

**BY: VIEWPOINT & HAND DELIVERY**

November 18, 2025

City of Portsmouth  
Attn: Stefanie Casella, Planner  
Zoning Board of Adjustment  
1 Junkins Avenue  
Portsmouth, NH 03801

**RE: Variance Application of Robert M. Snover, Darcy Davidson, Trustees of the Robert M. Snover Revocable Trust  
58 Humphry's Court, Tax Map 101, Lot 47**

Dear Stefanie,

Please find a copy of the following materials relative to the above referenced variance application filed through Viewpoint for property located at 58 Humphry's Court, Portsmouth:

- 1) Landowner Letter of Authorization
- 2) Narrative to Variance Application with Exhibits
- 3) Existing Conditions Plan
- 4) Subdivision Plan
- 5) Assessor's Map Plan
- 6) Photographs of Property.

In addition to the above referenced variance application, the Applicants are filing an Appeal of an Administrative Decision under separate cover.

A copy of the above application materials 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,

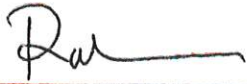


Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

**Robert M. Snover and Darcy Davison, Trustees of the Robert M. Snover Revocable Trust**, record owners of property located at **58 Humphry's Court, Portsmouth**, identified on **Tax Map Tax Map 101, Lot 47** (the "Property"), hereby authorize **Durbin Law Offices PLLC**, 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.

**Robert M. Snover Revocable Trust**



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**Robert M. Snover, Trustee**

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**Darcy Davidson, Trustee**

**CITY OF PORTSMOUTH  
VARIANCE APPLICATION NARRATIVE**

Robert M. Snover, Darcy Davidson  
Trustees of the Robert M. Snover Revocable Trust  
**(Owners/Appellants)**

**58 Humphry's Court,  
Portsmouth, NH 03801  
Tax Map 101, Lot 47**

**INTRODUCTION**

Robert M. Snover and Darcy Davidson, Trustees of the Robert M. Snover Revocable Trust (the "Applicants"), are the owners of the property at 58 Humphry's Court, Portsmouth, NH 03801 (the "Property" or the "Applicants' Property"). The Property is located in the General Residence B and Historic Overlay Zoning Districts. The Property is a 10,005 square foot lot that contains a single-family home that was occupied for several decades by Harold Whitehouse, a long-time former City Council member. The Property has 194.81' of continuous street frontage on Humphry's Court. The Property was once two separate lots that were first shown on a recorded plan from 1900 for the Humphry's Court neighborhood (the "1900 Plan"). **Exhibit A.** The Applicants are seeking to restore the Property to a two (2) lot configuration similar to the original layout, demolish the existing home, which is in need of a "gut renovation", and build single-family homes on the newly created lots.

Because Humphry's Court wraps around the Property on two sides, the only way to subdivide the Property without requiring frontage relief is to create two triangularly shaped lots with a division line running diagonally through the middle of the Property. **Exhibit B.** The City Planning Department disfavors this approach. It feels that this approach is inconsistent with the intent of Section VI.2.A of the City's Subdivision Regulations, which encourages a more rectangular or square lot configurations in relation to existing streets. **Exhibit C.** Section VI.2.A ("Lot Arrangement") reads as follows: "In all quadrangular lots, and so far as practicable all other lots, the side lines shall be at right angles to straight street lines or radial to curved street lines. An arrangement placing lots at right angles to one another shall be avoided where practicable."

In response to the Planning Department's concern, the Applicants revised their subdivision plan to create two quadrangular lots in nearly the same configuration as the lots shown on the 1900 plan for Humphry's Court. The Technical Advisory Committee ("TAC") reviewed the proposed subdivision plan on October 7<sup>th</sup>. TAC did not express any concerns with the proposed subdivision plan but voted to postpone its consideration of the request until the Applicants could apply to the Zoning Board of Adjustment (the "Board") for a frontage variance and any other zoning relief the City determined necessary. On October 21, 2025, Planning Director Peter Britz issued a letter outlining what variances the Applicants needed for their subdivision plan. The foregoing Variance Application and an Administrative Appeal challenging the Planning Director's interpretation of the "lot area" definition contained within the Zoning Ordinance (the "Ordinance") follows.

It is important to note that the Applicants have requested a lot area variance and addressed the five (5) variance criteria for granting it, but the Administrative Appeal may render that request moot.

### SUMMARY OF ZONING RELIEF

The Applicant seeks the following variance approvals from the Board:

#### Section 10.521

- (a) To allow 51.8' (+/-) of continuous street frontage where 80 is required (Proposed Lot 2).
- (b) To allow lot area of 4,840 square feet where 5,000 square feet is required (Proposed Lot 1).<sup>1</sup>

### VARIANCE CRITERIA

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

In the case of Chester Rod & Gun Club, Inc. v. Town of Chester, the Court noted that since the provisions of all ordinances represent a declaration of public interest, any variance will, in some measure, be contrary to the ordinance, but to be contrary to the public interest or injurious to public rights of others, "the variance must 'unduly, and in a marked degree' conflict with the ordinance such that it violates the ordinance's 'basic zoning objectives.'" Id. The Court observed that "[t]here 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." Id.

The purpose of General Residence B ("GRB") Zoning is [t]o provide areas for **single-family, two-family and multifamily dwellings**, with appropriate **accessory uses**, at moderate to high densities (ranging from approximately 5 to 12 **dwelling units** per acre), together with appropriate **accessory uses** and limited services. P.Z.O. Sec. 10.410.

Lot area and frontage requirements in zoning serve similar purposes. They are both utilized as a means for controlling density. In addition, they are often utilized to maintain the streetscape and character of residential neighborhoods.

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<sup>1</sup> As noted, the Applicants have challenged the Planning Director's interpretation of the "lot area" definition within the Zoning Ordinance and the application thereof to the Property. Should the Board determine that the Applicants' interpretation is the correct one, no lot area variance is needed for the proposed subdivision.

The Humphry's Court neighborhood consists primarily of lots that do not meet the Ordinance's dimensional requirements, particularly with respect to lot area and frontage. In fact, out of the eleven (11) properties on Humphry's Court, there are only three (3) properties, including the Applicants' property, that meet both the lot area and frontage requirements. **Exhibit D.**

The average lot size of the ten (10) properties surrounding the Applicants' Property (the "surrounding properties") on Humphry's Court is approximately 4,888 square feet. Seven (7) of the surrounding properties (70%) have less than what is shown for Proposed Lot 1 on the Applicants' Subdivision Plan. Proposed Lot 1 will have 4,840 square feet of lot area not counting the 163 square foot paved area in the northwest corner of the Property and will be greater than most of the surrounding properties and consistent with the neighborhood average,

The average frontage of the surrounding ten (10) properties is approximately 65'. Four (4) of these properties have less than 52' of continuous street frontage. Only (3) of the surrounding properties meet the 80' frontage requirement set forth in the Ordinance. Proposed Lot 2 will have 51.8' of continuous street frontage, which is consistent with half of the surrounding properties on Humphry's Court and only a minor deviation from the neighborhood average.

If you look more broadly at the entire area surrounding the Applicants' Property, the properties that meet one or both the lot area and frontage requirements in the GRB Zoning District are the exception to the rule. The Applicants' Property has substantially more street frontage (195') than all the other properties on Humphry's Court or in the surrounding area. It is also larger than all but one other property on the street. It has more than twice the required street frontage. It appears that most of the properties on Humphry's Court remain in the same configuration as shown on the 1900 Plan. The Applicants are seeking to return their property to a two (2) lot configuration, which is consistent with character of the surrounding neighborhood in terms of frontage and lot area. For the foregoing reasons, granting variance(s) will not alter the essential character of the neighborhood or negatively affect public health, safety or welfare.

**Substantial Justice will be done in granting the variances.**

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).

It represents a loss to the Applicants to deny them the opportunity to subdivide their property in a manner that conforms to the historic character of the Humphry's Court neighborhood. The Applicants have almost 2.5x the required frontage to subdivide the Property by right but for the fact that the City and/or its Subdivision Regulations disfavor the lot configurations previously proposed by the Applicants. There is no gain to the public if the variances are denied. Not only does the subdivision of the Property conform to the general purpose behind SRB Zoning and its

density goals, but what is proposed maintains the general character and streetscape of Humphry's Court.

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

There is no credible evidence that could be presented that would suggest that the subdivision of the Property would lead to a devaluation of surrounding properties. The subdivision will not change the character of the neighborhood in the context of the frontage and lot area requirements, and thus, will not negatively impact surrounding property values. Anything that is constructed on the lots will have to comply with the building setback, coverage and open space requirements, thus preserving the light, air and space of abutting properties.

**Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

The Property has special conditions that distinguish it from surrounding properties. It has 194.81' continuous street frontage, which is greater than any other property on Humphry's Court and exceeds what the Ordinance requires for a subdivision into two (2) lots. However, the street wraps around two sides of the Property in a manner that, in the City's view, prevents a subdivision of the Property that both conforms to both the Subdivision Regulations and the frontage requirement of the Zoning Ordinance.

In addition, the Property has 10,005 square feet of deeded land area in a zoning district that only requires 5,000 square feet of "lot area", although the City has determined that only 4,840 square feet can be counted towards the requirement. Accordingly, Proposed Lot 1 is arguably deficient by 160 square feet, which is just larger than a standard guest bedroom. The difference between a 5,000 square foot lot and a 4,840 square foot lot is imperceptible to most humans. Furthermore, whether the lot is 5,003 square feet or 4,840 square feet, it is still larger than most surrounding properties on Humphry's Court and is consistent with the density goals of GRB Zoning.

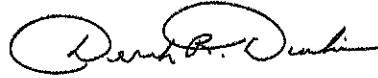
In the case of *Belanger v. Nashua*, the NH Supreme Court determined that municipalities have an obligation to have their zoning ordinances reflect the current character of neighborhoods. *Belanger v. Nashua*, 121 N.H. 389 (1981). Absent this, the Board must consider the prevailing character of a neighborhood as part of its analysis. In the present case, the GRB frontage and lot area requirements do not reflect the character of the Humphry's Court neighborhood.

As a result of the foregoing special conditions of the Property, there is no fair and substantial relationship between the general purposes of the frontage and lot area requirements and their application to the Property. In the end, the proposed lots will be consistent with other lots through the Humphry's Court neighborhood in terms of frontage and lot size.

## Conclusion

The Applicants thank you for your time and consideration and hope that you will approve the variances that have been requested.

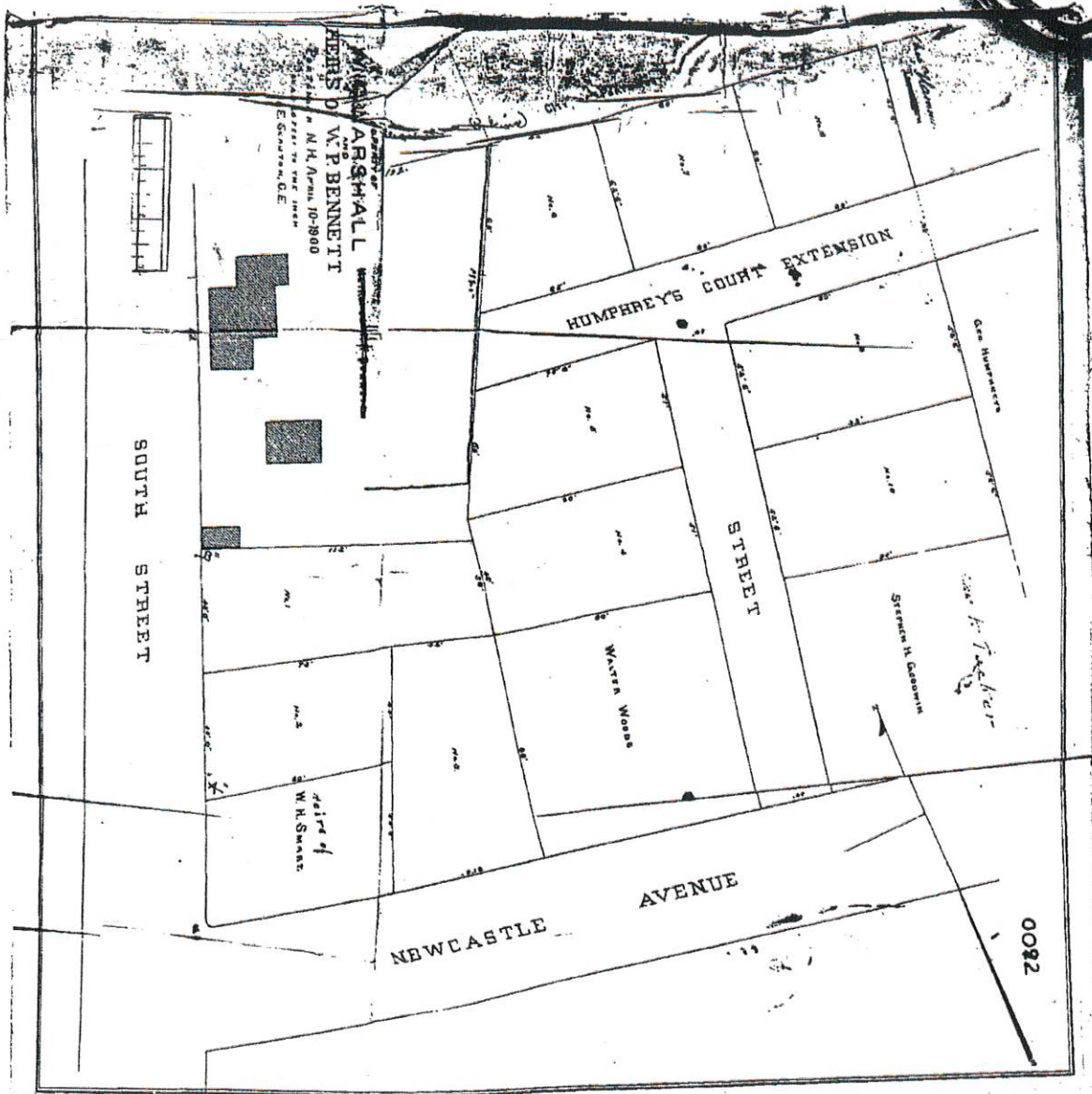
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Derek R. Durbin". The signature is written in a cursive style with a large, circular initial "D".

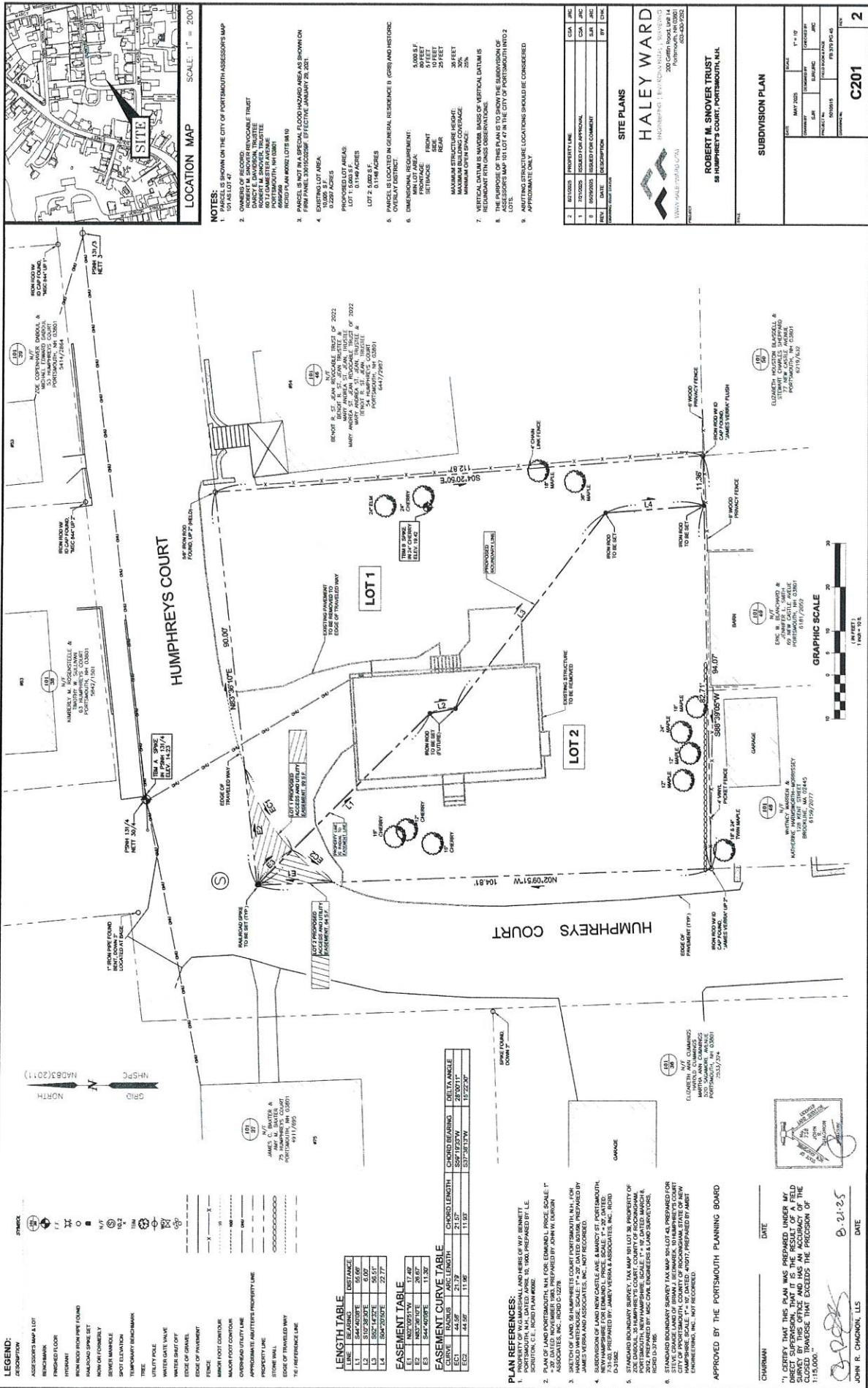
Derek R. Durbin, Esq.  
144 Washington Street  
Portsmouth, NH 03801  
derek@durbinlawoffices.com

EXHIBIT A

#0092







# EXHIBIT C

## SECTION VI - GENERAL REQUIREMENTS

The following shall be considered as minimum requirements and will be varied by the Board only under the conditions and circumstances set forth in these regulations.

### 1. Basic Requirements

#### A. Conformity to Official Plan or Map

The subdivision shall be in harmony with the Master Plan and/or Official map of the City.

#### B. Hazards

The land to be subdivided shall be of such character that it can be used safely without danger to health or peril from fire, flood, soil failure, or other hazard.

#### C. Relation to Topography

The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or about the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

#### D. Planned Unit Development

The Planning Board may approve a planned unit development provided such development is consistent with the Zoning Ordinance of the City of Portsmouth, Article 7 – Flexible Development, Sections 10.710 and 10.720.

### 2. Lots

#### A. Lot Arrangement

In all quadrangular lots, and so far as practicable all other lots, the side lines shall be at right angles to straight street lines or radial to curved street lines. An arrangement placing lots at right angles to one another shall be avoided where practicable.

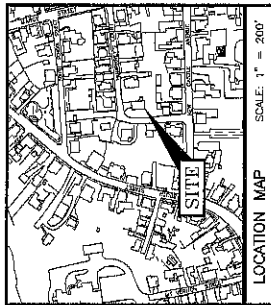
#### B. Lot Sizes

Lot dimensions shall conform to the requirements of the Zoning Ordinance of the City of Portsmouth. Corner lots shall have at least 10% extra width to permit appropriate building setback from the orientation to both streets.

#### C. Commercial and Industrial Lots

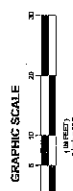






NOTES.

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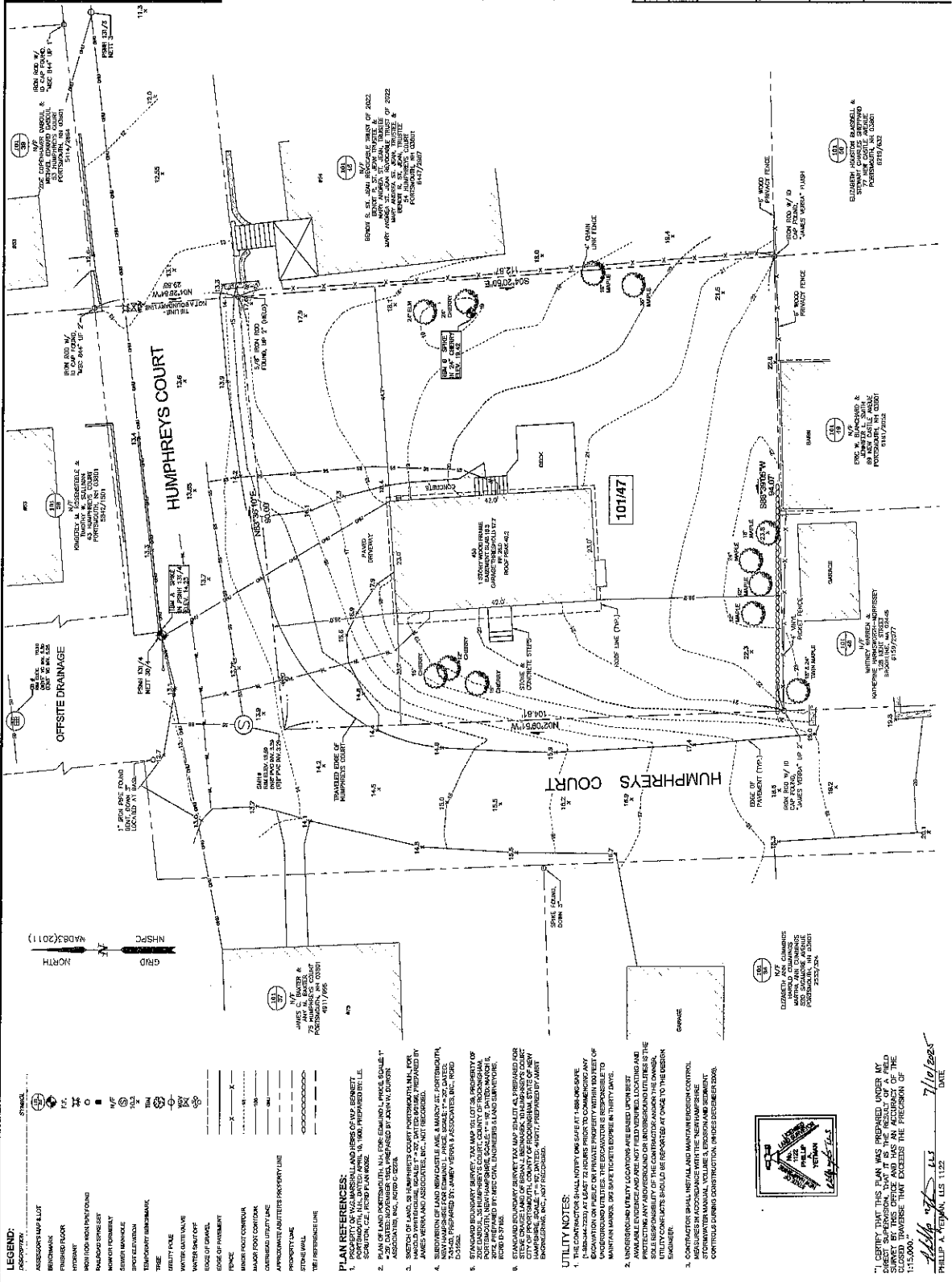
S	STANDARD	WATER UTILITY LOCATIONS & GRADES	CDA	PAY
O	D	SECTION FOR COMMENT	CDA	PAY
REV.	DATE	DESCRIPTION	BY	CHE
DRAWINGS INCLUDE EXPLANATIONS				

**HALEY WARD**  
SUSTAINING ENVIRONMENTAL | SURVEYING  
2001 Griffin Road, Unit 14  
Portsmouth, NH 02801  
(603) 433-7982

**ROBERT M. SNOVER TRUST**  
98 HUMPHREYS COURT, PORTSMOUTH, NH

STANDARD BOUNDARY &  
TOPOGRAPHIC SURVEY

DATE	NAME
OCTOBER 2024	V = 12
ISSUED BY	CHECKED BY
CSA	-
PAYMENT	REMARKS
SERVICES	PERIODIC
QUANTITY	PRICE
V101	1



- ### UTILITY NOTES:

1. THE CONTRACTOR SHALL NOTIFY DWS SAVE AT 1-888-DWS-SAVE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY CONSTRUCTION ON PUBLIC OR PRIVATE PROPERTY WITHIN THE CITY OF UNDERGROUND UTILITIES. THE CONTRACTOR IS RESPONSIBLE TO MAINTAIN MAHORS. DWS SAVE TICKETS EXPIRE IN THIRTY DAYS.

2. UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. INADVISOR WILL OWNERS. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THIS DESIGN ENGINEER.

3. CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION, (MAY/DECEMBER 2008).

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 CLOSE TRAVERSE THAT EXCEEDS THE PRECISION OF 1:5,000.\*

PHILLIP A. YEMMAN, U.S. 1122





**Property Information**

Property ID 0101-0047-0000  
 Location 58 HUMPHREYS CT  
 Owner SNOVER ROBERT M REV TR



**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 09/26/2024

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



**View of Humphry's Court from Marcy Street (East)**





**View of Street and NW Corner of 58 Humphry's Court from East**





**View of Paper Street Area of Humphry's Court (North of 58 Humphry's Court)**



**Photo of Street and NW Corner of 58 Humphry's Court**





**View of Front / North Elevation of 58 Humphry's Court**



**View of Easterly Half of 58 Humphry's Court**





**View of Westerly Half of 58 Humphry's Court**



**View of Humphry's Court from New Castle Avenue**