

BY: VIEWPOINT & HAND DELIVERY

July 24, 2023

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Sean and Andrea Creeley, Trustees
of the Creeley Family Trust
337 Richards Avenue, Tax Map 130, Lot 2**

Dear Stefanie,

Our Office represents Sean and Andrea Creeley, owners of the property located at 337 Richards Avenue, Portsmouth. Enclosed herewith, please find the following materials relative to the variance application submitted to the Board of Adjustment on behalf of the Creeleys through Viewpoint:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Existing and Proposed Conditions Plans;
- 4) Existing and Proposed Floor Plans and Elevations;
- 5) Photographs;
- 6) Support Letter from Owner of 192 Lincoln Ave.

A copy of the above application materials is being delivered to the Planning Department. 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.

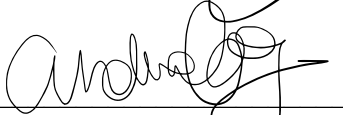
LANDOWNER LETTER OF AUTHORIZATION

Sean W. Creeley and Andrea T. Creeley, Trustees of the Creeley Family Trust, record owners of the property located at 337 Richards Avenue, Tax Map 130, Lot 2, Portsmouth, NH (the "Property"), hereby authorize **Durbin Law Offices, PLLC, Altus Engineering, Inc., and Somma Studios**, to file any zoning, planning or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.



Sean W. Creeley, Trustee

July 18, 2023



Andrea T. Creeley, Trustee

July 18, 2023

**CITY OF PORTSMOUTH
ZONING APPLICATION NARRATIVE**

Sean W. and Andrea T. Creeley, Trustees
Creeley Family Trust
(Owner/Applicant)
Tax Map 130, Lot 2
337 Richards Avenue
Portsmouth, NH 03801

Introduction

Sean and Andrea Creeley are the owners of property located at 337 Richards Avenue in Portsmouth (the “Property”). The Property is a corner lot, situated at the intersection of Richards and Lincoln Avenues. It is located in the General Residence A (“GRA”) zoning district. The Property contains a relatively small, narrow two-story, single-family home built in 1900 that serves at the Creeleys residence. There is also a non-conforming detached garage on the Property located along the easterly boundary that is accessed from a driveway off of Lincoln Avenue. The Creeleys and their guests use this driveway and the stone patio between it and the house as their primary access.

The Property itself is 10,881 square feet (+/-) in size, which makes it larger than the vast majority of properties in the surrounding area. Of those properties that are of similar size, most if not all have multiple dwelling units on them. The Creeley’s property is a true outlier for the neighborhood.

The detached garage is quite small at around 300 sq. ft. The garage has fallen into disrepair and shows signs of weather damage and rot throughout. It is generally in poor condition and suffers from physical and functional obsolescence. The garage has primarily served as storage for outdoor furniture, bikes and their children’s belongings. It is too small to fit a modern car and given its condition, it is not suitable for vehicular use.

Proposed Improvements

The Creeleys intend to do a full renovation of their home and related improvements to the Property to create a more functional, modern living environment for their family of 4. From the outside, the existing home looks larger than it actually is due to the turret design element, expansive wraparound porch, bay window features and ornate exterior detailing. The reality is that the existing home is relatively narrow in width (20’-6”) side to side) and the living space is compartmentalized into rooms that are relatively small by current standards. The kitchen is 11’ x 9’, the dining room is 11 x 10’, the living room is 13’-10” x 12’3”, and the bedrooms are 9’ x 12”. There is no true primary bedroom in the home.

The Creeleys would like to demolish the existing garage and chicken coop on the Property and replace it with a more functional, two-car addition that would tie in architecturally to a mudroom/living room addition that they will be constructing to the southerly side of their home. The garage addition would be in approximately the same location as the existing one and stone patio but would be taller than the existing structure at 18.3' versus 10.2' to allow for a primary bedroom above. This will improve the conditions of the Property and create some much-needed additional living (bedroom) space for the Creeleys without encroaching further into the rear yard setback than the existing garage. The garage addition will be slightly more conforming with respect to the rear yard setback than the existing one. It is also important to note that the most directly impacted abutter has been consulted concerning the proposed garage and has expressed his support for the Creeleys plans, as demonstrated by the letter of support submitted with the foregoing variance application.

Summary of Zoning Relief

1. Section 10.521

To allow a 1.7 (+/-) right yard setback where 1.4' (+/-) exists and 20' is required.

Variance Criteria

Granting the variance will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives.'" Id. The Court observed that "[t]here 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." Id.

There are numerous examples of similar setback encroachments throughout the South End of Portsmouth as a result of how properties in this area were historically developed. The proposed garage is designed to align stylistically with the existing house and mudroom/living room addition. It has been designed at the minimum height and width necessary to accommodate two vehicles and a reasonably sized bedroom above. It will not encroach further into the rear yard setback than the existing garage. To the contrary, the rear yard setback will be improved slightly beyond what exists. The new garage will be 1.7' from the rear yard boundary at its closest point and 3.6' at its furthest point. The existing garage has an existing setback of 1.4' at its closest point and 2.6' at its further point.

The height of the new garage will be only 8.1' above the existing garage. Any impact upon the light, air and space of abutting property to the rear beyond what exists would be minimal, particularly when you consider the fact that the area immediately adjacent to the proposed garage is a 17-19' wide driveway. There is no structure or usable yard area occupying the space adjacent to the proposed garage. The Creeleys have agreed to keep the mature, large maple tree that is situated immediately south of the existing garage at the abutting property owner's request. This tree has a far greater impact upon the light, air and space of the abutting property than the proposed garage addition would have.

Locating the proposed garage addition to the Richards Avenue side of the Property was considered but is impractical as a result of the layout and location of the home and other features, such as the existing access off of Lincoln Avenue. It is also disfavored by the neighbors who the Creeleys have spoken to. It would drastically alter the character of the streetscape in this area of Richards Avenue and would require a new curb cut and driveway, which would need approval from the Public Works Department, and would require abandonment of the existing curb cut and driveway off of Lincoln Avenue.

For the foregoing reasons, approving the variance request will not alter the essential character of the neighborhood or otherwise conflict with the basic objectives of the Zoning Ordinance. There are also no public health, safety or welfare concerns implicated by the proposed garage. To the contrary, the proposed garage and improvements being made to the home are all designed to meet current building and life safety codes.

Substantial Justice will be done in granting the variance.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The "only guiding rule is that 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 by denying the variance request. There is only one potentially impacted abutting property and the owner supports the proposed garage addition, as evidenced by the letter submitted with the foregoing variance application. Granting the variance will allow for some much-needed additional bedroom space, improved parking and storage space, and bring the Property into slightly greater conformance with the rear yard setback requirement. Therefore, the loss to the Creeleys in denying the variance request outweighs any potential gain to the public.

Surrounding property values will not be diminished by granting the variance.

The Board is justified in relying upon its own knowledge and expertise to reach the conclusion that surrounding property values will either remain the same or improve if the variance are granted. A garage already exists in approximately the same location as the proposed garage, which is abutted by the neighbor's driveway. Architecturally, the proposed garage will tie in naturally with the existing home and other improvements being made to it. Landscaping is also being added to soften the appearance of the proposed garage. It has been designed at the minimum height and width to support its intended use. The rear abutter's support of the proposed garage is evidence that surrounding values will not be negatively impacted by granting the variance.

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

The Property has several conditions that distinguish it from surrounding properties. It is a large, corner lot with a single-family home and detached garage on it that were constructed before current zoning regulations were adopted. While Richards Avenue is considered the "primary frontage" of the Property, access to the home has been historically achieved via Lincoln Avenue where the existing driveway, stone patio and garage are located. Trying to move the garage addition to the Richards Avenue side of the home is infeasible and would negatively alter the streetscape. As such, it would make little sense to try to construct the garage addition in any location other than where it is proposed. The proposed garage addition will be slightly more conforming to the rear yard setback requirement than the existing garage and will occupy an area that already serves as access to the home and is adjacent to the neighbor's driveway. Accordingly, as a result of these special conditions of the Property, there is no fair and substantial relationship between the general purposes of the rear yard setback requirement and its application to the proposed garage, and the use is reasonable. The Property will continue to be used for single-family residential purposes, which is an allowable use in the GRA Zoning District.

Conclusion

For the reasons set forth above, the Creeleys have demonstrated that their application meets the criteria for granting the variance request. As such, they respectfully request the Board's approval of the same.

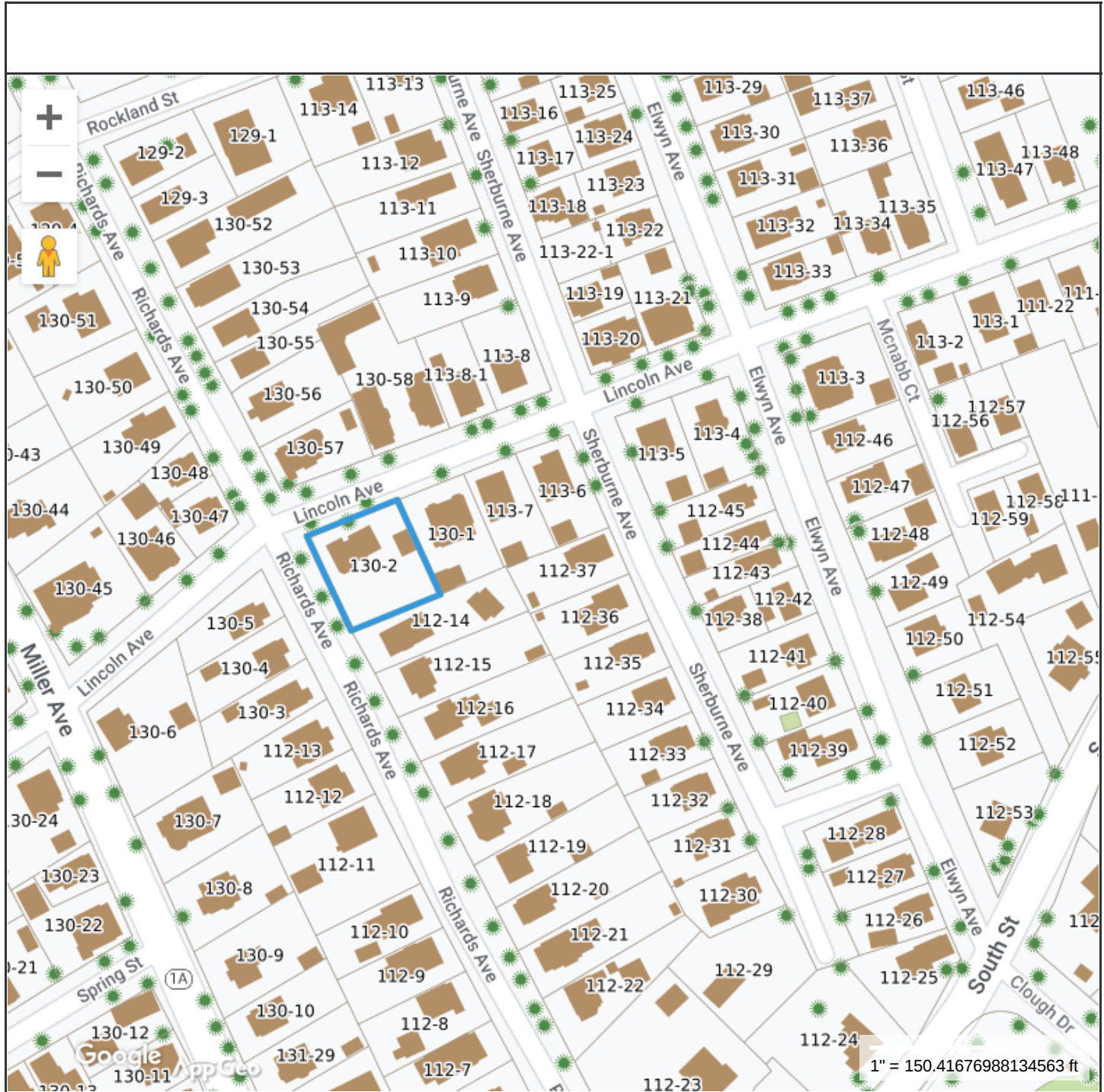
Respectfully Submitted,

Sean and Andrea Creeley, Trustees



By: Derek R. Durbin, Esq.
DURBIN LAW OFFICES PLLC
144 Washington Street
Portsmouth, NH 03801
(603)-287-4764
derek@durbinlawoffices.com

Dated: July 24, 2023



Property Information

Property ID 0130-0002-0000
Location 337 RICHARDS AVE
Owner CREELEY FAMILY TRUST

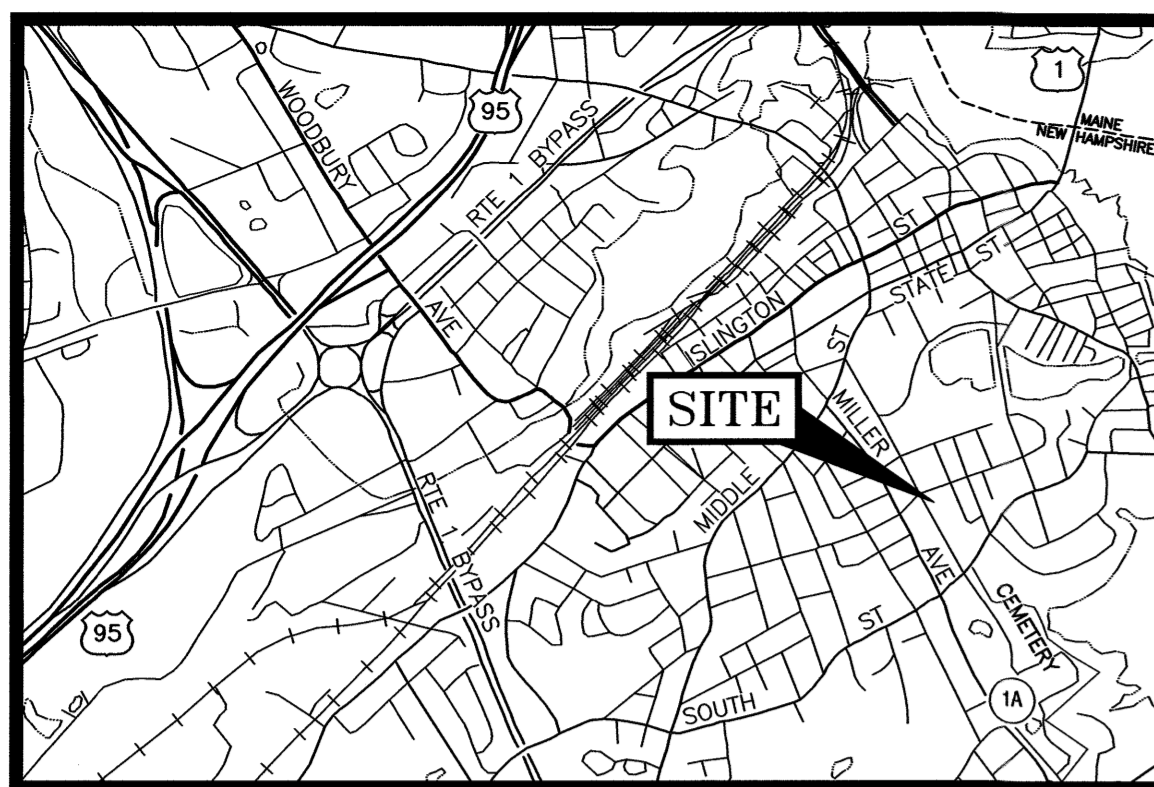


**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 06/21/2023
Data updated 3/9/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

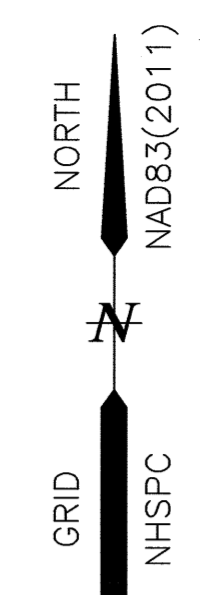
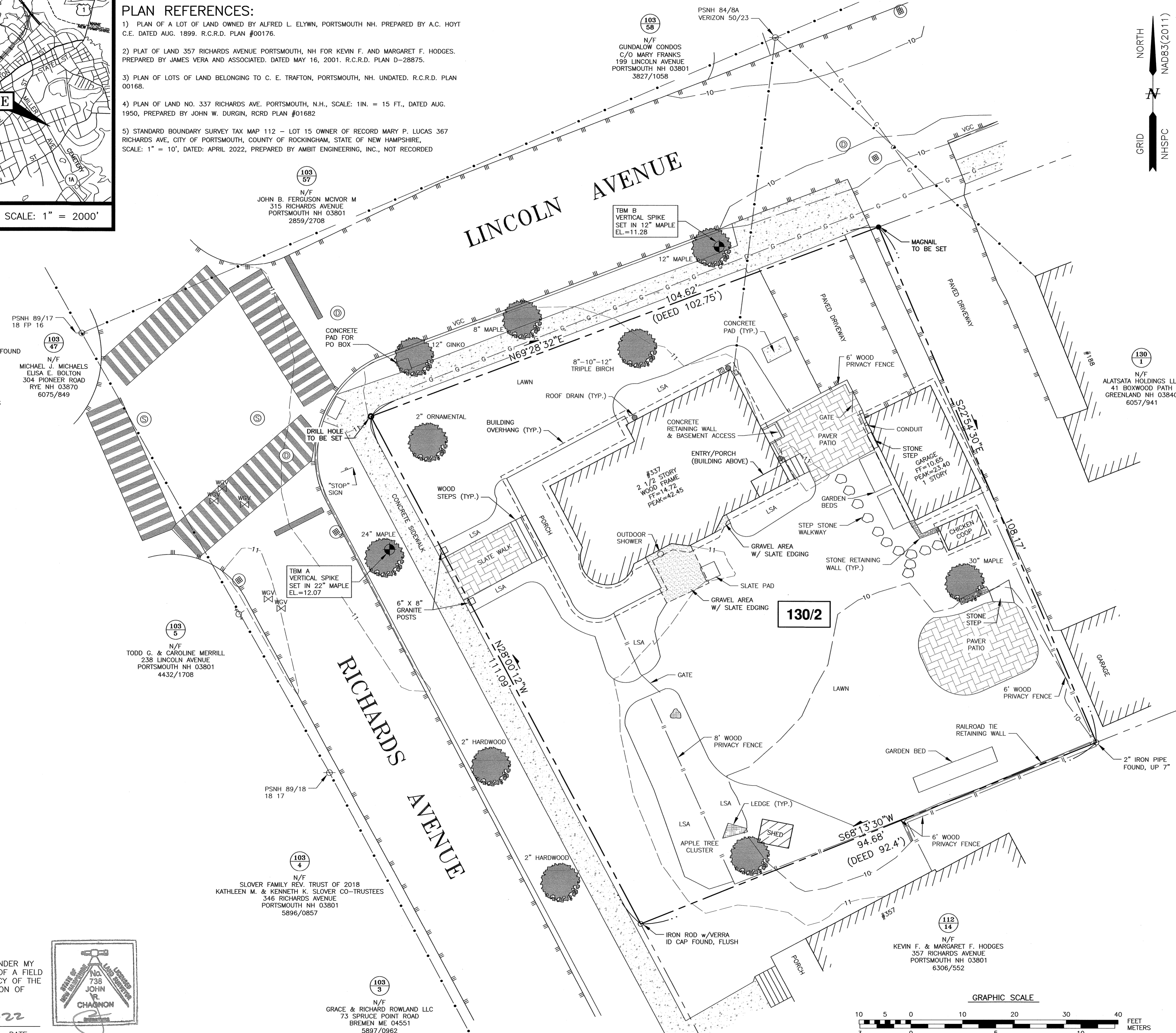


LOCATION MAP SCALE: 1" = 2000'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS MAP 11 / LOT 21
- BOUNDARY
- SETBACK
- IRON ROD/PIPE FOUND
- DRILL HOLE FOUND
- STONE/CONCRETE BOUND FOUND
- SEWER LINE
- GAS LINE
- STORM DRAIN
- WATER LINE
- OVERHEAD ELECTRIC/WIRES
- CONTOUR
- EDGE OF PAVEMENT
- UTILITY POLE (w/ GUY)
- WATER GATE VALVE
- HYDRANT
- METER (GAS & ELECTRIC)
- CATCH BASIN
- SEWER MANHOLE
- DRAIN MANHOLE
- SIGNS
- ELEVATION
- F.F. FINISHED FLOOR
- TBM TEMPORARY BENCHMARK
- TYP. TYPICAL
- VGC VERTICAL GRANITE CURB
- LSA LANDSCAPED AREA
- DECIDUOUS TREE

- PLAN REFERENCES:**
- 1) PLAN OF A LOT OF LAND OWNED BY ALFRED L. ELYWN, PORTSMOUTH NH. PREPARED BY A.C. HOYT C.E. DATED AUG. 1899. R.C.R.D. PLAN #00176.
 - 2) PLAT OF LAND 357 RICHARDS AVENUE PORTSMOUTH, NH FOR KEVIN F. AND MARGARET F. HODGES. PREPARED BY JAMES VERA AND ASSOCIATED. DATED MAY 16, 2001. R.C.R.D. PLAN D-28875.
 - 3) PLAN OF LOTS OF LAND BELONGING TO C. E. TRAFTON, PORTSMOUTH, NH. UNDATED. R.C.R.D. PLAN 00168.
 - 4) PLAN OF LAND NO. 337 RICHARDS AVE. PORTSMOUTH, N.H., SCALE: 1IN. = 15 FT., DATED AUG. 1950, PREPARED BY JOHN W. DURGIN, RCRD PLAN #01682
 - 5) STANDARD BOUNDARY SURVEY TAX MAP 112 - LOT 15 OWNER OF RECORD MARY P. LUCAS 367 RICHARDS AVE, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. SCALE: 1" = 10', DATED: APRIL 2022, PREPARED BY AMBIT ENGINEERING, INC., NOT RECORDED



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

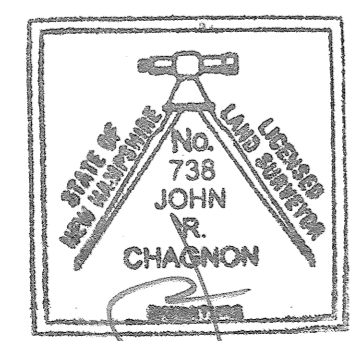
- NOTES:**
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 130 AS LOT 2.
 - 2) OWNERS OF RECORD:
CREELEY FAMILY TRUST
SEAN W. CREELEY &
ANDREA T. CREELEY TRUSTEES
337 RICHARDS AVENUE
PORTSMOUTH, NH 03801
5845/0990
R.C.R.D. PLAN# 01682
 - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259F. EFFECTIVE DATE 1/29/2021.
 - 4) EXISTING LOT AREA:
10,881 S.F.
0.2498 ACRES
 - 5) PARCEL IS LOCATED IN (GRA) GENERAL RESIDENCE A ZONING DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 7,500 S.F.
FRONTAGE: 100 FEET
SETBACKS:
FRONT: 15 FEET
SIDE: 10 FEET
REAR: 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM BUILDING COVERAGE: 25 %
MINIMUM OPEN SPACE: 30 %
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY OF ASSESSOR'S MAP 130 LOT 2 IN THE CITY OF PORTSMOUTH.
 - 8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	8/30/22
REVISIONS		

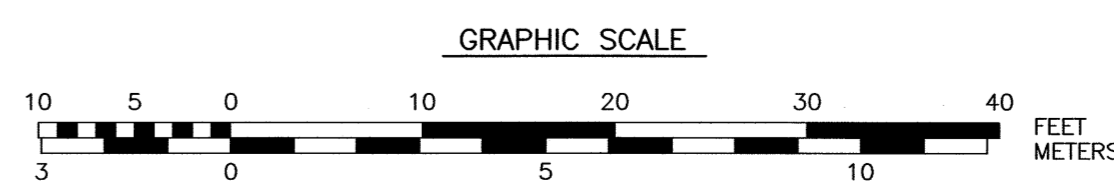
STANDARD BOUNDARY & TOPOGRAPHIC SURVEY
TAX MAP 130 - LOT 2
OWNER:
CREELEY FAMILY TRUST
337 RICHARDS AVENUE
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

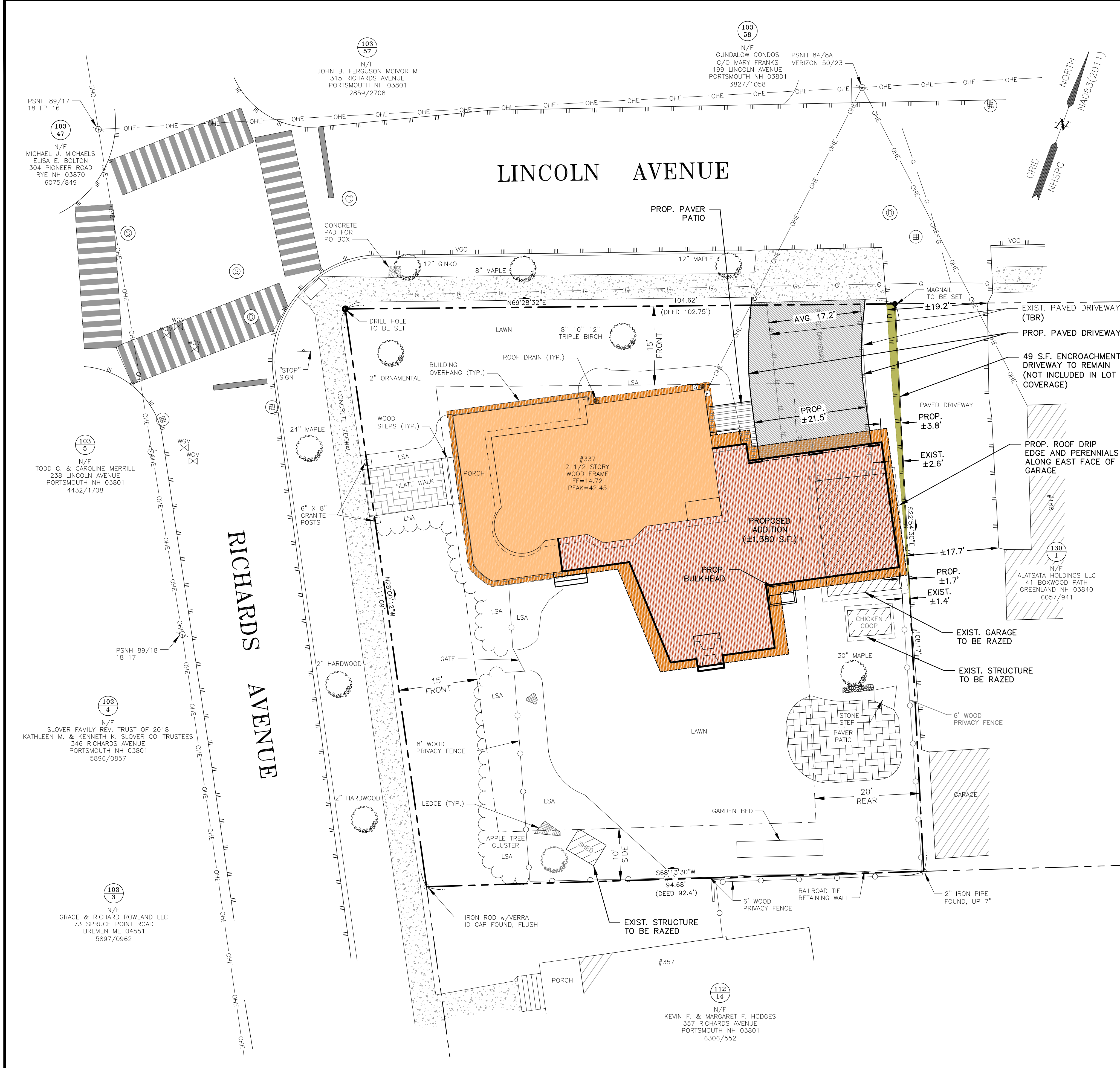
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

[Signature] 8-30-22
JOHN R. CHAGNON, LLS #738 DATE



N/F GRACE & RICHARD ROWLAND LLC
73 SPRUCE POINT ROAD
BREMEN ME 04551
5897/0962





SITE NOTES

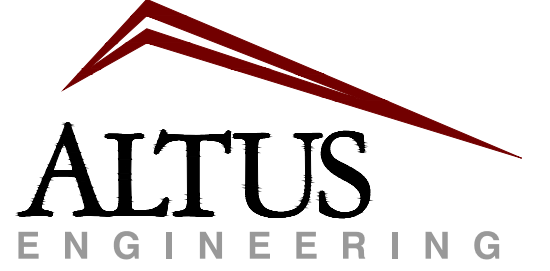
DESIGN INTENT - THIS PLAN SET IS INTENDED TO DEPICT AN EXPANSION OF SINGLE FAMILY RESIDENCE.

- APPROXIMATE LOT AREA: 10,881 S.F.± (0.25 AC.±)
 - ZONE: (GRA) GENERAL RESIDENCE A
 - DIMENSIONAL REQUIREMENTS - (GRA) GENERAL RESIDENCE A

	REQUIRED	EXISTING	PROVIDED
MIN. LOT AREA:	7,500 S.F.	10,881 SF	
MIN. STREET FRONTAGE:	100'	104.62'	
FRONT SETBACK:	15'		
LINCOLN AVE.		±15.8'	±15.8'
RICHARDS AVE.		±17.3'	±17.3'
SIDE SETBACK:	10'	±52.8'	±41.2'
REAR SETBACK:	20'	±1.4'	±1.7'
 - MAX. BUILDING HEIGHT: 35'
 - MAIN BUILDING: 26.7'
 - GARAGE: 10.2'
 - MAX. BUILDING COVERAGE: 25%
 - MAIN BUILDING: 15.1% (1,642 SF)
 - GARAGE: 24.9% (2,709 SF)
 - MIN. OPEN SPACE: 30%
 - MAIN BUILDING: 68.6% (7,463 SF)
 - GARAGE: 62.3% (6,782 SF)
- BASIS OF BEARING IS PER NH STATE PLANE COORDINATE SYSTEM NAD83(2011).
 - ELEVATION DATUM NAVD88.
 - PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA PER FEMA FIRM MAP NUMBER 33015C0259F, MAP REVISED 1/29/21.
 - ALL CONSTRUCTION SHALL MEET THE MINIMUM STANDARDS OF THE CITY OF PORTSMOUTH & NHDOT'S STANDARD SPECIFICATION FOR ROAD & BRIDGE CONSTRUCTION, LATEST EDITIONS. THE MORE STRINGENT SPECIFICATION SHALL GOVERN.
 - PER CITY OF PORTSMOUTH REQUIREMENTS, THIS PLAN MAY BE RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. THE APPROVED SITE PLAN WILL REQUIRE MINOR REVISIONS IN ORDER FOR THE PLAN TO MEET RECORDING REQUIREMENTS AT THE REGISTRY. THESE CHANGES WILL NOT ALTER THE APPROVED DESIGN OF THE SITE.

PLAN REFERENCE:

- "STANDARD BOUNDARY & TOPOGRAPHIC SURVEY, TAX MAP 130 - LOT 2, FOR CREELEY FAMILY TRUST, 337 RICHARDS AVENUE, CITY OF PORTSMOUTH, NH", DATED 8/30/22, BY AMBIT ENGINEERING, INC.



133 Court Street
(603) 433-2335

Portsmouth, NH 03801
www.altus-eng.com

NOT FOR CONSTRUCTION

ISSUED FOR: BOA SUBMISSION

ISSUE DATE: JULY 19, 2023

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION	EDW	07/19/23

DRAWN BY: _____ RMB
 APPROVED BY: _____ EDW
 DRAWING FILE: 5432SITE.DWG

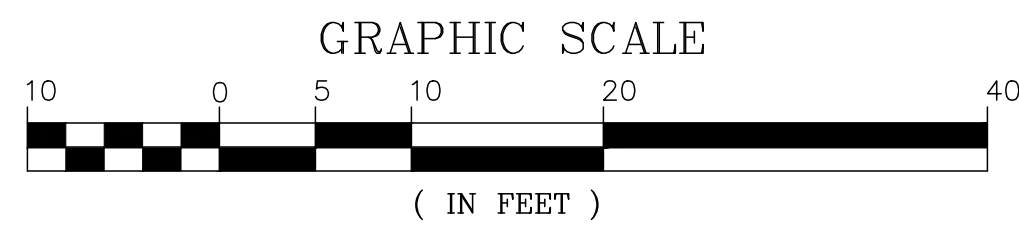
SCALE:
 (22"x34") 1" = 10'
 (11"x17") 1" = 20'

OWNER/APPLICANT:
 CREELEY FAMILY TRUST
 SEAN W. & ANDREA T. CREELEY
 TRUSTEES
 337 RICHARDS AVENUE
 PORTSMOUTH, NH 03801

PROJECT:
 CREELEY
 RESIDENCE
 EXPANSION
 TAX MAP 130 LOT 2
 337 RICHARDS AVENUE
 PORTSMOUTH, NH

TITLE:
 BOA PLAN

SHEET NUMBER:
 1 OF 1





NORTHWEST ELEVATION
(LINCOLN AVENUE)



NORTHEAST ELEVATION



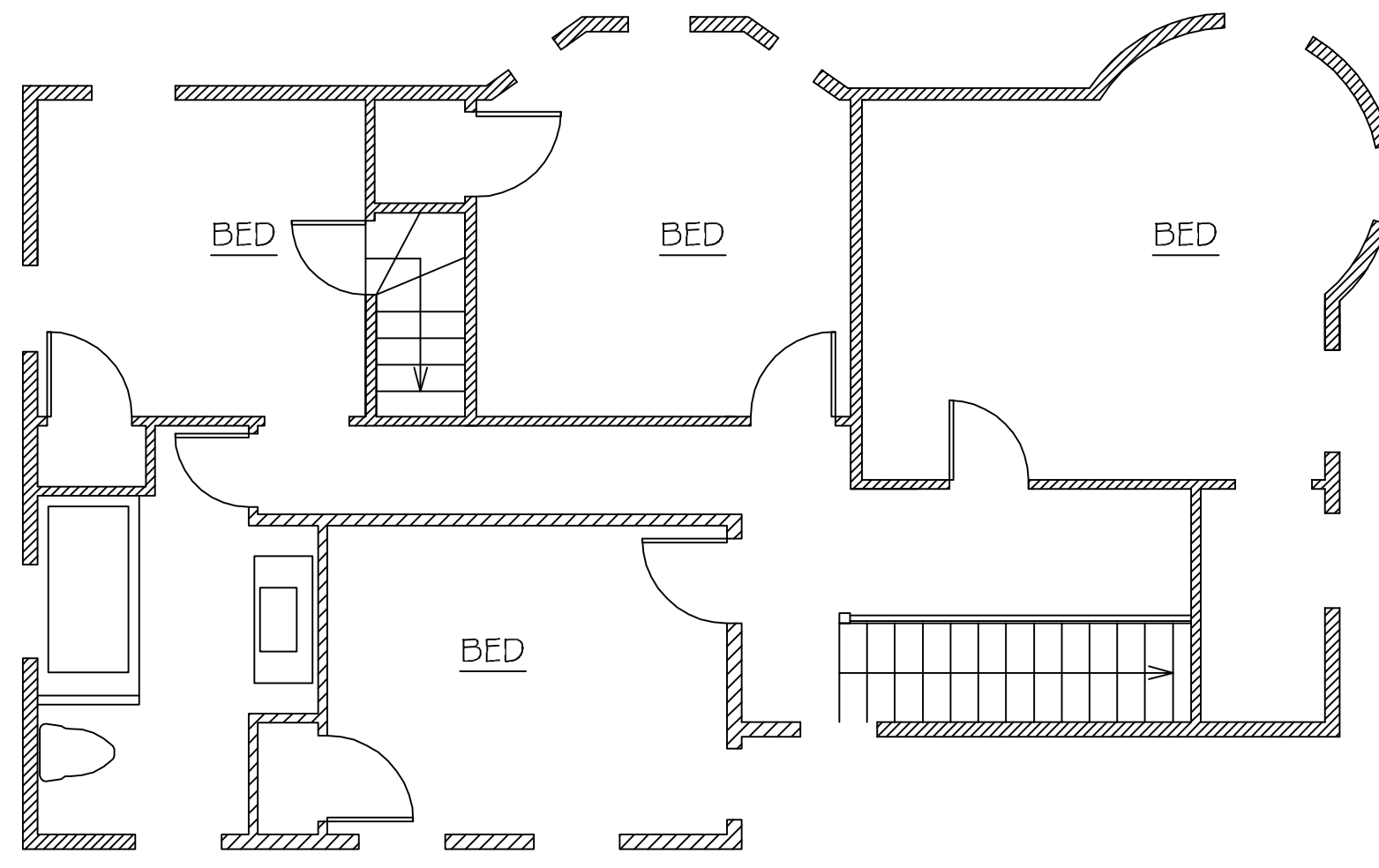
SOUTHEAST ELEVATION



SOUTHWEST ELEVATION
(RICHARDS AVENUE)

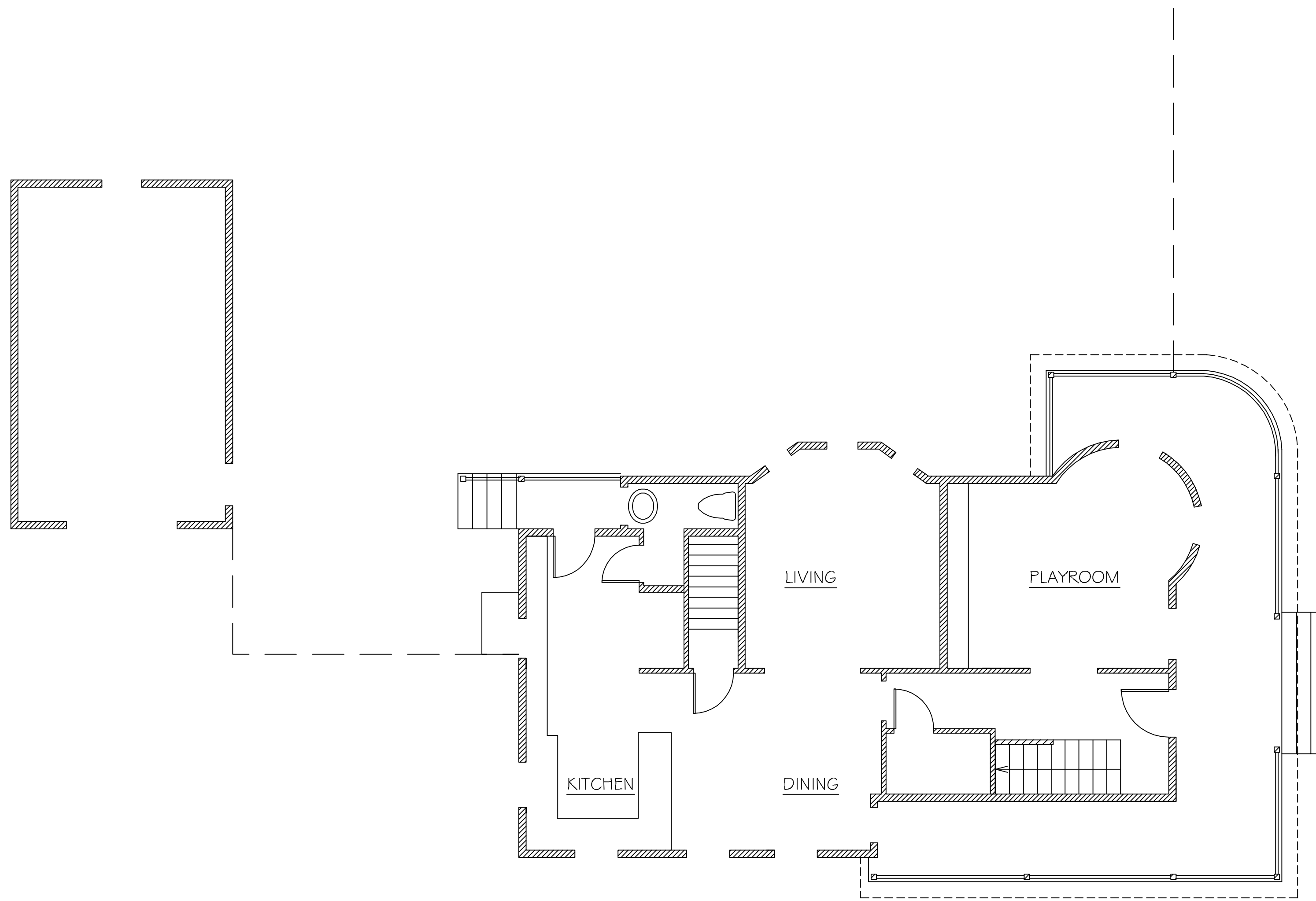
SECOND FLOOR

EXISTING FRAMING
NEW FRAMING



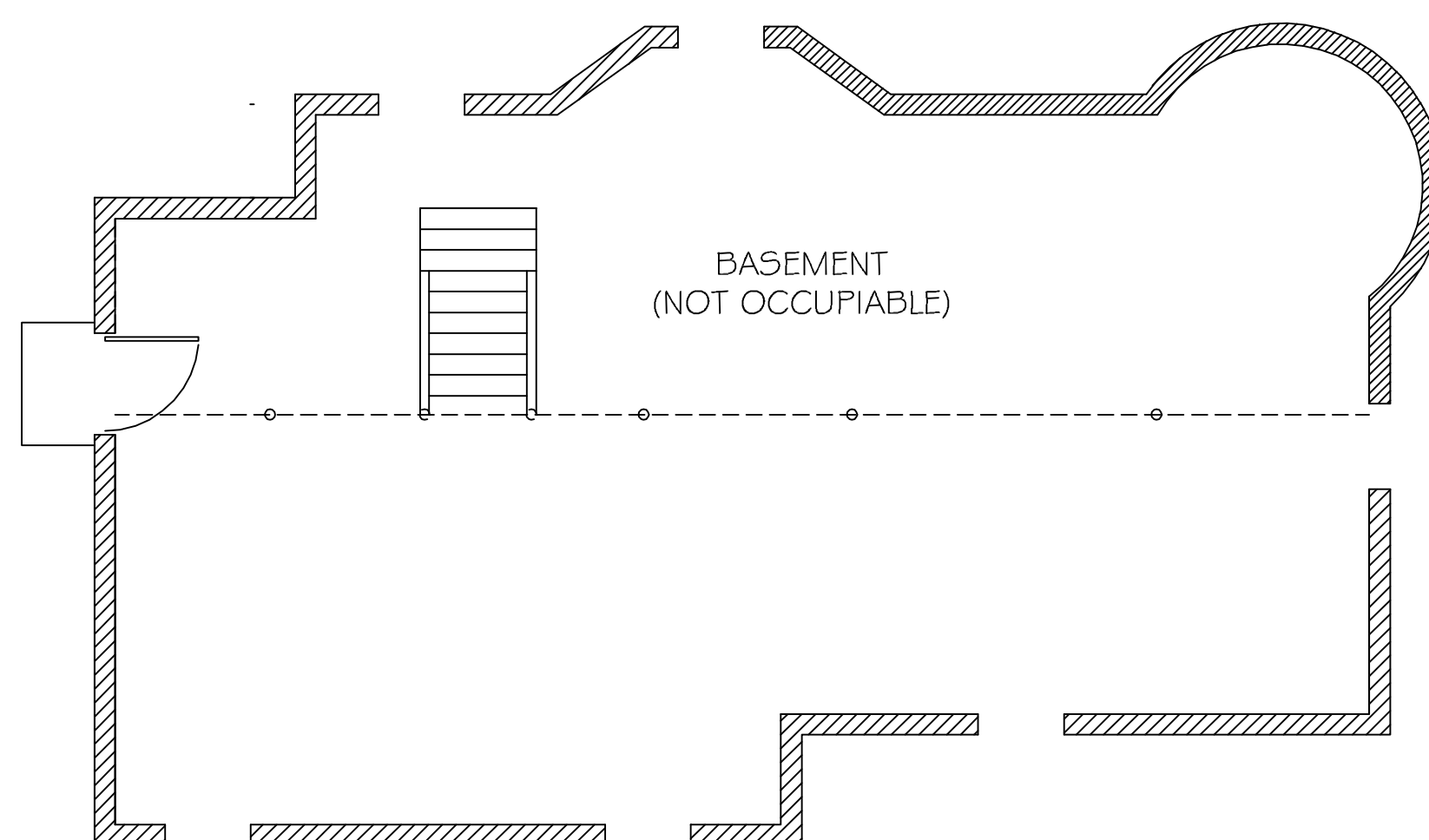
FIRST FLOOR

EXISTING FRAMING
NEW FRAMING



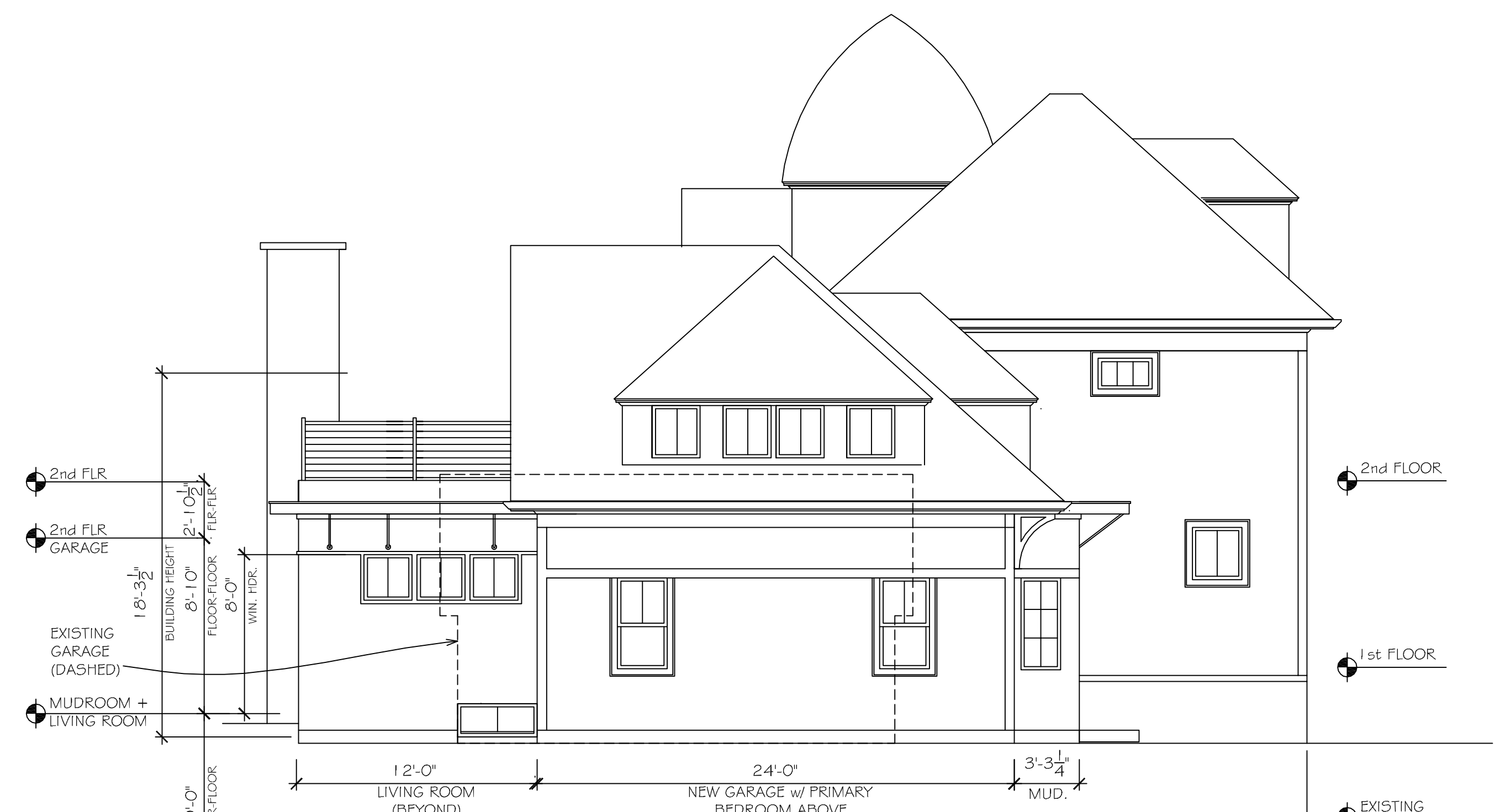
BASEMENT

EXISTING FRAMING
NEW FRAMING





NORTHWEST ELEVATION
(LINCOLN AVENUE)



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



SOUTHWEST ELEVATION
(RICHARDS AVENUE)



Front View of Property (Richards Ave)



Front - Left View of Property (Intersection of Richards & Lincoln Ave)



Left Side Yard View of Property (Lincoln Ave)



Left Side Yard View of Property & Garage (Lincoln Ave)



Left Side Yard of Property (Lincoln Ave)



Rear View of Property, Garage & Driveway (Lincoln Ave)



Front Right View of Property (Richards Ave)

Anthony Raizes
192 Lincoln Avenue
Portsmouth, NH 03801

July 24, 2023

Dear Board Members,

My name is Anthony Raizes. I am the owner of the property located at 192 Lincoln Avenue. My property directly abuts the Creeleys to the east on Lincoln Avenue. My driveway is situated next to the existing garage on the Creeley property. I have reviewed the Creeleys plans for the proposed garage addition and related improvements. I am in support of their variance requests and believe they are consistent with the spirit and intent of the zoning requirements.

To the extent that they may need an easement for future maintenance along our common boundary line, I have indicated that I will grant it to them.

Having grown up in Portsmouth, graduating from Portsmouth High School in 1974 and being the third generation of this property at 192 Lincoln Avenue, I have seen many changes in this area and I feel extremely fortunate to have neighbors like the Creeleys who have an interest in making improvements to their property which not only benefits them as property owners but adds aesthetic value to the neighborhood.

I thank you for your time and attention to this matter.

Sincerely,



Anthony Raizes
Alatsata Holdings LLC