# CITY OF PORTSMOUTH, NH

# APPLICATION FOR RESTORATION OF INVOLUNTARILY MERGED LOTS

# PURSUANT TO RSA 674:39-aa

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Name of Property Owner(s): lodd A. Buttrick 6838-126
Mailing Address: 14 Karlin Rd Fremont N.H. 03044
Telephone Number: 603-303-7212
Email Address: +V+6@ comcast, net
Street Location of Parcels Affected by the Requested Restoration:  QOO MIGHERA PORTSMOUTH N.H.
Properties Requested to be Restored (attach additional sheet if needed):
Parcel 1  Current Deed Reference:  Book Page Date Recorded November 5, 2011
Tax Map Lot Number 33,34, 35, <b>60</b>
Tax Map Lot Number 20,55 / 30, 60
Parcel 2
Current Deed Reference: Book Page Date Recorded
Tax Map Lot Number
Parcel 3  Current Deed Reference: Book Page Date Recorded
Tax Map Lot Number
·
Please state when you believe the involuntary merger took place:
Signature(s) of Property Owner(s):
Signature: Name: Add A Bothick Date: 15/2021
Signature: Name: Date:

KATHRYN S. WILLIAMS, ESQ.

K.S.W. LAW

57 Main Street, P.O. Box 836

Epping, New Hampshire 03042

(603) 679-5223

kwilliams@ksw-law.com

August 27, 2012

Todd Buttrick 14 Karlin Road Fremont, NH 03044

Re: Transfer of Real Estate

Property in Portsmouth, NH

Dear Mr. Buttrick:

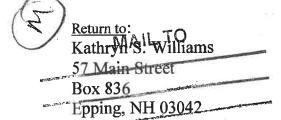
Enclosed is the original Fiduciary Deed for the above referenced property that was recorded on July 30, 2012 at Book 5345, Page 2869 in the Rockingham County Registry of Deeds. You should retain and store this document in a safe place for later use as needed.

The Declaration of Consideration and Inventory of Property Transfer forms that you previously signed have been completed and mailed for filing in the appropriate town and state offices.

Very truly yours

Kathryn S. Williams

KSW:vab







## FIDUCIARY DEED

Kathryn S. Williams as Successor Trustee of The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003, of 57 Main Street, Epping, New Hampshire, for good and valuable consideration, grants to Todd Buttrick, with Fiduciary Covenants, the real property described as follows:

Four (4) certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in Portsmouth, County of Rockingham, State of New Hampshire, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds Book 527, Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

This is not homestead property of the Grantor.

Barbara H. Buttrick's death certificate is on record at the Rockingham County Registry of Probate, 10<sup>th</sup> Circuit Court, Probate Division.

Meaning and intending to convey the same property described in the deed of Barbara H. Buttrick to Barbara H. Buttrick, Trustee of The Barbara H. Buttrick

Revocable Trust of 2003, u/d/t dated July 30, 2003, dated November5, 2011, and recorded at the Rockingham County Registry of Deeds, at Book5260, Page 1861.

# Trustee's Certificate

The undersigned trustee is the Successor Trustee under the Trust created by Barbara H. Buttrick, as grantor under trust agreement dated July 30, 2003, and thereto has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust, and no purchaser or third party shall be bound to inquire whether the trustee has said power or is properly exercising said power or to see to the application of any trust asset paid to the trustee for a conveyance thereof.

Kathryn S. Williams, Successor Trustee

This is a conveyance from a revocable trust pursuant to an estate planning trust. The original grantor, Barbara H. Buttrick is deceased. Kathryn S. Williams is the Successor Trustee under The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003. Due to the death of Barbara H. Buttrick, the grantor under the trust, the Trust is terminated and this conveyance is a distribution of the real estate held in the Trust to the beneficiary of the Trust. The consideration paid was less than fair market value. This conveyance is subject to the minimum transfer stamps of \$40.00 as required under the New Hampshire Code of Administrative Rules, Department of Revenue Administration, Part Rev. 802.02.

Dated this 30 day of 1019, 2012.

Kathryn S. Williams, Successor Trustee

VALERIE BENNETT

Notary Public - New Hampshire

My Commission Expires August 10, 2016

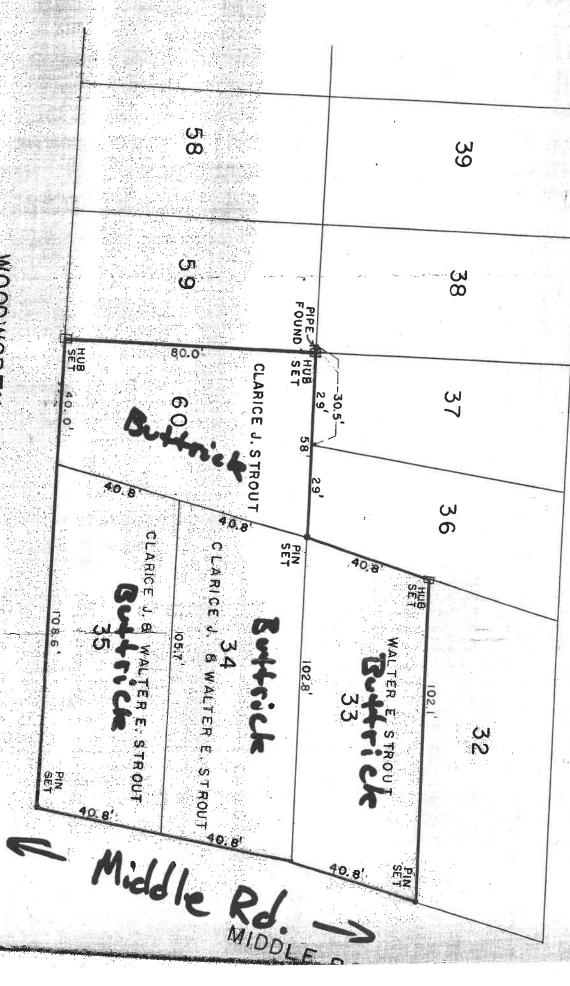
# STATE OF NEW HAMPSHIRE COUNTY OF ROCKINGHAM

This instrument was acknowledged before me on the 30 day of 2012, by Kathryn S. Williams.

Notary Public

My Commission Expires:

Seal:



WOODWORTH AVE.



# CITY OF PORTSMOUTH

# **Assessors Office**

Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
Tel: (603) 610-7249 – Fax: (603) 427-1579

To:

Dexter Legg, Chair Planning Board

Cc:

Karen S. Conard, City Manager

From:

Rosann Lentz, City Assessor 🎢

Date:

April 22, 2021

RE:

City Council Referral- Request of Restoration of Involuntarily Merged Lots to pre-merger status

at 900 Middle Rd

At its meeting on February 9, 2021, the City Council considered a request from Kathryn S. William, ESQ on behalf of the property owners of 900 Middle Rd, requesting the restoration of involuntarily merged lots at 900 Middle Road to their pre-merger status pursuant to NH RSA 674:39-aa. These lots are represented as historical lot numbers 33, 34, 35 and 60. The Council voted to refer to the Planning Board and Assessor for report back (See Attachment #1).

## Description

The subject parcel is depicted on the attached tax maps from Tax Year 1961 identified on Plan 66 Lots 33, 34, 35 and 60; from Tax Year 2020 they are identified as Map 232 Lot 80 (See Attachment #2).

Current assessment records identify the parcel as having .378 +- acres with a 3 bedroom 1.5 bath single family dwelling built around 1948 located on the parcel. Older assessment records identified the parcel as 3 separate lots until 1972 (See Attachment #3).

### History

<u>Deeds:</u> According to the deeds researched back to 1950, 900 Middle Road was identified as 4 lots being Lot numbers 33, 34, 35, and 60. Lot 33 was described by metes and bounds, Lots 34 and 35 were identified together based on the Prospect Park Plan having a dwelling thereon and lot 60 was described individually again with a lot reference in the Prospect Park Plan (See Attachment #4).

Recorded deeds in the chain of title between 1971 and 2011 & 2012 along with a mortgage deed recoded in 1971 changed the property description. These deeds describe the 4 lots into one lot per meets and bounds (See Attachment #5).

<u>Property Assessment Records:</u> Between 1953 and 1971 property assessment records show lots 33 and 60 separately assessed. In 1962, lots 34 and 35 were combined and assessed as one, matching the description of the lots within Book 1157 Page 292 (See Attachment #3).

Assessment records indicate for Tax Year 1972, the assessor merged lot 33 with previously merged lots 34 and 35; this is noted on the assessment records (See Attachment #3-A). Assessment records indicate for Tax Year 1983 lot 60 was merged with the others (See Attachment #3-B).

## **Building Inspection/Planning Records**

In 2006 Barbara Butterick requested and was approved for an additional driveway permit/access to the dwelling located at 900 Middle Rd. The request represented lots 33, 34, and 35 as a single lot with a curb cut off of Middle Road located on lot 33 (See Attachment #6).

### **Court Decisions**

Upon review of various court decisions concerning the denial of restorations of lots, decisions have stated that the fact the lots being described in a single deed with single metes and bounds does not alone support an involuntary merger.

The State of New Hampshire Supreme Court case of Charles A. Roberts v. Town of Windham; Rockingham 165 N.H.186 (2013), agreed with the lower court's decision of voluntary merger. This decision in part looked at the use of the property in its entirety by reviewing a lots physical characteristics and the changes that occurred over time to the placement of buildings, driveways, outbuildings etc. The totality of changes can reasonably support that lots by predecessors or current owners were voluntarily merged when facts show the primary and accessory buildings, access, etc. work as a unit (See Attachment #7).

## Summary

Upon review of the property tax maps and aerial images (See Attachment #8) in relation to the location of the dwelling and any supporting access points or outbuildings, lots 33, 34, and 35 are used as a unit. It is a reasonable conclusion these three lots were voluntarily merged when looking at the use of the property in its entirety. Lot 33 had an additional driveway added for parking for the dwelling located on lots 34 and 35 and the dwelling when constructed fell close to the lot lines between lots 33 and 34.

No written request for voluntary merger was found. The New Hampshire Municipal Association has interpreted the above court decision to mean, "Governing bodies and zoning boards of adjustment now know they should review requests to unmerge lots based upon all of the circumstances of actual use of the property, and that the lack of a request to voluntarily merge the lots by the current or former owner will not, standing alone, support such a request" (See Attachment #9).

The taxpayers have requested lots 33, 34, 35 and 60 be unmerged to their premerger boundaries. Based upon my research, it is recommended this request be denied.

Cc: file

Attachments: 9

KATHRYN S. WILLIAMS, ESQ.
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Very truly yours

Kathryn S. Williams

KSW:vab

# CITY OF PORTSMOUTH, NH

# APPLICATION FOR RESTORATION OF INVOLUNTARILY MERGED LOTS

# **PURSUANT TO RSA 674:39-aa**

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Name of Property Owner(s): lodd A. Buttrick 608-308-7212
Mailing Address: 14 Karlin Ral Fremont N.H. 03044
Telephone Number: 603-303-7212
Email Address: +V+b@ comcast, net
Street Location of Parcels Affected by the Requested Restoration:  400 Middle Rd Portsmouth N.H.
Properties Requested to be Restored (attach additional sheet if needed):
Parcel 1  Current Deed Reference: Book Page Date Recorded November 5, 2011
Current Deed Reference: Book Page Date Recorded November 5, 2011
Tax Map <u>232-80</u> Lot Number <u>33,34,</u> 35, <b>60</b>
Parcel 2
Current Deed Reference: Book Page Date Recorded
Tax Map Lot Number
Parcel 3
Current Deed Reference: Book Page Date Recorded
Tax Map Lot Number
· ·
Please state when you believe the involuntary merger took place:
I do not know
Signature(s) of Property Owner(s):
Signature: O Name: MA ABHICK Date: 1/15/2021
Signature: Date:
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(No revenue stamps required)

# 1157 292

# Know All Men by these Presents,

That I, M. Thelma Crowell of Portsmouth, in the County of Rockingham and of New Hampshire,

for and in consideration of the sum of hand before the delivery hereof, well and truly paid by Walter E. Strout and Clarice J. Sti said Portsmouth,

the receipt whereof I do hereby acknowledge, have remised, released and forever quitclaimed and by femise release and forever quite minute the said grantees and his heirs and assigns forever.

A certain lot or parcel of land in Portsmouth, New Hampshire containing Minety-Seven (4097) square feet, more or less, and further described as That lot or parcel of land on Middle Road, and being Lot No. 33 on the City of Portsmouth Assessors' Office, having a frontage on said Mid and eight tenths (40.8) feet; one hundred two and one tenth (102.1) fee

one Harry Caswell, forty and eight tenths (40.8) feet along land now or one Catherine Carty; and one hundred two and eight tenths (102.8) feet

grantee herein.

Also two certain lots or parcels of land, together with the dwelli situate in said Portsmouth and more particularly described as Lots Numb (34) and Thirty-Five (35) in Prospect Park Tract, the size and location in accordance with a Map or Plan of said Tract now on file in the Regis said County of Rockingham, to which said Plan reference is made for a m description.

Also a certain lot, piece or parcel of land situated in said Ports particularly described as Lot Number Sixty (60) in the "Prospect Park" same in size and location to be in accordance with the map or plan of s on file at the Registry of Deeds in and for said Rockingham County to w is hereby made for a more complete description, together with the build

Being the same premises conveyed to me by deed of Clarice J. Strout, of be recorded horewith.

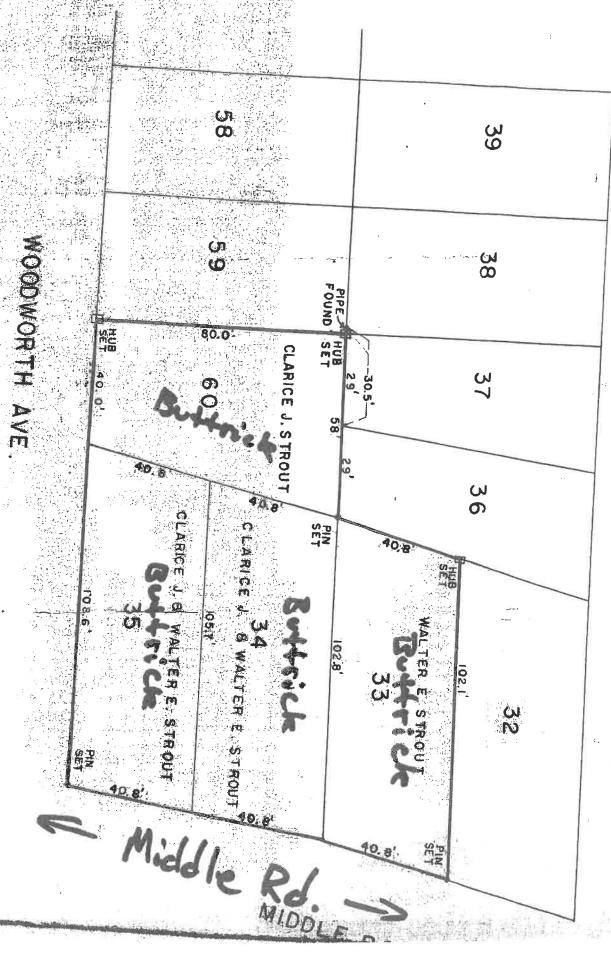
Subject to a mortgage to the Piscataqua Savings Eank, dated July 20, 19 in Rockingham Registry; of Deeds.

To have and to hold the said premises, with all the privileges and appurtenances thereto be as John Think with right of survivorship and not as tenants in commit grantee s/and his/heirs and assigns forever. And I do hereby covenant with the said grantee s/and his/or heirs and his or them the said grantee s/and his or heirs and assigns, again and demands of any person or persons claiming by, from or under me, except as aforemention

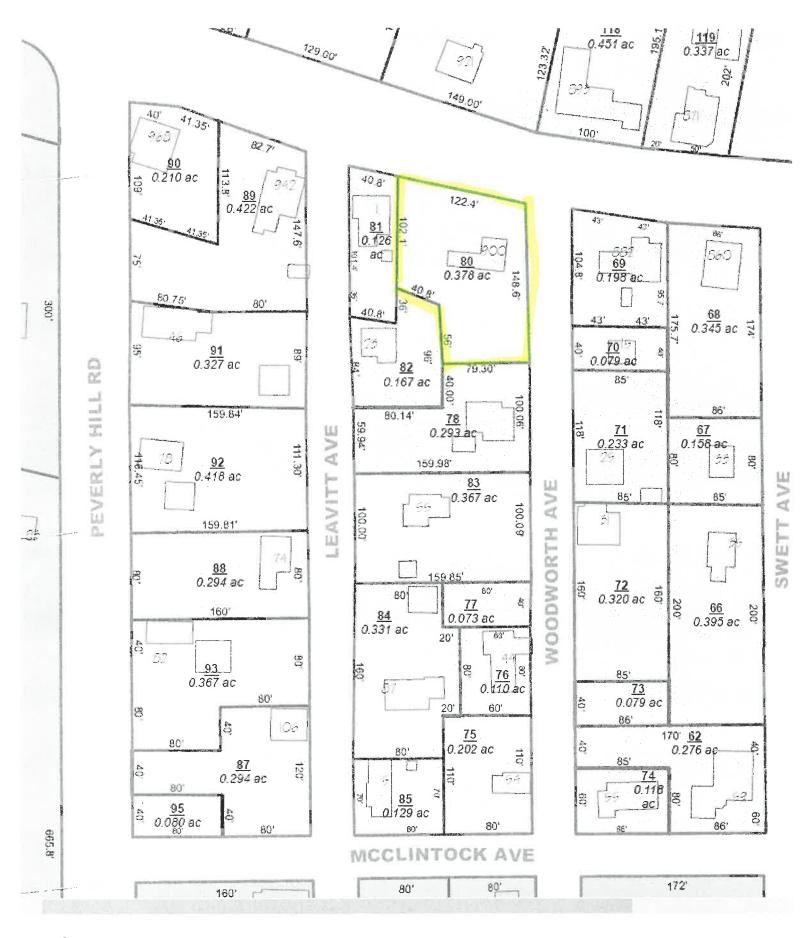
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		EFF. PERIMETER L/F L/F	EFF. PE	<	UNFINISHED	1.5 40 40 30
		3	EXTERI		FIBERBOARD	15 20 25
	APARTMENTS	4 BLOCK 6 TILE 8 METAL 0 ENAM. STL.	2 FRA	<	WOOD PANELING	TORY HEIGHT
V		3 GLASS 5 STUCCO 7 STONE 9 CONCRETE		< !	DRYWALL/PLASTER	VAC. LOT DWELLING OTHER
	SINGLE FAMILY STORES	EXTERIOR WALL COMPCIATIONS SI	۵	IN LERIOR FINISH	NIE	OCCUPANCY
	OCCUPANCY	CONTROL CONTRACTORS				

PROPERTY OWNER		PROPERTY LOCATION	SIDE	LOCATION CODE	PLANLOT
PURTSHUUTH NH OF	JOHN B JOHN B	OF PORTSMOUTH N.H.	TYPE PROJECT	CT CONTROL NO CONTROL	CARD CARD
REMARKS-1 ALSO INCLUDES LOTS 33,34 SALE: PRICE INCLUDES 33, 34, AND LOT 60	STROUT/C J	OF TRANSFER	62571 2077	141 11	AMOUNT MORTGAGE
	δ 4 2				
	7	LAND FACTORS	LAND	IMPROVEMENTS	SUMMARY
	TOPOGRAPHY-1 LEVEL IMPROVEMTS-1 C WAT -2 SEWER	L LOCATION FAIR + DRAINAGE GOOD TOURNER NEIGHBORHOOD STATIC	TIC +		19 72 4300 BLDGS 14600 TOTAL 18900
	<b>→</b> m	SOIL-1	VALUE VALUE	EQ ASSESSMENT	19 LAND BLDGS
	TYPE ACRE	ACREAGE COMPUTATION S PRICE TOTAL	DEPR VALUE	EQ ASSESSMENT	TOTAL 19
	1 H-LOT 54 A .	290 8000 4320	4320	100 4300	BLDGS TOTAL
	<i>U</i> 4				TOTAL LAND
CV		-290 ACREAGE TO	TOTAL 4320	100 4300	
FRONT REAR FRONTAGE DEPTH	STREET PRICE DEPTH % ADJ FR PR	DEPRECIATION	CORNER VALUE	EQ ASSESSMENT	LAND BLDGS TOTAL
3 2					19 LAND BLDGS TOTAL
4	_		TAL		LAND BLDGS
O UNITED APPRAISAL CO.	II.	1 (0.000)	TOTAL 4320	100 4300	1
BUILDINGS INSULATION BLA BASEMENT FULL C	L ELEMENTS  CONC BLK WALLS  ALUM/VINYL  NKET  ASPH SHG  ASPH SHG  FLOOR	11870 230			
WALL FOUND TO THE FOLL AT ST	G COND G	2220	. 7	6	
SDG SINK SINK	- L	390	1 5 3		L
BRICK  DORMERS.NONE SEG.B ADDITION BLOCK  D ADDITION	14SF 360SF 14SF	(# (#) (#) (#) (#) (#) (#) (#) (#) (#) (	A		
STONE FLOOR FLOOR FINISH					
ELEC	ž (	<b>≥</b>	20 FT./IN.		
SIZE		A 28-22-28-22  SEG TYPE STOR CONS  B 01 1.0 FRAM C 04 1.0 FRAM D 01 1.0 FRAM	FRAM 3 2-7-2-7 FRAM 3 2-7-2-7	7 30-12	ONS
AREA					
OCCUPANCY CONSTRUCTION CLASS	AGE REMOD COND	REPLACEMENT PHYS PHYSICAL VALUE PHYS VALUE	AYOUT  FUNC ACTUAL JOEPR VALUE	EQ ASSESSMENT	ENT SALE PRICE DATE
DWLG 1 FAM 1.0S FR B A 3	1940± NO 6	25	اسط	14643 100 14600	LISTED DATE 09/16/71 1
O UNITED APPRAISAL CO.		BUILDING TO	TOTAL 146	14643 100 14600	00

OCCUPANCY CONSTRUCTION CLASS	3966006000  OUT BUILDINGS  ITEM   2 3 4 5 6  PIER FOUND   2 3 4 5 6  POUND   5 6  P	CONTROL NO.		FRONT REAR FRONTAGE DEPTH			3-VACANCT	1-EXCESS FRONTAGE		2	ARI
ASS AGE REMOD COND REPLACEMENT PHYS PHYSICAL DEPR VALUE  BUILDING TOTAL  FUNITHER DEPR VALUE  BUILDING TOTAL	STRUCTURAL ELEMENTS PRICE  PRICE  SEG TYPE STOR CONTINUENT OF STOR CON	STRUCTURE VALUE	LOT TOTAL	STREET PRICE DEPTH % ADJ FR PR TOTAL DEPRECIATION CORNER		ACREAGE COMPUTATION  TYPE ACRES PRICE TOTAL DEPR  1 H-LOT 32 A .090 7000 2240 75 2		TOPOGRAPHY-1 LEVEL ZONING 02		TRANSFER	ARA H  WOODWORTH AVENUE  ANA H  CITY OF PORTSMOUTH N.H.  CITY OF PORTSMOUTH ASSESSOR
FUNC ACTUAL EQ ASSESSMENT SALE PRICE MO/YR VALUE EQ ASSESSMENT SALE PRICE MO/YR LISTED DATE LISTER 8999 SIGNATURE REVIEW O LAND 2735	S CLASS DIMENSIONS	420 100 400		NER VALUE EQ ASSESSMENT BLDGS TOTAL  19 LAND BLDGS BLDGS TOTAL	420 100 400	VALUE EQ ASSESSMENT  420 100 400	VALUE EQ ASSESSMENT 19 LAND BLDGS	19 72 400 BLDGS TOTAL 400	LAND IMPROVEMENTS SUMMARY	BOOK PAGE AMOUNT MOR	

# PROPERTY ASSESSMENT RECORD, - CITY OF PORTSMOUTH, N. H.

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2 00 E	0	Lot	1		Œ	RECORD OF OW	OWNERSHIP			DAIR OF IRANSPER		IF KNOWN		
3					A DO			The state of the s		The same of the sa		_	LAND	
	No Park	1 × 2 0 × 1/2 1					Call Street					961	BLDGS.	
														000
DESCRIPTION	,		+										LAND	400
			10,1									130	BLDGS.	
the state of	10.7											1000	TOTAL	400
A STREET	40		/ /										LAND	800
110	060.7		15									2	BLDGS.	,
	71261		10/										TOTAL	800
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enegociativa elemen		<b>\</b>	W									1	ON STATE	
		+	-									81	200	100
		-	1							( / ac / a		75	TOTAL	
			,	Maurice R &	CO	ra H	Buttrick	-	20/1/141		2	i x	LAND	
				RURAL	- A	OPERT	<b>*</b>					61	TOTAL	
						200			N. S. C.	DEL OT SHOWARD REPRESENTATION	TO 1881		LAND	
hd H	PROPERTY FACTORS	ACTORS		LAND VALUE		COMPUTATIONS	AND SUMMARY	IARY		The same of the same		1	#1 DGB	
TOROGRAPHY	LEVEL	ROLLING	LEDGE.	CLASSIFICATION		NO. OF ACRES	RATE	TOTAL	MAN		ASSE	61		
SOIL TYPE	LOAM	SAND	CLAY	L THE STATE OF THE	Sug.				03160	1000+		9-43	TOTAL	000000000000000000000000000000000000000
LAND CLASS	0005	FAIR	POOR	TILLABLE				1037 - 2	11.00	نوا	*	3-45	LAND	
DRAINAGE	Good	FAIR	POOR	PASTURE				1000	1	0	NO.	6)	BLDGS.	
WATER SUPPLY	GOOD	FAIR	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	WOODED				101/102	10 /11	3(0)	3		TOTAL	
	0005	FAIR	MON	WASTE LAND		NAME OF STREET	The street of th		,	100	N. P. C.	SALIS	LAND	
ELECTRICITY	yes	O Z		TOTAL ACREAGE						WHI BUTTON	271	- · · · ·	BLDGS.	
TELEPHONE	YES	0 2		TOTAL VALUE LAND	O							51	TOTAL	
	CHA	IMPR.	DIRT	TOTAL VALUE BUILDINGS	DINGS								LAND	
	7					STATE OF THE PARTY OF								Contract of the last
REMARKS				TOTAL VALUE LAND & BUILDI	D & BUILDIN	NGS						61	BLDGS	
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				N N	C R B A N	ROPERTY	167		- 12			Ī		
ā	PROPERTY F	FACTORS			Selling of the	AND	VALUE COMPL	COMPUTATIONS AND	D SUMMARY			61		
TOPOGRAPHY		IMPROV	IMPROVEMENTS	FRONTAGE DEPTH	H. UNIT	DEPTH	FRONT, FT.	TOTAL					TOTAL	
		WATER		1	-	4 - 7		Arris 1					LAND	
		SEWER		40	-0							6	BLDGS.	
		GAS											TOTAL	
	N	ELECTRICITY												
		ALL UTILITIES											CAND	
		CARBAGE DISPOSAL	SPOSAL									6	BLDGS.	
STREET		TRENDO	TREND OF DISTRICT										TOTA!	
		MPROVING		TOTAL VALUE LAND	Q								LAND	
SEMI-IMPROVED		DECLINING			00000	THE PARTY OF							BLDGS	
			The state of the s	TOTAL VALUE BUILDINGS	LDINGS					DOMEST TOWNS	1000	51		

# RECORD OF BUILDINGS

UPANCY	FLOORS CEMENT	N N											
	m	2											
	EMENT		Contraction of the Contraction o	Name of Persons and Persons an	CANAL STREET,			The second second second					
	The state of the s			COMPUTATIONS	ATIONS								
	EARTH		LIND		1921								
	PINE	-	18T	9									
	HARDWOOD			-									
				-									
WAREHOUSE	ATTIC FL. & STRS.		0	-									
GE	NOT SOUTH OF												1
SAS STATION	INTERIOR FINISH	9											
	m	2											
FOUNDATION	PINE		THE REAL PROPERTY.										
ì	НАКОМООВ		ADDITIONS										Ŧ
SONGRETE BLOCK	PLASTER	. [											
OR STONE	UNFINISHED		- N - N - N - N - N - N - N - N - N - N										
	METAL CLG.	-	DAUGH BEN										
A FULL	MOOD TAROLD		WALLS										
14	FINISHED ATTIC		ROOF										
SO. CECLAR	DE LOS DE LA COLOR												1
EXTERIOR WALLS	THEFT		FLOORS										
y Cay Can	HEATING		ATTIC	THE PERSON NAMED IN									
	PIPELESS FURNACE	17	HEINLE										
	HOT AIR FURNACE				- TO 15 TO 1								
	FORCED AIR FURN.												
WOOD SHINGLES	STEAM		FIREPLACE										
	HOT WAT OR VAPOR	OR	HEATING										
3)	NO HEATING												
[4]			PLUMBING	The same									
	GAS BURNER	I	TILING										
ш	OIL BURNER												
	SIONER DI TIMBING	6											
	MOCOUTAG		TOTAL										
CONC. ON CIND. BL.	TOMET ROOM		FACTOR										
TERRA COTTA	WATER CLOSET		REPL. VAL.			3	1		Control of the last	-			
	KITCHEN SINK		No. of the last of			⊠ O S	MMARY	_	BULDIN	חפ	The contract of the contract o	and the first own was a fact that the first own of the first own own of the first own own own of the first own	A CONTRACTOR OF THE PROPERTY O
88	STD. WAT. HEAT		OCCUPANCY	2.8	TYPE	GRADE	AGE RE	REMOD. COND	REPL.	VAL. DEPR.	PHYS. VALUE	FUNCT. DEPK	SOUND VALUE
A NSULATION	AUTO, WAT, HEAT												
WEATHERSTRIP	ELECT. WAT. SYST.	-											
	LAUNDRY TUBS						THE PERSON	Total Services			The second second		The state of the s
DI	NO PLUMBING	Carrier and Carrie							,				A. A. Carlotte and the second
The second secon	TILING												
	BATH FL. & WCOT			DE LOS DE							B. Carrier and Car		
	TOILET FL. & WCOT	ŀ.											· All free a manufact place of the depth of the special
	LIGHTING	9											
METAL EI	ELECTRIC												Constitution of the consti
	NO LIGHTING	O.M.C	The second second			NE OF ILE							
ROLL ROOFING	BSMT. 2ND.	0.0	DATE	LISTED	MEAS, AREA	PRICED	19 TOT	TOTAL VALUE	BUILDINGS				
INSULATION		D.							SUNCHIE				
			contro								The second secon		The same of the sa

# PROPERTY ASSESSMENT RECORD, - CITY OF PORTSMOUTH, N. H.

ASSESSMENT RECORD	LAND	BLDGS.	TOTAL	LAND	BLDGS.	TOTAL 400	- WALL		5-99	TOTAL	TAND	BLDGS	TOTAL	LAND		LAND	BLDGS.	TOTAL	224	9 0 1 1		TOTAL	LAND	BLDGS.	TOTAL	LAND	i di	-	LAND		6i`	TOTAL	LAND	BLDGS.	TOTAL	LAND	_	61	TO TO	LAND	BLDGS	TOTAL
ZWONX		261		3	2	61	20	٥	61		7	6	-	See 35	61	Į.	Ī		L		61	Į.	200	7	900		100	61		1		1										
DATE OF TRANSFER														6/25/71		OWNERS PREVIOUS TO 1981	DATING AGBRESHITS						34	KAIN 02	add 1920	17117	REEDENT 1918	D.Concilia														
DAT	- Constant C									7	0			141		OWNERS	NAME						N.a.	. 10	Room D.	TANIE L. REED	WIND REE				SUMMARY											
										7. /	107 978			2077/		×	- Indicate							111 - 08							COMPUTATIONS AND	TOTÁL	S. A.	200								
ERSHIP										1	25.0			Buttrick	2	AND SUMMARY		True L					0	57						200	-	FRONT FT.										
RECORD OF OWNERSHIP	Total Street Street Street										MSCECSED			四	OPERTY	MPUTATIONS A	13	NO. OF ACRES											1	ב ב ב ב ב ב ב ב ב ב ב ב ב ב ב ב ב ב ב	LAND VALUE	FACTOR					ÿ					69
REC														Barbar	PR	Ö	-	OZ								INGS	SONIG III G		1	N N N N N N N N N N N N N N N N N N N		UNIT	1 × 60	2							SUNGS	& BUILDINGS
	CONTRACTOR													R &	RURAL	LAND VALUE	₹	CLASSIFICATION						EAGE	TOTAL VALUE LAND	TOTAL VALUE BUILDINGS	City to Live	TOTAL VALUE LAND & BOTH		2 2		DEPTH							1	TOTAL VALUE LAND	TOTAL VALUE BUILDINGS	TOTAL VALUE LAND & BUIL
														Maurice R & Barbara				CLAS	TILLABLE	PASTURE		WOODE	WASTE LAND	TOTAL ACREAGE	TOTAL VA	TOTAL VA		101917				FRONTAGE	1	9						TOTAL V	TOTAL VA	TOTAL VA
100						る下	7	110	100	a.	1/4			7				LEDGE	CLAY	POOR	POOR	NONE				DIRT			-			MENTS	?.				OSAL	DISTRICT		7		
TOT								OH				V 100 100 100 100 100 100 100 100 100 10				Title State of State	ACTORS	ROLLING	SAND	FAIR	FAIR	FAIR		ON	0 2	IMPR					FACTORS	IMPROVEMENTS	WATER	SEWER	GAS	ELECTRICITY	ALL UTILITIES	TREND OF DISTRICT	IMPROVING	STATIC	DECLINING	
	1	perte		*		100	5 01	001'H		105							PROPERTY FACTORS	LEVEL	LOAM	GOOD	0000	2000		YES	YES	PAVED					PROPERTY	I,				2		5	7			
	CAN	DDRESS		DESCRIPTION			Tary of consessed the same	070										TOPOGRAPHY	SOIL TYPE	LAND CLASS	DRAINAGE	THE STATE OF THE S		ELECTRICITY	TELEPHONE	CACC	DATE OF THE PARTY				ā.	TOPOGRAPHY	LEVEL	нісн	LOW	ROLLING	SWAMPY	STREET	PAVED	SEMI-IMPROVED	pirer	SIDEWALK

# RECORD OF BUILDINGS

SNOD	CONSTRUCTION			NOTES-SPECIAL EQUIPMENT	AL EQUIPMEN	1	E							
OCCUPANCY	FLOORS													
NGLE FAMILY	m	o)		NAME OF TAXABLE PARTY.	The Dark State of the State of									
WO FAMILY	CEMENT			COMPUTATIONS	ATIONS									
PARTMENT	EARTH	1	FIND		1981									
TORE	PINE		18T S. F.	я. (9)										
HEATRE	DOWN THE PARTY OF		O. C.	е В										
OTEL														
AREHOUSE	ATTIC FL. & STRS.		i	-	THE PERSON NAMED IN									
OMM GARAGE	TING TO SHOT TO AND SOUTH													
AS STATION	INTERIOR FINISH	HSH												
A CONTRACTOR OF THE PROPERTY O	8 1 2	es es												
FOUNDATION	M. S.													
ONCRETE .	наярмоор		ADDITIONS											
ONCRETE BLOCK	PLASTER		1	7										
RICK OR STONE	UNFINISHED													
IERS	METAL CLG		BASEMENT											
ELLAR AREA FULL			VALLS											
3/2 3/4	RECREAT ROOM		ROOF											
O CELLAR	FINISHED ATTIC													
	FIREPLACE													
EXTERIOR WALLS	The second secon		FLOORS										-	
LAPBOARDS	HEATING		ATTIC											
IDE SIDING	PIPELESS FURNACE		ININI.											
HOP SIDING	HOT AIR FURNACE													1
O SHEATHING	FORCED AIR FURN.													
OOD SHINGLES	STEAM		FIREPLACE											
SBES. SHINGLES	HOT WAT. OR VAPOR	JR.	HEATING											
TUCCO ON FRAME	NO HEATING													
TUCCO ON TILE			PLUMBING	A Property of the Parket of th		The state of the s								
RICK VENEER	GAS BURNER		0.00											
RICK ON TILE	OIL BURNER		S I I I											
OLID BRICK	STOKER	-		1	1									
TONE VENEER	PLUMBING	9	TOTAL		The state of									
ONC. OR CIND. BL.	BATHROOM		FACTOR	大台										
	TOILET ROOM		RFPL VAL											
ERRA COTTA	WATER CLOSET			The same of			∑ 0	MARY	OF B	UILDING	S			
HTROLITE	KITCHEN SINK							- Constitution	100		PHYS.		H	
LATE GLASS	STD, WAT, HEAT		OCCUPANCY	CY	TYPE	A	GRADE	AGE REI	REMOD. COND.	REPL, VAL.	DEPR.	PHYS. VALUE	DEPR	SOUND VALUE
NSULATION	AUTO, WAT, HEAT	I		-			1							
YEATHERSTRIP	ELECT. WAT. SYST.	1												
	LAUNDRY TUBS		The state of the s		and the second				2					
ROOFING	NO PLUMBING							70						and the second second
SPH, SHINGLES		-				The state of the s				NOT THE REAL PROPERTY.				
YOOD SHINGLES	LILING	-	-			1 0 1 0 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1				The same of the sa		The state of the s		
SBES, SHINGLES	BATH FL. & WCOT.													
LATE	TOILET FL. & WOOT	į,				No.							STATE OF THE PARTY	
21.E	SMILESIA	2	-				,		The second second					
DETAL	ELECTRIC													
Nontrigon	NO OF ROOMS	MS												
	BSMT. 2ND.	D.	DATE	LISTED	MEAS.	AREA	PRICED	19 TOT	TOTAL VALUE BUILDINGS	JILDINGS	4			
NSULATION		0.						TOT	SENIO III S SI LAV LATOT	III. DINGS				
										-	-		reputation of the second second second second	
						The state of the s				W. Carrie	DAMPO VOLUM	2		

# PROPERTY ASSESSMENT RECORD, - CITY OF PORTSMOUTH, N. H.

		LoT	To re			RECO	RECORD OF OWNERSHIP	ERSHIP		۵	DATE OF TRANSFER	SALE PRICE	ASSESSM	ASSESSMENT RECORD
							and the state of t						LAND	
ADORESS	11/15-0	0											BLDGS.	
	· · ·											9	TOTAL	
DESCRIPTION	7-9												LAND	
	TOR		000										STDGS.	S. C.
	2000	n ls	20					Salar In					TOTAL	300
The state of the s			A									10	LAND	
	301	Action about 1	Von										TOTAL	4600
	12000000	TAVE	71			*							- Ago-	
			ho										2000	
													31	8
			1	Maurice	Ride Bar	rbara	H But	Buttrick	20	2077/141	12/25/71	3 17.80-1	LAND	
					1 m	1	PROPERTY						TOTAL	
THE PARTY OF THE P	210000	SOCION STORES		LAI	LAND VALUE	COMPUTATIONS		AND SUMMARY	ARY	DWNER	OWNERS PREVIOUS TO 1981	1991	CLAND	990
YMOABORONY	LEVEL	ROLLING	LEDGE,	CLASSIP		OZ.	OF ACRES	RATE	TOTAL	NAME	DATES	ABORDONA	BLDGS.	
OIL TYPE	LOAM	SAND	CLAY	AND THE REAL PROPERTY AND THE PERSON NAMED IN COLUMN 1									TOTAL	
LAND CLASS	GOOD	FAIR	POOR	TILLABLE							V		CLAND	3
DRAINAGE	GOOD	FAIR	POOR	PASTURE						,	4-1	A LEGISTE	BLDGS.	300
WATER SUPPLY	0000	FAIR	NONE	WOODED						3	0		TOTAL	る。
FENCES	200			WASTE LAND								* ON THE RESERVE OF THE PERSON	CAND	76.6
ELECTRICITY	YES	QN		TOTAL ACREAGE	AGE,						11/2		67 BLDGS.	7300
TELEPHONE	YES	ON		TOTAL VALUE LAND	JE LAND					RALPH M. H.	HEINER 1945	2,000.		7900
ROAD	PAVED	IMPR.	DIRT	TOTAL VALUE BUILDING	JE BUILDIN	S				ROSE & 3.L	3.600 1920	200	11 14 5	1400
REMARKS				TOTAL VALUE LAND & BL	E LAND & E	SUILDINGS				1AN16 6-186 0	500 1 15 T	100.	Serbes.	14400
	No.										ED EST 1908	1 100		15.800
				C COSTANDA	URBAN	0 20	OPERTY	<b>*</b>					LAND	2000
		SOCIAL PROPERTY.					LAND VALUE		COMPUTATIONS AND	SUMMARY			BLDGS	140
N. C.	NOPERIT	VORTEN	IMPROVEMENTS			TINO	H.						TOTAL	181
TOWN TOWN		WATER		FRONTAGE	DEFILIA	- A	-	PRICE	A A				LAND	
нісн		SEWER		40		7			400				BLDGS.	
LOW		BAS						To the second				*	TOTAL	
ROLLING	2	ELECTRICITY							The state of the s				CN 4 I	
SWAMPY		CARBAGE DISPOSAL	POSAL											
STREET		TREND OF	TREND OF DISTRICT		1000000							म प्र	19.	
PAVID	7	IMPROVING	>	TOTAL VALUE LAND	JE LAND				400/	4.20			LAND	
SEMI-IMPROVED		DECLINING			200	u (		THE WAY	3200	400				
SIDEWALK				TOTAL VAL	TOTAL VALUE BUILDING	9		1	35.10	146W			<b>61</b>	
				TOTAL VALUE LAND & BUILDINGS	UE LAND &	BOILDINGS	, ,		2000					

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OCCUPANCY FUNGLE FAMILY FUNO FAMILY FARATMENT FREATRE HARDY HARDY	F.OORS							· · · · · · · · · · · · · · · · · · ·					-151
7												THE PERSON NAMED IN COLUMN 1	
		1 2 3	A STATE OF THE STA	AN LUBURA	The second secon								
	CEMENT W			COMPUTATIONS	TIONS								
<u>a</u>	EARTH '		FIND		1981								
HEATRE	DINE THE		18T 10 C E	60.4	2300								
The state of the s	HARDWOOD		100	0	9		-						
нотец			AND OF S. F.										
PFICES					4								T
WAREHOUSE	ATTIC FL. & STRS.	-	Side Tro	ections	3 60								
COMM. GARAGE			1			1							
GAS STATION	INTERIOR FINISH	10			5		JI.						
A STATE OF THE PARTY OF THE PAR	22	2 2					10						
FOUNDATION	PINE		i more march and				70						
CONCRETE	HARDWOOD		ADDITIONS				1						
CONCRETE BLOCK	PLASTER						1						
BRICK OR STONE	UNFINISHED						X	2			-	26	
PIERS	METAL CLG		BASEMENT				7	7					
CELLAR AREA FULL		THE PERSON NAMED IN	VIALLS					The T					
4 1/2 3/4	RECREAT ROOM		ROOF										1
NO. CELLAR"	FINISHED ATTIC						1						
	FIREPLACE						1						
EXTERIOR WALLS			FLOORS						100	1			1
APROARDS	HEATING	0 2	ATTIC				7		7	1			
ONIGIE SOLO	PIPELESS FURNAGE	AGE	20120	The state of the s	Second Property			2			X		
CALCIDACOC	HOT AIR FURNACE	CE										1	
	FORCEL AIR FIRM	Z						10					T
NO LONG BEAUTY OF THE PARTY OF	STEAM		FIREPLACE	Service Control									
SEED SHINGLES	HOT WAT. OR VAPOR	APOR	HEATING 0.	100	3								
STUCCO ON FRAME	NO HEATING												
STUCCO ON TILE			2							Š		1	
BRICK VENEER	GAS BURNER	1	( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( )	S. C. C. S.	100 St. 300 St								
BRICK ON TILE	OIL BURNER		- ILING						1404	1			
SOLID BRICK	STOKER		- Andrewson		-						見解的所能を制		
STONE VENEER	PLUMBING	SNIC	TOTAL	No. of the last of									T
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(No revenue stamps required)

1157 292

# Know All Men by these Presents,

That I, M. Thelma Crowell of Portsmouth, in the County of Rockingham and State is of New Humpshire,

for and in consideration of the sum of \_\_\_\_\_\_ - \_\_\_ One \_\_\_\_\_ - \_\_\_ - dollarsto me in hand before the delivery hereof, well and truly paid by Walter E. Strout and Clarice J. Strout, both of said Portsmouth,

the receipt whereof I do hereby acknowledge, have remised, released and forever quitclaimed and by these presents do femiliary Thinks and the survivor remised referse and forever quitclaimed and by these presents do femiliary the survivor remised referse and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and by these presents do femiliary the survivor remised and forever quitclaimed and femiliary the survivor remised and femiliary the survivor remis

A certain lot or parcel of land in Portsmouth, New Hampshire containing Four Thousand Winety-Seven (4097) square feet, more or less, and further described as follows:

That lot or parcel of land on Middle Road, and being Lot No. 33 on Plan No. 66 in the City of Portsmouth Assessors' Office, having a frontage on said Middle Road of forty and eight tenths (40.8) feet; one hundred two and one tenth (102.1) feet along land of one Harry Caswell, forty and eight tenths (40.8) feet along land now or formerly of one Catherine Carty; and one hundred two and eight tenths (102.8) feet along land of

grantee herein.
Also two certain lots or parcels of land, together with the dwelling house thereon, situate in said Portsmouth and more particularly described as Lots Number thirty-four (34) and Thirty-rive (35) in Prospect Park Tract, the size and location thereof being in accordance with a Map or Plan of said Treet now on file in the kegistry of Deeds of said County of Rockingham, to which said Plan reference is made for a more particular

Also a certain lot, piece or parcel of land situated in said Portsmouth and more particularly described as Lot Number Sixty (60) in the "Prospect Park" tract, the same in size and location to be in accordance with the map or plan of said tract now on file at the Registry of Deeds in and for said Rockingham County to which reference is hereby made for a more complete description, together with the buildings thereon.

Being the same premises conveyed to me by deed of Clarice J. Strout, of even date to be recorded herewith.

Subject to a mortgage to the Piscataqua Savings Eank, dated July 20, 1948 and recorded in Rockingham Registry of Deeds.

To have and to hold the said premises with all the privileges and appurtenances thereto belonging to the said or and not as tenants in common the said or and not as tenants in common the said or and not as tenants in the said grantee ginat k I will warrant and defend the said premises to them the said grantee Sancton The said grantee ginat k I will warrant and defend the said premises to them the said grantee Sancton Their and assigns, against the lawful claims and demands of any person or persons claiming by, from or under me, except as aforementioned.

And, I have no husband. Sociocarries grants.

for the consideration through the description of the consideration o

In witness whereof, I have hereunto set my hand and seal this day of January in the year of our Lord 19 50.

Signed, sealed and delivered in presence of

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Wannels, Payer

In Ilila Cowell

-(1)

State of New Mampshire, Rockingham ss.

Personally appeared the above named M. Thelma Crowell acknowledged the foregoing instrument to be h er voluntary act and deed.

Before me,

January & , A. B. 19 50.

Payed Justice of the Peace.

Received and recorded Jan. 6, 9:50 A.M. 1950

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# KNOW ALL MEN BY THESE PRESENTS

THAT We, Maurice R. Buttrick and Barbara P. Buttrick

of Rockingham sideration paid, grant to

County, State of New Hampshire hereinafter called the mortgagor for con-

# PORTSMOUTH SAVINGS BANK.

a corporation established by the laws of the State of New Hampshire, and located and doing business at Portsmouth, in the County of Rockingham, in said State, with mortgage covenants to secure the pay-FIFTEEN THOUSAND FOUR HUNDRED \_\_\_\_\_ DOLLARS,

with 8 1/2 per cent interest payable monthly and also perform a conditions as provided in note of even date, the following described real estate: and also perform all the agreements and

Four certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in said Portsmouth, and being Lots No. 33,34,35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds, Book 527, Page 481, and more particularly

bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59, 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32, thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning

Being

premises conveyed to

the said Mortgagor

by deed of

dated Registry: 19 recorded in Vol.

Page of the

The mortgagor s shall pay to said Bank, its successors and assigns, all sums which it or they shall pay on account of or for any insurance and taxes and all other expenses legally incident to said granted premises including reasonable attorney's fees and costs of the Bank, its successors and assigns, in the event foreclosure proceedings are commenced and completed or in the event foreclosure proceedings are commenced in good faith and discontinued.

This mortgage is upon the statutory conditions, for any breach of which the mortgagee shall have the statutory power of sale.

We, respectively

wife & 95 1956 NO. 129 1992 release all rights of dower husband

curtesy and homestead and other interests in the mortgaged premises.

WITNESS Our hand s and seals this 24th day of one thousand nine hundred and seventy one June

Anno Domini

Signed, Sealed and Delivered

in presence of us:

STATE OF NEW HAMPSHIRE

SS. ROCKTNGHAM

June 24, A.D. 19 71

Personally appearing the above named Maurice R. Buttrick and Barbara P. Buttrick

acknowledged the foregoing instrument to be their free act and deed, before me,

JUSTICE OF THE PEACE.

Att.

### KNOW ALL MEN BY THESE PRESENTS

2077 141

That we, First National Bank of Portsmouth, New Hampshire and Wyman P. Boynton of Portsmouth in the County of Rockingham and State of New Hampshire, Executors of the will of Clarice J. Strout late of said Portsmouth, deceased.

By virtue of a license from the Court of Probate for said County of Rockingham holden at Exeter in said county, on the 22nd day of February, 1971, authorized us to sell at private sale the real estate hereinafter described and in consideration of the sum of Seventeen Thousand Eight Hundred (\$17,800) Dollars to us in hand before the delivery hereof, paid by Maurice R. Buttrick and Barbara H. Buttrick of said Portsmouth the receipt whereof we do hereby acknowledge, have granted, bargained and sold, and by these presents, do hereby in our said capacity, grant, bargain, sell, convey and confirm unto the said Maurice R. Buttrick and Barbara H. Buttrick, as joint tenants with the right of survivorship, and not as tenants in common, and the heirs and assigns of the survivor of them forever, all the right, title and interest of Clarice J. Strout in and to the following described real estate:

Four certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in said Portsmouth, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N. H. recorded in Rockingham County Registry of Deeds Book 527 Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

Being the same premises described in deed of M. Thelma Crowell to Clarice J. Strout and Walter E. Strout as joint tenants dated January 5, 1950, recorded in Rockingham County Registry of Deeds Book 1157 Page 292, the said Walter E. Strout having died at said Portsmouth on March 13, 1968.

TO HAVE AND TO HOLD the same with all the privileges and appurtenances thereto belonging to the said Maurice R. Buttrick and Barbara H. Buttrick, the survivor of them and his or her heirs and assigns forever. And we do hereby, in our said capacity, covenant with the said Maurice R. Buttrick and Barbara H. Buttrick, the survivor of them and his or her heirs and assigns, that we are duly authorized to make sale of the premises, that in all our proceedings in the sale thereof we have complied with the requirements of the statute in such case provided, and that we will warrant and defend the same to the said Maurice R. Buttrick and Barbara H. Buttrick, the survivor of them and his or her heirs and assigns, against the lawful claims of all perons claiming by, from or under us, in the capacity aforesaid.

IN WITNESS WHEREOF we have hereunto set our hands and set this this day of June in the year of our Lord, One Thousand Nine Hundred Sevety-

Signed, sealed and delivered in the presence of

Marfens Janas

First National Bank of Portsmouth

mark

Frust Officer

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Of Market Park

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Return to:
Wiggin & Nourie, PA
Att: LGC
PO Box 469
Portsmouth, NH 03802-0469





048269

# **QUITCLAIM DEED**

Barbara H. Buttrick, single, of 777 Lafayette Road, Apt. 311, Hampton, New Hampshire 03842, for good and valuable consideration, grants to Barbara H. Buttrick as Trustee of The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003, as amended, with a mailing address of 777 Lafayette Road, Apt. 311, Hampton, New Hampshire 03842, with Quitclaim Covenants, the real property described as follows:

Four (4) certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in Portsmouth, County of Rockingham, State of New Hampshire, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds Book 527, Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

Meaning and intending to convey the same property described in the deed of First National Bank of Portsmouth, New Hampshire, and Wyman P. Boynton, Executors of the will of Clarice J. Strout, to Maurice R. Buttrick and Barbara H. Buttrick, dated June 24, 1971 and recorded at Book 2077, Page 141 in the Rockingham County Registry of Deeds. Barbara H. Buttrick is the surviving joint tenant. The said Maurice R. Buttrick having deceased on September 27, 2002. See Rockingham County Probate #2002-11-71.

This is a conveyance to a revocable trust for estate planning purposes and the consideration paid was less than fair market value. This conveyance is subject to the minimum transfer taxes of \$40.00 as required under the NH Code of Administrative Rules, Department of Revenue Administration, Part Rev. 802.02.

Barbara H. Buttrick

COUNTY OF Rockingham

This instrument was acknowledged before me on the \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2011, by Barbara H. Buttrick.

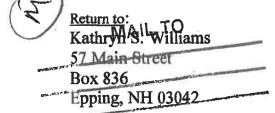
Notary Public

My Commission Expires:

Seal:











# FIDUCIARY DEED

Kathryn S. Williams as Successor Trustee of The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003, of 57 Main Street, Epping, New Hampshire, for good and valuable consideration, grants to Todd Buttrick, with Fiduciary Covenants, the real property described as follows:

Four (4) certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in Portsmouth, County of Rockingham, State of New Hampshire, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds Book 527, Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

This is not homestead property of the Grantor.

Barbara H. Buttrick's death certificate is on record at the Rockingham County Registry of Probate, 10<sup>th</sup> Circuit Court, Probate Division.

Meaning and intending to convey the same property described in the deed of Barbara H. Buttrick to Barbara H. Buttrick, Trustee of The Barbara H. Buttrick

Revocable Trust of 2003, u/d/t dated July 30, 2003, dated November5, 2011, and recorded at the Rockingham County Registry of Deeds, at Book5260, Page 1861.

# Trustee's Certificate

The undersigned trustee is the Successor Trustee under the Trust created by Barbara H. Buttrick, as grantor under trust agreement dated July 30, 2003, and thereto has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust, and no purchaser or third party shall be bound to inquire whether the trustee has said power or is properly exercising said power or to see to the application of any trust asset paid to the trustee for a conveyance thereof.

Kathryn S. Williams, Successor Trustee

This is a conveyance from a revocable trust pursuant to an estate planning trust. The original grantor, Barbara H. Buttrick is deceased. Kathryn S. Williams is the Successor Trustee under The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003. Due to the death of Barbara H. Buttrick, the grantor under the trust, the Trust is terminated and this conveyance is a distribution of the real estate held in the Trust to the beneficiary of the Trust. The consideration paid was less than fair market value. This conveyance is subject to the minimum transfer stamps of \$40.00 as required under the New Hampshire Code of Administrative Rules, Department of Revenue Administration, Part Rev. 802.02.

Dated this 30 day of 1014 , 2012.

Kathryn S. Williams, Successor Trustee

VALERIE BENNETT

Notary Public - New Hampehire

My Commission Expires August 10, 2016

## STATE OF NEW HAMPSHIRE COUNTY OF ROCKINGHAM

This instrument was acknowledged before me on the 30 day of 2014, by Kathryn S. Williams.

Notary Public

My Commission Expires:

Seal:



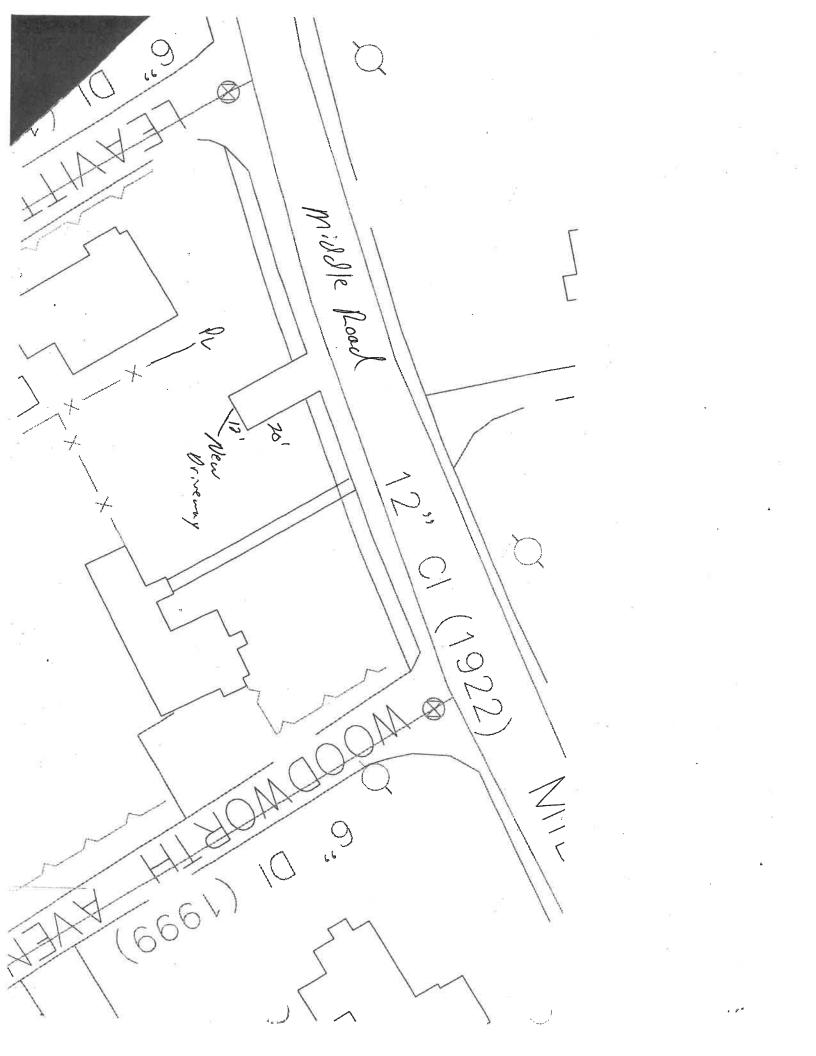
## PUBLIC WORKS DEPARTMENT

### CITY OF PORTSMOUTH

680 Peverly Hill Road Portsmouth N.H. 03801 (603) 427-1530 FAX (603) 427-1539

#### APPLICATION FOR DRIVEWAY PERMIT

PROPERTY OWNER (Printed) BARBARA BUTTAICK
ADDRESS OF PROPERTY 900 MIDDLE RD.  39 MILBERN AUC.  MAILING ADDRESS 5ALME HAMPTON, N.H. 03 P.
MAILING ADDRESS 5AME HAMPTON, N.H. 03 20
DAY TIME PHONE NUMBER 603-926-6270
TÂX MAP 32 LOT NO. 80
PLAN SUBMITTED X Y N
PROPERTY OWNER SIGNATURE Barbara Butties
PUBLIC WORKS APPROVAL
DATE 9/15/06
FORWARD TO TRAFFIC& SAFETY COMMITTEE
COMMENTS



NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by E-mail at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: http://www.courts.state.nh.us/supreme.

#### THE SUPREME COURT OF NEW HAMPSHIRE

Rockingham No. 2012-428

#### CHARLES A. ROBERTS

V.

#### TOWN OF WINDHAM

Argued: May 9, 2013 Opinion Issued: July 16, 2013

Bernstein, Shur, Sawyer & Nelson, P.A., of Manchester (Gregory E. Michael and Christopher G. Aslin on the brief, and Mr. Michael orally), for the petitioner.

Beaumont & Campbell Prof. Ass'n., of Salem (Bernard H. Campbell on the brief and orally), for the respondent.

CONBOY, J. The petitioner, Charles A. Roberts, appeals an order of the Superior Court (<u>Delker</u>, J.) affirming a decision of the Town of Windham Zoning Board of Adjustment (ZBA) denying his request under RSA 674:39-aa (Supp. 2012) to reverse the administrative merger of certain lots by the respondent, Town of Windham (Town). We affirm.

The following facts are supported by the record or are otherwise undisputed. The petitioner owns an approximately one-acre parcel of land on

Cobbetts Pond Road with frontage on Cobbetts Pond in Windham (the Property). The Property is identified as a single lot on the Town's tax map and has apparently been so identified since the Town developed its tax maps in the 1960s. The Property originated, however, from seven separate lots as shown on the 1913 "Plan of Horne Heirs" recorded in the Rockingham County Registry of Deeds (the Horne plan): five full lots (9 through 13) and two partial lots (8 and 14). The Horne plan was recorded by Clara B. Horne in 1913, and depicts her approximately 12.5-acre, nineteen-lot subdivision along the shore of Cobbetts Pond.

In 1918, Horne conveyed lots 9 through 11, by a single deed, to the petitioner's grandfather, George E. Lane. Specifically, the deed conveyed "[a] certain tract or parcel of land situate on the shore of Cobbetts Pond in Windham . . . meaning and intending to convey lots #9, #10, and #11." In 1920, Horne also deeded lot 12 to Lane. In 1926, Lane also obtained a portion of lot 8 (for ease of reference, partial lot 8 is hereinafter referred to simply as "lot 8").

Lane built structures on all of the lots except lot 12. On lot 10, Lane built a seasonal cottage, a garage/workshop, a screen room, and a dock. The seasonal cottage extends across the boundary line onto lot 11. The garage is two inches from the boundary line between lots 10 and 9 and faces toward lot 9. Thus, one must traverse lot 9 to access the garage. On lot 9, Lane built a "multi-use building" (the bunkhouse), woodshed, privy, dog house, and another dock. The bunkhouse straddles the boundary line between lots 9 and 8. A single driveway provides access from Cobbetts Pond Road to lot 10 over lot 9.

In 1927, Lane conveyed all of the lots to Alice Lane, who subsequently conveyed them to Ruth Lane Roberts. In 1962, Ruth Roberts acquired title to lot 13 and one half of lot 14 (for ease of reference, partial lot 14 is hereinafter referred to simply as "lot 14"). Thus, as of 1962, Ruth Roberts owned the Property as it exists today, consisting of lots 8 through 14. In 1995, the Property was conveyed to the petitioner.

In the 1960s, the Town apparently administratively merged the lots into a single lot: they were designated as a single lot for tax purposes and given a single street address. Neither the petitioner nor any previous owner in the chain of title applied to the Town to merge the lots. See, e.g., RSA 674:39-a (Supp. 2012) (allowing an owner of two or more contiguous and preexisting approved lots to merge them by application to a town planning board).

In 2011, the legislature enacted RSA 674:39-aa, which provides that lots that were "involuntarily merged prior to September 18, 2010," shall be "restored to their pre-merger status" upon request of the owner, subject to certain conditions. RSA 674:39-aa, II. "Involuntary merger'... mean[s] lots

merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner." RSA 674:39-aa, I(a). An owner is not entitled to such restoration if "any owner in the chain of title voluntarily merged his or her lots." RSA 674:39-aa, II(b). "Voluntary merger" means a merger expressly requested under RSA 674:39-a, or "any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line." RSA 674:39-aa, I(c). The municipality bears the burden to prove voluntary merger. See RSA 674:39-aa, II(b).

Following the statute's passage, the petitioner applied to the Windham Board of Selectmen (Selectboard) seeking to "unmerge" the lots from their single lot designation on the Town's zoning and tax maps and to create four lots consisting of: lots 8 and 9; lots 10 and 11; lot 12; and lots 13 and 14. The Selectboard held a meeting to consider the application and determined that the Town had involuntarily merged lots 12-14. The Selectboard, however, concluded that lots 8 through 11 had been voluntarily merged and, thus, denied the petitioner's request to unmerge the four lots.

The Selectboard's decision denying the petitioner's request to unmerge lots 8 through 11 rested upon two grounds. First, the Selectboard relied upon the fact that lots 9 through 11 were conveyed to Lane as one "tract" in a single deed. Second, the Selectboard determined that the Town proved overt owner action to merge the lots based upon the physical layout of the structures. Specifically, the Selectboard noted that lots 8 through 11 are served by a single driveway, that construction of ancillary buildings such as the bunkhouse is a common and typical practice on a "waterfront estate," and that the garage on lot 10 is close to the lot 9 boundary line and is accessed from lot 9.

The petitioner appealed the decision regarding lots 8 through 11 to the ZBA. <u>See</u> RSA 674:39-aa, III; RSA 676:5 (Supp. 2012). The ZBA affirmed the Selectboard's decision for the reasons found by the Selectboard, as well as an additional reason: that by accepting the Town's taxation of the lots as a single lot, the owners voluntarily merged the lots.

The petitioner moved for a rehearing, <u>see</u> RSA 677:3 (2008), which the ZBA denied. The petitioner then appealed the ZBA's decision to the superior court, <u>see</u> RSA 677:4 (Supp. 2012), which affirmed the ZBA's decision. This appeal followed.

The petitioner first argues that the superior court applied an incorrect standard of review. Typically, judicial review in zoning cases is limited. <u>Brandt Dev. Co. of N.H. v. City of Somersworth</u>, 162 N.H. 553, 555 (2011). The factual findings of a zoning board are deemed <u>prima facie</u> lawful and reasonable, and a zoning board's decision will not be set aside by the superior court absent errors of law unless it is persuaded by the balance of probabilities, on the evidence

before it, that the zoning board decision is unlawful or unreasonable. <u>Id.</u>; <u>see</u> RSA 677:6 (2008). The superior court applied this standard to the ZBA's decision. The petitioner contends, however, that the enactment of RSA 674:39-aa altered the deferential standard of review with respect to the issue of proving the voluntary merger of lots.

Resolving this issue requires that we engage in statutory interpretation. We are the final arbiters of the legislature's intent as expressed in the words of a statute considered as a whole. Radziewicz v. Town of Hudson, 159 N.H. 313, 316 (2009). When examining the language of a statute, we ascribe the plain and ordinary meaning to the words used. Id. We interpret legislative intent from the statute as written and will not consider what the legislature might have said or add language that the legislature did not see fit to include. Id. We also presume that the legislature knew the meaning of the words it chose, and that it used those words advisedly. See DaimlerChrysler Corp. v. Victoria, 153 N.H. 664, 667 (2006). The interpretation of a statute is a question of law, which we review de novo. See Radziewicz, 159 N.H. at 316.

In 2010, the legislature amended RSA 674:39-a to prohibit municipalities from merging "preexisting subdivided lots or parcels except upon the consent of the owner." Laws 2010, 345:1. In addition, RSA 674:39-aa, II entitles an owner of involuntarily merged lots, at the owner's request, to restore the lots to their premerger status. However, RSA 674:39-aa prohibits restoration of lots if "any owner in the chain of title voluntarily merged his or her lots." RSA 674:39-aa, II(b). The municipality has the burden to prove voluntary merger. See id.

The petitioner contends that by prohibiting municipalities from involuntarily merging lots under RSA 674:39-a and allowing owners of merged lots to request restoration under RSA 674:39-aa, the legislature sought to balance the right of municipalities to regulate land use and the constitutional right of land owners to use their land for reasonable purposes. He argues that by placing the burden of proof on municipalities to prove voluntary merger, the legislature sought to prohibit municipalities from "inventing" mergers based upon inconclusive facts in order to block unpopular applications. He concludes that by "shifting the burden of proof to municipalities," the legislature "necessarily also altered the deferential standard of review on appeal to the [superior court]." We disagree.

The petitioner's argument conflates two concepts: a party's burden of proof and an appellate tribunal's standard of review. A burden of proof is "[a] party's duty to prove a disputed assertion or charge," <u>Black's Law Dictionary</u> 223 (9th ed. 2009), whereas a standard of review is "[t]he criterion by which an appellate [tribunal] . . . measures the constitutionality of a statute or the propriety of an order, finding, or judgment entered by a lower [tribunal]," <u>id</u>. at

1535. That a party bears the burden of proof at trial does not dictate the standard of review applied on appeal. As the superior court aptly noted, the State in a criminal case bears the highest burden of proof at trial: beyond a reasonable doubt. See RSA 625:10 (2007). Yet, if the State carries its burden, the standard of review on appeal is often deferential to the State. See, e.g., State v. Hull, 149 N.H. 706, 712 (2003) ("To prevail on a challenge to the sufficiency of the evidence, the defendant must prove that no rational fact finder at trial, viewing all of the evidence presented in the light most favorable to the State, could have found guilt beyond a reasonable doubt.").

Here, RSA 674:39-aa expressly places the <u>burden of proof</u> on the municipality to prove voluntary merger; however, the statute makes no provision for an alternate <u>standard of review</u>. Because we presume the legislature understood the meaning of the words it chose and used those words advisedly, <u>see DaimlerChrysler Corp.</u>, 153 N.H. at 667, and we do not add words to a statute that the legislature did not see fit to include, <u>see Radziewicz</u>, 159 N.H. at 316, we do not construe the plain language of RSA 674:39-aa, II(b) to alter the deferential standard of review applicable in zoning cases under RSA 677:6.

The fact that one of the goals of the statute may be to protect individual property rights does not change our interpretation. Although we interpret a statute in light of its overall purpose, see Atwater v. Town of Plainfield, 160 N.H. 503, 508 (2010), in so doing, we do not ignore the statute's plain language, cf. 2A N. Singer & J.D. Singer, Statutes and Statutory Construction § 46:1, at 148-49 (7th ed. 2007) ("Where the words of the statute are clear and free from ambiguity, the letter of the statute may not be disregarded under the pretext of pursuing its spirit." (Quotation omitted)). Here, we will not read into RSA 674:39-aa an alternate standard of review merely because to do so might benefit the petitioner's property rights. Thus, we conclude that the superior court did not err in applying our usual deferential standard of review to the ZBA's decision. See RSA 677:6.

Next, the petitioner argues that the superior court erred by upholding the ZBA's decision to affirm the Selectboard's finding of "voluntary merger" of lots 8 through 11 because the evidence before the Selectboard was insufficient to satisfy the Town's burden. Our review of the superior court's decision, like its review of the ZBA's decision, is limited: we will uphold the court's decision unless the evidence does not support it or it is legally erroneous. Brandt Dev. Co., 162 N.H. at 555. When, as here, the appealing party challenges the sufficiency of the evidence, we consider "whether a reasonable person could have reached the same decision as the trial court based on the evidence before it." Mt. Valley Mall Assocs. v. Municipality of Conway, 144 N.H. 642, 647 (2000) (quotation omitted).

As noted above, the Selectboard found that the Town satisfied its burden of proving "overt action or conduct" to merge lots 8 through 11 based upon the original conveyance by Horne of lots 9 through 11 as one tract in a single deed, and the physical characteristics of the lots and their structures. The ZBA affirmed based upon those two factors and the owners' acquiescence to taxation of the Property as a single lot. In upholding the ZBA's decision, the superior court relied upon the physical characteristics of the lots and their structures and upon the owners' acquiescence to taxation, but concluded that "[t]he fact that [Horne] conveyed separate parcels of land in one deed does not, in itself, indicate an intent to ignore the separate lot designations."

We agree that Horne's conveyance of lots 9 through 11 as one tract in a single deed does not, standing alone, support a finding of voluntary merger. The deed specifically provided that Horne was "meaning and intending to convey lots #9, #10, and #11." We also acknowledge that the acquiescence to taxation as a single lot does not, standing alone, support a finding of voluntary merger. See Hill v. Town of Chester, 146 N.H. 291, 294 (2001) ("[T]he method by which a town taxes its land is not dispositive in determining zoning questions."). As the petitioner notes, lots 8 through 14 were all taxed as a single lot; the Selectboard nonetheless "unmerged" lots 12-14.

The lots' physical characteristics, however, were central to the superior court's decision. It upheld the finding that the garage on lot 10 was constructed within two inches of lot 9 and faces toward lot 9; that the lots share a driveway; and that ancillary buildings, such as the bunkhouse, are common and typical of a "waterfront estate." The petitioner argues that these facts do not support a finding of voluntary merger and that only through conjecture and speculation could the Town demonstrate the prior owners' intent. For example, although he concedes that the placement of the garage near the lot line may be consistent with an intent to merge the lots, the petitioner argues that it is also consistent with an intent to maintain the property as separate lots because Lane – the owner who constructed the garage – may have believed that the garage was farther from the lot line than shown on the survey. Thus, he argues that such evidence is insufficient to support a finding of voluntary merger. We disagree.

Lane constructed the garage on lot 10 not only within two inches of lot 9, but also so that it faced toward lot 9. To access the garage, one must traverse lot 9. Further, a single driveway leads from Cobbetts Pond Road over lot 9 to lot 10. A reasonable interpretation of the placement of the garage is that Lane did not regard the lots as separate. See RSA 674:39-aa, I(c). We disagree with the petitioner that the possibility that Lane may have believed the garage was farther from the lot line renders the evidence inconclusive. Our role on appeal is not to determine whether any contrary conclusions could possibly be drawn

from the evidence; instead, we determine whether the conclusions so drawn are reasonable. See Mt. Valley Mall Assocs., 144 N.H. at 647.

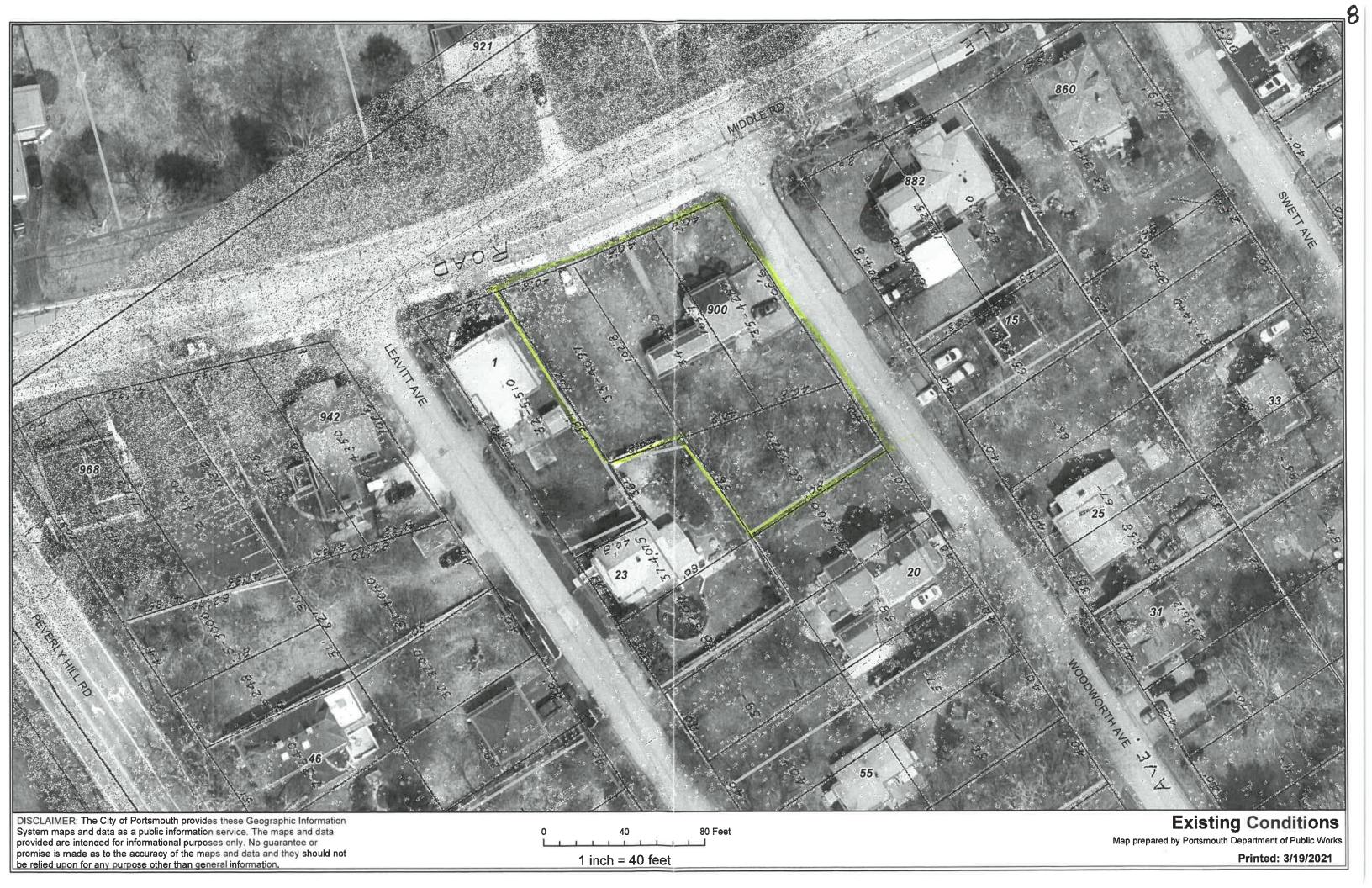
Additionally, the superior court relied on more than the placement of the garage. The "seasonal cottage" sits on both lots 10 and 11, and Lane built a "multi-use" structure known as the "bunkhouse" on lots 9 and 8. Because of the structure's classification as a "bunkhouse," and not as an additional cottage, it is not unreasonable to conclude that the structure was intended to be used in conjunction with the seasonal cottage as part of a "waterfront estate," thereby evincing an intent to use the lots as one. See Webster's Third New International Dictionary 297 (unabridged ed. 2002) (defining "bunkhouse" as "a rough[,] simple building providing sleeping quarters," as used to house persons such as "ranch hands"). Finally, although a shared driveway alone may not be indicative of an intent to merge lots, when viewed in conjunction with evidence of the placement of the garage and bunkhouse, the use of a single driveway to serve multiple lots supports the conclusion that the prior owners intended to merge the lots.

In his brief, the petitioner parses each of these uses and offers explanations for why each individual use does not constitute "voluntary merger." However, the superior court did not analyze each use in isolation, nor was it required to under RSA 674:39-aa. Instead, in affirming the ZBA's decision, the court considered "the use of the property in its entirety." The totality of the evidence reasonably supports a finding that the petitioner's predecessors voluntarily merged the lots under RSA 674:39-aa. Accordingly, we hold that the superior court's decision affirming the ZBA's decision is not unlawful or unreasonable.

As a final matter, the petitioner raises an issue in his notice of appeal that he does not brief. Thus, it is deemed waived. See In re Estate of King, 149 N.H. 226, 230 (2003).

#### Affirmed.

DALIANIS, C.J., and HICKS, LYNN and BASSETT, JJ., concurred.







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# Court Issues First Interpretation of RSA 674:39-aa, Dealing With the Reversal of Administrative Lot Mergers

Roberts v. Windham

Roberts v. Windham

No. 2012-428

Tuesday, July 16, 2013

The petitioner appealed from a Superior Court order upholding the decision of the Windham Zoning Board of Adjustment denying his request to reverse the administrative merger of adjacent lots of land.

The land in question has been in petitioner's family since 1918, when a single deed conveyed four lots as described on a 1913 plan to petitioner's grandfather. In 1926, another lot was deed by purchase. The five lots were used to support a seasonal cottage and related accessory buildings, including a garage, a screen room, a dock, and a multi-use structure with a woodshed, privy, dog house and additional dock. In 1962 two additional lots were acquired by purchase. Petitioner has owned the land which consists of all or portions of 7 lots as described in the 1913 plan since 1995. The town developed tax maps in the 1960's, and has since that time taxed the property as a single lot. No person in the chain of title ever applied to the town to voluntarily merge the lots into one.

Following the enactment of RSA 674:39-aa, petitioner applied to the Selectmen of Windham to "unmerge" the lots in accordance with the statute's procedures. The Selectmen granted relief for the lots described in the 1926 and 1962 deeds, and denied relief for the remaining four lots described in the 1918 deed. They reasoned that the physical layout and use of the primary and accessory structures proved overt owner action to merge the lots into one. This decision was appealed to the Zoning Board of Adjustment, which affirmed the result using the same reasoning as the Selectmen, and further added that the failure to object to the scheme of taxation also showed an owner's intent to merge the lots. Rehearing was denied, and the Superior Court on appeal affirmed the decision.

At the Supreme Court level two questions were presented. First, since this statute places the burden of proof upon the municipality to deny a request to "unmerge" lots, does this change the standard of review used by a court on appeal? The Supreme Court quickly determined that the new statute did not change the standard of review, and the decision of the ZBA would be reviewed under the deferential standard contained in RSA 677:6.

Second, the petitioner argued that the evidence used by the municipality was not sufficient to support a denial of the request. Because the standard of review is deferential, it may only be reversed if no reasonable person could have reached the same decision based upon the available evidence. Here, the court reviewed the decision based upon the use of the property in its entirety, rather than upon each use in isolation. No single factor was dispositive. The fact that the four lots were described in a single deed, and had been taxed as a unit for many years were not sufficient standing alone. However, when coupled with the fact that the primary and accessory buildings had been constructed to work as a unit without regard to lot lines, the evidence was sufficient to affirm the decision of the ZBA.

In this matter of first impression, governing bodies and zoning boards of adjustment now know they should review requests to "unmerge" lots based upon all of the circumstances of actual use of the property, and that the lack of a request to voluntarily merge the lots by a current or former owner will not, standing alone, support such a request.



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