

III. NEW BUSINESS

- D. The request of **Point of View Condominium (Owner)**, for property located at **75 Salter Street #1** whereas relief is needed to relocate the existing residential structure landward of the highwater mark which requires the following: 1) Variance from Section 10.211 and Section 10.531 to allow the following: a) a 2' front yard where 30' is required, b) a 2' side yard where 30' is required; 2) Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance; 3) Variance from Section 10.516.40 to allow a heating vent to project 1' into the required side yard. Said property is located on Assessor Map 102 Lot 32-1 and lies within the Waterfront Business (WB) and Historic District. (LU-23-83)

Existing & Proposed Conditions

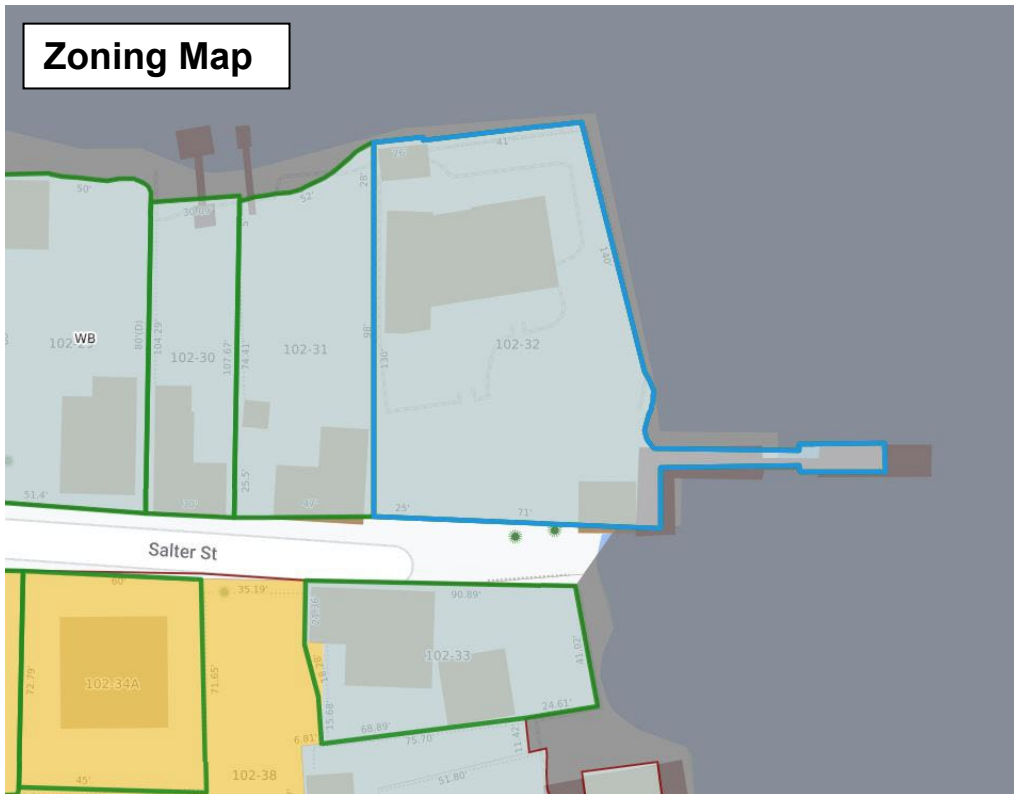
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two Single Family Condominium units	Relocate Unit 1*	Primarily residential
<u>Lot area (sq. ft.):</u>	11,327	11,327	20,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,663.5	5,663.5	NR min.
<u>Street Frontage (ft.):</u>	67	67	100 min.
<u>Lot depth (ft.)</u>	>100	>100	100 min.
<u>Front Yard (ft.):</u>	2	2	30 min.
<u>Left Yard (ft.):</u>	1.8	1.8	30 min.
<u>Right Yard (ft.):</u>	-5.6	2	30 min.
<u>Rear Yard (ft.):</u>	18	18	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	26	27	30 max.
<u>Open Space Coverage (%)</u>	52	53.5	20 min.
<u>Parking</u>	>3	>3	3
<u>Estimated Age of Structure:</u>	1991	Variance request(s) shown in red.	

*to allow a nonconforming structure to be extended, reconstructed, or enlarged.

Other Permits/Approvals Required

- Certificate of Approval - Historic District Commission
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

April 17, 1990 – The Board **granted** variances to allow the following: 1) development of a lot with 96' of frontage and 10,700 s.f. in area where 100' and 20,000 s.f. respectively are required; 2) the construction of a two story infill addition between the existing dwelling on lot 32 and that on lot 32A, creating one dwelling unit on a new lot having 96' frontage and being 10,700 s.f. in area; 3) two non-conforming dwellings to be combined and enlarged creating one non-conforming dwelling in a district where dwellings are not permitted increasing the extent of a non-conforming use of structure or land; 4a) a 19.2' rear yard for the infill addition where 20' was required; and 4b) 8.2', 15.5' and 17' left yards where 20' was required. The Board **denied** request 4c) to allow a proposed enclosed staircase to be constructed with a 0' front yard where 20' was required.

September 18, 1990 – The Board **granted** a request to appeal a decision (denial) of the Historic District Commission to be heard on October 16, 1990.

December 18, 1990 – The Board **granted** the appeal to overturn the decision made by the Historic District Commission at their July 25, 1990 meeting. (**after** a request to postpone a hearing in November and applicant working separately with HDC that ultimately issued a Certificate of Approval.)

December 18, 1990 – As noted in a separate letter of decision, the Board **denied** a variance to allow a 14.5' x 17' addition to a single-family dwelling with a 2.3' side yard where 20' was required.

December 18, 2018 – The Board **granted** the use of an existing structure as a dwelling unit, relocating stairs, and adding a dormer and two 19± s.f. entrance overhangs. Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;
- b) from Section 10.440, Use #1.10 to allow a single-family dwelling where the use is not allowed in this district; and variances from Section 10.311 and Section 10.531 to allow the following:
- c) a lot area of 11,327± s.f. where 20,000 s.f. is required;
- d) 67'± of continuous street frontage where 100' is required;
- e) a 4.1 '± front yard where 30' is required; and
- f) a 0'± side yard where 30' is required.

Planning Department Comments

The applicant is requesting relief necessary to relocate the existing two-story dwelling unit, as previously authorized by the Board in 2018. The building is currently located approximately 5.6 feet over the Piscataqua River and must be relocated back over the land in order to comply with a settlement with NHDES to remedy an alleged violation of RSA 482-A:26. The applicant requests that the Board re-affirm the prior grant of variances from December 2018. The applicant received a building permit within the required two year period to vest the prior

approvals and therefore staff does not believe that re-affirmation is required. The applicant requests relief from three additional requirements to move forward with the renovation and restoration of the building for residential use, as follows:

- 1) Variance from Section 10.211 and Section 10.531 to allow the following:
 - a) a 2' front yard where 30' is required,
 - b) a 2' side yard where 30' is required; and
- 2) Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance; and
- 3) Variance from Section 10.516.40 to allow a heating vent to project 1' into the required side yard.

The applicant's request for a variance from Section 10.516.40 to allow a heating vent to project 1' into the required side yard is not applicable in the Waterfront Business (WB) District and staff does not recommend any relief is needed for this request.

Variance Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

 - (c) *Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



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Please reply to: Concord Office

May 31, 2023

VIA HAND DELIVERY & ELECTRONIC MAIL

Phyllis Eldridge, Chair
Portsmouth Zoning Board of Adjustment
Municipal Complex
1 Junkins Avenue
Portsmouth, NH 03801

RE: 57 Salter Street – Tax Map 102, Lot 32, Unit 2

Dear Chair Eldridge and Members of the Zoning Board of Adjustment:

I am writing on behalf and in support of Margot Thompson for variance relief necessary to relocate the existing two-story \pm 680 square foot (s.f.) building and to allow for the use of the building as a dwelling unit, as previously authorized by the Zoning Board of Adjustment on December 18, 2018. The building is currently located approximately 5.6 feet over the Piscataqua River and must be relocated back over the land in accordance with a settlement with the New Hampshire Department of Environmental Protection (“NHDES”) to remedy an alleged violation of RSA 482-A:26. The City of Portsmouth (the “City”) previously applied to NHDES for an urbanized shoreland exemption to NHDES that was granted on September 2, 2022, providing the lot relief and exemption from the Shoreland Water Quality Protection Act (RSA 483-B). A copy of a letter from the NHDES dated May 15, 2023, is attached hereto in support of this application for variance relief that no additional wetlands permits or approvals are required.

Mrs. Thompson’s property is the fifth (and last) house on the north side of Salter Street. It is shown on City of Portsmouth Tax Map 102 as Lot 32 and has a lot area of 11,327 s.f. It has 67 linear feet of frontage on the north side of Salter Street and is 122 feet deep.¹ In the northwest

¹ The Tax Map indicates a lot area of 10,715 s.f. with 96 feet of frontage. The survey plan prepared by AMBIT Engineering dated November 28, 2018 identifies a lot area of \pm 11,327 s.f. and 67.0 feet of frontage on Salter Street.

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INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

corner of the lot is a 90 s.f. shed that is believed to date to the early 1800s, while in the southeast corner of the lot is a structure with a \pm 340 s.f. footprint which has plumbing and heating allowing it to be used as a year-round office. Mrs. Thompson previously requested variance relief from Article 3, Section 10.321 Expansion of Nonconforming Structure, Article 4, Section 10.440 Single Family Dwelling, Article 5, Section 10.531 Lot Area, and Article 5, Section 10.531 Continuous Street Frontage, all of which was granted by the Zoning Board of Adjustment (the “Board”) on December 18, 2018. Mrs. Thompson applied for and the City issued Building Permit No. 35,117 on August 20, 2019, that perfected the grant of variances by the Board under Article 2, Section 10.236 for renovation and use of the year-round structure, including the variance relief. A copy of the building permit, Board meeting minutes and action sheet are attached for your review. Mrs. Thompson asks that the Board re-affirm the prior grant of variances from December 2018. Mrs. Thompson, to the extent required, requests similar variance relief as granted in 2018, with requests for relief from three (3) additional requirements.

To move forward with renovation and restoration of the building, Mrs. Thompson must relocate the existing building back approximately 7.6 feet so it is no longer situated over the Piscataqua River. Relocation of this existing building, in compliance with the terms of a settlement with NHDES, will allow Mrs. Thompson to complete renovations and utilize the building as a primary dwelling. Absent a grant of variance and building permit for relocation of the property, Mrs. Thompson will not be able to use it as a primary residence and will not be able to resolve their dispute with NHDES without further hardship. The residential use once the building is relocated is consistent with the relief previously sought and granted by the Zoning Board of Adjustments. Therefore, Mrs. Thompson respectfully requests the following variance relief:

1. Article 5, Section 10.531, Lot Area: The lot has 11,327 s.f. of lot area but, since a lot area of 20,000 s.f. is required in the Waterfront Business District, relief is sought. (Previously granted December 18, 2018).
2. Article 5, Section 10.531, Continuous Street Frontage: One hundred linear feet (100’) of continuous frontage is required in the Waterfront Business District while this particular lot has only 67 linear feet, therefore relief is sought. (Previously granted December 18, 2018).
3. Article 5, Section 10.531, Front Yard: Thirty feet (30’) of front yard is required in the Waterfront Business District while this particular lot has approximately two feet (\pm 2’), and approximately two feet (\pm 2’) will be provided upon relocation of the building, relief is sought.

4. Article 5, Section 10.531, Side Yard: Thirty feet (30') of side yard is required in the Waterfront Business District while this particular lot currently has negative 5.6 feet (-5.6') existing and the side yard proposed upon relocation of the building is two feet (2'), therefore relief is sought.

5. Article 5, Section 10.516.40, Projections into Required Yards: While not technically applicable to the Waterfront Business District, the Ordinance allows the projections of building elements into required yards and the relocated building would project a heating vent approximately twelve inches (12") on the side of the building into the required side yard to which relief is sought above; therefore, relief is requested for placement of the side heating vent.

6. Article 3, Section 10.321, Expansion of Nonconforming Structure: The structure for which dwelling unit status is sought is located within the existing setback, and relocation of the building will not increase the volume over and above the work previously constructed under Building Permit 35117. To the extent relocation of the building technically expands the nonconformity, relief is sought. (Previously granted December 18, 2018).

7. Article 4, Section 10.440, Single Family Dwelling: Single family dwellings are not a permitted use in the Waterfront Business District, and since variance relief is necessary to convert this structure to a residential use, relief is sought. (Previously granted December 18, 2018).

Property History:

The property was previously owned by Roger and Susan Gagnon, who acquired the property at the easterly end of Salter Street from Roger's parents on May 21, 1971.² The property was shown on the 1979 Tax Maps as consisting of two separate lots. Lot 32 consisted of 7,450 s.f. of lot area and 71' of frontage and included a large residential structure and the smaller structure in the southeast corner of the lot, for which the variance relief sought to relocate this dwelling unit is requested. The Tax Map also identified Lot 32A consisting of 3,250 s.f. of lot area and 25' of frontage. This lot included a single-family home and the ± 90 s.f. shed along the northwest boundary along the waterfront. The 1974 City Directory shows Roger Gagnon residing at 57

² Rockingham County Registry of Deeds (RCRD) Book 2070, Page 291.

Salter Street, while the home next door at 55 Salter was shown as being occupied by Donna Donnell. Roger Gagnon operated a wooden lobster trap manufacturing business and built and repaired fiberglass boats on this property in the 1970s. A 1980 revision of the Tax Maps shows the present configuration of the lot with two typically sized residential structures, as well as the “out-buildings” at the northwest and southeast corners of the lot.

Margot and Edward Thompson purchased the property (including both residential structures and the outbuildings) from Roger and Susan Gagnon by deed dated November 1, 1990.³ In 1990 and 1992, the Thompsons obtained approvals from the City and enlarged the more easterly structure and joined it to the structure previously listed as 55 Salter St., creating a single-family home where two separate single-family homes previously existed. Edward Thompson transferred the property to Margot Thompson by deed dated December 11, 1992.⁴

In November 2018, Mrs. Thompson submitted an application to the Board to renovate the ± 680 s.f. building to convert it to residential use. The renovation included the relocation of stairs to the second level, the addition of a dormer and two 19 s.f. entrance overhangs, and a change of use for the building from Waterfront Business to Residential Use. On December 18, 2018, the Board approved the application for these changes including the change in use to residential, as well as the additional variance relief cited above. Building Permit No. 35117 was issued by the City on August 20, 2019 to commence the renovations of the property so that Mrs. Thompson could utilize the building as a primary residence. Mrs. Thompsons also received two wetlands permits issued by NHDES for the proposed renovations to the property in July 2019 (NHDES File No. 2019-01730) and July 2020 (NHDES File No. 2020-01252).

On September 29, 2020, Mrs. Thompson filed a Declaration of Condominium⁵ for the Point of View Condominium Association, as well as Condominium Site and Floor Plans⁶ for the property at 57 Salter Street. The Declaration and Site Plans establish two condominium units, Unit 1 consisting of the subject building noted as #75 and Unit 2 being the building noted as #57. The common areas include the docks, a portion of the driveway and roadway access, as well as access to the docks and common utility rights. As stated above, the City treats this property as one parcel with two buildings, not as two separate parcels or newly created subdivided parcels. On October 1, 2020, Mrs. Thompson sold Unit 2 of the Condominium (the larger residential

³ RCRD Book 2875, Page 707.

⁴ RCRD Book 2959, Page 811.

⁵ RCRD Book 6171, Page 992

⁶ RCRD Plan Document No. 42392.

structure and surrounding property) to Daniel and Kristin Posternak.⁷ Mrs. Thompson retained ownership of Unit 1 and ownership in common of the Condominium common property.

The subject property and building at 75 Salter Street are described as Unit 1 of the Point of View Condominium Association by Declaration of Condominium. Mrs. Thompson's conversion of Unit 1 to a home for her and her husband is part of an overarching retirement plan whereby the Thompsons would create the 2-unit condominium, sell their Unit 2 larger residence, downsize their residence into the Unit 1 structure, and use the proceeds from the sale of Unit 2 for the renovations to Unit 1 and their retirement. The Thompsons planned to live in the same neighborhood in Portsmouth where they raised three children, and have many friends and neighbors which they have cultivated over the past 40 years. The Thompsons are active fundraisers for the community and participated in local non-profits, including service on the boards of the Strawberry Banke and Portsmouth Children's Museum.

In April 2021, while in the middle of the construction renovations, the Thompsons were informed by NHDES that they were in violation of the Wetlands Act (RSA 482-A) and Shoreland Water Quality Protection Act (RSA 483-B) related to their conversion of the building to residential use. On August 20, 2021, NHDES issued an Administrative Order that stopped all work, alleging a violation of the Wetlands Act because the residence (Unit 1) was located over State waters. The Administrative Order also alleged violations of the Shoreland Protection Act because the residence was located within 50 feet of the shoreline and the two-unit condominium violated the minimum shorefront requirements.

The Thompsons filed a Notice of Appeal in September 2021 with the Wetlands Council which was accepted. In April 2022, the Thompsons petitioned the City of Portsmouth for an Urbanized Shoreland Exemption to exempt the property from the Shoreland Water Quality Protection Act's requirement for a 50-foot setback for a primary residence as well as the minimum shorefront requirements for the two-Unit Condominium. The April 2022 petition proposed allowing the Thompsons to pull the structure back 7.6 feet so it is no longer over water, eliminating any Wetlands Act violations. The City Council approved this petition and filed the application on July 11, 2022. NHDES granted the application for Urbanized Shoreland Exemption on September 2, 2022 for 57 Salter Street, Lot 32 on Tax Map 102. A copy of the exemption is attached for your review. On May 12, 2023, the Thompsons executed a settlement with NHDES to relocate the building to resolve the Wetlands Act issues and to resolve the appeal which is currently stayed pending completion of the settlement terms.

⁷ RCRD Book 6172, Page 1975.

Variance Relief Sought from the Art. 5, Section 10.531 Requirements:

Variance relief is sought from the Lot Area, Frontage, Front Yard, and Side Area requirements contained in Article 5, Section 10.531 of the Ordinance. The minimum shorefront requirements under the Shoreland Protection Act require 150 feet of frontage for each residential lot. However, the September 2, 2022 grant of Urbanized Shoreland Exemption from NHDES removed this requirement.

There are thirty-two (32) lots east of Marcy Street with frontage on Salter Street, Pray, Partridge, Walden and Holmes Court. Thirteen (13) of these lots are zoned Waterfront Business (WB) while eighteen (18) are zoned General Residence B (GRB). In the WB District, the minimum lot area requirement is 20,000 s.f., while the GRB District has a minimum lot area of 5,000 s.f. The median size lot in the neighborhood is 5,161 s.f. and the median size lot in the WB District is 6,316 s.f. The lot at 57 Salter Street, Lot 32, Tax Map 102 is \pm 11,327 s.f. and is twice the size of the median sized lot in the general neighborhood. Pursuant to the Condominium Plans (as cited above), Mrs. Thompson's Unit 1 contains approximately 2,370 s.f.

The frontage requirement in the WB District is 100 linear feet, while the frontage requirement in the GRB District is 80 linear feet. The lot at 57 Salter Street, Lot 32, Tax Map 102 has 67 linear feet of frontage.

The Property Satisfies the Requirements of Art. 2, Section 10.233.20 of the Ordinance for the Board to Grant Variance Relief:

(1) *The granting of the variance will not be contrary to the public interest.*

The relocation of the building approximately \pm 7.6' from its current location and granting variances from area, frontage, front yard, and side yard requirements for the WB District will not be contrary to public interest because Mrs. Thompson will be able to complete the renovation of the building, utilize it as her primary residence, and resolve outstanding legal dispute with NHDES. The modifications as approved by the City and NHDES will reduce any impacts to stormwater runoff to adjacent properties and roadways and not result in any change or alteration to the essential character of the neighborhood. This property previously had two full sized residential buildings and the outbuildings for over 150 years. The granting of the requested variances is not contrary to public interest.

To be contrary to public interest or injurious to public rights of others, a variance must unduly and in a marked degree conflict with the Ordinance such that it violates the “basic zoning objectives” of the Ordinance. See *Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577, 581 (2005), and *Harborside Associates v. Parade Residence Hotel, LLC*, 162 N.H. 508 (2011). In *Chester*, the Court found that a variance would violate the basic zoning objections if it would alter the essential character of the neighborhood or threaten the public health, safety or welfare. See *Id.* In this case, a grant of variance relief will not alter the character of the neighborhood by moving a building that has existed in the neighborhood and will not impact public health, safety or welfare. In fact, relocating the building $\pm 7.6'$ landward removes ± 87 s.f. of covered river waterfront area, which may reduce any impacts upon the environment from any future residential use and makes the area more accessible to the public.

(2) *The granting of the variance will not be contrary to the spirit of the Ordinance.*

The area, frontage, front yard and side yard requirements are designed to create appropriate spacing of structures on lots to allow adequate air and light for each dwelling and to ensure spacing for fire safety purposes. Mrs. Thompson’s building has been located on the site since at least 1963 and relocating the building $\pm 7.6'$ will not change the appearance of the building or property, and it will not be located near any other structures. The property is surrounded by water on two sides, common condominium area, and a roadway.

The building will be relocated landward in the same plane so as not to move closer to the front property line. This will provide a \pm two-foot (2’) side yard setback, which is an improvement over the current negative 5.6 foot (-5.6’) side yard setback. Furthermore, providing a \pm two-foot (2’) side yard setback allows for the construction of a structurally sound retaining wall system that protects both the public waters and the relocated structure.

Relocation of this building and variances for the setback and frontage requirements will not be contrary to the intent or spirit of the Ordinance. This Board has previously found relief was appropriate for the lot and frontage requirements in granting the change in use as residential; therefore, allowing Mrs. Thompson to relocate the building $\pm 7.6'$ forward and granting variances so she can complete and utilize the building as a primary structure is consistent with the intent of the Ordinance and recent changes to allow accessory dwelling units.

(3) *The granting of the requested relief will do substantial justice.*

Granting the variances and relief requested will allow Mrs. Thompson to utilize her property fully as a primary residence. In determining whether the requirement for substantial justice is satisfied, the standard is whether there is any loss to the individual that is not outweighed by a gain to the general public. Denying the variance relief would prevent Mrs. Thompson from creating what is essentially an accessory dwelling unit, and would be a loss for the owner with no discernible gain to the public. In addition, the denial of relief would cause further impacts to Mrs. Thompson with regards to her pending appeal before the Wetlands Council resulting in additional legal fees, possible other remedial actions to restore the property, and result in further costs and losses. There are no gains to the public that would outweigh the losses incurred to date by Mrs. Thompson, in addition to the losses they would suffer further if variance relief is denied.

(4) The granting of the requested relief will not result in the diminution in value of surrounding properties.

The granting of relief from the lot area, frontage, front yard and side yard requirements of the Ordinance will have no effect on the surrounding property values because of the size and location of the Thompson property and the limited scope of the requested relief. This lot is located at the end of a dead-end street and both the lot and building, which is the subject of this application, are surrounded on two sides by water. Prior construction of the small dormer on the south side of the structure, addition of the exterior door overhang, stairway relocation, as well as the planned relocation of the building and addition of a side vent allowing for proper heating inside the unit will enhance the attractiveness of this unit. In addition, upon relocation of the building and completion of renovations, the completed conversion of this building from office space (which would increase traffic uses) to a primary residence consistent with the majority of buildings in the neighborhood should also enhance the value of surrounding properties. Absent a variance relief, Mrs. Thompson would be forced to restore the building to its prior state and utilize it as either an office or event space which could detract from the value of surrounding properties.

(5) The literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

Article 2, Section 10.233.30 of the Ordinance defines an “unnecessary hardship” as meeting both of the following conditions under 10.233.31, which is consistent with the variance criteria test set forth in RSA 674:33, I(b)(1):

Owing to special conditions of the property that distinguish it from other properties in the

area, (a) no fair and substantial relationship exists between the general public purpose of the Ordinance provision and the specific application of the provision to the property; and (b) the proposed use is a reasonable one.

There are special conditions and attributes to the building and subject property that distinguish it from other properties in the area and WB District. As stated above, Unit 1 was formerly a commercial boat repair shop, later converted into an office and subsequently granted relief for conversion and use as a primary residence. The property and lot are currently located within the WB District which does not have minimum density requirements for residential uses (which are either grandfathered or allowed by variance). In this section of the densely populated South End of Portsmouth, the use of lot area, setback and frontage requirements help to encourage safety through proper spacing between buildings. The Thompson property is unique in that it is surrounded on two sides by water and there is not another principal structure within twenty feet (20') of Unit 1.

Moving the building back from over the water allows for the construction of a concrete seawall. The seawall will help protect the public waters from erosion and the potential for a catastrophic event with the building collapsing from any unstable condition beneath the current structure. The existing structure is within the 100-year flood zone, and relocating the building allows Mrs. Thompson to have a code-compliant home which is in the public interest. In this case, there is no fair and substantial relationship between the general public purposes of the Ordinance and the frontage and side setback requirements application for this property. The proposed use of this existing structure as a primary residence, once it is relocated, is both consistent with this Board's prior findings but also a reasonable one.

Relief from Use in the Waterfront Business District

Mrs. Thompson's property lies in the Waterfront Business (WB) District. While this zone is designated for marine-related uses along the waterfront, there are very limited number of locations where the permitted uses in this zone, such as Sanders Lobster Co, Inc. at 54 Pray Street. The remaining business operations in the WB District are accessed by a relatively busy roadway, have adequate parking, have a limited number of residential neighbors in close proximity, and do not require driving (or backing) up and down past a half dozen homes on very small streets to access the property for waterfront business purposes, such as Salter Street.

INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

The uses permitted in the WB District are, at best, limited. The totality of those uses are as follows:

- 10.440.3.21 Primary or Secondary School
- 10.440.3.80 Municipally Operated Park and Related Activities
- 10.440.8.32 Marine Related Retail Sales
- 10.440.8.60 Fish Markets
- 10.440.12.12 Fish Boat Landings
- 10.440.12.13 Fish Boat Landing, I & Fish Boat Landing, II
- 10.440.12.21 Marinas with No Repair or Servicing or Fueling Utilities
- 10.440.12.22 Marinas with Repair, Servicing or Fueling Utilities (By Special Exception)
- 10.440.12.30 Repair of Commercial Marine Craft (By Special Exception)
- 10.440.12.40 Landside Support Facility for Commercial Passenger Vessels
- 10.440.14.22 Marine Dependent Research and Development
- 10.440.14.52 General Manufacturing - Marine Dependent
- 10.440.15.11 Utility Substations Essential to Service the Area in which they are Located (By Special Exception)
- 10.440.16.10 Wireless Telecommunications Facilities
- 10.440.16.11 Satellite Dishes (42 inches or less in diameter) building mounted.
- 10.440.16.12 Satellite Dishes (42 inches or less in diameter) ground mounted.
- 10.440.16.20 Satellite Dishes (exceeding 42 inches in diameter) building mounted. (By Special Exception)
- 10.440.16. Satellite Dishes (exceeding 42 inches in diameter) ground mounted. (By Special Exception)
- 10.440.16.30 WHIP Antennas Not More than 30' in Height
- 10.440.18.10 Construction Trailers
- 10.440.18.21 Temporary Structures Up to 30 Days
- 10.440.18.22 Temporary Structures Up 31 to 90 Days (By Special Exception)
- 10.440.18.31 Manufactured Housing up to 180 Days
- 10.440.18.32 Manufactured Housing more than 180 Days (By Special Exception)
- 10.440.19.10 Accessory use to a permitted principal use, but not including outdoor storage.
- 10.440.19.30 Concession & Services Located within the Principal Building
- 10.440.20.10 Indoor Storage of Motor Vehicles as Accessory Use
- 10.440.20.20 Outdoor Storage of Registered Motor Vehicles

INSIGHT MATTERS

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May 31, 2023

- 10.440.20.31 Outdoor Storage of Boats – no more than one motorboat or sailboat longer than 12 feet.
- 10.440.20.31 Outdoor Storage of Boats – any number of motorboats or sailboats up to 12 feet, or hand-powered craft (canoe and kayaks) without length restrictions.
- 10.440.20.40 Outdoor Storage of Lobster Traps
- 10.440.20.62 Outdoor Storage of Marine Dependent Machinery or Equipment (By Special Exception)

In *Belanger v. City of Nashua*, 121 N.H. 389, 393 (1981), the N.H. Supreme Court dealt with a zoning concept relevant to this case. In *Belanger*, a neighborhood in Nashua was zoned exclusively for residential purposes but, over the years, the neighborhood had gone through “substantial changes from the time it was originally zoned for single residences” and the Court ruled that the ZBA’s denial of a real estate office was unreasonable.⁸ The Court additionally noted that municipalities have an obligation to have their Zoning Ordinances reflect current characteristics of the neighborhood.⁹

Salter Street has changed over the last 30 or 40 years. There has been tremendous residential investment on the entire street, and there is not a single permitted waterfront business use that would be appropriate anywhere on Salter Street.

The incompatibility of residential and permitted waterfront business uses was highlighted in a 1975 zoning case involving the very property which is the subject of this application: *Roger Gagnon v. City of Portsmouth*, Equity No. 1817-75. At the time, Mr. Gagnon was manufacturing lobster traps and building and repairing fiberglass fishing boats on the very property which is the subject of this application. The noise, smells, and traffic overwhelmed the neighborhood. Every large truck making deliveries of supplies and every fisherman’s pick-up truck acquiring supplies had to drive down (and in many instances back up) the entire length of Salter Street. In that case, the Court issued an injunction against various activities that were disrupting the peace and quiet of the neighborhood. In short, the zoning was not compatible with the land use patterns on this street.

Mrs. Thompson seeks relief to allow an additional small dwelling unit (680 s.f.) on a very large lot that is consistent with the predominant land use in this entire area. The Board granting

⁸ See *Belanger* at 393.

⁹ See *Id.*

INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

variance relief would be consistent with Article 2, Section 10.233.20 of the Ordinance because: (1) would not diminish the value of surrounding properties; (2) would not be contrary to the public interest; (3) will do substantial justice; (4) would not be contrary to the spirit and intent of the Ordinance; and certainly (5) the literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. As discussed above, there is no fair and substantial relationship between the general public purpose of the Ordinance and the specific application of the waterfront provisions to this property.

The Board has the power to grant variance relief is given to municipal zoning boards and boards of adjustment to prevent an unreasonable “taking” of a landowner’s rights when the land use regulation, as applied to a particular property, creates an unnecessary hardship for the owner. Here, the public purpose or benefit in denying the variance would not outweigh the existing loss and anticipated future losses that denial of relief would cause to the Thompsons.

The requirements for zoning relief are satisfied and Mrs. Thompson respectfully requests that the Board grant variance relief for use of the building as a single-family dwelling.

I will be a primary contact on this application and can be reached at (603) 410-4314 or via email at jjs@rathlaw.com. Another primary contact is Eric Weinrieb, P.E. with Altus Engineer, LLC, who can be reached at (603) 433-2335 or via email at eweinrieb@altus-eng.com. Attorney Lauren Kilmister with Rath, Young and Pignatelli is also an authorized representative for this project and can be reached at (603) 410-4348 or via email at lck@rathlaw.com. A list of enclosed documents, including all plans filed in 11 x 17 format which have also been uploaded online.

Thank you for your time and consideration.

Sincerely,



James J. Steinkrauss

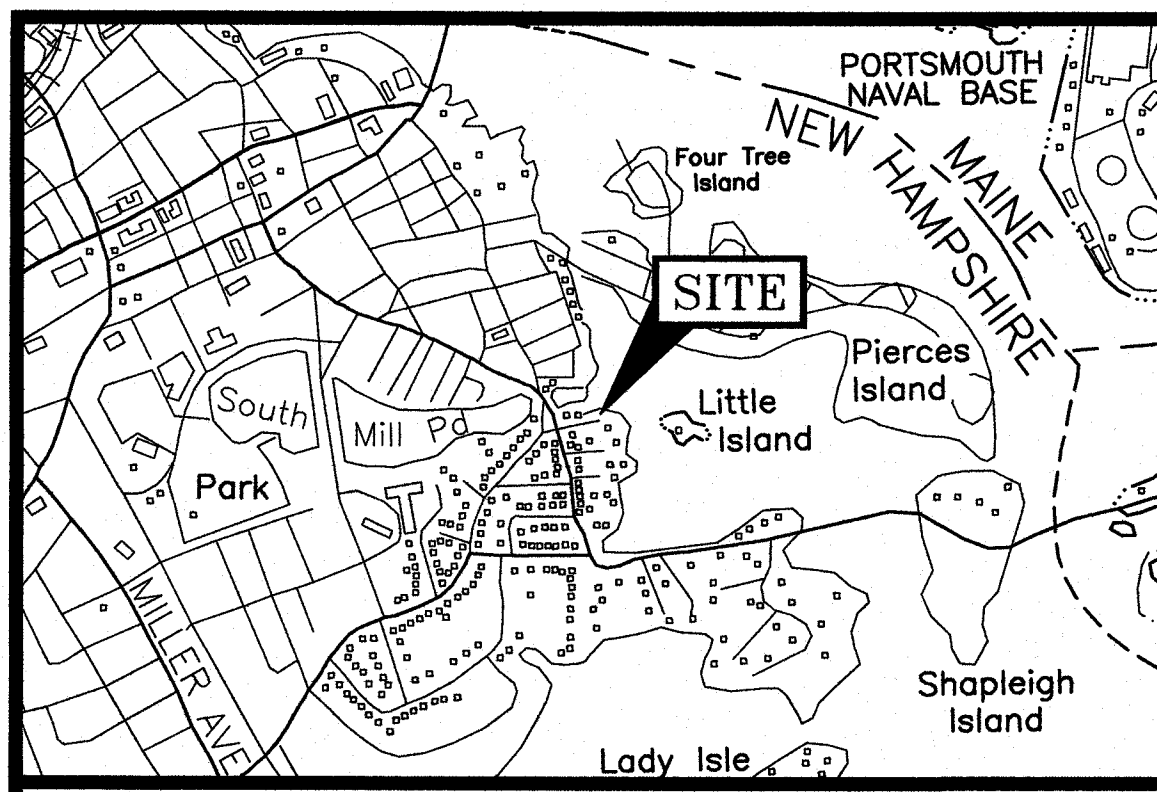
INSIGHT MATTERS

Chair Eldridge and Members of the Zoning Board of Adjustment
May 31, 2023

Cc: Margot Thompson (*via electronic mail*)
Edward Thompson (*via electronic mail*)
Eric Weinrieb, P.E., Altus Engineering, LLC (*via electronic mail*)
Lauren C. Kilmister, Esq., Rath, Young, and Pignatelli, P.C. (*via electronic mail*)

Enclosure List:

1. Existing Conditions Survey (Ambit Engineering)
2. Board of Adjustment Overall Plan (Altus Engineering) (Sheet 1 of 2)
3. Board of Adjustment Area of Detail Condominium Unit 1 - Detailed Site Plan (Altus Engineering) (Sheet 2 of 2)
4. Architectural Plans and Renderings – 75 Salter Street (Somma Studios) (Sheets 1-4)
5. Landscape Architectural Plans – “Area of Detail Condominium Unit 1” - (Terra Firma Landscaping) (Sheet 1 of 1)
6. Site Photographs
7. Letter of Authorization from Owner
8. Letter of Authorization from Point of View Condominium
9. Email from Abutter and Owner of Unit 2 of the Condominium
10. City of Portsmouth Tax Map 102
11. Zoning Board of Adjustment Meeting Minutes – December 18, 2018
12. Zoning Board of Adjustment Action Sheet – December 18, 2018
13. Building Permit No. 35,177
14. City of Portsmouth Zoning Map
15. Evidence of Municipal Utilities
16. Lots in the Waterfront Business District
17. NHDES Letter dated May 15, 2023.
18. Application Fee (paid online)



LOCATION MAP SCALE 1"=1,000'

LEGEND:

- EXISTING**
- N/F
 - RP
 - RCRD
 - RR SPK FND
 - IR FND
 - IP FND
 - DH FND
 - NHHB FND
 - IB FND
 - BND w/DH
 - ST BND w/DH
 - RR SPK SET
 - IR SET
 - IP SET
 - DH SET
 - BND w/DH
 - ST BND w/DH
- NOW OR FORMERLY RECORD OF PROBATE**
- ROCKINGHAM COUNTY
REGISTRY OF DEEDS
MAP 11 / LOT 21
- RAILROAD SPIKE FOUND/SET
IRON ROD FOUND/SET
IRON PIPE FOUND/SET
DRILL HOLE FOUND/SET
NH DOT BOUND FOUND
TOWN BOUND FOUND
BOUND w/ DRILL HOLE
STONE BOUND w/DRILL HOLE
HIGHEST OBSERVABLE TIDE LINE
WETLAND LINE
OVERHEAD ELECTRIC/WIRES
CONTOUR
SPOT ELEVATION
EDGE OF PAVEMENT (EP)
WOODS / TREE LINE
UTILITY POLE (w/ GUY)
HYDRANT
METER (GAS, WATER, ELECTRIC)
AIR CONDITIONER UNIT
SIGNS
EDGE OF WETLAND FLAGGING
SWAMP / MARSH
CORRUGATED METAL PIPE
POLYVINYL CHLORIDE PIPE
REINFORCED CONCRETE PIPE
ELEVATION
EDGE OF PAVEMENT
FINISHED FLOOR
INVERT
TEMPORARY BENCHMARK
TYPICAL
LANDSCAPED AREA

TIE LINES FOR CLOSURE - NOT BOUNDARY LINES

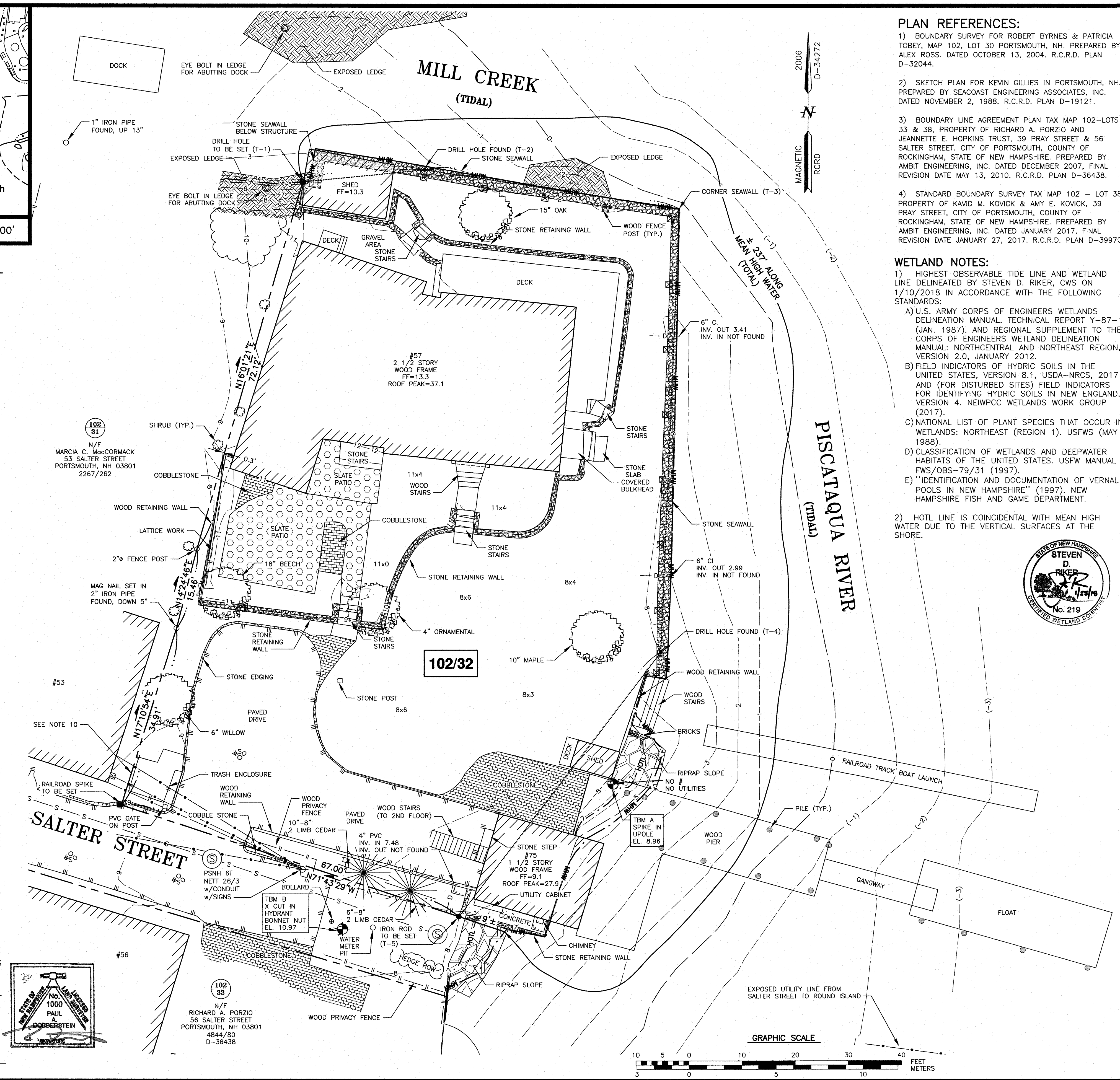
LINE SEGMENT	BEARING	DISTANCE
T-1 TO T-2	N84°15'47"E	23.07'
T-2 TO T-3	S81°21'44"E	48.56'
T-3 TO T-4	S02°22'38"W	83.80'
T-4 TO T-5	S37°13'44"W	62.71'

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.

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

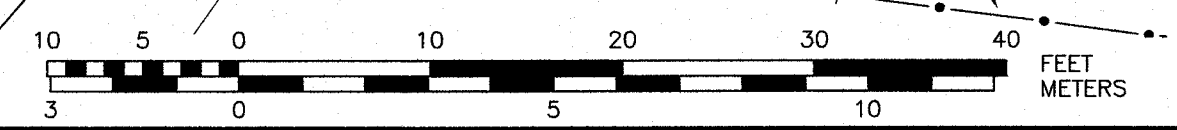
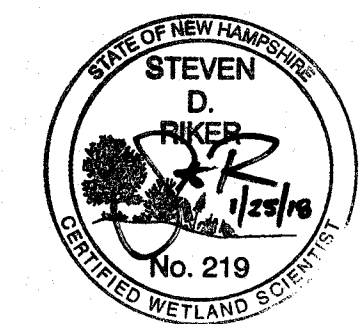
PAUL A. DOBBERSTEIN, LLS #1000

1/25/2018
DATE



- PLAN REFERENCES:**
- BOUNDARY SURVEY FOR ROBERT BYRNES & PATRICIA TOBEY, MAP 102, LOT 30 PORTSMOUTH, NH. PREPARED BY ALEX ROSS. DATED OCTOBER 13, 2004. R.C.R.D. PLAN D-32044.
 - SKETCH PLAN FOR KEVIN GILLIES IN PORTSMOUTH, NH. PREPARED BY SEACOAST ENGINEERING ASSOCIATES, INC. DATED NOVEMBER 2, 1988. R.C.R.D. PLAN D-19121.
 - BOUNDARY LINE AGREEMENT PLAN TAX MAP 102-LOTS 33 & 38, PROPERTY OF RICHARD A. PORZIO AND JEANNETTE E. HOPKINS TRUST, 39 PRAY STREET & 56 SALTER STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED DECEMBER 2007, FINAL REVISION DATE MAY 13, 2010. R.C.R.D. PLAN D-36438.
 - STANDARD BOUNDARY SURVEY TAX MAP 102 - LOT 38, PROPERTY OF KAVI M. KOVICK & AMY E. KOVICK, 39 PRAY STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED JANUARY 2017, FINAL REVISION DATE JANUARY 27, 2017. R.C.R.D. PLAN D-39970.

- WETLAND NOTES:**
- HIGHEST OBSERVABLE TIDE LINE AND WETLAND LINE DELINEATED BY STEVEN D. RIKER, CWS ON 1/10/2018 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
 - A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, TECHNICAL REPORT Y-87-1 (JAN. 1987), AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
 - B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.1, USDA-NRCS, 2017 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4. NEWPCC WETLANDS WORK GROUP (2017).
 - C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1). USFWS (MAY 1988).
 - D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFWS MANUAL FWS/OBS-79/31 (1997).
 - E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.
 - HOTL LINE IS COINCIDENTAL WITH MEAN HIGH WATER DUE TO THE VERTICAL SURFACES AT THE SHORE.



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

- NOTES:**
- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH, NH, ASSESSOR'S MAP 102 AS LOT 32.
 - OWNER OF RECORD:
MARGOT L. THOMPSON
57 SALTER STREET
PORTSMOUTH, NH 03801
2959/811
 - PARCEL IS IN A SPECIAL FLOOD HAZARD AREA (ZONE AE, EL. 9) AS SHOWN ON FIRM PANEL 33015C0278E. EFFECTIVE DATE MAY 17, 2005.
 - EXISTING LOT AREA: (TO MEAN HIGH WATER)
11,327 S.F. ±
0.2600 ACRE ±
 - PARCEL IS LOCATED IN (GRB) GENERAL RESIDENCE B AND THE HISTORIC DISTRICT.
 - DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 5,000 SQ. FT.
FRONTAGE: 80 FT.
SETBACKS:
FRONT 5 FT.
SIDE 10 FT.
REAR 25 FT.
MAXIMUM STRUCTURE HEIGHT: 35 FT.
MAXIMUM STRUCTURE COVERAGE: 30%
MINIMUM OPEN SPACE: 25%
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY OF TAX MAP 102 LOT 32.
 - VERTICAL DATUM IS MEAN SEA LEVEL NGVD 1929. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GPS OBSERVATIONS (±0.2').
 - MEAN HIGH WATER (MHW) LINE AS SHOWN IS BASED ON NOAA TIDE STATION 8419870 - SEAVEY ISLAND, PORTSMOUTH HARBOR. MHW LINE IS AT ELEVATION 4.59.
 - PARCEL IS SUBJECT TO AND BENEFITS FROM "A RIGHT TO USE, IN COMMON WITH SAID SCHLEGEL THE GATEWAY ON SALTER STREET, WHICH GATEWAY IS PARTLY ON EITHER SIDE OF SAID STRAIGHTENED BOUNDARY LINE." LAND OF SAID SCHLEGEL IS NOW LAND OF MacCORMACK. SEE RCRD 676/123.
 - LOT IS ENTIRELY WITHIN THE 100' TIDAL BUFFER ZONE.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	1/25/18

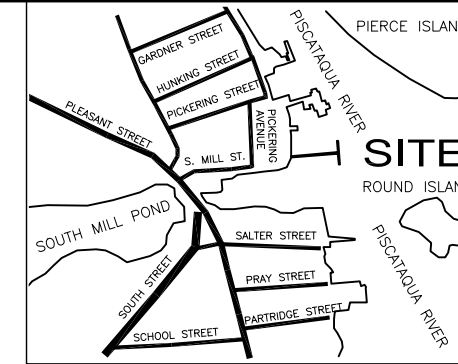
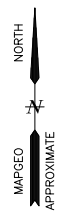
STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY
TAX MAP 102 - LOT 32
OWNER
MARGOT L. THOMPSON
57 SALTER STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

AREAS SUMMARY

	UNIT #1	UNIT #1
	EXISTING	PROPOSED
AREA:	±2,370 SF	±2,370 SF
BLDG. COVERAGE:	±377 SF (ON LAND)	±469 SF *
IMPERVIOUS COVERAGE:	±845 SF (±36%)	±664 SF (28%)
OPEN SPACE:	1,525 SF (±64%)	±1,706 SF (±72%) **
	UNIT #2	UNIT #2
	EXISTING	PROPOSED
AREA:	±8,487 SF	±8,487 SF
BLDG. COVERAGE:	±2,520 SF (±30%)	±2,520 SF (±30%)
IMPERVIOUS COVERAGE:	±4,975 SF (±59%)	±4,975 SF (59%)
OPEN SPACE:	±3,989 SF (±47%)	±3,989 SF (±47%) **
	COMMON AREAS (A&B)	COMMON AREAS (A&B)
	EXISTING	PROPOSED
AREA:	±470 SF	±470 SF
BLDG. COVERAGE:	0 SF	0 SF
IMPERVIOUS COVERAGE:	±115 SF (±24%)	±115 SF (±24%)
OPEN SPACE:	±355 SF (±76%)	±355 SF (±76%) **

* STRUCTURE IS OVER WATER. MOVING LANDWARD INCREASES LOT COVERAGE.

** OPEN SPACE INCLUDES WALKS

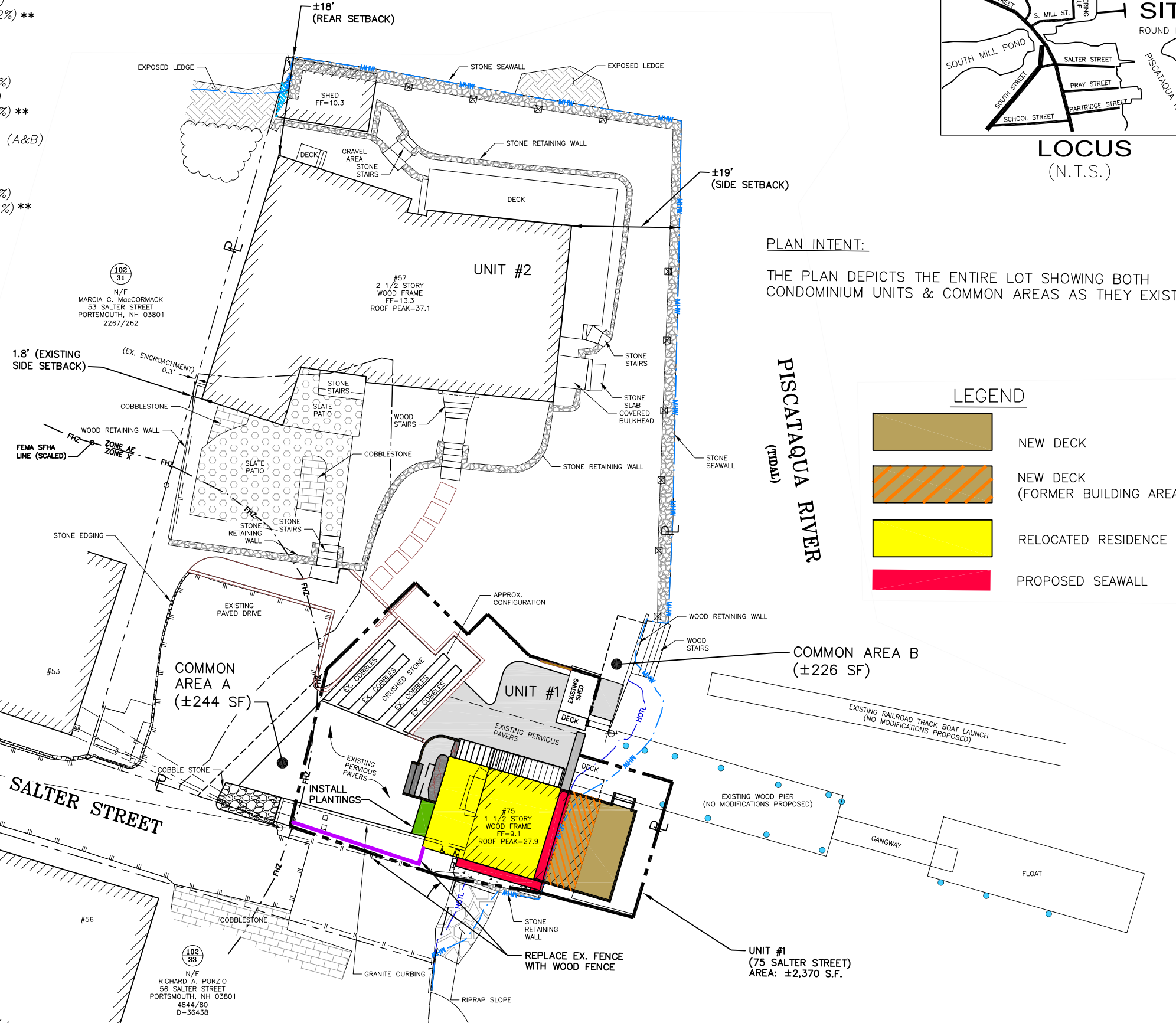
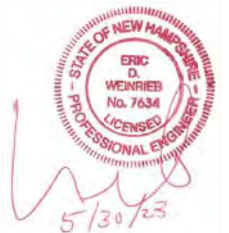


LOCUS
(N.T.S.)

ALTUS
ENGINEERING

133 Court Street
(603) 433-2335

Portsmouth, NH 03801
www.altus-eng.com

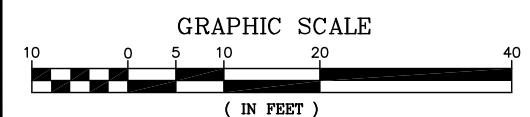


PLAN INTENT:
THE PLAN DEPICTS THE ENTIRE LOT SHOWING BOTH CONDOMINIUM UNITS & COMMON AREAS AS THEY EXIST.

LEGEND

- NEW DECK
- NEW DECK (FORMER BUILDING AREA)
- RELOCATED RESIDENCE
- PROPOSED SEAWALL

- PLAN REFERENCES:**
- "CONDOMINIUM SITE PLAN, POINT OF VIEW CONDOMINIUM, TAX MAP 102 - LOT 32", DATED JULY 2020, REV. 3 DATED 9/2/20, BY AMBIT ENGINEERING, INC.
 - PORTSMOUTH G.I.S. (MAPGEO) DATA BASE.
 - SITE OBSERVATIONS BY ALTUS ENGINEERING, LLC FEBRUARY 2023.



OVERALL PARCEL PLAN SCALE: 1" = 10'

NOT FOR CONSTRUCTION

ISSUED FOR: **APPROVAL**

ISSUE DATE: **MAY 30, 2023**

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	INITIAL BOA SUBMISSION	EDW	05/30/23

DRAWN BY: _____ RLH

APPROVED BY: _____ EDW

DRAWING FILE: 5397-BOA-SITE.DWG

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

OWNER:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

APPLICANT:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

PROJECT:
SITE IMPROVEMENTS
75 SALTER STREET (UNIT #1)
PORTSMOUTH, NH
MAP 102 LOT 32

TITLE:
BOARD OF ADJUSTMENT OVERALL PLAN

SHEET NUMBER:
1 OF 2





P5398

ZONING SUMMARY

ZONE: WATERFRONT BUSINESS (WB) – SINGLE FAMILY RESIDENCE – CONDOMINIUM UNIT #1 – EXISTING WORKSHOP TO BE REPLACED WITH SINGLE FAMILY RESIDENCE *
 EXISTING LOT AREA AND SUBMITTED LAND: 11,327 S.F.± (0.26 AC.±) – SEE REFERENCE PLAN

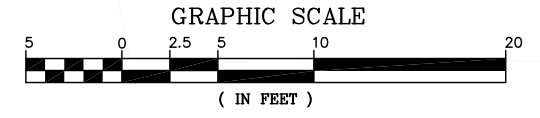
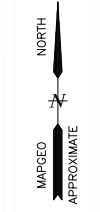
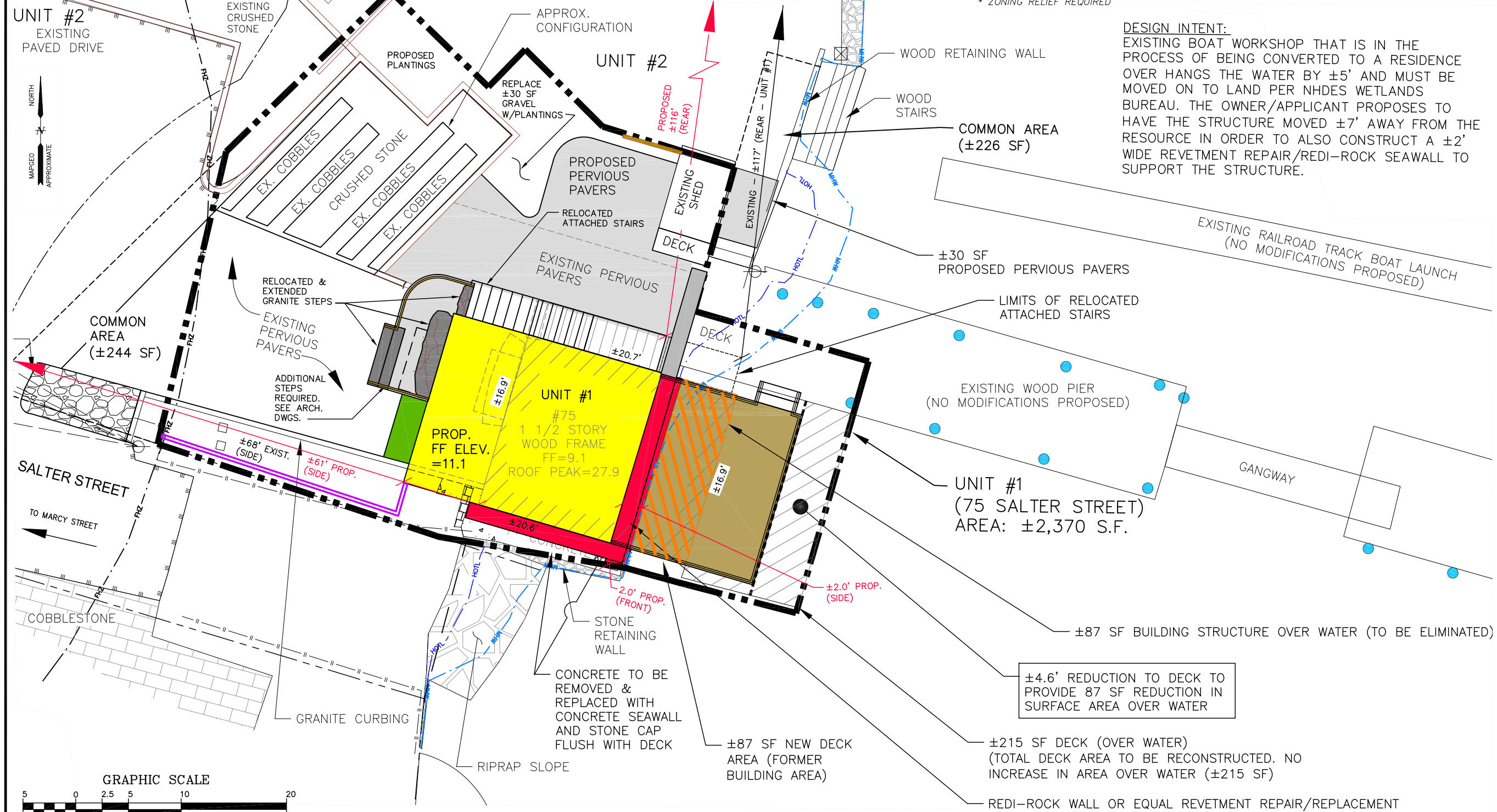
DIMENSIONAL REQUIREMENTS	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA:	20,000 S.F.	±11,327 S.F.	±11,327 S.F.(EXISTING) (NON-CONFORMING)
MIN. STREET FRONTAGE:	100'	67' (EX.) (SALTER)	±67' (EXISTING) (NON-CONFORMING)
DEPTH:	100'	±122'	±122'
FRONT SETBACK:	30'	±2.0' (EX.)	±2.0' (PROPOSED)
SIDE SETBACK (OCEAN)(RT):	30'	-5.6' (EX. UNIT #1)	±2' (PROPOSED) *
SIDE SETBACK (INTERIOR)(LT):	30'	±1.8' (EX. UNIT #2)	±1.8' (EX. UNIT #2)
REAR SETBACK:	20'	±18' (EX. UNIT #2)	±18' (EX. UNIT #2)
MAX. HEIGHT:	35'	<35' (EX. UNIT #1)	<35' (PROPOSED UNIT #1)
MAX. BUILDING COVERAGE:	30%	±25.6% (EX.)(±377 SF +2,520 SF)	±26.4% (±469 S.F. + 2,520 SF)
MIN. OPEN SPACE:	20%	±51.8% (±5,869 SF)	±53.4% (±6,050 SF)

LEGEND

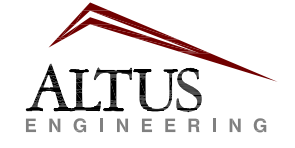
-  NEW DECK
-  NEW DECK (FORMER BUILDING AREA)
-  RELOCATED RESIDENCE
-  PROPOSED SEAWALL

* ZONING RELIEF REQUIRED

DESIGN INTENT:
 EXISTING BOAT WORKSHOP THAT IS IN THE PROCESS OF BEING CONVERTED TO A RESIDENCE OVER HANGS THE WATER BY ±5' AND MUST BE MOVED ON TO LAND PER NHDES WETLANDS BUREAU. THE OWNER/APPLICANT PROPOSES TO HAVE THE STRUCTURE MOVED ±7' AWAY FROM THE RESOURCE IN ORDER TO ALSO CONSTRUCT A ±2' WIDE REVETMENT REPAIR/REDI-ROCK SEAWALL TO SUPPORT THE STRUCTURE.



DETAILED SITE PLAN SCALE: 1" = 5'



133 Court Street
 (603) 433-2335
 Portsmouth, NH 03801
 www.altus-eng.com



NOT FOR CONSTRUCTION

ISSUED FOR: APPROVAL

ISSUE DATE: MAY 30, 2023

REVISIONS
 NO. DESCRIPTION BY DATE
 0 INITIAL BOA SUBMISSION EDW 05/30/23

DRAWN BY: RLH
 APPROVED BY: EDW
 DRAWING FILE: 5397-BOA-SITE.DWG

SCALE:
 (22"x34") - 1" = 5'
 (11"x17") - 1" = 10'

OWNER:
POINT OF VIEW CONDOMINIUM
 57 SALTER STREET
 PORTSMOUTH, NH 03801

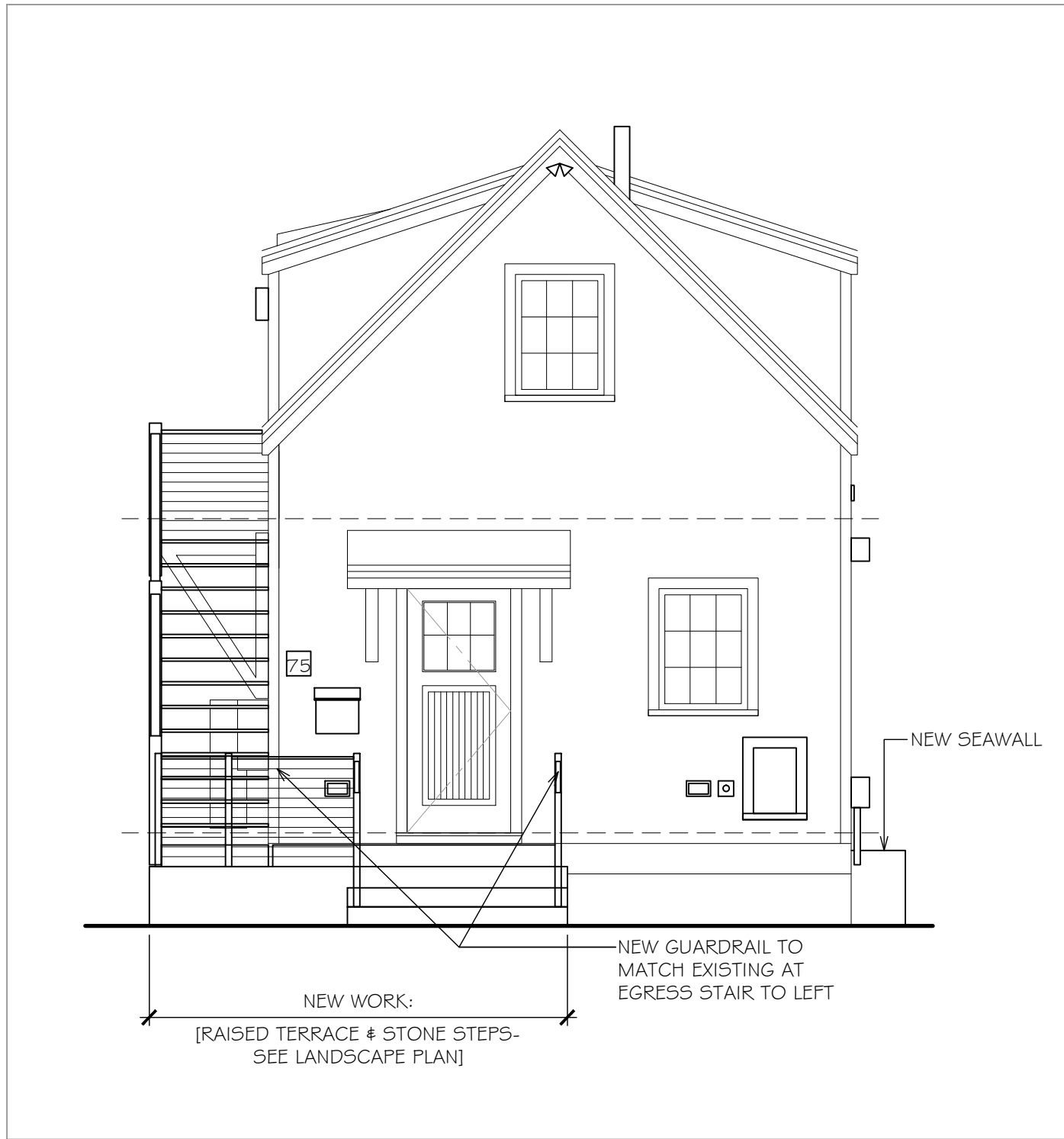
APPLICANT:
POINT OF VIEW CONDOMINIUM
 57 SALTER STREET
 PORTSMOUTH, NH 03801

PROJECT:
SITE IMPROVEMENTS
 75 SALTER STREET (UNIT #1)
 PORTSMOUTH, NH
 MAP 102 LOT 32

TITLE:
BOARD OF ADJUSTMENT AREA OF DETAIL CONDOMINIUM UNIT #1

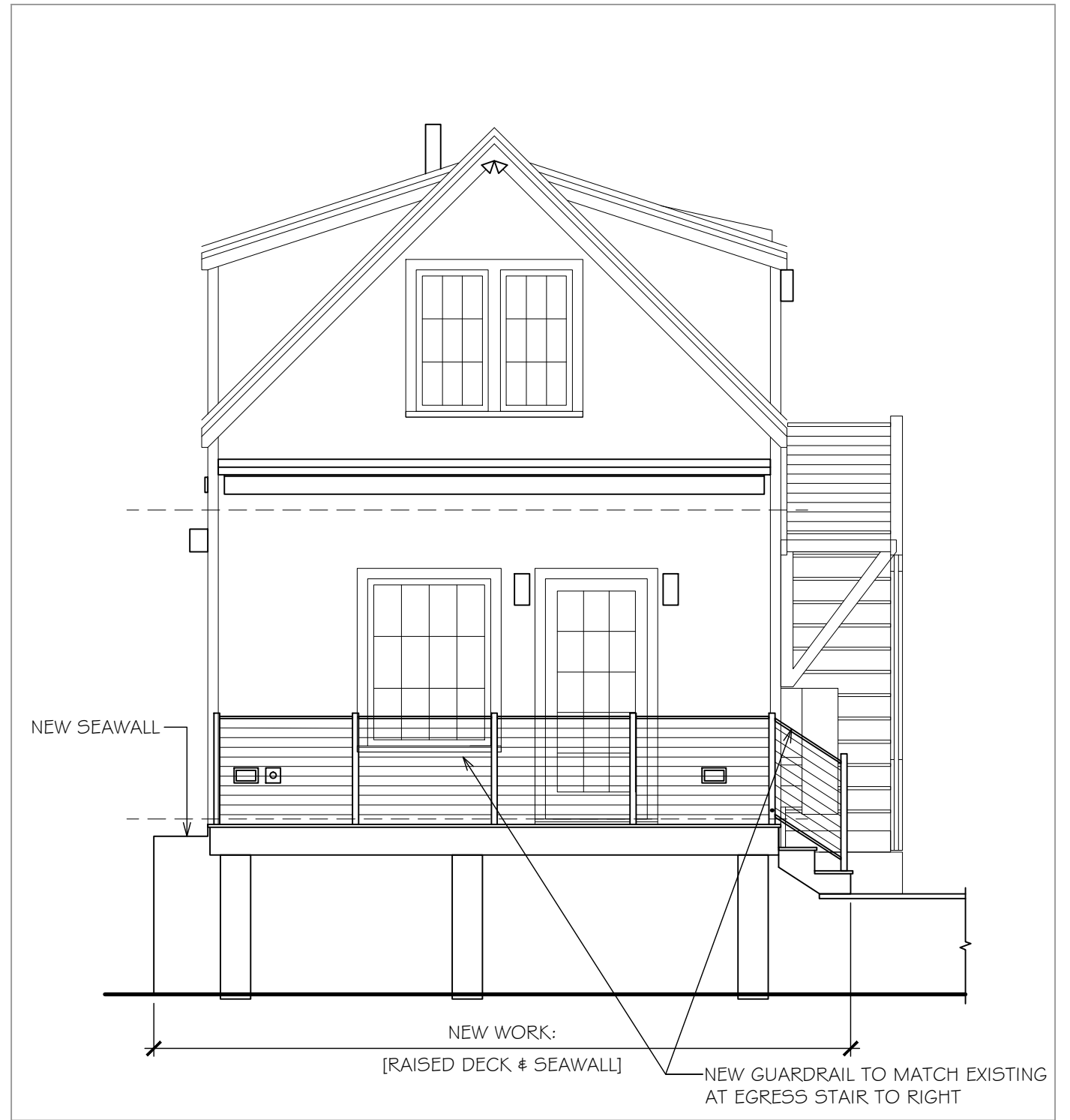
SHEET NUMBER:

P5398



Proposed West Elevation

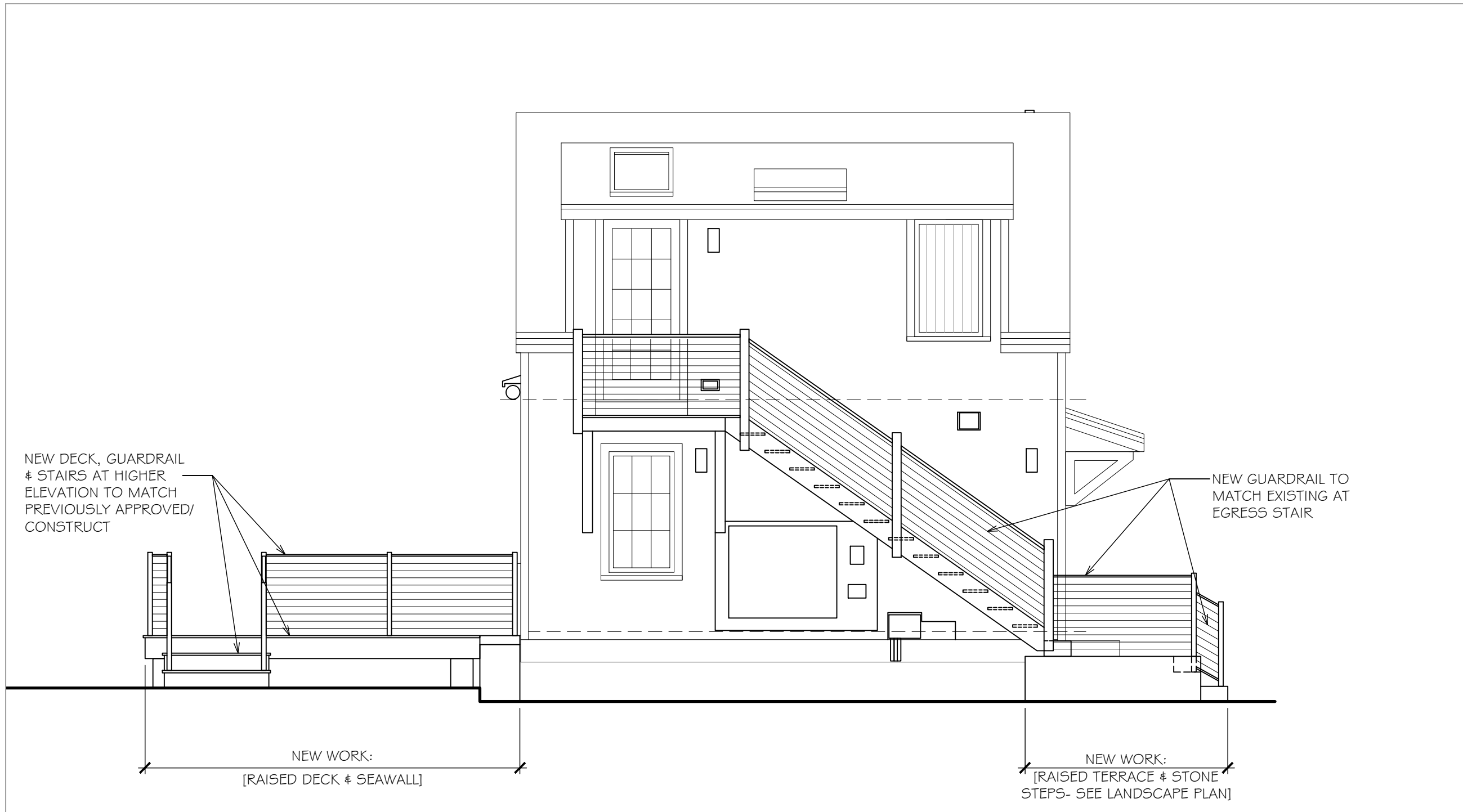
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Proposed East Elevation

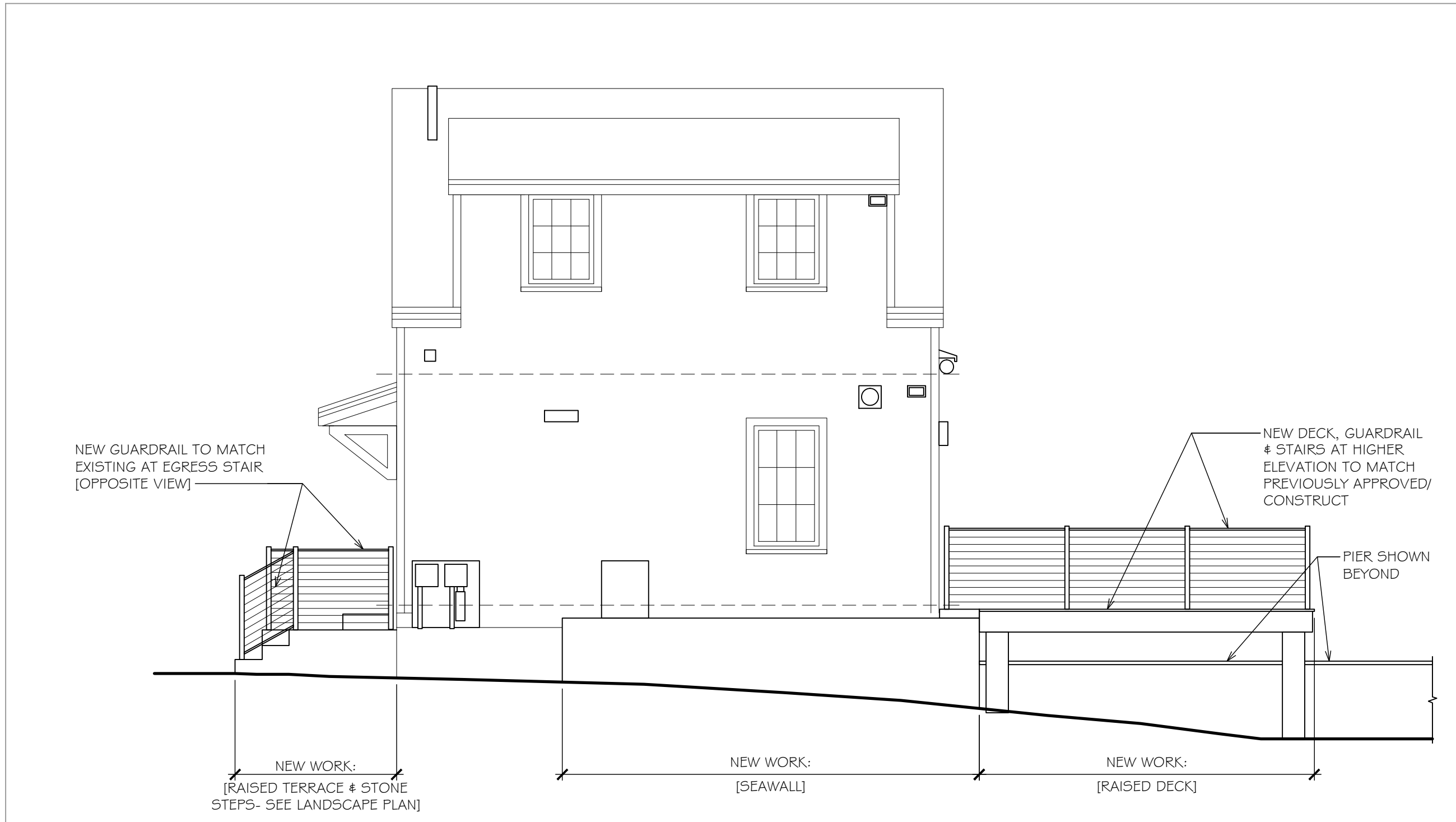
SCALE: 1/4" = 1'-0"





Proposed North Elevation
 SCALE: 1/4" = 1'-0"

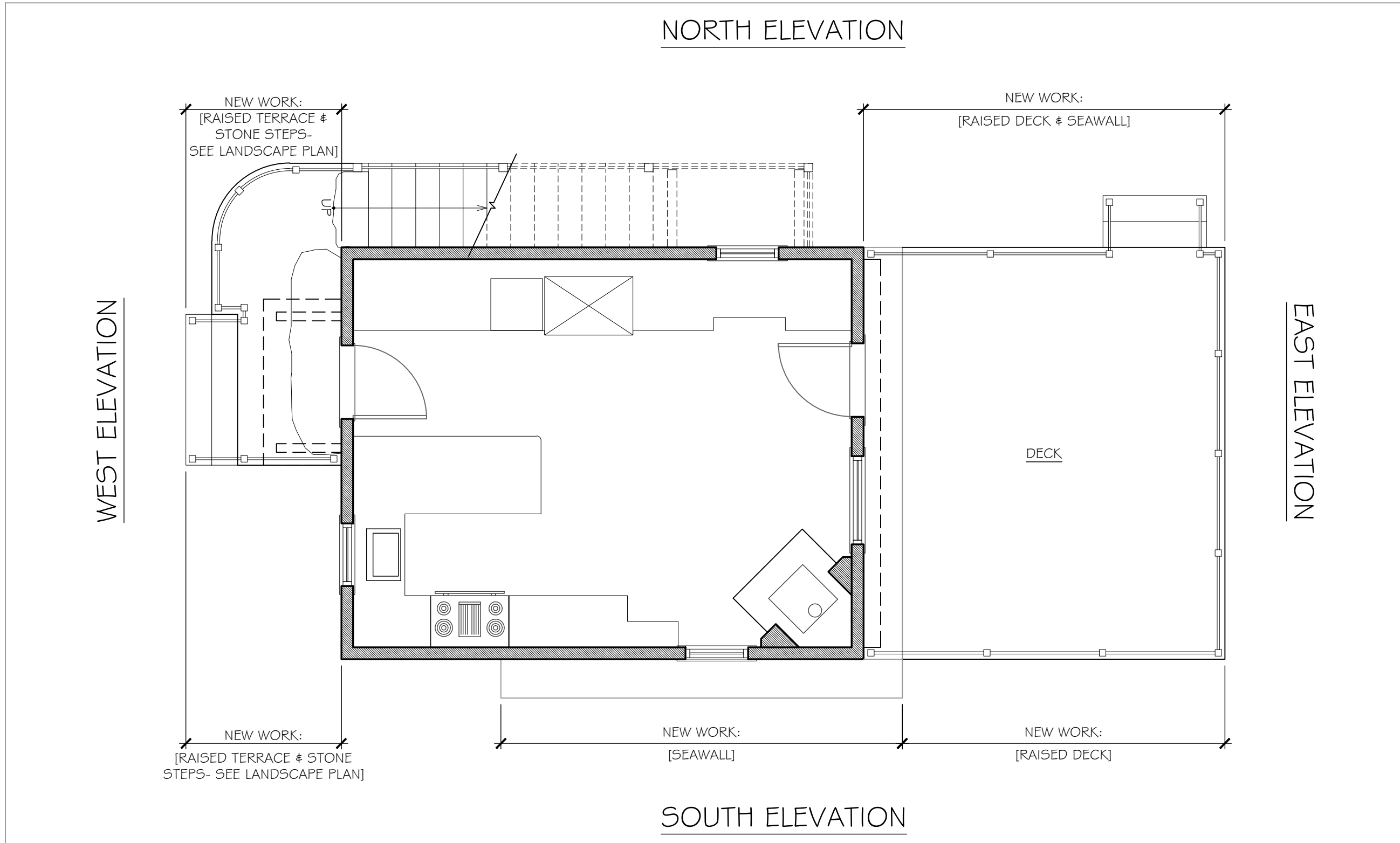




Proposed South Elevation

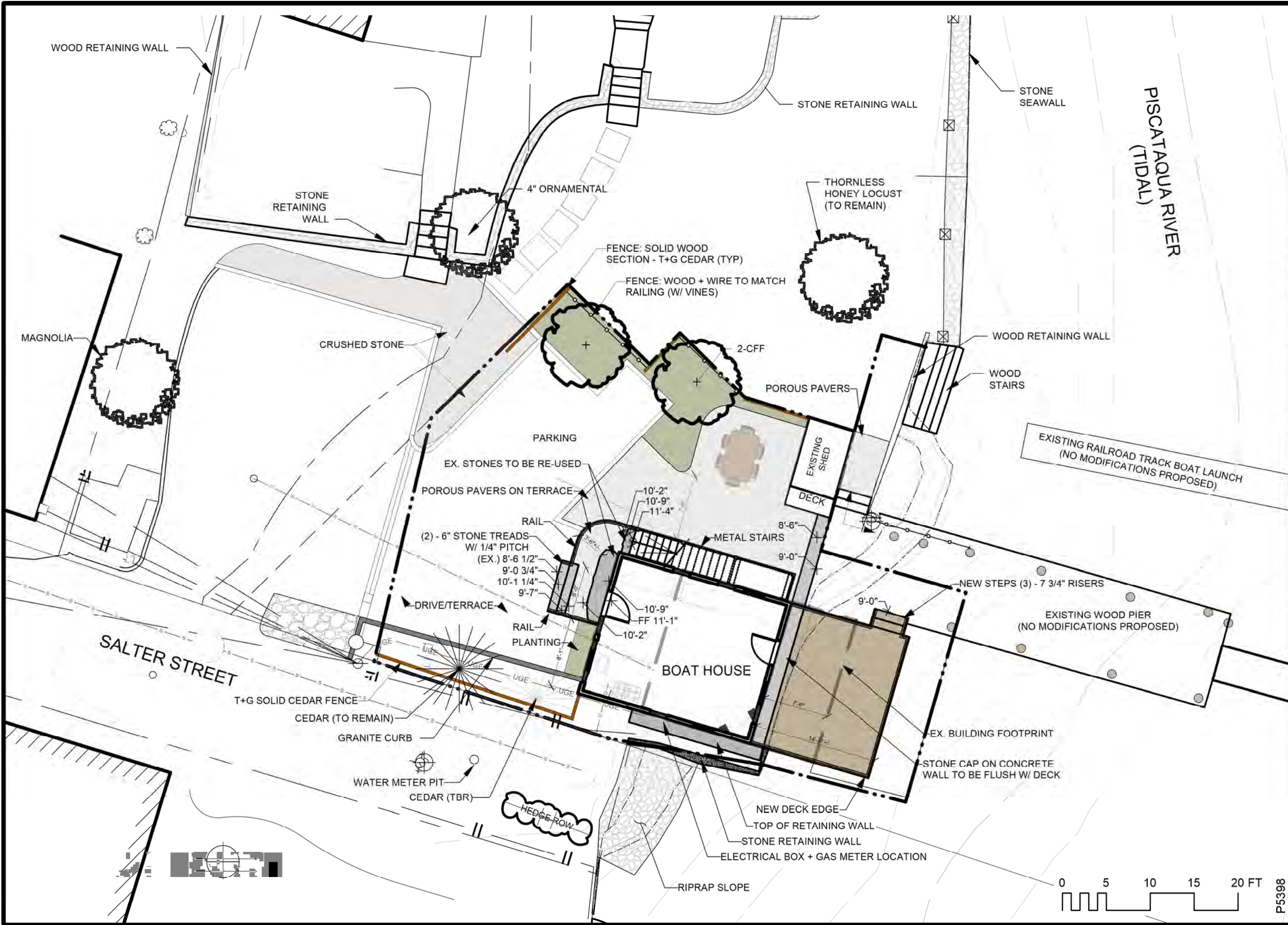
SCALE: 1/4" = 1'-0"





First Floor Plan w/Landscape
 SCALE: 1/4" = 1'-0"





REVISIONS

NO.	DESCRIPTION	BY	DATE

DRAWN BY: TMC
APPROVED BY: TPP
DRAWING FILE: THOMPSON_V2023

SCALE:
(22"x34") - 1" = 5'
(11"x17") - 1" = 10'

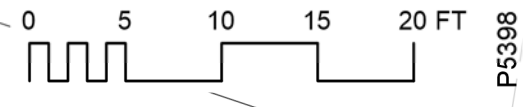
OWNER:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

APPLICANT:
POINT OF VIEW CONDOMINIUM
57 SALTER STREET
PORTSMOUTH, NH 03801

PROJECT:
SITE IMPROVEMENTS
75 SALTER STREET (UNIT #1)
PORTSMOUTH, NH
MAP 102 LOT 32

TITLE:
AREA OF DETAIL CONDOMINIUM UNIT #1

SHEET NUMBER:
1 OF 1



P5398



Photograph #1:

Looking east at the existing front entry area. May 30, 2023



Photograph #2:

Looking south at the existing building to be relocated. May 30, 2023



Photograph #3:

Looking west at the building & deck to be relocated landward. May 30, 2023



Photograph #4:

Looking north at the building to be relocated landward. May 30, 2023

Margot Thompson
75 Salter Street
Portsmouth, NH 03801
(603) 475-2764

May 24, 2023

Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue, 3rd Floor
Portsmouth, NH 03801

RE: Authorization to File – Application for Zoning Variances
57 Salter Street, Tax Map #102, Lot #32

To Whom it May Concern,

As owner of Unit 1 (75 Salter Street) located at 57 Salter Street, Tax Map #102, Lot #32, I hereby authorize James J. Steinkrauss, Attorney and Lauren C. Kilmister, Attorney with Rath, Young & Pignatelli, PC and Eric D. Weinrieb of Altus Engineering to either jointly or individually file a zoning variance application for 57 Salter Street, Unit 1 with the Portsmouth Zoning Board of Adjustment. I anticipate that the application will be filed by May 31, 2023 for consideration by the Board on June 20, 2023.

Thank you for your attention to this matter.

Sincerely,


By: Margot L. Thompson

Cc: Edward Thompson (via electronic mail) – ept1955@aol.com
Eric D. Weinrieb, P.E., Altus Engineering (via electronic mail) – eweinrieb@altus-eng.com
James J. Steinkrauss, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – jjis@rathlaw.com
Lauren C. Kilmister, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – lck@rathlaw.com

Point of View Condominium Association
57 Salter Street
Portsmouth, NH 03801

May 23, 2023

Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue, 3rd Floor
Portsmouth, NH 03801

RE: Authorization to File – Application for Zoning Variances
57 Salter Street, Tax Map #102, Lot #32

To Whom It May Concern,

As Trustee of the Point of View Condominium Association (“Association”) consisting of Units 1 and 2 located at 57 Salter Street, Tax Map #102, Lot #32, the Association authorizes James J. Steinkrauss, Attorney and Lauren C. Kilmister, Attorney with Rath, Young & Pignatelli, PC and Eric D. Weinrieb of Altus Engineering to either jointly or individually file a zoning variance application for 57 Salter Street, Unit 1 with the Portsmouth Zoning Board of Adjustment. We anticipate that the application will be filed by May 31, 2023 for consideration by the Board on June 20, 2023.

Thank you for your attention to this matter.

Sincerely,



Edward Thompson, Trustee
Point of View Condominium Association

Cc: Eric D. Weinrieb, P.E., Altus Engineering (via electronic mail) – eweinrieb@altus-eng.com
James J. Steinkrauss, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – jjst@rathlaw.com
Lauren C. Kilmister, Esq., Rath, Young & Pignatelli, P.C. (via electronic mail) – lck@rathlaw.com

From: Dan Posternak <dan@roundaboutdiner.com>
Sent: Tuesday, May 30, 2023 8:33 AM
To: Ned Thompson
Cc: James J. Steinkrauss; Margot L. THOMPSON
Subject: Re: BOA Letter

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Morning

I forwarded to my attorney along with condo docs just to confirm no issues going forward. Will get to asap but not my Wednesday but seeing meeting not for 3 weeks I can't imagine that will be an issue. I'll reach out as soon as I have an update. Thank you

On Tue, May 30, 2023 at 8:25 AM Ned Thompson <ept1955@aol.com> wrote:

Dear Dan,

Hope you had a nice Memorial Day.

Just wanted to follow-up to see if you or Kristin had any thoughts regarding supporting our Board of Adjustment petition?

Would be pleased to address any concerns, please do not hesitate to contact any of us.

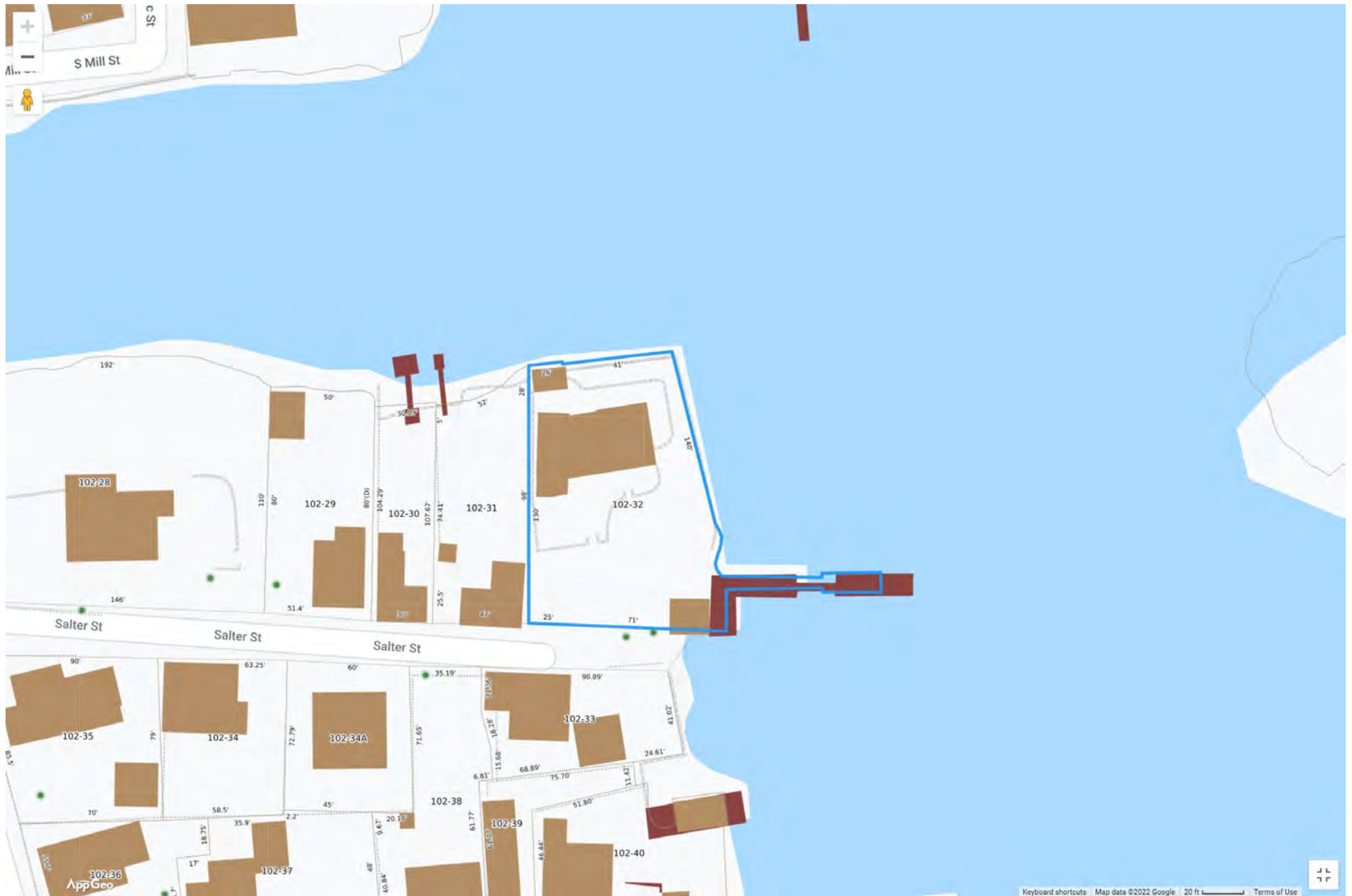
Enjoy the day...

Best,

Ned

Ned Thompson
[55 Salter Street](#)
[Portsmouth, NH 03801](#)
603.475.2764 (c)
EPT1955@aol.com

City of Portsmouth Tax Maps – 57 Salter Street – Map 102, Lot 0032



City of Portsmouth Tax Maps – 57 Salter Street – Map 102, Lot 0032



City of Portsmouth Tax Maps – 57 Salter Street – Map 102, Lot 0032



**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

December 18, 2018

MEMBERS PRESENT: Chairman David Rheaume, Vice-Chairman Jeremiah Johnson, John Formella, Peter McDonell, Christopher Mulligan, Arthur Parrott, Alternate Chase Hagaman

MEMBERS EXCUSED: Jim Lee, Alternate Phyllis Eldridge

ALSO PRESENT: Peter Stith, Planning Department

I. ELECTION OF OFFICERS

*It was moved, seconded and **passed** by unanimous voice vote to re-elect David Rheaume to serve as Chairman and Jeremiah Johnson to serve as Vice-Chairman until the next Election of Officers.*

Chairman Rheaume stated that Alternate Chase Hagaman would sit in on all the cases.

II. APPROVAL OF MINUTES

A) November 20, 2018

*It was moved, seconded, and **passed** by unanimous vote to approve the November 20, 2018 minutes as amended.*

III. PUBLIC HEARINGS - OLD BUSINESS

A) Case 11-1

Petitioners: Ryan and Karen Baker

Property: 137 Wibird Street

Assessor Plan: Map 134, Lot 48

Minutes Approved 1-15-19

Zoning District: General Residence A
Description: Construct semi-attached garage.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 10.521 to allow the following:
a) a 2.5' *left side yard* where 10' is required; and
b) 27%± building coverage where 25% is the maximum allowed.
(This petition was tabled at the November 20, 2018 meeting and has been revised with the changes in italics above.)

Mr. Parrott moved to take the petition off the table, and Mr. Hagaman seconded. The motion passed by unanimous vote, 7-0.

The applicant Ryan Baker was present to speak to the petition. He said he agreed with the Board that the zero-foot setback was too close, noting that was the reason he chose not to pursue the easement option. He said he chose Option 2, which would increase the side setback to 2.5 feet and make it less intrusive. In response to Mr. Hagaman's questions, Mr. Baker said the dormer was aesthetic, that the sketch for the garage was a placeholder instead of to scale, and that he knew exactly where the property line was.

*It was moved, seconded, and passed by unanimous vote to **re-open** the public hearing.*

No one rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

Mr. Stith recommended that homeowners with similar petitions include a survey confirming that the plus-minus distance was within two inches so that they did not have to return for another hearing.

*Mr. Parrott moved to **grant** the variances for the application as presented, with the following stipulation, with respect to Mr. Stith's comment:*

- *The left side yard is granted as 2.5' plus or minus a maximum of 6" to allow for changes in construction circumstances that would determine the final setback.*

Vice-Chair Johnson seconded.

Mr. Parrott said it was a simple situation and that the only concern he had with the initial proposal was the side setback. He said that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because there was no compelling indication that the public's health, safety, or welfare would be in danger. He said it was a modest proposal in a well-established neighborhood in which there were similar situations where the

buildings were too close to the property line. Substantial justice would be done because a garage was a clear benefit to the homeowner, and the garage was modest, not overbuilt for the lot, and in a logical location. He said granting the variances would not diminish the value of surrounding properties because the garage would be situated such that it would blend in with the neighborhood. He said the hardship was that the property was fairly large on a small lot and that the location of the garage was the only logical place to site it. He said the garage would look like it belonged and would have a beneficial effect on the homeowner's property as well as surrounding ones.

Vice-Chair Johnson concurred with Mr. Parrott and had nothing to add.

Chairman Rheaume said he would support the motion. He noted that the lot was subdivided with the idea that the house wouldn't require anything additional, but he realized that the applicant was the new homeowner and had heard the Board's concerns above moving the garage back. He said the structure was modest and that other garages in the neighborhood were very close to the property lines, so he was willing to support it.

The motion with the stipulation passed by unanimous vote, 7-0.

IV. PUBLIC HEARINGS - NEW BUSINESS

1) Case 12-1

Petitioners: Jon R. & Karin E. Allard

Property: 24 Burkitt Street

Assessor Plan: Map 160, Lot 23

Zoning District: General Residence A

Description: Replace an existing rear porch with a 10'± x 22'± enclosed porch and stairs.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) From Section 10.521 to allow a 5'± left side yard where 10' is required; and
- b) From Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

SPEAKING IN FAVOR OF THE PETITION

The owner Jon Allard was present to speak to the petition. He noted that the porch had a rotted corner and wasn't usable, so he and his wife wanted to replace it with a porch that matched the width of the house. He said they needed a lesser side setback to install a landing and stairs. He said his neighbors approved the project, including the most affected abutter.

SPEAKING IN OPPOSITION TO THE PETITION AND/OR

SPEAKING, TO, FOR, OR AGAINST THE PETITION

No one rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Mulligan moved to **grant** the variances for the petition as presented and advertised, and Mr. McDonell seconded.*

Mr. Mulligan said the applicant demonstrated that the existing porch needed to be replaced for several good reasons, and that what drove the relief was placing the landing and stairs into the side setback. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance because the essential character of the neighborhood would not be affected. Substantial justice would be done because the loss to the applicant would require strict compliance with the side yard setback and would far outweigh any gain to the public. He noted that the home violated the setback but that the increase was just an incremental one. He said granting the variances would not diminish the values of surrounding properties, noting that the most affected neighbor was in favor and that the project would result in new construction that would enhance home values in the neighborhood.

Mr. Mulligan stated that literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property. The side yard setback was already nonconforming and there is no fair and substantial relationship between the side yard requirement and its specific application to this property as the applicant is proposing to simply replace the existing deficient porch with a more modern larger one with a better access point. The slight additional encroachment is not significant. He stated that this is a reasonable residential use in a residential zone.

Mr. McDonell concurred with Mr. Mulligan.

Chairman Rheume said the stairs would need to meet code. Mr. Stith verified that the stairs were being built to code and that the applicant had to comply with building code for egress. Mr. Mulligan asked whether the relief granted was the minimum needed for the landing and stairs to meet that code, and Mr. Stith agreed.

Mr. Mulligan amended his motion to add the following stipulation which was seconded by Mr. McDonell:

- *The left side yard may be adjusted as necessary to ensure that the proposed stairs and landing meet the minimum dimensions necessary to comply with the Building Code.*

*The motion with the stipulation **passed** by unanimous vote, 7-0.*

2) Case 12-2

Minutes Approved 1-15-19

Petitioners: Jason R. and Natasha A. Karlin
Property: 88 Lincoln Avenue
Assessor Plan: Map 113, Lot 12
Zoning District: General Residence A
Description: Replace a detached garage with a garage plus attic and construct a two and a half story rear addition.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from the following:
a) from Section 10.521 to allow a rear yard of 3’7” ± where 20’ is required;
b) from Section 10.521 to allow 35%± building coverage where 25% is the maximum allowed; and
c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

SPEAKING IN FAVOR OF THE PETITION

The applicant Jason Karlin was present and reviewed the petition, noting that he wanted to enlarge the house for social gatherings. He explained why the extra space was needed and said the neighbors approved the project.

Chairman Rheume said that the neighbor at 43 McNabb Court was concerned about glazing and asked whether it had been addressed. Mr. Karlin said that he and the neighbor had agreed that frosted glass was okay for the south-facing window.

Chairman Rheume verified the two front yard setback dimensions with Mr. Stith.

In response to further questions from Chairman Rheume, Mr. Karlin said he would not re-use any existing slab on the garage and that he had not considered moving the garage closer to the house because he felt that it wasn’t encroaching more than existing.

SPEAKING IN OPPOSITION TO THE PETITION AND/OR SPEAKING, TO, FOR, OR AGAINST THE PETITION

No one rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

Mr. Hagaman said it seemed like an opportunity to improve the setback. Vice-Chair Johnson said he had no problem with keeping the same setback because the lot was unique. He said the expansion was big but that everything was shifted to one side, leaving a lot of open space. Chairman Rheume said he was okay with it because it was closer to the side setback, even though he preferred to see an improvement in the rear setback.

*Mr. McDonell moved to **grant** the variances for the application as presented and advertised, and Mr. Parrott seconded.*

Mr. McDonell said he agreed with the concerns raised but felt that the main driver of the proposal was to get more living space. He said the two-car garage didn't look like it would fit into the space without getting close to the existing rear yard setback. He said it was a corner lot and that the neighbor thought of it as a side setback, so he felt that it was reasonable. He said that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He noted that the addition was a big one but didn't think that it would be so big that it would alter the essential character of the neighborhood or pose a threat to the public's health, safety, or welfare. He said substantial justice would be done because there would be no harm to the general public and the benefit would be to the applicant because the applicant wanted a bigger house with more living space, which he felt was a more reasonable use of the property. He said he had not heard anything that would diminish the value to surrounding properties. He said the hardship was that it was a corner lot and what was technically a rear yard setback was more like a side yard setback, so the relief requested would be more minimal. He said the other special condition of the property was the siting of the building, and he felt that the applicant did a good job of moving the mass of the addition toward the center of the property. He said the requested relief was therefore pretty minimal and that he saw no fair and substantial relationship between the purposes of the ordinance with the setback requirement and building coverage requirements and the special application of those provisions to the property. He said the proposed use was a reasonable one.

Mr. Parrott concurred with Mr. McDonell and noted that the lot was only 5,000 square feet and that the design was appropriate in getting the additional space and garage to make the house more usable. He said the proposed garage was as modest as possible to make a double garage.

*The motion **passed** by unanimous vote, 7-0.*

3) Case 12-3

Petitioners: Jennifer & Dylan Thomas

Property: 279 Wibird Street

Assessor Plan: Map 133, Lot 35

Zoning District: General Residence A

Description: Construct a mudroom and 24'± x 26'± garage with second floor living space.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.521 to allow a right side yard of 5'3" ± where 10' is required;
- b) from Section 10.521 to allow 26% building coverage; and
- c) from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

SPEAKING IN FAVOR OF THE PETITION

Attorney Monica Kieser was present on behalf of the applicant to speak to the petition. She introduced the project designer Dennis Morrell. She reviewed the petition and criteria.

Mr. Mulligan asked why the existing wraparound porch would be removed. Attorney Kieser said it was to allow more room for lot coverage and that it was also dilapidated. She said it didn't get a lot of use because the homeowners preferred to be in the back yard, where there was a lot of open space. In response to further questions from the Board, Attorney Kieser said the new livable space would be over 3,000 square feet, compared to the existing space of 2,100 square feet. She said the garage's location was driven by the need for turning radius in the narrow lot.

Chairman Rheume said it was a substantial addition. He said he understood expanding off the third floor of the existing structure but felt that the additional structure and the second-floor master bedroom suite were impressive. He asked whether the applicant had considered trying to bring the second floor back in to make it more in line with the 10-ft setback so that the imposing nature of the 5-ft setback was not as much. Mr. Morrell said he made the garage large enough for two cars and that the owners were comfortable with the size.

Chairman Rheume asked whether the addition could be made fully compliant with the setback. Attorney Kieser said they could not do so because the garage had to be deep enough for two cars and some storage and that they also didn't want to take any space from the existing second floor.

Mr. Hagaman suggested narrowing and lengthening the garage to make it more usable for storage. Mr. Morrell said they hadn't considered it due to the bulkhead, the condensers, and the steps, but that they could review changing the shape of the garage.

**SPEAKING IN OPPOSITION TO THE PETITION AND/OR
SPEAKING, TO, FOR, OR AGAINST THE PETITION**

No one rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

The Board discussed the petition. Mr. Mulligan said the proposal was substantial but didn't think that the amount of requested relief was all that significant in light of the significant improvements to the property. Vice-Chair Johnson agreed. He said the garage was generously sized and thought the applicant could figure out a way to get under the one percent. He noted that it was a lot of house and thought the setback relief was less than it would be with the porch. He said it was a narrow lot with tightly-packed lots and that most of the impact would be internal to the site. Mr. Hagaman said he had the same concerns about the porch. He said he understood that the relief was modest in that it improved one of the right yard setbacks, but the nature of what was presented was character-wise very different from the original single-story porch that had open air and was not imposing. He said the applicant could meet the building coverage

variance by making minor tweaks to the garage and living space and pulling it off the lot line a bit to make it less imposing.

Mr. Stith said the condensers would typically require meeting the 10-ft setback. Chairman Rheume said what the Board would approve would include the condensers, so it wasn't a problem. He said the project was a substantial addition going up against the property line that included two big stories, a tall roof, a good-sized garage, and a master bedroom suite. He said that a reasonable house could have less and that he was torn about the imposing nature.

*Mr. Mulligan moved to **grant** the variances for the petition as presented and advertised, and Mr. Parrott seconded.*

Mr. Mulligan noted that the applicant was proposing a significant improvement to the property but that the amount of relief requested was fairly minimal. He said granting the variances would not be contrary to the public interest and would not violate the spirit of the ordinance. He said the essential residential character of the neighborhood would not be changed by what was proposed and that the public's health, safety, and welfare would not be implicated by the building coverage increase or setback relief. He said substantial justice would be done because the lot could not have strict compliance and was already deficient as far as lot area, frontage, and side yard setbacks. He said granting the variances would not diminish the value of surrounding properties, noting that the applicant was prepared to sink a huge amount of money into the property and that the substantial and expansive new construction would increase surrounding values. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the property had special conditions, including that it was a large structure on a narrow lot and the lot lines were perfect right angles with Wibird Street, so there were issues as far as getting in and out of the garage and that the applicant needed an appropriate turning radius. He said he understood everyone's concern that the project could have been designed differently, but he felt that what was proposed was a very minimal increase in building coverage over what was allowed and that the setback proposed was a slight improvement over existing. He said it came down to the question of whether the setback of 2-1/2 stories of encroachment as opposed to one was significant enough that the hardship criteria was not met, and he didn't think it was significant enough. He said the applicant proposed to have the encroachment and it would not have a significant impact to the most immediate abutter. He noted that the Board always said that the purpose of setback requirements was to assure sufficient light and air as well as access to the property, and he thought that the applicant was clear about the existing front porch inhibiting light, air, and access. He said he credited the applicant's removal of the front porch to improve the property and stay as close to the building coverage percentage as they could. He said the project met all the criteria and should be approved.

Mr. Parrott concurred with Mr. Mulligan. He said that the most constraining aspect of the project was the width of the lot itself. He said the house was dated and needed substantial construction to bring it up to current standards, and that the net amount of relief requested was pretty modest.

*The motion **passed** by a vote of 6-1, with Mr. Hagaman voting in opposition.*

4) Case 12-4

Petitioner: Margot L. Thompson

Property: 57 Salter Street

Assessor Plan: Map 102, Lot 32

Zoning District: Waterfront Business

Description: Use an existing structure as a dwelling unit, relocating stairs, and adding a dormer and two 19± s.f. entrance overhangs.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;
- b) from Section 10.440, Use #1.10 to allow a single family dwelling where the use is not allowed in this district;
and variances from Section 10.311 and Section 10.531 to allow the following:
 - c) a lot area of 11,327± s.f. where 20,000 s.f. is required;
 - d) 67'± of continuous street frontage where 100' is required;
 - e) a 4.1'± front yard where 30' is required; and
 - f) a 0'± side yard where 30' is required.

SPEAKING IN FAVOR OF THE PETITION

Attorney Peter Loughlin was present on behalf of the applicant to speak to the petition, and he introduced the owners the Thompsons. He reviewed the petition, noting that what was requested was a use similar to a garden cottage under the ADU Ordinance. He said that dwelling units were not permitted in the Waterfront District, so a use variance was required. He said the owners wanted to convert a work shop to a dwelling unit and add a kitchen. He noted that, out of the 32 lots in the neighborhood, only two were used for waterfront business. He reviewed the criteria.

Mr. Parrott asked about the applicable parking requirements, noting that there wasn't much parking space. Attorney Loughlin replied that 1.3 parking spaces were allowed per dwelling unit and that four spaces could fit in that location. Mr. Parrott said the use wasn't allowed. Chairman Rheaume said that four parking spaces would make sense if the property was zoned residential. It was further discussed. Mr. Parrott said his point was that parking spaces were not addressed in the ordinance because it was a non-allowed use and that the Board had to go by the ordinance.

Mr. Stith said the existing house would have two parking spaces and that the new dwelling would have one. Vice-Chair Johnson noted that a residential use would have to meet residential parking requirements. Mr. Parrott asked about requirements relating to backing out into the street, and it was further discussed.

Chairman Rheume said the 1980 property tax map showed the frontage as 96 feet, yet the applicant indicated that it was only 67 feet. Attorney Loughlin said he used the dimensions on the present tax map but that there was less frontage when the property was surveyed, and the lot size was 1,000 feet more than what the tax map showed.

The zero-foot setback was discussed. Chairman Rheume said it was almost like a negative setback because the structure went over the water line. Mr. Stith said that Salter Street was four feet, the right side setback was zero feet, and it went over the mean water line.

Chairman Rheume noted that there were no floor plans provided and asked what would be on the first and second floors. Mr. Thompson said he was working with the Building Department about what type of internal stairs to put in. He said the top floor would have a bedroom and bath, and the second floor would have a kitchen. He said the total square footage between the two floors would be less than 600 square feet.

SPEAKING IN OPPOSITION TO THE PETITION

No one rose to speak.

SPEAKING, TO, FOR, OR AGAINST THE PETITION

Marsha McCormick of 53 Salter Street said her concern was that the structure would be another residence. She asked what would be permissible on the street that was still waterfront business and if the project would create the potential for a restaurant or similar projects.

Mr. Thompson said their property was divided and that two units were combined, and that the usage on the street had become less intense. He said they would increase it by one or two people.

No one else rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

The Board discussed the setback and whether the structure was an Accessory Dwelling Unit (ADU) or a single-family dwelling. Mr. Mulligan said the dimensional relief was based on existing conditions and that the project came down to a use variance for a second residential dwelling in a neighborhood that had evolved into a residential area.

*Mr. Mulligan moved to **grant** the variances for the petition as presented and advertised, and Mr. Hagaman seconded.*

Mr. Mulligan said the dimensional relief was self-explanatory, based on the existing conditions, and that there was no physical change to the property proposed. He said it came down to a use variance and whether or not it was appropriate to have a secondary residential use on the property. He said he thought it was and that it was the same policy as ADUs. He said that granting the variances would not be contrary to the public interest and would observe the spirit

of the ordinance because the essential character of the neighborhood would not be altered and the public's health, safety, or welfare would not be affected. Substantial justice would be done because the project was a modest amount of living space added to a large property. He said the values of surrounding properties would not be diminished. He said the hardship was that the lot was unique compared to other properties in the neighborhood because it was surrounded by water on two sides and was at the end of a dead-end street. He said it was a fairly large property that didn't lend itself to permitted uses in that zone and that he saw no fair and substantial relationship between the purpose of the uses permitted in the Waterfront Business zone and their application to the property. He said the proposed use was a reasonable one that met all the criteria and that it should be granted.

Mr. Chase concurred with Mr. Mulligan and had nothing to add.

Chairman Rheume said he would support the motion. He noted that the Waterfront Business District was an odd one and that many of the properties didn't fit the idealized waterfront business concept due to constraints such as access on narrow streets, property value increases, and so on. He said if the property currently had a business use, he would be more defensive of it, but since it had a successful history of being a residential property, he was in approval.

*The motion **passed** by unanimous vote, 7-0.*

Mr. Mulligan recused himself from the petition.

5) Case 12-5

Petitioner: 56 Middle St LLC

Property: 56 Middle Street

Assessor Plan: Map 126, Lot 19

Zoning Districts: Character District 4L-1 and the Downtown Overlay District

Description: Restore the property to a single family home,

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.642 and 10.5A32 to allow a residential principal use on the ground floor of a building; and
- b) from 10.5A41.10A to allow a 1.7'± rear yard where 5' is required.
- c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;

SPEAKING IN FAVOR OF THE PETITION

Attorney Tom Watson was present on behalf of the applicants to speak to the petition. He discussed the building's history and said the owners wanted to restore the building to a single-family residential use. He noted that they also wanted to replace the one-story office space in the

back with a two-car garage, including a bedroom suite on the second floor. He reviewed the criteria and said they would be met.

In response to Mr. Hagaman's questions, Attorney Watson said there was a part of the building that was currently used as office space, that the owners intended to keep the outside of the building similar to what it currently was, and that there were mixed-use commercial businesses along State Street that were near the property.

Chairman Rheume noted the easement rights that would allow access to the back garage over neighboring lots. He asked how vehicles would get to the garage. Attorney Watson explained how a public right-of-way that the applicant had rights to use.

SPEAKING IN OPPOSITION TO THE PETITION AND/OR SPEAKING, TO, FOR, OR AGAINST THE PETITION

No one rose to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Formella moved to **grant** the variances for the petition as presented and advertised, and Vice-Chair Johnson seconded.*

Mr. Formella noted that it was a self-explanatory request for a use variance for residential on the first floor. He said that granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said that allowing a residential use on the first floor would not alter the essential character of the neighborhood, pointing out that it was on the edge of the Downtown Overlay District and that there were residential uses nearby. He said it looked like a residential use and wouldn't threaten the public's health, safety, or welfare. He said that granting the variances would do substantial justice because the loss to the applicant would outweigh any gain to the public. He said there was no evidence to suggest that the value of surrounding property values would not be diminished. He said the hardship was that there were special conditions about the property, including that it was on the edge of the Downtown Overlay District and was originally built as a single-family home. He said the Board was sort of restoring the property to its original purpose, so there was no real and substantial relationship between the purpose of the use limitation to maintain economic vitality of the area. He said the proposed use was a reasonable one and should be approved.

Vice-Chair Johnson concurred with Mr. Formella, noting that it was important to recognize that there were transition buffer zones in hard-lined zones and that the Downtown Overlay District had the same perimeter as the property. He said it was an intangible line, not a hard line, and noted that properties went both ways on either side of the overlay. He said it was a perfect place for the use and that the project should be approved.

Chairman Rheume said he would support the motion, noting that the new addition with a garage was a modest addition and that, even though it was a tight setback, it was a very short distance and wouldn't affect the public's light and air.

*The motion **passed** by unanimous vote, 6-0.*

V. OTHER BUSINESS

There was no other business.

VI. ADJOURMENT

*It was moved, seconded, and passed by unanimous vote to **adjourn** the meeting at 9:40 p.m.*

Respectfully submitted,

Joann Breault
BOA Recording Secretary

PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

ACTION SHEET

TO: John P. Bohenko, City Manager

FROM: Mary Koepenick, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on December 18, 2018** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Rheume, Vice Chairman Jeremiah Johnson, Arthur Parrott, John Formella, Peter McDonell, Christopher Mulligan, Alternate Chase Hagaman

EXCUSED: Jim Lee, Alternate Phyllis Eldridge

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I. ELECTION OF OFFICERS

It was moved, seconded and passed by unanimous voice vote to reelect David Rheume as Chairman and Jeremiah Johnson as Vice-Chairman to serve until the next Election of Officers.

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II. APPROVAL OF MINUTES

A) November 20, 2018

Action: The Board voted to accept the Minutes of the November 20, 2018 meeting as amended.

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III. PUBLIC HEARINGS - OLD BUSINESS

A) Case 11-1

Petitioners: Ryan and Karen Baker

Property: 137 Wibird Street

Assessor Plan: Map 134, Lot 48

Zoning District: General Residence A

Description: Construct semi-attached garage.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from Section 10.521 to allow the following:

- a) a 2.5' left side yard where 10' is required; and
 - b) 27%± building coverage where 25% is the maximum allowed.
- (This petition was tabled at the November 20, 2018 meeting and has been revised with the changes in italics above.*

Action:

The Board voted to remove the application from the table and, after considering the revisions, voted to **grant** the revised petition as presented and advertised with the following stipulation:

Stipulation:

- The left side yard is granted as 2.5' plus or minus a maximum of 6" to allow for changes in construction circumstances that would determine the final setback.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. A modest proposal in a well-established neighborhood, with similar structures close to the property line, will not alter the essential character of the neighborhood nor threaten the public health safety or welfare.
- Substantial justice will be done as there will be a clear benefit to the property owner in granting the petition with no resulting harm to the general public.
- The value of surrounding properties will not be diminished. The proposed will be a modest garage, not over-built for the lot and in a logical location, which will blend with the existing structure on the lot and with the neighborhood.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property which include the placement of an existing larger house on a small lot so that the only logical location for a new garage requires relief. Adding a garage is a reasonable use of the property.

=====

IV. PUBLIC HEARINGS - NEW BUSINESS

1) Case 12-1

Petitioners: Jon R. & Karin E. Allard
 Property: 24 Burkitt Street
 Assessor Plan: Map 160, Lot 23
 Zoning District: General Residence A
 Description: Replace an existing rear porch with a 10'± x 22'± enclosed porch and stairs.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:
 a) From Section 10.521 to allow a 5'± left side yard where 10' is required; and

- b) From Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

Action:

The Board voted to **grant** the petition as presented and advertised with the following stipulation:

Stipulation:

- The left side yard setback may be adjusted as necessary to ensure that the proposed stairs and landing meet the minimum dimensions necessary to comply with the Building Code.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed as replacing the porch will not affect the essential character of the neighborhood.
- Substantial justice will be done as the loss to the applicant if required to strictly adhere to the side yard requirement would far outweigh any corresponding benefit to the general public.
- The new construction should enhance property values in the neighborhood and the most directly affect abutter expressed support for the project.
- Literal enforcement of the ordinance would result in unnecessary hardship due to a special distinguishing condition of the property on which the existing house and porch are already nonconforming. The proposal is to replace the existing deficient porch with a modern structure and a better access point and the additional encroachment is not significant. A residential use in a residential zone is a reasonable use of the property.

2) Case 12-2

Petitioners: Jason R. and Natasha A. Karlin

Property: 88 Lincoln Avenue

Assessor Plan: Map 113, Lot 12

Zoning District: General Residence A

Description: Replace a detached garage with a garage plus attic and construct a two and a half story rear addition.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including variances from the following:

- a) from Section 10.521 to allow a rear yard of 3’7” ± where 20’ is required;
- b) from Section 10.521 to allow 35%± building coverage where 25% is the maximum allowed; and
- c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. While the proposed addition is substantial, the size will not alter the essential character of the neighborhood and there is nothing in the proposal that will threaten the public health, safety or welfare.
- Substantial justice will be done as granting the petition will benefit the applicant by providing a reasonable amount of additional living space with no detriment to the general public.
- The value of surrounding properties will not be diminished by a new structure and a number of neighbors have indicated support for the project.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property which include the impact of setbacks on a corner lot and the siting of the existing building, which the applicant has mitigated by moving the mass of the addition toward the center of the property. With these conditions, there is no fair and substantial relationship between the general public purposes of the ordinance provisions as to setback and building coverage requirements and their specific application to the property. The proposed use in a residential area is a reasonable one.

3) Case 12-3

Petitioners: Jennifer & Dylan Thomas

Property: 279 Wibird Street

Assessor Plan: Map 133, Lot 35

Zoning District: General Residence A

Description: Construct a mudroom and 24'± x 26'± garage with second floor living space.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.521 to allow a right side yard of 5'3" ± where 10' is required;
- b) from Section 10.521 to allow 26% building coverage; and
- c) from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. The essential residential character of the neighborhood will not be changed by what is proposed, nor will the public health, safety or welfare be threatened by the requested building coverage increase and setback relief.
- Substantial justice will be done as the harm to the applicant by requiring strict adherence to the ordinance would outweigh any possible detriment to the general public.
- Granting the variances and constructing an attractive addition will not diminish the value of surrounding properties and the most immediate abutter will not be significantly impacted.
- A hardship is created in achieving full use of the property due to the special conditions of the lot which include a large structure on a narrow lot and lot lines angled to create issues in access and egress to the garage with an appropriate turning radius. The proposal represents a minimal increase in building coverage and a slight improvement over the existing setback. Removal of the existing porch will also increase access to sufficient light and air, one of the purposes of setback requirements. For these reasons there is no fair and substantial relationship between the purposes of the ordinance provisions and their specific application to this property.

4) Case 12-4

Petitioner: Margot L. Thompson

Property: 57 Salter Street

Assessor Plan: Map 102, Lot 32

Zoning District: Waterfront Business

Description: Use an existing structure as a dwelling unit, relocating stairs, and adding a dormer and two 19± s.f. entrance overhangs.

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;
- b) from Section 10.440, Use #1.10 to allow a single family dwelling where the use is not allowed in this district;
and variances from Section 10.311 and Section 10.531 to allow the following:
 - c) a lot area of 11,327± s.f. where 20,000 s.f. is required;
 - d) 67'± of continuous street frontage where 100' is required;
 - e) a 4.1'± front yard where 30' is required; and
 - f) a 0'± side yard where 30' is required.

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. With no footprint change to the property, the essential character of the neighborhood will not altered, nor will the public health, safety or welfare be threatened.
- Substantial justice will be done as the gain to the applicant in granting the variances will not result in a corresponding detriment to the general public from a modest amount of living space added to the property.
- The small enhancements to the existing structure will not diminish the value of surrounding properties.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property. These include its location at the end of a dead-end street bordered on two sides by water. This is a fairly large property in a district in which many properties don't fit the idealized waterfront business concept due to constraints such as access on narrow streets so that there is no fair and substantial relationship between the purposes of the uses permitted in the zone and their application to the property and the proposed use is a reasonable one.

5) Case 12-5

Petitioner: 56 Middle St LLC

Property: 56 Middle Street

Assessor Plan: Map 126, Lot 19

Zoning Districts: Character District 4L-1 and the Downtown Overlay District

Description: Restore the property to a single family home,

Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:

- a) from Section 10.642 and 10.5A32 to allow a residential principal use on the ground floor of a building; and
- b) from 10.5A41.10A to allow a 1.7'± rear yard where 5' is required.
- c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance;

Action:

The Board voted to **grant** the petition as presented and advertised.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. The required setback relief covers only a short distance along a lengthy property line. Allowing a residential use on the first floor, with nearby

residential uses, will not alter the essential character of the neighborhood nor threaten the public’s health, safety, or welfare.

- Substantial justice will be done as the loss to the applicant if the petition were denied would not be outweighed by any benefit to the general public.
- Restoring the property to a single family home will not diminish the value of surrounding properties.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property, which include the fact that it is on the periphery of the Downtown Overlay District and its long historical use as a single family home. Granting the variances will restore the property to its original purpose so that there is no fair and substantial relationship between the purpose of the use limitation and its specific application to the property. With nearby similar properties, this is a reasonable use.

=====

V. OTHER BUSINESS

No other business was presented.

=====

VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:40 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary

Building: Additions or Renovations, Commercial or Residential

35117



Applicant

Margot L. Thompson

Location

57 SALTER ST

Portsmouth, NH 03801

[View location details \(/locations/27627\)](/locations/27627)

Created

Nov 28, 2018

Status

Active

Expires

Aug 19, 2020

Details **Files (0)**


Project Information

Lot Area (s.f.) *

11,327

Lot Area Source 

Ambit Survey

Cost of ALL Construction in whole numbers - no dollar signs or decimals (please do NOT include MEP costs) * 

124,000

Cost of FOUNDATION construction only in whole numbers -- no dollar signs or decimals * 

0

Brief Description of Existing Land Use * 

Single family home with detached 16 x 21 free standing, 1.5 story boathouse structure converted to home office. Note: No permit approved for the conversion of boathouse into conditioned space.

Detailed Description of Proposed Work *

Residential Alter/Addition: Convert existing detached outbuilding into new dwelling unit
Project to include:

Selective demolition of portions of the existing 1.5 story structure. Demolition to include removal of existing exterior stairs leading to second floor, Removal of masonry chimney and portion of south roof, removal of all windows and doors. Interior demolition to include removal of interior plumbing fixtures and interior walls as per plan by Somma, Sheet D1.0 dated April 23, 2019. Construct new south dormer addition, New exterior landing and stairs on north elevation, Frame in new second floor door opening, Construct new entry overhangs and install new doors and windows as plan by Somma, Sheet A1.1, dated April 23, 2019, and per Sheet S1, Framing Plans and Framing Details Construction includes the installation of new cable railing system and mahogany posts on existing deck/dock structure along with the installation of a new retractable rear awning. All work shall be completed in compliance with HDC Approval granted February 06, 2019 and as per BOA Approval granted December 18, 2018.

NOTE: See State NHDES Wetlands and Non-site specific permit #2019-01730 for the relocation of deck/landings and stairs and new overhangs.

75 SALTER STREET

Check here if this requires approval from the Zoning Board of Adjustment



Check here if this requires approval from the Historic District Commission



Check here if this is requires approval from the Planning Board 

--

If your project is within the Historic District, please check here if your project is a replacement-in-kind (with the same material, profile and appearance).

--

Existing Buildings/Structures (REQUIRED)

Building / Structure Description	Total Gross Floor Area (s.f.)	Area of Footprint (s.f.)	...
Single family home	4,850	2,004	...
Outbuilding used for office	690	345	...

Existing Yards, Coverage, Parking, and Wetlands (REQUIRED)

Principal Front Yard (ft) ⓘ

60

Secondary Front Yard (ft) ⓘ

5

Rear Yard (ft) ⓘ

20

Right Side Yard (ft) ⓘ

20

Left Side Yard (ft) ⓘ

4

Total # of Residential Units *

1

Number of Parking Spaces *

5

Number of Loading Spaces

2

Area of Surface Parking & Driveways (sq ft) * ⓘ

1,603

Total Building Area (sq ft) * ⓘ

3,000

Other Impervious Surface Area (sq ft) * ⓘ

0

Is all or a portion of the property located in the wetland area and/or within 100' of the wetland boundary?



Proposed Building/Structures (REQUIRED)

Building / Structure Description	Total Gross Floor Area (sq ft)	Area of Footprint (s.f.)	...
new stairs and door overhangs and dormer	55	55	...

Proposed Yards, Coverage, Parking and Wetlands (REQUIRED)

Principal Front Yard (ft) ⓘ

60

Secondary Front Yard (ft) ⓘ

0

Rear Yard (ft) ⓘ

20

Right Side Yard (ft) ⓘ

20

Left Side Yard (ft) ⓘ

4

Total # of Residential Units * ⓘ

1

Number of Parking Spaces * ⓘ

5

Number of Loading Spaces ⓘ

2

Area of Surface Parking & Driveways (sq ft) * ⓘ

1,600

Total Building Area (sq ft) * ⓘ

2,500

Other Impervious Surface Area (sq ft) * ⓘ

0

Are you proposing to do any work in the wetland area or within 100' of the wetland boundary?



General Contractor Information

General Contractor Name

unknown

General Contractor Business Name

--

Mailing Address

--

Phone Number

--

Email address

--

Contractor has current workmen's compensation insurance or substantial equivalent. ⓘ

--

Contractor has current liability insurance or substantial equivalent. ⓘ

--

Engineer Information

Engineer Name

Ambit Engineering

Engineer Business Name

--

Mailing Address

200 Griffin Rd

Phone Number

436-9282

Email address

jrc@ambitengineering.com

Registration No

--

Engineer has current workmen's compensation insurance or substantial equivalent. 



Engineer has current liability insurance or substantial equivalent. 



Architect Information**Architect Name**

Jennifer Ramsey

Architect Business Name

Somma Studios

Mailing Address

PO Box 4273, Portsmouth, NH 03802-4273

Phone Number

603-766-3760

Registration No

--

Email address

jramsey@sommastudios.com

Architect has current workmen's compensation insurance or substantial equivalent. ?



Architect has current liability insurance of substantial equivalent. ?



Additional Construction Information

Sewerage System

City

City Water?



Fire Sprinkler System? (Separate Permit/Plans Required)

--

Fire Alarm System? (Separate Permit/Plans Required)

--

Is this a RESIDENTIAL dwelling built before 1978?



Is this a COMMERCIAL structure built before 1978 that will be used for CHILD CARE OCCUPANCY?

--

If you checked Yes to either of the previous two questions, is the contractor for this project an EPA-certified RRP contractor? ?

--

Total area to be demolished (sq. ft.)

--

Total Demolition Cost (\$)

0

National Flood Insurance Program Data

Map Panel #

330,150,278

FIRM Zone

AE

Elevation of lowest floor (feet (NGVD)) ⓘ

8.9

Elevation Certificate Submitted ⓘ



Is addition in a Special Flood Hazard Area (SFHA)? ⓘ

--

Plan Submission

I understand that this application will not be considered complete until I have provided the required plans as described above. (You will be prompted at the next screen to upload your plans.) *



Acknowledgement

I certify that the information given is true and correct to the best of my knowledge. No change from the information in this application will be made without approval of the Building Inspector. Construction activities shall not commence until the Building Permit is issued. I realize that when all necessary approvals have been acquired, a Building Permit may be granted by the Building Inspector to allow construction in conformance with this application and the plans/specifications submitted in support of said construction only. I further acknowledge that the proposed structure shall not be occupied or otherwise utilized without the issuance of a Building Certificate of Occupancy and only after all necessary inspections have been requested and completed. I am also aware that the disposal of waste generated from this project is my responsibility and not part of the City's Trash/Recycling Program. *



By checking this box, I agree that this is equivalent to a handwritten signature and is binding for all purposes related to this transaction *



I hereby certify that as the applicant for permit, I am the *
Owner's authorized agent

Zoning Information

Base Zoning District

Waterfront Business (WB)

Base Zoning District 2 ⓘ

Waterfront Business (WB)

Historic District



Flood Plain District

--

Downtown Overlay District

--

Osprey Landing Overlay District

--

Airport Approach Overlay District

--

Waterfront Use Overlay District

--

North End Incentive Overlay District

--

West End Incentive Overlay District

--

Documents

Building Permit

Issued Aug 20, 2019

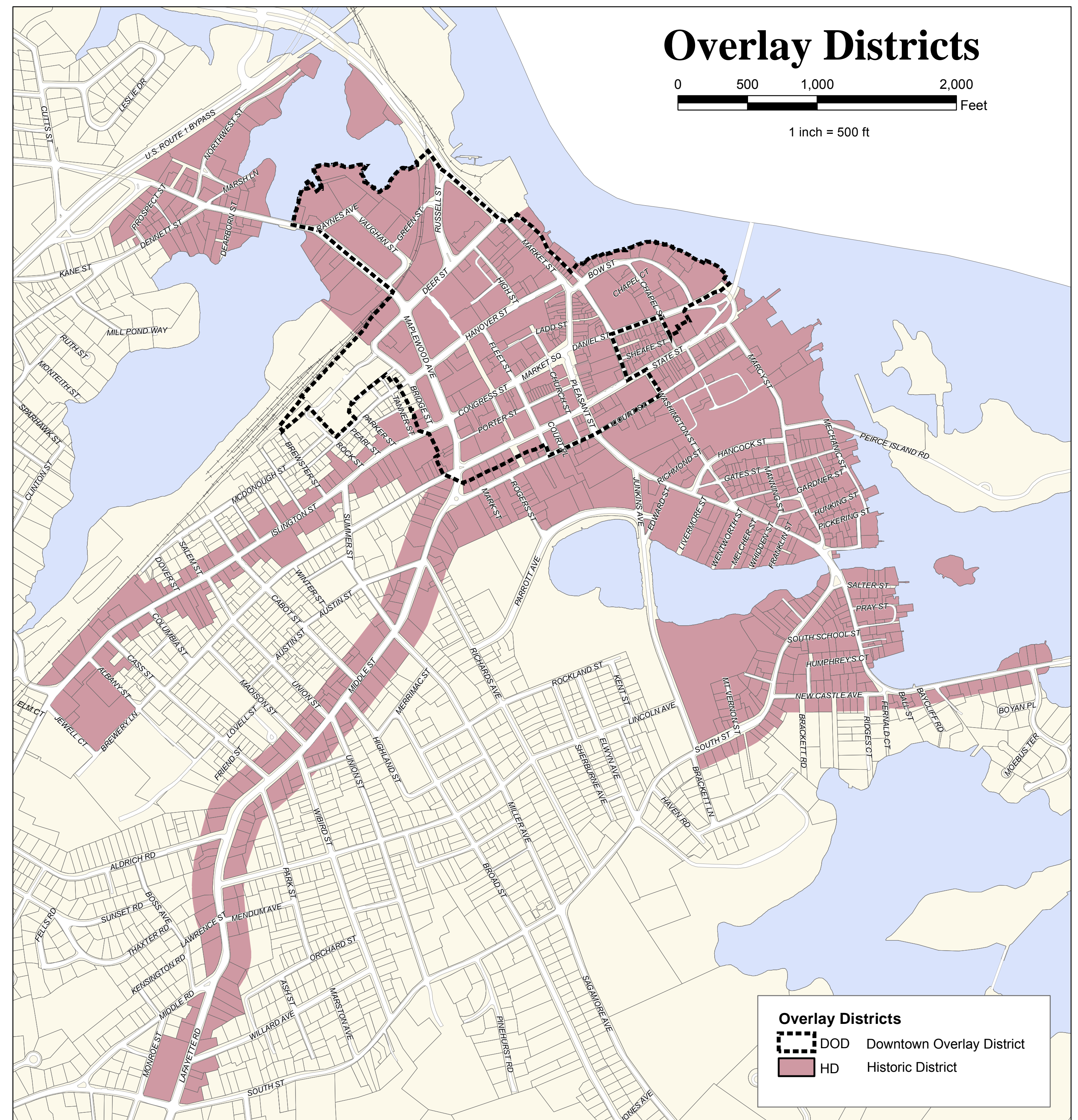
City of Portsmouth Zoning Map

Sheet 1 of 2



Legend

- Character Districts**
 [---] Character-Based Zoning Area
 (Refer to Zoning Map Sheet 2 of 2 Character Districts Regulating Plan)
- Residential Districts**
- R Rural
 - SRA Single Residence A
 - SRB Single Residence B
 - GRA General Residence A
 - GRB General Residence B
 - GRC General Residence C
 - GAMH Garden Apartment/Mobile Home Park
- Mixed Residential Districts**
- MRO Mixed Residential Office
 - MRB Mixed Residential Business
 - G1 Gateway Corridor
 - G2 Gateway Center
- Business Districts**
- GB General Business
 - B Business
 - WB Waterfront Business
- Industrial Districts**
- OR Office Research
 - I Industrial
 - WI Waterfront Industrial
- Airport Districts**
- AIR Airport
 - AI Airport Industrial
 - PI Pease Industrial
 - ABC Airport Business Commercial
- Other Districts**
- M Municipal
 - NRP Natural Resource Protection
 - TC Transportation Corridor
- Overlay Districts**
- OLOD Osprey Landing Overlay District
 - HNOD Highway Noise Overlay District
 - DOD Downtown Overlay District (See Inset Map and Zoning Map Sheet 2 of 2 Character Districts Regulating Plan)
 - HD Historic District (See Inset Map)
 - FP Flood Plain District (See FEMA Flood Insurance Rate Map)



Amendments

- June 21, 2010 - Rezone Assessor's Map 201, Lots 3-8 (1-8 Sagamore Grove) from Waterfront Business (WB) to Single Residence B (SRB)
- October 18, 2010 - Rezone Assessor's Map 285, Lot 12 (2700 Lafayette Road) from Municipal (M) to Gateway (GW)
- June 6, 2011 - Rezone a portion of Assessor's Map 116, Lot 44 (54 Rogers Street) from Municipal (M) to Mixed Residence Office (MRO)
- November 13, 2012 - Rezone Assessor's Map 105, Lot 19 (143 Daniel Street) from Municipal (M) to Central Business B (CBB) and to place that property in the Downtown Overlay District (DOD)
- April 21, 2014 - Adoption of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- July 20, 2015 - Rezone the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW): Assessor's Map 163, Lots 33, 34 and 37; Assessor's Map 165, Lots 1, 2 and 14; Assessor's Map 172, Lots 1 and 2; and Assessor's Map 173, Lots 2 and 10
- August 17, 2015 - Expansion of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- December 21, 2015 - Portion of Map 201, Lot 1 rezoned from Waterfront Business to Single Residence B
- April 25, 2016 - Rezone to following lots or parts thereof to the Transportation Corridor District: Assessor's Map 165, Lot 4; Assessor's Map 234, Lot 2A; Part of Assessor's Map 124, Lot 13; Assessor's Map 119, Lot 3; and Part of Assessor's Map 119, Lot 5
- July 11, 2016 - Expansion of Character Based Zoning Districts as shown on Maps 10.5A21A-C
- July 11, 2016 - Rezone the following lots from Character District 4.1, Mixed Residence Business, Business and Central Business B to General Residence C: Assessor's Map 139, Lots 2, 3, 4, 5 and 6; Assessor's Map 144, Lot 4; Assessor's Map 145, Lots 14, 19, 20, 21, 29 and 30; Assessor's Map 146, Lots 19, 20, 21, 22 and 23; Assessor's Map 147, Lots 22, 23, 24, 25, 26, 27, 28, 29, 30 and 30A; Assessor's Map 156, Lots 24 and 30; Assessor's Map 157, Lots 10, 11, 12, 13 and 14
- December 4, 2017 - Adoption of Gateway Mixed Use Districts, Gateway Corridor (G1) and Gateway Center (G2) including the following: Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Corridor (G1) that are located south of Campus Drive to the Portsmouth border. Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Corridor (G1) that are located south of Middle Road and north of Sagamore Creek. Rezone the following lots from Gateway to Gateway Neighborhood Mixed Use Corridor (G1): Assessor's Map 163 Lot 33, Map 163 Lot 34, Map 163 Lot 37, Map 165 Lot 2, Map 172 Lot 1, Map 172 Lot 2, Map 173 Lot 2, and Map 173 Lot 10. Rezone the following lots along Route 1/Lafayette Rd. from Gateway to Gateway Neighborhood Mixed Use Center (G2) that are located south of Sagamore Creek and north of Wilson Road. Rezone the following lots from General Business to Gateway Neighborhood Mixed Use Corridor (G1) that are located along Spaulding Turnpike west of Echo Avenue to the Newington border and from the intersection of Woodbury Ave and Market St west to the Newington border along Woodbury Ave. Rezone a portion of the following lots from General Business to Gateway Neighborhood Mixed Use Corridor (G1): Assessor's Map 217 Lot 1, Map 217 Lot 2A. Rezone the following lots from General Business to Gateway Neighborhood Mixed Use Center (G2): Assessor's Map 218 Lot 22, Map 218 Lot 24, Map 218 Lot 25, Map 218 Lot 28, Map 218 Lot 29, Map 218 Lot 30, Map 218 Lot 32, Map 218 Lot 33, Map 218 Lot 34, Map 218 Lot 38, and Map 218 Lot 39. Rezone the following lots from Single Residence B to Gateway Neighborhood Mixed Use Center (G2): Assessor's Map 210 Lot 2, Map 210 Lot 3, Map 210 Lot 4, and Map 210 Lot 5. Rezone the following lots from Garden Apartment / Mobile Home to Gateway Neighborhood Mixed Use Corridor (G1): Assessor's Map 239 Lot 12. Rezone the following lots from Single Residence A to Gateway Neighborhood Mixed Use Corridor (G1): A portion of Assessor's Map 239 Lot 8
- August 20, 2018 - Rezone the following lots from Office Research (OR) to Character District 4 West End (CD4-W): Assessor's Map 157, Lots 1 and 2. Rezone a portion of NB 16, except land subject to the land use regulations of the Pease Development Authority, to the Transportation Corridor (TC) to CD4-W. Add new building height standards to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21B) to extend the West End Overlay District and add New Building Height Standards for Tax Map 157 Lots 1 and 2 and a Portion of Tax Map 164 Lot 4.
- October 15, 2018 (effective January 1, 2019) - Adoption of Highway Noise Overlay District (HNOD) which includes all land within 500 feet of the centerline of NB or NB 16, except land subject to the land use regulations of the Pease Development Authority.
- February 4, 2019 - Rezone Assessor's Map 213 Lot 1 from Waterfront Industrial (WI) to Office Research (OR).

0 1,000 2,000 4,000 6,000 Feet
 1 inch = 1,000 ft

Adopted by City Council: December 21, 2009
 Effective date: January 1, 2010

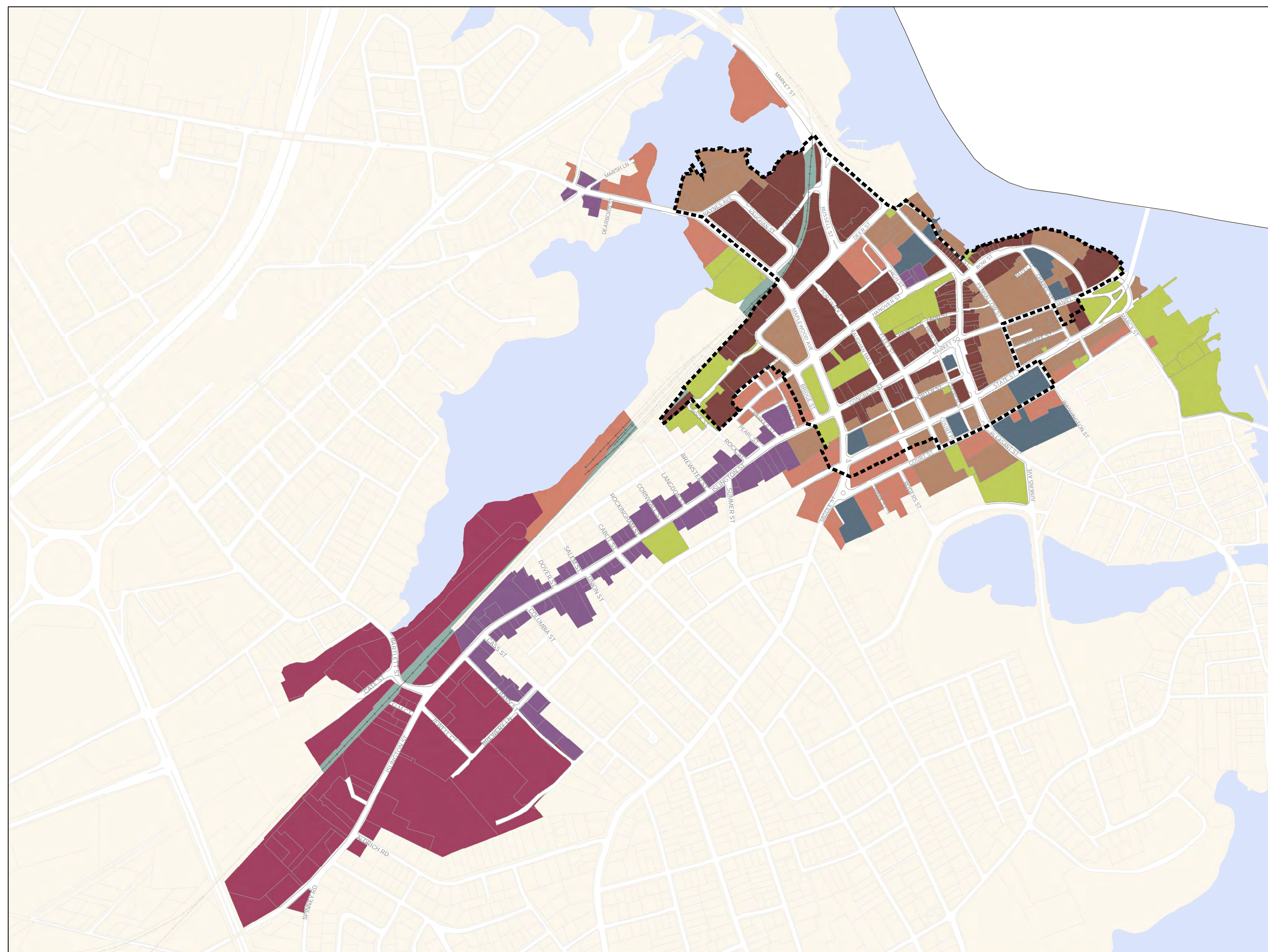
As Amended Through: February 4, 2019



Map prepared by Portsmouth Planning Department 3/1/2019

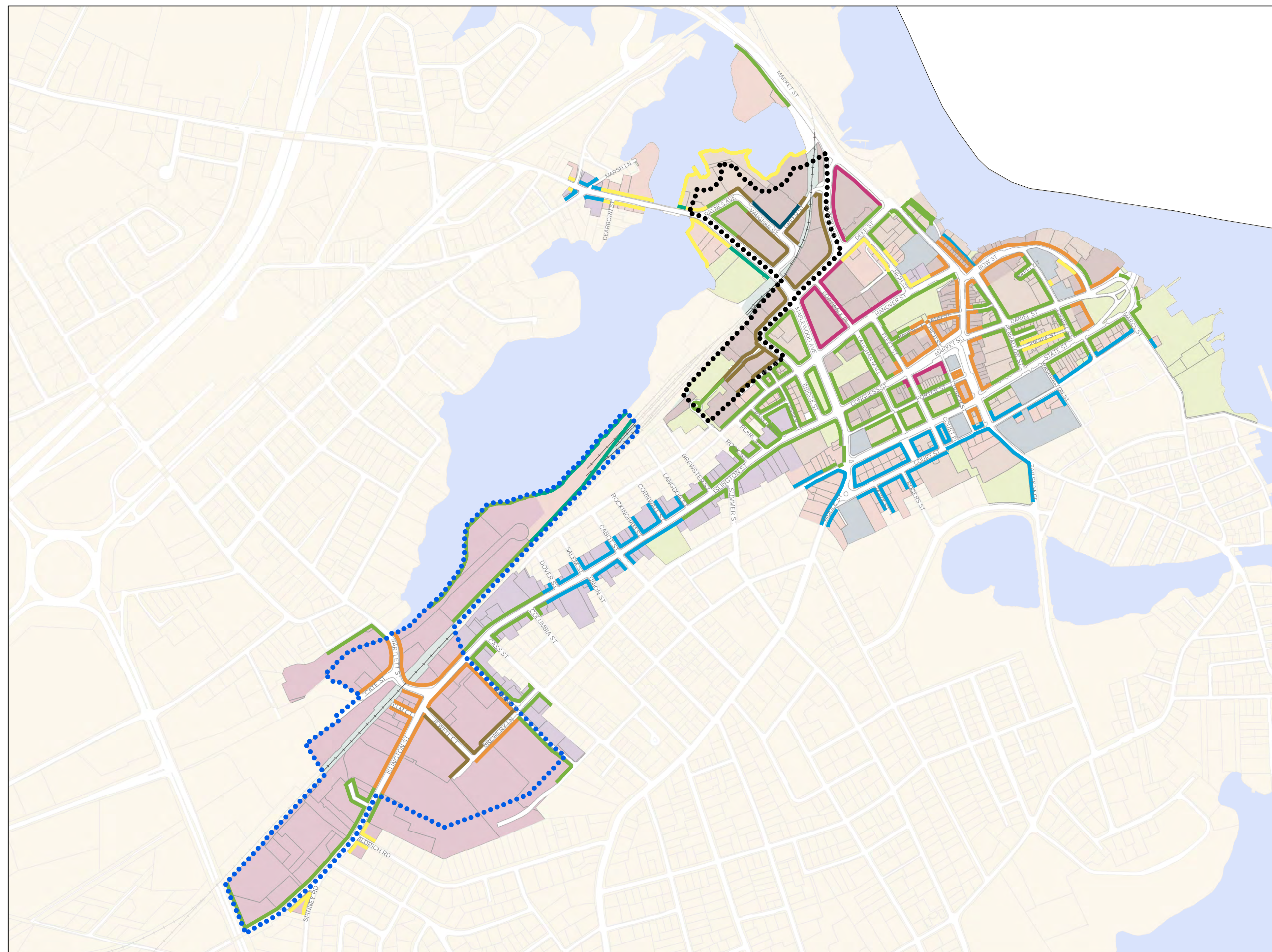
City of Portsmouth Zoning Map

Sheet 2 of 2 Character Districts Regulating Plan



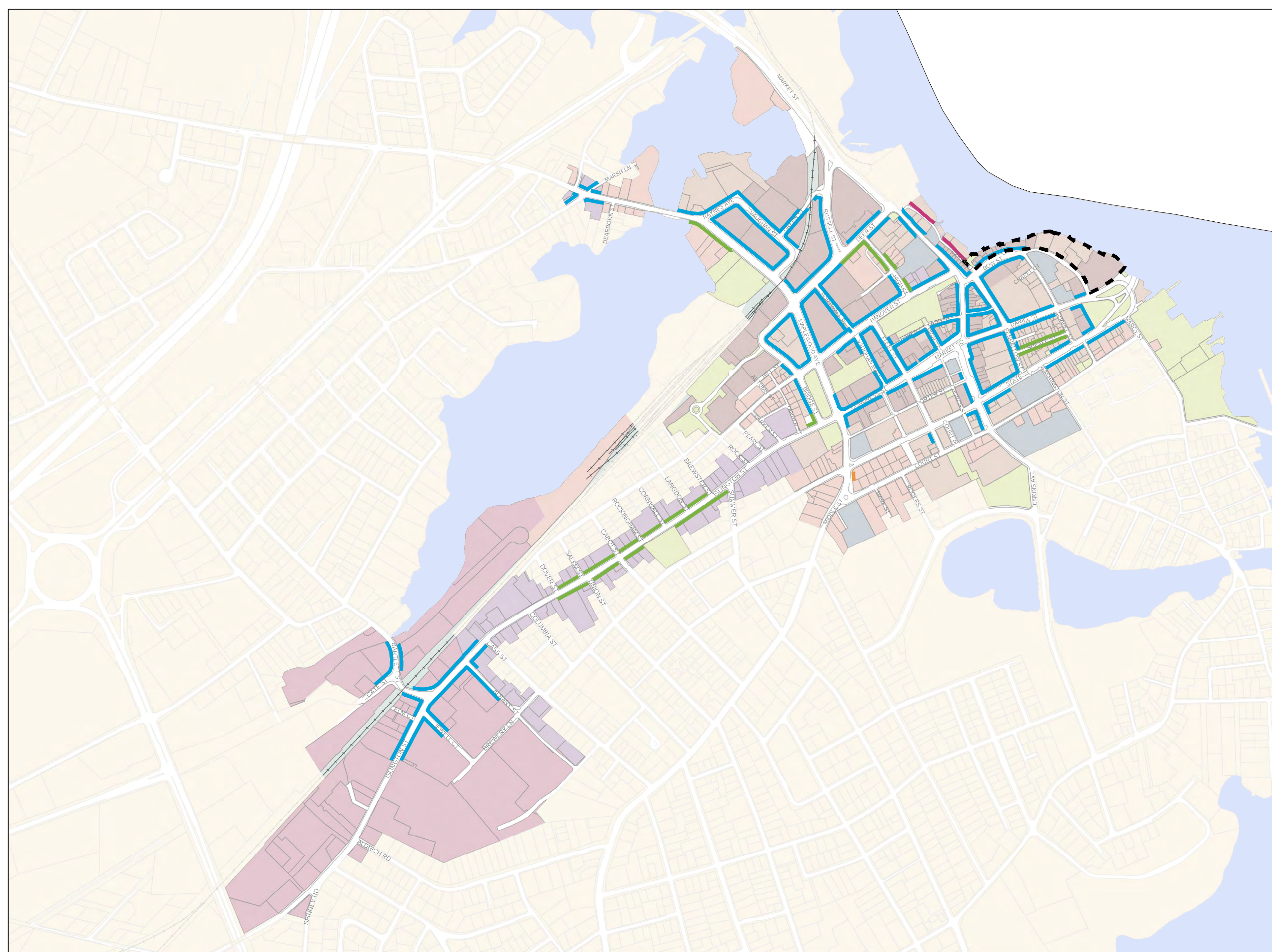
Map 10.5A21A
Character Districts
and Civic Districts

- Legend**
- DOD Downtown Overlay District
 - HD Historic District
- Character Districts**
- CD5 Character District 5
 - CD4 Character District 4
 - CD4-W Character District 4-B
 - CD4-L1 Character District 4-L1
 - CD4-L2 Character District 4-L2
- Civic District**
- CIVIC Civic District
- Other Districts**
- M Municipal District
 - TC Transportation Corridor



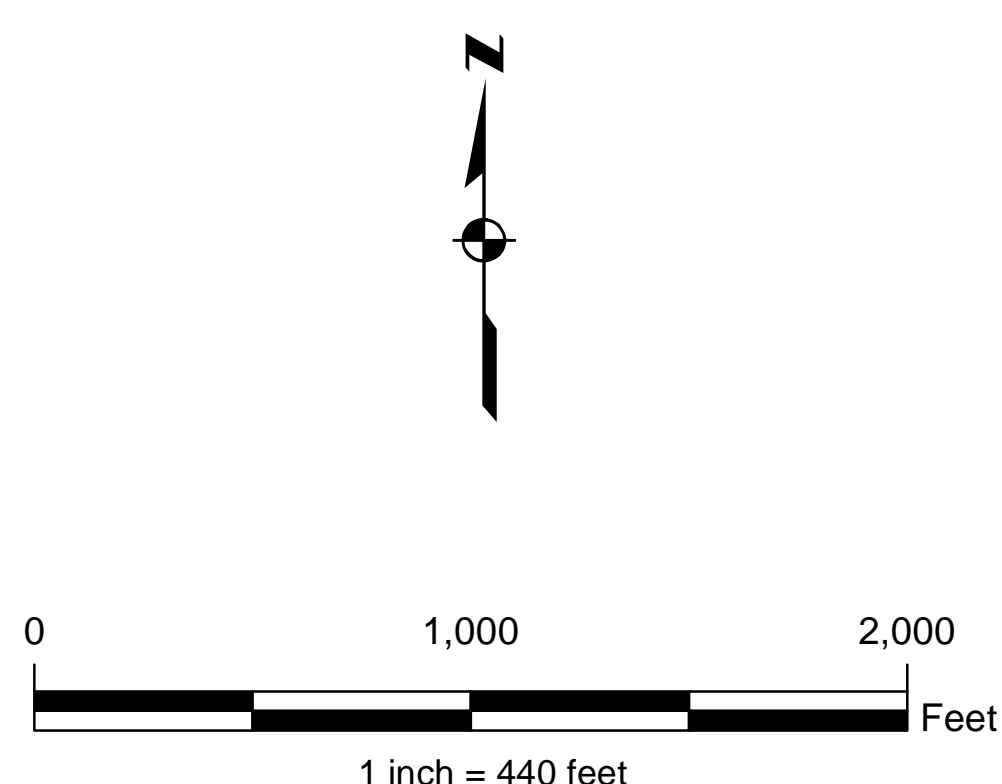
Map 10.5A21B
Building Height
Standards

- Legend**
- | Height requirement area | Maximum building height* |
|-------------------------|------------------------------|
| | 1 Story 20' |
| | 2 Stories 35' |
| | 2 Stories (short 3rd*) 35' |
| | 2-3 Stories 40' |
| | 2-3 Stories (short 4th*) 45' |
| | 2-4 Stories 50' |
| | 2-4 Stories (short 5th*) 60' |
| | 2-5 Stories 60' |
- *Penthouse Levels may exceed the building height by 2 feet.
- A short story includes either: 1) use of a top story below the cornice line of a sloped roof that is at least 20% shorter in height than the story below; or 2) a story within a mansard roof with a pitch no greater than 30:12.
 - When a lot is assigned to more than one height requirement standard refer to the requirements listed in Section 10.5A21.22.
 - Attic space within either a gable, gambrel, hip or hip-top mansard roof or a penthouse level on a flat roof is not considered a story. Attic space is permitted above the top story provided the proposed building is no greater than the maximum building height.
- Incentive Overlay Districts**
Within the Incentive Overlay Districts, certain specified development standards, including height, density and parking, may be modified pursuant to Section 10.5A46.
- North End Incentive Overlay District
Between Maplewood Avenue and Russell Street, the boundary of the North End Incentive Overlay District is established at 100 feet from the mean high water line.
 - West End Incentive Overlay District
The boundary of the West End Incentive Overlay District is established at 200 feet from the rear lot lines of the abutting Aldrich Road lots and/or 100 feet from the rear lot lines of lots that abut the public or private portions of Chevrolet Avenue, whichever is greater.



Map 10.5A21C
Special Requirements for
Façade Types, Front Lot
Line Buildout, and Uses

- Legend**
- Required Façade Types**
- Shopfront façade type
 - Step, stoop or recessed entry façade type
 - Officefront façade type
- Waterfront Lots**
- Waterfront Use Overlay
In addition to the uses permitted in the underlying Character districts, lots in the Waterfront Use Overlay shall also permit uses 9.60, 12.20, 12.22, and 12.40 as set forth in Section 10.440 (Table of Uses). (Section 10.5A34).
 - Waterfront lots on Ceres Street
For waterfront lots on Ceres Street, the maximum front lot line buildout shall be 50%, and buildings shall have a wood-sided appearance (Section 10.5A21.30).
- In addition to the uses permitted in Character District 4, waterfront lots on Ceres Street shall also permit the uses permitted in the Waterfront Industrial district as set forth in Section 10.440 (Section 10.5A35).



Adopted by City Council April 21, 2014
As Amended Through: October 24, 2022



Evidence of Municipalities – 57 Salter Street, Tax Map 102, Lot 32



City of Portsmouth Municipal Water (blue), Sewer (green), and Drain (purple) utilities on Salter Street.



City of Portsmouth Public Works Map showing Water (Blue), Sewer (Green), and Drain (Purple) facilities in the area of 57 Salter Street (★)

Evidence of Electrical Service – City of Portsmouth Electrical Permit No. 4459 (5-14-1991)



CITY OF PORTSMOUTH, N.H. — BUREAU OF INSPECTION
 1 JUNKINS AVENUE 431-2000 Ext. 243
ELECTRICAL PERMIT

Plans Submitted _____ Permit # 41-54-2
 Date 5-14-91
 Bldg. Permit # 4459
 Address: 57 Salter St Contractor: Regan Elect.
 Owner: Ned Thompson Address: Portsmouth
 Fee Amount: 87 License # 1232 Phone # 436-9015
 Paid: Check Cash Other chg Amount \$ 87 Collected By _____ Date _____

BUILDING DATA
 Use: Residential Business Industrial Other _____ No. of Stories _____
 No. of Residential Units _____
 Type of Installation: New Alteration Repair Other _____
 Wiring Method: NM AC MC Busduct Conduit _____ Type _____ Other _____

Services
 Voltage/Phase Amperage Conductors
120/240/1φ 200A
110 1φ 100A

Temporary Services
 Voltage/Phase Amperage Conductors

No. of Meters
 Amperage Phase
100A 1φ
200A 1φ

Size of Grdng Electrode Conductor _____
Switchboard/Panel Boards
 Age/Phase Amperage Conductors

Electric Heat
 Baseboard Electric Boiler Other
 No. Wattage

Lighting Fixtures
 No. System Individual Detectors #
 A. Fluorescent 274
 B. Incandescent 3
 C. Other _____

Receptacles 107
 Switches 90
 Ranges _____
 Dryers _____
 Dishwashers _____
 Disposals _____
 Water Heaters _____
 Signs _____
 Other _____

Air Cond./HVAC
 Type/Unit H.P. Voltage/Phase

Generators
Transformers
 No. Size

Motors
 H.P. Voltage/Phase Conductors
4 FAHS

Applicant certifies that all information given is correct and that all pertinent electrical ordinances will be complied with in performing the work for which this permit is issued.
 Work must begin within six (6) months of permit issuance or the permit shall become invalid.

Description of Work: 100A Service for Boat house; 200A Service for House

Signature of Applicant or Authorized Representative: Allan Bishop
 Date: 5-14-91
 Signature of Building Official: John C. L...

Location of Work: 31 Salter
 (No. and Street)

6-14-91 Rough of Large Home with Livolt S.A. System (needs permit) Rx and various types of Boxes & Fixtures. very neat work. OK to cover 1st & 2nd Floor. J.C.

7/24/91 Rough in of "outbuilding" (shop-office) messy (owner's work) but adequate. feel

8-30-91 Final Insp. All electrical OK for use.
 ① Basement Lighting not complete yet.
 ② System smoke detectors by H security does not have a UL listed control.

8-30-91 3 PM. HVAC has replaced home made control with UL listed Fire Burg control used only for fire at this time. OK for temp. C.O. J.C.

Evidence of Sanitary Sewer Connection – Unit 2 – City of Portsmouth Plumbing/Mechanical Permit No. 591 (7-23-1991)

Date of Issue 7-23-91 CITY OF PORTSMOUTH, NH PERMIT NO. 591
 Plumbing / Mechanical Permit
 Bureau of Inspection, 431-2000 ext. 264

Location of Work: 57 Salter Street Boat House
 (No. and Street) (Building and Unit)

Owners Name: Ned Thompson
 Contractor: Knights P+H Inc. Address: 1475 Elwyns Rd Phone: 436-40

PLUMBING

FIXTURE	QUAN.	FEE
WASTE & VENT SYSTEM		
WATER DIST. SYSTEM		
Backflow Preventer		
Bath Tub		
Bidet		
Boiler		
Coffee Machine		
Dishwasher		
Disposal		
Drinking Fountain		
Fire Sprinkler System (Limited Area) ; # Heads		
Floor Drain		
Hot Tub		
Humidifier		
Ice Machine		
Jacuzzi		
Lawn Sprinkler System		
Roof Drain		
Sewage Ejector		
Shower		
Sill Cock	2	8.00
SINKS: Bar Sink		
Hand Sink		
Kitchen Sink		
Lavatory	1	4.00
Mop / Laundry Sink		
Pot Sink (3 Bay)		
Vegetable Sink		
Soda Machine / Foun. Wtr		
Special Waste Tank or Heater		
Urinal		
Washing Machine		
Water Closet	1	4.00
Misc. Fixtures		
PLUMB. FEE		\$16.00

MECHANICAL

FIXTURE	QUAN.	FEE
GAS PIPING SYSTEM		
Boiler		
Clothes Dryer		
Conversion Burner		
Floor Furnace		
Forced Air System		
Grill		
Oven		
Range: Com. Dom.		
Steam Table		
Unit Heater		
Wall Heater		
Water Heater		
Misc. Fixtures		
MECH. FEE		\$

TOTAL PERMIT FEE \$ 16=

Chk. # _____ Cash chk

Permit Holder: Kenneth [Signature] (1994)
 (Taking Responsibility For The Work) (Lic. #)

Code Official: [Signature]

The Permit Holder shall be responsible for notifying the Code Office 48 hours in advance for ROUGH AND FINAL inspections and certifies that the work will be installed to the applicable codes. The Permit Holder further certifies that all information given herein is correct and accurate.

DATE _____

7-24-91 INWALL Insp of Boat House
 Note: → U.G. Bld DRAIN + Sewer DONE ON PERMIT 512 5-16-91 JH
 10 # AIR ON waste + vent from 1st Floor Dandy G
 To Vent Through Roof (OK)
 100 # AIR ON H+C

Evidence of Gas Service – City of Portsmouth Residential Plumbing/Mechanical/Gas Permit No. PMGR-20-483 (10-5-20)



City of Portsmouth Residential Plumbing/Mechanical/Gas Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
PMGR-20-483
Date of Issue:
October 5, 2020
Expires:
October 5, 2021
Const. Cost:
\$20000

Owner: THOMPSON MARGOT L
Applicant: Luis Catinchi
Contractor: Luis Catinchi
Company: Express P&H
Phone #: 6037556773
Location: 57 SALTER ST
Map/Lot: 0102-0032-0000-

Description of Plumbing Work: First floor rough in 1/2 bath, 2nd floor 3/4 bath, and laundry

Description of Mechanical/Gas Work: Gas hot water heater, gas fireplace, gas grill, 2 mini splits

Remarks:

-
-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon, and any stipulations imposed by a Land Use Board in conjunction with the project. The CONTRACTOR shall be responsible for notifying the Inspection Department 48 hours in advance, for FOUNDATION, FRAMING, and FINAL inspections. A Certificate of Occupancy is required for all Building Permits. Buildings shall not be occupied until ALL inspections (BUILDING, ELECTRICAL, PLUMBING, MECHANICAL, and FIRE) are complete and Occupancy has been issued. By signing this permit, the owner or his/her representative (Permit Holder), authorizes property access by city officials to conduct interior and exterior inspections and property tax assessments during and/or after the construction process.

The Permit Card Shall Be Posted and Visible From the Street During Construction.

Code Official:

This is an e-permit. To learn more, scan this barcode or visit portsmouthnh.viewpointcloud.com/#records/49399



LOTS IN WATERFRONT BUSINESS DISTRICT

TAX MAP 101

Lot #	Address	Acreeage	Frontage	Waterfront Business District (Y/N)
1	54 Pray	0.145	52' on Pray	Y
2	40 Pray	0.395	160' on Pray	Y
3	445 Marcy	0.343	147' on Pray; 102' on Marcy and 62.44 on Pray	N
4	469 Marcy (corner of Partridge)	0.041	88' on Partridge	N
5	31 Partridge	0.037	66' on Partridge	N
6	39 Partridge	0.057	105' on Partridge	N
9	475 Marcy	0.098	38' on Partridge; 58' on Marcy	N
10	32 Partridge	0.234	135' on Partridge	Y
11	491 Marcy (corner of Holmes)	0.071	37' on Marcy; 82' on Holmes	N
12	33 Holmes	0.106	57'+ on Holmes	N
13	39 Holmes	0.058	0' on Holmes	Y
14	43 Holmes	0.126	0' on Holmes	Y
18	30 Walden	0.290	App. 25' end of Walden	N
19	28 Walden	0.065	33.8' on Walden	N
20	18 Walden	0.096	50' on Walden	N
21	0 Walden	0.02	11' on Walden	N
22	513 Marcy St.	0.112	48' on Walden; 22' and 82' on Marcy	N
22A	535 Marcy	.034	33' on Marcy	(Municipal)

TAX MAP 102

Lot #	Address	Acreage	Frontage	Waterfront Business District (Y/N)
28	13 Salter	0.458	146' on Salter	Y
29	35 Salter	0.130	51.4' on Salter	Y
30	41 Salter	0.073	30' on Salter	Y
31	53 Salter	0.121	47'' on Salter	Y
32	57 Salter	0.246	96' on Salter	Y
33	56 Salter	0.130	90.89' on Salter	Y
34	24 Salter	0.108	62.35' on Salter	N
34A	34 Salter	0.104	60' on Salter	N
35	419 Marcy	0.149	90' on Salter; 85' on Marcy	N
36	457 Marcy	0.99	55.7' on Marcy; 67' on Pray	N
37	17 Pray	0.170	99.5' on Pray	N
38	39 Pray	0.116	35.19' on Salter; 52' on Pray	N
39	45 Pray	0.52	22' on Pray	Y
40	53 Pray	0.95	67.6' on Pray	Y

Note: On Walden Street, Lots 16, 17, 18 and 12 are not in WFB
 Lots 22, 21, 20 and 19 are not in WFB; Lot 22A is zoned Municipal
 (Pumping station)

Median Size of ALL Lots (32)	0.1185 ac	5,161 s.f.
Median Size of Lots IN WBD (13)	0.1450 ac	6,316 s.f.
Median Size of Lots NOT in WBD (18)	0.1050 ac	4,574 s.f.



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



May 15, 2023

Peter Britz
Portsmouth Planning Department
1 Junkins Ave
Portsmouth Nh 03801

Re: Wetlands Bureau, NHDES File Number: 2021-02034
Subject Property: 57 Salter St, Portsmouth, Tax Map #102, Lot #32

Dear Mr. Britz:

It has come to the attention of the NH Department of Environmental Services (NHDES) Wetlands Bureau that the City of Portsmouth is hesitant to issue a building permit for the relocation of the residential structure on the lot referenced above until it receives confirmation that the owners of the structure have met the NHDES permitting requirements under RSA 482-A. I am writing to confirm that NHDES and the owners have entered into a settlement agreement that will result in the restoration of the site in order to come into compliance with RSA 482-A through the relocation of the residential structure. This work will be completed under a Restoration Approval and no other Wetlands Permits will be required for this specific restoration work from NHDES.

If you have any questions, please contact David Price at David.A.Price@des.nh.gov or (603) 559-1514.

Sincerely,

Darlene Forst
Administrator, Wetlands Bureau
Land Resources Management, Water Division

cc: Margot & Edward Thompson
James J. Steinkrauss, Rath, Young, & Pignatelli, P.C.
Christopher G. Aslin, NHDOJ
Municipal Clerk/Conservation Commission/Code Enforcement

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964