



July 13, 2022

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

Dear Zoning Board of Adjustment Members,

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

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

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

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

Sincerely,

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



















**From:** [Peter M. Stith](#)  
**To:** [Kimberli Kienia](#)  
**Subject:** Fw: Objection to 67 Ridges Court Variance Request  
**Date:** Monday, August 15, 2022 11:37:38 AM  
**Attachments:** [ZBA Comments AUG 15 2022.pdf](#)

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**From:** mark heppmail.com <mark@heppmail.com>  
**Sent:** Monday, August 15, 2022 10:30:40 AM  
**To:** Peter M. Stith  
**Cc:** Derek Durbin; Darcy Peyser; Kathleen Thomson; Robin Hackett  
**Subject:** Objection to 67 Ridges Court Variance Request

Dear Peter and Members of the ZBA,

I am a resident on Ridges Court and am providing comments regarding the request made by the owners of 67 Ridges Court requesting a variance of the front dimensional setback. I have included some attachments that support my objection to approve this request.

1. For more than 100 years after Rienzi Ridge submitted a development Plan to create a new subdivision with over forty(40) 50'x100' building lots along with three new streets which were transferred to the City as public right-of-ways. In the design of this new neighborhood, the public could access the water at the each of these new streets (Fernald Ct, Ridges Ct and the Paper Street adjacent to 86 New Castle Ave.) The building of a massive 30' high, three-story building which will block the water view currently available to neighbors and any member of the public is clearly NOT in the public interest.

2.Map Geo illustrates the 100' tidal setback area. Of importance is that the prior owner's addition in 2003 was constructed OUTSIDE of the sensitive tidal buffer. The red "X" shows the homes in our neighborhood that have had significant expansion/renovations over the last 20 years - all of which were built on a either grandfathered footprint OR expanded without encroaching on the dimensional setbacks. The new owner of 67 Ridges court should respect the zoning rules and the neighbors and build their expansion outside of the front setback.

3.Photo rendering is a depiction of the impact of the building as proposed. From the proposed house plans I could follow roof lines and from the truck tire location I could compare footprint to Ambit drawings. This addition is not a small encroachment on the front setback but a massive structure that will significantly block the water views from multiple homes on Ridges Court and almost completely block the most scenic vista of the water and winter sunrise from 56 Ridges Court.

4.Finally, marked up Site Plan illustrates the 30' setback line which was conveniently left off of the site drawing and shows that the new addition could be built without encroachment as this and the proposed location are 100% in the tidal buffer zone. No hardship of the land exists that warrants that the ONLY place to expand the property is within the Front Setback.

This request does not meet many of the criteria that would support approval of this requested encroachment on the front setback. It certainly does not meet the spirit of the ordinance, which includes the visual impacts and impacts on the sensitive tidal buffer zone. It is also clear that

the value of homes that currently include a water view will drop in value. And, as mentioned above, there is no hardship of the land that is somehow mitigated by an encroachment on the zoning setback.

I respectfully request that this variance be denied.

*Mark P Hepp*  
**28 Ridges Court**  
***Portsmouth, NH***

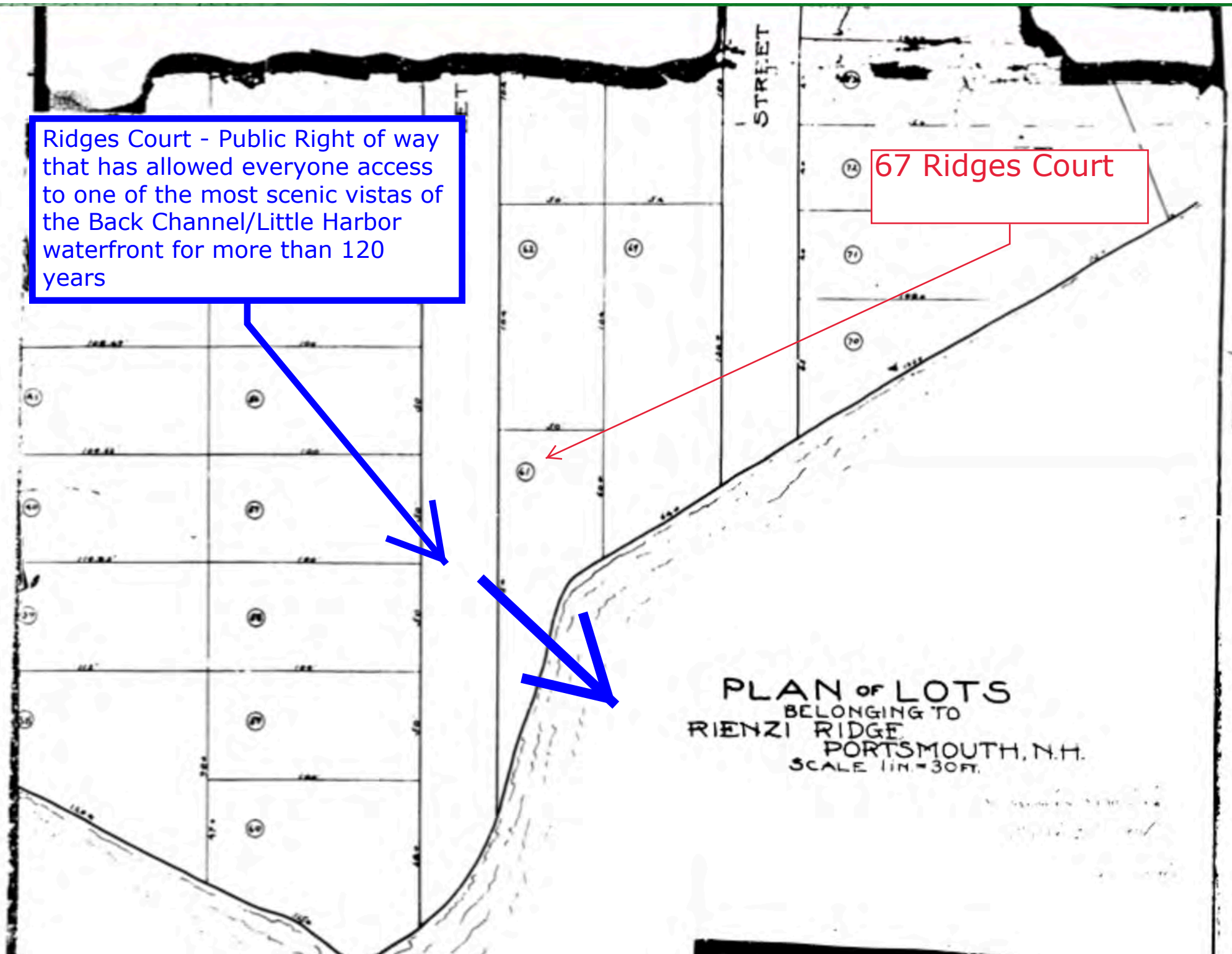
[mark@heppmail.com](mailto:mark@heppmail.com)



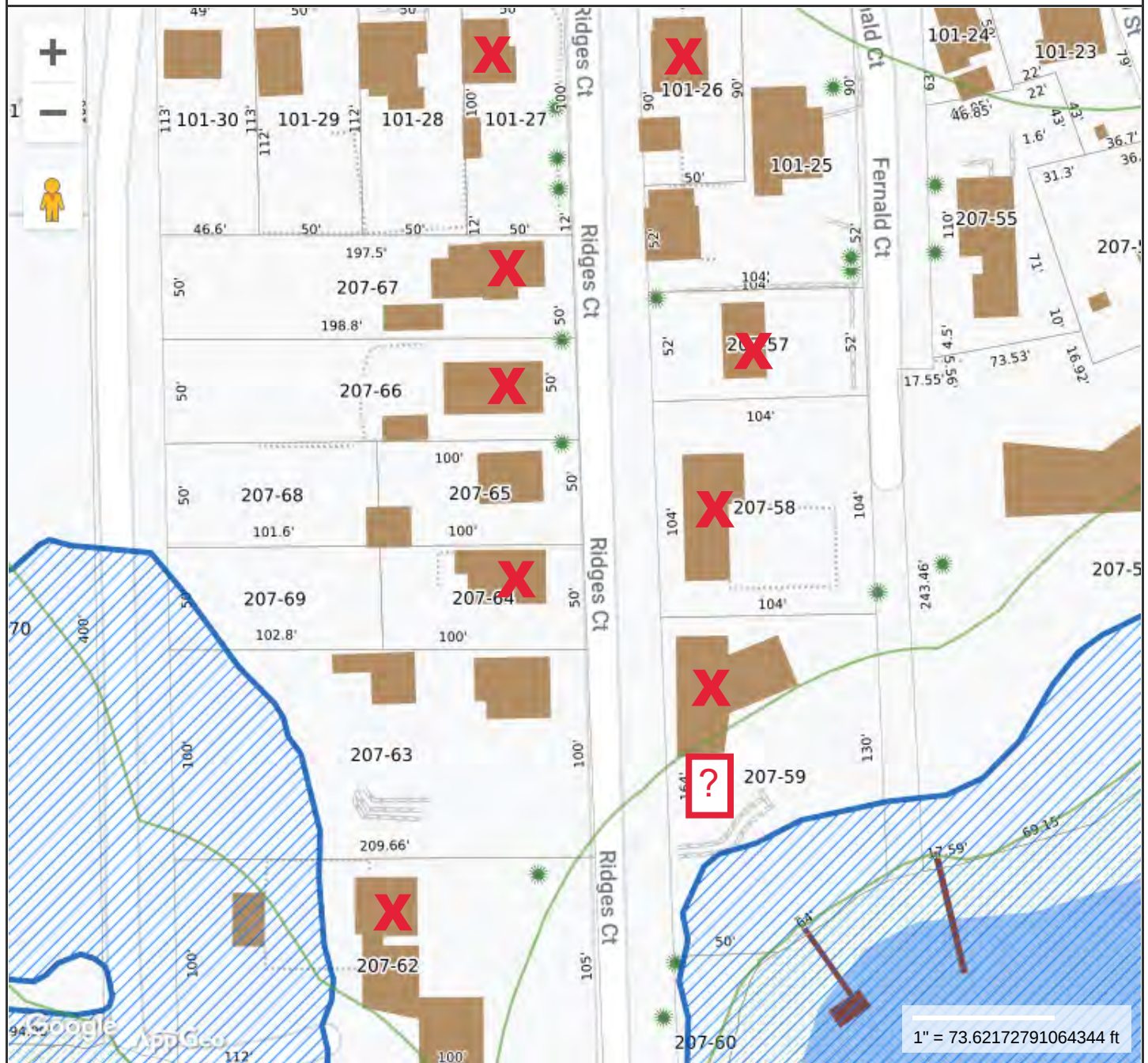
Ridges Court - Public Right of way that has allowed everyone access to one of the most scenic vistas of the Back Channel/Little Harbor waterfront for more than 120 years

67 Ridges Court

PLAN of LOTS  
BELONGING TO  
RIENZI RIDGE  
PORTSMOUTH, N.H.  
SCALE 1 in = 30 ft.



## 67 Ridges Court neighbors



**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.

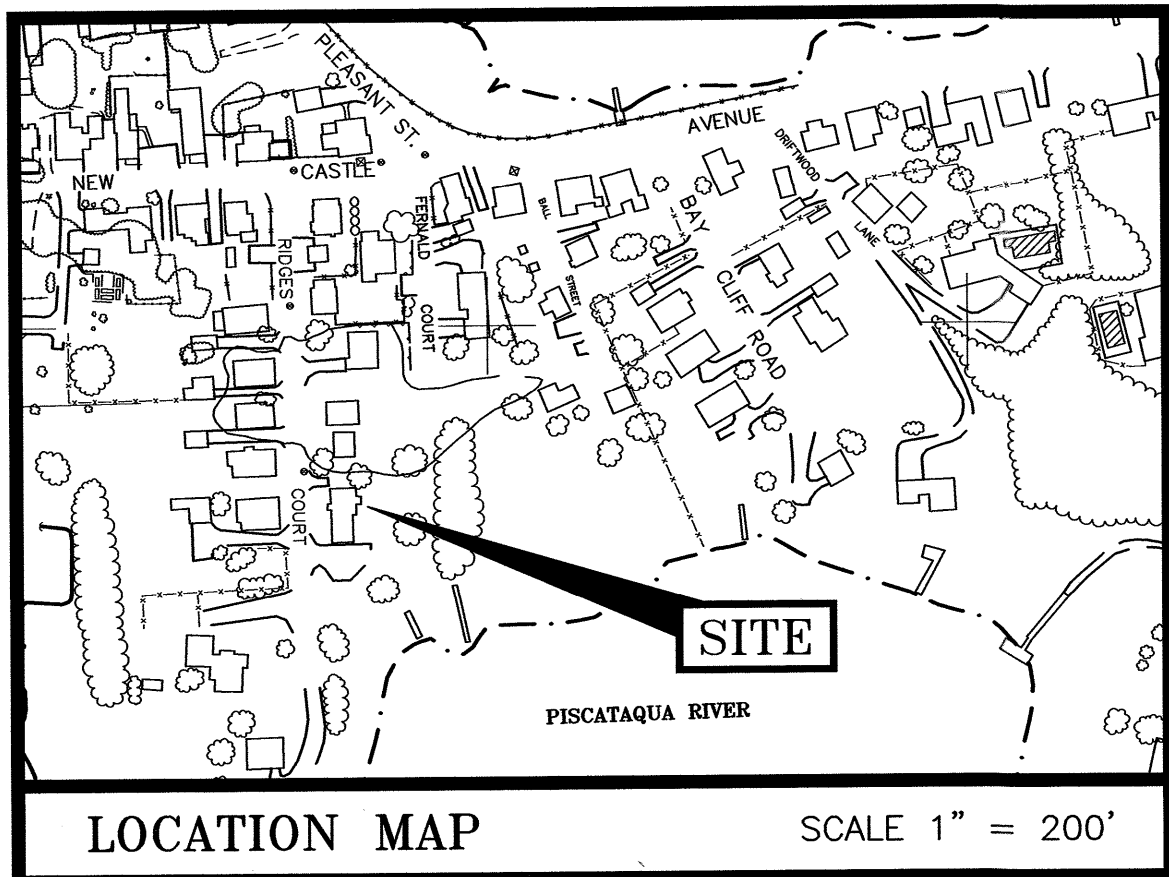
Geometry updated 3/9/2022  
Data updated 3/9/2022

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









- LEGEND:
- N/F  
RP  
RCRD
- 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  
NHDES HIGHEST OBSERVABLE TIDE LINE  
NHDES 50' PRIMARY STRUCTURE SETBACK  
NHDES 100' TIDAL BUFFER ZONE  
NHDES 150' NATURAL WOODLAND BUFFER  
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  
EDGE OF PAVEMENT  
FINISHED FLOOR  
INVERT  
TEMPORARY BENCHMARK  
TYPICAL  
LANDSCAPED AREA

PLAN REFERENCES:

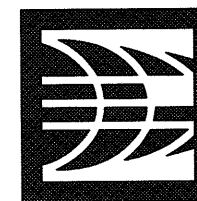
- 1) PROPOSED ADDITIONS, CHARLES MCLEOD, 67 RIDGES COURT PORTSMOUTH, NH, PROPOSED SITE PLAN, PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2002. NOT RECORDED.
- 2) PLAN OF LOTS, RIENZI RIDGE. PREPARED BY JOHN W. DURGIN. DATED MARCH 1976. R.C.R.D. PLAN #0188.

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: NORTHCENTRAL 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. NEWPPCC WETLANDS WORK GROUP (2019).
- C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1). USFWS (MAY 1988).
- D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFWS MANUAL 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.

REQUESTED VARIANCE:

ARTICLE 5 SECTION 10.520 TABLE 10.521 FRONT YARD SETBACK OF 15.8 FEET WHERE 13.6 FEET EXISTS AND 30 FEET IS REQUIRED.



AMBIT ENGINEERING, INC.  
Civil Engineers & Land Surveyors  
200 Griffin Road - Unit 3  
Portsmouth, N.H. 03801-7114  
Tel (603) 430-9282  
Fax (603) 436-2315

NOTES:

- 1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S MAP 207 AS LOT 59.
- 2) OWNERS OF RECORD:  
JEFFREY M. & MELISSA FOY  
4 FOX HOLLOW COURT  
EAST KINGSTON, N.H. 03827  
6325/1066
- 3) PORTIONS OF THE PARCEL ARE IN A SPECIAL FLOOD HAZARD AREA ZONE AE (EL. 8) AS SHOWN ON FIRM PANEL 33015C0278F. EFFECTIVE JANUARY 29, 2021.
- 4) EXISTING LOT AREA:  
16,500± S.F. (PLAN REF. 1)  
0.3788± ACRES (PLAN REF. 1)
- 5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:  
MIN. LOT AREA: 15,000 S.F.  
FRONTAGE: 100 FEET  
SETBACKS: FRONT 30 FEET  
SIDE 10 FEET  
REAR 30 FEET  
MAXIMUM STRUCTURE HEIGHT: 35 FEET  
MAXIMUM STRUCTURE COVERAGE: 20%  
MINIMUM OPEN SPACE: 40%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED ADDITION ON ASSESSOR'S MAP 207 LOT 59 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD88. 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.

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	1452	490
RETAINING WALL	212	212
PATIO	109	109
CONCRETE	17	17
EXTERIOR STORAGE	50	50
TOTAL	4389	4145
LOT SIZE	16,500	16,500
% LOT COVERAGE	26.6%	25.1%

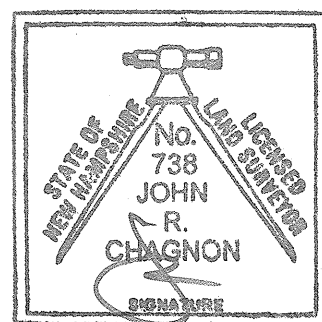
PROPOSED BUILDING COVERAGE:

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%

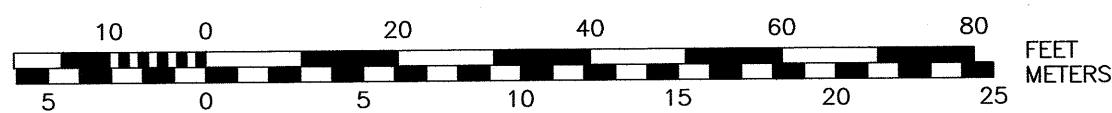
"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

JOHN R. CHAGNON, LLS

DATE



GRAPHIC SCALE



SCALE 1"=20'

JUNE 2022

VARIANCE  
PLAN

C2



BY: EMAIL

July 19, 2022

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

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

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

Members of the Board,

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

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

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

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

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

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

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

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

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

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

Sincerely,

*Darcy C. Peyser*

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



Memo

To: Board of Adjustment, Portsmouth NH

From: abutters to 67 Ridges Ct.

Re: request for variance

Date: July 19, 2022

We the undersigned respectfully request that you deny the application of Melissa and Jeff Foy for variances to allow them to build a 718 square foot garage topped by a living space and a deck.

We have no feelings toward our new neighbors other than welcoming. The neighborhood of Ridges Ct. is beautiful and friendly. We welcome the Foy's to work with us in stewarding the community we enjoy.

But the Foy's proposed addition negatively impacts our enjoyment of our individual properties, including views of the water from some of our porches, and from the street for neighbors and for passersby.

Beyond the negative impacts on us, we are aware that setbacks and regulations about lot coverage are in place for reasons related to the public good, including aesthetic and ecological impacts. We are in support of such protections. Our neighborhood is on a sensitive waterway: it is on an estuary, which is nursery to the ocean, and impacted by changes to runoff; it supports eel grass, which is protected across the region. Regulations based on best practices for the environment and the social welfare of a community exist for reasons, and are worth adhering to.

About hardships the lot at 67 Ridges Ct. occasions, we note that our neighbors ask for variances to build a garage, which they already have. Indeed, the former owners built a garage which they never used as such, but rather finished as living space. Is it a greater hardship to return a garage to garage use than to construct a new building? Our new neighbors also ask for a variance to add a porch to the top of a new garage building, yet they have a porch which offers a broad view of the water. Is it a hardship of the land that it doesn't support two porches? Our neighbors request a variance to add living space to the top of the garage, as well. However, their property is not judged able to support two buildings positioned as described, and simultaneously maintain environmentally protective setbacks. Is it a hardship not to be able to add dwelling space into setbacks? Perhaps it is. But were we all to add dwelling space into setbacks, we would further overcrowd, and aesthetically diminish an already densely populated neighborhood and damage protected waterways. Moreover, we wonder if the hardship associated with building a conforming addition is that it would block the Foy's view of the water. Are variances in order when their impact is to protect the view of a property owner at the expense of views enjoyed from conforming properties?

Thank you for your attention to this matter. We, the undersigned, respectfully ask that you deny variances requested by Melissa and Jeff Foy based on the negative impacts the proposed non-conforming building would have on us as abutters, on the larger community of pedestrians and visitors, and on the environment.

Thank you,

Robin Hackett 46 Ridges Ct.  
Patti Palen 46 Ridges Ct.  
Ruby Palen-Hackett 46 Ridges Ct.

Kathy Thomson 56 Ridges Ct.

Marta Rubinic 40 Ridges Ct.  
Warren Wilson 40 Ridges Ct.

Joanne Stella 25 Ridges Ct.

Sharon Ippolito 140 Newcastle Ave.  
Anthony Ippolito 140 Newcastle Ave.

Barbara Bolko 100 Newcastle Ave.  
Tom Bolko 100 Newcastle Ave.

Pam Boley 88 Newcastle Ave.  
Bruce Boley 88 Newcastle Ave.

Ellen Hepp 28 Ridges Ct.  
Mark Hepp 28 Ridges Ct.

Annie Rainboth 122 Newcastle Ave.

Sharyn Potter 21 Fernald Ct.

Angela Borges 34 Ridges Ct.  
Jeff Perrin 34 Ridges Ct.

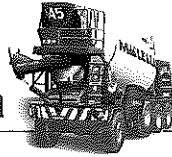
Jim Coughenor 150 Newcastle Ave.  
Diane Coughenor 150 Newcastle Ave.

Dave White 127 Newcastle Ave.  
Kristen White 127 Newcastle Ave.

Lisa Wolford 111 Newcastle Ave.  
Marta Hurgin 111 Newcastle Ave.



# **J.G. MacLellan Concrete Co., Inc.**



180 PHOENIX AVENUE · LOWELL, MASSACHUSETTS 01852 · TEL (978) 458-1223 · FAX (978) 441-2434

August 3, 2022

Arthur Parrott, Chair  
Zoning Board of Adjustment  
City of Portsmouth  
1 Jenkins Avenue 3<sup>rd</sup> Floor  
Portsmouth, NH 03801

Re.: Variance Application of JRDEV LLC; 225 Banfield Road, Portsmouth, New Hampshire

Dear Mr. Parrott and Board Members,

Our company operates a ready mixed concrete batch plant facility at 640 Peverly Hill Road (Tax Lot: 254 - 4). Although our address and access is via Peverly Hill Road, our lot shares frontage of over 850 feet along Banfield Road. In effect, Banfield Road is the closest street to our operations (see attached assessors map).

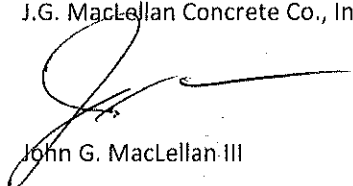
It has come to our attention that the Board has recently granted a variance to allow construction of a 60 unit apartment building in the Industrial Zone at 225 Banfield Road. It has also come to our attention that the Board will reconsider the granting of the variance on August 16, 2022. We herewith notify the Board of our objections to allowance of a variance for the construction of a dense residential project within the Industrial Zone.

The concrete batch plant that we operate has operated at that site for many decades, well over 60 years. Because we supply ready mixed concrete to local construction projects on schedules established by our contractor customers the plant has historically operated in the early morning hours and at times throughout the night. These hours of industrial operation are not consistent with residential uses. Because concrete is a perishable product with a relatively short "shelf life" local projects such as those at the Portsmouth Naval Shipyard or Pease must be supplied by local plants. It is not technically feasible to supply concrete to local projects from remote plants. As a result, it is not possible to avoid operation of the batch plant according to its historic schedule.

To allow a densely occupied residential complex within a very active industrial zone is unfair to the potential residents of that complex and will result in unnecessary conflicts between the two incompatible uses. We, therefore request that the Board recognize the need to maintain the intended nature of the Industrial Zone and not allow a residential complex at 225 Banfield Road. Thank you.

Sincerely,

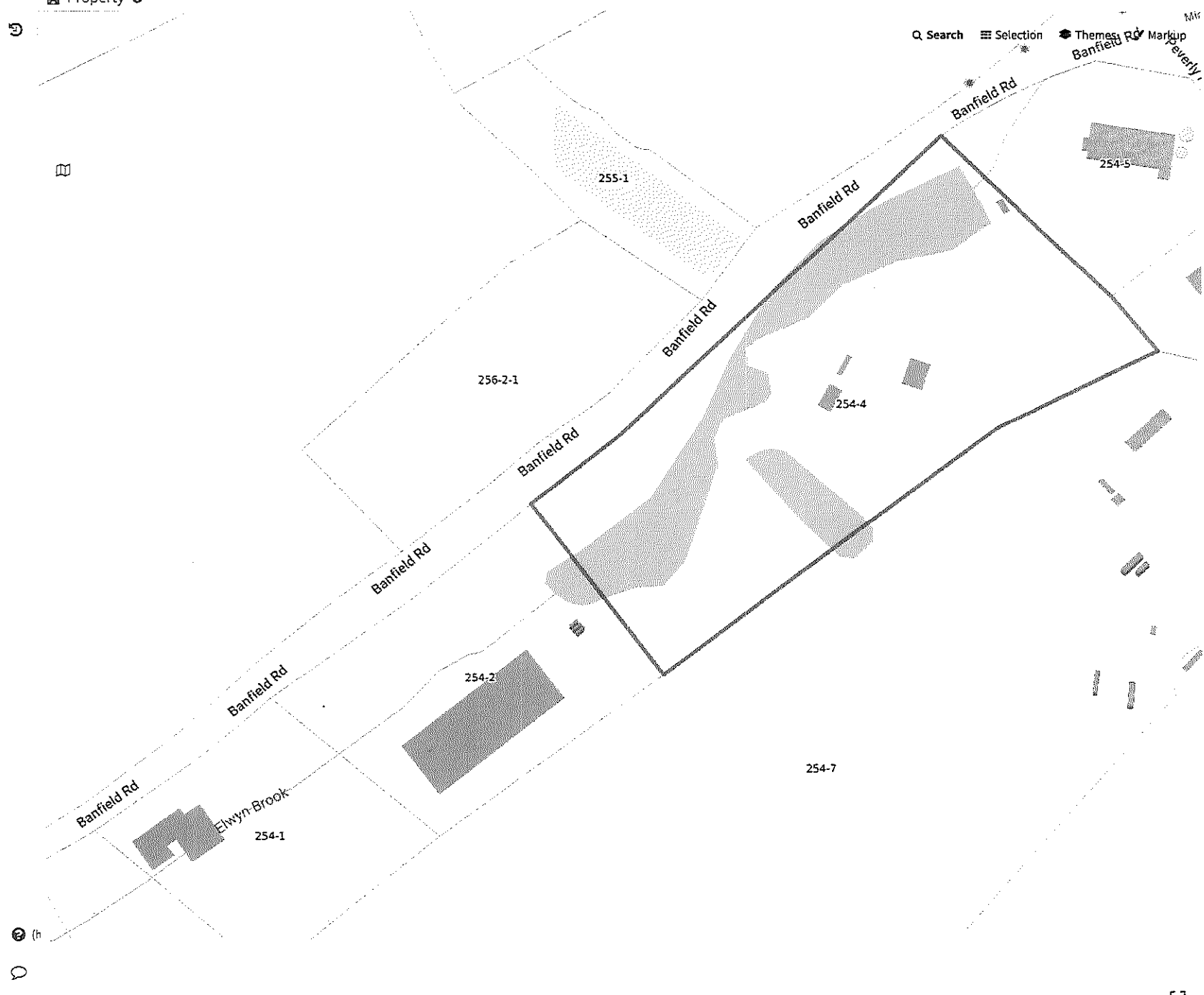
J.G. MacLellan Concrete Co., Inc.



John G. MacLellan III

READY MIXED CONCRETE · WASHED SAND, GRAVEL AND STONE

LOWELL, MA · AMESBURY, MA · WESTFORD, MA · WAKEFIELD, MA · MILFORD, NH · ROCHESTER, NH  
LUNENBURG, MA · N. GRAFTON, MA · WORCESTER, MA · MANCHESTER, NH · PORTSMOUTH, NH · BOSCAWEN, NH



**From:** [MICHAEL PROULX](#)  
**To:** [Planning Info](#)  
**Subject:** Board of Adjustment meeting August 16, 2022, Request of John A Signorello (Assessor Map 237 Lot 1)  
**Date:** Thursday, August 11, 2022 8:16:32 AM

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My input to this request, is that my wife and I are do not in favor it. This would create two substandard lot sizes, requiring multiple variances.

It's not the direction that we would like to see the City of Portsmouth take.

Sincerely,

Michael A Proulx

Michael A Proulx

8 Meadow Rd

Portsmouth, NH 03801

[Debmike1@comcast.net](mailto:Debmike1@comcast.net)