

APPLICATION OF RANDI and JEFFREY COLLINS
77 Meredith Way, Portsmouth
Map 162, Lot 16

APPLICANT'S NARRATIVE

I. THE PROPERTY:

The applicants, Randi and Jeffrey Collins, seek a variance from Section 10.513 to permit the construction of a second, single family residential dwelling on an existing lot of record and from Section 10.1114.31 to permit a second driveway to access the dwelling.

The existing dwelling on the lot, built in 1870 according to city tax records, is grossly substandard and unsuitable for the applicants' needs. For example, the half story second floor has slanted ceilings with only six feet of head room at the highest point, and the stairway is at a very steep, non-code compliant pitch. The home is simply inadequate for an older couple like the Collins. Their objective is to take advantage of the unusually large lot to construct a second, modern dwelling for themselves.

The property is within the General Residence A Zone and is depicted as Lots 55, 56, and 57 on the 1856 subdivision plan submitted herewith, and as Lot 16 on current tax map 162 submitted herewith.¹

Meredith Way has never been completed as it was originally laid out. Because Meredith Way as it exists on the ground does not extend significantly beyond applicant's driveway, it is the Planning Department's position that the property does not have the required 100 feet of continuous street frontage and, therefore, the lot is nonconforming within the meaning of Section 10.311. The property both as it exists now and if this project is approved otherwise complies with all other dimensional requirements as to lot area, lot area per dwelling, depth, setbacks, building height, open space and building coverage.² As shown on the submitted site plans, the property's lot area is 22,400 square feet. Given that a portion of Meredith Way abutting the property has never been built, title to one-half (½) of the unbuilt way where it abuts the lot actually increases the lot area from that depicted on the site plan. Accordingly, the property has more than three times the required minimum lot area and lot area per dwelling unit (7,500 square feet). It is abutted to the southeast by a city park, so there is practically no concern that a second dwelling will present any kind of overcrowding at all. If approved, this would be just the third dwelling with road access from Meredith Way.

¹ The applicants' request to the City Council to restore the lots to their pre-merger status pursuant to RSA RSA674:39-aa has been withdrawn without prejudice. This variance application, if granted, would render that request moot.

² The shed depicted in the northwest corner of the property is less than ten feet in height and less than 100 square feet in area, so it qualifies for the five foot setback under 10.573.10. It is currently 4.9 feet from the left side lot line. The applicants are willing to relocate the shed to bring this into full compliance, if necessary.

It should be noted that the applicants are entitled by right in the GRA zone to construct a two-family dwelling on the lot with building coverage that greatly exceeds what is proposed here. There is enough lot area that a town house or three family dwelling would be permitted by special exception. Accordingly, the increase in residential density by a single household will not exceed what is already allowed in this location, and there should be no related concerns regarding increases in traffic, noise, overcrowding, etc. In fact, what is proposed here - a second, stand-alone single family dwelling oriented on the property in a manner similar to the existing homes on the block - is more consistent with the neighborhood and is far preferable to these other alternatives.

The applicant has submitted herewith a site plan and building plans which demonstrate *possible* building design elements. The applicants anticipate that the final design will at a minimum incorporate an attached garage, for example. The exact location and dimensions of the driveway access would need to be finalized in connection with the Inspection Department and Public Works. Final decisions as to the exact location of the proposed new dwelling have not been made, but the applicants will stipulate that the proposed building envelope for the new home shown in the site plan, towards the “front” or southeast corner of the property, will not change. However, the proposed dwelling will meet all applicable setback, height and lot coverage requirements. The dwelling footprint will be within the 25% building coverage requirement. The dwelling will have a height no greater than 35 feet. The dwelling will require no relief from the setback, height and lot coverage requirements. The property is abutted to the southeast by a city park which cannot be developed, so there is practically no concern that a second dwelling will present any kind of overcrowding or other externalities at all.

It is understood that, should the variance requested here be granted, the Inspection Department will need to review and approve all construction drawings and sketches prior to issuing a building permit to the applicants.

II. CRITERIA:

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

Granting the requested variance will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

In this case, were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. A second dwelling on this property is entirely appropriate and consistent with the existing residential subdivision in which it sits and does not increase the amount of residential density beyond what is permitted by right. Thus, the essentially residential character of the neighborhood will not be altered and the health, safety and welfare of the public will not be threatened.

Substantial justice would be done by granting the variance. Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. The applicants are entitled by right to build a two family structure with far more lot coverage than what is here proposed. A second, stand-alone dwelling is far more in keeping with the established neighborhood.

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner.

The values of surrounding properties will not be diminished by granting the variance. A newly constructed, fully code-compliant home with appropriate landscaping, vegetation and screening will increase property values in the neighborhood. The values of the surrounding properties will not be negatively affected in any way by the relief requested. To the contrary, values would be enhanced if this project were to be approved, especially given the available alternatives.

There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship. The property in question is located at the terminus of a dead end and on a partially unbuilt paper street and abuts a substantial amount of undevelopable park land. It has more than three times the required lot area per dwelling for the GRA zone. These are special conditions that distinguish it from others in the area.

The use is a reasonable use. Residential use is permitted in this zone and is identical in character and consistent with the existing use of the adjacent and abutting properties.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The purpose of the prohibition of more than a single, free-standing dwelling on a lot within the GRA zone is presumably to protect from overcrowding and overburdening lots and maintaining appropriate residential densities. Given the size of this lot, its location at the terminus of a dead end, its proximity to undevelopable park land and the uses available by right, none of these

purposes are frustrated by this project. Thus, there is no fair and substantial relationship between the purpose of the restriction and its application to this property.

III. Conclusion.

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

Dated: 4-5-2022

By: *Christopher P. Mulligan*
Christopher P. Mulligan, Esquire







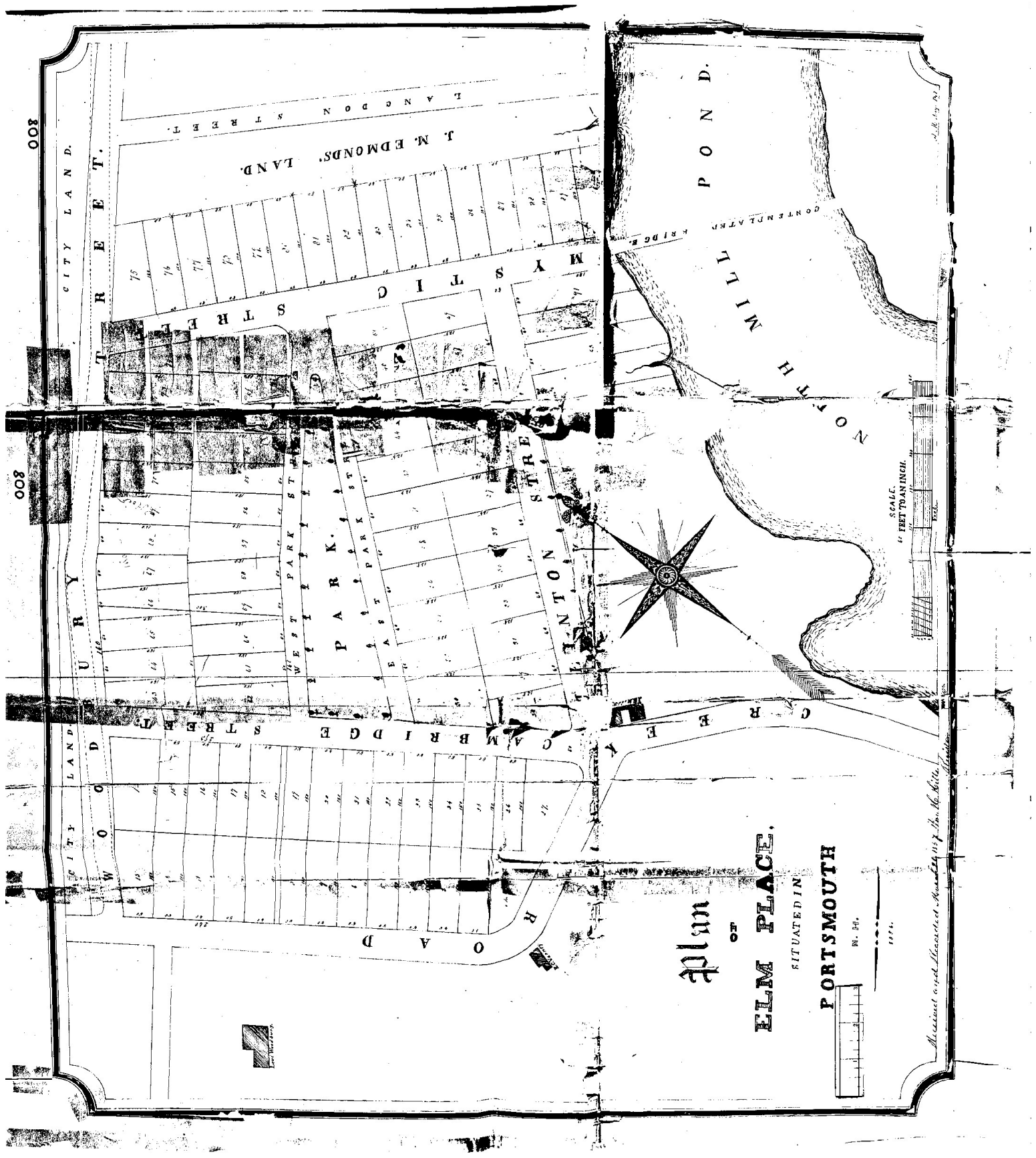


MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 3/9/2022
Data updated 3/9/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



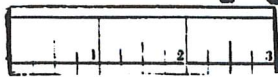
Plan
OF
ELM PLACE.
SITUATED IN
PORTSMOUTH



Measured and Illustrated by Henry H. Wells.

Low Woodbury.

Plan
OF
ELM PLACE,
SITUATED IN
PORTSMOUTH



N. H.

1876.

Revised and Rechecked March 11, 1877. H. H. Hille.



Mar 23, 2022 - 4:38pm
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I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY THOSE UNDER MY DIRECT SUPERVISION AND ARE THE RESULT OF A FIELD SURVEY CONDUCTED IN JUNE 2021. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS. I FURTHER CERTIFY THAT THIS SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, AND THE FIELD TRAVERSE SURVEY EXCEEDS A PRECISION OF 1:15,000.

FOR REVIEW

LICENSED LAND SURVEYOR _____

DATE _____

LEGEND:

MAP 137 LOT 11	ASSESSORS MAP AND LOT NUMBER
BK. PG.	BOOK / PAGE
CU	COPPER
EL	ELEVATION
EM	ELECTRIC METER
EP	EDGE OF PAVEMENT
N/F	NOW OR FORMERLY
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
S.F.	SQUARE FEET
W	WITH
W/	GUY WIRE
W/	UTILITY POLE
W/	WATER SHUT OFF
OHU	OVERHEAD WIRE
STOCKADE FENCE	STOCKADE FENCE
BOUNDARY LINE	BOUNDARY LINE
SETBACK LINE	SETBACK LINE
S	SEWER LINE
W	WATER LINE
CONCRETE	CONCRETE
PAVEMENT	PAVEMENT
GRAVEL	GRAVEL

MAP 162 LOT 15
N/F
DAVID J. & JENNIFER M. CHAPNICK
97 MEREDITH WAY
PORTSMOUTH, NH 03801
RCRD BK.#5267 PG.413

MAP 162 LOT 4
N/F
GIULIANO & LISA RODRIGUEZ
295 THORNTON STREET
PORTSMOUTH, NH 03801
RCRD BK.#6286 PG.1195

MAP 162 LOT 3
N/F
SARAH B. CORNELL
& SUSAN A. CURRY
275 THORNTON STREET
PORTSMOUTH, NH 03801
RCRD BK.#5720 PG.204

MAP 162 LOT 2
N/F
JEFFREY P. BARTOLINI
& ABIGAIL R. ROEMER
55 PINE STREET
PORTSMOUTH, NH 03801
RCRD BK.#6274 PG.1684

MAP 162 LOT 17
N/F
JEFFREY P. BARTOLINI
& ABIGAIL R. ROEMER
55 PINE STREET
PORTSMOUTH, NH 03801
RCRD BK.#6274 PG.1684

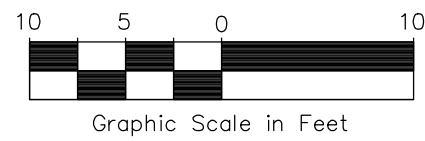
MAP 162 LOT 16
22,400± S.F.
(0.5± ACRES)

MEREDITH WAY
REPORTED AS CLASS IV IN THE CITY
OF PORTSMOUTH STREET INVENTORY

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REV.	DATE	DESCRIPTION	DR	CK

NOTES:

- THE PARCEL IS LOCATED IN THE GENERAL RESIDENCE A (GRA) ZONING DISTRICT.
- THE PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 162 AS LOT 16.
- THE PARCEL IS LOCATED IN ZONE X AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM (NFIP), FLOOD INSURANCE RATE MAP (FIRM) ROCKINGHAM COUNTY, NEW HAMPSHIRE, PANEL 259 OF 681, MAP NUMBER 33015C0259F, MAP REVISED JANUARY 29, 2021.
- | | |
|-------------------------------|------------|
| MINIMUM LOT DIMENSIONS: | REQUIRED: |
| LOT AREA: | 7,500 S.F. |
| LOT AREA PER DWELLING UNIT: | 7,500 S.F. |
| CONTINUOUS STREET FRONTAGE: | 100' |
| DEPTH: | 70' |
| MINIMUM YARD DIMENSIONS: | |
| FRONT: | 15' |
| SIDE: | 10' |
| REAR: | 20' |
| MAXIMUM STRUCTURE DIMENSIONS: | |
| STRUCTURE HEIGHT: | |
| SLOPED ROOF: | 35' |
| FLAT ROOF: | 30' |
| ROOF APPURTENANCE HEIGHT: | 8' |
| BUILDING COVERAGE: | 25% |
| MINIMUM OPEN SPACE: | 30% |
- OWNER OF RECORD:
MAP 162 LOT 16:
RANDI & JEFF COLLINS
77 MEREDITH WAY
PORTSMOUTH, NH 03801
RCRD BK.#6274 PG.#1666
- PARCEL AREA:
MAP 162 LOT 16:
22,400± S.F.
(0.5± ACRES)
- THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF BOUNDARIES IN ACCORDANCE WITH THE CURRENT LEGAL DESCRIPTIONS. IT IS NOT AN ATTEMPT TO DEFINE THE EXTENT OF OWNERSHIP OR DEFINE THE LIMITS OF TITLE.
- THE PURPOSE OF THIS PLAN IS TO SHOW THE BOUNDARY LINES, TOPOGRAPHY AND CURRENT SITE FEATURES OF MAP 162 LOT 16.
- FIELD SURVEY COMPLETED BY TCE JUNE 2021 USING A TOPCON DS103 AND A TOPCON FC-5000 DATA COLLECTOR.
- HORIZONTAL DATUM IS NAVD83 (2011) PER STATIC GPS OBSERVATIONS. THE VERTICAL DATUM IS NAVD88 PER STATIC GPS OBSERVATIONS. THE CONTOUR INTERVAL IS 2 FEET.
- EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN OR IDENTIFIED ARE THOSE WHICH WERE FOUND DURING RESEARCH PERFORMED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.
- THE LOCATION OF ANY UNDERGROUND UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. TFMORAN, INC. MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF UNDERGROUND UTILITIES SHOWN. PRIOR TO ANY EXCAVATION ON SITE THE CONTRACTOR SHALL CONTACT DIG SAFE.

PLAN REFERENCES:

- "PLAN OF ELM PLACE, SITUATED IN PORTSMOUTH, N.H." DATED 1856. RCRD PLAN #008.
- "LOT LINE REVISION, PINE STREET, PORTSMOUTH, NEW HAMPSHIRE, FOR JOYCE M. MAYO & CITY OF PORTSMOUTH" PREPARED BY DURGIN, VERRA AND ASSOCIATES, INC., DATED 6/9/93 WITH REVISION 1 DATED 10/4/93. RCRD PLAN #0-22843.

TAX MAP 162 LOT 16
EXISTING CONDITIONS PLAN
COLLINS
77 MEREDITH WAY
PORTSMOUTH, NEW HAMPSHIRE
COUNTY OF ROCKINGHAM
OWNED BY
RANDI & JEFF COLLINS

SCALE: 1" = 10' (22x34)
1" = 20' (11x17)

MARCH 22, 2022

Seacoast Division

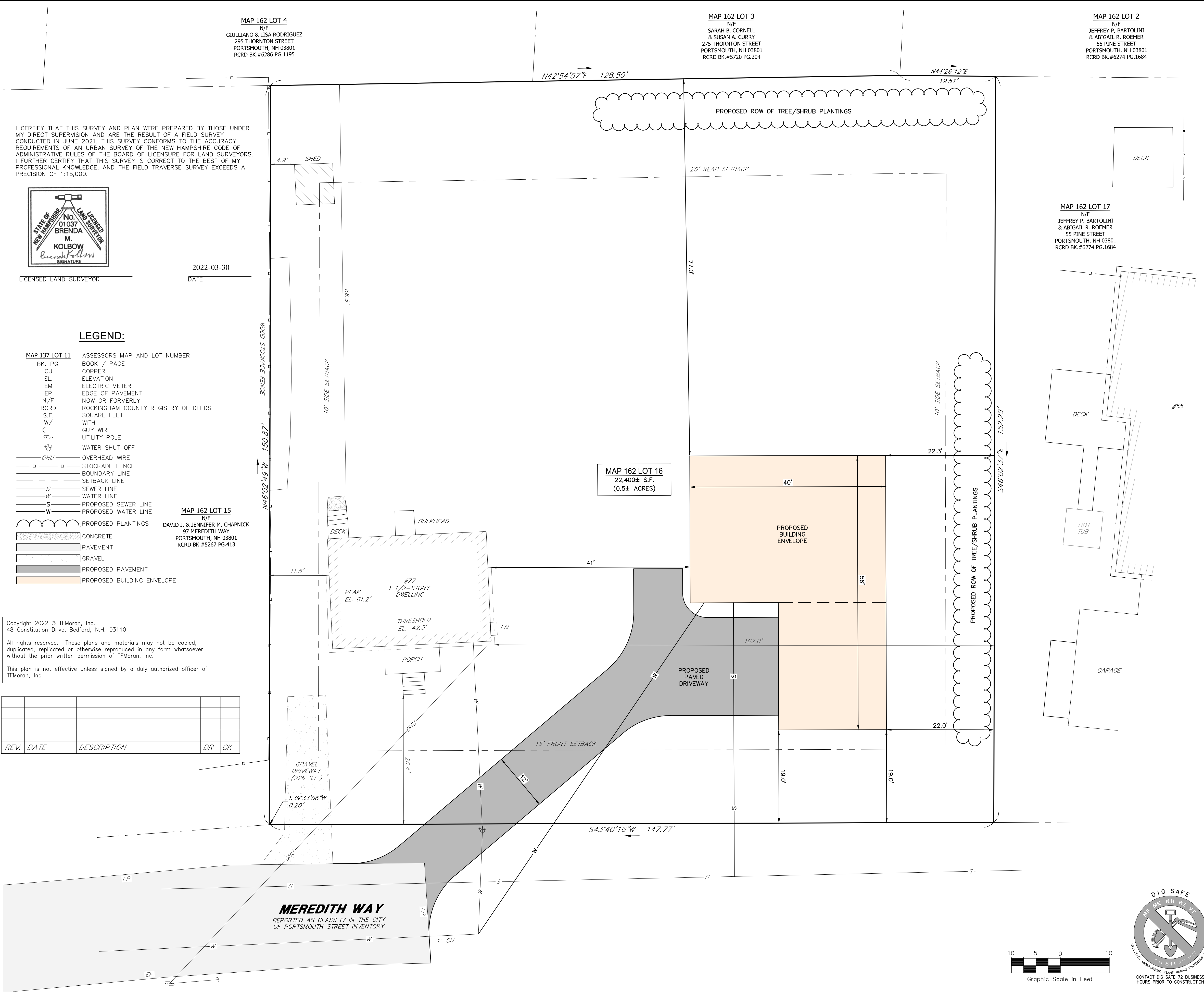


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NOTES:

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- THE PARCEL IS LOCATED IN ZONE X AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM (NFIP), FLOOD INSURANCE RATE MAP (FIRM) ROCKINGHAM COUNTY, NEW HAMPSHIRE, PANEL 259 OF 681, MAP NUMBER 33015C0259F, MAP REVISED JANUARY 29, 2021.
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LOT AREA PER DWELLING UNIT: 7,500 S.F.
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DEPTH: 70'
MINIMUM YARD DIMENSIONS:
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SIDE: 10'
REAR: 20'
MAXIMUM STRUCTURE DIMENSIONS:
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FLAT ROOF: 30'
ROOF APPURTENANCE HEIGHT: 8'
BUILDING COVERAGE: 25%
MINIMUM OPEN SPACE: 30%
- OWNER OF RECORD:
MAP 162 LOT 16:
RANDI & JEFF COLLINS
77 MEREDITH WAY
PORTSMOUTH, NH 03801
RCRD BK.#6274 PG.#1666
- PARCEL AREA:
MAP 162 LOT 16:
22,400± S.F.
(0.5± ACRES)
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- THE PURPOSE OF THIS PLAN IS TO SHOW THE BOUNDARY LINES, CURRENT SITE FEATURES AND PROPOSED SITE FEATURES OF MAP 162 LOT 16 TO ACCOMPANY A VARIANCE APPLICATION TO THE CITY OF PORTSMOUTH ZONING BOARD OF ADJUSTMENT.
- FIELD SURVEY COMPLETED BY TCE JUNE 2021 USING A TOPCON DS103 AND A TOPCON FC-5000 DATA COLLECTOR.
- HORIZONTAL DATUM IS NAD83 (2011) PER STATIC GPS OBSERVATIONS. THE VERTICAL DATUM IS NAVD88 PER STATIC GPS OBSERVATIONS.
- EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN OR IDENTIFIED ARE THOSE WHICH WERE FOUND DURING RESEARCH PERFORMED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.
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TAX MAP 162 LOT 16
ZONING RELIEF PLAN
PROPOSED CONDITIONS
77 MEREDITH WAY
PORTSMOUTH, NEW HAMPSHIRE
COUNTY OF ROCKINGHAM
OWNED BY
RANDI & JEFF COLLINS

SCALE: 1" = 10' (22x34)
1" = 20' (11x17)

MARCH 30, 2022

Seacoast Division

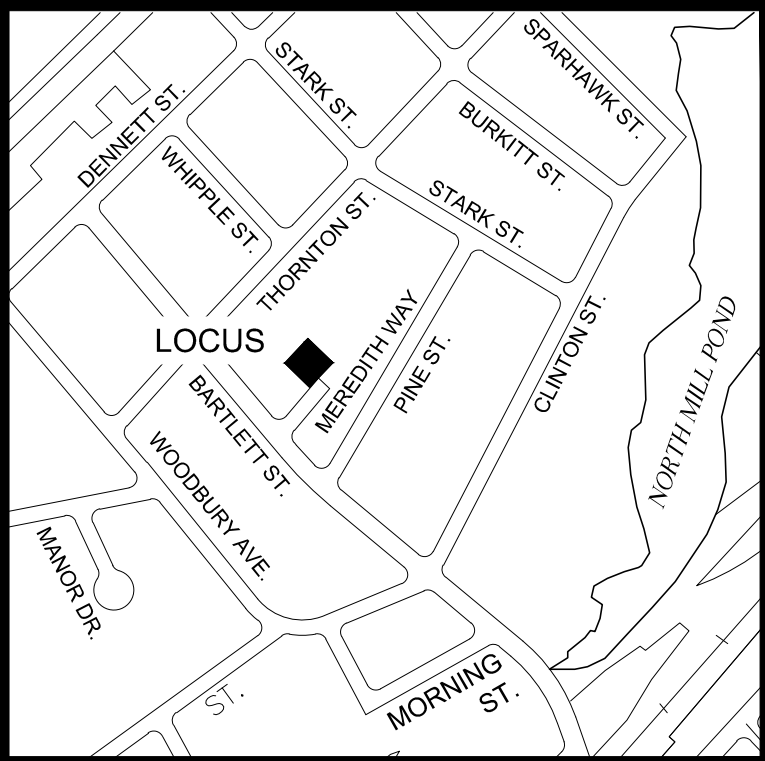


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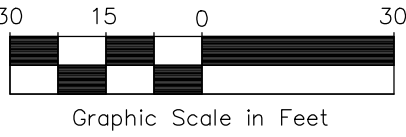
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LOCATION PLAN

NOTES:

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE APPROXIMATE TOPOGRAPHY OF THE LAND BETWEEN MEREDITH WAY AND THORNTON STREET. TOPOGRAPHY IS LIDAR DOWNLOADED FROM THE NOAA WEB SITE. THIS IS NOT A BOUNDARY SURVEY.
2. HORIZONTAL DATUM IS NAD83 (2011) PER STATIC GPS OBSERVATIONS. THE VERTICAL DATUM IS NAVD88. THE CONTOUR INTERVAL IS 2 FEET.



TAX MAP 162 LOT 16
LIDAR SKETCH PLAN
COLLINS
77 MEREDITH WAY
PORTSMOUTH, NEW HAMPSHIRE
COUNTY OF ROCKINGHAM
OWNED BY
RANDI & JEFF COLLINS

SCALE: 1" = 30' (22x34)
1" = 60' (11x17)

MARCH 30, 2022

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		OK	CADFILE	

Nikolas 2 (3855-V1)

Farm cottage house plan with 4 bedrooms, master suite, home office, courtyard garage, fireplace, covered porch

SHARE :

GENERAL SUMMARY

TECHNICAL DETAILS

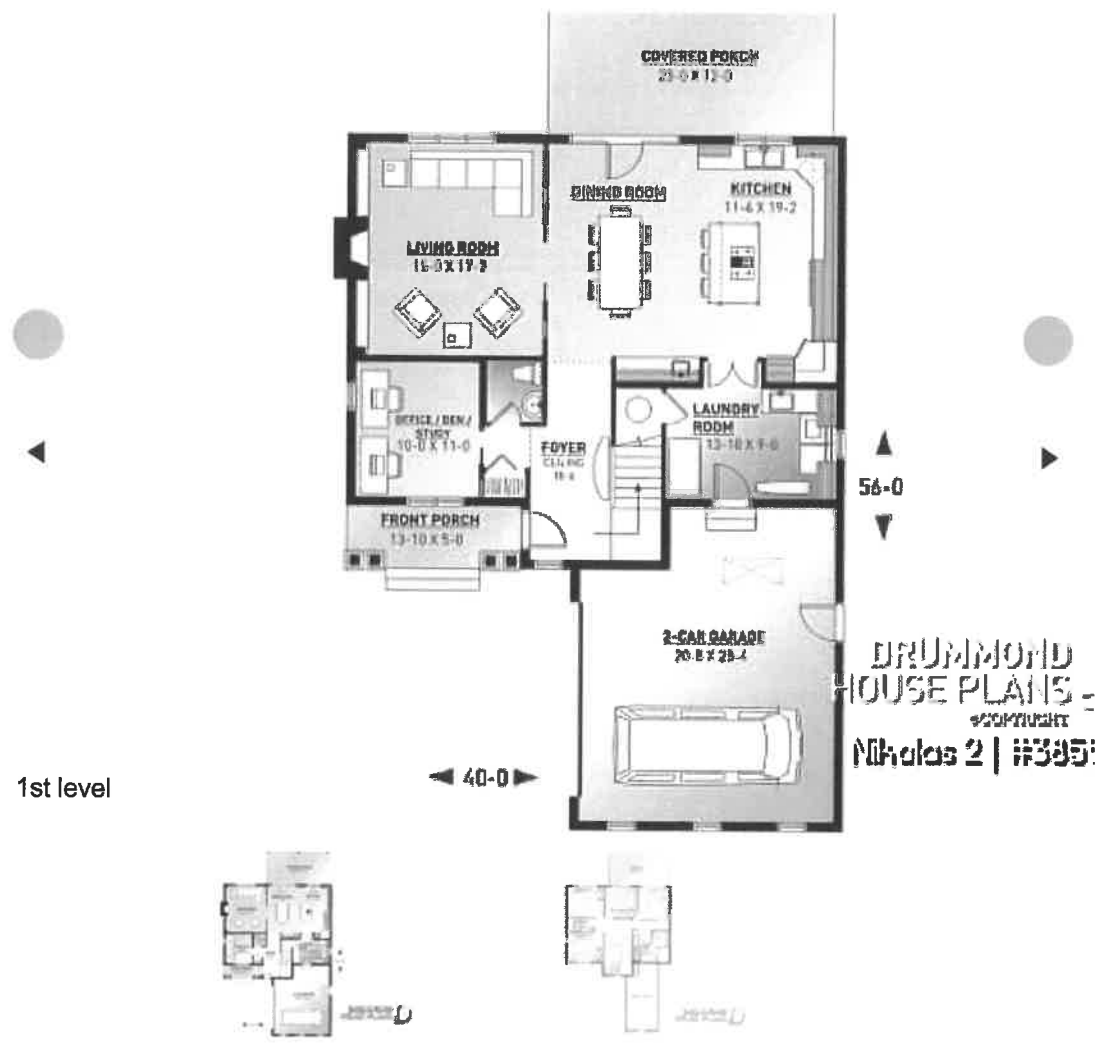
PHOTOS

BEDROOMS	BATH(S)	HALF B.	LIVING AREA
3, 4	2	1	2422 sq.ft.

DRUMMOND
HOUSE PLANS
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Nikolas 2 | #3855-V1

front - BASE MODEL





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Two-family permitted by right

