

**APPLICATION OF DONALD L. STICKNEY, III**  
**213 Jones Avenue, Portsmouth**  
**Map 222, Lot 69**

**APPLICANT'S NARRATIVE**

I. **THE PROPERTY:**

The applicants, Donald L. Stickney, seeks a variance from Section 10.1114.31, incorporating section 3.3.2.3 of the Site Plan Review Regulations, to permit a second driveway on a lot to accommodate a proposed detached accessory dwelling unit. A conditional use permit for the ADU is pending before the Planning Board. A copy of that application is submitted herewith.

The applicant's intention is to construct a new principle dwelling on the property and convert the existing dwelling into the ADU. According to city tax records, the existing dwelling was built in 1951 and contains 864 square feet of living space. While the house is unusually small, the lot itself is almost one and one half acres, which far exceeds the minimum lot size and lot size per dwelling unit of 15,000 square feet in the Single Residence B zone. It is an irregular, pie-shaped lot that fronts Jones Avenue at a bend in the road where it has 238 feet of frontage and tapers to fifty feet in width at the rear of the property. The property is burdened by wetlands in the rear.

In order to adaptively re-use the existing dwelling, a new, modern primary dwelling is proposed on the eastern portion of the front of the property. The existing driveway serving the existing home is located to the west of the home. The home has direct access from the driveway to the kitchen and reconfiguring that access to accommodate a shared driveway located between the two dwellings serving both would require either access through a bedroom or a significant interior floor plan modification, neither of which is necessary or desirable. In any event, a shared driveway in that location is not feasible as the proposed new septic system must be in that location.

The amount of frontage on Jones Avenue can safely accommodate two driveways, rather than a reconfigured, shared driveway. The proposed new driveway would require final approval from the Department of Public Works.

II. **CRITERIA:**

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

**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 variance 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. An accessory dwelling unit on this property is entirely appropriate and consistent with the existing residential neighborhood. A second driveway will in no way alter the neighborhood. Thus, the essentially residential character of the neighborhood will not be altered.

The proposal will result in the replacement of the existing septic system which predates current New Hampshire DES approval with a modern, state of the art system. The ADU must be approved by the Planning Board, and the new driveway by the Department of Public Works, so the health, safety and welfare of the public will be adequately protected.

**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 shape of the lot and the existing dwelling and driveway configuration all counsel for allowing a second driveway on this property.

In this case, there is no benefit to the public in denying the variance 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 existing dwelling will be upgraded and its exterior renovated to be consistent with the proposed new construction. A new, state of the art septic system will be installed. The values of the surrounding properties will not be negatively affected in any way by the relief requested.

**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 a bend in Jones Avenue where it has more than twice the required frontage. It has more than four times the required lot area per dwelling for the SRB zone. It is an irregularly shaped lot that tapers to a narrow 50 feet in width in the rear. It is burdened by a 100 foot wetlands buffer which limits the developable area to the front of the property. These are special conditions that distinguish it from others in the area.

**The use is a reasonable use.** The proposed relief is to accommodate a purely residential use in a residential zone

**There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property.** The size and shape of this property and the amount of frontage it has on Jones Avenue can accommodate a second driveway with no negative effects on the public. A shared driveway is not possible for the reasons set forth above. Thus, there is no fair and substantial relationship between the purpose of the restriction and its application to this property.

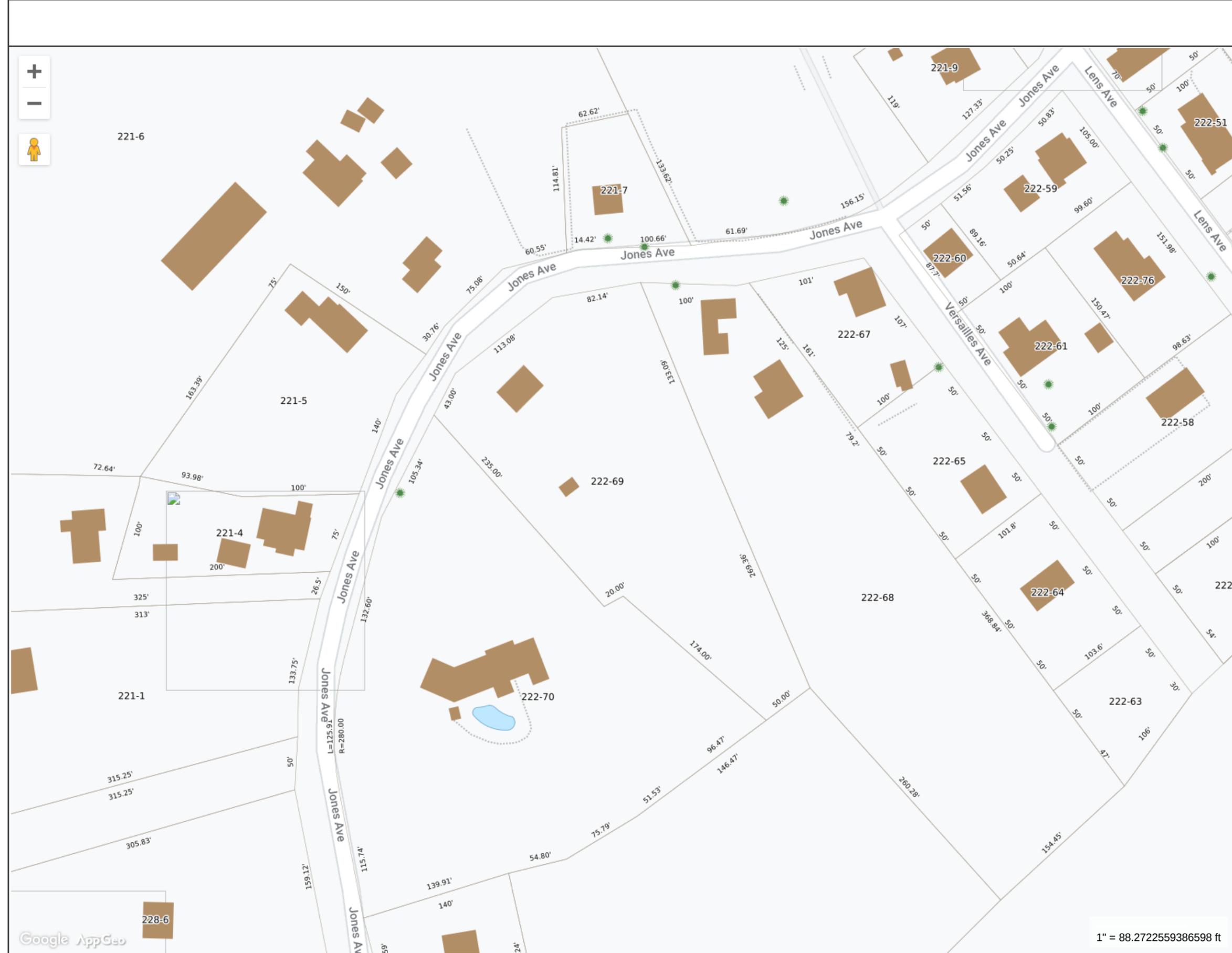
### **III. Conclusion.**

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

Respectfully submitted,

Dated: 4-13-2022

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.

1" = 88.2722559386598 ft

**Donald L Stickney, III**  
**Application for a Detached ADU**  
**213 Jones Avenue, Portsmouth**  
**Applicant's Narrative**

Donald Stickney is the owner of the property at 213 Jones Avenue.

The property is situated at a bend in Jones Avenue and is on its southern side, across from the metal yard. Lot size is 62,528 square feet. The 100 foot wetlands buffer encumbers a significant portion of the southern portion of the lot.

The existing structure on the property is a 36' x 24' single story dwelling with two bedrooms. It sits just over 33 feet from the front lot line on Jones Avenue.

Mr. Stickney is seeking a conditional use permit in order to construct a new, modern single family residence on the eastern side of the property and to convert the existing dwelling into a Detached Accessory Dwelling Unit (DADU). The property would be kept in common ownership with the Applicant occupying one of the dwelling units as his primary place of residence. Open space, building coverage, parking and setbacks are all compliant with the zoning ordinance under this proposal.

No changes to the existing structure are proposed with the exception of updates to the existing façade with siding and window treatments with material to match the new, primary dwelling. This satisfies the requirement that the exterior design be consistent with the primary dwelling (10.814.61).

The site plan provides for a second driveway to service the new primary residence, and proposes 90.9% open space where the zoning ordinance requires 40%. This satisfies the requirements of 10.814.62.

The proposed DADU is a stand alone structure which already exists, thus, its compatibility with adjacent properties in terms of location, design, parking layout, and privacy is satisfied (10.814.63) and it will not in any manner result in excessive noise, traffic or parking congestion (10.814.64). The proposed new structure is fully compliant with zoning.

Because the applicant is seeking to take advantage of the existing conditions and built environment of the property by converting the existing dwelling into the DADU, the following waivers pursuant to 10.814.70 are being sought:

10.814.52 to exceed 750 square feet floor area (886 s.f. exists);

10.814.531 to exceed 40% combined façade (42% proposed); and

10.814.55 to permit the DADU to be set back less than 10 feet further from the front lot line than the primary dwelling (3.2 feet proposed).

Again, the existing conditions drive the need for the requested waivers. The existing dwelling, built in 1951 according to city tax records, is extremely small by modern standards, but is slightly larger than the maximum permitted for a DADU (although it does comply with the two bedroom requirement). It cannot be set back more than ten feet from the proposed primary dwelling without that dwelling violating the front yard setback requirement.

The Applicant meets all the requirements of the ordinance for the granting of a conditional use permit for the DADU.

Respectfully Submitted,

Date: February 22, 2022

*Christopher P. Mulligan*

Christopher P. Mulligan, Esquire  
Attorney for the Applicant





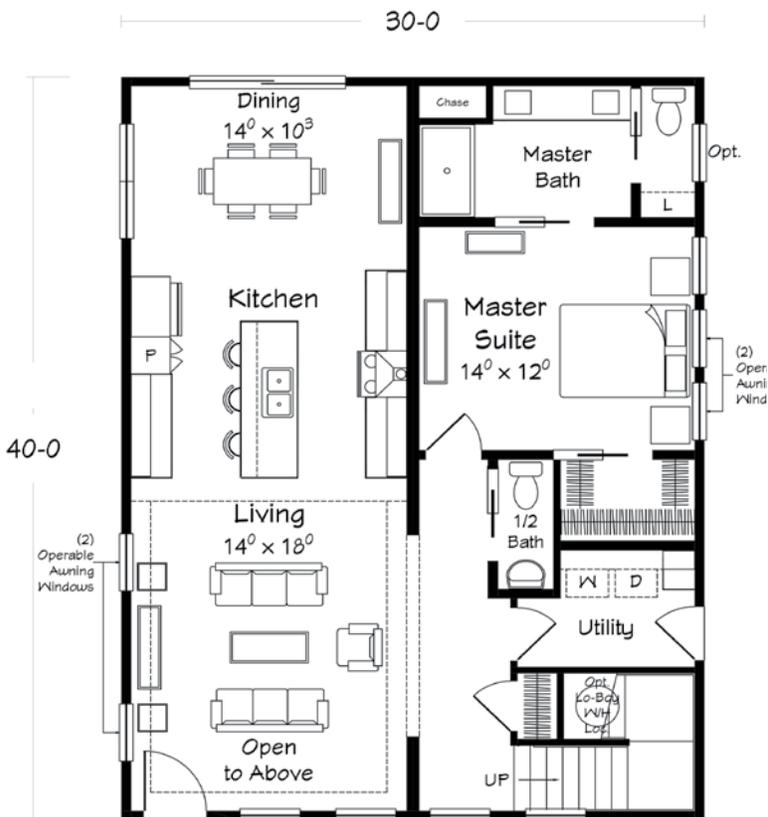
# MODERN LIVING SERIES

## ARIES TWO STORY

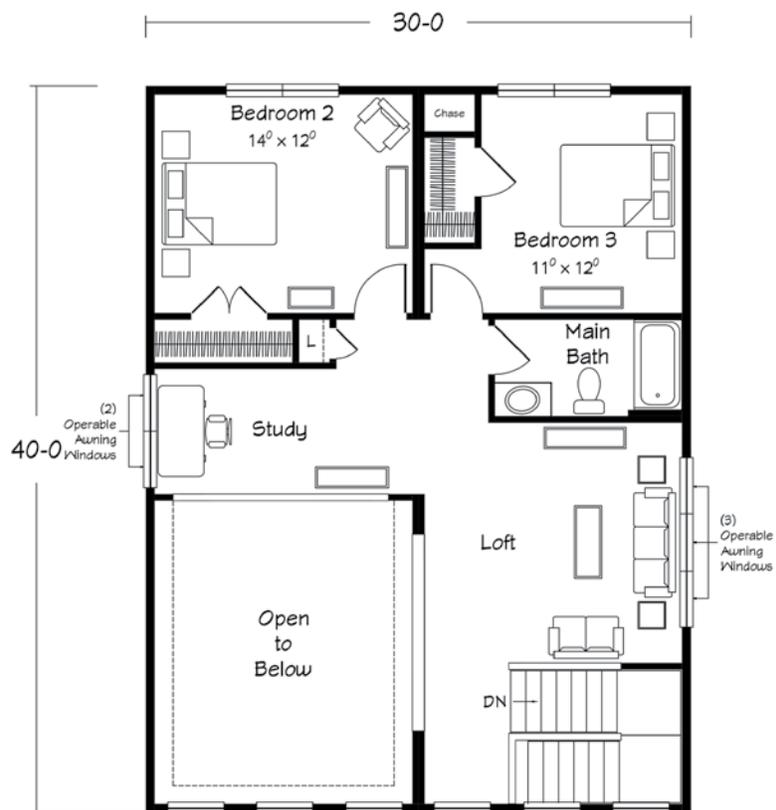


3 bedrooms and 2.5 baths • 2,148 SQ. FT.

3/12/4.5/12 sawtooth roof pitch; vaulted ceilings in Living Room. Open loft style floorplan.



First Floor



Second Floor

Artists renderings depict buildings as can be built on a typical site. Rendering may include optional or site installed features. Refer to Ritz-Craft's Modern Living Benchmark Series Specifications for standard included features.



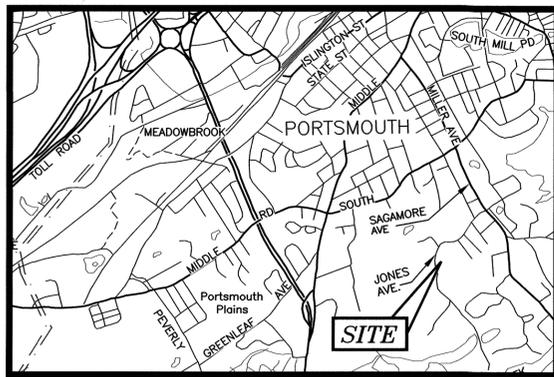
# ARIES TWO STORY



- 2-Story vaulted ceiling in Living Room
- Large galley style kitchen with island/bar
- Open floorplan with kitchen open to adjacent dining and living areas
- All family areas face the rear yard

- Nicely sized bedrooms with plenty of closet space
- Large master bedroom with private bath featuring double bowl vanities, private toilet area and 60" shower base with tiled walls





LOCATION MAP SCALE: 1" = 2,000'

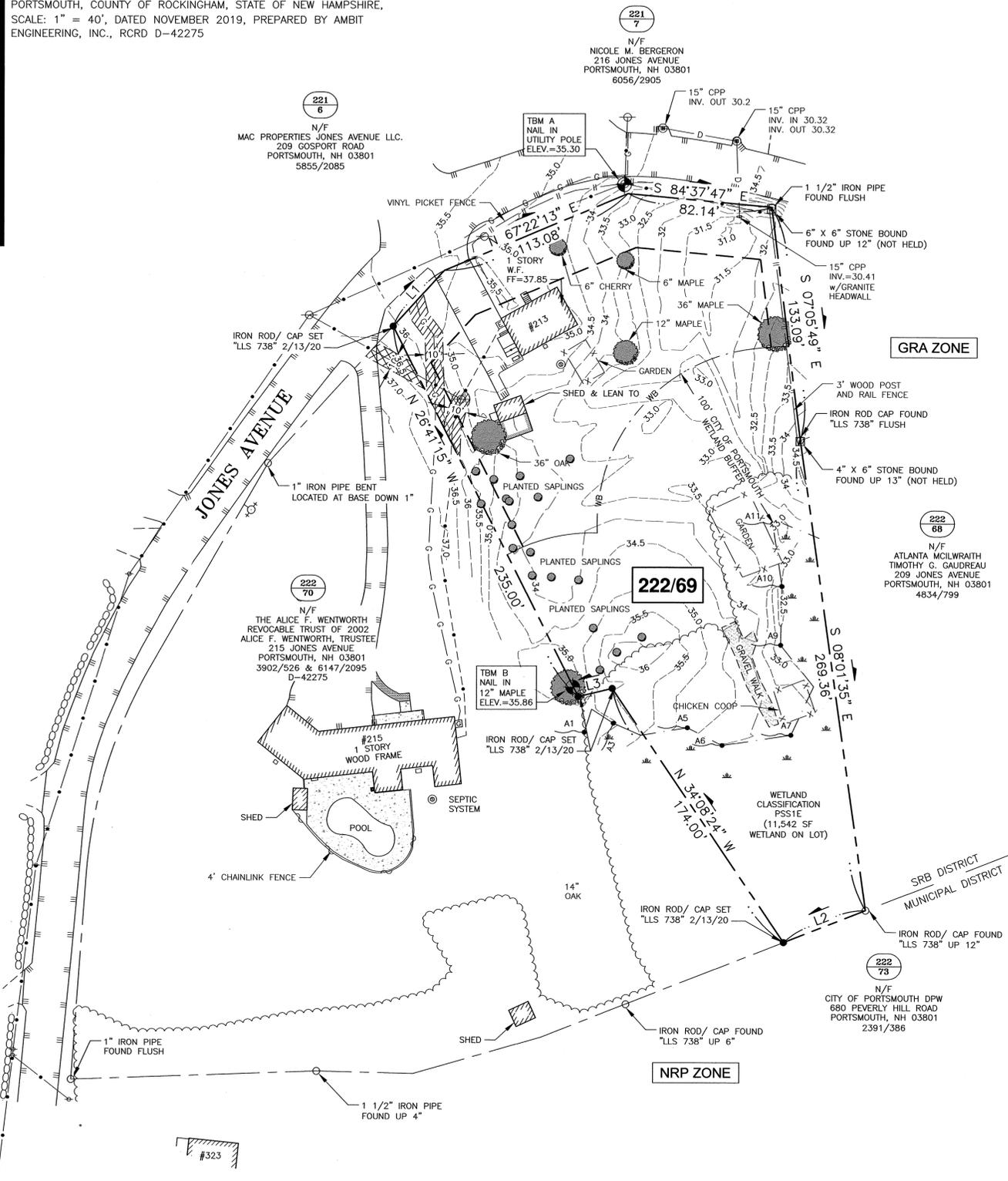
**LEGEND:**

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY
- RR SPK RAILROAD SPIKE
- MAP 11/LOT 21
- IR FND IRON ROD FOUND
- IP FND IRON PIPE FOUND
- IR SET IRON ROD SET
- DH FND DRILL HOLE FOUND
- DH SET DRILL HOLE SET
- NHHB NHDOT BOUND FOUND
- TB TOWN BOUND
- BND w/DH BOUND WITH DRILL HOLE
- ST BND w/DH STONE BOUND WITH DRILL HOLE

**WETLAND NOTES:**

- 1) WETLAND LINE DELINEATED BY STEVEN D. RIKER, CWS ON 8/25/21 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. NEIWPCC 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. USFW 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.

**REFERENCE PLAN:**  
 1) LOT LINE RELOCATION PLAN TAX MAP 222 - LOTS 69 & 70, OWNERS: THE ALICE F. WENTWORTH REVOCABLE TRUST OF 2002 & DONALD LOWELL STICKNEY III, 213 & 215 JONES AVENUE, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SCALE: 1" = 40', DATED NOVEMBER 2019, PREPARED BY AMBIT ENGINEERING, INC., RCRD D-42275



**LENGTH TABLE**

LINE	BEARING	DISTANCE
L1	N42°28'40"E	43.00'
L2	N68°42'45"E	50.00'
L3	N76°46'01"E	20.00'

EASEMENT TO BENEFIT ASSESSOR'S MAP 222 LOT 70 FOR UTILITIES OVER ASSESSOR'S MAP 222 LOT 69

**GRAPHIC SCALE**



"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 2.11.22



**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 CITY OF PORTSMOUTH ASSESSOR'S MAP 222 AS LOTS 69.
- 2) OWNER OF RECORD:  
 DONALD LOWELL STICKNEY III  
 213 JONES AVENUE  
 PORTSMOUTH, NH 03801  
 5754/2748 & 6147/2092  
 D-42275
- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0270F. EFFECTIVE JANUARY 29, 2021.
- 4) EXISTING LOT AREA:  
 62,528 S.F.  
 1.4354 ACRES
- 5) PARCEL IS LOCATED IN SINGLE RESIDENCE B (SRB) 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 BUILDING COVERAGE:	20%
MINIMUM OPEN SPACE:	40%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 222 LOT 69 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

**STICKNEY RESIDENCE  
 213 JONES AVENUE  
 PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
2	TBM A	2/11/22
1	FF, INVERTS	1/4/22
0	ISSUED FOR COMMENT	9/23/21

SCALE: 1" = 40' SEPTEMBER 2021

EXISTING CONDITIONS PLAN **C1**



**AMBIT ENGINEERING, INC.**

Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3  
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- 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 BUILDING COVERAGE: 20%  
MINIMUM OPEN SPACE: 40%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED SITE DEVELOPMENT ON ASSESSOR'S MAP 222 LOT 69 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.

**PROPOSED DADU  
213 JONES AVENUE  
PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ADD BERM; ELIMINATE POND	3/20/22
0	ISSUED FOR COMMENT	2/11/22

**REVISIONS**



SCALE: 1" = 20' FEBRUARY 2022

**CUP DADU SITE  
PLAN**

**C2**

**IMPERVIOUS SURFACE AREAS**

TO PROPERTY LINE

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
BUILDING	886	886+1,824
STAIRS/STEPS	24+8	24+8
SHED	360	360
DECK & PATIOS	0	264
PORCH	51	51
BULKHEAD	37	37
PAVED DRIVE	1396	1396
GRAVEL APRON	0	79
TOTAL	2762	4929
LOT SIZE	62528	62528
% LOT COVERAGE	4.4%	7.9%

**PROPOSED WAIVERS:**

WAIVER FROM SECTION 10.814.52 TO PERMIT 886 S.F. TOTAL GROSS FLOOR AREA WHERE 750 S.F. IS THE MAXIMUM ALLOWED.

WAIVER FROM SECTION 10.814.53 TO PERMIT 42% OF THE COMBINED VISIBLE FAÇADE AREAS FACING THE SAME STREET, WHERE 40% IS THE MAXIMUM ALLOWED.

DADU FAÇADE: 36.4'  
PRIMARY STRUCTURE FAÇADE: 50.0'

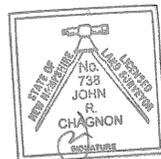
WAIVER FROM SECTION 10.814.55 TO PERMIT THE DADU FRONT WALL TO BE SET BACK 3.2 FT FROM THE FRONT SETBACK OF THE PRIMARY STRUCTURE WHERE 10 FT IS THE MINIMUM ALLOWED.

N/F  
MAC PROPERTIES JONES AVENUE LLC.  
208 GOSPORT ROAD  
PORTSMOUTH, NH 03801  
5855/2085

221  
7  
N/F  
NICOLE M. BERGERON  
216 JONES AVENUE  
PORTSMOUTH, NH 03801  
6056/2905

222  
68  
N/F  
ATLANTA MCILWRAITH  
TIMOTHY G. GAUDREAU  
209 JONES AVENUE  
PORTSMOUTH, NH 03801  
4834/799

222  
70  
N/F  
THE ALICE F. WENTWORTH  
REVOCABLE TRUST OF 2002  
ALICE F. WENTWORTH, TRUSTEE  
215 JONES AVENUE  
PORTSMOUTH, NH 03801  
3902/526 & 6147/2095  
D-42275

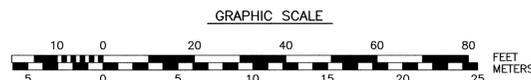
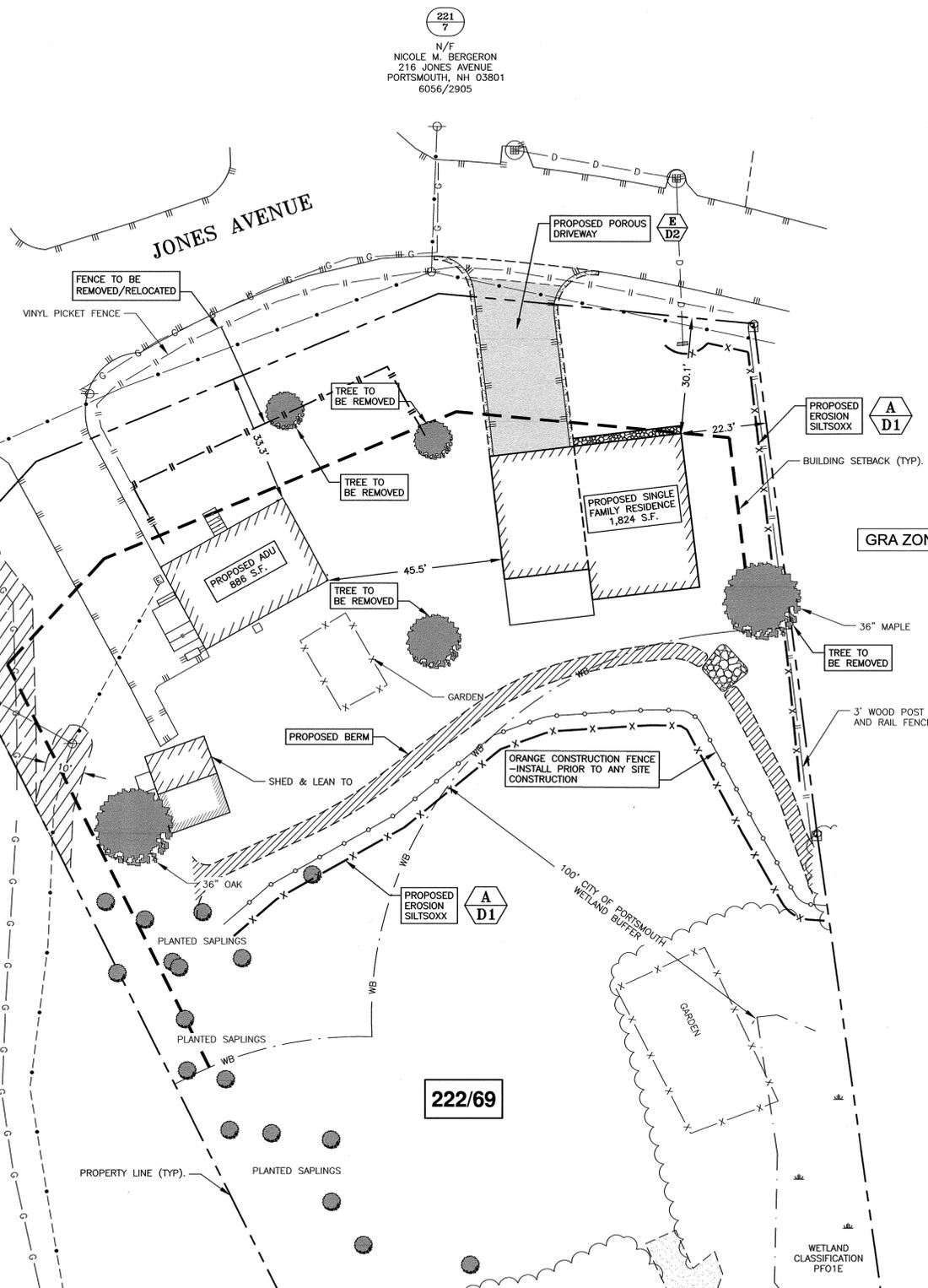


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*JRC*  
JOHN R. CHAGNON, LLS DATE 3-20-22

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN DATE



1995  
MAGNETIC  
N  
D-27773  
RCRD

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BUFFER PLANTING SCHEDULE			
SYMBOL	ITEM	SIZE	QTY
●	RED MAPLE	1" CALIPER	7
	ACER RUBRUM		
○	VACCINIUM CORYMBOSUM	3-4 GALLON	10
⊕	HIGHBUSH BLUEBERRY	3-4 GALLON	10
	VIBURNUM RECOGNITUM		
⊕	NORTHERN ARROWWOOD	3-4 GALLON	10

\*BUFFER PLANTING AREA NOT TO BE MOVED OR MAINTAINED.

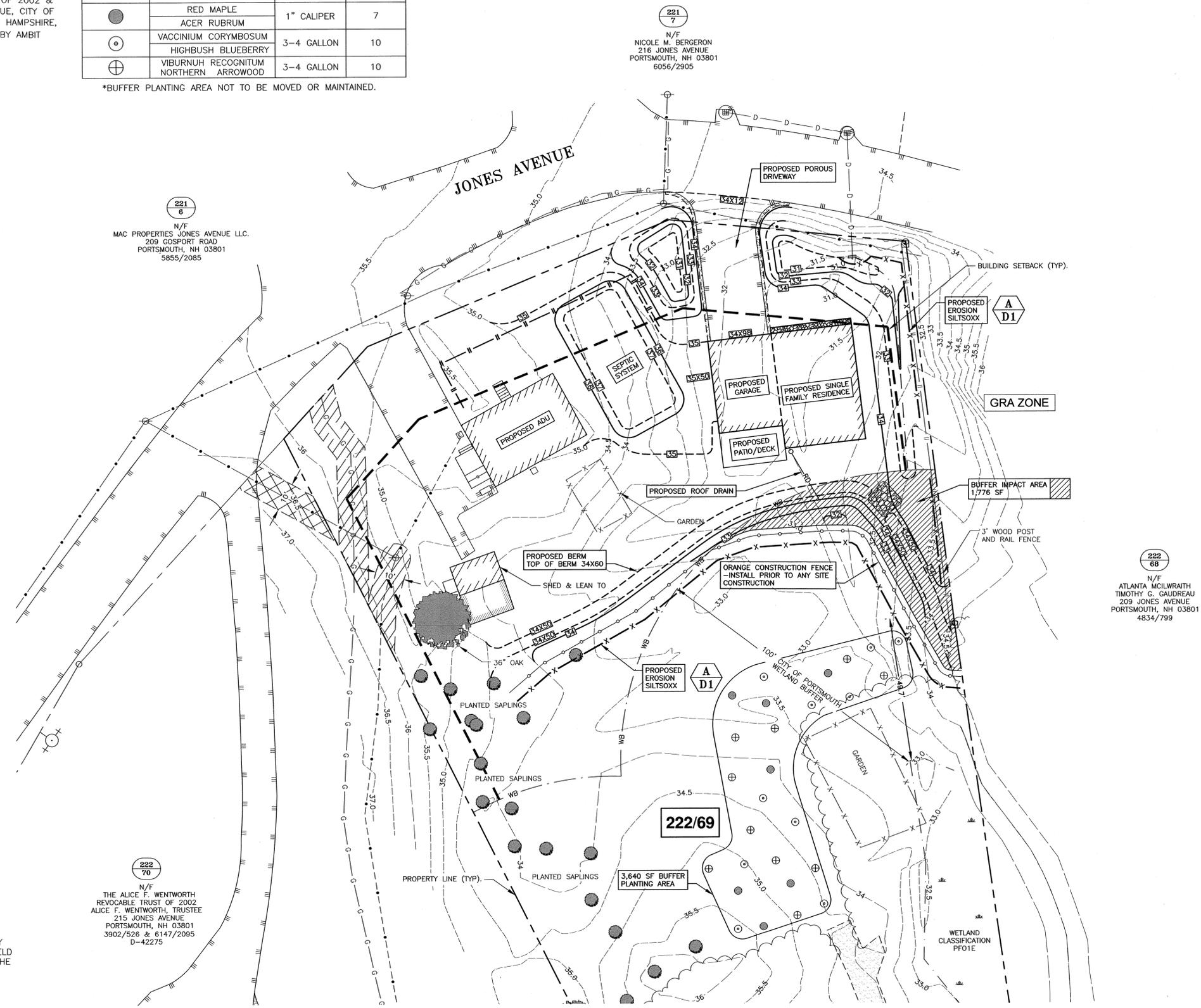


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D-42275
- 3) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY.
- 4) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.
- 5) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION. (NHDES DECEMBER 2008).
- 6) PLANTING AND MAINTENANCE SHALL BE IN ACCORDANCE WITH NOFA STANDARDS FOR ORGANIC LAND USE.
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE WETLAND BUFFER IMPACT ON ASSESSOR'S MAP 222 LOT 69 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD88 (MEAN SEA LEVEL). BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS. (CONTOUR INTERVAL 0.5')

1995  
D-27773  
MAGNETIC  
RCRD

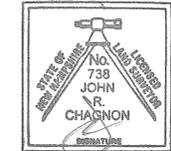


221  
6  
N/F  
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5855/2085

221  
7  
N/F  
NICOLE M. BERGERON  
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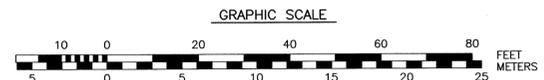


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*John R. Chagnon*  
JOHN R. CHAGNON, LLS  
3.30.22  
DATE

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_



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PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ADD BERM, BUFFER PLANTING AREA	3/30/22
0	ISSUED FOR COMMENT	2/11/22



SCALE: 1" = 20'

**CUP WETLANDS  
SITE PLAN**

**C3**

J:\05\JUN500x\JUN531\021\_ADU\Plans & Specs\Site\03101 SITE 2022.dwg, 3/29/2022 1:44:08 PM, Canon TX-3000.pcl