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VIA VIEWPOINT

May 22, 2020

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

**RE: Variance Application of Joseph and Jessica Denuzio
105 Thornton Street, Portsmouth (Tax Map 159, Lot 18)**

Dear Chairman Rheume,

Our Office represents Joseph Denuzio and Jessica Denuzio, owners of property located at 105 Thornton Street, 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) Site Plan; and
- 4) 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 long horizontal line extending to the right.

Derek R. Durbin, Esq.

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

Joseph and Jessica Denuzzio
105 Thornton Street
Portsmouth, NH 03801
(Owner/Applicant)

INTRODUCTORY STATEMENT

Joseph and Jessica Denuzzio are the owners of the property located at 105 Thornton Street, identified on Portsmouth Tax Map 159 as Lot 18 (the "Property"). The Property is zoned General Residence A ("GRA"), is 0.09 acres and contains a modest-sized single-family home (1,488 sf gross living area) with small single-car garage. The Property is a corner lot with primary frontage on Thornton Street and secondary frontage on Sparhawk Street.

Total building coverage on the Property is approximately 49%. The side of the home on Thornton Street has a 1' (+/-) or lesser front yard setback. Within this front yard setback there is a small addition to the home that was built many years ago that the City Assessing Department classifies as a "greenhouse". This structure is 96' square feet (12' x 8') in dimension and 9' 5" in height. It is inset from the Thornton Street side of the home by approximately 20". The roof of the addition is significantly lower than the roofline of the home.

The Denuzzios wish to demolish the "greenhouse" addition and replace it with an attached shed that would be of approximately the same dimension and have the same siding, look and appearance as their home. In order to do this, they require variances relative to building coverage, primary front yard setback and reconstruction of a non-conforming structure. It is important to note that there will be no interior access to the attached shed from the home and it will not be finished as living space.

SUMMARY OF ZONING RELIEF

The Applicant seeks the following variances from the Zoning Ordinance:

1. A variance from Section 10.521 (Table of Dimensional Requirements) to allow a 2' (+/-) front yard setback from Thornton Street where 15' is the minimum required in the GRA Zoning District and 2' (+/-) exists.
2. A variance from Section 10.521 to allow 49% (+/-) building coverage where 25% is the maximum allowed in the GRA Zoning District and 49% (+/-) exists.
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 variance will not alter the essential character of the neighborhood or create any negative impact to public health, safety or welfare. Building coverage on the Property is not being altered by the proposed attached shed. Moreover, it will not encroach further into the front yard setback from Thornton Street than the existing home. The shed will replace an existing non-conforming addition to the home that appears to have once been used as a greenhouse. The design and appearance of the attached shed will be architecturally compatible with the home, whereas the greenhouse is not. This will only serve to enhance the look of the home and achieve greater aesthetic conformity with the neighborhood.

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 loss to the Applicant is clear if the variance relief is denied. They would be forced to choose between maintaining the incompatible greenhouse structure, which is structurally unsound and obsolete, and demolishing it without being able to re-build in the same footprint. The Denuzzios are a family of four (4) that have a small property with limited storage area. The attached shed will provide the Denuzzios with much needed storage space and will improve the appearance of their home. There is no gain to be achieved by the public in denying the relief sought. The equitable balancing test weights overwhelmingly in favor of granting the variances.

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

The values of surrounding properties can only be enhanced by demolishing the greenhouse addition to the home, which sticks out like a sore thumb, and replacing it with an architecturally compatible attached shed.

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 Property is a corner lot. The existing home, which is lawfully non-conforming, is setback by less than 1' from the front boundary along Thornton Street. The existing greenhouse addition is inset from the Thornton Street side of the home by an additional 8" (+/-). The attached shed which would replace it would be sited within the same footprint, thus it would not encroach further into the front yard setback or add any additional building coverage. For the foregoing reasons, there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their application to the Property.

The proposed use is reasonable.

The Property is used as a single-family home. This use will remain the same. The attached shed will add much needed storage space to the Property and replace an unusable, structurally unsound greenhouse addition.

CONCLUSION

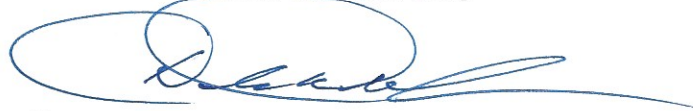
In conclusion, the Applicant has demonstrated that their application meets the five (5) criteria for each of the variances sought and respectfully requests that the Board approve their application.

Dated: May 22, 2020

Respectfully Submitted,

Joseph and Jessica Denuzzio

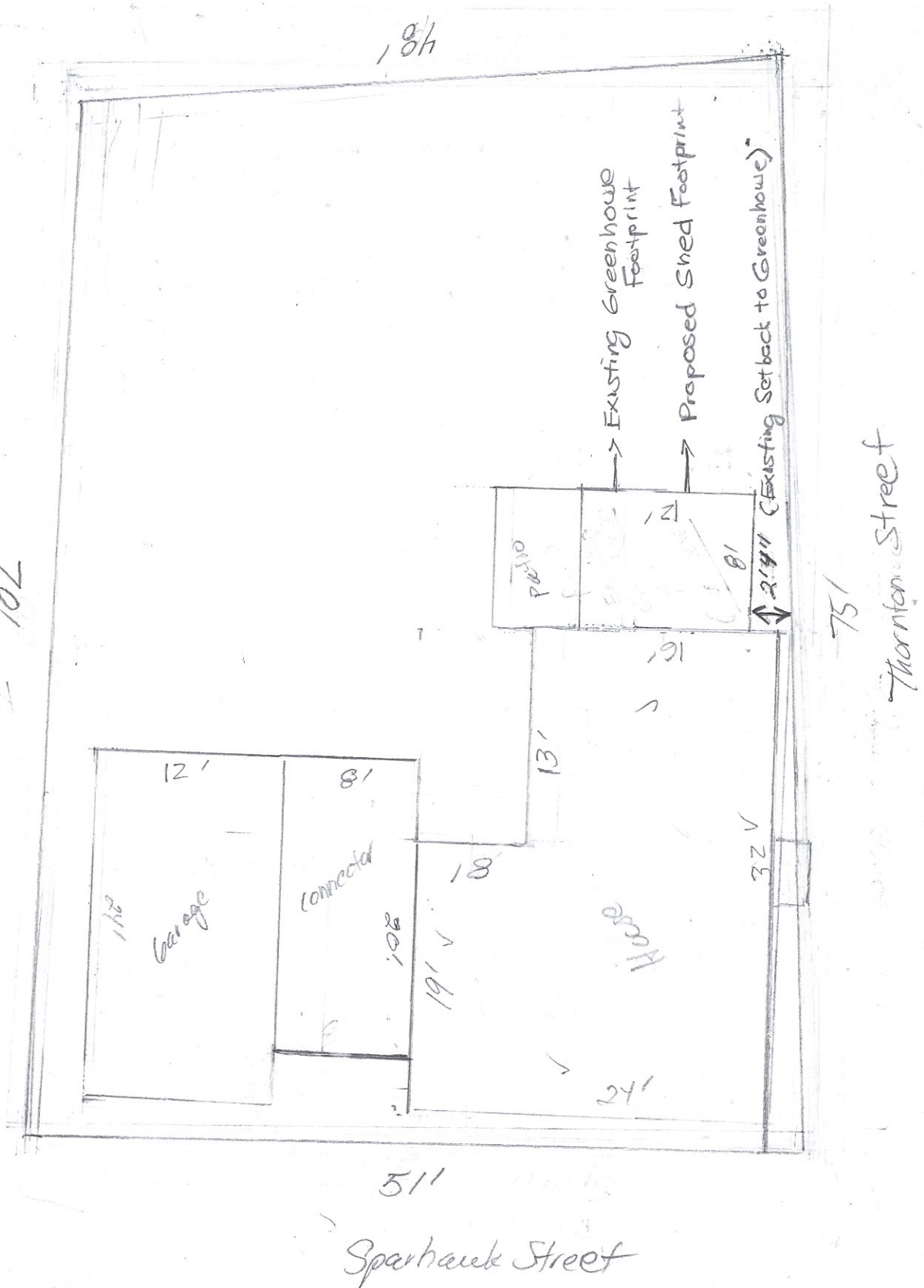
By and Through Their Attorneys,
Durbin Law Offices PLLC



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105 Thornton Street

101 = 11



DENV2210
ZBA Site Plan
5/21/2020

Scale: 1" = 10'

Thornton Street Elevation



Sparkhawk Street Elevation



Rear Yard Elevation



Picture of Greenhouse Addition



Side View of Greenhouse



Alternate Side View of Greenhouse Addition



Image of Proposed Shed Design

