

April 9, 2019

RECEIVED

APR 10 2019

Mr. Dexter Legg, Chair  
Planning Board  
City of Portsmouth  
1 Junkins Ave  
Portsmouth, NH 03801

BY: \_\_\_\_\_

**Re: Compliance Statement**

*Property at 746 Middle Road (Assessor Plan 232, Lot 49)*

Dear Mr. Legg:

We are pleased to present to the Planning Board our application for a Detached Accessory Dwelling Unit (DADU). You may recall that we were granted a Conditional Use Permit (CUP) for a DADU at the May 18, 2017 Planning Board meeting (see Figures 1 and 2). After the application was granted, the construction of the DADU was delayed for various reasons, primarily due to a lack of time available to two working parents. Since the DADU was approved in 2017, we hope to gain approval to change the design of the DADU for the reasons described below.

Originally, we had planned on building the DADU and then living in it while we remodeled our house. As remodeling projects often tend to do, our plans grew more extensive as they developed. As our young children get older, the focus of our plans has changed from primarily updating cosmetic components to making spaces larger and more efficient. Our current plan is to expand our home towards the rear of our property, and to remodel the existing portion of the home. We have not determined how extensive the remodel of the existing portion of the home will

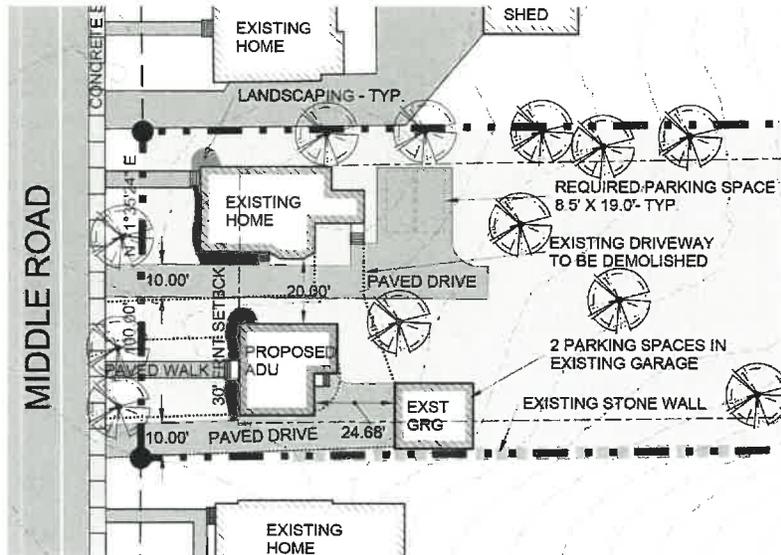
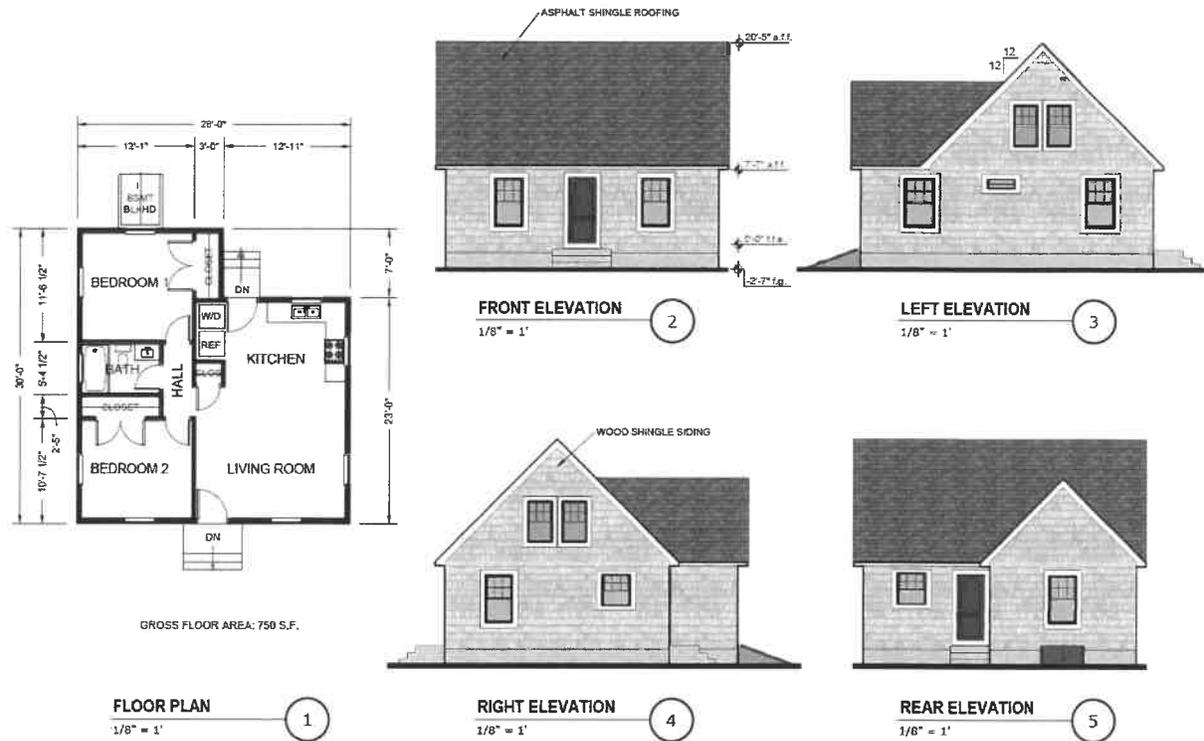


Figure 1: Excerpted site plan of approved DADU.

be, but it is likely that it will be “gutted down to the studs” and reconstructed. Given the state of the home’s 120-year-old fieldstone foundation and the limitations associated with remodeling an older home, we are also considering razing some or all of the existing home and building anew.

The evolution of our remodeling plans has caused us to reexamine the design of the DADU. The current (approved) design is for a one-story stand-alone home, and we think it offers benefits over the plans that we are currently proposing. For instance, a ground-level home is more desirable if we need to assist with aging parents or loved ones in the future, and we think that a stand-alone



**Figure 2:** Excerpted floor plan and elevations of approved DADU.

home may be more appealing to renters than a home located above somebody else’s garage. The approved design would provide us more privacy than the proposed design as it would situate the outdoor space used by tenants primarily between the existing garage and the rear of the DADU.

The design that we are proposing has transpired primarily out of consideration of aesthetic compatibility with our remodeled home and with the neighborhood at large. We are confident that we could make cosmetic changes to the approved design to make it more compatible with our remodeled home as well, but we think the proposed design is far superior from a neighborhood aesthetics perspective. In fact, in our opinion the proposed design is more compatible with the neighborhood with our existing home, even before it is remodeled (see Figures 3 and 4). We have



**Figure 3:** Rendering of approved DADU.

included a rendering which depicts the vision that we have for our property after the DADU has been constructed and the primary home has been remodeled/reconstructed (see Figure 5).



**Figure 4:** Rendering of proposed DADU.



**Figure 5:** Rendering of proposed DADU with remodeled home.

We recognize that our future plans for our property may not have significant bearing on the planning board's consideration of our application. However, we wanted to provide this information in case there are questions about the architectural design and detailing of the proposed DADU. While we believe that the proposed design is compatible with our existing home, it will feature different siding materials (high quality vinyl siding) than those used throughout the exterior walls of our home (wood shingle siding), and so naturally we figured that some members of the board

may wonder why. Even if our extensive remodeling plans did not come to fruition, coordination of the siding materials would require additional consideration, because the wood siding throughout the exterior exposures of our home is rapidly deteriorating after many years of service and is in need of replacement. Ideally we would replace the siding throughout our home at the same time we build the DADU in order to insure compatibility, but given that we plan on extensively renovating the exterior of the home in the near future, replacement of the siding at this point would be wasteful.

### Dimensional Modifications

The proposed DADU application seeks dimensional relief from the zoning ordinance with regard to section 10.814.52 and section 10.814.531:

1. Section 10.814.52 of the zoning ordinance stipulates that the DADU shall not have a gross floor area (GFA) of more than 750 square feet. Section 10.1530 of the zoning ordinance defines gross floor area as:

*The sum of the areas of the several floors of a building or buildings as measured by the exterior faces of the walls, but excluding the areas of fire escapes, unroofed porches or terraces, and areas such as basements and attics exclusively devoted to uses accessory to the operation of the building. [...]*

As with basements or attics, the mechanical/storage rooms on the first floor of the DADU will be “exclusively devoted to use accessory to the operation of the building”, and therefore are not, in our view, consistent with space which qualifies as GFA. The first-story hallway is similarly an accessory use; however, it is less clear to us whether that area would be considered in the GFA calculations. The second floor of the DADU encloses 748 square feet of floor area, including the stairs leading to the first story. If all of the first-story space (excluding the garage) is considered as GFA, then the total proposed GFA is 1,004 square feet. If the hallway is considered as GFA, then the total proposed GFA is 799.6 square feet. It should be noted that the first-story areas, however they are considered, would be ill-suited to be used as living space on account of the room sizes and the fact that the rooms will contain mechanical equipment, which appears to align with the regulatory intent of the subject ordinance provision and its exclusion of basements and attics in calculating GFA.

The need for dimensional modification from section 10.814.52 of the zoning ordinance could be eliminated by eliminating the interior staircase and providing an exterior staircase to access the second-story dwelling unit. Early iterations of the DADU design employed this scenario. However, one of the applicants (Mr. Yarborough) has served as an expert on numerous slip-and-fall investigations and is wary of requiring tenants to use exterior stairs. For this reason, we are seeking dimensional relief from the ordinance to allow an interior staircase, which requires a modification of the maximum allowed GFA.

2. Section 10.814.531 of the zoning ordinance stipulates that the façade area of the DADU shall be no more than 40 percent of the combined façade area of the DADU and the principle single family dwelling.

The façade area of the proposed DADU comprises 44.8 percent of the combined façade area of the DADU and the primary home (as it currently exists). The façade area of the DADU could be reduced to meet the subject ordinance provision by lowering the roof

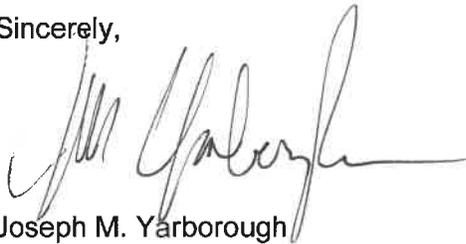
slope. However, the DADU was designed to be architecturally consistent with the primary home, and reducing the roof slopes would create inconsistencies in form. For this reason, we are seeking dimensional relief from the ordinance to allow a 4.8 percent increase in the façade area of the DADU.

As required by the application of which this letter is a part, we hereby proclaim the following:

1. The existing single family home and the proposed accessory dwelling will remain under common ownership.
2. The existing single family home or the accessory dwelling will be occupied by us, the owners of the property.
3. Neither the existing single family home nor the accessory dwelling will be used for any business, except for potentially a home occupation use, as allowed by the Zoning Ordinance, in the unit which we occupy.
4. The accessory dwelling will not result in excessive noise, traffic, or parking congestion. The accessory dwelling will be placed within the required setbacks, affording adequate light and air to the neighboring properties. The existing stone wall, hedges, trees, and vines which separates the west edge of our property from our neighbors will remain in place, providing additional buffering and privacy. Sufficient parking has been provided for both the existing home and the proposed accessory dwelling as delineated on the site plans.

Thank you for your consideration of our application.

Sincerely,



Joseph M. Yarborough



Ellen M. Yarborough

- Attachment A: DADU Site Plan and Elevations
- Attachment B: Photographs
- Attachment C: 2017 Planning Board minutes
- Attachment D: Tax Assessor Record
- Attachment E: Tax Map Excerpt
- Attachment F: Proposed Elevations of Remodeled Home

# ATTACHMENT A

## **ATTACHMENT B**



Photograph 1: North exposure of property abutting south side of Middle Road.



Photograph 2: View of neighboring properties to the east.



Photograph 3: View of neighboring properties to the west.



Photograph 4: View of Riverbrook Condominium property abutting north side of Middle Road (across the street from subject property).



Photograph 5: East-facing view of Middle Road.



Photograph 6: West-facing view of Middle Road.



Photograph 7: North (front) and west (side) exposures of existing home.



Photograph 8: East (side) and north (front) exposures of existing garage.



Photograph 9: Existing driveway servicing garage.



Photograph 10: Existing driveway and landscaped area at site of proposed ADU.

## ATTACHMENT C

A. The application of **Paul and Diane Messier, Owners**, for property located at **171 Walker Bungalow Road**, requesting Conditional Use Permit approval to create a one story, 320 ± s.f. attached accessory dwelling unit, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 202 as Lot 8 and lies within the Single Residence B (SRB) District.

**SPEAKING TO THE APPLICATION**

Mr. Paul Messier, 171 Walker Bungalow Road, noted they plan to live in the home for several years and want the accessory dwelling unit for future use.

**PUBLIC HEARING**

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

**DISCUSSION AND DECISION**

*Vice Chairman Moreau moved to **grant** Conditional Use Permit approval, seconded by Mr. Gamester, with the following stipulations:*

1. *In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

*The motion passed unanimously.*

.....  
B. The application of **Joseph and Ellen Yarborough, Owners**, for property located at **746 Middle Road**, requesting Conditional Use Permit approval to create a two-bedroom, 750 ± s.f. detached accessory dwelling unit, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 232 as Lot 49 and lies within the Single Residence B (SRB) District.

Ms. Ellen Yarborough, 746 Middle Road, explained this is intended to be a long-term home.

Ms. Colbert-Puff asked whether a gable-fronted style was considered. Mr. Yarborough explained why the side-gabled style was chosen and noted that other homes in the neighborhood are side-gabled. Ms. Colbert-Puff asked if they considered locating the ADU behind the house. Mr. Yarborough replied the large apple tree in the rear would have to be removed in that situation. Also, there is a shallow grade in the backyard that would create a sewer line issue. The proposed location creates a buffer between the road and backyard.

**PUBLIC HEARING**

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

**DISCUSSION AND DECISION**

The Board commented on the architectural design of the accessory dwelling unit.

*Vice Chairman Moreau moved to grant Conditional Use Permit approval, seconded by Councilor Perkins, with the following stipulation:*

1. *In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

*The motion passed unanimously.*

.....

C. The application of **Swirly Girl II, LLC, Owner**, for property located at **244 South Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to convert a three-unit residential building to a two-unit residential building, construct a 27' high, 22' x 30' addition, a 10' high, 7' x 17' addition, a 6' x 12.5' deck, the addition of 581 ± s.f. of pervious driveway and stormwater management structures, with 1,091 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 111 as Lot 3 and lies within the Single Residence B (SRB) District and the Historic District.

*Vice Chairman Moreau moved to postpone this application to the June 15, 2017 Planning Board meeting, seconded by Councilor Perkins. The motion passed unanimously.*

.....

D. The application of **Five Hundred Five Lafayette Road, LLC, Owner**, and **Lens Doctors, Applicant**, for property located at **605 Lafayette Road**, requesting Site Plan Approval for the demolition of the existing building and the construction of a proposed 2-story office building, with a footprint of 7,000 ± s.f. and gross floor area of 14,000 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 229 as Lot 9 and lies within the Gateway (GW) District.

*Vice Chairman Moreau moved to postpone this application to the June 15, 2017 Planning Board meeting, seconded by Councilor Perkins. The motion passed unanimously.*

.....

E. The application of **Pauline M. Dowd, Owner**, and **Tuck Realty Corporation, Applicant**, for property located at **288 Peverly Hill Road**, requesting Site Plan Approval for the demolition of an existing residence and the construction of a proposed Planned Unit Development (PUD) consisting of two 2 ½ story buildings, with five units in "Building A" with a footprint of 5,200 ± s.f. and gross floor area of 13,230 ± s.f., and four units in "Building B" with a footprint of 4,160 ± s.f. and gross floor area of 10,504 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 255 as Lot 8 and lies within the Single Residence B (SRB) District.

## ATTACHMENT D

# 746 MIDDLE RD

**Location** 746 MIDDLE RD

**Mblu** 0232/ 0049/ 0000/ /

**Acct#** 30197

**Owner** YARBOROUGH JOSEPH

**PBN**

**Assessment** \$422,300

**Appraisal** \$422,300

**PID** 30197

**Building Count** 1

## Current Value

| Appraisal      |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2018           | \$244,500    | \$177,800 | \$422,300 |

| Assessment     |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2018           | \$244,500    | \$177,800 | \$422,300 |

## Owner of Record

**Owner** YARBOROUGH JOSEPH  
**Co-Owner** YARBOROUGH ELLEN  
**Address** 746 MIDDLE RD  
 PORTSMOUTH, NH 03801

**Sale Price** \$340,000  
**Certificate**  
**Book & Page** 5372/1602  
**Sale Date** 10/31/2012  
**Instrument** 00

## Ownership History

| Ownership History |            |             |             |            |            |
|-------------------|------------|-------------|-------------|------------|------------|
| Owner             | Sale Price | Certificate | Book & Page | Instrument | Sale Date  |
| YARBOROUGH JOSEPH | \$340,000  |             | 5372/1602   | 00         | 10/31/2012 |
| DIPAOLLO PATRICIA | \$0        |             | 3372/0568   |            | 03/03/1999 |

## Building Information

### Building 1 : Section 1

**Year Built:** 1889  
**Living Area:** 1,628  
**Replacement Cost:** \$335,378  
**Building Percent** 71  
**Good:**  
**Replacement Cost**  
**Less Depreciation:** \$238,100

### Building Photo

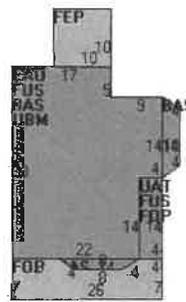
|                            |
|----------------------------|
| <b>Building Attributes</b> |
|----------------------------|

| Field              | Description    |
|--------------------|----------------|
| Style              | Conventional   |
| Model              | Residential    |
| Grade:             | B              |
| Stories:           | 2              |
| Occupancy          | 1              |
| Exterior Wall 1    | Wood Shingle   |
| Exterior Wall 2    |                |
| Roof Structure:    | Gable/Hip      |
| Roof Cover         | Asph/F Gls/Cmp |
| Interior Wall 1    | Plastered      |
| Interior Wall 2    |                |
| Interior Flr 1     | Hardwood       |
| Interior Flr 2     | Pine/Soft Wood |
| Heat Fuel          | Oil            |
| Heat Type:         | Hot Water      |
| AC Type:           | None           |
| Total Bedrooms:    | 3 Bedrooms     |
| Total Bthrms:      | 1              |
| Total Half Baths:  | 0              |
| Total Xtra Fixtrs: | 2              |
| Total Rooms:       | 7              |
| Bath Style:        | Avg Quality    |
| Kitchen Style:     | Avg Quality    |
| Kitchen Gr         |                |
| WB Fireplaces      | 1              |
| Extra Openings     | 0              |
| Metal Fireplaces   | 0              |
| Extra Openings     | 0              |



(<http://images.vgsi.com/photos2/PortsmouthNHPhotos//\00\00\27\17.JPG>)

### Building Layout



(<http://images.vgsi.com/photos2/PortsmouthNHPhotos//Sketches>)

| Building Sub-Areas (sq ft) |                       | Legend     |             |
|----------------------------|-----------------------|------------|-------------|
| Code                       | Description           | Gross Area | Living Area |
| BAS                        | First Floor           | 815        | 815         |
| FUS                        | Upper Story, Finished | 813        | 813         |
| EAU                        | Attic Expansion Unfin | 757        | 0           |
| FEP                        | Porch, Enclosed       | 100        | 0           |
| FOP                        | Porch, Open           | 216        | 0           |
| UAT                        | Attic                 | 56         | 0           |
| UBM                        | Basement, Unfinished  | 757        | 0           |
|                            |                       | 3,514      | 1,628       |

### Extra Features

| Extra Features             | Legend |
|----------------------------|--------|
| No Data for Extra Features |        |

### Land

#### Land Use

#### Land Line Valuation

**Use Code** 1010  
**Description** SINGLE FAM MDL-01  
**Zone** SRB  
**Neighborhood** 125  
**Alt Land Appr** No  
**Category**

**Size (Acres)** 1  
**Frontage**  
**Depth**  
**Assessed Value** \$177,800  
**Appraised Value** \$177,800

**Outbuildings**

| Outbuildings |             |          |                 |          |         | Legend |
|--------------|-------------|----------|-----------------|----------|---------|--------|
| Code         | Description | Sub Code | Sub Description | Size     | Value   | Bldg # |
| FGR1         | GARAGE-AVE  | 02       | DETACHED        | 360 S.F. | \$5,000 | 1      |
| SHD1         | SHED FRAME  |          |                 | 396 S.F. | \$1,400 | 1      |

**Valuation History**

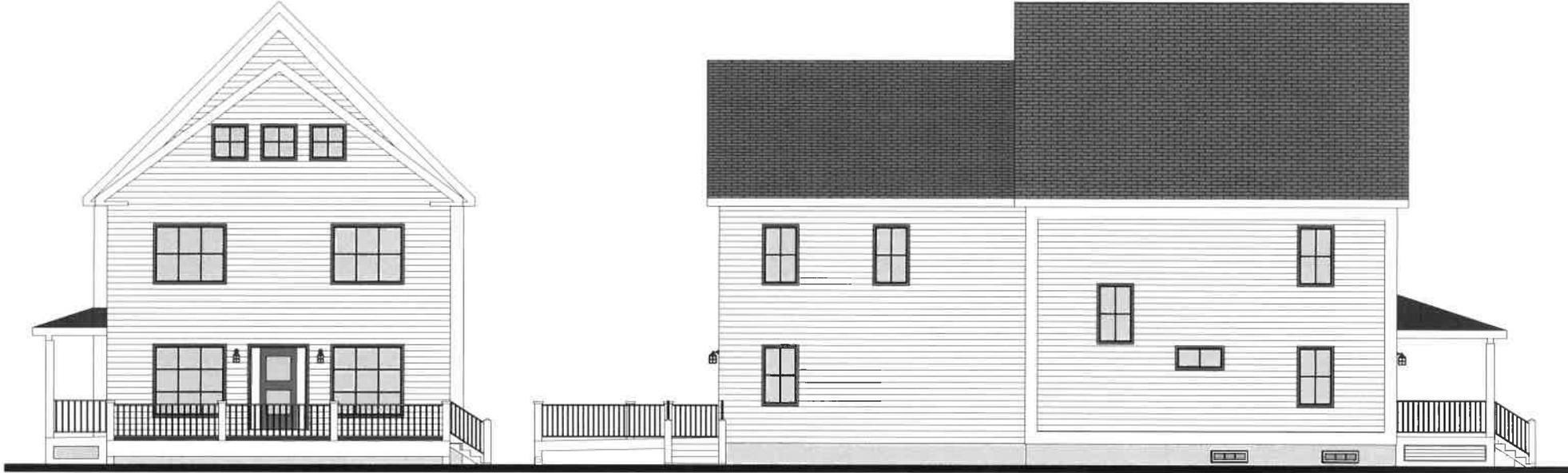
| Appraisal      |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2018           | \$244,500    | \$177,800 | \$422,300 |
| 2017           | \$244,500    | \$163,000 | \$407,500 |
| 2016           | \$217,000    | \$148,300 | \$365,300 |

| Assessment     |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2018           | \$244,500    | \$177,800 | \$422,300 |
| 2017           | \$244,500    | \$163,000 | \$407,500 |
| 2016           | \$217,000    | \$148,300 | \$365,300 |

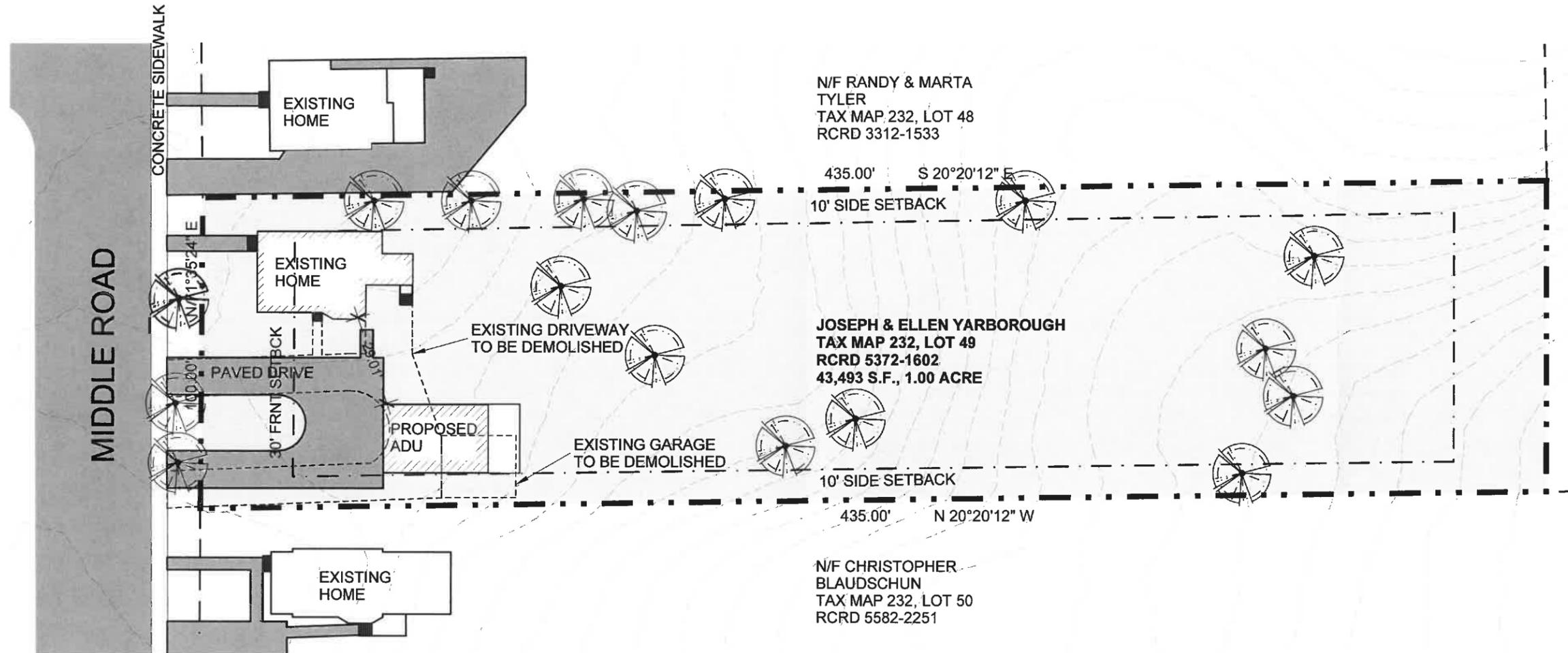
## ATTACHMENT E



## ATTACHMENT F



ACCESSORY DWELLING UNIT  
746 MIDDLE ROAD



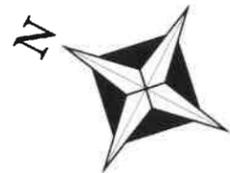
N/F RANDY & MARTA TYLER  
TAX MAP 232, LOT 48  
RCRD 3312-1533

435.00' S 20°20'12" E  
10' SIDE SETBACK

JOSEPH & ELLEN YARBOROUGH  
TAX MAP 232, LOT 49  
RCRD 5372-1602  
43,493 S.F., 1.00 ACRE

435.00' N 20°20'12" W  
10' SIDE SETBACK

N/F CHRISTOPHER BLAUDSCHUN  
TAX MAP 232, LOT 50  
RCRD 5582-2251



PARCEL IS IN SINGLE RESIDENCE B (SRB) ZONE

|                           |           |
|---------------------------|-----------|
| MINIMUM LAND AREA         | 15,000 SF |
| MINIMUM STREET FRONTAGE   | 100 FT    |
| MINIMUM LOT DEPTH         | 100 FT    |
| SETBACKS:                 |           |
| FRONT                     | 30 FT     |
| SIDE                      | 10 FT     |
| REAR                      | 30 FT     |
| MAXIMUM BUILDING HEIGHT   | 35 FT     |
| MAXIMUM BUILDING COVERAGE | 20%       |
| MINIMUM OPEN SPACE        | 40%       |

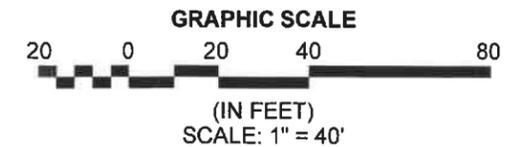
BUILDING COVERAGE

|                                  |                  |
|----------------------------------|------------------|
| EXISTING HOME                    | 1,116 SF         |
| PROPOSED ACCESSORY DWELLING UNIT | 968 SF           |
|                                  | 2,084 SF = 4.78% |

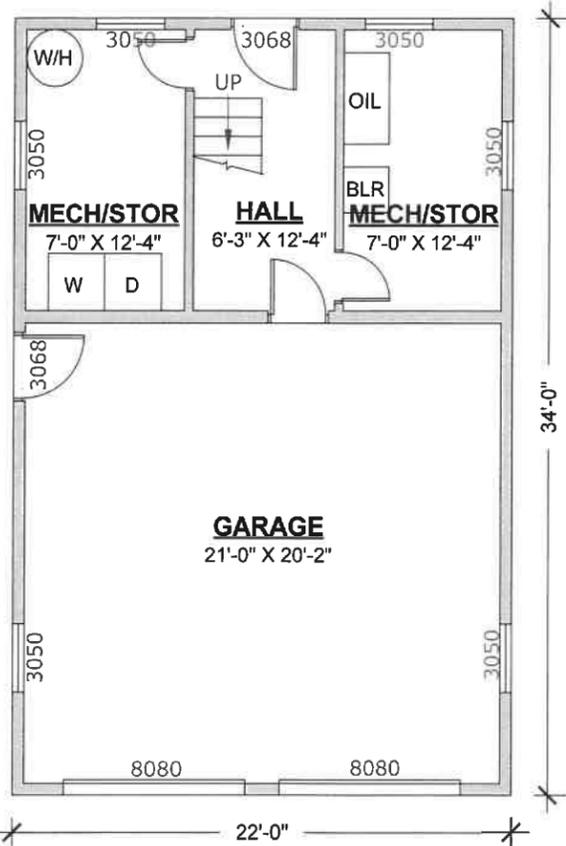
OPEN SPACE

|                      |          |
|----------------------|----------|
| BUILDING FOOTPRINT   | 2,084 SF |
| BUILDING OVERHANG    | 198 SF   |
| STAIRS               | 78 SF    |
| DRIVEWAYS & WALKWAYS | 2,258 SF |
|                      | 4,618 SF |

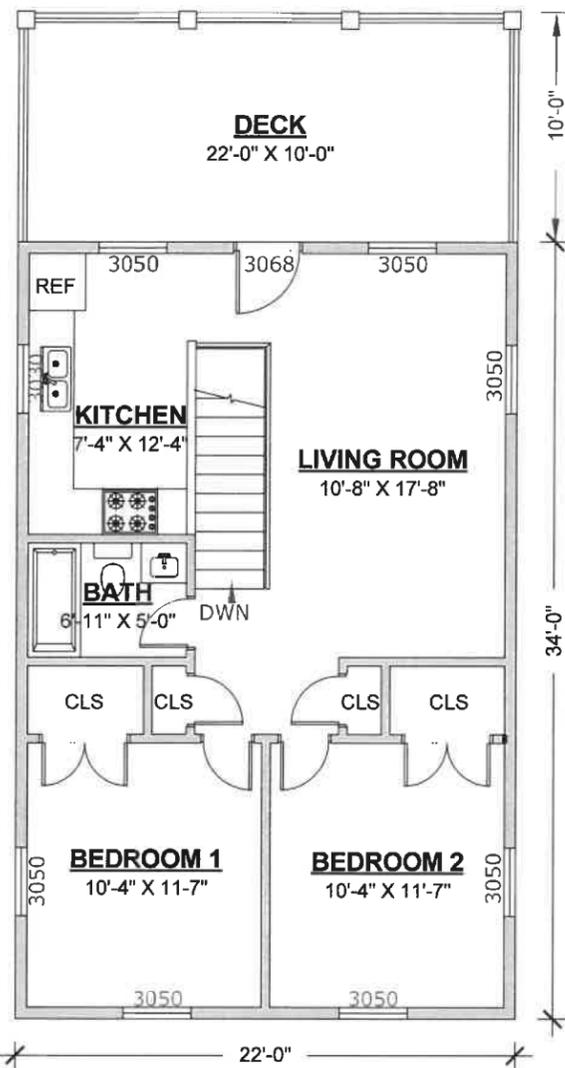
OPEN SPACE = 43,493 - 4,618 = 38,875 SF = 89.38%



## SITE PLAN



**FIRST FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



**SECOND FLOOR PLAN**  
SCALE: 1/8" = 1'-0"

**FRONT FACADE AREAS**

ADU + GARAGE 549.5 SF  
EXISTING HOME 676 SF (APPROX)  
TOTAL: 1,225.5 SF

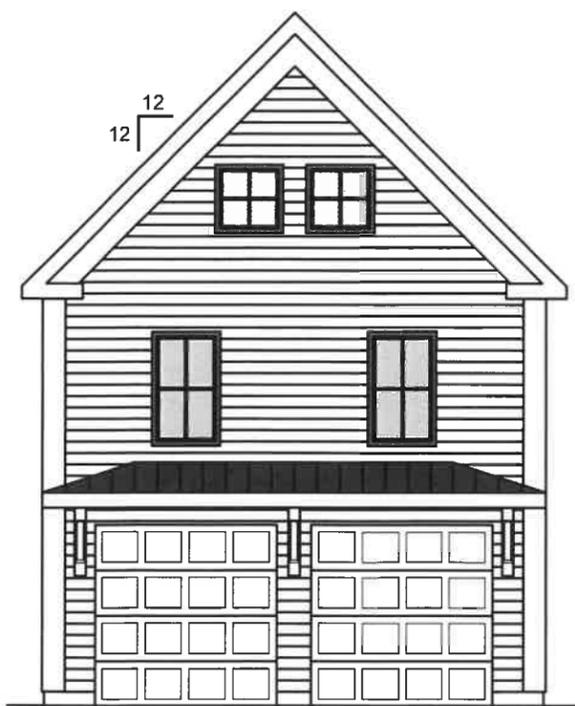
RATIO OF ADU + GARAGE TO TOTAL: 44.8%

**FLOOR AREAS**

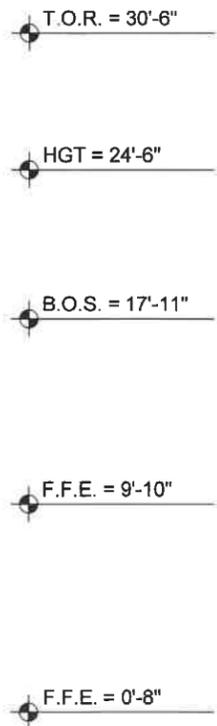
|                       |                         |          |
|-----------------------|-------------------------|----------|
| FIRST FLOOR:          | GARAGE:                 | 460.6 SF |
|                       | MECH/STORAE:            | 200.8 SF |
|                       | HALL (EXL STRS):        | 51.6 SF  |
| SECOND FLOOR:         | LIVING AREA (INC STRS): | 748 SF   |
|                       | DECK                    | 220 SF   |
| ATTIC (EAVE TO EAVE): |                         | 378 SF   |



**LEFT ELEVATION**  
SCALE: 1/8" = 1'-0"

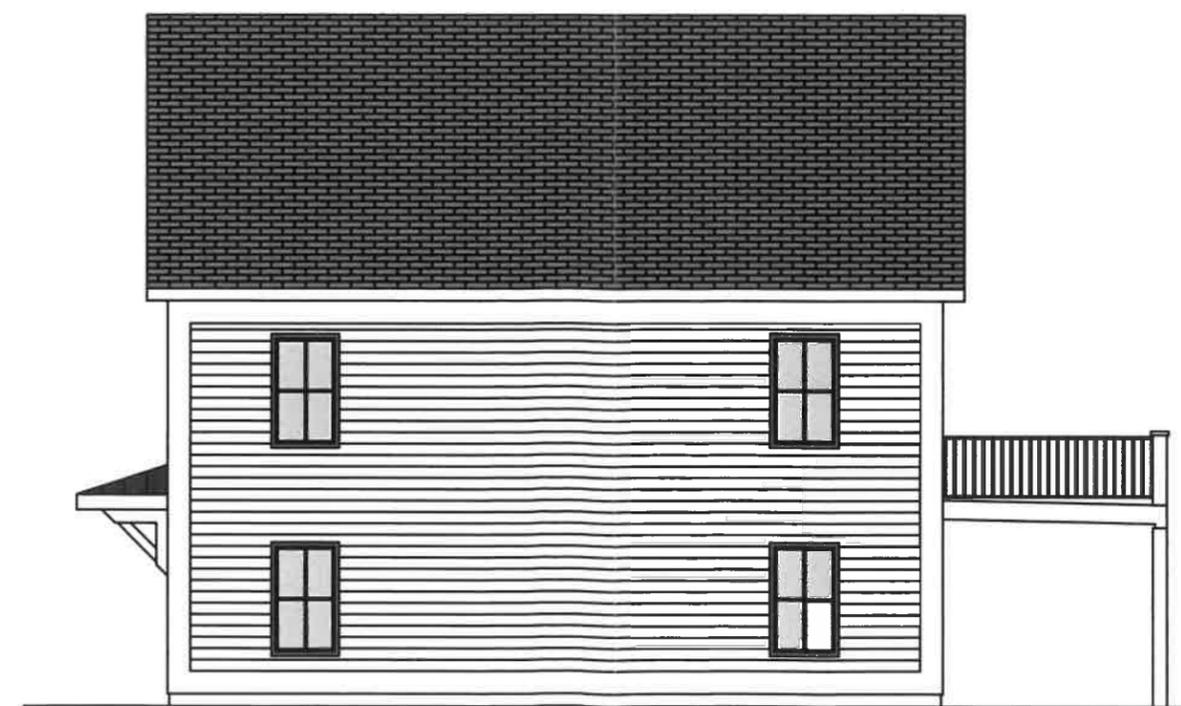


**FRONT ELEVATION**  
SCALE: 1/8" = 1'-0"



**REAR ELEVATION**  
SCALE: 1/8" = 1'-0"

FACADE AREA:  
549.5 SF



**RIGHT ELEVATION**  
SCALE: 1/8" = 1'-0"

ACCESSORY DWELLING UNIT  
746 MIDDLE ROAD