

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

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September 17, 2025

HAND DELIVERED/VIEWPOINT UPLOAD/EMAIL

Stefanie Casella, Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Carrie & Gabriel Edwards
51 Morning Street, Tax Map 163, Lot 16
General Residence A ("GRA") Zone
LU-25-125

Dear Ms. Casella & Zoning Board Members:

On behalf of Carrie & Gabriel Edwards ("Edwards"), enclosed please find a revised Memorandum in support of our variance application. The revised memorandum simply clarifies that the Project requires relief from open space requirements in addition to the relief previously requested. There are no other changes to the Project or to submitted plans.

For ease of reference, we will upload this Memorandum to Viewpoint with the previous plans/exhibits. We look forward to presenting this application to the Zoning Board at its October 21, 2025 meeting.

Very truly yours,



R. Timothy Phoenix

Enclosure

cc: Client (email)
Stake & Stones Land Surveying, LLC (email)
Somma Studios (email)

DANIEL C. HOEFLE	ALEC L. MCEACHERN	PETER V. DOYLE	STEPHEN H. ROBERTS In Memoriam
R. TIMOTHY PHOENIX	KEVIN M. BAUM	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	JACOB J.B. MARVELLEY	CHRISTOPHER P. MULLIGAN	SAMUEL R. REID
R. PETER TAYLOR	GREGORY D. ROBBINS	KAREN W. OLIVER	JOHN AHLGREN

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: R. Timothy Phoenix, Esquire
DATE: August 20, 2025 – Revised September 17, 2025
RE: Carrie & Gabriel Edwards
51 Morning Street Tax Map 163, Lot 16
General Residence A (“GRA”) Zone

Dear Chair Eldredge and Zoning Board Members:

On behalf of Carrie & Gabriel Edwards (“Edwards”), we are pleased to submit this memorandum and attached exhibits in support of Edwards’ request for zoning relief for consideration by the Zoning Board of Adjustment (“ZBA”) at its September 16, 2025 meeting.

I. EXHIBITS

- A. 8/16/25 Plan Set, p.1 by Ambit Engineering and p.2 by Stake & Stones Land Surveying, LLC.
- B. Architectural Plan Set-by Somma Studios.
- C. Site Photographs (5 pages)
- D. Tax Map 163.
- E. Deeds, 1926 to Present.

II. PROPERTY/PROJECT

51 Morning Street is a very small 3,326 square foot lot with 44.0 feet of frontage (“the Property”). The Property contains a small-ish two-bedroom home encroaching upon all setbacks. The primary home is in the lot center with the right setback 1.9 feet less, rear setback 3.7 feet, left setback 3.9 feet and front setback 0’ feet.

A detached one-story car garage with paved driveway access is at the left rear of the lot. A small patio/retaining wall is to the right of the home. The existing garage is in very poor shape, significantly leaning to the right. Between the detached garage and the home towards the rear of the lot is a small “open area” in which little grows but weeds, often muddy due to little sunlight.

Edwards proposes to remove the existing poor-quality garage in favor of a new 1.5 story garage with office space above, slightly improved from the left (3.9’ to 4.6’) and rear (3.7’ to 3.8’) lot lines, connected to the main home. Front and right structures and setbacks do not change.

While building coverage slightly increases (42.9% to 50.9%)¹ due to “in filling” the area between the existing garage and home, open space is increased (19.7% to 21.9%) due to the right-ward movement of the new garage/office.²

Relief is required due to the small and narrow lot, and long-existing location of the home. Attaching the garage/office to the existing home can only reasonably occur in the proposed location.

In an abundance of caution, Edwards requests all variances below.

III. RELIEF REQUIRED:

<u>Ordinance Section</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
<u>PZO§10.321</u> <u>Nonconforming Building</u>	No expansion	N/A	Connect addition to main nonconforming home
<u>PZO Table §10.521</u> <u>Dimensional Standards</u>			
• Building Coverage	25%	1,426 s.f. (42.9%)	1,693 s.f. (50.9%)
• Min. Open Space	30%	654 s.f. (19.7%)	729 s.f. (21.9% (Improved)
• Left Side Yard	10'	3.9'	4.6' (Improved)
• Rear Yard	20'	3.7'	3.8' (Improved)

IV. OTHER PERMITS REQUIRED

- Building Permit

VI. VARIANCE REQUIREMENTS

1. The variances will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The first step in the ZBA’s analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a

¹ The percentages are high due to the very small lot size.

² The ordinance prohibits counting open space <5’ in width. Moving the garage to the right increases the left setbacks in areas to >5’ thus increasing open space.

variance “would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives.” Id. “Mere conflict with the zoning ordinance is not enough.” Id.

The Portsmouth Zoning Ordinance (PZO§10.121) was enacted for the general purpose of promoting the health, safety, and welfare in accordance with the Master plan by regulating:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The Project continues a permitted residential use on a dimensionally undersized decades old lot of record.
2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – A substandard, small, damaged garage is replaced with a connected single-family garage with office above, compliant with height and improved left setback, increasing open space.
3. The design of facilities for vehicular access, circulation, parking and loading – The Project provides unchanged compliant parking.
4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – The uses proposed are permitted and compatible with the neighborhood. It merely connects the garage addition to the home. No negative impact.
5. The preservation and enhancement of the visual environment – The Project replaces a dated poor-quality garage with a new code-compliant aesthetically superior garage/office with slightly improved left and rear setbacks and increased open space.
6. The preservation of historic districts buildings and structures of historic or architectural interest – The Property is not in the historic district and is of no known specific historic or architectural interest.
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The property is served by municipal water and sewer. There are no wetlands in the area. Accordingly these purposes are served by granting the variances.

Variances are required because the 3,326 s.f. Property is small and narrow, despite which all dimensional requirements apply just as to a 7,500 s.f. lot. The proposed garage/office is compliant with height restrictions while providing increased open space and improving the rear and left side yard setback. Relief is required to permit increased building coverage on a dimensionally nonconforming lot of record, primarily due to bridging the gap between the garage and the home. The structure width and depth are needed to accommodate continued single car parking.

Granting the variances on these facts does not “in a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives.” Malachy Glen, *supra*, which also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality. . . . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

The Project is compatible with the “look”, coverage, density and setbacks of other lots in the area, continuing single-family use on a long existing dimensionally nonconforming lot of record, while aesthetically improving the lot, open space, left and rear setbacks. Thus, granting variances for the addition will neither “alter the essential character of the locality nor threaten the public health, safety or welfare.”

3. Substantial justice will be done by granting the variance.

If “there is no benefit to the public that would outweigh the hardship to the applicant” this factor is satisfied (Emphasis added). Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C., 162 N.H. 508 (2011). That is, “any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, supra at 109. (Emphasis added)

Edwards is constitutionally entitled to the use of the lot as they see fit; including removal and reconstruction of a permitted single-car garage and office above, subject only to the effect of the home on the dimensional requirements. “The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions.” N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that “no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people.” Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). “Property” in the constitutional sense has been interpreted to mean not the tangible property itself, but rather the right to possess, use, enjoy and dispose of it. Burrows v. City of Keene, 121 N.H. 590, 597 (1981). (emphasis added).

The Supreme Court has also held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of

the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69.

Granting the requested relief allows for reasonable “on the ground” dimensional relief via tasteful replacement of a dated, small, single-car garage on a decades-long existing 3,326 s.f. square foot lot of record in a manner reasonable under the circumstances, consistent with many lot sizes and setbacks in the surrounding area. The existing nonconforming home is expanded by connecting the garage/office but negatively affects no one. There is absolutely no harm to the general public from granting relief. It follows that there is no benefit to the public from denial. Conversely, Edwards will be greatly harmed by denial as they will lose the opportunity to reasonably build and connect the garage/office with permitted uses that overall improve existing conditions. Accordingly, there is no benefit to the public from granting the variance that outweighs the harm to the owner from denial.

4. Granting the variance will not diminish surrounding property values.

The Project with relief improves the Property with a new code-compliant single-car garage with office space above, connected to the main home, entirely reasonable given the New Hampshire climate. Viewing the tax map, proposal is consistent with the density and yard setbacks of surrounding area properties. It is thus clear that granting variances will not diminish surrounding property values.

5. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property from others in the area.

At less than one-half (44.4%) of required 7,500 s.f. lot size, the property is small, narrow and burdened by the location and setbacks of the existing home, garage and driveway. The Property exists in a densely developed area of the City with numerous other nonconforming lots developed with single family homes located in rear or side yard setbacks. (**Exhibits C,D**). The Property’s small size, narrow width, existing improvements and their location combine to create special conditions.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

Building coverage, open space, and yard setback requirements exist to prevent overcrowding and to ensure adequate air, light, space, and separation between neighbors. Limitations on expansion of nonconforming structures is intended to avoid overcrowding, and

preserve space. The Project replaces a dated, poor quality single-car garage with a code-complaint, use-permitted single-car garage/office; the yard setback relief required is an improvement (left, rear), or unchanged (right, front), while increasing open space. The lot coverage increase is primarily driven by the “in fill” of the area between the existing garage and the home required in order to connect, the increase percentage due to the very small lot size. Accordingly, the purposes of these requirements are met, thus there is no reason to apply the strict density requirements of the zoning ordinance.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). The Project proposes a connected single-car garage with a decades existing nonconforming lot of record. Accordingly, the use is reasonable.

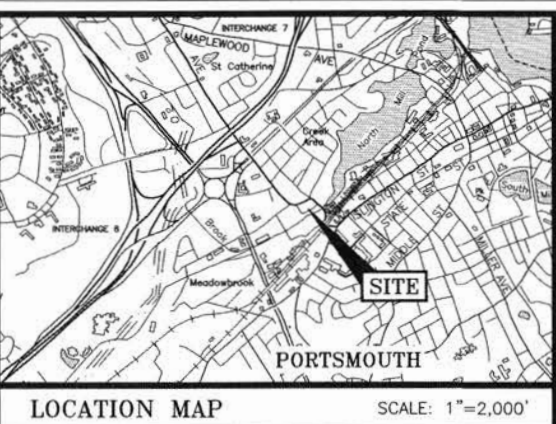
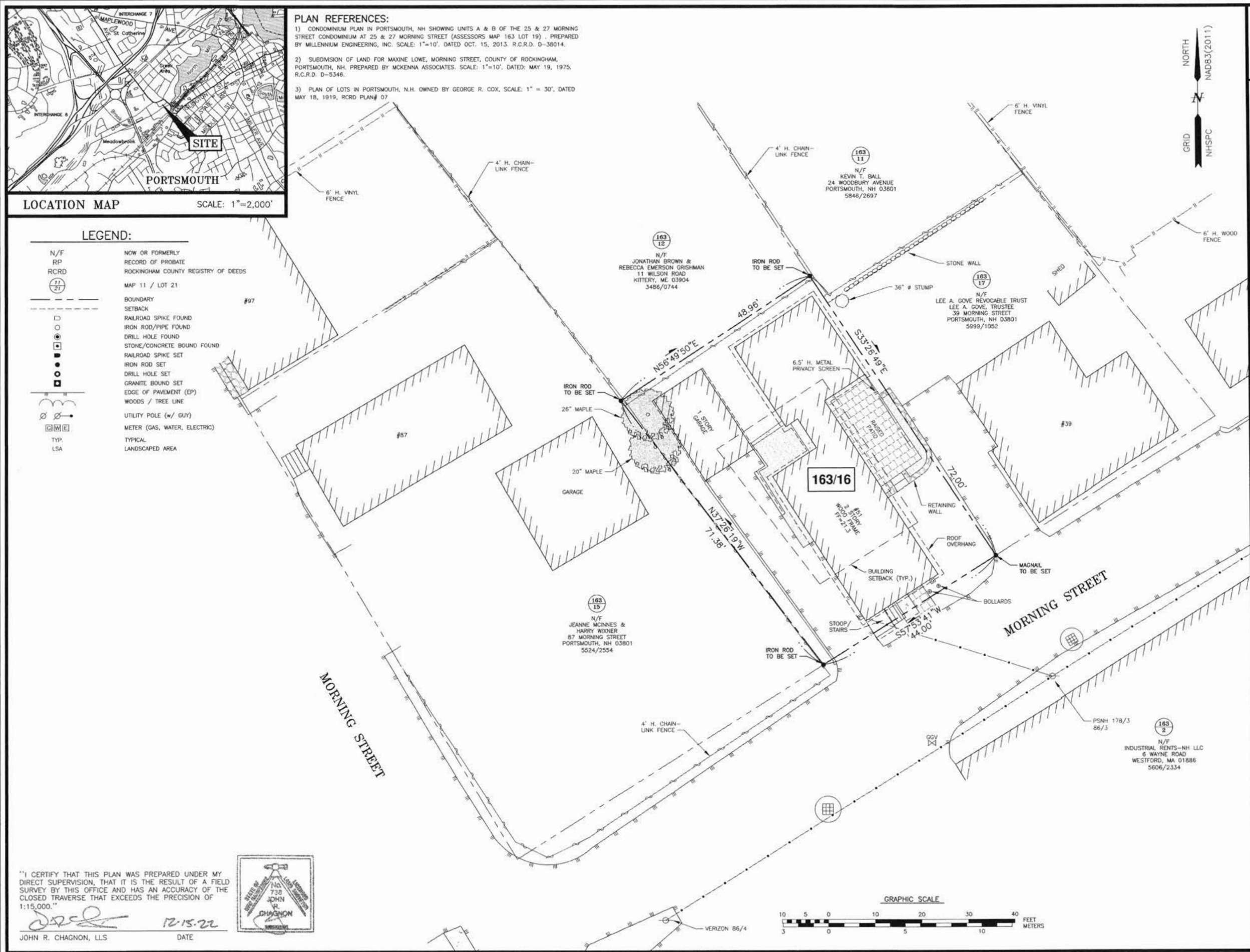
VI. CONCLUSION

For all of the reasons stated, Edwards respectfully requests that the Portsmouth Zoning Board of Adjustment grant the requested relief.

Respectfully submitted,
Carrie & Gabriel Edwards



By: R. Timothy Phoenix



- LEGEND:**
- N/F: NOW OR FORMERLY
 - RP: RECORD OF PROBATE
 - RCRD: ROCKINGHAM COUNTY REGISTRY OF DEEDS
 - MAP 11 / LOT 21
 - BOUNDARY
 - SETBACK
 - RAILROAD SPIKE FOUND
 - IRON ROD/PIPE FOUND
 - DRILL HOLE FOUND
 - STONE/CONCRETE BOUND FOUND
 - RAILROAD SPIKE SET
 - IRON ROD SET
 - DRILL HOLE SET
 - GRANITE BOUND SET
 - EDGE OF PAVEMENT (EP)
 - WOODS / TREE LINE
 - UTILITY POLE (w/ GUY)
 - METER (GAS, WATER, ELECTRIC)
 - TYP: TYPICAL
 - LSA: LANDSCAPED AREA

PLAN REFERENCES:

1) CONDOMINIUM PLAN IN PORTSMOUTH, NH SHOWING UNITS A & B OF THE 25 & 27 MORNING STREET CONDOMINIUM AT 25 & 27 MORNING STREET (ASSESSOR'S MAP 163 LOT 19) : PREPARED BY MILLENNIUM ENGINEERING, INC. SCALE: 1"=10'. DATED OCT. 15, 2013. R.C.R.D. D-38014.

2) SUBDIVISION OF LAND FOR MAXINE LOWE, MORNING STREET, COUNTY OF ROCKINGHAM, PORTSMOUTH, NH. PREPARED BY MCKENNA ASSOCIATES. SCALE: 1"=10'. DATED: MAY 19, 1975. R.C.R.D. D-5346.

3) PLAN OF LOTS IN PORTSMOUTH, N.H. OWNED BY GEORGE R. COX, SCALE: 1" = 30', DATED MAY 18, 1919, RCRD PLAN# 07

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 163 AS LOT 16.
- 2) OWNER OF RECORD:
CARRIE EDWARDS &
GABRIEL EDWARDS
56 RIDGE STREET
ARLINGTON, MA 02474
6330/1980
- 3) PARCEL NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE DATE JANUARY 29, 2021.
- 4) EXISTING LOT AREA:
3,326 S.F.
0.0764 ACRES
- 5) PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:
- | | |
|----------------|------------|
| MIN. LOT AREA: | 7,500 S.F. |
| FRONTAGE: | 100 FEET |
| MIN. DEPTH: | 70 FEET |
| SETBACKS: | |
| FRONT: | 15 FEET |
| SIDE: | 10 FEET |
| REAR: | 20 FEET |
- MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 25%
MINIMUM OPEN SPACE: 30%
- 8) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
- 9) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY SURVEY OF ASSESSOR'S MAP 163 LOT 16 IN THE CITY OF PORTSMOUTH.

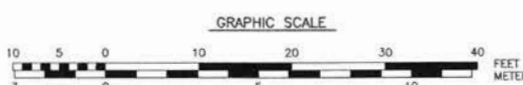
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NO.	DESCRIPTION	DATE
REVISIONS		

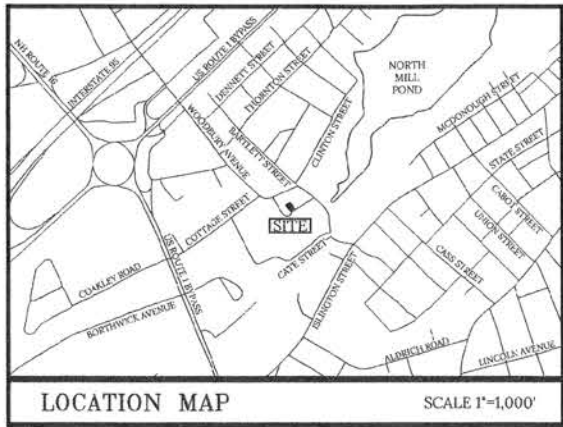
STANDARD BOUNDARY SURVEY
TAX MAP 163 - LOT 16

OWNER:
**CARRIE EDWARDS &
GABRIEL EDWARDS**
51 MORNING STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

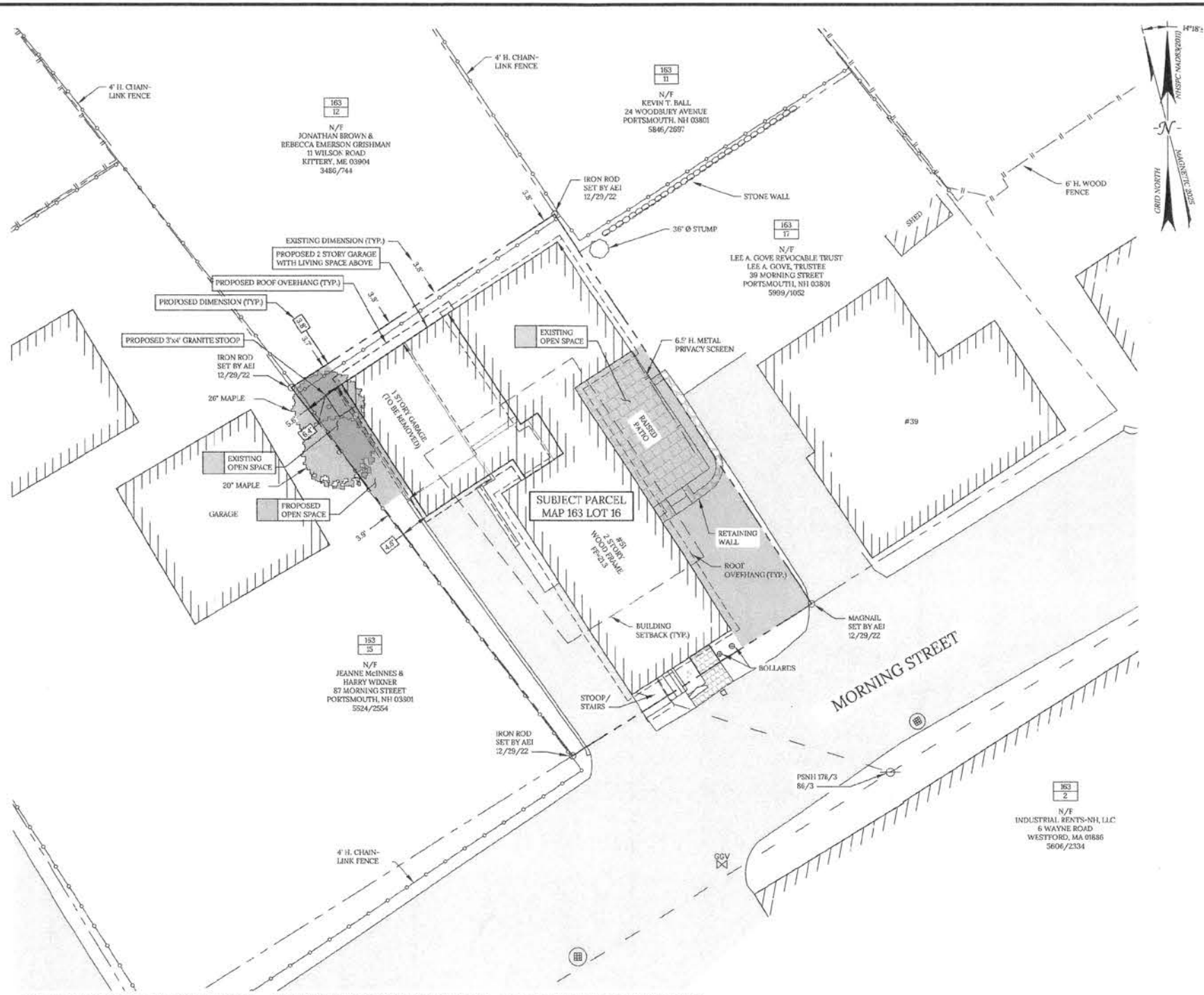
John R. Chagnon
JOHN R. CHAGNON, LLS
DATE: 12-15-22





LEGEND:

N/F	NOW OR FORMERLY
R.C.R.D.	ROCKINGHAM COUNTY REGISTRY OF DEEDS
1	ABUTTER TAX MAP & LOT NUMBER
2	
---	BOUNDARY LINE
- - -	BUILDING SETBACK LINE
○	IRON ROD/IRON PIPE
---	OVERHEAD ELECTRIC/WIRES
---	EDGE OF PAVEMENT
---	EDGE OF GRAVEL
○	UTILITY POLE
○	ELECTRIC METER
○	WATER SHUTOFF
○	GAS GATE VALVE
○	WATER GATE VALVE
○	TYPICAL



BUILDING COVERAGE CALCULATION (TO PROPERTY LINE):

EXISTING:
HOUSE - 1,147 S.F.
GARAGE - 255 S.F.
PORCH - 24 S.F.
TOTAL BUILDING COVERAGE - 1,426 S.F.
BUILDING COVERAGE PERCENTAGE - 42.9%

PROPOSED:
HOUSE w/ ATTACHED GARAGE - 1,669 S.F.
PORCH - 24 S.F.
TOTAL BUILDING COVERAGE - 1,693 S.F.
BUILDING COVERAGE PERCENTAGE - 50.9%

EXISTING & PROPOSED SETBACKS:

EXISTING:
FRONT - 0 FEET
RIGHT SIDE - 1.9 FEET
LEFT SIDE - 3.9 FEET
REAR - 3.7 FEET

PROPOSED:
FRONT - 0 FEET
RIGHT SIDE - 1.9 FEET
LEFT SIDE - 4.6 FEET
REAR - 3.8 FEET

OPEN SPACE CALCULATION (TO PROPERTY LINE):

EXISTING:
654 S.F. (PATIO & RETAINING WALL ARE 37.5% OF OPEN SPACE)
OPEN SPACE - 19.7%

PROPOSED:
729 S.F. (PATIO, RETAINING WALL, & GRANITE STOOP ARE 35.3% OF OPEN SPACE)
OPEN SPACE - 21.9%

NOTES:

- 1) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED RENOVATION AND EXPANSION OF AN EXISTING STRUCTURE ON ASSESSOR'S MAP 163 LOT 16 IN THE CITY OF PORTSMOUTH.
- 2) SUBJECT PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 163 AS LOT 16.
- 3) OWNERS OF RECORD:
CARRIE EDWARDS & GABRIEL EDWARDS
59 RIDGE STREET
ARLINGTON, MA 02474
6330/1980
- 4) THE SUBJECT PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP PANEL 33015C0259F, PANEL EFFECTIVE DATE JANUARY 29, 2021.
- 5) SUBJECT PARCEL AREA:
3,326 S.F. (PER PLAN REFERENCE 1)
0.0764 ACRES (PER PLAN REFERENCE 1)
- 6) SUBJECT PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) ZONING DISTRICT AND IS SUBJECT TO THE FOLLOWING DIMENSIONAL REQUIREMENTS:

MINIMUM LOT SIZE	7,500 S.F.
FRONTAGE	100 FEET
DEPTH	70 FEET
SETBACKS	FRONT 15 FEET SIDE 10 FEET REAR 20 FEET
MAXIMUM BUILDING HEIGHT	35 FEET
MAXIMUM BUILDING COVERAGE	25%
MINIMUM OPEN SPACE	30%
- 7) BASIS OF BEARING & HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM NAD83(2011). BASIS OF HORIZONTAL DATUM IS PLAN REFERENCE 1.
- 8) THIS PLAN IS BASED ENTIRELY ON A SURVEY BY AMBIT ENGINEERING, INC. CONDUCTED IN 2022. THIS PLAN IS NOT THE RESULT OF A FIELD SURVEY BY STAKE & STONES LAND SURVEYING, LLC. SEE PLAN REFERENCE 1 FOR BOUNDARY INFORMATION.

PLAN REFERENCE:

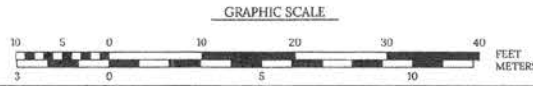
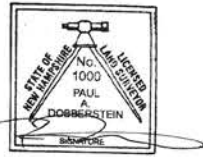
- 1) STANDARD BOUNDARY SURVEY TAX MAP 162-LOT 16 OWNER: CARRIE EDWARDS & GABRIEL EDWARDS 51 MORNING STREET CITY OF PORTSMOUTH COUNTY OF ROCKINGHAM STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED NOVEMBER 2022; FINAL REVISION DATE DECEMBER 15, 2022. NOT RECORDED.

BUILDING PERMIT PLAN
OWNERS OF RECORD
**CARRIE EDWARDS &
GABRIEL EDWARDS**
ASSESSOR'S MAP 163 LOT 16
51 MORNING STREET
CITY OF PORTSMOUTH
ROCKINGHAM COUNTY
NEW HAMPSHIRE

I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT THE CALCULATIONS SHOWN HEREON, BASED SOLELY ON PLAN REFERENCE 1, ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

PAUL A DOBBERSTEIN, LLS

8/16/2025
DATE

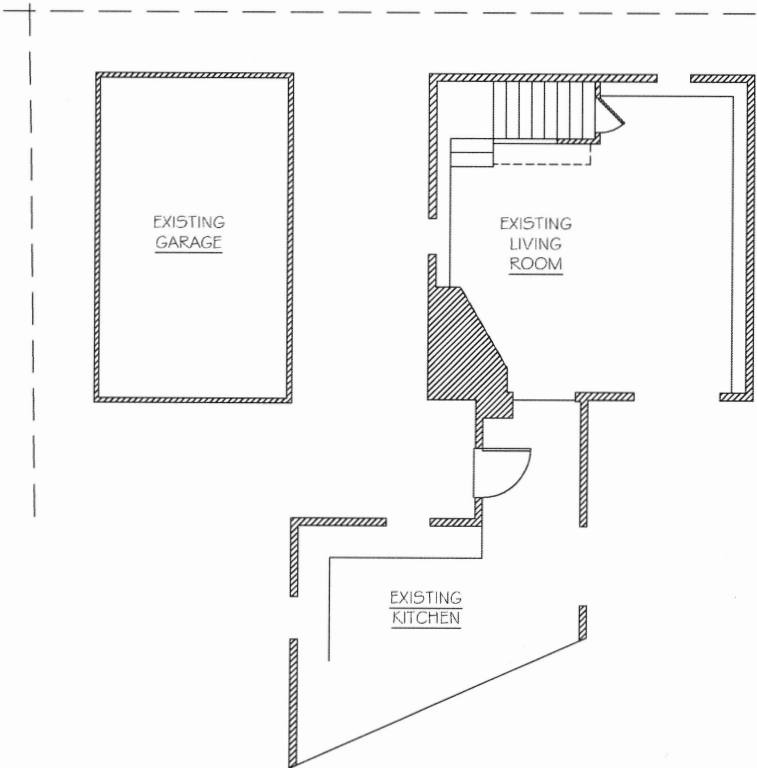


REVISIONS		
NO.	DESCRIPTION	DATE
2	CORRECT OWNER ADDRESS	8/16/2025
1	REVISE PER COMMENTS	8/14/25

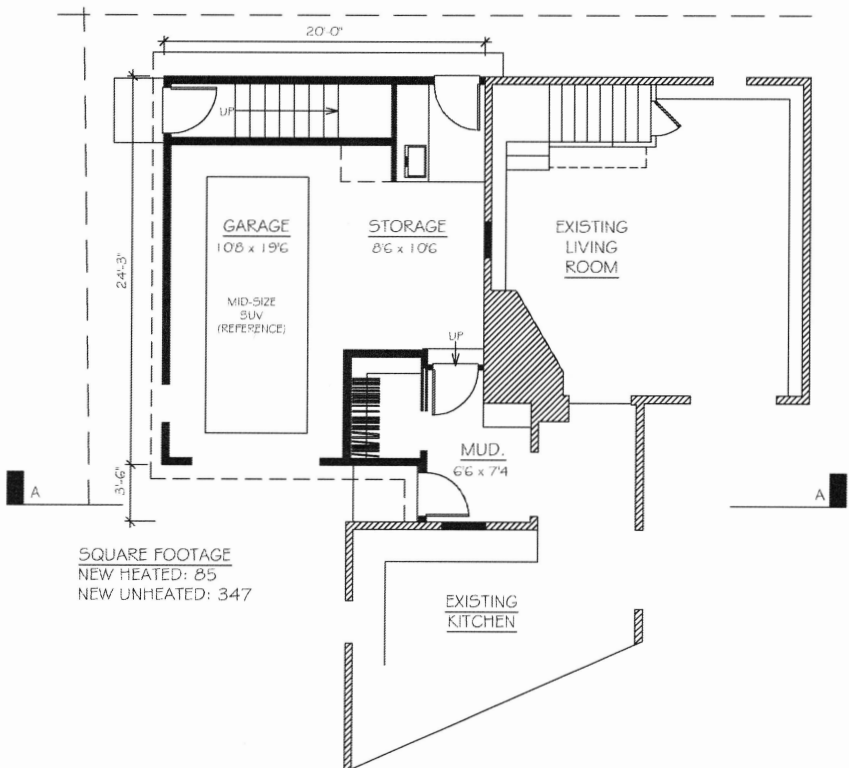


Stake & Stones Land Surveying, LLC
229 S Main Street Newmarket, NH 03857
603.292.5747 www.sslsnh.com

SCALE 1"=10' JULY 23, 2025 JOB #248

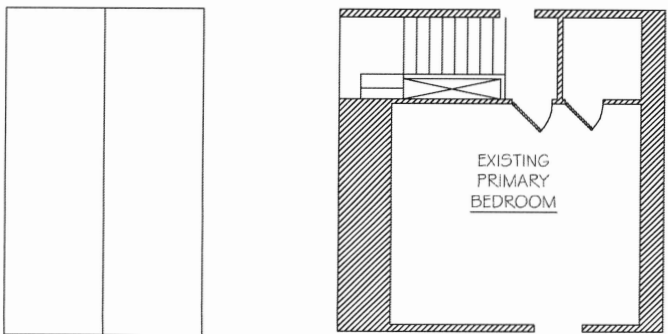


EXISTING FIRST FLOOR

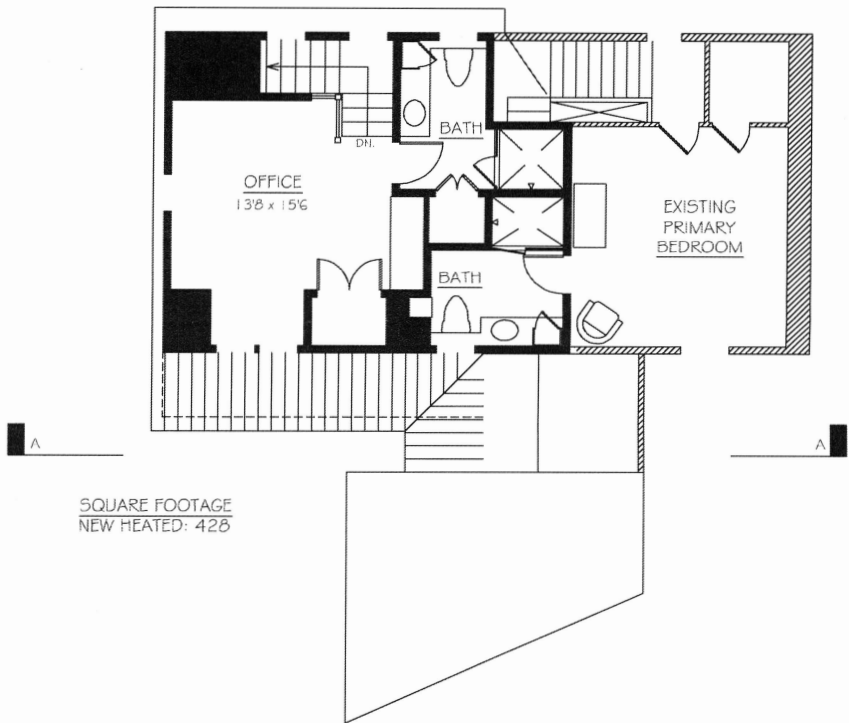


PROPOSED FIRST FLOOR

- EXISTING FRAMING
- NEW FRAMING



EXISTING SECOND FLOOR



PROPOSED SECOND FLOOR

- EXISTING FRAMING
- NEW FRAMING

APPROX. SF @
BACK 29'-7"

APPROX. FF @ BACK 21'-10"



PROPOSED ELEVATION-SECTION A-A



EXISTING NORTHEAST ELEVATION
(STREET)



PROPOSED NORTHEAST ELEVATION
(STREET)



EXISTING SOUTHWEST ELEVATION
(DRIVEWAY)



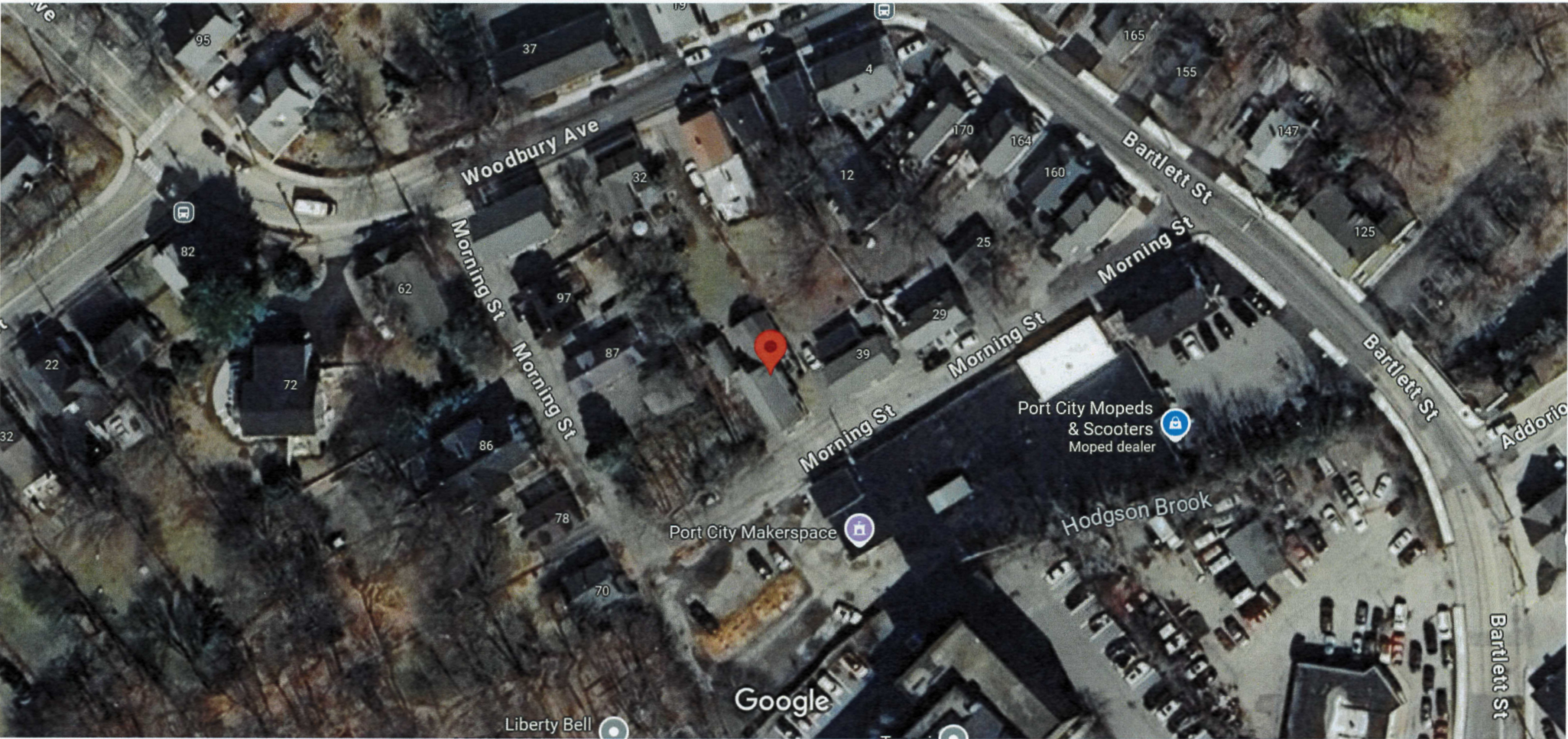
PROPOSED SOUTHWEST ELEVATION
(DRIVEWAY)



EXISTING NORTHWEST ELEVATION
(BACK)



PROPOSED NORTHWEST ELEVATION
(BACK)



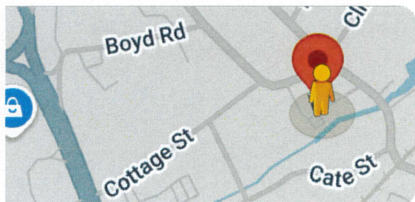
Portsmouth, New Hampshire

 Google Street View

Sep 2019 [See more dates](#)



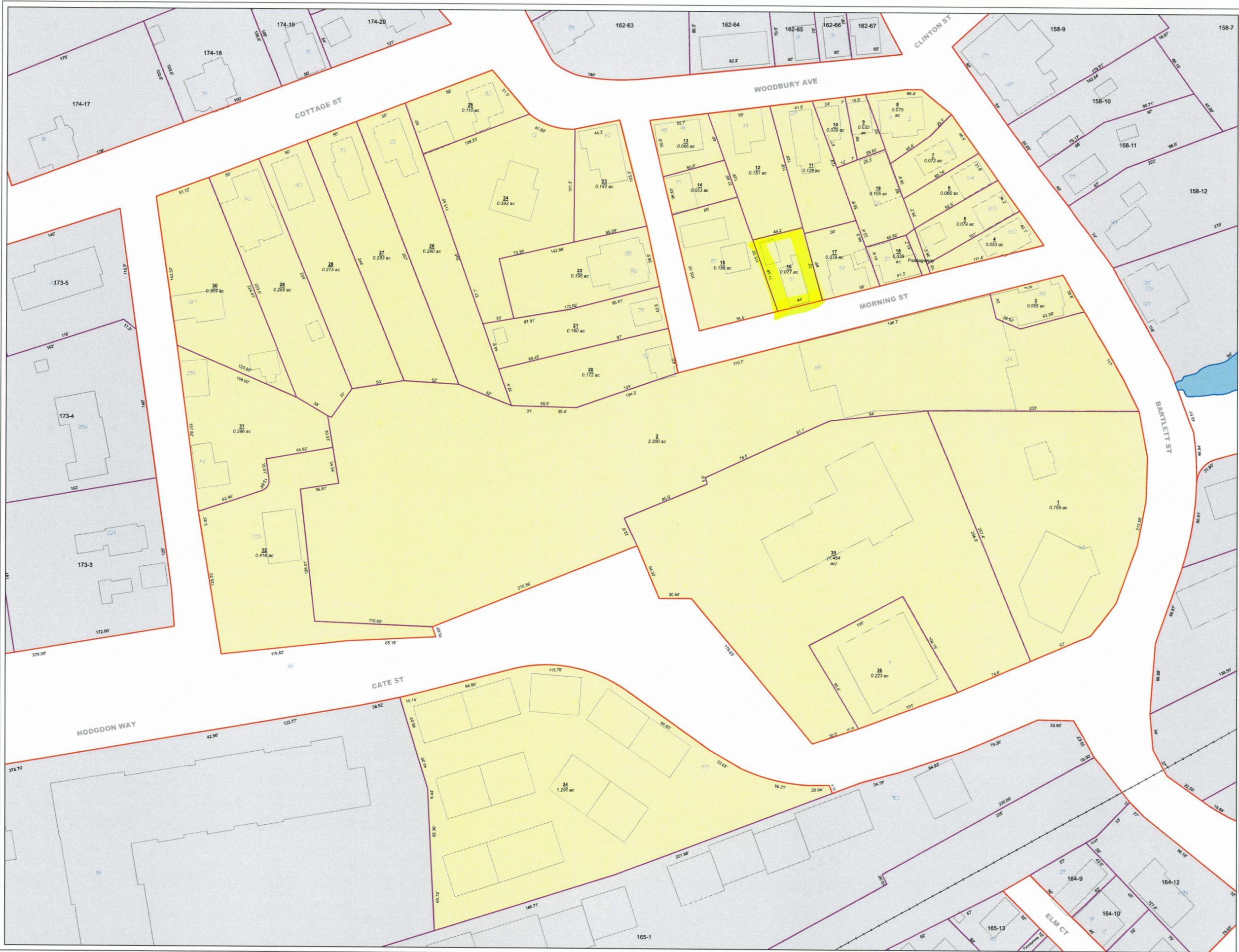
Image capture: Sep 2019 © 2025 Google











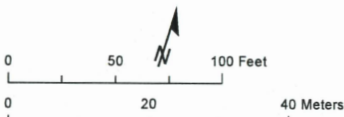
Partial Legend
See the cover sheet for the complete legend.

7-5A Lot or lot-unit number
2.56 ac Parcel area in acres (ac) or square feet (sf)
Address number
233-137 Parcel number from a neighboring map
66' Parcel line dimension

SIMS AVE Street name

Parcel/Parcel boundary
Parcel/ROW boundary
Water boundary
Structure (1994 data)

Parcel covered by this map
Parcel from a neighboring map (see other map for current status)



This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.

