

Brian & Martha Ratay

LU-24-119 Build Application

Variance Narrative & Supporting Documentation

Assessor Map & Lot 0221-0096-0000

Broad Street

We are Brian and Martha Ratay, and we are submitting this application to the Board of Adjustments.

We have resided in Portsmouth for over 25 years, collectively living on McDonough St, Middle Road, Union Street, Willard Ave and most recent 457 Broad Street. We have 2 children, one who is 13 in 8<sup>th</sup> grade and the other is 19 and headed to University in August. Both sets of our aging parents live in the seacoast, one in Elwin Park and other in Greenland. We are putting forth this application as we would like to build a smaller single-family residence that will also allow for both of us to work remotely from home and have the flexibility to convert space for our aging parents to reside under our future care. We love all of Portsmouth and cherish its uniqueness and history. We have gone through countless design options, modified ideas and attempted to be creative in what we propose to the Board. We have considered the feeling of our neighborhood, our neighbors, the history and aesthetic of Portsmouth and longevity given our own ages and that of our parents and children.

Our application is for 0 Broad Street to build a Single Residential Unit on a vacant and undersized lot which requires the following:

1. A variance from the City of Portsmouth Zoning Ordinance, section 10.521 to allow:
  - a. 6101 sq ft of lot area where 7500 sq ft are required
  - b. 6101 sq ft of lot area per dwelling unit where 7500 are required
  - c. 60 ft of frontage where 100 ft are required
  - d. 31% lot coverage where 25% is allowed
  - e. 5 ft side and 2 ft rear setbacks for the garage where 10 ft and 20 ft are required respectively

Said property is located on assessor map and lot 0221-0096-0000 and lies within General Residence A (GRA) which provides areas for single family, two family and multifamily dwellings, with appropriate accessory uses.

We are requesting relief to build a single-family dwelling on this existing empty lot within the General Residence A (GRA) Zone. The Lot was created and has been taxed as a stand-alone lot by the city. The Lot has never been merged involuntary or involuntary by the city, but it is deficient by today's zoning standards, as we have 60 ft of frontage where 100 is required and 6101 sq ft of lot area where 7,500 is required and 6101 sq ft of lot area where 7,500 is required per dwelling unit. We cannot under any circumstances comply with those requirements as the lot is not large enough. Any use of this lot requires the exact same relief, effectively there are no other uses in the table of uses in the GRA zone other than a single-family residence that would be appropriate for this lot.

We are requesting additional relief for 31% lot coverage in part, because there is a pre-existing structure from lot 0221-0042-0000 that sits partially over the property line on 0 Broad St (Lot 0221-0096-0000) adding an additional 110 sq ft of lot coverage. This preexisting structure pushes the proposed lot coverage for 0 Broad St. from 28% to 31%.

Lastly, we are requesting relief on the rear and side setback for the proposed garage. The proposed garage has setbacks of 5 ft from the right side and 2 ft from the rear, where 10ft and 20ft are required respectively. This proposed garage should not diminish the value of other homes on Broad St. or obstruct views as the proposed garage is consistent in footprint with other homes on this side of Broad St. and many that abut on Sagamore Ave. Most homes have a garage closer than 5 ft to the

existing property lines. The back right corner of the 0 Broad St. lot has a 6ft privacy fence in addition to 6x45 ft Arborvitae Trees along the rear. Also, regarding the rear relief requested, there are 36" wide, open and rising stairs beginning at the left garage side and rising around back, up to the rear door. While these are within the 5 ft zone we originally sought, they are only partially so and are in fact within a 30' x 45' space of sheer and dense Arborvitae. We ask the Board to view the pics of the lot we supplied and apply extra consideration on this point/rear placement. We were very intentional in evaluating plans and design to ensure that the proposed single-family residence and garage were in keeping with the styles and lay out of other homes on the street. We were also very conscious of privacy, including window placement. Please note that the proposed single-family home was designed to be dimensional compliant with all current setbacks and the proposed garage, although non-compliance as proposed, is similar to most homes on this side of Broad Street.

In addition, we would like to share with the Board, that for the renovations and new build of our last 3 homes in Portsmouth, we have never requested a variance. We do not make this request lightly and have considered this project diligently since January of 2024. This is a four-square designed traditional home: 2 floors, 3 bedrooms, approx. 2,200-2,400 with a 1 car garage. Our hope is that the Board will agree, that our basic intent and requested relief, both, are reasonable. While the term modest may differ in exact definition, we are in fact asking to build a modest home and garage, in a space where the same exist and with plans both city and neighbors can support. Additionally, given that this is our first variance request, we also completed many work sessions with different representatives for the city, in advance of this application and hearing: Peter Stich in Planning, Stephanie Casella and Jillian Harris in BOA and Shanti Wolph in Inspections. With their suggestions, we made several alterations and adjustments, including the garage's current location.

We've included a bird's eye view of the homes on our side of Broad Street and Sagamore St, showcasing the numerous garages, side structures and existing setbacks, on over half the neighboring homes, similar lot sizes as 0 Broad St.

Lastly and with regard to the deeded front setback of 20', we have been counseled by the Derek R. Durbin, whom we believe the Board has worked with on many occasions. We discussed the project and deed in depth. He has counseled us that the city may, in fact, only require the existing city setback of 15'. The city has no responsibility or ability to enforce the deed. *That said*, we **are** honoring the deeded setback of 20'. On this issue we also discussed the current city exception of structures under 18" within the existing 15' setback. Derek has confirmed the same logic should be applied to the deeded setback. While not an affidavit, this is our council and we can provide testimony or letter of support, if absolutely necessary.

In addition to the above, and relative to the City Zoning Ordinance, section 10.233.20, our responses to the criteria and rationale for variance authorization are as follows:

**10.233.21 The variance will not be contrary to the public interest:**

The requested relief is not contrary to the public interest, as the variance proposal for the property does not impact the health, safety and/or welfare of the public. Also, the visual environment and natural resources are preserved for both the public and the city. The proposed single-family residence and one car garage is consistent with over half the lots on the same side of the Broad

Street which are identical in lot size and frontage, therefore the variance to build a single-family residence and one car garage in the rear corner of the lot are consistent with surrounding homes and the neighborhood. Lastly, we also require the full surface area of the garage roof (hence it's single plane) to adjunct our home roof area for a 2-part solar array, to fully power our new home. This use of renewable energy is also in the best interest of the town and state due to environmental impact and increasing grid demands.

**10.233.22 The spirit of the Ordinance will be observed:**

The requested relief remains in the spirit of the Ordinance, due to the fact that the proposed single-family residence is within the current setback (one car garage is not), and the lot coverage percentage is minimally over 25% by only 1.5% (preexisting structure from adjacent property sits over the property line). To maintain privacy there is a 6' cedar privacy fence along the rear and right side of the property line, 6x45 ft Arborvitae Trees along the backlot line and a large Japanese Maple on the side lot, which are on either adjacent neighbors' property and both of which grow well over our current lot lines, in the relief requested zone. We mutually maintain these trees with our neighbors. Because of this, the proposed garage will not interfere with the adjoining property's views, property use and privacy. The proposed single-family residence and one car garage were specifically designed to minimally infringe with specific angles, door placement, structure placement and smaller privacy windows on the East side.

**10.233.23 Substantial justice will be done:**

The requested relief will provide substantial justice as this lot has been taxed as a stand-alone lot by the city and the lot has never been merged involuntary or involuntary by the city, but the lot is deficient by today's zoning standards. We cannot under any circumstances comply with those requirements as the lot is not large enough. Any use of this lot requires the exact same relief, effectively there are no other uses in the table of uses in the GRA zone other than a single-family residence that would be appropriate for this lot. Without relief, injustice and inequity will be done.

**10.233.24 The values of the surrounding properties will not be diminished:**

The relief requested does not diminish surrounding properties as the proposed single-family residence and one car garage are consistent with over half the homes on the same side of Broad Street. Each lot on the same side of the street are identical in lot size and frontage so adding a new structure to a lot which is of identical size will be in keeping with the aesthetic and layout of the neighborhood and will not diminish properties in the surrounding neighborhood.

**10.233.25 Literal enforcement of the provisions of the Ordinance would result in unnecessary hardship:**

Without the relief requested literal enforcement would result in unnecessary hardship. The special conditions of the property do not meet the current requirements as the lot is not large enough. Under no circumstances can said property comply with the requirements. Any use of this property requires the exact same relief, effectively there are no other uses in the table of uses in the GRA zone other than a single-family residence that would be appropriate for this lot and a variance is therefore necessary to enable a reasonable use of it. Without relief to build a single-family residence on this lot we will be placed in a position of unnecessary hardship.



N/T  
WRENCH & WILSON  
CARL E. WILSON  
TAX MAP 221 LOT 26  
R.C.A.D. BOOK 524 PAGE 1336

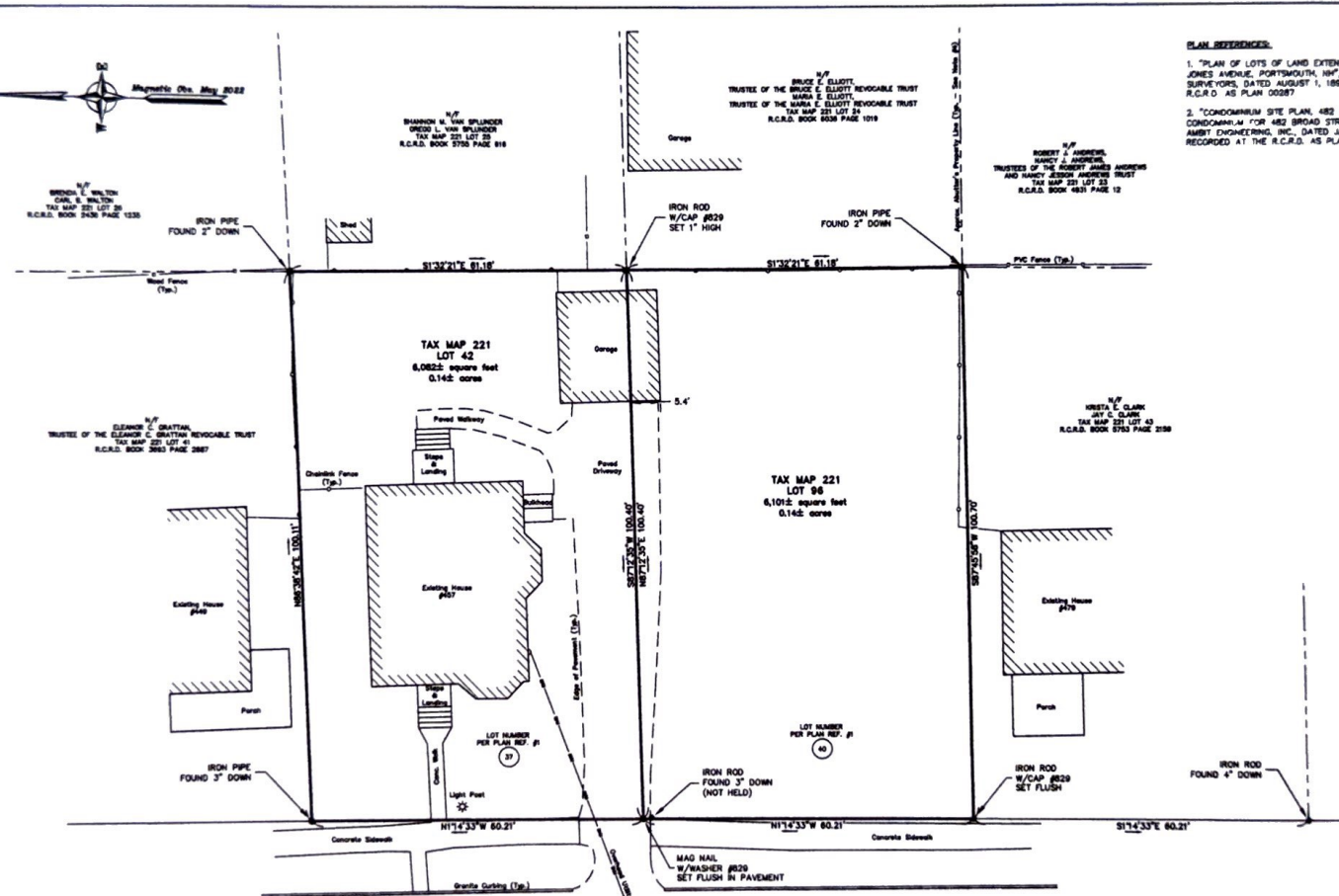
N/T  
SHANNON M. VAN SPILNER  
DREW L. VAN SPILNER  
TAX MAP 221 LOT 25  
R.C.A.D. BOOK 5700 PAGE 816

N/T  
BRUCE E. ELLIOTT  
TRUSTEE OF THE BRUCE E. ELLIOTT REVOCABLE TRUST  
MARIA E. ELLIOTT  
TRUSTEE OF THE MARIA E. ELLIOTT REVOCABLE TRUST  
TAX MAP 221 LOT 25  
R.C.A.D. BOOK 5208 PAGE 1019

N/T  
ROBERT S. ANDREWS  
JANEY T. ANDREWS  
TRUSTEES OF THE ROBERT JAMES ANDREWS  
AND JANEY T. ANDREWS TRUST  
TAX MAP 221 LOT 23  
R.C.A.D. BOOK 4821 PAGE 12

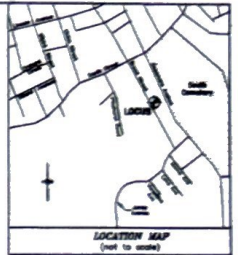
N/T  
WESLEY CLARK  
BY C. CLARK  
TAX MAP 221 LOT 43  
R.C.A.D. BOOK 5753 PAGE 2158

N/T  
ELEANOR C. BRANTON  
TRUSTEE OF THE ELEANOR C. BRANTON REVOCABLE TRUST  
TAX MAP 221 LOT 41  
R.C.A.D. BOOK 3863 PAGE 2887



**PLAN REFERENCES:**

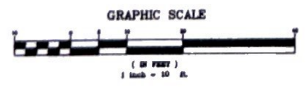
- "PLAN OF LOTS OF LAND EXTENDING FROM SOUTH ROAD TO JONES AVENUE, PORTSMOUTH, NH", PREPARED BY A.C. HOYT, SURVEYORS, DATED AUGUST 1, 1893, AND RECORDED AT THE R.C.A.D. AS PLAN 00287.
- "CONDOMINIUM SITE PLAN, 482 BROAD STREET, CONDOMINIUM FOR 482 BROAD STREET, L.L.C.", PREPARED BY AMBT ENGINEERING, INC., DATED JANUARY 2018, AND RECORDED AT THE R.C.A.D. AS PLAN SHEET 1 OF 7 D-4089A.



**NOTES:**

- OWNERS OF RECORD:  
TAX MAP 221 LOTS 42 & 96  
THE FRANCES D. LABEL REVOCABLE TRUST OF 2014,  
C/O THOMAS LABEL,  
R.C.A.D. BOOK 5514 PAGE 739  
DATED FEBRUARY 10, 2014.
- TOTAL EXISTING PARCEL AREA:  
TAX MAP 221 LOT 42  
6,082± Sq. Ft.  
TAX MAP 221 LOT 96  
6,102± Sq. Ft.
- BASES OF BEARING IS PER MAGNETIC OBSERVATION TAKEN IN MAY 2022.
- APPROXIMATE ADJUTER'S LINES SHOWN HEREIN ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
- EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCLUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREIN.
- THE BOUNDARY SHOWN HEREIN IS DETERMINED FROM WRITTEN RECORDS, FIELD EVIDENCE AND PARCEL TESTIMONY RECOVERED AT THE TIME OF SURVEY AND MAY BE SUBJECT TO CHANGE IF OTHER EVIDENCE BECOMES AVAILABLE.
- LOCUS PARCELS ARE "SUBJECT TO THE CONDITION THAT NO BUILDING OR OTHER STRUCTURE, SHALL EVER BE ERRECTED, OR PLACED, UPON SAID LOT WHICH SHALL IN ANY PART BE LOCATED, OR BEING, WITHIN TWENTY (20) FEET OF THE EASTERLY SIDE LINE OF BROAD STREET". SEE REFERENCE DEED BOOK 5514 PAGE 739.

Survey Methods  
①  
Water Color Value (Typ.)  
[Symbol]



**BROAD STREET**



**CERTIFICATION**

"I certify that this survey plot is not a subdivision pursuant to this title and that the lines of streets and ways shown are those of public or private streets or ways already established and that no new ways are shown."  
I further certify that this survey conforms to the ethics and standards set forth by the New Hampshire Land Surveyors Association for a category 1, condition 1 survey.  
*Peter L. Agodino*  
Peter L. Agodino, L.L.S. #29  
Date: 5/27/2022

**STANDARD PROPERTY**  
FOR PROPERTY AT  
457 Broad Street  
Portsmouth, Rockingham County  
OWNED BY  
**The Frances D. Label Revocable Trust of 2014**  
C/O Thomas Label  
24 Heritage Drive, Rollisford, NH 03063

**EASTERLY SURVEYING**  
SURVEYORS IN N.H. & MAINE  
(207) 439-0333

|             |                    |                |                |
|-------------|--------------------|----------------|----------------|
| SCALE       | PROJECT NO.        | DATE           |                |
| 1" = 10'    | 20420              | 5/27/22        |                |
| DRAWING NO. | ISSUE PROP. SURVEY | FIELD BOOK NO. | PORTSMOUTH 007 |
| REV. DATE   | STATUS             | BY             | CHKD. APPD.    |



N/T  
WENDY L. WILTON  
CARL S. WILTON  
TAX MAP 221 LOT 28  
R.C.R.D. BOOK 2428 PAGE 128

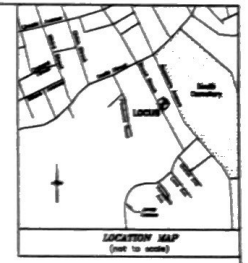
N/T  
SHANNON M. VAN SPILLER  
GREGG L. VAN SPILLER  
TAX MAP 221 LOT 29  
R.C.R.D. BOOK 2750 PAGE 916

N/T  
ELIZABETH C. GRANTIN  
TRUSTEE OF THE ELIZABETH C. GRANTIN REVOCABLE TRUST  
TAX MAP 221 LOT 41  
R.C.R.D. BOOK 2650 PAGE 2887

N/T  
BRUCE E. ELLIOTT  
TRUSTEE OF THE BRUCE E. ELLIOTT REVOCABLE TRUST  
MARA E. ELLIOTT  
TRUSTEE OF THE MARA E. ELLIOTT REVOCABLE TRUST  
TAX MAP 221 LOT 24  
R.C.R.D. BOOK 2628 PAGE 1019

N/T  
ROBERT S. ANDREWS  
MARY J. ANDREWS  
TRUSTEES OF THE ROBERT S. ANDREWS AND MARY J. ANDREWS TRUST  
TAX MAP 221 LOT 23  
R.C.R.D. BOOK 4821 PAGE 13

N/T  
KRYSTYLA CLARK  
STY C. CLARK  
TAX MAP 221 LOT 43  
R.C.R.D. BOOK 2753 PAGE 2158



**PLAN REFERENCES:**

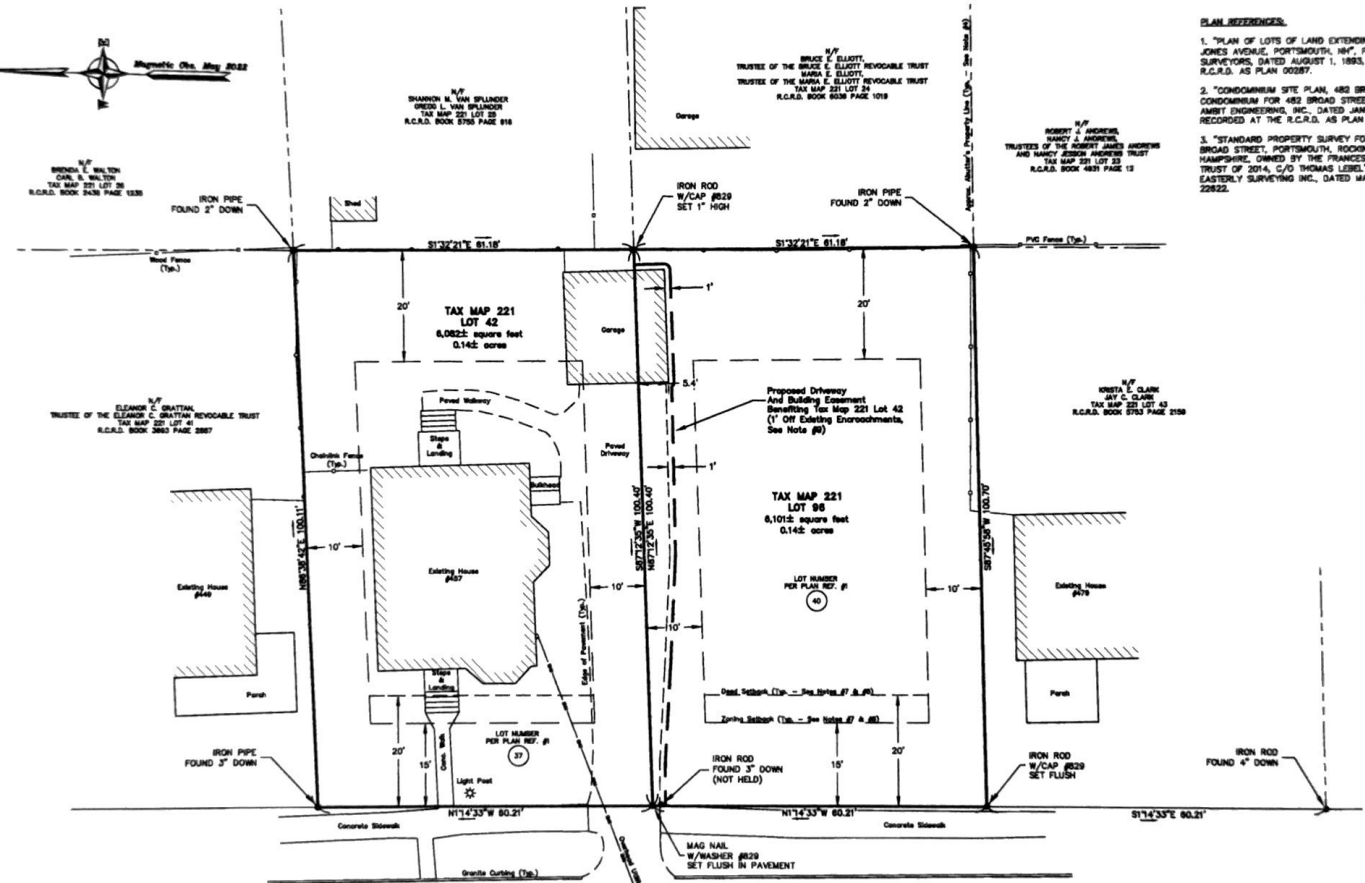
1. "PLAN OF LOTS OF LAND EXTENDING FROM SOUTH ROAD TO JONES AVENUE, PORTSMOUTH, NH", PREPARED BY A.C. HOYT, SURVEYORS, DATED AUGUST 1, 1893, AND RECORDED AT THE R.C.R.D. AS PLAN 00287.
2. "CONDOMINIUM SITE PLAN, 482 BROAD STREET, CONDOMINIUM FOR 482 BROAD STREET, L.L.C.", PREPARED BY AMBT ENGINEERING, INC., DATED JANUARY 2018, AND RECORDED AT THE R.C.R.D. AS PLAN SHEET 1 OF 3--40884.
3. "STANDARD PROPERTY SURVEY FOR PROPERTY AT 457 BROAD STREET, PORTSMOUTH, ROCKINGHAM COUNTY, NEW HAMPSHIRE, OWNED BY THE FRANCES D. LABEL REVOCABLE TRUST OF 2014, C/O THOMAS LABEL", PREPARED BY NORTH EASTERLY SURVEYING INC., DATED MAY 27, 2022, PROJECT No. 22822.

**NOTES:**

1. OWNERS OF RECORD:  
TAX MAP 221 LOTS 42 & 98  
THE FRANCES D. LABEL REVOCABLE TRUST OF 2014,  
C/O THOMAS LABEL  
R.C.R.D. BOOK 2814 PAGE 739  
DATED FEBRUARY 15, 2014.
2. TOTAL EXISTING PARCEL AREA:  
TAX MAP 221 LOT 42  
6,082± square feet  
TAX MAP 221 LOT 98  
6,102± square feet
3. BASIS OF BEARING IS PER MAGNETIC OBSERVATION TAKEN IN MAY 2022.
4. APPROXIMATE ADJUTER'S LINES SHOWN HEREIN ARE FOR REFERENCE PURPOSES ONLY AND SHALL NOT BE RELIED UPON AS BOUNDARY INFORMATION.
5. EASEMENTS OR OTHER UNWRITTEN RIGHTS MAY EXIST THAT ENCLUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREIN.
6. THE BOUNDARY SHOWN HEREIN IS DETERMINED FROM WRITTEN RECORDS, FIELD EVIDENCE AND PARCEL TESTIMONY RECORDED AT THE TIME OF SURVEY AND MAY BE SUBJECT TO CHANGE IF OTHER EVIDENCE BECOMES AVAILABLE.
7. LOCUS PARCELS ARE "SUBJECT TO THE CONDITION THAT NO BUILDING, OR OTHER STRUCTURE, SHALL EVER BE ERRECTED, OR PLACED, UPON SAID LOT WHICH SHALL IN ANY PART BE LOCATED, OR STAND, WITHIN TWENTY (20) FEET OF THE EASTERLY SIDE LINE OF BROAD STREET". SEE REFERENCE DEED BOOK 2514 PAGE 739.
8. ZONING INFORMATION AND SETBACKS SHOWN HEREIN ARE FOR REFERENCE AND MARKETING PURPOSES; OTHER ZONING ORDINANCES APPLY NOT SHOWN HEREIN. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE CITY OF PORTSMOUTH PRIOR TO DESIGN OR CONSTRUCTION.
9. THE PURPOSE OF THE PROPOSED EASEMENT SHOWN HEREIN IS TO ADDRESS THE EXISTING ENCROACHMENTS (DRIVEWAY AND GARAGE) OF TAX MAP 221 LOT 42 ONTO ADJACENT LOT TAX MAP 221 LOT 98.

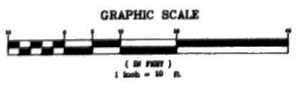
**PURPOSE OF PLAN:**

THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED EASEMENT AND EXISTING SETBACKS FOR MARKETING PURPOSES. THIS PLAN IS NOT A STANDARD PROPERTY SURVEY AND IS NOT INTENDED TO BE RECORDED, USED FOR CONVEYANCE, OR ANY OTHER TITLE PURPOSE.



**BROAD STREET**

**NOT FOR PERMITTING  
NOT FOR CONVEYANCE**



**EASEMENT EXHIBIT PLAN**  
FOR PROPERTY AT  
457 Broad Street  
Portsmouth, Rockingham County, New Hampshire  
OWNED BY  
**The Frances D. Label  
Revocable Trust of 2014**  
c/o Thomas Label  
24 Heritage Drive, Portsmouth, NH 03809

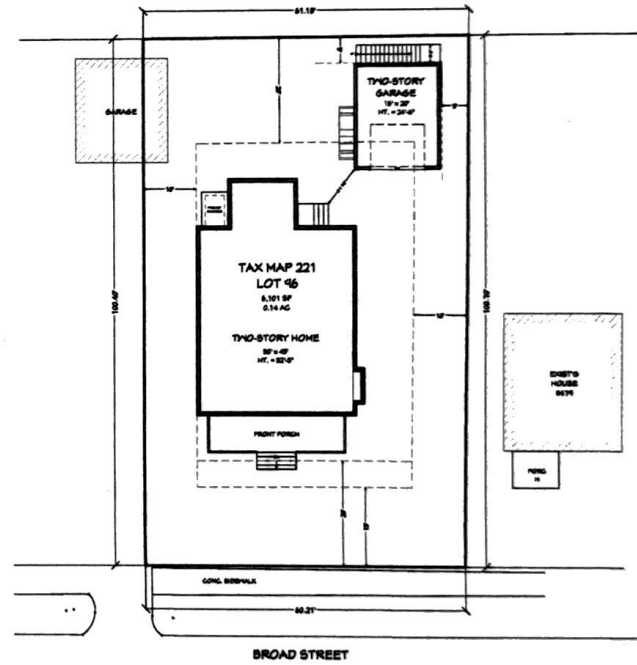
North  
**EASTERLY  
SURVEYING, Inc.**  
SURVEYORS IN N.H. & MAINE 181 STATE ROAD, SUITE #1  
(807) 439-6200 KITTERY, MAINE 03904

| REV. | DATE | STATUS | BY | CHKD | APPR. |
|------|------|--------|----|------|-------|
|      |      |        |    |      |       |

| NO. | DATE    | PROJECT NO. | DATE    | SHEET | SCALE  | BY   | CHKD | APPR.  |
|-----|---------|-------------|---------|-------|--------|------|------|--------|
| 1   | 7/14/23 | 22822       | 7/14/23 | 1     | 1 OF 1 | J.S. | J.S. | P.L.A. |

DRAWING No. 22822 EASEMENT PLAN  
FIELD BOOK No. "Portsmouth 2022"

**Tax Map 221 Lots 42 & 98**



| REVISION DATE | REVISION DESCRIPTION |
|---------------|----------------------|
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**RATAY RESIDENCE**  
Broad Street  
Portsmouth, NH 03801

DRAWINGS PROVIDED BY:

DATE:

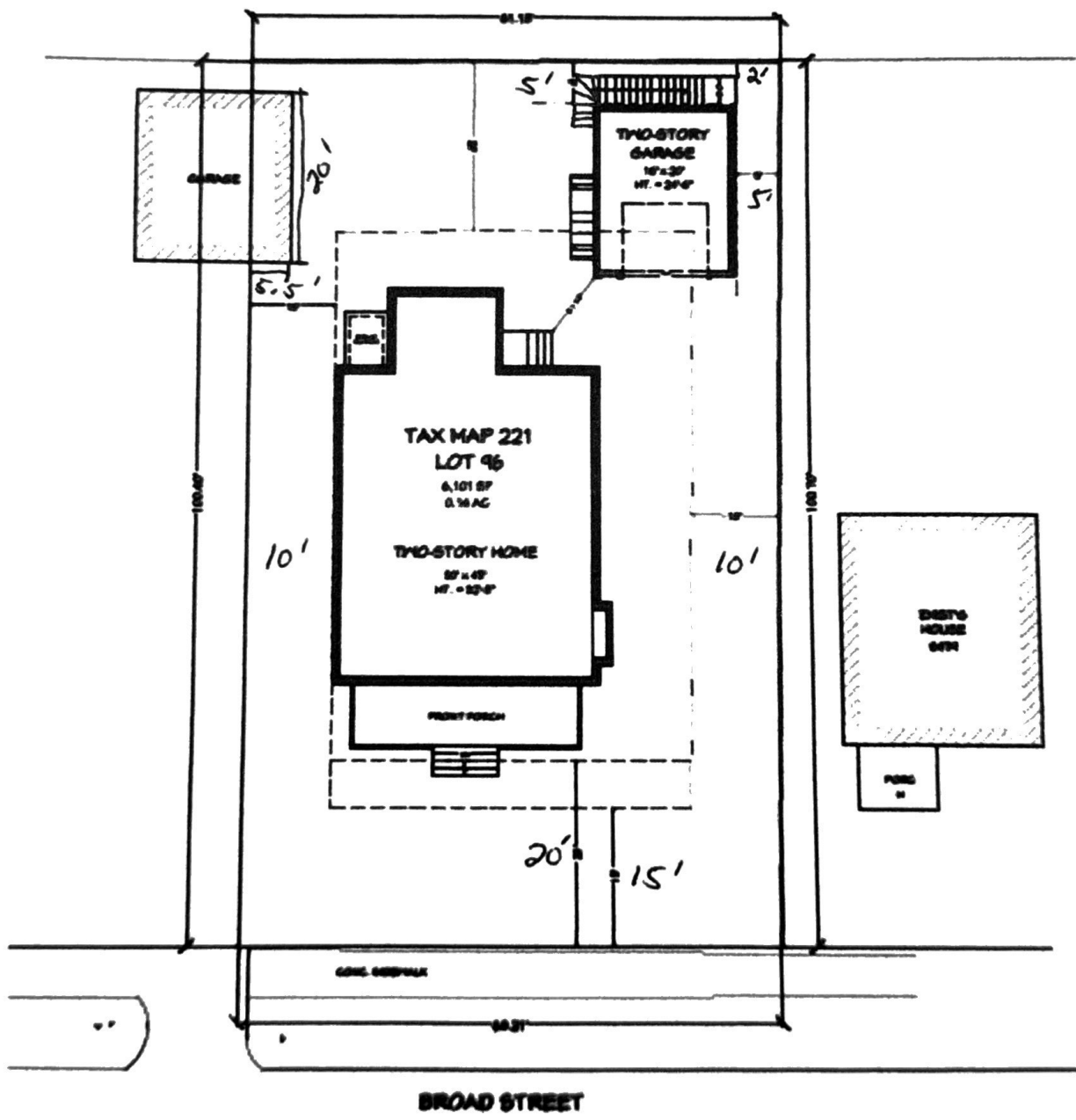
7/22/2024

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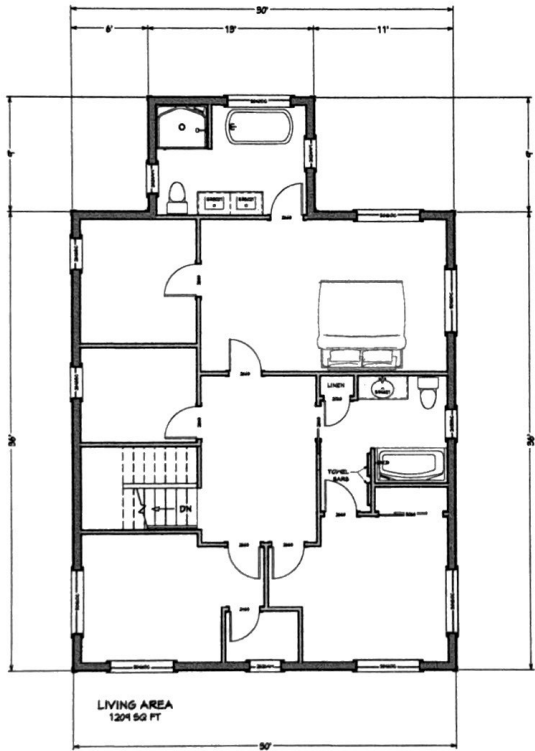
1" = 10'

SHEET:

5-1

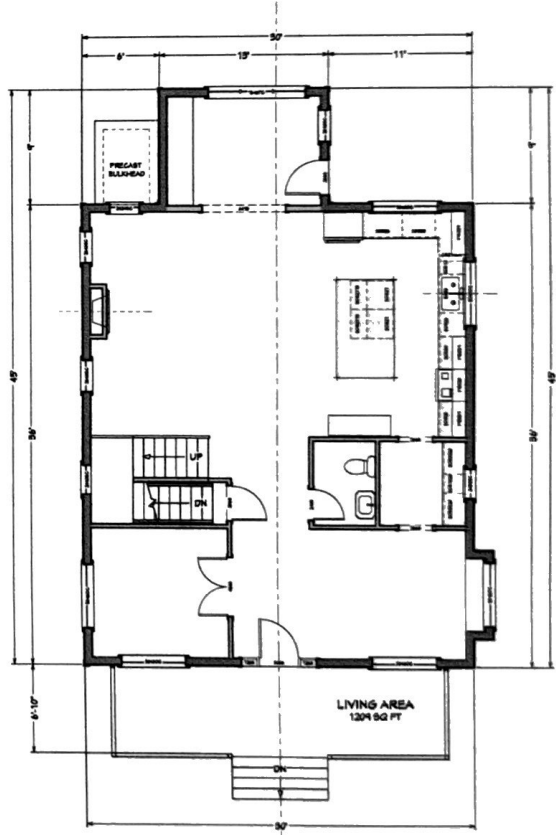






**SECOND FLOOR PLAN**

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



**FIRST FLOOR PLAN**

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

|           |      |             |
|-----------|------|-------------|
| REVISIONS | DATE | DESCRIPTION |
|           |      |             |
|           |      |             |
|           |      |             |
|           |      |             |

**RATAY RESIDENCE**  
Broad Street  
Portsmouth, NH 03801

**FLOOR PLANS**

DRAWINGS PROVIDED BY:

DATE:

6/21/2024

SCALE:

SHEET:

**A-1**



RIGHT SIDE ELEVATION

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



REAR ELEVATION

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



LEFT SIDE ELEVATION

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



FRONT ELEVATION

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



RATAY RESIDENCE  
Broad Street  
Portsmouth, NH 03801

EXTERIOR ELEVATIONS

DRAWING PROVIDED BY:

DATE:

9/21/2024

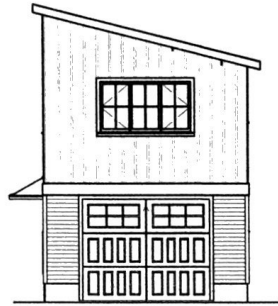
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SHEET:

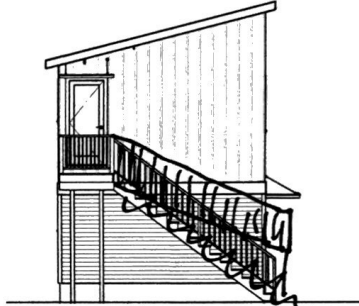
A-2



**LEFT SIDE ELEVATION**  
SCALE: 1/4" = 1'-0"



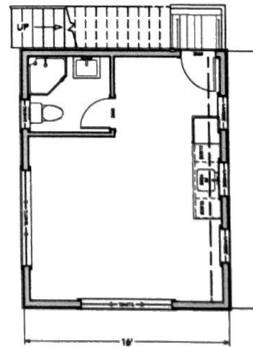
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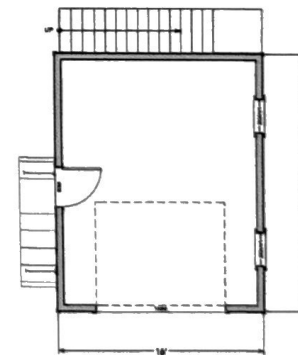
**RIGHT SIDE ELEVATION**  
SCALE: 1/4" = 1'-0"



**REAR ELEVATION**  
SCALE: 1/4" = 1'-0"



**SECOND FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

| NO. | DATE | DESCRIPTION |
|-----|------|-------------|
|     |      |             |
|     |      |             |
|     |      |             |

**RATAY RESIDENCE**  
Broad Street  
Portsmouth, NH 03801

**DETACHED GARAGE  
FLOOR PLANS & ELEVATIONS**

Drawings prepared by:

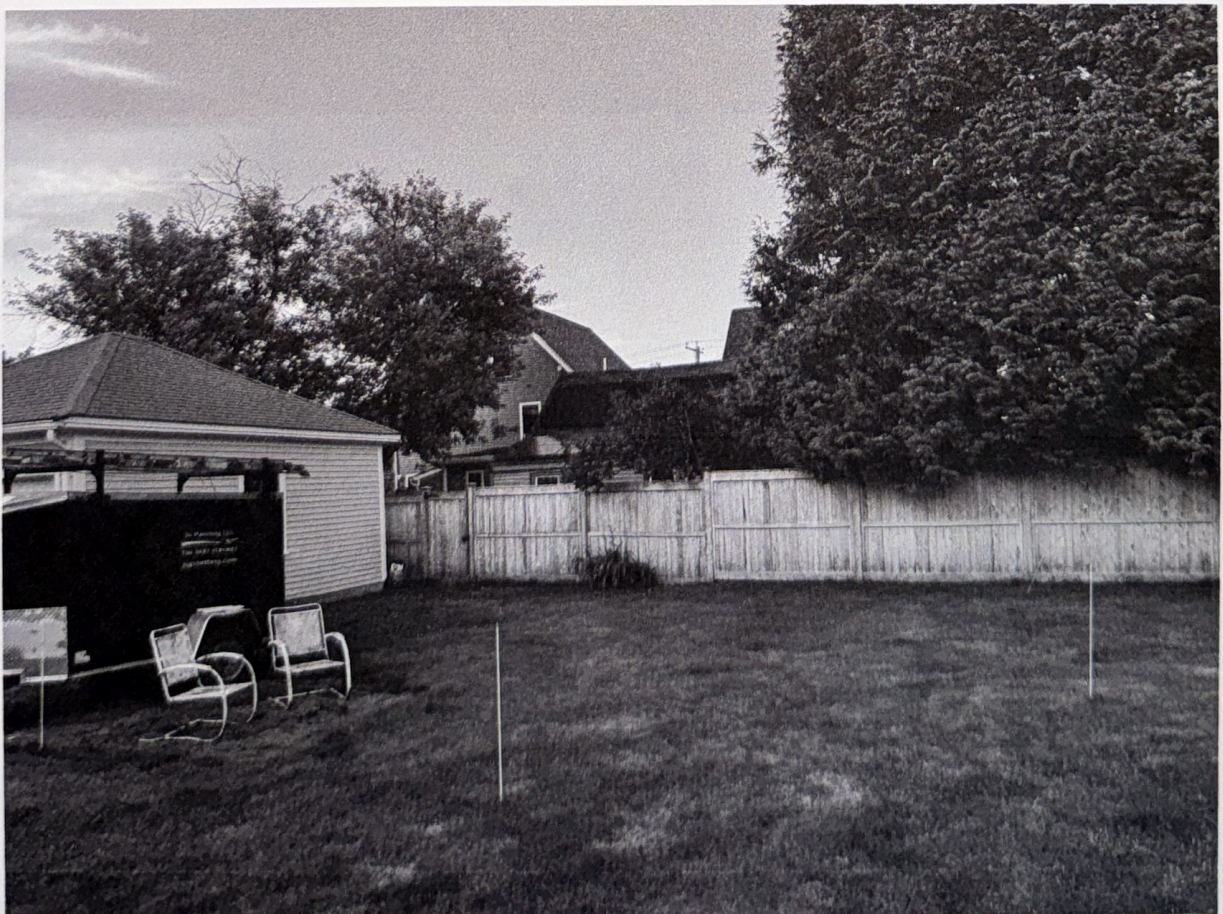
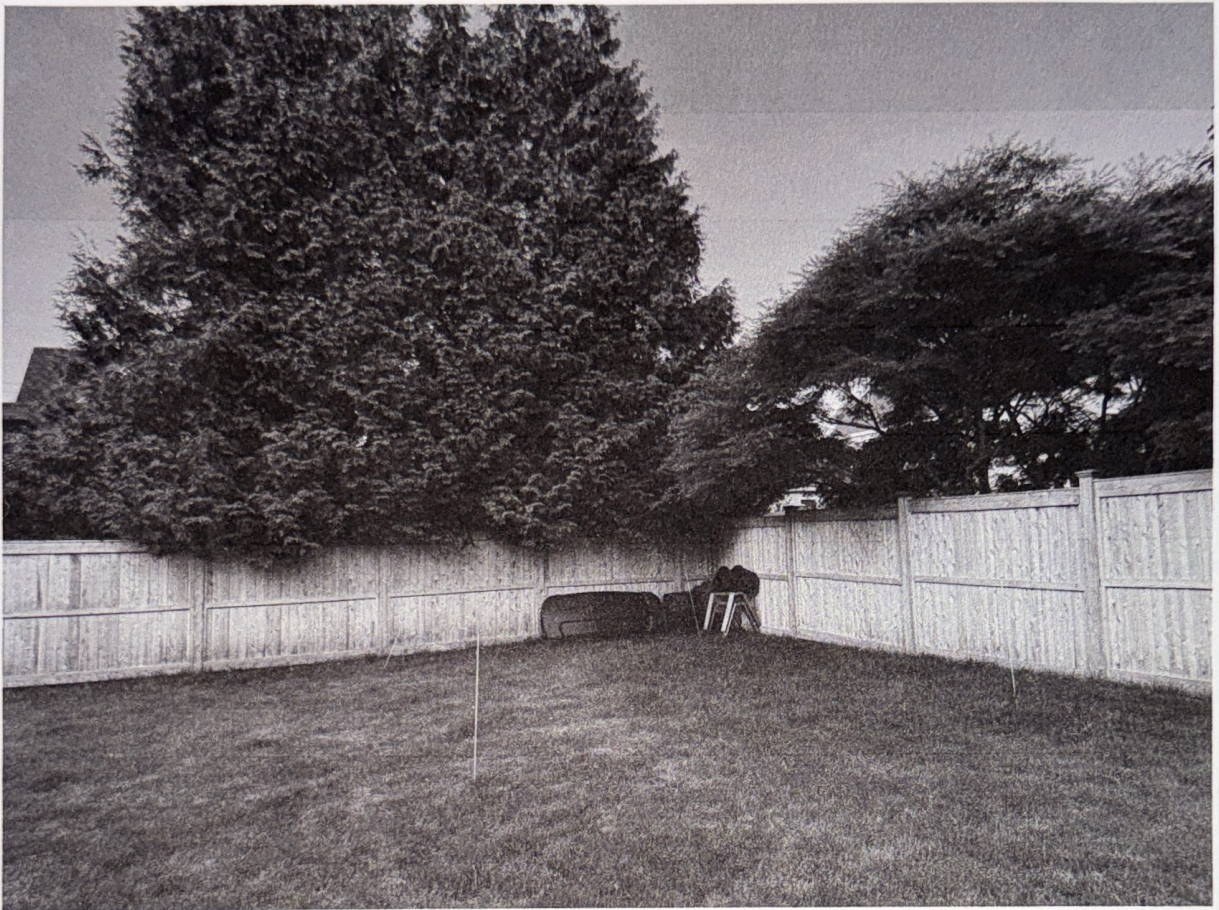
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6/21/2024

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**SHEET:**

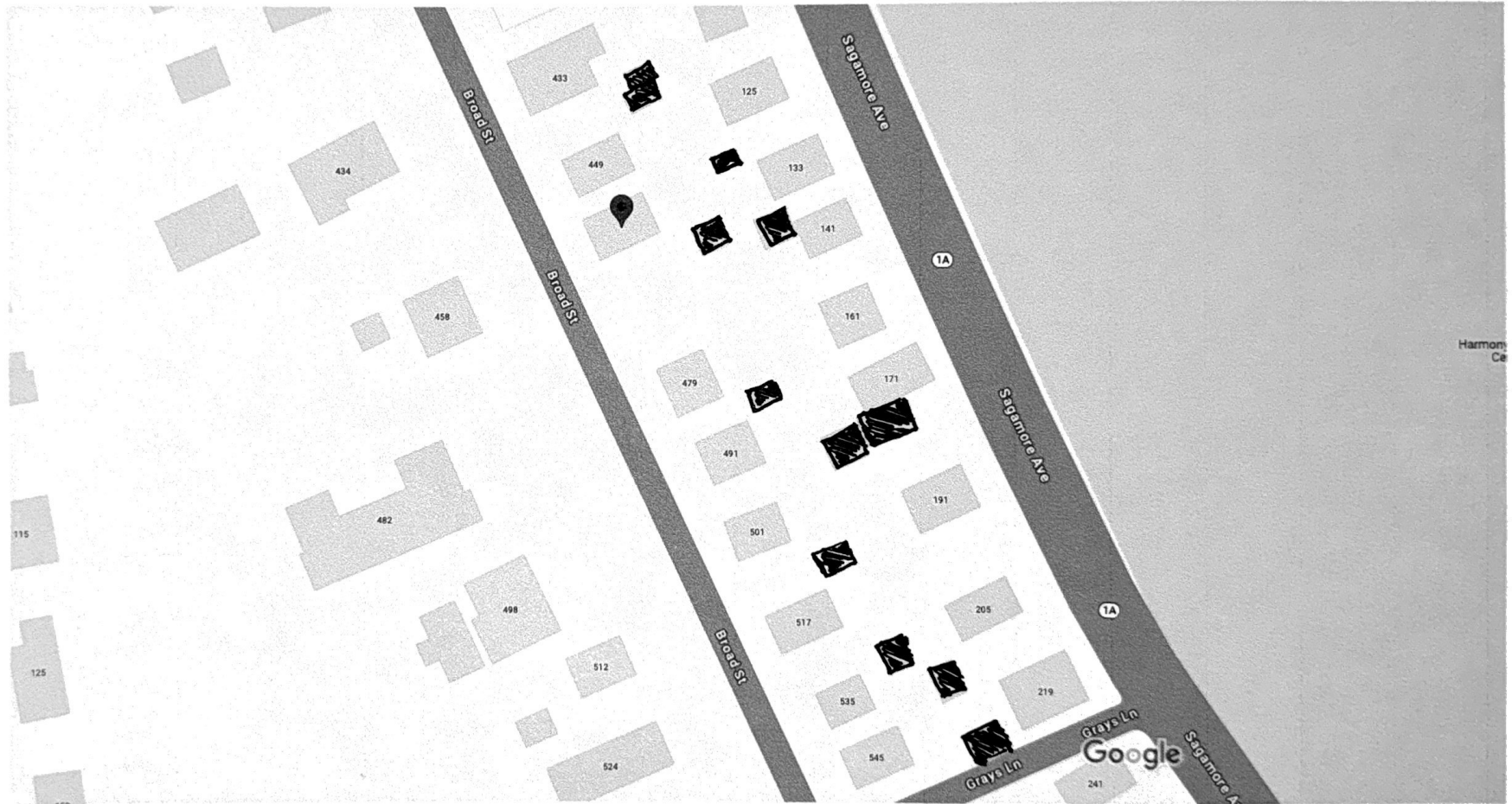
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# Google Maps 457 Broad St



Map data ©2024 50 ft