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Durbin Law Offices, P.L.L.C.

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**Also admitted in MA*

VIA VIEWPOINT

April 28, 2020

City of Portsmouth
Zoning Board of Adjustment
Attn: David Rheume, Chairman
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Michael Petrin
268 Dennett Street, Portsmouth (Tax Map 143, Lot 13-1)**

Dear Chairman Rheume,

Our Office represents Michael Petrin, owner of property located at 268 Dennett Street, Portsmouth. Attached herewith, please find the following materials for submission to the Zoning Board of Adjustment for consideration at its next regularly scheduled meeting:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Site Plan;
- 4) Floor Plans and Elevations;
- 5) Tax Map Image of Property and Surrounding Area;
- 6) Photographs of the Property.

Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Derek R. Durbin', with a large, stylized flourish at the end.

Derek R. Durbin, Esq.

LETTER OF AUTHORIZATION

Michael Petrin, owner of property located at 268 Dennett Street, Portsmouth, New Hampshire, identified on Tax Map 243, as Lot 13-1 (the "Property"), hereby authorizes Durbin Law Offices PLLC, of 144 Washington Street, Portsmouth, New Hampshire 03801, to act as his agent and representative in connection with the filing of any building, zoning, planning or other municipal permit applications with the City of Portsmouth for said Property. This Letter of Authorization shall be valid until expressly revoked in writing.



Printed Name: Michael Petrin

Date:

4/27/2020

**CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT
APPLICATION NARRATIVE**

Michael Petrin
268 Dennett Street
Portsmouth, NH 03801
(Owner/Applicant)

INTRODUCTORY STATEMENT

Michael Petrin is the owner of the property located at 268 Dennett Street, Portsmouth, identified on Portsmouth Tax Map 143 as Lot 13-1 (the "Property"). Mr. Petrin purchased the Property in 2017. The Property is located within the GRA Zoning District and contains a single-family home originally built in 1955 that Mr. Petrin resides in.

The residence is a "raised ranch" style home. The living space is contained in what most people would consider to be the second floor of the home. The first floor consists primarily of unfinished space that includes a two (2) car garage, utility room and partially enclosed entryway area to the westerly (right) side of the house.

Mr. Petrin is proposing a renovation of the home that will add living space to it and give it a more functional floor plan and appearance that is more architecturally appealing and consistent with surrounding homes on Dennett Street. As part of the proposed renovation, Mr. Petrin will be demolishing an 8' wide section of the right side of the home and rebuilding within the same footprint. In its existing condition, this 8' wide section of the home consists of an unfinished entryway area on the first floor and a finished three-season porch on the second floor. This section of the home appears to have been added on at some point after the home was originally built. The reconstructed right side of the home will consist entirely of finished living space that is designed to integrate with the new floor plan and blend in architecturally with the rest of the residence.

The building footprint of the home will remain the same or will be slightly reduced by reconfiguring the entryways to the front and rear of the home. A small new entryway will be added onto the front of the residence. The existing rear entryway and landing will be demolished. A small new entryway will be added to the rear of the home, similar in appearance and dimension to the front entryway.

In order to re-build the right side of the home in the same location where it currently exists, a side yard setback variance is required under Section 10.521 of the Ordinance. In its existing condition, the home has a 0' setback from the right property boundary where 10' is the minimum required. This is mitigated by the fact that there is 8' wide perpetual easement that runs the length of the westerly boundary that allows Mr. Petrin to access and maintain the right side of the home.

Mr. Petrin's property and the neighboring property to the right, 276 Dennett Street (Tax Map 143, Lot 13), were one merged lot with two dwellings until 2016. In 2016, the lots were unmerged by the current owners of 276 Dennett Street and Mr. Petrin's lot was sold to his

predecessor in title. At this time, the 8' wide easement was granted across 276 Dennett Street for the benefit of 268 Dennett Street.

SUMMARY OF ZONING RELIEF

The Applicant seeks the following variances from the Zoning Ordinance:

1. A variance from Section 10.521 (Table of Dimensional Requirements) to allow a 0' right yard setback where 10' is the minimum required in the GRA Zoning District.
2. A variance from Section 10.321 to allow the reconstruction and enlargement of a lawful nonconforming structure.

VARIANCE CRITERIA

Granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.

“There 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.” *Harborside Assoc v. Parade Residence Hotel*, 162 N.H. 508, 514 (2011).

Many of the surrounding properties on Dennett Street are narrow lots that have minimal or no building setback on at least one or more sides from adjacent properties. Unlike Mr. Petrin’s property, very few of the surrounding properties have defined easements rights to access and maintain existing buildings. Mr. Petrin has an unimpeded perpetual 8’ wide access and maintenance easement across 276 Dennett Street for the benefit of the home on his property. This is the functional equivalent of having an 8’ building setback. Mr. Petrin will not be extending the home further into the right yard setback. Thus, there will be no impact to the light, air and space of the nearest abutter at 276 Dennett Street beyond that which already exists. There are no public health, safety or welfare concerns implicated by re-constructing the right side of the home as proposed nor would it alter the essential character of the neighborhood. The renovated home will be more consistent in architectural appearance and character with other homes along Dennett Street than the existing home.

Substantial justice will be done by granting the variance relief.

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 in denying the variance relief. Mr. Petrin could continue to maintain the right side of his home in its existing location and dimension. Aesthetically, the home sticks out like a “sore thumb” on Dennett Street. It also has a floor plan that is functionally obsolete. The proposed changes to the home are designed to improve its appearance and functionality, which is a “win-win” situation for Mr. Petrin and the general public. Accordingly, the equitable balancing test of whether to grant the variance relief weighs in favor of the Applicant.

The values of surrounding properties will not be diminished by granting the variance relief.

The values of surrounding properties can only be enhanced with the proposed modification to the home. The current architecture of the home is incompatible with the prevailing character of other homes along Dennett Street. The floor plan is dysfunctional. The appearance and floor plan of the home will be significantly improved over what exists. This can only add value to the Property and to those that surround it.

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

The Property has special conditions that distinguish it from surrounding properties. The home on the Property already has a 0’ right yard setback. If the variance relief were denied, the home could continue to exist in its present location and Mr. Petrin would have the right to maintain and modify it so long as he did not increase the setback non-conformity. The proposed changes to the home represent a substantial improvement to the functionality and appearance of the home that will objectively benefit surrounding properties and the neighborhood. For these reasons, there is no fair and substantial relationship between the Ordinance provisions and their application to the Property.

The proposed use is reasonable.

The Property will continue to be occupied as a single-family residence, a use which is permitted by right within the GRA Zoning District. The footprint of the home on the Property will not change. As such, the proposed use of the property is reasonable.

CONCLUSION

In conclusion, the Applicant has demonstrated that the five (5) criteria are met for granting the variance relief sought and respectfully requests that the Board approve the application.

Dated: April 28, 2020

Respectfully Submitted,

Michael Petrin
By and Through His Attorneys,
Durbin Law Offices PLLC

A handwritten signature in blue ink, appearing to read "Derek R. Durbin", with a long horizontal flourish extending to the right.

By: Derek R. Durbin, Esq.
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PROJECT:
Renovation & Addition
for
The Mike
Petrin & Katie
Laverriere
Residence
 268 Dennett Street
 Portsmouth, NH 03801

DATE: 03/27/18
ISSUED AS: Pricing Issue

PROJECT:
Renovation & Addition
for
The Mike
Petrin & Katie
Laverriere
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 268 Dennett Street
 Portsmouth, NH 03801

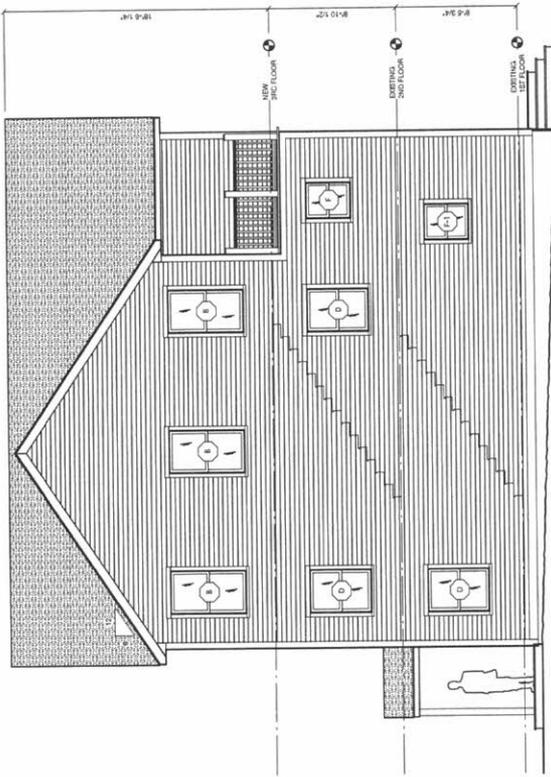
PROGRESS ISSUES:
 03/27/18 MIKE PETRIN & KATIE LAVERRIERE
 03/27/18 MIKE PETRIN & KATIE LAVERRIERE

BID ISSUES:

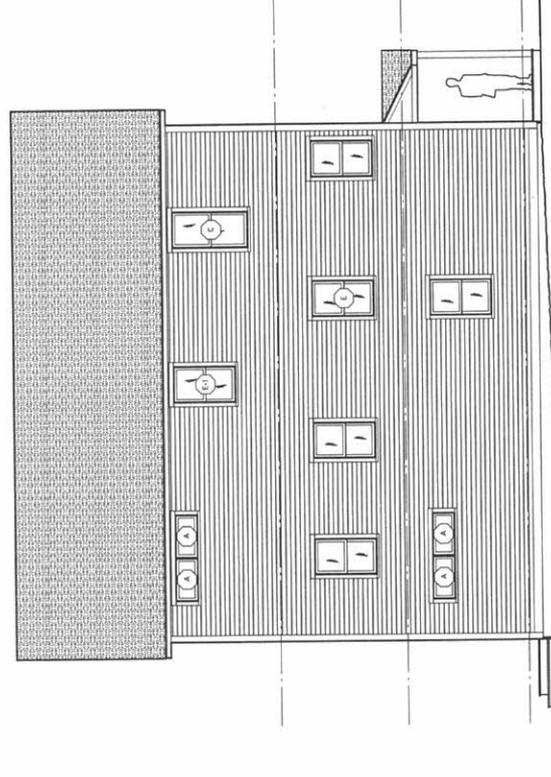
CONSTRUCTION ISSUES:

NEW EXTERIOR ELEVATION SOUTH
 1/8" = 1'-0"

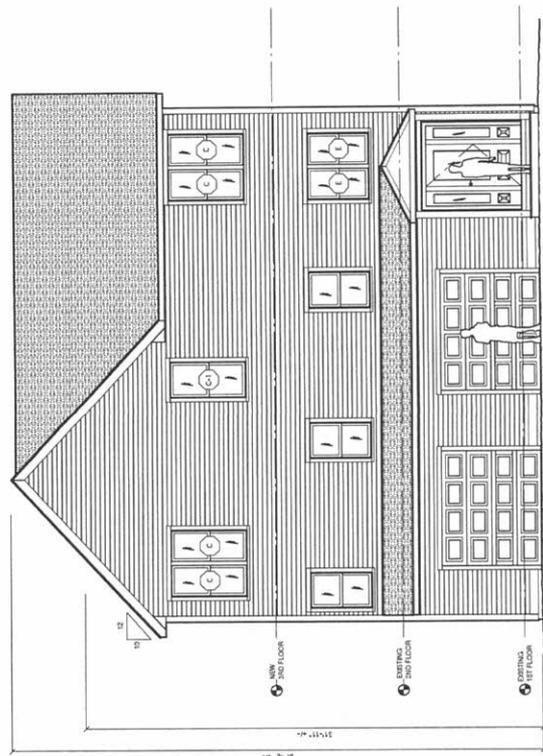
NEW EXTERIOR ELEVATION NORTH
 1/4" = 1'-0"



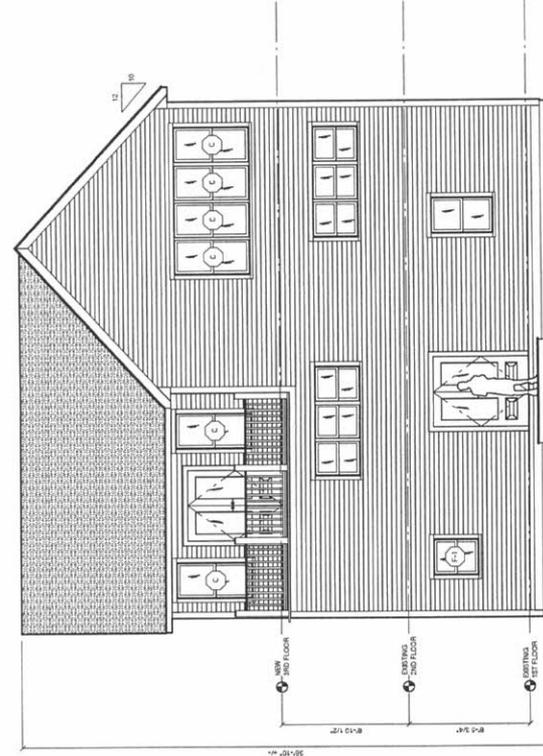
1.0202: New Exterior Elevation South
 1/8" = 1'-0"



1.0204: New Exterior Elevation North
 1/4" = 1'-0"



1.0201: New Exterior Elevation West
 1/8" = 1'-0"



1.0203: New Exterior Elevation East
 1/8" = 1'-0"

@ 268 Dennett Street

@ 268 Dennett Street

DATE: 03/27/18
REVISION: PRICING ISSUE

PROJECT: The Mike Petrin & Katie Laverriere Residence
208 Main Street
Portsmouth, NH, 03801

PROGRESS ISSUES:

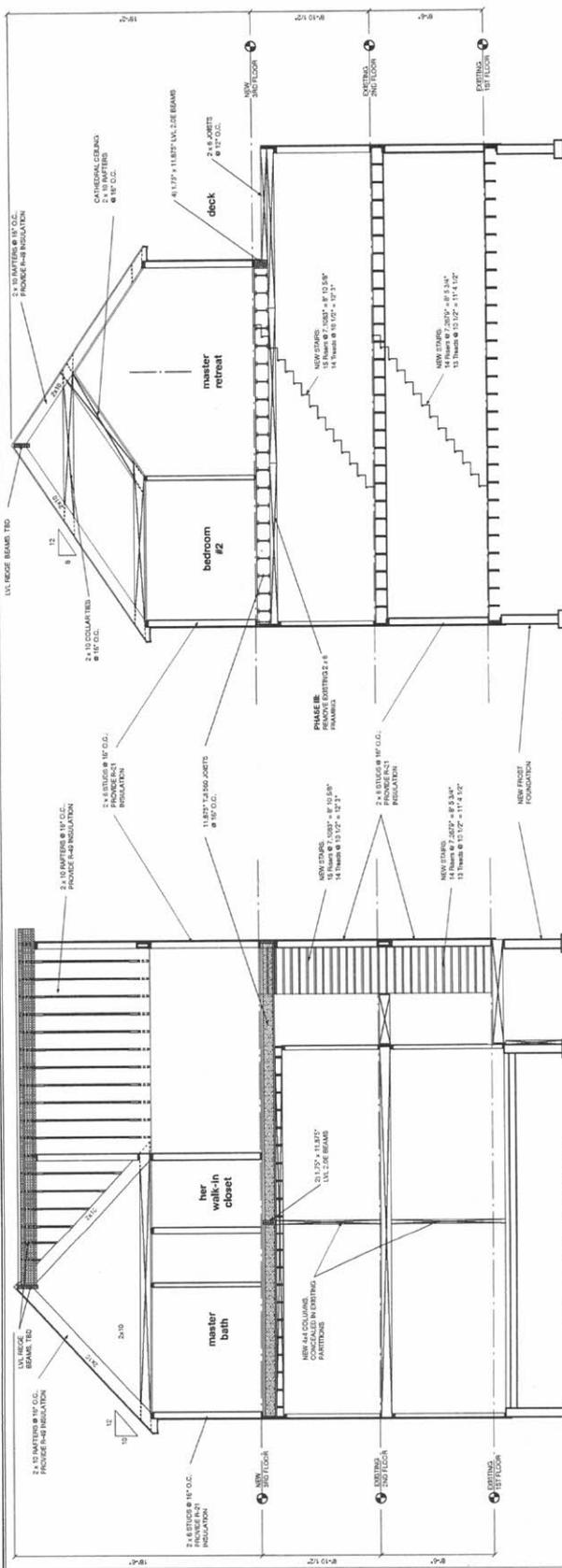
Bid Issues:

Construction Issues:

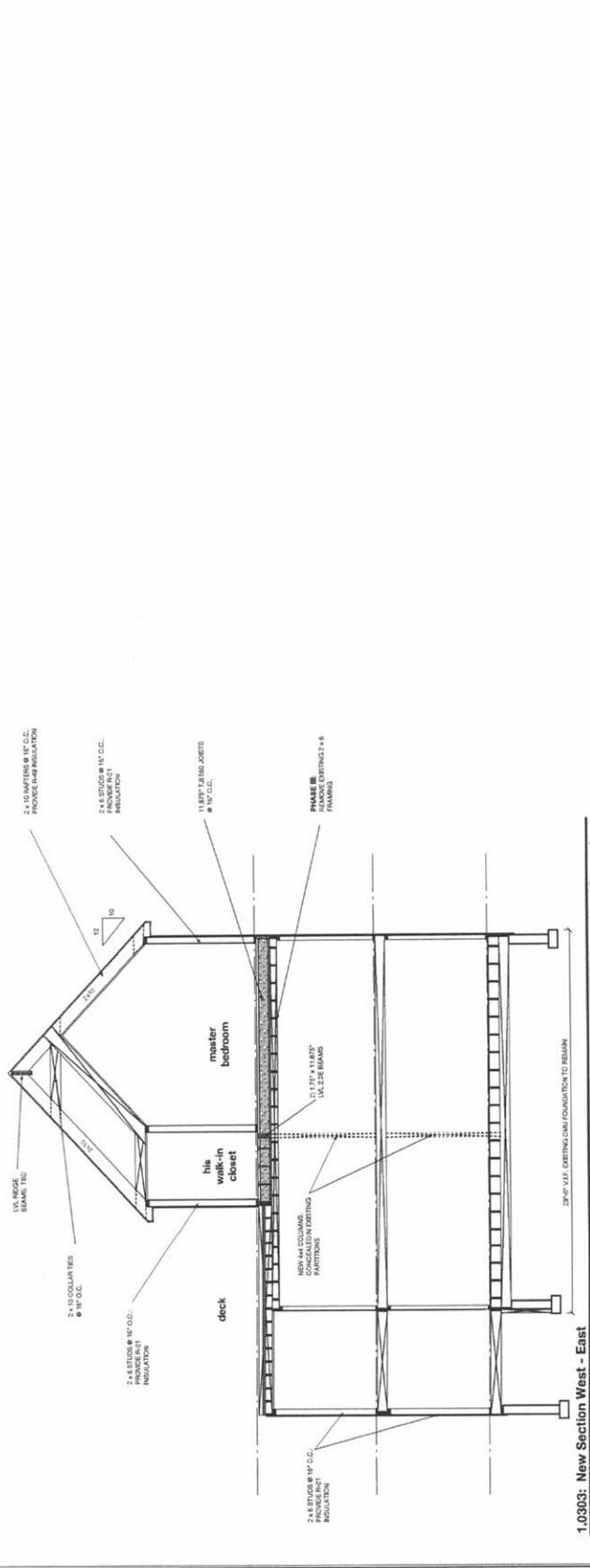
The Mike Petrin & Katie Laverriere Residence
208 Main Street
Portsmouth, NH, 03801

DATE: 03/27/18
REVISION: PRICING ISSUE

New Exterior Elevation all Floors
AD-1.02



1.0301: New Section East - West
1/8" = 1'-0"



1.0302: New Section North - South
1/8" = 1'-0"

1.0303: New Section West - East
1/8" = 1'-0"



Right Side of Home



Rear Side of Home



Left Side of Home



Front Side of Home