

BY: VIEWPOINT & HAND DELIVERY

June 30, 2026

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

**RE: Revised Variance Application of J. Michael Ferrelli
Joffre Avenue, Tax Map 233, Lot 135**

Dear Stefanie,

Please find a copy of the revised variance application for the above referenced property. The enclosed materials have also been filed through Viewpoint. Please replace the materials filed on June 24, 2026 with the enclosed, and please do not hesitate to reach out should you have any questions or concerns. Included with this submission is the following:

- 1) Landowner Letter of Authorization
- 2) Narrative (Revised) to Variance Application with Exhibits
- 3) Variance Plan prepared by Ambit Engineering, Inc.
- 4) Photographs of Property
- 5) GIS Map

Sincerely,



Derek R. Durbin, Esq.

LANDOWNER LETTER OF AUTHORIZATION

J. Michael Ferrelli, record owner of property located at **Joffre Avenue, Portsmouth New Hampshire**, identified on **Tax Map 233, Lot 135** (the "Property"), hereby authorizes **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.


J. Michael Ferrelli (Jun 24, 2026 08:09:50 GMT+7)

J. Michael Ferrelli

Landowner Authorization Form -Ferrelli

6-23-2026

Final Audit Report

2026-06-24

Created:	2026-06-24
By:	DARCY PEYSER (darcy@durbinlawoffices.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAADMg16RYN1srUiBivNsP4O9IzB0jWIAej

"Landowner Authorization Form -Ferrelli 6-23-2026" History

-  Document created by DARCY PEYSER (darcy@durbinlawoffices.com)
2026-06-24 - 0:24:40 AM GMT
-  Document emailed to J. Michael Ferrelli (mike@ferrellienterprises.com) for signature
2026-06-24 - 0:24:44 AM GMT
-  Email viewed by J. Michael Ferrelli (mike@ferrellienterprises.com)
2026-06-24 - 0:25:17 AM GMT
-  Document e-signed by J. Michael Ferrelli (mike@ferrellienterprises.com)
Signature Date: 2026-06-24 - 1:09:50 AM GMT - Time Source: server - Signature Appearance Selected: MOBILE_DRAW
-  Agreement completed.
2026-06-24 - 1:09:50 AM GMT



Adobe Acrobat Sign

**PORTSMOUTH ZONING BOARD OF ADJUSTMENT
VARIANCE APPLICATION NARRATIVE**

**Off Joffre Avenue
Tax Map 233, Lot 135**

**J. Michael Ferrelli
(Owner/Applicant)**

INTRODUCTION

The property shown on Tax Map 233 as Lot 131 (the "Property" or "Applicant's Property") is a 12,185 square foot undeveloped lot of record located in the SRB Zoning District. The Property consists of two merged lots first shown on the "Pershing Terrace" subdivision plan of 1918, recorded in the Rockingham County Registry of Deeds as Plan 082 (the "1918 Plan"). Exhibit A. The original parcels comprising the Property are identified on the 1918 Plan as Lots 37 and 38. It is not clear from the title history exactly when the lots were merged or whether it occurred voluntarily or involuntarily. Regardless of how the merged lot came to be, the Applicant now seeks the zoning relief necessary to construct a single-family home on the Property, which does not conform to the minimum frontage or lot area requirements.

Because the City was unable to find evidence to suggest that Joffre Avenue was formally accepted as a public way, it is the City's opinion that any rights it had in the paper street reverted to the abutting landowners pursuant to RSA 231:51, who each own to the centerline. As a result, the Applicant's Property lacks frontage on a public street. To provide legal access to the Property, the Applicant is proposing a 16' wide driveway easement over abutting land he owns at 18 Barberry Lane.

In addition to lacking frontage, the Property does not conform to the 15,000 square foot minimum lot area requirement applicable to the SRB Zoning District. Based on the most recent surveyed plan of the Property prepared by Ambit Engineering, it has 12,185 square feet of area not counting any portion of the paper street. If you count the land area associated with the paper street, the Property is 14,152 square feet. The Applicant has used the more conservative lot area calculation for purposes of the lot area variances he seeks.

ZONING RELIEF SUMMARY

The Applicant seeks the following variance approvals from the Board:

Section 10.521

To allow for 0' of continuous street frontage where 100' is required and 0' exists.

To allow for 12,185 square feet of lot area where 15,000 square feet is required.

To allow for 12,185 square feet of lot area per dwelling unit where 15,000 square feet is required.

Section 10.1114.31

To allow for two driveways on a single lot where one is permitted per the standards for "General Accessway and Driveway Design" in the Site Plan Review Regulations.

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 requested variances are necessary to allow the Applicant to construct a single family home on the Property. In general, the primary purpose behind minimum frontage and lot area requirements is to ensure sufficient access for emergency vehicles, provide space for utilities, and create a certain level of spacing between homes to promote and preserve consistent neighborhood aesthetics. In the present case, the lot area is an existing condition of the Property. Lot sizes vary in the surrounding neighborhood, but what is proposed, even without considering the land area associated with the paper street, is a minor deviation (18.8%) from what the Ordinance requires. Constructing a home on the Property would not overcrowd or otherwise alter the essential character of the neighborhood. Any home constructed on the Property will meet or exceed all applicable building setback standards and be a considerable distance from the homes on abutting properties. The Property is in a largely wooded area that is bordered to the west by a power line easement and a paper street to the north. The purpose behind the requirement of having one driveway per lot is to preserve sight lines and provide for the safe, efficient and orderly movement

of vehicles. The driveway easement that would be utilized to access the Property provides sufficient access for emergency vehicles and space for utilities, and there will be no impact to sight lines because the home borders public utility land at the end of a dead end street. Because there is nearly no traffic on the street, a second driveway access point does not pose any danger to vehicles or pedestrians on the road. Therefore, no public health, safety or welfare concerns are presented by granting the variances. For the foregoing reasons, the general objectives and public purposes behind the frontage, lot area and driveway requirements are met.

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 would represent a loss to the Applicant that is not outweighed by any gain to the public for the Board to deny the variances necessary to construct a conforming single-family home on an existing lot of record that was created long before current zoning standards. The Applicant acquired the Property as a separately deeded parcel of land with the reasonable expectation that he could build a home upon it, like those surrounding it. There are no public health, safety or welfare concerns implicated by the variances and the lot itself is larger than many other SRB zoned properties throughout the City of Portsmouth. In the present case, the equitable balancing test weighs heavily in favor of the Applicant and the vested rights he has in the Property.

Surrounding property values will not be diminished by granting the variances.

The future addition of a new single-family home on the Property will not alter the essential character of the neighborhood or otherwise negatively impact abutting properties. There is sufficient land area to accommodate the use without overcrowding the Property or encroaching upon the light, air and space of abutting properties. As stated above, any house that is built on the Property will meet or exceed all applicable building setback standards and be a considerable distance from the homes on abutting properties. The Applicant has shown a conservative building envelope for the Property by omitting the land area associated with the paper street and by delineating a 30' front yard setback even though the Property technically has no “front yard” by definition. Under the circumstances, granting the variances should only preserve or enhance surrounding property values.

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

The Property has special conditions that distinguish it from surrounding properties. It is a deeded lot of record consisting of two merged parcels that were created long before Portsmouth adopted its first zoning map and ordinance or SRB zoning standards. As a result of the City never formally accepting or constructing Joffre Avenue, the Applicant's Property was left landlocked

where access can only be achieved through abutting land. The only way for the Applicant to make reasonable use of the land under current SRB zoning standards is by obtaining variances from the minimum lot area and frontage requirements, and to add a second driveway across his abutting lot. The Property is not vastly dissimilar in size to many of the properties that surround it and is quite a bit larger than many other SRB-zoned properties in Portsmouth. The Property abuts public utility land to the west and the homes to the north, south and east are a considerable distance away from where any home would be constructed on the Applicant's property. Because the Applicant owns the abutting parcel to the south, he is able to establish sufficient driveway access to the Property without impacting surrounding properties. Owing to these special conditions of the Property, there is no fair and substantial relationship between the purposes of the lot area and frontage requirements and their application to the Property. The proposed use is also a reasonable one. The Property will be used to construct a single-family residence in the future, which is allowed by right in the SRB Zoning District.

CONCLUSION

The Applicant thanks you for your time and consideration of the application and respectfully requests your approval of the variances being requested.

Respectfully Submitted,
J. Michael Ferrelli

June 30, 2026

By:

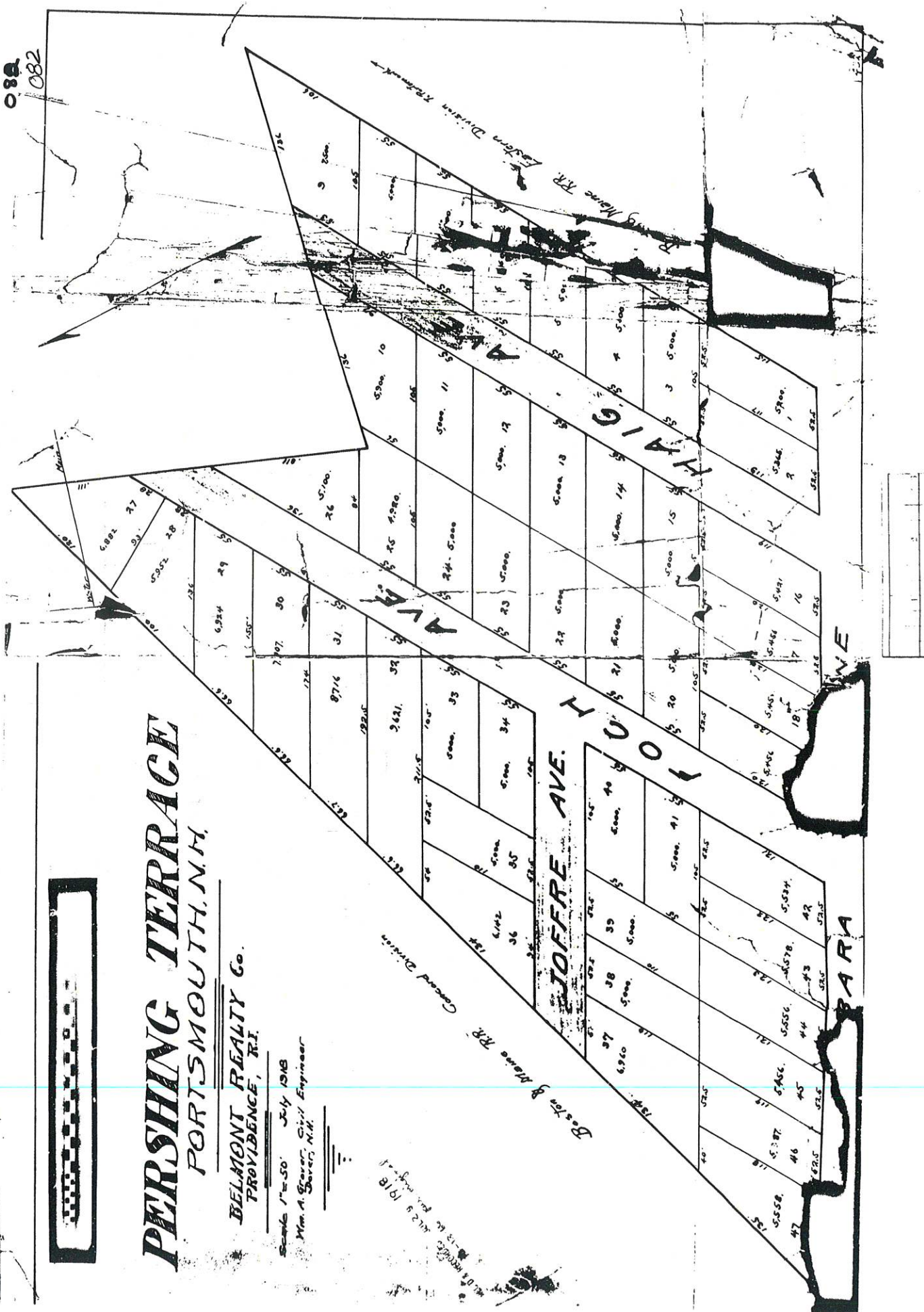


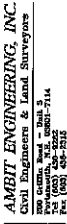
Derek R. Durbin, Esq.
Darcy Pesyer, Esq.
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154 Maplewood Avenue
Portsmouth, NH 03801
(603)-287-4764
derek@durbinlawoffices.com

PERSHING TERRACE
PORTSMOUTH, N.H.

BELMONT REALTY CO.
PROVIDENCE, R.I.

Scale 1"=50' July 1918
Wm. A. Grover, Civil Engineer
Dover, N.H.





NOTES:

- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 233 AS LOT 133.
- 2) OWNER OF RECORD:
J. MICHAEL FERRELLI
18 BARBERSHAW LANE
PORTSMOUTH, NH 03801
04-1372635
- 3) PARCEL NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 330150229F, EFFECTIVE DATE JANUARY 28, 2001.
- 4) EXISTING LOT AREA:
DEED AREA
12.797 ACRES
RECORDED AREA
12.797 ACRES
0.3249 ACRES
- 5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRO) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA:
15,000 S.F.
MIN. FRONT SETBACK:
100 FEET
MIN. DEPTH:
30 FEET
MIN. SIDE SETBACK:
30 FEET
MIN. REAR SETBACK:
30 FEET
MAXIMUM STRUCTURE HEIGHT:
35 FEET
MAXIMUM OPEN SPACE:
40%
- 8) VERTICAL DATUM IS NAD83; BASES OF VERTICAL DIMENSIONAL ARE ADJACENT UTI GRIDS OR ELEVATIONS.
- 9) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DEVELOPMENT ON ASSESSOR'S MAP 233 LOT 133 IN THE CITY OF PORTSMOUTH.
- 10) THE PUBLIC RIGHT OF WAY KNOWN AS AFTER AVE/MEADE AVE RIGHTS UNDEVELOPED.
- 11) THIS APPLICATION IS FOR THE LAND ONLY AND IS NOT INTENDED TO REPRESENT A SPECIFIC UNDEVELOPMENT. THE EXAMPLE SHOWN RESULTS IN THE FOLLOWING:
13% BUILDING COVERAGE
6% OPEN SPACE
12% OPEN SPACE
DRIVEWAY 12' MINIMUM WIDTH
6% OPEN SPACE FOR MAP 233 LOT 131
6% OPEN SPACE FOR MAP 233 LOT 137

[illegible]

VARIANCE APPLICATION PLAN
TAX MAP 233 - LOT 135

J. MICHAEL FERRELLI
OWNER:
PROPERTY LOCATED AT:
JOFFRE AVENUE
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

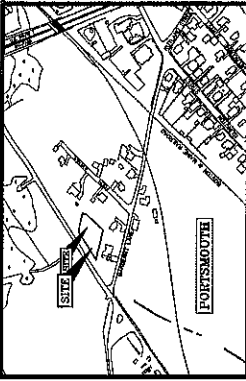
SCALE: 1"=20'
FB 328 PG 47
5010365.348
JUNE 2020

REQUEST FOR VARIANCE:

1. 10.521 DIMENSIONAL STANDARDS: TWENTY - 0 FEET FENCE WHERE 100 FEET IS REQUIRED
2. 10.521 DIMENSIONAL STANDARDS: LOT AREA - 12,145 S.F., WHERE 15,000 S.F. IS REQUIRED
3. 10.521 DIMENSIONAL STANDARDS: LOT AREA PER DWELLING UNIT - 12,145 S.F. PER DWELLING UNIT WHERE 15,000 S.F. IS REQUIRED

PLAN REFERENCES

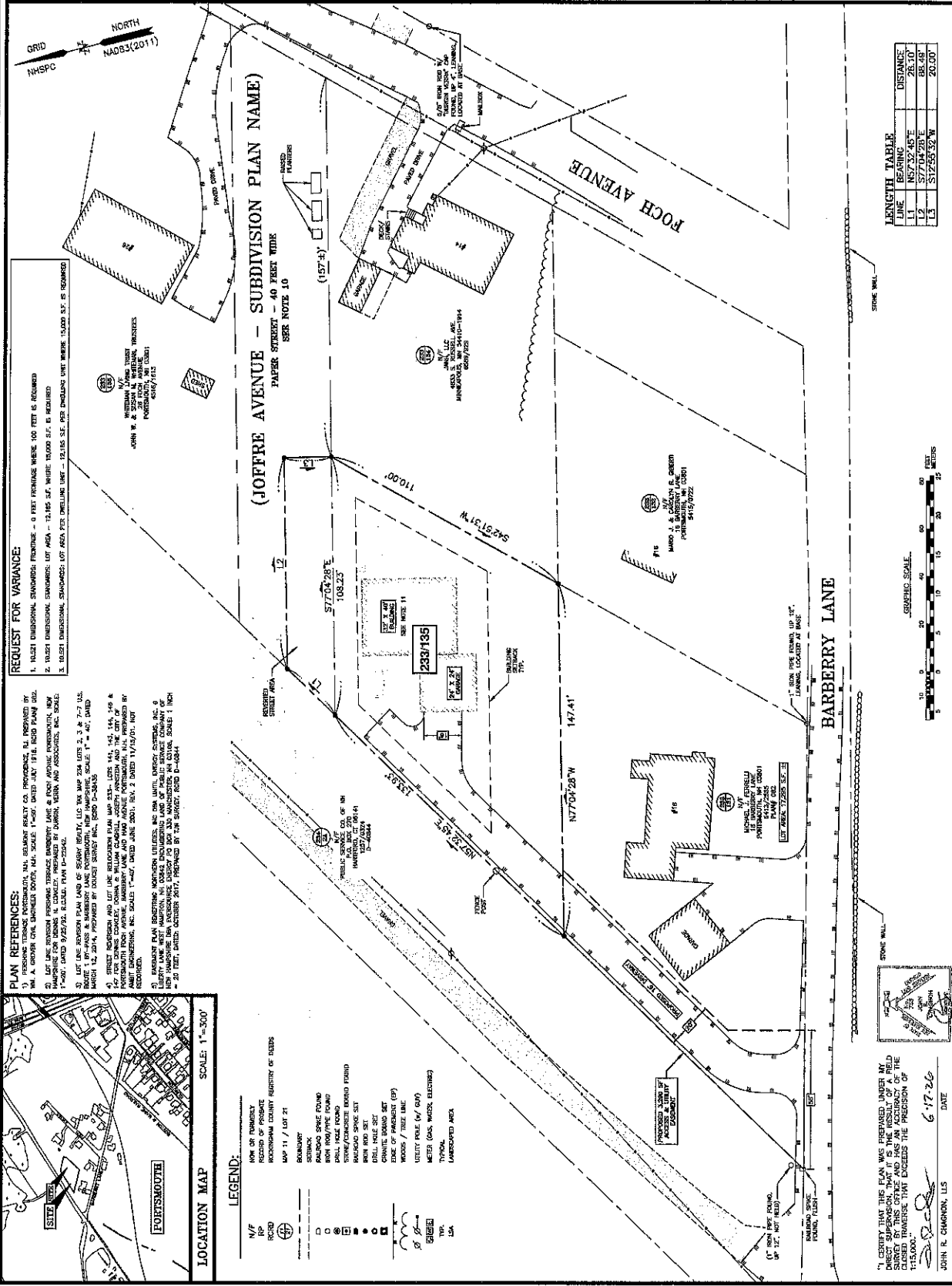
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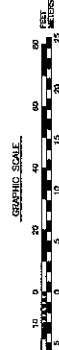
LOCATION MAP

LEGEND:

- [illegible]



LINE	BEARING	DISTANCE
L1	N57°32'45"E	28.10'
L2	S77°04'28"E	88.48'
L3	S12°55'32"W	20.00'



"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."

DATE	JOHN R. CHAGNON, LLS
------	----------------------



Area of proposed driveway ROW adjacent to 18 Barberry Lane



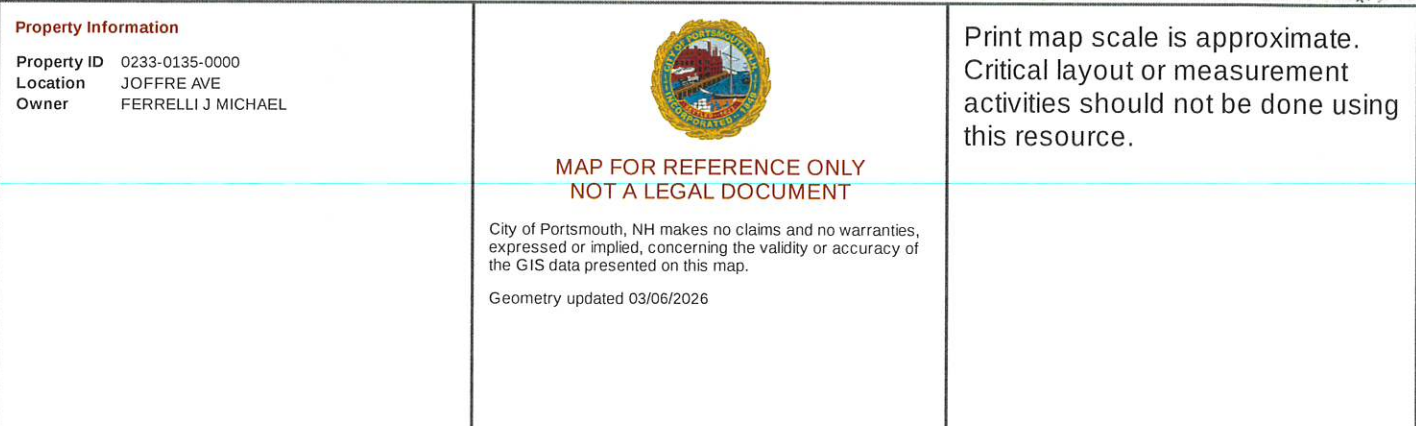
Vacant Lot – Joffre Lane



Vacant Lot – Joffre Lane



Aerial View of Vacant Lot – Google Satellite Image



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