



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

LIZABETH M. MACDONALD  
JOHN J. RATIGAN  
DENISE A. POULOS  
ROBERT M. DEROSIER  
CHRISTOPHER L. BOLDT  
SHARON CUDDY SOMERS  
DOUGLAS M. MANSFIELD  
KATHERINE B. MILLER  
CHRISTOPHER T. HILSON  
HEIDI J. BARRETT-KITCHEN  
JUSTIN L. PASAY  
ERIC A. MAHER  
CHRISTOPHER D. HAWKINS  
ELAINA L. HOEPPNER  
WILLIAM K. WARREN  
BRIANA L. MATUSZKO

**HAND DELIVERED**

RETIREE  
MICHAEL J. DONAHUE  
CHARLES F. TUCKER  
ROBERT D. CIANDELLA  
NICHOLAS R. AESCHLIMAN

March 1, 2023

Phyllis Eldridge, Chair  
Zoning Board of Adjustment  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

RE: 15 Lafayette Road, Map 152, Lot 2  
Murdock Living Trust

Dear Chair Eldridge and Board Members:

Enclosed please find supporting materials to accompany the information submitted via the City's on-line permitting system for variance relief regarding the above referenced property.

We respectfully request that this matter be placed on the Board's March 21, 2023 agenda. In the meantime, if you have any questions or require additional information do not hesitate to contact me.

Very truly yours,  
DONAHUE, TUCKER & CIANDELLA, PLLC

Justin L. Pasay  
JLP/sac  
Enclosures

cc: Jeff Murdock, Trustee  
Ryan Fowler, Verra & Associates  
Bruce Scamman, P.E.

S:\MP-MZ\Murdock, Jeff\2023 03 01 ZBA Submission\2023 03 01 zba letter.docx

DONAHUE, TUCKER & CIANDELLA, PLLC  
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833  
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801  
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253  
83 Clinton Street, Concord, NH 03301

## VARIANCE APPLICATION FOR

Jeff Murdock, Trustee of the Murdock Living Trust (the “Applicant”), owner of property located at 15 Lafayette Road, Portsmouth, NH 03801, which is further identified as City Assessor Map 152, Lot 2 in Portsmouth, NH 03810 (“Property”). The Property is located within the City’s General Residence A Zoning District (the “GRA District”).

### **A. Introduction and Property Description**

As depicted on the Proposed Subdivision Plan enclosed herewith as **Enclosure 1**, which was provided by James Verra and Associates, Inc. (the “Plan”), the Property is 17,301 sf (.4 acres) in size and is improved by an approximate 2,000 sf single family residence which is situated on the western portion of the Property where it derives access from Lafayette Road. See Plan; see also Enclosure 2 (City Assessing Card). The Property enjoys 73.8 ft of frontage along Lafayette Road. The rear of the Property is unimproved open space. Uniquely, the Property enjoys 102.3 ft of additional frontage along Orchard Street. See Plan; see also Enclosure 3 (GIS Map depiction of surrounding properties). In fact, no other properties in the area have dual (front lot and rear lot) frontage on public roadways.

The Property is situated within the GRA District which has the following foundational dimensional standards:

- Minimum Lot Area: 7,500 sf
- Minimum Lot Area per Dwelling Unit: 7,500 sf
- Continuous Street Frontage: 100 ft
- Depth: 70 ft
- Minimum Front / Side / Rear Setbacks: 15 ft / 10 ft / 20 ft
- Structure Height: 35 ft
- Maximum Building Coverage: 25%
- Minimum Open Space: 30%

See Zoning Ordinance, Article 5, Section 10.521 of the Zoning Ordinance, the Table of Dimensional Standards – Residential and Mixed Residential Districts (the “Table of Dimensional Standards”). The Property complies with the Table of Dimensional Standards save for minor encroachments into the side yard setbacks caused by the existing dwelling which are legally nonconforming.

The Property is located in a densely settled neighborhood comprised primarily of single family, two-family and multi-family residential uses. However, the Property is significantly larger than the vast majority of properties in the area. More specifically, and pursuant to available City Assessing data, the Property is nearly twice the average lot size of the 53 lots which it is most approximate to, which is .22 acres. This conclusion is based on lot-size data for the residential lots along Lafayette Road south of the Property until Lafayette Road’s intersection with South Street (City Assessor Map 152, Lots 3, 4, and 5 and City Assessor Map 151, Lots 9, 10, 10-1, 11, 19, and 20), the lots along Lafayette Road north of the Property until Lafayette Road/Middle Street’s intersection with Lincoln Ave (City Assessor Map 152, Lots 44, 48 and 49; City Assessor Map 149, Lots 61 and 63; and City Assessor Map 148, Lots 21 and 22), the lots along Middle Road running west from the Property (City Assessor Map 152, Lots 7, 8, 9, 11, 12, 18, 19 and 47; City Assessor Map 151, Lot 7; and City Assessor Map 168, Lots 17, 19, and 27-

1), the lots along Willard Avenue running east to its intersection with Orchard Street (City Assessor Map 151, Lots 12, 13, 13-1, 14, 15, 17, and 18 and City Assessor Map 150, Lot 46), and the lots along Orchard Street running north from Willard Avenue and then west until Orchard Street's intersection with Park Street (City Assessor Map 149, Lots 31, 32, 33, 34, 35, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, and 49).

In summary, the Property is unique in its size, and in its dual front/rear – lot frontage on public roadways.

**B. Project Proposal and Requested Variance**

This application seeks zoning relief from the Table of Dimensional Standards to facilitate the minor subdivision of the Property into two lots, one of which lots, the remanent parcel (the “Remanent Lot”) will continue to derive access from its driveway along the 73.8 ft of frontage the Property currently enjoys along Lafayette Road (the “Project”). While this frontage is less than the 100 ft required in the GRA District, the Property also enjoys, as pointed out above, 102.3 ft of frontage along Orchard Street, which is why the Property is not *currently* nonconforming as to frontage. Post-subdivision, the Remanent Parcel will continue to comply with the Table of Dimensional Standards as to minimum lot area (9,129 sf of lot area where 7,500 sf is required), minimum lot area per dwelling unit (9,129 sf where 7,500 sf per dwelling unit is required), lot depth (124.7 ft where 70 ft is required), structure height (less than 35 ft), building coverage (19% where 25% is maximum), front and rear setbacks, and minimum open space (2,803 sf proposed where 2,739 sf is required), and will remain legally nonconforming as to the Zoning Ordinance’s side setback requirements. The See Plan.

However, though the Remanent Lot will continue to derive access from its frontage along Lafayette Road, post-subdivision, the Property will no longer benefit from its 102.3 ft of frontage along Orchard Street which, incidentally, is used to satisfy the 100 ft frontage requirement but is never used for access. Id. As a result, variance relief from the Table of Dimensional Standards is required to create a lot (the Remanent Lot) with less than the required frontage even though the proposed frontage for the Remanent Lot, is the same frontage the Property has derived access from forever.

On the contrary, with a proposed 8,172 sf of lot area, the proposed new lot will comply in all respects with the Table of Dimensional Uses and will derive access from its conforming 102.3 ft of frontage along Orchard Street where there is already an existing gravel driveway (the “New Lot”). See Plan.

Once subdivided, the Remanent Lot will contain 9,129 sf of lot area (.209 acres) and the New Lot will contain 8,172 sf of lot area (.188 acres). As a result, the two lots will be substantially similar in size, and totally consistent with, the average lot sizes of the 53 lots in closest proximity to same, which average .22 acres in size. See Enclosure 3.

If the Applicant is successful with this Application, he will proceed to the City’s Planning Board for minor subdivision review and approval.

**C. Statutory Variance Criteria**

Pursuant to RSA 674:33, to obtain a variance in New Hampshire, an applicant must show that: (1) the variance will not be contrary to the public interest; (2) the spirit of the ordinance is

observed; (3) substantial justice is done; (4) the values of surrounding properties are not diminished; and (5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, where said term means that, owing to special conditions of the property that distinguish it from other properties in the area: no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and the Proposed use is a reasonable one; or if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. See RSA 674:33, I (b).

#### **D. Analysis**

##### **1. The variances will not be contrary to the public interest.**

The New Hampshire Supreme Court has indicated that the requirement that a variance not be “contrary to the public interest” is coextensive and related to the requirement that a variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005); Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 105-06 (2007); and Farrar v. City of Keene, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest only if it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives.” Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. See also Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011) (“[m]ere conflict with the terms of the ordinance is insufficient.”) Moreover, these cases instruct boards of adjustment to make the determination as to whether a variance application “unduly” conflicts with the zoning objectives of the ordinance “to a marked degree” by analyzing whether granting the variance would “alter the essential character of the neighborhood” or “threaten the public health, safety or welfare” and to make that determination by examining, where possible, the language of the Zoning Ordinance.

In this case, and as described below, not only does the requested variance not conflict with the basic zoning objectives of City’s Zoning Ordinance, but the Project advances the same, and advances the implied purposes of the Table of Dimensional Standards. Put another way, this case represents the reason why variance relief exists in the first place, because strictly interpreting the Zoning Ordinance to apply to this Property, under these circumstances, does not advance at all the purposes of said Ordinance.

The Table of Dimensional Standards does not have an express purpose provision. However, its implied purposes vis-à-vis the frontage requirement are consistent with the Zoning Ordinance’s general purposes which are “to promote health, safety and the general welfare of Portsmouth” and implement the goals and objectives of the City’s Master Plan. See Zoning Ordinance, Article 1, Section 10.120. Frontage requirements are also oriented towards safety and maintaining aesthetic consistency of lots in zoning districts.

Here, not only does the Project not conflict with the public health, safety, and general welfare, but it promotes the same and promotes the City’s Master Plan. Specifically, granting the variance will facilitate the creation of a new lot for residential development at a time when such development and new housing stock is direly needed. See Portsmouth 2025 Master Plan (the “Master Plan”), pgs. 15 – 16, and Goals 1.2, 3.1, and 3.2. Further, the New Lot will be fully compliant with the Table of Dimensional Standards and there will be no discernible difference to

the appearance or operation of the Remanent Lot which will continue to function, as it has for decades, as a single-family dwelling with access via 73.8 ft of frontage along Lafayette Road. Because the Project will provide additional housing opportunities while not altering, in any way, the existing condition along Lafayette Road via the technically nonconforming frontage the Remanent Parcel will continue to enjoy, the public health and safety, and core objectives of the Zoning Ordinance and Master Plan are being advanced.

Additionally, there will be no impact at all to the safety of the ingress/egress from the Remanent Lot, which will remain the same in this regard, as it has always existed. The New Lot will derive access via its 102.3 ft of conforming frontage along Orchard Street.

Accordingly, in this case, the proposed variance is neither contrary to the public interest or violative of the spirit of the ordinance because the proposed variance and the net result of the Project will advance the general purposes of the Zoning Ordinance, specific provisions of the Master Plan, and will not at all conflict with the safety purposes of the frontage requirement in the GRA District.

The Application also satisfies the case law tests applicable to the public interest prong of the statutory variance criteria because for the very same reasons, the requested variance will not alter the essential character of the neighborhood, and will not threaten the public health and safety. On the contrary, once subdivided and as pointed out above, the Remanent Lot will be .209 acres in size and the New Lot will be .188 acres in size, such that they will be substantially similar to all the lots around them. See Enclosure 3. In this sense, the character of the neighborhood is advanced beyond the existing conditions which include an anomalously large Property settled amongst significantly smaller properties.

As the Applicant's Project will advance the general and implied purposes of the Zoning Ordinance and Table of Dimensional Standards, support the Master Plan, enhance the character of the neighborhood and have no negative impact on the public health or safety, it would be reasonable and appropriate for the ZBA to conclude that granting the Applicant's variance request will satisfy the public interest prong of the variance criteria.

## **2. The spirit of the Ordinance is observed.**

As referenced in Section E(1), above, the requested variances observe the spirit of the Zoning Ordinance and New Hampshire jurisprudence regarding the "public interest" prong of the variance criteria because the Applicant's Project will advance the general and implied purposes of the Zoning Ordinance and the Table of Dimensional Standards, and support the Master Plan. Further, the Project will not compromise the character of the neighborhood or threaten the public health, safety, or welfare. The two lots will be consistent with the neighborhood. As the New Hampshire Supreme Court has indicated in both Chester Rod & Gun Club and in Malachy Glen, the requirement that the variance not be "contrary to the public interest" is coextensive and is related to the requirement that the variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691.

As a result, for the reasons stated above, the Applicant respectfully asserts that it would be reasonable and appropriate for the ZBA to conclude that the variance will observe the spirit of the Zoning Ordinance.

**3. Substantial justice is done.**

As noted in Malachy Glen, supra, “perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, supra, citing 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)). In short, there must be some gain to the general public from denying the variance that outweighs the loss to the applicant from its denial.

In this case, there is no gain to the public by denying the requested variance because to do so, will not advance any of the general or implied purposes of the Zoning Ordinance, the Table of Dimensional Standards, will not support the Master Plan, and will not enhance the character of the neighborhood or protect public health and safety. In fact, the opposite is true. Granting the requested variance supports the health and welfare of the public and supports the Master Plan by creating additional housing opportunities and facilitating the reasonable use of land in a way that is consistent with the neighborhood. Further, there will be no discernible difference in the operation of the Remanent Lot which will continue to derive access via Lafayette Road. For these reasons, the public gains by granting the variance.

Of course, if the variance is granted, and assuming the Applicant is able to get the Planning Board relief it will need to subdivide the Property, the Applicant will benefit from the same because it will be able to reasonably use its property in a way that is consistent with the Zoning Ordinance and in a way that advances the public welfare and supports the Master Plan.

As the requested variance benefits the public and the Applicant alike, there is no gain to the general public from denying the Applicant’s application that outweighs the loss to the Applicant from its denial and this prong of the variance criteria is satisfied.

**4. The proposal will not diminish surrounding property values.**

The Project will not diminish the value of surrounding properties. To be clear, the variance requested pertains to the creation of a lot which will either comply or otherwise maintain its legal nonconformities in all respects and only needs a variance at all, because it will no longer enjoy legally compliant frontage along Orchard Street, even though the Property never derived access from Orchard Street. In other words, the Remanent Lot will continue to function as it always has and there will be no discernible difference in the operation of the Property from Lafayette Road. Because this variance is so narrow in scope, there is no legitimate argument that it will diminish surrounding property values because that status quo is being maintained vis-à-vis frontage and access for the Remanent Lot via Lafayette Road.

The variance will support the ultimate subdivision of the Property into two lots, however, which lots will be vastly similar in size to all of the lots around them and will be utilized in conformity with the Zoning Ordinance unless additional relief is sought and approved by the ZBA. See Plan, Enclosure 3. Accordingly, there is no evidence in the record that could reasonably support the conclusion that the requested variance will diminish surrounding property

values and common sense requires that the ZBA find this prong of the variance criteria is satisfied.

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

**a. Legal Standard**

As set forth in the provisions of RSA 674:33, I, there are two options by which the Board of Adjustment can find that an unnecessary hardship exists:

(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(ii) The Proposed use is a reasonable one.

(the “First Hardship Test”)

or,

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. (the “Section Hardship Test”).

The Applicant respectfully reminds the ZBA that the mere fact that the Applicant is seeking a variance from the express provisions of the Zoning Ordinance is not a valid reason for denying the variance. See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007); see also Harborside Associates, 162 N.H. at 2011 (“mere conflict with the terms of the ordinance is insufficient”).

**b. Summary of Applicable Legal Standard**

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying property which is the subject of a variance request. This requirement finds its origins in the Standard State Zoning Enabling Act of the 1920s “since it is the existence of those ‘special conditions’ which causes the application of the zoning ordinance to apply unfairly to a particular property, requiring that variance relief be available to prevent a taking.”<sup>1</sup> Importantly, the Supreme Court has determined that the physical improvements on a property can constitute the “special conditions” which are the subject of the first prong of the First Hardship Test. Harborside, 162 N.H. at 518 (the size and scale of the buildings on the lot could be considered special conditions); Cf Farrar, 158, N.H. 689 (where variance sought to convert large, historical single use residence to mixed use of two residence and office space, size of residence was relevant to determining whether property was unique in its environment).

---

<sup>1</sup> 15 Loughlin, *New Hampshire Practice, Land Use Planning and Zoning*, §24.20 (4<sup>th</sup> Ed.) citing The Standard State Zoning Enabling Act.

The second prong of the First Hardship Test analysis, pertaining to the relationship between the public purpose of the ordinance provision in question, and its application to the specific property in question, is the codified vestige of a New Hampshire Supreme Court case called Simplex Technologies, Inc. v. Town of Newington (“Simplex”).<sup>2</sup> To summarize, the ZBA’s obligation in this portion of its hardship analysis is to determine the purpose of the regulation from which relief is being sought and if there is no specific purpose identified in the regulation, then to consider the general-purpose statements of the ordinance as a whole, so that the ZBA can determine whether the purpose of said ordinance is advanced by applying it to the property in question.

The third and final prong of the First Hardship Test analysis is whether the proposed use is “reasonable.”

The Applicant respectfully reminds the ZBA of the New Hampshire Supreme Court’s substantive pivot in Simplex. The Simplex case constituted a “sharp change in the New Hampshire Supreme Court’s treatment of the unnecessary hardship requirement.” The Simplex Court noted that under the unnecessary hardship standard, as it had been developed by the Court up until that time, variances were very difficult to obtain unless the evidence established that the property owner could not use his or her property in any reasonable manner.”<sup>3</sup> This standard is no longer the required standard in New Hampshire. The Applicant does not have an obligation to affirmatively prove that the underlying Property cannot be reasonably used without the requested variances. Rather, the critical question under the First Hardship Test is whether the purpose of the Zoning Ordinance is fairly and substantially advanced by applying it to the Applicant’s Property considering the Property’s unique setting and environment. This approach is consistent with the Supreme Court’s pivot away from the overly restrictive pre-Simplex hardship analysis “to be more considerate of the constitutional right to enjoy property”.<sup>4</sup>

The Second Hardship Test, which we will not focus on in this narrative, is satisfied by establishing that owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

### **c. Analysis**

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying Property which distinguish it from others in the area and the Board may consider the Property’s existing physical improvements in this context. See Harborside. Here, the Property does have special conditions that distinguish it from others in the area to include the fact that it is nearly twice the size (.4 acres) of the average lot size of the 53 lots in its immediate vicinity (.22 acres) and is the only lot in the area with dual front/rear frontage on public streets. See Enclosure 3. These characteristics make the Property totally unique from others in its area and translate into the Property being perfectly situated to accommodate the Project proposal.

---

<sup>2</sup> 145 N.H. 727 (2001).

<sup>3</sup> 15 Loughlin, 24.16.

<sup>4</sup> Id. citing Simplex, 145 N.H. at 731.



As there are special conditions of the Property by virtue of its size and its dual frontage on public roadways, the first prong of the First Hardship Test is satisfied.

The second prong of the First Hardship Test, pertains to the relationship between the public purpose of the ordinance provision in question, and its application to the specific property in question. To summarize, the ZBA must determine whether the purpose of the underlying ordinance is advanced by applying it to the property in question. In this case, it is not.

Here, as discussed in great detail above, which analysis and discussion is incorporated herein by reference, not only would denying the requested variance not advance the general and implied purposes of the Zoning Ordinance and Table of Dimensional Standards, support the Master Plan, or advance the safety or aesthetic consistency of lots in the GRA District and surrounding neighborhood, the opposite is true: granting the variance will facilitate a Project which will create housing stock which advances the public interest and supports the Master Plan, and will do so in a way which will have zero impact on the function and operation of the Remanent Lot and on the current traffic operations on Lafayette Road. See Enclosures 1, 3.

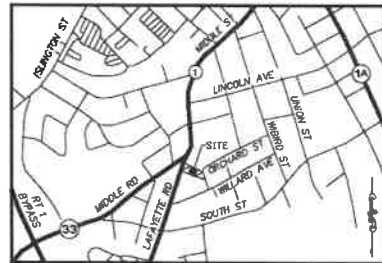
Because denying the variance won't advance the general or implied purposes of the Zoning Ordinance and Table of Dimensional Standards, or support the Master Plan, and because granting the variance request will, the second prong of the First Hardship Test is satisfied.

The third and final analysis under the First Hardship Test is to determine whether the proposed use is reasonable. Here, the Remanent Lot will continue to operate as it has for decades with 73.8 ft of frontage it utilizes for access off of Lafayette Road. The Project is otherwise totally reasonable and consistent with the neighborhood.

On these facts and analyses, the Applicant respectfully submits that its variance request satisfies the final prong of the statutory variance criteria.

#### **E. Conclusion**

The Applicant respectfully submits that it has satisfied the statutory variance criteria in this matter and its Application should be approved.



# Enclosure 1

## LOT CALCULATIONS

| PROPOSED LOT # | PROPOSED AREA | REQUIRED OPEN SPACE | OPEN SPACE PROVIDED | FRONTAGE PROVIDED | CALCULATED LOT DEPTH |
|----------------|---------------|---------------------|---------------------|-------------------|----------------------|
| LOT 152-4      | 9,129 S.F. ±  | 2,739 S.F. ±        | 2,803 S.F. ±        | 73.80'            | 124.70'              |
| LOT 152-4-1    | 8,172 S.F. ±  | 2,452 S.F. ±        | 2,519 S.F. ±        | 102.30'           | 108.06'              |

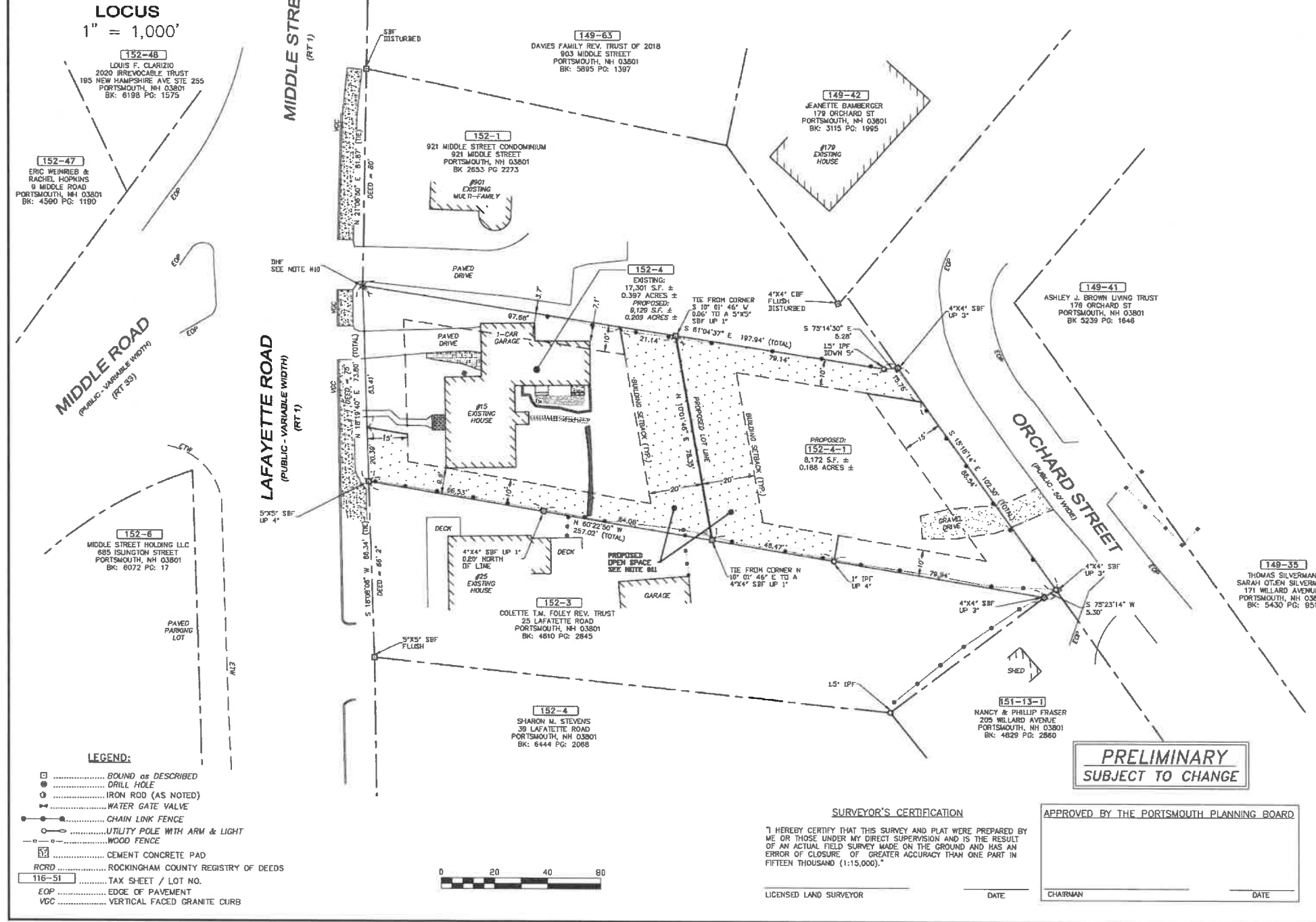


## NOTES:

- OWNER OF RECORD.....MURDOCK LIVING TRUST  
JEFF MURDOCK, TRUSTEE  
ADDRESS.....36 GARLAND RD NOTTINGHAM, NH 03290  
DEED REFERENCE.....2966/0959  
TAX SHEET / LOT.....152-2
- ZONED:.....GENERAL RESIDENCE A (GRA) FRONT YARD SETBACK .....15'  
MINIMUM LOT AREA ..7,500 S.F. SIDE YARD SETBACK .....10'  
FRONTAGE.....100' REAR YARD SETBACK .....20'  
MINIMUM DEPTH.....70' MINIMUM OPEN SPACE .....30%
- THE INTENT OF THIS PLAN IS TO SUBDIVIDE THE EXISTING PARCEL INTO TWO PARCELS.
- THIS IS A TWO PAGE SHEET SET. SHEET 1 IS TO BE RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. ALL OTHER SHEETS TO BE ON FILE WITH THE CITY OF PORTSMOUTH.
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN HEREON ARE APPROXIMATE AND ARE BASED UPON THE FIELD LOCATION OF ALL VISIBLE STRUCTURES (IE CATCH BASINS, MANHOLES, WATER GATES ETC.) AND INFORMATION COMPILED FROM PLANS PROVIDED BY UTILITY COMPANIES AND GOVERNMENTAL AGENCIES. ALL CONTRACTORS SHOULD NOTIFY, IN WRITING, SAID AGENCIES PRIOR TO ANY EXCAVATION WORK AND CALL DIG-SAFE @ 1-888-DIG-SAFE.
- NAD83, VERTICAL DATUM: NAVD83. ESTABLISHED BY SURVEY HORIZONTAL DATUM: GRADE GPS OBSERVATIONS AND REFERENCE PLAN #6.
- THE PLAN IS BASED UPON A FIELD SURVEY COMPLETED IN NOVEMBER OF 2022 WITH TRIMBLE S5 ROBOTIC TOTAL STATION, CARLSON BRX7 RTK GPS UNITS, PANASONIC FZ-M1/TRIMBLE TSCT DATA COLLECTORS.
- THE PARCEL SHOWN HEREON LIES WITHIN ZONE X (AREA OF MINIMAL FLOOD HAZARD) AS IDENTIFIED ON FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY, NEW HAMPSHIRE, MAP NUMBER 33019C0259F, EFFECTIVE DATE 1/29/2021 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- CONTRACTOR TO VERIFY SITE BENCHMARKS BY LEVELING BETWEEN 2 BENCHMARKS PRIOR TO THE ESTABLISHMENT OF ANY GRADES OR ELEVATIONS. DISCREPANCIES ARE TO BE REPORTED TO JAMES VERRA AND ASSOCIATES, INC.
- DRILL HOLE FOUND AND SHOWN ON REFERENCE PLANS #1 & #3. PLANS #7 & #8 SHOW THE DISTANCES OF THE HOUSES TO THE LOT CORNER THAT DO NOT AGREE WITH THE LOCATION OF THE DRILL HOLE AND APPEAR TO SHORTEN THE FRONTAGE OF THE SUBJECT PARCEL (TAX MAP 152 LOT 4) ON LAFAYETTE ROAD, AND LENGTHEN THE DEEDED FRONTAGE OF TAX MAP 152 LOT 1. HOWEVER THE DURGIN PLANS DO NOT SHOW ANY MONUMENTS FOUND ALONG LAFAYETTE ROAD/MIDDLE STREET.
- THE INTENT OF THE OPEN SPACE AREA IS TO MEET THE REQUIREMENTS SET FORTH IN THE CITY'S ZONING ORDINANCE TO MAINTAIN A 30% OPEN SPACE FREE FROM STRUCTURES, PARKING AREAS, DRIVEWAYS AND OTHER USES WHICH PRECLUDE LANDSCAPING IN SUCH AREAS. THE INTENT OF THE AREA IS COMPUTED BY USING THE AREA OF THE SETBACK LINES, EITHER PERPENDICULAR OR PARALLEL TO THE PROPERTY LINES.

## REFERENCE PLANS:

- "PLAN OF LAND OF BURTON K. MURDOCK & FRANCES E. MURDOCK IN PORTSMOUTH NEW HAMPSHIRE," DATED JANUARY 8, 1974 AND PREPARED BY MOULTON ENGINEERING CO. R.C.R.D. PLAN #D-4256.
- "PLAN OF LAND AT 25 LAFAYETTE ROAD PORTSMOUTH, N.H. AS PREPARED FOR/OWNER OF RECORD: DONALD F. AND BONNEY STEARNS 25 LAFAYETTE ROAD, PORTSMOUTH, N.H. 03801. R.C.R.D. PLAN #D-15412.
- "CONDOMINIUM SITE PLAN OF 921 MIDDLE STREET CONDOMINIUMS FOR WALTER HOFFMAN, 921 MIDDLE ST. COUNTY OF ROCKINGHAM, PORTSMOUTH, N.H." DATED MARCH 1986 AND PREPARED BY RICHARD P. WILLETTE AND ASSOCIATES. R.C.R.D. PLAN #D-15490.
- "PLAN OF LAND AT NO. 903 MIDDLE ST., PORTSMOUTH, N.H. PROPERTY OF RAYMOND C.L. GREER AND BERTHA D. GREER." DATED SEPTEMBER 1950 AND PREPARED BY ALBERT MOULTON, C.E. BK: 1274 PG: 325.
- "SUBDIVISION PLAN OF LAND, 227 WILLARD AVENUE, PORTSMOUTH, NEW HAMPSHIRE FOR JANICE W. YOCOM." DATED JUNE 29, 1999 AND PREPARED BY THIS OFFICE. R.C.R.D. PLAN #D-27518.
- "EXISTING CONDITIONS PLAN, WILLARD AVENUE IMPROVEMENT PROJECT, WILLARD AVENUE, ORCHARD & ASH STREETS & ORCHARD COURT, PORTSMOUTH, NEW HAMPSHIRE, CMA ENGINEERS, INC." LAST REVISED DECEMBER 2, 2021. PREPARED BY AND ON FILE WITH THIS OFFICE. NOT RECORDED. JVA JOB #23944.
- "PLAN OF LOT, NO. 921 MIDDLE STREET, PORTSMOUTH, N.H." DATED AUGUST 1942. PREPARED BY JOHN W. DURGIN, CIVIL ENGINEER. NOT RECORDED AND ON FILE WITH THIS OFFICE. JMD FN:1094 FN: 1-231.
- "PLAN OF LOT, NO. 15 LAFAYETTE ROAD ROAD, PORTSMOUTH N.H." DATED AUGUST 1942 AND PREPARED BY JOHN W. DURGIN, CIVIL ENGINEER. NOT RECORDED AND ON FILE WITH THIS OFFICE. JMD FN:1094 FN: 6219.
- RECORDS OF JOHN W. DURGIN FN:1094 ON FILE WITH THIS OFFICE.



**PRELIMINARY  
SUBJECT TO CHANGE**

## SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS AN ERROR OF CLOSURE OF GREATER ACCURACY THAN ONE PART IN FIFTEEN THOUSAND (1:15,000)."

LICENSED LAND SURVEYOR

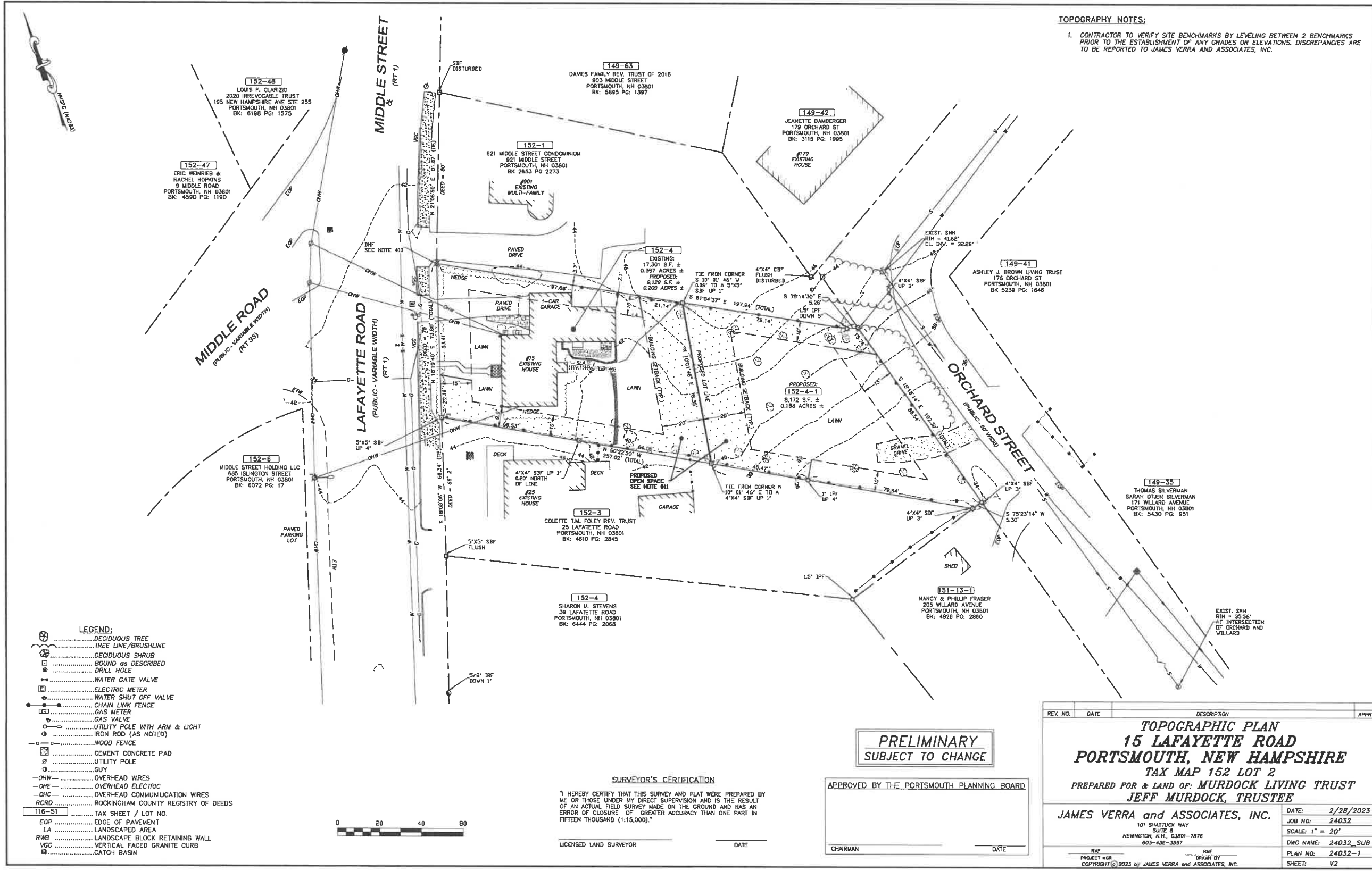
APPROVED BY THE PORTSMOUTH PLANNING BOARD

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

| REV. NO.  | DATE | DESCRIPTION | APPR'D              |
|---|------|-------------|---------------------|
| <b>PROPOSED SUBDIVISION PLAN<br/>15 LAFAYETTE ROAD<br/>PORTSMOUTH, NEW HAMPSHIRE<br/>TAX MAP 152 LOT 2<br/>PREPARED FOR &amp; LAND OF: MURDOCK LIVING TRUST<br/>JEFF MURDOCK, TRUSTEE</b> |      |             |                     |
| JAMES VERRA and ASSOCIATES, INC.  |      |             | DATE: 2/28/2023     |
| 101 SHATLUCK WAY<br>SUITE B<br>NEWINGTON, N.H., 03801-7876<br>603-436-2557  |      |             | JOB NO: 24032       |
| PROJECT NO: 24032-1   |      |             | SCALE: 1" = 20'     |
| DRAWN BY: _____   |      |             | DWG NAME: 24032-SUB |
| CHECKED BY: _____   |      |             | PLAN NO: 24032-1    |
| DATE: _____   |      |             | SHEET: V1           |



**TOPOGRAPHY NOTES:**  
 1. CONTRACTOR TO VERIFY SITE BENCHMARKS BY LEVELING BETWEEN 2 BENCHMARKS PRIOR TO THE ESTABLISHMENT OF ANY GRADES OR ELEVATIONS. DISCREPANCIES ARE TO BE REPORTED TO JAMES VERRA AND ASSOCIATES, INC.



- LEGEND:**
- ⊕ DECIDUOUS TREE
  - TREE LINE / BRUSHLINE
  - ⊗ DECIDUOUS SHRUB
  - BOUND AS DESCRIBED
  - ⊙ DRILL HOLE
  - ⊕ WATER GATE VALVE
  - ⊕ ELECTRIC METER
  - ⊕ WATER SHUT OFF VALVE
  - ⊕ CHAIN LINK FENCE
  - ⊕ GAS METER
  - ⊕ GAS VALVE
  - ⊕ UTILITY POLE WITH ARM & LIGHT
  - ⊕ IRON ROD (AS NOTED)
  - WOOD FENCE
  - ⊕ CEMENT CONCRETE PAD
  - ⊕ UTILITY POLE
  - ⊕ GUY
  - OHW OVERHEAD WIRES
  - OHE OVERHEAD ELECTRIC
  - OHC OVERHEAD COMMUNICATION WIRES
  - RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
  - 116-51 TAX SHEET / LOT NO.
  - EOP EDGE OF PAYMENT
  - LA LANDSCAPED AREA
  - RWB LANDSCAPE BLOCK RETAINING WALL
  - VGC VERTICAL FACED GRANITE CURB
  - ⊕ CATC BASIN



**SURVEYOR'S CERTIFICATION**  
 I, HEREBY CERTIFY THAT THIS SURVEY AND PLAT WERE PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS AN ERROR OF CLOSURE OF GREATER ACCURACY THAN ONE PART IN FIFTEEN THOUSAND (1:15,000).  
 LICENSED LAND SURVEYOR \_\_\_\_\_ DATE \_\_\_\_\_

**PRELIMINARY**  
 SUBJECT TO CHANGE

APPROVED BY THE PORTSMOUTH PLANNING BOARD  
 CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_

| REV. NO.  | DATE | DESCRIPTION | APPROV.             |
|---|------|-------------|---------------------|
| <b>TOPOGRAPHIC PLAN</b><br><b>15 LAFAYETTE ROAD</b><br><b>PORTSMOUTH, NEW HAMPSHIRE</b><br><b>TAX MAP 152 LOT 2</b><br><b>PREPARED FOR &amp; LAND OF: MURDOCK LIVING TRUST</b><br><b>JEFF MURDOCK, TRUSTEE</b><br><b>JAMES VERRA and ASSOCIATES, INC.</b> |      |             |                     |
|   |      |             | DATE: 2/28/2023     |
|   |      |             | JOB NO: 24032       |
|   |      |             | SCALE: 1" = 20'     |
|   |      |             | DWG NAME: 24032_SUB |
|   |      |             | PLAN NO: 24032-1    |
|   |      |             | SHEET: V2           |

PROJECT MGR: JAMES VERRA  
 DRAWN BY: JAMES VERRA  
 COPYRIGHT © 2023 BY JAMES VERRA AND ASSOCIATES, INC.

**15 LAFAYETTE RD**

**Location** 15 LAFAYETTE RD

**Mblu** 0152/ 0002/ 0000/ /

**Acct#** 34748

**Owner** FRANCES MURDOCK

**PBN**

**Assessment** \$604,600

**Appraisal** \$604,600

**PID** 34748

**Building Count** 1

**Current Value**

| Appraisal      |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2022           | \$227,600    | \$377,000 | \$604,600 |

| Assessment     |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2022           | \$227,600    | \$377,000 | \$604,600 |

**Owner of Record**

**Owner** FRANCES MURDOCK  
**Co-Owner** C/O JEFF MURDOCK  
**Address** 36 GARLAND RD  
 NOTTINGHAM, NH 03290

**Sale Price** \$0  
**Certificate**  
**Book & Page** 2966/0959  
**Sale Date** 01/28/1993  
**Instrument**

**Ownership History**

| Ownership History |            |             |             |            |            |
|-------------------|------------|-------------|-------------|------------|------------|
| Owner             | Sale Price | Certificate | Book & Page | Instrument | Sale Date  |
| FRANCES MURDOCK   | \$0        |             | 2966/0959   |            | 01/28/1993 |

**Building Information**

**Building 1 : Section 1**

**Year Built:** 1942  
**Living Area:** 2,076  
**Replacement Cost:** \$325,096  
**Building Percent Good:** 70

Replacement Cost  
Less Depreciation: \$227,600

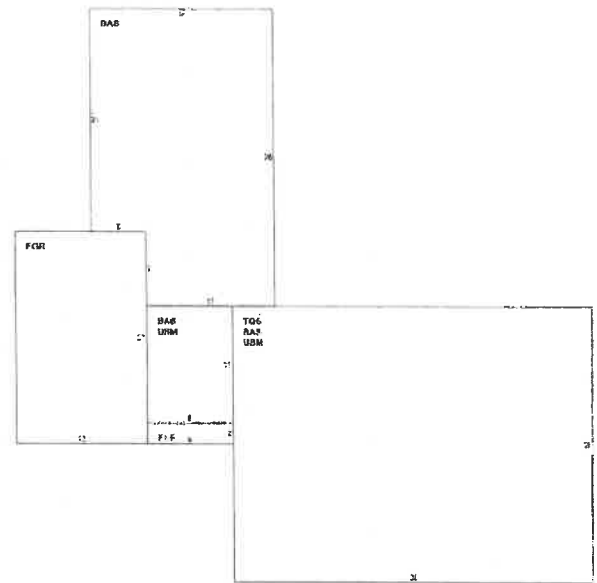
| Building Attributes |                |
|---------------------|----------------|
| Field               | Description    |
| Style:              | Cape Cod       |
| Model               | Residential    |
| Grade:              | C+             |
| Stories:            | 1.75           |
| Occupancy           | 1              |
| Exterior Wall 1     | Clapboard      |
| Exterior Wall 2     |                |
| Roof Structure:     | Gable/Hip      |
| Roof Cover          | Asph/F Gls/Cmp |
| Interior Wall 1     | Drywall/Sheet  |
| Interior Wall 2     |                |
| Interior Flr 1      | Carpet         |
| Interior Flr 2      | Hardwood       |
| Heat Fuel           | Gas            |
| Heat Type:          | Warm Air       |
| AC Type:            | None           |
| Total Bedrooms:     | 3 Bedrooms     |
| Total Bthrms:       | 1              |
| Total Half Baths:   | 1              |
| Total Xtra Fixtrs:  | 0              |
| Total Rooms:        | 8              |
| Bath Style:         | Avg Quality    |
| Kitchen Style:      | Avg Quality    |
| Kitchen Gr          |                |
| WB Fireplaces       | 1              |
| Extra Openings      | 0              |
| Metal Fireplaces    | 0              |
| Extra Openings 2    | 0              |
| Bsmt Garage         |                |

**Building Photo**



(<https://images.vgsi.com/photos2/PortsmouthNHPhotos/A00100197101.JPG>)

**Building Layout**



(ParcelSketch.ashx?pid=34748&bid=34748)

| Building Sub-Areas (sq ft) |                      |            | Legend      |  |
|----------------------------|----------------------|------------|-------------|--|
| Code                       | Description          | Gross Area | Living Area |  |
| BAS                        | First Floor          | 1,413      | 1,413       |  |
| TQS                        | Three Quarter Story  | 884        | 663         |  |
| FEP                        | Porch, Enclosed      | 16         | 0           |  |
| FGR                        | Garage, Attached     | 240        | 0           |  |
| UBM                        | Basement, Unfinished | 972        | 0           |  |
|                            |                      | 3,525      | 2,076       |  |

**Extra Features**

| Extra Features | Legend |
|----------------|--------|
|                |        |

No Data for Extra Features

**Land**

**Land Use**

Use Code 1010  
Description SINGLE FAM MDL-01  
Zone GRA  
Neighborhood 103B  
Alt Land Appr No  
Category

**Land Line Valuation**

Size (Acres) 0.40  
Frontage  
Depth  
Assessed Value \$377,000  
Appraised Value \$377,000

**Outbuildings**

**Outbuildings**

**Legend**

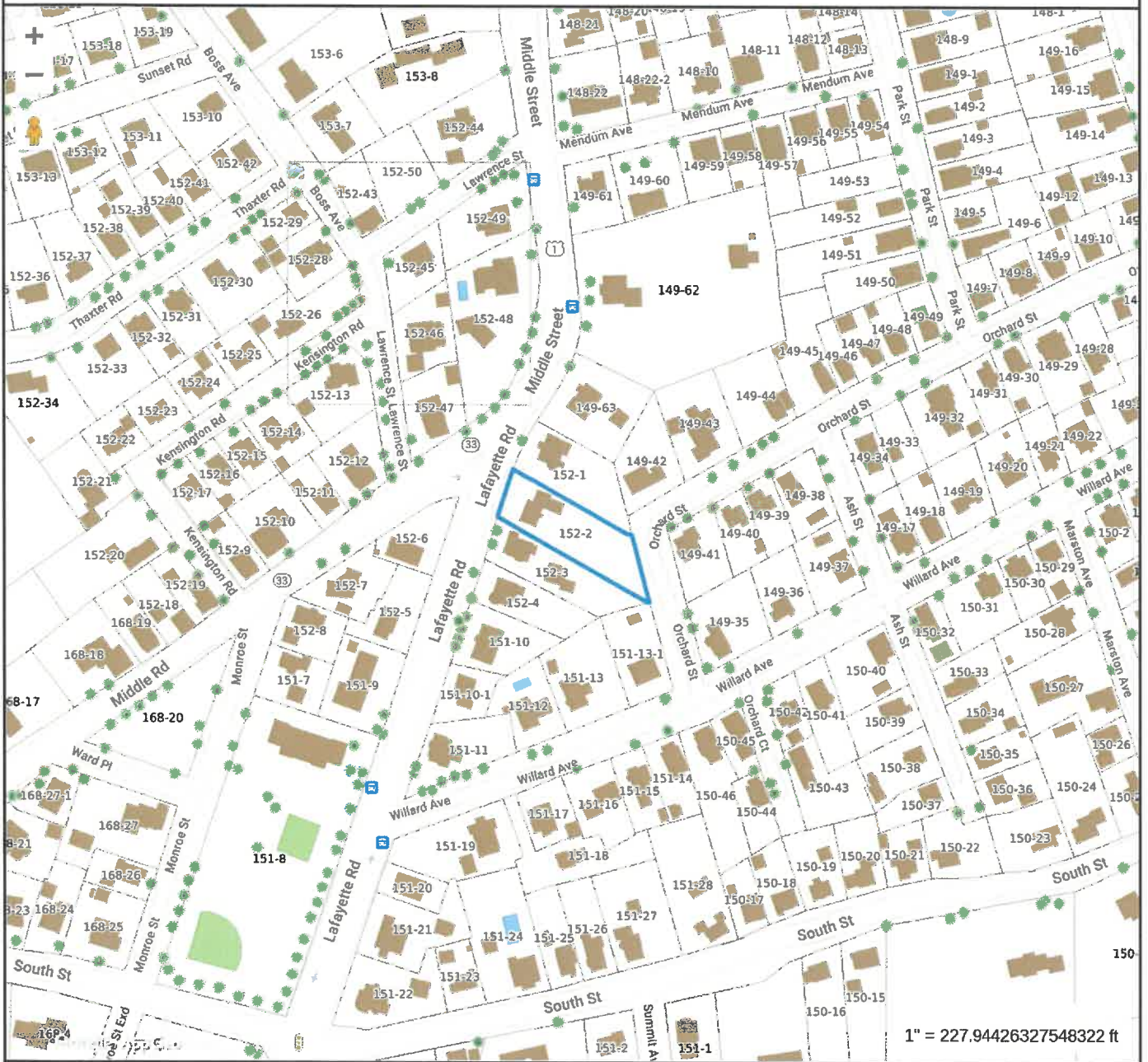
No Data for Outbuildings

**Valuation History**

| Appraisal      |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2021           | \$227,600    | \$377,000 | \$604,600 |
| 2020           | \$227,600    | \$377,000 | \$604,600 |
| 2019           | \$227,600    | \$377,000 | \$604,600 |

| Assessment     |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2021           | \$227,600    | \$377,000 | \$604,600 |
| 2020           | \$227,600    | \$377,000 | \$604,600 |
| 2019           | \$227,600    | \$377,000 | \$604,600 |

Enclosure 3



**Property Information**  
 Property ID 0152-0002-0000  
 Location 15 LAFAYETTE RD  
 Owner MURDOCK LIVING TRUST



**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.

Enclosure 4

**VIEW FROM INTERSECTION OF MIDDLE ROAD &  
LAFAYETTE ROAD**





VIEW FROM INTERSECTION OF  
MIDDLE ROAD & LAFAYETTE ROAD



VIEW FROM INTERSECTION OF  
MIDDLE ROAD & LAFAYETTE ROAD



VIEW FROM ORCHARD STREET



**VIEW FROM ORCHARD STREET**



VIEW FROM ORCHARD STREET



LETTER OF AUTHORIZATION

I, Jeff Murdock, Trustee of the Murdock Living Trust, owner of property depicted on Tax Map 152, Lot 2, do hereby authorize Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the City of Portsmouth and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: 2/28/2023

MURDOCK LIVING TRUST

  
\_\_\_\_\_  
Jeff Murdock, Trustee