

From: [Cynthia Harvell](#)
To: [Planning Info](#)
Subject: Zoning Board meeting on March 21 at 7 pm. In opposition of 635 Sagamore Ave development.
Date: Monday, March 20, 2023 8:54:44 PM

I oppose the current proposal for 635 Sagamore Ave. I request that the city adhere to the ordinance as written- one house per acre. I am particularly concerned about the increase entrance and exit to this property onto the narrow part of Sagamore Ave. I bike on that part of Sagamore Ave. It is dangerous as it is. Increased traffic would be more dangerous.

Cynthia Harvell
Owner unit 83
579 Sagamore Ave.
Portsmouth NH.

Sent from my iPhone

From: [Maxim Bartko](#)
To: [Planning Info](#)
Subject: Luster King Project ,Sagamore Ave, Portsmouth NH
Date: Monday, March 20, 2023 7:07:35 PM

My wife and I oppose the Luster King Project at 645 Sagamore Ave. Please adhere to the ordinance as written, one house per acre. The proposed exit and entrance to the project on Sagamore Ave is very risky, as it is below the crest of the hill on a major thoroughfare.

Max and Penny Bartko
579 Sagamore Ave, Unit 98
Portsmouth, NH 03801

From: [Birgit Christiansen](#)
To: [Planning Info](#)
Subject: 635 Sagamore Avenue
Date: Monday, March 20, 2023 9:36:18 PM

We oppose the current proposal at 635 Sagamore Avenue and request the city adhere to the ordinance as written. One house per acre.

Patrick Malloy & Birgit Christiansen
579 Sagamore Avenue Unit 62
603-436-1066

From: [Suzie](#)
To: [Planning Info](#)
Subject: 635 Sagamore Avenue
Date: Monday, March 20, 2023 11:55:37 PM

I am opposed to granting a variance for 635 Sagamore Avenue. You will hear all the reasons this variance is objectionable. I'm very concerned about the dangerous access at the top of a hill heading north where the proposed variance is requested.

Suzanne Hamblett (Tidewatch 99)

Sent from my iPhone

From: [Susan von Hemert](#)
To: [Planning Info](#)
Subject: ZBA meeting Sbutter response
Date: Monday, March 20, 2023 7:16:58 PM

> I oppose the current proposal at 635 Sagamore Avenue and request the city adhere to the ordinance as written which is one house per acre. This development would cause severe disruption to the granite ledge and current tree coverage. This would have a negative effect on Sagamore Creek eliminating ground water absorption and replacing it with impervious surfaces. Please register our objection.

Susan and Phil von Hemert
579 Sagamore Avenue #42
Portsmouth
>
Sent from my iPhone

From: [Ed Hitchcock](#)
To: [Planning Info](#)
Subject: proposal at 635 Sagamore --opposition request.
Date: Monday, March 20, 2023 8:19:12 PM

opposition to the proposal at 635 Sagamore Ave, from residents at 579 Sagamore Ave, Unit 58 to protect our entrance and exit at [Tidewatch.is](#) requested by us. Thank you,
Carla McCabe and Edward Hitchcock

From: [John Howard](#)
To: [Planning Info](#)
Subject: 635 Sagamore Avenue
Date: Tuesday, March 21, 2023 7:39:16 AM

Good Morning,

I oppose the current proposal at 635 Sagamore Avenue and request the city adhere to the ordinance as written. That is one house per acre.

The addition of several new units would detract from the secluded nature of the Tidewatch Condominiums, a major feature that drew us to this community.

Respectfully,

John Howard,

Tidewatch Unit 66

Sent from my iPad

From: [Michael Lannon](#)
To: [Planning Info](#)
Subject: Luster King project
Date: Monday, March 20, 2023 6:38:50 PM

Dear Committee Members,

As a resident of Tidewatch at 579 Sagamore Avenue, my wife Georgina and I would like to register opposition to the Variance application to construct more than 1 home on this property.

Michael Lannon unit 30.

Sent from my iPhone

From: [kathryn lien](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave
Date: Tuesday, March 21, 2023 8:30:17 AM

This is to let you know that I am in opposition to the proposal for multiple homes on this property. I feel the zoning should remain as is... one house per acre.

Respectfully,
Kathryn Lien
579 Sagamore Ave, unit 66
Sent from my iPhone

From: [Mimi](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave/ proposed development of
Date: Monday, March 20, 2023 7:55:03 PM

Dear Sir or Madam:

I oppose the current proposal at 635 Sagamore Ave and request the city adhere to the ordinance as written.

Thank you.

Sincerely,

Mimi & John Morin

579 Sagamore Ave
Unit 96-Tidewatch Condominiums
Portsmouth, NH

Sent from my Verizon iPhone

From: [whistle905](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave
Date: Tuesday, March 21, 2023 4:19:56 AM

Dear Commitee,

I oppose the current proposal at 635 Sagamore Ave and request the city adhere to the ordinance as written :one house per acre.

If our town continues to make exceptions every time a builder or real estate investor buys a small plot of land and cries about his inability to make a profit, no matter the consequences to the neighborhood, what will Portsmouth become? Criteria for exceptions should be “how does this enhance Portsmouth” not empathy for every profiteering builder.

This particular request will make the street more dangerous for pedestrians, bicycles and cars as it will add many more vehicles (2+ homeowner cars and dozens more delivery trucks) to a very narrow blind sited section of the road.

Please do not grant this exception

Susan Philbrick
579 Sagamore Ave
Portsmouth, NH

From: [Theresa White](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave proposal
Date: Monday, March 20, 2023 7:47:22 PM

Hello,

I oppose the current proposal at 635 Sagamore Ave and request the city adhere to the ordinance as written. One house per acre as it currently stands in that stretch of Sagamore Ave.

Theresa White
579 Sagamore Ave #64
Portsmouth NH 03801

Sent from my iPhone

From: [Theresa White](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave proposal
Date: Monday, March 20, 2023 7:21:29 PM

Hello,

I oppose the current proposal at 635 Sagamore Ave and request the city adhere to the ordinance as written. One house per acre.

My concern is

1. Blasting the natural ledge (rock) to put in multiple home foundations could effect the already drainage problem on the townhomes units 1-6.
2. Removal of trees will effect the natural state for wildlife

Sent from my iPhone

From: [Joanne Whiting](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave
Date: Monday, March 20, 2023 8:22:00 PM

We oppose the current proposal at 635 Sagamore Ave and request the city adhere to the ordinance as written—one house per acre. The developer knew the ordinance when he purchased the property and should not be able to obtain a variance opposed by most of the neighbors.

Jo Whiting
Russ Hilliard
Tidewatch #9

From: [sandra wochholz](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave., Portsmouth, NH
Date: Monday, March 20, 2023 6:36:40 PM

I write to voice my opposition with the request for variance of the written ordinance that has been requested for the development of the above property.

This parcel is far too small for the proposed building of four homes. Not only does this effect the neighborhoods around the proposed site, the addition will reinforce the sprawl we are seeing in the City of Portsmouth. Our City has become a traffic jammed, sprawling building upon building in every available space. These kinds of additions are effecting the charm of our Colonial City.

I am in favor of progress, much of what Portsmouth has gone through since the 1960s, but the ordinances in place have been so to protect the integrity of Portsmouth and we should continue to adhere to these sound perimeters.

Sincerely,

Sandra E. Wochholz
Tide Watch, 579 Sagamore Avenue Unit 69
Portsmouth, NH, 03801

From: [Gretchen Gray](#)
To: [Planning Info](#)
Subject: 635 Sagamore Development - Luster King development
Date: Monday, March 20, 2023 6:21:39 PM

To the members of the planning board,

I oppose the current proposal at 635 Sagamore Ave and request the city adhere to the ordinance as written. One house per acre. There is no reason that the city should vary from it's ordinances in this case.

Thank you for your consideration of this matter.

Gretchen and Ken Gray
579 Sagamore Ave, #95
Portsmouth, NH

Sent from my iPad

From: [Erika Steucek](#)
To: [Planning Info](#)
Subject: Luster King development
Date: Monday, March 20, 2023 6:24:05 PM

My husband, Tom Steucek, and I are longtime owners at Tidewatch. We are opposed to the current proposal at 635 Sagamore Ave and kindly request that the city adhere to the ordinance as written. We have concerns about both the traffic on Sagamore Ave as we are avid cyclists, as well as the visual infringement into Tidewatch.

Thank you for your consideration of this matter.

Regards,
Erika Steucek
Tidewatch unit 56

Get [Outlook for iOS](#)

From: [JOHN ADAMS](#)
To: [Planning Info](#)
Subject: Proposed Luster King Development
Date: Tuesday, January 3, 2023 3:15:11 PM

I am writing as an abutter to the proposed development at 635 Sagamore Ave. I respectfully request that the Planning Board reject the developer's request for a Variance to the Ordinance in order to construct four dwellings at this location. Ordinances exist for valid reasons. Construction of four dwellings on this 1.94 acre parcel is in clear violation of the relevant Ordinance governing such construction. My understanding is the applicant for the variance has not demonstrated an unnecessary hardship if the variance is not granted. Further a large amount of ledge is visibly apparent on this property which will require significant blasting if construction proceeds, with likely negative consequences for nearby dwellings, including mine.. In my humble opinion construction of these buildings on an undersized parcel of land will have negative implications for my unit, Tidewatch 57, and others in the Tidewatch Association located at 579 Sagamore Avenue.

Thank you for your attention to this issue.

Sincerely,
John H. Adams, Tidewatch #57.

From: [Amanda Ahn](#)
To: [Planning Info](#)
Subject: RE: Luster King (635 Sagamore Development LLC) Project
Date: Tuesday, January 17, 2023 3:30:47 PM

Greetings,

As a resident of the Tidewatch condominiums at 579 Sagamore Avenue, I am writing to oppose the 635 Sagamore Development LLC project.

This project does not meet the designated approval criteria, and approval for rezoning by the Zoning Board of Adjustment should be denied.

From Section 10.233 of the Zoning Ordinance:

1. Granting the variance would not be contrary to the public interest.
 - This project constitutes the destruction of a natural space and wildlife habitat to construct a cluster of non-affordable housing. The parcel is located at a dangerous bend with a blind incline when traveling North on Sagamore Avenue.
2. Granting the variance would observe the spirit of the Ordinance.
 - The existing lot is zoned for (1) dwelling per acre. The proposed project of (4) dwellings goes against appropriate use of Portsmouth land.
3. Granting the variance would do substantial justice.
 - There is no justice for the abutters of this property. It is an injustice to the consumption of open natural space and wildlife resources.
4. Granting the variance would not diminish the values of surrounding properties.
 - A cluster of (4) single family dwellings condensed into an otherwise natural and open space beyond the existing structures would significantly decrease the inherent value of the wooded landscape the abutters have today.
5. (a) The property has special conditions that distinguish it from other properties in the area. AND (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.
 - There is no unnecessary hardship, perceived or otherwise. The current owner purchased the property with full knowledge of the zoning regulations. The property has no special condition related to the surrounding properties. This project is in no way a reasonable use of the parcel.

Thank you very much for your consideration.

Sincerely,
Amanda Ahn
579 Sagamore Avenue

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AA

Izak Gilbo

From: patricia alandydy <pjalandydy@gmail.com>
Sent: Tuesday, December 13, 2022 7:49 AM
To: Planning Info
Subject: Proposed Development 635 Sagamore Avenue

Beverly M. Zendt
Planning Director
City of Portsmouth
1 Junkins Avenue
Portsmouth NH 03801

Dear Ms. Zendt

My letter to you is to voice my very strong objection to the granting of any & all variances requested for the proposed development of the former Luster King property, at 635 Sagamore Avenue.

I have the following objections to the developer's proposed variances requests:

1. This property is zoned for a single home on a very desirable location which at most, could have two homes if a variance is granted. It is not a logical conclusion to think that without this multiple site variance grant, a hardship would be put upon the developer.
2. The Tidewatch property & the Sagamore apartments have different zones hence different regulations, which are not comparable to the nearby property of 635 Sagamore Avenue.
3. In order to place four houses grouped together, the setbacks required would be different from all the surrounding properties & all outside the present zoning regulations.
4. There is no documentation by the developer to show that the proposed development would NOT affect the value of surrounding properties.
5. There is no documentation to show that drainage issues would not occur with these four homes overlooking the Tidewatch units below that bluff.
6. Is there blasting to take place due to the ledge rock & how will this affect those of us in nearby units?
7. What are the "special conditions" that would allow this requested "special exemption" for the variances to be granted?
8. I strongly disagree that a single home built on this lot would be

"financially not feasible", as we are all well aware of the property values of beautiful homes on generous lots of land.

Please do not allow these variance to be granted along with the many trees on that property which will also be destroyed.
REJECT these variances!!!

Most respectfully

Patricia J. Alandydy
Tidewatch resident



Izak Gilbo

From: Melissa Alden <mscarterportsmouth@gmail.com>
Sent: Tuesday, December 13, 2022 3:32 PM
To: Planning Info
Subject: Luster King demo & building

I would like to offer my opinion of the project that would demolish Lustre King and build several houses on 915 Sagamore Ave. I see it as an unsafe use of the land. There is a rise in the road, and occupants and visitors to that site would be dangerous on entering and leaving. It is a heavily used road all year long, but especially in the summer as that is the beach road.

Once a problem is built, it would be much more trouble to remedy a problem.

Thank you for your time.
Melissa Alden
Tidewatch Condos
579 Sagamore Ave.

From: [Rodney Burdette](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave property
Date: Friday, January 13, 2023 8:05:49 AM

Gentlemen, I am an owner resident of Tidewatch condominium association and strongly oppose the proposed variance to build numerous private homes on the property. As the current regulations only allow for one residence I see no reason to issue the new owner a variance to the criteria for such an obvious deviation. Rodney Burdette unit #46

Sent from my iPad

From: [Jeff Certo](#)
To: [Planning Info](#)
Subject: Luster King (635 Sagamore Development LLC)
Date: Friday, January 13, 2023 10:06:14 AM

Portsmouth Planning Board,

As a taxpayers & residents of the Tidewatch community, we are stating our opposition to plans to build a multi-unit residential development on the Luster King property adjacent to Tidewatch Condo's on Sagamore Avenue. I believe the planning board should not grant a variance for the development on this property for the reasons stated in the "numerous" letters from other concerned citizens in the area. There are many environmental, traffic safety and quality of life concerns with this project. Think of where you would put a driveway on this dangerous part of Sagamore Ave. I suggest you take a look at busy traffic hours.

The existing zoning guidelines are in place for a reason.

Thanks,

Tracy & Jeff Certo
579 Sagamore Ave

From: [Richard E](#)
To: [Planning Info](#)
Subject: Lustre King development
Date: Tuesday, January 17, 2023 3:53:14 PM

To the Board,

My wife and I have been residents of Tidewatch for three years. One of the attractive features that attracted us to this condominium complex is the beautiful landscaping, especially the entranceway. We are absolutely against the proposed four unit development as it will change the area tremendously. The current zoning allows one structure and that is what should be allowed. The driveway entrance for this area is extremely unsafe as it is at the crest of a hill with a very narrow street.

Please stick with the current zoning guidelines and reject this proposal.

Thank you,

Richard and Barbara Egan

Tidewatch Unit #32

Sent from my iPhone

From: [Brad Gray](#)
To: [Planning Info](#)
Subject: Luster King site, Proposed City variance
Date: Tuesday, January 17, 2023 5:43:57 PM

To Portsmouth City Planning Board,

We live at 579 Sagamore Ave unit 100, in Tidewatch condominiums. After reviewing the owners proposed plans for the land at 535 Sagamore Ave, we are in opposition to the request for a variance.

As many of our neighbors have already commented, the traffic at this area of Sagamore Road, where cars exit and enter, from the Sagamore Apartment buildings and Tidewatch, is presently very busy and dangerous for bikers, pedestrians and automobiles. Presently, the City has zoned area to have one building per one acre of land. We understand the site acreage is less than two acres. Allowing four buildings, where fewer than two buildings are now permitted per City Code, will make the traffic pattern at this intersection even more treacherous, especially in the summer months.

We also feel, necessary sitework requiring tree removal and ledge blasting in this area will be contrary to best interests of abutters property values. It will allow added noise pollution during and after construction, possibly environmental issues due to water drainage from existing buildings to our properties, which eventually lead to the Sagamore Creek.

Sincerely, Janice and Brad Gray

From: [Kimberli Kienia](#)
To: [Kimberli Kienia](#)
Subject: FW: Sagamore Ave/ Luster King
Date: Monday, December 19, 2022 6:31:16 PM

-----Original Message-----

From: Suzan Harding [<mailto:suzanharding@gmail.com>]
Sent: Monday, December 19, 2022 5:50 PM
To: Peter M. Stith <pmstith@cityofportsmouth.com>
Subject: Sagamore Ave/ Luster King

City Planner,

I am writing in support of my neighbors in the objection to the currant proposals to the property located at Luster King.

Sincerely,
Suzan Harding
594 Sagamore Ave

Sent from my iPhone

From: [Ann Hartman](#)
To: [Planning Info](#)
Cc: tmcnamara58@gmail.com; [Hilary Norton](#); [Stephanie Roach](#)
Subject: 635 Sagamore Avenue
Date: Friday, December 16, 2022 5:49:44 PM

I am the owner of 579 Sagamore Avenue (Tidewatch) Units 2 and 3, and am writing to register my strenuous objection to the proposed development of 635 Sagamore Avenue. This highly speculative proposed development flies in the face of all five tests for approval of a zoning variance. Specifically:

THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST.

The essential character of Tidewatch is one of heavily wooded open space and uncrowded buildings scattered throughout the site. A too small lot with 4 buildings crammed in is clearly in conflict with the essential character of the locality. Further, erecting 4 buildings plus their accompanying driveways, patios, the road connecting them and a turnaround will by necessity deforest the lot.

THE SPIRIT OF THE ORDINANCE IS ABSERVED

It is difficult to imagine how the spirit of 1 acre zoning would be observed with 4 houses built where one is allowed.

SUBSTANTIAL JUSTICE IS DONE

No real gain to the general public will flow from this project, save some marginal "beautification" to Sagamore Avenue which itself would come at the expense of the immediate neighbors who will lose the tree cover, and be forced to see the sides and rear of the project.

Any loss to the developer would arise from the highly speculative nature of their ill-conceived investment and attempting to force an inappropriate development.

THE VALUES OF SURROUNDING PROPERTIES ARE NOT DIMINISHED

A crowded development sitting right at the entrance to Tidewatch will clearly detract from values. The proposed development will literally jut into and be surrounded by Tidewatch. The level of tree cutting required at the site will lower the values in particular at the two units I own. Tidewatch houses have 1 window facing the street. My view will go from woods and stone wall, to houses and roadway. The same holds from a number of other similarly situated Unit owners. Further, the elevation of the proposed development (much higher than that of Tidewatch) will cause the proposed 2 story buildings to read like 3 story buildings. Longstanding well-documented drainage issues will be exacerbated by the proposed project.

LITERAL ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE WOULD RESULT IN AN UNNECESSARY HARDSHIP.

Not at all. The zoning allows for a house to be built on the location. The developer is free to avail himself of that opportunity.

Thank you for your attention.

Sent from [Mail](#) for Windows

Izak Gilbo

From: Cynthia Harvell <cynthiaharvell@gmail.com>
Sent: Saturday, December 10, 2022 12:36 PM
To: Planning Info
Cc: tmcnamara58@gmail.com
Subject: Luster King Development off Sagamore Ave,

My name is Cynthia Harvell. I live at 579 Sagamore Ave Unit 83, Portsmouth NH 03801. I am opposed to the Luster King Development. It fails to satisfy the ZBA Decision Criteria for the grant of a variance for the following reasons.

1. The excessive density of 4 lots on the site where fewer than 2 is allowed by Portsmouth Zoning Ordinance violates Criteria 1, because it is contrary to the public interest. The density allowed by the Zoning Ordinance does not create an unnecessary hardship and Criteria 5 is therefore not satisfied. The topography of the lot does not prevent the owner from developing a single house on the lot which is a reasonable use of the property.
2. Development of the site as proposed will increase the traffic entering and leaving Sagamore Ave at a place which even now is very dangerous. There are poor site lines to oncoming traffic over the hill. The road is narrow, has no shoulder, and is a popular biking path. The proposed use therefore does not satisfy Criteria 1, 3, and 5.

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Cynthia Harvell
cynthiaharvell@gmail.com
cell 603-512-0248

Izak Gilbo

From: kaninpress@aol.com
Sent: Sunday, December 11, 2022 5:30 PM
To: Planning Info
Cc: tmcnamara58@gmail.com
Subject: 635 Sagamore Ave - Luster King properties

December 11, 2022

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

To Whom It May Concern,

We are writing in response to the request for a variance at 635 Sagamore Avenue (Luster King property). We are opposed to the proposal to build multiple dwellings on that property for the following reasons:

- 1) The homes located adjacent to the proposed development on Sagamore Avenue are single family dwellings. Multiple units at this site will alter the character of this neighborhood. If approved, this proposal has the potential to have a major impact in the future - what is to prevent other home owners along this area from selling off their properties to developers who also want to build multiple units?
- 2) The proposed development would necessitate the destruction of the natural beauty of the woodlands and trees along the entrance of our community that has existed for over the 35 years that we have lived here. This area is also home to hawks, owls and other species of birds. It is also a natural path that the deer walk through to reach familiar habitat throughout our community. These trees and woodlands offer a buffer from the noise on Sagamore Avenue and also serve to "hide" the Luster King buildings which were positioned closer to Sagamore Avenue. The proposed buildings will now be located much closer to our development. In addition, the proposed buildings will sit significantly higher than ours. So instead of the trees and woodlands these buildings will be our new view. So how can this proposal not have an affect on our property values?
- 3) This proposed development on Sagamore Avenue sits just over the crest of a very steep hill that originates at the Sagamore Bridge. It is impossible for drivers to see over the hill where the entrance to these buildings will be. This project will inevitably increase traffic coming in and out of this new development, including commercial, construction and delivery vehicles. What is already a very dangerous spot will be even more potentially threatening to the welfare of pedestrians, bicyclists and drivers. The concern should also apply to any vehicle exiting this new development especially since some vehicles traveling along Sagamore Avenue already do so at a much higher rate of speed than the posted limit.

Again, we want to express our opposition to the proposed variance for the Luster King property and appreciate your consideration of our concerns.

Erik and Karen Kanin
Tidewatch Unit #44

From: [James Lalos](#)
To: [Planning Info](#)
Subject: Luster King Development Project at 635 Sagamore Avenue
Date: Monday, January 16, 2023 7:59:05 AM

January 16, 2023

City of Portsmouth Planning Board

RE: Luster King Development at 635 Sagamore Avenue

To Whom it may concern.

I am a resident of Tidewatch Condominium Association residing at 579 Sagamore Avenue (Unit 104), an abutter to the proposed development for 635 Sagamore Avenue, Portsmouth, NH (aka "Luster King"). This letter is to express my support for the four condominium units proposed for this site as outlined by the developer and as consented to by the Tidewatch Board.

The planned two-level condominium units at the Luster King cite are generally comparable in appearance and size to units at Tidewatch. It is my understanding that the living space of each unit to be constructed will be approximately 2,349 sqr. ft each with a two-bay garage. By comparison the first seven units at the entrance of Tidewatch, those deemed closest to the proposed development, average about 2050 sqr. feet, and many have two-bay garages with ample driveway parking for two vehicles per household. My own waterfront Tidewatch unit measures 2,483 sqr. ft.

I believe that the planned development will enhance the values of abutting properties. According to Zillow, the average square foot market value of the first seven Tidewatch units (constructed over 30 years ago) is approximately \$416. By comparison, the average asking price for each of five new construction condominium units at the former Golden Egg site (960 Sagamore Avenue, less than half a mile from Luster King) is \$1,300,000 for a unit measuring 1,925 sqr. ft., or \$675 per sqr. ft. Assuming a conservative midpoint value of \$544 per sqr. ft the unit price of the new Luster King condos would be about \$1,280,000. The first seven units at Tidewatch could see their market value increase from an average of about \$850,000 per unit (based on their respective size) to over \$1,150,000, (assuming a complete update/renovation is performed). The increased valuation would likely enhance the value of homes throughout Tidewatch.

It appears that the proposed development of the Luster King property has an aggregate market value of \$5.1 million dollars (4 units x \$1,250,000). A single-family home on the site

(for which it is presently zoned) that would have the same value would likely have to be over 9,000 square feet. Similarly, two units on the lot would each have to be priced at \$2.5 million and provide over 4,500 square ft. of living space. Without unobstructed water views, this location would not likely justify such size and pricing.

The street view from Sagamore Avenue will be significantly enhanced compared to the commercial structure that is presently there. It appears that only one residential unit will be exposed to the street with the remainder tucked behind the first street-side unit. This is a significant aesthetic improvement over the current situation.

Concern has been expressed about the narrowing bike path that presently passes by Luster King and the threat that increased vehicular traffic exiting/entering the development's driveway might pose to passing bikers and pedestrians. While I am not a traffic expert, I assume that the development will accommodate on average two vehicles per household for a total of eight. (I assume the same holds true for Tidewatch although not everyone at Tidewatch has a two-bay garage.). If each vehicle averages 1.5 round trips per day, that would be about 24 exiting/entering movements daily. Compare this to Tidewatch (121 units x 2 cars x 1.5 roundtrips), which under similar assumptions would average 725 daily movements just 100 feet away. The Luster King site has previously served as a commercial automobile repair shop for decades. I suspect that the traffic levels generated by four residential units will be no greater than what has previously been experienced by Luster King's automotive business. I am not aware of one single bike or pedestrian accident caused by automobiles in this vicinity since I moved here 15 years ago. I do not believe that the risk to bikers/pedestrians will be greater than in the current situation.

Concern has been expressed about the prospect of finding ledge underground and its impact on Tidewatch during and after construction of the new units. To the best of my knowledge no evidence has been presented regarding the existence of ledge that would present a problem for abutters. If they have not already done so, I would urge the city and the developer to conduct a geological survey to assess this risk.

If the city does not rezone this property as currently proposed, the unsightly Luster King structure could remain in place for years to come waiting for the right economic opportunity. Moreover, if this plan is not accepted now, the next proposal might look more like the "Golden Egg" development, which I believe is an aesthetic eye sore.

In my view, the developer's proposal does not appear to be contrary to the public interest, there is no readily apparent loss to the individual that is not outweighed by a gain to the public, the values of the surrounding properties are not diminished (in fact, the reverse is likely), and there does not appear to be an unnecessary hardship to neighbors, pedestrians (and bikers) relative to the current environment. The proposed use of the property is a

reasonable one. In short, I do not object to the proposal provided that the conditions already agreed to by the developer and the Tidewatch Board are met.

Respectfully,

James T. Lalos
Tidewatch Unit Owner #104

Izak Gilbo

From: hasdruball@aol.com
Sent: Saturday, December 10, 2022 1:30 PM
To: Planning Info
Subject: Proposed Development 635 Sagamore Avenue

Beverly M. Zendt
Planning Director
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Dear Ms. Zendt,

I have been a resident of Tidewatch for five years and am writing you to voice my strong opposition to the granting of a variance for the proposed development of the property at 635 Sagamore Avenue. I have read the salient portions of the developer's proposal to build 5 three bedroom 2 car garage houses on a property that is zoned for one house. I also understand that the request for a variance has now been changed to 4 houses.

This following are my reasons for urging the Board to reject the proposal and not grant the requested variance:

1. One of the reasons for a request for a variance is brought forth because of a "hardship" issue. This would seem that the developer and owner are deemed to have a hardship issue if they are not granted the variance. The property is zoned for 1 house, as are the other properties in the zone. The property is just under the size where it could be zoned for two houses, but there are a number of properties in the zone that are also of similar size that only have one house.
2. In the initial proposal the developer compared their property to the nearby properties of Tidewatch and the Sagamore apartment which are in different zone with different regulations. It seems to me that the fact that the property at 635 Sagamore abuts Tidewatch and the Sagamore apartments should have no bearing on the granting of a variance to the present building restrictions.
3. What the developers are requesting to do is build an area of "cluster houses" on a small parcel of land in a building zone which has nothing like that in any area of the zone. In addition, the setbacks from the surrounding houses and the surrounding properties would all be outside the present zoning regulations. Such setbacks would be clearly different from the surrounding properties.
4. In their proposal the developers make the claim that their proposed development would not affect the value of the surrounding properties, yet they offer no documentation that this is true. We in Tidewatch feel that this proposed project could well affect the value of our property and I have spoken to

two realtors who agree that this may be the case. Where there is now a wooded area that looks down on our property there would be at least two or three

houses, with essentially no trees around them that would spoil the entryway into our complex and would change the flavor of the whole area.

5. Since the proposed houses would essentially sit on a "bluff" over the Tidewatch units, it is very likely that the drainage will change and that since a large number of Tidewatch units are in a low area beneath the proposed development it is quite likely that the runoff could clearly affect our property and our individual units.

6. Some of the proposed houses will clearly sit on ledge and therefore it is quite likely that blasting will have to be done as part of the construction. We

(particularly the owners who live near the proposed project) are justifiably concerned about damage to our units.

7. The developers of the proposed project are asking for a "special exemption", which, if I understand the ordinance correctly would require that the proposed

property have some special conditions that would foster the granting of the variance. I do not see any evidence that the developers have presented that show that the property has "special conditions".

8. Finally it is my understanding that the developer has stated that "the project is not financially feasible" if they cannot build at least four houses on the

property. Although I am not a builder nor a developer I find this very hard to believe. The property at 635 Sagamore is a beautiful pice of property

in an ideal area that is close to downtown (easily walkable) and where every other property in the same zone has one house per lot. If the developer were

to build one house I see no reason why such a project would not be financially feasible.

I strongly urge the zoning board to reject the proposed development at 635 Sagamore Avenue.

Respectfully submitted,

Kevin G. Looser, M.D.
Unit 38
Tidewatch

From: [Tim McNamara](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave Variance Request
Date: Thursday, December 8, 2022 11:17:47 AM

ZBA Board Members,

I am writing to you in advance of your December 20th meeting to express my significant objection to the proposed 4 house project. As you know the applicant pulled its original plan for 5 units based on a single letter of objection which has since been rescinded. The new project application is a reduction in units but importantly the footprint of the new units is larger than the units in the original proposal hence not creating a material change to the initial application.

The applicant's variance request does not meet the 4 or 5 items required to approve a variance.

- It is not in the public interest to jam a cluster development sitting high above abutters property which would destroy a natural setting that may have real environmental impacts.
- It offends the spirit of the Ordinance and the current zoning requirement
- The applicant has not demonstrated an unnecessary hardship and certainly does not justify a material deviation from Portsmouth's restrictions on intense use of land
- The applicant's document on property values in the latest package - in my opinion - does not support the idea that property values in Tidewater Condominiums will not be impacted. A simple site visit will help you see that.

Additionally, at the November meeting the board approved a fence for a nearby neighbor to help with the noise from increased traffic on a dangerous piece of Sagamore Ave. Mr Mannel made a comment (I paraphrase) Sagamore Ave is the new route 1 at certain times. Please take the time to review 10 minutes of a Portsmouth Traffic Committee meeting on Nov. 3rd starting at approximately the 12 minute mark. <https://www.cityofportsmouth.com/publicworks/transportation/parking-and-traffic-safety-committee>

Please deny this request for all the right reasons.

Thank you in advance for your consideration.

Tim McNamara
579 Sagamore Ave #19
Portsmouth NH 03801
617-413-4884

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Tim McNamara
617 413 4884

From: [Tim McNamara](#)
To: [Planning Info](#)
Subject: 635 Sagamore Ave Variance Application
Date: Wednesday, January 4, 2023 5:16:40 PM

To Whom it may concern,

Please forward this link to the ZBA members for review prior to the January 17th meeting.
<https://www.cityofportsmouth.com/publicworks/transportation/parking-and-traffic-safety-committee>

This link is to the November meeting of the Parking and Traffic Safety Committee. Starting at approximately the 12 minute mark of the video a discussion of Sagamore Ave traffic concerns and specifically the crest of the hill at 635 Sagamore is a point of interest (approximately 12minutes of discussion). It seems to me that putting a road for 4 3 bedroom houses would only enhance the opportunity for a disastrous accident or incident.

Please add this to the large list of reasons this variance request should be denied.

Please confirm that this link has been presented to the ZBA board members.

Thank you.

Tim

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Tim McNamara
617 413 4884

Izak Gilbo

From: David Meuse <jdmeuse@gmail.com>
Sent: Friday, December 9, 2022 10:40 AM
To: Planning Info
Subject: Luster King Proposal

As a resident of the Tidewatch community, I am registering my opposition to plans to build a multi-unit residential development on the Luster King property adjacent to Tidewatch on Sagamore Avenue.

My neighbors who reside in units downhill from the proposed development are already dealing with runoff during storms that periodically floods their property. Our condominium association is in the process of spending many thousands of dollars to address the situation. Impact of runoff from construction at Luster King adds a huge X-factor that could put them right back at the starting line. Moreover, there is an open question about the nature of potential contaminants that may be present in surface water from water running off the site. Given the nature of Luster King's business, changes in the way water runs off from the property could present a health hazard, bringing PFAS and other compounds used for auto detailing along with other chemicals onto neighboring property.

Moreover, as I understand it, the Luster King property is also built on ledge. As a result, I've been told that blasting will be needed in order to level the property and create foundations and basements for the proposed units. In addition to the disruption and safety issues this would cause, there is also the issue of potential damage to neighboring structures.

Bottom line: while I believe there is a time and place to accommodate zoning variances—especially in the time of a housing shortage—this is not a situation where doing so would be prudent or safe.

David Meuse
579 Sagamore Avenue, Unit 97
Portsmouth, NH 03801

Sent from my iPad

Izak Gilbo

From: Ken Murphy <gancher2020@gmail.com>
Sent: Sunday, December 11, 2022 8:27 AM
To: Planning Info
Cc: Allsion Spahr
Subject: 635 Sagamore Ave Project

Dear Zoning Board

We are writing in opposition to the variance request for the 635 Sagamore Ave project. We reside at Unit 40 579 Sagamore Ave and my unit is located such that I can see the proposed development from my unit.

The applicant recently purchased the property and was aware of the zoning for this parcel.

The zoning allows only 1 dwelling for the lot and the applicant was aware of this when the property was purchased. The request for 4 homes on this lot is unreasonable and does violate the spirit and intent of the ordinance. The intent of both Section 10.513 and 10.521 was to prevent extensive density on a small parcel. That is exactly what the applicant is asking the Board to approve. 4 homes where 1 is allowed will create the type of density that is not intended. There would be numerous homes close together and the pavement, structures, clearing of land that comes with that. The ordinance requires 43000 sq feet of lot area per dwelling and the reason for this is to allow space. The proposal would only have 21000 sq feet of lot area per dwelling which is a dramatic reduction. Currently there is an extensive wooded area between Luster King and the road near the Mailroom for Tidewatch. The majority of this area would have to be taken down to construct 4 homes. In addition this project will result in diminished value to our units since the privacy and screening will be eliminated and more traffic and density will be added. Reasonable use of the property can be made by either its continued use as Luster King or by construction of the 1 home permitted,

Allison Spahr

Kenneth Murphy

579 Sagamore Ave

Unit 40

Portsmouth NH 03801

From: [Hilary Norton](#)
To: [Planning Info](#)
Subject: Proposed Development At 635 Sagamore Ave
Date: Friday, January 13, 2023 3:52:09 PM

Dear ZBA Members,

I am writing to respectfully communicate my **absolute opposition** to the proposed cluster development at 635 Sagamore Ave. I have many concerns about this potential development. It is my understanding that variances are only granted under specific circumstances that this development does not meet.

1) Granting the variance **would be contrary to public interest** in maintaining the natural and peaceful setting that makes Portsmouth such a special city. It would also destroy beautiful natural vegetation and a habitat for wildlife. There is also the concern that the proposed development would create even more of a dangerous traffic situation for walkers, bikers and motorists.

2) Granting the variance **would clearly not observe the spirit of the Ordinance** which allows for one dwelling on a lot that is under 2 acres. It would not be the appropriate use of Portsmouth land and resources .

3) Granting the variance **would actually do substantial injustice to the abutters**. The open space and sound barrier provided by the land and vegetation would be destroyed, the direct abutters Tidewatch Units 1-7 that face this land will have their view of the natural landscape removed and their privacy disrupted. There are also the environmental and structural issues that will be created. The impact of drainage from a site that likely includes toxic chemical runoff would most definitely be detrimental to the natural habitat and potentially the health of Tidewatch residents. There are also the issues of further drainage and blasting of existing ledge causing major damage to homes directly below this land, Units 1-7, in particular.

4) Granting the variance very probably **would diminish** the values of surrounding properties. For Tidewatch residents and other abutters, these multiple large buildings looming over our community would significantly deter from the careful planning and design that makes Tidewatch such a desirable and unique place to live.

5) There is **not an unnecessary hardship** to the owner in being allowed to replace the existing structure with a single family home. The owner purchased this property knowing the current zoning regulations. The only reasonable use of the current land parcel is one single family home.

Please consider the large negative impact this development could have on so many residents of Portsmouth and the very land we cherish. Please do not allow this variance.

Sincerely,
Hilary Norton

Hilary Norton, PsyD
Licensed Psychologist NH & MA
hsnortonpsyd@gmail.com

978-870-0088

From: [Mary Pontrello](#)
To: [Planning Info](#)
Subject: Objection to proposed variances for 635 Sagamore Ave.
Date: Tuesday, January 17, 2023 4:18:11 PM

Dear Board Members:

Many of my neighbors at 579 Sagamore Ave. have sent you letters with cogent reasons for the Board to reject this proposal as currently presented.

I will had my voice to their voices for all the valid points presented .

Additionally, I would like to mention that as proposed this 'development' will significantly and deleterious affect the neighboring homes and property.

There will be increased light and noise pollution; ingress and egress will potentially cause dangerous traffic situations. It will adversely effect storm drainage in the area.

The sight is not conducive to construction as proposed. Has the Board walked the sight?

And finally, the disruption to the wildlife is serious, there is a long established deer pathway which is in constant use. The pine trees provide Spring, Summer, Fall habitat for thousands of hummingbirds and finches and myriad other wonderful birds.

The entire neighborhood will be adversely changed by approval of the variances and plan as presented.

Sincerely,

Mary Pontrello RPN

579 Sagamore Ave.

5

Portsmouth NH

From: Jane Reynolds
To: [Planning Info](#)
Subject: 635 Sagamore Avenue
Date: Tuesday, November 15, 2022 12:49:24 PM

Dear Board Members,

As a resident of Tidewatch I have frequently walked and driven by the backside of the referenced property with the current request to add two additional buildings. Not only is there insufficient square feet per dwelling and the added traffic safety concerns, I am concerned about the probable existence of a granite ledge where the 2 new buildings are proposed. Any excavation or blasting could damage the adjacent buildings and the nearby wetlands and Sagamore Creek.

My request would be for you to approve ONLY the replacement of the existing two buildings in the same general area. Thank you for your time and consideration on important matters in our community!

Sincerely yours,
Jane Pratt Reynolds
Unit 84
579 Sagamore Ave, Portsmouth, NH 03801

From: [Stephanie Roach](#)
To: [Planning Info](#)
Subject: Proposed Luster King Development - 635 Sagamore Ave.
Date: Wednesday, December 14, 2022 8:39:53 PM

Respectfully submitted to members of the Zoning Board of Adjustments -

As you review materials relevant to the upcoming meeting regarding the proposed development of 635 Sagamore Avenue, I would like to offer input as an abutting property owner.

I am very hopeful that the information already put before you has lead to a decision that the developer must adhere to the existing zoning requirements for that parcel of land, and be denied the variance requested.

There are a number of concerns from my perspective. Developing the property in the manner proposed will have a profound effect when entering Tidewatch, and from my home specifically. Currently the area is naturalized, there are no structures visible during the months when trees have leaves and very little when they have all fallen. It is tranquil, there are no household lights and the wildlife is undisturbed. If you allow multiple homes to be built it will undoubtedly diminish my property value, and the tranquility we have become accustomed to.

There is no telling what effect the addition of such a large amount of non porous elements (ie homes, asphalt driveways and patio materials) will have on the drainage of rain water. My neighbors and I sit well below the proposed site. Gravity will not be on our side.

It has been my experience that the majority of new home sites in our area require the ledge to be blasted, therefore disrupting all the earth that surrounds the site. The blasting itself is a concern as it can do damage to our foundations.

The increased traffic entering and exiting on that very difficult point of Sagamore hill will cause further opportunities for collisions. Visibility is poor, it is a hazard to bicyclists as the shoulder becomes non existent.

Lastly, the developers were aware that the parcel of land is 1.9 acres. And therefore, knew that one residence was all that could be definitively constructed. The risk was theirs, it is not the towns responsibility to make this a viable or profitable project for them.

I very much appreciate your consideration,

Sincerely,

Stephanie Roach
579 Sagamore Ave.
Unit 1 Owner

Izak Gilbo

From: Knut R <knutjr@gmail.com>
Sent: Monday, December 12, 2022 12:48 PM
To: Planning Info
Subject: Luster King development

Dear members of the Zoning Board of Adjustment,

I am writing to object to variances requested by the developer of the Luster King lot. My wife and I are residents of the adjoining property at Tidewatch. I have reviewed the rules for granting a variance. I would argue that the proposed placement of 4 homes in a lot subdivided for only 1.9 homes should not be granted a variance.

Per rule number 1, the development "should not impair the safety of our residents". The entrance and exit of the development on Sagamore Ave. will be near the crest of a hill with very poor visibility of busy and speedy oncoming traffic. As it is now, making a left turn in a vehicle into Tidewatch is dangerous. This is even more dangerous for the many cyclists using Sagamore Ave. As a cyclist myself I have found it very difficult to make a left hand turn on Sagamore Ave. into the Tidewatch development. Additional car traffic in and out of the Luster King development will significantly aggravate this situation.

Per rule number 4, the development "should not decrease the value of adjoining property". The development as described will lead to the removal of ledge and many trees that will diminish the value of all the Tidewatch properties. There will be very little tree buffer left. The plan for this development as currently described will be very visible from the Tidewatch entry road and adjacent homes. This will diminish the value of all of the Tidewatch properties. We are very concerned how the blasting of the ledge will effect drainage at Tidewatch, particularly given that we already have a problem with excessive water drainage at the entry area of the Tidewatch main road.

In addition a new "cluster" type development would be out of character for the neighborhood, where the other free standing homes on Sagamore are on separate good sized lots.

Given the above, I would strongly urge the Planning Board members to deny the requested variance and limit this development to two homes.

Thank you for your consideration

Knut and Jean Roalsvig

Tidewatch unit 94

579 Sagamore Ave., Portsmouth

From: [Michael Sterling](#)
To: [Planning Info](#)
Subject: Proposed Luster King Development (635 Sagamore Ave)
Date: Saturday, January 14, 2023 10:43:28 AM

To the Portsmouth Zoning Board of Adjustment:

We are residents of the Tidewatch Condominium on Sagamore Avenue. We have been concerned for some time since we read the Abutter's Notices regarding the proposed development on the current Luster King site next door to Tidewatch on Sagamore Avenue. As with many of our fellow residents, we have strong reservations about the proposal as it stands now. Following are a number of our concerns. We tried to relate them to zoning change ordinances as we understand them:

- It is our understanding that zoning variance requests must be in the public interest. We feel that this does not meet that standard. The development of a group of homes in a lot zoned for a single dwelling would cause congestion and would make entry and egress a safety issue, as the property is on one of the most dangerous sections of Sagamore Avenue (hill and blind curve).
- The variance is supposed to preserve the 'spirit of the zoning ordinance'. Squeezing four units into what is zoned for a single dwelling is not consistent with the use of the land.
- The adjustment would not do 'substantial justice'. Although second-hand, we understand that other abutters also have strong resistance to the proposed change. In addition, in a city with a strong need for affordable housing, the proposed cost of these homes will not provide relief. And, the development will further take away open space from residents, both human and animal.
- A complex of four larger homes which eliminate open space abutting Tidewatch would negatively impact our condo unit values. A single home, as currently zoned for, would not.
- Regarding 'unnecessary hardship' we believe there is none. The property was purchased with full knowledge of current zoning restrictions. Expanding on what is there is not a reasonable use of the property. If it is approved, what is to prevent all future development in Portsmouth from using this same clause to bypass zoning regulations?

Respectfully, Michael Sterling and Paula Sonnino

From: [Jeannette Sturrock](#)
To: [Planning Info](#)
Cc: [Tim McNamara](#)
Subject: Proposed Development 635 Sagamore Ave (635 Sagamore Development LLC Petition)
Date: Friday, January 13, 2023 6:07:03 PM

Beverly M. Zendt
Planning Director
City of Portsmouth
1 Junkins Ave 3rd Floor
Portsmouth NH 03801

As the owner of Tidewatch Condominium #6, an abutter to the proposed development at 635 Sagamore Ave. (635 Sagamore Development LLC Petition) I oppose the proposed development and request the Board deny the Applicant's variance request.

I have concerns that alterations made to the terrain will cause surface water floods in Tidewatch which is at a lower elevation.

Portions of the properties terrain are ledge not soil which would likely require blasting which causes concerns about structural issues to my unit that may result from the blasting.

The proposed homes would be elevated looking down over Tidewatch. Currently our property looks out upon a beautifully wooded area with abundant wildlife passing through – deer – turtles – foxes – turkeys etc. The tall trees are home to many nests of hummingbirds and other species this would all be gone if this development is allowed to proceed.

I support all of the objections already submitted by my neighbors.

Please do not allow this variance.

Jeannette Sturrock
Tidewatch #6
579 Sagamore Ave.
Portsmouth NH 03801

Izak Gilbo

From: Katherine Tobin <dockate21@gmail.com>
Sent: Saturday, December 10, 2022 12:56 PM
To: Planning Info
Subject: Proposed Luster King Development

I am writing to object to the proposed variance for 635 Sagamore Avenue.

I reside at 579 Sagamore Avenue, Unit 60. My home abuts Sagamore Avenue and a portion of the proposed development. We purchased this unit because of the undisturbed green space behind the home. It separates my home from Sagamore Avenue and adjacent houses.

Approval of the variance would be contrary to public interest. It would destroy much of the green space, increase the volume of noise my home would be subject to, decrease my home's privacy and decrease the value of my unit.

I do not see how enforcing the provisions of the ordinance would result in unnecessary hardship.

I therefore oppose the proposed zoning variance and proposed development.

Katherine Tobin MD
579 Sagamore Avenue
Unit 60
Portsmouth, NH 03801

From: [Phil von Hemert](#)
To: [Planning Info](#)
Subject: Comments re: 635 Sagamore Development LLC
Date: Monday, November 7, 2022 12:19:53 PM

I am writing to protest the planned residential development of the property located at 635 Sagamore Avenue. I and my wife, Susan, own Unit 42 in the abutting Tidewatch community. Our concerns are:

1. Requested unit variance is extreme, four units versus just one, a 400% increase.
2. Requested lot area variance is also extreme, 2 units per acre versus the permitted one per acre.
3. Such a large development will impact water runoff into Sagamore Creek.
4. This proposal requires approximately 12 feet of elevation to be excavated and a lot of forested area to be cut just to put in the four houses and the roadway.

If these extreme variations are allowed on this site, what's to prevent the same for other properties in the neighborhood along and near Sagamore Avenue? Permitting this plan as proposed will set an unwanted and unnecessary precedent.

Please do not permit four units to be built.

Phil and Susan von Hemert
(603) 833-0844
philvonHemert@gmail.com

Anne K. Walsh, co-trustee
Tidewatch #7
579 Sagamore Avenue
Portsmouth, NH 03801

December 12, 2022

Beverly M Zendt
Planning Director
City of Portsmouth
1 Junkins Avenue, 3rd Floor
Portsmouth, NH 03801

Dear Ms. Zendt,

This letter is to request that the City of Portsmouth Zoning Board of Adjustment denies 635 Sagamore's proposed development and variance request.

Please note that I have observed several errors in the 635 Sagamore Development, LLC petition. The Sagamore Condominium (on II on page 2 of 7; 4 on page 5 of 7), which later changed to Sagamore Creek Condominiums (# 4 on page 5 of 7) is actually Sagamore Court, which are apartments. The petition also erroneously refers to the SRA restrictions as 43,560 sf lot sizes, which is a requirement for GB (General Business) under the 10.531 Table of Dimensional Standards--Business & Industrial Districts (see page 3 of 7 & #4 on page 5 of 7)(Exhibit A & B). Therefore, many of the calculations in their petition are inaccurate and misleading since they are for multiple zoning ordinances (SRA, SRB & GB). This particular area is not zoned for Gateway Neighborhoods, which is essentially what they are attempting to create (and why they are using the 10.531 table, which includes Gateway Neighborhood Mixed Use districts).

I cannot see how 635 Sagamore can claim unnecessary hardship ("owing to special conditions of the property that distinguish it from other properties in the area"). The property isn't more distinguishable from the other properties in the area. Many of the properties along that stretch of Sagamore, whether zoned as a SRA or a SRB, are comparable to the 635 Sagamore property. For example, Tax Map:

222, Lot 17 .86 acres
222, lot 14 is 1.51 acres
223, lot 36 is 1.310 acres
223, lot 13 is 1.030 acres
223, lot 18 is 1.170 acres
223, lot 21 is 1.490 acres
223, lot 26 is 1.20 acres
223, lot 27 is 3.320 acres

None of the surrounding lots have mini neighborhoods on the parcels, otherwise known as pocket neighborhoods/Gateway neighborhoods, and the area is not zoned for one (See Exhibit A). Therefore, increasing the density of homes on that parcel would be different than the other properties and further changing the zoning character of the area. In addition, the homes on Sagamore have the front of the homes facing the street. Yet, their plan is to have the side of the first home in the development face the street.

635 Sagamore is not unique and therefore doesn't require a different zoning purpose than the lots on the left and right of it. The applicant purchased the property for \$387,133, which is significantly lower than the appraisal of \$693,600 or \$682,800 (both were included in the petition), which also doesn't support the hardship argument. It appears obvious that the applicant had purchased the property to solely develop it for as much as profit they can attain, without living with the long-term ramifications of this decision.

They have provided no evidence that their plan will not negatively impact the sale value of the nearby homes. It would be advantageous to replace the two commercial buildings with two homes along Sagamore (and would be within reason of 1 home per acre as required by SRA). And that would preserve the continuity of the surrounding properties directly on Sagamore. However, this plan will certainly impact the Tidewatch units most closely positioned near the property lines and all owners that would view it leaving and entering the community. At present, our property gazes upon a wooded area and not the run-down buildings. The proposal would decrease our privacy and take away one of the reasons our unit was purchased (over 33 years ago)—rural beauty of the woods and wetlands. These homes would be directly looking down upon Tidewatch and they would be inconsistent with the character of our community. Tidewatch was developed with the purpose of respecting and protecting the environment with intentional spacing of the units that are far from the other adjacent properties (Exhibit C). Instead of woods, we would have unnecessary development that would add more light and noise, despite the updated landscaping. There is concern about the impact it will have as it's stormwater runoff will run directly down the hill into Tidewatch. There is also the concern about the structural foundations of units when the granite needs to be blasted for their foundations.

635 Sagamore's plan would overcrowd the lot, as the side yards should be 20ft for each house (total of 40ft), not 20 ft between houses. The petition jumps back and forth between the 10.521 Table of Dimensional Standards—Residential and Mixed Residential Districts (and between SRA & SRB categories) and 10.531 Table of Dimensional Standards --Business and Industrial Districts (ie 43,560 sf lot area). On page 2 of 7, they stated that the proposal creates a natural transition between the SRB Zone and the existing apartments and condominiums. Please note that Sagamore Court and Tidewatch are SRA zoned (updated calculations below), and all SRB properties are on the other side of Sagamore Avenue. The lots to the right and left of 635 Sagamore are all SRA, so it would be more of a disruption vs. natural transition. Having a pocket neighborhood is drastically different than any of the surrounding properties and would not show any continuity.

Since Tidewatch has 44 buildings with 117 condominiums (not 122 since there are no 111-115 units), the density is 1.22 acres for each building (53.59/44). Sagamore Court has 6 buildings with 144 apartments, so the density is 2.5 acres for each building (15.01/6). Therefore, the comparisons on page 2 of 7 are inaccurate. I am not going to convert the sq ft since that is strictly related to GB zoning, not

SRA. These are completely in the SRA range and are not a true comparison for their proposal, which would have 2 homes per acre.

The variance will be contrary to the public interest, the spirit of the ordinance would not be observed, and the surrounding property values would be diminished. 635 Sagamore would not experience unnecessary hardship if their variance from 10.513 & 10.521 was rejected. Therefore, the substantial justice criteria is not a factor, either.

The fact this updated petition has so many errors, and even uses calculations intended for Business and Industrial districts, shows how sloppy and seemingly manipulative this petition is. It also doesn't directly state it's intending on creating a Gateway Neighborhood, which would give a dangerous precedence for this residential area. Plainly, this is a residential area. Not a business one. And the impact will be felt by all residents surrounding this lot. Not the business (635 Sagamore) that purchased it to solely make as much of a profit they can gain.

I sincerely hope that you will have visited the site before making a final decision, because the pictures don't quite give the full picture. If you have any questions, please email or telephone.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne K. Walsh". The signature is fluid and cursive, with a large initial "A" and a stylized "W".

Anne K. Walsh, co-trustee
Annekwash1@verizon.net
410-903-3972

Section 10.530 Business and Industrial Districts

10.531 Table of Dimensional Standards – Business and Industrial Districts ¹

	B	GB	WB	I	WI	OR
Minimum Lot Dimensions						
Lot Area	20,000 sf	43,560 sf	20,000 sf	2 acres	2 acres	3 acres ²
Lot Area per dwelling unit	2,500 sf	NR	NR	NA	NA	NA
Continuous street frontage	100'	200'	100'	200'	200'	300' ²
Depth	80'	100'	100'	200'	200'	300' ²
Minimum Yard Dimensions						
Front	20'	30'	30'	70'	70'	50' ²
Side	15'	30'	30'	50'	50'	75' ²
Rear	15'	50'	20'	50'	50'	50'
Maximum Structure Dimensions						
Structure height	50'	60'	35'	70' ³	70' ³	60' ³
Roof appurtenance height	10'	10'	10'	10'	10'	10'
Building coverage	35%	30%	30%	50%	50%	30%
Floor Area Ratio	NR	NR	NR	NR	NR	NR
Minimum open space	15%	20%	20%	20%	20%	30%

Notes:

1. See Article 5A and Article 5B for dimensional standards in Character and Gateway Neighborhood Mixed Use Districts.
2. See Section 10.532.10 for requirements for lots adjacent to North Mill Pond.
3. See Section 10.532.20 for reduced structure height within 200' of North Mill Pond or Piscataqua River.

NA = Not Applicable NR = No Requirement

Section 10.520 Residential and Mixed Residential Districts

10.521 Table of Dimensional Standards – Residential and Mixed Residential Districts ¹

	R	SRA	SRB	GRA	GRB	GRC	GA/MH	MRO	MRB
Minimum Lot Dimensions									
Lot area	5 acres	1 acre	15,000 sf	7,500 sf	5,000 sf	3,500 sf	5 acres	7,500 sf	7,500 sf
Lot area per dwelling unit	5 acres	1 acre	15,000 sf	7,500 sf	5,000 sf	3,500 sf	10,000 sf	7,500 sf	7,500 sf
Continuous street frontage	NA	150'	100'	100'	80'	70'	N/A	100'	100'
Depth	NA	200'	100'	70'	60'	50'	N/A	80'	80'
Minimum Yard Dimensions									
Front	50'	30'	30' ²	15'	5'	5'	30' ^{2,4}	5'	5' ²
Side	20'	20'	10'	10'	10'	10'	25'	10'	10'
Rear	40'	40'	30'	20'	25'	20'	25'	15'	15'
Maximum Structure Dimensions									
Structure height									
Sloped roof	35'	35'	35'	35'	35'	35' ³	35' ^{3,4}	40'	40'
Flat roof	35'	30'	30'	30'	30'	30'	35' ^{3,4}	30'	30'
Roof appurtenance height	8'	8'	8'	8'	8'	8'	8'	10'	10'
Building coverage	5%	10%	20%	25%	30%	35%	20% ⁴	40%	40%
Minimum open space	75%	50%	40%	30%	25%	20%	50%	25%	25%

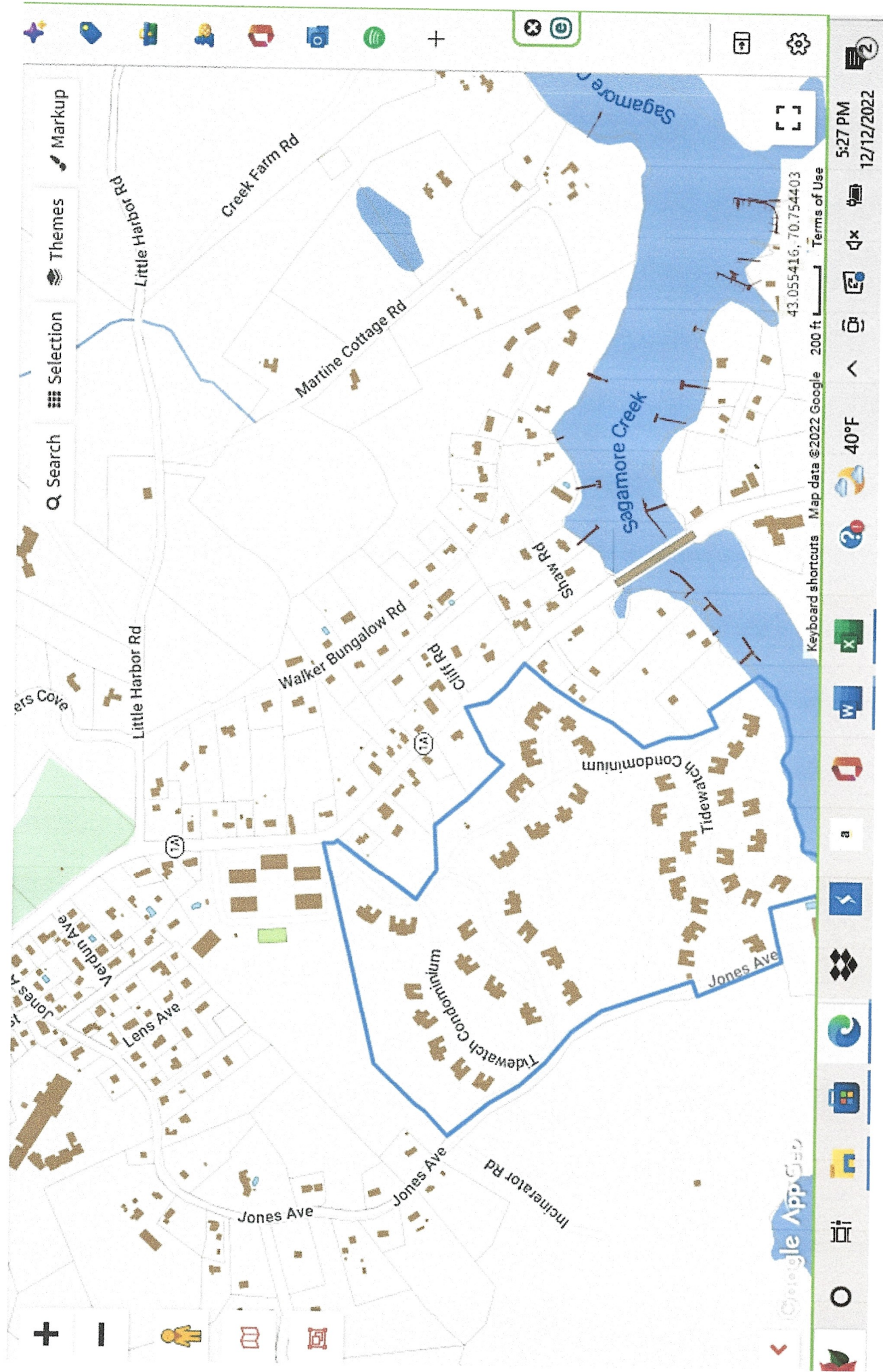
Notes:

NA = Not Applicable NR = No Requirement

1. See Article 5A and Article 5B for dimensional standards in Character and Gateway Neighborhood Mixed Use Districts.

2. See Section 10.533 for special front **yard** requirements on Lafayette Road.3. Within the General Residence C and Garden Apartment/Mobile Home Park districts an additional 8' of height may be added to the maximum **structure** height in order to provide for **multifamily dwellings** that include vehicular parking spaces located within the residential **building** itself, if the additional height results in increased **open space** when compared to a site plan showing what **open spaces** would remain if required parking spaces were located in the open and in **accessory structures**.4. See Section 10.816 for requirements within a **manufactured housing park**.

9



5:27 PM
12/12/2022

Keyboard shortcuts Map data ©2022 Google 200 ft

43.055416, 70.754403

40°F

Google App Store

From: [Peter M. Wissel](#)
To: [Planning Info](#)
Subject: 635 Sagamore Avenue
Date: Sunday, November 20, 2022 10:03:26 PM

Dear members of the Zoning Board of Adjustment,

My wife and I were traveling abroad when the abutter notice dated November 15 regarding the subject petition was delivered by mail.

I am hopeful that it is not too late for our objections to the petition to be considered before a final determination is made by the Board of Adjustment.

We have two strong objections to the variance requested at 635 Sagamore Avenue.

We are avid cyclists. The shoulder of Sagamore Avenue in front of 635 Sagamore Avenue narrows from approximately 4 feet to approximately 12 inches. That stretch of Sagamore Ave is also on a grade, so a southbound cyclist would be moving uphill slowly. The crest of the grade is just beyond the subject property and a southbound motorist can not see vehicles approaching in the opposite lane. Consequently, an impatient southbound motorist, and there are many, especially during the tourist season, trying to pass a slow moving cyclist often fails to maintain 3 ft. of distance between their vehicle and a cyclist as required by NH law. One or more additional personal motor vehicles for each of 4 units, delivery vehicles and service vehicles seeking to turn in and out of a driveway at this already dangerous stretch of road will only add to the hazard to cyclists.

We are also owners of a unit at Tidewatch Condominiums. A major appeal of Tidewatch is the park-like setting which is protected by the current zoning along Sagamore Avenue. Allowing 4 units to be built on a lot currently zoned for a single unit would have a significant adverse impact on the aesthetics and the value of Tidewatch Condominium units without adding any benefit to the community at large. The best locations for increasing density are where residents can either walk to amenities or avail themselves of public transportation. 635 Sagamore Avenue is not such a location.

Respectfully yours,

Peter Wissel and Susan Philbrick
579 Sagamore Ave., Unit 75
Portsmouth, NH 03801

Peter M. Wissel
Mobile: 1-603-380-8885

From: [Peter M. Wissel](#)
To: [Planning Info](#)
Subject: Re: 635 Saga more Avenue
Date: Monday, November 21, 2022 6:55:04 PM
Attachments: [PTS Agenda Packet 11.3.22.pdf](#)

Hi Ms. Kienia,

Thank you for the update.

I would like to add that the danger to cyclists at the crest of the Sagamore Avenue hill was also discussed at the Parking and Traffic Safety Committee Meeting on November 3, 2022. Attached is documentation from that meeting. I think it would be prudent for the Zoning Board of Adjustment to consult with the Parking and Traffic Safety Committee before ruling on the 635 Sagamore Avenue petition.

Best regards,
Peter Wissel

Peter M. Wissel
Mobile: 1-603-380-8885

On Monday, November 21, 2022 at 05:23:24 PM EST, Planning Info <planning@cityofportsmouth.com> wrote:

Hi Mr. Wissel,

This petition was postponed and will now be heard at the December 20, 2022 Zoning Board of Adjustment Meeting. Your email will be included in Public Comment for the December meeting.

Best,

Kimberli Kienia

Administrative Assistant, Planning Dept.

1 Junkins Avenue

Portsmouth, NH 03801

Tel: (603) 610-7217

OFFICE HOURS:

Monday 8:00am–6:00pm

Tues–Thurs 8:00am–4:30pm

Friday 8:00am–1:00pm

From: Peter M. Wissel [mailto:pmwissel@yahoo.com]
Sent: Sunday, November 20, 2022 10:03 PM
To: Planning Info <Planning@cityofportsmouth.com>
Subject: 635 Sagamore Avenue

Dear members of the Zoning Board of Adjustment,

My wife and I were traveling abroad when the abutter notice dated November 15 regarding the subject petition was delivered by mail.

I am hopeful that it is not too late for our objections to the petition to be considered before a final determination is made by the Board of Adjustment.

We have two strong objections to the variance requested at 635 Sagamore Avenue.

We are avid cyclists. The shoulder of Sagamore Avenue in front of 635 Sagamore Avenue narrows from approximately 4 feet to approximately 12 inches. That stretch of Sagamore Ave is also on a grade, so a southbound cyclist would be moving uphill slowly. The crest of the grade is just beyond the subject property and a southbound motorist can not see vehicles approaching in the opposite lane. Consequently, an impatient southbound motorist, and there are many, especially during the tourist season, trying to pass a slow moving cyclist often fails to maintain 3 ft. of distance between their vehicle and a cyclist as required by NH law. One or more additional personal motor vehicles for each of 4 units, delivery vehicles and service vehicles seeking to turn in and out of a driveway at this already dangerous stretch of road will only add to the hazard to cyclists.

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Respectfully yours,

Peter Wissel and Susan Philbrick

579 Sagamore Ave., Unit 75

Portsmouth, NH 03801

Peter M. Wissel

Mobile: 1-603-380-8885

PARKING and TRAFFIC SAFETY COMMITTEE

PORTSMOUTH, NEW HAMPSHIRE

CONFERENCE ROOM A
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

*Members of the public also have the option to join the meeting over Zoom
(See below for more details)**

8:30 AM

November 3rd, 2022

ON-SITE COMMITTEE: Please meet on Tuesday, November 1st at 8:00 a.m. at the following location:

- Broad Street, north side of South Street

AGENDA

I. CALL TO ORDER

II. ATTENDANCE

III. FINANCIAL REPORT

IV. PUBLIC COMMENT (15 MINUTES)

This is the time for all comments on any of the agenda items or non-agenda items.

V. PRESENTATIONS

None

VI. NEW BUSINESS

(No public comment during Committee discussion without Committee approval.)

- A.** Broad Street, request to move no parking signage farther back from South Street, by resident. **Sample Motion: Move to relocate NO PARKING HERE TO CORNER signs 30 feet from crosswalk on the north side of South Street.**
- B.** Sagamore Avenue, request to extend bike lanes from Little Harbor Road to Rye line, by Seacoast Area Bicycle Riders. **Sample Motion: Move to refer to staff for evaluation and report back at future meeting.**

VII. OLD BUSINESS

- A.** Maplewood Avenue at Prospect Street, report back on request to slow traffic on Maplewood Avenue. **Sample Motion: Move to place item on file.**
- B.** Mariette Drive, speed analysis. **Sample Motion: Move to place item on file**
- C.** Maple Haven stop sign analysis. **Sample Motion: Move to approve installation of stop sign on northbound leg of Suzanne Drive, at intersection of Suzanne Drive and Simonds Road, near park.**

VIII. INFORMATIONAL

A. Monthly Accident Report from Police

IX. MISCELLANEOUS

X. ADJOURNMENT

**Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser: https://us06web.zoom.us/webinar/register/WN_6t88nxMpTyyzNoD6fcJPWA*



Percentage of Fiscal Year Complete
25.00%

Preliminary
Totals Thru
September 30, 2022

	Total	Budgeted	% of Budget
FY 23			
Parking Meter Fees	1,128,480.07	3,250,000.00	35%
Meter Space Rental	34,330.00	150,000.00	23%
Meter In Vehicle	0.00	0.00	0%
EV Charging Stations	4,553.57	10,000.00	46%
Parking-Area Service Agreements	35,550.00	50,000.00	
High Hanover Transient	750,014.20	1,909,000.00	39%
High Hanover Passes	284,756.08	1,265,100.00	23%
Foundry Place Transient	106,852.94	502,000.00	21%
Foundry Place Passes	109,079.82	451,500.00	24%
Parking Sign Permit	0.00	0.00	
HH Pass Reinstatement	330.00	750.00	44%
Foundry Pass Reinstatement	234.75	750.00	31%
Parking Violations	290,215.50	700,000.00	41%
Immobilization Administration Fee	1,800.00	5,000.00	36%
Summons Admin Fee	0.00	0.00	0%
Total FY 23	2,746,196.93	8,294,100.00	33%

	BUDGETED	
	5,881,795	71% Transfer to Parking Fund
	2,412,305	29% Funds Remaining in Gen Fund

South Street and Broad Street Parking Near Intersection



Cole
260 Broad Street
Portsmouth, NH 03801

September 30, 2022

City Of Portsmouth
Department of Public Works – Roads and Sidewalks
680 Peverley Hill Road
Portsmouth, NH 03801

Re: **Broad Street/South Street**

Dear Sir or Madam:

I live at 260 Broad Street. I believe that the placement of the “No Parking Here to Corner” signs are creating or allowing a hazard.

The No Parking Here to Corner signs are placed at the end of Broad Street, where it meets South Street. As you know, this part of South is at the base of the hill leading down from the Edgewood Center and is one of the busiest streets in the City, particularly when students and buses and parents are driving to and leaving the High School. As one pulls out of Broad Street and turns toward the High School, the residence on the corner of Broad and South is surrounded by a high, dense privet hedge, which dramatically reduces visibility up South Street toward the Edgewood Center. The No Parking Here to Corner signs are placed about one car length onto or into Broad Street on both sides of Broad. Cars typically are parked right up to the signs. See my childish diagram, attached.

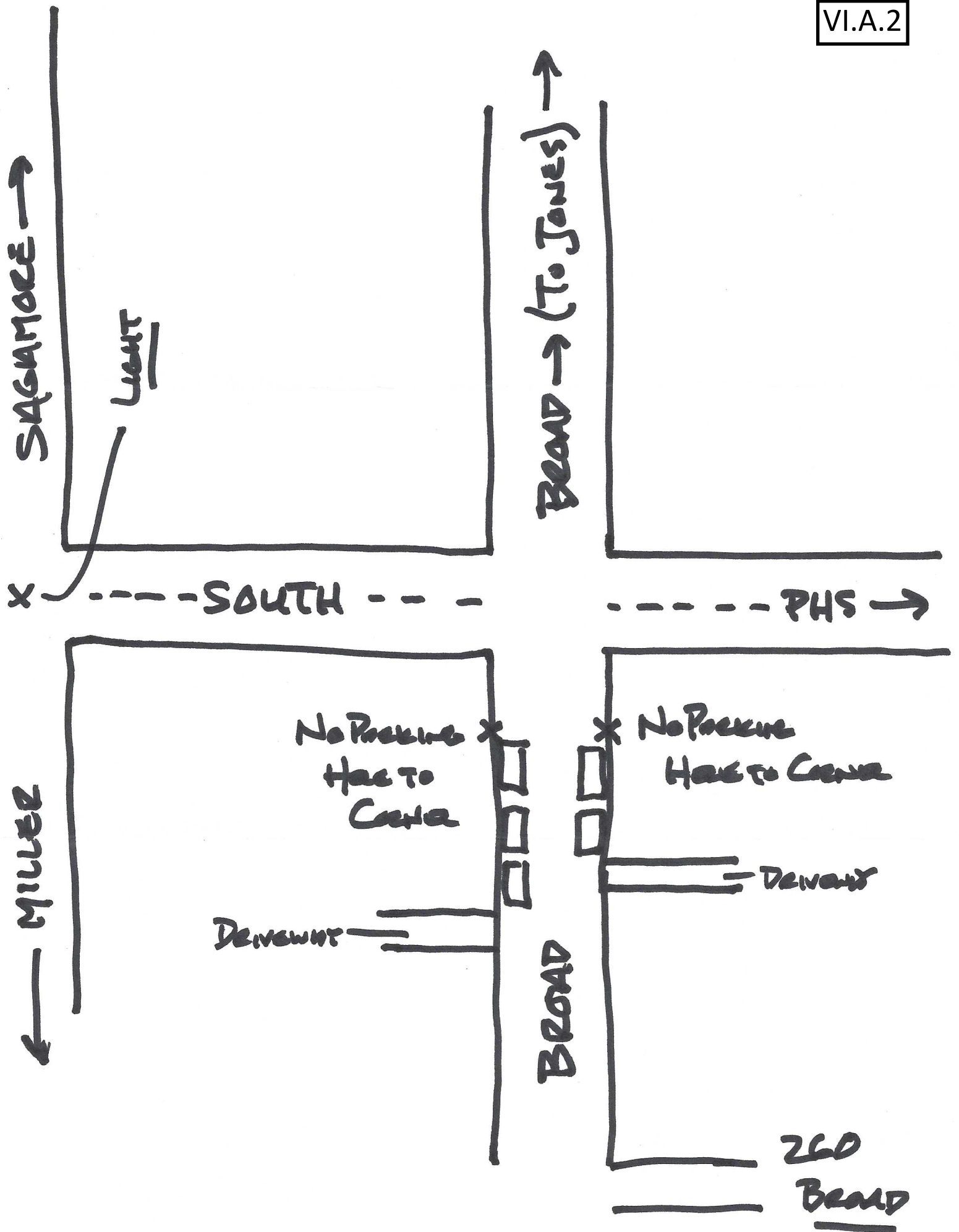
The result is that the opening for cars turning off of South, often with steady traffic both ways on South, is very narrow. This makes getting onto South from Broad and off of South to Broad difficult, because the narrow opening left by the parked cars is simply too small and the cars in traffic play a game of roulette, hoping there is enough room and time to pull out of or into Broad.

It seems that one solution could be to move the No Parking Here to Corner signs further down Broad Street, to at least permit some room to maneuver at the actual point of contact between the streets. I do understand that this would eliminate some parking spots – perhaps one on each side of Broad Street – but the safety advantages seem worth evaluating and trying on a temporary basis.

Thanks for reading this, and for everything you all at Public Works do to make the City so very livable.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Cole', with a stylized flourish at the end.



30' Per State Law

20' Existing



From: [Matthew Glenn](#)
To: [Eric B. Eby](#); [Andrew Bagley](#)
Subject: Request for PTSC to look at extending Sagamore Ave bike lanes
Date: Tuesday, October 25, 2022 10:19:23 AM

Dear Mr. Eby, Councilor Bagley, and members of the PTSC,

I would like to ask the Parking and Traffic Safety Committee to take a close look at extending the Sagamore Avenue bike lanes from Little Harbor Road to the Rye line. Please provide an update on what can be done to improve safety at the crest of the hill as the sewer project is completed; and for the full length of the road where existing shoulder width may allow it, please consider painting bike lane markings immediately.

In particular, the roadway in front of the Seacoast Mental Health Center is not wide enough to allow cars to park without crossing the white fog line and partially blocking the travel lane, so you should consider "no parking" signage here and in front of the new condos being built at 960 Sagamore. Shoulder width should allow for bike lane markings now that the "Golden Egg" is gone.

Please also provide an update on the project to extend the sidewalk to Tuckers Cove, and if bike lanes are to be included.

Finally, I'll request that you make reference in the PTSC packet to the Bicycle and Pedestrian plan, which calls for bike lanes and sidewalks for the full length of this very popular and critical biking, running, and walking route. Complete bike lanes may require additional time and funding, but I believe there are several small improvements the PTSC can make now with just signage and paint.

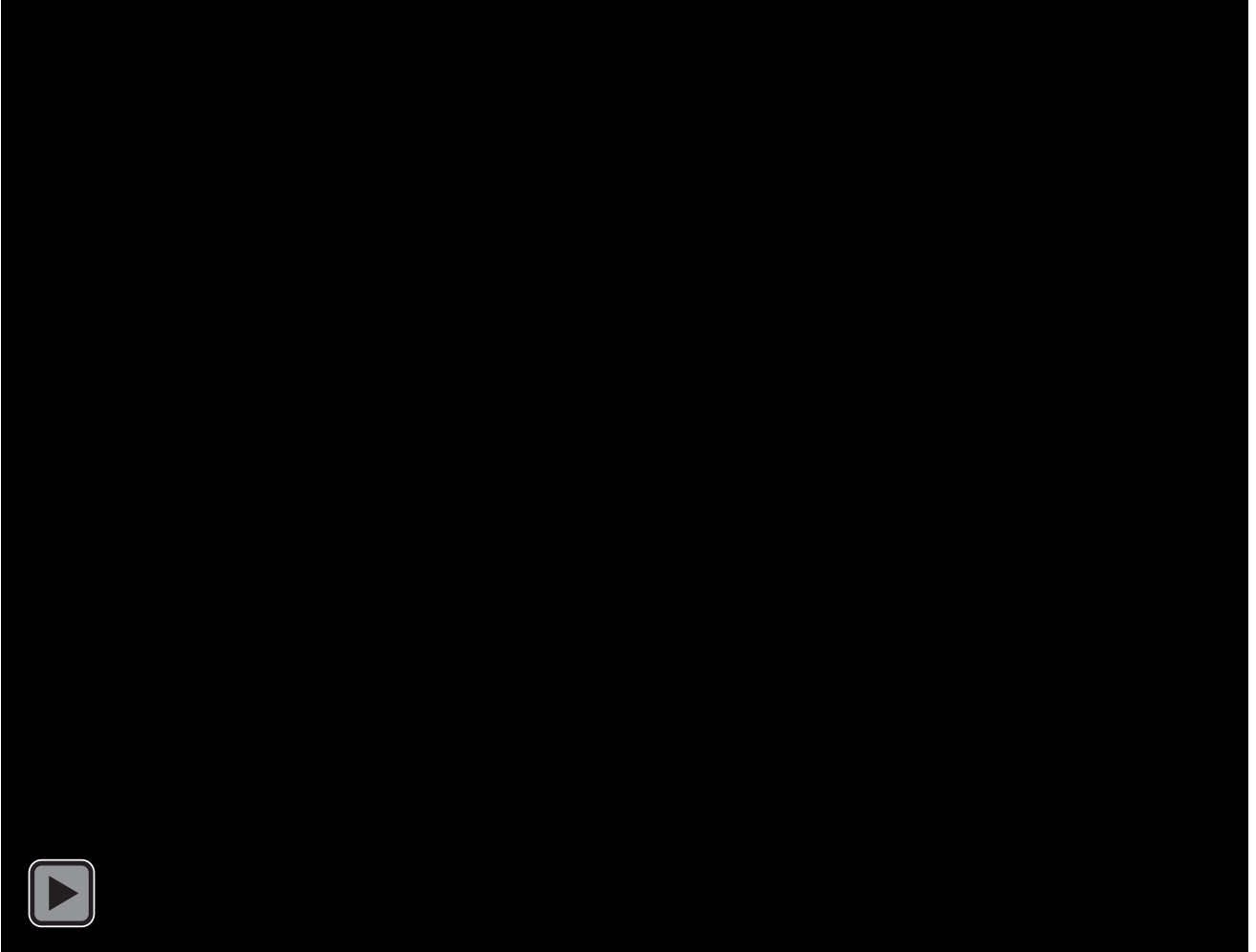
Regards,
Matt Glenn

Seacoast Area Bicycle Riders
seacoastbikes.org

VII.A.1 Maplewood Avenue at Prospect Street



Maplewood Avenue and Route 1 Bypass Ramp



Maplewood Avenue and Prospect Street



City of Portsmouth

Department of Public Works



MEMORANDUM

TO: Karen S. Conard, City Manager

FROM: Eric Eby, City Engineer – Parking, Transportation and Planning *EE*

DATE: October 24, 2022

SUBJECT: Maplewood Avenue at Prospect Street, Report Back on Request to Slow Traffic

City staff has received concerns from a resident of Prospect Street regarding the speed of vehicles turning right from the Route 1 Bypass northbound ramp onto Maplewood Avenue, the speed of vehicles on Maplewood Avenue, as well as the sight lines at the intersection of Prospect Street and Maplewood Avenue.

City staff has investigated the situation and conducted traffic volume turning movement counts, collected vehicle speed data, and measured sight distances at the intersection. The findings of the traffic evaluation indicate that, while there are some limitations to the sight lines, the available sight lines and observed speeds allow for safe operation of the intersection.

Traffic turning movement counts conducted at the intersection of Maplewood Avenue and Prospect Street revealed a peak hour volume of six vehicles exiting from Prospect Street onto Maplewood Avenue. This is a very low volume roadway, due to the small number of homes on Prospect Street and the ability to access the neighborhood from Dennett Street.

Average inbound traffic speeds on Maplewood Avenue were measured at 23 MPH, with an 85th percentile speed of 27 MPH. The posted speed limit is 25 MPH. These data include vehicles turning right from the ramp onto Maplewood Avenue, so the speed of vehicles coming over the bridge on Maplewood Avenue is likely somewhat higher. Vehicle speeds are used to determine the minimum required sight distance for safely stopping at an intersection.

Stopping sight distance on Maplewood Avenue, approaching Prospect Street from the west, was measured at 410 feet. This is sufficient for speeds of over 45 MPH, which is far in excess of the measured speeds on Maplewood Avenue. Stopping sight distance for vehicles approaching Prospect Street after turning right from the Route 1 Bypass ramp was measured at 90 feet, sufficient for vehicles traveling at 18 mph to see, react and stop for a vehicle turning out of Prospect Street.

The one noted deficiency at the intersection is the intersection sight distance for vehicles waiting to turn out of Prospect Street onto Maplewood Avenue. When measured from the standard location of 14.5 feet from the edge of Maplewood Avenue, the driver's sight line is only 175 feet, sufficient for oncoming vehicle speeds of 27 MPH. To get a longer sight line, it is necessary for the driver's eye to be within 7 feet of the edge of Maplewood Avenue. At this point, the front end of the driver's vehicle may be sticking out slightly into Maplewood Avenue. However, approaching vehicles on Maplewood Avenue are able to see the vehicle and come to a stop if necessary. In conclusion, the vehicle speeds on Maplewood Avenue are not excessive, and the intersection has adequate sight lines for safe operating conditions.

Maplewood at Prospect - TMC

Sat Sep 3, 2022

AM Peak (WKND) (Sep 03 2022 10AM - 11 AM)

All Classes (Motorcycles, Lights, Single-Unit Trucks, Articulated Trucks, Buses, Pedestrians,
Bicycles on Road, Bicycles on Crosswalk)

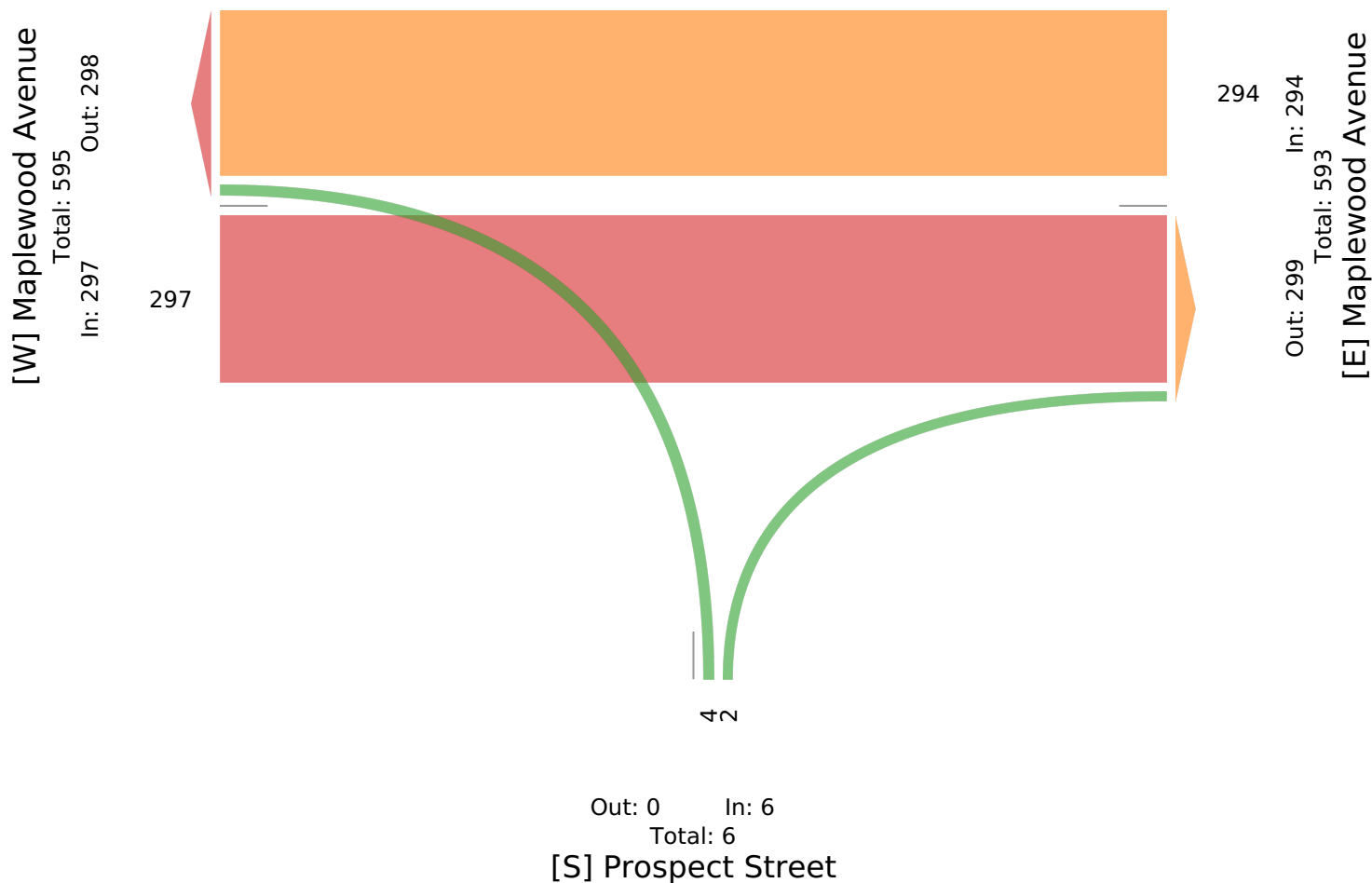
All Movements

ID: 985580, Location: 43.080381, -70.768384

Provided by: City of Portsmouth

680 Peverly Hill Road,

Portsmouth, NH, 03801, US



VII.A.4 Maplewood Ave.

From: [Dan Freund](#)
To: [Eric B. Eby](#)
Subject: Re: Maplewood Ave Exit Ramp
Date: Friday, July 15, 2022 10:43:45 AM

Eric,

I'm still seeking your attention to the intersection at Maplewood and Prospect. In the past week, there has been evidence of an accident with a shattered headlight in the street. As I mentioned in my email to you on June 20th, I was nearly struck by vehicles that proceeded through the exit ramp intersection at speed. At the August 13, 2015 Traffic Safety meeting, a vote was taken to address the intersection. That action was never taken. With the construction currently taking place and the increased traffic that will occur as a result of new occupation on Prospect St, I am concerned that you have not adequately addressed this issue. I would like to see two things from you.

- 1: Signage on Walker St alerting traffic to the presence of children at play
- 2: Adequate effort to slow the traffic coming from the exit ramp and from over the bridge through the blind intersection at Maplewood and Prospect St.

--

Dan Freund
Video Producer

www.myfrienddan.com

m: 603-817-0161

On Mon, Jun 20, 2022 at 1:26 PM Dan Freund <hey@myfrienddan.com> wrote:

Hello Eric,

I'm writing to request your attention to the Maplewood Ave exit ramp. This morning as I was nearly struck by a vehicle speeding through the stop sign trying to beat traffic approaching from the bridge. With the speed bumps further up the road, I'm sure there can finally be a solution. Additionally, with all the construction happening on Prospect St and the inevitable addition of tenants/residents to the street, I'd like to see some signage warning the presence of kids to vehicles approaching up Walker street. I know we've visited these issues before, but more can be done to make this street/intersection safer yet.

Regards,

--

Dan Freund
Video Producer

www.myfrienddan.com

m: 603-817-0161

SPEED DATA ANALYSIS

Location 19 Mariette Drive



Latitude: 43.025608
Longitude: -70.799173

Analysis Time Period



Start	End
10/5/2022 9:03 AM	10/7/2022 8:45 AM

Vehicles Analyzed

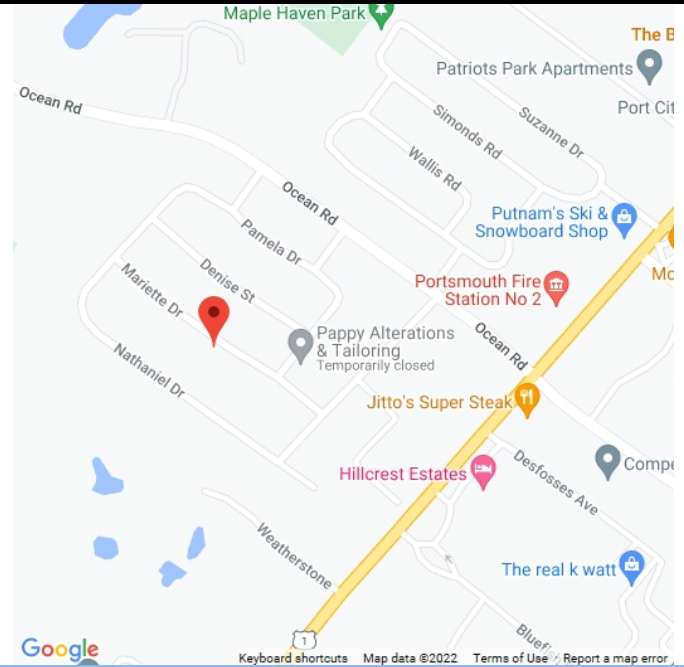


145

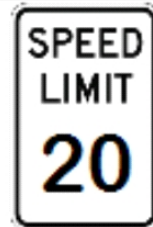
Average Speed



16



Speed Limit



20

85th Percentile Speed



21

SPEED DATA ANALYSIS

Location 43 Mariette Drive

Latitude: 43.027145
Longitude: -70.800418



Analysis Time Period



Start	End
10/3/2022 2:10 PM	10/5/2022 8:51 AM

Vehicles Analyzed



227

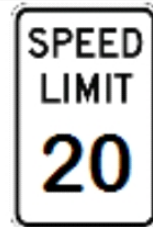
Average Speed



20



Speed Limit



20

85th Percentile Speed



26



Possible new stop sign

Maple Haven, North Side



Speed Table
(2023)

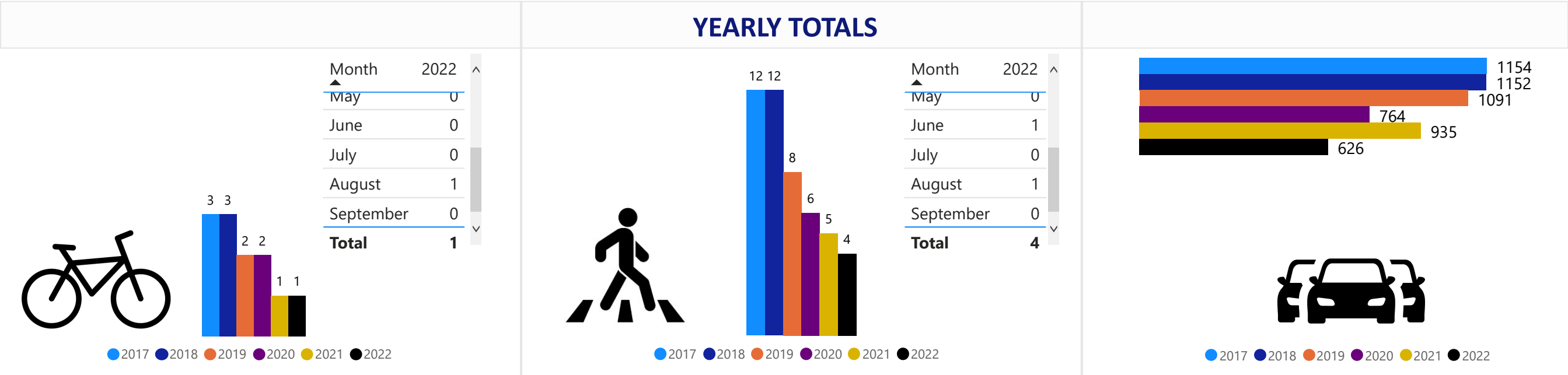
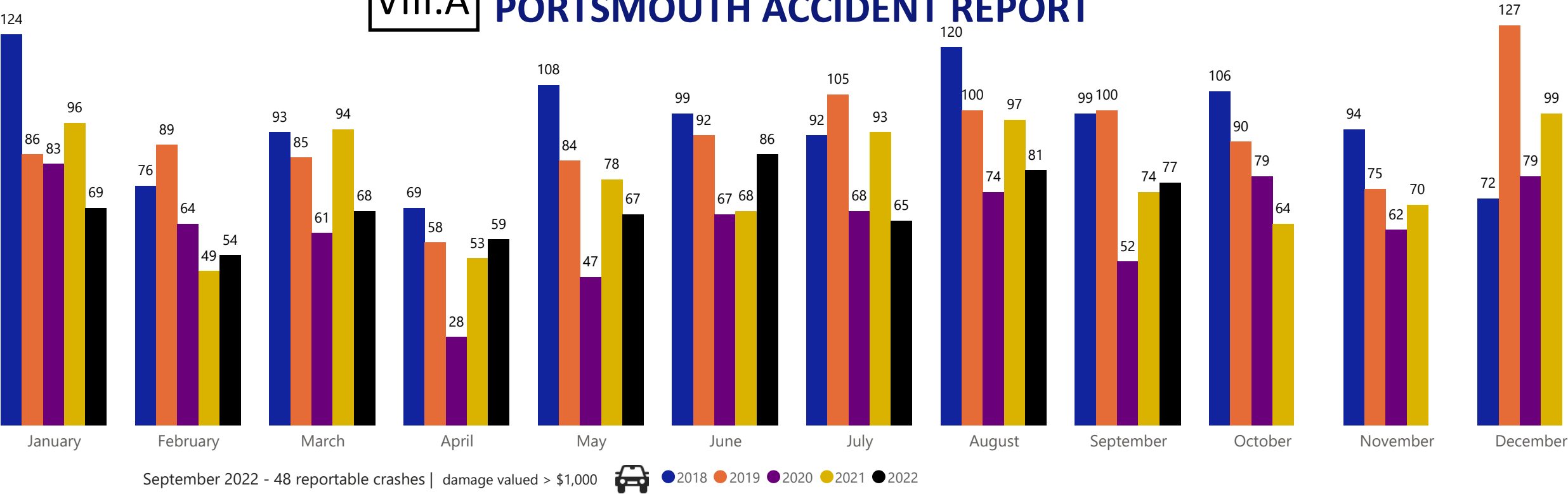
Speed Table
(2023)



Possible new stop sign

Non-compliant stop signs, need changes

VIII.A PORTSMOUTH ACCIDENT REPORT



From: [Peter M. Wissel](#)
To: [Planning Info](#)
Subject: ZBA meeting scheduled for March 21, 2023, 635 Sagamore Avenue
Date: Saturday, March 18, 2023 3:25:52 AM
Attachments: [PTS Agenda Packet 11.3.22.pdf](#)

Dear members of the ZBA,

Further to my previous e-mails in opposition to the request for variance, I cannot emphasize enough the danger to motorists and cyclists that exists at the crest of Sagamore Avenue near the subject property. Vehicles making a left hand turn from the the property cannot see what is approaching from the direction of Rye. Motorists approaching the crest from Rye cannot see a vehicle stopped in their lane waiting to make a left hand turn onto the Luster King property or making a left hand turn out of the property. The primary reaction of a driver seeking to avoid an obstacle in their lane is to brake and move toward the shoulder, which in the case of Sagamore Avenue is effectively a popular bicycle lane. Placing a single residential unit at 635 Sagamore Avenue is clearly the property owner's right despite the risk to public safety. However, placing 4 residential units on the site obviously magnifies the risk to public safety without any public benefit. In addition to the 6 additional personal vehicles that would result from 3 additional units, one has to consider the additional delivery vehicles (Amazon, FEDEX, UPS, USPS...) and service vehicles (house cleaners, landscapers, HVAC maintenance, plumbers, electricians...) that are a feature of modern suburban living. The incremental risk to public safety justifies voting against the requested variance. At the very least, I urge the members of the ZBA to consult with the Parking and Traffic Safety Committee which is well aware of the hazards at this location so as to be well informed of safety concerns before voting on the request for variance.

Respectfully,
Peter M. Wissel

579 Sagamore Avenue, Unit 75
Portsmouth, NH

[Sent from Yahoo Mail for iPad](#)

Begin forwarded message:

On Tuesday, November 22, 2022, 12:52 AM, Peter M. Wissel <pmwissel@yahoo.com> wrote:

Hi Ms. Kienia,

Thank you for the update.

I would like to add that the danger to cyclists at the crest of the Sagamore Avenue hill was also discussed at the Parking and Traffic Safety Committee Meeting on November 3, 2022. Attached is documentation from that meeting. I think it would be prudent for the Zoning Board of Adjustment to consult with the Parking and Traffic Safety Committee before ruling on the 635 Sagamore Avenue petition.

Best regards,
Peter Wissel

Peter M. Wissel
Mobile: 1-603-380-8885

On Monday, November 21, 2022 at 05:23:24 PM EST, Planning Info
<planning@cityofportsmouth.com> wrote:

Hi Mr. Wissel,

This petition was postponed and will now be heard at the December 20, 2022 Zoning Board of Adjustment Meeting. Your email will be included in Public Comment for the December meeting.

Best,

Kimberli Kienia

Administrative Assistant, Planning Dept.

1 Junkins Avenue

Portsmouth, NH 03801

Tel: (603) 610-7217

OFFICE HOURS:

Monday 8:00am–6:00pm

Tues–Thurs 8:00am–4:30pm

Friday 8:00am–1:00pm

From: Peter M. Wissel [mailto:pmwissel@yahoo.com]

Sent: Sunday, November 20, 2022 10:03 PM

To: Planning Info <Planning@cityofportsmouth.com>

Subject: 635 Sagamore Avenue

Dear members of the Zoning Board of Adjustment,

My wife and I were traveling abroad when the abutter notice dated November 15 regarding the subject petition was delivered by mail.

I am hopeful that it is not too late for our objections to the petition to be considered before a final determination is made by the Board of Adjustment.

We have two strong objections to the variance requested at 635 Sagamore Avenue.

We are avid cyclists. The shoulder of Sagamore Avenue in front of 635 Sagamore Avenue narrows from approximately 4 feet to approximately 12 inches. That stretch of Sagamore Ave is also on a grade, so a southbound cyclist would be moving uphill slowly. The crest of the grade is just beyond the subject property and a southbound motorist can not see vehicles approaching in the opposite lane. Consequently, an impatient southbound motorist, and there are many, especially during the tourist season, trying to pass a slow moving cyclist often fails to maintain 3 ft. of distance between their vehicle and a cyclist as required by NH law. One or more additional personal motor vehicles for each of 4 units, delivery vehicles and service vehicles seeking to turn in and out of a driveway at this already dangerous stretch of road will only add to the hazard to cyclists.

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Respectfully yours,

Peter Wissel and Susan Philbrick

579 Sagamore Ave., Unit 75

Portsmouth, NH 03801

Peter M. Wissel

Mobile: 1-603-380-8885

PARKING and TRAFFIC SAFETY COMMITTEE

PORTSMOUTH, NEW HAMPSHIRE

CONFERENCE ROOM A
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

*Members of the public also have the option to join the meeting over Zoom
(See below for more details)**

8:30 AM

November 3rd, 2022

ON-SITE COMMITTEE: Please meet on Tuesday, November 1st at 8:00 a.m. at the following location:

- Broad Street, north side of South Street

AGENDA

I. CALL TO ORDER

II. ATTENDANCE

III. FINANCIAL REPORT

IV. PUBLIC COMMENT (15 MINUTES)

This is the time for all comments on any of the agenda items or non-agenda items.

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None

VI. NEW BUSINESS

(No public comment during Committee discussion without Committee approval.)

- A.** Broad Street, request to move no parking signage farther back from South Street, by resident. **Sample Motion: Move to relocate NO PARKING HERE TO CORNER signs 30 feet from crosswalk on the north side of South Street.**
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VII. OLD BUSINESS

- A.** Maplewood Avenue at Prospect Street, report back on request to slow traffic on Maplewood Avenue. **Sample Motion: Move to place item on file.**
- B.** Mariette Drive, speed analysis. **Sample Motion: Move to place item on file**
- C.** Maple Haven stop sign analysis. **Sample Motion: Move to approve installation of stop sign on northbound leg of Suzanne Drive, at intersection of Suzanne Drive and Simonds Road, near park.**

VIII. INFORMATIONAL

A. Monthly Accident Report from Police

IX. MISCELLANEOUS

X. ADJOURNMENT

**Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser: https://us06web.zoom.us/webinar/register/WN_6t88nxMpTyyzNoD6fcJPWA*



Percentage of Fiscal Year Complete
25.00%

Preliminary
Totals Thru
September 30, 2022

	Total	Budgeted	% of Budget
FY 23			
Parking Meter Fees	1,128,480.07	3,250,000.00	35%
Meter Space Rental	34,330.00	150,000.00	23%
Meter In Vehicle	0.00	0.00	0%
EV Charging Stations	4,553.57	10,000.00	46%
Parking-Area Service Agreements	35,550.00	50,000.00	
High Hanover Transient	750,014.20	1,909,000.00	39%
High Hanover Passes	284,756.08	1,265,100.00	23%
Foundry Place Transient	106,852.94	502,000.00	21%
Foundry Place Passes	109,079.82	451,500.00	24%
Parking Sign Permit	0.00	0.00	
HH Pass Reinstatement	330.00	750.00	44%
Foundry Pass Reinstatement	234.75	750.00	31%
Parking Violations	290,215.50	700,000.00	41%
Immobilization Administration Fee	1,800.00	5,000.00	36%
Summons Admin Fee	0.00	0.00	0%
Total FY 23	2,746,196.93	8,294,100.00	33%

	BUDGETED	
	5,881,795	71% Transfer to Parking Fund
	2,412,305	29% Funds Remaining in Gen Fund

South Street and Broad Street Parking Near Intersection



Cole
260 Broad Street
Portsmouth, NH 03801

September 30, 2022

City Of Portsmouth
Department of Public Works – Roads and Sidewalks
680 Peverley Hill Road
Portsmouth, NH 03801

Re: **Broad Street/South Street**

Dear Sir or Madam:

I live at 260 Broad Street. I believe that the placement of the “No Parking Here to Corner” signs are creating or allowing a hazard.

The No Parking Here to Corner signs are placed at the end of Broad Street, where it meets South Street. As you know, this part of South is at the base of the hill leading down from the Edgewood Center and is one of the busiest streets in the City, particularly when students and buses and parents are driving to and leaving the High School. As one pulls out of Broad Street and turns toward the High School, the residence on the corner of Broad and South is surrounded by a high, dense privet hedge, which dramatically reduces visibility up South Street toward the Edgewood Center. The No Parking Here to Corner signs are placed about one car length onto or into Broad Street on both sides of Broad. Cars typically are parked right up to the signs. See my childish diagram, attached.

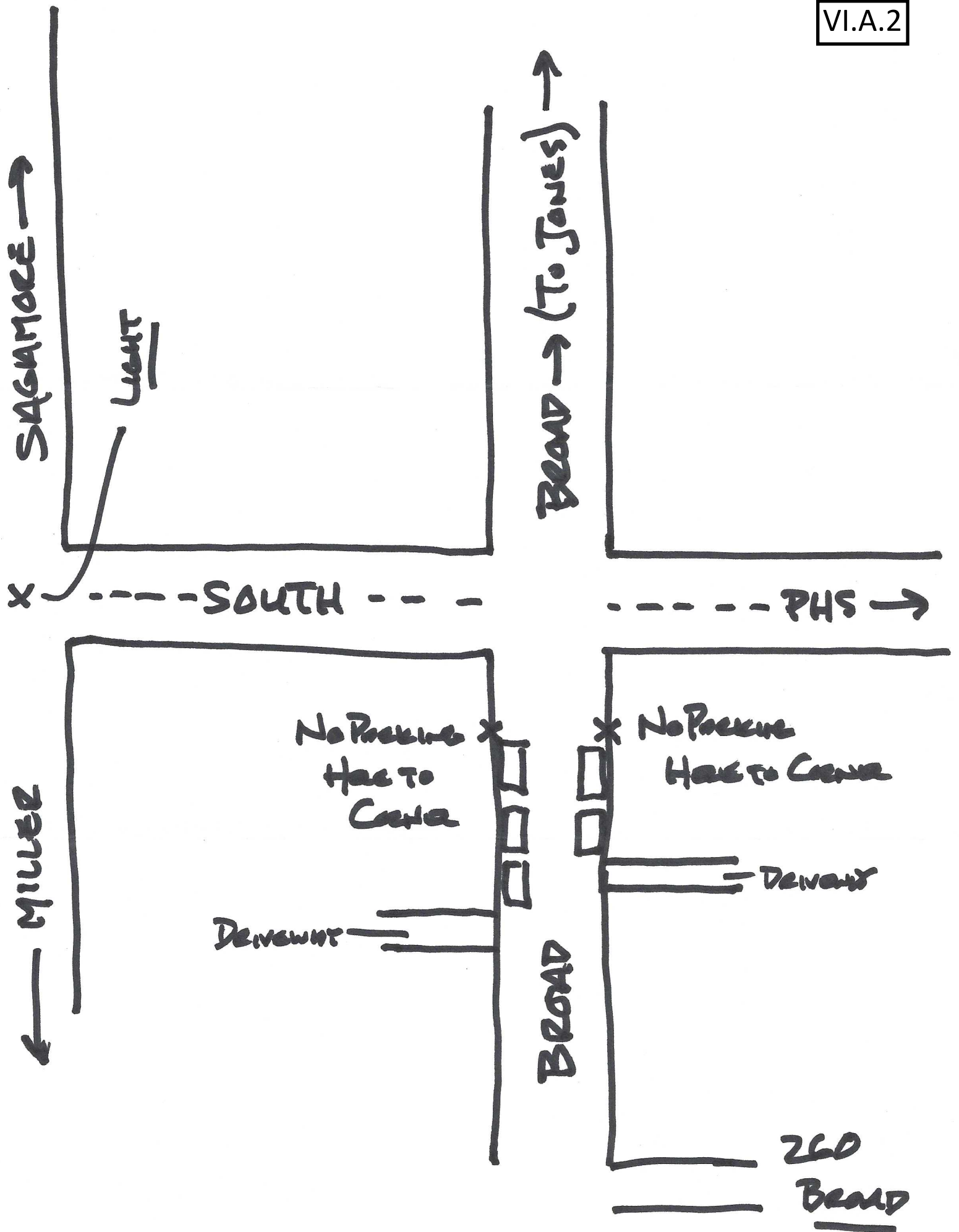
The result is that the opening for cars turning off of South, often with steady traffic both ways on South, is very narrow. This makes getting onto South from Broad and off of South to Broad difficult, because the narrow opening left by the parked cars is simply too small and the cars in traffic play a game of roulette, hoping there is enough room and time to pull out of or into Broad.

It seems that one solution could be to move the No Parking Here to Corner signs further down Broad Street, to at least permit some room to maneuver at the actual point of contact between the streets. I do understand that this would eliminate some parking spots – perhaps one on each side of Broad Street – but the safety advantages seem worth evaluating and trying on a temporary basis.

Thanks for reading this, and for everything you all at Public Works do to make the City so very livable.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Cole', with a stylized flourish at the end.



30' Per State Law

20' Existing



From: [Matthew Glenn](#)
To: [Eric B. Eby](#); [Andrew Bagley](#)
Subject: Request for PTSC to look at extending Sagamore Ave bike lanes
Date: Tuesday, October 25, 2022 10:19:23 AM

Dear Mr. Eby, Councilor Bagley, and members of the PTSC,

I would like to ask the Parking and Traffic Safety Committee to take a close look at extending the Sagamore Avenue bike lanes from Little Harbor Road to the Rye line. Please provide an update on what can be done to improve safety at the crest of the hill as the sewer project is completed; and for the full length of the road where existing shoulder width may allow it, please consider painting bike lane markings immediately.

In particular, the roadway in front of the Seacoast Mental Health Center is not wide enough to allow cars to park without crossing the white fog line and partially blocking the travel lane, so you should consider "no parking" signage here and in front of the new condos being built at 960 Sagamore. Shoulder width should allow for bike lane markings now that the "Golden Egg" is gone.

Please also provide an update on the project to extend the sidewalk to Tuckers Cove, and if bike lanes are to be included.

Finally, I'll request that you make reference in the PTSC packet to the Bicycle and Pedestrian plan, which calls for bike lanes and sidewalks for the full length of this very popular and critical biking, running, and walking route. Complete bike lanes may require additional time and funding, but I believe there are several small improvements the PTSC can make now with just signage and paint.

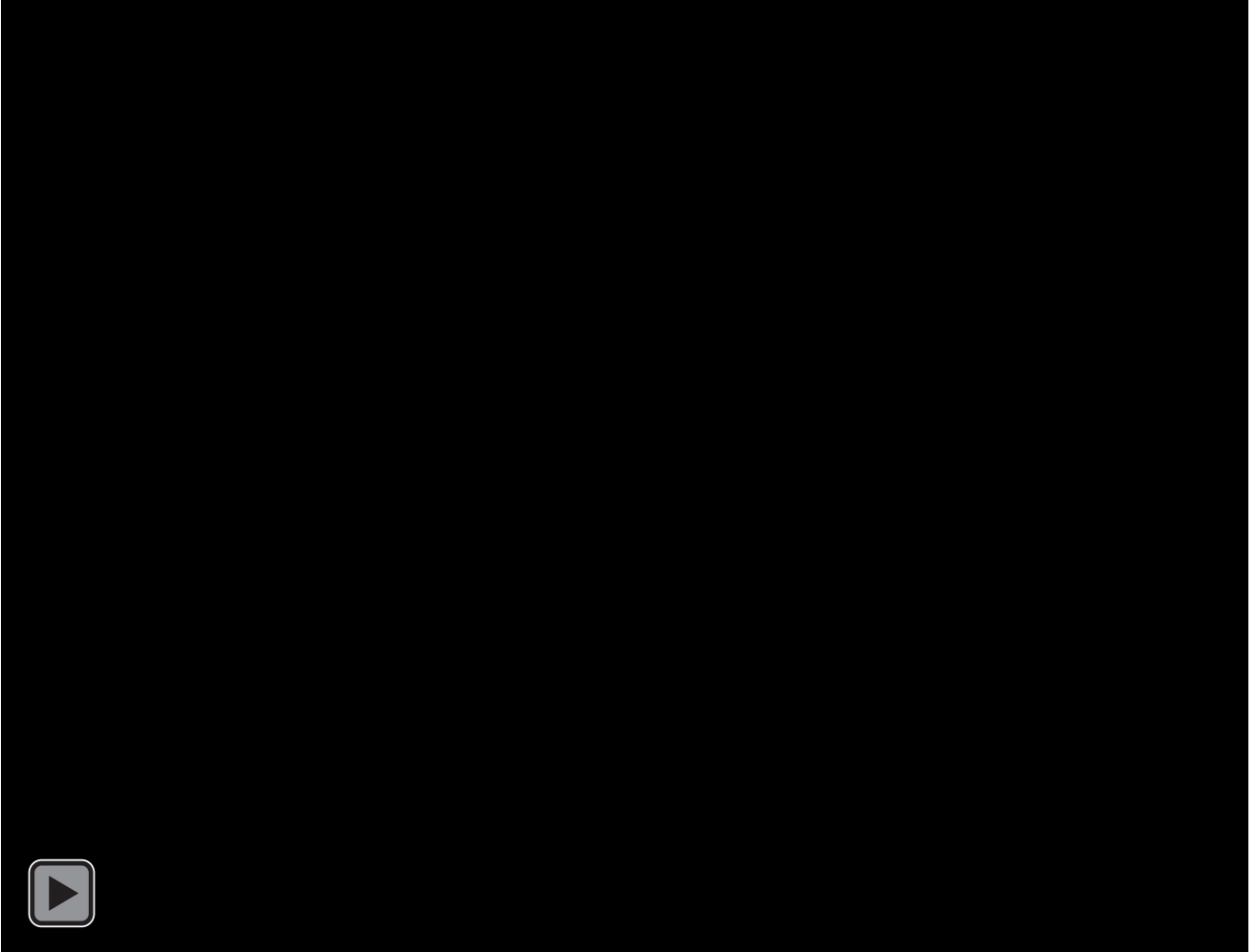
Regards,
Matt Glenn

Seacoast Area Bicycle Riders
seacoastbikes.org

VII.A.1 Maplewood Avenue at Prospect Street



Maplewood Avenue and Route 1 Bypass Ramp



Maplewood Avenue and Prospect Street



City of Portsmouth

Department of Public Works



MEMORANDUM

TO: Karen S. Conard, City Manager

FROM: Eric Eby, City Engineer – Parking, Transportation and Planning *EE*

DATE: October 24, 2022

SUBJECT: Maplewood Avenue at Prospect Street, Report Back on Request to Slow Traffic

City staff has received concerns from a resident of Prospect Street regarding the speed of vehicles turning right from the Route 1 Bypass northbound ramp onto Maplewood Avenue, the speed of vehicles on Maplewood Avenue, as well as the sight lines at the intersection of Prospect Street and Maplewood Avenue.

City staff has investigated the situation and conducted traffic volume turning movement counts, collected vehicle speed data, and measured sight distances at the intersection. The findings of the traffic evaluation indicate that, while there are some limitations to the sight lines, the available sight lines and observed speeds allow for safe operation of the intersection.

Traffic turning movement counts conducted at the intersection of Maplewood Avenue and Prospect Street revealed a peak hour volume of six vehicles exiting from Prospect Street onto Maplewood Avenue. This is a very low volume roadway, due to the small number of homes on Prospect Street and the ability to access the neighborhood from Dennett Street.

Average inbound traffic speeds on Maplewood Avenue were measured at 23 MPH, with an 85th percentile speed of 27 MPH. The posted speed limit is 25 MPH. These data include vehicles turning right from the ramp onto Maplewood Avenue, so the speed of vehicles coming over the bridge on Maplewood Avenue is likely somewhat higher. Vehicle speeds are used to determine the minimum required sight distance for safely stopping at an intersection.

Stopping sight distance on Maplewood Avenue, approaching Prospect Street from the west, was measured at 410 feet. This is sufficient for speeds of over 45 MPH, which is far in excess of the measured speeds on Maplewood Avenue. Stopping sight distance for vehicles approaching Prospect Street after turning right from the Route 1 Bypass ramp was measured at 90 feet, sufficient for vehicles traveling at 18 mph to see, react and stop for a vehicle turning out of Prospect Street.

The one noted deficiency at the intersection is the intersection sight distance for vehicles waiting to turn out of Prospect Street onto Maplewood Avenue. When measured from the standard location of 14.5 feet from the edge of Maplewood Avenue, the driver's sight line is only 175 feet, sufficient for oncoming vehicle speeds of 27 MPH. To get a longer sight line, it is necessary for the driver's eye to be within 7 feet of the edge of Maplewood Avenue. At this point, the front end of the driver's vehicle may be sticking out slightly into Maplewood Avenue. However, approaching vehicles on Maplewood Avenue are able to see the vehicle and come to a stop if necessary. In conclusion, the vehicle speeds on Maplewood Avenue are not excessive, and the intersection has adequate sight lines for safe operating conditions.

Maplewood at Prospect - TMC

Sat Sep 3, 2022

AM Peak (WKND) (Sep 03 2022 10AM - 11 AM)

All Classes (Motorcycles, Lights, Single-Unit Trucks, Articulated Trucks, Buses, Pedestrians,
Bicycles on Road, Bicycles on Crosswalk)

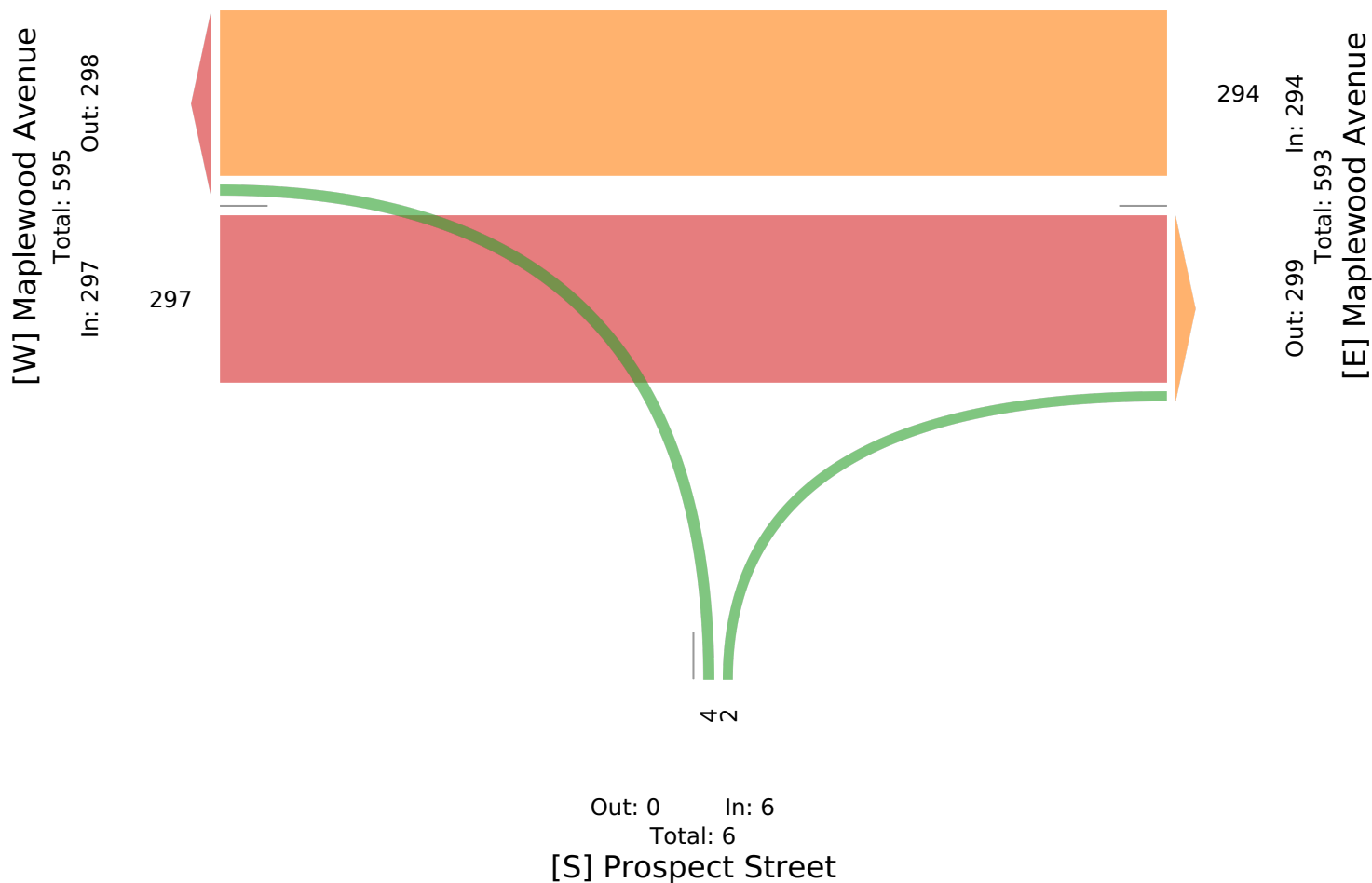
All Movements

ID: 985580, Location: 43.080381, -70.768384

Provided by: City of Portsmouth

680 Peverly Hill Road,

Portsmouth, NH, 03801, US



VII.A.4 Maplewood Ave.

From: [Dan Freund](#)
To: [Eric B. Eby](#)
Subject: Re: Maplewood Ave Exit Ramp
Date: Friday, July 15, 2022 10:43:45 AM

Eric,

I'm still seeking your attention to the intersection at Maplewood and Prospect. In the past week, there has been evidence of an accident with a shattered headlight in the street. As I mentioned in my email to you on June 20th, I was nearly struck by vehicles that proceeded through the exit ramp intersection at speed. At the August 13, 2015 Traffic Safety meeting, a vote was taken to address the intersection. That action was never taken. With the construction currently taking place and the increased traffic that will occur as a result of new occupation on Prospect St, I am concerned that you have not adequately addressed this issue. I would like to see two things from you.

- 1: Signage on Walker St alerting traffic to the presence of children at play
- 2: Adequate effort to slow the traffic coming from the exit ramp and from over the bridge through the blind intersection at Maplewood and Prospect St.

--

Dan Freund
Video Producer

www.myfrienddan.com

m: 603-817-0161

On Mon, Jun 20, 2022 at 1:26 PM Dan Freund <hey@myfrienddan.com> wrote:

Hello Eric,

I'm writing to request your attention to the Maplewood Ave exit ramp. This morning as I was nearly struck by a vehicle speeding through the stop sign trying to beat traffic approaching from the bridge. With the speed bumps further up the road, I'm sure there can finally be a solution. Additionally, with all the construction happening on Prospect St and the inevitable addition of tenants/residents to the street, I'd like to see some signage warning the presence of kids to vehicles approaching up Walker street. I know we've visited these issues before, but more can be done to make this street/intersection safer yet.

Regards,

--

Dan Freund
Video Producer

www.myfrienddan.com

m: 603-817-0161



SPEED DATA ANALYSIS

Location 19 Mariette Drive



Latitude: 43.025608
Longitude: -70.799173

Analysis Time Period



Start	End
10/5/2022 9:03 AM	10/7/2022 8:45 AM

Vehicles Analyzed

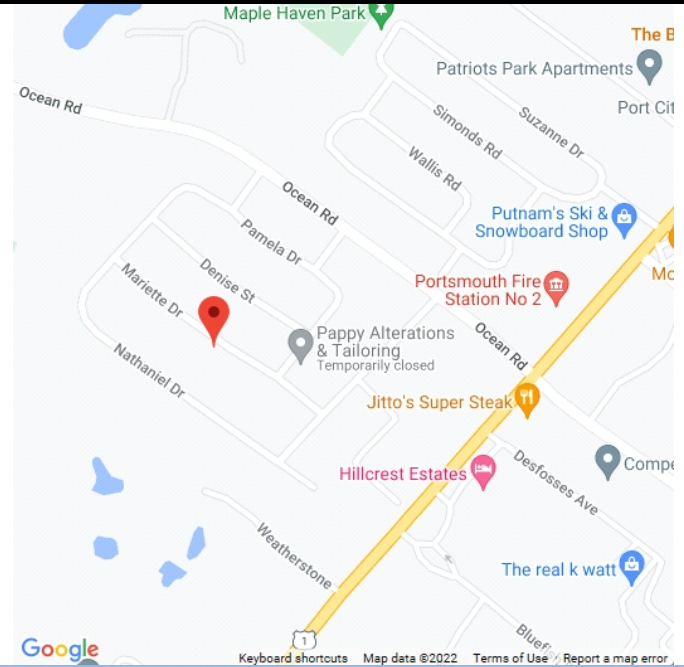


145

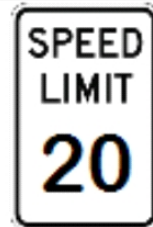
Average Speed



16



Speed Limit



20

85th Percentile Speed



21

SPEED DATA ANALYSIS

Location 43 Mariette Drive

Latitude: 43.027145
Longitude: -70.800418



Analysis Time Period



Start	End
10/3/2022 2:10 PM	10/5/2022 8:51 AM

Vehicles Analyzed



227

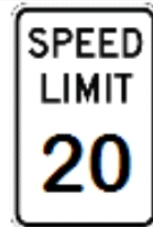
Average Speed



20



Speed Limit



20

85th Percentile Speed



26



Possible new stop sign

Maple Haven, North Side



Speed Table
(2023)

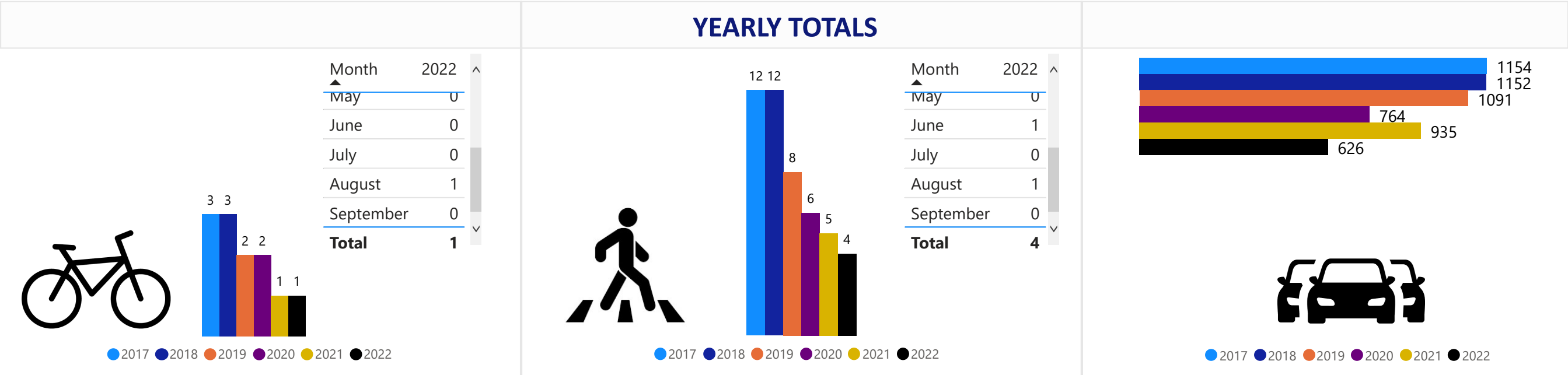
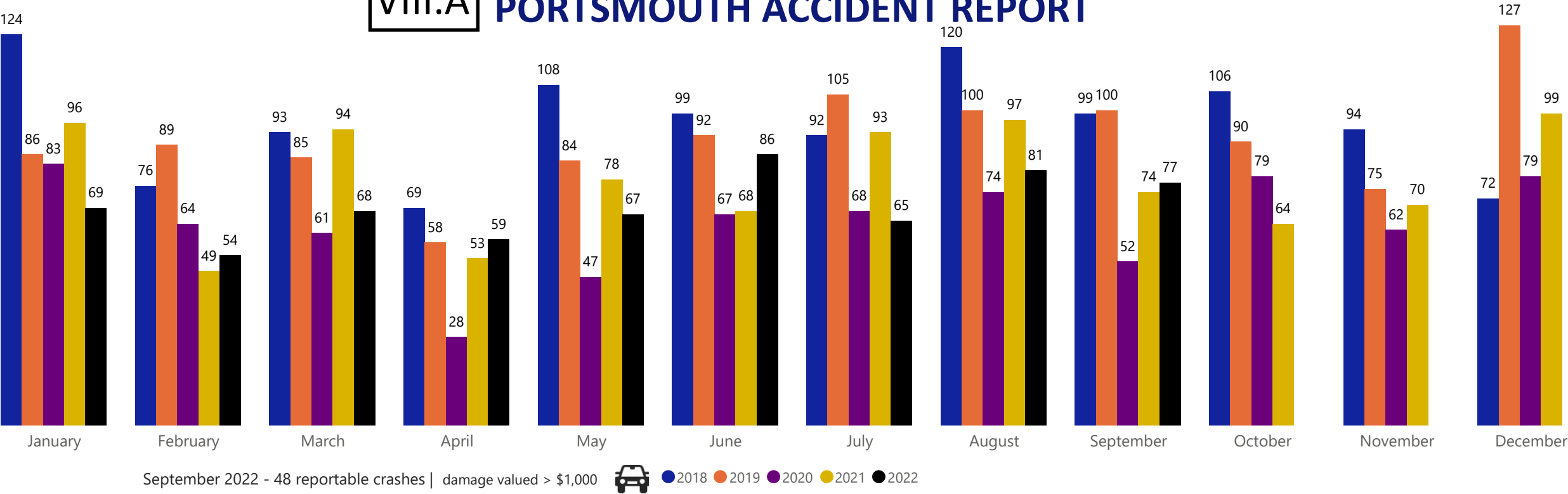
Speed Table
(2023)



Possible new stop sign

Non-compliant stop signs, need changes

VIII.A PORTSMOUTH ACCIDENT REPORT



Izak Gilbo

From: Peter Newell <pnewell77@aol.com>
Sent: Friday, December 9, 2022 4:41 PM
To: Planning Info
Subject: Proposed Luster King Development (635 Sagamore Ave.)

To the Zoning Board of Adjustment:

I am writing to express concerns by myself and my wife concerning the proposed Luster King Development which borders on our property as part of the Tidewatch Condominium complex. We bought our property in Tidewatch in 2014. The primary reason we were interested in this property related to the fact that the area was surrounded by woods, wet lands and a saltwater creek. I'm sure this was a major reason many of our neighbors wanted to move to this area also. Our concerns are that the Luster King Development as it is proposed would reduce values of the Tidewatch properties by building up along our entry road, taking out a beautiful wooded area, creating an undesirable situation with construction activities, creating drainage difficulties, and having an adverse effect on near by basements because of jack hammer work and blasting. Our thoughts are that jamming four houses into that sized area is a detriment to our area and our property values.

We understand property rights however there comes a time when neighbors are adversely affected both financially and in terms of quality of life. We feel that this is one of those times.

Thank you for your consideration on this issue.

Peter L. Newell
579 Sagamore Avenue
Tidewatch 102
Portsmouth, NH 03801
pnewell77@aol.com
Mobile 330-283-1973

From: [Katherine Tobin](#)
To: [Planning Info](#)
Subject: 915 Sagamore Avenue Variance Request
Date: Monday, March 20, 2023 9:27:01 AM

I live at 579 Sagamore Avenue, Unit 60. My property abuts 915 Sagamore Avenue which has applied for a variance. I purchased my property because of the privacy and the green space separating my property from Sagamore Avenue, which has experienced increasing traffic over the years.

I am writing to request that the variance not be approved because it will diminish the green space (which we all need), increase noise, decrease privacy and decrease my property values.

I am also very concerned about the blasting of the ledge which could potentially result in significant damage to adjacent Tidewatch properties. What assurances do we have that damages will be evaluated and corrected?

Katherine Tobin
579 Sagamore Avenue
Unit 60

March 5, 2023

Portsmouth Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03901
Attn: kkienia@cityofportsmouth.com

Re: 915 Sagamore Avenue: Variance Request

Good afternoon:

I own a home on Sagamore Avenue in Portsmouth, located directly behind Portsmouth Scuba, 915 Sagamore Avenue. I was recently informed by a neighbor that the owner of the property, leased in part to Portsmouth Scuba, has submitted plans to develop a 12-unit residential rental structure with commercial space below. Please note that I did not receive an abutter's notice of this submission.

As the direct abutter, I am opposed to applicant's submission and submit the following:

1. The applicant, Nissley, LLC, previously registered as a New Hampshire limited liability company has been administratively dissolved and, accordingly, is unauthorized to do business in the State.
2. In the first instance, I would be more than happy support the elimination of one of the existing tenants who apparently operates a mooring and/or machine shop and, as noted by the applicant, is an eyesore, littering the property with debris. From my perspective as the adjacent property owner, this tenant presents a constant nuisance. Engines are left running regardless of the season or time of day, creating not only a noise disturbance but emitting consistent noxious exhaust fumes. Notwithstanding my support of eliminating **this** use, I am strongly opposed to the applicant's submitted development of a residential structure of the submitted capacity, square footage and lot coverage on the site.
3. I note that the applicant has requested several variances required for approval and would argue that this proposed development:
 - i. is contrary to the public interest.
 - ii. will significantly alter the character of the locality / neighborhood; and
 - iii. is not in the best interest of the community.

Accordingly, I would submit that applicant's proposal is inconsistent with the spirit of the ordinance and does not meet variance criteria.

It is one thing to upgrade the applicant's property both structurally and with respect to existing uses. It is another to create a 3-story building that adds an excessive number of residential units, significantly increasing traffic on an already busy road and altering the essential character of the neighborhood that we have struggled to create.

Other development options are far more appropriate for this location and would not create an unnecessary hardship for the applicant. I recognize that there is a shortage of housing in Portsmouth. However, I also recognize that the character of Portsmouth and its neighborhoods is what creates its value and desirability.

I and other neighboring property owners located on the private portion of Sagamore Avenue, have worked hard and spent considerable time and money to upgrade our property, substantially creating a strictly single-family "waterfront" residential neighborhood. Applicant's proposal will substantially alter this character and negatively impact its value. Moreover, as the direct abutter, the submitted proposal will create further disturbances, increased traffic, view and light interference, will significantly limit privacy and accordingly, substantially diminish the value of my property. A value that I have worked hard to establish.

For all of the foregoing reasons, I respectfully submit my opposition to applicant's proposal. I appreciate your consideration.

Very truly yours,

Karen Butz Webb

Karen Butz Webb
910 Sagamore Avenue
Portsmouth, NH. 03801
603.475.1135
kabwebb@gmail.com

From: [Heidi Ricci](#)
To: [Planning Info](#)
Cc: [Stefanie L. Casella](#)
Subject: Request for Suspension of Rules Regarding 915 Sagamore Ave Application - Would like opportunity to speak at March ZBA Meeting
Date: Thursday, February 23, 2023 12:45:39 PM
Attachments: [screenshot of website. 2.22.23 zba meeting.png](#)

Good Afternoon,

I am Heidi Ricci and I reside at 912 Sagamore Avenue and am the owner of the abutting waterfront property at 913 Sagamore Avenue where between both properties we rent out 16 boat slips. I believe in supporting what little is left of the waterfront business district.

I respectfully request the rules be suspended (given the website not being clear and exceptions already having been made for the applicant) so as to allow public comment. I was not aware of the January 17th meeting but have watched the video. By looking at the website (see attached screenshot) I wouldn't have known about last night's meeting either as the property isn't listed in the list on the right. Fortunately, a neighbor made me aware. I attended last night's meeting (2/22/23) (as did the direct abutters at 910 Sagamore Ave.) with the hope of speaking against the application but was not afforded the opportunity.

Waterfront Business Zoning is Scarce:

I am against this proposal because waterfront business zones are scarce, and there are a number of waterfront business opportunities that could be entertained without having to get a variance for 12 apartments and office space.

We personally have been approached by 3 separate businesses (that meet water-front business criteria) in need of space in Portsmouth. I question whether the applicant has done his due diligence.

Granting these variances is the path of least resistance and I don't think the city should give away the potential for this site. It is essentially spot zoning that opens up pandora's box. **Where is the benefit to the city?** It feels like a one way street.

Safety:

I have strong concerns about the safety of bikers and walkers. I witness on a regular basis how difficult it is to pull out and onto Sagamore Avenue given the location at the bottom of the hill. I think adding upwards of 20 cars coming in and out of that location is very risky.

Eyesore:

The applicant's reference to it currently being an eyesore is subjective. With that said, it could be rectified with proper use of the site. Myself and my neighbors all bought our properties knowing we were in a water-front business zone. A little gritty, yes, but I think this proposal is essentially helping to push out of the city the maritime history that we have celebrated for 400 years, only to benefit the applicant.

Height/Scale:

I would like to note that this proposed development would be the only full three-story building on Sagamore Ave. It does not fit.

I appreciate the opportunity to share why I feel the rules should be suspended so as public comment is allowed at the March meeting.

Kindly,

Heidi Ricci
603.380.0935

March 20, 2023

VIA EMAIL

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

Email: pmstith@cityofportsmouth.com

Re: Rehearing of Variance Application – 67 Ridges Court

Members of the Board,

This Office represents Kathleen Thomson, owner of the property at 56 Ridges Court in Portsmouth. Ms. Thomson'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 variance application of 67 Ridges Court, owned by Jeffrey and Melissa Foy.

This application was denied by this Board at its November 15, 2022 meeting on the basis that the Foys' November application was not materially different in nature or degree from their August application, also denied by this Board, and that the changes made in the subsequent application were not sufficient to meet the standard laid out in Fisher v. City of Dover, 120 N.H. 187 (1980). The Foys' Request for Rehearing, dated December 14, 2022, of the denied November application was denied by this Board at its January 17, 2023 meeting, on the basis that the changes made to the subsequent application would not have altered the Board's decision given that the factors which had contributed to the Board's original objection in August had not changed, and that the Board had not erred in its decision. Minutes of the Board of Adjustment Meeting, January 17, 2023, p. 4.

On January 31, 2023, Attorney Phoenix submitted to this Board a Request for Reconsideration of the Board's decision to deny the Request for Rehearing because Member MacDonald had recused himself from consideration of the November 2022 application hearing as an abutter, but not of the request for rehearing. The Board voted at its February 22, 2023 meeting to grant this Request for Reconsideration on the basis of Attorney Phoenix's arguments, and voted to rehear the application of the Foys at the March 21, 2023 meeting.

RSA 677:4 requires that, "[a]ny person aggrieved by any order or decision of the zoning board of adjustment or any decision of the local legislative body may apply, by petition, to the

superior court within 30 days after the date upon which the board voted to deny the motion for rehearing,” which petition “shall specify the grounds upon which the decision or order is claimed to be illegal or unreasonable.”

To the extent that the Foys felt that this Board’s denial of their request for rehearing at the January 17 meeting was illegal or unreasonable for the reasons stated in Attorney Phoenix’s request for reconsideration, their only recourse was to appeal that decision to the Superior Court. No statutory process exists for the relief sought by the Foys in this instance. There is no reconsideration process for a motion for rehearing that has been denied after the original application was denied. In attempting to correct what it sees as an error on its part in denying the Foys’ request for rehearing based on the non-recusal of one of its Members, the Board acted outside the bounds of its authority by granting the Foys a third attempt at obtaining the variances they seek. We therefore request that the Board decline to rehear the Foys’ application at the March 21 meeting.

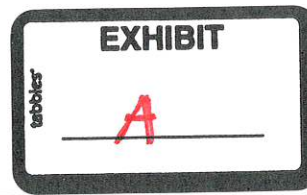
Should this Board decide to proceed with the rehearing of the Foys’ application at the March 21 meeting, Ms. Thomson incorporates herein and resubmits her objections to the application to the Board. Namely, that the application is not materially different in nature or degree from the August 2022 application and thus the Board should decline to reach a discussion of its merits, and that the application as resubmitted fails to meet the criteria warranting the granting of the variances sought. The factors which resulted in the denial of the August 2022 application were largely unchanged in the November 2022 application; there is no hardship requiring the Foys’ addition to be built in a location which lies 100% in the wetland buffer and which also presents an obstruction to the abutters’ light, air, and space. A copy of the letter submitted by this Office in objection to the November 2022 application is attached hereto as Exhibit A.

We thank you for your time and consideration of the above, and request that you decline to rehear the Foys’ variance application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darcy Peyser".

Darcy Peyser, Esq.



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

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.

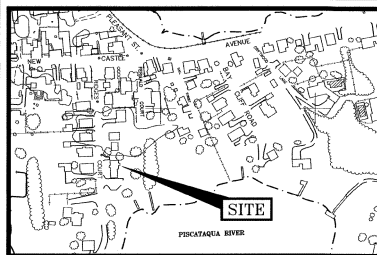
In the event that the Board opts to reach the merits of the Foys' application, I would incorporate by reference the arguments made in my objection letter to the Board on Ms. Thomson's behalf dated July 19, 2022, a copy of which is attached herewith as Exhibit B.

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:

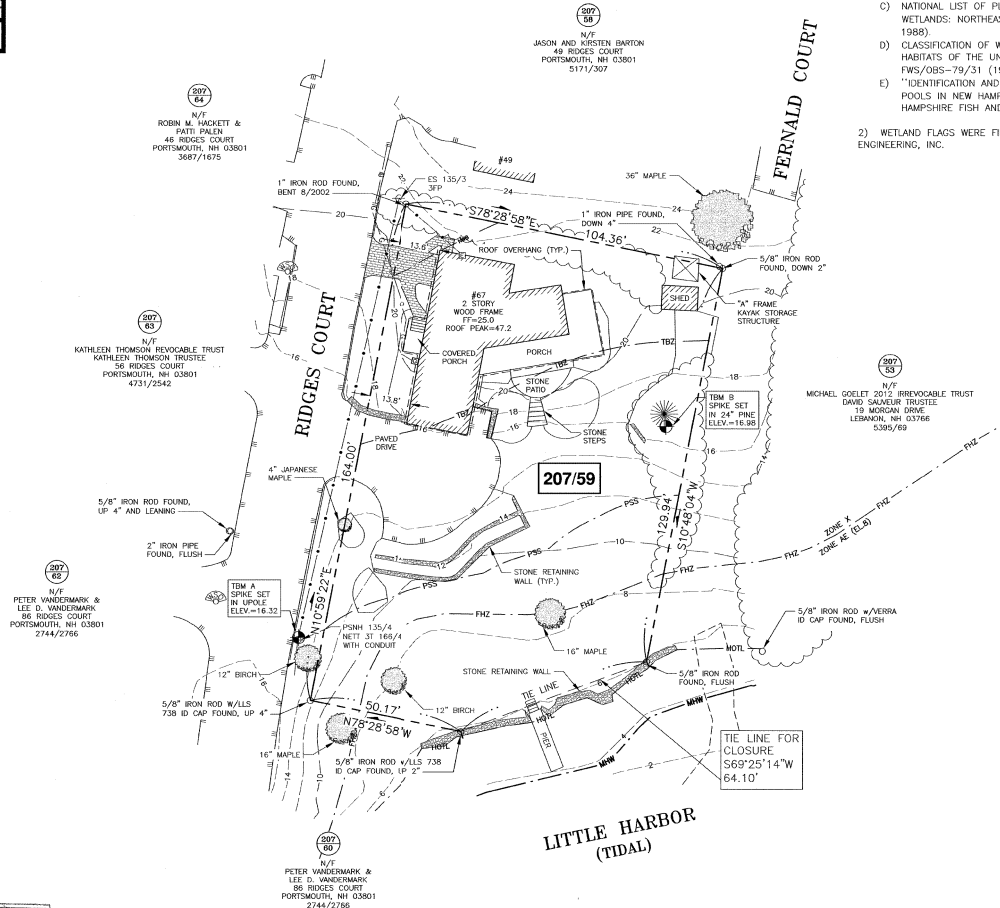
N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11	MAP 11 / LOT 21
○	RAILROAD SPIKE FOUND
○	IRON ROD/IRON PIPE FOUND
○	DRILL HOLE FOUND
○	STONE/CONCRETE FOUND
○	RAILROAD SPIKE SET
○	IRON ROD SET
○	DRILL HOLE SET
○	GRANITE BOUND SET
○	BOUNDARY
○	BUILDING SETBACK
○	MEAN HIGH WATER LINE
○	NHDES HIGHEST OBSERVABLE TIDE LINE
○	PSS
○	NHDES 50' PRIMARY STRUCTURE SETBACK
○	TBZ
○	NHDES 100' TIDAL BUFFER ZONE
○	NWB
○	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
○	INV.
○	TEMPORARY BENCHMARK
○	TBM
○	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, USFW 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'

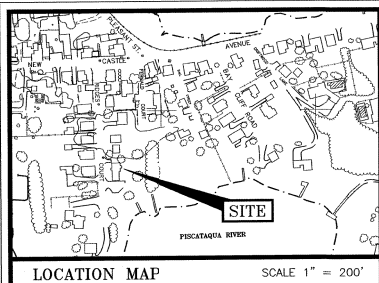
MAY 2022

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	
HOTL	HIGHEST OBSERVABLE TIDE LINE
PSS	50' PRIMARY STRUCTURE SETBACK
TBZ	100' TIDAL BUFFER ZONE
NWB	150' NATURAL WOODLAND BUFFER
SWGA	250' PROTECTED SHORELAND
FHZ	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	EDGE OF PAVEMENT
FT	FINISHED FLOOR
INV.	INVERT
TBM	TEMPORARY BENCHMARK
TYP.	TYPICAL
LSA	LANDSCAPED AREA

PLAN REFERENCES:

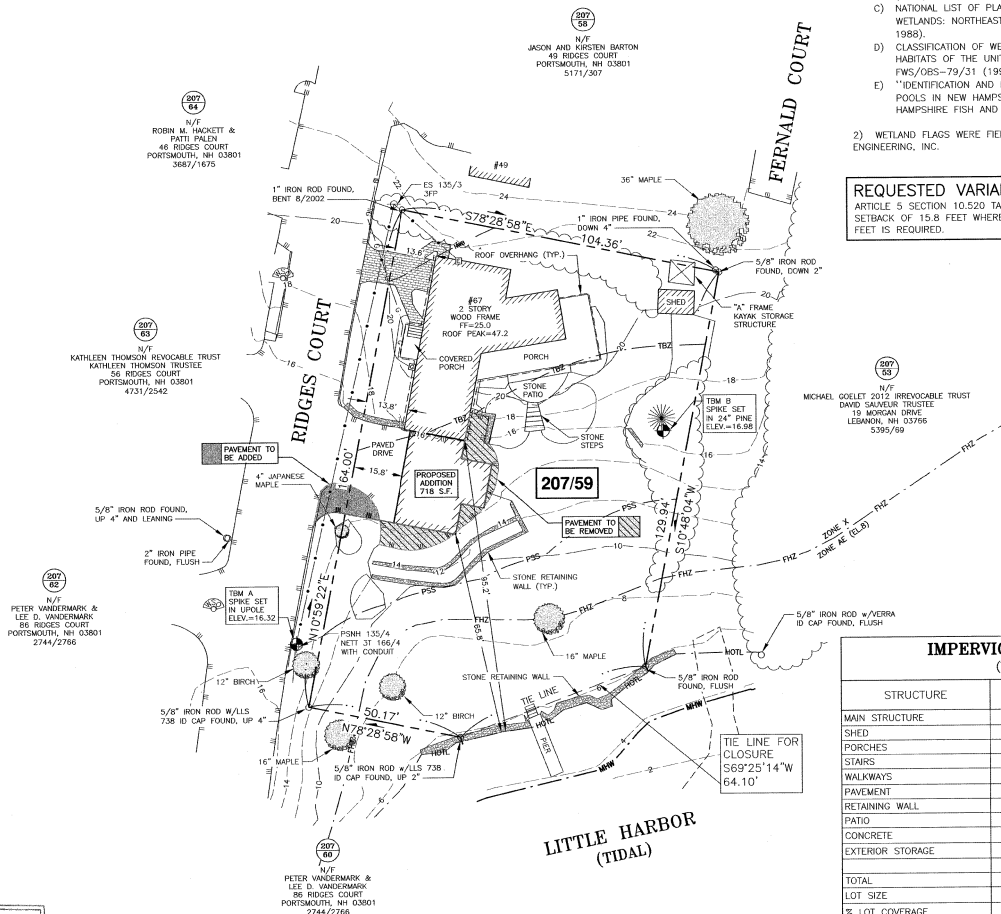
- 1) PROPOSED ADDITIONS, CHARLES MCLEOD, 67 RIDGES COURT PORTSMOUTH, NH, PROPOSED SITE PLAN, PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2002. NOT RECORDED.
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 - B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.2, USDA-NRCS, 2018 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4. NEWPPC WETLANDS WORK GROUP (2019).
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- 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%



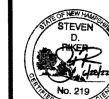
AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Goffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 438-8982
Fax (603) 438-2315

NOTES:

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JEFFREY M. & MELISSA FOY
4 FOX HOLLOW COURT
EAST KINGSTON, N.H. 03827
6325/1066
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- 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

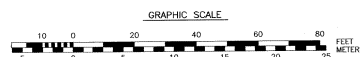
VARIANCE
PLAN

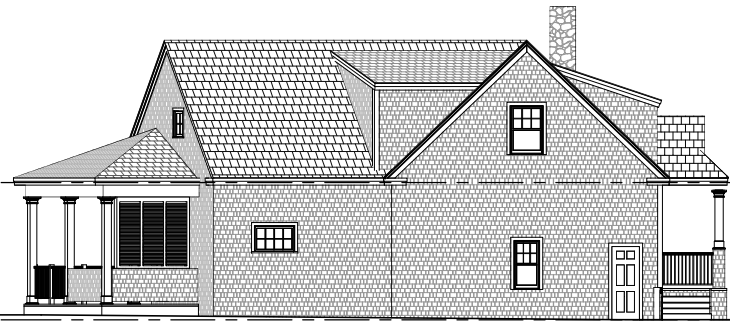
C2

"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

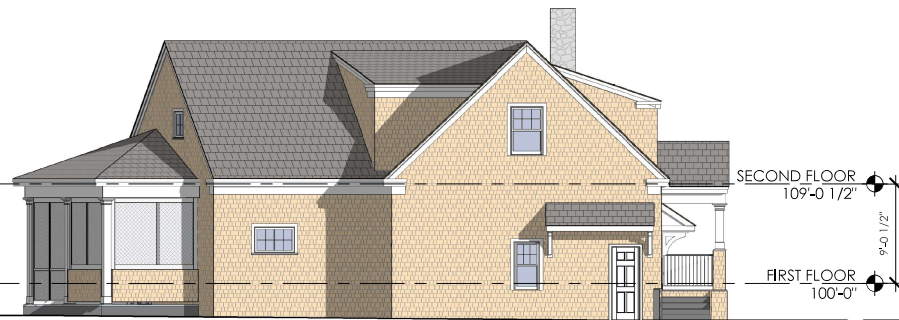




EXISTING NORTH ELEVATION



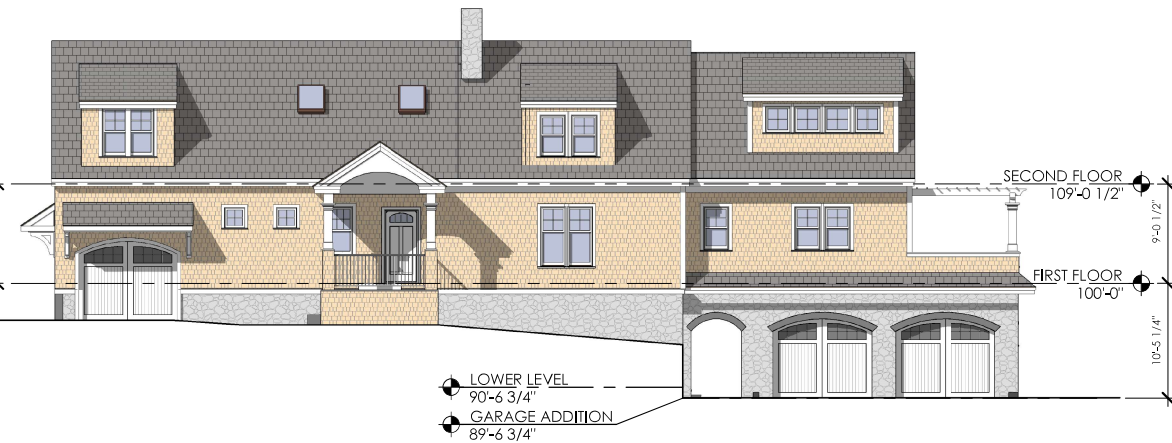
EXISTING WEST ELEVATION



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

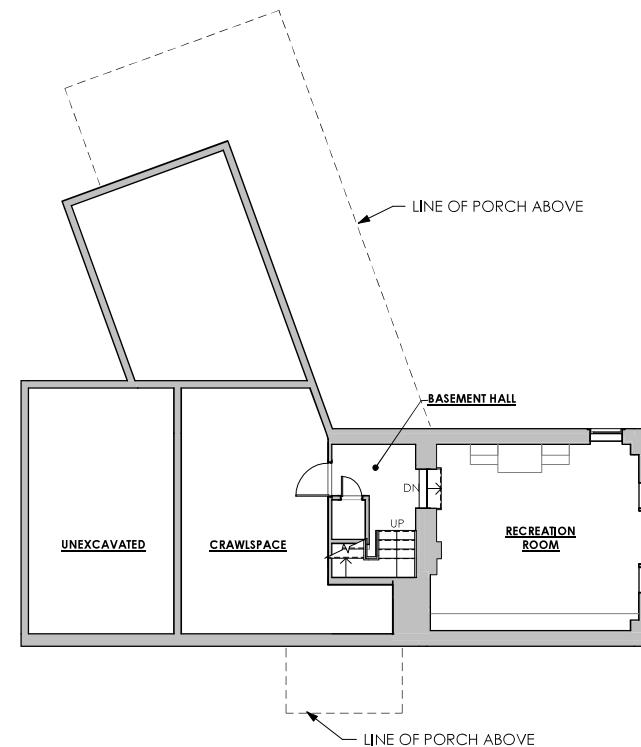
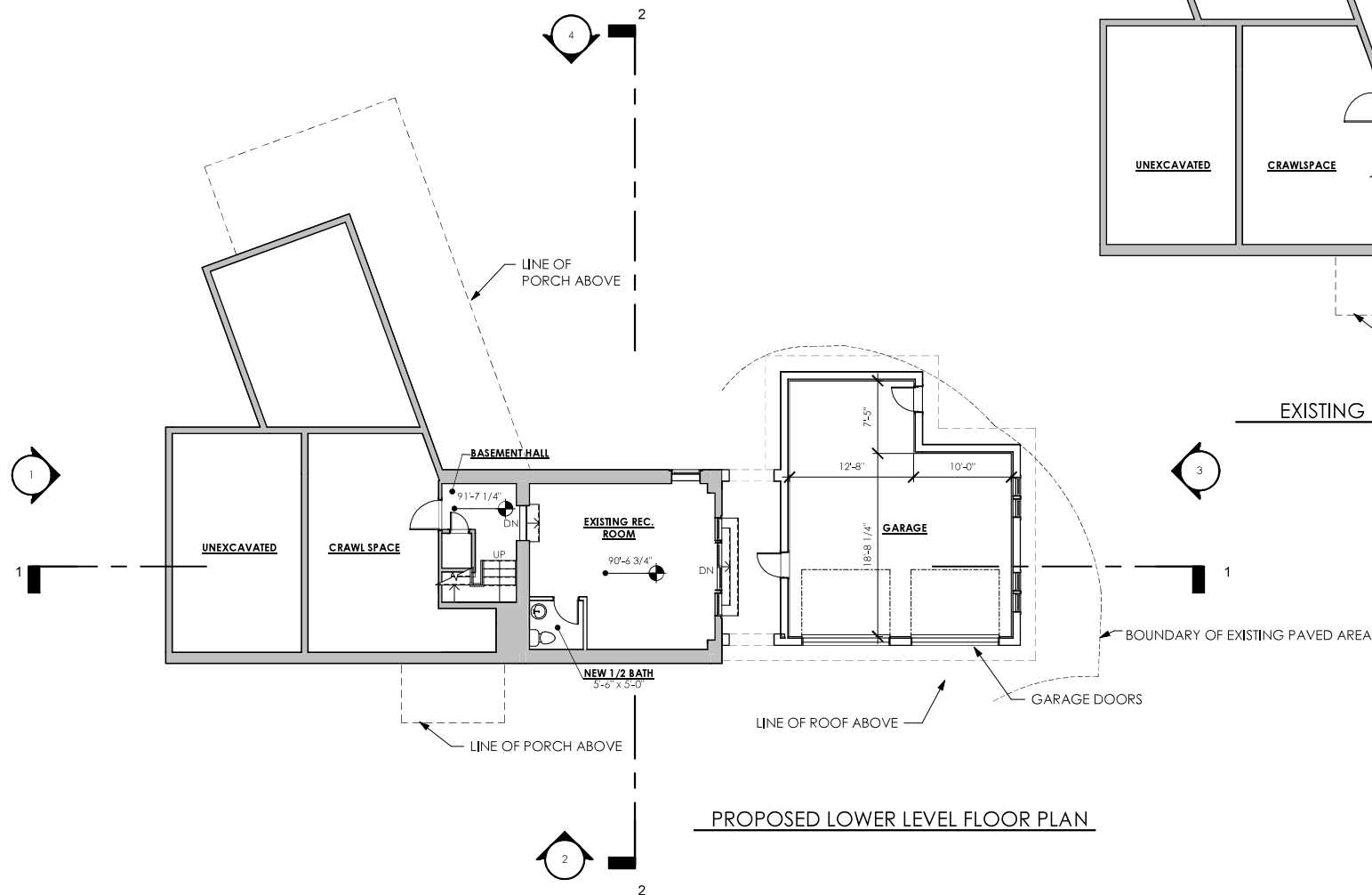


PROPOSED EAST ELEVATION
1/8" = 1'-0" 4

DESIGN DEVELOPMENT FOR
FOY RESIDENCE
67 RIDGES CT
PORTSMOUTH, NH

ELEVATIONS
1/8" = 1'-0"

JUNE 14, 2022



EXISTING LOWER LEVEL FLOOR PLAN

PROPOSED LOWER LEVEL FLOOR PLAN

DESIGN DEVELOPMENT FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

LOWER LEVEL FLOOR PLANS

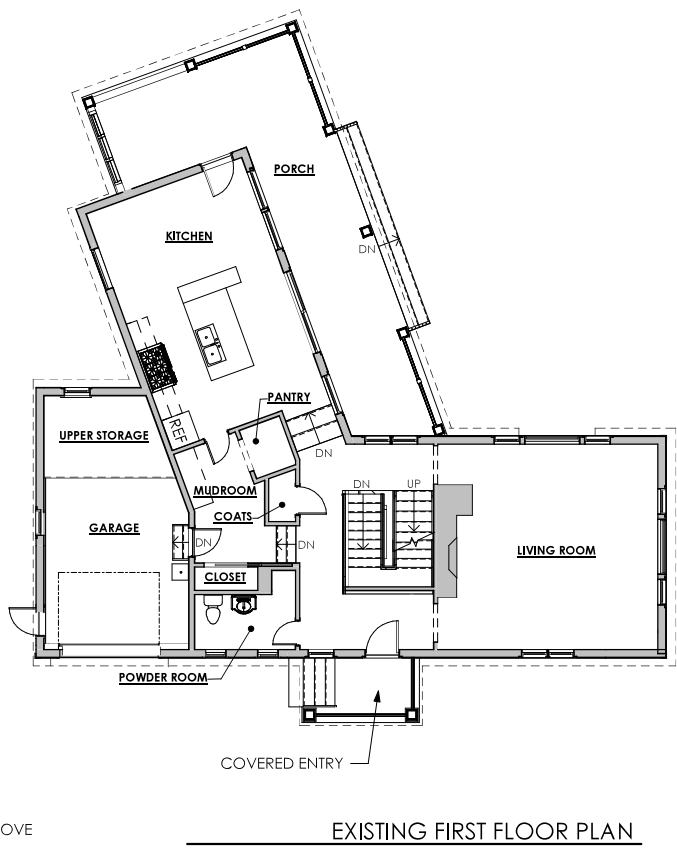
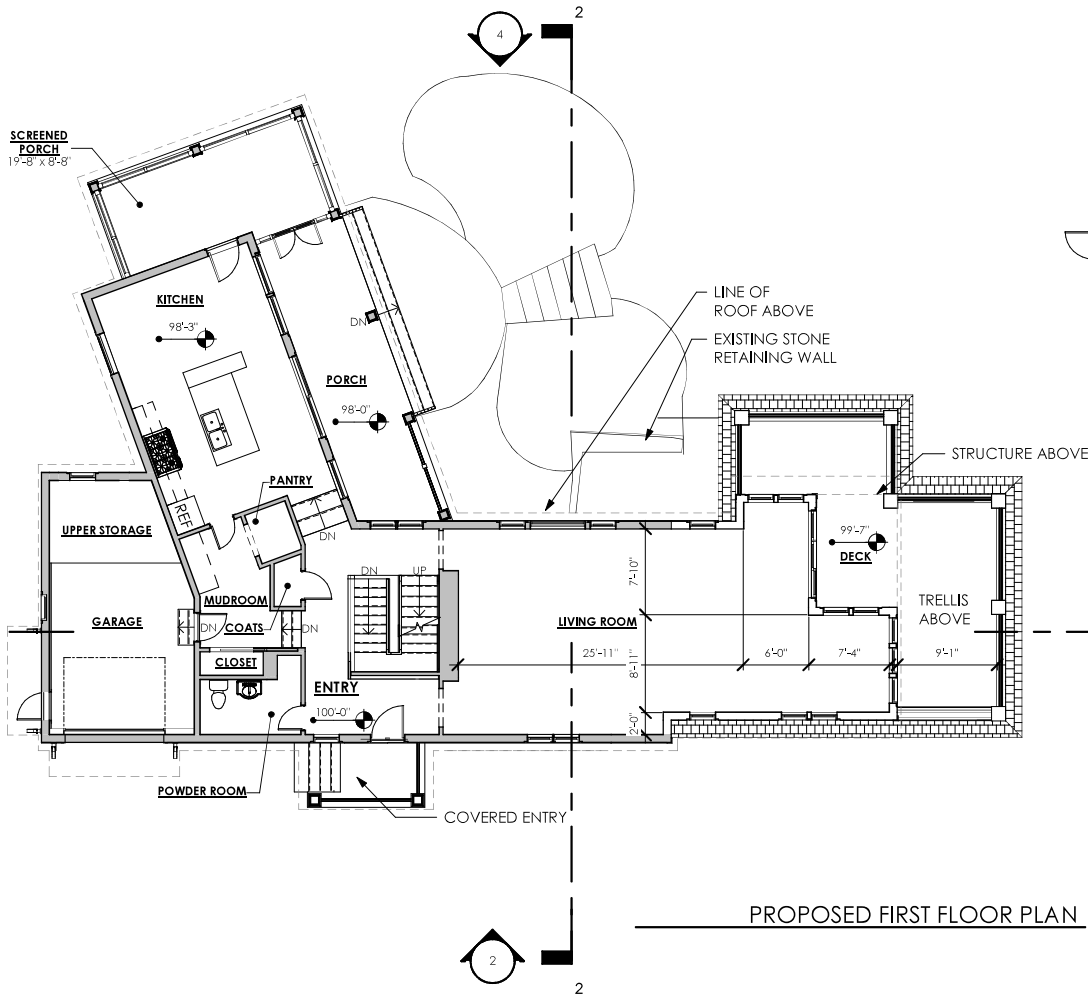
1/8" = 1'-0"

JUNE 14, 2022



21177

DMA
 DESTEFANO
 MAUGEL
 ARCHITECTS



DESIGN DEVELOPMENT FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

FIRST FLOOR PLANS

1/8" = 1'-0"

PROJECT
NORTH

TRUE
NORTH

21177

DMA

DESTEFANO
MAUGEL
ARCHITECTS

JUNE 14, 2022

© 2022

DESIGN DEVELOPMENT FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

SECOND FLOOR PLANS

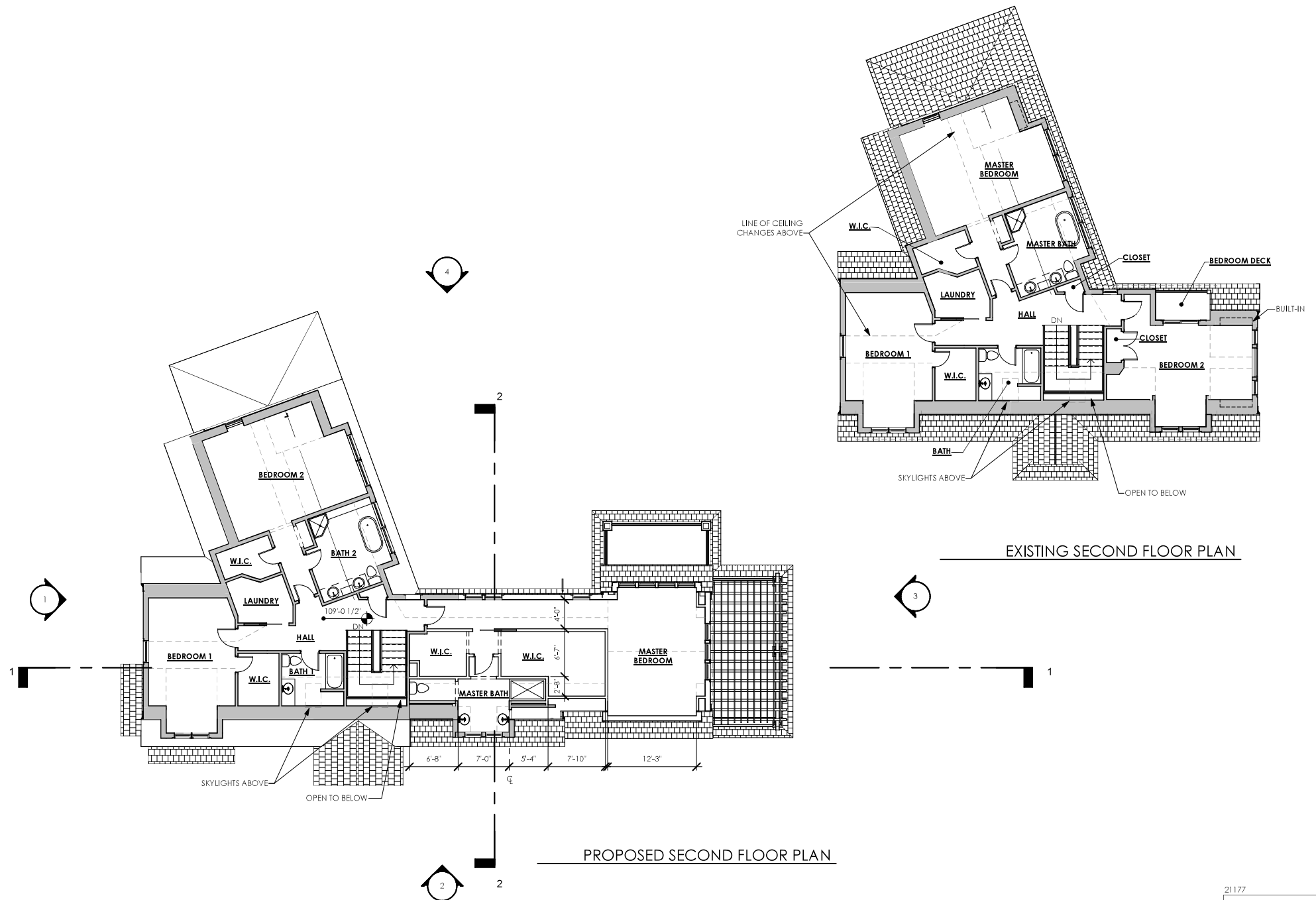
1/8" = 1'-0"

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

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 Foys 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 Foys to make reasonable use of the Property?*** The answer is unequivocally, "***no***". The single-family home on the Foys' 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 Foys 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 Foys 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 Foys' property.

Finally, ***substantial justice would not be done*** if the Foys' 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 Foys 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 Foys' 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