

BY: VIEWPOINT & HAND DELIVERY

September 24, 2025

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

**RE: Variance Application of Leslie P. Nuchow and Emily E. Hartzell, Trustees of The
Nuchow Hartzell Family Trust
204 Aldrich Road, Tax Map 153, Lot 26**

Dear Stefanie,

Please find a copy of the following materials relative to the above referenced variance application filed through Viewpoint for the property located at 204 Aldrich Road, Portsmouth:

- 1) Landowner Letter of Authorization
- 2) Narrative to Variance Application with Exhibits
- 3) Plans (Existing/Proposed Conditions, Floor Plans and Elevations)
- 4) Photographs of Property

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.

**NARRATIVE
VARIANCE APPLICATION**

**204 Aldrich Road
Tax Map 153, Lot 26**

**Leslie P. Nuchow and Emily E. Hartzell,
Trustees of The Nuchow Hartzell Family Trust**

INTRODUCTION

Existing Conditions

The Property at 204 Aldrich Road is a 5,703 square foot lot with a two and a half story single-family home on it (the “Property”). The Property, along with others on Aldrich Road, was first shown on a plan pertaining to the Westfield Park subdivision, recorded in the Rockingham County Registry of Deeds in 1927. The Property lies within the SRB Zoning District. The Property is non-conforming with respect to the SRB Zoning District requirements in the following respects:

Provision	Requirement	Existing Condition	Non-Conforming Feature
Lot Area / Lot Area per Dwelling Unit	15,000 sq. ft.	5,703 sq. ft.	Lot
Frontage	100’	50’	Lot
Front Yard Setback	30’	19’	Front Porch/House
Right Yard Setback	10’	9.5’ 7.0’	House Shed

The single-family home on the Property was constructed in 1928 per the City’s assessing records. It contains approximately 1,470 square feet of finished living space between the first two floors and has 3 bedrooms and 1.5 bathrooms. The house is relatively small and suffers from a significant degree of functional obsolescence. It has an antiquated floor plan and very small rooms. The first floor consists of a kitchen, dining room, living room and a small half bathroom. The only full bathroom in the house is located on the second floor and is small and narrow. The staircase is also relatively narrow and takes two right-hand turns between the first and second floors. In its present condition, most areas of the home are not ADA accessible and would be unable to accommodate a person using a walker or wheelchair.

Proposed Conditions

Leslie Nuchow suffers from chronic medical conditions which limit her mobility and ability to safely navigate stairs. **Exhibit A.** Her health provider has determined that it is medically necessary for her to reside in a one-story living arrangement. **Id.** Accordingly, Leslie and her spouse, Emily, are proposing a first-floor renovation and 837 square foot addition to the rear of the house. The existing first floor would be reconfigured to accommodate an open concept living

arrangement and an expanded living room/family room area. The proposed addition is designed to accommodate a separate entrance and mudroom, full bathroom that is wheelchair accessible, a primary bedroom, and small office and laundry area. Where the addition is proposed to the rear of the house, the Applicants will remove an existing one-story rear addition, bulkhead, deck and shed. All proposed improvements are intended to make the first floor more accessible so that it can serve as Leslie's living area within the home.

ZONING RELIEF SUMMARY

The Applicant seeks the following variance approvals from the Board:

Section 10.521

- (a) To allow a 3.4' (+/-) right yard setback for the construction of a wheelchair ramp where 10' is required.

The existing shed has a 7.4' (+/-) right yard setback while the existing house has a 9.5' (+/-) right yard setback.

- (b) To allow a 7.4' (+/-) left yard setback for the construction of a bulkhead where 10' is required.

- (c) To allow 30.8% (+/-) building coverage where 20% is allowed and 20.1% exists.

Section 10.321

To allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

VARIANCE CRITERIA

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

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

The primary purpose of minimum setback standards is to ensure that adequate light, air and space between abutting properties and the structures thereon. The primary purpose of the maximum building coverage standard is to protect against the overcrowding of structures on land.

Building Coverage Variance / Expansion of a Non-Conforming Structure

A 10.8% increase in building coverage over what is permitted by the Ordinance may seem a lot of relief at first blush, but it is not when you consider both the purpose behind the request and the diminutive size of the Property. The Property is 5,703 square feet. On a compliant property, what is being proposed (1,761 sq. ft.) would amount to just under 12% building coverage. It is important to point out that the SRB Zoning standards are not reflective of the conditions and character of most properties in this area of Portsmouth where lot sizes fall well under the 15,000 sq. ft requirement. This creates a unique burden on many of the properties, including the Applicants' Property, which has only 38% of the total land area required for a compliant lot and is one of the smallest properties along Aldrich Road. Any reasonably sized addition to the existing house necessitates building coverage relief. The purpose of the addition is to create an ADA accessible first floor living space so that Leslie Nuchow can age-in-place in the home. The proposed floor plan is a reasonable one to achieve that purpose and contains minimal amenities aside from a first-floor bedroom which is necessary for Leslie given her medical conditions. Even with the 10+% increase in building coverage, the Property will meet the open space requirement. Outside of the home and the proposed addition, the only impervious features of the Property relate to the existing driveway, front walkway, and the proposed wheelchair ramp. Much of the "green space" associated with the Property will be preserved with the addition. As such, granting the building coverage variance will not alter the essential character of the neighborhood or negatively affect public health, safety or welfare.

Setback Variances

The request for left yard setback relief relates to the proposed construction of a bulkhead to allow for access to the basement of the home. The request for right yard setback relief relates to the construction of a proposed wheelchair ramp.

The Property is only 50' in width. The existing house already encroaches slightly into the right yard setback and barely maintains the 10' left yard setback line. With the proposed addition, there is no feasible way to construct a bulkhead or wheelchair ramp without encroaching into the side yard setbacks.

The proposed bulkhead will only be 36" above grade at its highest elevation. It will replace an existing bulkhead at the rear of the house that will be demolished.

The proposed wheelchair ramp will be 18" or less above grade and will only be installed at the point that it becomes necessary. The Applicants have included it in their plans to avoid having to come back to the Board for additional setback relief in the future.

The variances for the bulkhead and wheelchair ramp are *de minimis* requests when you consider the size, height and overall impact of what is being proposed. While each is defined as a

“structure” under the broad definition of that term in the Ordinance, neither of these features will negatively impact the light, air and space of the abutting properties to the east and west at 214 and 196 Aldrich Road, both of which have structures that encroach into the yard setbacks. The owners of both properties have issued letters of support for the Applicants’ plans. **Exhibits B-1 and B-2.** The bulkhead and wheelchair ramp are each being constructed for different but similar purposes. Both features will allow for safe access to different areas of the home. Accordingly, granting the setback variances will not alter the essential character of the neighborhood or negatively affect the public health, safety or welfare.

Substantial Justice will be done in granting the variances.

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

It would represent a significant loss to the Applicants for the Board to deny the variances necessary to create a modest, ADA-accessible first floor living arrangement for the home considering Leslie Nuchow’s physical limitations. The addition to the home, which drives the relief being requested, is reasonable in scale and contains only the basic amenities required for Leslie Nushow to reside on the first floor of the home. The addition itself will not encroach into any of the building setbacks. The proposed improvements to the Property align with the open space goals of the Ordinance. For these reasons, there is no public interest served by denying the variance relief being sought. On the contrary, there is a public policy and interest served by allowing reasonable accommodations to people with recognized physical limitations or disabilities so that they may continue to reside in their own homes long-term. In balancing the equities, it would constitute an injustice to deny the variances.

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

The left (west), right (east) and rear (south) abutting property owners have all written letters of support for the Applicants’ project and the variances being sought. These properties are the most directly impacted by the Applicants’ plans. If there was a legitimate concern about the diminution of surrounding property values, these abutting owners would not have written letters of support. In the end, the proposed addition is only one story in height and will comply with the building setbacks and be situated a considerable distance from the nearest abutting structures. The proposed addition, bulkhead and wheelchair ramp will not create any tangible impact upon the abutting properties. The addition is tastefully designed and will be in keeping with the character of homes and structures on surrounding properties. Therefore, the proposed improvements should only help to preserve or enhance surrounding property values.

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

The Property has special conditions that distinguish it from surrounding properties such that it is unreasonably burdened if the SRB Zoning standards are strictly applied to it.

The most prominent special conditions of the Property are its size and width. The Property was created long before current SRB zoning standards were adopted. The Property remains in its original configuration from when the Westfield Subdivision Plan of 1927 was recorded. It has only 5,703 square feet of land area, which is 38% of what is required in the SRB Zoning District. It is smaller than most of the surrounding properties on Aldrich Road, which average approximately 0.21 acres or 9,119 square feet in size. **Exhibit D.** It, along with the abutting properties to the left (west) and right (east) are the smallest in the neighborhood. **Exhibit E.** If the Property were 9,148 square feet in size, the proposed building coverage would be 19.3%. If it had the required 15,000 square feet of lot area, the proposed building coverage would be 11.8%.

The Property is also approximately 50' wide. Much of the existing home is just over 28' in width, which is relatively narrow by today's homebuilding standards. This means that almost any expansion of the existing footprint to the left (east) or right (west) requires a setback variance.

When considering the special conditions of the Property, there is no fair and substantial relationship between the general purposes of the SRB building coverage and setback requirements and their application to the Property.

The proposed use of the Property is also reasonable. The Property will continue to be used for single-family residential purposes, a use which is permitted and encouraged within the SRB Zoning District.

Alternative Hardship Test (RSA 674:33, V)

RSA 674:33, V provides that the Board "may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

- (a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.
- (b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

In the present case, Leslie Nuchow's medical provider has determined, due to her medical conditions, which limit her physical ability to safely navigate stairs, that it is necessary for her to reside in an accessible first floor living arrangement. **See Exhibit A.** The proposed first floor renovation and addition allows for that. For the reasons outlined above, the Applicants submit to

the Board that granting the variances will be consistent with the spirit and intent of the building setback and coverage restrictions. Accordingly, in addition to meeting the standard hardship criteria outlined in RSA 674:33, I(e), the alternative hardship test outlined in RSA 674:33, V is also met.

CONCLUSION

The Applicants, Emily and Leslie, thank you for your time and consideration of their application and respectfully request your approval of the variances being requested.

September 24, 2025

Respectfully Submitted,
Emily Hartzell
Leslie Nuchow

A handwritten signature in black ink, appearing to read "Derek R. Durbin". The signature is fluid and cursive, with a large loop at the end.

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

EXHIBIT A



9/11/2025

To Whom It May Concern,

I am writing on behalf of my patient, Leslie Nuchow, whom I have been treating for chronic medical conditions that significantly limit her mobility and ability to safely navigate stairs.

Ms. Nuchow experiences severe knee pain that restricts her walking and makes stair use especially difficult. In addition, she has respiratory issues that are exacerbated by walking and climbing stairs, further compromising her safety and independence.

Due to these health concerns, it is medically necessary for Ms. Nuchow to reside in a one-story living arrangement. Climbing or descending stairs places her at increased risk of falls, injury, respiratory distress, and worsening of her underlying conditions. A single-level home will provide a safer environment and support her quality of life.

Please accept this letter as a formal medical recommendation in support of her need for one-story housing. If additional information is required, please do not hesitate to contact my office.

Sincerely,

Susanne Clare, NP-C
NPI 1245780345

1 Hampton Road, Suite 301, Exeter, NH 03833

theaimclinic.com / info@theaimclinic.com / p. 603.583.4603 / t. 603.583.4469

EXHIBIT B-1

Chair of Zoning Board of Adjustment
City Hall
1 Junkins Ave.
Portsmouth, NH 03801

August 12, 2025

To the Board of Adjustment -

We are writing on behalf of the application for a variance by Leslie Nuchow and Emily Hartzell of 204 Aldrich Road. Our property abuts theirs, and we support their plan to build an addition behind their existing home.

Sincerely,

Liz Mackey (Elizabeth Mackey) 8-12-25
Carl Pufahl 8/12/25

Liz Mackey
Carl Pufahl
214 Aldrich Road
Portsmouth, NH 03801

EXHIBIT B-2

Chair of Zoning Board of Adjustment
City Hall
1 Junkins Ave.
Portsmouth, NH 03801

August 15, 2025

To the Board of Adjustment -

Our property at 196 Aldrich Road abuts the property of Leslie Nuchow and Emily Hartzell at 204 Aldrich Road. They have told us about their plan to add on to the rear of their house. We fully support their plan and support the Board issuing necessary variances for this project. In addition, we would add that this residential neighborhood was created (subdivided) long before zoning laws were created. See Plan #0643 (Rockingham County Registry of Deeds), 1929 Plan of Westfield Park; see *also* 1917 Plan, Plan #0233. In that regard, we would urge the Board to account for more modern land uses and accessibility needs when administering the City's land use controls.

Sincerely,

/s/ Josh Wyatt

/s/ Erin Hichman

Erin Hichman and Josh Wyatt
196 Aldrich Road
Portsmouth, NH 03801

EXHIBIT B-3

Chair of Zoning Board of Adjustment
City Hall
1 Junkins Ave.
Portsmouth, NH 03801

8/16/25

To The Members of the Board of Adjustment,

We own the property at 2 Joffre Terrace.

Our yard abuts Leslie Nuchow and Emily Hartzell's yard at 204 Aldrich Road.

We have no objection to their plans to add on to the back of their home. We support their variance application.

Thank you,

Florine and Gabrielle Hilson

EXHIBIT C

Address	Tax Lot	Zone	Size (AC)	Size (Sq Ft) - Approx.
<u>East/Left</u>				
196 Aldrich Rd	153-25	SRB	0.13	5663
178 Aldrich Rd.	153-22	SRB	0.25	10890
170 Aldrich Rd.	153-21	SRB	0.25	10890
<u>West/Right</u>				
260 Aldrich Rd.	166-12	SRB	0.17	7405
234 Aldrich Rd.	166-11	SRB	0.25	10890
224 Aldrich Rd.	166-10	SRB	0.22	9583
214 Aldrich Rd.	153-27	SRB	0.13	5663
<u>North/Front</u>				
277 Aldrich Rd.	166-7	SRB	0.26	11326
261 Aldrich Rd.	166-8	SRB	0.21	9148
245 Aldrich Rd.	166-9	SRB	0.19	8276
213 Aldrich Rd	153-28	SRB	0.2	8712
0 Aldrich Rd	153-28-1	SRB	0.21	9148
191 Aldrich Rd	153-29	SRB	0.2	8712
181 Aldrich Rd	153-30	SRB	0.21	9148
<u>South/Rear</u>				
2 Joffre Terrace	153-24	SRB	0.26	11326
Average Sq. Ft.				9,119

EXHIBIT D**Property Information**

Property ID 0153-0026-0000
 Location 204 ALDRICH RD
 Owner NUCHOW HARTZELL FAMILY TRUST

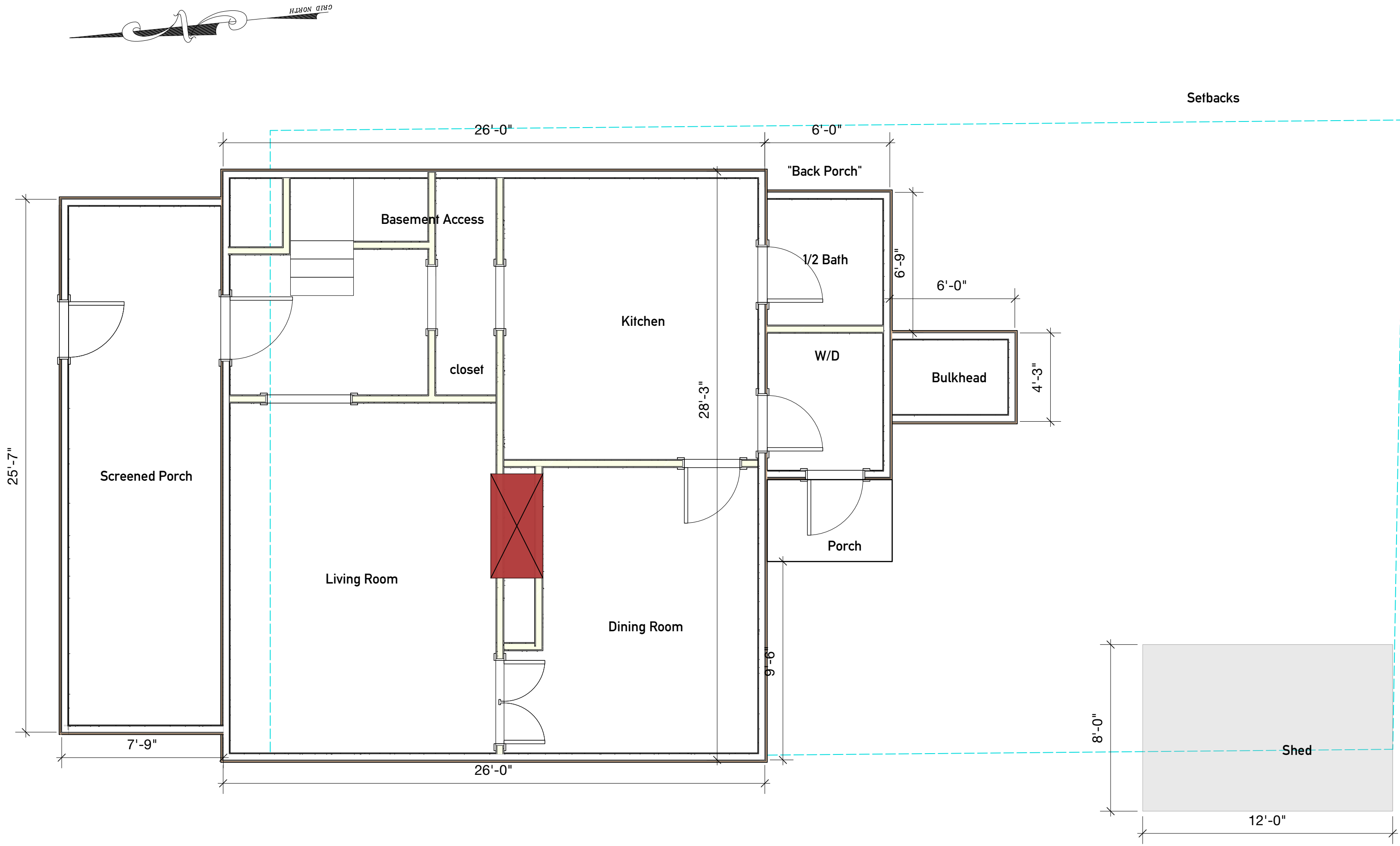


**MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT**

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

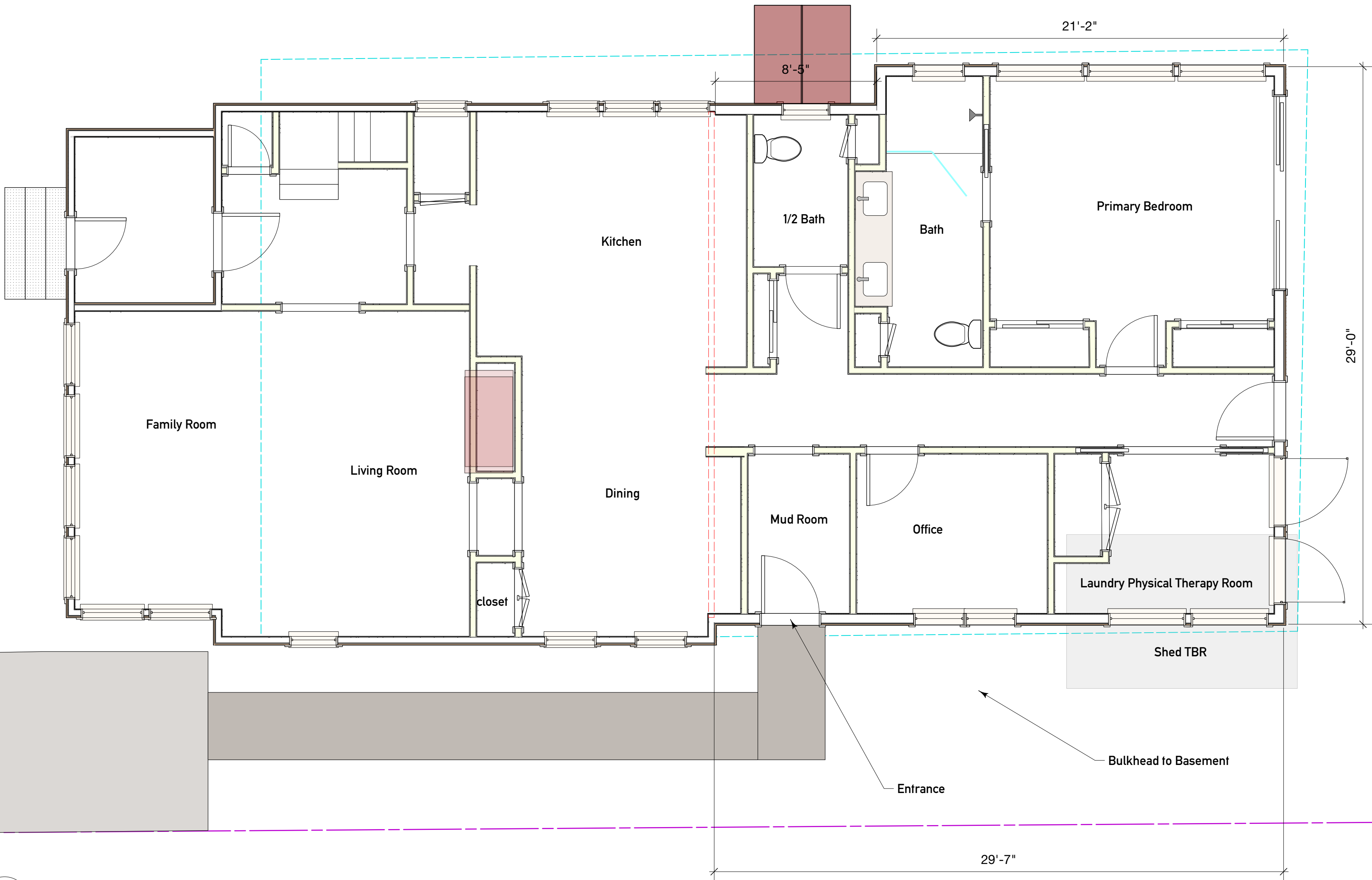
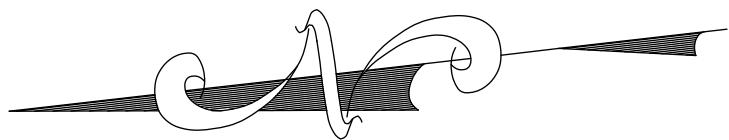
Geometry updated 09/26/2024

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



1.0 1st Floor Existing
Scale: 1/4" = 1'-0"

All rights reserved. The drawings, designs and ideas embodied herein are the property of Charles Hugo or Hugo Design and any work other than the project for which they have been prepared shall be void without the written authorization of Charles Hugo or Hugo Design.		CAD File Name: Nuchow 9-16-25 B.W Variance Copy.vwx Plot Date:	
Hugo Design 105 Bartlett Street 206 Portsmouth, NH 03801 207.752.3046 info@charleshugo.com		Project Title:	
Leslie and Emily 204 Aldrich Rd Portsmouth, NH		First Floor Existing	
Hugo Design 10 Pepperrell Rd Kittery Point, ME 03905 207.752.3046 info@charleshugo.com		Designed By: CCH Drawn By: CCH Sheet Scale: 3/16" = 1'-0"	
Date: 9/16/25		Sheet No. 1.1	



1.0 Proposed 1 Story Addition
Scale: 1/4" = 1'-0"

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Hugo Design 105 Bartlett St Ste 206 Portsmouth, NH 03801 207.752.3046 info@charleshugo.com			Project Title Leslie and Emily 204 Aldrich Rd Portsmouth, NH	
Sheet Title First Floor Proposed Addition One Story		Designed By CCH	Drawn By CCH	Sheet Scale 1/4" = 1'-0"
Hugo Design 10 Pepperrell Rd Kittery Point, ME 03905 207.752.3046 info@charleshugo.com			Date 9/5/25	
Sheet No.			1.4	



Existing West Elevation

8.1 Proposed Elevation West
Scale: 1/4" = 1'-0"

Project Title		Project Title		Project Title	
Elevation West		Leslie and Emily		Hugo Design	
Designed By CCH		204 Aldrich Rd Portsmouth, NH		105 Bartlett St ste 206 Portsmouth, NH 03801	
Drawn By CCH		207.752.3046 info@charleshugo.com		207.752.3046 info@charleshugo.com	
Sheet Scale 1/4" = 1'-0"		Nuchow 9-16-25 B.W Variance Copy.vwx		CAD File Name	
Date 9/17/25		All rights reserved. The drawings, designs and ideas embodied herein are the property of Charles Hugo or Hugo Design and any work other than the project for which they have been prepared shall be the property of Charles Hugo or Hugo Design.		Plot Date	
Sheet No. 8.3		Hugo Design		All rights reserved. The drawings, designs and ideas embodied herein are the property of Charles Hugo or Hugo Design and any work other than the project for which they have been prepared shall be the property of Charles Hugo or Hugo Design.	

8.1

Proposed Elevation South
Scale: 1/4" = 1'-0"



Existing Rear Elevation

Hugo
Design

Elevation South

Project Title

Leslie and Emily

204 Aldrich Rd
Portsmouth, NH

Hugo
Design

105 Bartlett St ste 206
Portsmouth, NH 03801
207.752.3046 info@charleshugo.com

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Drawn By
CCH

Drawn By
CCH

Sheet Scale
1/4" = 1'-0"

Sheet No.

9/17/25

10 Pepperrell Rd
Kittery Point, ME 03905
207.752.3046
info@charleshugo.com

8.2

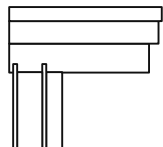
Project Title
Nuchow 9-16-25 B.W Variance Copy.vwx



Existing North Elevation



8.1 **Proposed Elevation North**
Scale: 1/4" = 1'-0"



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Elevation Street (North)		Drawn By	CCH	Scale	1/4" = 1'-0"	
Hugo Design		Designed By	CCH	Date		
10 Pepperrell Rd Kittery Point, ME 03905 207.752.3046 info@charleshugo.com		9/23/25		Sheet No.		
		8.0				

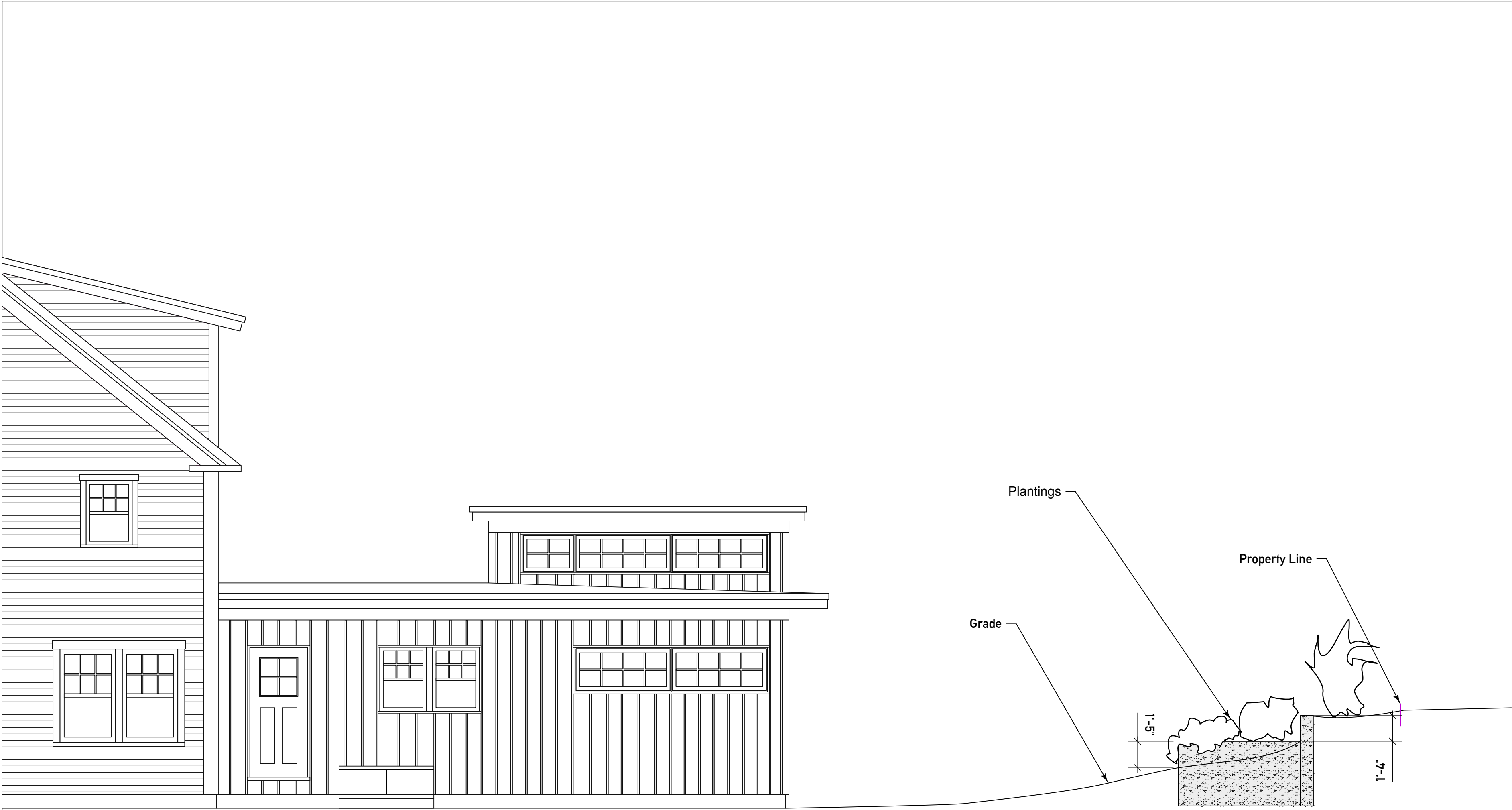


Existing East Elevation



8.1 **Proposed Elevation East**
Scale: 1/4" = 1'-0"

Hugo Design 105 Bartlett St Ste 206 Portsmouth, NH 03801 207.752.3046 info@charleshugo.com		Leslie and Emily 204 Aldrich Rd Portsmouth, NH		Elevation East		Hugo Design 10 Pepperrell Rd Kittery Point, ME 03905 207.752.3046 info@charleshugo.com	
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CCH		CCH		CCH		9/23/25	
8.1		1/4" = 1'-0"		CCH		8.1	



1 Retaining Wall Detail
Scale: 1/4" = 1'-0"

DESIGNED BY CCH			Drawn By CCH			Sheet Scale 3/16" = 1'-0"			Leslie and Emily 204 Aldrich Rd Portsmouth, NH			Hugo Design 105 Bartlett St ste 206 Portsmouth, NH 03801 207.752.3046 info@charleshugo.com			PROJECT 9/16/25			DESIGN 9/16/25					
10 Pepperrell Rd Kittery Point, ME 03905 207.752.3046 info@charleshugo.com												10/7/25						Sheet No.					
5.2																							

EXTERIOR PHOTOS



Front Elevation View



Front / Right Side Elevation



Rear Elevation

INTERIOR PHOTOS



Staircase



First Floor Bathroom