City of Nashua
Planning Department
229 Main Street
Nashua, New Hampshire 03061-2019

Planning & Zoning 589-3090
WEB www.nashuanh.gov

VARIANCE APPLICATION (ZBA)

PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL BE RETURNED TO APPLICANT.

This application must be completed and submitted to the Planning Department no later than the dates listed on the Zoning Board of Adjustment (ZBA) schedule sheet. Please print clearly or type.

I. VARIANCE INFORMATION

1. ADDRESS OF REQUEST 70 Berkeley St. Nashua NH

   Zoning District R-A Sheet 48 Lot 61

2. VARIANCE(S) REQUESTED:

   See Attachment A.

II. GENERAL INFORMATION

1. **APPLICANT / OPTIONEE** (List both individual name and corporate name if applicable)

   (Print Name): Daniel Richardson

   Applicant's signature _____ Date _____

   Applicant's address 70 Berkeley St. Nashua NH

   Telephone number H: 603 594 9303 C: _____ E-mail: daniel6_22@comcast.net

2. **PROPERTY OWNER (Print Name):** RICHARDSON, DANIEL L REV TRUST & JANE S RICHARDSON REV TRUST

   ***Owner's signature** _____ Date _____

   Owner's address 70 Berkeley St. Nashua NH

   Telephone number H: 603 594 9303 C: _____ E-mail: daniel6_22@comcast.net

***Agents and/or option holders must supply written authorization to submit on behalf of owner(s).**

OFFICE USE ONLY *Date Received* _____ *Date of hearing* _____ **Application checked for completeness:** _____

PLR# _____ *Board Action* _____

$_____ *application fee* ☐ *Date Paid* _____ *Receipt #* _____

$_____ *signage fee* ☐ *Date Paid* _____ *Receipt #* _____

$_____ *certified mailing fee* ☐ *Date Paid* _____ *Receipt #* _____

Land Use Code Section(s) Requesting Variances From: _____

III. PURPOSE OF REQUEST

Answer all questions below. Provide as much information as available to give the ZBA the necessary facts to review your case. Attach additional sheets if necessary. See "Procedures for Filing a Variance" for further information.

1. **Granting of the requested variance will not be contrary to the public interest**, because: (The proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

   See Attachment A which answers this question.

2. **The proposed use will observe the spirit of the ordinance**, because: (The Proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

   See Attachment A which answers this question.

3. **Substantial justice would be done to the property-owner by granting the variance**, because: (The benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

   See Attachment A which answers this question.

4. **The proposed use will not diminish the values of surrounding properties**, because: (The Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

   See Attachment A which answers this question.

5. **Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship,** because: (The applicant must establish that because, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way. Also, you must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.

See Attachment A which answers this question.

IV. USE VARIANCE ADDITIONAL INFORMATION

Please answer all questions below that are applicable. Your answers to these questions will allow staff to better understand your request.

a. Total number of employees _____ Number of employees per shift _____
b. Hours and days of operation _____
c. Number of daily and weekly visits to the premises by customers, clients, vendors and solicitors _____
d. Number of daily and weekly commercial deliveries to the premises _____
e. Number of parking spaces available _____
f. Describe your general business operations:

g. Describe any proposed site renovations, including, but not limited to – landscaping, lighting, pavement, structural changes, signage, access and circulation:

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all the city ordinances and state laws regulating construction. I understand that only those point specifically mentioned are affected by action taken on this appeal.

_____ _____
Signature of Applicant Date

_____ _____
Print Name Date

The staff report for a Use Variance request will be available no later than Friday of the week before the ZBA meeting. If you would like a copy, please indicate below:

☐ I will pick it up at City Hall

☐ Please email it to me at _____

☐ Please mail it to me at _____

Attachment A – Answers to Questions for 70 Berkeley St Setback Variance Application

I.2 Variance Requested:

Requesting variance to encroach 5 feet into 6 foot required side yard setbacks to replace an existing nonconforming 12x20 detached garage with a 24x24 detached garage. Maintains existing side/rear setback penetration lines of existing single-car garage foundation for two-car replacement garage on corner lot property. (Ref: §190-31 A.1 Dimensional standards.) Existing single-car garage site pre-dates zoning.

III.1. Granting of the requested variance will not be contrary to the public interest because:

The public's interest is served by the maintenance and/or upgrade of existing auxiliary structures to housing stock with increased market value. The structure design will be completely in character with existing house and function as all detached garages throughout Berkeley and Swart streets. With site being remote from public right-of-way, there is no injury to public rights. The site is remote from any other structure, making safety of other structures non-issue. The existing garage is in need of substantial repair and the public's interest and health/safety is served by granting variance in concert with applicable §190-120 E. Unsafe structure.

III.2. The proposed use will observe the spirit of the ordinance because:

Structure design is constrained to be a two-car garage. Ground level will have small volume available for lawn care equipment. Upper area design is for reasonable storage volume for sport equipment and woodworking hobby. The upper area may be seasonally space heated. The desired 24'X24' two-car garage size is smaller than others in the neighborhood. It will accept two cars, but with minimal storage of family items such as children's bikes and toys, in addition to house maintenance equipment. This is an older small house that doesn't have a lot of storage space. Structure will have electrical service from house but will have no tap water service and no fuel service. The structure design will not compromise abutters' property use rights and will comply with all other ordinance requirements.

III.3. Substantial justice would be done to the property-owner by granting the variance because:

Present site of existing garage is characteristic of the housing construction era throughout Berkeley and Swart streets. Review of the property boundaries map clarifies the predominance of detached garages are non-conforming. Nearby, there are 14 detached garages which do not conform to setback on Berkeley Street and Swart Street (from Greeley Park to East Stark Street).

Attachment B holds multitude of city's GIS map images of housing and garages not in conformance with setback on Berkeley St and parallel streets..

Nearby detached two-car garages do not appear to be original to the houses, but built after the houses. The Building Dept has kindly provided permit date information for these. Since my existing 1953 garage permit is on file, permits for garages earlier than 1960 or lack of permits, establishes their construction to pre-date zoning and the non-conforming site setback of nearby garages as characteristic of the neighborhood era and accepted. The property owner deserves enjoyment of his property on par with latitude given neighbors.

Of the 14 non-conforming detached garages, all are two-car with the exception property-owner and 36 Berkeley have the only single-car garages in neighborhood. Having two-car garage is now a characteristic of the neighborhood. It is equitable to allow replacement with two-car garage.

Nearby Non-Conforming Detached Garages				**Two-Car Garage Permit Search** (from Building Dept)
Two-Car	Parcel	**Single Car**	Parcel	
12 Swart Terrace	48-70			New with a variance 2004
18 Swart Terrace	48-73			Built with the house 1966
20 Swart Terrace	48-74			**No Permit Record**
		36 Berkeley	47-27	
72 Berkeley	48-62			No Permit Record
47 Berkeley	47-50			No Permit Record
46 Berkeley	47-98			No Permit Record
45 Berkeley	47-52			No Permit Record
43 Berkeley	47-54			A permit was issued but the date was not noted best guess prior to 1960
42 Berkeley	47-97			A permit was issued but the date was not noted best guess prior to 1960
41 Berkeley	47-56			No Permit Record
39 Berkeley	47-58			**No Permit Record**
38 Berkeley	47-39			A permit was issued but the date was not noted best guess prior to 1960

III.4. The proposed use will not diminish the values of surrounding properties because:

An architect has been retained to ensure design is functional, compliant with architectural building standards and fully complements the existing house. The siting has been and will remain unobtrusive to view of abutters and does not diminish their use of their own property. Condition of abutters' property will remain unchanged. Abutters are particularly well-served by view of new garage.

III.5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship because:

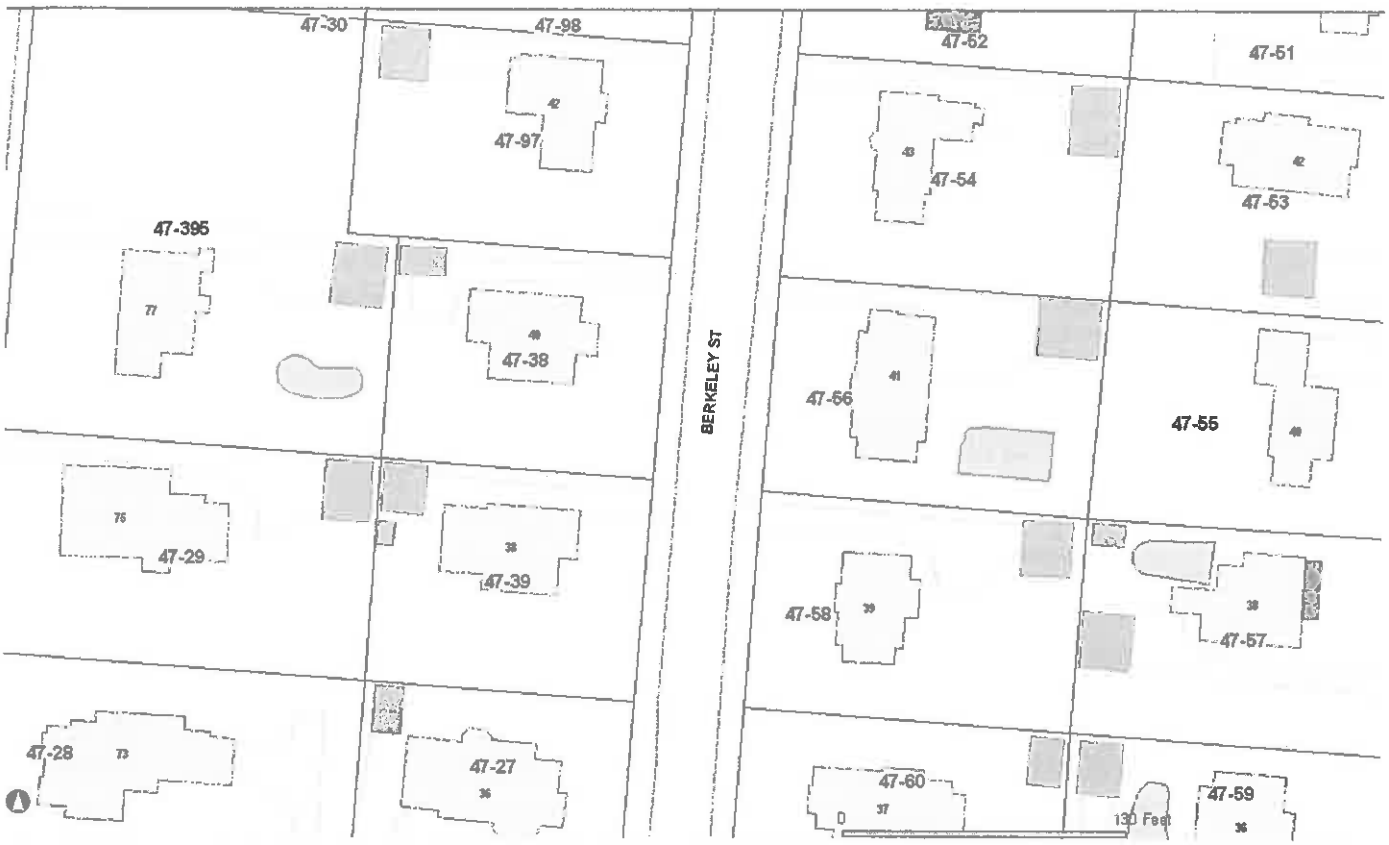
Existing driveway is designed for one car width and consumes available space between house and property line. Given incline of Swart St., granite wall and abutting property ground height difference, Berkeley St side was the safe and logical location for a driveway to access this property. It would be an unreasonable hardship to place a new garage in any other location.

Rear yard near garage within 14 feet from property line already has no utility at present due to roll-off transition from abutters' property height. Abutters' property is 4 to 5 feet greater height than existing garage ground level. Half of backyard nearest the garage suffers from very limited flat ground. The other half of rear yard has existing diminished utility as it maintains abutters' ground height and suffers yard consumption with another height transition footprint.

The new two-car garage, along with the two-car drive cape, will expand toward the house. However the 12 feet additional garage width parallel to property line of the previously unusable 14 foot projection into yard would be converted to the enjoyment of the property owner.

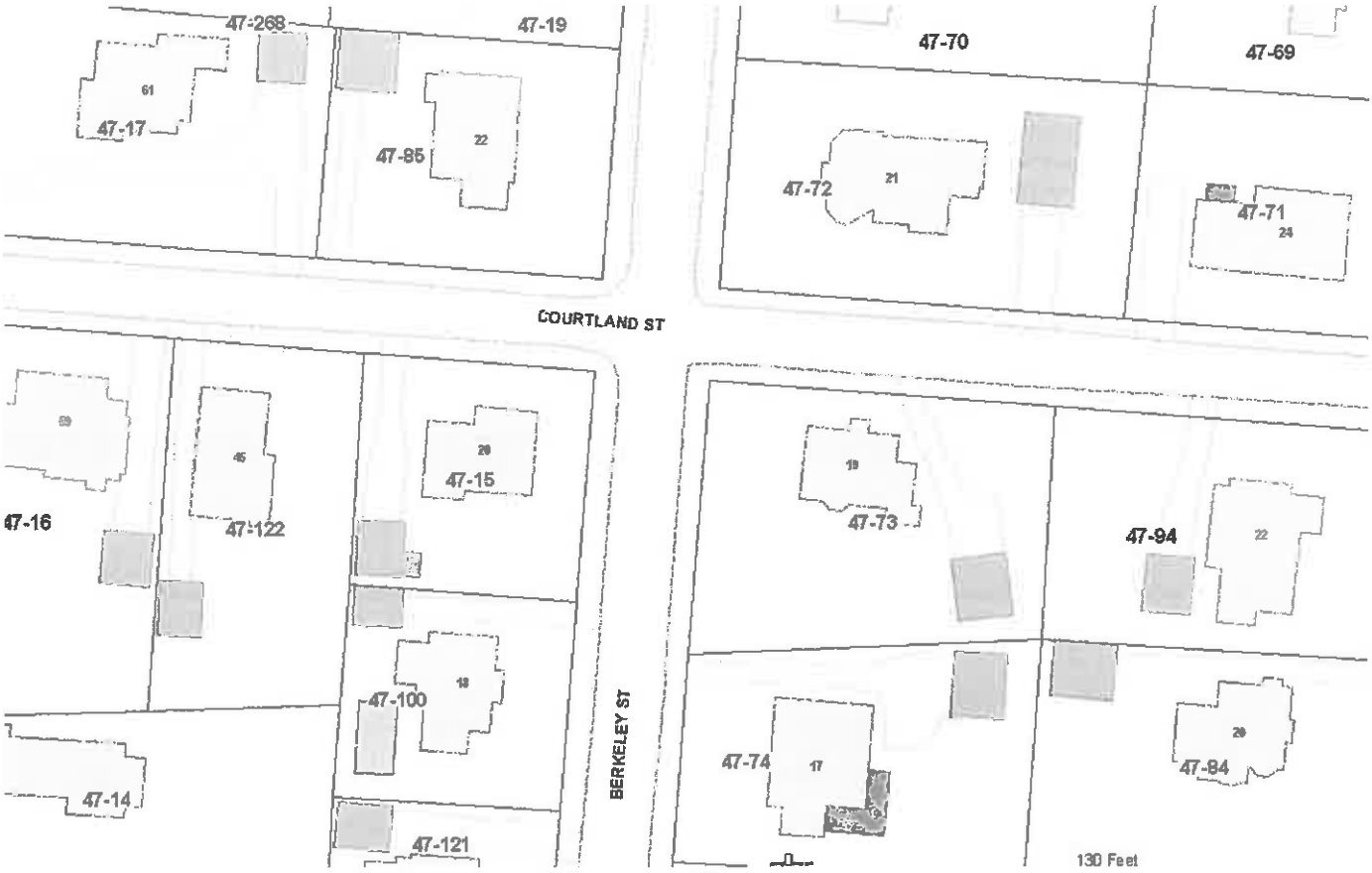
Attachment B –Detached Garages on Berkeley St. Not in Conformance to Setback
Relative to 70 Berkeley St. Setback Variance Application

North Berkeley Street



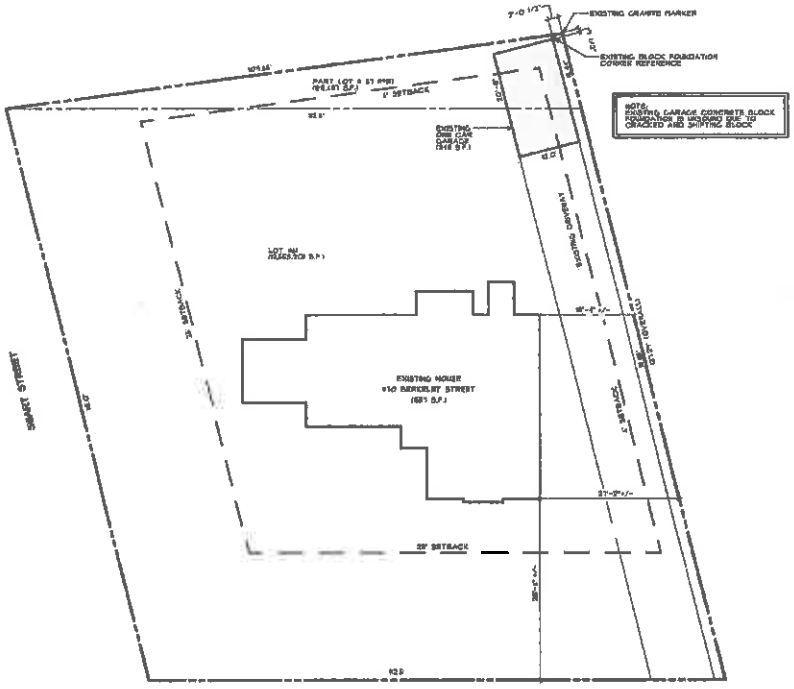
Attachment B –Detached Garages on Berkeley St. Not in Conformance to Setback
Relative to 70 Berkeley St. Setback Variance Application

Mid Berkeley Street



Attachment B –Detached Garages on Berkeley St. Not in Conformance to Setback Relative to 70 Berkeley St. Setback Variance Application

South Berkeley Street



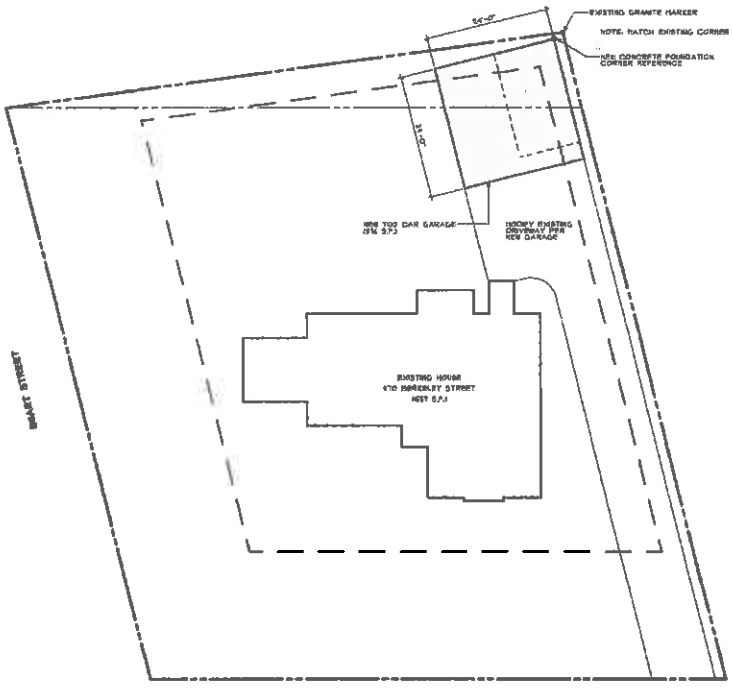
EXISTING SITE PLAN

SCALE: 3/32" = 1'-0"

LOT: PART #21.00
OWNER: OF
DISTRICT: R-A - URBAN RESIDENTIAL
COMBINED LOT SQUARE FOOTAGE = 15,306.492
TOTAL BUILDING LOT COVERAGE = 606 S.F.

SITE PLAN REFERENCES:

CITY OF NASHUA LAND USE CODE
CITY OF NASHUA ZONING MAP - JANUARY 2019
CITY OF NASHUA GIS
BUILDING PERMIT NUMBER 10004 ISSUED DECEMBER 23, 1983 TO THEN OWNER GEORGE FRENCH



PROJECT SITE PLAN

SCALE: 3/32" = 1'-0"

COMBINED LOT SQUARE FOOTAGE = 15,306.492
TOTAL BUILDING LOT COVERAGE = 1,022 S.F. - LESS THAN THE REQUIRED 30% OPEN SPACE
IN ZONE R-A - TABLE 10-5 DIMENSIONAL MATRIX - NASHUA LAND USE CODE

ISSUED FOR PLANNING BOARD REVIEW

PROJECT NO.: 2020-03 DATE: 04-09-2020

VORBACH ARCHITECTURE

ROBERT J. VORBACH
LICENSED ARCHITECT
20 MANCHESTER STREET
NASHUA, NH 03064-2216
TEL: 603-886-1396
MOBILE: 603-429-1887

I HEREBY CERTIFY THAT THIS PLAN AND ANY RELATED CONSTRUCTION DOCUMENTS WERE PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE STATE OF NEW HAMPSHIRE

SEAL: 2293
ROBERT J. VORBACH
No. 2293
STATE OF NEW HAMPSHIRE

PROJECT: RICHARDSON GARAGE
NASHUA, NEW HAMPSHIRE

EXISTING SITE PLAN
PROJECT SITE PLAN

NO.	REVISIONS

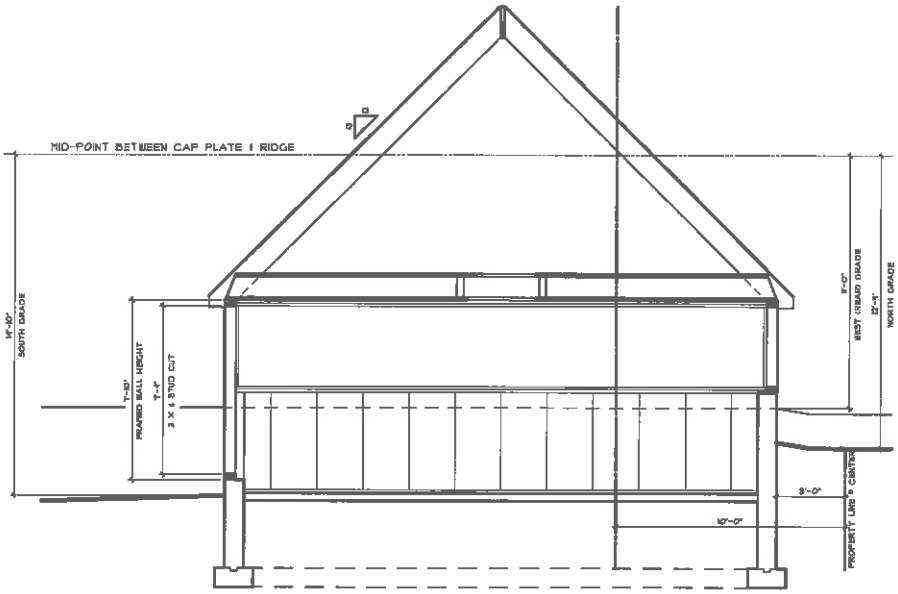
DRAWN : R.J.V	CHECKED : R.J.V
DATE : 04-09-2020	
SCALE : AS NOTED	
JOB NO : 2020-03	

CONSTRUCTION DRAWING:
EXISTING SITE PLAN
PROJECT SITE PLAN
SHEET: 1

SP-1

OF 1 SHEETS

112.51
111.85
109.65
92.95



PROPOSED GARAGE FRAMING SECTION

576 SQUARE FOOT TWO CAR GARAGE

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

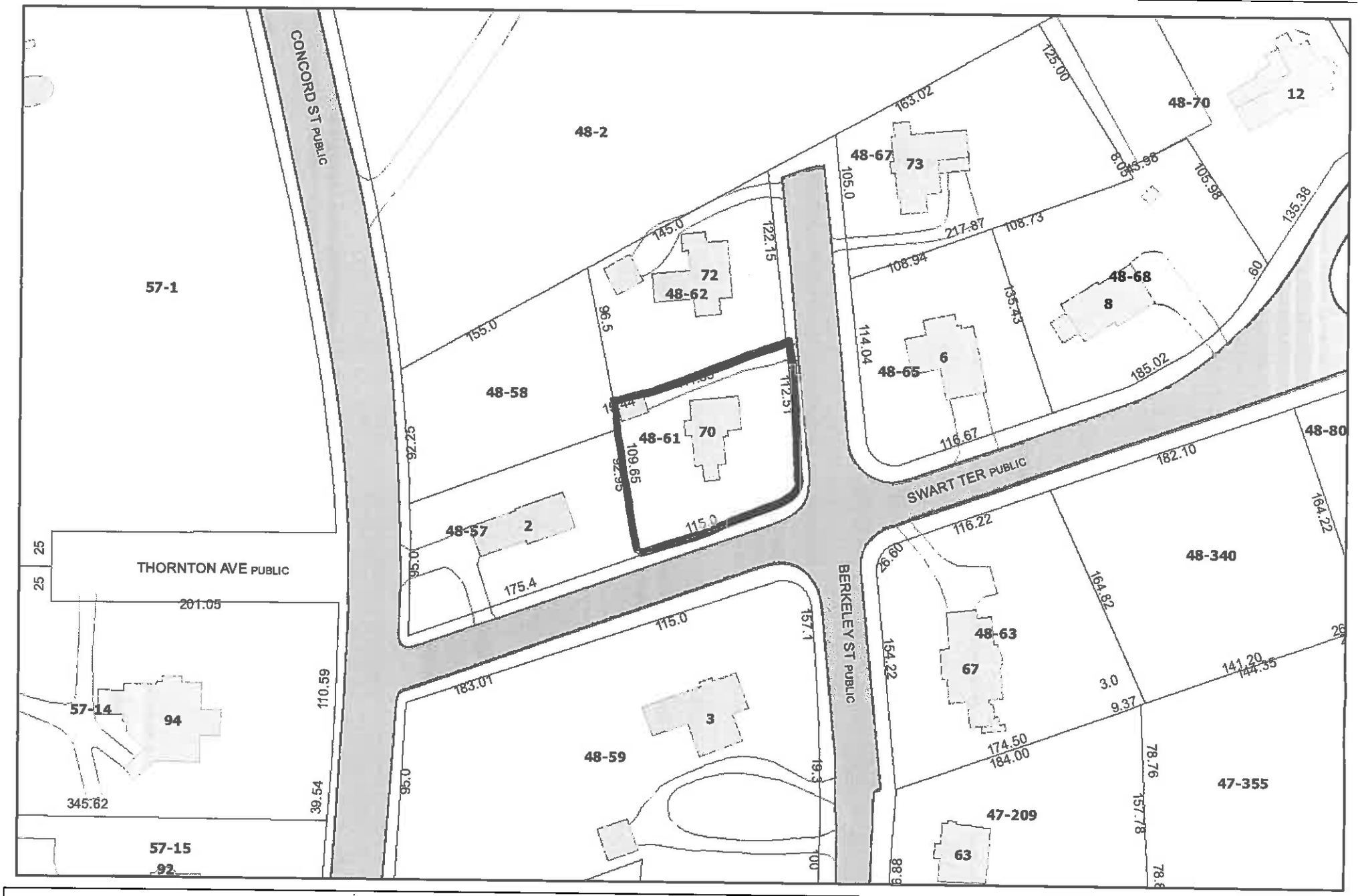
PROPERTY: 10 BERKELEY STREET - NASHUA, NEW HAMPSHIRE

OWNERS: DANIEL L. RICHARDSON, JANE S. RICHARDSON

PROJECT: 576 SQUARE FOOT TWO CAR GARAGE W/ ATTIC STORAGE

CONSTRUCTION: WOOD FRAME

ARCHITECT: VORBACH ARCHITECTURE - 58 MANCHESTER STREET
NASHUA, NEW HAMPSHIRE 03064-254 (603-884-1138)
ROBERT J. VORBACH - LICENSED ARCHITECT



70 Berkeley St

N
W E
S

0 60 120 240 Feet

NASHUA NEW HAMPSHIRE GIS