

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

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

I am respectfully requesting a rehearing of my application LU-23-47 for property located at 170 Aldrich Road, Tax Map 153-21. There are four areas I would like to address from the May 23rd public hearing and findings of fact for denial. They are:

1. The lawful nonconforming use as a two-family dwelling relating to an accessory structure.
2. Property Boundary and lot size.
3. Zoom call technical issues and inability to respond to the sole abutter opposed.
4. Several neighbors' emails supporting my proposal.

The lawful nonconforming use as a two-family dwelling relating to an accessory structure.

My property at 170 Aldrich Road has been in lawful nonconforming use for over 60 years as a two-family home. It is and has been my primary residence for 17 years. RSA 674:19 specifically protects lawful nonconforming uses and prevents new zoning ordinances from impacting all lawfully existing uses. Nonconformity protections apply both to principal and accessory uses of property. This provision does two things. It protects my request to update my accessory building consistent with the Single Residence B (SRB) district and prevents any additional living space under Section 10.440 which prohibits 3 family dwelling units in SRB district and no Accessory Dwelling Units as per Section 10.814.12 of the Portsmouth Zoning Ordinance.

The finding of facts for denial were:

“The home was in an area of single-family dwellings and the design wasn’t consistent with continuing to use the property as a single-family dwelling one.”

“The petition failed the test for observing the spirit of the ordinance because the home was in an area of single-family dwellings and the design wasn’t consistent with continuing to use the property as a single-family dwelling one.”

My request was not for additional living space, which is **prohibited** by current zoning and the lawful nonconforming use. The request is consistent with properties to update existing accessory structures as permitted in the SRB district. Two specific properties within 300 feet of mine got relief by the ZBA to construct a second floor and update an existing accessory structure to include bathroom facilities. One is 19 Sunset Road, Tax Map 153-19(ZBA 4/18/17 and 1/17/2023) and the other is 161 Aldrich Road, Tax Map 153-32(ZBA 2016). Other properties with similar increased size and updates are 55 Aldrich Road (Tax Map 153-44 Built 2022), 196 Aldrich Road (Tax Map 153-25 ZBA 4/18/2023), 124 Kensington Road (Tax Map 152-20 Under construction), and 2 Monroe Street (Tax Map 152-8 ZBA 3/16/2021). I will point out the property expansion at 19 Sunset Road is directly abutting property at 25 Boss Ave, (the sole abutter opposed to my request), yet that abutter voiced no concerns for that relief.

As a condition to this variance, I suggest the Board state that living space in this accessory building is prohibited.

Property Boundary and Lot Size.

The boundary lines and lot size are clearly delineated by several sources. The first and most recent is the signed/stamped survey from Ambit Engineering. This survey was requested to accurately show the side setback for my request. This setback varied from data on the tax map, geo mapping, and previous building request. I felt the best and most accurate source was through a licensed survey company. For lot size, the survey was also consistent with my deed, the tax map, geo mapping, and rear boundary line. The lot size according to my deed, the Westfield Park Plot Plan, the Tax Map, and Geo Mapping, are all consistent at 92.5 X 120 feet. The signed/stamped survey, copy of deed, Westfield Park Plot Plan, and tax map delineation are attached. There has been no challenge legal or other wise to the signed and stamped survey showing my property boundary lines.

Zoom Call.

With the postponement of this public hearing to May 23rd I was unable to attend in person and requested to connect via Zoom. While a Zoom call can be a useful tool for conducting a meeting, it also has its limitations. For whatever reason, the audio of the Board was not being heard by me at the completion of my presentation. While a connection was reestablished, I was unable to address the concerns of the board as well the sole abutter objecting to my request during the public hearing. I did raise my hand via zoom several times, but it was not acknowledged.

Neighbors Support.

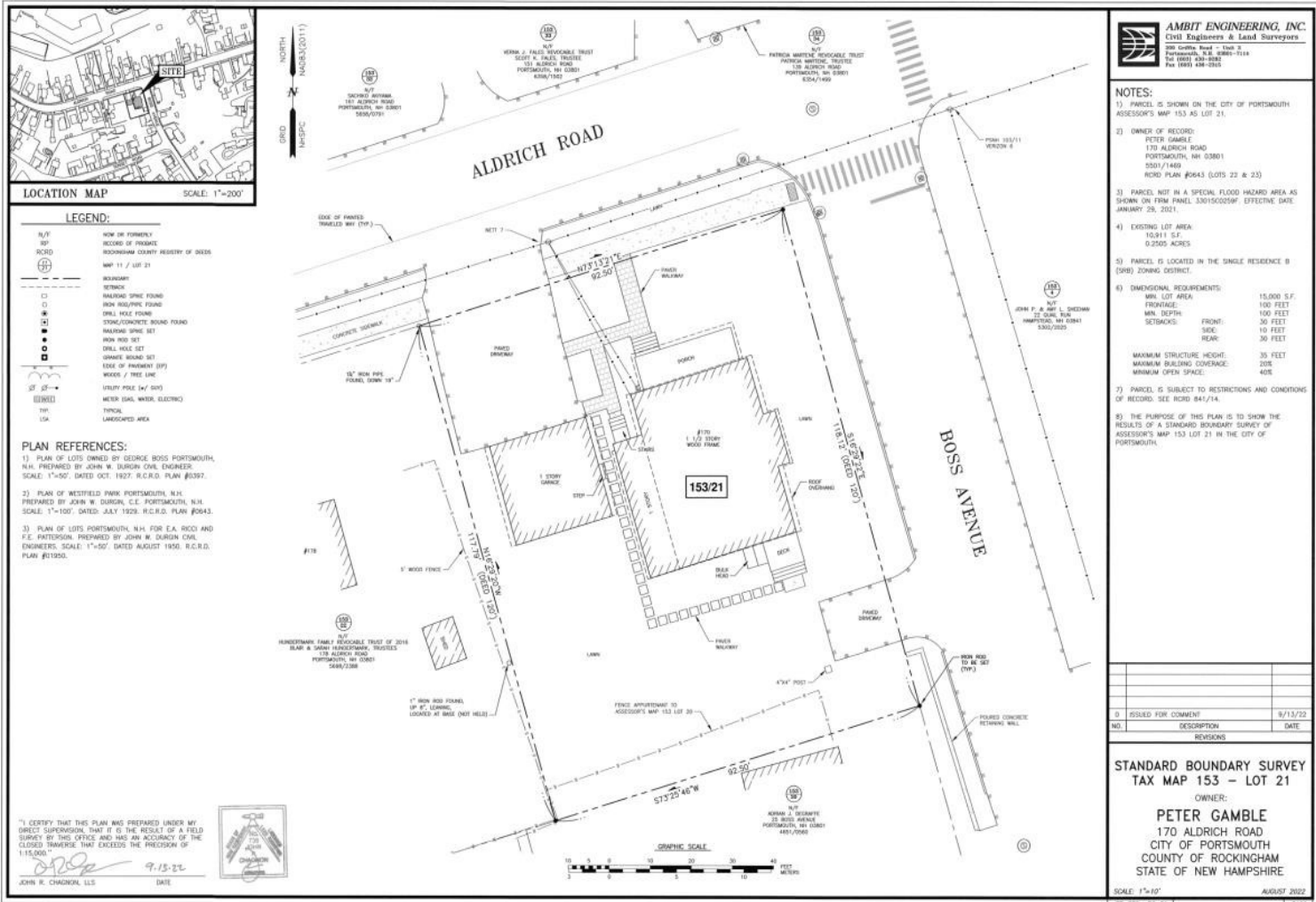
Several of my neighbors expressed support for my request via email to the Board. Their support reflects the sentiment that my request is in line with the neighborhood, zoning for accessory use, consistent with single-family dwellings and consistent with improvements both for primary and accessory structures currently on going in my immediate vicinity.

For the above reasons I am requesting a rehearing for my application LU-23-47. I will update my application file on the website to reflect the additional information and attachments mentioned in this request for rehearing. Thank you for taking the time to consider my request.

Respectfully submitted,

Peter Gamble

Signed and Stamped Licensed Survey 9/13/2022



Deed 170 Aldrich Road. 92.5 X 120 feet

~~After Recording Return To:~~
PETER GAMBLE
170 ALDRICH RD
PORTSMOUTH, NH 03801-4906
APN# 0153-0021-0000

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

Warranty Deed

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

With warranty covenants

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

REGISTERED

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

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

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



19 Sunset Road



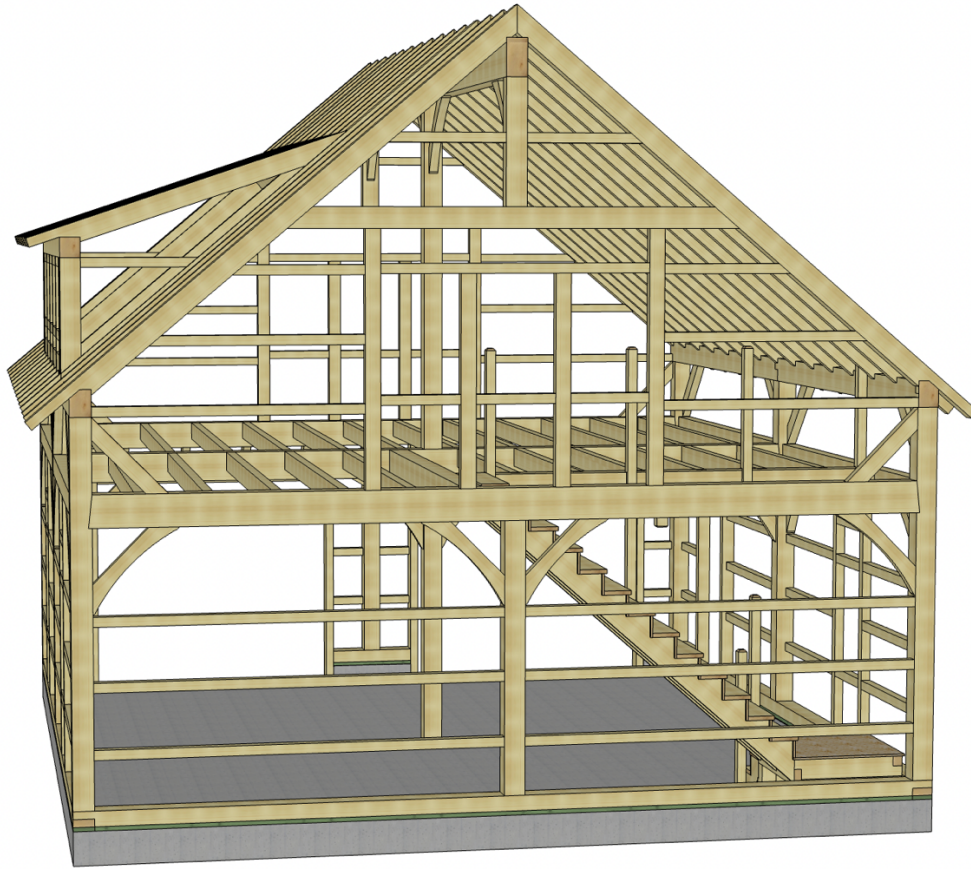
161 Aldrich Road



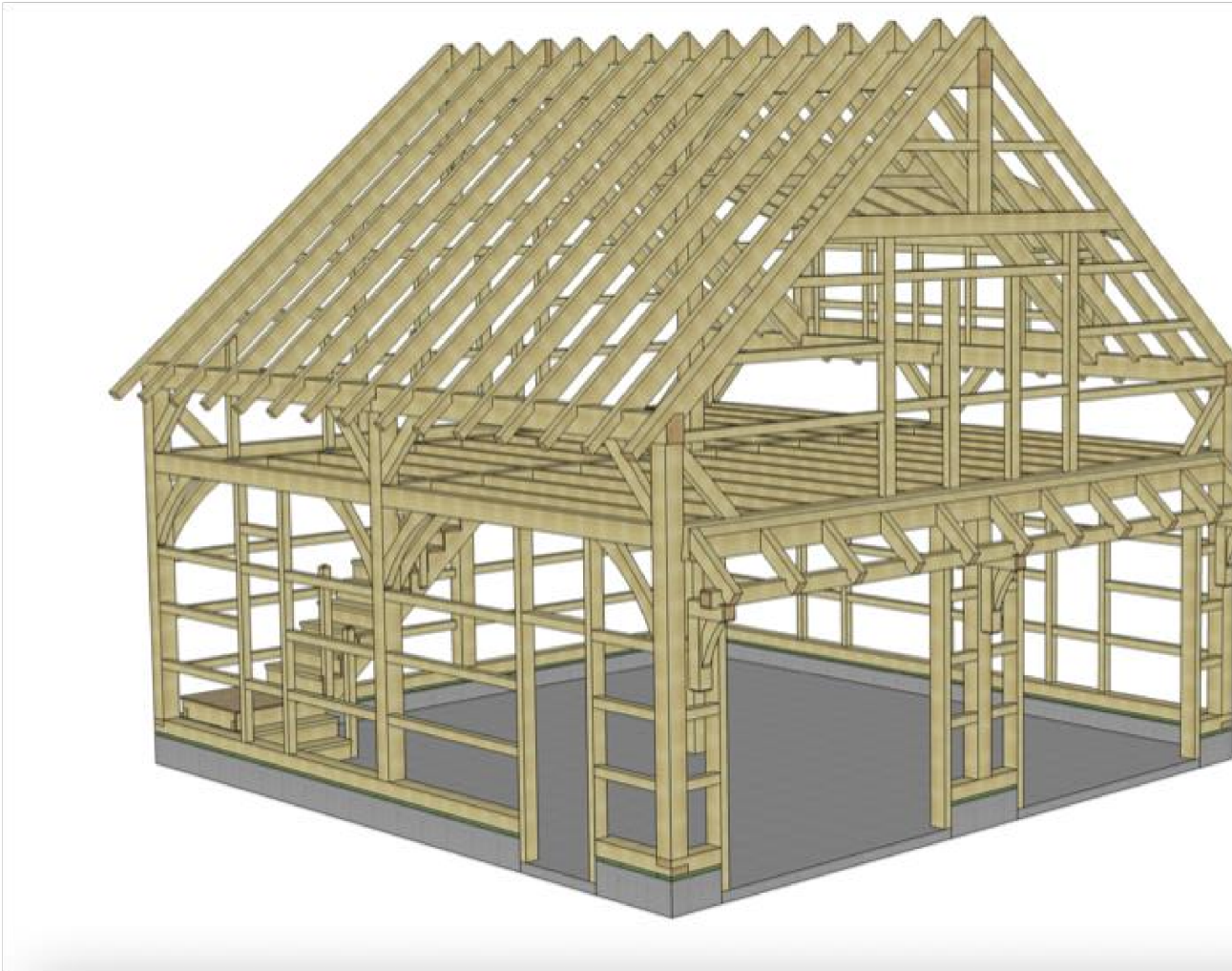
55 Aldrich Road



Frame for 1/1/2 story request



Frame for 1/1/2 story request





CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 30, 2023

Peter Gamble
170 Aldrich Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 170 Aldrich Road (LU-23-47)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for demolishing the existing garage and constructing a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed. Said property is shown on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **deny** the request because the proposal failed to observe the spirit of the ordinance and would be contrary to the public interest because the home is in an area of single-family dwellings and the design isn't consistent with continuing to use the property as a single-family dwelling one.

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

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

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-23-2023

Property Address: 170 Aldrich Rd

Application #: LU-23-47

Decision: **Deny**

Findings of Fact:

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

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

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	NO	<ul style="list-style-type: none"> The petition failed the test for observing the spirit of the ordinance because the home was in an area of single-family dwellings and the design wasn't consistent with continuing to use the property as a single-family dwelling one.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	NO	<ul style="list-style-type: none"> The petition failed the test for observing the spirit of the ordinance because the home was in an area of single-family dwellings and the design wasn't consistent with continuing to use the property as a single-family dwelling one.
10.233.23 Granting the variance would do substantial justice.		

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>		
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (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.</p>		

III. NEW BUSINESS

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

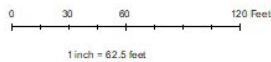
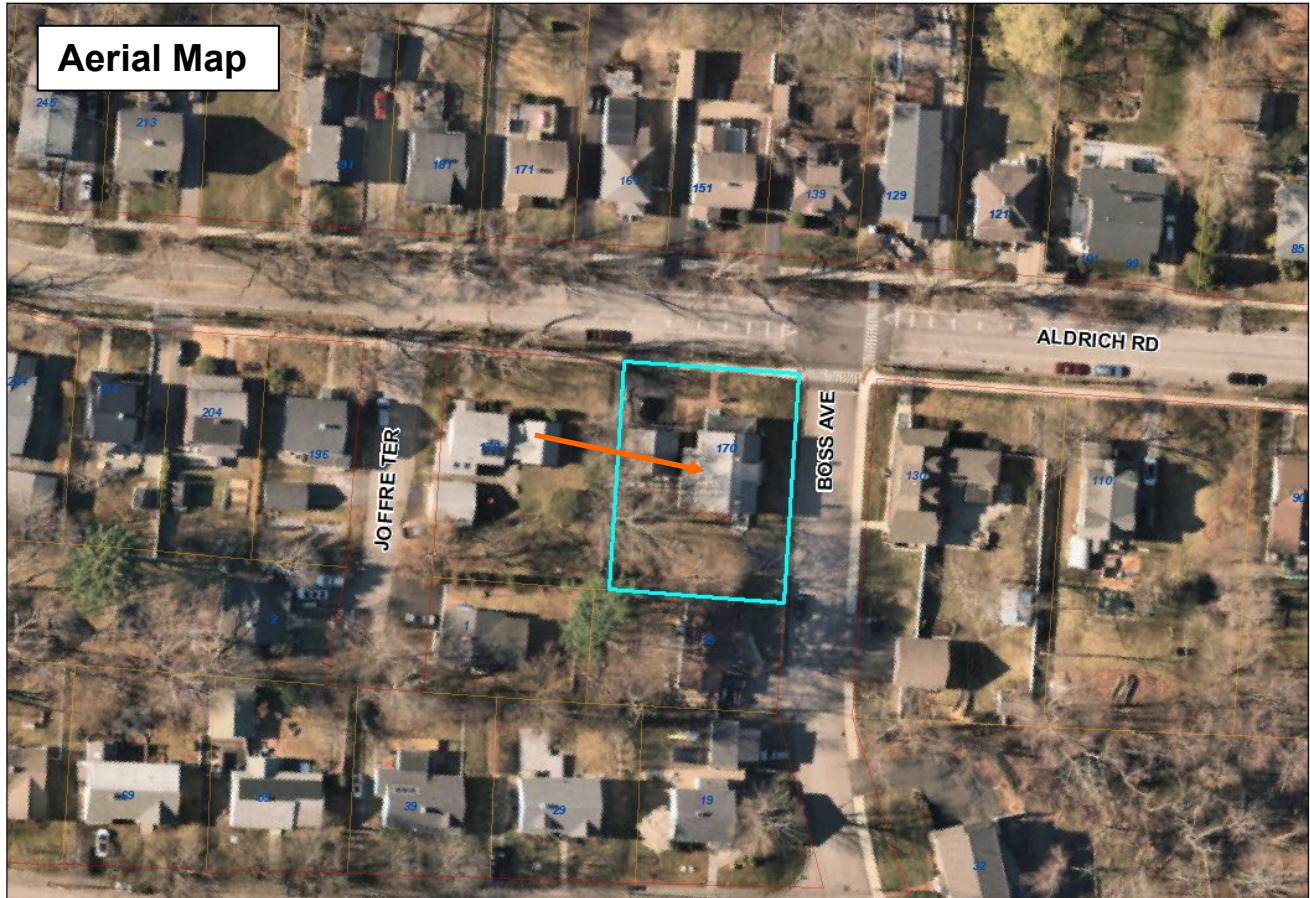
Existing & Proposed Conditions

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

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



170 Aldrich Road



Previous Board of Adjustment Actions

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

Planning Department Comments

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

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.

Dear Board of Adjustment members,

My name is Peter Gamble and have resided at 170 Aldrich Road Portsmouth, NH for 15 years. I come before you to seek relief to expand my existing 24 X 24 garage. My proposal is to construct a 26 X 30 garage with a second floor for the purpose of creating more useable space for storage, garage parking, workshop space, and workout/recreational space. The current garage was permitted on August 4, 1978, showing a 12' side setback requiring no variance yet with the advent of geo mapping the tax map, as of last year, was showing a 4' side setback. Through my research and the hiring of Ambit Engineering to conduct a property survey the side setback is now showing 9'. I have shared this information with James Mccarty (GEO Mapping) to help adjust tax map discrepancies and provide more accurate GEO Mapping. I also discussed this project with Paul Garand, Asst Building Inspector. He noted that to ensure proper foundation and footings for the new structure, the best course of action may be to demo and reconstruct around the outside of the existing footprint which is part of this proposal. I am including a shower/bathroom on the garage second floor as part of the workout/recreational room with no intentions of creating a living space. My property is already a two-family dwelling with the second dwelling unit reserved for my children and their families.

I am seeking a variance from Section 10.521 to allow a side setback of 7 feet where 10 is required and 22.4% building coverage where 20% is the maximum allowed.

With respect to the 5 guiding criteria:

1. The variance will not be contrary to the public interest; The project is inline with the public interest as the structure was permitted in accordance with the ordinance in 1978 and this new proposal improves upon the current structure as well as shows accurate side setbacks.
2. The spirit of the Ordinance will be observed; The spirit of the Ordinance will be observed as this project is in line with the current use of the property and consistent with surrounding properties.
3. Substantial justice will be done; Substantial justice will be done as this proposal will improve upon the existing permitted garage and allow for needed space parking, workshop, storage, and workout/recreational area.
4. The values of surrounding properties will not be diminished; This project will increase the values of surrounding properties.
5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship; Because this was a permitted garage already, in line with neighborhood improvements and in the spirit of the ordinance, not granting relief would results in a hardship.

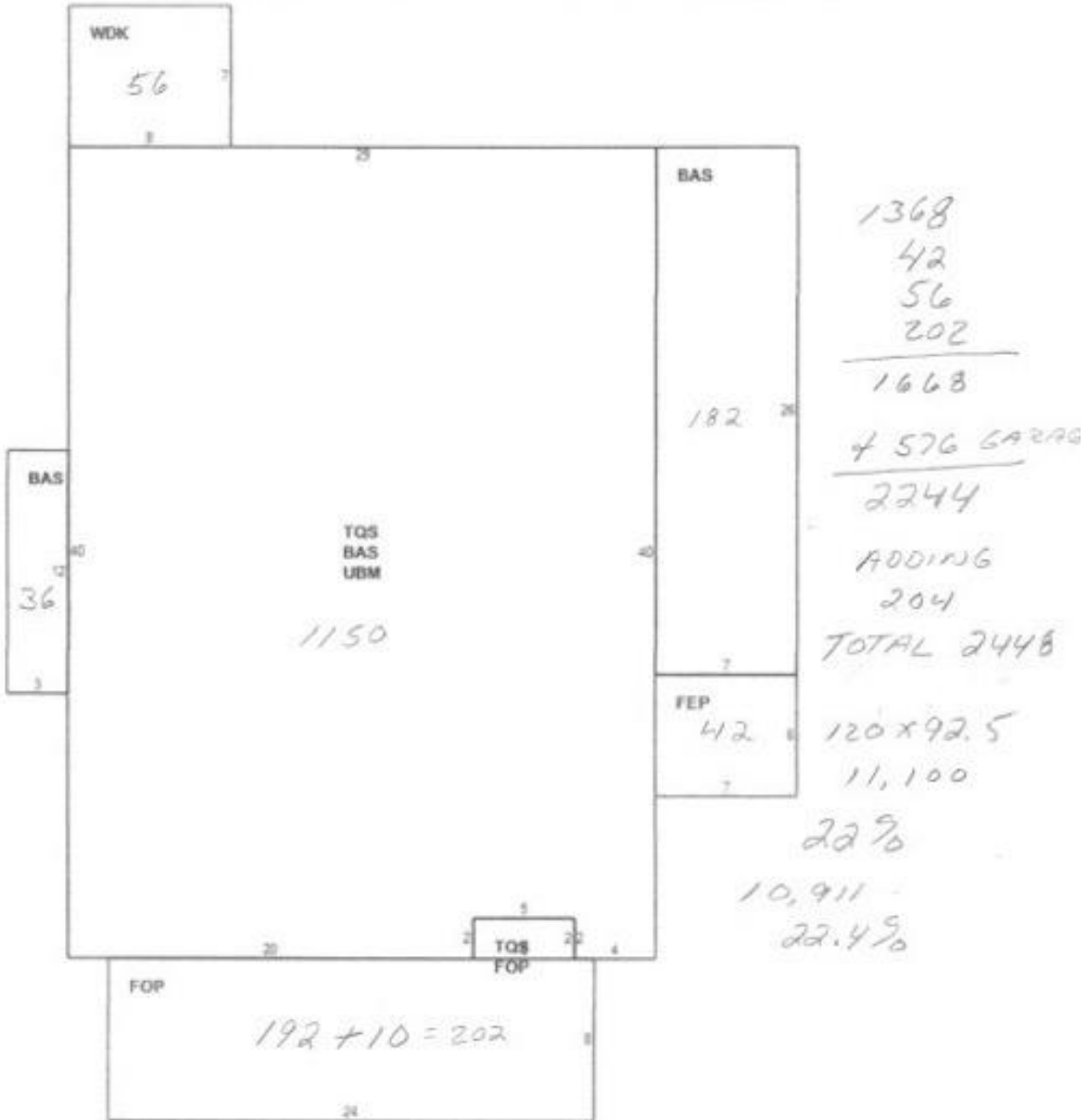
I thank you all for taking the time to review my application and I look forward to meeting you all in person.

Sincerely,
Peter Gamble





Building Layout



CITY OF PORTSMOUTH

APPLICATION FOR BUILDING PERMIT
OR CHANGE IN LAND USE

DATE Aug 4 1978
EST COST 1 5,700
FEE 18,000
PAID check - CA

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

ADDRESS 170 ALDRICH RD

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

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

Contractor's Name ART SPAINA Address Greenland RD
Business Phone 436-0631

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

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

Construction _____

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

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

SUBJECT TO CODE REQUIREMENTS

Murray Levy
Signature of Applicant

If not Owner, state relationship _____

Date 8/8/78
1. Variance _____ Zoning
2. Spec. Exc. _____ Disapproved RPT
3. Historic District _____ Approved
4. Bldg. Code Bd. of Appeals _____
5. Site Review _____

Reason Lot does not meet requirement of Art III Sec 10-301(2)
Fire Department Approval _____ K. Hutchinson

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



BOARD OF ADJUSTMENT
CITY HALL
PORTSMOUTH, NEW HAMPSHIRE

September 19, 1978

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

RE: 170 Aldrich Road

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

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

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

Respectfully submitted,

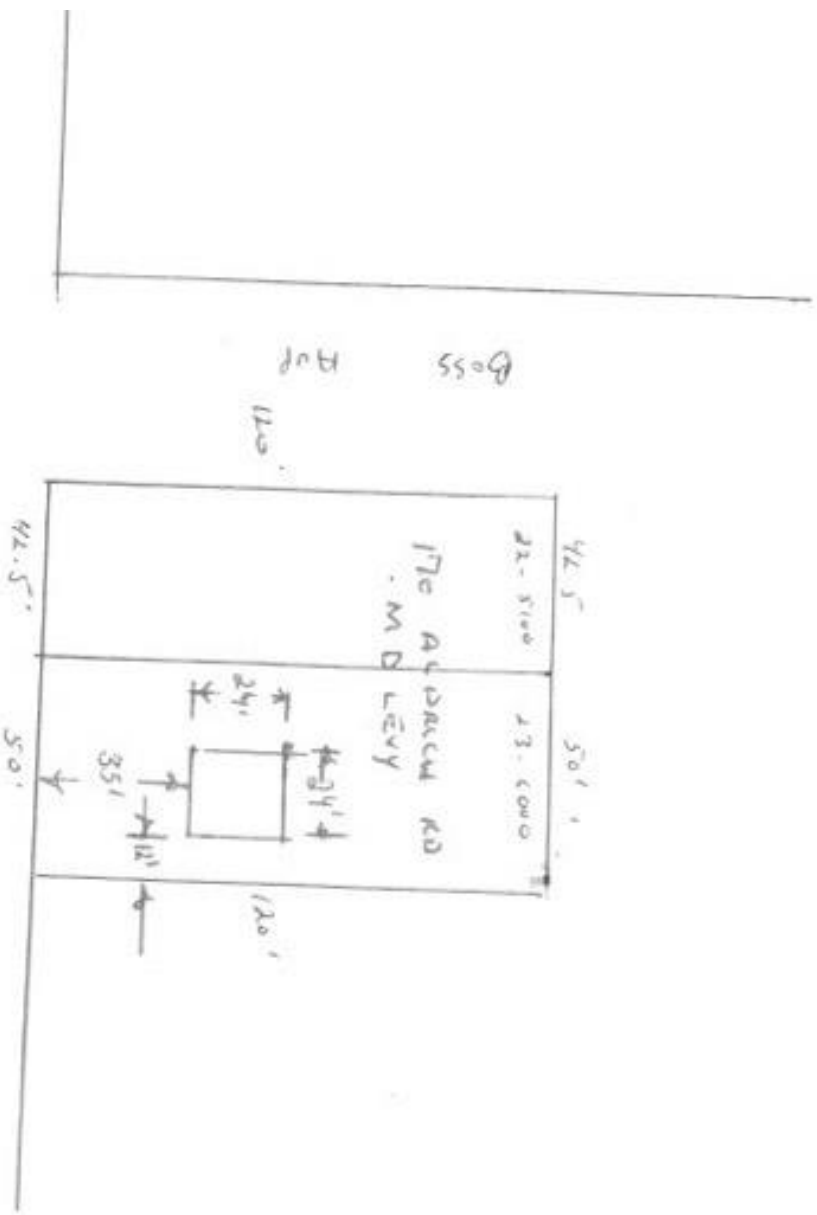
Nancy Carey
CHAIRMAN, BOARD OF ADJUSTMENT

cc: Building Inspector

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

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

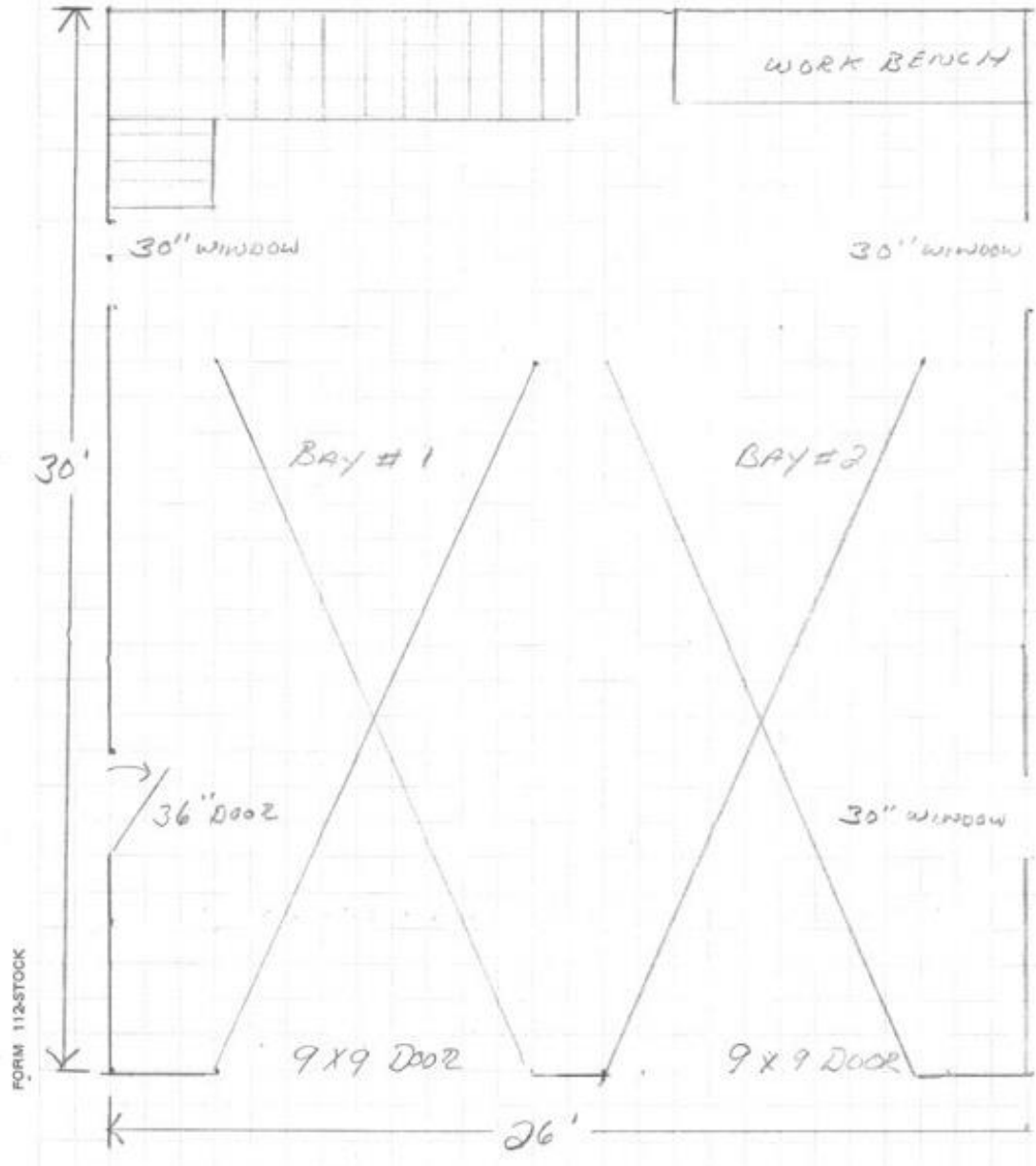
bjs



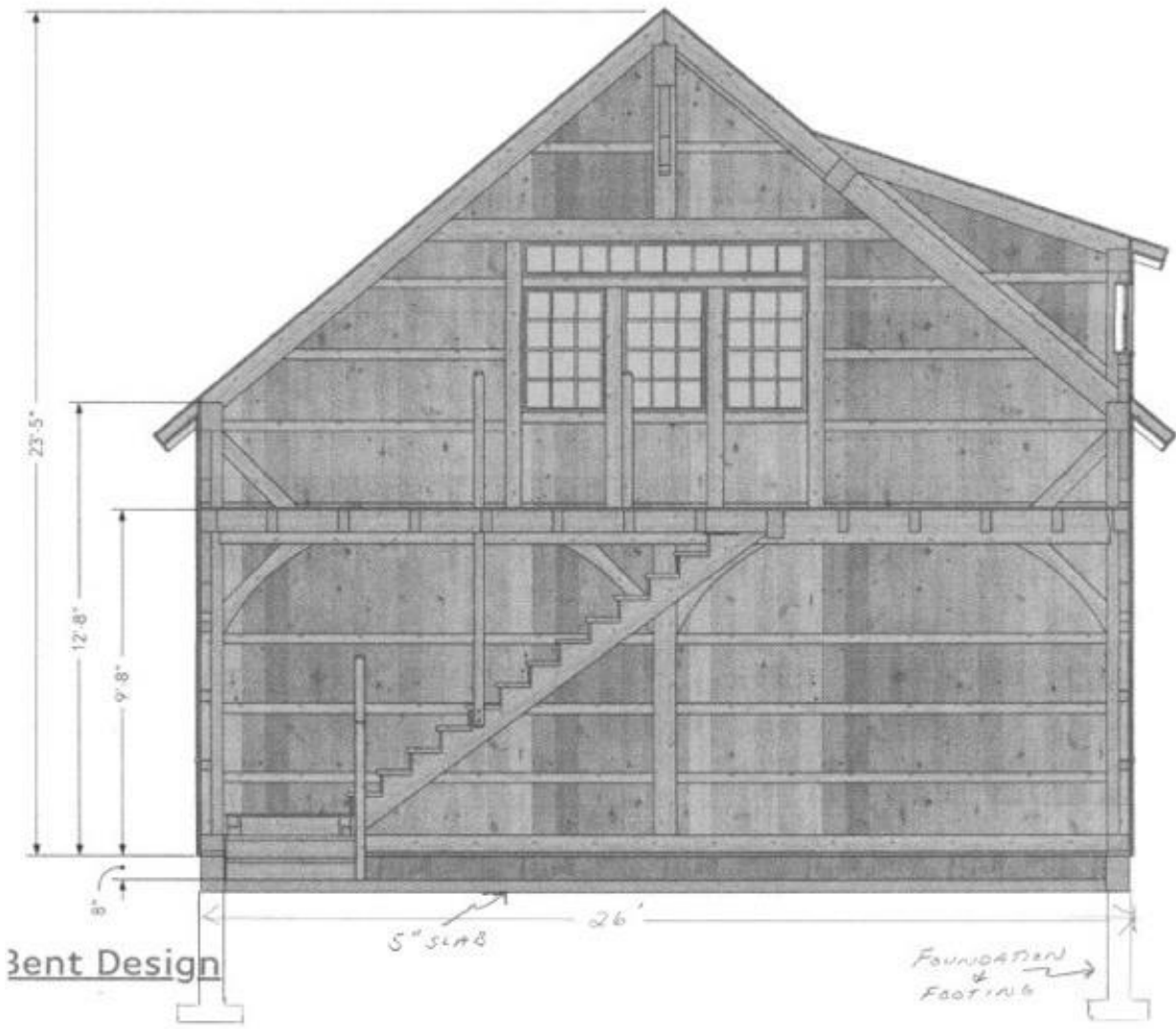
House	1170 SF
Garage	324
Proposed	576
	<hr/>
	2070 / 1100 = 1.88

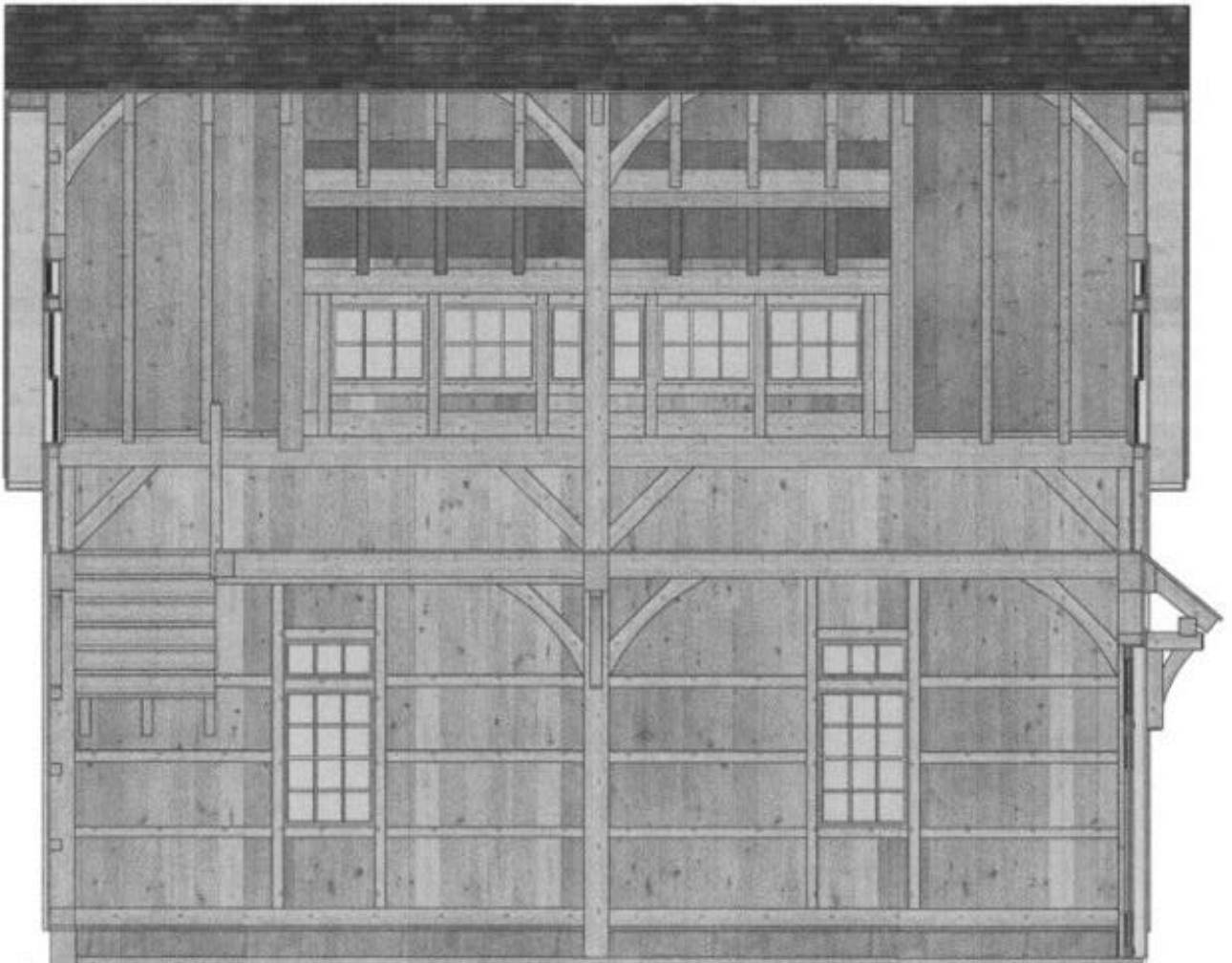
6/10 avg year
 600 per 35x16

1ST FLOOR GARAGE









Bent Design

30'

5" SLAB

FOUND
&
FOOT



