

CITY OF PORTSMOUTH

New Hampshire

CONDITIONAL USE PERMIT APPLICATION:

Accessory Dwelling Unit & Garden Cottage

Department Use Only

Assessor Plan # _____
Zone _____

Lot # _____
Lot area _____

Date _____
Fee _____
By _____

Applicant Patrick Liam Hughes Owner of Record Same

Applicant Street Address 65 Fields Road Owner Street Address Same

Applicant City / State / Zip Portsmouth, NH 03801 Owner City / State / Zip Same

Applicant phone (617) 435-9132 Owner phone (_____) Same

Applicant e-mail plhughes8@gmail.com

Location (street address) of proposed work: 65 Fields Road, Portsmouth, New Hampshire 03801

Existing Use is Single-Family Residence: Yes: ☒ No: ☐

All applications must file an online building permit application as well at (<https://portsmouthnh.viewpointcloud.com/#/1071>).

Building Permit Application # 34630

Please Note: Accessory Dwelling Units & Garden Cottages are permitted on lots containing one existing single family dwelling unit. Only one Accessory Dwelling Unit or Garden Cottage is permitted per lot.

Proposed Use:

☒ Attached Accessory Dwelling Unit (AADU) (See Article 8, Section 10.814.40)


☐ Detached Accessory Dwelling Unit (DADU) (See Article 8, Section 10.814.50)

☐ Garden Cottage (See Article 8, Section 10.815)

1 Total Number of Bedrooms Proposed for AADU, DADU, or Garden Cottage

The undersigned certifies that all the required conditions exist for granting of this request according to the terms of the Zoning Ordinance as demonstrated in the attached submittals.

Only complete applications will be accepted by the deadline date. A complete application shall consist of: a completely filled out application form with original signatures, the application fee, twelve (12) packets of required plans and any supporting documents or photos, and an electronic file in PDF format of application and all submissions. Incomplete applications will not be accepted. Applications received after the deadline will be scheduled for the following month. The owner or his/her representative is required to attend the Planning Board Public Hearing for the above Conditional Use Permit.


Signature of Property Owner (If not owner, authorization to file on owner's behalf is required) _____ Date 11/28/2018

Please PRINT name here Derek R. Durbin, Esq., authorized representative of Patrick Liam Hughes

**Applicant's Responsibilities
& Submission Requirements**

1. All applications for Conditional Use Permits (CUP) must be submitted to the Planning Department prior to the published deadline.
2. An online Building Permit application must also be filed for the project in order for the CUP application to be considered complete.
3. An applicant shall only be the owner of the property or the owner's authorized representative.
4. It is the obligation of the applicant to submit adequate plans and exhibits to demonstrate compliance with Sections 10.814 & 10.815 of the Zoning Ordinance. Such materials shall include:

<ul style="list-style-type: none"><input type="checkbox"/> Scaled Site Plan(s) (no greater than 11"X17") showing existing and proposed conditions including:<ul style="list-style-type: none">- Scale legend, title, address of project, date, source of displayed data- Front, side and rear setback / yard dimensions (this is the distance from a building to the lot line) and distance between buildings- Lot dimensions- Abutting street(s) and street names- Location and dimensions of driveways / accessways- Dimensions (size and height) of buildings- Dimensions, number, and location of parking spaces both existing and proposed- Location and description of open space and landscaping<input type="checkbox"/> Labeled photo(s) of existing structures/buildings on property<input type="checkbox"/> Labeled photo(s) of adjacent properties<input type="checkbox"/> Scaled interior floor plans of the proposed dwelling unit including total gross floor area<input type="checkbox"/> Scaled building plans and elevations of any proposed new construction or renovations of existing buildings including any proposed exterior lighting	<ul style="list-style-type: none"><input type="checkbox"/> A detailed written statement explaining how the proposed project will support the following findings:<ul style="list-style-type: none">- The principal and accessory dwelling units will remain under common ownership (included in condominium ownership)- The principal or accessory dwelling will be occupied by the owner of the property- Neither the principal nor accessory dwelling shall be used for any business, except that the owner may have a home occupation use in the unit that he or she occupies- The accessory dwelling will not result in excessive noise, traffic, or parking congestion<input type="checkbox"/> If applicable, a detailed explanation for any requests to the Planning Board to modify a specific dimension and/or parking standard
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5. The applicant shall submit one (1) original and eleven (11) copies of the application and any plans, exhibits, and supporting documents.
6. The applicant shall provide electronic files in Portable Document Format (PDF) of all submittals.
7. The Planning Department reserves the right to refuse applications which do not meet these minimum requirements. The Planning Department may also require additional information and/or exhibits as needed to illustrate the scope of the project.

I have read the above list of responsibilities, have provided all required information, and such information is current, accurate, and complete to the best of my knowledge.


Derek R. Durbin, authorized representative of Patrick Liam Hughes

11/28/2018

(Applicant's Signature, date)

The Applicant is encouraged to consider the following when completing the application:

- ☐ Provide neat and clearly legible plans and copies
- ☐ Use of color or highlights is encouraged in order to identify pertinent areas on plans
- ☐ Applicants are encouraged to review the application with a member of the Planning Department staff prior to submittal
- ☐ All applicants are encouraged to discuss the project with impacted neighbors

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Portsmouth, NH 03802
www.durbinlawoffices.com



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603.287.4764
derek@durbinlawoffices.com
**Also admitted in MA*

BY: FIRST CLASS MAIL

January 29, 2019

Dexter Legg, Chairman
Planning Board
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Conditional Use Permit Application
65 Fields Road, Portsmouth, NH 03801**

Dear Chairman Legg,

This Office represents Patrick Liam Hughes, owner of property located at 65 Fields Road, Portsmouth. Mr. Hughes filed a Conditional Use Permit Application and related materials with the Board in November for consideration at the December meeting. Mr. Hughes then requested a postponement to revise his Application.

Enclosed, please find one (1) original and eleven (11) copies of the following revised materials for consideration at the Board's February 21, 2019 meeting:

1. Narrative/Written Statement;
2. Site Plan with Existing and Proposed Conditions; and
3. Floor Plans for AADU.

The revised materials enclosed are intended to replace the materials previously filed with the Planning Department. Accordingly, the former materials should be disregarded.

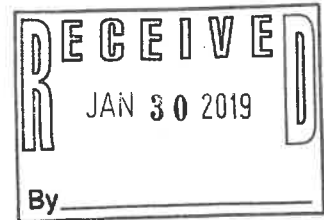
If you have any questions or concerns, please do not hesitate to contact me. I thank you in advance for your time and consideration of Mr. Hughes' application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Derek Durbin', written over a large, loopy circular flourish.

Derek Durbin, Esq.

**CITY OF PORTSMOUTH
PLANNING BOARD**



**CONDITIONAL USE PERMIT APPLICATION
ATTACHED ACCESSORY DWELLING UNIT**

**65 Fields Road
Portsmouth, NH 03801
Owner/Applicant: Patrick Liam Hughes**

**NARRATIVE / WRITTEN STATEMENT
Zoning Ordinance Sections 10.814 & 10.815**

Section 10.814.30 of the Zoning Ordinance provides that [a]ll accessory dwelling units shall comply with the following standards:

Section 10.814.31: The principal and accessory dwelling units will remain under common ownership

The Property serves as the Applicant's full-time residence. He purchased the Property earlier this year and has no intention of ever subdividing its ownership. Moreover, the Zoning Ordinance prohibits the conversion of the home into a two-family dwelling or two condominium units.

Section 10.814.32: The principal or accessory dwelling will be occupied by the owner.

See Answer immediately above. The Applicant will continue to reside on the Property once the AADU is approved and will live within the primary residence.

Section 10.814.33: Neither the principal nor accessory dwelling shall be used for any business, except that the owner may have a home occupation use in the unit that he or she occupies.

Outside of home occupation uses, the Zoning Ordinance prohibits business uses of property within the SRB Zoning District. Accordingly, the Applicant does not intend to use the Property for business related purposes.

Section 10.814.34: The accessory dwelling will not result in excessive noise, traffic or parking congestion.

The Property will be utilized for single-family residential purposes. No construction is being proposed on the Property and thus, no additional bedrooms or bathrooms are being added. Therefore, the conversion of a portion of the home into an AADU will have no impact upon the neighborhood.

The primary residence has three bedrooms and one and a half bathrooms and will be occupied by the Applicant and his spouse. The AADU will have one bedroom and one bathroom and contains only 760 sf.+/- of living area. It is only suitable for a single person or a couple. The Property has adequate area for parking. The addition of an AADU will not create any parking congestion, traffic or noise beyond that which can be expected with a single-family residential use of the Property.

Per Section 10.814.40 of the Zoning Ordinance, [a]n attached accessory dwelling unit (AADU) shall comply with the following additional standards:

Section 10.814.41: An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.

There is a partition wall separating the primary dwelling from the subordinate AADU that has a connecting door, as shown on the Floor Plan submitted herewith. The Property has existed in this configuration since the 1980s per the City's Inspection Department records.

Section 10.814.42: The accessory dwelling unit shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area.

The AADU will have only one bedroom and contains 760+/- sf. of gross floor area. ***The Applicant seeks a waiver/modification from the Planning Board of Section 10.814.42 of the Zoning Ordinance as it pertains to the maximum gross floor area requirement.*** The area that the Applicant is seeking to convert into the AADU is constructed and contains 760 sf. of gross floor area. It would create a hardship upon the Applicant with no benefit to the public to require him to reduce the gross floor area by 10+/- sf. feet simply for the purpose of requiring strict conformance with Section 10.814.42 of the Zoning Ordinance.

Section 10.814.43: Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling. If there are two or more doors in the front of the dwelling, one door shall clearly be the principal entrance and the others shall be designed to appear to be secondary.

No new construction or exterior changes are being proposed to the residence. There are two doors in the front of the residence. The pictures included with the Application demonstrate that one door is clearly associated with the principal residence and that the other door, which provides exterior access to the AADU, is a secondary access point (similar to what you might find with an attached garage).

Per Section 10.814.60 of the Zoning Ordinance, [b]efore granting a conditional use permit for an attached or detached ADU, the Planning Board shall make the following findings:

Section 10.814.61: Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.

The area of the residence being proposed for conversion to an AADU is already constructed. Its architectural appearance cannot be distinguished from the primary residence. The entire structure

has yellow vinyl siding, a gable/hip roof, and windows of similar nature and spacing to others in the neighborhood. The architectural design and size of the residence with AADU is consistent with other homes throughout this neighborhood and this area of Portsmouth. The Portsmouth ZBA approved several dimensional variances in connection with the proposed AADU, finding that it would not alter the essential character of the neighborhood.

Section 10.814.62: The site plan provides adequate open space and landscaping that is useful for both the ADU and the primary dwelling.

The Property contains adequate open space and landscaping, thus nothing additional is being proposed as part of this Application. The Applicant intends to maintain the appearance of the Property as it exists. The open space and landscaping on the Property is organized and well maintained. It has a similar appearance to other properties in the neighborhood. The AADU is partially hidden by three large spruce trees, which the Applicant intends to keep.

Section 10.814.63: The ADU will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.

As set for immediately above, the AADU is already constructed and integrated with the existing residence. Its design and location is compatible with adjacent properties. From Sewall Road, the AADU is screened by three rather larger spruce trees. From Fields Road, the AADU is visible but cannot be distinguished from the primary residence.

Section 10.814.64: The ADU will not result in excessive noise, traffic or parking congestion.

See Statement above re: *Section 10.814.34.*

WAIVER/MODIFICATION REQUESTS

Section 10.814.42 (Maximum Square Footage)

The Applicant seeks a waiver/modification from the Planning Board of Section 10.814.42 of the Zoning Ordinance as it pertains to the maximum gross floor area requirement. The Applicant seeks approval for an AADU with 760 sq. ft. of gross floor area where 750 sq. feet is the maximum allowed by Section 10.814.42 of the Zoning Ordinance.

Section 10.814.80 (Parking Standards)

The Applicant seeks a waiver/modification from the Planning Board pursuant to Section 10.814.80 of the City's parking standards set forth in Sections 10.1112.311 and 10.1114.21 of the Zoning Ordinance to allow zero (0) legally dimensioned parking spaces where three (3) are required.

The Zoning Ordinance requires that there be three (3) legally dimensioned (8.5' x 19') parking spaces provided for the proposed use of the Property. The Property can accommodate three (3) parking spaces of the required width, but not the required length due to a small portion of the existing driveway being bisected by the public right-of-way. As such, the portion of the driveway located in the public right-of-way does not count towards meeting the length requirement set forth

in Section 10.1114.21 of the Zoning Ordinance. This leaves the Property with zero (0) legally dimensioned parking spaces.

There is nothing that can be done to increase the length of the driveway. It has existed in its present configuration for many years and there is not adequate space on the Property to increase its length. It is consistent with other properties throughout the neighborhood which have driveways that extend into the public right-of-way. The fact that the parking spaces fall slightly short of meeting the length requirement set forth in the Zoning Ordinances does not change the reality that the existing driveway can adequately accommodate at least three (3) vehicles. Therefore, the spirit and intent of the Zoning Ordinance is met in the present instance by the Board granting the waiver/modification requested pursuant to Section 10.814.80.

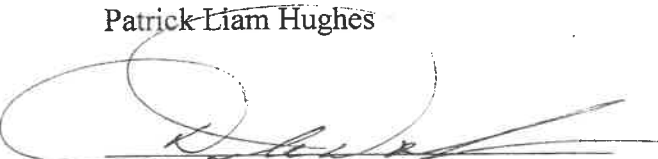
CONCLUSION

As demonstrated above, the proposed AADU meets the criteria for the Planning Board to grant a Conditional Use Permit to the Applicant with the requested waivers/modifications. Accordingly, the Applicant hereby requests approval of the foregoing Application.

Respectfully Submitted,

Patrick-Liam Hughes

Dated: January 29, 2019

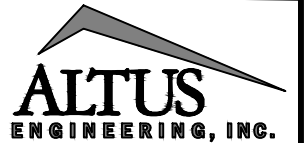
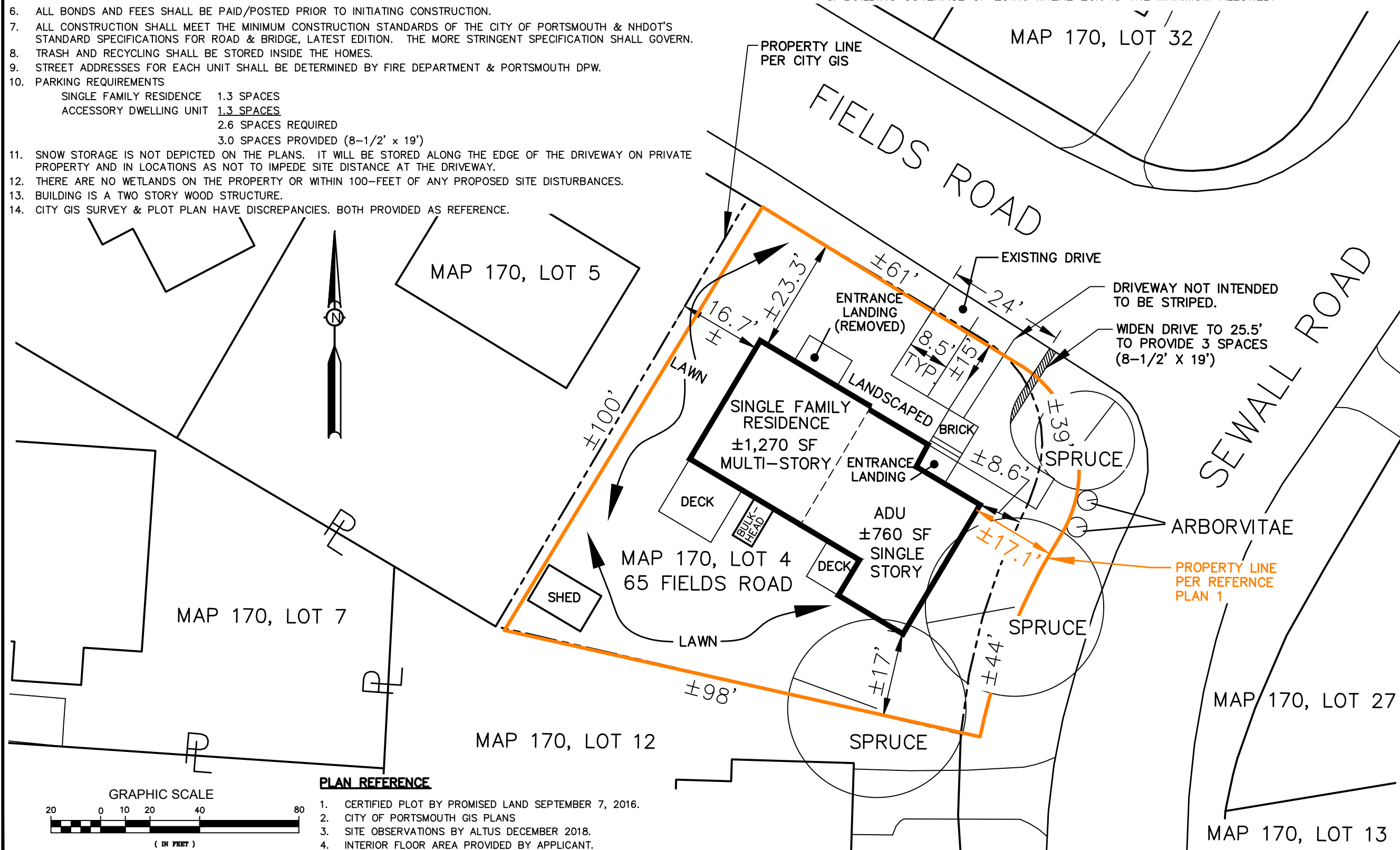


By: Durbin Law Offices PLLC
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1. ZONING DISTRICT SRB
2. THE INTENT OF THIS PLAN SET IS TO PROVIDE THE NECESSARY INFORMATION FOR THE REVIEW AND THE CONDITIONAL USE PERMIT FOR AN ADU.
3. DO NOT BEGIN CONSTRUCTION UNTIL ALL STATE, LOCAL AND FEDERAL PERMITS HAVE BEEN APPLIED FOR AND RECEIVED. THE LANDOWNER AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLYING WITH LOCAL, STATE AND FEDERAL WETLAND PERMITTING REQUIREMENTS INCLUDING PROTECTION OF NATURAL RESOURCES AND THEIR BUFFERS.
4. CONTRACTOR SHALL CALL DIG SAFE AT 1 (800) DIG-SAFE AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO COMMENCING CONSTRUCTION.
5. CONTRACTOR SHALL NOTIFY CITY OF PORTSMOUTH DEPARTMENT OF PUBLIC WORKS PRIOR TO COMMENCING CONSTRUCTION ACTIVITIES.
6. ALL BONDS AND FEES SHALL BE PAID/POSTED PRIOR TO INITIATING CONSTRUCTION.
7. ALL CONSTRUCTION SHALL MEET THE MINIMUM CONSTRUCTION STANDARDS OF THE CITY OF PORTSMOUTH & NHDOT'S STANDARD SPECIFICATIONS FOR ROAD & BRIDGE, LATEST EDITION. THE MORE STRINGENT SPECIFICATION SHALL GOVERN.
8. TRASH AND RECYCLING SHALL BE STORED INSIDE THE HOMES.
9. STREET ADDRESSES FOR EACH UNIT SHALL BE DETERMINED BY FIRE DEPARTMENT & PORTSMOUTH DPW.
10. PARKING REQUIREMENTS
 - SINGLE FAMILY RESIDENCE 1.3 SPACES
 - ACCESSORY DWELLING UNIT 1.3 SPACES
2.6 SPACES REQUIRED
3.0 SPACES PROVIDED (8-1/2' x 19')
11. SNOW STORAGE IS NOT DEPICTED ON THE PLANS. IT WILL BE STORED ALONG THE EDGE OF THE DRIVEWAY ON PRIVATE PROPERTY AND IN LOCATIONS AS NOT TO IMPEDE SITE DISTANCE AT THE DRIVEWAY.
12. THERE ARE NO WETLANDS ON THE PROPERTY OR WITHIN 100-FEET OF ANY PROPOSED SITE DISTURBANCES.
13. BUILDING IS A TWO STORY WOOD STRUCTURE.
14. CITY GIS SURVEY & PLOT PLAN HAVE DISCREPANCIES. BOTH PROVIDED AS REFERENCE.

PORTSMOUTH ZONING BOARD OF ADJUSTMENT ON NOVEMBER 20, 2018 VOTED TO APPROVE
EXISTING NON-CONFORMITIES OF THE LOT IN ORDER TO BECOME ELIGIBLE FOR AN ATTACHED
ACCESSORY DWELLING UNIT

- a. A LOT AREA OF 7,405.2± SF WHERE 15,000 SF IS THE MINIMUM REQUIRED;
- b. A 16.9'± REAR YARD WHERE 30' IS REQUIRED;
- c. A SECONDARY FRONT YARD OF 17'± WHERE 30' IS REQUIRED; AND
- d. BUILDING COVERAGE OF 23±% WHERE 20% IS THE MAXIMUM ALLOWED.



133 COURT STREET
(603) 433-2335

ISSUE DATE:
JANUARY 24, 2019

REVISIONS		
NO.	DESCRIPTION	BY DATE
0	INITIAL SUBMISSION	EDW 12/18/18
1	ADD PLOT PLAN BOUNDARY (REF.1)	EDW 01/24/19

DRAWN BY: _____ RLH/EDW
APPROVED BY: _____ EDW
DRAWING FILE: _____ 4968.DWG

SCALE: 11"x17": 1" = 20'

APPLICANT/OWNER:

**PATRICK LIAM
HUGHES**

**65 FIELDS ROAD
PORTSMOUTH, NH 03801**

617-435-9132

PROJECT:

**ACCESSORY
DWELLING
UNIT**

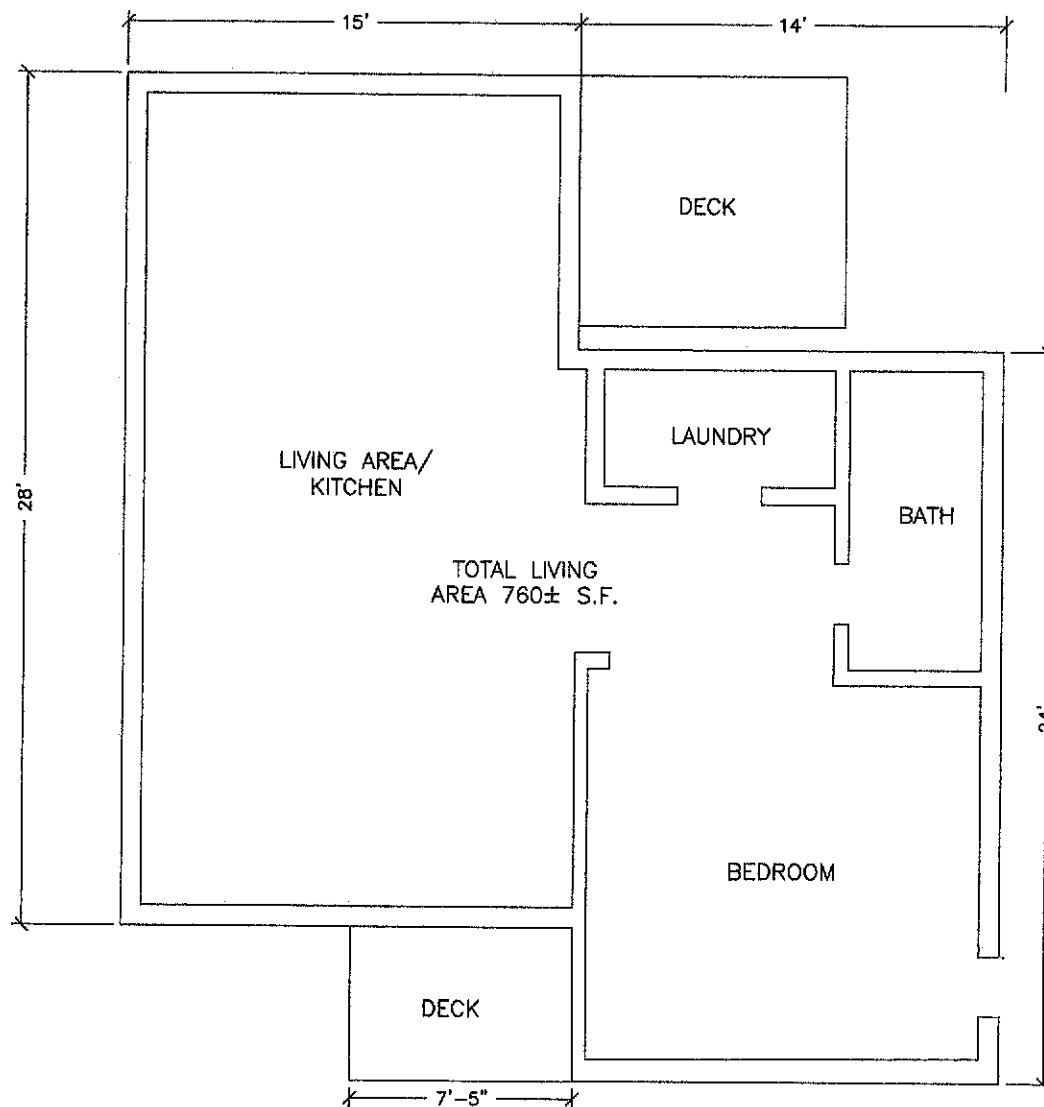
***ASSESSOR PLAN 170, LOT 4
65 FIELDS ROAD
PORTSMOUTH,
NEW HAMPSHIRE 03801***

TITLE:

CONDITIONAL
USE PERMIT
SITE PLAN

SHEET NUMBER:

1 OF 1



PATRICK HUGHES
65 FIELDS RD
PORTSMOUTH, N.H.

SCALE: 1/4" = 1'-0"

← Adjoining Door
with Single-Family

