

**From:**

**163 Melbourne Street**

**Jill Tapscott - home owner**

**Abutter to 1344-1346 Islington Street who requests the below**

---

1344-1346 Islington Street has requested, garage and deck variances and to allow 30% Building coverage where 20% is maximum allowed.

---

Submissions below of information from 1344-1346 Islington Street to include additional information from 163 Melbourne Street. Both areas are noted separately.

---

## **Garage plan Submitted by 1344-1346 Islington Street**

- We have submitted a revised garage plan:
- 18' x 22' garage, with 4' setback from abutting neighbor's lot
- Gravel on both sides and drywells below footing

“Not contrary to the public interest” (10.233.21)

- Given the character of the neighborhood, where most houses of our size have garages and there is no street parking, it would be in the public interest to reduce the number of cars which are parked in the driveways or on the lawn (when more cars are at the house than driveway spots available)
  - A 2-car garage is preferable to two 1-car garages: less square footage (396 vs 440) and less obstruction from front view (18 ft vs 20 ft)
  - Abutting neighbors will not be disturbed, as privacy concerns and drainage issues have been addressed in the revised garage plans.
-

***From 163 Melbourne St –“Not contrary to the public interest” (10.233.21)***

- In the immediate area on Islington Street between Route 1 and Vine Street there are 15 three-story properties. Only one has a 2-car garage and only three have a tiny 1-car garage.
  - This driveway can accommodate four cars. Previous residence have utilized their side lawn and /or parked on Essex Street which is close by for additional parking options.
  - This does affect public interest with potential water damage as complete data and information has not been submitted to ensure water runoff does not impact the abutters.
- 

**Submitted by 1344-1346 Islington Street**

**“Spirit of the Ordinance will be Observed” (10.233.22)**

- Because it does not threaten the health, safety, nor welfare of the general public, neighbors.
- Fire safety will be ensured by the distance of 19 ft between our proposed garage and the nearest structure on the abutting neighbor’s lot.
- Improved drainage will reduce standing water on the lot and reduce mosquito population.

-----  
***From 163 Melbourne Street***

**“Spirit of the Ordinance will be Observed” (10.233.22)**

- Due to the lack of credible data and information on a drainage system to ensure there will be no water impact to the abutters, the installation of the garage does affect public health, safety and welfare. The potential of yard flooding can render areas of the abutter’s yard unusable and can create a safety issue of an increased insect population.

There has never been standing water or an excess water problems in my yard ever.

- There is also the potential impact for excess water entering the foundation/basement eliminating the functioning daily living space there. There is a safety and health concern of mold growth from excess moisture.

In over 22 years, there has never been a water problem in my basement. It is dry and was developed into a TV, game, sewing room and extra sleeping space if needed.

- In the picture provided of neighborhood properties identified (from 1334-1346 Islington St) as Non-Conforming lot setbacks, most or all are from very old structures. Also, the structure locations on the lots do not appear to be directly impacting another structure of an abutter. These properties all look to have much more open space on their lots as well.
- Not abiding by the spirit of the ordinance would be different from other properties in the neighborhood and change the character of the neighborhood because 1344-1346 Islington Street would look very building heavy and not show open space on the property as all other properties do in the neighborhood.

---

### **Submitted by 1344-1346 Islington Street**

“Substantial Justice will be Done” (10.233.23)

- Because it does not threaten the health, safety, nor welfare of the general public, nor the current or future owners and neighbors. The building of this new garage will benefit the image, appeal, and state of the West Islington St. neighborhood as well as create a structure that is more functional to today’s standards of home care.
- When our house was built, along with other homes of its size and age, people did not drive cars. Now, as it is zoned as multi-family, and multiple people living in the house drive cars. Without a garage, there are multiple cars parked in the driveways and sometimes on the lawn, as there is no legal street parking on Islington St.

-----

### ***From 163 Melbourne Street***

“Substantial Justice will be Done” (10.233.23)

- Due to the lack of credible data and information on a drainage system to ensure there will be no water impact to the abutters, the installation of the garage does directly

affect public health, safety and welfare. The potential of yard flooding can render areas of the abutter's yard unusable and can create a safety issue of an increased the insect population.

There has never been standing water or an excess water problems in my yard ever.

- There is also the potential impact for excess water entering the foundation/basement eliminating the functioning use of daily living space. There is health and safety concerns of mold growth from excess moisture.

In over 22 years, there has never been a water problem in my basement. It is dry and was been developed into a TV, game, sewing room and extra sleeping space if needed.

- There is a potential of substantial hardship to the abutter(s) from flooding and as shared above. And a decrease in property value.
- Between both driveways they can accommodate 6-cars without being on the lawn in front of the property.

---

### **Submitted by 1344-1346 Islington Street**

“Values of Surrounding Properties will not be Diminished” (10.233.24)

- We have done significant renovation work, which will increase the value of our property as well as surrounding properties.
- Having a garage rather than multiple cars parked in the driveway and/or front yard will improve the appearance of the house.
- Building a fence at the lot line will increase the value of abutting neighbor's house. Improved drainage and landscaping of the yard will also increase property values.
- Keeping the home owner-occupied increases property values and this is only possible if we are permitted to build the garage.

-----



### ***From 163 Melbourne Street***

“Values of Surrounding Properties will not be Diminished” (10.233.24)

- Between both driveways of 1344-1346 Islington Street, at least six cars can be accommodated without parking on the front lawn. Essex Street is very close for greater parking availability as previous residences have done.
  - Properties can seem more undesirable by an overcrowding look and lack of open space, affecting all abutters surrounding the property. Property can look more desirable with preservation of the environment and open space. Open space will also allow for the natural functioning of the land to take care of the water movement.
  - Diminished values of properties by unmitigated water flow creating excess water conditions and potential yard flooding, causing unusable yard areas and increased mosquito population affecting health of residences.
  - Diminished values from permanent and consistent water flow into a foundation and basement removes useable living space and can also cause a health and safety concern of mold growth from excess moisture and damage property.
  - A newly renovated home would seem to be desirable for most to want to live in.
- 

### **Submitted by 1344-1346 Islington Street**

“Literal enforcement of the provisions of the Ordinance would result in Unnecessary Hardship” (10.233.25)

- A garage is essential to the planned use of this home as a multi-generational duplex living arrangement.
- My parents are senior citizens and soon may not have the physical capacity to clean snow from their car during the winter or be subjected to extreme heat in the car during the summer if it is left outside.
- Increased safety for young children not having to get into a snowy or extremely

hot car.

- We have explored all the options for placement of a minimum size two-car garage on the property and the area directly adjacent to the house (with a minimum distance of 3 ft between the house and garage to allow for access to the walls and water flow between the buildings ).

-----

### ***From 163 Melbourne Street***

“Literal enforcement of the provisions of the Ordinance would result in Unnecessary Hardship” (10.233.25)

- Most 3-story properties in the neighborhood do not have a single or two car garage. On Islington Street between Route 1 and Vine Street there are 15 three-story properties. Only one has a 2-car garage and only three have a very tiny 1-car garage.

“Special conditions” 10.233.31

- There are no special conditions of this property that distinguish it from other similar properties of which there are over 15 other three-story properties in the immediate area.

---

### **Submitted by 1344-1346 Islington Street**

“Neighbors’ Concerns”

- Drainage of stormwater
  - Addressed by gravel drywell systems to be installed on both sides of garage
  - Improved drainage will also benefit the surrounding neighbors as mosquito populations will be decreased from less standing water in the backyard.
- Privacy
  - Addressed by addition of privacy fence on lot line.
  - Increased privacy for rear abutting neighbor, blocking line of sight and sound to 1344 driveway and side of house.

- Abutting neighbor has signed letter of support

-----

***From 163 Melbourne Street***

**“Neighbors’ Concerns”**

➤ Drainage of stormwater

A qualified engineer did not provide the drawings or credible data or information on a drainage system that **ensures** there will be no water impact to the abutters.

There is a process that a qualified engineer would do to determine if a dry well is needed, what kind of dry well there should be, where the dry well should be located, can it be located there and will it work. At this location, it may not work and may not be fixable because of the amount of the ledge and rock in the area. If there is a problem and it cannot be fixed, the abutter is left with permanent on going property damage, quality of life hardship and lower resale value.

The installation of this garage does present a serious potential impact to public health, safety and welfare. Because of the potential damage to yards, physical property along with health and safety issues of increased mosquito population in addition to interior mold growth is extensive. Also, affecting quality of life inside and out for the abutters.

➤ Privacy

Giving privacy from the Islington Street road by blocking the line of sight and potential sound with a big wall of a building, is not desirable. Islington Street does not impact our daily living.

- No abutter directly affected from visual and/or physical placement of the garage has signed a letter of support.

**Submitted by 1344-1346 Islington Street**

## **Proposed Deck Plan**

- We have submitted our revised deck plan
- 8' wide privacy screen in the center of deck

**Submitted by 1344-1346 Islington Street**

“Not contrary to the public interest” (10.233.21)

- Abutting neighbors will not be disturbed, as privacy concerns and drainage issues have been addressed in the revised deck plan.
- Prior (now demolished) landings were unsafe and hazardous to occupants and visitors.

-----

***From 163 Melbourne Street***

“Not contrary to the public interest” (10.233.21)

- In the revised deck plan, privacy concerns have not been addressed as agreed upon on 9-24-22, which was to have an above railing system going above adult height for privacy, noise and safety of the children on the length of the whole deck.

Our welfare is directly affected. A small 8-foot wide screen on a 38 foot length of raised deck directly overlooking our peaceful backyard will have no impact on noise reduction and very minimal view obstruction in that 8-foot area only.

The noise impact from six plus people of a multi-generational, multi-family from two properties can be significant. Without any privacy and noise reduction barriers, the

direct impact to our family is the complete elimination of visual privacy, peacefulness and relaxing enjoyment to our backyard.

- Drainage has no impact on the presence of the deck.

---

**Submitted by 1344-1346 Islington Street**

“Spirit of the Ordinance will be Observed” (10.233.22)

- Because it does not threaten the health, safety, nor welfare of the general public, neighbors.
- The area below the proposed deck was already concrete and gravel.

-----

***From 163 Melbourne Street***

“Spirit of the Ordinance will be Observed” (10.233.22)

- There are no other properties in the neighborhood area that have a very large 38 by 8 foot raised deck with 304 SF of space from a multi-generational, multi-family of two properties overlooking single family properties.
- This deck is very different from other local properties and will change the character of the neighborhood.
- The very large raised deck area overlooking our backyard and others does greatly threaten the health and welfare of our family. The noise impact from six plus people of a multi-generational, multi-family from two properties will be significant. Without any privacy and noise reduction barriers, it is a direct impact to our family quality of life enjoyment in our once peaceful backyard.

With their two small children the noise will only get louder as they get older and have other children over to play.

The raised second story deck elevation strongly projects voices and carry a distance very easily. We can clearly hear voices outside and what they are actually saying from our backyard and open second story windows.

Their multiple family members and children will be talking or calling out to each other up to the deck and down to the yard creating for more and louder noise disturbance.

- The set back is 30 feet and they want two feet over the variance providing an extremely large 304 SF deck space which is not reasonable.
- A two foot variance is not just two feet, it is two feet times 34 feet, for more space and activity which increase noise levels closer to our backyard from six plus people in this multi-generational, multi-family two properties overlooking single family yards.
- If the 30 foot set-back is protect, they will install a large 6-foot deck the length of the property with a 236 SF deck.
- They are at 20% plus lot coverage now with the house. Any deck size puts them over the 20% maximum coverage.
- Instead of a raised deck, an optional ground level patio on the 1346 side of the yard will provide for some privacy for all people visually and voices will not be clearly heard as people are on the ground level. It will be safer and easier for children to go from eating to playing in the yard.
- A ground level patio also would not count and impact % of lot coverage.

---

### **Submitted by 1344-1346 Islington Street**

“Substantial Justice will be Done” (10.233.23)

- Because it does not threaten the health, safety, nor welfare of the general public, nor the current or future owners and neighbors.

- We need to build some sort of structure so that we can use the door to provide a means of egress.

- New deck will be much safer than previously existing landings, which had rotting wood railings and steep staircases. New composite deck has graded stairs with safety railings and a gate at the top.

-----

### ***From 163 Melbourne Street***

“Substantial Justice will be Done” (10.233.23)

- This extremely large deck at 304 SF will threaten the health and welfare of our family because we will be permanently impacted by loss of privacy and growing continuous noise. And loss of peaceful enjoyment of our backyard.
- To support the egress, an option of landings and stairs from both doors coming to a mutual landing and one stairway to the ground. This would also provide for a separate egress in the event one of the units is rented.
- A ground patio would provide more privacy for all with greatly reduced visual view and sound level. It would allow a large multi-generational, multi-family property to more easily blend with the abutting single family yards and surrounding neighborhood.
- There is no hardship in the use of a ground level patio in sharing family meals.

---

### **Submitted by 1344-1346 Islington Street**

“Values of Surrounding Properties will not be Diminished” (10.233.24)

- We will be improving the safety and appearance of the rear yard by moving the existing fence to the correct lot line and continuing the black chain link fence, replacing the existing green mesh.

- Improved drainage and landscaping (new bushes) will also improve abutting neighbor's view. Improved drainage will increase the enjoyment of our yard and abutting rear neighbor's yard due to decreased mosquito populations.

-----

### ***From 163 Melbourne Street***

"Values of Surrounding Properties will not be Diminished" (10.233.24)

- Property values will be diminished due to complete loss of privacy and greatly increased noise level. In a more rural area, future owners would find a private peaceful backyard more desirable; and would be surprised to see this lack of privacy and noise level from this size multi-family two property overlooking a single family yard. Not a desirable property to purchase if you want to enjoy a relaxing backyard.
- The owner of the fence needs to provide permission for someone else to move or take down their fence.
- We do not and have never had any excess water problem in our yard or excess mosquito problem.
- The landscaping of small bushes will do nothing for protecting privacy or reducing noise levels from a second story 304 SF deck with six plus people talking up and down from the deck and yard.

In conversation with them on September 19<sup>th</sup> and 24<sup>th</sup> they agreed to plant 8-10 foot height arborvitaes or similar fast growing bushes along the fence line, but that is not what is stated above.

---

### **Submitted by 1344-1346 Islington Street**

"Unnecessary Hardship would result from denial of the variance" (10.233.25)

- Owing to special conditions of the property that distinguish it from other properties in the area (the height of the house), no fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific



application of that provision to the property.

- The height and elevation of our house render null the privacy considerations of the Ordinance, as we can view the backyards of abutting properties from the windows of our house. However, note that we cannot see into the windows of the house behind us because of its distance from the lot line.
- An additional 8 ft distance back from the house will not allow us to see into the windows of the abutting property, and will provide essentially the same vantage point into the backyard of abutting property.
- **The addition of a privacy screen on the deck will create additional noise reduction and view obstruction.**
- The proposed use is a reasonable one, which will make it possible to fit a table on the deck, to share meals among all members of the multi-generational household.

-----

### ***From 163 Melbourne Street***

“Unnecessary Hardship would result from denial of the variance” (10.233.25)

- There are no special conditions of this property that distinguish it from other similar properties in the area. The duplex next door has a similar first floor height level into the backyard. There are over 15 other three story properties in the immediate area.
- A very large 304 SF raised deck is not the only possible outdoor dining space option. There is a fairly large level area of their backyard on the 1346 side that would allow for dining table on a patio to accommodate meals for a large multi-generational, multi-family in pleasant outdoor dining space.
  - A sloping backyard is not the reason direct abutters have a deck off their backyard. One abutter doesn't have a sloping backyard. The other abutter had a deck structure there when they bought the property.
- A smaller deck on the 1346 side may also be an option with screening and privacy items.

- The height of some homes can allow for greater view from an inside window to other outside areas and backyards. Typically walking by an inside window presents a view directly out, not down. People are also inside and not creating a physical outside noise situation.

Inside one window viewing out by one person has no comparison to a second story large 304 SF outside deck with six plus people(including two small children) in a wide open outside view of other single family backyards.

Because of the raised deck, the noise level is louder and voices carry easily clearly hearing what anyone is saying.

- Allowing the additional two foot variance brings all the lack of privacy and noise that much closer over a 38 foot length of the raised deck space with six plus people on 304 SF and is unreasonable.
- With lights on I can see people moving in their property, so I'm sure they can see my family moving about in our home with the lights on.
- Their addition of a small 8 foot privacy screen on a 38 foot length deck of 304 SF will have no impact on creating additional noise reduction. It will have partial view obstruction in that small 8-foot area only.
- In conversation on September 24<sup>th</sup> they had agreed to a screening system the length of the deck for privacy, noise reduction and child safety.

With no special conditions, other available options for enjoyable outdoor family dining, there is no hardship for not having a very large 304 SF deck.

Thank you for your time and consideration in the review of these areas.





RECEIVED  
APR 04 2024









1344 Islington St

Dear Members of the Board  
Board of Adjustment (BOA)  
City Of Portsmouth  
Re: 361 Islington St/Getty Gas station

October 18, 2022

Dear Board Members

I am writing to voice several issues that are being raised in regard to the latest attempt to have a business in the old gas station at 361 Islington st.

I am an abutting neighbor on Cabot St, and though I am hopeful that a business can transform the unused space into a vibrant part of the community, I have concerns that should be addressed.

- Though the applicants attorney states that “ the property is encumbered by deed restrictions & easements that significantly limit what can be done with the land & how it can be used”,

**This knowledge has been known since the sale in Sept, 2017 to Lucky Thirteen and therefore should not bare any weight in regard to request for variances.**

- It is stated that the application is functionally the same as what was proposed by Lexies Joint & approved by the board in 2017.

**The approval by the board for Lexies Joint included 16 parking spaces and no additional construction of the side nor rear addition., Therefore it is NOT functionally the same, as the current proposal has less then 50% of the required parking.**

#### **PARKING:**

**The applicant has not requested a variance from 10.5A44.10 which is one of the largest issue concerning this lot.**

**10.5A44.10**

**“Except as otherwise provided in this section ALL BUILDINGS, STRUCTURES, & use in the character districts & Civic districts SHALL COMPLY with the off street parking requirements set forth in section 10.1110.**

**To use “The Kitchen” & “Lexies Joint” for references in regard to parking fails to mention that these & prior food businesses have been operating out of those spaces continuously since 1998 and earlier.**

Variance Criteria:

- A. Granting the variance will not be contrary to the spirit of intent of the zoning ordinance or the public interest.

“public interest includes public safety, and due to the submitted plans with only 10 parking spaces, two entrances, and proximity to a notoriously dangerous intersection, I have concerns in regard to traffic patterns.

I use “ Dunkin Donuts” farther down Islington St during a typical 7:30-9:00 am daily period where traffic on Islington St is completely stopped in both directions due to the attempt of entrance into the drive thru and exit vehicles onto Islington St. **This does become an issue of Public Safety.**

Yes, I understand that there are more boards to be reviewed TAC, HDC, City Council, however,

For those of you who have been on the board since 2018, you may understand my concern on granting variances. As resident of McDonough neighborhood we have been steamrolled by the request of granting a variance for properties such as 105 Bartlett st and 41 Salem St. In the case of 105 Bartlett st, variances were granted, 1st from Industrial zoning to Residential, all with proposed “character based townhouses”. Now however, we are confronting 3 massive 3 & 4 story apartment blocks with 156 apartments because variances were granted with a conceptual design.

The use of Malachy Glen Assocs vs Town of Chichester is by no means even close to the same situation here. That case involved a town building permit approval which was then revoked due to expansion of wetland definitions. This is a and has been a developed lot since the 1960's.

Thank you for taking into consideration my concerns.

Sincerely  
James Beal  
286 Cabot St.  
Portsmouth, NH  
Resident since 1999



My name is Stephen Landoli and I live at 369-B Islington St. My home and building are right next to the Getty station. My living room windows look directly down on the Getty station. Nobody is impacted more than the property owners my building and very close neighbors.

I'm here to speak against the proposed business and the variances it seeks and I represent all of the names listed below. They have read this presentation and signed their names in support.

Lucky Thirteen Properties is seeking to expand its impact on that site and, as a result, the entire neighborhood by FIVE TIMES what is allowed. This would negatively impact our quality of lives, safety and peace in unimaginable ways.

This board voted down the last entity seeking to put a food/beverage business in this location due, in part, to the extremely high impact it would cause—through that entity's "over occupancy variance" request and their request for additional parking -- that simply isn't available to accommodate the size of business that's needed to be profitable at this location.

They are now seeking an occupancy OVER-load to, up to, 250 people.....that's FIVE times what's currently allowed. There's a reason only 50 is allowed...and that is, in part, for the benefit of the neighborhood. The last entity was seeking something similar, with a LOWER number sought, and was voted down...because of the expected high impact on the neighborhood.

According to the owner of the last entity seeking to enter this location, his current eatery, The Tuckaway Tavern in Raymond, attributes less than 20% of its business to alcohol sales.

The entity looking to enter that location, now, is rumored to be a brewery---which must rely almost solely on alcohol/beer sales—to make their numbers work.

That will, inevitably, lead to a severe public health risk. That section of Islington Street is, arguably, the most dangerous stretch of road in this city. In the past six months, alone, there have been two serious crashes, thousands of dollars in property damage (to parked cars) and two DWI arrests. And those people were just driving through that stretch...from local bars.

To have 250 people entering cars in that neighborhood, to drive away after visiting a brewery...will also increase the risk of bodily harm and property damage...by FIVE TIMES.

My building at 369 Islington Street shares an easement with the Getty station. The Getty station has been (fairly) vacant for years, outside of a couple of temporary tenants, and the near-crashes and near car-on-pedestrian tragedies I've, personally, witnessed, has been terrifying. Cars already fly into our driveway, right off Islington St, to either turn around or cut through to Cabot St.

This expansive business would cause immeasurable risk to us and the hundreds of pedestrians who walk along that street every day.



The noise and personal energy generated by a business seeking FIVE times more impact on the neighborhood would be too unbearable to even imagine.

The variance they seek that's actually lowest on the priority list is also the most detrimental to me—alone. I'm fairly confident saying that nobody in this room tonight would appreciate a restaurant dumpster being placed (almost) directly under their kitchen window.....with a variance request to store it even CLOSER to my residence than what the city allows. The same can be said for the other side of this building....as residents on that side would be just as close to this unhealthy hazard.

While we would all love to see a business occupy that space...it MUST be the right one—for all who call Midtown, Portsmouth (the area between downtown and the West End) home.

This....is....NOT...the right business. The impact this would cause would be extremely detrimental and could force homeowners to flee the area. This is one of the best neighborhoods in Portsmouth, one of the last ones to be developed and the character and safety of this great area is essential to uphold.

We have the utmost confidence in this board to consider the (potential) negative effects any business would have on our community---as you've proven over and over again that you do take residents into consideration.

And you set the precedent for this location months ago.

We simply ask that you please continue with that train of thought tonight.

Name:

Address:

[Signature]

371 Islington St. S. Portsmouth, NH

[Signature]

371 Islington St. Portsmouth, NH

Morgan: Pete Camirello

366 Islington Street Portsmouth, NH

---

---

---

---



RE: 361 Islington St  
Meeting: Zoning Board of Adjustments 10/18/22  
Packet Pages:

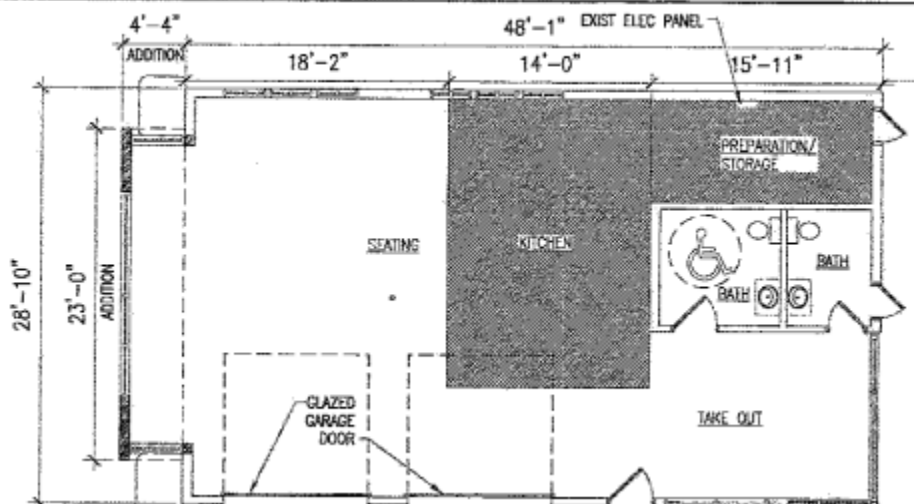
Dear Members of the Zoning Board of Adjustments,

October 13, 2022

*It is important to have another side of the story, quick reading due to diagrams.*

*Lexi's Application which was approved Dec 19, 2017 by the ZBA. Proposed were 14 off street parking spaces, indoor seating space of about 522 sf, total occupancy 50 and the enlargement was ONLY 90sf. Outdoor seating was separated by screened and unscreened due to this a little smaller than what is proposed.*

**Lexi's indoor arrangement (exhibit 8)**



What is occupant load per Portsmouth regulations:

**Occupant load**

The total number of **persons** that may occupy a **building** or portion thereof (including outdoor decks) at any one time, calculated in accordance with the **Building Code**.

**10.440.9.41**

Occupant Load of LESS than 50 is P- Permitted in CD4-L2.

Occupant Load of 50-250 is N-Prohibited in CD4-L2.

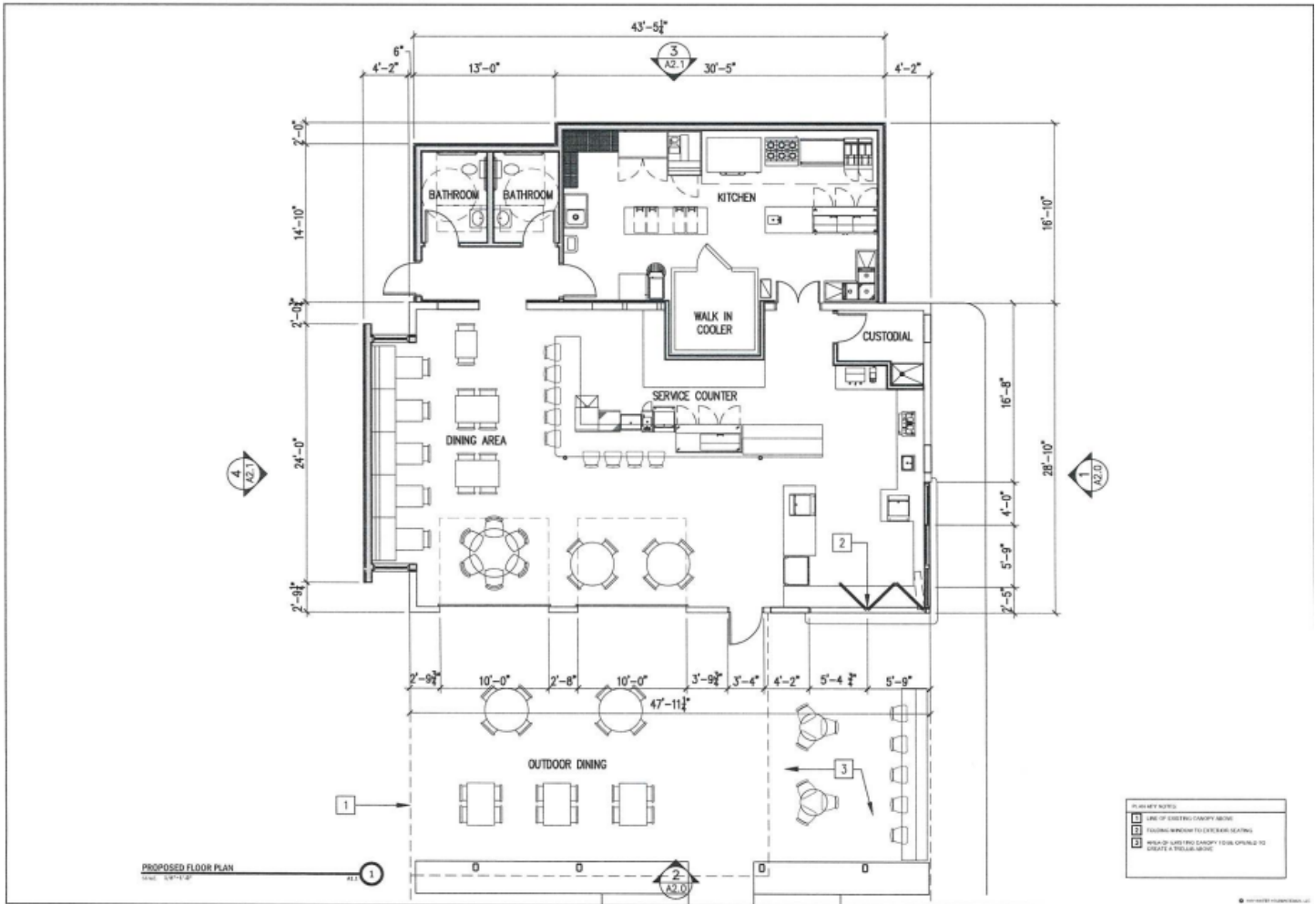
**10.5A41.10A CD4-L2**

Maximum Building Footprints of 2500 sf are allowed.

*Some thoughts as to why 50 to 250 occupants may be N-prohibited in CD4-L2. First the maximum building footprint is only 2500sf and then one adds furnishings, safety, walls, etc. The CD4-L2, in this case, is abutted by GRC zonings predominantly residential and some small offices. **Restaurants are N, prohibited in GRC.** Providing CD4-L2 on Islington was likely to allow corner restaurants with low impact on the surrounding neighborhoods. Increasing the occupancy by 50% or more will change that.*

*It is important to look at what is allowed in the West End, zoned CD4-W: To have an Occupant Load of 50-240 a Special Exception is required AND the maximum building footprints are 15,000 sf.*

This NEW proposal for 361 Islington St is proposing 10 off street parking spaces, 1392 sf of indoor seating area and 1728 sf of outdoor seating, a 765sf addition and minimally 75 to 100 occupants.



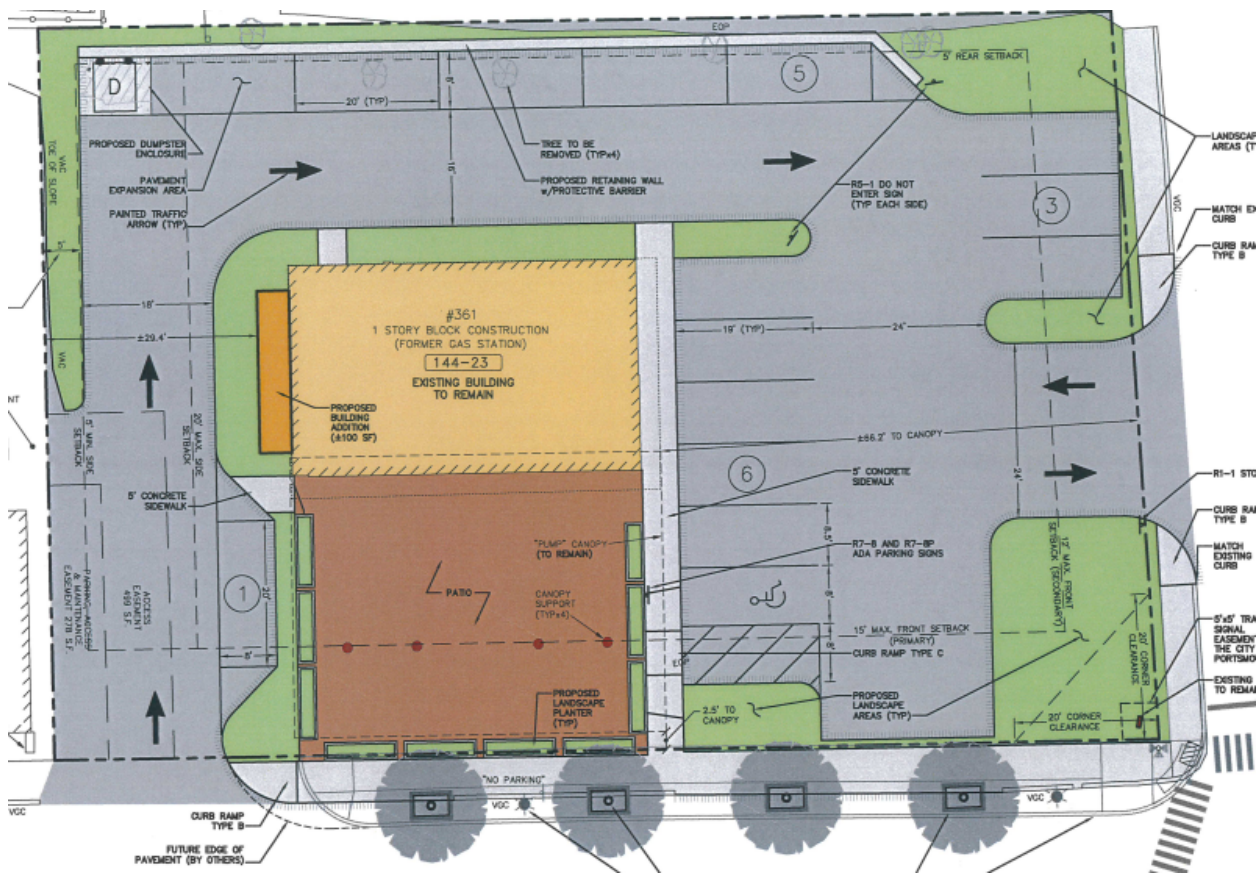
This board is not directly dealing with parking, **it is indirectly**. The following ordinance specifically deals with Non-conforming buildings which start out under the parking limit and want to add on to them.

**10.1111.30** A use that is **nonconforming** as to the requirements for **off-street parking** shall not be enlarged or altered unless **off-street parking** is provided for the original **building, structure** or **uses** and all expansions, intensifications or additions sufficient to satisfy the requirements of this Section.

Approving the additions will directly violate the provisions of this ordinance and put the Planning Board in a bind. Before the addition 14 spaces are needed, with the addition 20, with the increase in occupancy they could need up to 40 spaces. Playing one board against the other is a classic game. Outdoor seating requires a CUP but occupancy is an entirely different thing but includes outdoor seating. One can have outdoor and indoor seating and still only have an occupancy of 50 people. Some restaurants close certain areas for different reasons, maybe a large party, lack of staffing, weather, all still have to operate within their occupancy loads.

At the August 17, 2021 BOA Meeting a similar proposal was **DENIED** and Rehearing was **DENIED**. This proposal had 15 parking spaces. The addition was only 100sf. An increase in occupancy load from 50 to 100. It proposed outdoor seating of about the same size and glass opening garage doors.

Below is a copy of said site plan. Notice 5 parking spaces in the rear, 24' as the rear set back, 29' as a side set back both from closest residential buildings.



***This idea has potential however the lack of parking, an outdoor seating area almost 124% greater than the indoor seating, a bar with glass garage doors which will bring all the noise from inside outside and an occupancy load double of what is allowed IS A LOT.***

*It is questionable whether such a large outdoor seating area should even be considered in an area abutted by small offices and about 30 residential units. Drive down Congress St on a Friday or Saturday night with car windows open. All that outdoor seating can be heard and understood, often even with the car windows closed. Take a minute to review noise complaints with the City Enforcement Division regarding Liar's Bench and Great Rhythm, both have garage doors which open. It took months to create a reasonable noise level.*

*Please ask this development team to go back and read all the public comments for ALL of the proposals for this lot and then come back with something that is feasible for the restaurant, the neighborhood and the zoning before moving forward with these or any variance requests. Many of the small quaint breakfast and lunch restaurants in the heart of downtown have very limited seating capacity, using turnover and carry out as their way of making large rents. This development could move their addition to the front, making their building more balanced on the lot, decreasing the outdoor seating area from 36'x48' to 20'x 48', reduce the capacity to 50 and provide more parking on the entire lot.*

*This structure will be a complete rebuild looking at what is being proposed (rear addition, side addition, 10' glass doors will likely need all new structural supports, new entrance will change the entire front corner, electrical, plumbing, flooring, kitchen, egress, changes to the canopy itself and the ground below it).*

*Respectfully,  
Elizabeth Bratter  
159 McDonough St  
342 Cabot St  
Property Owner*

**From:** [Dan Hale](#)  
**To:** [Planning Info](#)  
**Subject:** Board of Adjustment Meeting-October 18th  
**Date:** Friday, October 14, 2022 12:39:40 PM

---

**RE: LUCKY THIRTEEN PROPERTIES, LLC**

To Whom it may concern,

I own the property directly across the street from the noted subject property. My property is a residential property of 4 units. All the surrounding properties to the subject are all residential in use. I don't know if plans have changed from the recent HDC meeting as I have reviewed those plans. But the Variance in #2 asked for a Variance from section 10.5A44.31 to allow off-street parking in front of the front façade?? I don't remember seeing any parking in front of the submitted HDC plans. Have the plans changed? I am not in favor of allowing parking off street in front, as this could cause a traffic flow issue. I would hope there is only 2 egresses and access to this property (Off Cabot and left side Islington St). The proposed additions will reduce off-street parking, which is also in short supply for this type of use (Restaurant).

I am in favor of some type of improvement on this property, just concerned a restaurant might not be its best use. Neighboring property owners also have similar concerns. We all want the property improved! If it starts out as a "Bagel Shop", what happens if it fails, and the new owners put a nighttime restaurant in? Our biggest concerns are:

1. **Noise**.....outside seating needs to be accompanied by good landscaped/buffer to help reduce noise. Trees, bushes, fencing. Does not seem the plans have enough.
2. The doors labeled 100.1 and 100.2 (Plan A2.0). Do they open? I would hope not. Inside music and additional noise.
3. **Hours or operation**. Should not be as late as the downtown area, due to surrounding residential units.
4. **Lighting**. No bright lights should be pointing into any surrounding units/buildings.
5. **Parking**. A real issue... since we are not talking about an office use where parking is only needed during the day. This is a use where parking will be needed at the peak time of needed parking around this building (AT night).
6. **Trash**. The proposed corner trash compactor. How noisy are these? How smelly are these? That location is only about 25' from 2 brand new condo units.

Thank you very much for considering these concerns.

Daniel Hale

CLASSIC APPRAISAL SERVICES

358A Islington St

Portsmouth, NH 03801

[classicone@comcast.net](mailto:classicone@comcast.net)

603-817-8902

**From:** [Gregory LaCamera](#)  
**To:** [Planning Info](#)  
**Subject:** 361 Islington - Strongly Support  
**Date:** Monday, October 17, 2022 2:05:05 PM

---

Hello.

I am writing in strong favor of 361 Islington Street. My property is located ~120 feet away and we couldn't be more excited about the proposal.

Islington Street is a vibrant and expanding thoroughfare. I have looked at the plans in detail and came away impressed with the proposal. They are breathing life into a tired corner of the city. The investment to our neighborhood is appreciated. The designs are unique and exciting. West End neighbors I have spoken with love the updates and elevations shown in the plans. We would love another meeting point to gather as neighbors.

It is zoned for this type of use, which I assume all neighboring properties can agree is preferred over a former 24 hour gas station. At this point in time, it is being used to store gravel, dirt and heavy equipment. That is much more disruptive than a bagel shop or any future restaurant.

I don't see any concerns around noise or parking. Just look to The Kitchen, which has no parking and extensive outdoor seating. My previous home was located extremely close to that business and they were perfect neighbors.

Please approve this proposal and allow the project to proceed. As a city, we can't be afraid of change and growth.

Thanks.

Greg LaCamera  
Owner: 200 McDonough Street

Sent from my iPad



October 16, 2022

Planning Department, City of Portsmouth:

As a 22+ year resident of Cabot Street, I am more than eager to have the former Getty station site developed. Yet, as stated with my concern as to each of the attempts to develop the site, the proposals are again deficient in understanding the lack of parking in the area.

This part of Cabot (between Islington and McDonough) was part of the Islington Creek parking program which did not prove overly helpful to the residents of the street as businesses in Islington also were issued parking permits. There is not enough parking for the residents on the street, much less a new business.

The intersection of Cabot and Islington is busy with the light as Cabot is the easiest exit route from the smaller streets as well as McDonough. To have on-street parking in front of the location as well as two entrances/exits will cause ever more congestion.

The final concern I have are the hours of operation. This is a quiet neighborhood. As the other dining establishments on Islington, Café Kilim, Lexie's, The Kitchen, Dunkin Donuts, and White Heron all are respectful of the neighborhoods surrounding them and have limited operating hours.

Again, I am not against the development of the site, but need to be assured the concerns of the neighborhood are addressed.

Thanks for your time.

Respectfully submitted,

Jennifer Meister  
287 Cabot Street  
603.828.1520



**From:** [Barbara Sadick](#)  
**To:** [Planning Info](#)  
**Subject:** Abutter comment re: 361 Islington Street  
**Date:** Sunday, October 9, 2022 5:55:58 PM

---

To the Zoning Board of Adjustment:

I live at 271 Islington Street and I received an abutter notice regarding variances requested by the owners of 361 Islington (the old Getty station).

I am writing to you to urge you to approve whatever variances are needed. I reviewed the plans when they were submitted for a review session a bit more than a month ago, and I think they looked good. I am anxious to see the property renovated and it will be wonderful to have a restaurant at the location.

Please do whatever you can to assist with moving this process forward.

Thank you.

Best,  
Barbara

Barbara Sadick

October 17, 2022

VIA EMAIL

Peter Stith, Principal Planner  
Zoning Board of Adjustment  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

Email: [pmstith@cityofportsmouth.com](mailto:pmstith@cityofportsmouth.com)

**Re: Variance Application – 67 Ridges Court**

Members of the Board,

This Office represents Kathleen Thomson, owner of the property at 56 Ridges Court in Portsmouth. Kathleen's property is located directly across the street from the Foys' property at 67 Ridges Court, making her a direct abutter for purposes of the foregoing variance application, dated October 11, 2022. This Office appeared on Kathleen's behalf to object to the variance application submitted by the Foys in August, 2022, which the ZBA considered and denied at its August 16, 2022 meeting. We submit to this Board once again an objection to the Foys' variance application, and request that the Board decline to reach the merits of the Foys' application at its October 18, 2022 meeting, on the basis that the current variance application is not materially different in nature or degree from the August 2022 application.

The Foys correctly point out in their October 2022 application that under the standard laid out in Fisher v. City of Dover, 120 N.H. 187, 190 (1980), unless a "material change of circumstances affecting the merits of the application has [] occurred" or the application "materially differs in nature and degree from its predecessor," the ZBA may not reach the merits of a subsequent application. The rationale for this standard is to give finality to ZBA decisions, uphold the integrity of the zoning plan, and to avoid an undue burden from being placed on property owners seeking to uphold the zoning plan. *Id.* The requirement to show changed circumstances or a material difference "is to be enforced to the extent property interests may be settled and stable and property owners protected from harassment." 15 New Hampshire Practice: Land Use Planning and Zoning, Ch. 21, §21.20 (LexisNexis Matthew Bender).

Comparing the substance of the Foys' August and October variance applications, no material difference exists between the two which warrants consideration of the merits of this subsequent application. Their August submission sought relief from PZO §10.521 to add a three-level, 718 s.f. addition to the existing home with a two-car garage on the lower level,

expanded living space with a balcony and trellis on the second level, and an updated master bedroom on the third level. A copy of the plans submitted with the Foys' August application is attached hereto as Exhibit A. This application was objected to by the abutters and several other property owners on Ridges Court on the basis that it would severely block other properties' views of Little Harbor, and that the size and aesthetic of the expanded home was out of character for the neighborhood. The application was ultimately denied by the Board because the Foys demonstrated no hardship necessitating the building of an addition which lay one hundred percent in the wetland buffer zone which also significantly blocked the views of abutters, when as Ms. Eldridge noted, "the addition could be built anywhere on the property." Minutes of the Board of Adjustment Meeting, August 16, 2022, p.5.

The Foys' current application seeks relief from PZO §10.521 and §10.321 to build a 518 s.f. addition in the same location as previously applied for in August. The new proposal would add a three-level addition, with a single car garage on the lower level, expanded living space with a balcony and trellis on the second level, and an updated master bedroom on the third level. The Foys removed 200 square feet from their August proposal, and relocated the trellis and balcony to the rear of the home. Compared with their August proposal, this addition would result in the removal of less pavement and therefore retain more impervious coverage. Their application also notes that the application of PZO §10.516 has resulted in a reduced setback deviation from their August proposal, despite that provision being in effect at that time. Their application asserts that these differences are material; however, the reality is that the front setback itself has not changed regardless of how it was previously calculated by the Foys.

The common feature of the August and October applications is the construction of an addition which lies one hundred percent in the wetland buffer zone and has the same impact upon Ms. Thomson's view. The Board spent much time discussing the criteria of hardship at the August 16 meeting, and determined that no hardship existed which necessitated the construction of the addition in that specific location. The Foys have made no effort to relocate their addition to the rear of the home or to any other location, despite that suggestion from the Board in August. During that meeting the Board noted that the applicants were "asking the Board to grant something that was fully in the buffer when it could be moved back and eliminate all the emotional responses from the neighbors." Minutes, August 16, 2022, p. 5. Because the location of the addition remains the same, the removal of 200 square feet and relocation of the balcony/trellis is insufficient to qualify as a material difference warranting reconsideration of the Foy's application.

Submission of multiple applications by the Foys to this Board appears to be a strategy to circumvent the requirements of the zoning plan and piecemeal the relief they ultimately seek. The Foys submitted and obtained a variance at the Board's September 27, 2022 meeting, where they sought relief to add a small overhang on the north face of their home to cover their trash cans, a small overhang on the west face of the home over the existing garage, and a small addition to the roof over their front steps. They determined that they ultimately did not need relief for the roof addition after a recalculation of their front setback requirement based on PZO

§10.516. Reference to this September 27 application is completely omitted from this October 11 application, and the improvements they sought in that application are not shown on the plans submitted with this application.

For the reasons stated, the Foys have failed to present an application that materially differs from the application denied by the Board in August. As such, the Board should decline to consider the merits of this application. By declining to hear this application, the Board will settle the property interests of the other owners on Ridges Court, and protect them from the future harassment of further petitions.

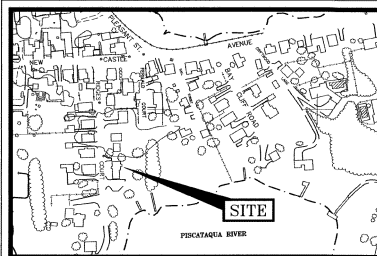
In the event that the Board opts to reach the merits of the Foys' application, I would incorporate by reference the arguments made in my objection letter to the Board on Ms. Thomson's behalf dated July 19, 2022, a copy of which is attached herewith as Exhibit B.

We thank you for your time and consideration of the above, and request that you deny the Foys' variance application.

Sincerely,

*Darcy Peyser*

Darcy C. Peyser, Esq.  
Derek R. Durbin, Esq.



LOCATION MAP

SCALE 1" = 200'

## LEGEND:

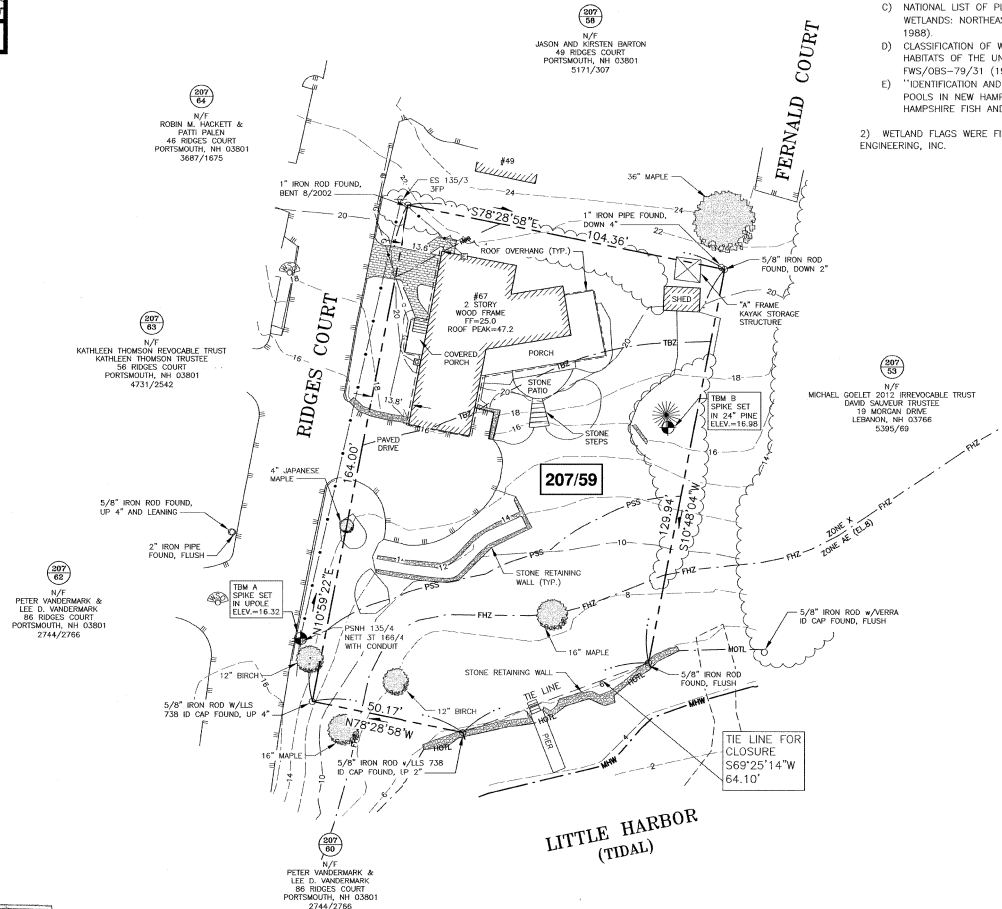
N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11	MAP 11 / LOT 21
○	RAILROAD SPIKE FOUND
○	IRON ROD/IRON PIPE FOUND
○	DRILL HOLE FOUND
○	STONE/CONCRETE FOUND
○	RAILROAD SPIKE SET
○	IRON ROD SET
○	DRILL HOLE SET
○	GRANITE BOUND SET
---	BOUNDARY
---	BUILDING SETBACK
---	MEAN HIGH WATER LINE
---	NHDES HIGHEST OBSERVABLE TIDE LINE
---	PSS
---	NHDES 50' PRIMARY STRUCTURE SETBACK
---	TBZ
---	NHDES 100' TIDAL BUFFER ZONE
---	NHDES 150' NATURAL WOODLAND BUFFER
---	SWQPA
---	NHDES 250' PROTECTED SHORELAND
---	FEMA SPECIAL FLOOD HAZARD AREA LINE
---	OVERHEAD ELECTRIC WIRES
---	CONTOUR
---	SPOT ELEVATION
---	EDGE OF PAVEMENT (EP)
---	WOODS / TREE LINE
---	UTILITY POLE (w/ GUY)
○	WELL
---	METER (GAS, WATER, ELECTRIC)
---	EDGE OF WETLAND FLAGGING
---	SWAMP / MARSH
---	ELEVATION
---	EP
---	FINISHED FLOOR
---	FF
---	INVT
---	TEMPORARY BENCHMARK
---	TYP.
---	LANDSCAPED AREA

## PLAN REFERENCES:

- 1) PROPOSED ADDITIONS, CHARLES MCLEOD, 67 RIDGES COURT PORTSMOUTH, NH, PROPOSED SITE PLAN, PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2002, NOT RECORDED.
- 2) PLAN OF LOTS, RIENZI RIDGE, PREPARED BY JOHN W. DURGIN, DATED MARCH 1976, R.C.R.D. PLAN #0188.

## WETLAND NOTES:

- 1) HIGHEST OBSERVABLE TIDE LINE DELINEATED BY STEVEN D. RIKER, CWS ON 7/1/20 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
  - A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, TECHNICAL REPORT Y-87-1 (JAN. 1987), AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, NORTH-CENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
  - B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.2, USDA-NRCS, 2018 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4, NEWPEC WETLANDS WORK GROUP (2019).
  - C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1), USFWS (MAY 1998)
  - D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES, USFWS MANUAL FWS/OBS-79/31 (1997).
  - E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997): NEW HAMPSHIRE FISH AND GAME DEPARTMENT.
- 2) WETLAND FLAGS WERE FIELD LOCATED BY AMBIT ENGINEERING, INC.



LITTLE HARBOR (TIDAL)

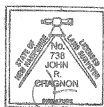
GRAPHIC SCALE



"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHACON, L.L.S.

6-27-22  
DATE



**AMBIT ENGINEERING, INC.**  
Civil Engineers & Land Surveyors  
200 Griffith Road - Unit 3  
Portsmouth, N.H. 03801-7114  
Tel (603) 430-9282  
Fax (603) 430-5315

## NOTES:

- 1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S MAP 207 AS LOT 59.
- 2) OWNERS OF RECORD:  
JEFFREY M. & MELISSA FOY  
4 FOX HOLLOW COURT  
EAST KINGSTON, N.H. 03827  
6325/1066
- 3) PORTIONS OF THE PARCEL ARE IN A SPECIAL FLOOD HAZARD AREA AE (EL.8) AS SHOWN ON FIRM PANEL 3301500278F. EFFECTIVE JANUARY 29, 2021.
- 4) EXISTING LOT AREA:  
16,500± S.F. (PLAN REF. 1)  
0.3788± ACRES (PLAN REF. 1)
- 5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:  
MIN. LOT AREA: 15,000 S.F.  
FRONTAGE: 100 FEET  
SETBACKS: FRONT 30 FEET  
SIDE 10 FEET  
REAR 30 FEET  
MAXIMUM STRUCTURE HEIGHT: 35 FEET  
MAXIMUM STRUCTURE COVERAGE: 20%  
MINIMUM OPEN SPACE: 40%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 207 LOT 59 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTM GNSS OBSERVATIONS (±0.2').

## Exhibit A

## PROPOSED GARAGE FOY RESIDENCE 67 RIDGES COURT PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
1	ADD FEMA FHZ	6/27/22
0	ISSUED FOR COMMENT	5/18/22

REVISIONS



SCALE 1"=20'

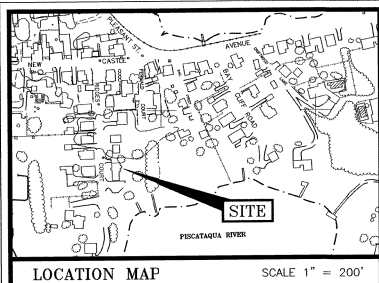
MAY 2022

EXISTING CONDITIONS  
PLAN

C1

FB 222 PG 66

1153.02



### LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
MAP 11 / LOT 21	
RAILROAD SPIKE FOUND	
IRON ROD/IRON PIPE FOUND	
DRILL HOLE FOUND	
STONE/CONCRETE BOUND FOUND	
RAILROAD SPIKE SET	
IRON ROD SET	
DRILL HOLE SET	
GRANITE BOUND SET	
BOUNDARY	
BUILDING SETBACK	
MEAN HIGH WATER LINE	
NHHS HIGHEST OBSERVABLE TIDE LINE	
NHHS 50' PRIMARY STRUCTURE SETBACK	
NHHS 100' TIDAL BUFFER ZONE	
NHHS 150' NATURAL WOODLAND BUFFER	
NHHS 250' PROTECTED SHORELAND	
FEMA SPECIAL FLOOD HAZARD AREA LINE	
OVERHEAD ELECTRIC WIRES	
CONTOUR	
SPOT ELEVATION	
EDGE OF PAVEMENT (EP)	
WOODS / TREE LINE	
UTILITY POLE (w/ GUY)	
WELL	
METER (GAS, WATER, ELECTRIC)	
EDGE OF WETLAND FLAGGING	
SWAMP / MARSH	
ELEVATION	
EDGE OF PAVEMENT	
FINISHED FLOOR	
INVERT	
TEMPORARY BENCHMARK	
TYP.	
LSA	LANDSCAPED AREA

### PLAN REFERENCES:

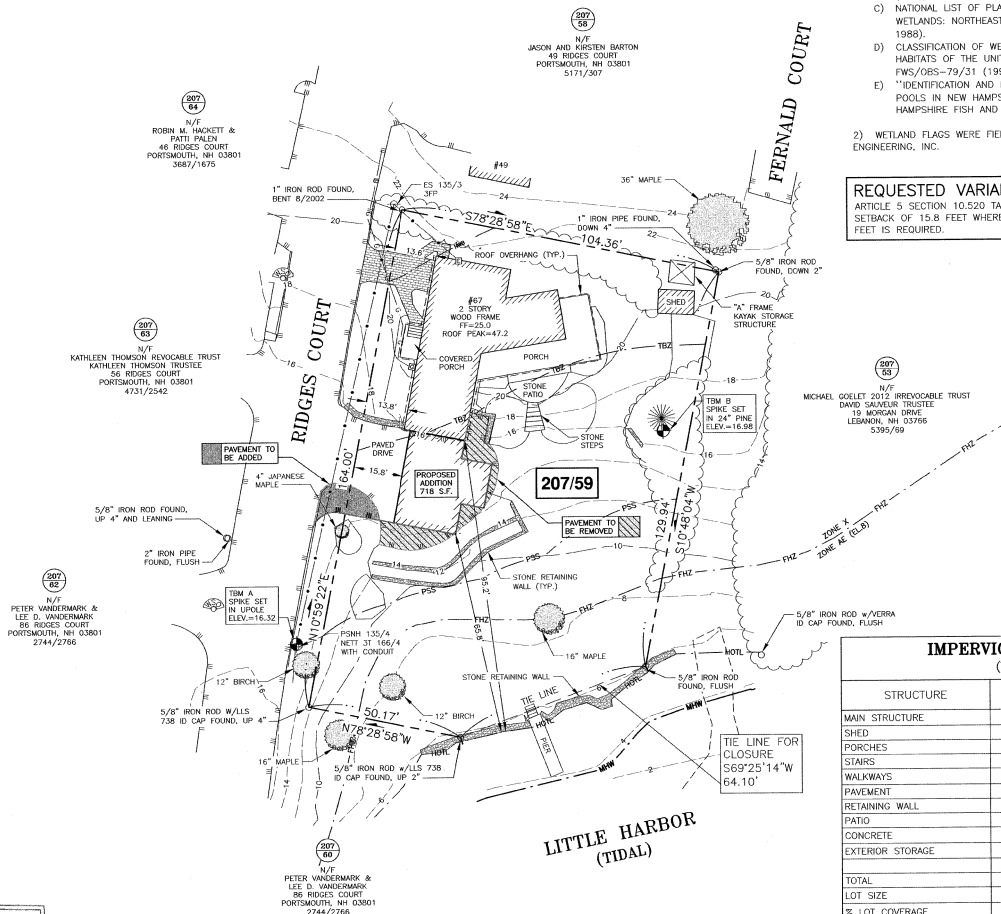
- 1) PROPOSED ADDITIONS, CHARLES MCLEOD, 67 RIDGES COURT PORTSMOUTH, NH, PROPOSED SITE PLAN, PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2002. NOT RECORDED.
- 2) PLAN OF LOTS, RIENZI RIDGE, PREPARED BY JOHN W. DURGIN, DATED MARCH 1976. R.C.R.D. PLAN #0188.

### WETLAND NOTES:

- 1) HIGHEST OBSERVABLE TIDE LINE DELINEATED BY STEVEN D. RIKER, CWS ON 7/1/20 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
  - A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, TECHNICAL REPORT Y-87-1 (JAN. 1987), AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, NORTHEASTAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
  - B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.2, USDA-NRCS, 2018 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4. NEWPPC WETLANDS WORK GROUP (2019).
  - C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1). USFWS (MAY 1988).
  - D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFWS MANUAL PWS/OBS-79/31 (1997).
  - E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.
- 2) WETLAND FLAGS WERE FIELD LOCATED BY AMBIT ENGINEERING, INC.

### REQUESTED VARIANCE:

ARTICLE 5 SECTION 10.520 TABLE 10.521 FRONT YARD SETBACK OF 15.8 FEET WHERE 13.5 FEET EXISTS AND 30 FEET IS REQUIRED.



### IMPERVIOUS SURFACE AREAS (TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURE	1,591	2,309
SHED	91	91
PORCHES	513	513
STAIRS	123	123
WALKWAYS	231	231
PAVEMENT	1,452	490
RETAINING WALL	212	212
PATIO	109	109
CONCRETE	17	17
EXTERIOR STORAGE	50	50
TOTAL	4,389	4,145
LOT SIZE	16,500	16,500
% LOT COVERAGE	26.6%	25.1%

### PROPOSED BUILDING COVERAGE:

MAIN STRUCTURE: 2,309 S.F.  
SHED: 91 S.F.  
PORCHES: 513 S.F.  
STAIRS: 123 S.F.  
TOTAL: 3,036 S.F./18.4%



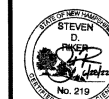
**AMBIT ENGINEERING, INC.**  
Civil Engineers & Land Surveyors  
200 Goffin Road - Unit 3  
Portsmouth, N.H. 03801-7114  
Tel: (603) 438-8982  
Fax: (603) 438-2315

### NOTES:

- 1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S MAP 207 AS LOT 59.
- 2) OWNERS OF RECORD:  
JEFFREY M. & MELISSA FOY  
4 FOX HOLLOW COURT  
EAST KINGSTON, N.H. 03827  
6325/1066
- 3) PORTIONS OF THE PARCEL ARE IN A SPECIAL FLOOD HAZARD AREA ZONE AE (EL. 8) AS SHOWN ON FIRM PANEL 33015C0278F. EFFECTIVE JANUARY 29, 2021.
- 4) EXISTING LOT AREA:  
16,500± S.F. (PLAN REF. 1)  
0.3788± ACRES (PLAN REF. 1)
- 5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:  
MIN. LOT AREA: 15,000 S.F.  
FRONTAGE: 100 FEET  
SETBACKS: FRONT 30 FEET  
SIDE 10 FEET  
REAR 30 FEET  
MAXIMUM STRUCTURE HEIGHT: 35 FEET  
MAXIMUM STRUCTURE COVERAGE: 20%  
MINIMUM OPEN SPACE: 40%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED ADDITION ON ASSESSOR'S MAP 207 LOT 59 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').
- 9) PROPOSED GARAGE FROM PLAN BY DESTEFANO MAGUEL ARCHITECTS DATED JUNE 14, 2022.

## PROPOSED GARAGE FOY RESIDENCE 67 RIDGES COURT PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	6/21/22
REVISIONS		



SCALE 1"=20'

JUNE 2022

VARIANCE  
PLAN

C2

FB 222 PG 66

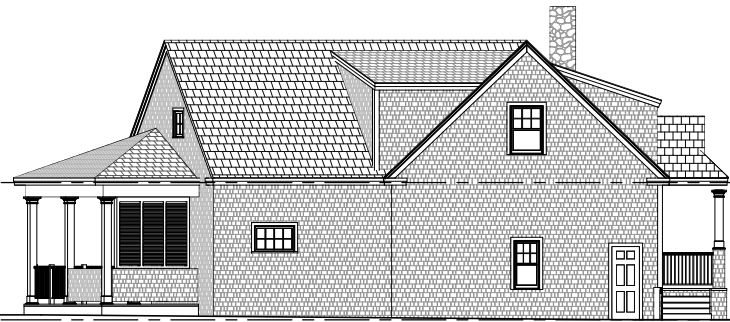
1153.02

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHAGNON, LLS

DATE

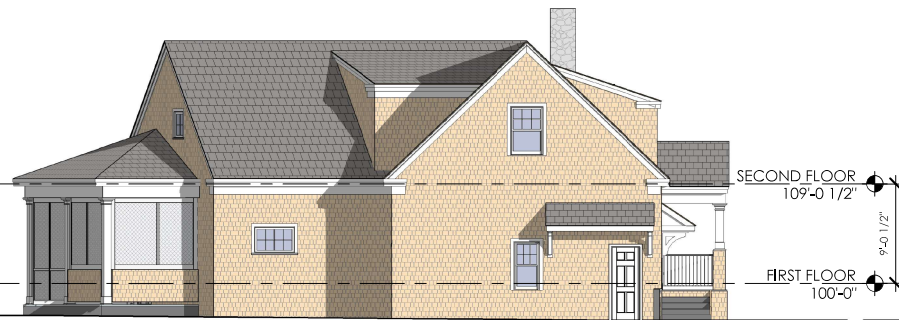




EXISTING NORTH ELEVATION



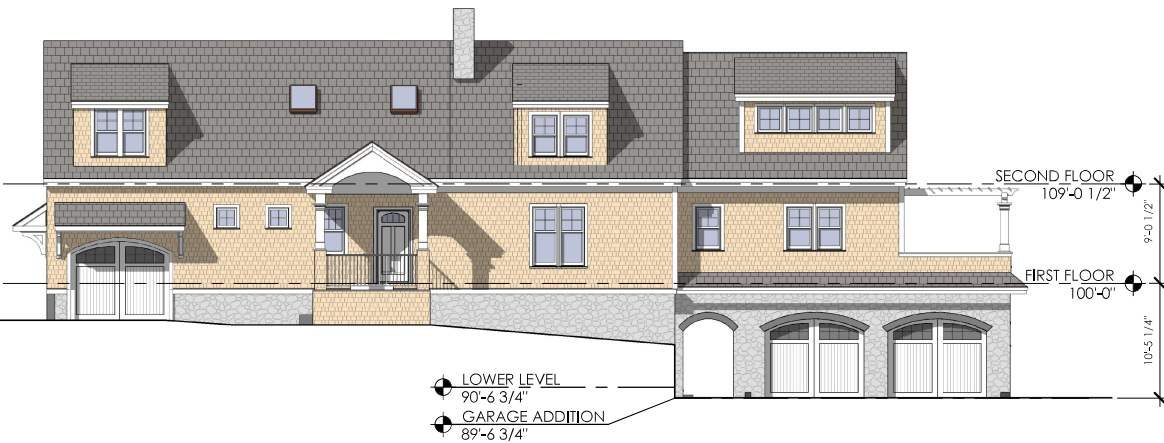
EXISTING WEST ELEVATION



PROPOSED NORTH ELEVATION

1/8" = 1'-0"

1



PROPOSED WEST ELEVATION

1/8" = 1'-0"

2

DESIGN DEVELOPMENT FOR  
FOY RESIDENCE  
67 RIDGES CT  
PORTSMOUTH, NH

ELEVATIONS  
1/8" = 1'-0"

JUNE 14, 2022

Exhibit B

21177

DMA  
DESTEFANO  
MAUGEL  
ARCHITECTS

© 2022





EXISTING SOUTH ELEVATION



EXISTING EAST ELEVATION



DD - SOUTH  
1/8" = 1'-0" 3



PROPOSED EAST ELEVATION  
1/8" = 1'-0" 4

DESIGN DEVELOPMENT FOR  
FOY RESIDENCE  
67 RIDGES CT  
PORTSMOUTH, NH

ELEVATIONS  
1/8" = 1'-0"

JUNE 14, 2022



DESIGN DEVELOPMENT FOR  
**FOY RESIDENCE**  
 67 RIDGES CT  
 PORTSMOUTH, NH

# LOWER LEVEL FLOOR PLANS

1/8" = 1'-0"

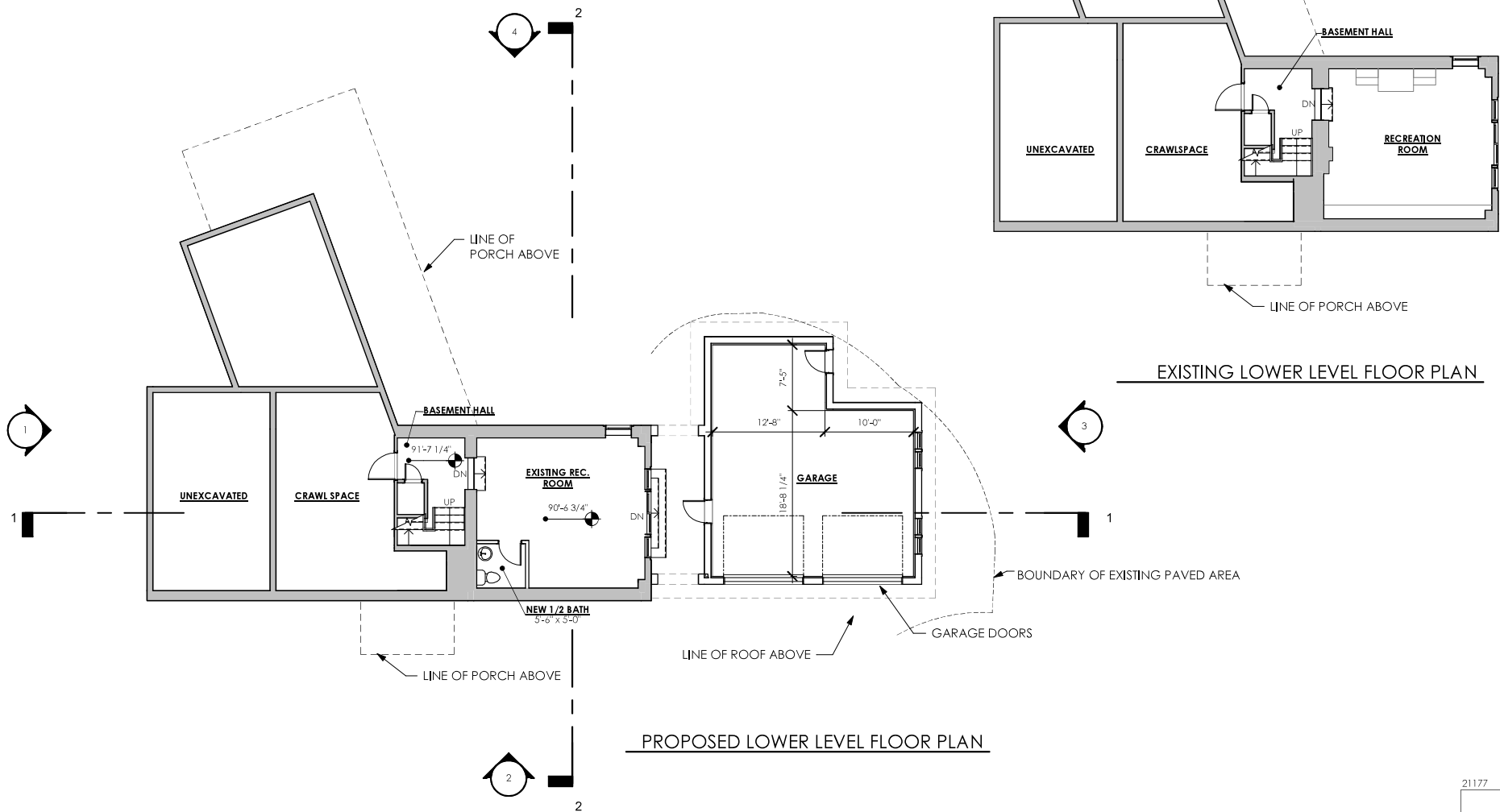
JUNE 14, 2022

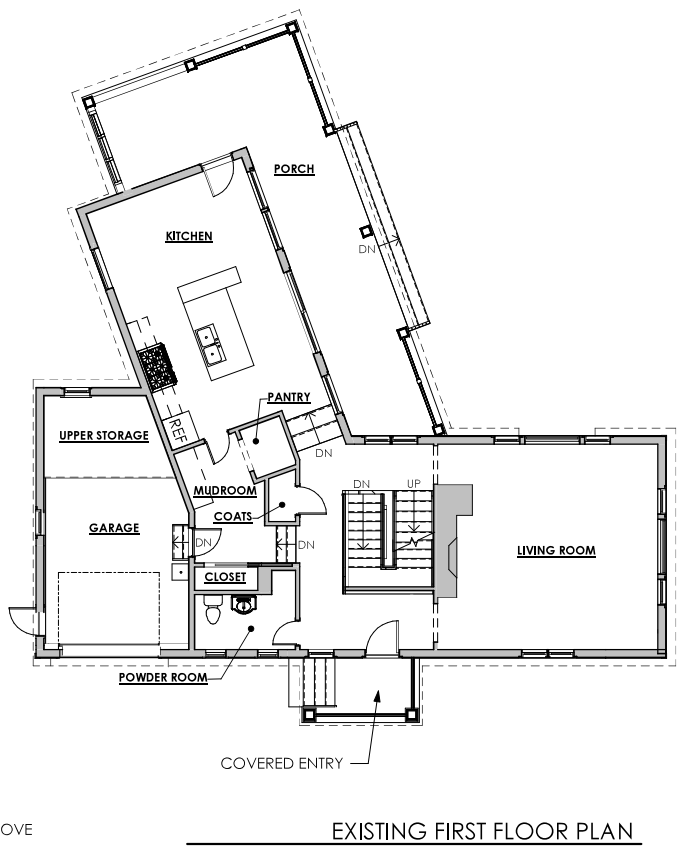
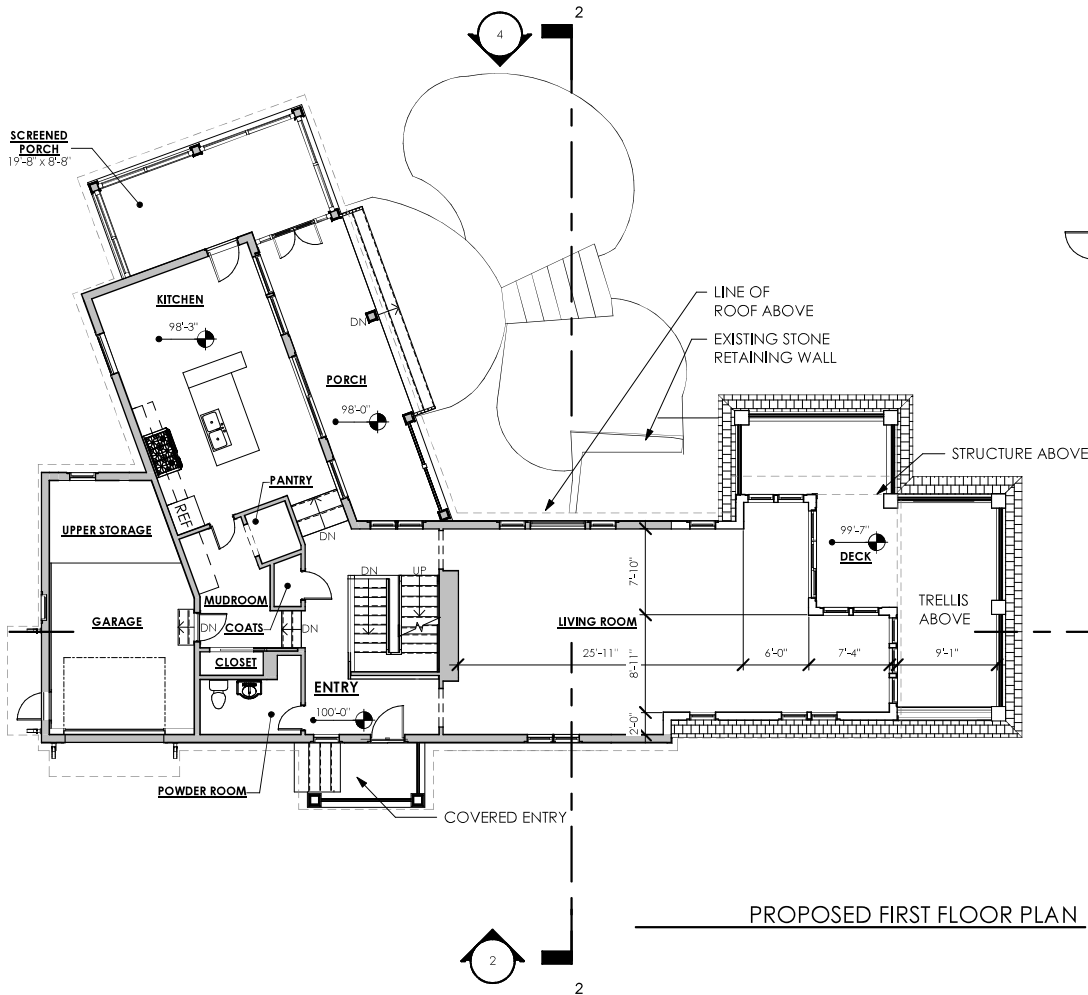


21177

**DMA**  
 DESTEFANO  
 MAUGEL  
 ARCHITECTS

© 2022

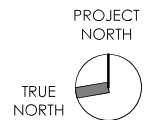




DESIGN DEVELOPMENT FOR  
FOY RESIDENCE  
67 RIDGES CT  
PORTSMOUTH, NH

# FIRST FLOOR PLANS

1/8" = 1'-0"



JUNE 14, 2022

21177

**DMA**  
DESTEFANO  
MAUGEL  
ARCHITECTS

© 2022

DESIGN DEVELOPMENT FOR  
**FOY RESIDENCE**  
 67 RIDGES CT  
 PORTSMOUTH, NH

# SECOND FLOOR PLANS

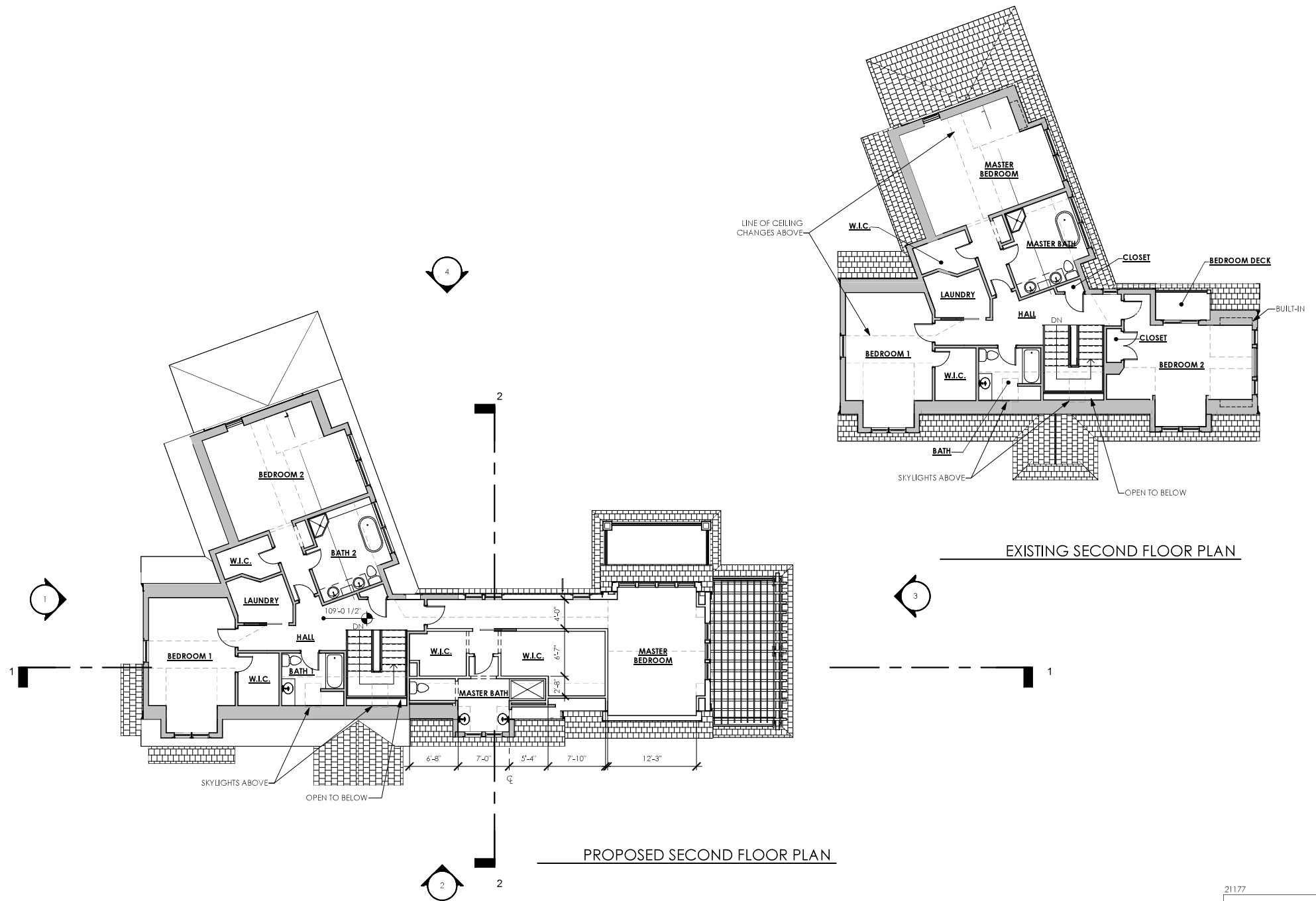
1/8" = 1'-0"

JUNE 14, 2022



**DMA**  
 DESTEFANO  
 MAUGEL  
 ARCHITECTS

© 2022



BY: EMAIL

July 19, 2022

Peter Stith, Planner  
Zoning Board of Adjustment  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

Email: [pmstith@cityofportsmouth.com](mailto:pmstith@cityofportsmouth.com)

**Re: Variance Application – 67 Ridges Court**

Members of the Board,

This Office represents Kathleen Thomson, owner of the property at 56 Ridges Court in Portsmouth. Kathleen's property is located directly across the street from the Foy's property at 67 Ridges Court, making her a direct abutter for purposes of the foregoing variance application.

Kathleen and her late husband, William Thomson Jr., who served on the ZBA for ten (10) years as well as the City Council, serving as Assistant Mayor under Eileen Foley, inherited their property at 56 Ridges Court in 1976 from Mr. Thomson's late mother (buying out Mr. Thomson's two sisters who also inherited the property). The property has been in the Thomson family since 1930. Since 1976, the single-family home on the property has served as Kathleen's residence. It is the place where she raised her daughters Heidi and Kerry Thomson, who now come back to spend time with their own children.

In addition to having immense sentimental value to her, Kathleen's property is a rarity in Portsmouth, as it enjoys unimpeded water views of Portsmouth Harbor, as shown in several photographs enclosed herewith. These water views add substantial value to her property and are protected by virtue of restrictions, such as the wetland buffer setback, that apply to the Foy's property.

While it may be true that a property owner never truly has a "right to a view" unless one is protected through an easement or other similar legal instrument, it is entirely within the Board's purview to consider the loss of a view in considering the five (5) variance criteria, particularly whether there will be a ***diminution in surrounding property values***. Detriment to abutters' water views is a factor which zoning boards and New Hampshire courts may consider when determining whether a proposed variance will cause a lessening of surrounding property values. *Devaney v. Windham*, 132 N.H. 302, 306 (1989).

In this instance, the loss in value associated with the diminished view of the water from Kathleen's home cannot be understated. As set forth in the letter of a well-reputed local real estate

agent, Ali Goodwin which is enclosed herewith, the value of Kathleen's property is estimated to diminish by **\$800,000.00 to \$1,000,000.00** as a result of the Foy's proposed addition, which is quite significant in size. While Kathleen may not have a legal right to a view, it is important to remember that the Foy's do not have a legal right to build in the location chosen.

The question ultimately underlying the Board's consideration of the Foy's application is really: ***is the construction of the addition necessary for the Foy's to make reasonable use of the Property?*** The answer is unequivocally, "***no***". The single-family home on the Foy's property is not dissimilar in size from many other homes in the surrounding area and is similarly burdened by wetland and other setbacks. A portion of the Thomson property is also burdened by wetland setbacks.

The Foy's purchased their property for \$2,650,000.00 in 2021. As you will see in the planning staff memo accompanying the application, variance relief was granted on October 15, 2002 allowing for then-owner, Charles McLeod, to demolish and reconstruct a single-family home on the property. If there was a legitimate hardship associated with the property necessitating that a portion of the home be built within the right-front yard setback, such a design would have been presented and considered by the Board in 2002. To the contrary, it was determined that the home could be designed and built in the manner and location in which it is now, creating the least impact upon abutting property owners, while giving the owner of 67 Ridges Court reasonable use of their property. The Foy's seek to construct a significantly sized addition that "builds off of" and incrementally adds to the relief that was granted in 2002. Additionally, the property currently offers significant parking and storage space, as there already exists a garage and stone driveway on the west face of the property, and a larger paved driveway on the south side. Accordingly, there is ***no unnecessary hardship***. In the present case, there is a fair and substantial relationship between the general purpose of the ordinance provision, which is to protect against unreasonable enlargement of a non-conforming structure, and its application to the Foy's property.

Finally, ***substantial justice would not be done*** if the Foy's application were granted. In balancing the equities involved in determining whether the relief should be granted, the Board must consider the impact upon the public (i.e. abutters) versus the loss to the landowner. Here, the Foy's are simply losing the right to build something above and beyond what the Board allowed in 2002 when it granted the relief necessary to construct the current home. If these can even be considered a "loss", it is not one that outweighs the impact that it would have on abutting property owners, such as Kathleen Thomson.

I thank you for your time and consideration of the above, and request that you deny the Foy's variance application.

Sincerely,

*Darcy C. Peyser*

Darcy Peyser, Esq.  
Derek R. Durbin, Esq.



July 13, 2022

City of Portsmouth Zoning Board of Adjustment  
1 Junkins Ave.  
Portsmouth, NH 03801

Dear Zoning Board of Adjustment Members,

I am writing on behalf of Kathleen Thomson, owner of 56 Ridges Court, Portsmouth, NH. 56 Ridges Court is located directly across the street from 67 Ridges Court.

Mrs. Thomson and four generations of the Thomson family have enjoyed nearly 100 years of scenic water views of Little Harbor from their home at 56 Ridges Court. In recent years, the property and home across the street at 67 Ridges Court has evolved significantly, with each new owner expanding the overall square footage and footprint of the home as well as different garage configurations. The addition proposed by the Foy's in the current variance request is the most ambitious renovation proposed to date. If this proposed addition is erected it will, for the first time, directly block the water views from Mrs. Thomson's property, as well as views from several neighbors. The proposed expansion will diminish sight lines / water views between Mrs. Thomson's front porch, living room, dining room, and bedrooms and Little Harbor. The proposed expansion also reduces the overall ambience and openness to the water, which been a unique neighborhood feature for this cluster of homes that dead-end into Little Harbor.

Water views are highly coveted in the Seacoast area. Therefore, the substantial change in water views also has a significant impact in the market value of these neighboring properties and has the most direct impact on the market value of Mrs. Thomson's home. The average price difference between a home with a water view and a similar home in the same neighborhood with no water view is between \$800,000 and \$1 million dollars. Based on comparable sales in the South End from the past 18 months, Mrs. Thomson's fair market value for her home on 6 parcels is \$2.3 million. Should the Foy's variance be granted, Mrs. Thomson's market value would decrease to \$1.4 million. That is a significant amount of lost value.

In sum, the Foy's proposed expansion at 67 Ridges Court will be highly detrimental to the neighborhood, result in loss of property value for 56 Ridges Court, and diminish the enjoyment that Mrs. Thomson and her family have treasured from Little Harbor views for nearly a century.

Sincerely,

Ali Goodwin, Realtor® • Luxury Division  
Haven Homes + Lifestyle at Keller Williams Coastal and Lakes & Mountains Realty  
Cell: 603-957-8466 • Email: [ali@aligoodwin.com](mailto:ali@aligoodwin.com)

**From:** [Mark O'Leary](#)  
**To:** [Planning Info](#)  
**Subject:** Abutter comment 232 Wibird St  
**Date:** Monday, October 17, 2022 11:11:42 AM

---

I received an abutter notice for this variance request - I own 225 Wibird St, directly across from 232 Wibird. I urge the Board to approve this variance request as it improves upon current conditions and causes no other problems or issues.

Thank you for your consideration,  
Mark O'Leary