144 Washington Street P.O. Box 1222 Portsmouth, NH 03802 www.durbinlawoffices.com



Derek R. Durbin, Esq. 603.287.4764 derek@durbinlawoffices.com *Also admitted in MA

BY: VIEWPOINT & HAND DELIVERY

January 2, 2020

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

RE: Variance Application of James and Mallory Parkington 592 Dennett Street, Tax Map 161, Lot 18

Dear Chairman Rheaume,

Our Office represents James and Mallory Parkington, owners of 592 Dennett Street (Tax Map 161 as Lot 18). Please find twelve (12) copies of the Parkingtons zoning application and related materials for consideration by the Zoning Board at its January meeting. The original application package has been filed via the City's online permitting portal, Viewpoint. The following are included in the package:

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

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.



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Derek R. Durbin, Esq.

LETTER OF AUTHORIZATION

James and Mallory Parkington, owners of property located at 592 Dennett Street, Portsmouth, New Hampshire, identified on Tax Map 161, as Lot 18 (the "Property"), hereby authorize Durbin Law Offices PLLC, of 144 Washington Street, Portsmouth, New Hampshire 03801, to act as their 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.

| 02 | 12/30/2019 | |
|----------------------------------|------------|--|
| Printed Name: James Parkington | Date: | |
| Mmg Pampe | 12/30/2019 | |
| Printed Name: Mallory Parkington | Date: | |

CITY OF PORTSMOUTH ZONING BOARD OF ADJUSTMENT APPLICATION NARRATIVE

James and Mallory Parkington (Owner/Applicant) Tax Map 161, Lot 18 592 Dennett Street Portsmouth, NH 03801

INTRODUCTORY STATEMENT

The Property

James and Mallory Parkington are the owners of property located at 592 Dennett Street, identified on Portsmouth Tax Map 161 as Lot 18 (the "Property" or the "Parkington Property"). The Property is located in the General Residence A ("GRA") Zoning District and contains a single-family residence that the Parkingtons live in with their 3 children. The Property is a corner lot with frontage on both Dennett Street and Whipple Street.

Whipple Street

Whipple Street is a short and relatively narrow connector street between Dennett Street and Thornton Street. There are only 4 properties on Whipple Street, all of which have primary frontage either on Dennett Street or Thornton Street. Per the City's assessing records, there are no properties with primary frontage or mailing addresses on Whipple Street, which makes this neighborhood a bit unusual.

The City's records and older recorded plans depicting the Whipple Street Right-of-Way ("ROW") show it significantly wider than the pavement constituting the street. However, if you ever driven down Whipple Street, you would not realize how wide the ROW is, as the properties with secondary frontage on this street have assimilated a significant portion of the ROW into their properties. Not unlike the other 3 properties in the neighborhood, an approximately 21' wide portion of the Parkington's yard and most of their existing driveway are located within the Whipple Street ROW.

Pursuant to Section 10.516.10 of the Ordinance, the required front yard setback from the Whipple Street ROW is 8' based on the average alignment of principal buildings within 200' of the Parkington Property. The formula does not account for the principal building on the Parkington Property and only includes the single principal building at 294 Thornton Street.

Proposed Garage/ADU

The Parkingtons desire to construct an attached accessory dwelling unit ("ADU") on their Property within the required front yard setback. The proposed Garage/ADU above would be setback 4' (+/-) from the front property boundary, consistent in alignment with the other 3 garages fronting on Whipple Street, which are all significantly closer than 4' to their respective property lines.

SUMMARY OF VARIANCE RELIEF

The Applicant seeks the following variance in order to construct the ADU:

Section 10.521: To allow a 4'+/- front yard setback where 8' is the minimum required and 0' exists.

Section 10.320: To allow a lawfully existing non-conforming structure to be enlarged or extended without achieving compliance with the Ordinance.²

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).

The goal of GRA Zoning is "to provide areas for single-family, two family and multifamily dwellings, with appropriate accessory uses, at moderate to high densities...[.]" The state legislature has determined that it is good public policy and an appropriate accessory use to allow for ADUs in residential neighborhoods. The Parkington Property will continue to meet the building coverage and open space requirements of the Ordinance with the construction of the Garage/ADU. The light, air and space of the nearest abutting property will be protected, as the proposed Garage/ADU will meet the applicable required rear yard setback. The proposed Garage/ADU is designed to blend in with the prevailing architecture in the neighborhood and to align with the other garages along Whipple Street to maintain a consistent streetscape. If the formula set forth in Section 10.516.10 of the Ordinance factored in the Parkington's existing home, the required front yard setback from the Whipple Street ROW would be only 4' and there would be no need for the Applicant to obtain the required variances. For the foregoing reasons, the

¹ The Parkington's home has a 0' setback from the Whipple Street ROW.

² This variance is required by the ADU will be attached to the existing home rather than detached. If it were detached, no variance per Section 10.320 would be required.

proposed Garage/ADU will not alter the essential character of the neighborhood or be contrary to the public interest.

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).

The proposed location of the Garage/ADU allows the Parkingtons to maximize useable back yard space and natural daylight to the rear of their home where they also have a deck. If the variance requests were denied, the Parkingtons could conceivably construct the Garage/ADU in compliance with the Ordinance; however, this would significantly reduce what little back yard space the Parkingtons have and would block a lot of the remaining natural light that the back of their home and deck would otherwise receive if the variances were granted. There would be no gain to the public in denying the variance requests, particularly when you consider the fact that the other 3 properties on Whipple Street all have garages with equal or lesser setbacks than what the Parkingtons have proposed for their property.

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

Aesthetically, the proposed Garage/ADU will blend in with the prevailing architecture of the neighborhood. By aligning the building with the 3 other garages on Whipple Street, the streetscape will remain consistent. A new tastefully designed Garage/ADU of a similar look and appearance to other new construction in the area can only help to maintain or improve surrounding property values.

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

There are special conditions associated with the Parkington Property. The existing home on the Property has a 0' setback from Whipple Street. The home was originally built in 1890, long before modern zoning. The proposed Garage/ADU, which will be attached to the rear of the home, will have a greater setback from Whipple Street than the existing home has. It will be inset from the main house by 4'. The average setback of all principal buildings (homes) along Whipple Street, including the Parkington's home, is 4'. Because Section 10.516.10 of the Ordinance does not allow for the home on the Parkington Property to count in determining the average front yard setback for Whipple Street, an 8' setback is required. This makes the Parkington Property particularly unique in the context of what is proposed, as the other 3 properties on Whipple Street all have garages with little or no setback from Whipple Street. Accordingly, there is no fair and substantial relationship between the general purposes of the Ordinance and their application to the Parkington Property in the present circumstances.

The proposed use is reasonable.

Dated: January 2, 2020

The proposed accessory use of the Property is in keeping with good public policy, as provides the opportunity for the elderly to age-in-place and for families to remain together. The ADU use of the Property is permitted by right within the GRA Zoning District. For these reasons, the proposed use is reasonable.

CONCLUSION

In conclusion, the Applicant has demonstrated that it meets the five (5) criteria for granting the variances requested. Accordingly, the Applicant respectfully requests that the Board approve their Variance Application.

Respectfully Submitted,

James and Mallory Parkington

By: Derek R. Durbin, Esq.

DURBIN LAW OFFICES PLLC

144 Washington Street Portsmouth, NH 03801

(603)-287-4764

derek@durbinlawoffices.com

FOR THE PARKINGTON PROPOSED PLANS RESIDENCE



GENERAL NOTES

THESE PLANS ARE INTENDED FOR TOWN APPROVALS \$ CONTRACTOR PRICING ONLY

NOT FOR CONSTRUCTION

2) GENERAL PROJECT NOTES:
A) A NEW 2 CAR CARACAE ATTACHED
VIA A NEW CONDITIONED ENTRANCEMAY
B) A NEW ACCESSORY DWELLING WAT (ADU)
ABOVE GARAGE
C) MINOR PORTIONS OF ENGINE STRUCTURE

TO BE REMOVED

10 A REQUEST OF ON MODIFICATIONS TO THE NUMBER

10 A REQUEST OF ON MODIFICATIONS TO THE PLANING

10 A RECUEST OF SECTION 16 84.1% VIA THESE

10 LANS AND SUPPORTING METTEN STATEMENT PROVIDED

WITH THE CUNNERS APPLICATION

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DIMENSIONS:

A) ALL BOTTERIOR DIMENSIONS PULLED FROM EXTERIOR
FACE OF FOUNDATION WALL TO CENTERLINE OF DOORS
FUNDOUS, UNO
E) ALL INTERIOR DIMENSIONS PULLED FROM INTERIOR
FACE OF WALL PRAMING MATERIAL
C) ALL STRUCTURAL DIMENSIONS PULLED FROM EXTERIOR
FACE OF FOUNDATION WALL TO CENTERLINE OF
FACE OF FOUNDATION WALL TO CENTERLINE OF
REFERENCED STRUCTURAL MEMBER, UN.O.

4) ALL INTERIOR WALLS ARE TO BE 2X4 STUDS & 16" O.C. WITH 12" CAUB FINSH. ALL BATHEROOM WALLS TO PREAM ALL GENEROOM WALLS TO PREPRIVARY STRUCTURE & THE ADU ARE TO BE FINSHED W! 5/9" TYPE-X GUID.

DRAWING INDEX

ARCHITECTURAL

6) ALL EGRESS BUNDOUS SHALL MAYE A TWINTUN NET CLEAR OPENING OF S.1 SOLMARE TEET UIT THE CLEAR OPENING HEIGHT, ATM OF 24" § CLEAR OPENING BOTH A TM OF 24" § CLEAR OPENING BOTH A TM OF 24" § CLEAR OPENING BOTH OF THE SET NO TOPE THAN 44" AF.F. 5) ALL EXTERIOR WALLS TO BE PER PLAN AND DETAILS

1) 61AIR & RAILING REGUREMENTE.

- ALL REGER OF DE CLOSED WITH A
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- ALL TREADS I DE BE ANA WIDTH OF 10"

- TOP OF RAILING # 34" A.F.F. & TO BE A MN OF 1-1/2"

IN DIANTETER & SET 1-1/2" FROM WALL

- ALL BALUSTERS TO BE 9FACED 50 A5 TO NOT ALLOW

THE PASSAGE OF A 4" 8P-IERE

8) ENERGY PERFORMANCE:

ALL WINDOWS TO HAVE A MAX U-VALUE OF 6:32
ALL EXTENDED BOOKS TO HAVE A
MAX U-VALUE OF 6:32
ALL EXTENDED WALLS TO BE R-26 OR BETTER
ALL EXTENDED CELINAS TO BE A MIN OF R-46
ALL BLOPED CELINAS TO BE A MIN OF R-46
FROPE NEULATION TO EXTEND OVER TOP PLATES
FLOOR R-VALUE TO BE R-36

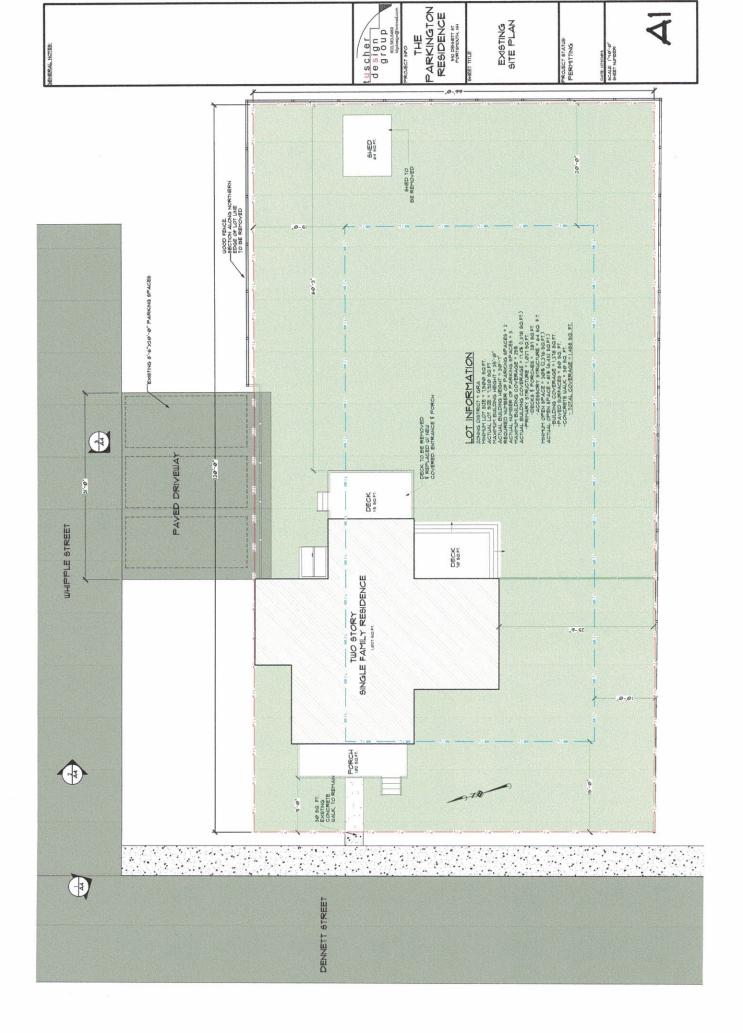
PROPOSED FIRST FLOOR PLAN EXISTING BUILDING ELEVATIONS EXISTING SITE PHOTOGRAPHS PROPOSED SITE PLAN EXISTING FLOOR PLAN EXISTING SITE PLAN COVER SHEET 40 AB AG ₹ A2 A3 44

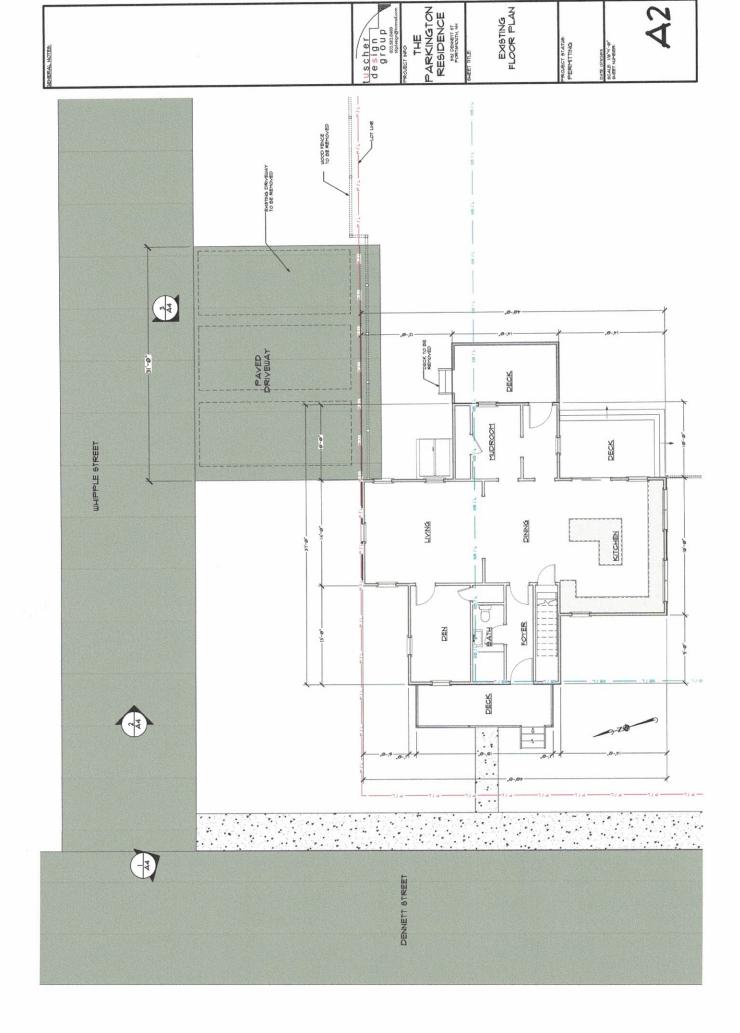
PARKINGTON RESIDENCE PORTSMOUTH, NH SHEET 工品

design

PROJECT STATUS PERMITTING

PROPOSED BUILDING ELEVATIONS & FACADE DETAIL PROPOSED ADU FLOOR PLAN & BUILDING SECTIONS





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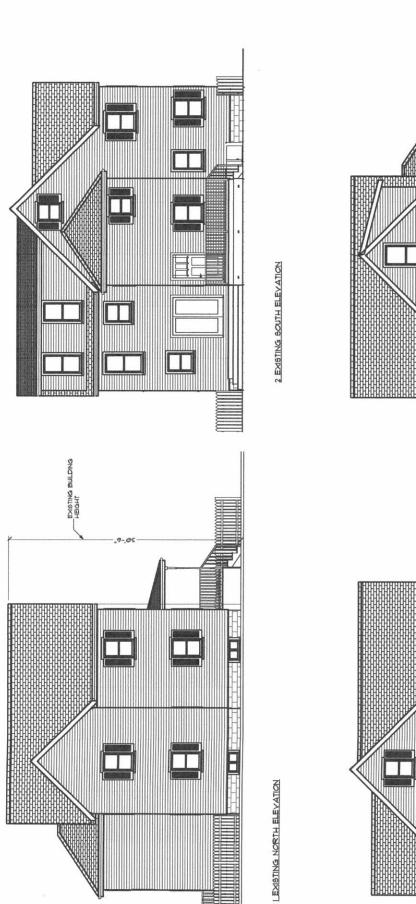
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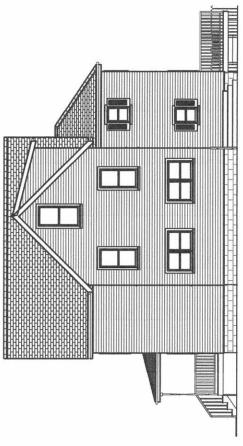
ELEVATIONS

GESTELLING

FROZER BYANG

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4 EXISTING EAST ELEVATION





I) PHOTOGRAPH OF EXISTING STRUCTURE FROM CORNER OF DENNETT AND WHIPPLE



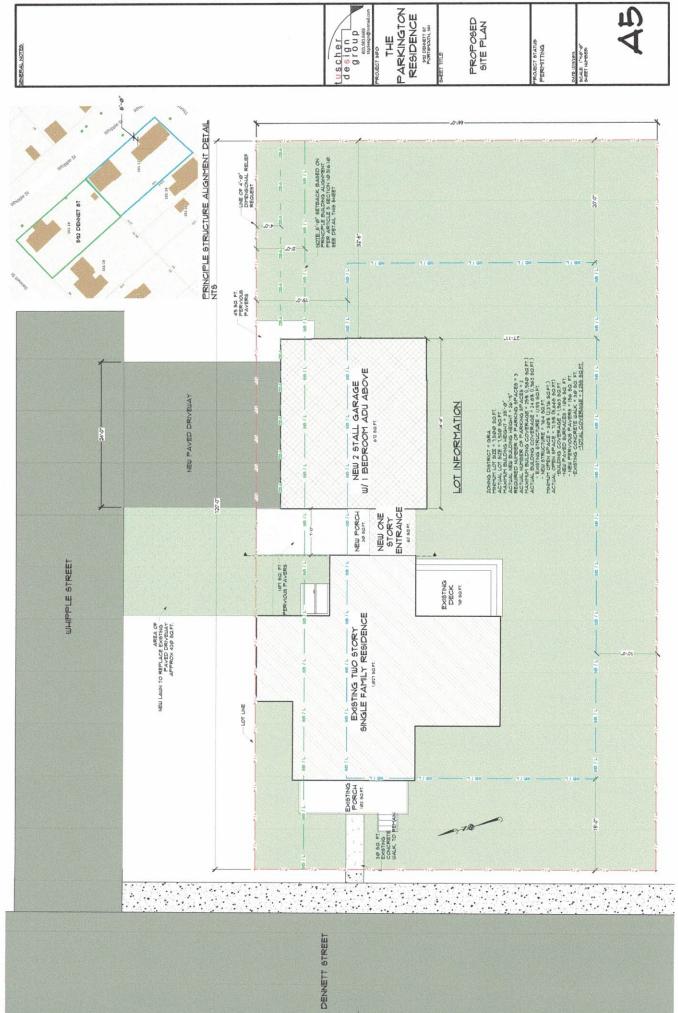
2) PHOTOGRAPH OF EXISTING ALIGNMENTS ON WHIPPLE FROM CORNER OF DENNETT.



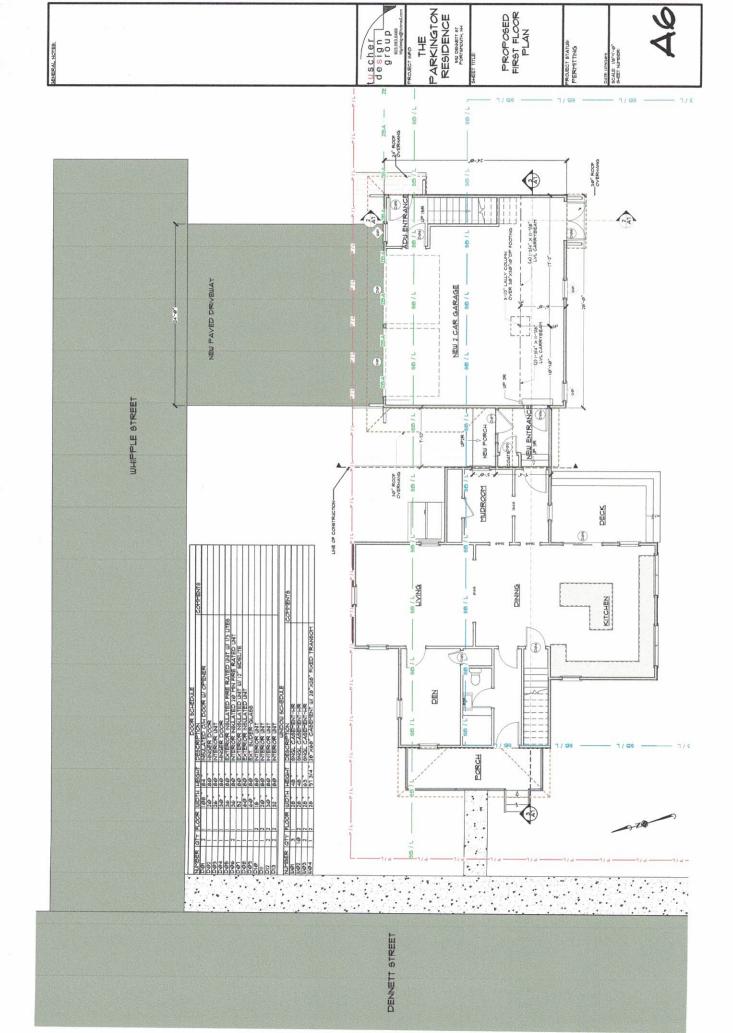
2) PHOTOGRAPH OF EXISTING STRUCTURE FROM WHIPPLE

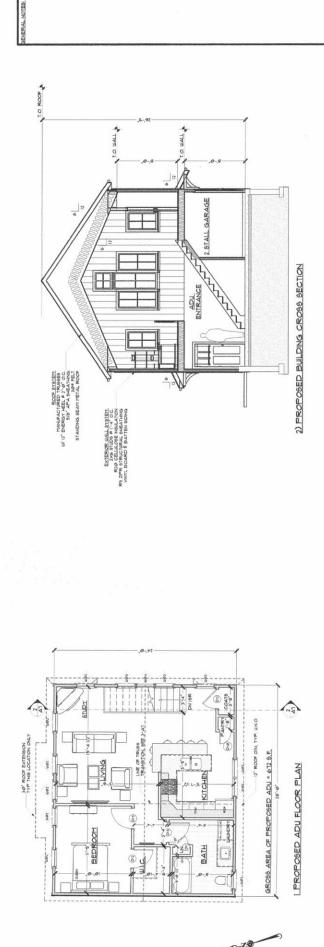
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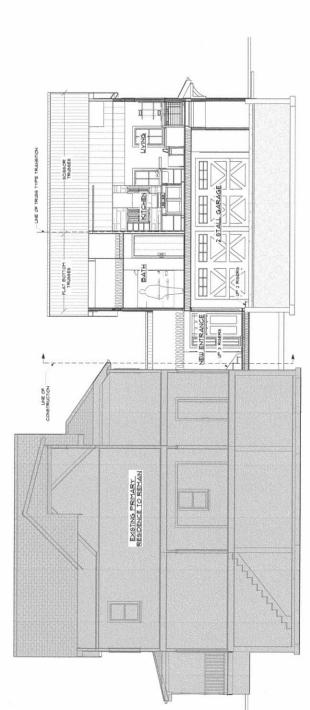
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BHOTOGRAPHS



AP







THE PARKINGTON RESIDENCE

592 DENETT ST PORTSMOUTH, NH

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ADU FLOOR
PLAN

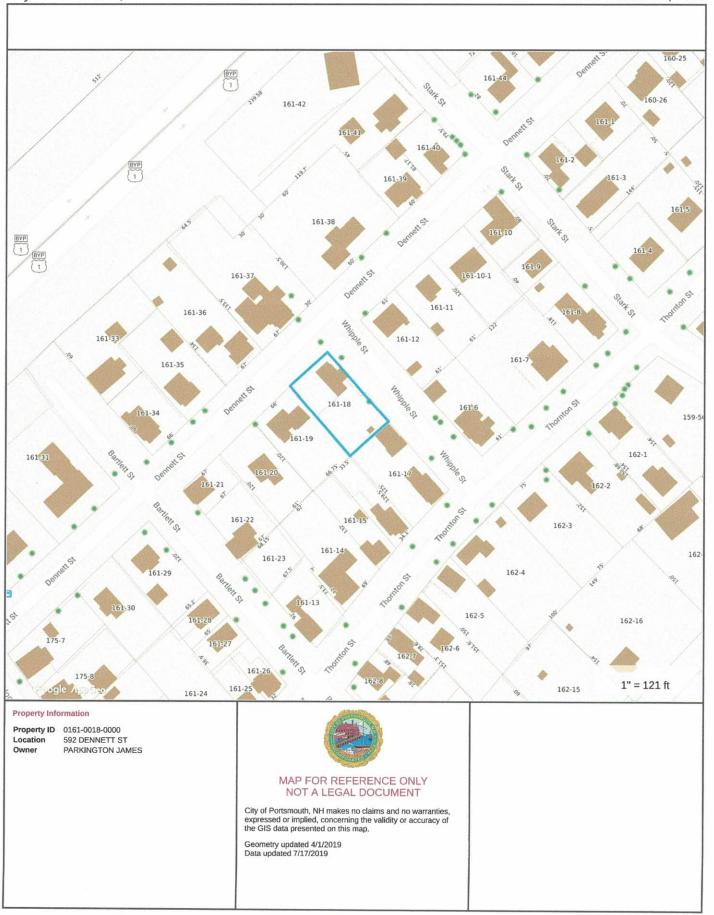
BUILDING
SECTIONS

PROJECT STATUS: PERMITTING

3) PROPOSED LONGITUDINAL BUILDING SECTION

4







VIEW FROM RESIDENCE BACKYARD



VIEW FROM RESIDENCE FRONT YARD



VIEW FROM RESIDENCE BACKYARD



VIEW FROM RESIDENCE BACKYARD



VIEW FROM THORNTON & WHIPPLE



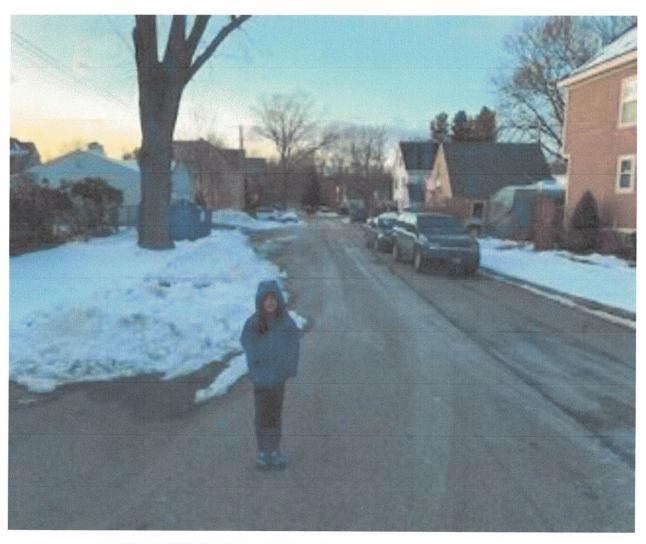
VIEW FROM THORNTON & WHIPPLE



VIEW FROM CORNER OF DENNETT & WHIPPLE



VIEW FROM WHIPPLE STREET



VIEW OF WHIPPLE STREET FROM THORNTON STREET