

MEMORANDUM

TO: Portsmouth Planning Board
FROM: R. Timothy Phoenix, Esquire
DATE: June 28, 2017
Re: Karona, LLC, Owner/Applicant
Project Location: 36 Artwill Avenue
Tax Map 229/Lot 4
SRB Zone

Dear Chairman Legg and Planning Board Members:

On behalf of Karona, LLC (“Karona”), we are pleased to submit this application for Conditional Use Permit (“CUP”) to allow a detached accessory dwelling unit (“DADU”) located on second floor over the garage in an existing structure, to be considered by the Planning Board at its July 20, 2017 meeting.¹

I. Exhibits

1. 6/21/17 Building Permit Plans (2 pages), 36 Artwill Avenue, by James Verra & Associates, Inc.
2. 6/21, 26/17 Architectural Plan Set, 36 Artwill Avenue by THA Architects, LLC.
 - Page 1 Upper floor (DADU) floor plan.
 - Page A1-Floor Plans.
 - Page A-2-Elevation.
3. A-G Site Photographs.
4. Tax Map 229.
5. 1958 recorded RCRD Plan 02637.
6. 6/28/17 Conditional Use Permit Application (copy).

II. Property/Project

36 Artwill Avenue is a 26,737 sq. ft. lot upon which exists a single family dwelling and a not yet completed garage with a begun but not completed second floor apartment. (**Exhibits 1,3**). The primary dwelling has long existed, with the detached garage erected in recent years by a former owner. Karona recently purchased the property and intends to complete the garage and apartment for use as a DADU in compliance with the Portsmouth Zoning Ordinance (“PZO”) §10.814 and recently enacted state statute. The exterior dimensions of the building, thus the dimensions of the DADU is 1,096 sq. ft. The construction of the DADU is incomplete, having been halted by the inspection department due to actions of a former owner. Complete are interior

¹ Pending is a variance application to be considered by the ZBA on July 18, 2017.

wall framing and delivery without installation of appliances. Karona merely intends to conclude construction of the DADU.

III. Relief Required

After meeting with the City Planning Department staff, it has been determined that a Conditional Use Permit under PZO 10.814 is required:

A. PZO Section 10.814 Accessory Dwelling Units

10.814.10-One and only one accessory dwelling unit is allowed on any lot containing a single family dwelling-Only one unit is proposed.

10.814.20-Except as provided in Section 10.814 all land use regulations applicable to a single family dwelling also apply to the combination of the principal dwelling unit and the DAUD-Except as modified hereunder, this proposal complies, subject to receipt of variances.

B. PZO Section 10.814.30-Standards

10.814.31-The principle dwelling unit and the DADU cannot be in separate in ownership-Common ownership exists.

10.814.32-At least one of the dwelling units shall be occupied by the owner- The owner does not presently intend to live in either unit. **Approval is requested with the stipulation that only one of the two residential units on site will be occupied unless and until it is demonstrated to the planning department that this provision is met.** The present owner intends to renovate the property and in the near term sell it with that condition.

10.814.33-Neither the principal dwelling nor the accessory dwelling shall be used for any business except a home occupation-No business is intended.

10.814.34-In addition to two off-street parking spaces required for a single family dwelling, one space shall be provided for a DADU up to 400 sq. ft. and 2 for DADU larger than 400 sq. ft.- There is ample room on the site to provide the additional parking. There is a existing driveway with room for at least two cars next to the main house and there will be a three car garage under the DADU.

C. **PZO Section 10.814.50-80 – DADU standards.**

1. Section 10.814.51-the principal dwelling and the DADU together shall comply with the minimum lot area per dwelling unit-The minimum lot area is 15,000 sq. ft. The subject lot is 26,737 sq. ft.

2. Section 10.814.52-No more than two bedrooms and no larger than 750 ft. gross floor area-The unit has only one bedroom, but is 1,096 sq. ft. so requires modification pursuant to 10.814.80, noting that the structure exists in its present size and the DADU construction was already begun by a previous owner. There is no reasonable basis for constructing walls to artificially reduce the size to 750 sq. ft. as the overall dimensions of the structure will remain, and its occupancy is limited by the single bedroom.

3. Section 10.814.54-The DADU shall be separated from the single family dwelling by at least 20 ft.-The former owner built the structure at approximately 12 ft. at its closest point, falling away from the existing dwelling. For the reasons specified above, Karona requests a modification pursuant to 10.814.80.

D. **PZO Section 10.814.60– Required findings.**

1. 10.814.61-Exterior Design of the DADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials-Photographs are attached. Noting that the building exists, the exterior design is compatible.

2. 10.814.62-The Site Plan provides adequate open space and landscaping that is useful for the DADU and primary dwelling-The lot is almost twice the 15,000 sq. ft. minimum requirement It is a construction site now but the photographs show large areas that were and will be again be lawn.

3. 10.814.63-The DADU will maintain a compatible relationship to adjacent property in terms of location and design and will not significantly reduce the privacy of adjacent properties- This lot, and the DADU structure are the last on a private dead-end street. Directly across the street is a small garage. Adjacent properties will not be harmed by the location and design.

4. 10.814.64-The DADU will not result in excessive noise, traffic or parking congestion-It is a single DADU on a large lot with off-street parking at the end of a dead-end

street next to the high school/playing fields. The single unit will not result in excessive noise, traffic or parking congestion.

E. **PZO Section 10.814.70- A certificate of use must be issued by the Planning Board Department to verify compliance with the standards including the owner occupancy requirement. Said certificate shall be renewed annually**-The main home will be occupied by a non-owner. Karona requests approval with the stipulation that the DADU will not be occupied unless and until it has demonstrated to the Planning Department that the owner-occupied requirement is met.

F. **PZO Section 10.814.80- In granting a CUP, the Planning Board may modify a specific dimensional or parking standard provided that the Board find such modification will be consistent with the required findings in section 10.814.60**-Given the fact that the building already exists, is the last on a private dead-end street, for the reasons set forth herein, Karona requests that the Planning Board modify section 10.814.42 to permit a 1,096 sq. DADU where 750 sq. ft. is the limit and from 10.814.54 to permit the existing DADU to be less than twenty feet from the primary dwelling.

V. **Conclusion**

For all of the reasons stated, Karona respectfully requests that with the requested modifications, all of the requirements for issuance of a conditional use permit are met.

Respectfully submitted,

Karona, LLC



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RTP/msw

Encl.

cc: Karona, LLC
Thomas House
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