

CITY OF PORTSMOUTH, NH

APPLICATION FOR RESTORATION OF INVOLUNTARILY MERGED LOTS

PURSUANT TO RSA 674:39-aa

Name of Property Owner(s): Todd A. Buttrick 603-303-7212

Mailing Address: 14 Karlin Rd Fremont N.H. 03044

Telephone Number: 603-303-7212

Email Address: tvtb@comcast.net

Street Location of Parcels Affected by the Requested Restoration:

900 Middle Rd Portsmouth N.H.

Properties Requested to be Restored (attach additional sheet if needed):

Parcel 1

Current Deed Reference: Book 5345 Page 2869 Date Recorded July 30, 2012
~~Book 5210 Page 1010 Date Recorded November 5, 2011~~

Tax Map _____ Lot Number 33, 34, 35, 60

Parcel 2

Current Deed Reference: Book _____ Page _____ Date Recorded _____

Tax Map _____ Lot Number _____

Parcel 3

Current Deed Reference: Book _____ Page _____ Date Recorded _____

Tax Map _____ Lot Number _____

Please state when you believe the involuntary merger took place:

I do not know

Signature(s) of Property Owner(s):

Signature: [Handwritten Signature] Name: Todd A Buttrick Date: 1/15/2021

Signature: _____ Name: _____ Date: _____

KATHRYN S. WILLIAMS, ESQ.
K.S.W. LAW
57 Main Street, P.O. Box 836
Epping, New Hampshire 03042
(603) 679-5223
kwilliams@ksw-law.com

August 27, 2012

Todd Buttrick
14 Karlin Road
Fremont, NH 03044

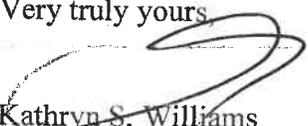
**Re: Transfer of Real Estate
Property in Portsmouth, NH**

Dear Mr. Buttrick:

Enclosed is the original Fiduciary Deed for the above referenced property that was recorded on July 30, 2012 at Book 5345, Page 2869 in the Rockingham County Registry of Deeds. You should retain and store this document in a safe place for later use as needed.

The Declaration of Consideration and Inventory of Property Transfer forms that you previously signed have been completed and mailed for filing in the appropriate town and state offices.

Very truly yours


Kathryn S. Williams

KSW:vab

M

Return to:
Kathryn S. Williams
57 Main Street
Box 836
Epping, NH 03042



FIDUCIARY DEED

Kathryn S. Williams as Successor Trustee of The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003, of 57 Main Street, Epping, New Hampshire, for good and valuable consideration, grants to Todd Buttrick,* with Fiduciary Covenants, the real property described as follows:

* with a mailing address of 14 Karlin Road, Fremont, NH 0304

Four (4) certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in Portsmouth, County of Rockingham, State of New Hampshire, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds Book 527, Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

This is not homestead property of the Grantor.

Barbara H. Buttrick's death certificate is on record at the Rockingham County Registry of Probate, 10th Circuit Court, Probate Division.

Meaning and intending to convey the same property described in the deed of Barbara H. Buttrick to Barbara H. Buttrick, Trustee of The Barbara H. Buttrick

040643

2012 AUG 15 AM 10: 07

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

Revocable Trust of 2003, u/d/t dated July 30, 2003, dated November 5, 2011, and recorded at the Rockingham County Registry of Deeds, at Book 5260, Page 1861.

Trustee's Certificate

The undersigned trustee is the Successor Trustee under the Trust created by Barbara H. Buttrick, as grantor under trust agreement dated July 30, 2003, and thereto has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust, and no purchaser or third party shall be bound to inquire whether the trustee has said power or is properly exercising said power or to see to the application of any trust asset paid to the trustee for a conveyance thereof.


Kathryn S. Williams, Successor Trustee

This is a conveyance from a revocable trust pursuant to an estate planning trust. The original grantor, Barbara H. Buttrick is deceased. Kathryn S. Williams is the Successor Trustee under The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003. Due to the death of Barbara H. Buttrick, the grantor under the trust, the Trust is terminated and this conveyance is a distribution of the real estate held in the Trust to the beneficiary of the Trust. The consideration paid was less than fair market value. This conveyance is subject to the minimum transfer stamps of \$40.00 as required under the New Hampshire Code of Administrative Rules, Department of Revenue Administration, Part Rev. 802.02.

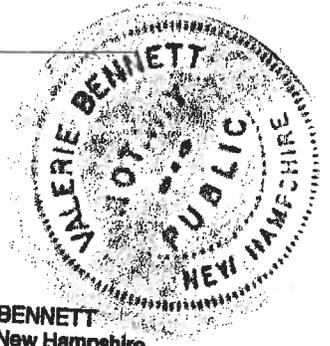
Dated this 30 day of July, 2012.


Kathryn S. Williams, Successor Trustee

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

This instrument was acknowledged before me on the 30 day of
July, 2012, by Kathryn S. Williams.

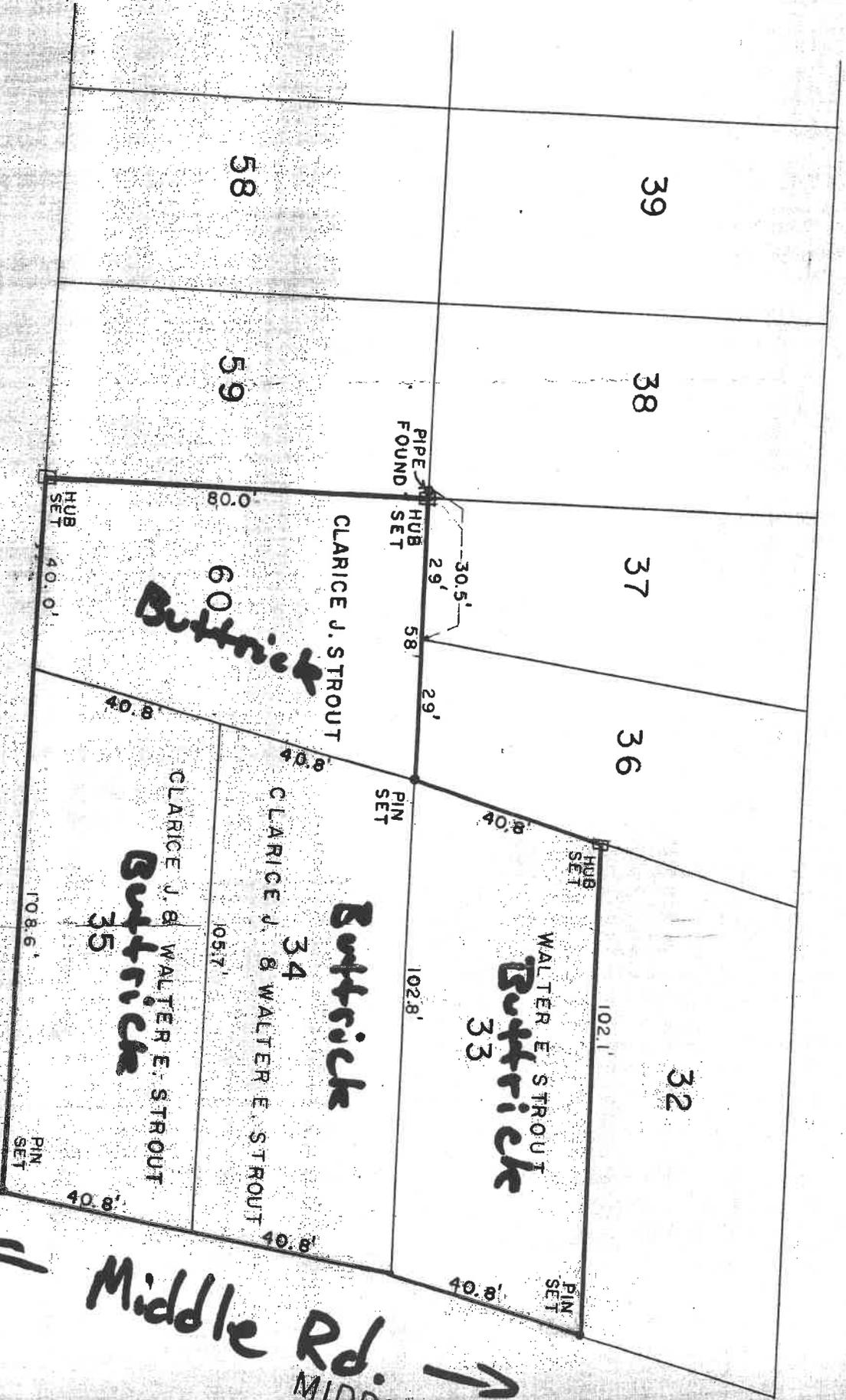
Valerie Bennett
Notary Public
My Commission Expires:
Seal:



VALERIE BENNETT
Notary Public - New Hampshire
My Commission Expires August 10, 2016

LEAVITT AVE.

WOODWORTH AVE.



39

38

37

36

32

58

59

60

34

35

33

35

Buttrick

Buttrick

Buttrick

CLARICE J. STROUT

PIN SET

PIPE FOUND
HUB SET

30.5'
29'

58'
29'

102.8'

40.8'

HUB SET

102.1'

PIN SET

WALTER E. STROUT

Buttrick

CLARICE J. & WALTER E. STROUT

105.7'

40.8'

CLARICE J. & WALTER E. STROUT

HUB SET 40.0'

108.6'

PIN SET

40.8'

Middle Rd.

MIDDLE





CITY OF PORTSMOUTH

Assessors Office

Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
Tel: (603) 610-7249 – Fax: (603) 427-1579

To: Dexter Legg, Chair Planning Board
Cc: Karen S. Conard, City Manager
From: Rosann Lentz, City Assessor 
Date: April 22, 2021
RE: City Council Referral- Request of Restoration of Involuntarily Merged Lots to pre-merger status at 900 Middle Rd

At its meeting on February 9, 2021, the City Council considered a request from Kathryn S. William, ESQ on behalf of the property owners of 900 Middle Rd, requesting the restoration of involuntarily merged lots at 900 Middle Road to their pre-merger status pursuant to NH RSA 674:39-aa. These lots are represented as historical lot numbers 33, 34, 35 and 60. The Council voted to refer to the Planning Board and Assessor for report back (See Attachment #1).

Description

The subject parcel is depicted on the attached tax maps from Tax Year 1961 identified on Plan 66 Lots 33, 34, 35 and 60; from Tax Year 2020 they are identified as Map 232 Lot 80 (See Attachment #2).

Current assessment records identify the parcel as having .378 +/- acres with a 3 bedroom 1.5 bath single family dwelling built around 1948 located on the parcel. Older assessment records identified the parcel as 3 separate lots until 1972 (See Attachment #3).

History

Deeds: According to the deeds researched back to 1950, 900 Middle Road was identified as 4 lots being Lot numbers 33, 34, 35, and 60. Lot 33 was described by metes and bounds, Lots 34 and 35 were identified together based on the Prospect Park Plan having a dwelling thereon and lot 60 was described individually again with a lot reference in the Prospect Park Plan (See Attachment #4).

Recorded deeds in the chain of title between 1971 and 2011 & 2012 along with a mortgage deed recoded in 1971 changed the property description. These deeds describe the 4 lots into one lot per metes and bounds (See Attachment #5).

Property Assessment Records: Between 1953 and 1971 property assessment records show lots 33 and 60 separately assessed. In 1962, lots 34 and 35 were combined and assessed as one, matching the description of the lots within Book 1157 Page 292 (See Attachment #3).

Assessment records indicate for Tax Year 1972, the assessor merged lot 33 with previously merged lots 34 and 35; this is noted on the assessment records (See Attachment #3-A). Assessment records indicate for Tax Year 1983 lot 60 was merged with the others (See Attachment #3-B).

Building Inspection/Planning Records

In 2006 Barbara Butterick requested and was approved for an additional driveway permit/access to the dwelling located at 900 Middle Rd. The request represented lots 33, 34, and 35 as a single lot with a curb cut off of Middle Road located on lot 33 (See Attachment #6).

Court Decisions

Upon review of various court decisions concerning the denial of restorations of lots, decisions have stated that the fact the lots being described in a single deed with single metes and bounds does not alone support an involuntary merger.

The State of New Hampshire Supreme Court case of Charles A. Roberts v. Town of Windham; Rockingham 165 N.H.186 (2013), agreed with the lower court's decision of voluntary merger. This decision in part looked at the use of the property in its entirety by reviewing a lots physical characteristics and the changes that occurred over time to the placement of buildings, driveways, outbuildings etc. The totality of changes can reasonably support that lots by predecessors or current owners were voluntarily merged when facts show the primary and accessory buildings, access, etc. work as a unit (See Attachment #7).

Summary

Upon review of the property tax maps and aerial images (See Attachment #8) in relation to the location of the dwelling and any supporting access points or outbuildings, lots 33, 34, and 35 are used as a unit. It is a reasonable conclusion these three lots were voluntarily merged when looking at the use of the property in its entirety. Lot 33 had an additional driveway added for parking for the dwelling located on lots 34 and 35 and the dwelling when constructed fell close to the lot lines between lots 33 and 34.

No written request for voluntary merger was found. The New Hampshire Municipal Association has interpreted the above court decision to mean, "Governing bodies and zoning boards of adjustment now know they should review requests to unmerge lots based upon all of the circumstances of actual use of the property, and that the lack of a request to voluntarily merge the lots by the current or former owner will not, standing alone, support such a request" (See Attachment #9).

The taxpayers have requested lots 33, 34, 35 and 60 be unmerged to their premerger boundaries. Based upon my research, it is recommended this request be denied.

Cc: file

Attachments: 9

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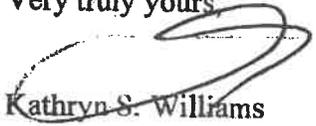
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Kathryn S. Williams

KSW:vab

CITY OF PORTSMOUTH, NH

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PURSUANT TO RSA 674:39-aa

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900 Middle Rd Portsmouth N.H.

Properties Requested to be Restored (attach additional sheet if needed):

Parcel 1

Current Deed Reference: Book 5345 Page 2869 Date Recorded July 30, 2012
Tax Map 232-80 Lot Number 33, 34, 35, 60
(Note: 5345 and 2869 are circled in red)

Parcel 2

Current Deed Reference: Book _____ Page _____ Date Recorded _____
Tax Map _____ Lot Number _____

Parcel 3

Current Deed Reference: Book _____ Page _____ Date Recorded _____
Tax Map _____ Lot Number _____

Please state when you believe the involuntary merger took place:

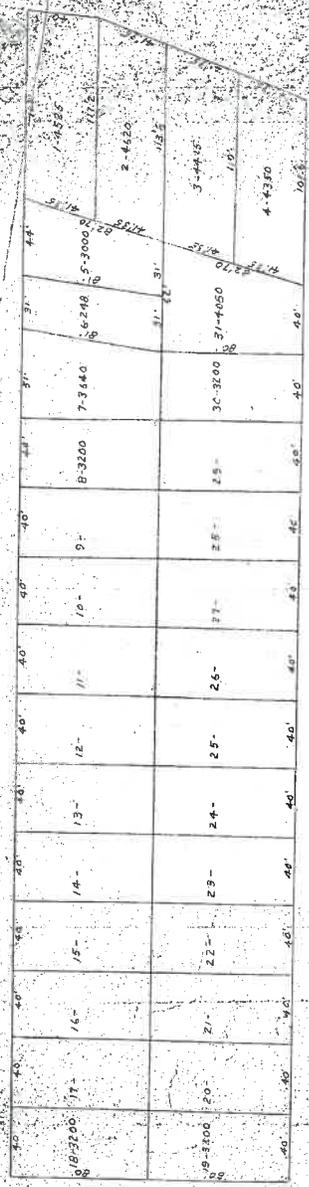
I do not know

Signature(s) of Property Owner(s):

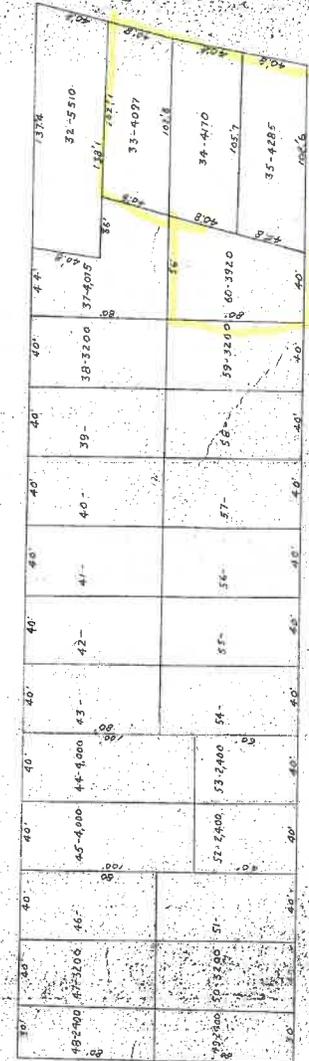
Signature: [Handwritten Signature] Name: Todd A Buttrick Date: 1/15/2021

Signature: _____ Name: _____ Date: _____

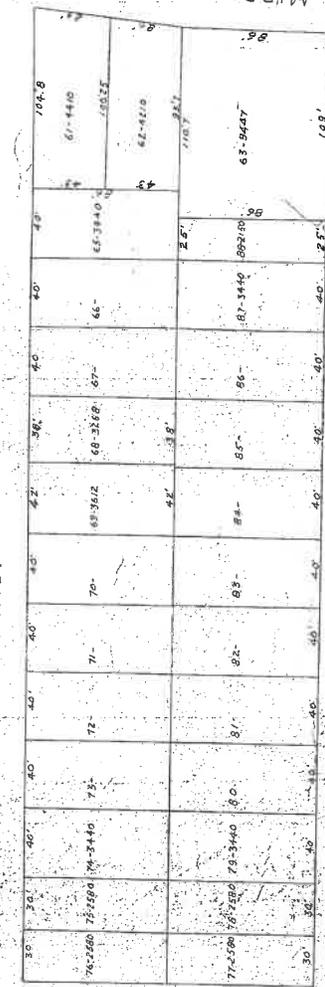
PEVERLY HILL ROAD



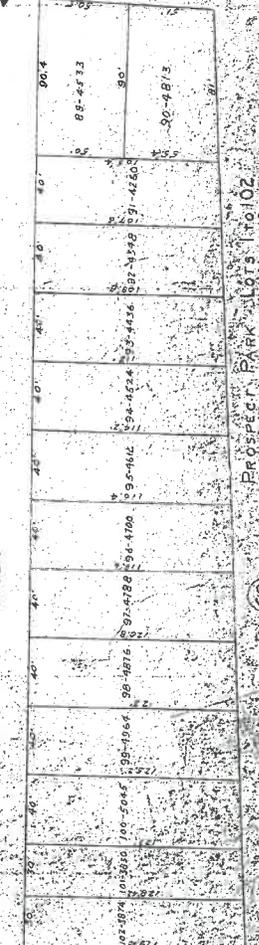
LEAVITT AVE.



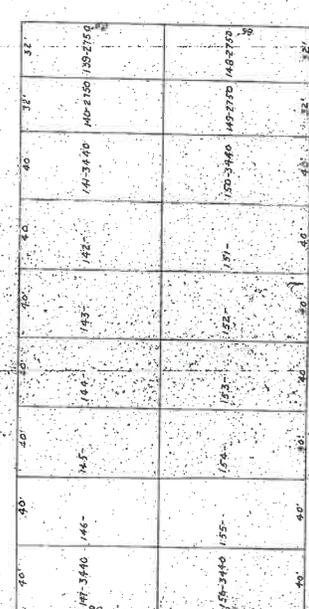
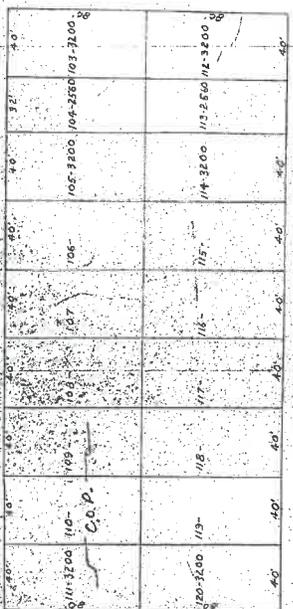
WOODWORTH AVE.



SWEATT AVE.



McCLINTOCK



MORFATT

Lot Plan No. 66
 PORTSMOUTH NH
 SCALE: 1" = 40'
 SEE FRONTAL

Prospect Park Lots 101-102
 103-105 ANNEX NO. 1
 SEE FRONTAL

69

67

65

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT	
BUTTRICK TODD	1 Level	0 All Public	1 Paved	8 2+ Off-St PKG	RESIDENTL	Code	Assessed
14 KARLIN RD					RES LAND	1010	187,700
FREMONT	NH	03044	SUPPLEMENTAL DATA			1010	169,700
			GIS ID	30225	Assoc Pld#	Total 357,400	

RECORD OF OWNERSHIP				BK-VOL/PAGE	SALE DATE	Q/U	VII	SALE PRICE	VC
BUTTRICK TODD	5345	2869	U	I	0	81			
BUTTRICK BARBARA H REVO TRUST	5260	1861	U	I	0				
BUTTRICK BARBARA H	2077	0141	I	I	0				
Total				0.00					

EXEMPTIONS				OTHER ASSESSMENTS			
Year	Code	Description	Amount	Code	Description	Number	Amount

ASSESSING NEIGHBORHOOD			
Nbhd	Nbhd Name	Tracing	Batch
125			

01/13- CORR SIZE TO 22X28 ON SKTCH; ADD
 UBM UNDER 11X30; UPD WIND; UBM WALKOUT;
 ONLY INSP RENTAL UNIT, 1 BD, 1 BTH; KIT-
 CHENETTE; ELEC HEAT

APPT LETTER 1/25/13

BUILDING PERMIT RECORD				VISIT / CHANGE HISTORY			
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp
11673	10-25-2002			12,720		100	VINYL SIDING

LAND LINE VALUATION SECTION										
B Use Code	Description	Zone	Frontage	Depth	Land Units	Unit Price	Size Ad Site	Cond.	ST Idx	S.I. Adj.
1	1010	SINGLE FAM M	SRB	16,472	SF	10.13	1.0000	1	0.90	1.130

CONSTRUCTION DETAIL

CONSTRUCTION DETAIL (CONTINUED)

Element	Cd	Description	Element	Cd	Description
Style: 04		Cape Cod			
Model: 01		Residential			
Grade: C					
Stories: 5					
Occupancy 1		Vinyl Siding			
Exterior Wall 1 25					
Exterior Wall 2					
Roof Structure: 03		Gable/Hip			
Roof Cover 03		Asph/F Gls/Cmp			
Interior Wall 1 05		Drywall/Sheet			
Interior Wall 2					
Interior Fir 1 12		Hardwood			
Interior Fir 2 14		Carpet			
Heat Fuel 02		Oil			
Heat Type: 05		Steam			
AC Type: 01		None			
Total Bedrooms 03		3 Bedrooms			
Total Bathrms: 1					
Total Half Baths 1					
Total Xtra Fixtrs 0					
Total Rooms: 7					
Bath Style: 1		Avg Quality			
Kitchen Style: 1		Avg Quality			
Kitchen Gr					
WB Fireplaces 0					
Extra Openings 0					
Metal Fireplace 0					
Extra Openings 0					
Brnt Garage 1					

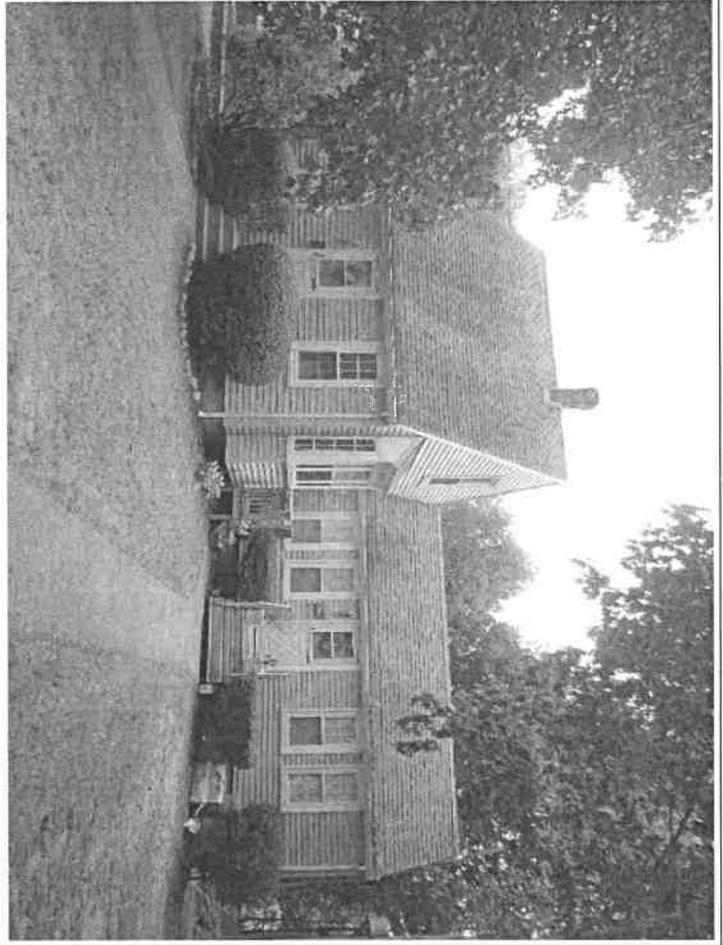
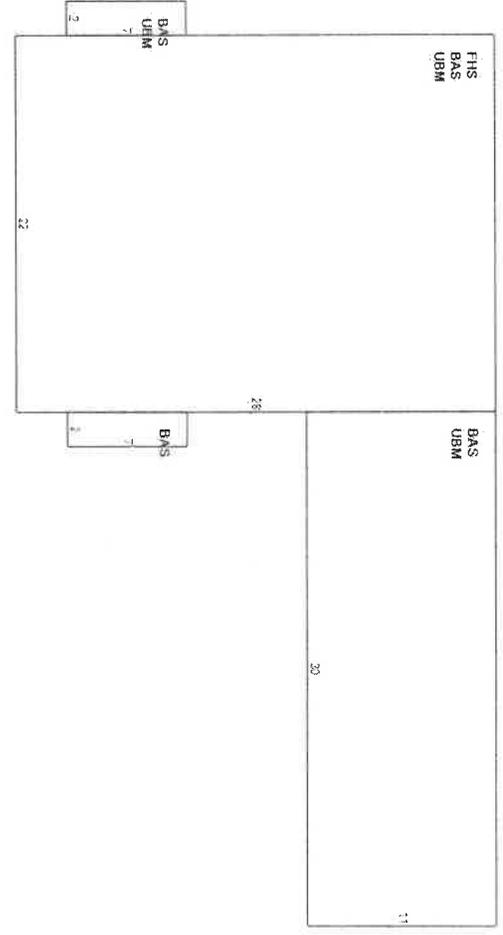
MIXED USE		
Code	Description	Percentage
1010	SINGLE FAM MDL-01	100
		0
		0

COST / MARKET VALUATION

Adj. Base Rate	153.39
Building Value New	226,104
Year Built	1948
Effective Year Built	2002
Depreciation Code	VG
Remodel Rating	
Year Remodeled	
Depreciation %	17
Functional Obsol	
External Obsol	
Trend Factor	1
Condition	
Condition %	
Percent Good	83
RCNLD	187,700
Dep % Ovr	
Dep Ovr Comment	
Misc Imp Ovr	
Misc Imp Ovr Comment	
Cost to Cure Ovr	
Cost to Cure Ovr Comment	

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)

Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
BUILDING SUB-AREA SUMMARY SECTION										
Code	Description		Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value			
BAS	First Floor		974	974	974	153.39	149,407			
FHS	Half Story, Finished		308	616	308	76.70	47,246			
UBM	Basement, Unfinished		0	960	192	30.68	29,452			



OCCUPANCY: 1 DWELLING OTHER 3
 INTERIOR FINISH: B 1 2 3
 COMMERCIAL COMPUTATIONS: 1 BRICK 3 GLASS 5 STUCCO 7 STONE 9 CONCRETE
 SINGLE FAMILY: STORES OFFICES

1	2	3	DRYWALL/PLASTER	B	1	2	3
1.0	1.5	2.0	2.5	3.0	UNFINISHED		
BASEMENT				LIVING ACCOMMODATIONS			
1	2	3	4	5	6	7	8
NONE	CRAWL	PART	FULL	HEATING	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE
1	2	3	4	5	6	7	8
NONE	BASE	AIR CON	OTHER FEATURES	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE	HT.
WARM AIR - F OR G	BASE	AIR CON	PART MASONRY WALLS	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE	HT.
NOT WATER/STEAM	BASE	AIR CON	FIREPLACE	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE	HT.
ELECTRIC	BASE	AIR CON	BASEMENT REC. ROOM	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE	HT.
FLOOR/WALL FURNACE	BASE	AIR CON	FIN. BASEMENT LIVING AREA	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE	HT.
UNIT HEATERS	BASE	AIR CON	BASEMENT GARAGE	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE	HT.
PLUMBING	BASE	AIR CON	MODERNIZED KITCHEN	NO. OF UNITS	AVG. UNIT SIZE	SCHEDULE	HT.

PLUMBING POINTS	[+]	02	REMODELING DATA	YEAR	HEATING	YEAR
STANDARD		1	KITCHEN		GENERAL	
BATHROOM		1	PLUMBING		GENERAL	
HALF BATH		1	ERECTED	1949	AGE	14 1/2
SINK/LAVATORY		1	CDU RATING			
WATER CLOSET/URINAL		1	DWELLING COMPUTATIONS			
NO PLUMBING		1.0	STORY	0	M	C
ATTIC		3 PT. FIN	BASEMENT	21616	S.F.	30,006
1 NONE	2 UNFIN	3 PT. FIN	HEATING			
4 FULL FIN	5 FULL FIN/WH		PLUMBING			
			ATTIC			
			ADDNS. & PCHS.			
			TOTAL	44,946		
			O.F. POINTS			
			TOTAL	44,946		
			GRADE	100		
			TOTAL	44,946		
			C&D FACT. %	1.05		
			REPL. COST	47,193		
			DEPR. %	30%		
			TRUE VALUE	33,000		

EXTERIOR WALL CODES	1 BRICK	3 GLASS	5 STUCCO	7 STONE	9 CONCRETE
EXTERIOR WALLS	2 FRAME	4 BLOCK	6 TILE	8 METAL	0 ENAM. STL.
EFF. PERIMETER					
PERIM. AREA RATIO %					
NO. OF UNITS					
AVG. UNIT SIZE					
SCHEDULE					
HT.					
BASEMENT					
FIRST					
SECOND					
BASE PRICE					
B. P. A.					
SUBTOTAL					
LIGHTING					
HTG. AIR CON.					
SPRINKLER					
PARTITIONS					
INTERIOR FINISH					
SF/SF PRICE					
AREA CUBE					
SUBTOTAL					
SPECIAL FEATURES*					
ADDITIONS					
TOTAL BASE					
GRADE FACTOR					
REPLACEMENT COST					
SURPLUS CAP					
BLIGHTED AREA					
ENCROACHMENTS					
COMM. LOCATION					
ECONOMIC					
OBsolescence					

TYPE	NO.	CONSTRUCTION	SIZE	RATE	GRADE	ERECTED	CDU	REPLACEMENT COST	DEPR.	TRUE VALUE
GARAGE										
BARN										
SHED										
POOL										
COMM BLDG.										
LISTED	12/3/81	DATE								
DATE	12/3/81	DATE								
TOTAL OF CARDS		THRU								
TOTAL VALUE ALL BUILDINGS										33000

CONTINGENT	0	W	TE							
PLUMBING FIXTURES										
STORE FRONT										
SPLIT LEVEL										
RANCH										
COLONIAL										
CAPE										
ITEM DESCRIPTION										
PRICE										

SHINGLE ASP. / ASP. / WOOD	1	806								
SLATE/TILE/METAL	1	3710								
COMP. ON WOOD FRAME	1	410,400								
COMP. ON STEEL FRAME	1	44,946								
FRAME SIDING / VINYL / STUCCO	1	44,946								
SHINGLE ASP. / ASP. / WOOD	1	44,946								
CONCRETE BLOCK	1	44,946								
BRICK VENEER/STONE	1	44,946								
PLATE GLASS FRONT	1	44,946								
FLOORS	1	44,946								
CONCRETE	1	44,946								
WOOD	1	44,946								
TILE	1	44,946								
CARPET	1	44,946								
WD. / STL. FRAME	1	44,946								
REINF. CONC.	1	44,946								

REMODELING DATA	YEAR	HEATING	YEAR
KITCHEN		GENERAL	
PLUMBING		GENERAL	
ERECTED	1949	AGE	14 1/2
CDU RATING			
DWELLING COMPUTATIONS			
STORY	0	M	C
BASEMENT	21616	S.F.	30,006
HEATING			
PLUMBING			
ATTIC			
ADDNS. & PCHS.			
TOTAL	44,946		
O.F. POINTS			
TOTAL	44,946		
GRADE	100		
TOTAL	44,946		
C&D FACT. %	1.05		
REPL. COST	47,193		
DEPR. %	30%		
TRUE VALUE	33,000		

EXTERIOR WALL CODES	1 BRICK	3 GLASS	5 STUCCO	7 STONE	9 CONCRETE
EXTERIOR WALLS	2 FRAME	4 BLOCK	6 TILE	8 METAL	0 ENAM. STL.
EFF. PERIMETER					
PERIM. AREA RATIO %					
NO. OF UNITS					
AVG. UNIT SIZE					
SCHEDULE					
HT.					
BASEMENT					
FIRST					
SECOND					
BASE PRICE					
B. P. A.					
SUBTOTAL					
LIGHTING					
HTG. AIR CON.					
SPRINKLER					
PARTITIONS					
INTERIOR FINISH					
SF/SF PRICE					
AREA CUBE					
SUBTOTAL					
SPECIAL FEATURES*					
ADDITIONS					
TOTAL BASE					
GRADE FACTOR					
REPLACEMENT COST					
SURPLUS CAP					
BLIGHTED AREA					
ENCROACHMENTS					
COMM. LOCATION					
ECONOMIC					
OBsolescence					

TYPE	NO.	CONSTRUCTION	SIZE	RATE	GRADE	ERECTED	CDU	REPLACEMENT COST	DEPR.	TRUE VALUE
GARAGE										
BARN										
SHED										
POOL										
COMM BLDG.										
LISTED	12/3/81	DATE								
DATE	12/3/81	DATE								
TOTAL OF CARDS		THRU								
TOTAL VALUE ALL BUILDINGS										33000

GRADE DENOTES QUALITY OF CONSTRUCTION: A-EXCELLENT; B-GOOD; C-AVERAGE; D-CHEAP; E-VERY CHEAP
 CDU FACTOR REFERS TO THE CONDITION, DESIRABILITY, AND USEFULNESS OF THE BUILDING
 PRC-07/88

PROPERTY OWNER

PROPERTY LOCATION

SIDE

LOCATION CODE

BUTTRICK/MAURICE R & BARBARA H
900 MIDDLE ROAD 39 MILLBURN AVE
PORTSMOUTH NH 03801

900 MIDDLE ROAD

M

/ / / /

PLAN LOT
066 035
232 080

CITY OF PORTSMOUTH N.H.
JOHN B. PETTY CAE, ASSESSOR

RECORD OF TRANSFER

TYPE

PROJECT

CONTROL NO

CARD

REMARKS-1
ALSO INCLUDES LOTS 33, 34
SALE PRICE INCLUDES 33,
34, AND LOT 60

RESID 31001 1903066003500

DATE

BOOK

PAGE

AMOUNT

1 STRUT/C J

62571 2077 141 17800

DATE

BOOK

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PLAN LOT
066 035
232 080

1 OF 1

MORTGAGE

AMOUNT

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CONTROL NO

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PLAN LOT
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1 OF 1

MORTGAGE

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PLAN LOT
066 035
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1 OF 1

MORTGAGE

AMOUNT

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PLAN LOT
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MORTGAGE

AMOUNT

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CONTROL NO

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PLAN LOT
066 035
232 080

1 OF 1

MORTGAGE

AMOUNT

PAGE

BOOK

DATE

CONTROL NO

PROJECT

TYPE

RESID

31001

1903066003500

PROPERTY OWNER
BUTTRICK/MAURICE R & BARBARA H
900 MIDDLE ROAD, 39 Milbern Ave
PORTSMOUTH, NH 03801-0514

PROPERTY LOCATION
WOODMORTH AVENUE
CITY OF PORTSMOUTH N.H.
JOHN B. PETTY CAE, ASSESSOR

SIDE
M
 TYPE
RESD
 PROJECT
31001
 CONTROL NO
1903066006000

LOCATION CODE
/ / / /
 PLAN LOT
066 060
A32 080
 CARD
1 OF 1

RECORD OF TRANSFER	DATE	BOOK	PAGE	AMOUNT	MORTGAGE
1 STROUT/C J	62571	2077	141		
2					
3					
4					
5					
6					
7					

LAND DEPRECIATION CODES
1-EXCESS FRONTAGE
3-VACANCY

LAND FACTORS	LAND IMPROVEMENTS	SUMMARY
TOPOGRAPHY--1 LEVEL		19 72
ZONING 02		LAND BLDGS 400
		TOTAL 400

ACREAGE COMPUTATION		VALUE	EQ	ASSESSMENT
TYPE	ACRES	PRICE	TOTAL	DEPR
1 H-LOT	32 A	.090	7000	2240 75 25
				420 100
				400
				420 100
				400

LOT COMPUTATION												
FRONT	REAR	FRONTAGE	DEPTH	STREET PRICE	DEPTH %	ADJ FR PR	TOTAL	DEPRECIATION	CORNER	VALUE	EQ	ASSESSMENT
1												
2												
3												
4												
LOT TOTAL												
LAND TOTAL										420	100	400

UNITED APPRAISAL CO.

CONTROL NO.	STRUCTURE VALUE	PRICE
190 3066006000		
OUT BUILDINGS		
ITEM	1 2 3 4 5 6	
PIER FOUND		
WALL FOUND		
SKIDS		
SGLE SDG		
DBL SDG		
SHING WALLS		
CONC BLOCK		
BRICK		
STONE		
FLOOR		
INT FINISH		
PLUMB		
ELEC		

SEG	TYPE	STOR	CONS	CLASS	DIMENSIONS

SUB TOTAL FACTOR												
OCCUPANCY	CONSTRUCTION	CLASS	AGE	REMOD	COND	REPLACEMENT VALUE	PHYS DEPR	PHYSICAL VALUE	FUNC ,DEPR	ACTUAL VALUE	EQ	ASSESSMENT

SALE PRICE		DATE MO/YR
LISTED DATE		LISTER
SIGNATURE		8999
REVIEW		2735

UNITED APPRAISAL CO.

BUILDING TOTAL

RECORD OF BUILDINGS

NOTES—SPECIAL EQUIPMENT

CONSTRUCTION		FLOORS			COMPUTATIONS	
		B	1	2	3	1951
OCCUPANCY						
SINGLE FAMILY						
TWO FAMILY						
APARTMENT						
STORE						
THEATRE						
HOTEL						
OFFICES						
WAREHOUSE						
COMM. GARAGE						
GAS STATION						
FOUNDATION						
CONCRETE						
CONCRETE BLOCK						
BRICK OR STONE						
PIERS						
CELLAR AREA FULL						
1/4						
3/4						
NO. CELLAR*						
EXTERIOR WALLS						
SLAPBOARDS						
WIDE SIDING						
DROP SIDING						
NO SHEATHING						
WOOD SHINGLES						
ASBES. SHINGLES						
STUCCO ON FRAME						
STUCCO ON TILE						
BRICK VENEER						
BRICK ON TILE						
SOLID BRICK						
STONE VENEER						
CONC. OR CIND. BL.						
TERRA COTTA						
MIRROLITE						
PLATE GLASS						
INSULATION						
WEATHERSTRIP						
ROOFING						
ASPH. SHINGLES						
WOOD SHINGLES						
ASBES. SHINGLES						
SLATE						
TILE						
METAL						
COMPOSITION						
ROLL ROOFING						
INSULATION						

SUMMARY OF BUILDINGS

OCCUPANCY	TYPE	GRADE	AGE	DATE REMOD.	COND.	REPL. VAL.	PHYS. DEPR.	PHYS. VALUE	FUNCT. DEPR.	SOUND VALUE
HEATING										
PIPELESS FURNACE										
HOT AIR FURNACE										
FORCED AIR FURN.										
STEAM										
HOT WAT OR VAPOR										
NO HEATING										
GAS BURNER										
OIL BURNER										
STOKER										
PLUMBING										
BATHROOM										
TOILET ROOM										
WATER CLOSET										
KITCHEN SINK										
STD. WAT. HEAT										
AUTO. WAT. HEAT										
ELECT. WAT. SYST.										
LAUNDRY TUBS										
NO PLUMBING										
TILING										
BATH FL. & WCOT.										
TOILET FL. & WCOT.										
LIGHTING										
ELECTRIC										
NO LIGHTING										
NO. OF ROOMS										
BSMT.										
1ST.										
2ND.										
3RD.										
DATE	LISTED	MEAS.	AREA	PRICED	19	TOTAL VALUE BUILDINGS				
					19	TOTAL VALUE BUILDINGS				

GRADE DENOTES QUALITY OF CONSTRUCTION: A—EXCELLENT; B—GOOD; C—AVERAGE; D—CHEAP; E—VERY CHEAP

PROPERTY ASSESSMENT RECORD, - CITY OF PORTSMOUTH, N. H.

RECORD OF OWNERSHIP			DATE OF TRANSFER			SALE PRICE IF KNOWN			ASSESSMENT RECORD		
66	34								LAND	BLDG.	TOTAL
102	110	110							LAND	BLDG.	TOTAL
105	110	110							LAND	BLDG.	TOTAL

MAURICE R & BARBARA H BUTTRICK 2077/141 6/25/71 see 35
 12-17-43 6.05
 ASSESSED WITH LOT 35
 RURAL PROPERTY

LAND VALUE COMPUTATIONS AND SUMMARY				OWNERS PREVIOUS TO 1881			
CLASSIFICATION	NO. OF ACRES	RATE	TOTAL	NAME	DATES	ASSESSMENTS	
TILLABLE							
PASTURE							
WOODED							
WASTE LAND							
TOTAL ACREAGE			986-191	Rolph M. Laines	7-24-41		
TOTAL VALUE LAND				Ray B. Ladd	1920	900	
TOTAL VALUE BUILDINGS				JANIE L. REED	1917	100	
TOTAL VALUE LAND & BUILDINGS				WAINC. REED	1908	100	

LAND VALUE COMPUTATIONS AND SUMMARY				URBAN PROPERTY			
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	TOTAL		
40		10.00			400		
TOTAL VALUE LAND							
TOTAL VALUE BUILDINGS							
TOTAL VALUE LAND & BUILDINGS							

PROPERTY FACTORS				PROPERTY FACTORS			
TOPOGRAPHY	LEVEL	ROLLING	LEDGE	TOPOGRAPHY	IMPROVEMENTS	STREET	
SOIL TYPE	LOAM	SAND	CLAY	WATER	PAVED	PAVED	
LAND CLASS	GOOD	FAIR	POOR	SEWER	NO	SEMI-IMPROVED	
DRAINAGE	GOOD	FAIR	POOR	GAS	NO	DIRT	
WATER SUPPLY	GOOD	FAIR	POOR	ELECTRICITY	IMPR.	SIDEWALK	
FENCES	GOOD	FAIR	NONE	ALL UTILITIES			
ELECTRICITY	YES	NO		GARBAGE DISPOSAL			
TELEPHONE	YES	NO		TREND OF DISTRICT			
ROAD	PAVED		DIRT	IMPROVING			
REMARKS				STATIC			
				DECLINING			

PROPERTY FACTORS				PROPERTY FACTORS			
TOPOGRAPHY	LEVEL	ROLLING	LEDGE	TOPOGRAPHY	IMPROVEMENTS	STREET	
SOIL TYPE	LOAM	SAND	CLAY	WATER	PAVED	PAVED	
LAND CLASS	GOOD	FAIR	POOR	SEWER	NO	SEMI-IMPROVED	
DRAINAGE	GOOD	FAIR	POOR	GAS	NO	DIRT	
WATER SUPPLY	GOOD	FAIR	POOR	ELECTRICITY	IMPR.	SIDEWALK	
FENCES	GOOD	FAIR	NONE	ALL UTILITIES			
ELECTRICITY	YES	NO		GARBAGE DISPOSAL			
TELEPHONE	YES	NO		TREND OF DISTRICT			
ROAD	PAVED		DIRT	IMPROVING			
REMARKS				STATIC			
				DECLINING			

PROPERTY ASSESSMENT RECORD, -- CITY OF PORTSMOUTH, N. H.

PLAN	ADDRESS	DESCRIPTION	LOT	RECORD OF OWNERSHIP	DATE OF TRANSFER	SALE PRICE IF KNOWN	ASSESSMENT RECORD
66	900 Middle St.		35				LAND 3000 BLDGS. TOTAL
							LAND 3600 BLDGS. TOTAL
							LAND 4600 BLDGS. TOTAL
							LAND 5000 BLDGS. TOTAL
							LAND 5900 BLDGS. TOTAL
							LAND 600 BLDGS. 5800 TOTAL 6400
							LAND 700 BLDGS. 700 TOTAL 700
							LAND 7300 BLDGS. 7900 TOTAL 1400
							LAND 14400 BLDGS. 15800 TOTAL 30000
							LAND 14400 BLDGS. 16700 TOTAL

Maurice Rd. Barbara H Buttrick 2077/141 6/25/71 17.80
12-17-43 6.05

RURAL PROPERTY

PROPERTY FACTORS		LAND VALUE COMPUTATIONS AND SUMMARY			OWNERS PREVIOUS TO 1951			
TOPOGRAPHY	LEVEL	CLASSIFICATION	NO OF ACRES	RATE	TOTAL	NAME	DATES	ASSESSMENTS
SOIL TYPE	LOAM	TILLABLE						
LAND CLASS	GOOD	PASTURE						
DRAINAGE	GOOD	WOODED						
WATER SUPPLY	GOOD	WASTE LAND						
FENCES	GOOD	TOTAL ACREAGE						
ELECTRICITY	YES	TOTAL VALUE LAND						
TELEPHONE	YES	TOTAL VALUE BUILDINGS						
ROAD	PAVED	TOTAL VALUE LAND & BUILDINGS						
REMARKS								

URBAN PROPERTY

PROPERTY FACTORS		LAND VALUE COMPUTATIONS AND SUMMARY			
TOPOGRAPHY	IMPROVEMENTS	FRONTAGE	DEPTH	UNIT PRICE	TOTAL
LEVEL	WATER	40		1000	400
HIGH	SEWER				
LOW	GAS				
ROLLING	ELECTRICITY				
SWAMPY	ALL UTILITIES				
	GARBAGE DISPOSAL				
STREET	TREND OF DISTRICT				
PAVED	IMPROVING				
SEMI-IMPROVED	STATIC				
DIRT	DECLINING				
SIDEWALK					
	TOTAL VALUE LAND				400
	TOTAL VALUE BUILDINGS				3200
	TOTAL VALUE LAND & BUILDINGS				3600

(No revenue stamps required)

1157 292

Know All Men by these Presents,

That I, M. Thelma Crowell of Portsmouth, in the County of Rockingham and State of New Hampshire,

for and in consideration of the sum of ----- One ----- dollar to me in hand before the delivery hereof, well and truly paid by Walter E. Strout and Clarice J. Strout, both of said Portsmouth,

the receipt whereof I do hereby acknowledge, have remised, released and forever quitclaimed and by these presents do as ~~JOINT TENANTS with right of survivorship and not as tenants in common~~, the survivor to have, hold, possess, use, enjoy, sell, convey, and assign forever, to the said grantees, and to their heirs and assigns forever, or her

A certain lot or parcel of land in Portsmouth, New Hampshire containing Four Thousand Ninety-Seven (4097) square feet, more or less, and further described as follows:

That lot or parcel of land on Middle Road, and being Lot No. 33 on Plan No. 66 in the City of Portsmouth Assessors' Office, having a frontage on said Middle Road of forty and eight tenths (40.8) feet; one hundred two and one tenth (102.1) feet along land of one Harry Caswell, forty and eight tenths (40.8) feet along land now or formerly of one Catherine Carty; and one hundred two and eight tenths (102.8) feet along land of grantee herein.

Also two certain lots or parcels of land, together with the dwelling house thereon, situate in said Portsmouth and more particularly described as Lots Number thirty-four (34) and Thirty-five (35) in Prospect Park Tract, the size and location thereof being in accordance with a Map or Plan of said Tract now on file in the Registry of Deeds of said County of Rockingham, to which said Plan reference is made for a more particular description.

Also a certain lot, piece or parcel of land situated in said Portsmouth and more particularly described as Lot Number Sixty (60) in the "Prospect Park" tract, the same in size and location to be in accordance with the map or plan of said tract now on file at the Registry of Deeds in and for said Rockingham County to which reference is hereby made for a more complete description, together with the buildings thereon.

Being the same premises conveyed to me by deed of Clarice J. Strout, of even date to be recorded herewith.

Subject to a mortgage to the Piscataqua Savings Bank, dated July 20, 1948 and recorded in Rockingham Registry of Deeds.

To have and to hold the said premises, with all the privileges and appurtenances thereto belonging to the said grantees, and to their heirs and assigns forever. And I do hereby covenant with the said grantees that I will warrant and defend the said premises to them the said grantees, and to their heirs and assigns, against the lawful claims and demands of any person or persons claiming by, from or under me, except as aforementioned.

And, I have no husband. ~~for the consideration of said deed to be recorded in the Registry of Deeds of said County of Rockingham, New Hampshire, and to be assigned to the said grantees, and to their heirs and assigns forever.~~

In witness whereof, I have hereunto set my hand and seal this _____ day of January in the year of our Lord 19 50.

Signed, sealed and delivered in presence of
Walter E. Strout

M. Thelma Crowell

State of New Hampshire, Rockingham ss. January 5, A. D. 19 50.
Personally appeared the above named M. Thelma Crowell and
acknowledged the foregoing instrument to be her voluntary act and deed.
Before me,

Walter E. Strout Justice of the Peace.

Received and recorded Jan. 6, 9:50 A.M. 1950

KNOW ALL MEN BY THESE PRESENTS

THAT We, Maurice R. Buttrick and Barbara P. Buttrick of Rockingham County, State of New Hampshire hereinafter called the mortgagor for consideration paid, grant to

PORTSMOUTH SAVINGS BANK,

a corporation established by the laws of the State of New Hampshire, and located and doing business at Portsmouth, in the County of Rockingham, in said State, with mortgage covenants to secure the payment of FIFTEEN THOUSAND FOUR HUNDRED DOLLARS,

with 8 1/2 per cent interest payable monthly and also perform all the agreements and conditions as provided in note of even date, the following described real estate:

Four certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in said Portsmouth, and being Lots No. 33,34,35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds, Book 527, Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59, 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32, thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning

Being premises conveyed to the said Mortgagor by deed of dated 19 recorded in Vol. Page of the Registry:—

The mortgagors shall pay to said Bank, its successors and assigns, all sums which it or they shall pay on account of or for any insurance and taxes and all other expenses legally incident to said granted premises including reasonable attorney's fees and costs of the Bank, its successors and assigns, in the event foreclosure proceedings are commenced and completed or in the event foreclosure proceedings are commenced in good faith and discontinued.

This mortgage is upon the statutory conditions, for any breach of which the mortgagee shall have the statutory power of sale.

We, respectively wife of said mortgagor, husband release all rights of dower curtesy and homestead and other interests in the mortgaged premises.

WITNESS Our hands and seals this 24th day of June Anno Domini one thousand nine hundred and seventy one

Signed, Sealed and Delivered in presence of us:

[Signature]

Maurice R. Buttrick Barbara P. Buttrick

STATE OF NEW HAMPSHIRE ROCKINGHAM SS.

June 24, A.D. 19 71

Personally appearing the above named Maurice R. Buttrick and Barbara P. Buttrick acknowledged the foregoing instrument to be their free act and deed, before me,

[Signature] JUSTICE OF THE PEACE

Jun 25 8 00 AM '71

KNOW ALL MEN BY THESE PRESENTS

2077 141

That we, First National Bank of Portsmouth, New Hampshire and Wyman P. Boynton of Portsmouth in the County of Rockingham and State of New Hampshire, Executors of the will of Clarice J. Strout late of said Portsmouth, deceased.

By virtue of a license from the Court of Probate for said County of Rockingham holden at Exeter in said county, on the 22nd day of February, 1971, authorized us to sell at private sale the real estate hereinafter described and in consideration of the sum of Seventeen Thousand Eight Hundred (\$17,800) Dollars to us in hand before the delivery hereof, paid by Maurice R. Buttrick and Barbara H. Buttrick of said Portsmouth the receipt whereof we do hereby acknowledge, have granted, bargained and sold, and by these presents, do hereby in our said capacity, grant, bargain, sell, convey and confirm unto the said Maurice R. Buttrick and Barbara H. Buttrick, as joint tenants with the right of survivorship, and not as tenants in common, and the heirs and assigns of the survivor of them forever, all the right, title and interest of Clarice J. Strout in and to the following described real estate:

Four certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in said Portsmouth, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N. H. recorded in Rockingham County Registry of Deeds Book 527 Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

Being the same premises described in deed of M. Thelma Crowell to Clarice J. Strout and Walter E. Strout as joint tenants dated January 5, 1950, recorded in Rockingham County Registry of Deeds Book 1157 Page 292, the said Walter E. Strout having died at said Portsmouth on March 13, 1968.

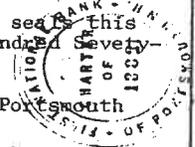
TO HAVE AND TO HOLD the same with all the privileges and appurtenances thereto belonging to the said Maurice R. Buttrick and Barbara H. Buttrick, the survivor of them and his or her heirs and assigns forever. And we do hereby, in our said capacity, covenant with the said Maurice R. Buttrick and Barbara H. Buttrick, the survivor of them and his or her heirs and assigns, that we are duly authorized to make sale of the premises, that in all our proceedings in the sale thereof we have complied with the requirements of the statute in such case provided, and that we will warrant and defend the same to the said Maurice R. Buttrick and Barbara H. Buttrick, the survivor of them and his or her heirs and assigns, against the lawful claims of all perons claiming by, from or under us, in the capacity aforesaid.

IN WITNESS WHEREOF we have hereunto set our hands and seals This 27th day of June in the year of our Lord, One Thousand Nine Hundred Seventy-one.

Signed, sealed and delivered in the presence of

Walter E. Strout
to best

First National Bank of Portsmouth
By *[Signature]*
Trust Officer



JUN 25 8 00 AM '71

232-80

BK 5260 PG 1861

Return to:
Wiggin & Nourie, PA
Att: LGC
PO Box 469
Portsmouth, NH 03802-0469



048269

QUITCLAIM DEED

Barbara H. Buttrick, single, of 777 Lafayette Road, Apt. 311, Hampton, New Hampshire 03842, for good and valuable consideration, grants to **Barbara H. Buttrick as Trustee of The Barbara H. Buttrick Revocable Trust of 2003**, w/d/t dated July 30, 2003, as amended, with a mailing address of 777 Lafayette Road, Apt. 311, Hampton, New Hampshire 03842, with Quitclaim Covenants, the real property described as follows:

Four (4) certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in Portsmouth, County of Rockingham, State of New Hampshire, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds Book 527, Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

Meaning and intending to convey the same property described in the deed of First National Bank of Portsmouth, New Hampshire, and Wyman P. Boynton, Executors of the will of Clarice J. Strout, to Maurice R. Buttrick and Barbara H. Buttrick, dated June 24, 1971 and recorded at Book 2077, Page 141 in the Rockingham County Registry of Deeds. Barbara H. Buttrick is the surviving joint tenant. The said Maurice R. Buttrick having deceased on September 27, 2002. See Rockingham County Probate #2002-11-71.

2011 NOV 10 AM 9:04

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

This is a conveyance to a revocable trust for estate planning purposes and the consideration paid was less than fair market value. This conveyance is subject to the minimum transfer taxes of \$40.00 as required under the NH Code of Administrative Rules, Department of Revenue Administration, Part Rev. 802.02.

Dated this 5th day of November, 2011.

Barbara H. Buttrick
Barbara H. Buttrick

STATE OF NEW HAMPSHIRE
COUNTY OF Rockingham

This instrument was acknowledged before me on the 5th day of November, 2011, by Barbara H. Buttrick.

Donna Fabisak
Notary Public
My Commission Expires:
Seal:



17

Return to:
MAIL TO
Kathryn S. Williams
57 Main Street
Box 836
Epping, NH 03042



FIDUCIARY DEED

040643

Kathryn S. Williams as Successor Trustee of The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003, of 57 Main Street, Epping, New Hampshire, for good and valuable consideration, grants to Todd Buttrick, with Fiduciary Covenants, the real property described as follows:

with a mailing address of 14 Karlin Road, Fremont, NH 0304

Four (4) certain lots of land with the buildings thereon situate on Middle Road and Woodworth Avenue in Portsmouth, County of Rockingham, State of New Hampshire, and being Lots No. 33, 34, 35 and 60 on Plan of Prospect Park, Portsmouth, N.H. recorded in Rockingham County Registry of Deeds Book 527, Page 481, and more particularly bounded as follows:

Beginning at a point in the Southeasterly side of Middle Road at the westerly side of Woodworth Avenue and running Southeasterly by the Westerly sideline of said Woodworth Avenue 148.6 feet more or less to land of Charles F. Caswell being Lot No. 59 on said Plan; thence turning and running Southwesterly by said Lot No. 59 80 feet more or less to a corner at land of Paul and Rose Gammon; thence turning and running Northwesterly by said land of Gammon, being Lots No. 36 and 37, 56 feet to a corner; thence turning and running Westerly by other land of said Gammons 40.8 feet more or less to a corner at land of Joseph and Mildred Markey, being Lot No. 32; thence turning and running Northwesterly by said land of Markeys 102.1 feet more or less to Middle Road; thence turning and running Northeasterly by Middle Road 122.4 feet more or less to the point of beginning.

This is not homestead property of the Grantor.

Barbara H. Buttrick's death certificate is on record at the Rockingham County Registry of Probate, 10th Circuit Court, Probate Division.

Meaning and intending to convey the same property described in the deed of Barbara H. Buttrick to Barbara H. Buttrick, Trustee of The Barbara H. Buttrick

2012 AUG 15 AM 10:07

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

Revocable Trust of 2003, u/d/t dated July 30, 2003, dated November 5, 2011, and recorded at the Rockingham County Registry of Deeds, at Book 5260, Page 1861.

Trustee's Certificate

The undersigned trustee is the Successor Trustee under the Trust created by Barbara H. Buttrick, as grantor under trust agreement dated July 30, 2003, and thereto has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust, and no purchaser or third party shall be bound to inquire whether the trustee has said power or is properly exercising said power or to see to the application of any trust asset paid to the trustee for a conveyance thereof.



Kathryn S. Williams, Successor Trustee

This is a conveyance from a revocable trust pursuant to an estate planning trust. The original grantor, Barbara H. Buttrick is deceased. Kathryn S. Williams is the Successor Trustee under The Barbara H. Buttrick Revocable Trust of 2003, u/d/t dated July 30, 2003. Due to the death of Barbara H. Buttrick, the grantor under the trust, the Trust is terminated and this conveyance is a distribution of the real estate held in the Trust to the beneficiary of the Trust. The consideration paid was less than fair market value. This conveyance is subject to the minimum transfer stamps of \$40.00 as required under the New Hampshire Code of Administrative Rules, Department of Revenue Administration, Part Rev. 802.02.

Dated this 30 day of July, 2012.

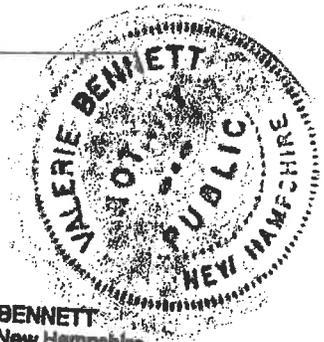


Kathryn S. Williams, Successor Trustee

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

This instrument was acknowledged before me on the 30 day of
July, 2012, by Kathryn S. Williams.

Valerie Bennett
Notary Public
My Commission Expires:
Seal:



VALERIE BENNETT
Notary Public - New Hampshire
My Commission Expires August 10, 2016

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by E-mail at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: <http://www.courts.state.nh.us/supreme>.

THE SUPREME COURT OF NEW HAMPSHIRE

Rockingham
No. 2012-428

CHARLES A. ROBERTS

v.

TOWN OF WINDHAM

Argued: May 9, 2013
Opinion Issued: July 16, 2013

Bernstein, Shur, Sawyer & Nelson, P.A., of Manchester (Gregory E. Michael and Christopher G. Aslin on the brief, and Mr. Michael orally), for the petitioner.

Beaumont & Campbell Prof. Ass'n., of Salem (Bernard H. Campbell on the brief and orally), for the respondent.

CONBOY, J. The petitioner, Charles A. Roberts, appeals an order of the Superior Court (Delker, J.) affirming a decision of the Town of Windham Zoning Board of Adjustment (ZBA) denying his request under RSA 674:39-aa (Supp. 2012) to reverse the administrative merger of certain lots by the respondent, Town of Windham (Town). We affirm.

The following facts are supported by the record or are otherwise undisputed. The petitioner owns an approximately one-acre parcel of land on

Cobbetts Pond Road with frontage on Cobbetts Pond in Windham (the Property). The Property is identified as a single lot on the Town's tax map and has apparently been so identified since the Town developed its tax maps in the 1960s. The Property originated, however, from seven separate lots as shown on the 1913 "Plan of Horne Heirs" recorded in the Rockingham County Registry of Deeds (the Horne plan): five full lots (9 through 13) and two partial lots (8 and 14). The Horne plan was recorded by Clara B. Horne in 1913, and depicts her approximately 12.5-acre, nineteen-lot subdivision along the shore of Cobbetts Pond.

In 1918, Horne conveyed lots 9 through 11, by a single deed, to the petitioner's grandfather, George E. Lane. Specifically, the deed conveyed "[a] certain tract or parcel of land situate on the shore of Cobbetts Pond in Windham . . . meaning and intending to convey lots #9, #10, and #11." In 1920, Horne also deeded lot 12 to Lane. In 1926, Lane also obtained a portion of lot 8 (for ease of reference, partial lot 8 is hereinafter referred to simply as "lot 8").

Lane built structures on all of the lots except lot 12. On lot 10, Lane built a seasonal cottage, a garage/workshop, a screen room, and a dock. The seasonal cottage extends across the boundary line onto lot 11. The garage is two inches from the boundary line between lots 10 and 9 and faces toward lot 9. Thus, one must traverse lot 9 to access the garage. On lot 9, Lane built a "multi-use building" (the bunkhouse), woodshed, privy, dog house, and another dock. The bunkhouse straddles the boundary line between lots 9 and 8. A single driveway provides access from Cobbetts Pond Road to lot 10 over lot 9.

In 1927, Lane conveyed all of the lots to Alice Lane, who subsequently conveyed them to Ruth Lane Roberts. In 1962, Ruth Roberts acquired title to lot 13 and one half of lot 14 (for ease of reference, partial lot 14 is hereinafter referred to simply as "lot 14"). Thus, as of 1962, Ruth Roberts owned the Property as it exists today, consisting of lots 8 through 14. In 1995, the Property was conveyed to the petitioner.

In the 1960s, the Town apparently administratively merged the lots into a single lot: they were designated as a single lot for tax purposes and given a single street address. Neither the petitioner nor any previous owner in the chain of title applied to the Town to merge the lots. See, e.g., RSA 674:39-a (Supp. 2012) (allowing an owner of two or more contiguous and preexisting approved lots to merge them by application to a town planning board).

In 2011, the legislature enacted RSA 674:39-aa, which provides that lots that were "involuntarily merged prior to September 18, 2010," shall be "restored to their pre-merger status" upon request of the owner, subject to certain conditions. RSA 674:39-aa, II. "Involuntary merger" . . . mean[s] lots

merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.” RSA 674:39-aa, I(a). An owner is not entitled to such restoration if “any owner in the chain of title voluntarily merged his or her lots.” RSA 674:39-aa, II(b). “Voluntary merger” means a merger expressly requested under RSA 674:39-a, or “any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.” RSA 674:39-aa, I(c). The municipality bears the burden to prove voluntary merger. See RSA 674:39-aa, II(b).

Following the statute’s passage, the petitioner applied to the Windham Board of Selectmen (Selectboard) seeking to “unmerge” the lots from their single lot designation on the Town’s zoning and tax maps and to create four lots consisting of: lots 8 and 9; lots 10 and 11; lot 12; and lots 13 and 14. The Selectboard held a meeting to consider the application and determined that the Town had involuntarily merged lots 12-14. The Selectboard, however, concluded that lots 8 through 11 had been voluntarily merged and, thus, denied the petitioner’s request to unmerge the four lots.

The Selectboard’s decision denying the petitioner’s request to unmerge lots 8 through 11 rested upon two grounds. First, the Selectboard relied upon the fact that lots 9 through 11 were conveyed to Lane as one “tract” in a single deed. Second, the Selectboard determined that the Town proved overt owner action to merge the lots based upon the physical layout of the structures. Specifically, the Selectboard noted that lots 8 through 11 are served by a single driveway, that construction of ancillary buildings such as the bunkhouse is a common and typical practice on a “waterfront estate,” and that the garage on lot 10 is close to the lot 9 boundary line and is accessed from lot 9.

The petitioner appealed the decision regarding lots 8 through 11 to the ZBA. See RSA 674:39-aa, III; RSA 676:5 (Supp. 2012). The ZBA affirmed the Selectboard’s decision for the reasons found by the Selectboard, as well as an additional reason: that by accepting the Town’s taxation of the lots as a single lot, the owners voluntarily merged the lots.

The petitioner moved for a rehearing, see RSA 677:3 (2008), which the ZBA denied. The petitioner then appealed the ZBA’s decision to the superior court, see RSA 677:4 (Supp. 2012), which affirmed the ZBA’s decision. This appeal followed.

The petitioner first argues that the superior court applied an incorrect standard of review. Typically, judicial review in zoning cases is limited. Brandt Dev. Co. of N.H. v. City of Somersworth, 162 N.H. 553, 555 (2011). The factual findings of a zoning board are deemed prima facie lawful and reasonable, and a zoning board’s decision will not be set aside by the superior court absent errors of law unless it is persuaded by the balance of probabilities, on the evidence

before it, that the zoning board decision is unlawful or unreasonable. Id.; see RSA 677:6 (2008). The superior court applied this standard to the ZBA's decision. The petitioner contends, however, that the enactment of RSA 674:39-aa altered the deferential standard of review with respect to the issue of proving the voluntary merger of lots.

Resolving this issue requires that we engage in statutory interpretation. We are the final arbiters of the legislature's intent as expressed in the words of a statute considered as a whole. Radziewicz v. Town of Hudson, 159 N.H. 313, 316 (2009). When examining the language of a statute, we ascribe the plain and ordinary meaning to the words used. Id. We interpret legislative intent from the statute as written and will not consider what the legislature might have said or add language that the legislature did not see fit to include. Id. We also presume that the legislature knew the meaning of the words it chose, and that it used those words advisedly. See DaimlerChrysler Corp. v. Victoria, 153 N.H. 664, 667 (2006). The interpretation of a statute is a question of law, which we review de novo. See Radziewicz, 159 N.H. at 316.

In 2010, the legislature amended RSA 674:39-a to prohibit municipalities from merging "preexisting subdivided lots or parcels except upon the consent of the owner." Laws 2010, 345:1. In addition, RSA 674:39-aa, II entitles an owner of involuntarily merged lots, at the owner's request, to restore the lots to their premerger status. However, RSA 674:39-aa prohibits restoration of lots if "any owner in the chain of title voluntarily merged his or her lots." RSA 674:39-aa, II(b). The municipality has the burden to prove voluntary merger. See id.

The petitioner contends that by prohibiting municipalities from involuntarily merging lots under RSA 674:39-a and allowing owners of merged lots to request restoration under RSA 674:39-aa, the legislature sought to balance the right of municipalities to regulate land use and the constitutional right of land owners to use their land for reasonable purposes. He argues that by placing the burden of proof on municipalities to prove voluntary merger, the legislature sought to prohibit municipalities from "inventing" mergers based upon inconclusive facts in order to block unpopular applications. He concludes that by "shifting the burden of proof to municipalities," the legislature "necessarily also altered the deferential standard of review on appeal to the [superior court]." We disagree.

The petitioner's argument conflates two concepts: a party's burden of proof and an appellate tribunal's standard of review. A burden of proof is "[a] party's duty to prove a disputed assertion or charge," Black's Law Dictionary 223 (9th ed. 2009), whereas a standard of review is "[t]he criterion by which an appellate [tribunal] . . . measures the constitutionality of a statute or the propriety of an order, finding, or judgment entered by a lower [tribunal]," id. at

1535. That a party bears the burden of proof at trial does not dictate the standard of review applied on appeal. As the superior court aptly noted, the State in a criminal case bears the highest burden of proof at trial: beyond a reasonable doubt. See RSA 625:10 (2007). Yet, if the State carries its burden, the standard of review on appeal is often deferential to the State. See, e.g., State v. Hull, 149 N.H. 706, 712 (2003) (“To prevail on a challenge to the sufficiency of the evidence, the defendant must prove that no rational fact finder at trial, viewing all of the evidence presented in the light most favorable to the State, could have found guilt beyond a reasonable doubt.”).

Here, RSA 674:39-aa expressly places the burden of proof on the municipality to prove voluntary merger; however, the statute makes no provision for an alternate standard of review. Because we presume the legislature understood the meaning of the words it chose and used those words advisedly, see DaimlerChrysler Corp., 153 N.H. at 667, and we do not add words to a statute that the legislature did not see fit to include, see Radzewicz, 159 N.H. at 316, we do not construe the plain language of RSA 674:39-aa, II(b) to alter the deferential standard of review applicable in zoning cases under RSA 677:6.

The fact that one of the goals of the statute may be to protect individual property rights does not change our interpretation. Although we interpret a statute in light of its overall purpose, see Atwater v. Town of Plainfield, 160 N.H. 503, 508 (2010), in so doing, we do not ignore the statute’s plain language, cf. 2A N. Singer & J.D. Singer, Statutes and Statutory Construction § 46:1, at 148-49 (7th ed. 2007) (“Where the words of the statute are clear and free from ambiguity, the letter of the statute may not be disregarded under the pretext of pursuing its spirit.” (Quotation omitted)). Here, we will not read into RSA 674:39-aa an alternate standard of review merely because to do so might benefit the petitioner’s property rights. Thus, we conclude that the superior court did not err in applying our usual deferential standard of review to the ZBA’s decision. See RSA 677:6.

Next, the petitioner argues that the superior court erred by upholding the ZBA’s decision to affirm the Selectboard’s finding of “voluntary merger” of lots 8 through 11 because the evidence before the Selectboard was insufficient to satisfy the Town’s burden. Our review of the superior court’s decision, like its review of the ZBA’s decision, is limited: we will uphold the court’s decision unless the evidence does not support it or it is legally erroneous. Brandt Dev. Co., 162 N.H. at 555. When, as here, the appealing party challenges the sufficiency of the evidence, we consider “whether a reasonable person could have reached the same decision as the trial court based on the evidence before it.” Mt. Valley Mall Assocs. v. Municipality of Conway, 144 N.H. 642, 647 (2000) (quotation omitted).

As noted above, the Selectboard found that the Town satisfied its burden of proving “overt action or conduct” to merge lots 8 through 11 based upon the original conveyance by Horne of lots 9 through 11 as one tract in a single deed, and the physical characteristics of the lots and their structures. The ZBA affirmed based upon those two factors and the owners’ acquiescence to taxation of the Property as a single lot. In upholding the ZBA’s decision, the superior court relied upon the physical characteristics of the lots and their structures and upon the owners’ acquiescence to taxation, but concluded that “[t]he fact that [Horne] conveyed separate parcels of land in one deed does not, in itself, indicate an intent to ignore the separate lot designations.”

We agree that Horne’s conveyance of lots 9 through 11 as one tract in a single deed does not, standing alone, support a finding of voluntary merger. The deed specifically provided that Horne was “meaning and intending to convey lots #9, #10, and #11.” We also acknowledge that the acquiescence to taxation as a single lot does not, standing alone, support a finding of voluntary merger. See Hill v. Town of Chester, 146 N.H. 291, 294 (2001) (“[T]he method by which a town taxes its land is not dispositive in determining zoning questions.”). As the petitioner notes, lots 8 through 14 were all taxed as a single lot; the Selectboard nonetheless “unmerged” lots 12-14.

The lots’ physical characteristics, however, were central to the superior court’s decision. It upheld the finding that the garage on lot 10 was constructed within two inches of lot 9 and faces toward lot 9; that the lots share a driveway; and that ancillary buildings, such as the bunkhouse, are common and typical of a “waterfront estate.” The petitioner argues that these facts do not support a finding of voluntary merger and that only through conjecture and speculation could the Town demonstrate the prior owners’ intent. For example, although he concedes that the placement of the garage near the lot line may be consistent with an intent to merge the lots, the petitioner argues that it is also consistent with an intent to maintain the property as separate lots because Lane – the owner who constructed the garage – may have believed that the garage was farther from the lot line than shown on the survey. Thus, he argues that such evidence is insufficient to support a finding of voluntary merger. We disagree.

Lane constructed the garage on lot 10 not only within two inches of lot 9, but also so that it faced toward lot 9. To access the garage, one must traverse lot 9. Further, a single driveway leads from Cobbetts Pond Road over lot 9 to lot 10. A reasonable interpretation of the placement of the garage is that Lane did not regard the lots as separate. See RSA 674:39-aa, I(c). We disagree with the petitioner that the possibility that Lane may have believed the garage was farther from the lot line renders the evidence inconclusive. Our role on appeal is not to determine whether any contrary conclusions could possibly be drawn

from the evidence; instead, we determine whether the conclusions so drawn are reasonable. See Mt. Valley Mall Assocs., 144 N.H. at 647.

Additionally, the superior court relied on more than the placement of the garage. The “seasonal cottage” sits on both lots 10 and 11, and Lane built a “multi-use” structure known as the “bunkhouse” on lots 9 and 8. Because of the structure’s classification as a “bunkhouse,” and not as an additional cottage, it is not unreasonable to conclude that the structure was intended to be used in conjunction with the seasonal cottage as part of a “waterfront estate,” thereby evincing an intent to use the lots as one. See Webster’s Third New International Dictionary 297 (unabridged ed. 2002) (defining “bunkhouse” as “a rough[,] simple building providing sleeping quarters,” as used to house persons such as “ranch hands”). Finally, although a shared driveway alone may not be indicative of an intent to merge lots, when viewed in conjunction with evidence of the placement of the garage and bunkhouse, the use of a single driveway to serve multiple lots supports the conclusion that the prior owners intended to merge the lots.

In his brief, the petitioner parses each of these uses and offers explanations for why each individual use does not constitute “voluntary merger.” However, the superior court did not analyze each use in isolation, nor was it required to under RSA 674:39-aa. Instead, in affirming the ZBA’s decision, the court considered “the use of the property in its entirety.” The totality of the evidence reasonably supports a finding that the petitioner’s predecessors voluntarily merged the lots under RSA 674:39-aa. Accordingly, we hold that the superior court’s decision affirming the ZBA’s decision is not unlawful or unreasonable.

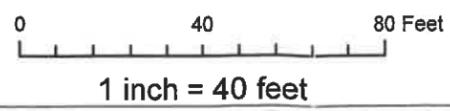
As a final matter, the petitioner raises an issue in his notice of appeal that he does not brief. Thus, it is deemed waived. See In re Estate of King, 149 N.H. 226, 230 (2003).

Affirmed.

DALIANIS, C.J., and HICKS, LYNN and BASSETT, JJ., concurred.



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Existing Conditions
 Map prepared by Portsmouth Department of Public Works
 Printed: 3/19/2021



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Court Issues First Interpretation of RSA 674:39-aa, Dealing With the Reversal of Administrative Lot Mergers

Roberts v. Windham

Roberts v. Windham

No. 2012-428

Tuesday, July 16, 2013

The petitioner appealed from a Superior Court order upholding the decision of the Windham Zoning Board of Adjustment denying his request to reverse the administrative merger of adjacent lots of land.

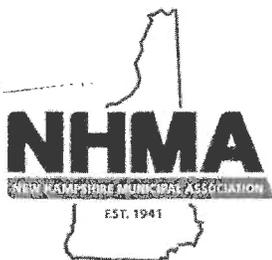
The land in question has been in petitioner's family since 1918, when a single deed conveyed four lots as described on a 1913 plan to petitioner's grandfather. In 1926, another lot was deed by purchase. The five lots were used to support a seasonal cottage and related accessory buildings, including a garage, a screen room, a dock, and a multi-use structure with a woodshed, privy, dog house and additional dock. In 1962 two additional lots were acquired by purchase. Petitioner has owned the land which consists of all or portions of 7 lots as described in the 1913 plan since 1995. The town developed tax maps in the 1960's, and has since that time taxed the property as a single lot. No person in the chain of title ever applied to the town to voluntarily merge the lots into one.

Following the enactment of RSA 674:39-aa, petitioner applied to the Selectmen of Windham to "unmerge" the lots in accordance with the statute's procedures. The Selectmen granted relief for the lots described in the 1926 and 1962 deeds, and denied relief for the remaining four lots described in the 1918 deed. They reasoned that the physical layout and use of the primary and accessory structures proved overt owner action to merge the lots into one. This decision was appealed to the Zoning Board of Adjustment, which affirmed the result using the same reasoning as the Selectmen, and further added that the failure to object to the scheme of taxation also showed an owner's intent to merge the lots. Rehearing was denied, and the Superior Court on appeal affirmed the decision.

At the Supreme Court level two questions were presented. First, since this statute places the burden of proof upon the municipality to deny a request to "unmerge" lots, does this change the standard of review used by a court on appeal? The Supreme Court quickly determined that the new statute did not change the standard of review, and the decision of the ZBA would be reviewed under the deferential standard contained in RSA 677:6.

Second, the petitioner argued that the evidence used by the municipality was not sufficient to support a denial of the request. Because the standard of review is deferential, it may only be reversed if no reasonable person could have reached the same decision based upon the available evidence. Here, the court reviewed the decision based upon the use of the property in its entirety, rather than upon each use in isolation. No single factor was dispositive. The fact that the four lots were described in a single deed, and had been taxed as a unit for many years were not sufficient standing alone. However, when coupled with the fact that the primary and accessory buildings had been constructed to work as a unit without regard to lot lines, the evidence was sufficient to affirm the decision of the ZBA.

In this matter of first impression, governing bodies and zoning boards of adjustment now know they should review requests to "unmerge" lots based upon all of the circumstances of actual use of the property, and that the lack of a request to voluntarily merge the lots by a current or former owner will not, standing alone, support such a request.



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