

**MEMORANDUM SUBMITTED IN SUPPORT OF REQUESTED VARIANCES FOR
JOSH WYATT AND ERIN HICHMAN (196 ALDRICH ROAD)**

- 1) A variance from Section 10.321 (Nonconforming Buildings and Structures) to
 - a. Allow a lawful nonconforming building (residence) to be extended and enlarged.
 - b. Allow a lawful nonconforming building (garage) to be reconstructed without all the regulations in which it is located.
- 2) Variances from Section 10.521 (Table of Dimensional Relief Standards) to allow construction with the following parameters:
 - a. A secondary front yard setback of approximately 3'-11" where 30' is required and 3'-10" is existing.
 - b. A rear yard setback of approximately 6' where 10'-7" is required and 28' is existing.
 - c. Building coverage of 22.7% where 20% is allowed.
- 3) A variance from Section 10.571 (No accessory building, structure or use shall be located in any required front yard, or closer to a street than the principal building) to allow construction of a new garage with the following parameters:
 - a. A secondary front yard setback of 9'-9" where 30' is required.

Subject Property as of 3.22.23 (corner of Aldrich Road and Joffre Terrace):



Introduction

Preliminarily, with respect to each element of the variance test, the applicants would like to acknowledge that variances are essentially exceptions to the general rules of zoning, and the variances sought here aim to respect that proposition. If helpful, the applicants would like to first provide the board with some background information about their family and use of the subject

property. According to City assessing records, the subject house was built in 1920. The applicants have lived in Portsmouth since 2008 and in the subject property since 2011. The subject property is in a West End residential neighborhood (just behind Hannaford), on Aldrich Road—one of the few (or perhaps only) public roads connecting Islington Street and Middle Road without a stop sign, resulting in a fair amount of “cut through” vehicular traffic, rendering use of the front yard limited. Both of the applicants’ children (daughters age 5 and 7) were born in Portsmouth. The oldest daughter attends Dondero elementary. The youngest daughter attends Seacoast Community School. The applicants have given significant thought to the project necessitating the current variance requests. Stated generally, the project is intended to essentially reconfigure a 1920 property that was built to suit the needs of a 1920s family, and long before the City enacted zoning. The lot is small and situated in a residential neighborhood. As our family has grown, and as we have probably all realized with the recent pandemic, there is an acute need to improve and reconfigure the property, such that the applicants can stay in the house (and keep the neighbors) we have grown to love, while planning for the future, which may involve accommodating aging live-in parents. The applicants have worked with a local, professional designer to create and refine a plan that is professional and in keeping with the neighborhood and the City generally. The applicants have discussed the proposed project with the direct abutters at 1 Joffre Terrace, 2 Joffre Terrace, and 178 Aldrich Road, with no opposition.

Public Interest:

Granting the requested variances will not be contrary to the public interest because the resulting structures (and reconfiguration of the subject property) will, if anything, add value to the City’s tax base with no adverse consequences. *See* RSA 674:33, I(a)(2)(A). There is an existing garage on the property (preexisting, nonconforming) and the proposal is essentially to demolish that and rebuild a new substitute structure (single-car garage) on the other side of the property. Enclosing the existing porch is consistent with many other homes in the area (creating a “mud room” on the ground floor). The proposed additional lot coverage is negligible (an increase of 1.7% from the current lot coverage of 21%) and this renovation is expected to result in significant “green” environmental benefits by tightening up the building envelope. The resulting construction will not have any meaningful impact on the intensity of use (it will remain a single-family home with only slightly more interior square footage), nor will it increase the noise, traffic, or harm the neighborhood’s aesthetics. *See Vannah v. Bedford*, 111 N.H. 105 (1971). In sum, nothing in the proposed variances “unduly, and in a marked degree” conflicts with Portsmouth’s zoning. *See Chester Rod & Gun Club, Inc. v. Town of Chester*, 152 N.H. 577, 581 (2005) (“any variance would in some measure be contrary [to the provisions of the zoning ordinance]. . . . Thus, to be contrary to the public interest or injurious to the 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.” (quotations omitted)).

Spirit of Ordinance:

Granting the requested variances will observe and respect the spirit of Portsmouth’s zoning ordinance. *See* RSA 674:33, I(a)(2)(B); *see also* 15 *New Hampshire Practice, Land Use Planning and Zoning* § 24.12. In general terms, zoning is intended to promote the “health,

safety, or the general welfare of the community.” RSA 674:16, I. Portsmouth’s zoning ordinance embodies several varied objectives, including meeting “the hierarchy of present and future human needs fairly and efficiently.” Portsmouth Zoning Ordinance § 10.122(4). In addition, the City’s zoning ordinance aims to promote the City’s Master Plan, *see* Portsmouth Zoning Ordinance § 10.121. This proposed project will contribute to the vibrancy called out in the 2025 Master Plan, as well as “complement[] and enhance[] its surroundings,” *see* 2025 Master Plan Goal 2.1. Goals 3.1 and 3.3 of the 2025 Master Plan also recognize the need to update and adapt the City’s housing stock to accommodate changing demographics and changing needs of the economy, which would include increased instances of professionals working from home (and with children). The requested variances respect the zoning objectives of the City of Portsmouth and do not propose a use or resulting structures out of step with the residential area or the City generally. The requested variances are minor in scope and consistent with the vision and objectives for the West End stated in the City’s 2025 Master Plan.

Substantial Justice:

Granting the requested variances will do substantial justice based on the circumstances of this matter. *See* RSA 674:33, I(a)(2)(C). Some authority frames the analysis as “any loss to the individual that is not outweighed by a gain to the general public is an injustice.” 15 *New Hampshire Practice, Land Use Planning and Zoning* § 24.11 (quotation omitted). This tips well in favor of the applicants’ requested variances. The requested variances envision a project that is consistent with the characteristics of the neighborhood, *see Labreque v. Salem*, 128 N.H. 455 (1986). The variances, if granted, would shift the focus of the property’s small backyard away from the public streets (and salt/stormwater runoff) and enhance privacy and safety. Denying the variances would not result in a gain to the general public.

Values of Surrounding Properties:

Granting the requested variances will not diminish the value of surrounding properties because the resulting structures will not increase noise, traffic, or the aesthetics, nor meaningfully change the intensity of use (property will remain a single-family home with only slightly more interior square footage). *See* RSA 674:33, I(a)(2)(D); *Farrar v. City of Keene*, 158 N.H. 684 (2009). Based on our experience living in this neighborhood since 2011, projects that have updated and improved the appearance, functionality, or both have had an aggregate positive impact on property values. The applicants have pride of ownership and respect the effects of using their property on our neighbors. There is a lawful existing garage on the property (preexisting, nonconforming) and the proposal is essentially to relocate (and rebuild it) more toward the other side of the property. The direct abutter behind our property has an existing fence in place and both houses on Joffre Terrace are at a higher elevation, meaning the proposed new garage will not be imposing. Enclosing the existing porch and building up will have no negative effect on surrounding properties and, if anything, would increase property values by adding value to the subject property.

Unnecessary Hardship:

Failure to grant the requested variances would result in unnecessary hardship because the subject property has several features that create the need for relief from the zoning ordinances in order for a family to make the best residential use of the property. *See* RSA 674:33, I(a)(2)(E). This is especially true given unique features of this property. *See Boccia v. City of Portsmouth*, 151 N.H. 85, 92 (2004) (observing as a factor consideration of “whether an area variance is needed to enable the applicant’s proposed use of the property given the special conditions of the property”), *superseded by statute by* Laws 2009, ch. 307.

This property is uniquely situated on the corner of two public streets, creating a primary and secondary road setback on two sides. As mentioned above, the subject property is in a residential neighborhood on Aldrich Road (running behind Hannaford)—one of the few (or perhaps only) public roads connecting Islington Street and Middle Road without a stop sign, resulting in a fair amount of “cut through” vehicular traffic, rendering use of the front yard limited. The lots in this neighborhood are generally small, preexisting, and nonconforming, which long predated the City’s zoning ordinance. While the 20% lot coverage requirement is arguably generous for a property that has the current minimum lot size of 15,000 square feet, the subject property’s lot is significantly smaller (about 1/3rd) than the current minimum lot size, magnifying the 20% coverage limitation and its constraint on use. As a result, the features of the property create a need to (i) rearrange the garage in relation to the streets to create a more protected and private backyard for their growing kids and family use, which also results in a backyard that is away from the utility/power lines that run up Joffre Terrace¹; and (ii) enables reconfiguration of interior space to modernize the residential home.

The property also lacks certain features (such as a first-floor bathroom) that make it difficult to house aging parents, and the owners have parents in their 80s who may need to reside in the house in the near future. The applicants have taken care to plan an addition within the existing footprint of the current house (including its side porch, which would become enclosed with a foundation), and are limited in options because the property has (1) an interior staircase that cuts through one “bedroom” and makes that “bedroom” functionally limited, and (2) an existing chimney in the middle of the house that limits the use of interior finished space.

The proposed renovation/construction for this project is generally aimed at creating a residential home suited to needs of a modern family (including housing children, increasingly working from home, and possibly housing aging parents). *See Boccia*, 151 N.H. at 93 (“In other words, assuming that the landowner’s plans are for a permitted use, but special conditions of the property make it difficult or impossible to comply with applicable setbacks or other restrictions, then the area variances might be necessary from a practical perspective to implement the proposed plan.”); *Rancourt v. City of Manchester*, 149 N.H. 51 (2003) (special conditions of property made variance to allow a barn reasonable); *Husnander v. Town of Barnstead*, 139 N.H.

¹ Approximately two years ago, a fallen branch from a tree on the other side of Joffre Terrace pulled those power lines down into the applicants’ driveway during a snowstorm and snapped a utility pole at the corner of the applicants’ property.

476 (1995) (unusual building envelope and present of ledge on lot created unnecessary hardship with respect to proposed renovation).

Respectfully submitted,

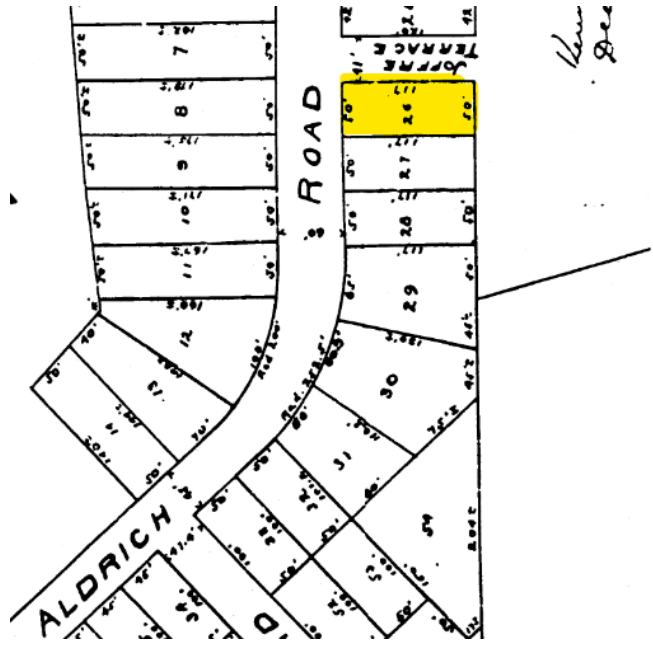
/s/ Joshua M. Wyatt

/s/ Erin N. Hichman

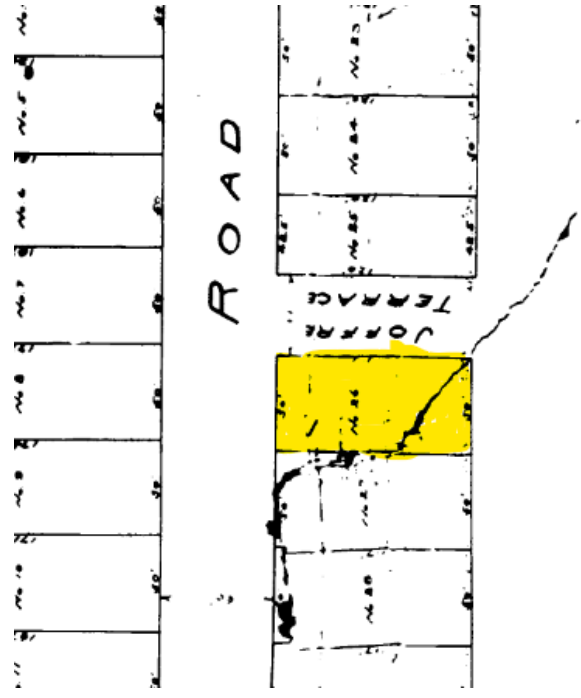
March 22, 2023

Enclosures (below and plans attached)

For further historical reference, see excerpt of Plan #0643 (Rockingham County Registry of Deeds), 1929 Plan of Westfield Park:



See also earlier 1917 Plan, Plan #0233, excerpted below:



Application for a Variance to permit the following:

Residence: The removal of the existing side porch, and in it's location the construction of a three story addition. The removal of the existing third story roof and it's reconstruction on raised perimeter walls.

New Garage: Demolish current garage and build new garage in different location.

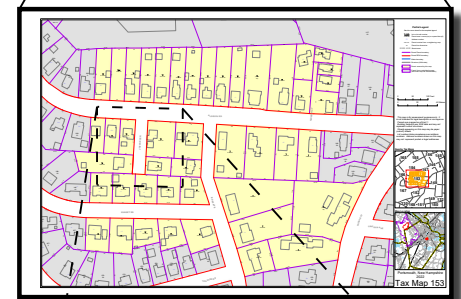
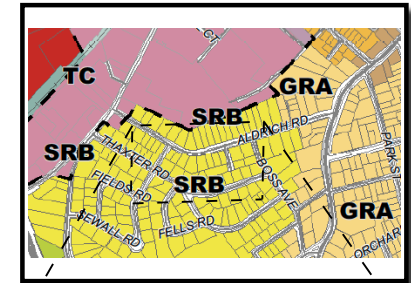
Variences requested:

- 1) A variance from Section 10.321 (Nonconforming Buildings and Structures) to
 - a. Allow a lawful nonconforming building (residence) to be extended and enlarged.
 - b. Allow a lawful nonconforming building (garage) to be reconstructed without all the regulations in which it is located.

- 2) Variences from Section 10.521 (Table of Dimensional Relief Standards) to allow construction with the following parameters:
 - a. A secondary front yard setback of approximately 3'-11" where 30' is required and 3'-10" is existing.
 - b. A rear yard setback of approximately 6' where 10'-7" is required and 28' is existing.
 - c. Building coverage of 22.7% where 20% is allowed.

- 3) A variance from Section 10.571 (No accessory building, structure or use shall be located in any required front yard, or closer to a street than the principal building) to allow construction of a new garage with the following parameters:
 - a. A secondary front yard setback of 9'-9" where 30' is required.

Location Map



Location of property
196 Aldrich Road,
Portsmouth NH 03801,
Tax Map 153, Lot 25.

List of Drawings

- AD-01 COVER SHEET & LOCATION MAP
- AD-02 EXISTING PLOT PLAN
- AD-03 PROPOSED PLOT PLAN
- AD-04 EXISTING & PROPOSED FLOOR PLANS @ BASEMENT
- AD-05 EXISTING & PROPOSED FLOOR PLANS @ FIRST FLOOR
- AD-06 EXISTING & PROPOSED FLOOR PLANS @ SECOND FLOOR
- AD-07 EXISTING & PROPOSED FLOOR PLANS @ THIRD
- AD-08 PROPOSED ELEVATIONS EAST & NORTH
- AD-09 PROPOSED ELEVATIONS WEST & SOUTH
- AD-10 PROPOSED ELEVATIONS NEW GARAGE
- AD-11 SUMMARY FIVE CRITERIA



Variance Submittal for Additions to
The Hichman - Wyatt Residence
196 Aldrich Road, Portsmouth NH 03801

Cover Sheet

Issue date: March 22, 2023 | Scale: n/a
Revision dates: 02/27/23; 02/28/23; 03/03/23; 03/08/23; 03/19/23;

AD-01

lot 153-25: **5,850 sq ft**

existing residence footprint: 983 sq ft

existing garage footprint: 242 sq ft

existing o.a. footprint: 1,225 sq ft

existing lot coverage: 21.0 %

existing lot coverage if lot were 15,000 sq ft: 8.2%

SRB zoning requirements:

min lot size: 15,000 sq ft

front yard : 30'
 side yard : 10'
 rear yard: 30'
 building coverage 20%
 minimum open space 40%

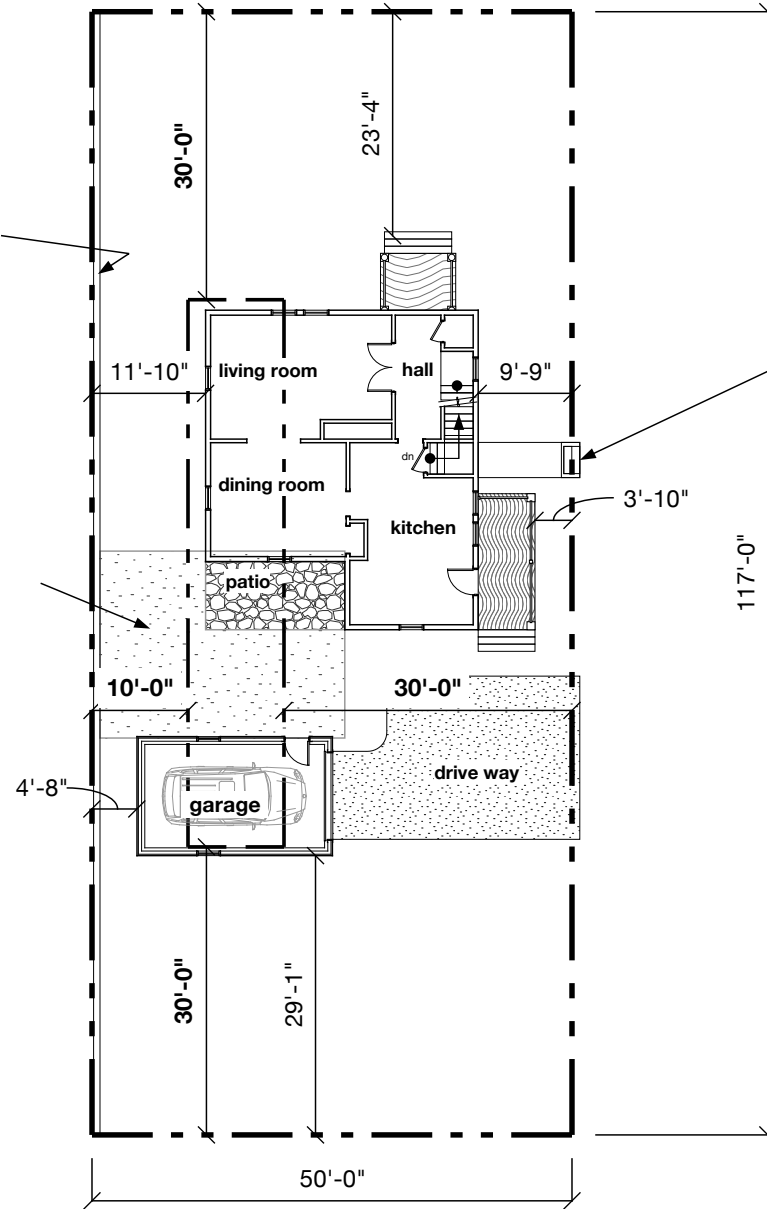
Aldrich Road

RETAINING WALL

USABLE & OBSERVABLE BACKYARD

CONCRETE PAD & STEPS

Joffre Terrace



NOTE:

THIS PLOT PLAN WAS DRAWN FROM INFORMATION GATHERED OFF THE OFFICIAL TAX MAP & MAPGEO INFORMATION. ALL DIMENSIONS TO BE VERIFIED IN FIELD.



Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

Existing Plot Plan

Issue date: March 22, 2023 | Scale: 1" = 20'-0"
 Revision dates: 02/27/23; 02/28/23; 03/03/23; 03/08/23; 03/19/23;

AD-02

lot 153-25: 5,850 sq ft

proposed residence footprint: 994 sq ft

proposed garage footprint: 336 sq ft

proposed o.a. footprint: 1,330 sq ft

proposed lot coverage: 22.7 %

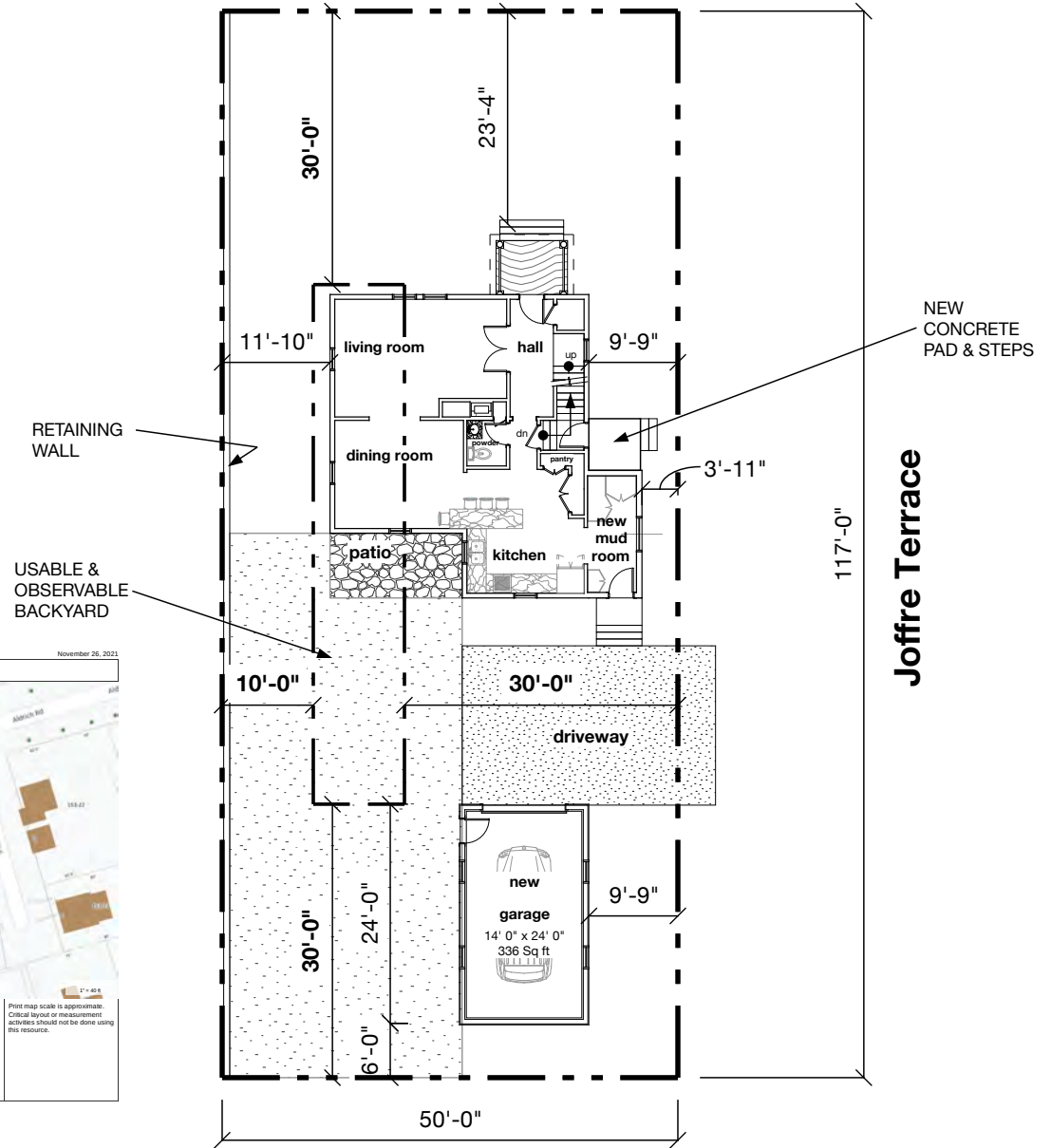
proposed lot coverage if lot were 15,000 sq ft: 8.9%

SRB zoning requirements:

min lot size: 15,000 sq ft

front yard : 30'
 side yard : 10'
 rear yard: 30'
 building coverage 20%
 minimum open space 40%

Aldrich Road



NOTE:

THIS PLOT PLAN WAS DRAWN FROM INFORMATION GATHERED OFF THE OFFICIAL TAX MAP & MAPGEO INFORMATION. ALL DIMENSIONS TO BE VERIFIED IN FIELD.

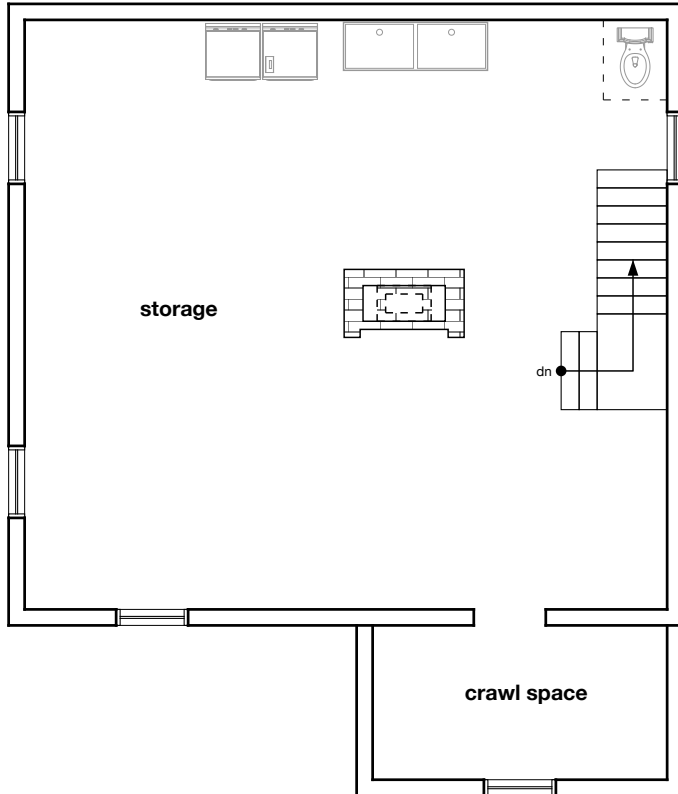


Variance Submittal for Additions to
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 196 Aldrich Road, Portsmouth NH 03801

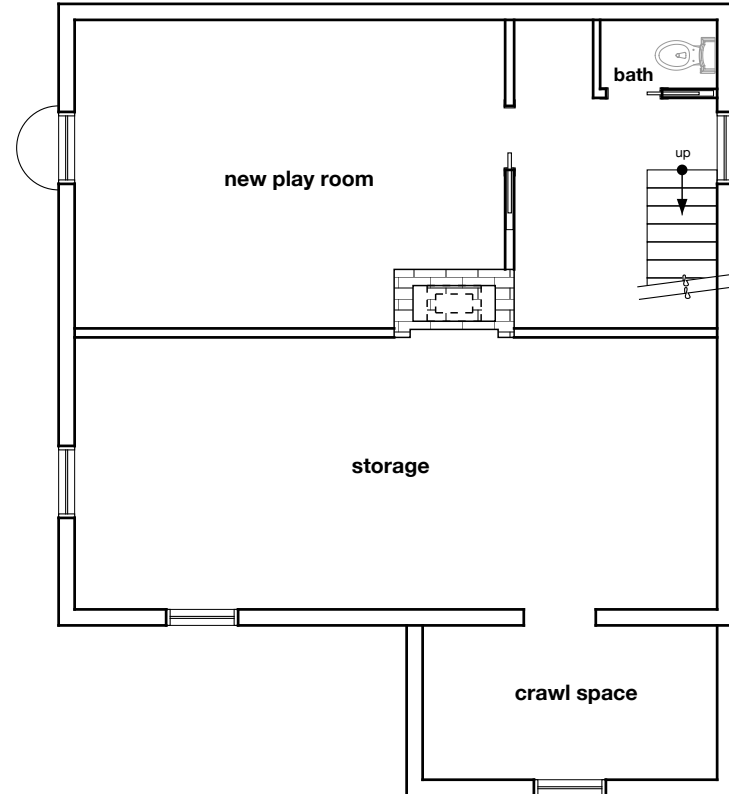
Proposed Plot Plan

Issue date: March 22, 2023 | Scale: 1" = 20'-0"
 Revision dates: 02/27/23; 02/28/23; 03/03/23; 03/08/23; 03/19/23;

AD-03



Existing



Proposed

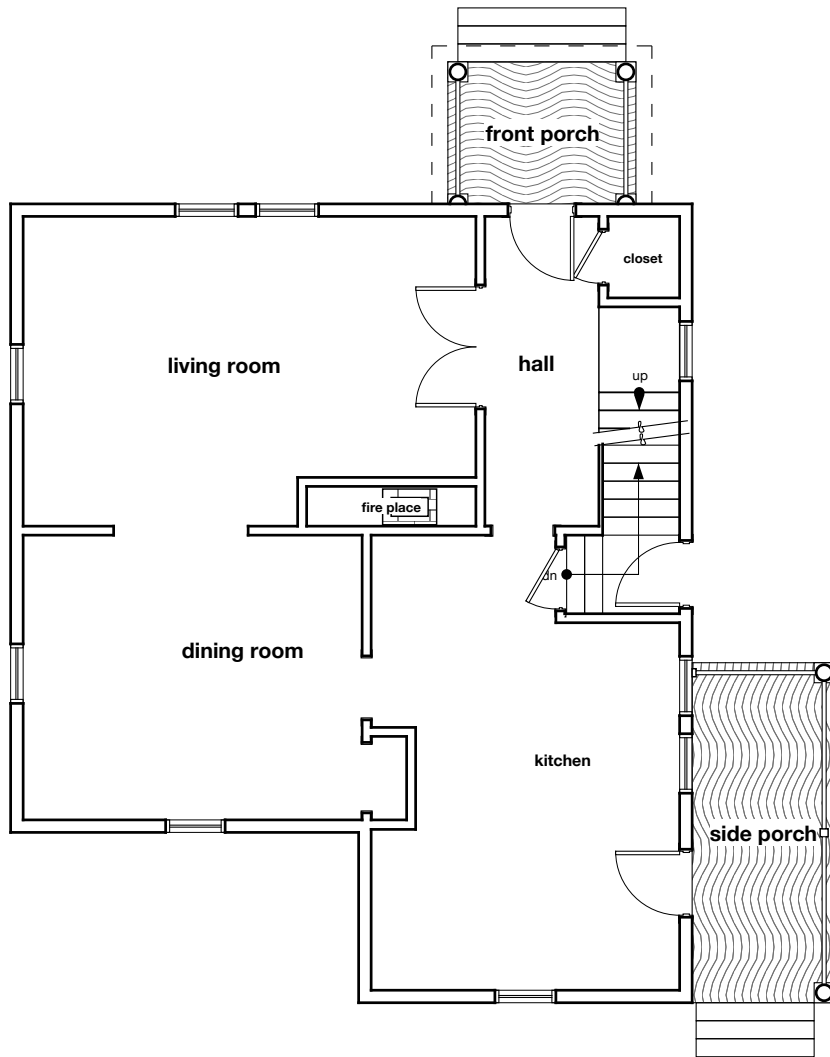


Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

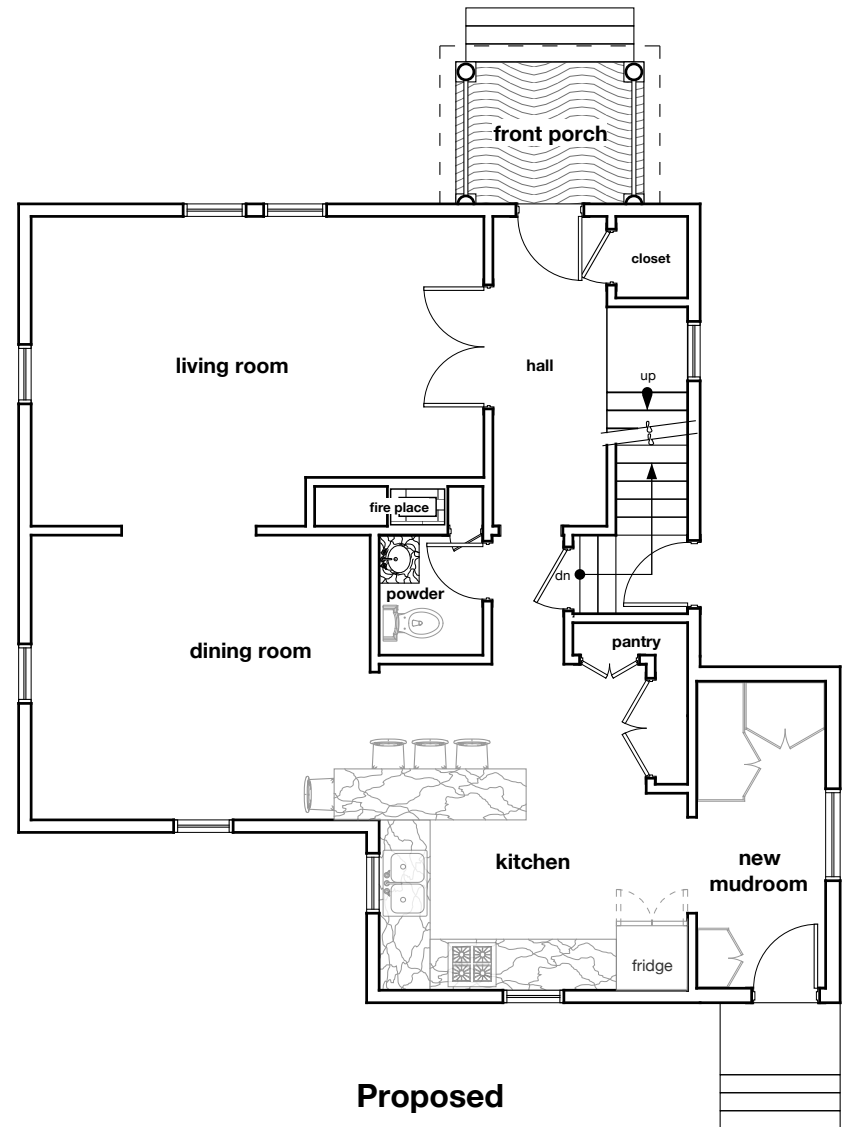
Basement Floor Plans

Issue date: February 27, 2023 | Scale: 1/8" = 1'-0"
 Revision dates:

AD-04



Existing



Proposed



Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

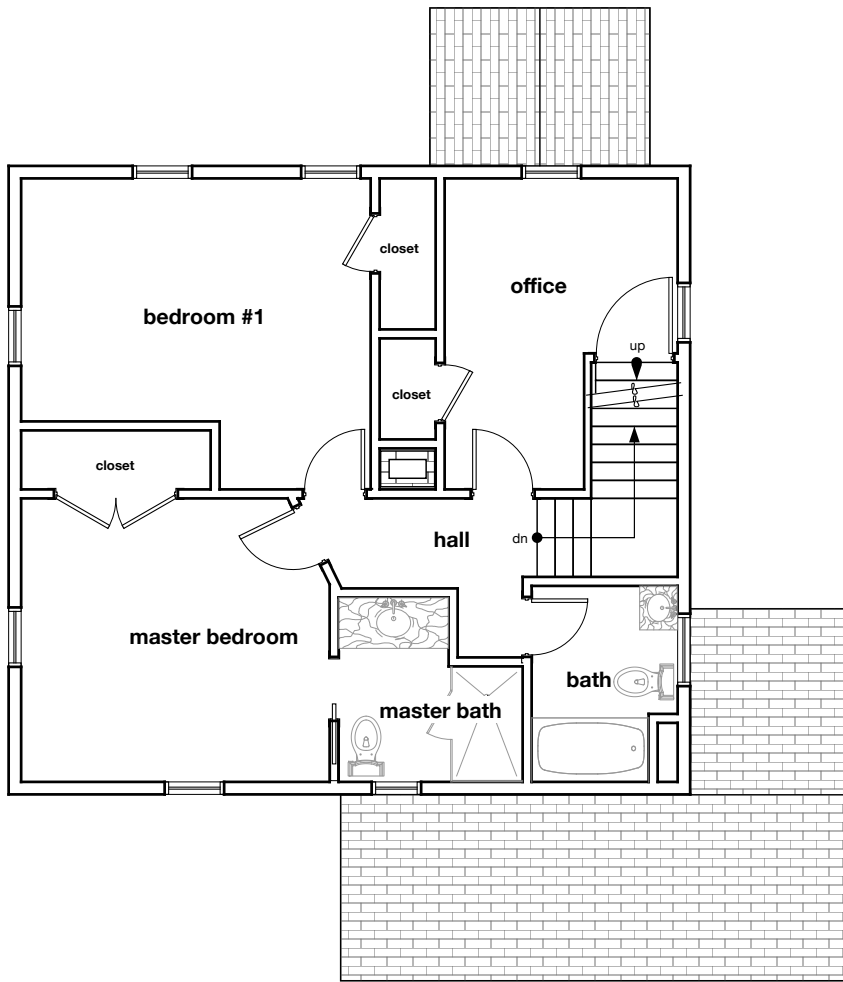
First Floor Plans

Issue date: February 27, 2023

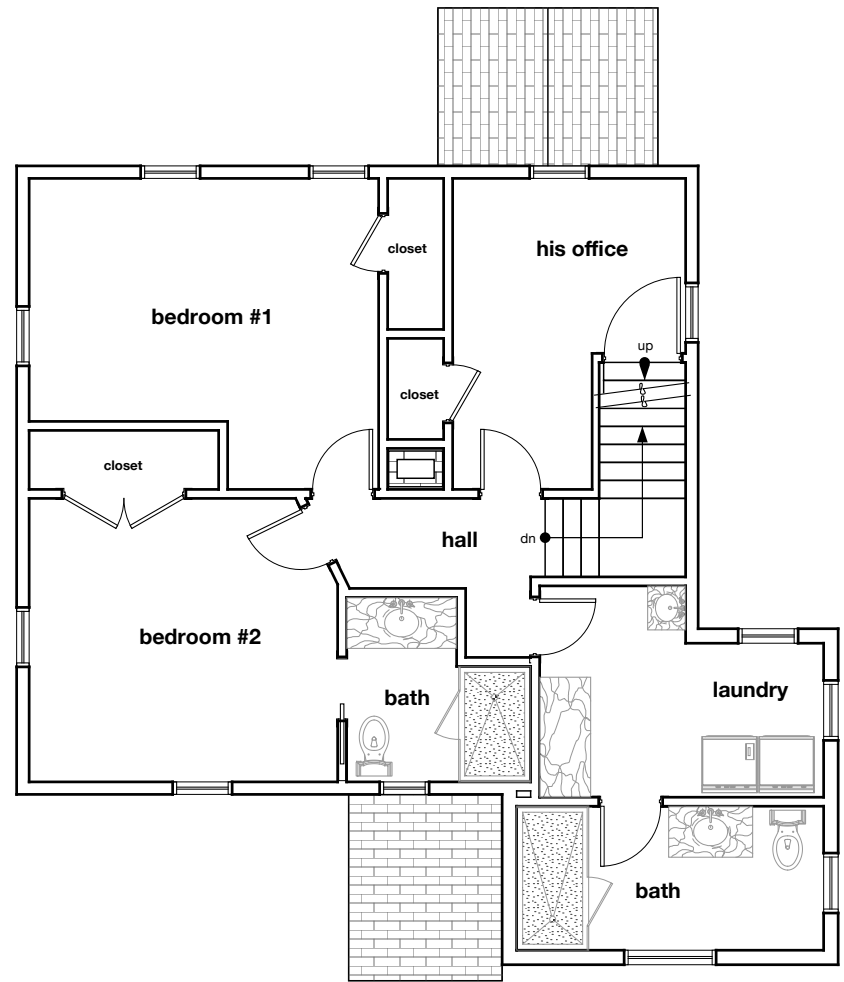
Scale: 1/8" = 1'-0"

Revision dates:

AD-05



Existing



Proposed



Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

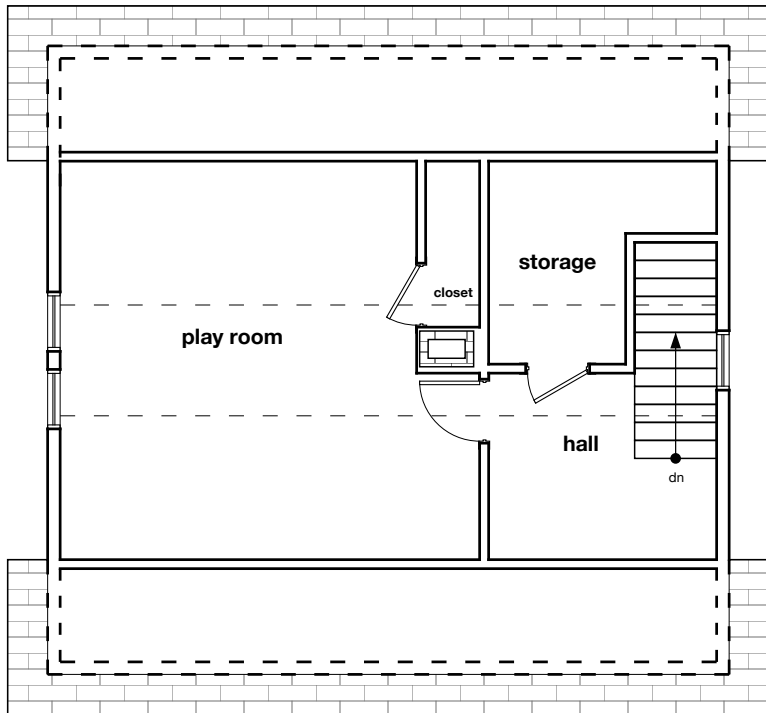
Second Floor Plans

Issue date: February 27, 2023

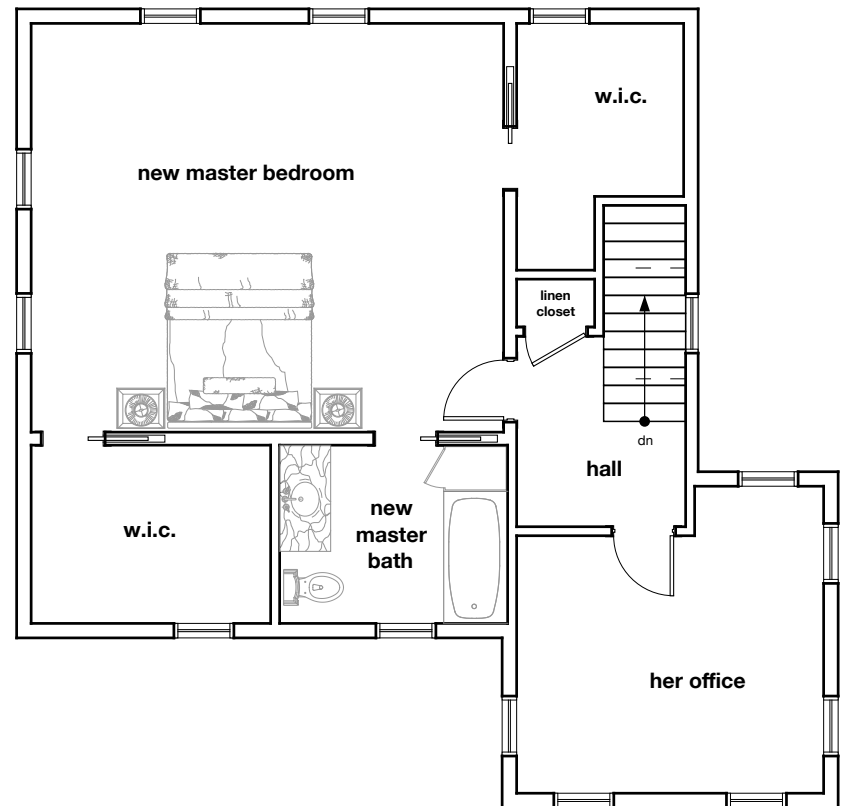
Scale: 1/8" = 1'-0"

Revision dates:

AD-06



Existing



Proposed



Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

Third Floor Plans

Issue date: February 27, 2023 Scale: 1/8" = 1'-0"
 Revision dates:

AD-07



EXISTING HT: 25'-2"



Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

Exterior Elevation East & North

Issue date: February 27, 2023 | Scale: 3/16" = 1'-0"
 Revision dates:

AD-08



EXISTING HT: 25'-2"

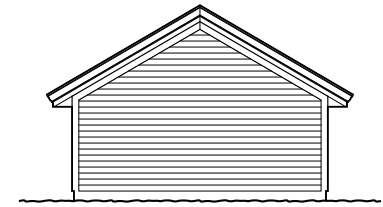


Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

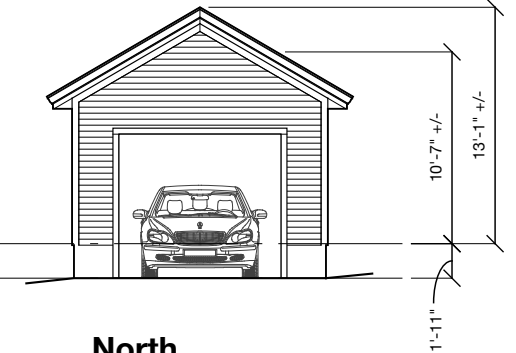
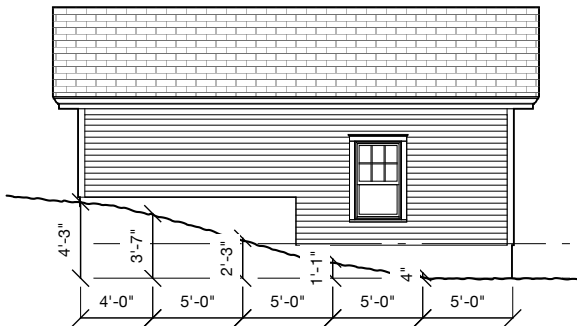
Exterior Elevation West & South

Issue date: February 27, 2023 | Scale: 3/16" = 1'-0"
 Revision dates:

AD-09

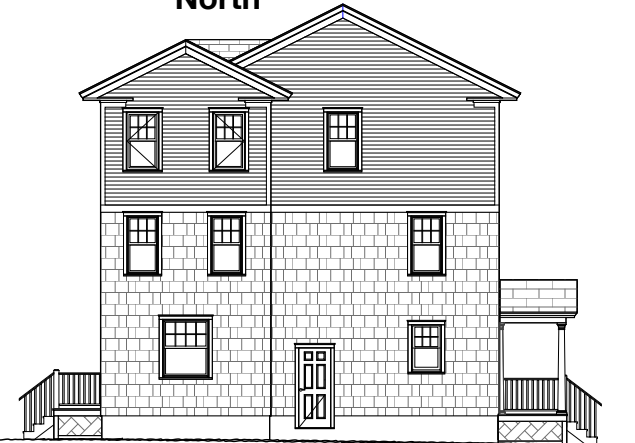
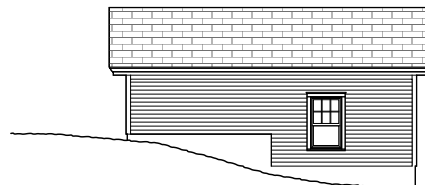


South



East

North



East @ Joffre Terrace

1/16" = 1'-0"



Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

Garage Elevations

Issue date: February 27, 2023

Scale: 3/16" = 1'-0"

Revision dates: March 3, 2023

AD-10

Five Criteria Summary



178 Aldrich Road



196 & 204 Aldrich Road

- **The variance will not be contrary to the public interest.**

The proposed addition and new garage will not alter the essential character of the neighborhood. The proposed exterior improvements will actually enhance the character of the neighborhood.

- **The spirit of the ordinance will be observed.**

The proposed addition and new garage will improve the performance and look of the property.

- **Substantial Justice will be done.**

The house in it's current configuration is simply inadequate for a family raising two young children. The proposed addition and renovation creates separate bedrooms for the children, a new master suite, laundry, two offices and a mudroom, which will allow the owners to raise their family in a home adapted for 21st century living.

The proposed garage relocation and reconstruction creates a back yard that is more usable and observable.

- **The values of surrounding properties will not be diminished.**

The proposed addition and new garage will add value to the property and thereby increase the value of the surrounding homes.

- **Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship.**

Literal enforcement would prevent the owners from raising their family in fully functional 21st century home.



Variance Submittal for Additions to
The Hichman - Wyatt Residence
 196 Aldrich Road, Portsmouth NH 03801

Summary

Issue date:	February 27, 2023	Scale:	n/a
Revision dates:			

AD-11