

BY: VIEWPOINT & HAND DELIVERY

November 21, 2022

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

**RE: Variance Application of Stephen and Kathryn Singlar
39 Holmes Court, Tax Map 101, Lot 13**

Dear Peter,

Our Office represents Stephen and Kathryn Singlar, owners of the property located at 39 Holmes Court. Enclosed for submission to the ZBA for its December 20th meeting, please find the following materials relative to the proposed improvements for 39 Holmes Court:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Site Plan;
- 4) Tax Map with Zoning Overlay;
- 5) Tax Map;
- 6) Photographs of the Property.

A copy of the application submission is being delivered to the Planning Department. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

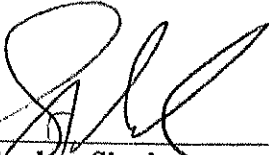
Sincerely,



Derek R. Durbin, Esq.

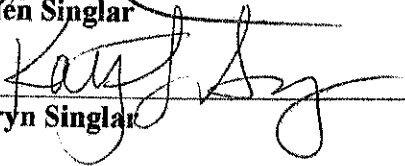
LANDOWNER LETTER OF AUTHORIZATION

Stephen and Kathryn Singlar, record owners of property located at 39 Holmes Court, Portsmouth, NH 03801, Tax Map 101, Lot 13 (the "Property"), hereby authorizes **Durbin Law Offices, PLLC, Altus Engineering, Inc. and Brendan McNamara and their agents and representatives** to file any building, zoning, planning or other municipal permit applications with the City of Portsmouth for said Property and to appear before its land use boards. This Letter of Authorization shall be valid until expressly revoked in writing.



Stephen Singlar

November 14, 2022



Kathryn Singlar

November 14, 2022

**CITY OF PORTSMOUTH
ZONING APPLICATION NARRATIVE**

Stephen Singlar and Kathryn Singlar
(Owners/Applicants)
Tax Map 101, Lot 13
39 Holmes Court
Portsmouth, NH 03801

INTRODUCTION

The Property

The Property at 39 Holmes Court, Portsmouth (the “Property”) is located in the General Residence B (GRB) Zoning District. It contains a non-conforming single-family residence that was constructed in the early 1900s. Aside from the asbestos siding, the home essentially remains in its original condition. The home is dated and in need of a substantial renovation.

The Property is unique in that the right-of-way (“ROW”) known as Holmes Court runs directly through the center of the lot from west to east and terminates at 43 Holmes Court, which is also owned by the Applicants. The public portion of the ROW only runs to the front boundary of the Property. Beyond that, it becomes a private drive (private ROW).

As a result of the bifurcation of the Property by Holmes Court, the buildable envelope of the lot is constrained, thus there are very few ways to improve the existing residence other than to expand it vertically. The home cannot be expanded without obtaining variance relief due to the fact that it encroaches into the side and rear yard building setbacks.

Proposed Improvements

The Applicant intends to renovate the single-family home on the Property. As part of modernizing the home and bringing it up to current building and life safety standards, the Applicants would like to add a dormer to the attic level of the house to provide for additional head space. In addition, they are proposing a heat pump in the rear yard to accommodate central heating and air conditioning. A fence will be removed as part of the project. The improvements to the parking and running of underground utilities also require a DES Shoreland Permit.

Shed Dormer

The shed dormer proposed would be added to the east-facing (rear) section of the attic level of the home. In its existing condition, the home has a 2.1’ rear yard setback. Therefore, any addition to the rear portion of the home requires a variance, including any vertical expansion. The shed dormer itself would be recessed, thus it would encroach less into the rear yard setback than the existing roofline.

Heat Pump

In addition to the rear dormer addition, the Applicant is proposing the placement of a heat pump within the rear yard setback. The proposed heat pump would have a 0.2' rear yard setback.

SUMMARY OF ZONING RELIEF

The Applicants seek the following variances from the Ordinance:

Section 10.521:

- 1) To allow a rear yard setback of 2.1' where 2.1' exists and 20' is required relative to the proposed shed dormer;
- 2) To allow a rear yard setback of 0.2' where 2.1' exists and 20' is required relative to the proposed heat pump;
- 3) To allow for 22.1% open space where 28.1% exists and 25% is permitted.

Section 10.321: To allow a non-conforming structure to be extended or enlarged without conforming to the terms of the Ordinance.

VARIANCE CRITERIA

Granting the variances will not be contrary to the spirit and intent of the Zoning Ordinance or the public interest.

“There are two methods of ascertaining whether granting a variance would violate an ordinance’s basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare.” *Chester Rod & Gun Club, Inc. v. Town of Chester*, 152 N.H. 577 (2005).

Minimum building setback requirements are enacted for the purpose of creating and preserving separation between buildings on abutting properties to maintain adequate, light, air, space and to protect against the spread of fire. The improvements proposed by the Applicants will result in greater open space than what exists now. The proposed shed dormer will be situated a considerable distance from the home on the property at 43 Holmes Court, which is also owned by the Applicants. Thus, there are no privacy, light, air, space or public safety concerns presented by the proposed dormer. The same can be said of the proposed heat pump. While defined as a “structure” by the Ordinance, these appurtenances are less impacting upon abutting properties than a building addition, deck or similar feature. They do not impose the same privacy, light, air, space or public safety concerns. In the present case, the nearest abutting structure to the heat pump, which is the home on the property at 43 Holmes Court, is not located in close proximity. The heat

pump will be adjacent to the left side yard of the property at 43 Holmes Court which consists of open space all the way to the water. Moreover, the property at 43 Holmes Court is owned by the Applicants, thus further mitigating any potential concerns about its location to the boundary line separating the properties.

If granted, neither of the variances will alter the essential character of the locale. The character of the home will remain consistent with others in the surrounding area with the shed dormer. The heat pump will be unnoticeable to the public. It will be located to the rear of the home. By design, it runs efficiently and quietly. Heat pumps and structures of a similar nature are common throughout the south end of Portsmouth, many of which are non-conforming with respect to the required building setbacks. The renovation of the home is in the public's interest, as the City will require all renovated areas of the home to comply with current building and life safety codes. Much of the current structure does not comply with current building and life safety codes.

B. Substantial Justice will be done in granting the variance relief sought.

To determine whether substantial justice is done, the Board must balance the equities between the rights of a private landowner and the public interest in deciding whether to grant or deny a variance request. The "only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." New Hampshire Office of State Planning, *The Board of Adjustment in New Hampshire, A Handbook for Local Officials* (1997); *Malachy Glen Assocs., Inc. v. Town of Chichester*, 155 N.H. 102 (2007).

The dormer will add much needed head room for the attic space in order to make it more functional. The heat pump will allow for the provision of central air and heat. Neither of these improvements will negatively impact abutting properties or the general public. Therefore, the loss to the Applicants is not outweighed by any loss to the general public.

C. Surrounding property values will not be diminished by granting the variance.

The Board is justified in relying on its own expertise and experience in finding that surrounding property values will not be negatively impacted by the proposed improvements. The improvements made to the home are designed to be in keeping with the character of the area and the architectural period in which it was constructed. If the variances are approved, the final design will be subject to HDC approval, which adds an additional protection for abutters and the general public and surrounding property values.

D. Denying the variance would constitute an unnecessary hardship.

The size of the Property (2672 sq. ft.) coupled with the fact that it is bisected down the middle by the private portion of the Holmes Court ROW are special conditions that distinguish it from surrounding properties such that there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their application to the Property. There is no way to add on to the existing home or rebuild it without requiring zoning relief. The Property is non-conforming with respect to its use (single-family residential), lot area, street frontage, and

front, side and rear setbacks, and open space. Therefore, it cannot be used in strict conformance with the Ordinance. The variances sought are reasonable in light of the circumstances pertaining to the Property. With respect to open space, the Property is becoming less non-conforming than it presently is.

CONCLUSION

In conclusion, the Applicants have demonstrated that their application meets all of the criteria for granting each of the variances requested. As such, the Applicants respectfully request that the Board approve their application.

Respectfully Submitted,

Dated: November 21, 2022

Stephen and Kathryn Singlar

A handwritten signature in blue ink, appearing to read 'Derek Durbin', is written over a large, light blue oval scribble.

By: Derek R. Durbin, Esq.
DURBIN LAW OFFICES PLLC
144 Washington Street
Portsmouth, NH 03801
(603)-287-4764
derek@durbinlawoffices.com

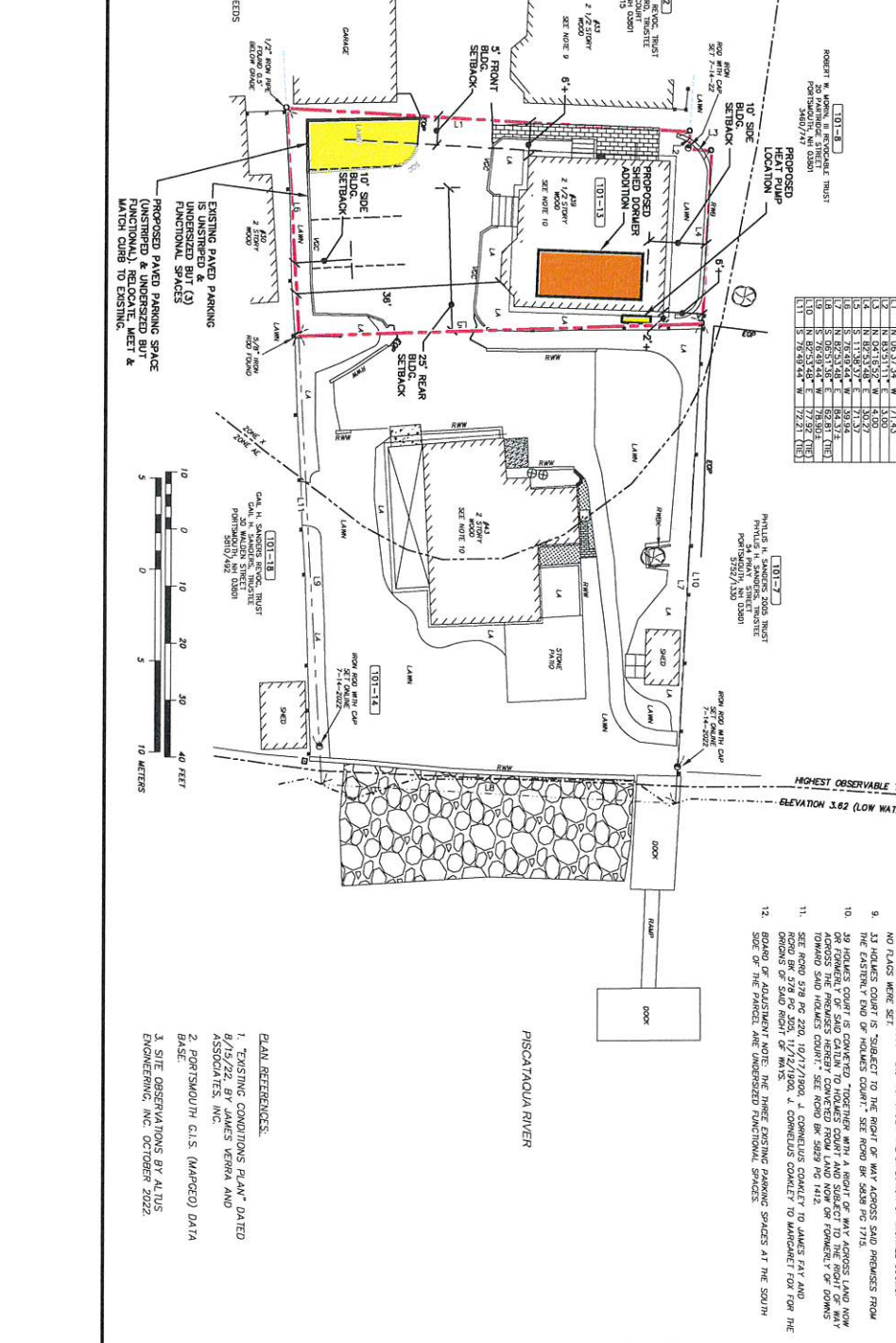
ZONING SUMMARY


EXISTING	PROPOSED
MIN. LOT AREA: 8000 S.F.	4,267.2 S.F.
MIN. STREET FRONTAGE: 80'	40' (EX) (VOLUMES)
FRONT SETBACK: 5'	4.67' (EX)
SIDE SETBACK: 25'	4.21' (EX)
REAR SETBACK: 35'	4.21' (EX)
MAX. HEIGHT: 30'	4.21' (EX) <32' (PROP. DOWNER)
MAX. BUILDING COVERAGE: 25%	4.2672 (EX) (250 SF)
MIN. OPEN SPACE:	4.2672 (EX) (250 SF)

ZONE: GENERAL RESIDENCE B (GRB) - SINGLE FAMILY RESIDENCE - EXISTING, PROPOSED TO BE EXPANDED VOLUMETRICALLY
EXISTING LOT AREA: 2,672 S.F. (0.06 AC ±)

NOTES:

- OWNER OF RECORD: STEPHEN A. & KATHRYN L. SINGLEAR
ADDRESS: 21 ELLIOT STREET, EXETER, NH 03833
DEED REFERENCE: 0343/1441
PARCEL AREA: 2,672 S.F.
- ZONING: GENERAL RESIDENCE B (GRB)
- MINIMUM LOT AREA: 8,000 S.F.
- FRONT YARD SETBACK: 5'
- REAR YARD SETBACK: 25'
- MINIMUM FRONT SETBACK: 5'
- MINIMUM SIDE SETBACK: 25'
- MINIMUM REAR SETBACK: 35'
- MAXIMUM HEIGHT: 30'
- MAXIMUM BUILDING COVERAGE: 25%
- CONTRACTOR TO VERIFY SITE BENCHMARKS BY LISTING BETWEEN 2 BENCHMARKS PRIOR TO THE ESTABLISHMENT OF ANY GRADES OR ELEVATIONS. DISCREPANCIES ARE TO BE REPORTED TO JAMES VERNA AND ASSOCIATES, INC.
- THE PROPOSED ADJUSTMENT SHALL BE SUBMITTED TO THE PORTSMOUTH BOARD OF APPEALS FOR REVIEW AND APPROVAL ON OR BEFORE 12/29/2022 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- THE HIGHEST OBSERVABLE TIDE LINE WAS DELINEATED BY MICHAEL COVINO, V.P., OF JAMES VERNA AND ASSOCIATES, INC. UNDER THE DIRECTION OF MICHAEL COVINO, ON 12/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- THE HIGHEST OBSERVABLE TIDE LINE WAS DELINEATED BY MICHAEL COVINO, V.P., OF JAMES VERNA AND ASSOCIATES, INC. UNDER THE DIRECTION OF MICHAEL COVINO, ON 12/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- NO PLACES WERE SET.
- NO BENCH MARKS WERE SET.
- THE HIGHEST OBSERVABLE TIDE LINE WAS DELINEATED BY MICHAEL COVINO, V.P., OF JAMES VERNA AND ASSOCIATES, INC. UNDER THE DIRECTION OF MICHAEL COVINO, ON 12/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
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- NO BENCH MARKS WERE SET.



ENGINEER:

ALTUS
 ENGINEERING, INC.
 113 COURT STREET
 PORTSMOUTH, NH 03801
 (603) 233-3333
 www.altus-inc.com

ISSUED DATE:
NOVEMBER 18, 2022
BOARD OF ADJUSTMENT
APPROVED DATE:

RESPONSIBLE ENGINEER:
 BY DATE
 0 11/18/22
 0 11/18/22

DRAWN BY: RLM
APPROVED BY: ESS
DRAWING FILE: 3202-101-13

SCALE:
 22" x 34" = 1" = 10'
 11" x 17" = 1" = 20'

DRAWING TITLE:
PROJECT:
DATE:

OWNER/APPLICANT:
 STEPHEN A. &
 KATHRYN L. SINGLEAR
 21 ELLIOT STREET
 EXETER, NH 03833

PROJECT:
 PROPOSED SITE
 DEVELOPMENT
 PLANS

**#39 HOLMES COURT
 PORTSMOUTH, NH
 ASSESSOR'S PARCEL
 MAP 101-L0T 13**

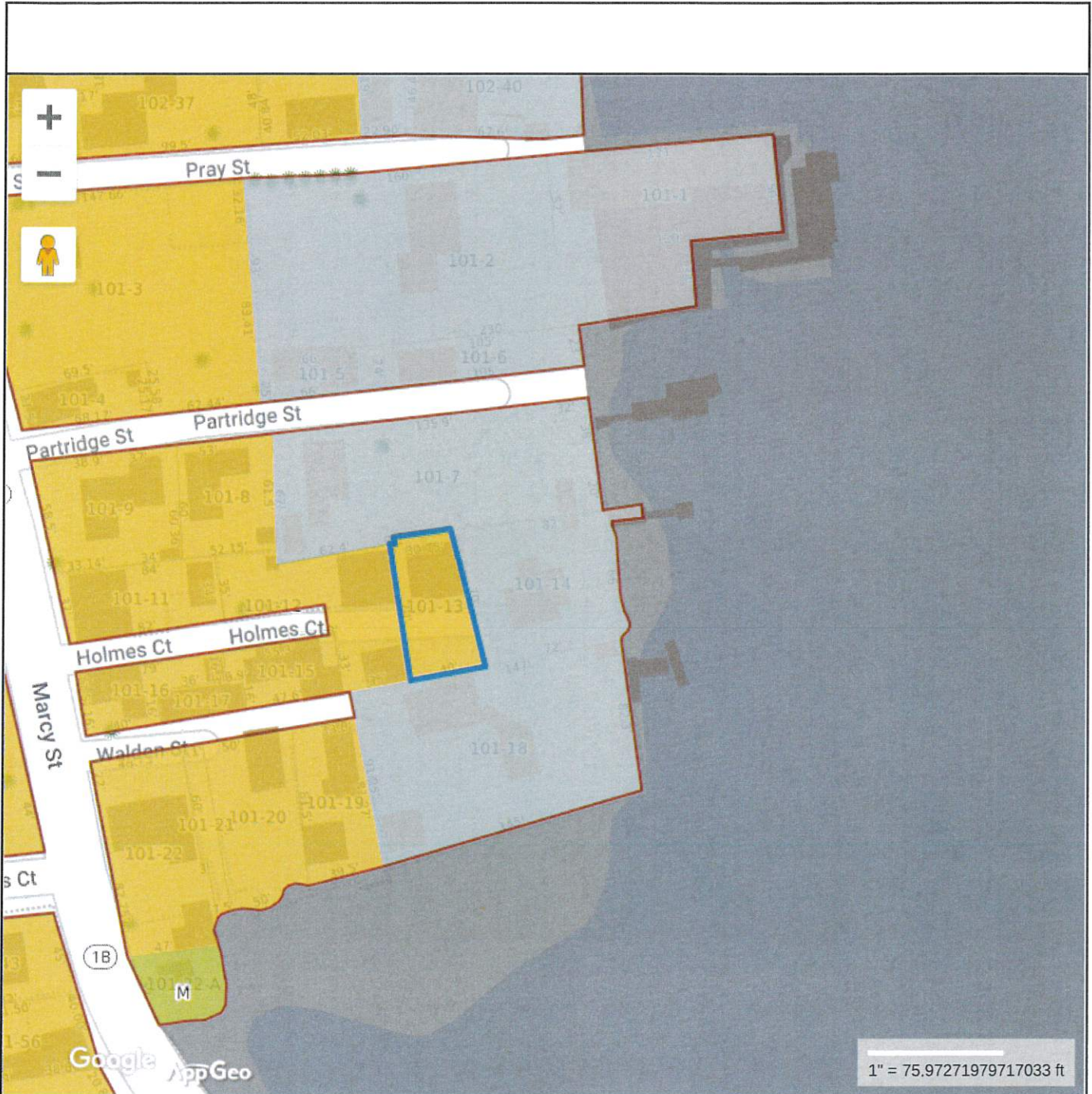
TITLE:
 BOARD OF ADJUSTMENT
 SITE PLAN

SHEET NUMBER:
 1 OF 1

- LEGEND:
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PLAN REFERENCES:

1. TESTING CONDITIONS PLAN DATED 8/15/22, BY JAMES VERNA AND ASSOCIATES, INC.
2. PORTSMOUTH GIS (MAPPED) DATA
3. SITE OBSERVATIONS BY ALTUS ENGINEERING, INC. OCTOBER 2022.



Property Information

Property ID 0101-0013-0000
Location 39 HOLMES CT
Owner SINGLAR STEPHEN A & KATHRYN L



**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 09/21/2022
Data updated 3/9/2022

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

Map Theme Legends

Zoning

Residential Districts

- R Rural
- SRA Single Residence A
- SRB Single Residence B
- GRA General Residence A
- GRB General Residence B
- GRC General Residence C
- GA/MH Garden Apartment/Mobile Home Park

Mixed Residential Districts

- MRO Mixed Residential Office
- MRB Mixed Residential Business
- G1 Gateway Corridor
- G2 Gateway Center

Business Districts

- GB General Business
- B Business
- WB Waterfront Business

Industrial Districts

- OR Office Research
- I Industrial
- WI Waterfront Industrial

Airport Districts

- AIR Airport
- AI Airport Industrial
- PI Pease Industrial
- ABC Airport Business Commercial

Conservation Districts

- M Municipal
- NRP Natural Resource Protection

Character Districts

- CD5 Character District 5
- CD4 Character District 4
- CD4W Character District 4-W
- CD4-L1 Character District 4-L1
- CD4-L2 Character District 4-L2

Civic District

- Civic District

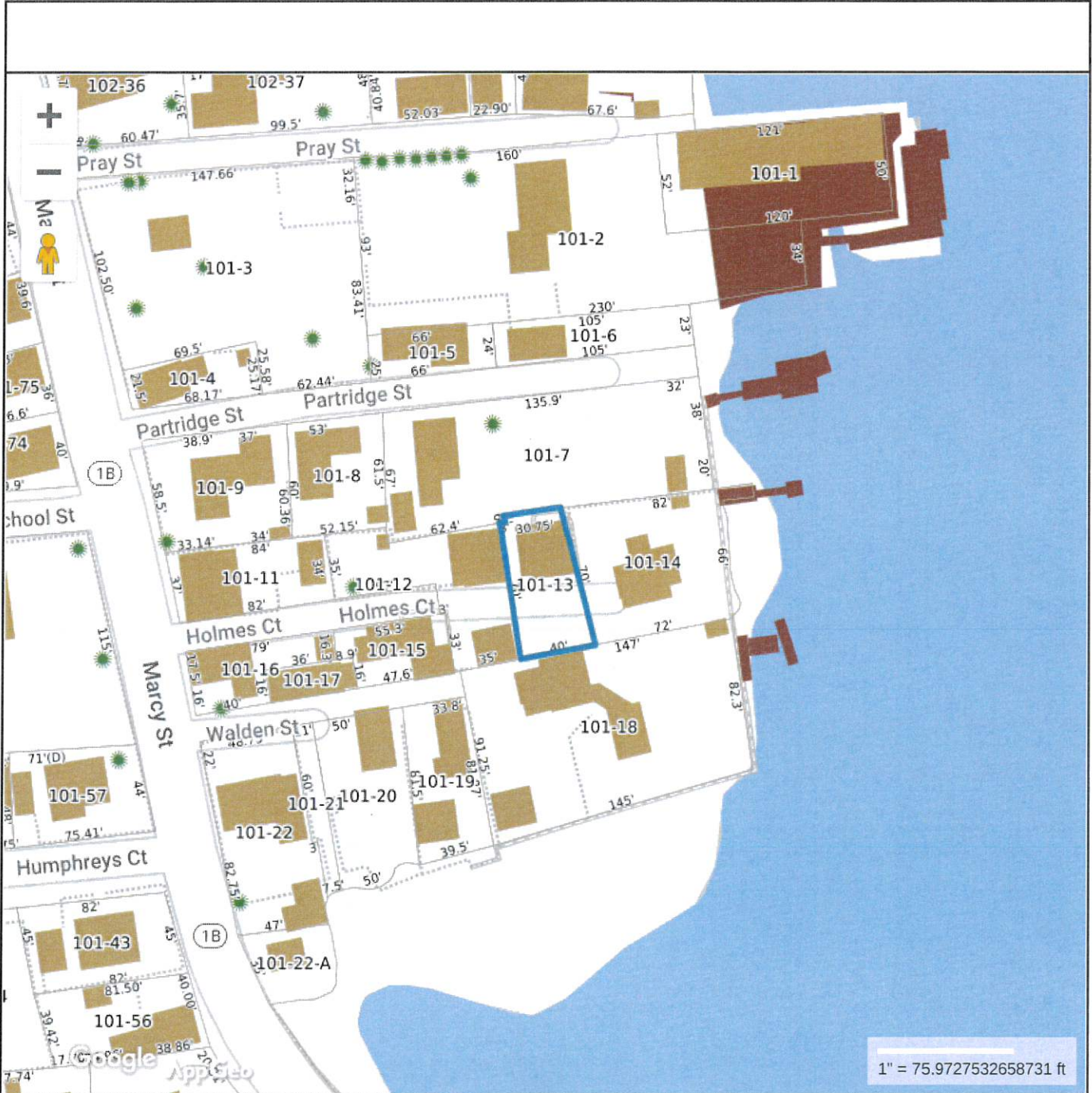
Municipal District

- Municipal District

Overlay Districts

- OLOD Osprey Landing Overlay District
- Downtown Overlay District
- Historic District

City of Portsmouth



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RESTORE AND OR REPLACE IN KIND, EXISTING WINDOWS AND DOORS

NEW RECESSED SHED DORMER. 2' FROM SIDE WALL AND 4' FROM GABLE ENDS

RESTORE EXISTING WOOD TRIM

WHITE CEDAR SHINGLES, 5" REVEAL

NEW MAIBEC "NANTUCKET"

REMOVE FENCE

NEW AIR SOURCE HEAT PUMP EXTERIOR UNIT

FLAT PANEL ASSEMBLY TO EXISTING BAY WINDOW AND SCREENED PORCH

PROPOSED SOUTH SIDE
VIEW

RESTORE AND OR REPLACE IN KIND, EXISTING WINDOWS AND DOORS

NEW RECESSED SHED DORMER. 2' FROM SIDE WALL AND 4' FROM GABLE ENDS

RESTORE EXISTING WOOD TRIM

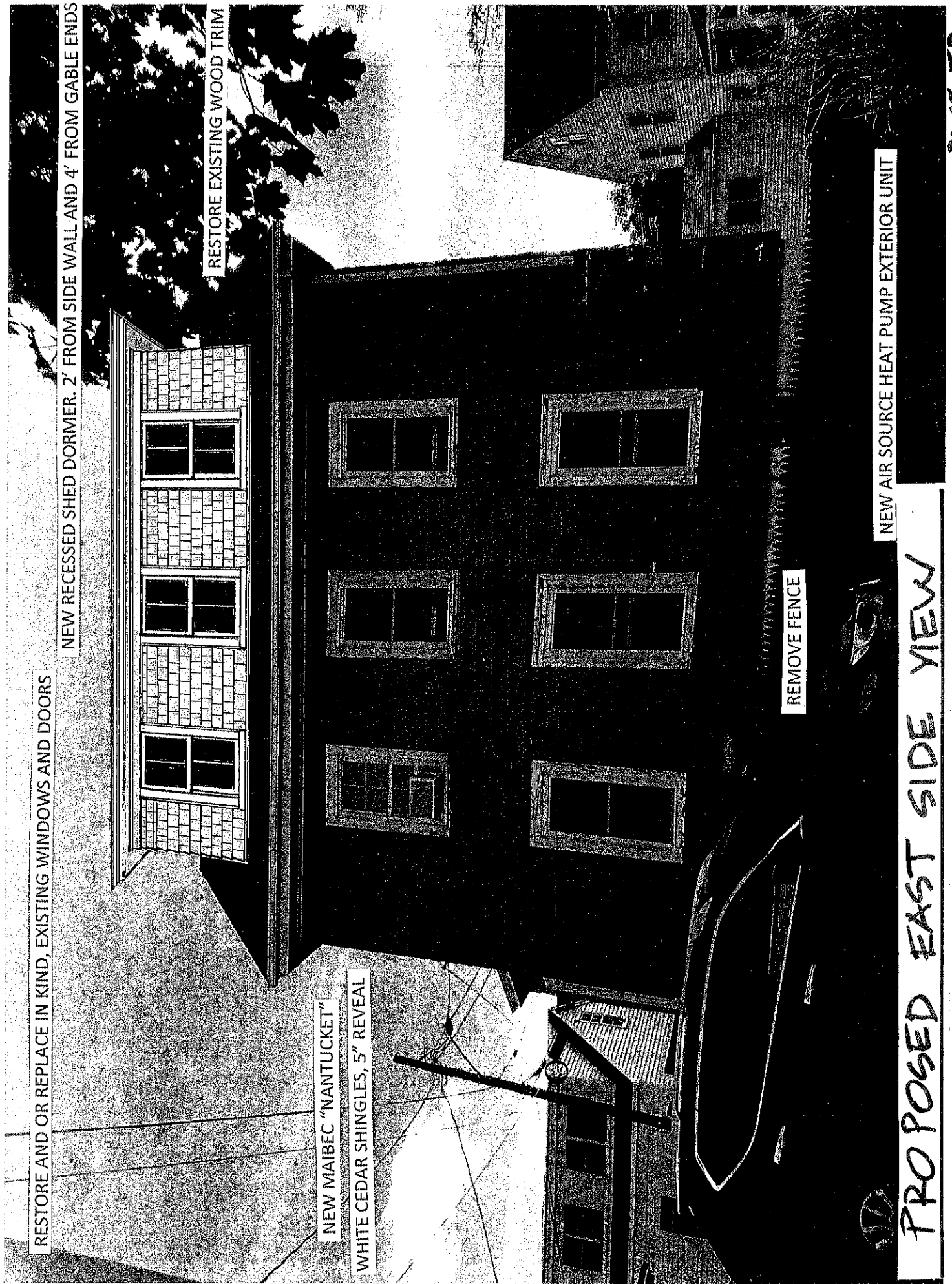
NEW MAIBEC "NANTUCKET"

WHITE CEDAR SHINGLES, 5" REVEAL

REMOVE FENCE

NEW AIR SOURCE HEAT PUMP EXTERIOR UNIT

PROPOSED EAST SIDE VIEW

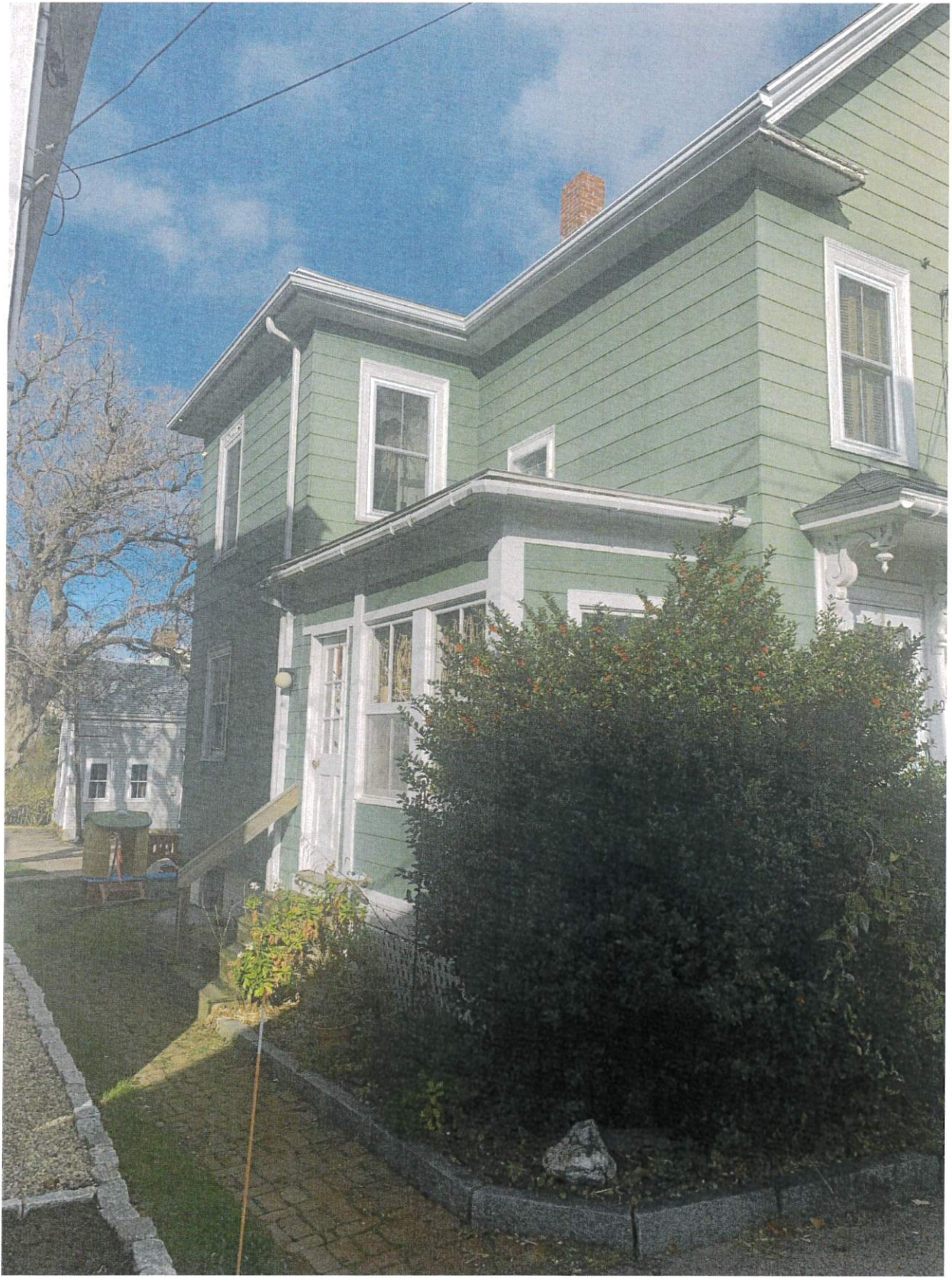




Front Elevation View



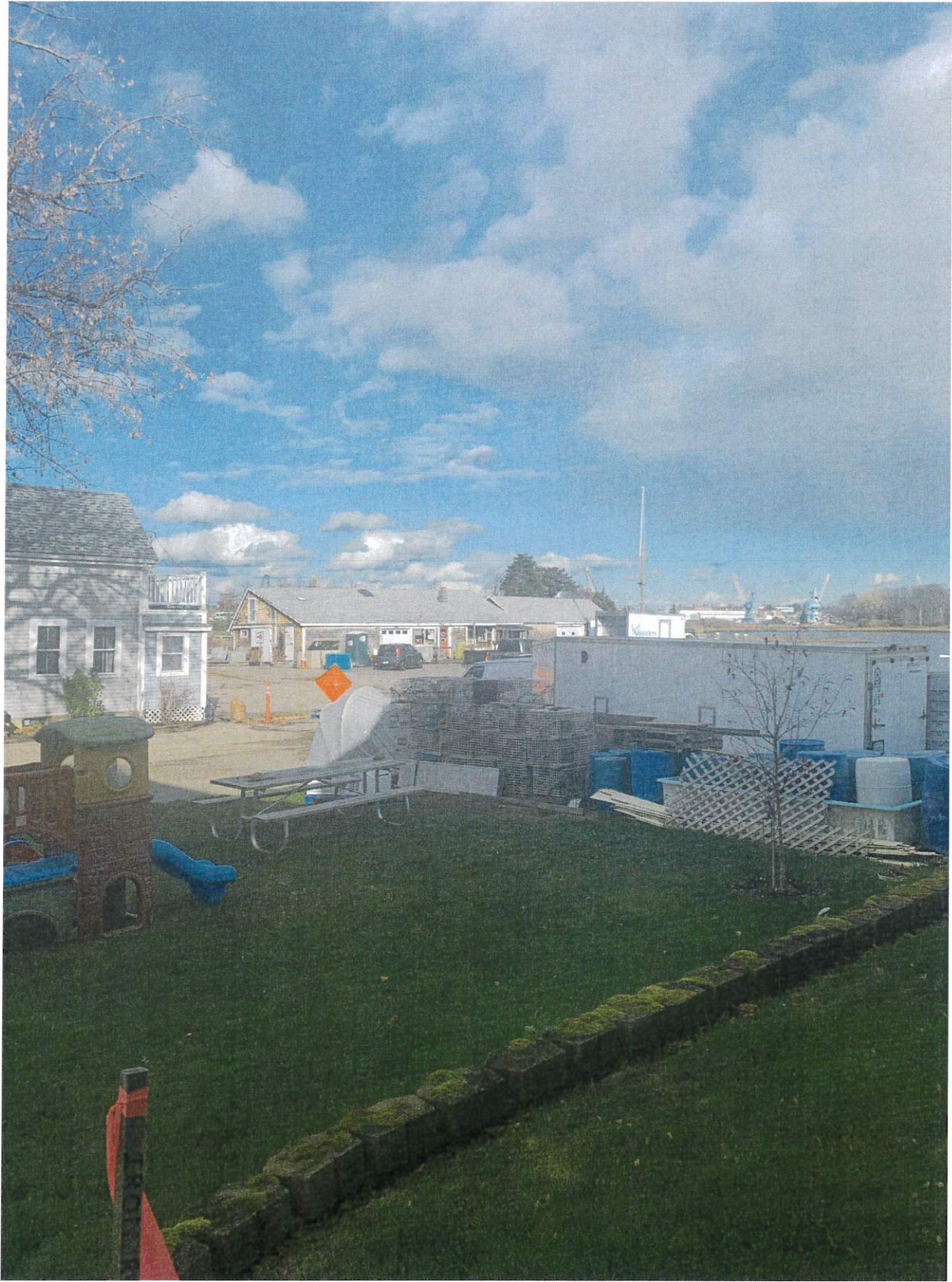
Right Elevation View



Left Elevation View



Rear Elevation View



View of Properties to Rear of 39 Holmes Court



View of Holmes Court