education** (Continued):

USPAP Update- 2019  
Business Practices & Ethics- 2021  
USPAP 2022/2023 Update- 2021

**Recent Seminars:**

Appraising Energy Efficient Residential Properties – 2018  
Commercial Real Estate Roundtable – 2019  
Appraiser Essentials with CRS and Green Fields – 2019  
Land Development & Residential Building Costs – 2019  
Myths in Appraiser Liability – 2019  
Appraising in Uncertain Times – 2019  
Market Trends in NH Real Estate – 2020  
Appraising Commercial Properties during a Pandemic – 2020  
Defining the Appraisal Problem: Sleuthing for the Approaches to Value- 2021  
Forest Valuation- 2021  
Appraiser Essentials Paragon MLS- 2021  
Residential Building Systems- 2021  
2021-2022 NH Market Insights- 2021  
Implications for Appraisers of Conservation Easement Appraisals- 2022  
NH's Housing Market & Covid: What a Long, Strange Road It's Been!- 2022  
Current Residential & Commercial Valuation Concerns- 2022  
Commercial Real Estate Markets in Turbulent Times- 2023  
NH in a Time of Virus: Are We in Recovery? An Economist's View- 2023  
Dealing with Atypical Properties or Assignment Conditions- 2023

**Appointments:**

Board of Directors – New Hampshire Chapter of the Appraisal  
Institute - 1991 to 1993; 2000 to 2010 and 2015-2018  
Vice President - New Hampshire Chapter of the Appraisal Institute – 2011-2012 & 2019  
President – New Hampshire Chapter of the Appraisal Institute – 2013 & 2014

**Experience:**

Review Chairperson – New Hampshire Chapter of the Appraisal  
Institute – 1994 to 2010

**Licenses:**

N.H. Certified General Appraiser #NHCG -52, Expires 4/30/2025

**Partial List of Clients:**

**Banks:**

Androscoggin Bank  
Granite Bank  
Federal Savings Bank  
Sovereign Bank  
Eastern Bank  
Century Bank  
TD Bank  
Kennebunk Savings Bank  
Northeast Federal Credit Union  
Profile Bank  
Peoples United Bank  
Key Bank  
Optima Bank and Trust  
Provident Bank

**Attorneys:**

John Colliander  
Karyn Forbes  
Michael Donahue  
Richard Krans  
Simone Massy  
Samuel Reid  
Daniel Schwartz  
Robert Shaines  
William Shaheen  
Steve Soloman  
Gerald Giles  
Ralph Woodman  
Gayle Braley  
Fred Forman

**Others:**

City of Dover  
Town of Durham  
University of New Hampshire  
Wentworth-Douglass  
The Homemakers  
Strafford Health Alliance  
Goss International  
Chad Kageleiry  
Gary Levy  
Stan Robbins  
Daniel Philbrick  
Keith Frizzell  
Chuck Cressy  
John Proulx



# State of New Hampshire



Real Estate Appraisers Board

*Authorized as*  
Certified General Appraiser

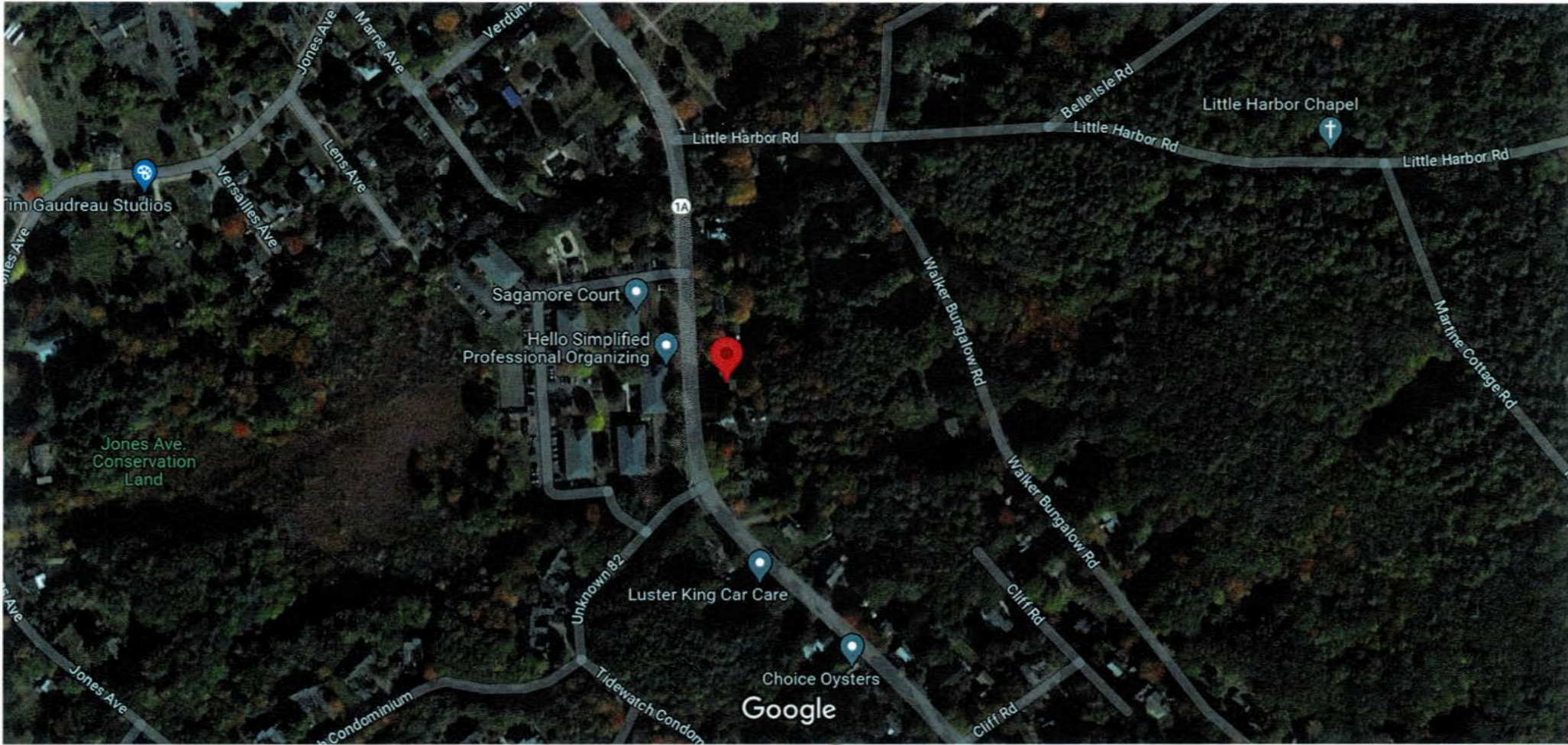
*Issued To*  
BRIAN W WHITE

License Number: NHCG-52

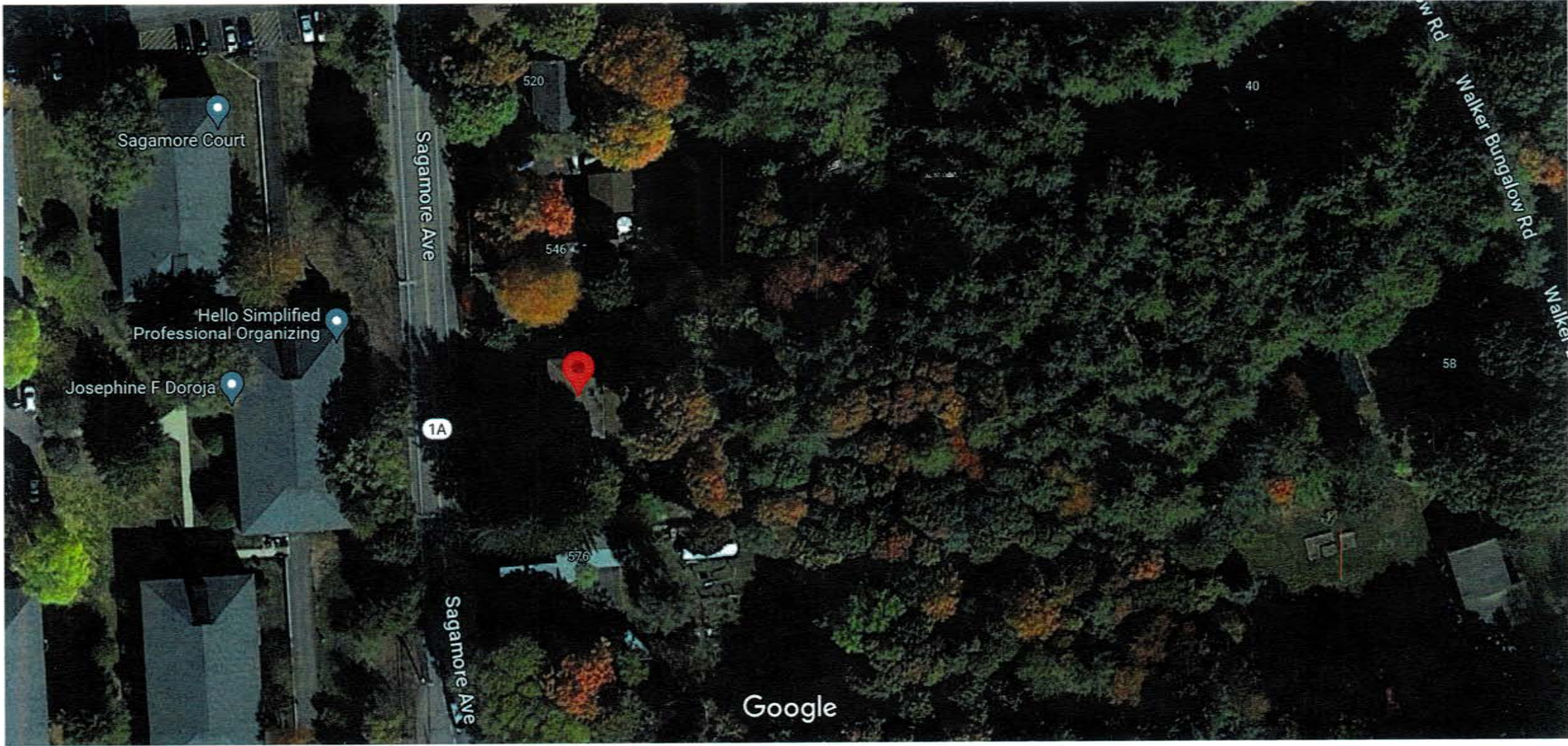
Active

Issue Date: 01/01/1992

Expiration Date: 04/30/2025

























Property Location 550 SAGAMORE AVE  
 Vision ID 29608 Account # 29608

Map ID 0222/ 0011/ 0000/ /  
 Bldg # 1

Bldg Name  
 Sec # 1 of 1 Card # 1 of 1

State Use 1010  
 Print Date 10/31/2022 1:08:43 P

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT		
MOUFLOUZE FRANCES E REVOC T MOUFLOUZE F ALEX T CAMERON P 550 SAGAMORE AVE PORTSMOUTH NH 03801	1 Level	0	All Public	1	Paved	Description	Code	Assessed
	8 Landscaped					RESIDNTL	1010	175,000
						RES LAND	1010	270,100
						RESIDNTL	1010	300
<b>SUPPLEMENTAL DATA</b>						Total	445,400	445,400
Alt Prcl ID 0222-0011-0000-0000		CONDO C		INLAW Y/ LOT SPLIT				
OLDACTN 8920		2015 Reva JM		Ex/Cr Appli				
PHOTO		Assoc Pid#						
WARD								
PREC.								
1/2 HSE								
GIS ID 29608								

2229  
 PORTSMOUTH, NH  
**VISION**

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)								
MOUFLOUZE FRANCES E REVOC TR OF 20 MOUFLOUZE FRANCES	5660	2227	10-07-2015	U	I	0	44	Year	Code	Assessed	Year	Code	Assessed V	Year	Code	Assessed
	2485	0342	04-04-1984		I	0		2021	1010	175,000	2020	1010	175,000	2019	1010	174,500
									1010	270,100		1010	270,100		1010	270,100
									1010	300		1010	300		1010	300
								Total	445,400	Total	445,400	Total	444,900			

EXEMPTIONS			OTHER ASSESSMENTS			
Year	Code	Description	Amount	Code	Description	Number
2008	1	VETERAN-1	500.00			
Total			500.00			

This signature acknowledges a visit by a Data Collector or Assessor

ASSESSING NEIGHBORHOOD			
Nbhd	Nbhd Name	B	Tracing
112			

APPRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	170,300
Appraised Xf (B) Value (Bldg)	4,700
Appraised Ob (B) Value (Bldg)	300
Appraised Land Value (Bldg)	270,100
Special Land Value	0
Total Appraised Parcel Value	445,400
Valuation Method	C
Total Appraised Parcel Value	445,400

NOTES	
07/13- REPL WINDS; CHNG SHD1 COND TO 30	
APPT LETTER 6/7/13	

BUILDING PERMIT RECORD								VISIT / CHANGE HISTORY						
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpost/Result
34005	12-03-2018	PL	Plumbing	1,400	02-20-2019	100		REPLACING HOT WATER HE	02-20-2019	BH	02		50	Building Permit
35111	11-30-2018	EL	Electric	500	02-20-2019	100		REPLACE WIRING FROM OL	07-04-2017	PM			FR	Field Review Stat Update
									04-17-2015	RT			FR	Field Review Stat Update
									07-01-2013	JM			10	Measu/LtrSnt No Respons
									10-13-2000	SS		1	1	Entry + Sign INACTIVE

LAND LINE VALUATION SECTION																
B	Use Code	Description	Zone	Frontage	Depth	Land Units	Unit Price	Size Ad	Site	Cond.	ST Idx	S.I. Adj.	Notes- Adj	Special Pricing	Adj Unit P	Land Value
1	1010	SINGLE FAM M	SRB			43,560 SF	4.16	1.0000	1	0.95	112	1.500	-5% traffic	1.0000	5.93	258,200
1	1010	SINGLE FAM M	SRB			0.480 AC	16,500	1.0000	0	1.00	112	1.500		1.0000	24,750	11,900
Total Card Land Units						1 AC	Parcel Total Land Area						1	Total Land Value		270,100



CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Style:	01	Ranch			
Model:	01	Residential			
Grade:	C+	C+			
Stories:	1				
Occupancy	1				
Exterior Wall 1	25	Vinyl Siding			
Exterior Wall 2					
Roof Structure:	03	Gable/Hip			
Roof Cover	03	Asph/F Gls/Cmp			
Interior Wall 1	05	Drywall/Sheet			
Interior Wall 2					
Interior Flr 1	14	Carpet			
Interior Flr 2	06	Inlaid Sht Gds			
Heat Fuel	02	Oil			
Heat Type:	02	Warm Air			
AC Type:	03	Central			
Total Bedrooms	03	3 Bedrooms			
Total Bthrms:	1				
Total Half Baths	1				
Total Xtra Fixtrs	0				
Total Rooms:	5				
Bath Style:	1	Avg Quality			
Kitchen Style:	1	Avg Quality			
Kitchen Gr					
WB Fireplaces	0				
Extra Openings	0				
Metal Fireplace	0				
Extra Openings	0				
Bsmt Garage	1				

MIXED USE		
Code	Description	Percentage
1010	SINGLE FAM MDL-01	100
		0
		0

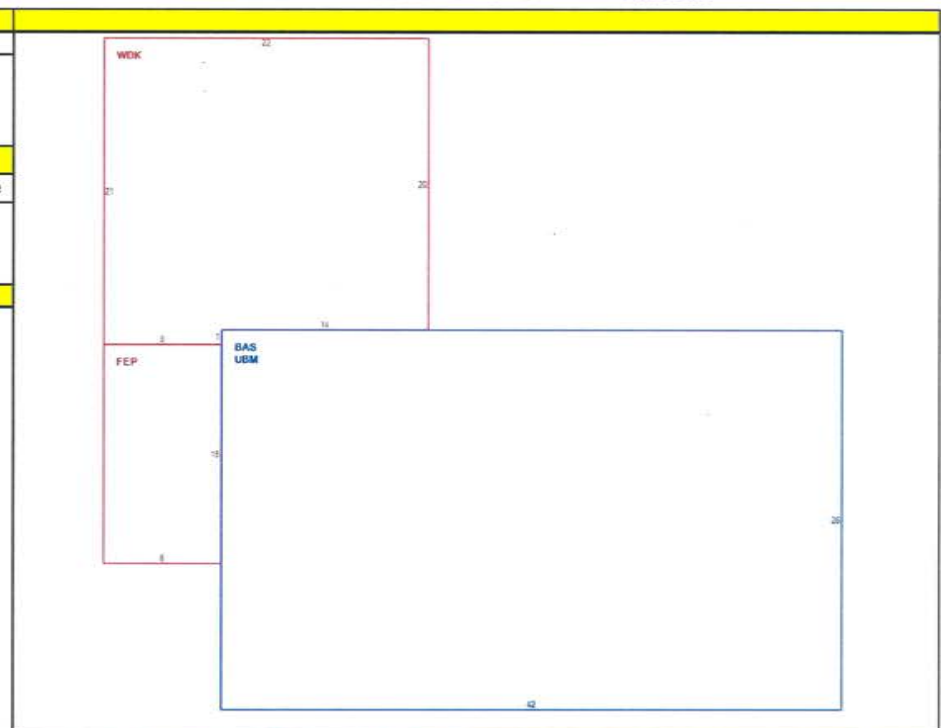
COST / MARKET VALUATION	
Adj. Base Rate	151.74
Building Value New	218,356
Year Built	1960
Effective Year Built	1997
Depreciation Code	GD
Remodel Rating	
Year Remodeled	
Depreciation %	22
Functional Obsol	
External Obsol	
Trend Factor	1
Condition	
Condition %	
Percent Good	78
RCNLD	170,300
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	

**OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)**

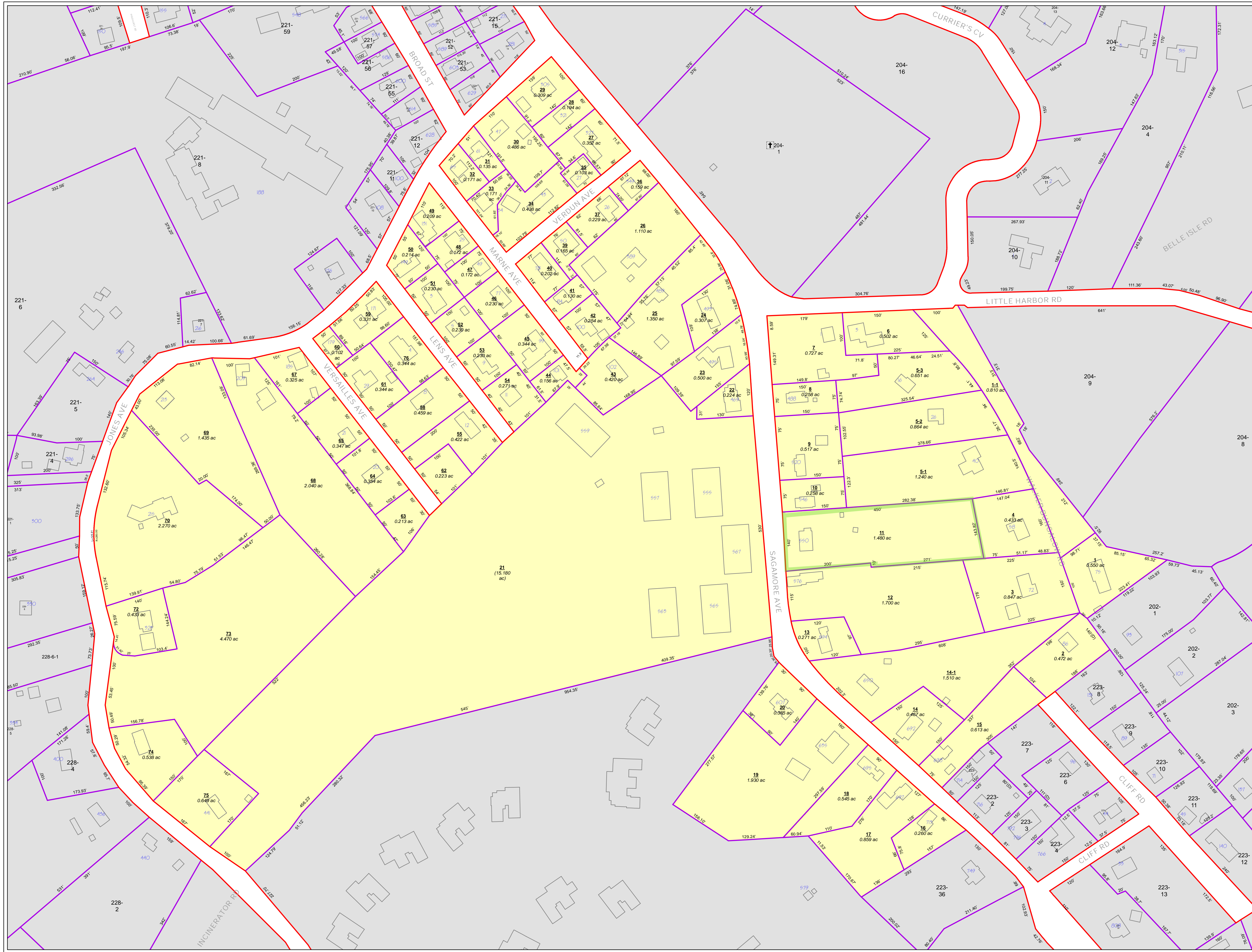
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
REC	REC ROOM	B	240	25.00	1997	A	78	C	1.00	4,700
SHD1	SHED FRAME	L	96	13.00	1970	F	30	D	0.90	300

**BUILDING SUB-AREA SUMMARY SECTION**

Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BAS	First Floor	1,092	1,092	1,092	151.74	165,702
FEP	Porch, Enclosed	0	120	84	106.22	12,746
UBM	Basement, Unfinished	0	1,092	218	30.29	33,080
WDK	Deck, Wood	0	448	45	15.24	6,828
Ttl Gross Liv / Lease Area		1,092	2,752	1,439		218,356

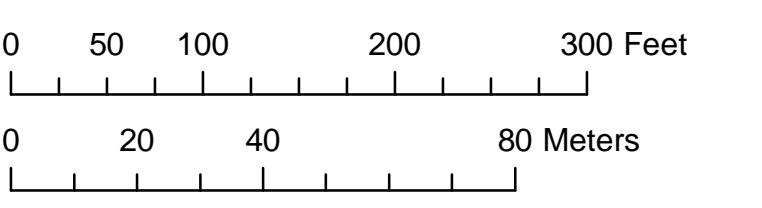




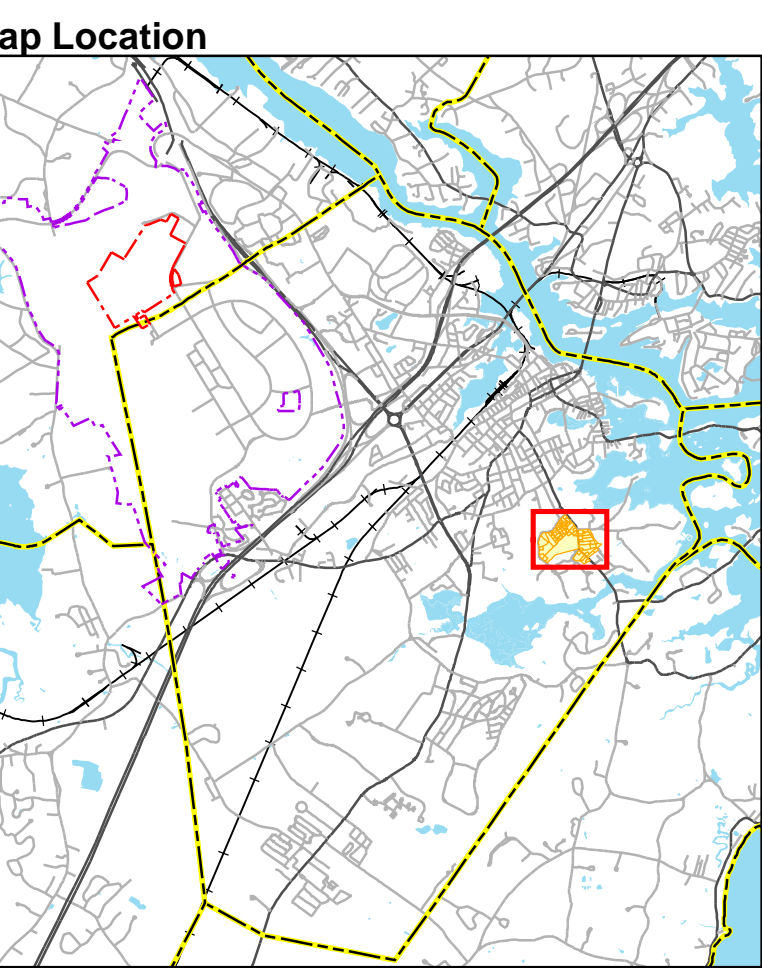
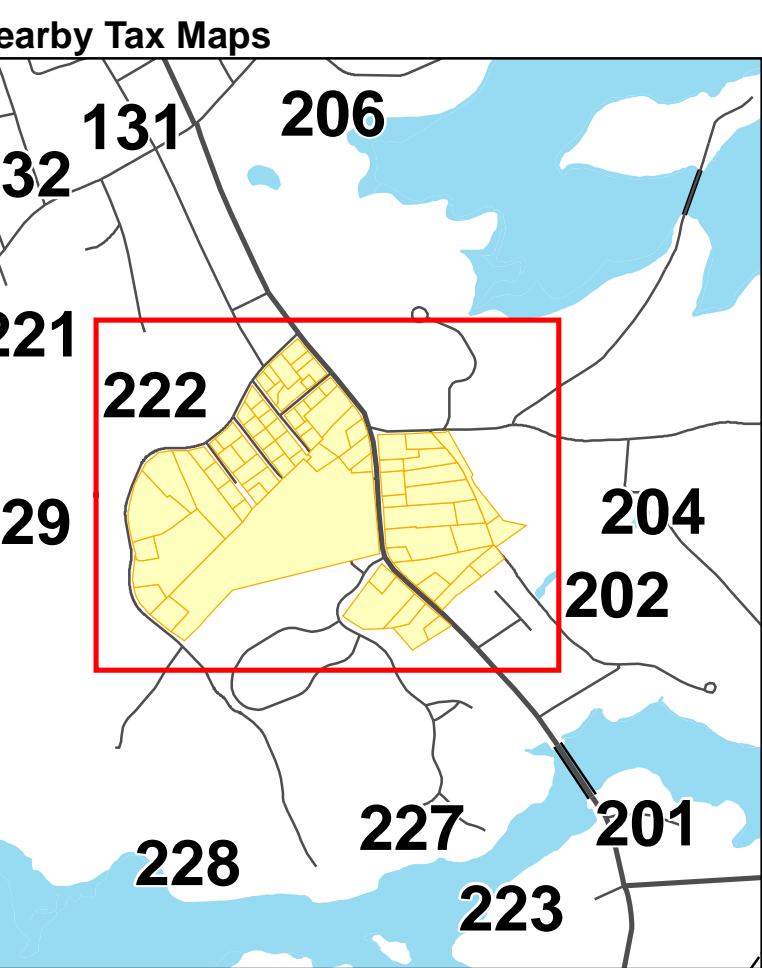


- Partial Legend**  
 See the cover sheet for the complete legend.
- 7-5A** Lot or lot-unit number
  - 2.56 ac Parcel area in acres (ac) or square feet (sf)
  - 25 Address number
  - 233-137 Parcel number from a neighboring map
  - 68 Parcel line dimension
  - SIMS AVE Street name
  - Parcel/Parcel boundary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

**EXHIBIT F**



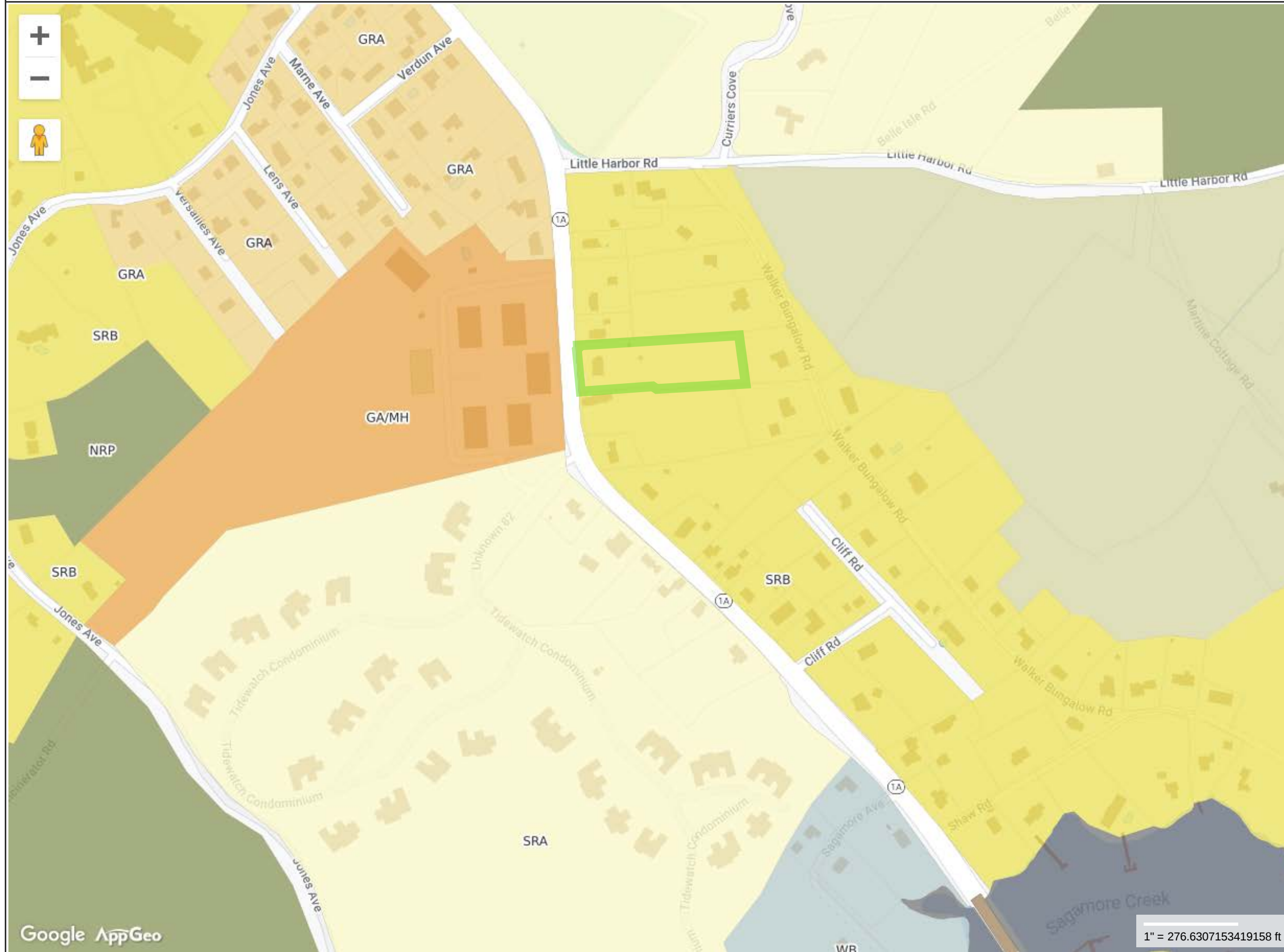
*This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over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



Portsmouth, New Hampshire  
 2022  
**Tax Map 222**



### 550 Sagamore in Context



**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 08/24/2023  
Data updated 3/9/2022

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

**EXHIBIT G**

# 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





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

DRAFT

NOT FOR CONSTRUCTION

ISSUED FOR: CLIENT REVIEW

ISSUE DATE: MARCH 6, 2023

REVISIONS  
NO. DESCRIPTION BY DATE  
0 DISCUSSION EDW 03/06/23

DRAWN BY: RLH  
APPROVED BY: EDW  
DRAWING FILE: 5385SUBD.dwg

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

OWNER:  
XX  
XX  
XX  
XX  
XX

APPLICANT:  
XX  
XX  
XX  
XX  
XX

PROJECT:  
XX  
XX  
XX  
XX  
XX  
XX

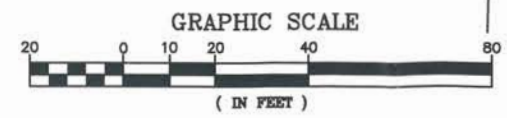
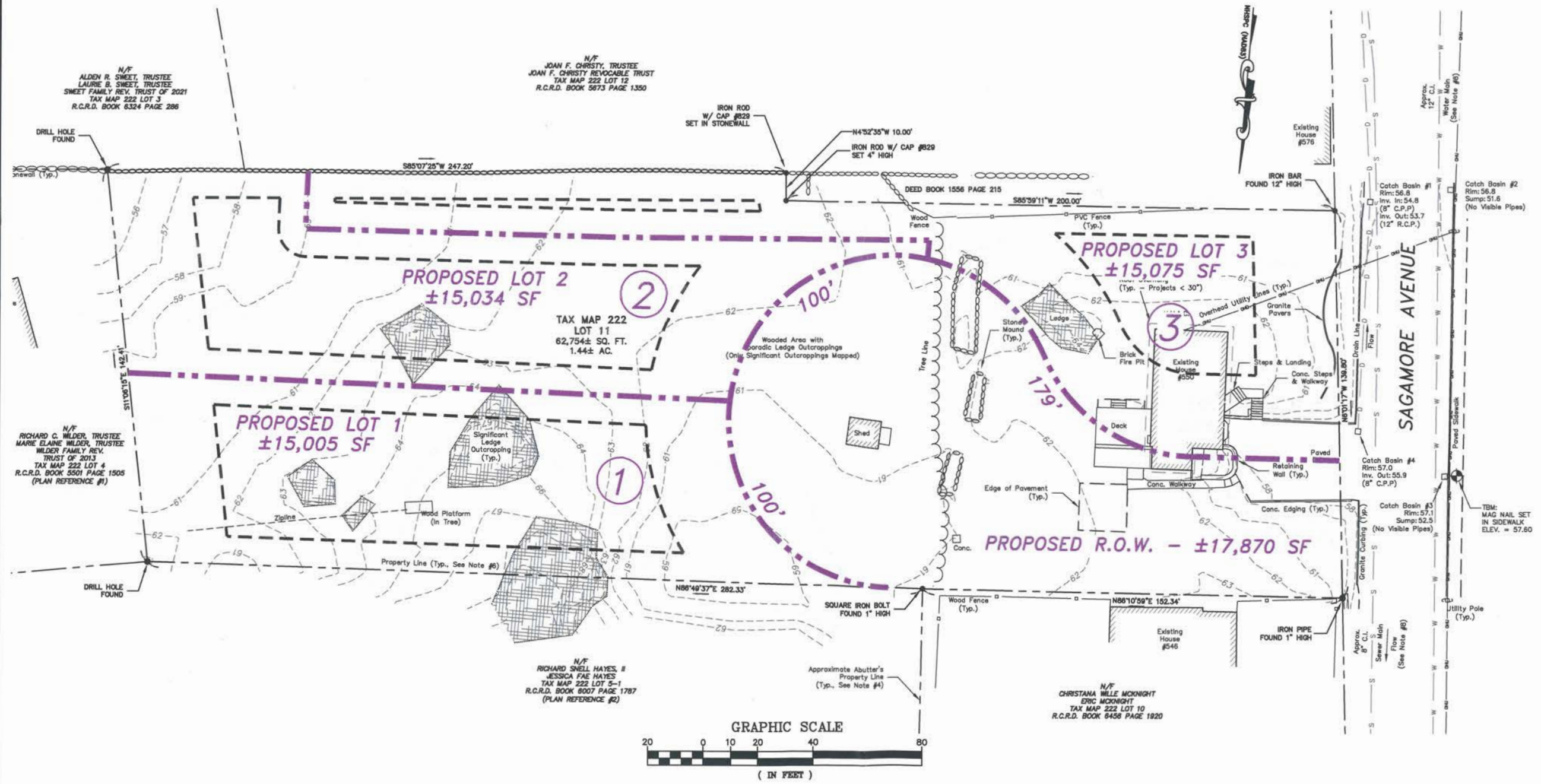
TITLE:  
CONCEPTUAL  
SUBDIVISION PLAN  
(3 LOT SUBDIVISION)

SHEET NUMBER:  
CO - 1

SITE NOTES

- DESIGN INTENT - THIS PLAN IS INTENDED TO DEPICT A CONCEPTUAL SITE PLAN FOR RESIDENTIAL UNITS.
- APPROXIMATE LOT AREA: 1.44 AC.±
- ZONE: SINGLE RESIDENCE RESIDENCE B (SRB)
- DIMENSIONAL REQUIREMENTS:

	EXISTING	PROPOSED
MIN. LOT AREA:	15,000 S.F.	±15,005 S.F.
MIN. LAND AREA PER DWELLING UNIT:	15,000 S.F.	±15,005 S.F.
MIN. STREET FRONTAGE:	100'	100'
MIN. LOT DEPTH:	100'	100'
FRONT SETBACK:	30'	30'
SIDE SETBACK:	10'	10'
REAR SETBACK:	30'	30'
MAX. BUILDING HEIGHT:	35'	<35'
MAX. BLDG. COVERAGE:	20%	<20%
MIN. OPEN SPACE:	40%	>40%



N/F  
ALDEN R. SWEET, TRUSTEE  
LAURIE B. SWEET, TRUSTEE  
SWEET FAMILY REV. TRUST OF 2021  
TAX MAP 222 LOT 3  
R.C.R.D. BOOK 6324 PAGE 286

N/F  
JOAN F. CHRISTY, TRUSTEE  
JOAN F. CHRISTY REVOCABLE TRUST  
TAX MAP 222 LOT 12  
R.C.R.D. BOOK 5873 PAGE 1350

N/F  
RICHARD C. WILDER, TRUSTEE  
MARIE ELAINE WILDER, TRUSTEE  
WILDER FAMILY REV. TRUST OF 2013  
TAX MAP 222 LOT 4  
R.C.R.D. BOOK 5501 PAGE 1505  
(PLAN REFERENCE #1)

N/F  
RICHARD SWELL HAYES, II  
JESSICA FAE HAYES  
TAX MAP 222 LOT 5-1  
R.C.R.D. BOOK 6007 PAGE 1787  
(PLAN REFERENCE #2)

N/F  
CHRISTANA WILLE MOONIGHT  
ERIC MOONIGHT  
TAX MAP 222 LOT 10  
R.C.R.D. BOOK 6456 PAGE 1820

**III. NEW BUSINESS**

D. The request of **Ports Submarine Memorial Association (Owner)**, for property located at **569 Submarine Way** whereas relief is needed to construct an addition to the existing building to substantially increase the use which requires a Variance from Section 10.440 Use #3.40 to allow a museum where the use is not permitted. Said property is located on Assessor Map 209 Lot 87 and lies within the Single Residence B (SRB) District. (LU-23-165)

**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Museum	<b>*Construct addition to existing structure</b>	Primarily residential
<u>Lot area (sq. ft.):</u>	302,176	302,176	15,000 min.
<u>Building Size (sq. ft)</u>	1,600	3,188	na min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	<20	<20	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	57	57	**37
<u>Estimated Age of Structure:</u>	1986	<b>Variance request(s) shown in red.</b>	

**\*Proposed addition will substantially increase a use which is not allowed in the district.**

\*\*Per the requirement stated in Section 10.1112.321, the applicant has supplied a parking demand analysis that shows 37 spaces are required for the proposed conditions.

**Other Permits/Approvals Required**

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



### Neighborhood Context





## Previous Board of Adjustment Actions

April 29, 1983 – The Board **granted** a Special Exception to allow the creation of a non-profit recreational area, Albacore Memorial Park.

November 15, 1983 – The Board **granted** a Variance to allow a 160 s.f. free-standing sign for an indefinite period where a sign is allowed for up to 60 days and the maximum permitted size is 16 s.f. The Board granted the Variance with the stipulations that the Variance be granted for a 60 day period at the end of which an extension could be requested in writing and that, if the sign were lighted, it should not interfere with vehicular traffic.

May 5, 1987 – The Board **granted** a request to allow two 48 s.f. free-standing signs for a total aggregate sign area of 96 s.f. where a maximum of 16 s.f. is allowed and 0' yards where 15' is the minimum allowed for free-standing signs. The Variances were granted with the stipulation that the sign on the Interstate Bridge be set back from the curb lines as indicated on the site plan.

April 18, 1989 – the Board **denied** a request to allow the establishment of a limo/bus stop with associated ticket sales in a district where such stops and sales are not allowed.

April 19, 1994 – The Board, after tabling the request at the March 15, 1994 meeting, **granted** the following:

- 1) A special Exception to allow excavation of approximately 19,000 cubic yards to restore mud flats per a proposed NHPA mitigation plan;
- 2) A Variance to allow the plan to only show the contours for the area directly adjacent to the mitigation area; and
- 3) A Variance to allow the excavation site to be less than 100' from a way open to public use where no permit for the removal of earth shall be approved by the Board of Adjustment if the proposed removal extends within 100' of a way open to public use.

The request was granted with the following stipulations:

- 1) A \$100,000 Bond be posted with the City;
- 2) That soundings be taken to establish a base line for future use in the area north of Maplewood Avenue between the railroad tracks and the interstate highway where boats are moored; and
- 3) the excavation site be 85' from the public right-of-way.

July 19, 1994 – The Board **reduced** the Bond amount, stipulated at the April 20, 1994 meeting, be reduced to \$40,000.

August 20, 1996 – The Board **granted** a Variance to construct a three story Maritime Museum with a caretaker apartment (31,533 s.f. total) in a district where such use is not allowed. The Variance was granted with the following stipulations:

- 1) That if there is ever a change to the footprint, this Board be notified to bring the application to compliance;
- 2) That the proposed apartment be no more than 500 s.f. in area; and
- 3) That the final footprint of the structure be subject to wetlands approval.

July 15, 1997 – The Board **granted** a one-year extension of the above Variance through July 31, 1998. (indications in files that this was allowed to expire)

August 18, 1998 – The Board **granted** a Variance to allow the construction of a museum at Albacore Park with associated site improvements. (indications in files that this was allowed to expire)

December 21, 1999 – The Board **granted** a Variance to allow the construction of a maritime museum at Albacore Park with associated improvements. The Variance was granted with the same stipulations as those attached to the approval granted August 20, 1996.

September 18, 2012 – The Board granted the variance to construct a shed and allow a 7 foot left side yard.

### **Planning Department Comments**

The applicant is proposing to construct a 1,588 square foot addition onto the existing 1,600 square foot structure. The proposal as required will not violate any dimensional requirements. The existing use is a museum which obtained the required zoning relief in 1999. As the use is not allowed by right, a substantial increase would need review and approval by the Board. Staff have interpreted the proposed expansion to be a substantial increase in use as it will double the size of the existing structure and use.

Please reference memo to the Board of Adjustment from Attorney McCourt dated July 28, 2023 for more information on the Expansion of Legal Non-Conforming Uses.

If approved, this project will require Site Plan Review Approval from the Technical Advisory Committee and the Planning Board. Through this review, it is possible that the layout and orientation of the site may change. If the Board wishes to approve the applicant's variance requests, Staff recommend the following Condition of approval.

#### **1) Site layout may change as a result of TAC and Planning Board review and approval.**

### **Variance Review Criteria**

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

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

**AND**

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

**OR**

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

### **10.235 Certain Representations Deemed Conditions**

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



## MEMORANDUM

**TO:** Portsmouth Zoning Board of Adjustment (“ZBA”)  
**FROM:** Kevin M. Baum, Esquire  
**DATE:** September 27, 2023  
**RE:** Portsmouth Submarine Memorial Association  
Albacore Park  
569 Submarine Way  
Tax Map 209/Lot 87  
SRB Zone

Dear Chair Eldredge and Zoning Board Members:

On behalf of the Portsmouth Submarine Memorial Association (“PSMA”), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief to be considered by the Zoning Board of Adjustment (“ZBA”) at its October 18, 2023 meeting.

### I. EXHIBITS

- A. ZBA Site Plan Set – by Ambit Engineering, Inc.
  - Cover Sheet
  - Existing Conditions Plans (Sheets C1-C2)
  - Site Layout Plan (Sheet C3) – showing proposed new museum addition.
- B. Architectural Plans by Port One Architects.
  - Floor Plan Conceptual Design (Sheet A1.1)
  - Exterior Elevations (Sheet A2.1) (conceptual)
- C. Parking Demand Analysis – by Ambit Engineering, Inc.
- D. City GIS Map – showing locus and surrounding area.
- E. Site Photographs.

### II. PROPERTY/PROJECT

The subject property is an approximately 302,176 square foot (6.9370± acre) parcel located at 569 Submarine Way (the “Property”).<sup>1</sup> Exhibit A (Sheets C1-C3). The Property, also identified as Albacore Park, is home to the USS Albacore Submarine Museum and Memorial Garden. Albacore Park was originally approved by Special Exception granted by this Board in 1983 and the experimental USS Albacore submarine established on the Property in 1985, following its 575 mile, 70 hour trip from Philadelphia to Portsmouth. The existing one-story, 1,600± square foot visitor center was constructed in approximately 1986.

Albacore Park operates seven days a week with the majority of visitors during the summer months. Attractions include the USS Albacore submarine, the Ghost Ship, Memorial

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<sup>1</sup> The Property was previously identified as 600 Market Street prior to the replacement of the Sarah Long Bridge and construction of Submarine Way.

Gardens and exhibits within the existing visitor center building, which houses various items and artifacts, and supports PSMA's on-site educational programs. There are 37 lined off-street parking spaces available on the Property, with space for up to 119 spaces in the unlined portion of the lot. Id. Between 2-4 staff members are present at the Property daily depending on the season and museum event schedule.

PSMA currently has access to more exhibits than there is space available to comfortably display within the existing building and limits its ability to devote more items relating to the maritime history of the Piscataqua River region. Meeting and office space is severely limited. Accordingly, PSMA proposes to construct an approximately 1,588 square foot addition to the existing visitors center building. Exhibit B.<sup>2</sup> The proposal will also include improvements to the walkway and ramp adjacent to the building for improved accessibility. Id. Based upon the Parking Demand Analysis<sup>3</sup> prepared for the project, no additional parking spaces will be required. Exhibit C. In fact, peak use based on the existing and proposed building, and including the submarine, is 37 vehicles. Id. Based on prior experience, use of the parking lot is generally low and limited to the just apportion of the lined spaces closest to the building.

The Property is located in a transitional area with frontage on both the US Route 1 By-Pass and Market Street. Exhibit D. It is within the SRB Zoning District, adjacent to the Business, General Residence A and Waterfront Industrial Districts. Id. It is surrounded by a mix of uses, with residences to the west and east (across Route 1 By-Pass), commercial fueling uses to the south and Bohenko Gateway Park to the north (across Market Street). Id.

While the proposed addition will increase the overall square footage of the building, it is intended primarily to allow for improved exhibit space and use of the museum and is not expected to cause any significant change to the overall use the Property. The hours of operation will remain the same and peak visitor use will remain primarily during the summer and weekends, consistent with its prior 35+ years of operation. Although the addition will improve visitor experience at Albacore Park, the primary attraction is and can be expected to remain the USS Albacore, which will remain unchanged. Nevertheless, because the current museum use is a pre-existing permitted non-conforming use through the issuance of the 1983 special exception,

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<sup>2</sup> The site and architectural plans remain conceptual as of the date of this application. The final layout and design are subject to change pending site plan review and construction conditions.

<sup>3</sup> Pursuant to Portsmouth Zoning Ordinance ("PZO") Section 10.1112.321 (Use No. 3.40), the required minimum number of off-street parking for museum use is determined by parking demand analysis.

the creation of additional museum space is considered an expansion of that non-conforming use, requiring zoning relief. The proposed addition meets all dimensional requirements of the zoning ordinance.

**III. RELIEF REQUIRED**

After conferring with the City Planning Department staff, it has been determined that the following is required:

<u>PZO Requirement</u>	<u>Existing</u>	<u>Proposed</u>
PZO § 10.440 (Table of Uses)	Museum Use per 1983 special Exception	Expansion of lawful non-conforming use to construct ±1,588 s.f. addition to existing museum building

**IV. VARIANCE REQUIREMENTS**

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

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

The purpose of the Portsmouth Zoning Ordinance as set forth in PZO §10.121 is “to promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan... [by] regulating”:

- 1. The use of land, buildings and structures for business, industrial, residential and other purposes** – The proposal permits the construction of an addition to a long existing museum with little to any increased use of the Property within a transitional area between residential, commercial and industrial uses.
- 2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space** – The proposed addition meets all dimensional requirements of the PZO. No additional parking is needed.



3. The design of facilities for vehicular access, circulation, parking and loading – Per the parking demand analysis, adequate space is available to account for the proposed addition. The long-existing parking and driveway layout will remain unchanged.
4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – The museum has been in operation since approximately 1986. The use and overall layout of the Property will not change, only the addition of exhibit space for the museum/visitor center building.
5. The preservation and enhancement of the visual environment – The Project will improve and update the existing museum/visitor center on the Property and improve adjacent walkways. The remainder of the lot will remain unchanged.
6. The preservation of historic districts, and buildings and structures of historic or architectural interest – The Property is not located in the Historic District; however, the Project will preserve the existing building, memorial garden and other on-site amenities.
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The proposal allows a ±1,588 s.f. addition to existing museum building on a 6.9370± acre parcel. To the extent the proposed addition may impact natural resources, stormwater, drainage and similar potential impacts will be vetted by the TAC and Planning Board should the ZBA grant its approval.

PSMA's proposal, to construct a modest addition to allow more exhibit space within and improve the use of the longstanding visitor center building, clearly fulfills the purposes of the Ordinance.

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

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

There will be no change to the essential character of the locality by granting the requested variance. The use of the Property will remain as it has for the past three and a half decades. No appreciable increase in use is anticipated as a result of the addition. Rather, it will allow PSMA to make better use of the space and improve the visitor experience. The proposed improvements and existing attractions are located towards Route 1 Bypass, with the closest residential properties to the east and buffered by the parking lot and existing vegetative buffer, both of

which will remain unchanged. The addition will be constructed to current building code. Access to and from the Property will remain via Submarine Way, connecting Market Street and US Route 1, respectively. Given the results of the Parking Demand Analysis and past experience, use of the Property is not overly intensive. Accordingly, granting the variance to permit the museum addition will neither “alter the essential character of the locality nor threaten the public health, safety or welfare.”

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

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

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

Granting the variance allows PSMA better use of the building for exhibits, to permit more exhibits to be displayed, useable meeting space and an improved visitor experience. Little to any increased use of the Property is anticipated. There is unlikely to be any noticeable difference to anyone other than staff and visitors. Denial to results in significant loss to the applicant as it forces PSMA to maintain its existing undersized building and limits available exhibits. Clearly, there is no benefit to public outweighing the hardship to the applicant if the variance is denied. Accordingly, substantial justice is done by granting the variance.

**4. Granting the variance will not diminish surrounding property values.**

Albacore Park has been in operation since approximately 1986. The use will remain the same post-addition, albeit with a large and more useable visitors center. The overall layout of the 6.9370± acre lot will remain unchanged. The hours of operation will also remain unchanged. Accordingly, there will be little to no noticeable difference to surrounding property owners, many if not most of whom have presumably lived next to the museum for their entire period of ownership. The addition will improve the existing building and therefore the value of the Property. Light of these circumstances, granting the requested variance to permit the proposed addition will not diminish surrounding property values.

**5. Denial of the variances results in an unnecessary hardship.**

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

The Property is large for the area at 6.9370± acres. It is in a transition area, both by zoning district and geographically given the proximity to the Route 1 Bypass, Market Street and the Piscataqua River. It is buffered by two large roadways and tidal wetlands on two sides. The museum has been in operation since approximately 1986, including the existing visitors center and USS Albacore. In light of these factors, special conditions exist on the property distinguishing it from others in the area.

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

Museum use is generally not permitted in the SRB District. The reason for this restriction is to maintain the area for single-family residential use. However, such restriction is not applicable in this instance or for this particular lot. The Property has long been developed and utilized as Albacore Park. Although there are residential uses nearby, none have direct access from the Bypass or Market Street as does the Property. It has more in common with the other abutting commercial uses southerly on US Route 1 Bypass and northerly along Market Street.

Given the proximity of those uses and the significant traffic along both roadways, the Property is poorly suited for the type of single-family residential use intended for the SRB Zone. The current use, on the other hand, acts as a buffer between the traffic and commercial/industrial uses and the residential uses in this transitional area. Moreover, the existing use, which has been in place since approximately 1986, will not be significantly changed or increased by granting the

variance. It will simply allow PSMA to continue its longstanding use of the property with an improved visitor center building. Accordingly, there is no reason to apply the strict use requirements of the SRB District to the Property in this instance.

c. The proposed use is reasonable.

The variance simply allows for an improved structure while continuing a longstanding use of the Property. The addition allows for more exhibit space and better use of the building, which is currently poorly laid out for visitors, meetings and similar museum uses. No additional hours of operation are proposed. The primary attraction is and will remain the USS Albacore. Sufficient parking exists on-site both currently and post-addition. Thus, the addition is expected to result in little noticeable difference for abutting property owners, while improving the overall visitor experience. For these reasons, the proposed use is reasonable, and denial results in an unnecessary hardship.

V. CONCLUSION

For all of the reasons stated, PSMA respectfully requests that the Portsmouth Zoning Board of Adjustment grant the submitted variance request to permit the construction of an approximately 1,588 square foot addition to the existing visitors center building on the Property.

Respectfully submitted,  
PORTSMOUTH SUBMARINE  
MEMORIAL ASSOCIATION

  
By: \_\_\_\_\_  
Kevin M. Baum



# PROPOSED MUSEUM BUILDING ALBACORE PARK 569 SUBMARINE WAY PORTSMOUTH, NEW HAMPSHIRE ZBA SITE PLANS

**REQUIRED PERMITS:**  
PORTSMOUTH ZONING BOARD: PENDING  
PORTSMOUTH PLANNING BOARD: PENDING

## Exhibit A

**OWNER:**

**PORTSMOUTH SUBMARINE  
MEMORIAL ASSOCIATION**  
569 SUBMARINE WAY  
PORTSMOUTH, NH 03801  
TEL: (603) 436-3680

**LAND SURVEYOR & CIVIL ENGINEER:**

**AMBIT ENGINEERING**  
A DIVISION OF HALEY WARD, INC.  
200 GRIFFIN ROAD, UNIT 3  
PORTSMOUTH, NH 03801  
(603) 430-9282

**ARCHITECT:**

**PORT ONE ARCHITECTS**  
959 ISLINGTON STREET  
PORTSMOUTH, NH. 03801  
TEL: (603) 436-8891

**LAND USE ATTORNEY:**

**HOEFLE, PHOENIX, GORMLEY &  
ROBERTS, PLLC**  
127 PARROTT AVENUE  
PORTSMOUTH, NH 03801  
TEL. (603) 436-0666

**INDEX OF SHEETS**

C1 - EXISTING CONDITIONS PLAN  
C2 - EXISTING CONDITIONS PLAN  
C3 - SITE LAYOUT PLAN  
ARCHITECTURAL PLANS

**UTILITY CONTACTS**

**ELECTRIC:**  
EVERSOURCE  
74 OLD DOVER ROAD  
ROCHESTER, N.H. 03867  
Tel. (603) 332-4227,  
Ext. 555.5325  
ATTN: MARK COLLINS  
EMAIL:  
mark.collins@eversource.com

**NATURAL GAS:**  
UNITIL  
325 WEST ROAD  
PORTSMOUTH, N.H. 03801  
Tel. (603) 6294-5147  
ATTN: SUSAN DUPLISA  
dupliseas@unitil.com

**CABLE:**  
XFINITY BY COMCAST  
180 GREENLEAF AVE.  
PORTSMOUTH, N.H. 03801  
Tel. (603) 266-2278  
ATTN: MIKE COLLINS

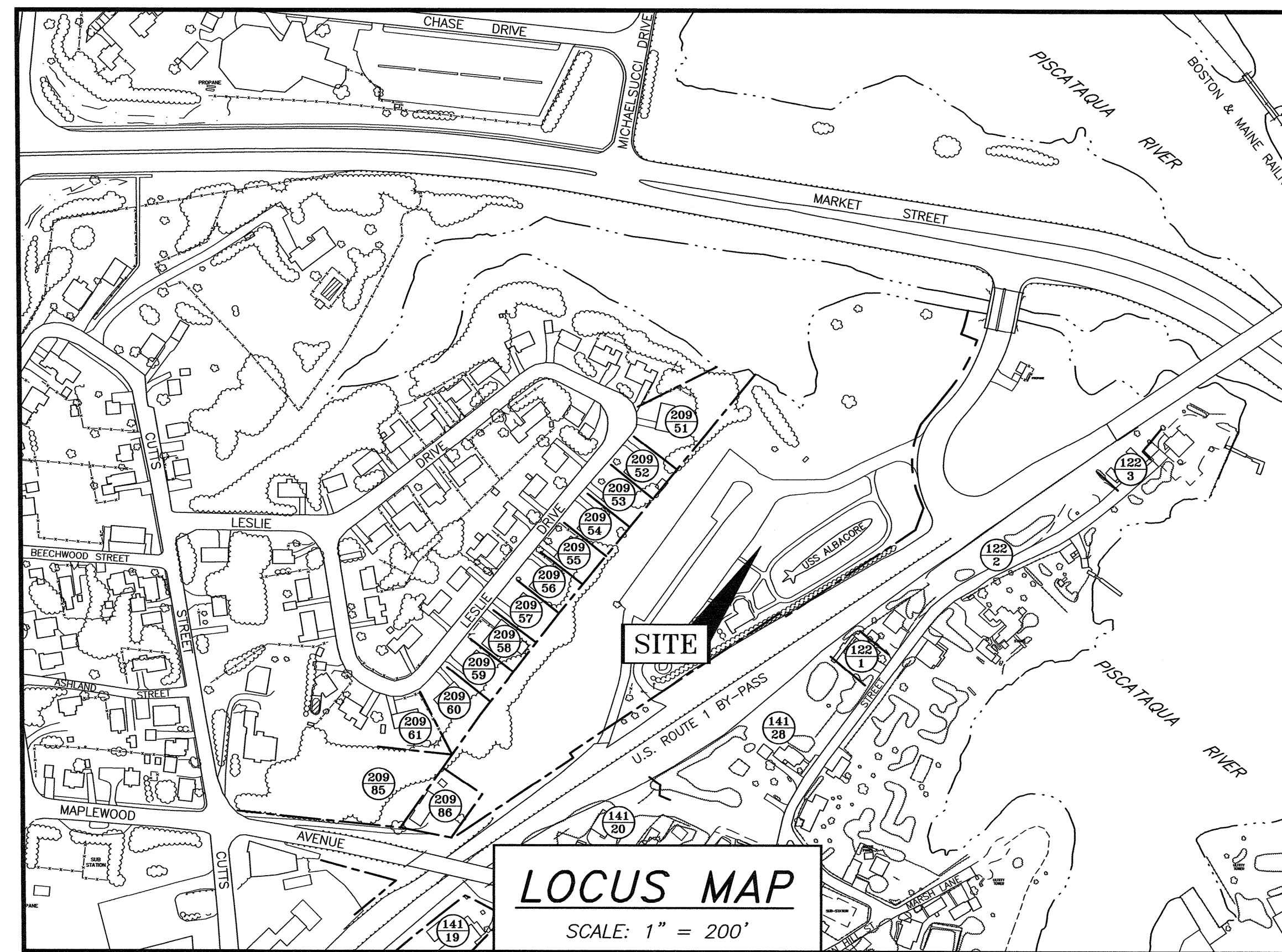
**SEWER & WATER:**  
PORTSMOUTH DEPARTMENT  
OF PUBLIC WORKS  
680 PEVERLY HILL ROAD  
PORTSMOUTH, N.H. 03801  
Tel. (603) 427-1530  
ATTN: JIM TOW

**COMMUNICATIONS:**  
FAIRPOINT  
COMMUNICATIONS  
1575 GREENLAND ROAD  
GREENLAND, N.H. 03840  
Tel. (603) 427-5525  
ATTN: JOE CONSIDINE  
EMAIL:  
jconsidine@fairpoint.com

APPROVED BY THE PORTSMOUTH ZBA

CHAIRMAN

DATE



**LOCUS MAP**  
SCALE: 1" = 200'

**LEGEND:**

EXISTING	PROPOSED	
N/F	NOW OR FORMERLY	PROPERTY LINE
RP	RECORD OF PROBATE	SETBACK LINE
RCRD	ROCKINGHAM COUNTY	FORCE MAIN
	REGISTRY OF DEEDS	SEWER PIPE
(11/21)	MAP 11/LOT 21	SEWER LATERAL
● IR FND	IRON ROD FOUND	GAS LINE
○ IP FND	IRON PIPE FOUND	STORM DRAIN
● IR SET	IRON ROD SET	FOUNDATION DRAIN
● DH FND	DRILL HOLE FOUND	WATER LINE
● DH SET	DRILL HOLE SET	FIRE SERVICE LINE
□	GRANITE BOUND w/IRON ROD FOUND	UNDERGROUND ELECTRIC SUPPLY
		UNDERGROUND ELECTRIC SERVICE
		OVERHEAD ELECTRIC/WIRES
		RETAINING WALL
		EDGE OF PAVEMENT (EP)
		CONTOUR
100	98x0	SPOT ELEVATION
97x3	●	UTILITY POLE
○	●	ELECTRIC METER
□	□	TRANSFORMER ON CONCRETE PAD
	○	ELECTRIC HANDHOLD/PULLBOX
○ C.O.	○ C.O.	WATER SHUT OFF/CURB STOP
	○	PIPE CLEANOUT
○	○	GATE VALVE
○	○	HYDRANT
○	○	CATCH BASIN
○	○	SEWER MANHOLE
○	○	DRAIN MANHOLE
○	○	WATER METER MANHOLE
○	○	TEST BORING
○	○	TEST PIT
○	○	LANDSCAPED AREA
○	○	CAST IRON PIPE
○	○	COPPER PIPE
○	○	CORRUGATED METAL PIPE
○	○	DUCTILE IRON PIPE
○	○	POLYVINYL CHLORIDE PIPE
○	○	REINFORCED CONCRETE PIPE
○	○	HYDRANT
○	○	CENTERLINE
○	○	EDGE OF PAVEMENT
○	○	ELEVATION
○	○	FINISHED FLOOR
○	○	INVERT
○	○	TEMPORARY BENCH MARK
○	○	TYPICAL

**PROJECT ABUTTERS:**

(141/19)	N/F 1010 US ROUTE 1 BYPASS, LLC 720 LAFAYETTE ROAD SEABROOK, NH 03874 5828/0945	(122/1)	N/F ANDREA L. ARDITO & BRAD R. LERO 121 NORTHWEST STREET PORTSMOUTH, NH 03801 5646/0912	(209/51)	N/F DONNA J. FLAGG LIVING TRUST DONNA J. FLAGG, TRUSTEE 920 SE 46TH STREET APT 2A CAPE CORAL, FL 33904 4235/1400	(209/54)	N/F JAMES J. & CARLA J. MURPHY REV TRUST JAMES J. & CARLA J. MURPHY TRUSTEES 214 LESLIE DRIVE PORTSMOUTH, N.H. 03801 5967/2916	(209/57)	N/F GERALD R. & DOLORES BROWN IRREVOCABLE TRUST GERALD R. & DOLORES BROWN TRUSTEES 174 LESLIE DRIVE PORTSMOUTH, N.H. 03801 4860/0981	(209/60)	N/F JEFFREY J. & KELLY L. MEE 130 LESLIE DRIVE PORTSMOUTH, N.H. 03801 6084/1599	(209/86)	N/F STATE OF NEW HAMPSHIRE P.O. BOX 483, 7 HAZEN DRIVE CONCORD, N.H. 03302 5014/1442		
(141/20)	N/F ALLAN I. PECHNER 399 MAPLEWOOD AVENUE #3 PORTSMOUTH, N.H. 03801 5573/1754	(122/2)	N/F AMANDA B. MORNEAULT 137 NORTHWEST STREET PORTSMOUTH, N.H. 03801 6479/2400	(209/52)	N/F MATTHEW C. BEAL & HEIDI L. MEDLYN 242 LESLIE DRIVE PORTSMOUTH, N.H. 03801 5766/2758	(209/55)	N/F SAMANTHA SMART & DEREK SWEITZER 202 LESLIE DRIVE PORTSMOUTH, N.H. 03801 6452/2890	(209/58)	N/F WILLIAM & MARTHA BOULANGER 354 POST ROAD GREENLAND, N.H. 03840 4614/0005	(209/61)	N/F JEANE CLEMENTS 122 LESLIE DRIVE PORTSMOUTH, N.H. 03801 5313/1380	(122/2-1)	N/F DAR BUILDERS LLC 305 MASSABESIC STREET MANCHESTER, N.H. 03103 6397/0611	(122/4-1)	N/F JOANNE S. & PETER K. MOGREN 2504 NORTHWEST STREET PORTSMOUTH, NH 03801 6397/0611
(141/28)	N/F JULIANN C. LEHNE & WILLIAM A. LEHNE JR. 73 NORTHWEST STREET PORTSMOUTH, N.H. 03801 6198/2447	(122/3)	N/F MICHAEL GEORGE PETRIN KATIE MARIE LAVERRIERE 239 NORTHWEST STREET PORTSMOUTH, N.H. 03801 2304/1890	(209/53)	N/F JOSEPH F. & ROSE M. CALDERARA 230 LESLIE DRIVE PORTSMOUTH, N.H. 03801 2320/1967	(209/56)	N/F PAMELA EIFFE 186 LESLIE DRIVE PORTSMOUTH, NH 03801 6098/2784	(209/59)	N/F JEFFREY J. MEE & KELLY L. MICHAUD MEE TRUST JEFFREY J. MEE & KELLY L. MEE TRUSTEES 146 LESLIE DRIVE PORTSMOUTH, N.H. 03801 6497/2676	(209/85)	N/F CUTTS MANSION CONDOMINIUM 525 MAPLEWOOD AVENUE PORTSMOUTH, N.H. 03801 5549/413 D-38356	(122/4-2)	N/F BRIAN BLANCHETTE 250B NORTHWEST STREET PORTSMOUTH, NH 03801 4298/2699	(122/4)	N/F CHRISTIAN SHORE CONDOMINIUM 250 NORTHWEST STREET PORTSMOUTH, NH 03801

**PROPOSED MUSEUM BUILDING  
ALBACORE PARK  
569 SUBMARINE WAY  
PORTSMOUTH, N.H.**

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

200 Griffin Road, Unit 3  
Portsmouth, NH 03801  
603.430.9282  
WWW.HALEYWARD.COM  
PLAN SET SUBMITTAL DATE: 27 SEPTEMBER 2023









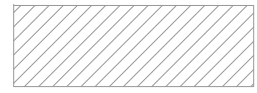
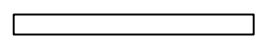

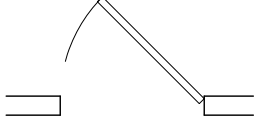
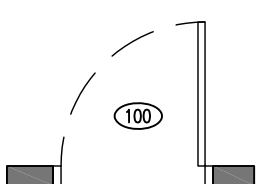






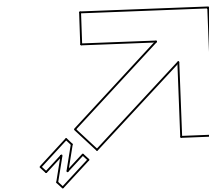
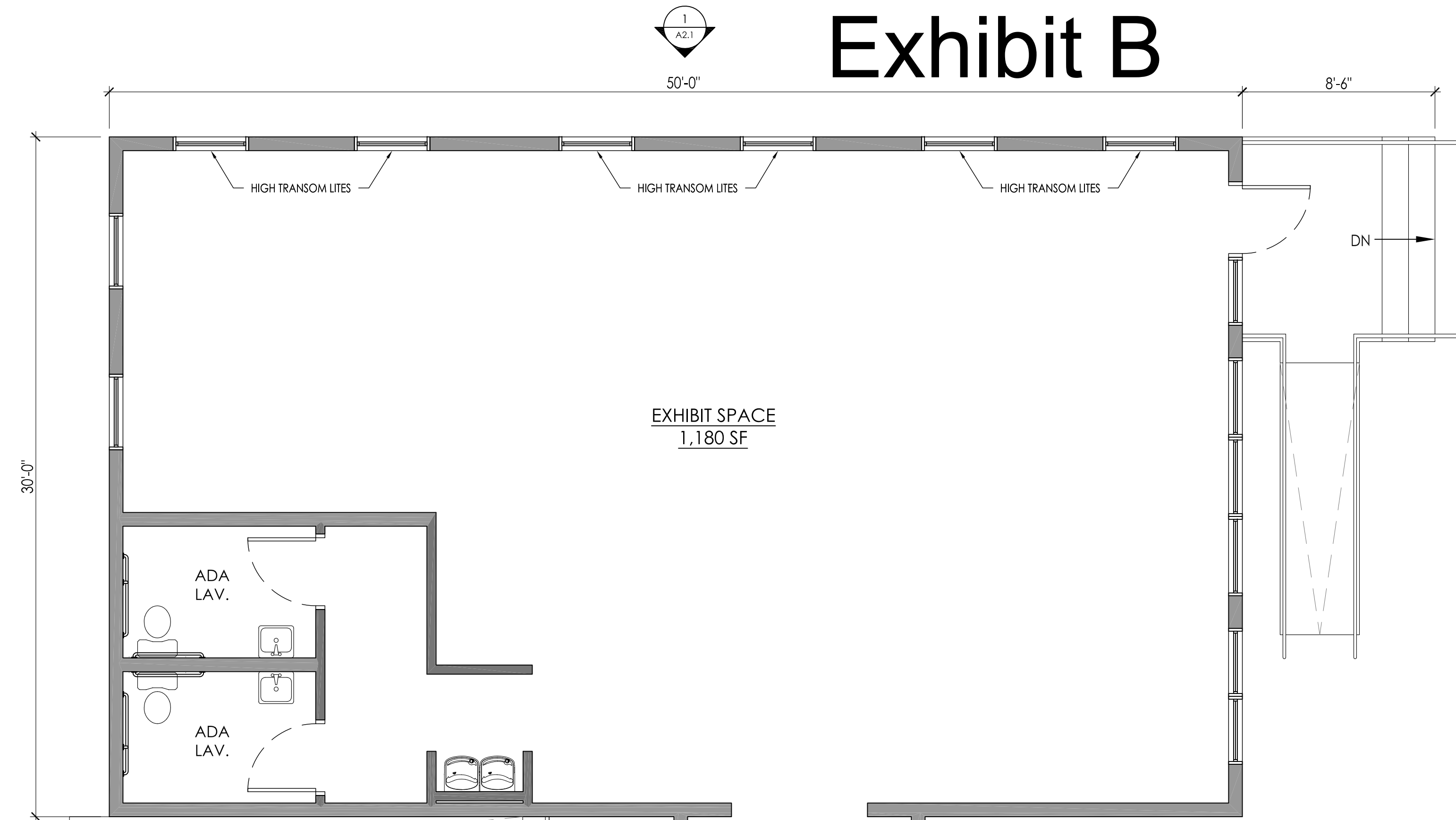
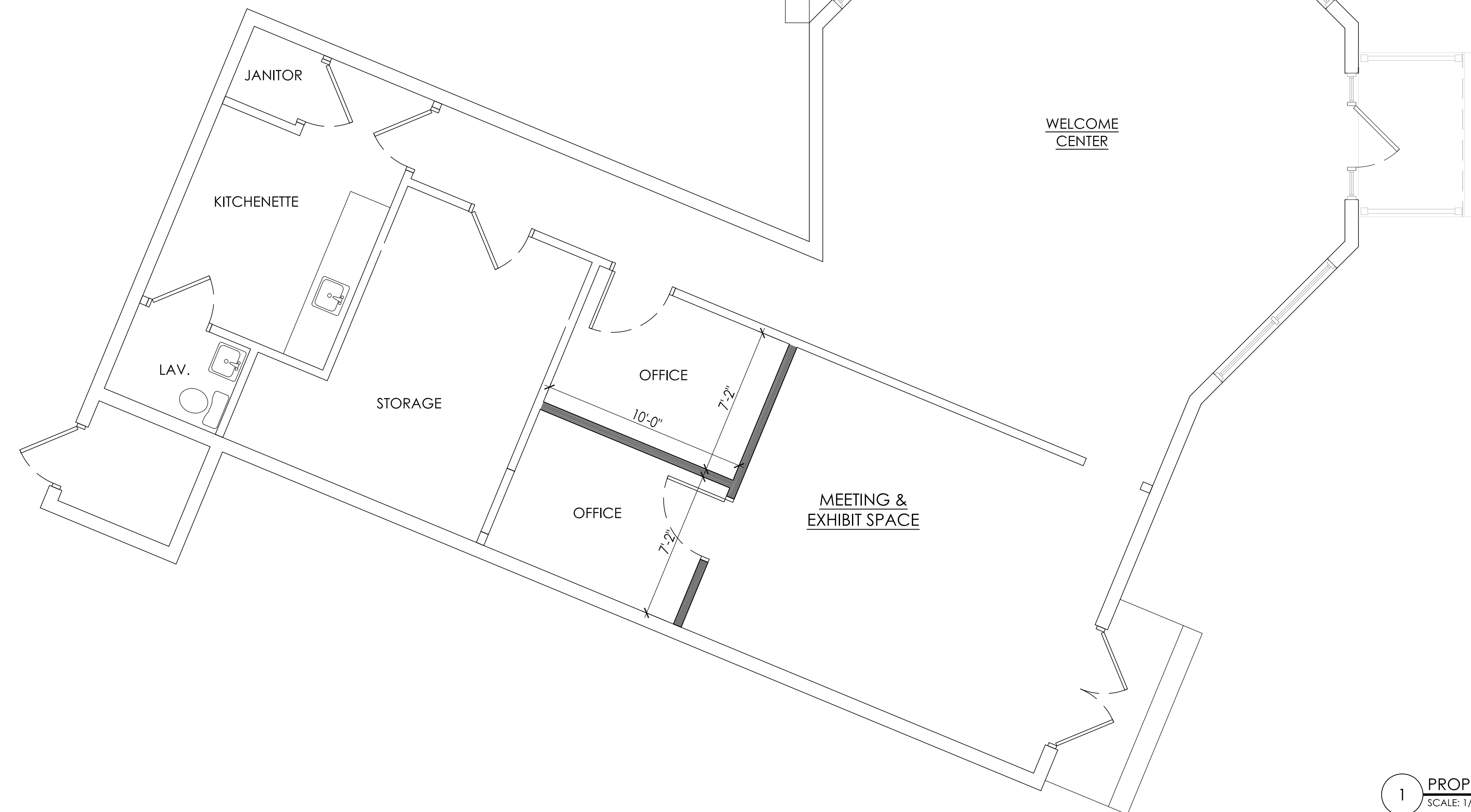
# Exhibit B

## FLOOR PLAN LEGEND

-  NOT IN CONTRACT (NIC)
-  EXISTING PARTITION TO REMAIN
-  NEW PARTITION
-  EXISTING DOOR TO REMAIN
-  NEW DOOR, FRAME AND/OR HARDWARE

## SPACE USE PROGRAM:

1. A total of 1,500 square feet of exhibit space.
2. A multi-purpose meeting space of 600 square feet plus space for the storage of collapsible tables and chairs.
3. Two bathrooms one of which must be ADA compliant.
4. Retail and ticket sales area of 450 square-feet
5. Two 80-square foot offices.
6. A 144-square foot open office/break room.
7. Inventory storage space of 450-square feet.
8. Janitorial supply and equipment storage with set tub.



OWNER:  
ALBACORE PARK  
BUILDING COMMITTEE

ALBACORE PARK  
PORTSMOUTH, NH

ARCHITECT:  
**PORT ONE**  
ARCHITECTS

959 Islington Street  
Portsmouth, NH 03801

603.436.8891  
info@portonearchitects.com

CONTRACTOR:

CIVIL / STRUCTURAL ENGINEER:

MEPPF ENGINEER:

Revision History		
#	Date	Issuance

SEAL

## SCHEMATIC DESIGN

USE DISCLAIMER:  
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LOCUS MAP

PROJECT NAME:

ALBACORE PARK  
WELCOME CENTER  
ADDITION &  
RENOVATIONS

DRAWING TITLE:

FLOOR PLAN  
CONCEPTUAL DESIGN

PROJECT No:

22-0-

DATE:

SEPT 20, 2023

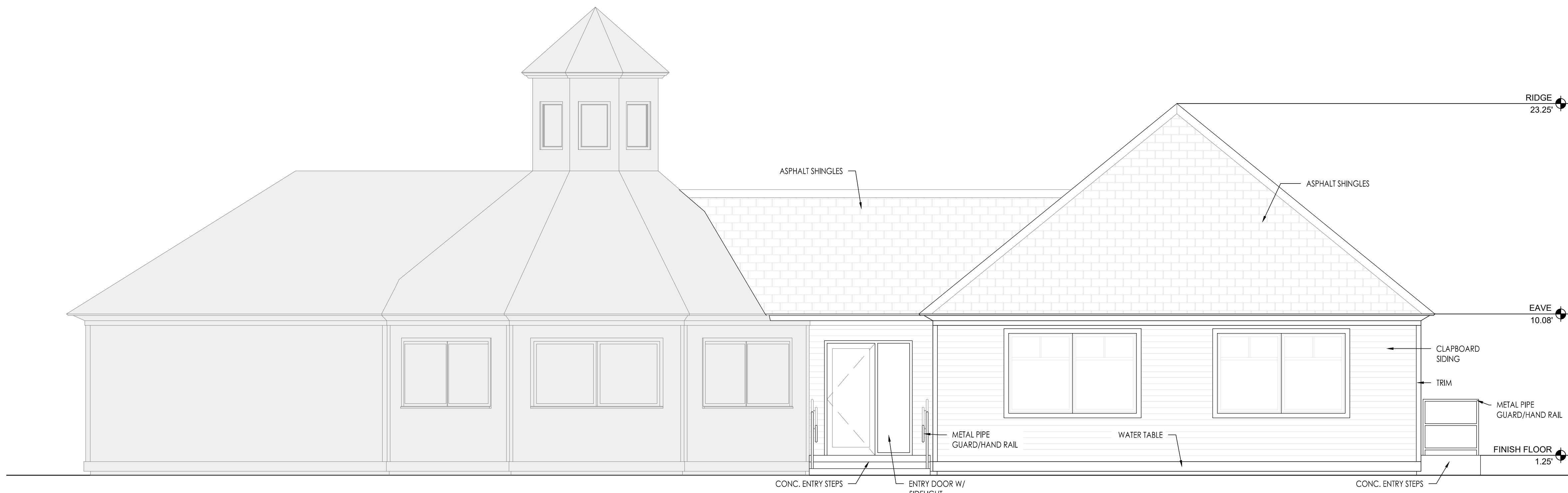
DRAWING SCALE:

As indicated

DRAWING No:

# A1.1

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



1 PROPOSED NORTH EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



1 PROPOSED SOUTH EXTERIOR ELEVATION  
SCALE: 1/4" = 1'-0"



1 PROPOSED WEST ELEVATION  
SCALE: 1/4" = 1'-0"

OWNER:  
ALBACORE PARK  
BUILDING COMMITTEE  
ALBACORE PARK  
PORTSMOUTH, NH  
ARCHITECT:  
X:\\_Office Mgt\PTA\_Logo.jpg  
959 Islington Street  
Portsmouth, NH 03801  
603.436.8891  
info@portonearchitects.com  
CONTRACTOR:

CIVIL / STRUCTURAL ENGINEER:  
MEPFP ENGINEER:

Revision History		
#	Date	Issuance

SEAL  
SCHEMATIC DESIGN  
TEST-FITS  
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LOCUS MAP

PROJECT NAME:  
ALBACORE PARK  
WELCOME CENTER  
ADDITION &  
RENOVATIONS  
DRAWING TITLE:  
EXTERIOR  
ELEVATIONS  
PROJECT No: 22-0--  
DATE: JUNE 9, 2023  
DRAWING SCALE: As indicated  
DRAWING No:

# Exhibit C



200 Griffin Road, Unit 3, Portsmouth, NH 03801  
Phone (603) 430-9282 Fax 436-2315

23 September, 2023

**Parking Demand  
Proposed Museum Addition  
Albacore Park  
569 Submarine Way  
Portsmouth, NH**

The purpose of this calculation is to identify the proposed parking demand expected to be generated by the proposed Visitor Center addition at 569 Submarine Way in Portsmouth, NH. Currently, the site contains a 1,600 square foot Visitor Center with museum displays, the USS Albacore Submarine walk in exhibit, and a storage out building. The submarine has an estimated floor display area of 4,200 square feet. The project proposes to expand the Visitor Center building with a 1,600 +/- square foot addition.

In developing the expected parking demand Ambit Engineering considered the standard Parking Demand rates and equations published in the Institute of Transportation Engineers (ITE) Parking Generation Manual, 5<sup>th</sup> Edition. The land use category that best correlates with the site use is Museum (ITE Land Use Code 580). The parking demand, based upon the GFA of the existing and proposed building addition and the added 4 museum staff, is summarized below for the **Average Peak Period of Parking Demand on a Weekday, Saturday, and Sunday:**

### Parking Demand Summary – PROPOSED

#### Peak Period of Demand - Weekday

Museum (0.98 vehicles per 1,000 SF GFA)	$0.98 \times 7.4 \text{ KSF} = 8 \text{ vehicles}$
Staff	4 staff = 4 vehicles
<u>Total</u>	<u>12 vehicles</u>

#### Peak Period of Demand - Saturday

Museum (2.50 vehicles per 1,000 SF GFA)	$2.50 \times 7.4 \text{ KSF} = 19 \text{ vehicles}$
Staff	4 staff = 4 vehicles
<u>Total</u>	<u>23 vehicles</u>

#### Peak Period of Demand - Sunday

Museum (4.34 vehicles per 1,000 SF GFA)	$4.34 \times 7.4 \text{ KSF} = 33 \text{ vehicles}$
Staff	4 staff = 4 vehicles
<u>Total</u>	<u>37 vehicles</u>



**Based on the calculation there is ample parking on the site to meet the peak demand of 37 vehicles. The site can easily accommodate the proposed museum addition.**

Please feel free to call if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'JRC', with a long horizontal flourish extending to the right.

John R. Chagnon, PE  
Ambit Engineering – Haley Ward

# Museum (580)

Peak Period Parking Demand vs: 1000 Sq. Ft. GFA

On a: Weekday (Monday - Friday)

Setting/Location: Dense Multi-Use Urban

Peak Period of Parking Demand: 10:00 a.m. - 2:00 p.m.

Number of Studies: 2

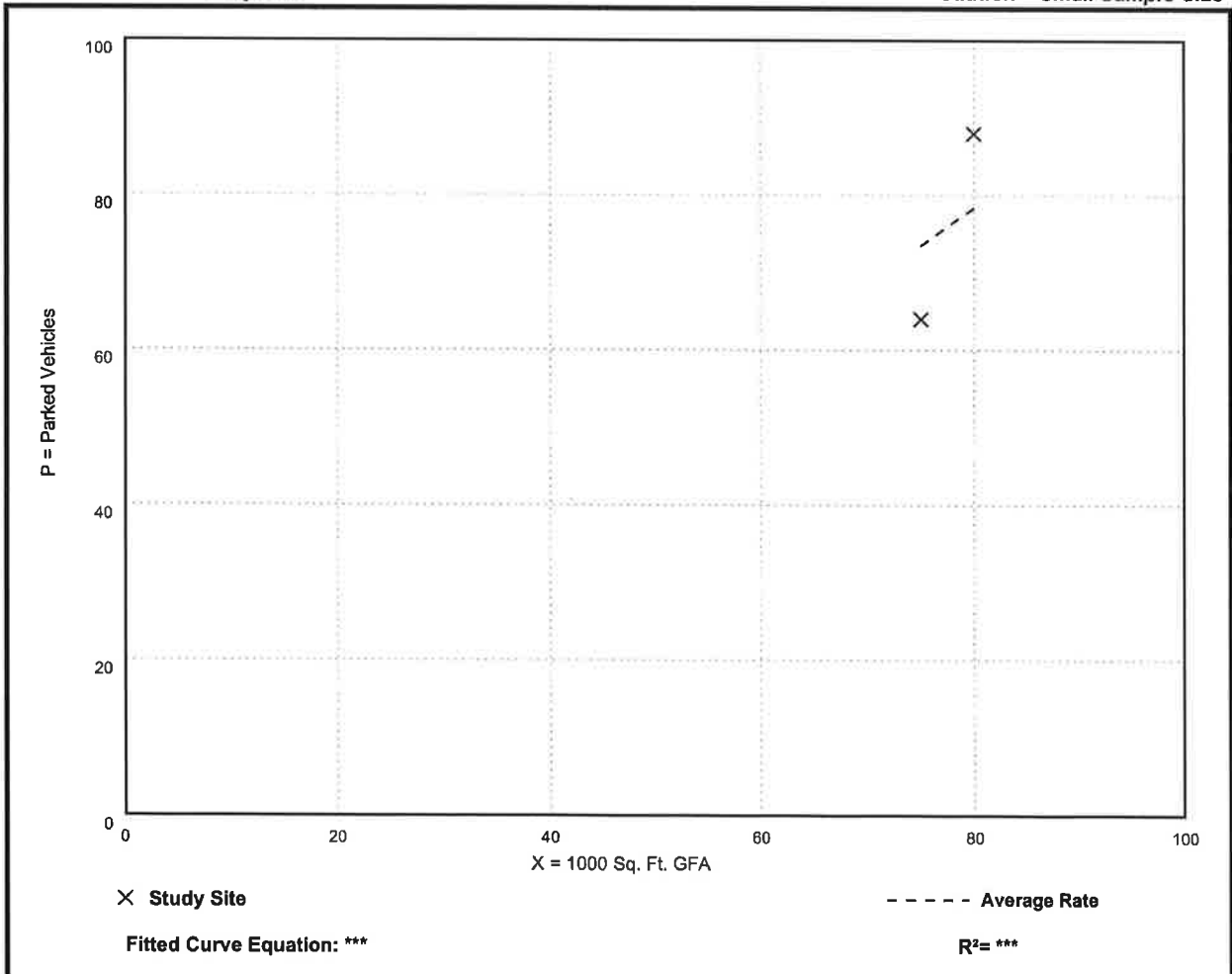
Avg. 1000 Sq. Ft. GFA: 78

## Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.98	0.85 - 1.10	*** / ***	***	*** (***)

## Data Plot and Equation

Caution – Small Sample Size



# Museum (580)

**Peak Period Parking Demand vs: 1000 Sq. Ft. GFA**

**On a: Saturday**

**Setting/Location: Dense Multi-Use Urban**

Peak Period of Parking Demand: 12:00 - 4:00 p.m.

Number of Studies: 1

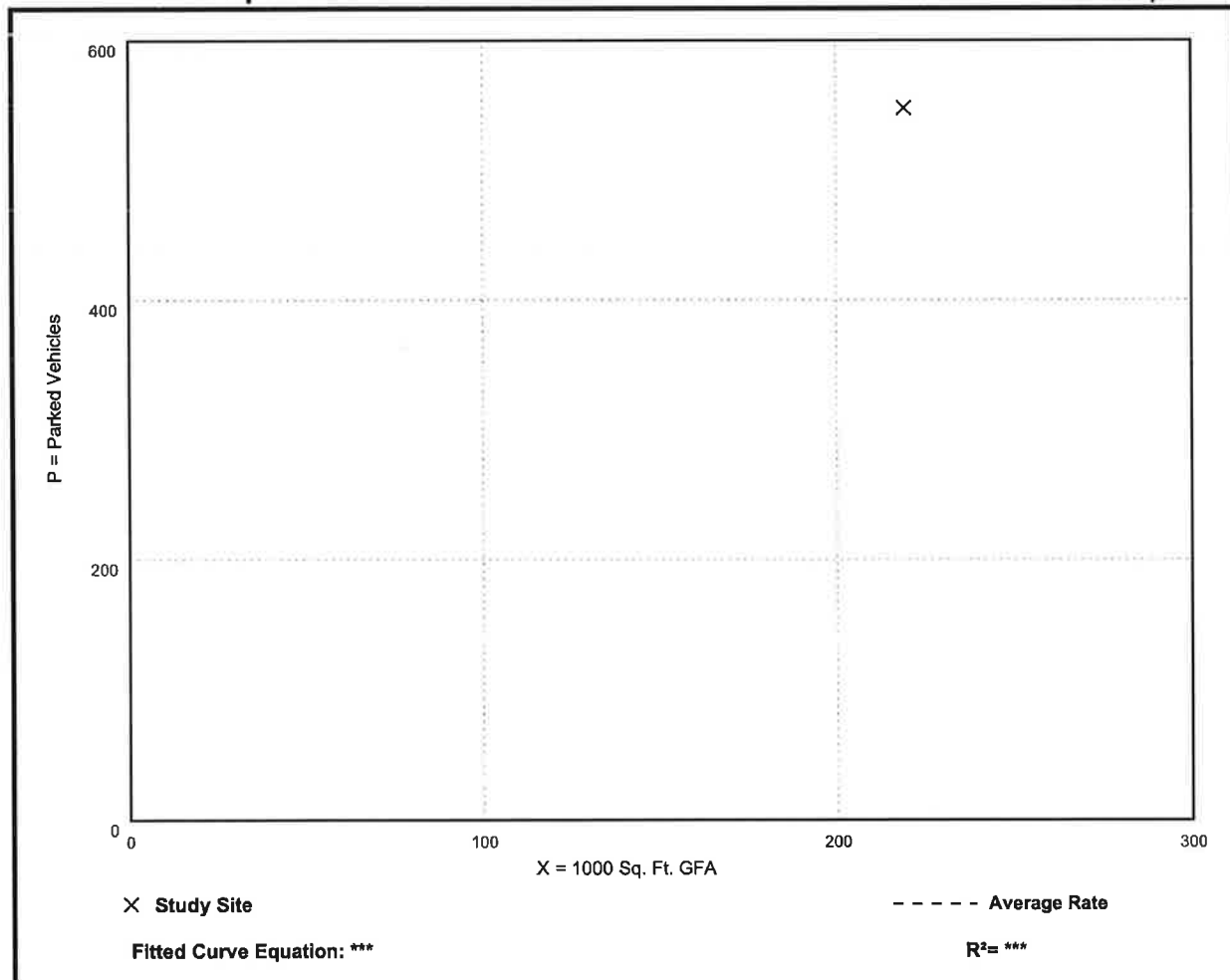
Avg. 1000 Sq. Ft. GFA: 219

## Peak Period Parking Demand per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
2.50	2.50 - 2.50	*** / ***	***	*** ( ***)

## Data Plot and Equation

*Caution – Small Sample Size*









### 569 Submarine Way



**Property Information**

Property ID 0209-0087-0000  
 Location 569 SUBMARINE WAY  
 Owner PORTS SUBMARINE MEMORIAL ASSN

# Exhibit D



**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 08/24/2023  
 Data updated 3/9/2022

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

1" = 285.51407285502376 ft



# 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 E Site Photographs



Aerial Views of Property





**Exhibit E**  
**Site Photographs**



View of Property from the North



View of Property from the North



**Exhibit E**  
**Site Photographs**



View of the Property from the South



View of the Property from the East (towards Leslie Drive)



**Exhibit E**  
**Site Photographs**



Visitors Center



Memorial Garden

**III. NEW BUSINESS**

- E. The request of **Cate Street Development LLC (Owner) and Buffalo Wild Wings (Applicant)**, for property located at **360 US Route 1 Byp** whereas relief is needed to install a sign on the northern facing façade which requires a Variance from Section 10.1271 to allow a sign on the side of a building where there is no public entrance or street frontage. Said property is located on Assessor Map 172 Lot 1 and lies within the Gateway Corridor (G1) District. (LU-23-162)

**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mixed Use	*Install a sign on façade not facing a public street or entrance	Mixed Use
<u>Unit Frontage (ft.):</u>	226.5	226.5	n/a min.
<u>Aggregate Sign Area (sq.ft.)</u>	90	139	339 min.
<u>Estimated Age of Structure:</u>	2021	Variance request(s) shown in red.	

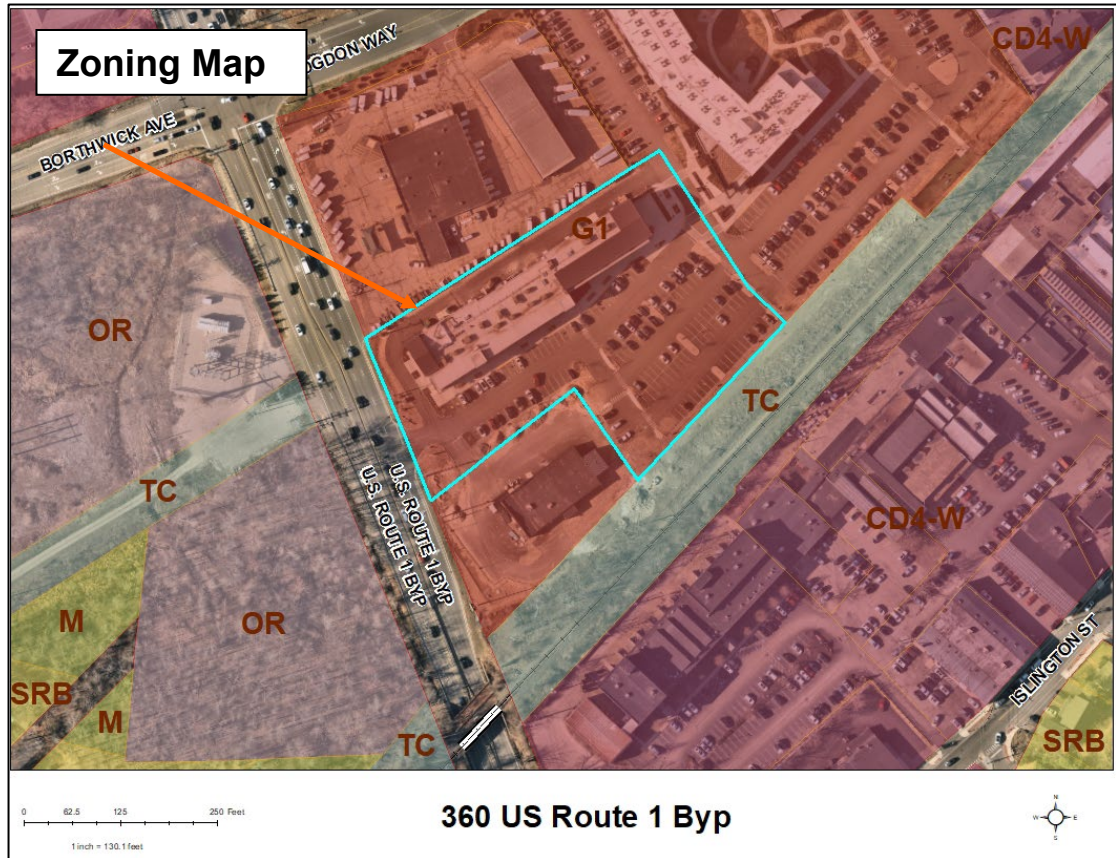
\*Proposal is the installation of a sign located on a façade where there is no public entrance and will not face a public way.

**Other Permits/Approvals Required**

- Sign Permit



### Neighborhood Context





## Previous Board of Adjustment Actions

September 10, 1985 – The Board **granted** the special exception to allow heavy equipment and heavy vehicle distribution and sales in the southerly half of an existing one-story structure; with the following stipulations:

- 1) A \$15,000 bond be posted to ensure that the parking are be paved and lined in accordance with the plan filed with the Planning Department; and
- 2) No parking be allowed beyond the parking spaces as delineated on the plan in front of the W.T.A. Bingo building and the Route 1 By-Pass.

August 22, 1989 – The Board **denied** the variance to allow the erection of a 4' by 13' free-standing sign with 0' setback for the front property line in a zone where free-standing signs shall have a minimum of 35' front setback

September 12, 1989 – Request to rehear the August 22, 1989 request was **denied**.

October 3, 1989 – The Board **granted** the variance to allow the construction of a 16' by 22' canopy 30' from the left of the lot line where 50' is required

November 14, 1989 – The Boards **granted** the variance to allow the erection of a 52 s.f. free standing sign with an 8' front yard where a 35' front yard is required.

April 19, 1994 - The Board **granted** the variances to convert 1920 s.f. of space formerly occupied by a catering service to Bingo Hall usage for a total of 8,870 s.f. for the bingo hall; and to allow the expansion of a nonconforming use of a structure where no increase in the extent of a nonconforming use of a structure may be made without Board approval.

April 18, 1995 – The Board **granted** the special exception for the erection of a 40' by 120' tent to the rear of the building for three days, May3, 1995 to May 5, 1995 for the purpose of a fundraising event for hunger relief where temporary structures may be allowed by special exception provided a bond is posted to insure their removal; with the following stipulation:

- 1) \$100.00 bond be posted to the City to ensure the removal of the tent.

April 18, 2023 – The Board **postponed** the application to install a sign on the northern façade of the building which requires a Variance from Section 10.1271 to allow a sign to be installed on a façade not facing the street or with a public entrance; 2) Variance from Section 10.1242 to allow more than one parapet sign above the ground floor per façade to the May 2, 2023 meeting.

May 2, 2023 – The Board **granted** the variance to install a sign on the northern façade of the building which requires a Variance from Section 10.1271 to allow a sign to be installed on a façade not facing the street or with a public entrance; 2) Variance from Section 10.1242 to allow more than one parapet sign above the ground floor per facade.

## Planning Department Comments

The applicant is proposing to install a new sign on the northern façade of the building. The proposed project is located in Sign District 5 where 1.5 square feet of signage is allowed per linear foot of frontage. The proposed 49 square foot sign is allowed per the dimensional

requirements of the district, however, the location is not allowed per section 10.1271 of the [Zoning Ordinance](#). Section 10.1271 is provided below.

**10.1271 Signs on More Than One Façade of a Building**

- 10.1271.10 *A use in a building with more than one exterior wall facing a street may have signs on each such wall.*
- 10.1271.20 *An establishment with a public entrance on a side of the building not facing a street may have signs on that side as well as on the street-facing wall(s).*
- 10.1271.30 *Regardless of the location of signs, the maximum sign area per establishment shall be based only on the building frontage as defined in Section 10.1290.*

**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.



**Sign Advertising**

**Electronic Message Centers**

City of Portsmouth  
Zoning Board of Adjustment  
1 Junkins Ave  
Portsmouth NH 03801

September 26, 2023

Members,

On behalf of Buffalo Wild Wings located at 360 Rt One Bypass, Barlo Signs respectfully requests your consideration of variance relief to allow one internally illuminated wall sign, 49 sf, on a business' wall which does not contain a public access, nor have frontage on a public way.

Our proposed sign is in keeping with existing signage for Convenient MD, which occupies the same address, and even the same building elevation as BWW and shares the same signage conditions – Yet they enjoy an existing wall sign on a wall which does not contain a public entrance nor have frontage on a public way.

We look forward to addressing the ZBA to further discuss how our proposal will not be contrary to the public interest, as our proposal allows early identification for the way-finding public seeking Buffalo Wild Wing's location; That our proposal meets the spirit of the ordinance as our proposed sign provides safe direction for motorists seeking BWW heading South on Route One, as existing signs may be missed due to their location across the roadway median and additional lanes of traffic; Allows for substantial justice as approval of proposed sign will allow BWW to maintain the identity needed for south bound traffic, which may not be familiar to this commercial area; Proposal will not diminish the value of the surrounding properties as proposed changes are an improvement to existing conditions and mirror the adjacent Convenient MD sign in location – But is much smaller; And will prevent unnecessary hardship by allowing the important identification required to attract the way-finding public heading southbound which will have to both identify BWW and then quickly determine how to make way to the property.

For these, and additional reasons we hope to present at the next ZBA hearing, we thank you for your consideration.

Sincerely,

  
Barlo Signs  
Jenn Robichaud  
158 Greeley St  
Hudson NH 03051  
jenn@barlosigns.com

CORPORATE OFFICE: 158 Greeley Street, Hudson, NH 03051-3422 (603) 882-2638 or 800-227-5674  
FAX (603) 882-7680 Email: [your\\_image@barlosigns.com](mailto:your_image@barlosigns.com) Website: [www.barlosigns.com](http://www.barlosigns.com)





# LANDLORD AUTHORIZATION

**FOR PERMIT(S), VARIANCE(S), HEARING(S)**  
**< MUST BE SIGNED BY LANDLORD OR OWNER OF THE PROPERTY**  
**ON WHICH SIGNAGE IS BEING INSTALLED >**

This document verifies that you are authorizing BARLO SIGNS to install signage on your property pursuant to the attached drawings as well as authorizing BARLO SIGNS to secure all related permits required by the local municipalities.

Barlo Signs cannot apply for permits or hearings until we receive the LANDLORD or PROPERTY OWNER'S authorization to do so.

I hereby authorize an Authorized Representative of Barlo Signs of Hudson, N.H., to APPLY FOR SIGN PERMITS for this site and to APPEAR BEFORE THE PLANNING BOARD and/or SIGN REVIEW BOARD and/or the ZBA for this site.

I hereby authorize BARLO SIGNS to install signage on my property exactly as shown in drawing # \_\_\_\_\_ Dated: \_\_\_\_\_

Sign location address: \_\_\_\_\_

Property Owner's Signature: Peter M. Doucet II

Printed Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Date Signed: \_\_\_\_\_

***We cannot apply for permits or hearings until we receive your authorization. Thank you!***

**Reference JOB NAME:** \_\_\_\_\_ **Job #:** \_\_\_\_\_

**Jenn Robichaud**

---

**Subject:** BWW Denial

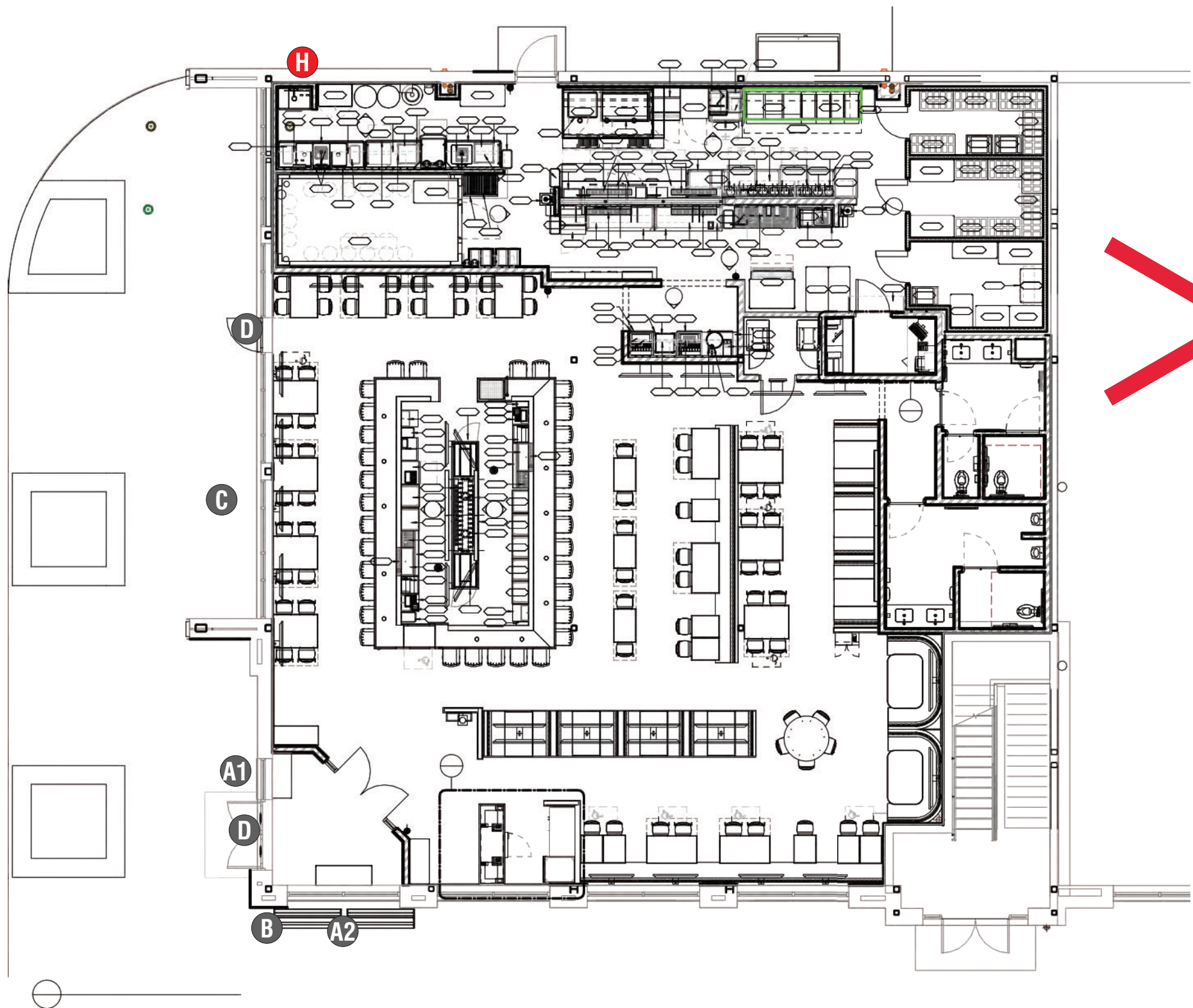
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**Subject:** BWW Denial

Denial - per Section 10.1271 of the Zoning Ordinance

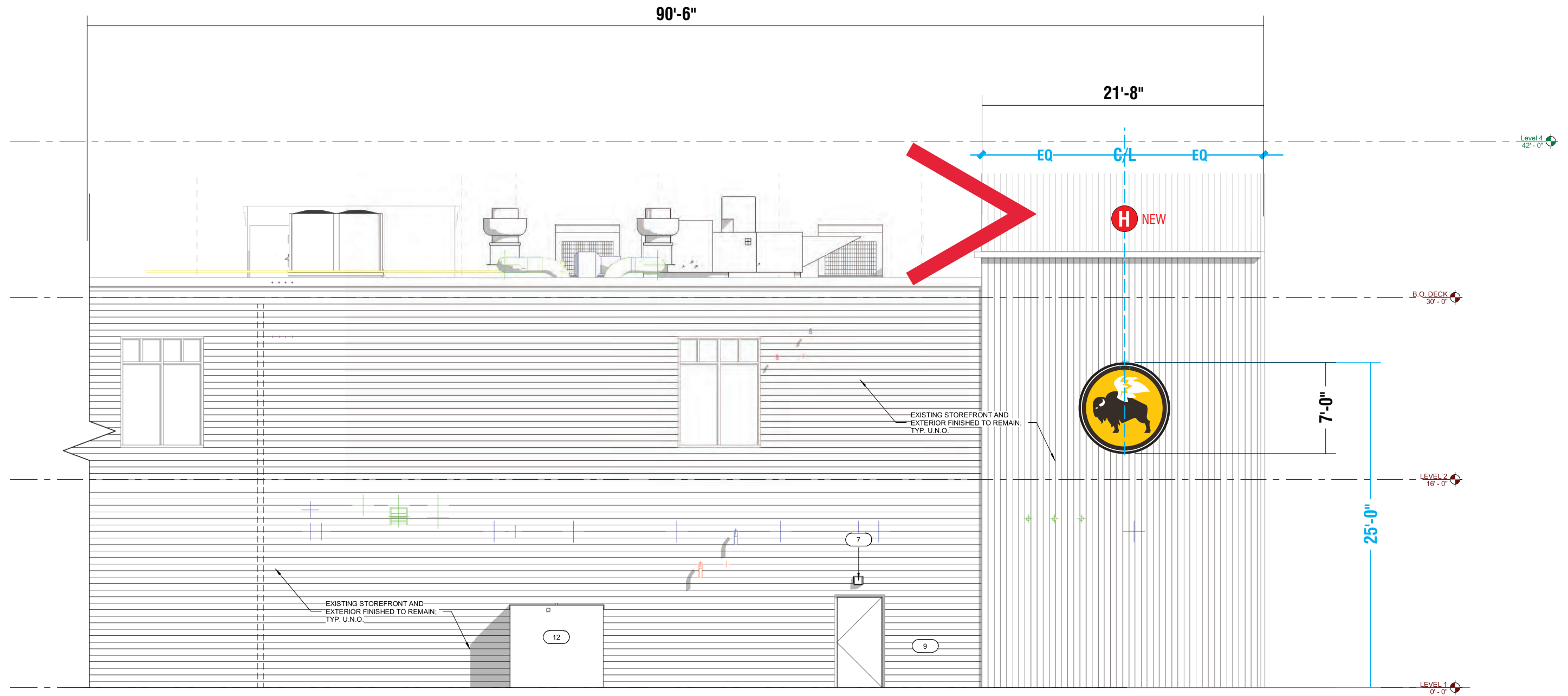
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"Signs are only permitted on building facades which have frontage on a public right of way or have a public entrance. The location of the proposed sign does not have frontage or a public entrance".



- A** CC-BWW18-RW CHANNEL LETTERS ON RACEWAY
- B** D/F BLADE SIGN (CPJ-EM48)
- C** CW-EM48 CHANNEL LOGO
- D** CV-ME12 DOOR VINYL
- H** CW-EM84 CHANNEL LOGO





1 EXTERIOR ELEVATION  
 A202 scale 1/8" = 1'-0"



VISUAL COMMUNICATIONS  
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 Euless, TX - Grafton, WI - Houston, TX  
 Idaho Falls, ID - Louisville, KY - Ocean Ranch, CA  
 Racine, WI - Rochester Hills, MI - San Antonio, TX  
 Tampa, FL - Willowbrook, IL - Orlando, FL

Building Quality Signage Since 1901

Revisions:


Colors Depicted In This Rendering May Not Match Actual Finished Materials. Refer To Product Samples For Exact Color Match.

Client Approval/Date: \_\_\_\_\_

Landlord Approval/Date: \_\_\_\_\_

Account Rep: **Boyd Hippenstiel**  
 Project Manager: **Jim Harvey**  
 Drawn By: **Jody Graham**



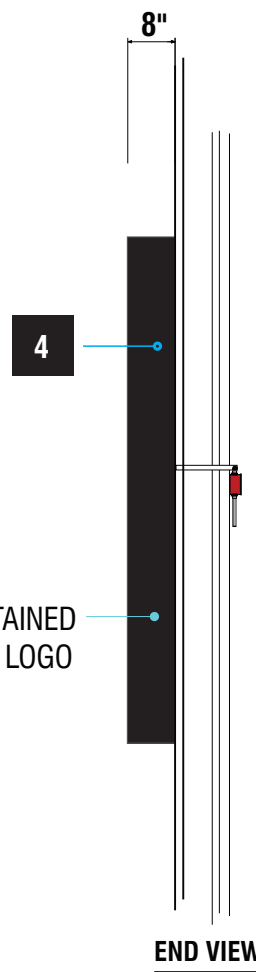
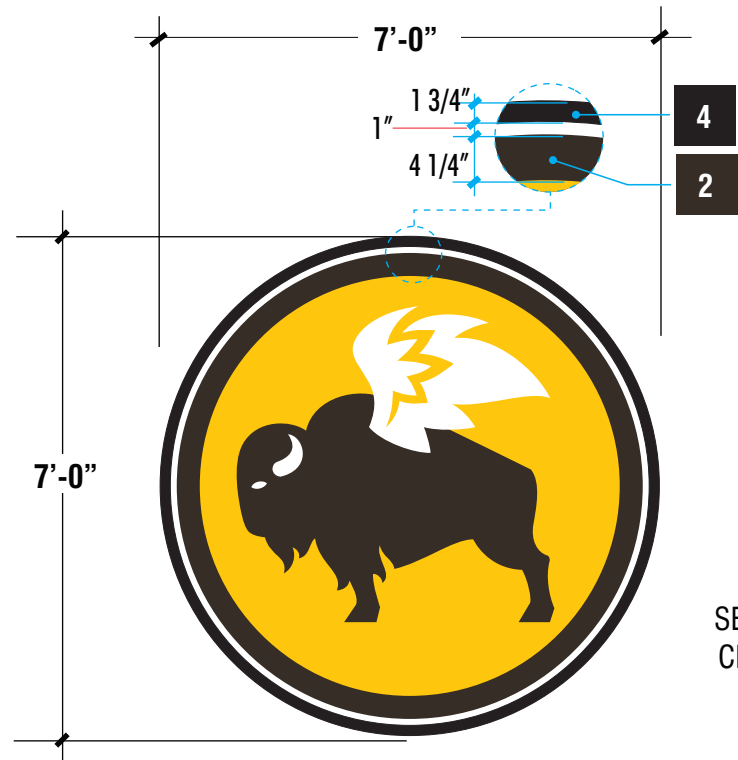
Project / Location:



360 ROUTE 1 BYPASS NB  
 PORTSMOUTH, NH 03801

Job Number: **23-83442-10**  
 Date: **July 13, 2023**  
 Sheet Number: **4** Of **8**  
 Design Number: **23-83442-10**

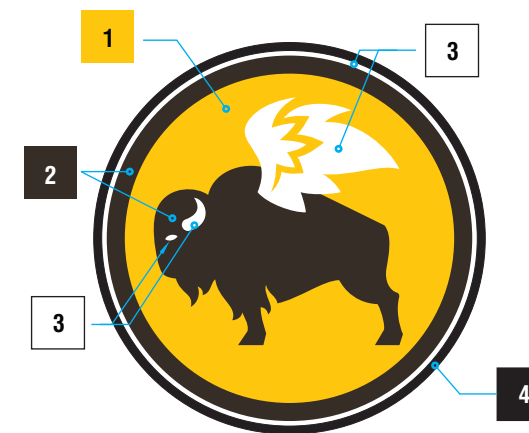
This original drawing is provided as part of a planned project and is not to be exhibited, copied or reproduced without the written permission of Federal Heath Sign Company, LLC or its authorized agent. ©FHSC



SELF-CONTAINED CIRCULAR LOGO

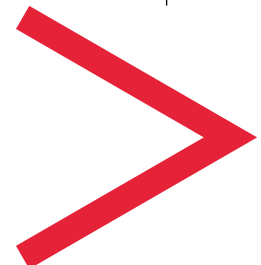
NOTE: PRIMARY ELECTRIC TO SIGN SITE BY OTHERS

NOTE: GC TO PROVIDE ADEQUATE BEHIND THE WALL BACKING AND ACCESS AS REQUIRED.



**Color Breakdown | Logo**  
N.T.S.

<p>PMS 7548c</p> <p>1</p> <p>2500-125 Golden Yellow</p>	<p>PMS 440c</p> <p>2</p> <p>2500-69 Duronodic</p>	<p>100 % White</p> <p>3</p>	<p>100 % Black</p> <p>4</p>
<p>MAXIMUM (MAX) 49.0 SQ. FT.</p>		<p>MINIMUM (MIN) 38.4 SQ. FT.</p>	



**CW-EM84**  
**NEW WALL SIGN LAYOUT**



3/8" = 1'-0" ONE (1) REQ'D

SCOPE OF WORK:  
MANUFACTURE, SHIP & INSTALL ONE (1) NEW WALL LOGO.

**LOGO CHANNEL:**  
RETURNS & RETAINERS: BLACK.

NOTE: IF CUSTOM LOGO SIZE OF 36" or LESS IS REQUIRED, RETAINER WILL BE TRIM-CAP PAINTED TO MATCH RETURNS (BLACK)

**CIRCULAR FACE:** WHITE POLYCARBONATE w/ FIRST SURFACE TRANSLUCENT VINYL DECORATION.

**ILLUMINATION:** VIA SloanLED Prism (White)



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Tampa, FL - Willowbrook, IL - Orlando, FL

Building Quality Signage Since 1901

Revisions:


Colors Depicted In This Rendering May Not Match Actual Finished Materials. Refer To Product Samples For Exact Color Match.

Client Approval/Date: \_\_\_\_\_

Landlord Approval/Date: \_\_\_\_\_

Account Rep: **Boyd Hippenstiel**

Project Manager: **Jim Harvey**

Drawn By: **Jody Graham**



Project / Location:

360 ROUTE 1 BYPASS NB  
PORTSMOUTH, NH 03801

Job Number: **23-83442-10**

Date: **July 13, 2023**

Sheet Number: **8** Of **8**

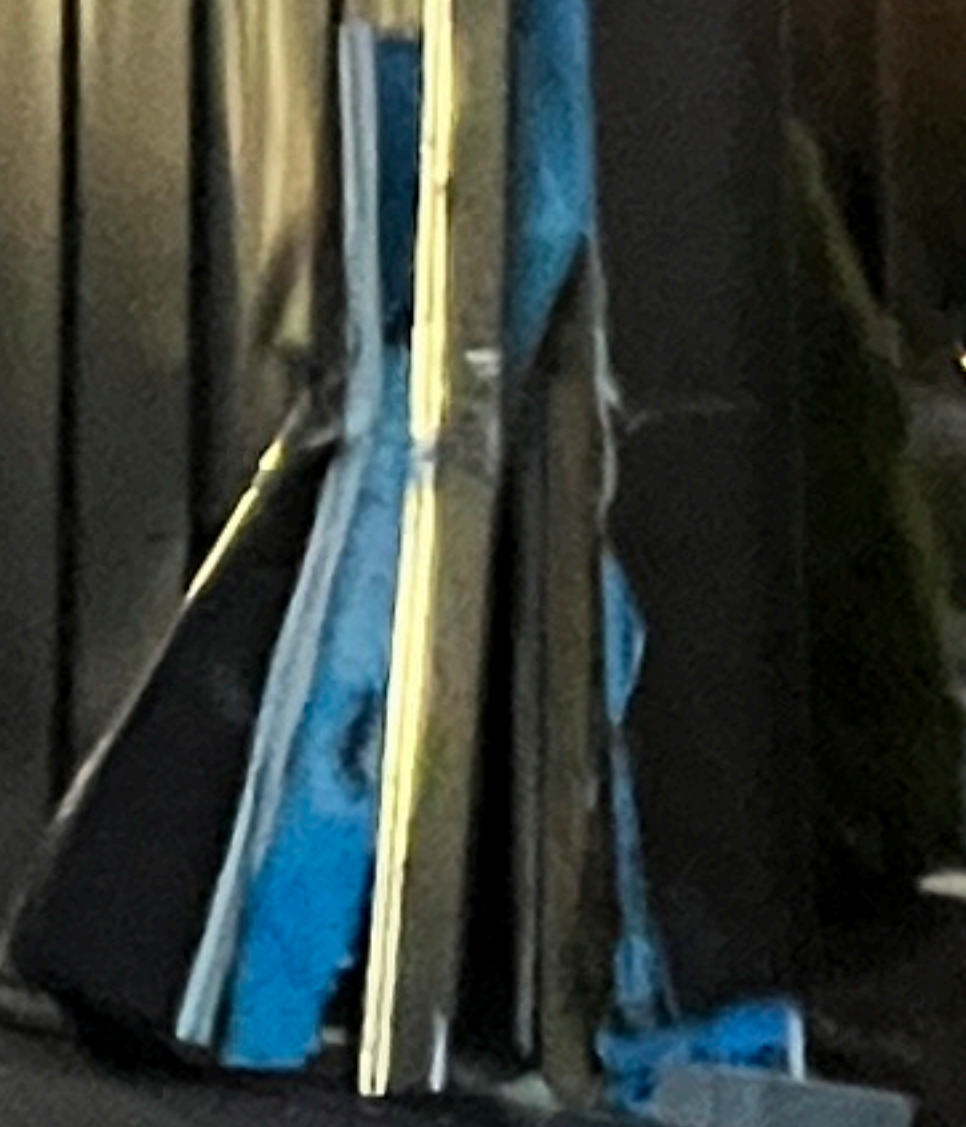
Design Number: **23-83442-10**

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Walmart





 convenientMD  
HEADQUARTERS







BUFFALO WILD WINGS

360

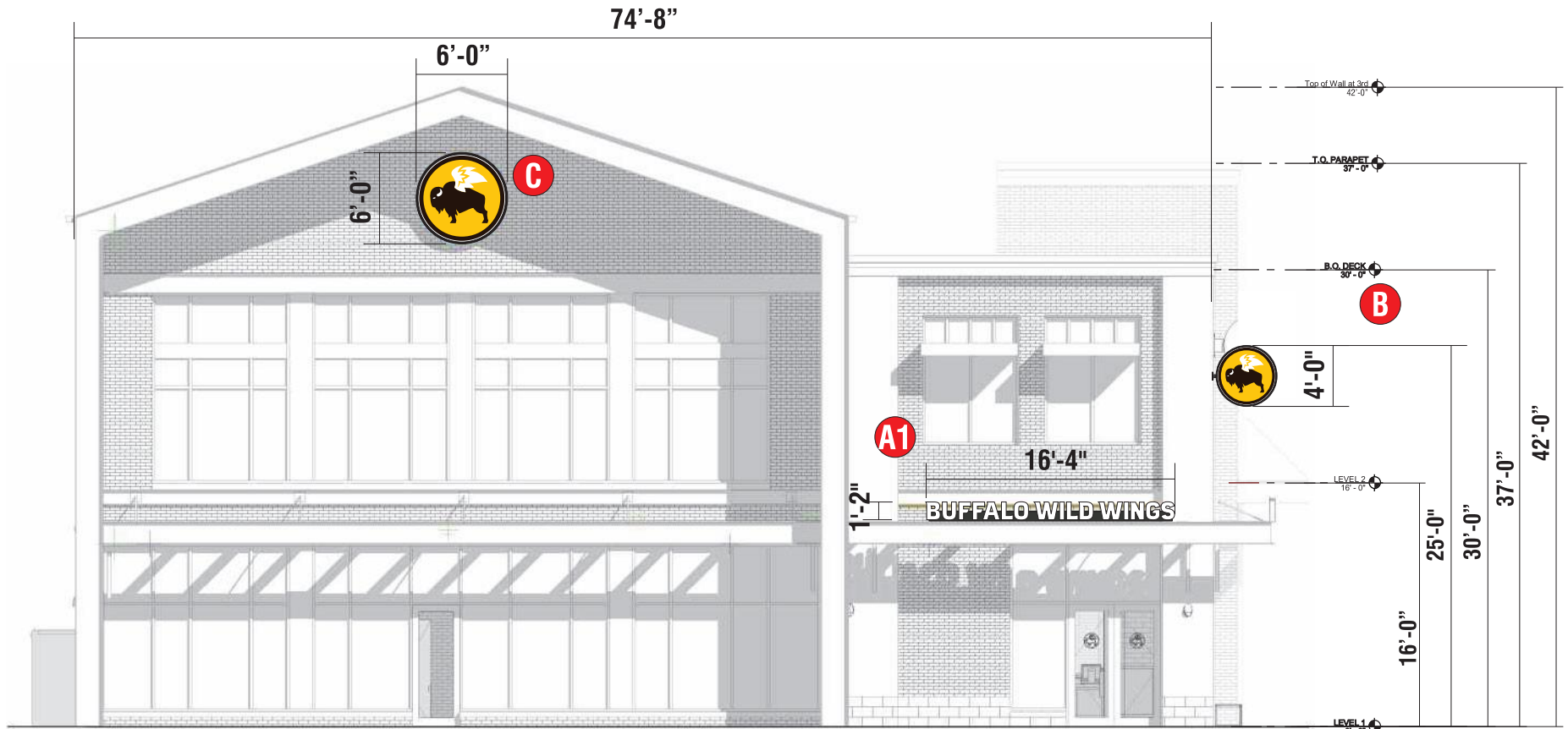




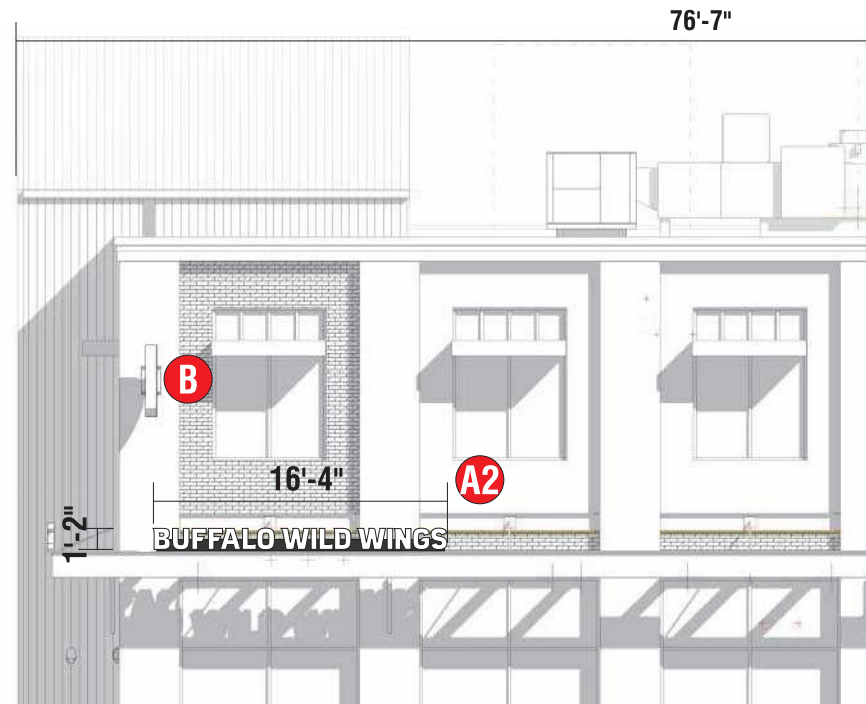
**BUFFALO WILD WINGS**



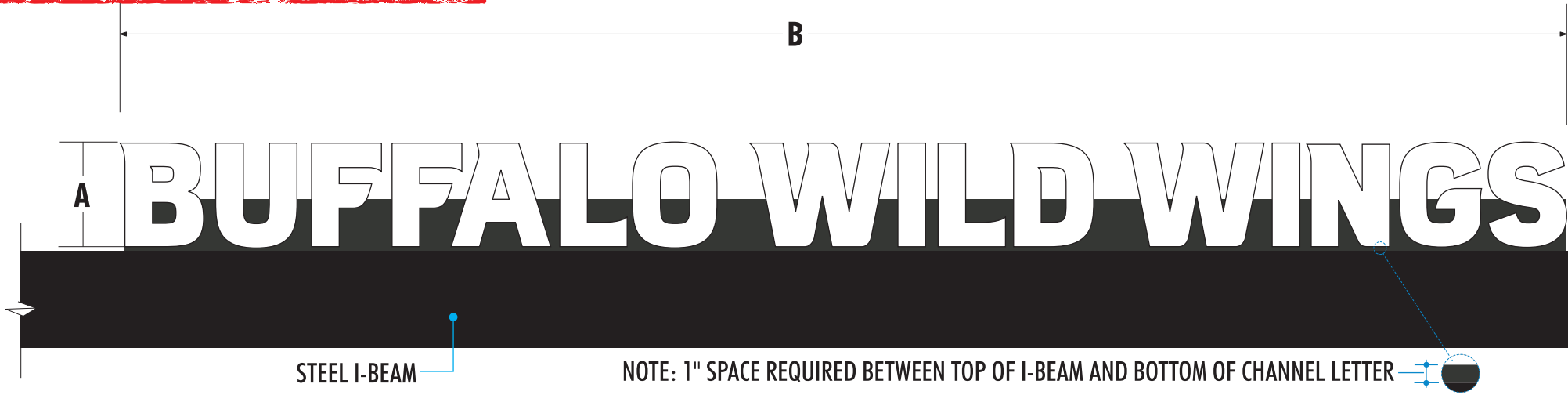




1 EXTERIOR ELEVATION  
A201 SCALE 1/4" = 1'-0"



**NON-STANDARD**

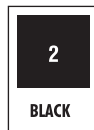


**A** INDIVIDUAL INTERNALLY ILLUMINATED CHANNEL LETTER LAYOUT ON RACEWAY

TYPE	A	B	SQ.FT.	QTY
CC-BWW14-RW	1'-2"	16'-4"	19.06	2

**CHANNEL LETTERS:**

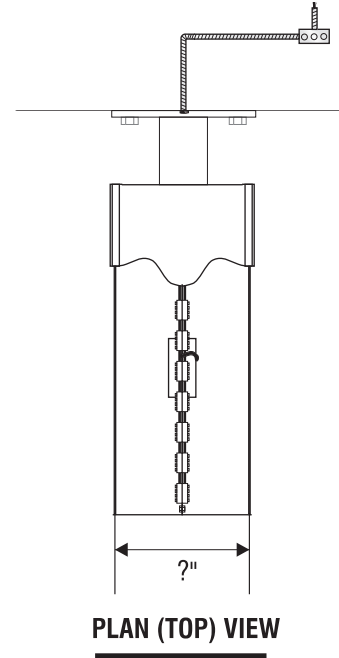
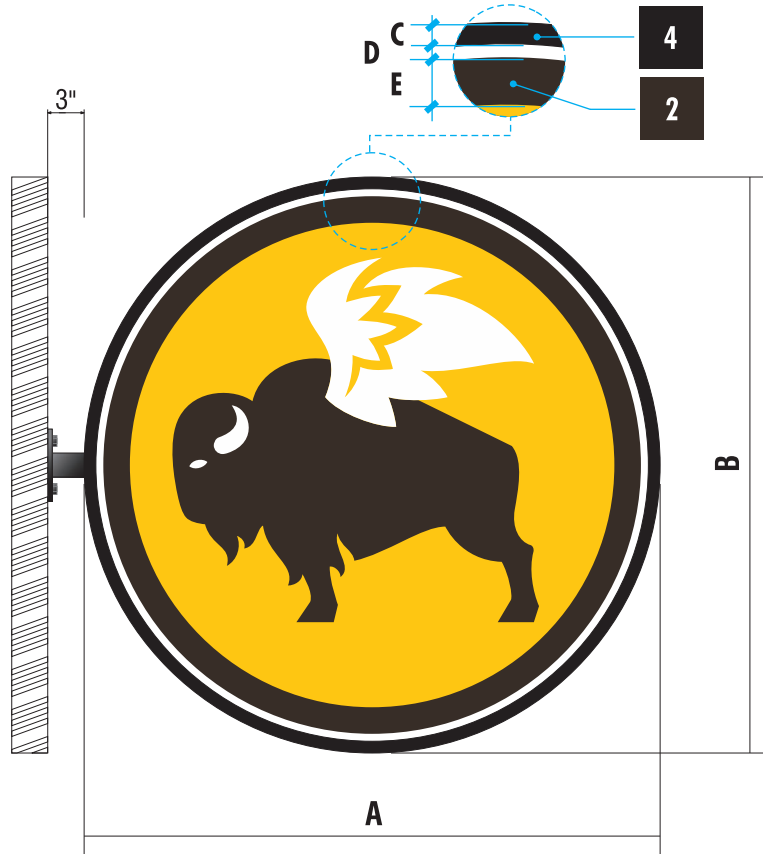
FACES: #7328 WHITE ACRYLIC BANDED W/A 1" BLACK TRIM CAP.  
RETURNS OF LETTERS PAINTED BLACK ON ALL EXTERIOR SURFACES  
ILLUMINATION: VIA SloanLED Prism (White)



ELECTRICAL REQUIREMENTS
Total: <u>T.B.D.</u> Amps
# of 120V, 20A Circuits Req'd T.B.D.

# ENGINEERING REQUIRED

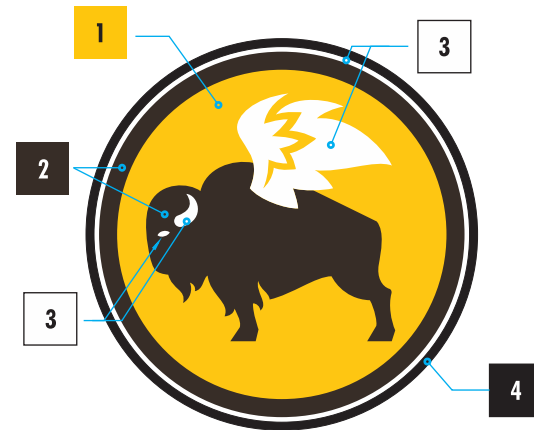
ENGINEERING TO DETERMINE DEPTH OF SIGN, MOUNTING PLATE AND SQUARE TUBE



SIGN TYPE	A	B	C BLACK BORDER	D WHITE (ILLUM) BORDER	E (RETAINER)	SQ.FT. (MAX)	SQ.FT. (MIN)	QTY
CPJ-EM48	4'-0"	4'-0"	1"	5/8"	2 1/4"	16.0	12.5	1

**B** DOUBLE FACED INTERNALLY ILLUMINATED ACRYLIC FACED DISPLAY

CABINET: ALUMINUM LETTER CONSTRUCTION W/ PRE-FINISHED BLACK RETURNS.  
 MOUNTING PLATE AND SUPPORT: PAINTED BLACK.  
 FACES: #7328 WHITE ACRYLIC W/ FIRST SURFACE APPLIED VINYL GRAPHICS.  
 FACES ATTACHED W/ 1" BLACK TRIM CAP.  
 COLORS AS PER PALETTE.  
 ILLUMINATION: SloanLED Prism (White)



**Color Breakdown | Logo**

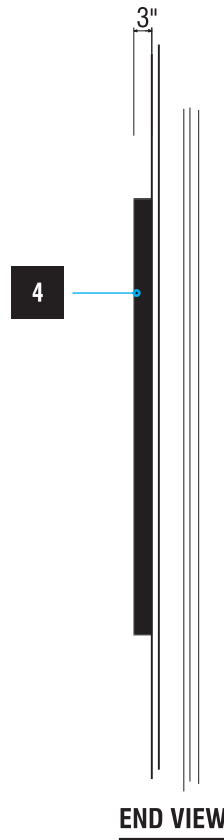
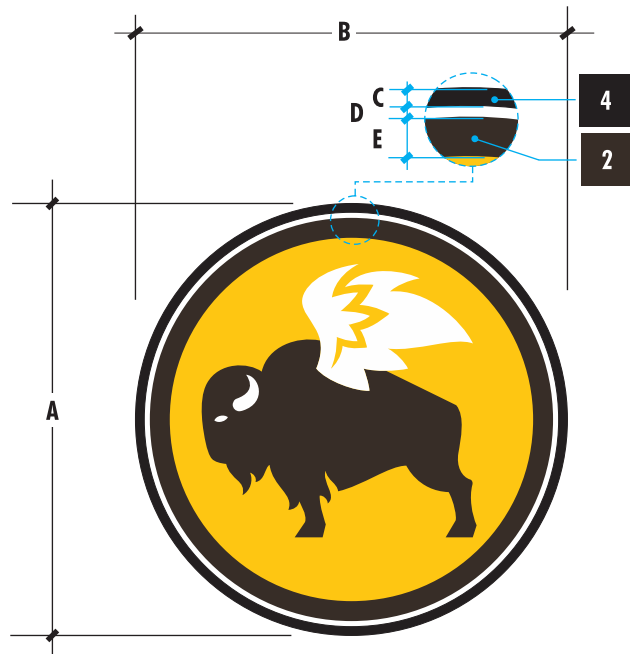
PMS 7548c <b>1</b> 2500-125 Cadmium Yellow	PMS 440c <b>2</b> 2500-69 Dioxazine	100% White <b>3</b>	100% Black <b>4</b>
---	--	------------------------	------------------------

D  
V  
F  
M

5'-0"



# NON-STANDARD



## C WALL SIGN LAYOUT | LOGO

3/8" = 1'-0"

SIGN TYPE	A	B	C BLACK BORDER	D WHITE (ALUM) BORDER	E DURONIC BORDER	SQ.FT. (MAX)	SQ.FT. (MIN)	QTY
CUSTOM CW-EM72	6'-0"	6'-0"	1 1/2"	7/8"	3 1/2"	36.0	28.2	1

**LOGO CHANNEL:**  
RETURNS: BLACK

**CIRCULAR FACE:** ALUMINUM FACE PAINTED BLACK w/ FIRST SURFACE  
OPAQUE WHITE & TRANSLUCENT COLORED VINYL DECORATION.

NON ILLUMINATED WALL SIGN

### III. NEW BUSINESS

- F. The request of **Creeley Family Trust, Sean and Andrea Creely Trustees (Owners)**, for property located at **337 Richards Avenue** whereas relief is needed to construct an addition to the existing structure which requires a Variance from Section 10.521 to allow a 12.5 rear yard where 20 feet are required. Said property is located on Assessor Map 130 Lot 2 and lies within the General Residence A (GRA) District. (LU-23-163)

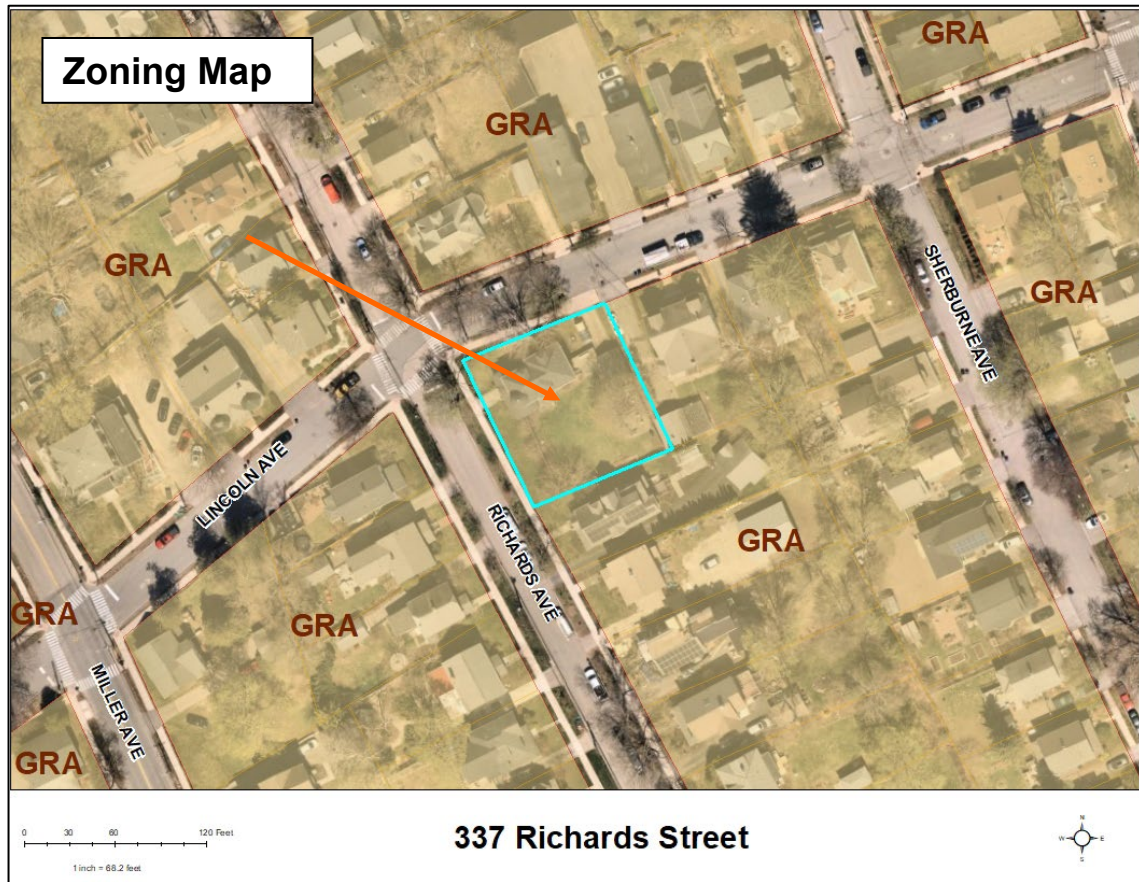
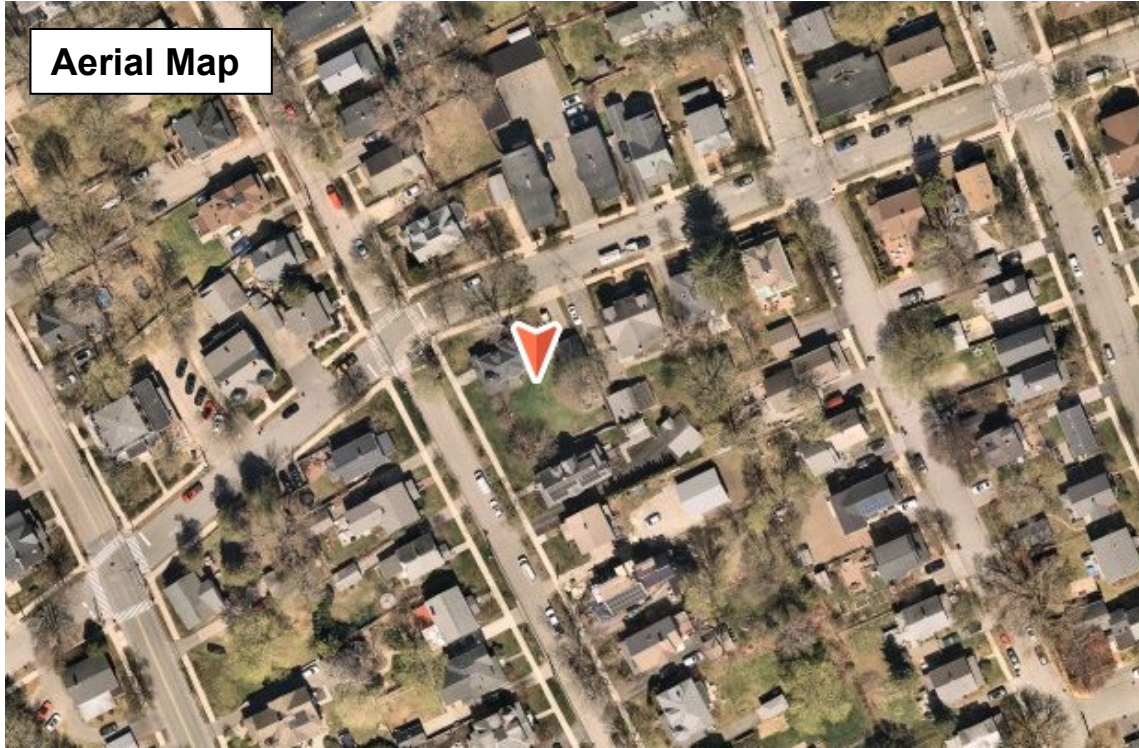
#### Existing & Proposed Conditions

	<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	12.5	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

August 15, 2023 – The Board **denied** the variance request 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.

## 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.

### Fisher vs. Dover

This applicant was before the Board on August 15 seeking relief for an addition with a 1.5 rear yard. This new proposal includes a 12.5 rear yard and new configuration of the addition. Staff feels this is a significant enough change that would not evoke Fisher v. Dover, but the Board may want to consider whether Fisher vs. Dover is applicable before this application is considered.

*“When a material change of circumstances affecting the merits of the applications has not occurred or the application is not for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the board of adjustment, the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan.” Fisher v. Dover, 120 N.H. 187, (1980).*

## 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**

September 26, 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;

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.



## Conclusion

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,

Dated: September 26, 2023

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

**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 Avenue and Lincoln Avenue. 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 and chicken coop on the Property situated along the easterly boundary that is accessed. The Creeley’s driveway runs along the easterly boundary and is accessed from Lincoln Avenue. Lincoln Avenue serves as the primary access to the Property.

The detached garage is quite small. It has a footprint of approximately 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 & Required Variance Relief**

In conjunction with a larger renovation and addition to their home, the Creeleys are proposing the demolition of the existing garage and chicken coop that encroach into the rear yard setback and the construction of a new single-vehicle garage with bedroom space above. A portion of the new garage structure would be situated within the rear yard setback. Due to the fact that the Property is a corner lot with frontage on two streets and has a Richards Avenue address, the easterly boundary is considered to be the rear yard rather than a side yard. This is significant given the 10’ difference in setback requirements. It is also significant since the City of Portsmouth has not taken a consistent approach in how it interprets what constitutes a side yard versus a rear yard with respect to corner lots. On several past applications similar to the Creeleys’ application, the City has determined that there is no rear yard on a corner lot property.

**Variance Relief Sought**

*In order to construct the new garage in the proposed location, a variance is required from Section 10.521 to allow for a 12.5’ – 14.8’ rear yard setback where 20’ is the minimum required and 1.4’ – 2.6’ exists.*

### **August Denial & *Fisher v. City of Dover***

On August 15, 2023, the Board denied a request for a 1.7' rear yard setback variance in connection with a proposed two-vehicle garage with bedroom space above.

Under the standards set forth by the New Hampshire Supreme Court in the case of Fisher v. City of Dover, unless a “material change of circumstances affecting the merits of the application has [] occurred” or the application is “materially differs in nature and degree from its predecessor,” the Board may not reach the merits of a subsequent application. 120 N.H. 187, 190 (1980).

The current variance request clearly meets the Fisher v. City of Dover standard to the extent that the Board feels compelled to discuss it before proceeding with the public hearing on Creeleys' application. The proposed garage is approximately half the size of what was previously proposed when the Board voted to deny the rear yard setback request in August. Moreover, the setback of the proposed garage is now 12.5' – 14.8' to the easterly boundary whereas 1.7' – 2.6' was previously proposed. For these reasons, the current request being considered by the Board is *materially different* in nature and degree than the application that was denied in August.

### **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.

The proposed garage is designed to align architecturally with the existing house and mudroom/living room addition. It will be the minimum width necessary to accommodate one (1) modern vehicle and to provide some much-needed bedroom space above. From the outside, the existing home looks larger than it actually is due to the turret (tower) 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.



In considering whether granting the variance is consistent with the public interest and spirit of the Ordinance, it is important to consider the purpose(s) of the 20' rear setback restriction. All building setback restrictions are intended to prevent homes and other structures from getting too close to each other and to preserve the *light, air and space* of abutting properties. However, rear yard setback requirements are often more stringent in residential zones than front or side yard setback requirements because they are intended to encourage usable back yard areas and open space corridors in the middle of neighborhood blocks.

With respect to the Creeley property, the area that is considered the rear yard is really the right side yard despite its legal designation. This side of the Property is also immediately adjacent to the right side yard of 192 Lincoln Avenue, thus there is no connection anyone else's back yard. The area of the Property that constitutes the right side yard is the Creeley's rear (back) yard as a result of the driveway and primary access to the home being off of Lincoln Avenue. The Creeley's proposed garage will be setback 12.5' – 14.8' from the easterly (rear) property boundary. It would be compliant if this area of the Property was considered to be the right side yard. The existing garage is only 1.4' – 2.6' from the rear boundary and would not be compliant regardless of yard orientation.

Approving the variance will result in an increase in the light, air and space of the abutting property at 192 Lincoln Avenue and an overall improvement from the existing conditions of the Property. It is important to point out that there is a 17' wide driveway on the property at 192 Lincoln Avenue immediately adjacent to the proposed garage that acts as an additional open space buffer between the properties. The separation distance between the proposed garage and the nearest structure on 192 Lincoln Avenue is greater than 30'.

For all of the aforementioned reasons, granting the variance will observe the purpose that the setback requirements were intended to serve while not negatively altering the essential character of the neighborhood or having an impact upon the public.

**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. The only property that is potentially impacted by the variance request is 192 Lincoln Avenue. The owner of that property supports the Creeleys' application. Granting the variance will result in a more functional garage and some needed additional bedroom space without having any negative impact upon the abutting property. It will also bring the Property into much greater compliance with the rear yard setback requirement. It would be injustice to deny the relief sought given the unique conditions of the Property. 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.**

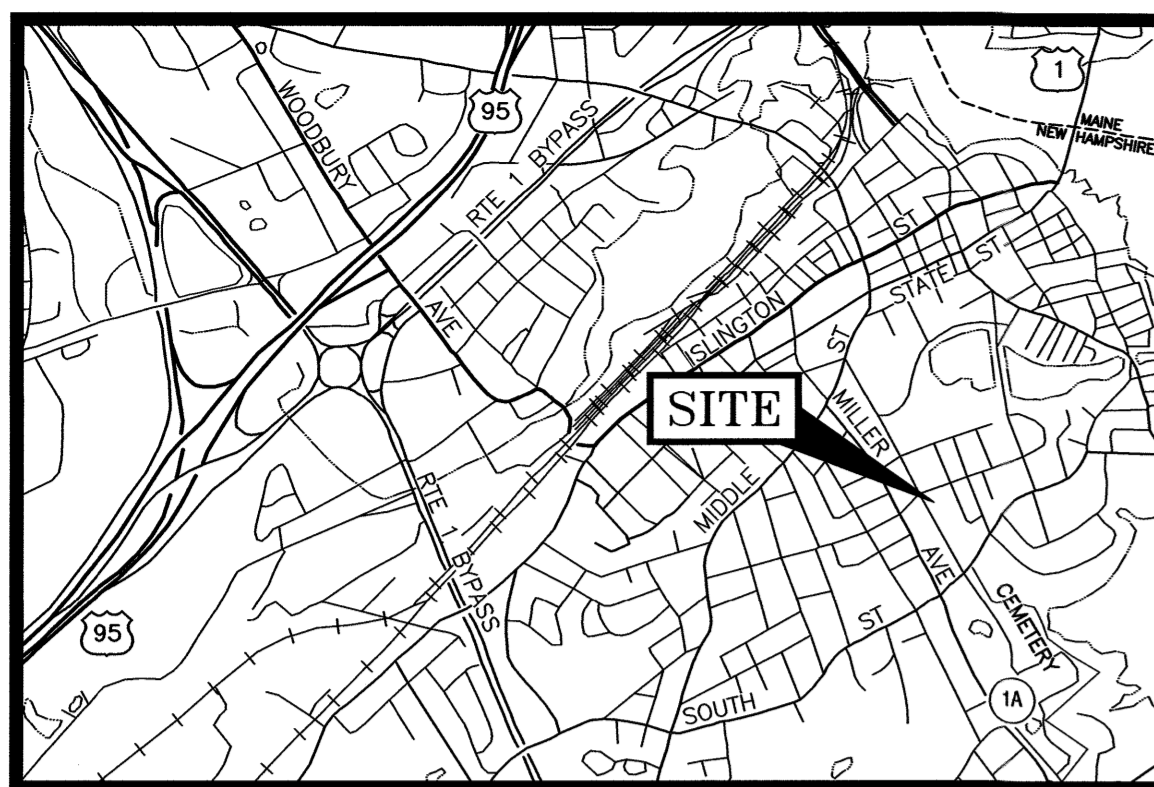
The Board is justified in relying upon its own knowledge and expertise to reach the conclusion that surrounding property values will either remain the same or improve if the variance request is granted. The existing garage is obsolete and sits almost directly on the common boundary with 192 Lincoln Avenue. This garage, along with the chicken coop that is also situated along the boundary with 192 Lincoln Avenue, will be demolished to make way for the new garage. The new garage will be setback 12.5' – 14.8' from the boundary with 192 Lincoln Avenue. The increased setback can only add value to that property, not take away from it.

Architecturally, the proposed garage will tie in naturally with the existing home and other improvements being made to it. Landscaping is also being added between the proposed garage and the property at 192 Lincoln Avenue to provide a vegetated buffer that does not presently exist. The garage has been designed to the minimum width necessary to support its intended use. The abutter's support of the proposed garage is further 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 is a corner lot containing a single-family home, driveway and detached garage that were constructed before current zoning regulations were adopted. While the Property has a Richards Avenue address, access and other features of the Property is achieved from Lincoln Avenue. The area of the Property defined as the rear yard functions as a side yard while the area that is defined as the right side yard serves as the back yard. If the Property had a Lincoln Avenue address, the rear yard would be the left side yard and would be subject to a 10' setback versus a 20' setback. Under this scenario, no variance would be required for the proposed garage since it will have a 12.5' – 14.8' setback from the boundary. The primary purpose the more restrictive rear yard setback requirement was intended to serve cannot be met with the Creeley property due to the fact that the rear yard lines up with the right side yard of the abutting property at 192 Lincoln Avenue. There is no natural connection on this side of the Property to anyone else's rear yard. These unique conditions of the Property make it such that there is no fair and substantial relationship between the purpose the rear yard setback restriction was intended to serve and its relation to the Property.

The proposed use of the Property will remain the same and is permitted by right under Section 10.440 of the Ordinance. Therefore, the proposed use is reasonable.



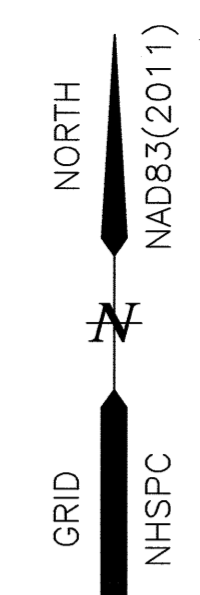
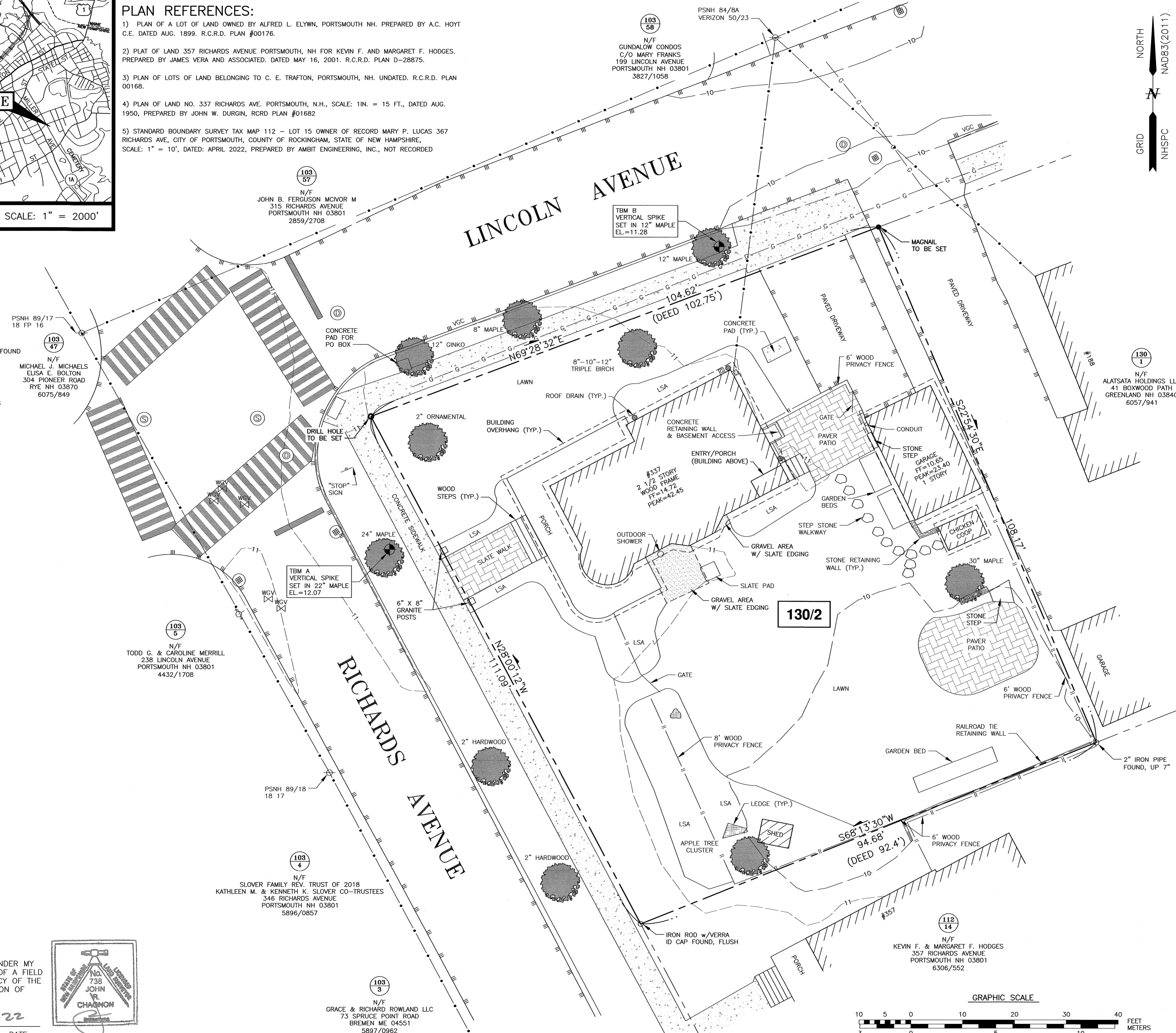
LOCATION MAP SCALE: 1" = 2000'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY REGISTER 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
- 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		

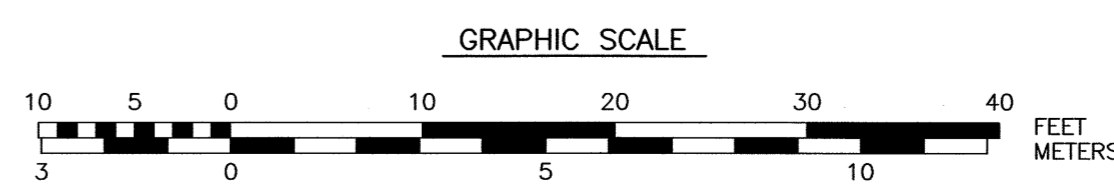
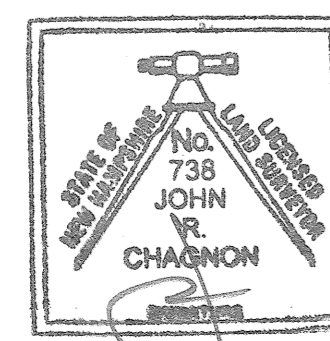
**STANDARD BOUNDARY & TOPOGRAPHIC SURVEY**  
**TAX MAP 130 - LOT 2**

OWNER:  
**CREELEY FAMILY TRUST**  
337 RICHARDS AVENUE  
CITY OF PORTSMOUTH  
COUNTY OF ROCKINGHAM  
STATE OF NEW HAMPSHIRE

SCALE: 1" = 10' AUGUST 2022

"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





### 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: GENERAL RESIDENCE (GR)  
OVERLAY ZONE: COASTAL AREA
- 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'	±35.8'
REAR SETBACK:	20'	±1.4'	±12.5'
MAX. BUILDING HEIGHT:	35'	<32'	<35'
MAX. BUILDING COVERAGE:	25%	15.5% (1,689 SF)	24.9% (2,707 SF)
MIN. OPEN SPACE:	30%	71.9% (7,827 SF)	68.4% (7,443 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.

### 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.

NOT FOR CONSTRUCTION

ISSUED FOR: REVIEW

ISSUE DATE: SEPTEMBER 21, 2023

REVISIONS	NO.	DESCRIPTION	BY	DATE
0	REVIEW		EDW	10/21/23

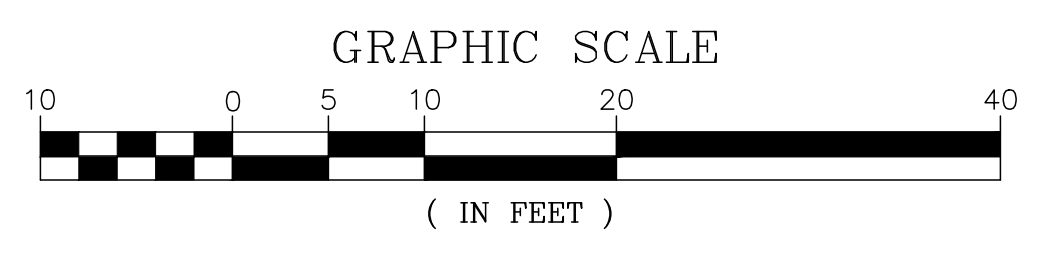
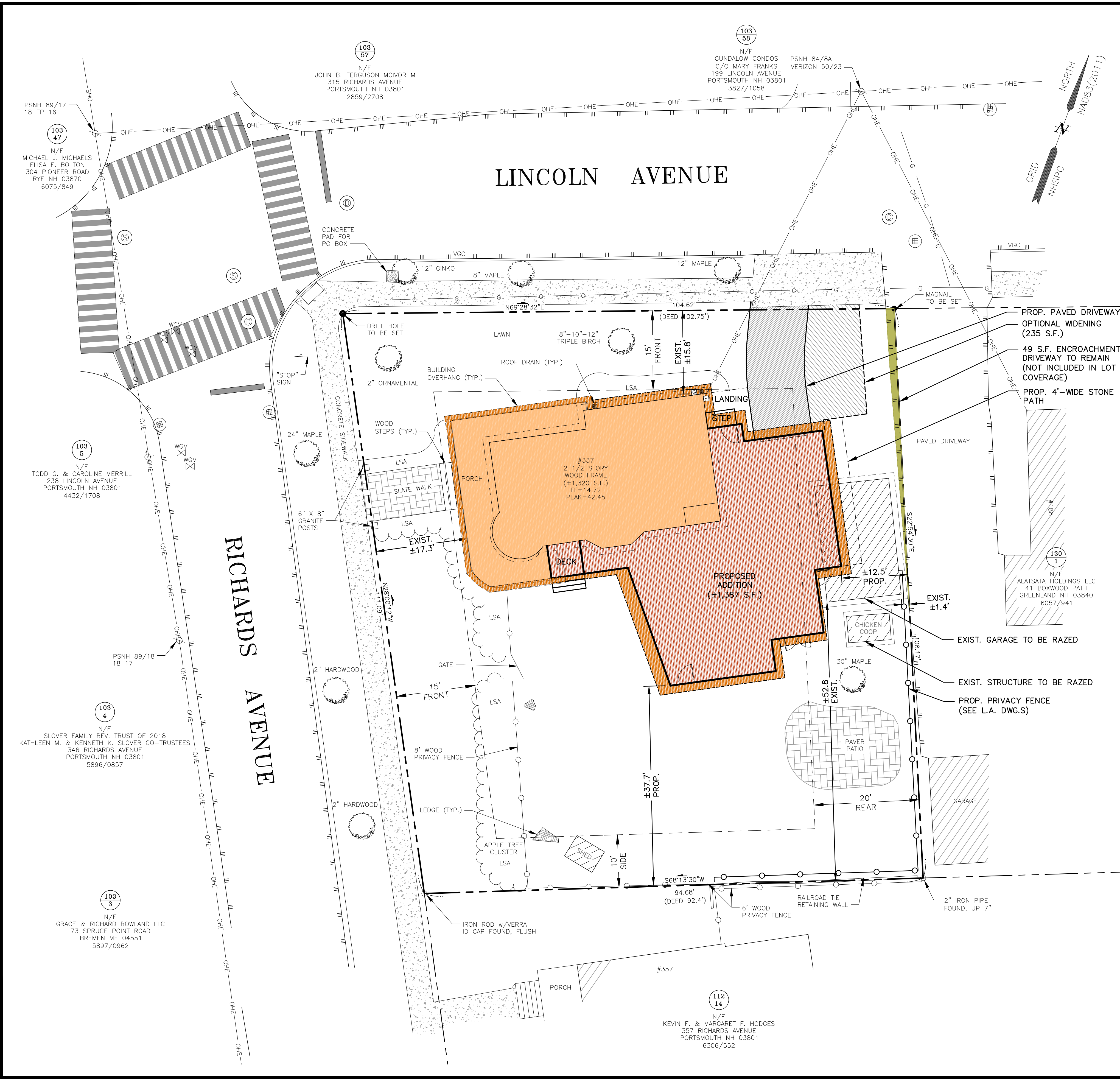
DRAWN BY: RMB  
APPROVED BY: EDW  
DRAWING FILE: 5432SITE.DWG

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

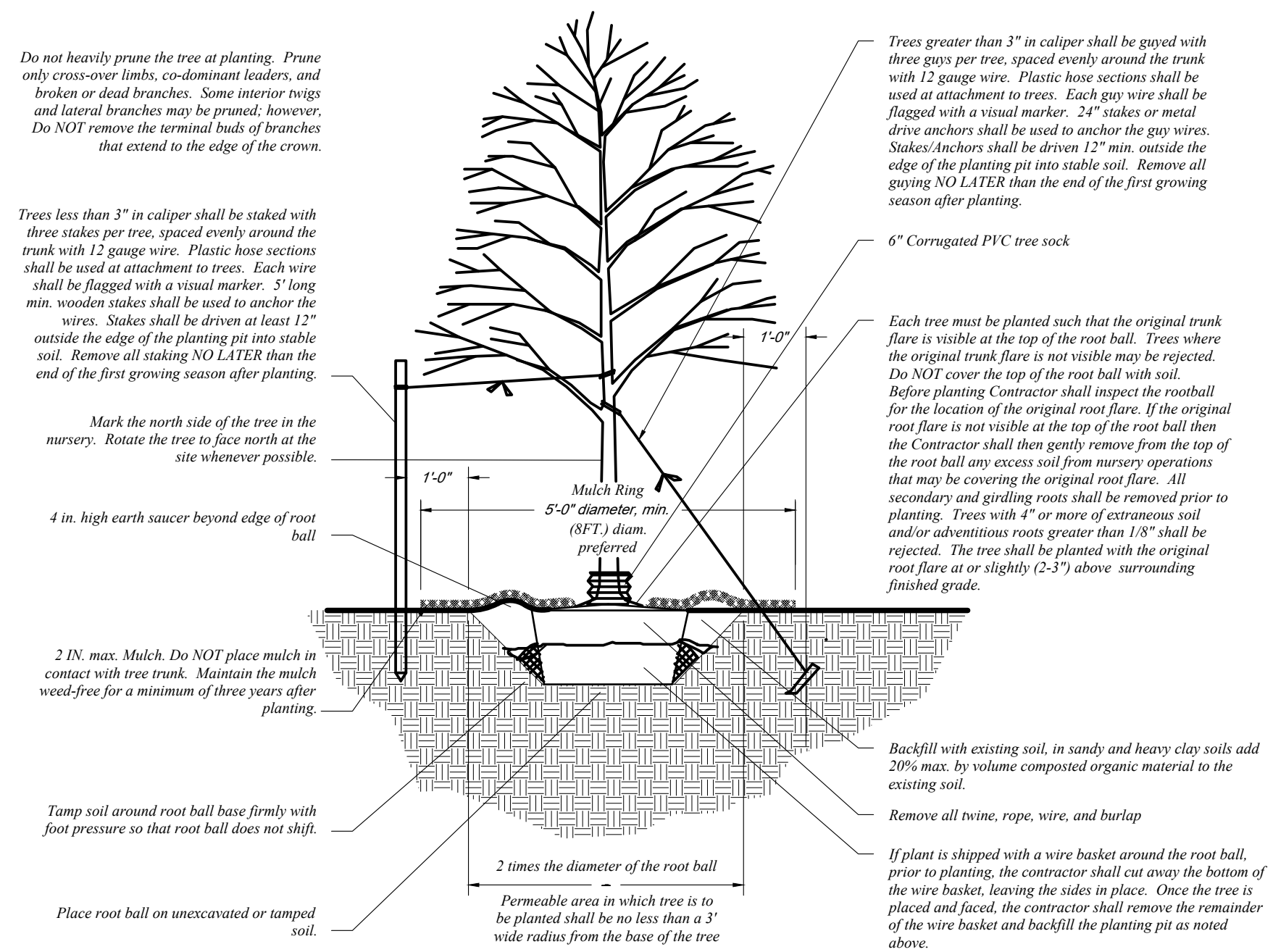
TITLE:  
  
SITE PLAN  
SHEET NUMBER:  
  
C - 1





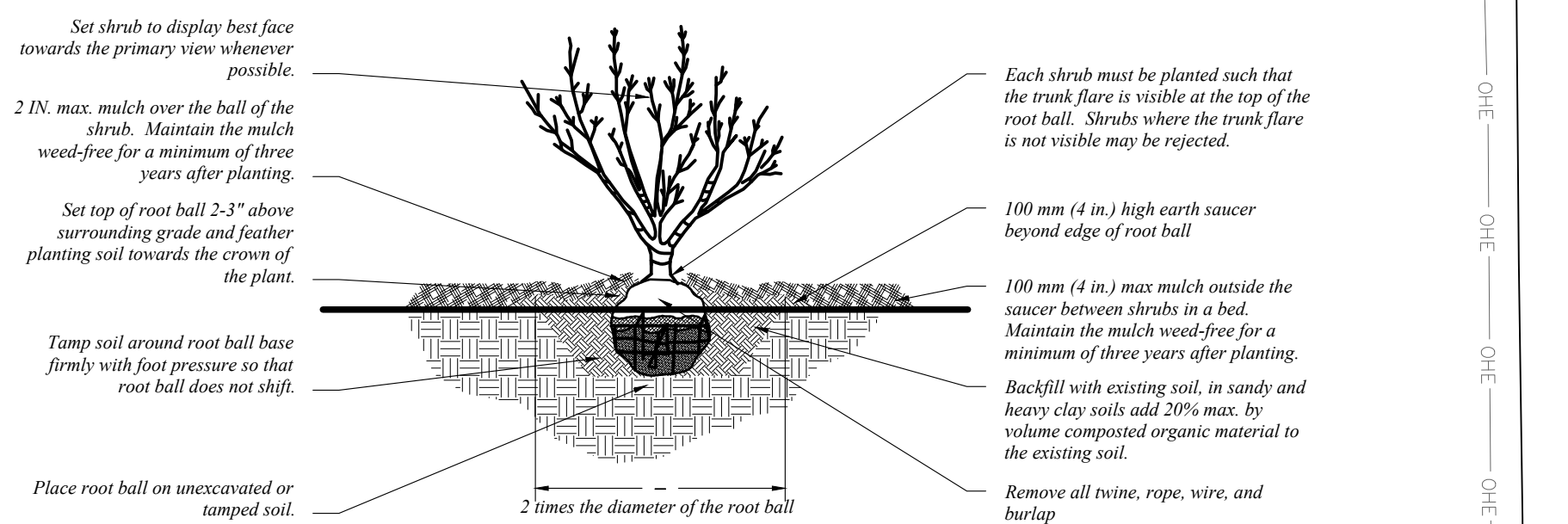
**Landscape Notes**

- Design is based on Engineering drawings by Altus Engineering dated 06-26-2023 and Architectural Drawings by Somma Studios. Drawings may require adjustment due to actual field conditions.
- This plan is FOR REVIEW purposes ONLY, NOT for Construction. Construction Documents will be provided upon request.
- The contractor shall follow best management practices during construction and shall take all means necessary to stabilize and protect the site from erosion.
- Erosion Control shall be in place prior to construction.
- Erosion Control shall comply with State and Local Erosion & Sedimentation Control Practices
- The Contractor shall verify layout and grades and inform the Landscape Architect or Client's Representative of any discrepancies or changes in layout and/or grade relationships prior to construction.
- It is the contractor's responsibility to verify drawings provided are to the correct scale prior to any bid, estimate or installation. A graphic scale bar has been provided on each sheet for this purpose. If it is determined that the scale of the drawing is incorrect, the landscape architect will provide a set of drawings at the correct scale, at the request of the contractor.
- Remain within the construction zone shall be protected from damage for the duration of the project by snow fence or other suitable means of protection to be approved by Landscape Architect or Client's Representative. Snow fence shall be located at the drip line or at the distance in feet from the trunk equal to the diameter of the tree caliper in inches, whichever is greater, and shall be expanded to include any and all surface roots. Do not fill or mulch on the trunk flare. Do not disturb roots. In order to protect the integrity of the roots, branches, trunk and bark of the tree(s) no vehicles or construction equipment shall drive or park in or on the area within the drip line(s) of the tree(s). Do not store any refuse or construction materials or portalets within the tree protection area.
- Location, support, protection, and restoration of all existing utilities and appurtenances shall be the responsibility of the Contractor.
- The Contractor shall verify exact location and elevation of all utilities with the respective utility owners prior to construction. Call DIGSAFE at 811 or 888-DIG-SAFE (1-888-344-7233.)
- The Contractor shall procure any required permits prior to construction.
- Prior to any landscape construction activities Contractor shall test all existing loam and loam from off-site intended to be used for lawns and plant beds using a thorough sampling throughout the supply. Soil testing shall indicate levels of pH, nutrients, macro and micro nutrients, texture, soluble salts, and organic matter. Contractor shall amend all soils to be used for lawns and plant beds per testing results' recommendations and review with Landscape Architect. All loam to be used on site shall be amended as approved by the Landscape Architect prior to placement.
- Contractor shall notify landscape architect or owner's representative immediately if at any point during demolition or construction a site condition is discovered which may negatively impact the completed project. This includes, but is not limited to, unforeseen drainage problems, unknown subsurface conditions, and discrepancies between the plan and the site. If a Contractor is aware of a potential issue and does not bring it to the attention of the Landscape Architect or Owner's Representative immediately, they may be responsible for the labor and materials associated with correcting the problem.
- The Contractor shall furnish and plant all plants shown on the drawings and lists thereon. All plants shall be nursery-grown under climatic conditions similar to those in the locality of the project. Plants shall conform to the botanical names and standards of size, culture, and quality for the highest grades and standards as adopted by the American Association of Nurserymen, Inc. in the American Standard of Nursery Stock, American Standards Institute, Inc. 230 Southern Building, Washington, D.C. 20005.
- A complete list of plants, including a schedule of sizes, quantities, and other requirements is shown on the drawings. In the event that quantity discrepancies or material omissions occur in the plant materials list, the planting plans shall govern.
- All plants shall be legibly tagged with proper botanical name.
- Owner or Owner's Representative will inspect plants upon delivery for conformity to Specification requirements. Such approval shall not affect the right of inspection and rejection during or after the progress of the work. The Owner reserves the right to inspect and/or select all trees at the place of growth and reserves the right to approve a representative sample of each type of shrub, herbaceous perennial, annual, and ground cover at the place of growth. Such sample will serve as a minimum standard for all plants of the same species used in this work.
- No substitutions of plants may be made without prior approval of the Owner or the Owner's Representative for any reason.
- All landscaping shall be provided with the following:
  - Outside hose attachments spaced a maximum of 150 feet apart, and
  - An underground irrigation system, or
  - A temporary irrigation system designed for a two-year period of plant establishment.
- If an automatic irrigation system is installed, all irrigation valve boxes shall be located within planting bed areas.
- The contractor is responsible for all plant material from the time their work commences until final acceptance. This includes but is not limited to maintaining all plants in good condition, the security of the plant material once delivered to the site, watering of plants, including seeding and weeding. Plants shall be appropriately watered prior to, during, and after planting. It is the Contractor's responsibility to provide clean water suitable for plant health from off site, should it not be available on site.
- All disturbed areas will be dressed with 6" of loam and planted as noted on the plans or seeded except plant beds. Plant beds shall be prepared to a depth of 12" with 75% loam and 25% compost.
- Trees, ground cover, and shrub beds shall be mulched to a depth of 2" with one-year-old, well-composted, shredded native bark not longer than 4" in length and 3/4" in width, free of woodchips and sawdust. Mulch for ferns and herbaceous perennials shall be no longer than 1" in length. Trees in lawn areas shall be mulched in a 5' diameter min. saucer. Color of mulch shall be black.
- Drip strip shall extend to 6" min. beyond roof overhang and shall be edged with 3/16" thick metal edger.
- In no case shall mulch touch the stem of a plant nor shall mulch ever be more than 3" thick total (including previously applied mulch) over the root ball of any plant.
- Secondary lateral branches of deciduous trees overhanging vehicular and pedestrian travel ways shall be pruned up to a height of 8' to allow clear and safe passage of vehicles and pedestrians under tree canopy. Shrubs and ornamental plantings adjacent to vehicular travel way shall not exceed three feet in height where sightlines would be blocked. If pruning is necessary to maintain the required maximum height, plants shall be pruned to a natural form and shall not be sheared.
- Snow shall be stored a minimum of 5' from shrubs and trunks of trees.
- The Landscape Contractor shall guarantee all lawns and plant materials for a period of not fewer than one year. Dead, dying, or diseased planting shall be removed and replaced within the growing season.
- Landscape Architect is not responsible for the means and methods of the Contractor.



**Tree Planting Detail**

Scale: NTS

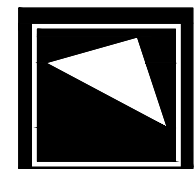
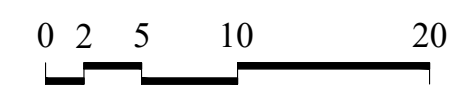
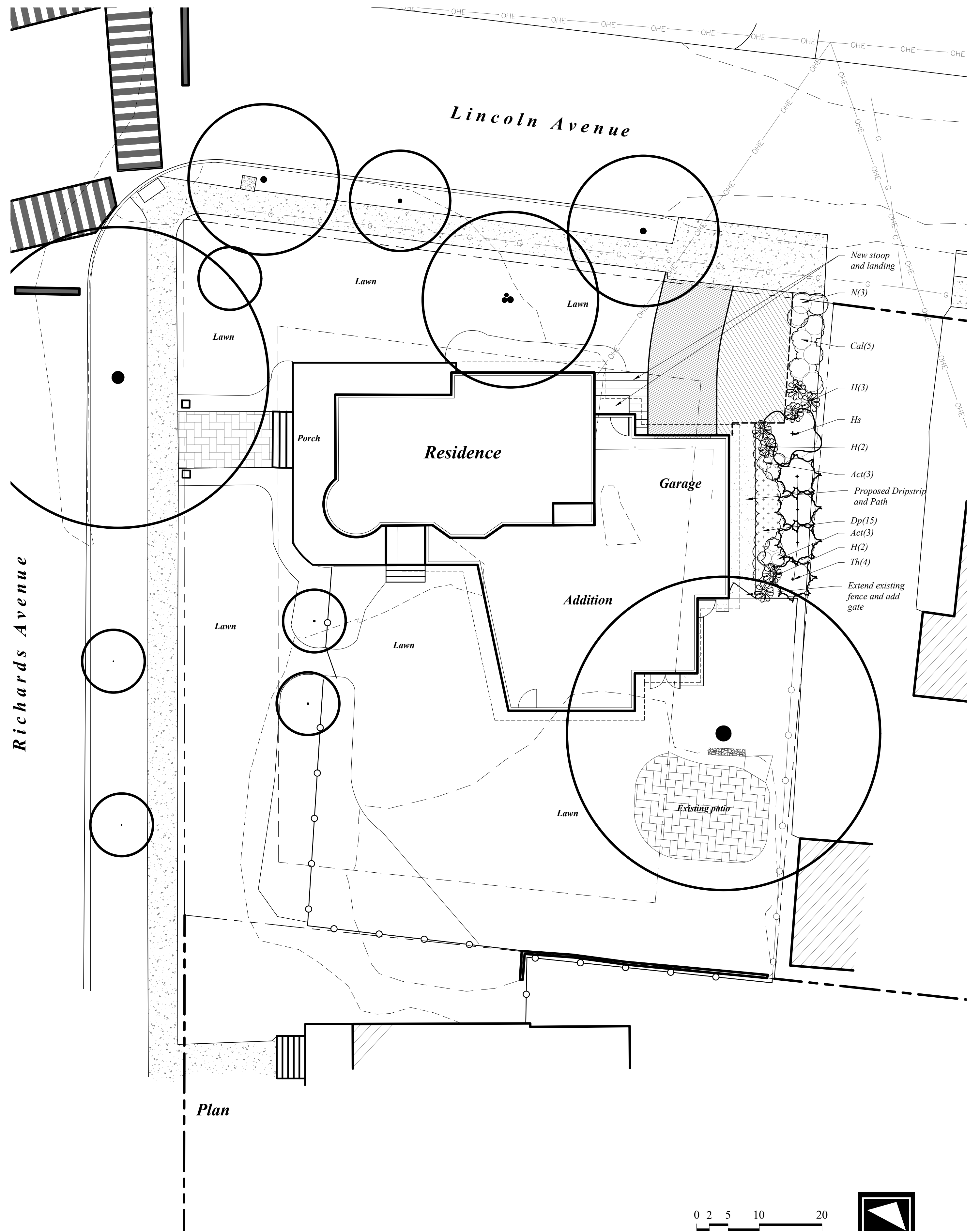


**Shrub Planting Detail**

Scale: NTS

**Plant List**

SHRUBS					
Symbol	Botanical Name	Common Name	Quantity	Size	Comments
Hs	<i>Hibiscus syriacus</i> 'Blue Satin'	Blue Satin Rose of Sharon	1	5-6' ht	BB
Th	<i>Thuja occidentalis</i> 'Wintergreen'	Wintergreen Arborvitae	4	6-7' ht.	BB
PERENNIALS					
Symbol	Botanical Name	Common Name	Quantity	Size	Comments
Act	<i>Actea rubifolia</i>	Appalachian Bugbane	6	1 gal	
Cal	<i>Calamagrostis</i> a 'Karl Foerster'	Karl Foerster Feather Reed Grass	5	1 gal	
Dp	<i>Dennstaedtia punctiloba</i>	Hayscented Fern	15	1 gal	
H	<i>Hosta</i> 'Frances Williams'	Frances Williams Hosta	4	1 gal	
	<i>Hosta</i> 'Sieboldiana Elegans'	Elegans Hosta	3	1 gal	
N	<i>Nepeta</i> 'Walker's Low'	Walkers Low Catmint	3	1 gal	



**woodburn & company**  
 LANDSCAPE ARCHITECTURE  
 Neumarket, New Hampshire  
 Phone: 603.659.5949

**337 Richards Avenue**  
 LANDSCAPE PLAN  
 337 Richards Avenue, Portsmouth, NH

Drawn By: RW  
 Checked By: RW  
 Scale: 1"=10'-0"  
 Date: 2023-09-21  
 Revisions:

**L-1**  
 Sheet 1 of 1

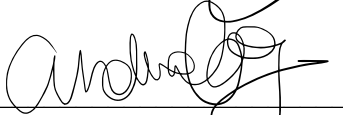


LANDOWNER LETTER OF AUTHORIZATION

**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





NORTHWEST ELEVATION  
(LINCOLN AVENUE)



NORTHEAST ELEVATION



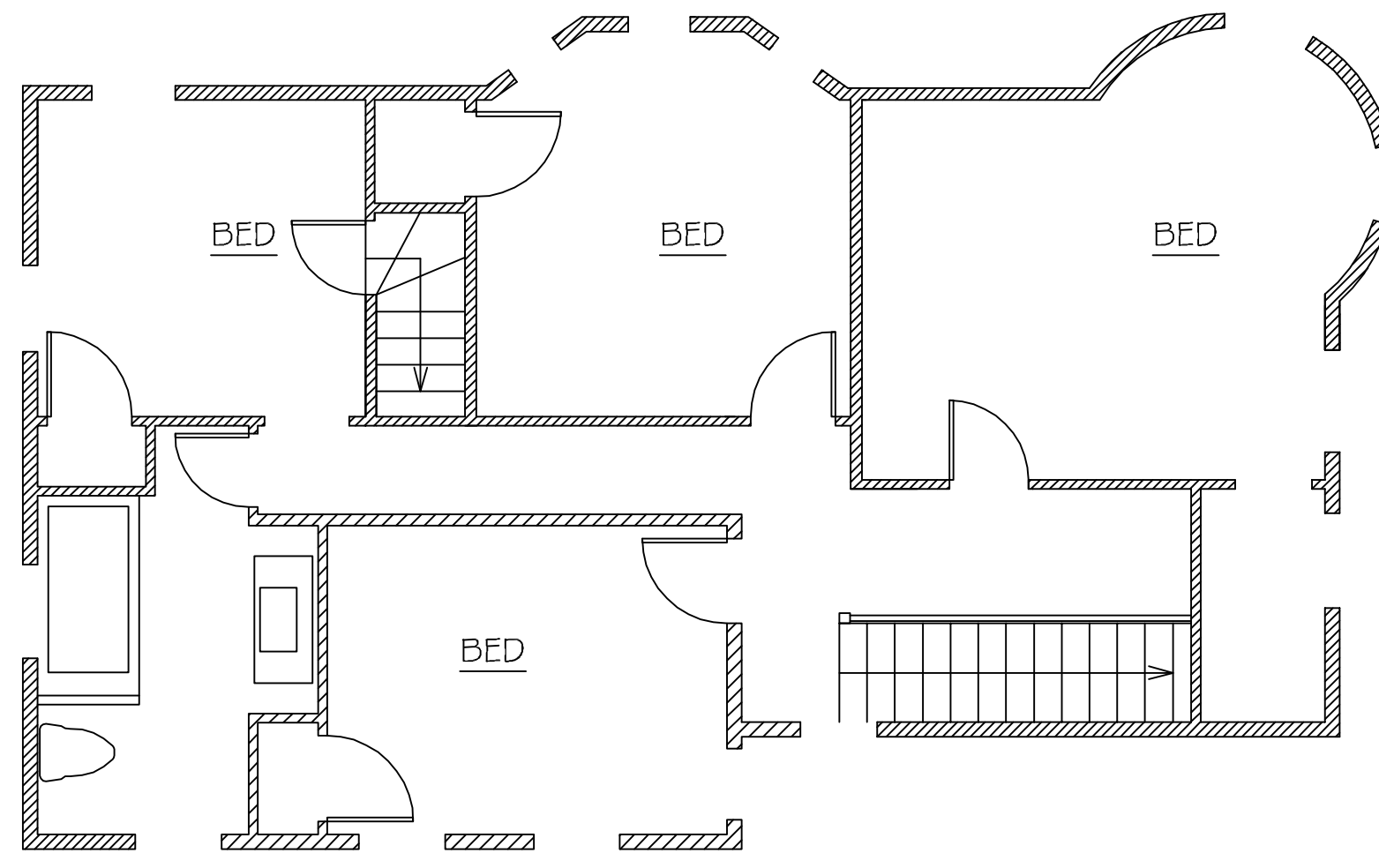
SOUTHEAST ELEVATION



SOUTHWEST ELEVATION  
(RICHARDS AVENUE)

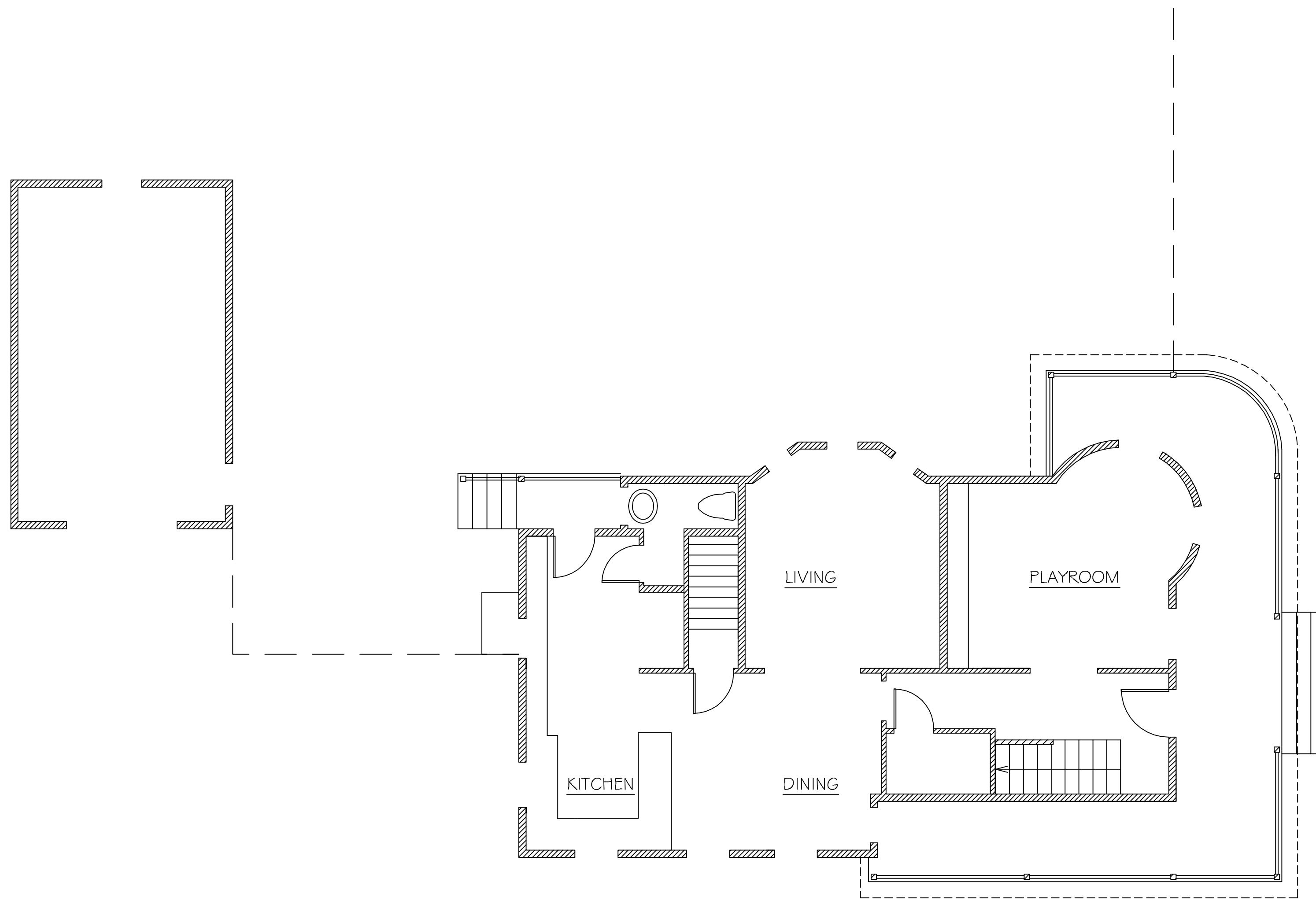
SECOND FLOOR

EXISTING FRAMING  
NEW FRAMING



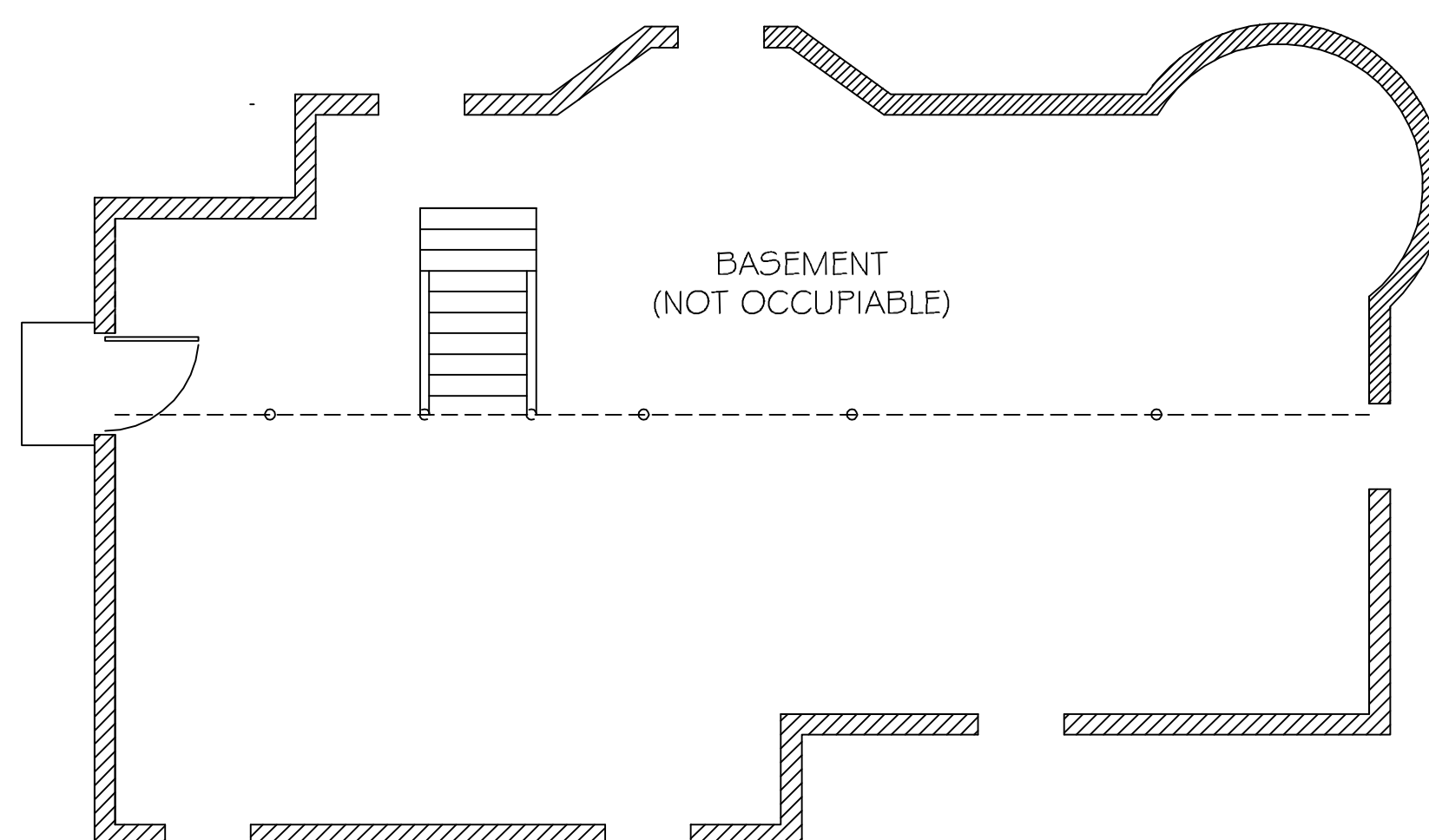
FIRST FLOOR

EXISTING FRAMING  
NEW FRAMING



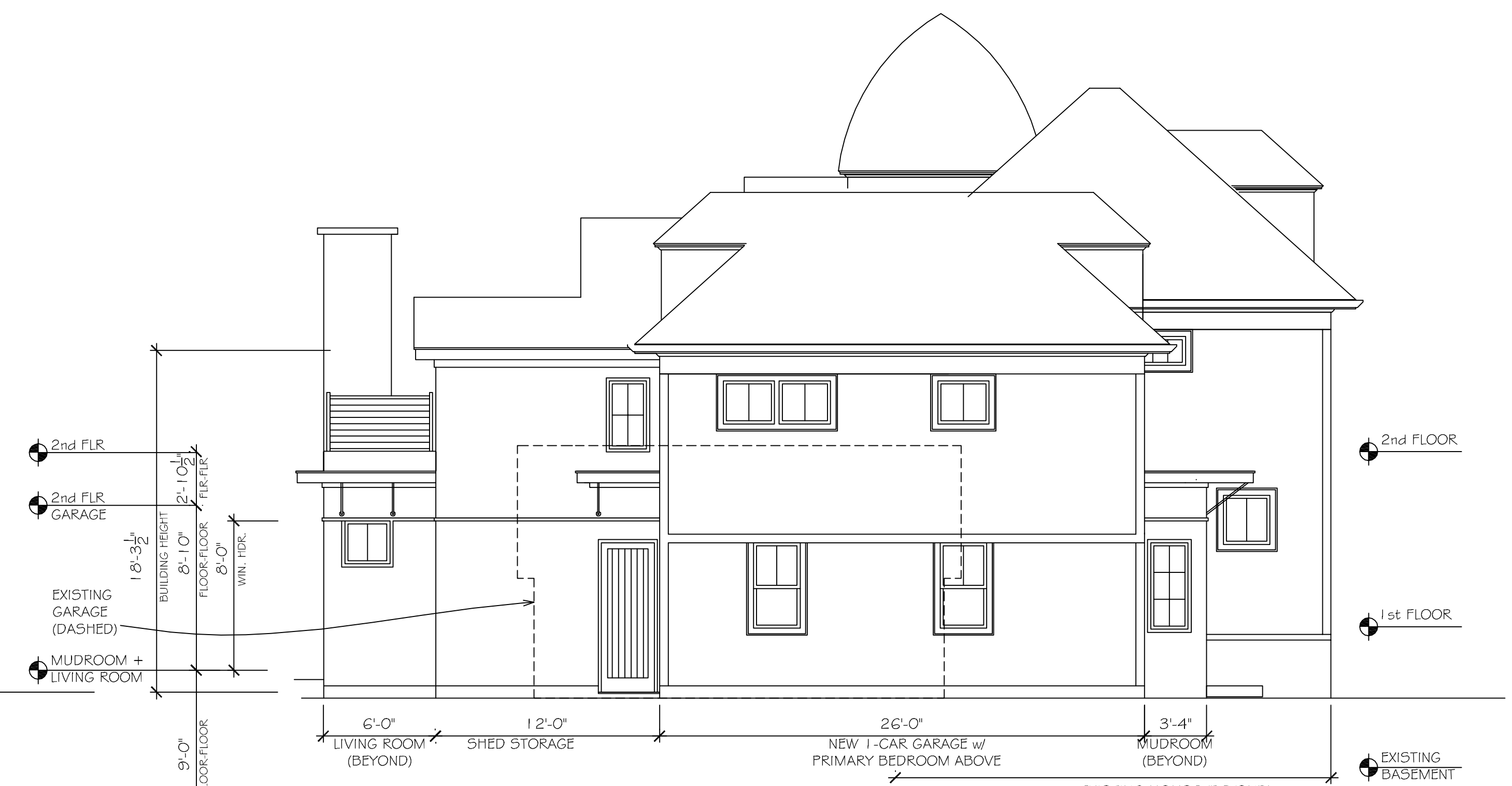
BASEMENT

EXISTING FRAMING  
NEW FRAMING





**NORTHWEST ELEVATION**  
(LINCOLN AVENUE)



**NORTHEAST ELEVATION**

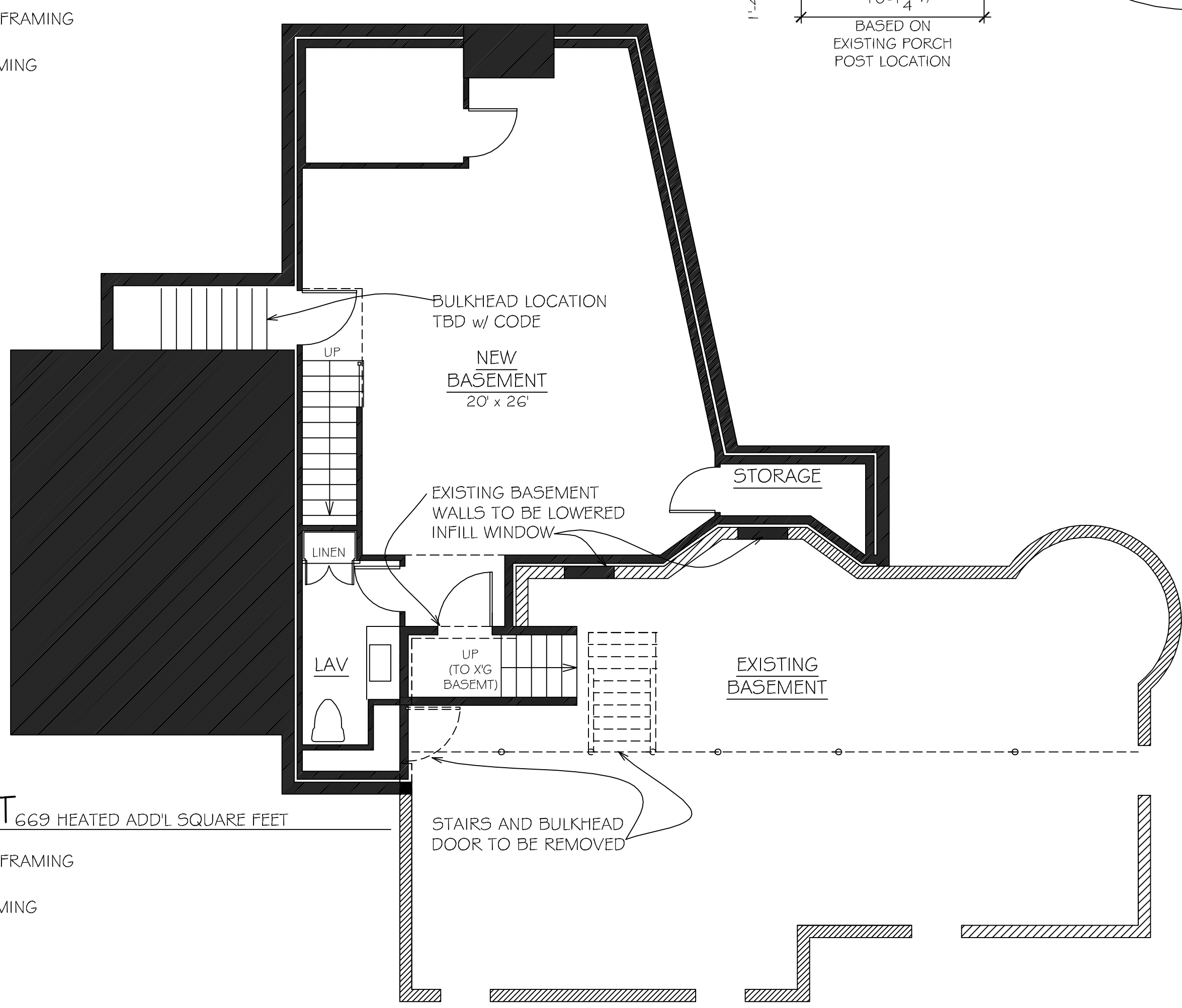
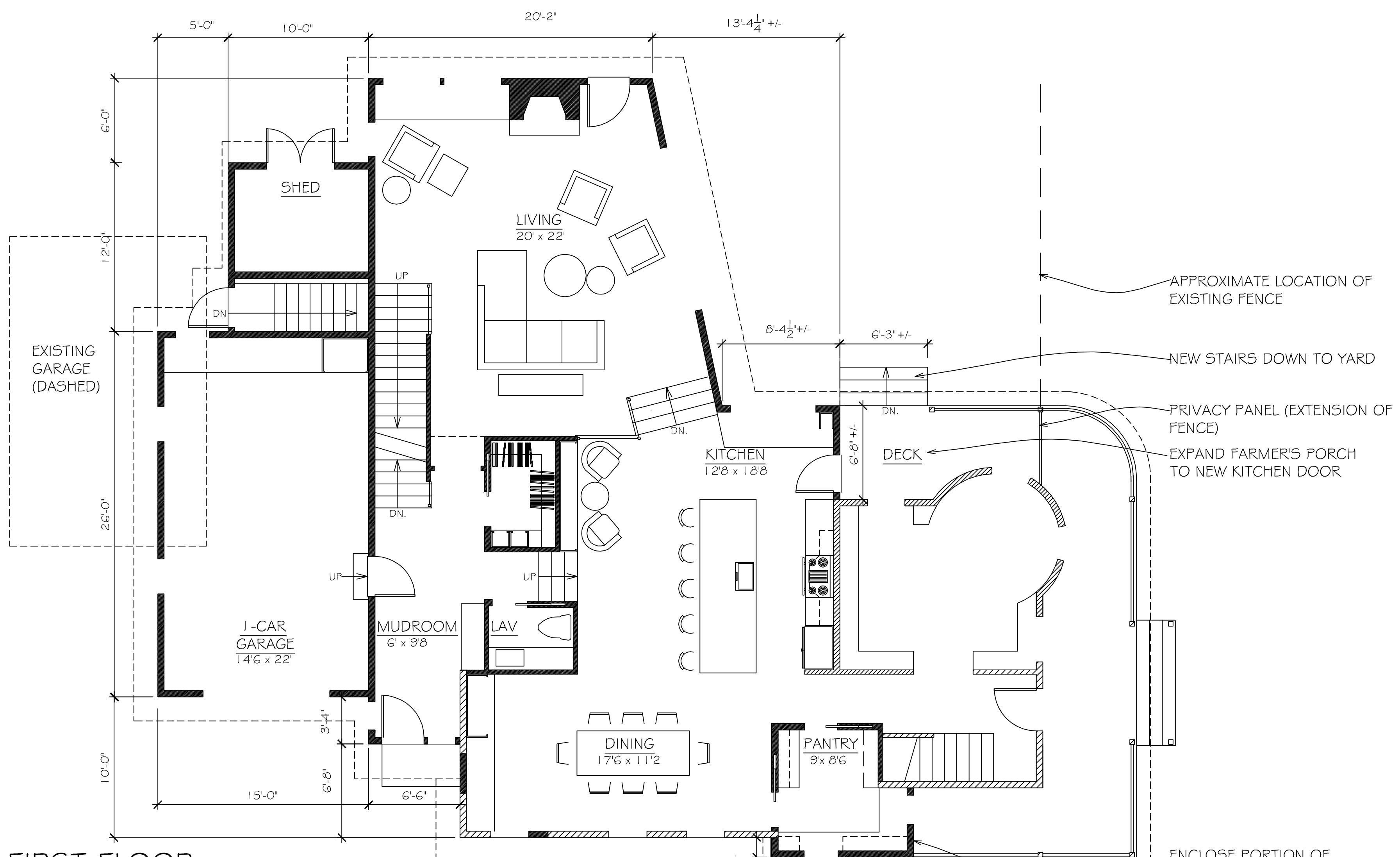
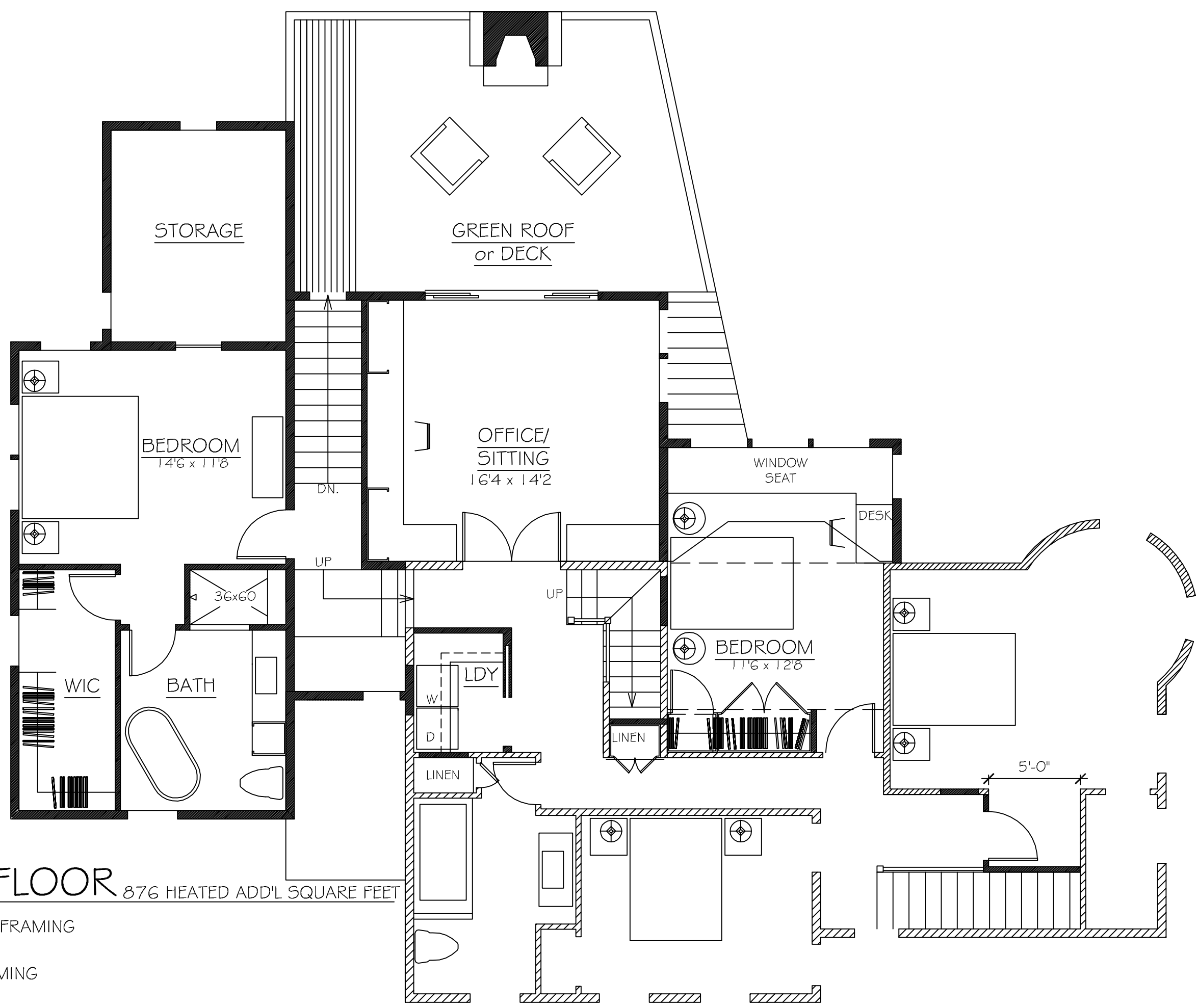


**SOUTHEAST ELEVATION**



**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)

### III. NEW BUSINESS

- G.** The request of **Bobby and Angela Braswell (Owners)**, for property located at **82 Wibird Street** whereas relief is needed to demolish the existing accessory structure and construct a new detached garage which requires a Variance from Section 10.521 to allow: a) a zero (0) foot rear yard where 20 feet is required; and b) a six (6) foot right yard where 10 feet are required. Said property is located on Assessor Map 148 Lot 59 and lies within the General Residence A (GRA) District. (LU-23-128)

#### Existing & Proposed Conditions

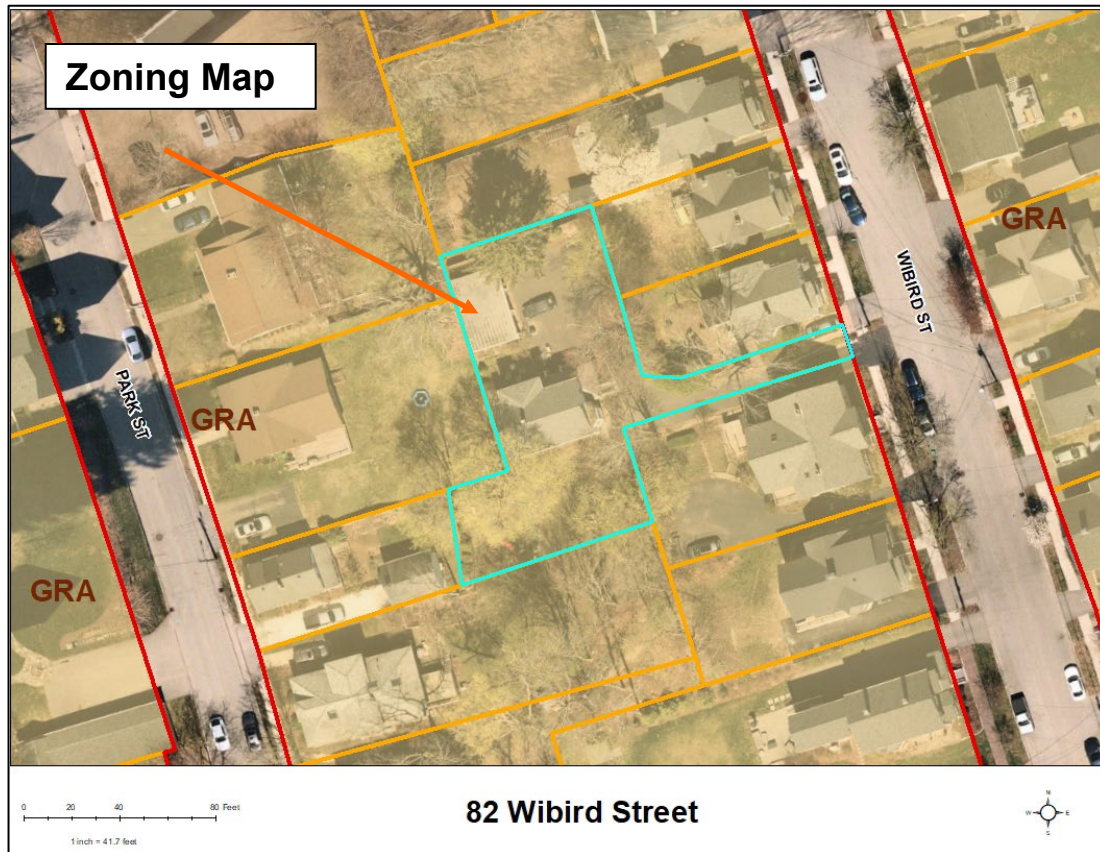
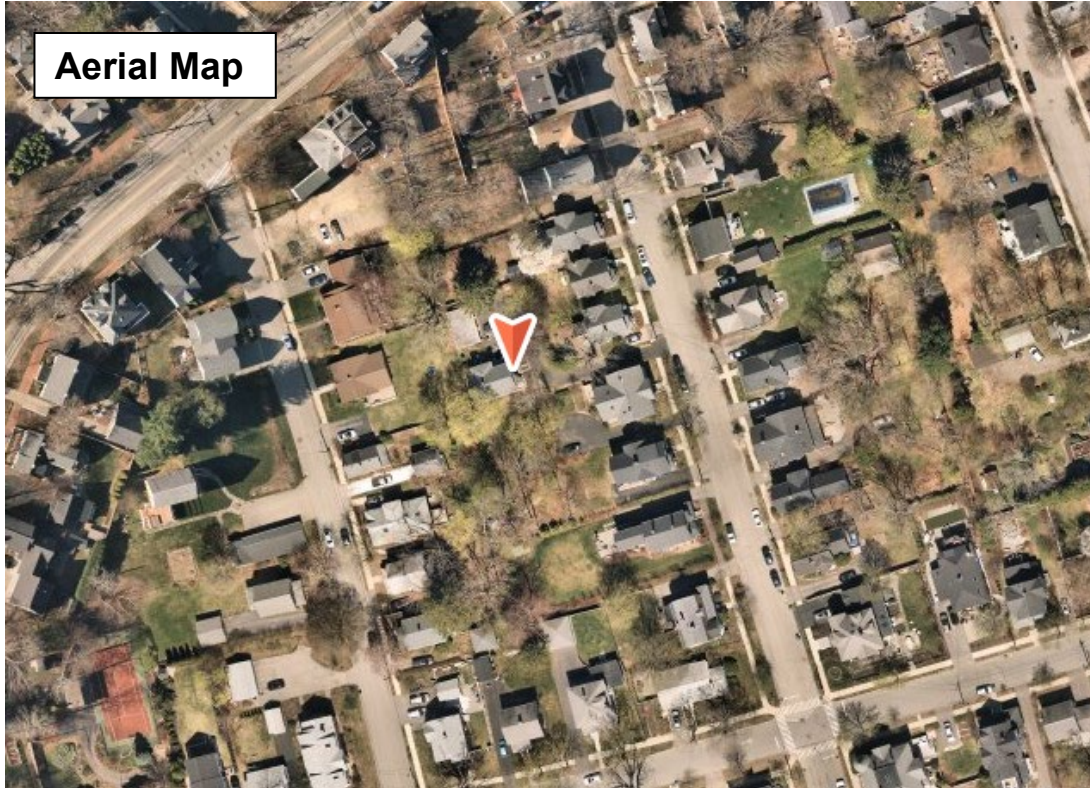
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	Demo detached garage & rebuild	Primarily residential
<u>Lot area (sq. ft.):</u>	7, 857	7, 857	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7, 857	7, 857	7,500 min.
<u>Street Frontage (ft.):</u>	14	14	100 min.
<u>Front Yard (ft.):</u>	>15	>15	15 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Right Yard (ft.):</u>	6	<b>6</b>	10 min.
<u>Rear Yard (ft.):</u>	0	<b>0</b>	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	21.5	21.5	25 max.
<u>Open Space Coverage (%)</u>	>40	>40	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1910	<b>Variance request(s) shown in red.</b>	

#### Other Permits/Approvals Required

- Building Permit



### Neighborhood Context



### Previous Board of Adjustment Actions

No previous BOA history found.

### Planning Department Comments

Applicant is proposing to demolish the existing detached garage and rebuild in the same footprint with a new roof line.

### 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.





July 11th, 2023

**Online Application**

Anthony Richards, Engineer  
Portsmouth Zoning Board of Adjustment  
1 Junkins Avenue  
Portsmouth, NH 03801

Re:

Owner/Applicant: Anthony Richards  
Project Location 82 Wibird Street  
Tax Map 148, Lot 59  
GRA Zone

Dear Mr. Stith & Zoning Board Members,

On behalf of Robert and Angela Braswell, we are pleased to submit the following documents in support of a request for zoning relief.

1. Variance from the Board of Adjustment Application - uploaded
2. 7.11.2023 - Memorandum & Exhibits in support of zoning relief.

We look forward to presenting this application to the Zoning Board of Adjustments at its Sep 19, 2023 meeting.

Regards,

Anthony Richards  
Architectural Engineer

Cc: Stefanie L. Casella



To: Portsmouth Zoning Board of Adjustment  
From: Anthony Richards  
Date: 7/11/2023  
Re: Owner/Applicant: Angela Braswell  
Project Location 82 Wibird Street  
Tax Map 148, Lot 59  
GRA Zone

Dear Zoning Board Members:

On behalf of Angela Braswell (Applicant), we are pleased to submit this memorandum and attached exhibits in support of Zoning Relief to be considered by the Zoning Board of Adjustment at its August 15, 2023 meeting.

1.
  - a. Portsmouth Tax Map - indicating subject property location
  - b. 7.11.2023 Architectural Plans - Southern Maine Designs, LLC
    - i. A0.0: Site Plan Proposed Footprint Overlaid on the site plan
    - ii. A1.0: Floor Plans
    - iii. A2.0-A2.1: Elevations
    - iv. A3.0-A3.1: Sections
  - c. Existing Site Photographs

## 2. Property/Project:

82 Wibird Street is a 7840.8 sf. Lot holding a 3-4 bedroom single family home with a detached garage. The existing garage violates the rear setback (10 ft) by 310 SF.

The applicant is proposing the demolition of the existing detached garage and the reconstruction of a new garage. The new garage is to be 4" (0.3') forward to reduce the encroachment to 217 SF to better accommodate the setback. The new garage will have an identical footprint to the original detached garage.

Relief is required in order to provide for the reduction of encroachment where 217 SF will encroach 30% less than the existing structure. The right side setback will remain at 6 ft.





### 3. Relief Required:

Portsmouth Zoning Ordinance 10.521 - to permit two hundred and seventeen (217) square feet of new structure four inches (.33) feet from the rear property line

Portsmouth Zoning Ordinance 10.521 - to permit new structure six (6) feet from the right side property line

### 4. Variance Requirements:

**a. The Variances will not be contrary to the public interest.**

**b. The spirit of the ordinance is observed**

The Portsmouth Zoning Ordinance was enacted for the general purpose of promoting the health, safety & welfare in accordance with the Master Plan by Regulating:

1. *The use of land, buildings, and structures for business, industrial, residential, and other purposes* - The encroaching and dilapidated garage will be replaced by a tasteful single-story garage. The use, size, shape & dimensions of the proposed garage are in keeping with the area.
2. *The intensity of land use, including lot sizes, building coverage, building height & bulk, yards, and open space* - A single-family home use will remain. The garage will be compliant with lot size & open space requirements and renders the lot less nonconforming than the existing conditions with respect to the rear setback.
3. *The design of facilities for vehicular access, circulation, parking, and loading* - The proposal reduces the intensity of use within the setbacks and reduces the overall area of the lot given over to vehicular access both in the existing condition
4. *The impacts on properties of outdoor lighting, noise, vibration stormwater runoff, and flooding* - No adverse impacts will exist. The impact on the neighbor behind the property will be improved.
5. *The preservation and enhancement of the visual environment* - The aesthetics of the home & grounds will be improved and with the improved setbacks, the visual environment will be preserved & enhanced.
6. *The preservation of historic districts, and buildings and structures of historic or architectural interest* - The property is not in the historic district, but every effort has been made to design a garage that fits into the neighborhood.



7. *The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat, and air quality* - The new home will not adversely affect natural resources.

This proposal maintains the primary single-family use of the property. Only a small portion of the proposed structure is within the back setback, a significant improvement over the existing conditions. The character of the area will be improved and will result in a garage built to modern standards.

**c. Granting the variance will not diminish the surrounding property values**

Removing significant structures very close to the common lot line and the construction of a new garage requiring only minor rear variances will improve the value of the property. Thus, it will not harm surrounding property values.

**d. Denial of the variances results in an unnecessary hardship**

- i. Special conditions distinguish the property/project from others in the area.*

Moving the existing garage at the back of the property so as to reduce the amount of setback encroachment & constructing a safe and code-compliant garage, cannot be reasonably accomplished without a minimal intrusion on the rear setback.

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

The purpose of the setback requirements is to maintain space between neighbors, provide light & air, sightlines & stormwater treatment. In this case, a significant encroachment will be removed & replaced by a new structure only slightly encroaching. The resulting open space of the lot will be minimally reduced and the ability of vehicular traffic to exit the lot without backing into the street will be maintained. In total, the applicant feels that there is no reason to apply the strict requirements of the ordinance.

- iii. The proposed use is reasonable.*

The proposal maintains the single-family residential use of the property, which is permitted in the GRA Zone.

**e. Substantial justice will be done by granting the variance**

Because the encroachment on the rear setback will be decreased, the improvements to the existing conditions including the removal of hazardous





materials (potentially lead paint & asbestos) from the site and the minor variance request will have no negative effect upon the general public. However, denial of the minor variance will harm the applicant by creating a less safe vehicular exit from the lot.

#### **5. Conclusion**

For all the reasons stated above, the applicant respectfully requests that the Portsmouth Zoning Board of Adjustment grant the requested variances.

Respectfully,  
Anthony Richards

By:  
Anthony Richards  
Southern Maine Designs



Southern Maine Designs, LLC  
**Owner's Letter of Authorization**

I, Angela M. Braswell, give authority for the following person(s) to execute all documents and activities (including but not limited to: submitting and signing for associated applications for consideration by the City of Portsmouth Planning Commission and/or Board of Zoning Adjustment) with the City of Portsmouth Planning & Zoning Department, on my behalf for my property, located within the city limits of Portsmouth, New Hampshire at 82 Wibird St.

Furthermore, I hereby agree to allow the City of Portsmouth to post on my property, which is under consideration for a Planning Commission and/or Board of Zoning Adjustment application, a public notice sign notifying the general public of said request. I understand that the City of Portsmouth may erect and maintain said sign for the prescribed period of time.

Anthony Richards  
Designee (1)

tucker@southernmainedesigns.com  
Email

207 200 5414  
Phone Number

  
Signature of Property Owner

Angela M. Braswell  
Designee (2)

angela.braswell@unh.edu  
Email

603-502-1387  
Phone Number

8/14/2023  
Date



# 82 WIBIRD ST

**Location** 82 WIBIRD ST

**Mblu** 0148/ 0059/ 0000/ /

**Acct#** 34592

**Owner** BRASWELL BOBBY H AND ANGELA M

**PBN**

**Assessment** \$642,100

**Appraisal** \$642,100

**PID** 34592

**Building Count** 1

## Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$280,000	\$362,100	\$642,100

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$280,000	\$362,100	\$642,100

## Owner of Record

**Owner** BRASWELL BOBBY H AND ANGELA M  
**Co-Owner**  
**Address** 82 WIBIRD ST  
PORTSMOUTH, NH 03801

**Sale Price** \$0  
**Certificate**  
**Book & Page** 4592/2913  
**Sale Date** 12/12/2005  
**Instrument**

## Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
BRASWELL BOBBY H AND ANGELA M	\$0		4592/2913		12/12/2005
BRASWELL BOBBY H AND ANGELA M	\$270,900		3897/0577	33	11/26/2002

## Building Information

### Building 1 : Section 1

**Year Built:** 1910  
**Living Area:** 2,017

Replacement Cost: \$387,056

Building Percent Good: 71

Replacement Cost

Less Depreciation: \$274,800

**Building Attributes**

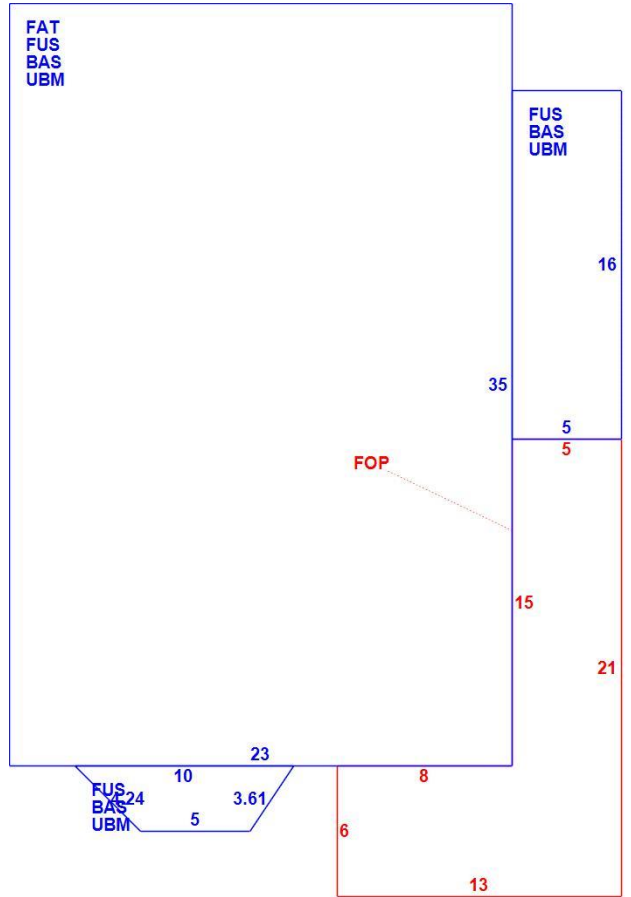
Field	Description
Style:	Conventional
Model	Residential
Grade:	B
Stories:	2
Occupancy	2
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Warm Air
AC Type:	None
Total Bedrooms:	4 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	1
Total Rooms:	10
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	
WB Fireplaces	0
Extra Openings	0
Metal Fireplaces	0
Extra Openings 2	0
Bsmt Garage	

**Building Photo**

Building Photo

(<https://images.vgsi.com/photos2/PortsmouthNHPhotos//0034/DSC02249>)

**Building Layout**



(ParcelSketch.ashx?pid=34592&bid=34592)

**Building Sub-Areas (sq ft)**

**Legend**

Code	Description	Gross Area	Living Area
BAS	First Floor	908	908
FUS	Upper Story, Finished	908	908
FAT	Attic	805	201
FOP	Porch, Open	153	0
UBM	Basement, Unfinished	908	0
		3,682	2,017

**Extra Features**

**Extra Features**

**Legend**

No Data for Extra Features



## Land

### Land Use

**Use Code** 1010  
**Description** SINGLE FAM MDL-01  
**Zone** GRA  
**Neighborhood** 103B  
**Alt Land Appr Category** No

### Land Line Valuation

**Size (Acres)** 0.18  
**Frontage**  
**Depth**  
**Assessed Value** \$362,100  
**Appraised Value** \$362,100

## Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
FGR1	GARAGE-AVE	02	DETACHED	620.00 S.F.	\$5,200	1

## Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$314,200	\$362,100	\$676,300
2020	\$314,200	\$362,100	\$676,300
2019	\$313,900	\$362,100	\$676,000

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$314,200	\$362,100	\$676,300
2020	\$314,200	\$362,100	\$676,300
2019	\$313,900	\$362,100	\$676,000



**Property Information**

**Property ID** 0148-0059-0000  
**Location** 82 WIBIRD ST  
**Owner** BRASWELL BOBBY H AND ANGELA M



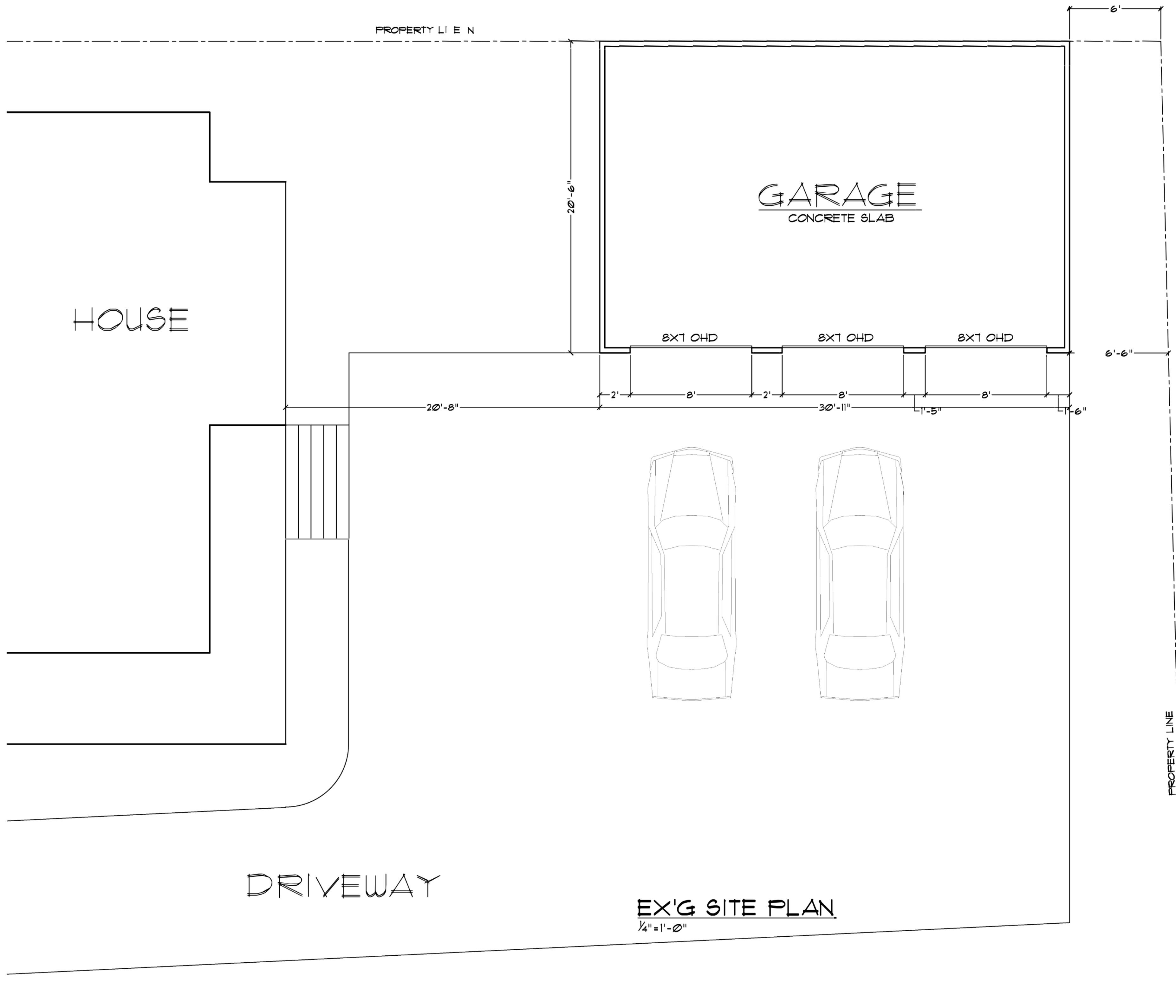
**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

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

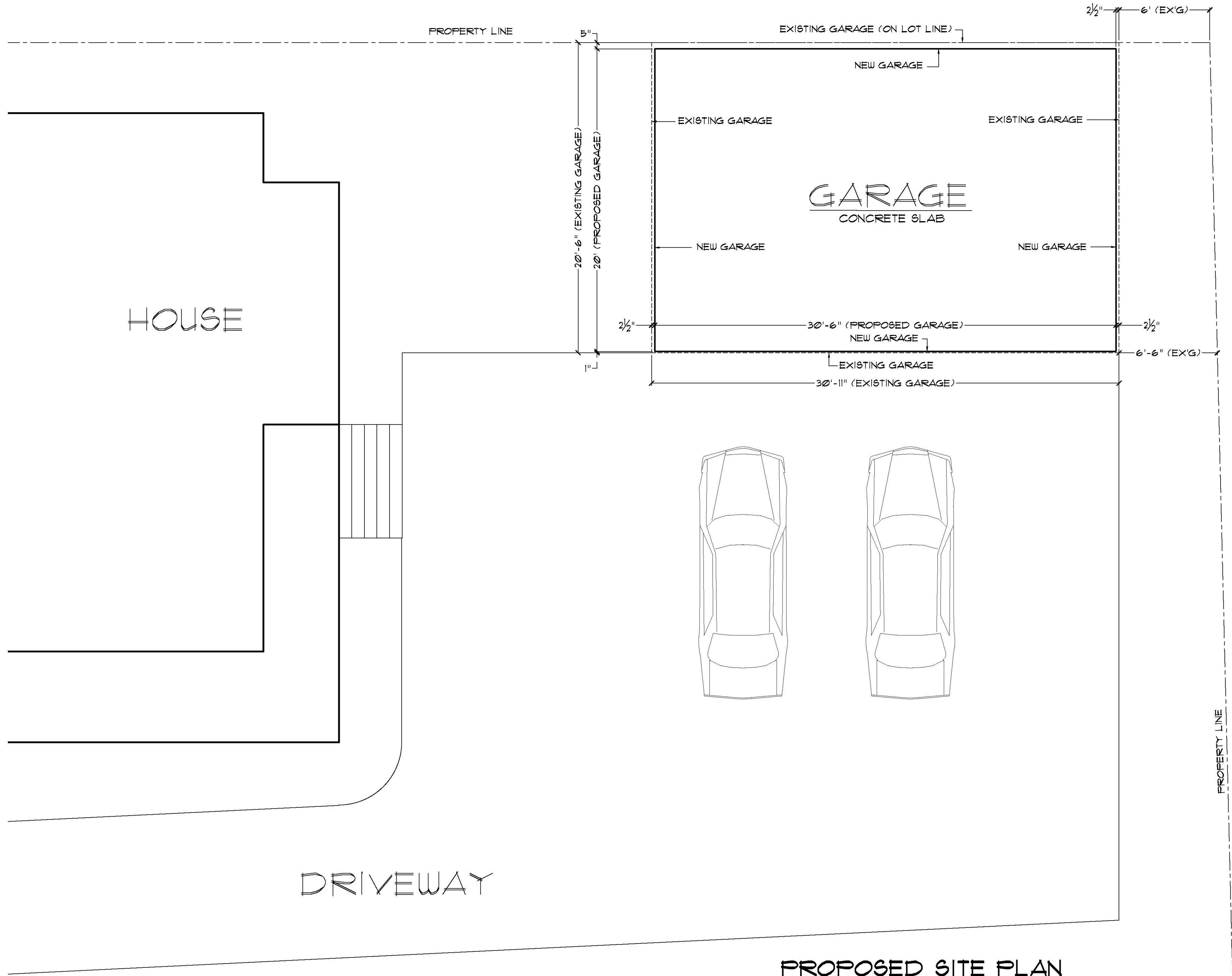
Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.





**EX'G SITE PLAN**  
1/4" = 1'-0"

DRAWN BY	Author
DATE	07/11/23
TITLE	GARAGE
SCALE	
SHEET	A0.1
PAGE	SITE
	
<small>UNLESS OTHERWISE SPECIFIED ALL DIMENSIONS ARE IN INCHES</small>	
<small>ALL BUILDERS/CONTRACTORS MUST VERIFY TYPES, SIZES, AND LOCATIONS OF THE DETAILS SHOWN FOR ACCURACY, INTENT AND COMPLIANCE WITH APPLICABLE CODES AND OWNER'S ACCEPTANCE</small>	



**PROPOSED SITE PLAN**

1/4" = 1'-0"

Richards

10/09/23

GARAGE

A0.2

PROPOSED SITE



UNLESS OTHERWISE SPECIFIED ALL DIMENSIONS ARE IN INCHES  
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Author

DATE 02/27/21

TITLE GARAGE

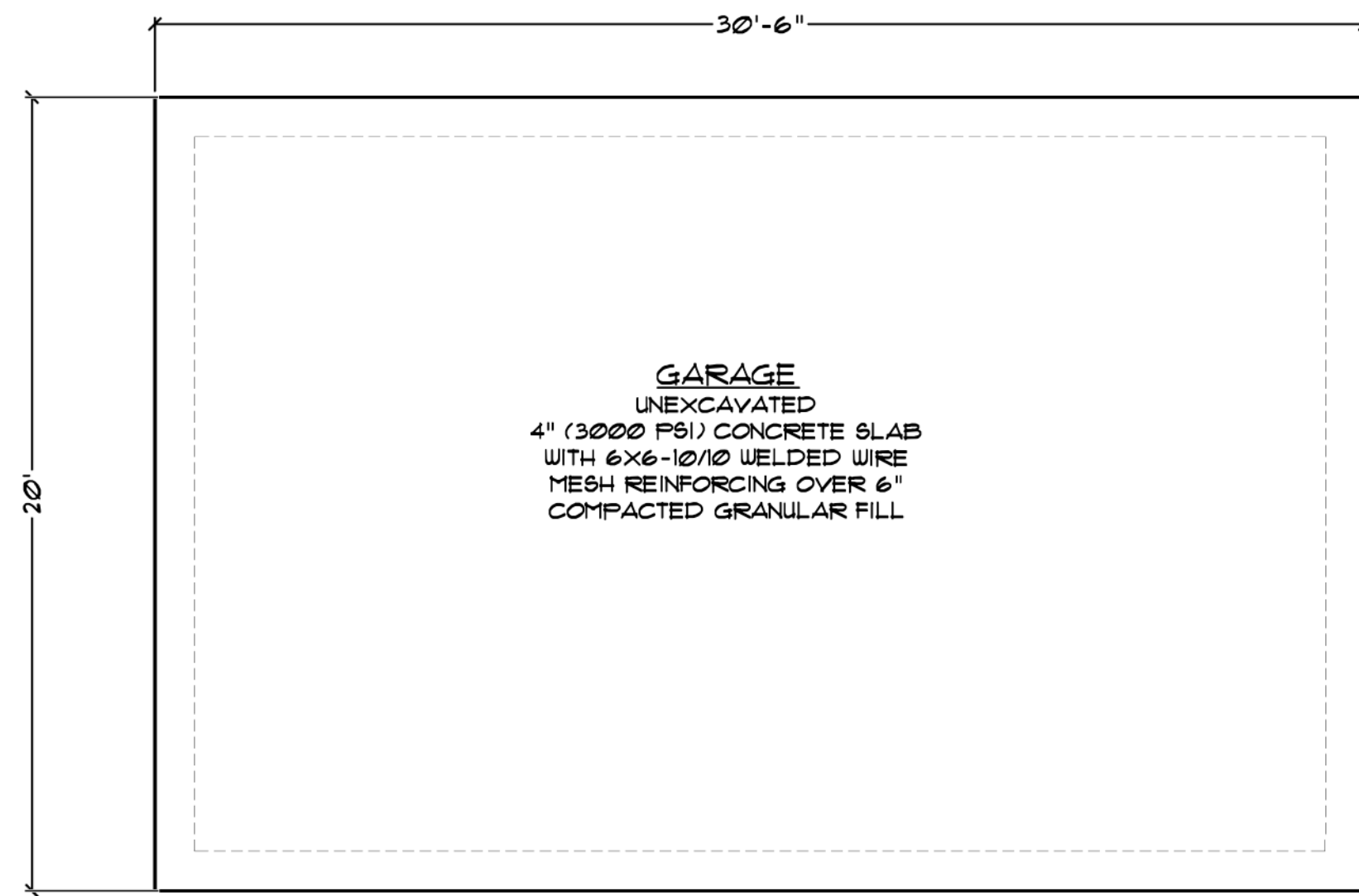
SCALE

SHEET A1.0

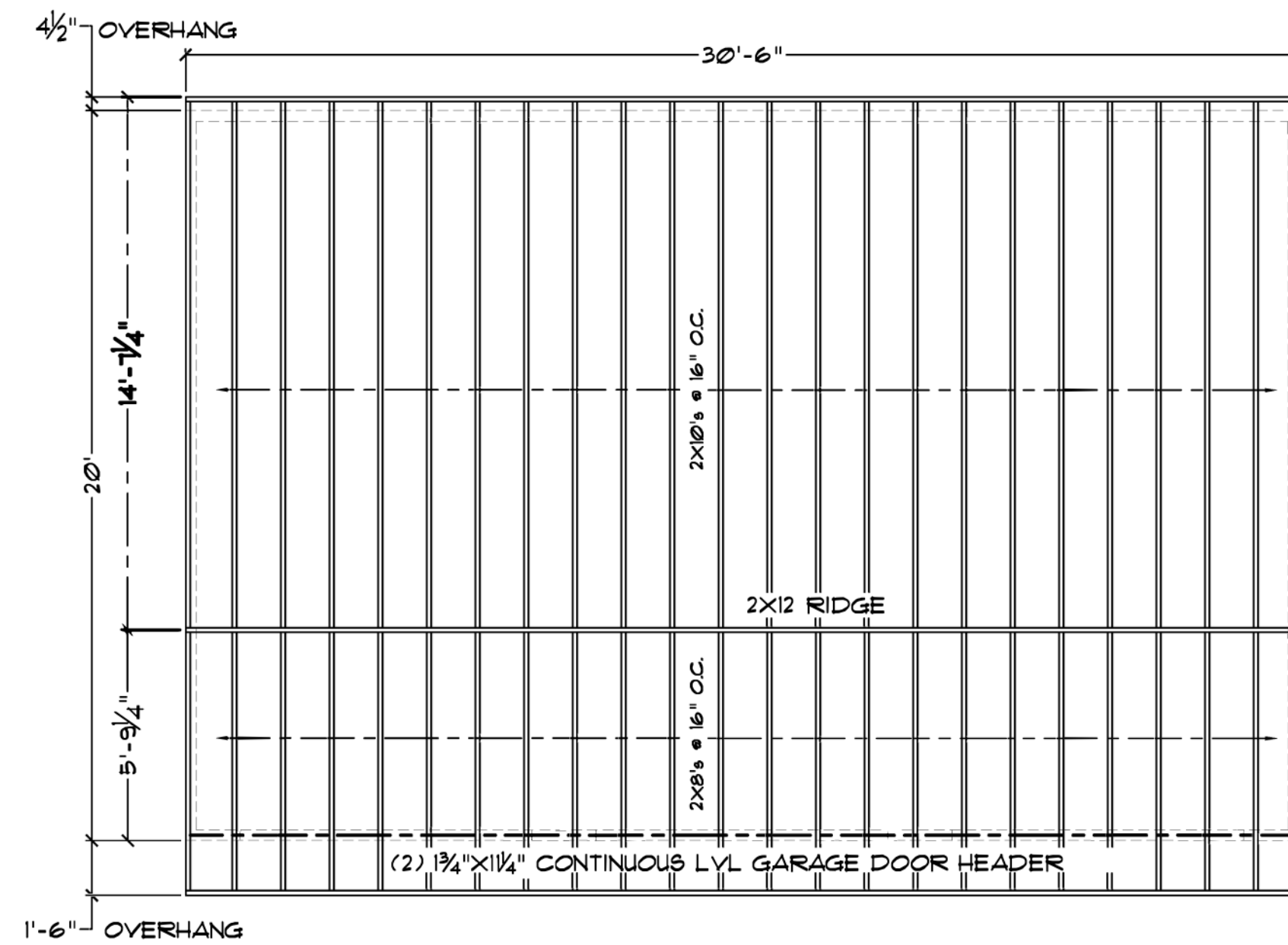
FIG. FLOOR PLAN



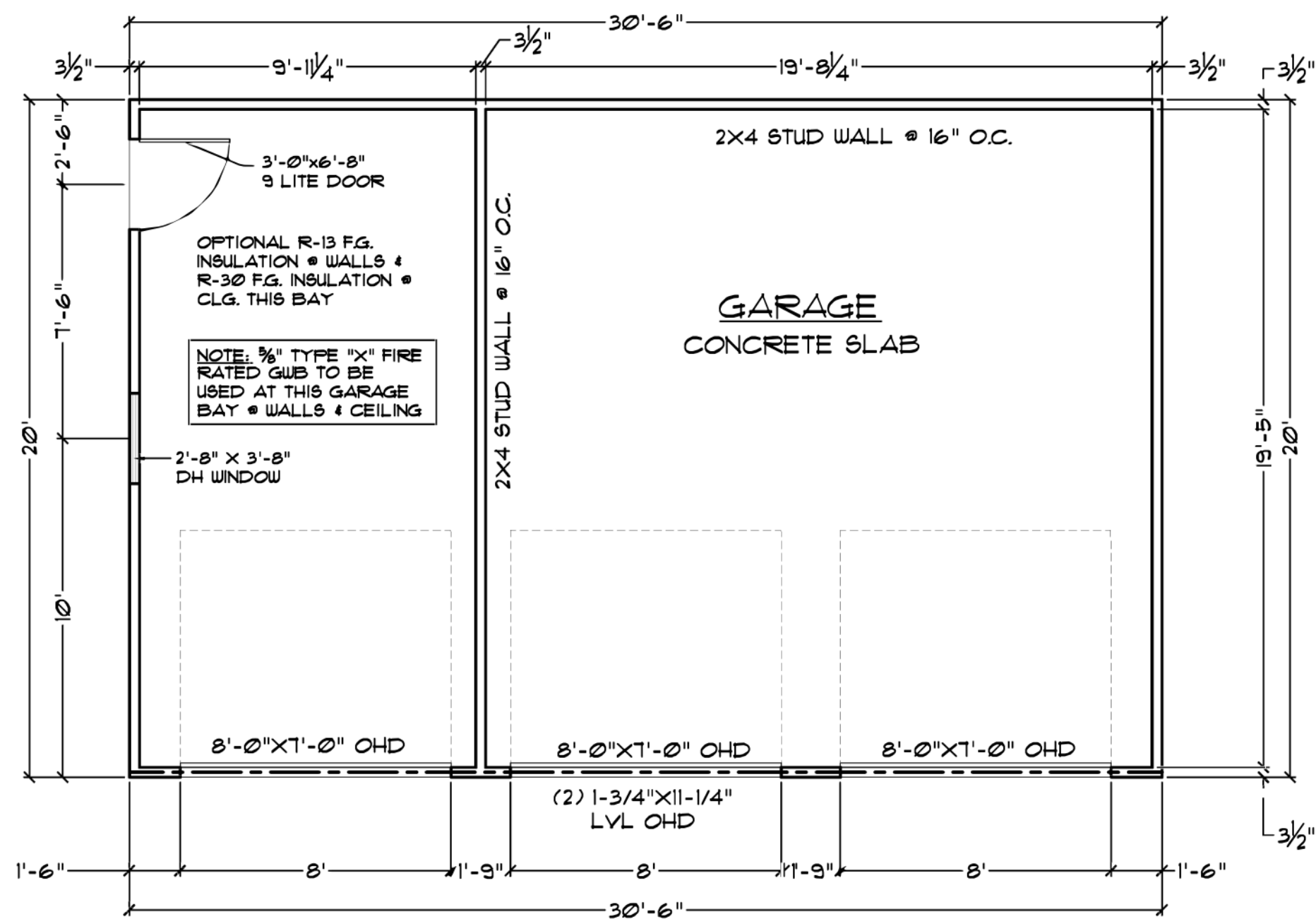
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**FOUNDATION PLAN**  
1/4" = 1'-0"



**ROOF FRAMING PLAN**  
1/4" = 1'-0"

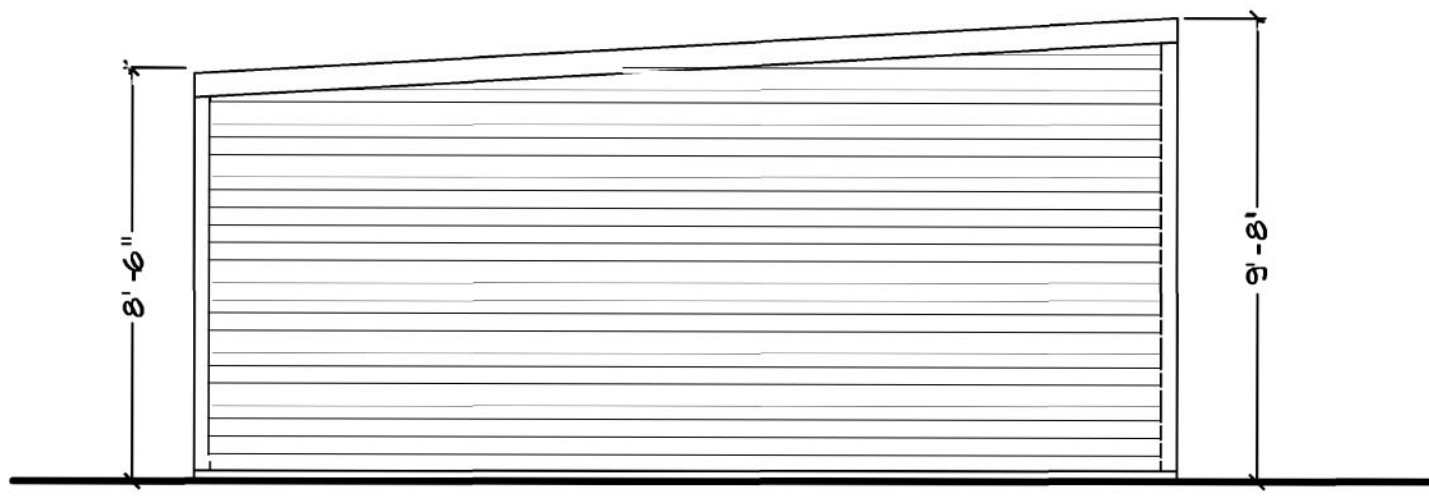


**FLOOR PLAN**  
1/4" = 1'-0"

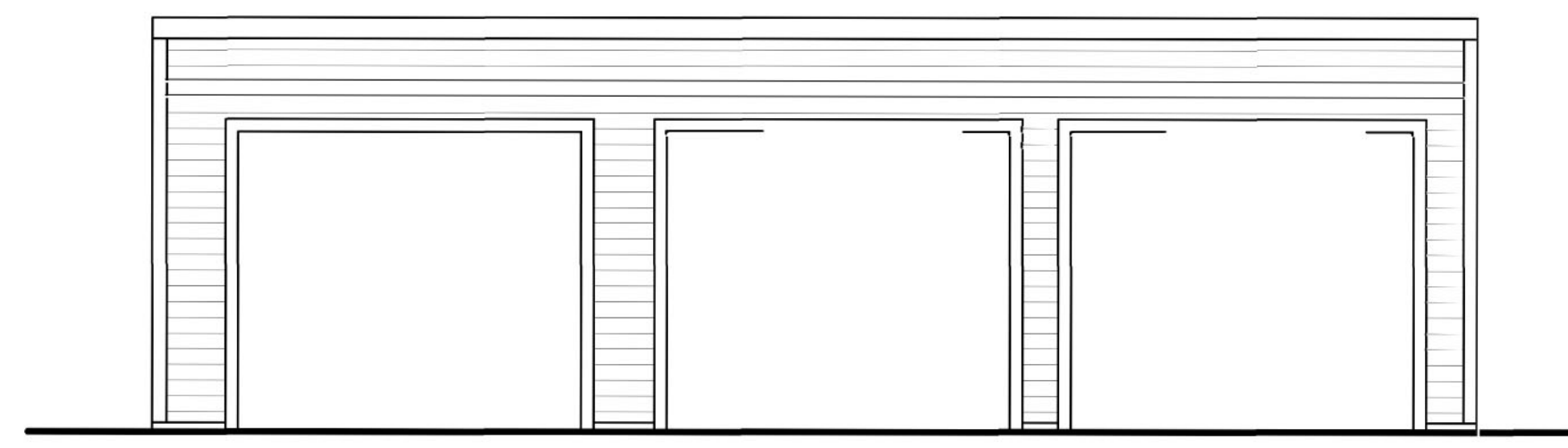
Author

01/29/21

GARAGE



SIDE ELEVATION



FRONT ELEVATION

**EX'G ELEVATIONS**  
1/4" = 1'-0"

A2.0

EX'G  
ELEVATIONS



UNLESS OTHERWISE SPECIFIED  
ALL DIMENSIONS ARE IN INCHES

ALL BUILDERS/CONTRACTORS MUST  
VERIFY TYPES, SIZES, AND LOCATIONS OF  
THE DETAILS SHOWN FOR ACCURACY,  
FITMENT AND COMPLIANCE WITH  
APPLICABLE CODES AND OWNER'S  
ACCEPTANCE



Author

01/29/21

GARAGE

SCALE

A2.1

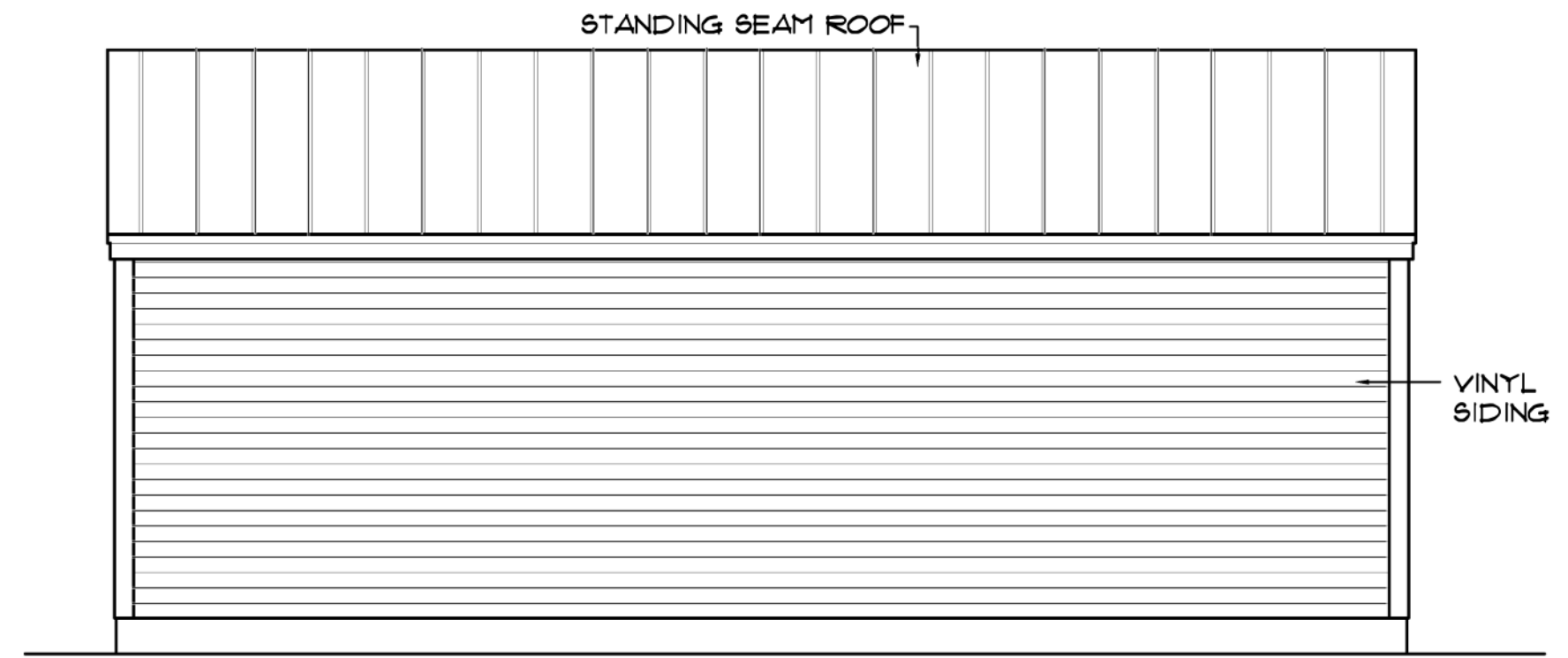
ELEVATIONS



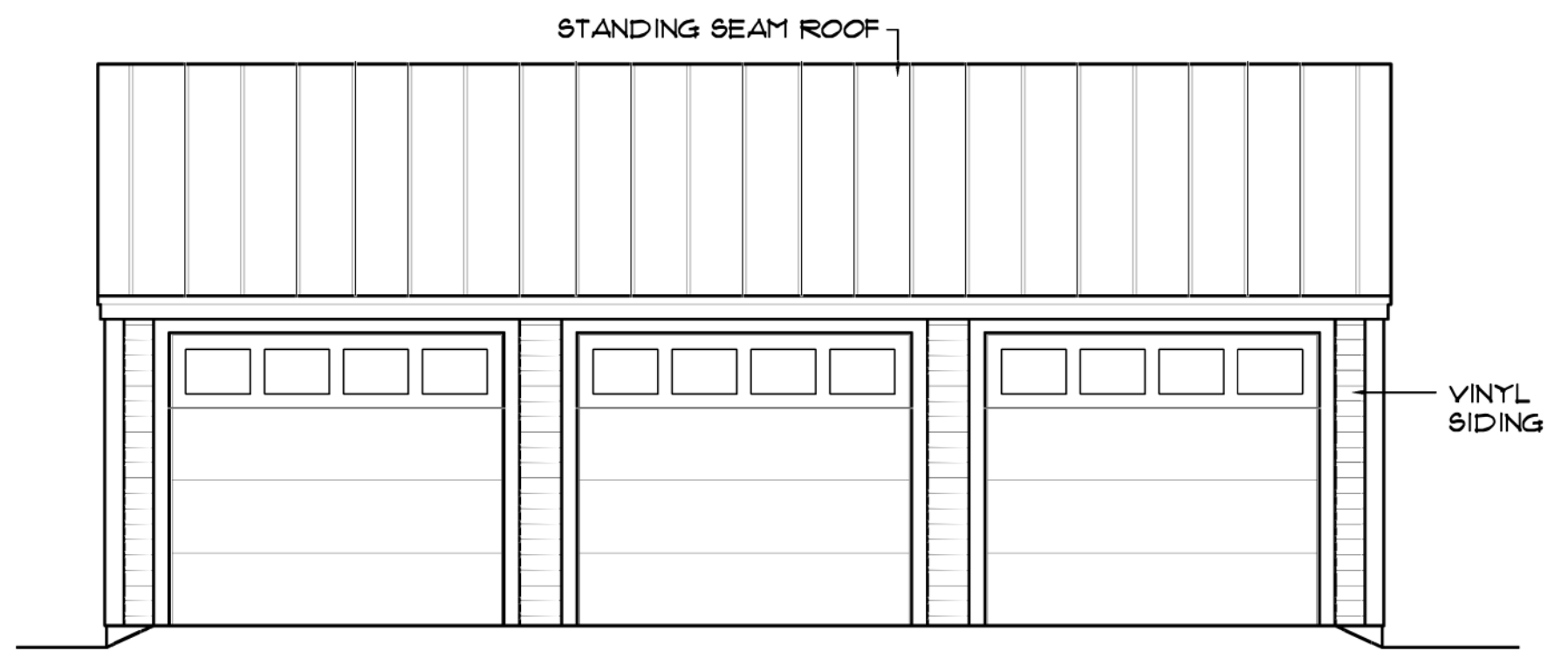
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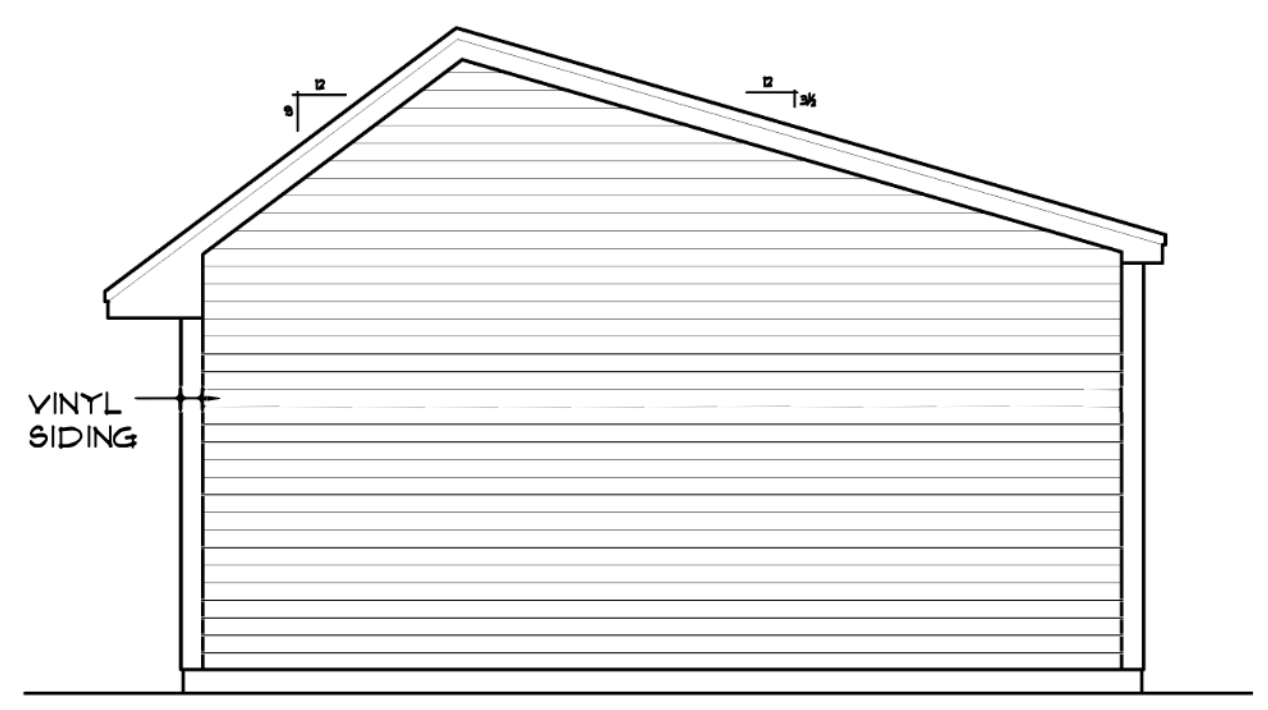
LEFT SIDE ELEVATION  
1/4"=1'-0"



REAR ELEVATION  
1/4"=1'-0"



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

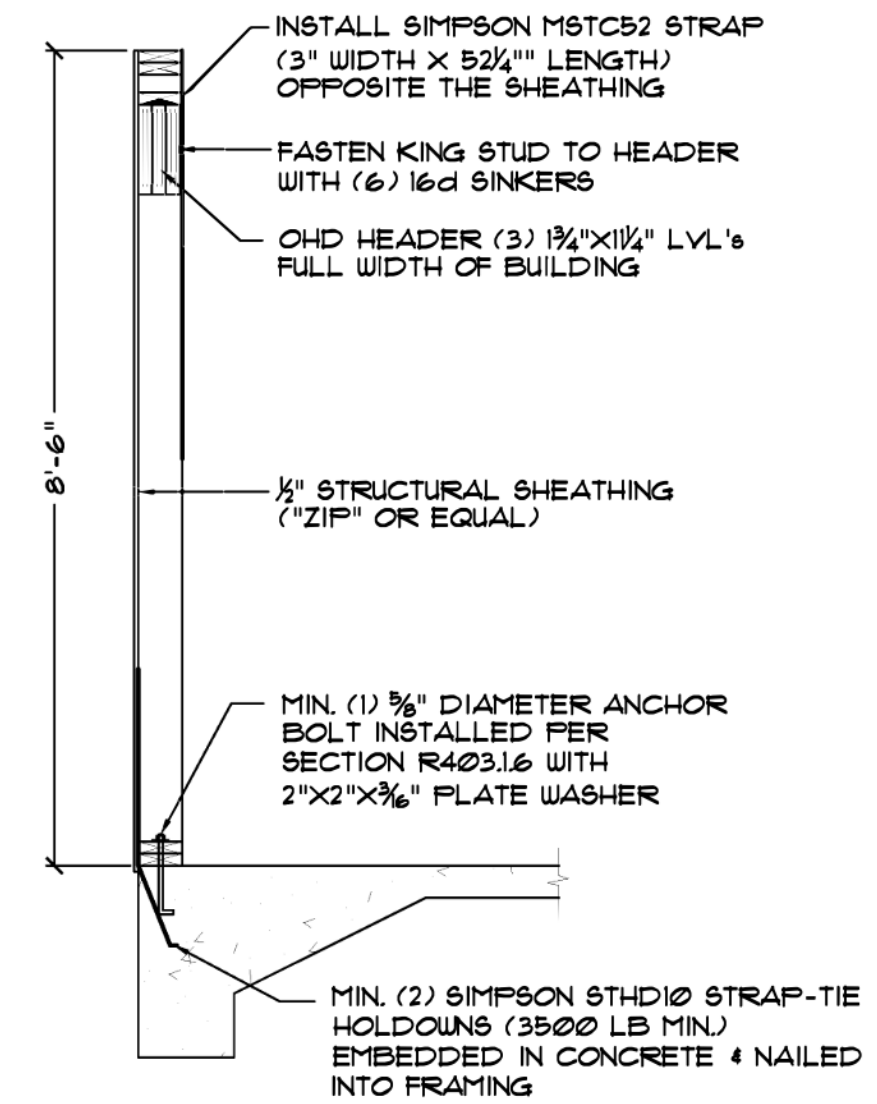


RIGHT SIDE ELEVATION  
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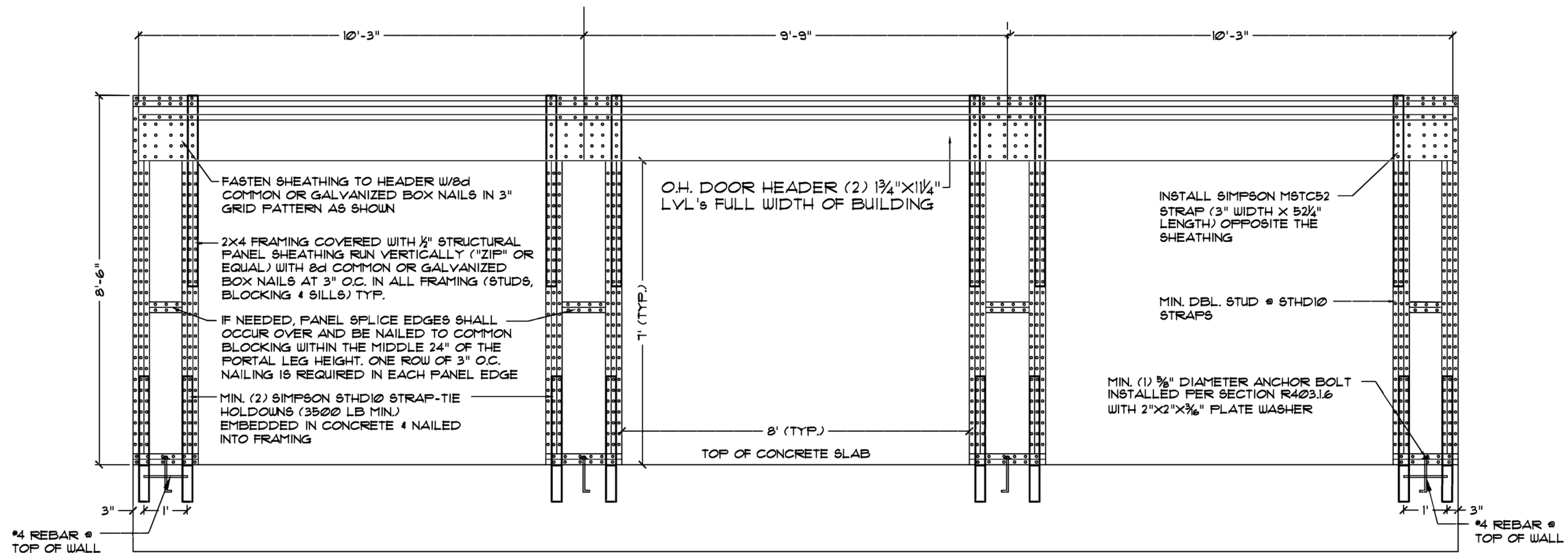
Author

01/29/21

GARAGE



PORTAL FRAME - SIDE VIEW  
1/2" = 1'-0"



PORTAL FRAME - FRONT VIEW  
1/2" = 1'-0"

A3.0

SECTION

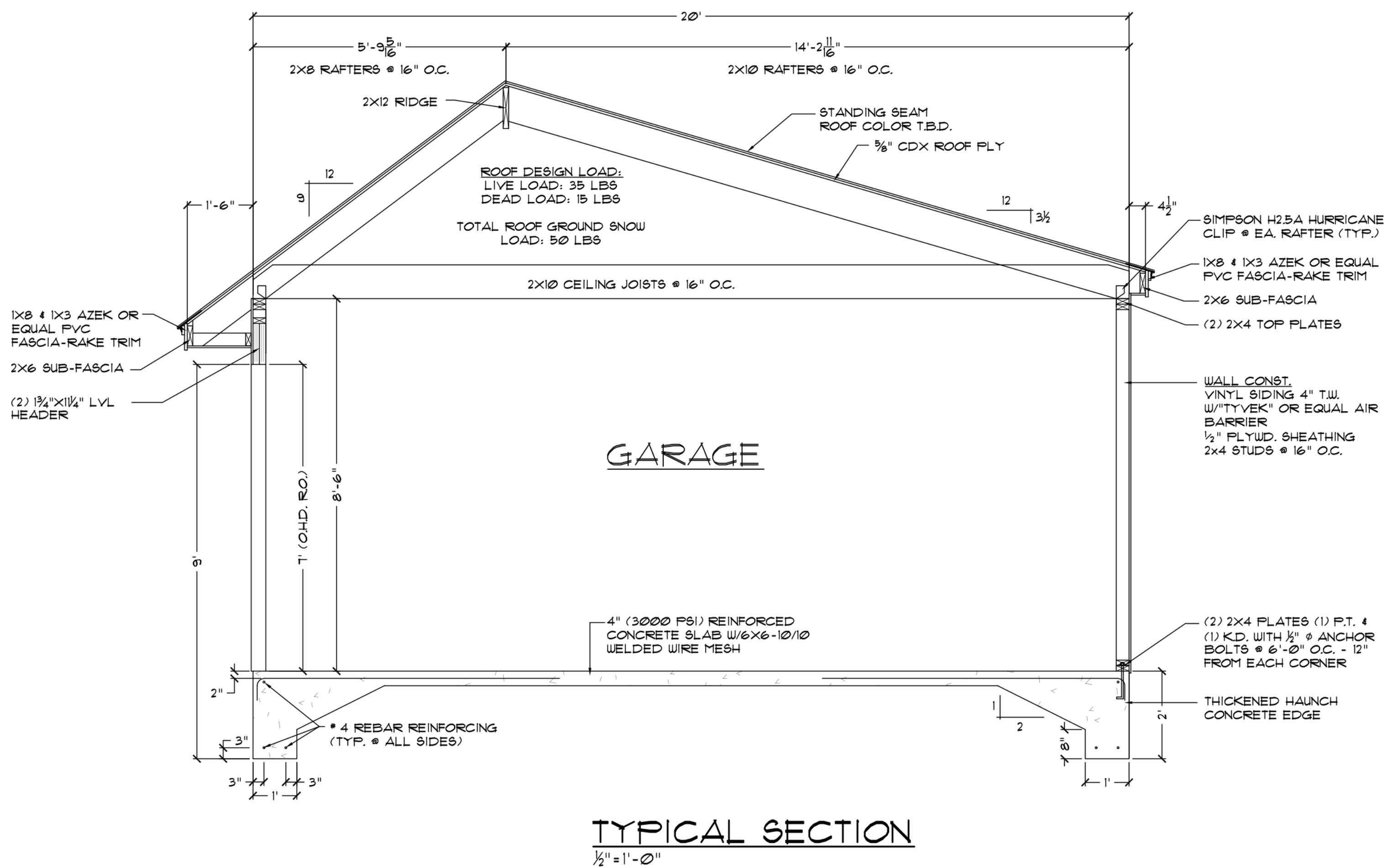


UNLESS OTHERWISE SPECIFIED ALL DIMENSIONS ARE IN INCHES

ALL BUILDERS/CONTRACTORS MUST VERIFY TYPES, SIZES, AND LOCATIONS OF MATERIALS SHOWN FOR ACCURACY, INTENT, AND COMPLIANCE WITH APPLICABLE CODES AND OWNER'S ACCEPTANCE



GARAGE



GARAGE

TYPICAL SECTION  
1/2" = 1'-0"

SCALE

A3.1

TYPICAL SECTION



UNLESS OTHERWISE SPECIFIED ALL DIMENSIONS ARE IN INCHES

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