

144 Washington Street
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Durbin Law Offices, P.L.L.C.

Derek R. Durbin, Esq.
603.287.4764
derek@durbinlawoffices.com
**Also admitted in MA*

VIA VIEWPOINT

July 29, 2020

City of Portsmouth
Zoning Board of Adjustment
Attn: David Rheume, Chairman
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Andrew J. Lane
245 Thaxter Road, Portsmouth (Tax Map 167, Lot 3)**

Dear Chairman Rheume,

Our Office represents Andrew J. Lane, owner of property located at 245 Thaxter Road, Portsmouth. Attached herewith, please find the following materials for submission to the Zoning Board of Adjustment for consideration at its next regularly scheduled meeting:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Plan Set (Site Plan, Floor Plans and Elevations);
- 4) Tax Map Image of Property; and
- 5) Photographs of the Property.

Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Derek R. Durbin', with a large, stylized flourish at the end.

Derek R. Durbin, Esq.

LETTER OF AUTHORIZATION

Andrew J. Lane, owner of property located at 245 Thaxter Road, identified on Portsmouth Tax as Map 167, Lot 3 (the "Property"), hereby authorizes Durbin Law Offices PLLC, of 144 Washington Street, Portsmouth, New Hampshire 03801, to act as its agent and representative in connection with the filing of any building, zoning, planning or other municipal permit applications with the City of Portsmouth for said Property. This Letter of Authorization shall be valid until expressly revoked in writing.



Andrew J. Lane

July 27, 2020

**CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT
APPLICATION NARRATIVE**

Andrew J. Lane
245 Thaxter Road
Portsmouth, NH 03801
(Owner/Applicant)

INTRODUCTORY STATEMENT

Andrew J. (“AJ”) Lane is the owner of the property located at 245 Thaxter Road, identified on Portsmouth Tax Map 167 as Lot 3 (the “Property”). The Property is zoned Single-Family Residence B (“SRB”). It is a 0.21 acre lot (9,321 square feet) that contains a modest-sized single-family home with 3 bedrooms and 1 bathroom and an attached garage. Mr. Lane lives in the home with his wife and young child.

Mr. Lane desires to renovate the home to add some additional room to accommodate his growing family and to support a work-at-home environment. To accomplish these goals, Mr. Lane would like to construct a 384 square foot (16’ x 24’) two-story addition to the left side of his home. Attached hereto as Exhibit A, is a summary from Brandon Holben explaining the architectural goals and intent of the design.

The existing home has a front yard setback of 14’5” (+/-) where 30’ is the minimum required under the Zoning Ordinance (the “Ordinance”) for the SRB Zoning District. The proposed two-story addition, which will be inset from the existing home, will encroach into the front yard setback by 19’10” (+/-). Despite the fact that the proposed addition will have a greater front yard setback than the existing home, the proposed two-story addition still requires a variance under the terms of the Ordinance. The addition will comply with all of the other dimensional requirements of the Ordinance, except for building coverage, which would be exceeded by less than 0.5% over what is allowed.

SUMMARY OF ZONING RELIEF

The Applicant seeks the following variance from the Zoning Ordinance:

1. A variance from Section 10.521 (Table of Dimensional Requirements) to allow a 19’10” (+/-) front yard setback from Thaxter Road where 30’ is the minimum required in the GRA Zoning District;
2. A variance from Section 10.521 (Table of Dimensional Requirements) to allow building coverage of 20.4% (+/-) where 20% is the maximum allowed in the GRA Zoning District; and
3. A variance from Section 10.321 to allow the reconstruction and enlargement of a lawful nonconforming structure.

VARIANCE CRITERIA

Granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.

“There are two methods of ascertaining whether granting a variance would violate an ordinance’s basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare.” *Harborside Assoc v. Parade Residence Hotel*, 162 N.H. 508, 514 (2011).

The proposed two-story addition will have a greater setback from the front property boundary than the existing home, thus it will have no additional impact to the light, air and space of abutting properties across the street over what exists. The addition will be consistent in look and architectural appearance and be built with the same materials as the existing home. It will comply with all zoning regulations other than the front yard setback requirement and building coverage. However, the increase in building coverage over what is allowed by Ordinance is less than a 0.5 percent (35 square feet). Accordingly, granting the variance will not alter the essential character of the neighborhood or create any negative impact to public health, safety or welfare.

Substantial justice will be done by granting the variance relief.

Any loss to the individual that is not outweighed by a gain to the general public is an injustice. *New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997); *Malachy Glen Assocs., Inc. v. Town of Chichester*, 155 N.H. 102 (2007).

The existing home provides little space for a family of three (3) to grow. The current configuration of the home and the lack of living space also creates a very challenging work-at-home environment, which is critical for the Applicant. The loss to the Applicant in denying the relief necessary to build the proposed two-story addition to the home is clear. It is also clear that there would be no gain to the public if the Board were to deny the variance relief sought. As such, the equitable balancing test for whether substantial justice is done weights in favor of the Applicant.

The values of surrounding properties will not be diminished by granting the variance relief.

The proposed improvements will integrate seamlessly with the existing home, which has a modern, aesthetically appealing architectural design. These improvements will inherently increase the Applicant’s property value, which will in turn benefit surrounding properties and their values.

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

The Property has special conditions that distinguish it from surrounding properties. The existing home is essentially built into a hill. The Property has a steep downward slope from the rear boundary to the front boundary that contains a significant amount of ledge behind the home. The front of the Property is wider than the rear. These conditions provide the likely explanation for why the home was built so close to the front property boundary, unlike most of the properties across Thaxter Road.

To achieve zoning compliance with the front yard setback requirement under the Ordinance, the Applicant would have to locate the addition to the left-rear side of the home. To do this, the Applicant would have to remove an existing deck and have significant site work done, which would inevitably involve the blasting of ledge. These factors make it impractical and infeasible to construct a reasonably sized addition on the Property in any location other than what is proposed. As proposed, the design of the addition integrates seamlessly with the front façade of the home, which already encroaches into the front yard setback by 15'7". This encroachment will remain unchanged if the variance relief is denied. The proposed addition will be inset from the left-front of the existing home by an additional 4'3", creating less of an impact to the front yard setback than what exists.

Owing to the special conditions of the Property described above, there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their application to the Property.

Finally, the proposed use is reasonable. The Property is used as a single-family home, which is permitted by right in the SRB Zoning District. This use will remain the same if the variance relief is granted.

CONCLUSION

In conclusion, the Applicant has demonstrated that his application meets the five (5) criteria for granting the variance relief sought and respectfully requests that the Board approve the application.

Dated: July 29, 2020

Respectfully Submitted,

AJ Lane

By and Through His Attorneys,
Durbin Law Offices PLLC

A handwritten signature in blue ink, appearing to read 'Derek R. Durbin', with a long horizontal flourish extending to the right.

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

MEMORANDUM

Date: 28JUL2020

To:

Subject: 245 Thaxter Road

CC to:

245 Thaxter Road is an existing 2 level ranch that was extensively renovated in 2016 with a contemporary style addition and later with complimentary siding, windows, doors and landscaping. The improvements have increased property values for the neighborhood and the owners are looking to continue this effort with a new project.

The proposed addition is in keeping with the contemporary style of the existing home and adds additional elements to maintain a level of scale that responds to the unique site characteristics. The interior program of spaces is reflective of the exterior massing created to balance each addition. The addition steps up toward the rear yard creating a loft space on the interior that connects to the elevated rear yard.

The material use is consistent with the existing siding utilizing a board and batten pattern against a premium gapped shiplap siding. A warm wood planking product is used at the garage to add some natural material and reduce the scale of the wall as it recedes back from the road while complimenting the existing wood accents on the existing house.

Thank You,

Brandon Holben, AIA, LEED AP
Principal Architect
WINTER HOLBEN

245 THAXTER RD

PORTSMOUTH, NEW HAMPSHIRE

DRAWING INDEX:

- T1.1 TITLE SHEET
 - T1.2 SITE MAP
- ARCHITECTURAL DRAWINGS
- A1.1 EXISTING FIRST FLOOR PLAN
 - A1.2 EXISTING SECOND FLOOR PLAN
 - A2.1 EXISTING ELEVATIONS SOUTH/WEST
 - A2.2 EXISTING ELEVATION NORTH/EAST
 - A3.1 PROPOSED FIRST FLOOR PLAN
 - A3.2 PROPOSED SECOND FLOOR PLAN & LOFT PLAN
 - A3.3 PROPOSED ROOF PLAN
 - A4.1 PROPOSED ELEVATIONS SOUTH/WEST
 - A4.2 PROPOSED ELEVATION NORTH/EAST
 - A5.1 PROPOSED RENDER VIEWS



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LEGEND:

DRAWING SCALES: (PLACE ON LAYER ANNO-TEXT3 (WHITE))
 EXAMPLE 1/4"=1'-0"
 4SCALE 0 2' 4' 8' 12'

MISCELLANEOUS BLOCKS:

* = EXPLODE AFTER INSERTING

ANGLE 4



CL 4

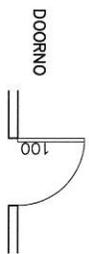
GRAPHIC SCALE

*CGSBU

CHECK GRAPHIC SCALE BEFORE USING



*DETAIL 1
 A1.2 SCALE: 1/8"=1'-0"



*ELEVSYM TOS
 ELEV=126.0'±



*NORTH-C



PROPERTY LINE R



*SECTCUT 1
 A1.2



WALLTYPE 1
 ROOMNO
 ROOM NAME 100

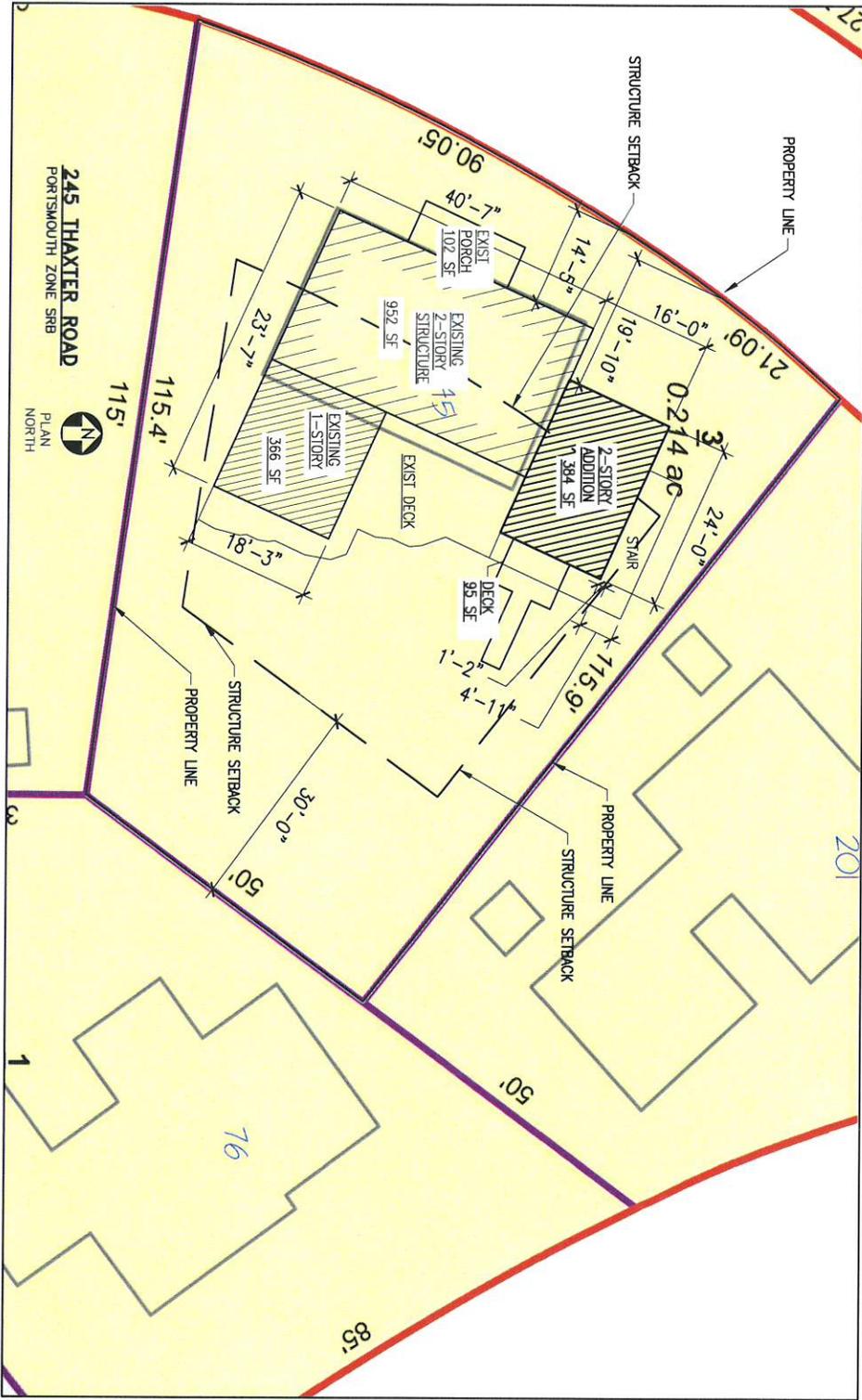
SHEET TITLE
TITLE SHEET
 PROJECT
245 THAXTER RD

DRAWING
T1.1

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7 WALLINGFORD SQUARE
 UNIT 2099
 KITTERY, ME 03904
 207.594.3104

REF:
 PROJECT NO: 20071
 DATE: 07/07/2020
 FILE: 20071-245 THAXTER
 7-21.DWG
 DRAWN BY: BMH
 CHK'D BY: BMH



245 THAXTER ROAD
 FORTSMOUTH ZONE SRB
 PLAN NORTH



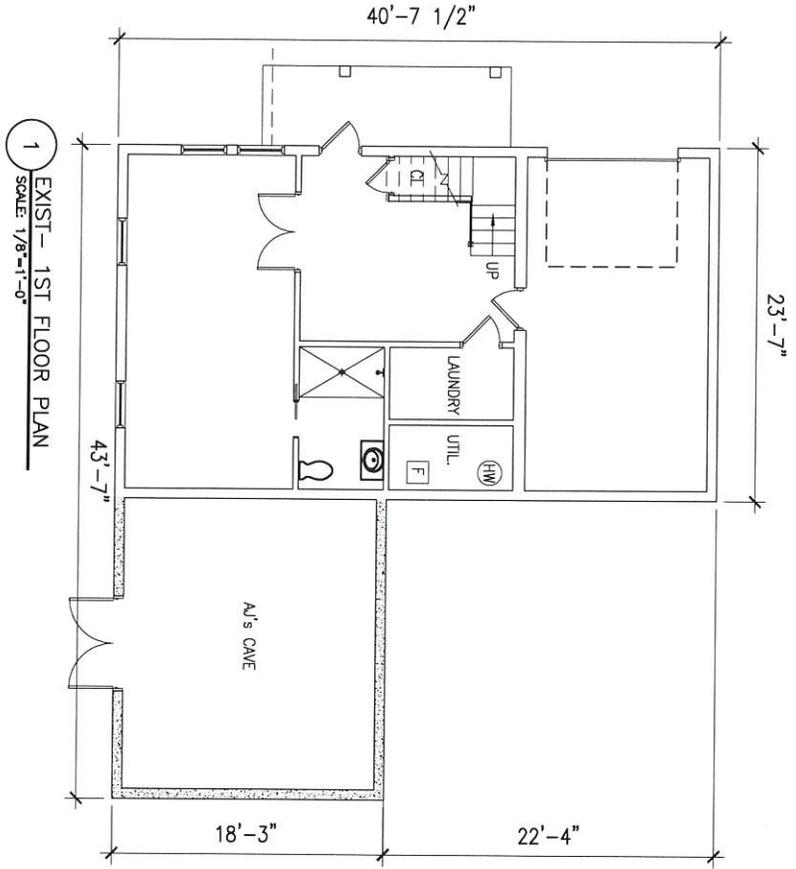
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DATE:	07/07/2020
FILE:	20071-245 THAXTER-SITE
	202101-200729.DWG
DRAWN BY:	BMH
CHK'D BY:	BMH

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 KITTERY, ME 03904
 207.994.3104

SHEET TITLE	SITE MAP	DRAWING
PROJECT	245 THAXTER RD	
		T1.2



1
SCALE: 1/8"=1'-0"

1/8"=1'-0"



CHECK GRAPHIC SCALES BEFORE USING

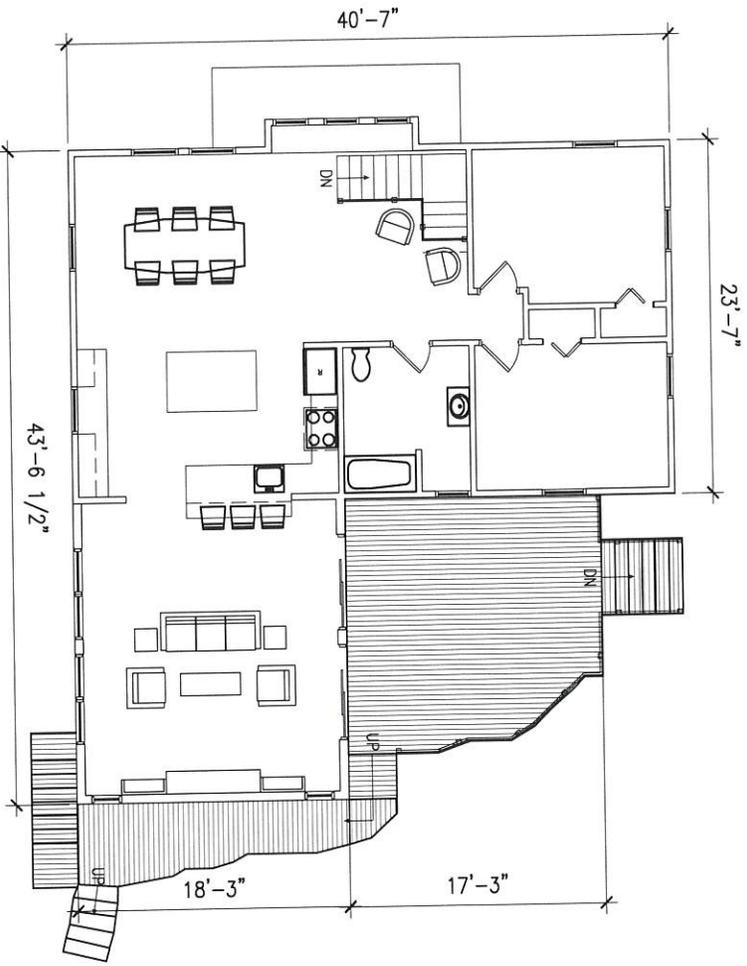
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DATE:	07/07/2020
FILE:	20071-245 THAXTER - 7-21.DWG
DRAWN BY:	BMH
CHK'D BY:	BMH

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SHEET TITLE	EXISTING FIRST FLOOR
PROJECT	245 THAXTER RD
DRAWING	A1.1

2 EXIST- 2ND FLOOR PLAN
SCALE: 1/8"=1'-0"



CHECK GRAPHIC SCALES BEFORE USING

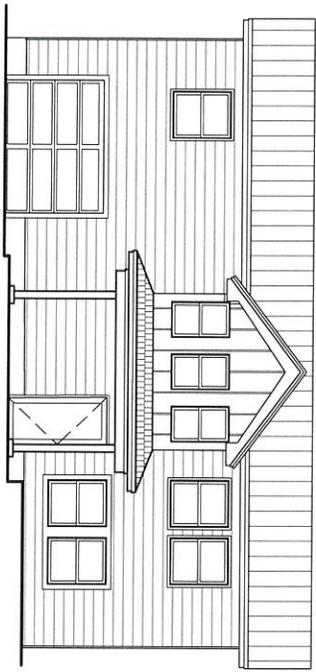
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DATE:	07/07/2020
FILE:	20071-245 THAXTER - 7-21.DWG
DRAWN BY:	BMH
CHK'D BY:	BMH

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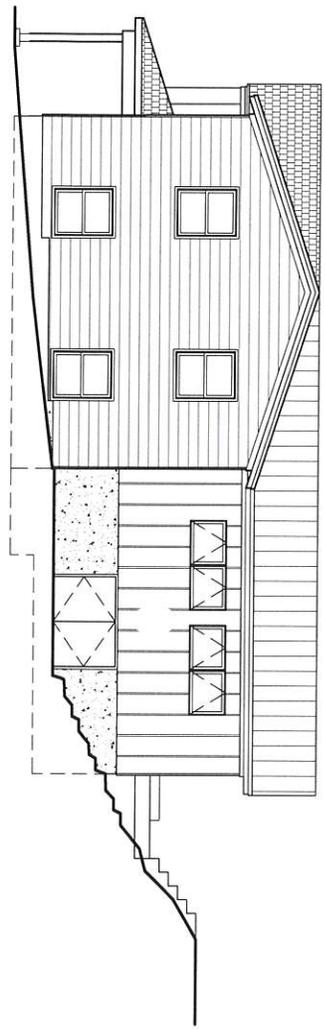
SHEET TITLE	
EXISTING SECOND FLOOR	
PROJECT	
245 THAXTER RD	
DRAWING	A1.2

T.O. ROOF
 ELEV=20'-7"
 2ND CEILING
 ELEV=15'-7"
 2ND FLOOR
 ELEV=8'-3"
 1ST FLOOR
 ELEV=0'-0"



1 EXIST- WEST ELEVATION
SCALE: 1/8"=1'-0"

T.O. ROOF
 ELEV=20'-7"
 2ND CEILING
 ELEV=15'-7"
 2ND FLOOR
 ELEV=8'-3"
 1ST FLOOR
 ELEV=0'-0"



2 EXIST- SOUTH ELEVATION
SCALE: 1/8"=1'-0"

1/8"=1'-0"



CHECK GRAPHIC SCALES BEFORE USING

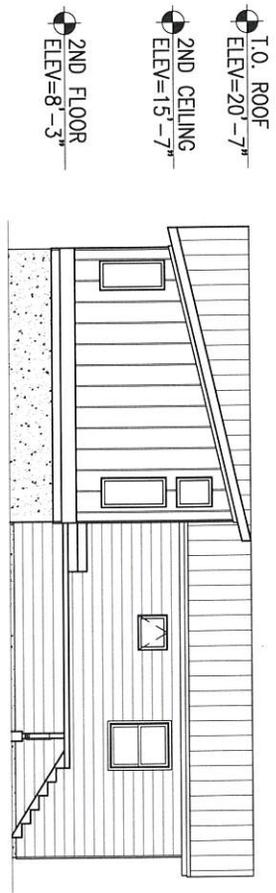
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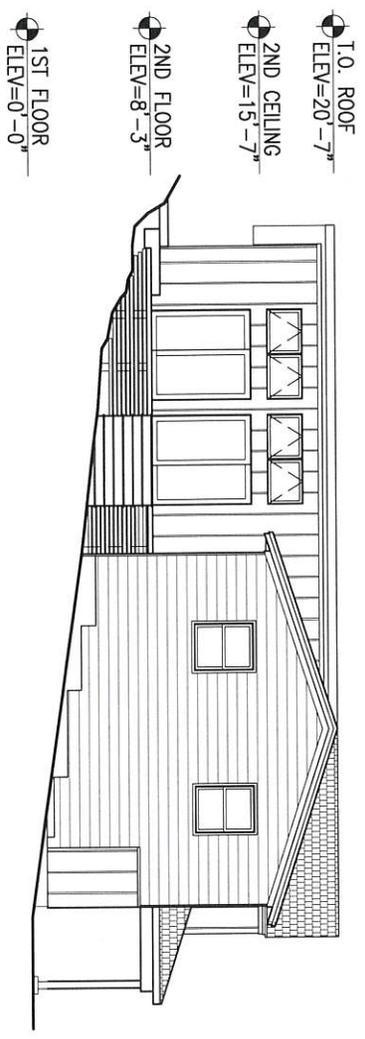
SHEET TITLE	EXISTING SOUTH AND WEST ELEVATIONS
PROJECT	245 THAXTER RD

DRAWING
A2.1



T.O. ROOF
 ELEV=20'-7"
 2ND CEILING
 ELEV=15'-7"
 2ND FLOOR
 ELEV=8'-3"
 1ST FLOOR
 ELEV=0'-0"

1 EXIST - EAST ELEVATION
SCALE: 1/8"=1'-0"



T.O. ROOF
 ELEV=20'-7"
 2ND CEILING
 ELEV=15'-7"
 2ND FLOOR
 ELEV=8'-3"
 1ST FLOOR
 ELEV=0'-0"

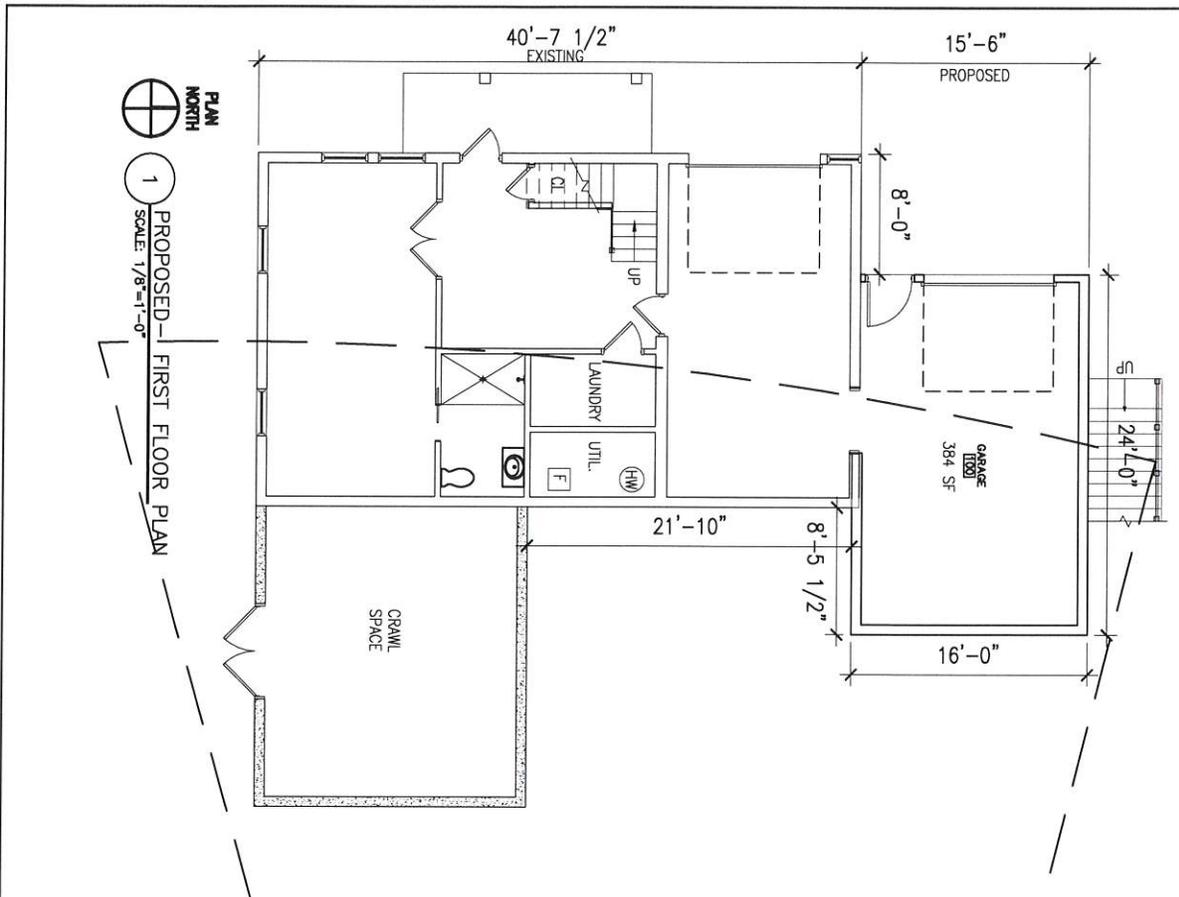
2 EXIST - NORTH ELEVATION
SCALE: 1/8"=1'-0"

1/8"=1'-0"

CHECK GRAPHIC SCALES BEFORE USING



REF: PROJECT NO: 20071 DATE: 07/07/2020 FILE: 20071-245 THAXTER - 7-21.DWG	WINTER HOLBEN architecture + design 7 WALLINGFORD SQUARE UNIT 2099 KITTERY, ME 03904 207-994.3104	SHEET TITLE	DRAWING
		EXISTING NORTH AND EAST ELEVATIONS	
		PROJECT	
		245 THAXTER RD	



PLAN NORTH

1

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

1/8" = 1'-0"



GRAPHIC SCALES

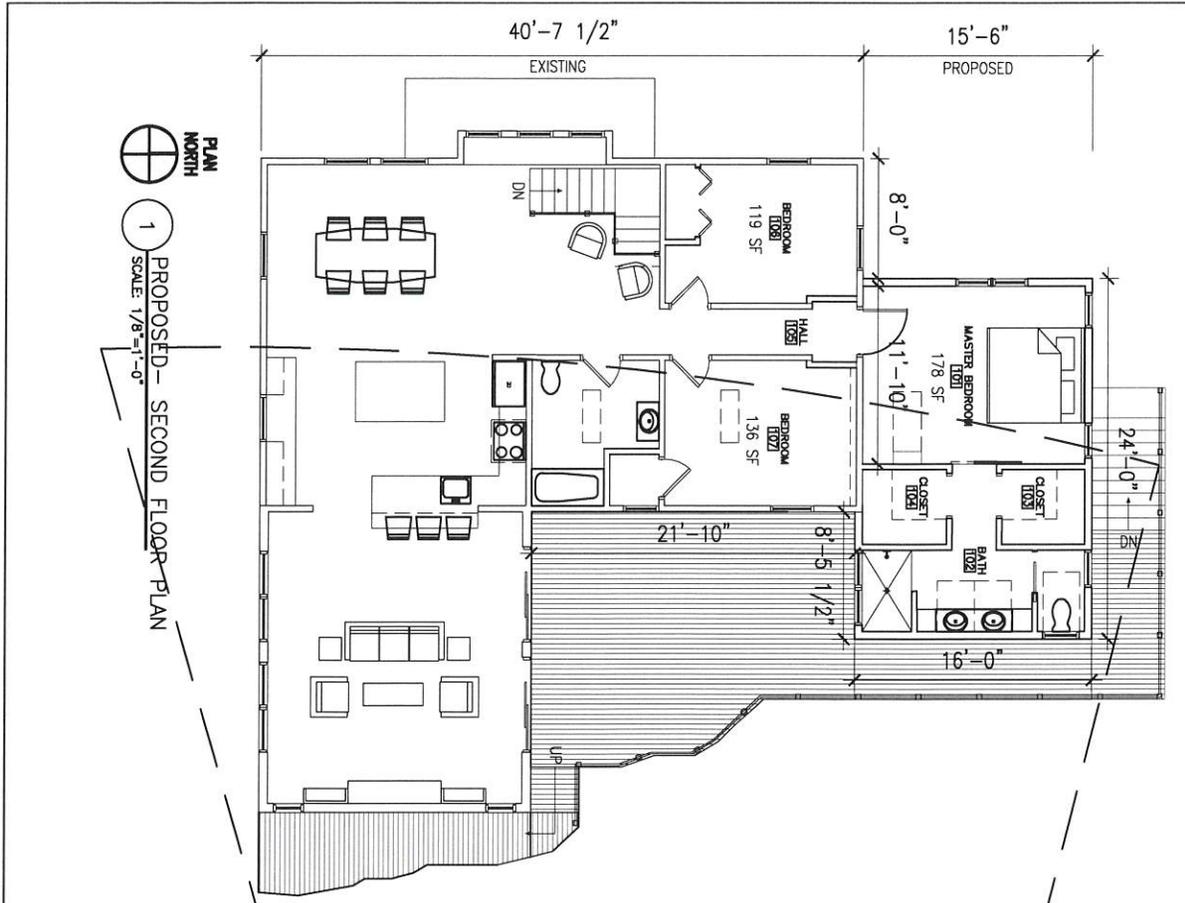
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DATE:	07/07/2020
FILE:	20071-245 THAXTER - 7-21.DWG
DRAWN BY:	BMH
CHK'D BY:	BMH

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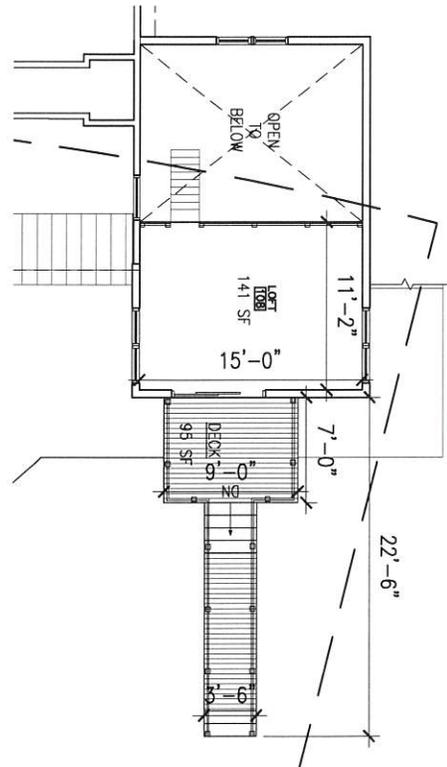
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PROJECT	245 THAXTER RD
DRAWING	A3.1



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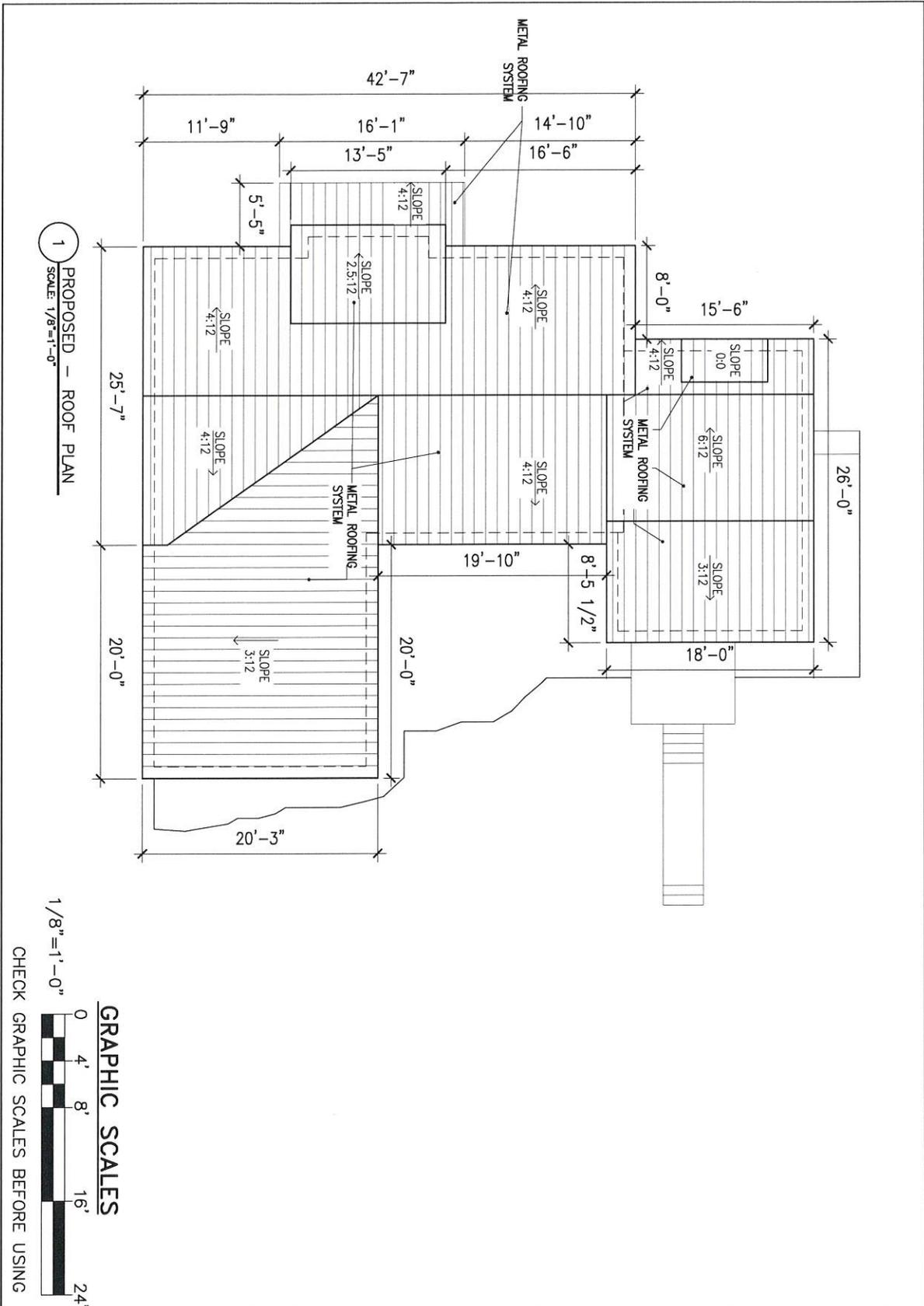
PROPOSED - SECOND FLOOR PLAN

2
SCALE: 1/8"=1'-0"



CHECK GRAPHIC SCALES BEFORE USING

REF: PROJECT NO: 20071 DATE: 07/07/2020 FILE: 20071-245 THAXTER - 7-21.DWG	WINTER HOLBEN architecture + design 7 WALLINGFORD SQUARE UNIT 2099 KITTERY, ME 03904 207.594.3104	SHEET TITLE	PROPOSED SECOND FLOOR & LOFT PLAN
		PROJECT	245 THAXTER RD
DRAWN BY: BMH		DRAWING	A3.2
CHK'D BY: BMH			



1 PROPOSED - ROOF PLAN
SCALE: 1/8"=1'-0"

1/8"=1'-0"

CHECK GRAPHIC SCALES BEFORE USING



REF: PROJECT NO: 20071 DATE: 07/07/2020 FILE: 20071-245 THAXTER - 7-21.DWG	WINTER HOLBEN architecture + design 7 WALLINGFORD SQUARE UNIT 2099 KITTERY, ME 03904 207.994.3104	SHEET TITLE	PROPOSED ROOF PLAN
		PROJECT	245 THAXTER RD
DRAWN BY: CKS CHK'D BY: BMH		DRAWING	A3.3

T.O. ROOF
ELEV=28'-2"

LOFT FLOOR
ELEV=17'-9"

2ND FLOOR
ELEV=8'-3"

1ST FLOOR
ELEV=0'-0"

T.O. ROOF
ELEV=28'-2"

LOFT FLOOR
ELEV=17'-9"

2ND FLOOR
ELEV=8'-3"

1ST FLOOR
ELEV=0'-0"

1 PROPOSED - WEST ELEVATION
SCALE: 1/8"=1'-0"



2 PROPOSED - SOUTH ELEVATION
SCALE: 1/8"=1'-0"



CHECK GRAPHIC SCALES BEFORE USING

1/8"=1'-0"



REF:
PROJECT NO: 20071
DATE: 07/07/2020
FILE: 20071-245 THAXTER - 7-21.DWG
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SHEET TITLE	PROPOSED SOUTH AND WEST ELEVATIONS
PROJECT	245 THAXTER RD
DRAWING	A4.1

T.O. ROOF
ELEV=28'-2"

LOFT FLOOR
ELEV=17'-9"

2ND FLOOR
ELEV=8'-3"

1ST FLOOR
ELEV=0'-0"

T.O. ROOF
ELEV=28'-2"

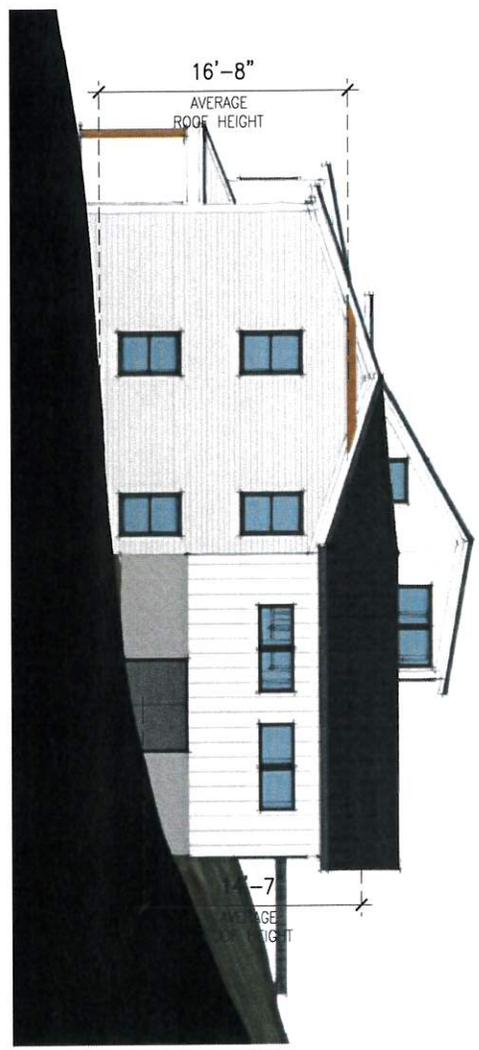
LOFT FLOOR
ELEV=17'-9"

2ND FLOOR
ELEV=8'-3"

1ST FLOOR
ELEV=0'-0"



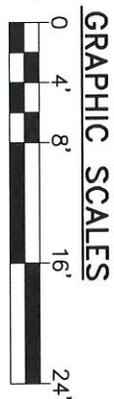
1 PROPOSED - EAST ELEVATION
SCALE: 1/8"=1'-0"



2 PROPOSED - NORTH ELEVATION
SCALE: 1/8"=1'-0"

1/8"=1'-0"

CHECK GRAPHIC SCALES BEFORE USING



REF: PROJECT NO: 20071 DATE: 07/07/2020 FILE: 20071-245 THAXTER - 7-21.DWG DRAWN BY: AVO CHK'D BY: BMH	WINTER HOLBEN architecture + design 7 WALLINGFORD SQUARE UNIT 2099 KITTERY, ME 03904 207.954.3104	SHEET TITLE PROPOSED NORTH AND EAST ELEVATIONS	DRAWING A4.2
		PROJECT 245 THAXTER RD	



REF:
 PROJECT NO: 20071
 DATE: 07/07/2020
 FILE: 20071-245 THAXTER
 - 7-21.DWG
 DRAWN BY: BMH
 CHK'D BY: BMH

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SHEET TITLE
PROPOSED RENDER VIEWS
 PROJECT
245 THAXTER RD
 DRAWING
5.1



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

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

Geometry updated 4/1/2019
Data updated 7/17/2019

Front Elevation Picture



Left Elevation Picture



Rear-Left Elevation Picture



Rear – Right Elevation Picture

