

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC
ATTORNEYS AT LAW

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October 11, 2022

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Jeffrey and Melissa Foy, Owner/Applicant
67 Ridges Court
Tax Map 207/Lot 59
Single Residence B District

Dear Mr. Stith & Zoning Board Members:

On behalf of Jeffrey and Melissa Foy (“Foy”), enclosed please find the following in support of a request for zoning relief:

- 10/5/2022 – Revised Memorandum and exhibits in support of Variance Application

This revision corrects errors in the original Memorandum and incorporates minor plan changes in Exhibits A and B; there is no change to the relief requested.

We look forward to presenting this application to the Zoning Board at its October 18, 2022 meeting.

Very truly yours,



R. Timothy Phoenix

Encl.

cc: Jeffrey and Melissa Foy
Ambit Engineering, Inc.
Destefano Mangel

DANIEL C. HOEFLE	R. PETER TAYLOR	MONICA F. KIESER	STEPHANIE J. JOHNSON
R. TIMOTHY PHOENIX	KIMBERLY J.H. MEMMESHEIMER	SAMUEL HARKINSON	OF COUNSEL:
LAWRENCE B. GORMLEY	KEVIN M. BAUM	JACOB J.B. MARVELLEY	SAMUEL R. REID
STEPHEN H. ROBERTS	GREGORY D. ROBBINS	DUNCAN A. EDGAR	JOHN AHLGREN

OWNER'S AUTHORIZATION

We, Jeffrey & Melissa Foy, Owners/Applicants of 67 Ridges Court, Tax Map 207/Lot 59, hereby authorize law firm Hoefle, Phoenix, Gormley & Roberts, PLLC to represent me before any and all Portsmouth Representatives, Boards and Commissions for permitting the project.

Respectfully submitted,

Date:

Jeffrey Foy



Date:

Melissa Foy



MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: R. Timothy Phoenix, Esquire
DATE: October 11, 2022
Re: Jeffrey and Melissa Foy, Owner/Applicant
Property Location: 67 Ridges Court
Tax Map 207, Lot 59
Single Residence B (“SRB”)

Dear Chairman Parrott and Zoning Board Members:

On behalf of Jeffrey and Melissa Foy, Owner/Applicant (“Foy”), we are pleased to submit this memorandum and attached exhibits in support of zoning relief to allow a reduced garage addition at 67 Ridges Court, to be considered by the Portsmouth Zoning Board of Adjustment (“ZBA”) at its October 18, 2022 meeting.

I. EXHIBITS

- A. 10.5.2022 Site Plan Set – issued by Ambit Engineering, Inc.
 - Existing Conditions Plan
 - Variance Plan
- B. Architectural Plan Set – issued by Destefano Mauge.
 - Elevations – North and West
 - Elevations – South and East
 - Front & Rear Perspectives
 - Lower Level Floor Plans
 - First Floor Plans
 - Second Floor Plans
- C. Site Photographs.
- D. Tax Map 207.

II. PROPERTY/PROJECT

67 Ridges Court is a 16,500 s.f. lot located at the end of Ridges Court on Little Harbor in the Single Residence B Zoning District. Upon the lot is a 1.75 story, 1,591 s.f., 3-bedroom, 3 ½ bathroom Cape Cod style home and detached shed located on the left/northerly side of the lot, a dock extending into Little Harbor, and two driveways (the “Property”). Most of the lot is located in the 100 ft. tidal buffer zone from Little Harbor with a corner of the existing home and one of the paved driveways in the tidal buffer zone. The existing home also encroaches on the required front yard. Foy plans intends a 518 s.f. addition incorporating a lower level garage, expanded living room with rear deck and trellis, an additional master bedroom above (the “Project”). This

addition is significantly smaller than the addition previously proposed and denied by the ZBA on August 16, 2022.

The 518 s.f. addition is placed over a portion of paved driveway and is accompanied by significant removal of surrounding pavement in the tidal buffer, replacing a small area with porous parking. The Project meets building coverage requirements, reduces impervious coverage, and complies with open space requirements. In advance of required Conservation Commission Review and Planning Board Approval of a Conditional Use Permit, Foy seeks a variance for an addition 15.8 ft. from the front lot line where 19 ft. is required. ¹

III. RELIEF REQUIRED

<u>Variance Section</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
<u>PZO §10.521</u> <u>Table of Dimensional Standards –</u> <u>Minimum Yard Dimensions</u>	Front 19' ²	13.6' Home 8.2' Porch	15.8' Addition
<u>PZO §10.321</u> <u>Expansion of Nonconforming Structure</u>			

IV. FISHER V. DOVER ANALYSIS

As stated, the ZBA previously considered and denied the prior owner’s application for variances in August. Based on the notices of decision and the August 16, 2022 Minutes, ZBA Members heard from abutting lot owners about the impact of the addition on their viewsheds and environmental impacts. The ZBA has no jurisdiction over environmental impacts, which will be the addressed by the Conservation Commission and Planning Board with a Conditional Use Permit, but determined there was no hardship.

In Fisher v. City of Dover, 120 N.H. 187, 190 (1980), the Supreme Court held that once an applicant makes a request to the ZBA and is denied, the ZBA may hear a subsequent variance request only upon a finding “a material change of circumstances” or unless it “materially differs in nature and degree from its predecessor.” The court based its decision on concerns that absent a material change in circumstances or the application, there would be no finality to ZBA

¹ PZO §10.516 provides for a yard setback requirement based on the average setback derived from houses within 200 ft. of the lot. We have measured the front setbacks of the three properties within 200 ft. of Foy on the left side of Ridges Court and confirmed with Planner Stith that the required setback is 19 ft.

² PZO §10.516.

proceedings, thus threatening “the integrity of the zoning plan.” *Id.* In cases subsequent to *Fisher*, however, the court clarified that this restriction does not apply to “a subsequent application explicitly or implicitly invited by the ZBA and modified to address its concerns.” Hill-Grant Living Trust Small v. Kearsarge Lighting Precinct, 159 N.H. 529, 536 (2009) (citing Morgenstern v. Town of Rye, 147 N. H. 558 (2002)).

In contrast to the previous proposal, the revised Foy Project proposing a 518 s.f. addition is a significant reduction from the previously proposed 718 s.f. addition. It removes one garage bay and relocates the deck and trellis to the rear, presenting less visual impact. Furthermore, removal of pavement reduces impervious coverage compared to existing conditions. In addition, the application of PZO §10.516 exception to the yard setback results Foy’s request for a 3.2 ft. deviation from the required 19 ft. Accordingly, today’s application meets the “material difference” requirement of Fisher v. Dover allowing this Board to consider Foy’s requested relief.

V. VARIANCE REQUIREMENTS

1. The variances will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The first step in the ZBA’s analysis is to determine whether granting the variances are not contrary to the public interest and are consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting the variances “would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives.” *Id.* “Mere conflict with the zoning ordinance is not enough.” *Id.*

Portsmouth Zoning Ordinance (“PZO”) Section 10.121 identifies the general purposes and intent of the ordinance “to promote the health, safety, and general welfare of Portsmouth...in accordance with the...Master Plan” This is accomplished by regulating:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – The intended use of the property is and will remain residential. The requested relief will allow Foy to add a single garage and increase living space while meeting building coverage and open space requirements. The Project also reduces impervious coverage compared to existing conditions.
2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The lot and intensity of its use will not change, as it will continue to be used as a single-family residence. The addition is set

- back further from the front lot line than the existing home, preserving pedestrian and sight lines on the dead-end street. Building coverage requirements and open space requirements are also met by the Project, which reduces impervious coverage compared to existing conditions.
3. The design of facilities for vehicular access, circulation, parking and loading – The garage will be located where the current paved driveway is situated, ensuring a straight route to the street, eliminating the need for turning radius and additional impervious surfaces. Additional paved surfaces will be removed, with a portion replaced with porous surfaces to accommodate guest parking on the narrow, dead end street.
 4. The impact on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – There will be no increase in noise or lighting. The Project constructs a smaller addition on an already paved area, removes asphalt, replacing a small section with porous material. As a result, overall impervious coverage is decreased improving stormwater management. The existing stone walls and landscaping on the Property will not be disturbed by the garage addition.
 5. The preservation and enhancement of the visual environment – The design places the garage on the lower level and incorporates a deck and trellis behind the addition, preserving sightlines to Little Harbor.
 6. The preservation of historic districts and building and structures of historic architectural interest – The Property is not in the Historic Overlay District.
 7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – Granting the variances will not undermine these purposes of the Ordinance where the existing landscaping will not be disturbed by the Project and impervious coverage will be reduced from 26.6% to 23.0%, well below the required 40% open space minimum requirement.

The intent of the SRB Zone is to “provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses.” PZO §10.410. The Property, like many in the neighborhood, contains a home which does not comply with front setback requirements. **(Exhibit C & D)**. The proposal meets the intent of the SRB Zone because it does not change the intensity of the use and allows Foy to add covered parking and gain more living space. Given these factors, granting the requested variance will not conflict with the basic zoning objectives of the PZO.

In considering whether variances “in a marked degree conflict with the ordinance such that they violate the ordinance’s basic zoning objectives,” Malachy Glen, supra, also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to determine whether it would alter the essential character of the locality... . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

There are numerous other properties in the immediate area that include main or accessory structures that encroach on front, side, or rear setbacks. **(Exhibits C & D)**. The garage will be placed in the current paved driveway area and is accompanied by removal of impervious asphalt decreasing impervious coverage and increasing open space. The Project is located further back from the front lot line than the existing home located on the last residentially developed lot on the east side of this dead-end street . Given the number of buildings in the area encroaching on front, side, or rear setbacks, the proposal is in keeping with the surrounding area. The minimal relief required to accommodate the reduced addition on the last house of a dead end street will not jeopardize sightlines for pedestrians or motorists. Granting the variance neither alters the essential character of the locality nor threatens the public health, safety, or welfare. Accordingly, granting the variance to allow construction of a garage and increased living space is not contrary to the public interest and observes the spirit of the ordinance.

3. Granting the variances will not diminish surrounding property values.

The Project adds covered parking/storage, a main bedroom suite, and increases indoor and outdoor living space, thus improving the value of the Property and those around it. The reduced Project incorporating the deck and trellis behind the home retains viewsheds enjoyed by abutting lot owners. The addition is more conforming than the existing home. The 3.2 ft. deviation from the 19 ft. front yard requirement matches the setback of the surrounding homes and will not negatively affect access to air and light. Accordingly, the variances will not diminish surrounding property values.

4. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property from others in the area.

More than half the Property is burdened by the 100 ft. tidal buffer zone, and the existing home located on the far left/northern side of the lot in the front yard setback and at the left side setback. These factors drive the location of the proposed addition and combine to create special conditions.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

The purpose of setback and expansion requirements is to prevent overbulking and overburdening of land and to ensure sightlines for pedestrians and motorists, adequate light and air, and sufficient area for stormwater treatment. The Project is located further back from the lot

line than the existing porch and home in the front yard setback and incorporates a deck/trellis behind allowing ample open space and light and preventing overbulking. Given its location at the end of a dead-end street with minimal traffic, adequate sight lines for pedestrian and vehicular access are maintained. The Project also removes excess asphalt on the Property, reducing impervious coverage and improving stormwater management compared to existing conditions.

Moreover, the neighborhood overall is similarly densely developed with multiple nearby parcels non-conforming for setbacks. See Walker v. City of Manchester, 107 N.H. 382, 386 (1966) (Hardship may be found where similar nonconforming uses exist within the neighborhood and the proposed use will have no adverse effect on the neighborhood). See also Belanger v. City of Nashua, 121 N.H. 389 (1981) (Variance proper where ordinance no longer reflects the current character of neighborhood). Accordingly, there is no fair and substantial relationship between the purposes of the ordinance and its application in this instance.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). Residential use is permitted in the SRB Zone and includes accessory buildings incidental to the permitted use. The proposed addition is reasonably sized, and accompanied by site improvements which reduce impervious compared to existing conditions. Accordingly, the proposed use is reasonable, and denial will result in an unnecessary hardship to Foy.

5. Substantial justice will be done by granting the variances.

If “there is no benefit to the public that would outweigh the hardship to the applicant” this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011). That is, “any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, supra at 109.

Foy is constitutionally entitled to the use of the lot as they see fit; including the addition of a garage and expansion of living space, subject only to its effect on the dimensional requirements. “The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions.” N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that “no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the

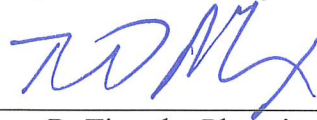
people.” Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). “Property” in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it*. Burrows v. City of Keene, 121 N.H. 590, 597 (1981) (emphasis added).

The Project retains the same use and offers additional covered parking and expanded living space indoors and out while complying with building coverage and reducing impervious coverage. In addition, the Project preserves access to air and light, while maintaining sight lines on a waterfront lot at the end of a dead-end street, so there is no harm to the public in granting the variance. Conversely, Foy will be greatly harmed by denial of the variance because they will be unable to expand parking, storage, and living space. Accordingly, substantial justice will be done by granting the variance.

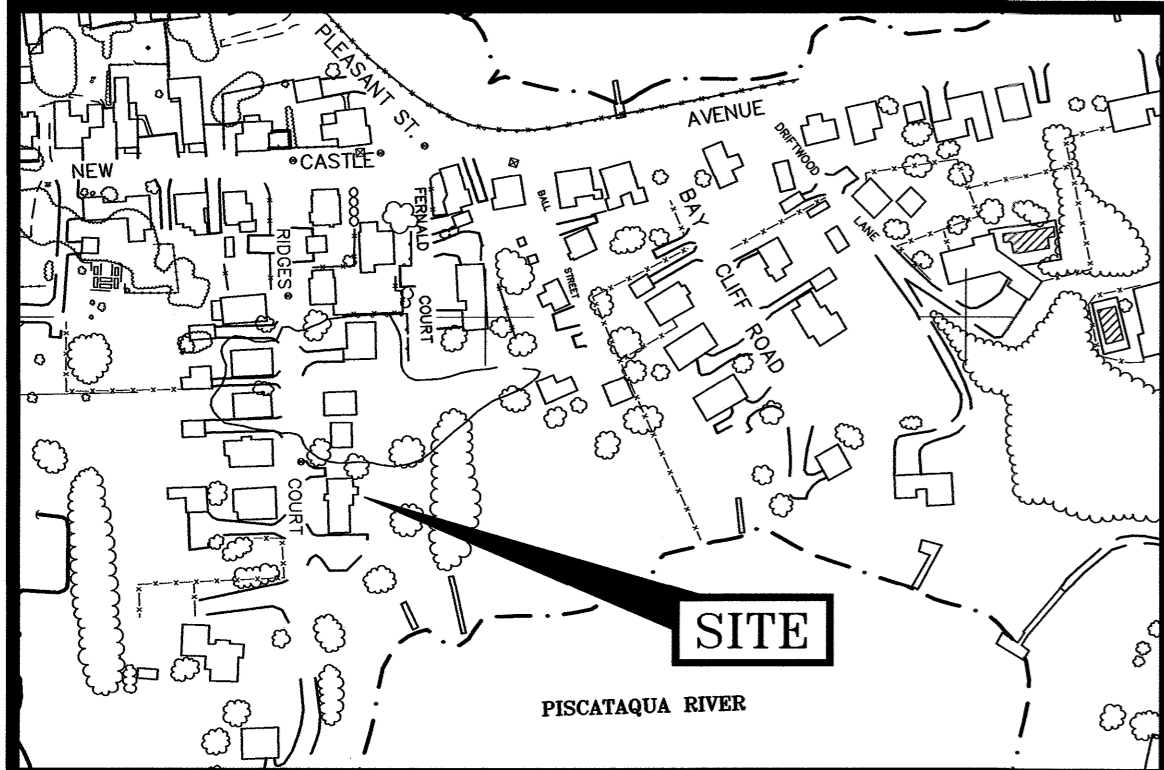
VI. CONCLUSION

For all of the reasons stated, Jeffrey and Melissa Foy respectfully request that the Portsmouth Zoning Board of Adjustment grant the requested variance.

Respectfully submitted,
Jeffrey and Melissa Foy



By: R. Timothy Phoenix



LOCATION MAP SCALE 1" = 200'

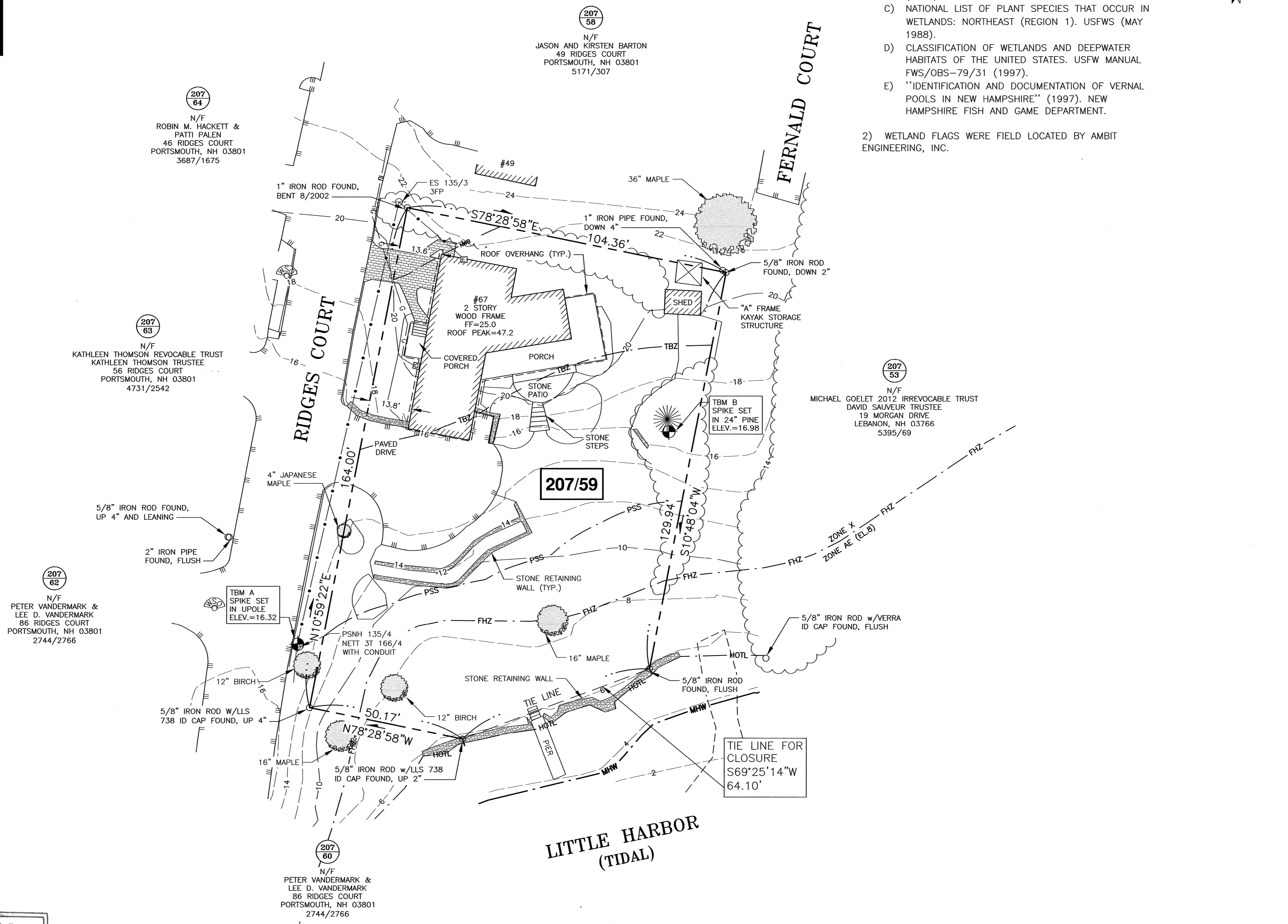
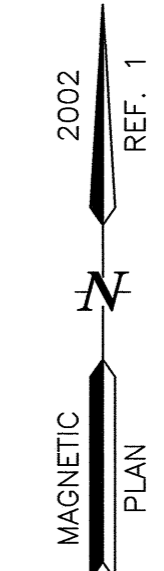
LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
(11/21)	MAP 11 / LOT 21
○	RAILROAD SPIKE FOUND
○	IRON ROD/IRON PIPE FOUND
○	DRILL HOLE FOUND
○	STONE/CONCRETE BOUND FOUND
○	RAILROAD SPIKE SET
○	IRON ROD SET
○	DRILL HOLE SET
○	GRANITE BOUND SET
○	BOUNDARY
---	BUILDING SETBACK
---	MEAN HIGH WATER LINE
---	NHDES HIGHEST OBSERVABLE TIDE LINE
---	PSS NHDES 50' PRIMARY STRUCTURE SETBACK
---	TBZ NHDES 100' TIDAL BUFFER ZONE
---	NWB NHDES 150' NATURAL WOODLAND BUFFER
---	SWOPA NHDES 250' PROTECTED SHORELAND
---	FHZ FEMA SPECIAL FLOOD HAZARD AREA LINE
---	OVERHEAD ELECTRIC/WIRES
---	CONTOUR
---	SPOT ELEVATION
---	EDGE OF PAVEMENT (EP)
---	WOODS / TREE LINE
---	UTILITY POLE (w/ GUY)
---	WELL
---	METER (GAS, WATER, ELECTRIC)
---	EDGE OF WETLAND FLAGGING
---	SWAMP / MARSH
---	ELEVATION
---	EDGE OF PAVEMENT
---	FINISHED FLOOR
---	INVERT
---	TEMPORARY BENCHMARK
---	TYP. TYPICAL
---	LSA LANDSCAPED AREA

PLAN REFERENCES:
 1) PROPOSED ADDITIONS, CHARLES MCLEOD, 67 RIDGES COURT PORTSMOUTH, NH, PROPOSED SITE PLAN. PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2002. NOT RECORDED.
 2) PLAN OF LOTS, RIENZI RIDGE. PREPARED BY JOHN W. DURGIN. DATED MARCH 1976. R.C.R.D. PLAN #0188.

WETLAND NOTES:
 1) HIGHEST OBSERVABLE TIDE LINE DELINEATED BY STEVEN D. RIKER, CWS ON 7/1/20 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
 A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL. TECHNICAL REPORT Y-87-1 (JAN. 1987). AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
 B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 8.2, USDA-NRCS, 2018 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 4. NEIWPCC WETLANDS WORK GROUP (2019).
 C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1), USFWS (MAY 1988).
 D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFW MANUAL FWS/OBS-79/31 (1997).
 E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.

2) WETLAND FLAGS WERE FIELD LOCATED BY AMBIT ENGINEERING, INC.



AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 430-9282
 Fax (603) 436-2315

- NOTES:**
- 1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S MAP 207 AS LOT 59.
 - 2) OWNERS OF RECORD:
 JEFFREY M. & MELISSA FOY
 4 FOX HOLLOW COURT
 EAST KINGSTON, N.H. 03827
 6325/1066
 - 3) PORTIONS OF THE PARCEL ARE IN A SPECIAL FLOOD HAZARD AREA AE (EL.8) AS SHOWN ON FIRM PANEL 33015C0278F. EFFECTIVE JANUARY 29, 2021.
 - 4) EXISTING LOT AREA:
 16,500± S.F. (PLAN REF. 1)
 0.3788± ACRES (PLAN REF. 1)
 - 5) PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:
 MIN. LOT AREA: 15,000 S.F.
 FRONTAGE: 100 FEET
 SETBACKS: FRONT 30 FEET
 SIDE 10 FEET
 REAR 30 FEET
 MAXIMUM STRUCTURE HEIGHT: 35 FEET
 MAXIMUM STRUCTURE COVERAGE: 20%
 MINIMUM OPEN SPACE: 40%
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 207 LOT 59 IN THE CITY OF PORTSMOUTH.
 - 8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').

EXHIBIT A

**PROPOSED GARAGE
 FOY RESIDENCE
 67 RIDGES COURT
 PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ADD FEMA FHZ	6/27/22
0	ISSUED FOR COMMENT	5/18/22

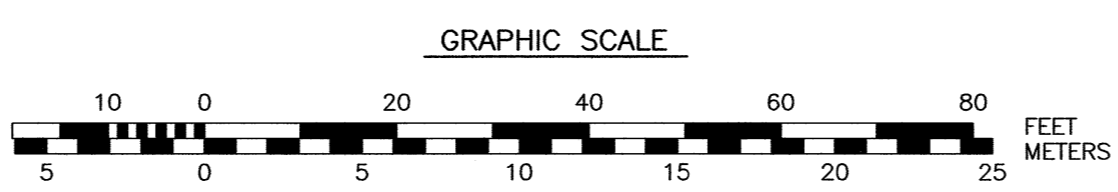
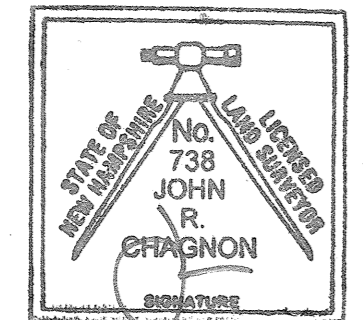
STATE OF NEW HAMPSHIRE
 STEVEN D. RIKER
 LICENSED WETLAND SCIENTIST
 No. 219

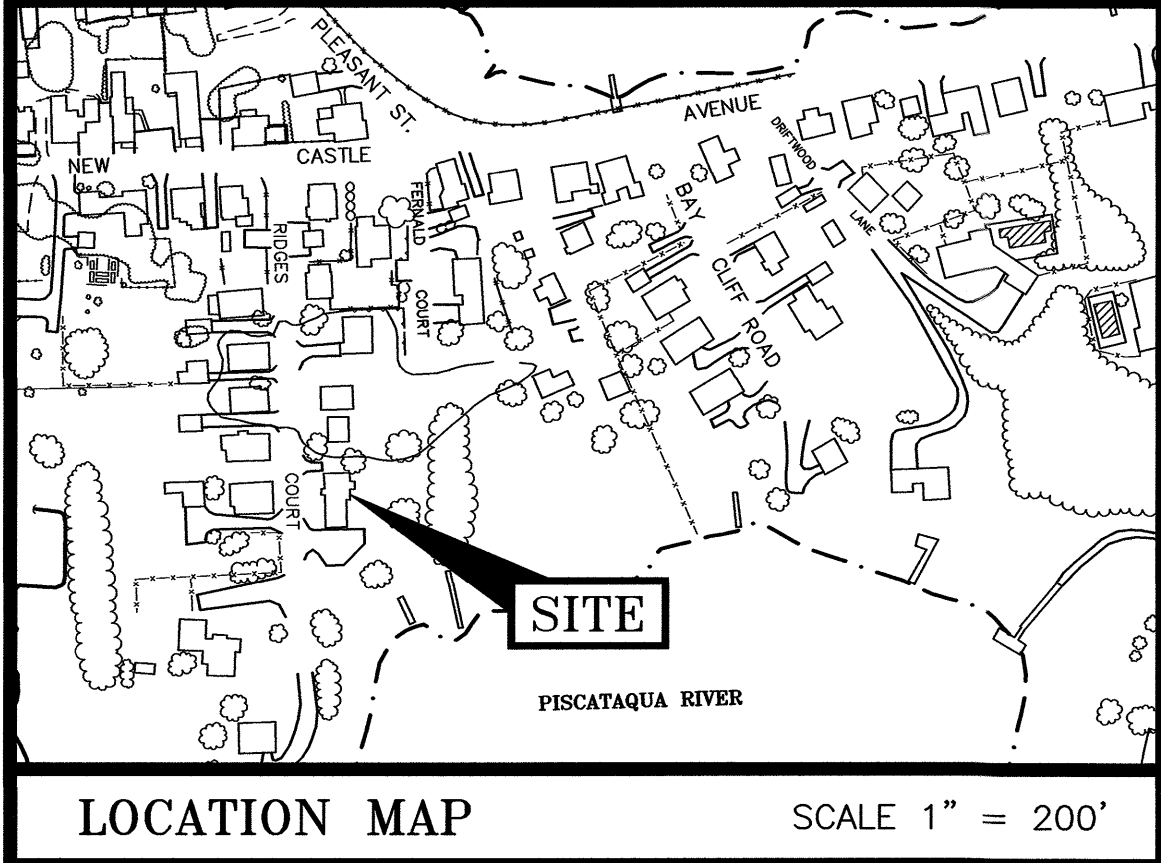
SCALE 1"=20' MAY 2022

EXISTING CONDITIONS PLAN **C1**

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

John R. Chagnon
 JOHN R. CHAGNON, LLS
 6-27-22
 DATE



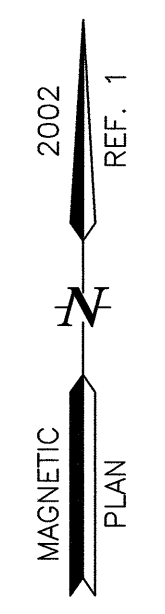


IMPERVIOUS SURFACE AREAS
(TO PROPERTY LINE)

STRUCTURE	PRE-CONSTRUCTION IMPERVIOUS (S.F.)	POST-CONSTRUCTION IMPERVIOUS (S.F.)
MAIN STRUCTURE	1,591	2,109
SHED	91	91
PORCHES	513	513
STAIRS	123	123
WALKWAYS	231	231
PAVEMENT	1452	334
RETAINING WALL	212	212
PATIO	109	109
CONCRETE	17	17
EXTERIOR STORAGE	50	50
TOTAL	4389	3789
LOT SIZE	16,500	16,500
% LOT COVERAGE	26.6%	23.0%

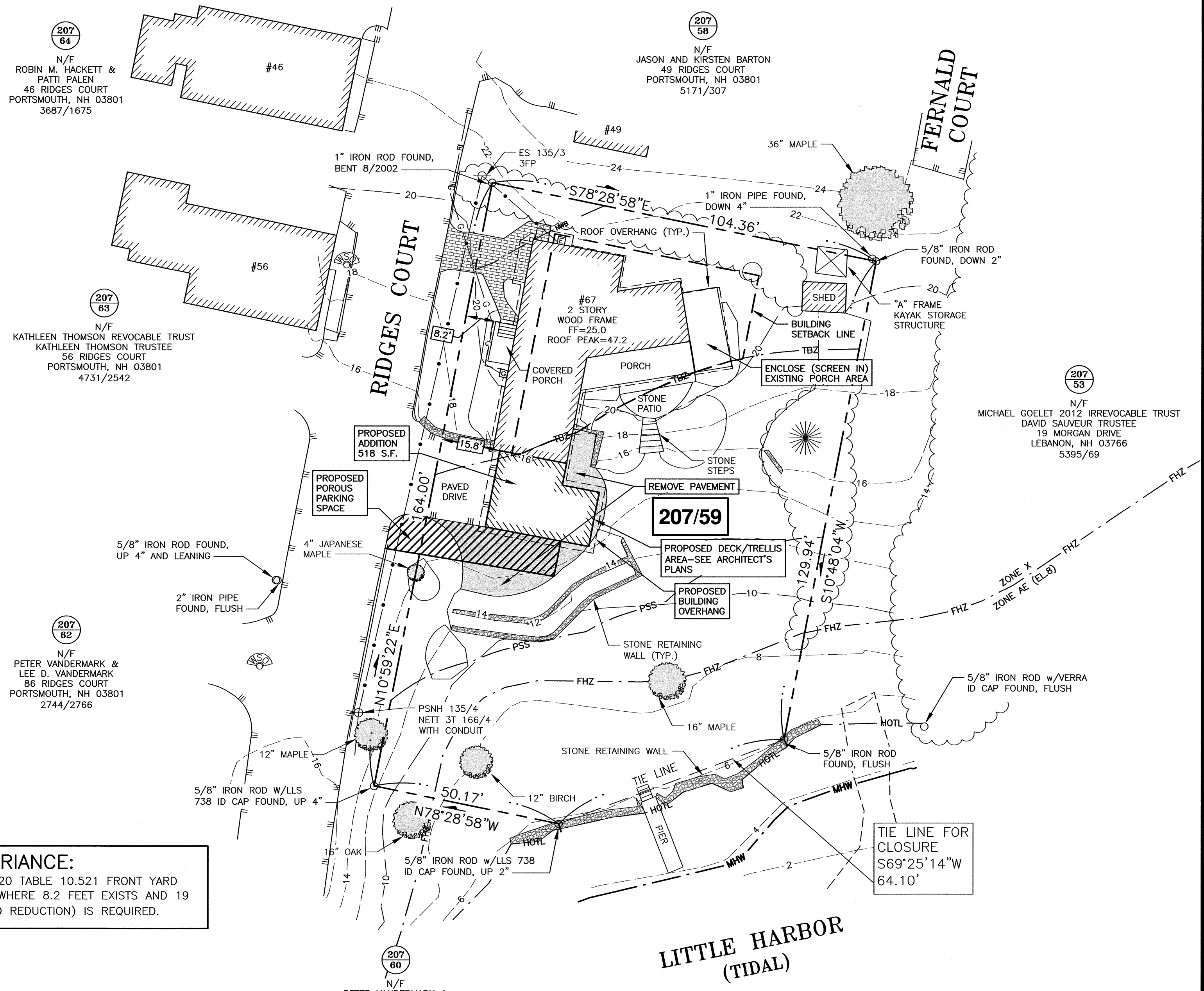
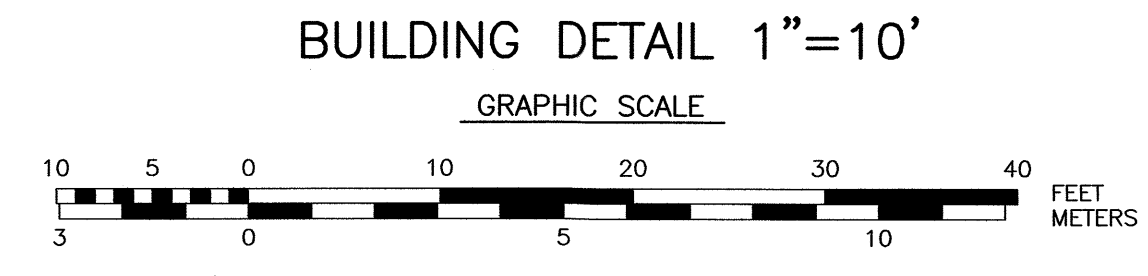
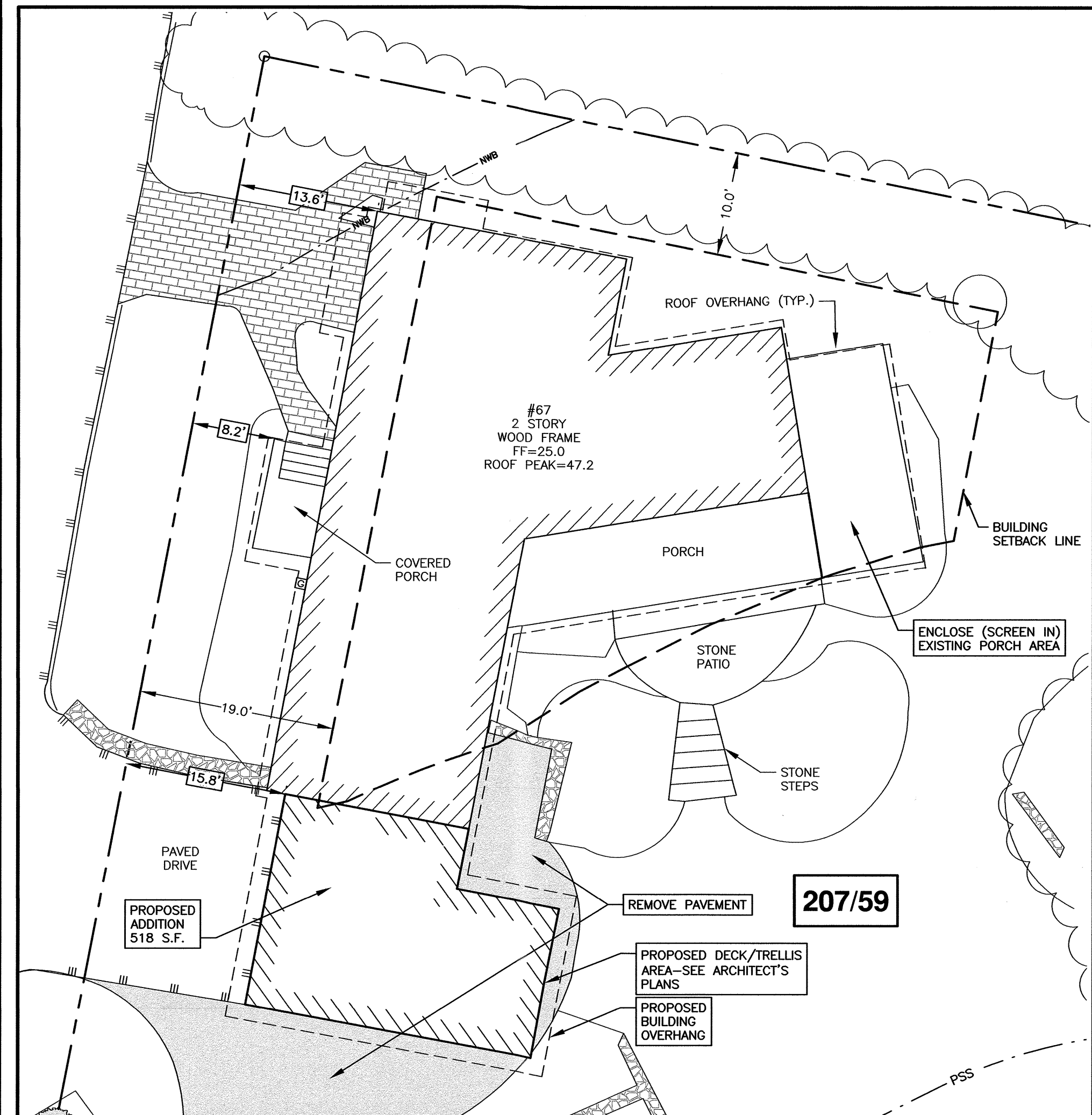
NOTES:
IN ACCORDANCE WITH THE PORTSMOUTH ZONING ORDINANCE, ARTICLE 5, SECTION 10.516.10 FRONT YARD EXCEPTION FOR EXISTING ALIGNMENTS: THE AVERAGE FRONT SETBACK FOR LOT 207/59 IS 19'.

MAP/LOT	SETBACK (FT)	AVG
207/58	13	
207/57	25	
2	38	19

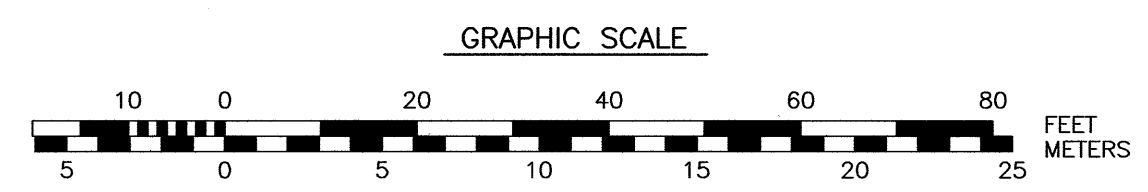


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 - 8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').
 - 9) PROPOSED GARAGE FROM PLAN BY DESTEFANO MAGUEL ARCHITECTS DATED SEPTEMBER 28, 2022.
 - 10) OFF SITE STRUCTURE LOCATIONS BASED ON CITY DATABASE LOCATIONS.



REQUESTED VARIANCE:
ARTICLE 5 SECTION 10.520 TABLE 10.521 FRONT YARD SETBACK OF 15.8 FEET WHERE 8.2 FEET EXISTS AND 19 FEET (SECTION 10.516.10 REDUCTION) IS REQUIRED.



**PROPOSED ADDITIONS
FOY RESIDENCE
67 RIDGES COURT
PORTSMOUTH, N.H.**

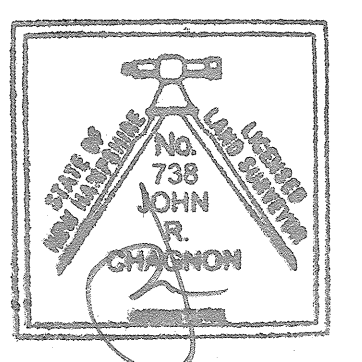
NO.	DESCRIPTION	DATE
1	DRIVEWAY WIDTH	10/5/22
0	ISSUED FOR COMMENT	9/28/22
REVISIONS		

SCALE 1"=20' SEPTEMBER 2022

VARIANCE PLAN **C2**

"I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

John R. Chagnon
JOHN R. CHAGNON, LLS DATE 10-5-22

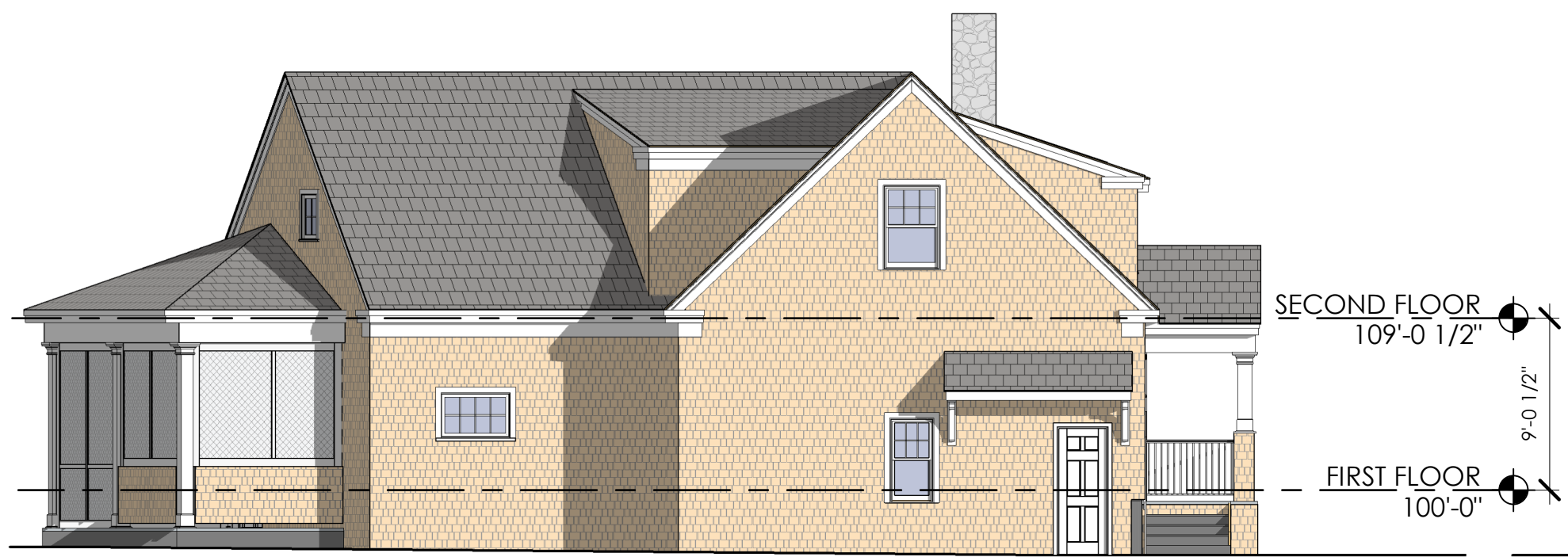




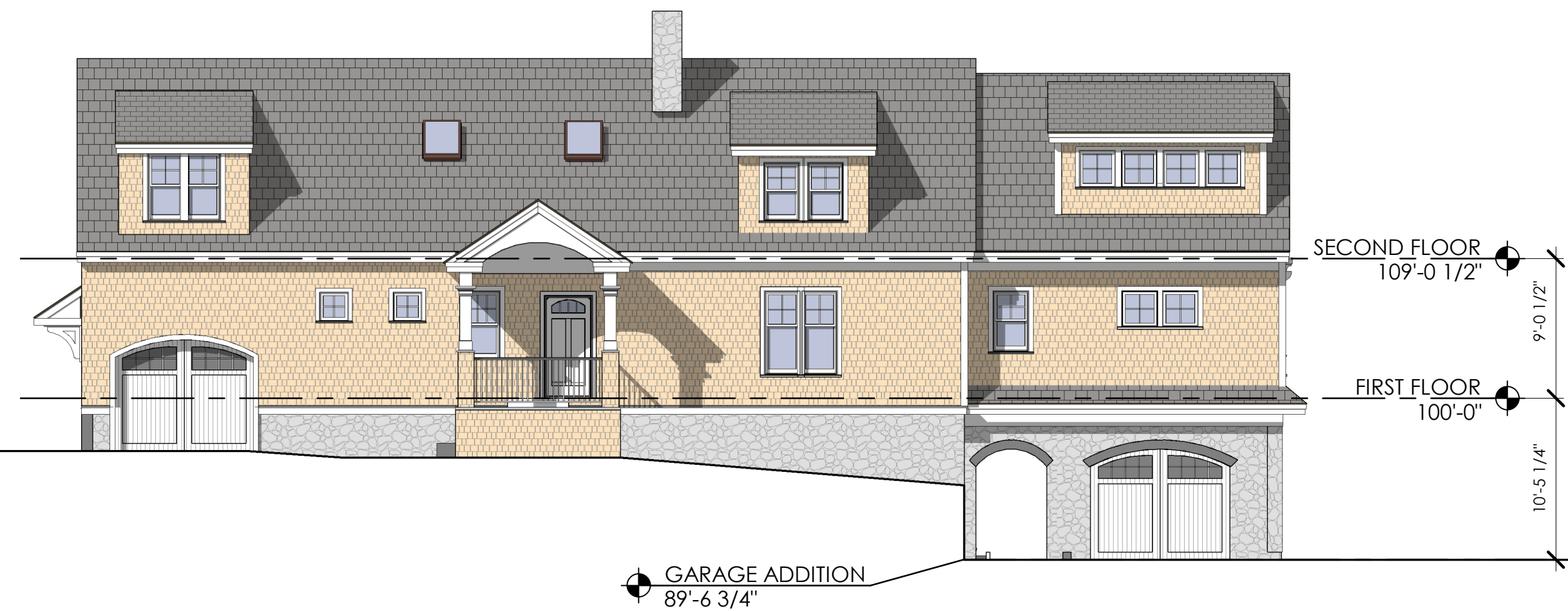
EXISTING NORTH ELEVATION



EXISTING WEST ELEVATION



PROPOSED NORTH ELEVATION ①
1/8" = 1'-0"



GARAGE ADDITION
89'-6 3/4"

PROPOSED WEST ELEVATION ②
1/8" = 1'-0"

EXHIBIT B - REV. 2

SCHEMATIC DESIGN FOR
FOY RESIDENCE
67 RIDGES CT
PORTSMOUTH, NH

ELEVATIONS
1/8" = 1'-0"

OCTOBER 11, 2022

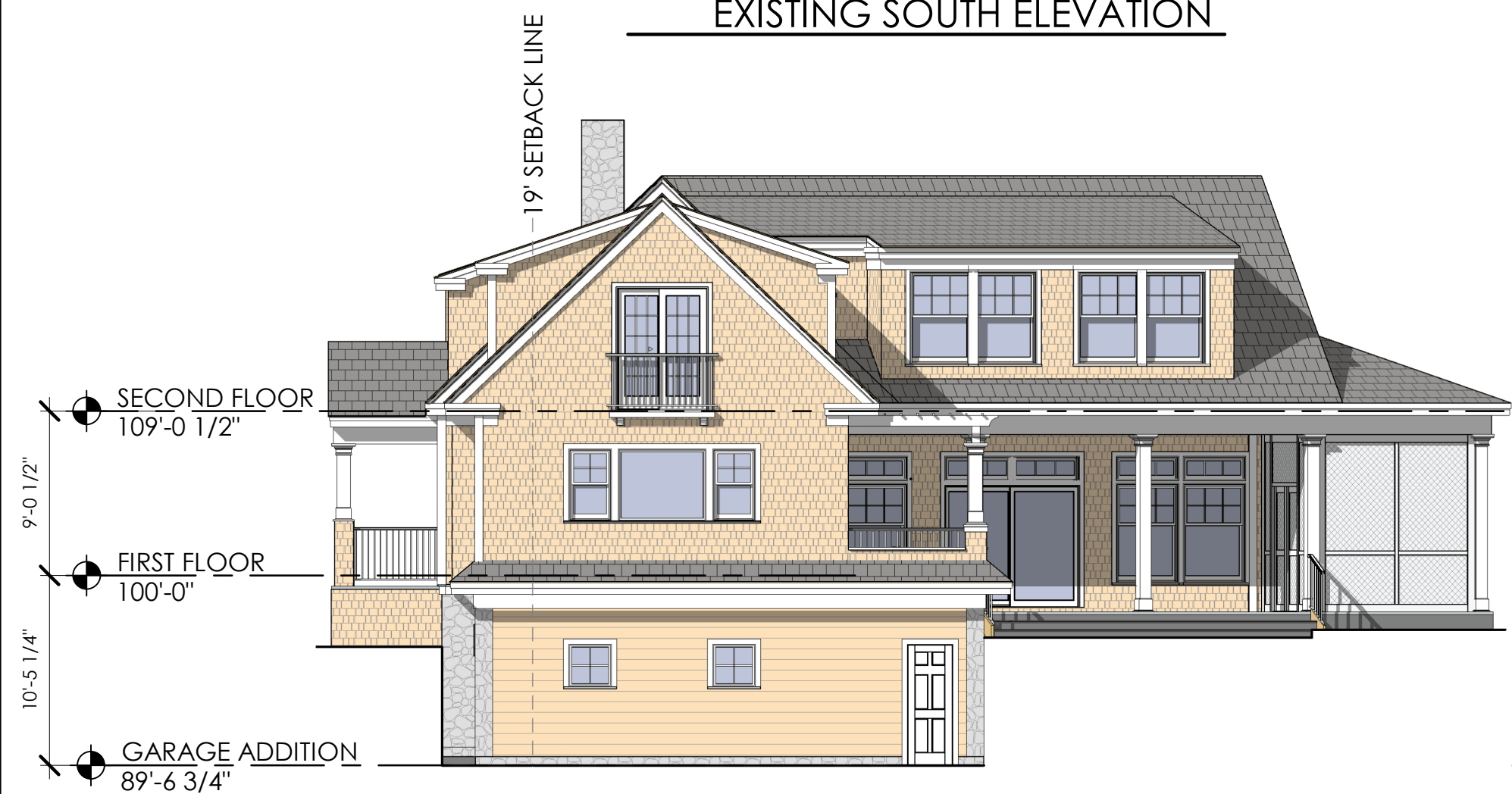




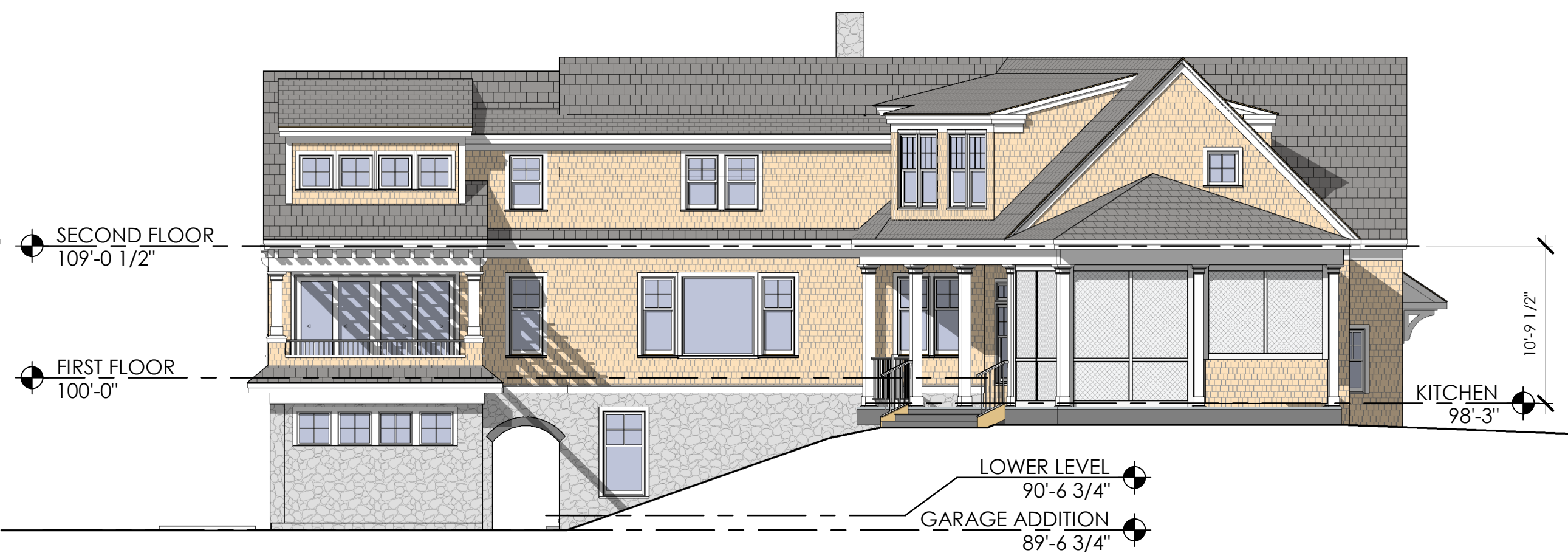
EXISTING SOUTH ELEVATION



EXISTING EAST ELEVATION



PROPOSED SOUTH ELEVATION 3
1/8" = 1'-0"



PROPOSED EAST ELEVATION 4
1/8" = 1'-0"

SCHEMATIC DESIGN FOR
FOY RESIDENCE
67 RIDGES CT
PORTSMOUTH, NH

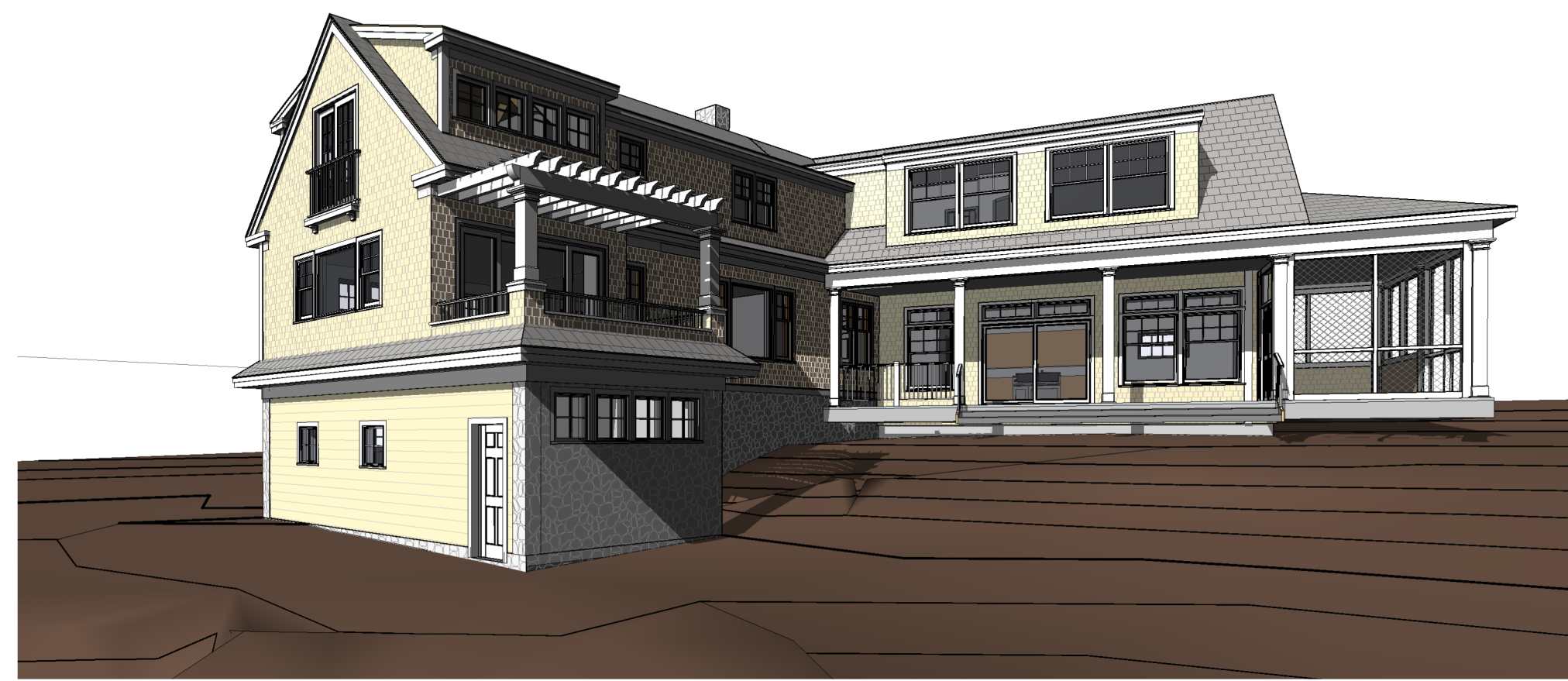
ELEVATIONS
1/8" = 1'-0"

OCTOBER 11, 2022

21177
D|M|A
DESTEFANO
MAUGEL
ARCHITECTS



PROPOSED FRONT VIEW



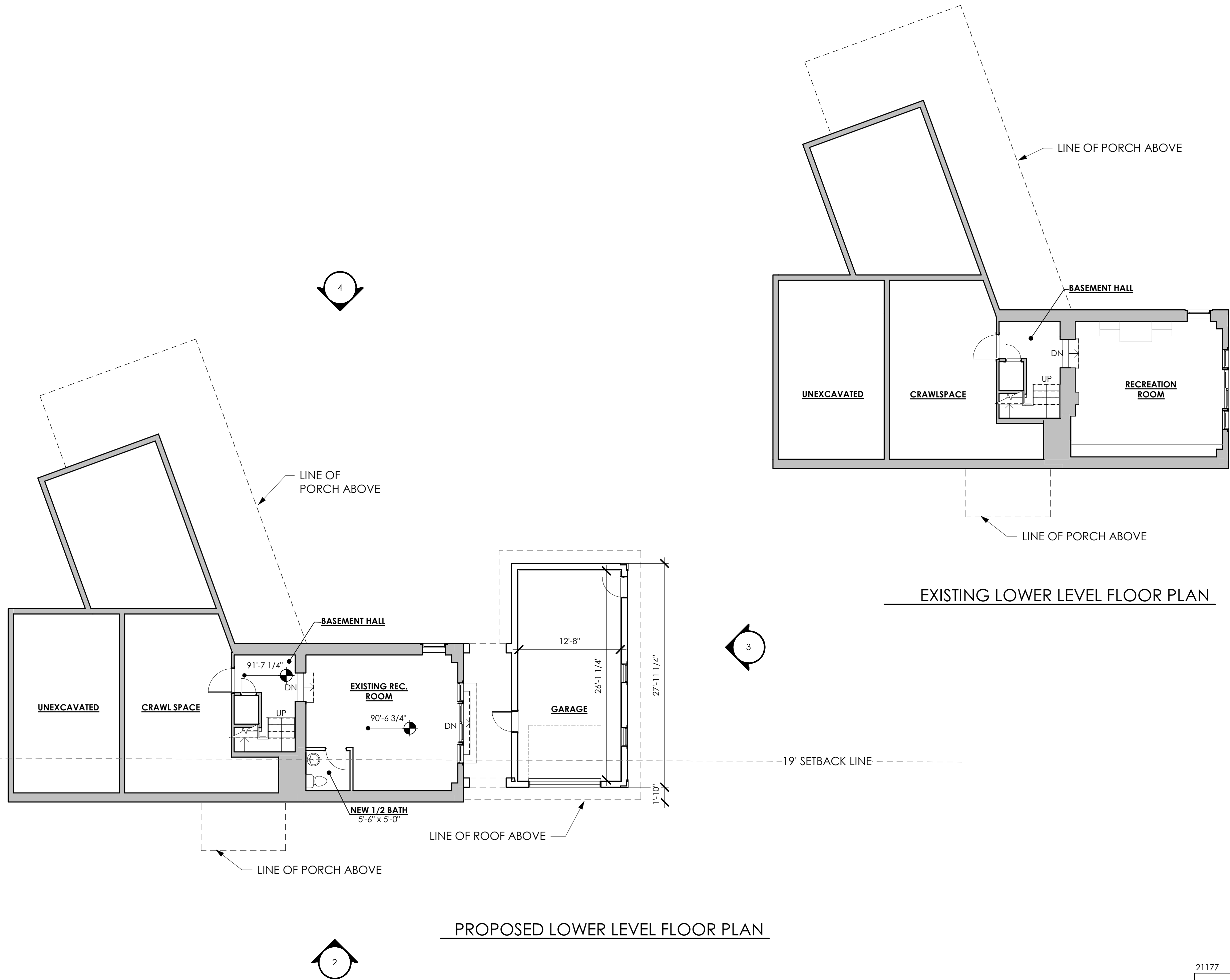
PROPOSED REAR PERSPECTIVE

SCHEMATIC DESIGN FOR
FOY RESIDENCE
67 RIDGES CT
PORTSMOUTH, NH

PERSPECTIVES

OCTOBER 11, 2022



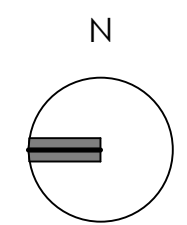


SCHEMATIC DESIGN FOR
FOY RESIDENCE

67 RIDGES CT
PORTSMOUTH, NH

FLOOR PLAN

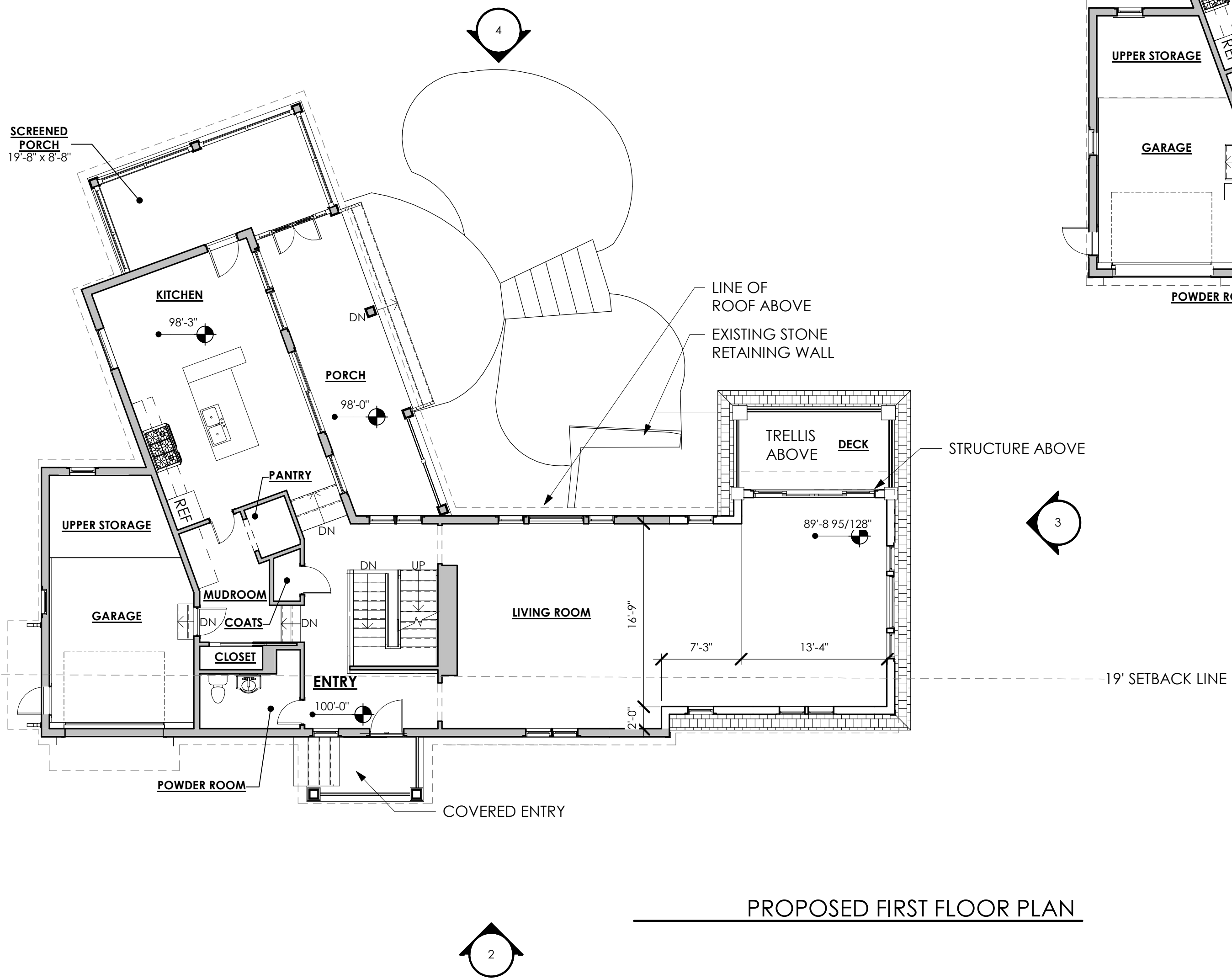
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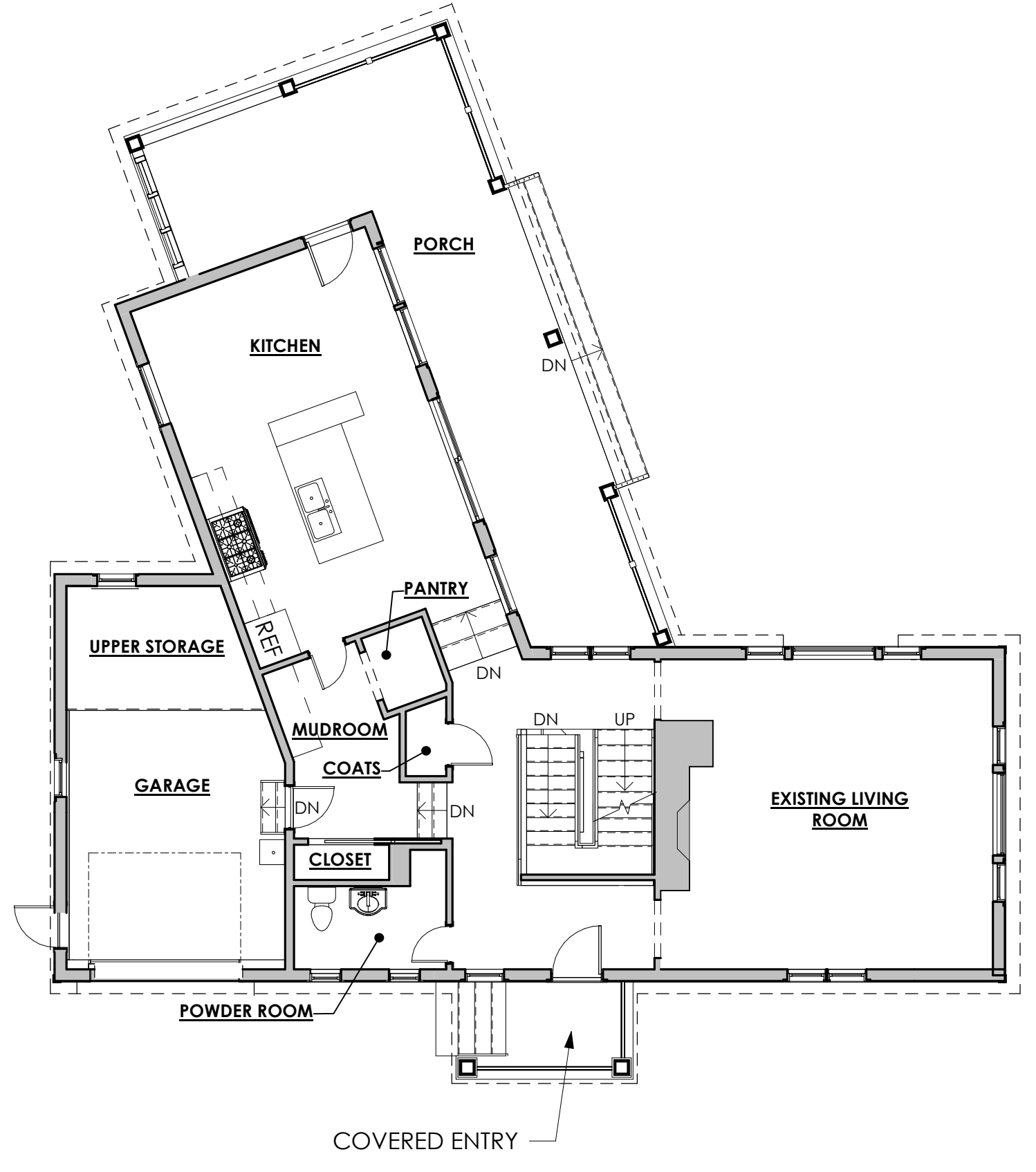
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ARCHITECTS

OCTOBER 11, 2022



PROPOSED FIRST FLOOR PLAN

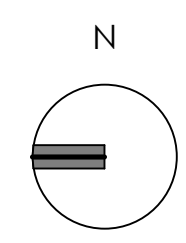


EXISTING FIRST FLOOR PLAN

SCHEMATIC DESIGN FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

FLOOR PLAN
 1/8" = 1'-0"

OCTOBER 11, 2022

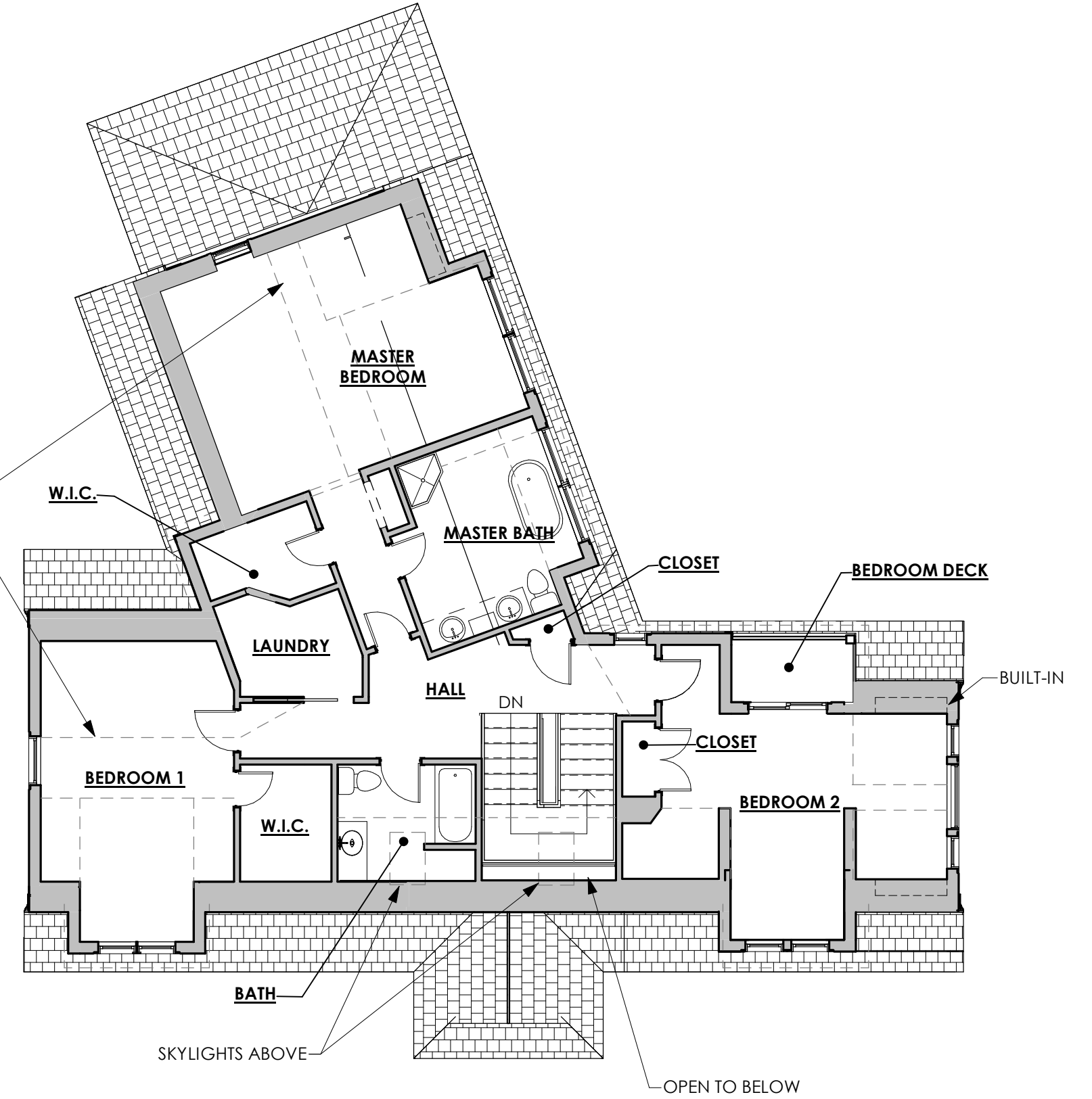


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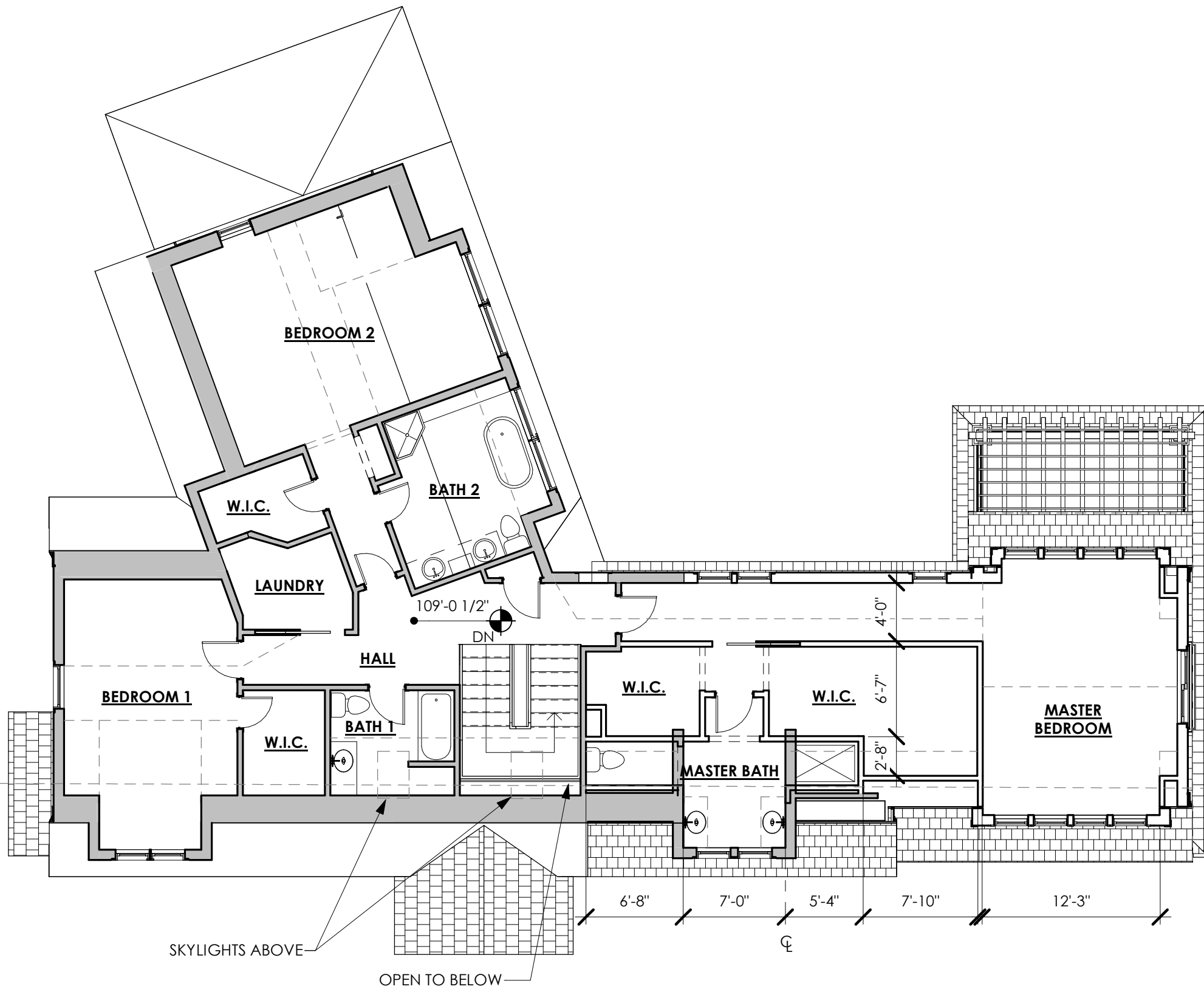
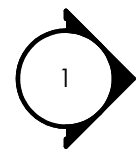
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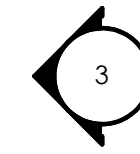
LINE OF CEILING CHANGES ABOVE



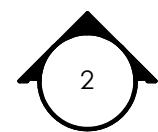
EXISTING SECOND FLOOR PLAN



PROPOSED SECOND FLOOR PLAN



19' SETBACK LINE

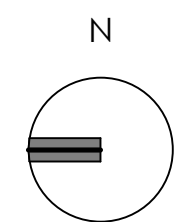


FLOOR PLAN

1/8" = 1'-0"

SCHEMATIC DESIGN FOR FOY RESIDENCE

67 RIDGES CT
PORTSMOUTH, NH



21177

D|M|A
DESTEFANO
MAUGEL
ARCHITECTS

OCTOBER 11, 2022



Imagery ©2022 Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, Map data ©2022 50 ft

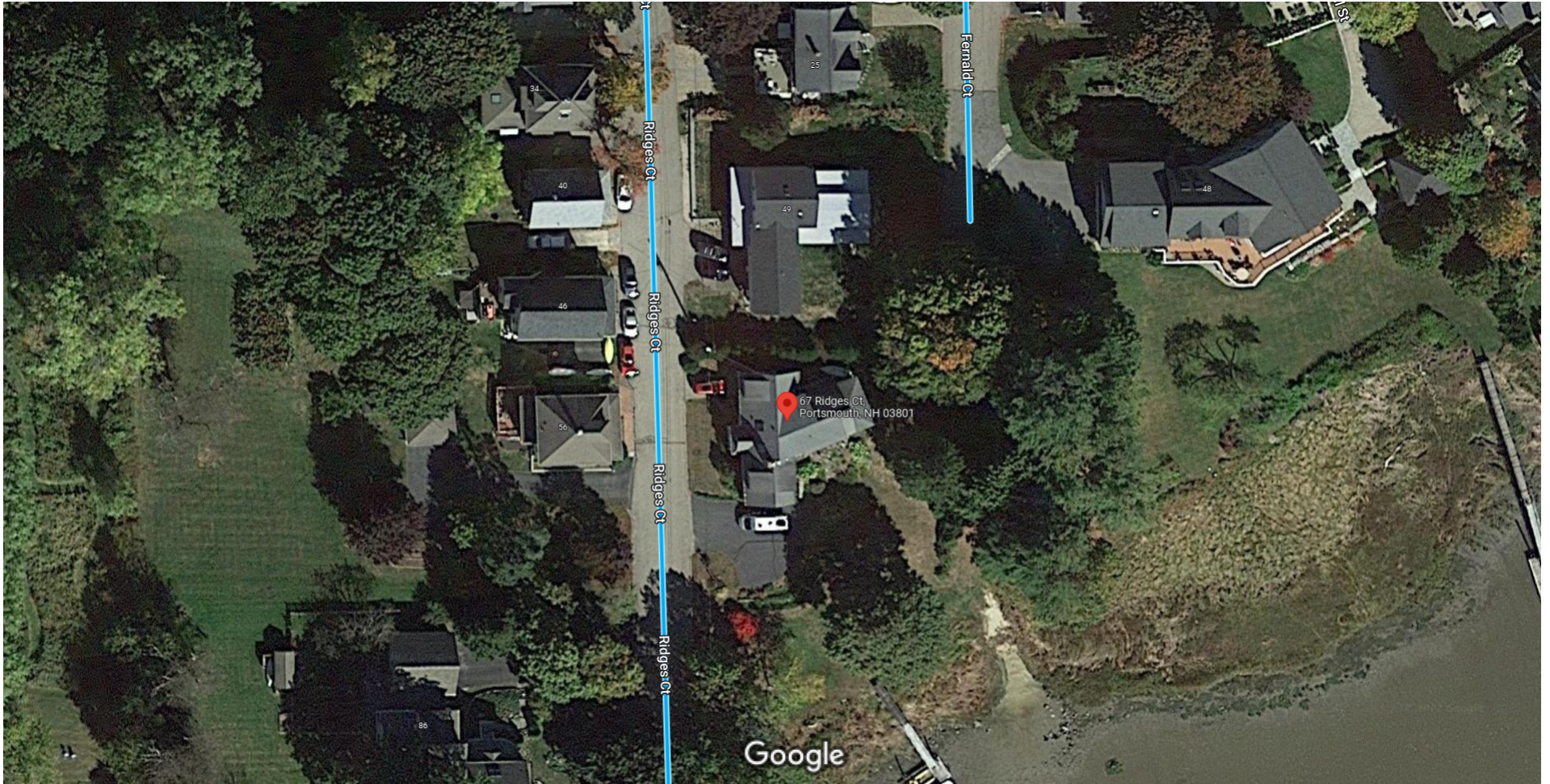




Image capture: Sep 2011 © 2022 Google

Portsmouth, New Hampshire

Google

Street View - Sep 2011



Image capture: Sep 2011 © 2022 Google

Portsmouth, New Hampshire

Google

Street View - Sep 2011

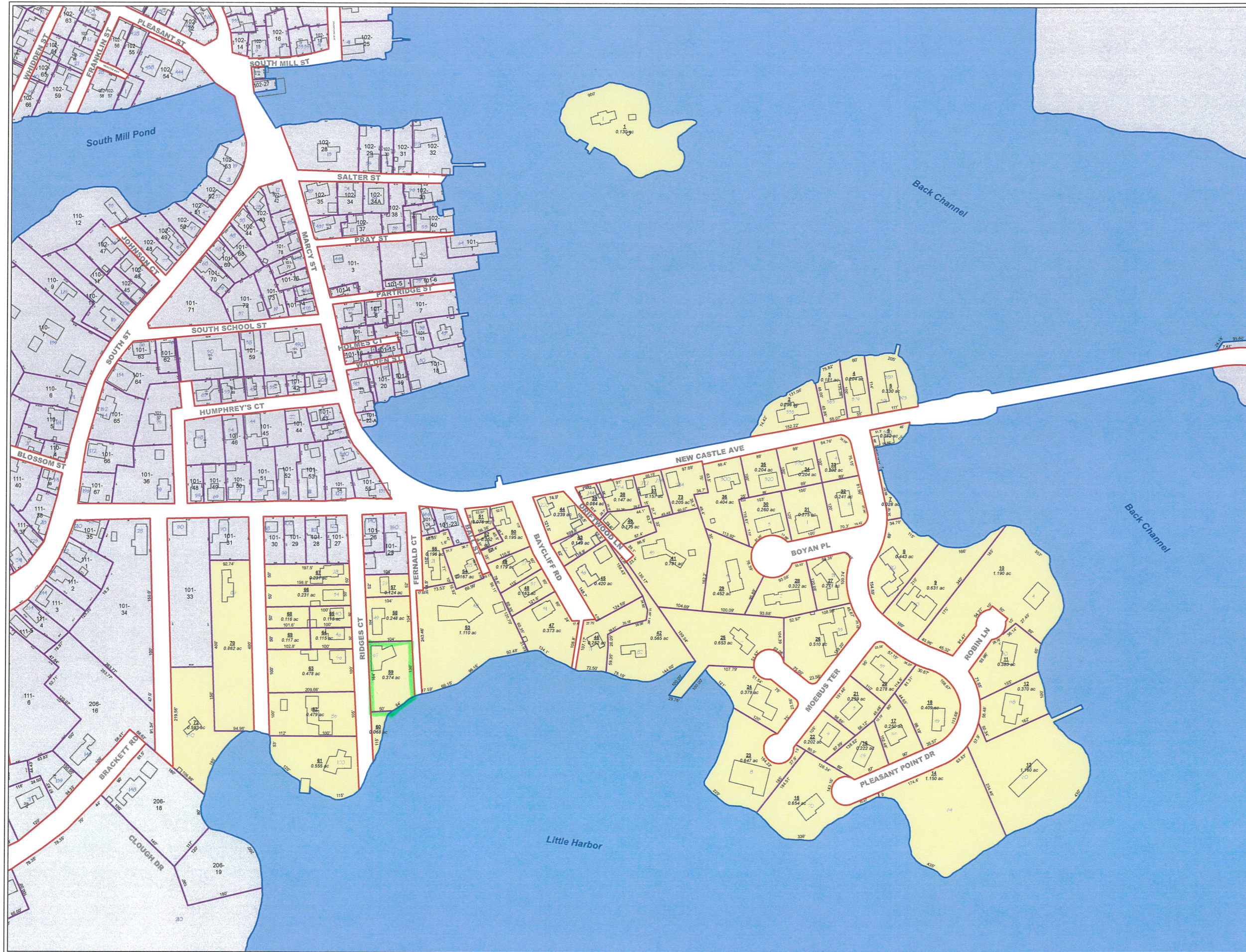


Image capture: Sep 2011 © 2022 Google

Portsmouth, New Hampshire

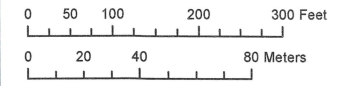
Google

Street View - Sep 2011

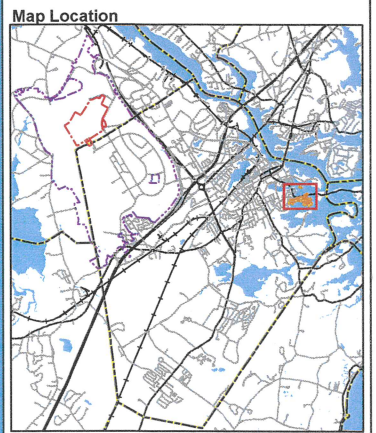
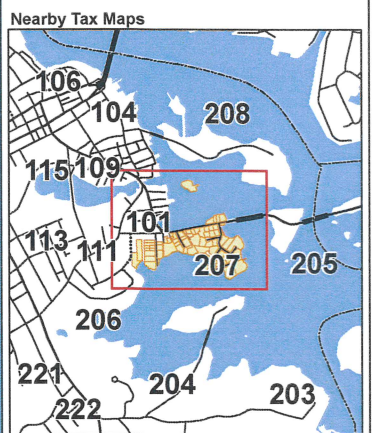


- Partial Legend**
 See the cover sheet for the complete legend.
- 7-5A Lot or lot-unit number
 - 2.56 ac Parcel area in acres (ac) or square feet (sf)
 - 7# Address number
 - 233-137 Parcel number from a neighboring map
 - 8# Parcel line dimension
 - SIMS AVE Street name
 - Parcel/Parcel boundary
 - Parcel/ROW boundary
 - Water boundary
 - Structure (1994 data)
 - Parcel covered by this map
 - Parcel from a neighboring map (see other map for current status)

EXHIBIT D



This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.



HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC
ATTORNEYS AT LAW

127 Parrott Avenue, P.O. Box 4480 | Portsmouth, NH, 03802-4480
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

November 4, 2022

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Jeffrey and Melissa Foy, Owner/Applicant
67 Ridges Court
Tax Map 207/Lot 59
Single Residence B District
LU-22-199

Dear Mr. Stith & Zoning Board Members:

On behalf of Jeffrey and Melissa Foy (“Foy”), enclosed please find the following in support of a request for zoning relief:

- **EXHIBIT B-Rev. 2** 10/11/2022 Architectural Plans (interior changes & color renderings).
- 11/4/2022 – Supplemental Memorandum and Exhibits in Support of Variance Application.

For your convenience, we will upload an updated complete application to Viewpoint.

We look forward to presenting this application to the Zoning Board at its November 15, 2022 meeting.

Very truly yours,



R. Timothy Phoenix

Encl.

cc: Jeffrey and Melissa Foy (via email)
Ambit Engineering, Inc. (via email)
Destefano | Mangel (via email)
Durbin Law (via email)

DANIEL C. HOEFLE
R. TIMOTHY PHOENIX
LAWRENCE B. GORMLEY
STEPHEN H. ROBERTS

R. PETER TAYLOR
KEVIN M. BAUM
GREGORY D. ROBBINS
MONICA F. KIESER

JACOB J.B. MARVELLEY
DUNCAN A. EDGAR
STEPHANIE J. JOHNSON

OF COUNSEL:
SAMUEL R. REID
JOHN AHLGREN

SUPPLEMENTAL MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: R. Timothy Phoenix, Esquire
DATE: November 4, 2022
Re: Jeffrey and Melissa Foy, Owner/Applicant
Property Location: 67 Ridges Court
Tax Map 207, Lot 59
Single Residence B (“SRB”)

Dear Chairman Parrott and Zoning Board Members:

On behalf of Jeffrey and Melissa Foy, Owner/Applicant (“Foy”), we are pleased to submit this Supplemental Memorandum and attached exhibits, which responds to the October 17, 2022 Letter submitted to the ZBA by Attorney Darcy Peyser on behalf of Kathleen Thompson.

I. EXHIBITS

- E. View Exhibit Plan Set – issued by Ambit Engineering, Inc.
 - 1. 46 Ridges Court Viewshed – June 29th application
 - 2. 56 Ridges Court Viewshed – June 29th application
 - 3. 46 Ridges Court Viewshed – September 28th application
 - 4. 56 Ridges Court Viewshed – September 28th application
- F. 8/14/2022 Letter – Real Estate Broker Robin Valeri.
- G. 8/15/2022 Technical Analysis Report – by Peter Stanhope, NH Certified General Appraiser.

II. FISHER V. DOVER

Consideration of subsequent petitions by a zoning board are limited to those which present a material change in circumstances affecting the application, propose a use materially different in nature or degree, or are implicitly or explicitly invited by the ZBA. Fisher v. Dover, 121 N.H. 187 (1980); Hill-Grant Living Trust v. Kearsarge Lighting Precinct, 159 N.H. 529 (2009). However, the limitation is not to be technically and narrowly imposed. Bois v. Manchester, 113 N.H. 339, 341 (1973) (holding a youth residential center for 15 boys referred by social services and supervised by 3 live-in staff materially different in nature and degree than a rooming house for 15 court-referred youths). Material changes also include the law applicable at the time of the application. Brandt Development Company v. City of Somersworth, 162 N.H. 553 (2011) (approving a project identical to one previously denied in light of changes in applicable law resulting from Simplex Techs., Inc. v. Town of Newington, 145 N.H. 727 (2001).

Given the legal framework governing subsequent petitions to the ZBA, the previous

concerns articulated by the ZBA and the changes presented in the current proposal, Foy's application meets the requirements of Fisher v. Dover and its progeny and therefore merits consideration. The Board denied Foy's June application representing a 14.5 ft. deviation from the Ordinance. **(July and August Staff Memo)**. With the applicable averaging, Foy's September 28th application represents a 3.5 ft. deviation from the Ordinance, a material change in circumstances. Additionally, the reduction in size removes nearly half the bulk from front yard setback compared to the June application, and it increases the distance from any impervious surface to Little Harbor. Contrary to Thomson's assertions, Foy's current proposal does not increase impervious coverage, it decreases impervious coverage compared to existing conditions and the June application. Foy's June application proposed 25.1% overall lot coverage, a reduction from the existing 26.6% lot coverage; Foy now proposes a further reduction to 23.0% through conversion of an area the impervious paving to a porous parking area for guests. Accordingly, there has been a material change in circumstances and Foy's current application is worthy of consideration. Fisher v. Dover, 121 N.H. 187 (1980).

When deliberating on the June application, the ZBA heard evidence on the effect of the addition on abutters' viewsheds and expressed concern about buffer impacts with a majority determining there was no hardship. While no abutter is entitled to a particular view absent an easement, the reduced proposal is less impactful because of its reduced size and because it represents minimal deviation from the Ordinance requirements. **(Compare Exhibit E1/E2 to E3/E4)**. Wetland buffer impacts, though not within the ZBA's purview, are also reduced by Foy's current proposal, which increases distance to the harbor and utilizes porous materials benefitting the Harbor even when compared to existing conditions. The current proposal is therefore responsive to the concerns raised by the ZBA and warrants full consideration. Hill-Grant Living Trust v. Kearsarge Lighting Precinct, 159 N.H. 529 (2009).

With respect to the submission of multiple applications, Attorney Phoenix was clear in his presentation to the ZBA on September 27th that two minor details requiring zoning relief were erroneously excluded from the June 29th variance application despite their presence on the plan set submitted with that application. **(Exhibit B to June 29, 2022 submission)**. The items requiring relief were a roof overhang on the left side of the existing home and a roof overhang in front of the existing front garage door; both were approved by the ZBA on September 27th. The left-side overhang is depicted on the current application, while the garage overhang remains

under consideration. Attorney Phoenix clearly advised the ZBA that Foys would be returning with a smaller addition the following month, but sought to “clean-up” the minor requests related to the two overhangs. The minor requests, the absence of any effect of those minor requests on Thomson, and Attorney Phoenix’s candor to the ZBA clearly disprove Thomson’s claim that Foy employed an improper strategy.

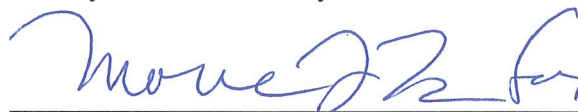
III. OPINION REGARDING PROPERTY VALUES

Realtor Robin Valeri and NH Certified Appraiser Peter Stanhope submitted reports demonstrating that the larger addition previously sought would not diminish the value of surrounding properties. Those expert opinions are equally applicable to the reduced proposal presently before the ZBA and are attached for the Board’s consideration. **(Exhibits F, G).**

IV. CONCLUSION

For all the reasons stated here and in our September 28, 2022 submission, we urge the ZBA to consider Foy’s variance application on the merits and grant the requested front yard setback relief. We look forward to presenting the Project on November 15, 2022.

Respectfully submitted,
Jeffrey and Melissa Foy



By: R. Timothy Phoenix

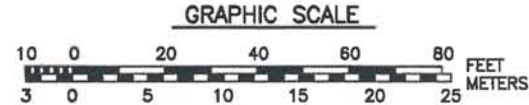
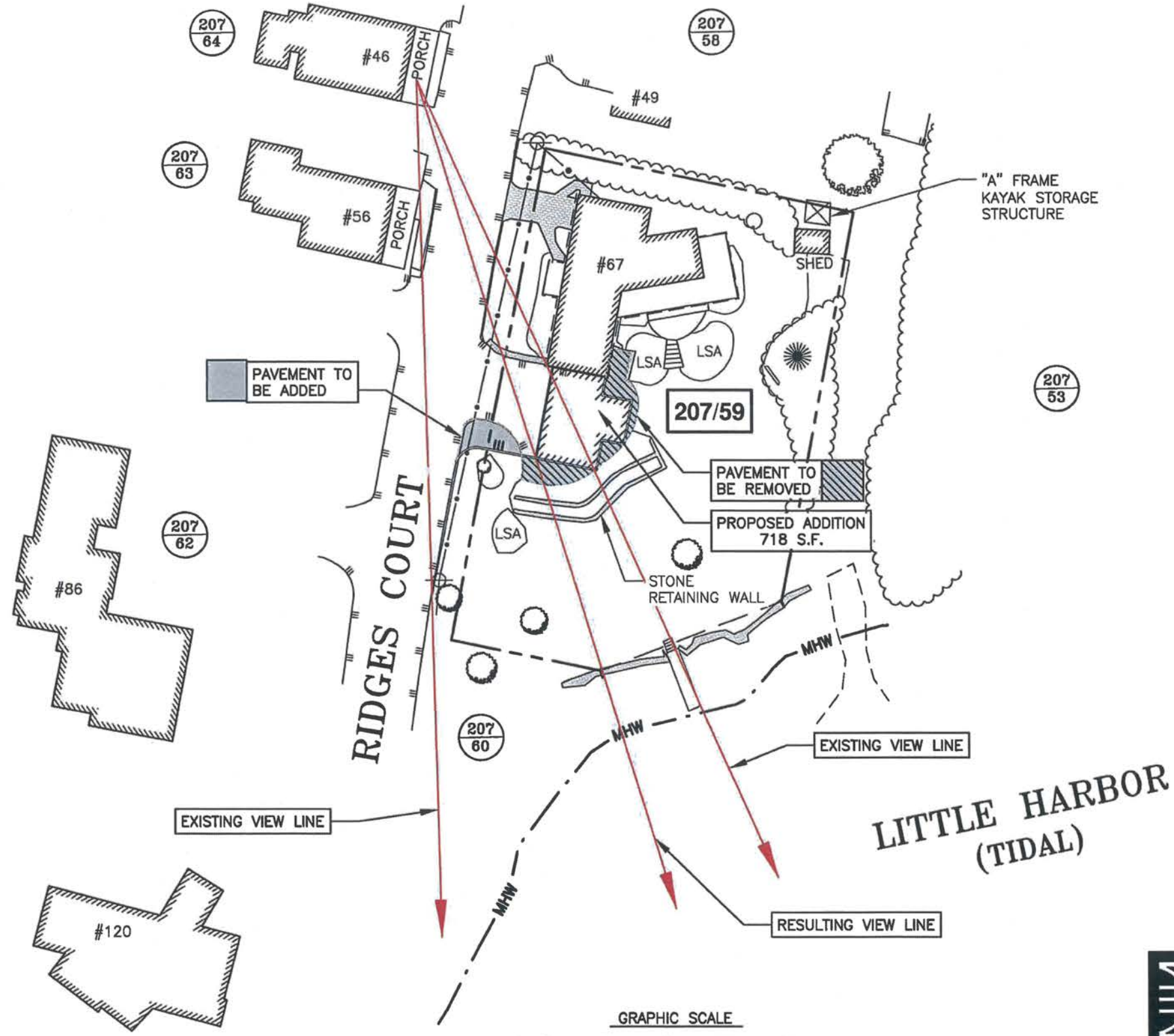
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46 RIDGES COURT ABUTTER VIEW SHED

OWNER: JEFFREY M. & MELISSA FOY
PROPERTY LOCATION: 67 RIDGES COURT
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

EXHIBIT E



SCALE: 1"=40' 10 AUGUST, 2022



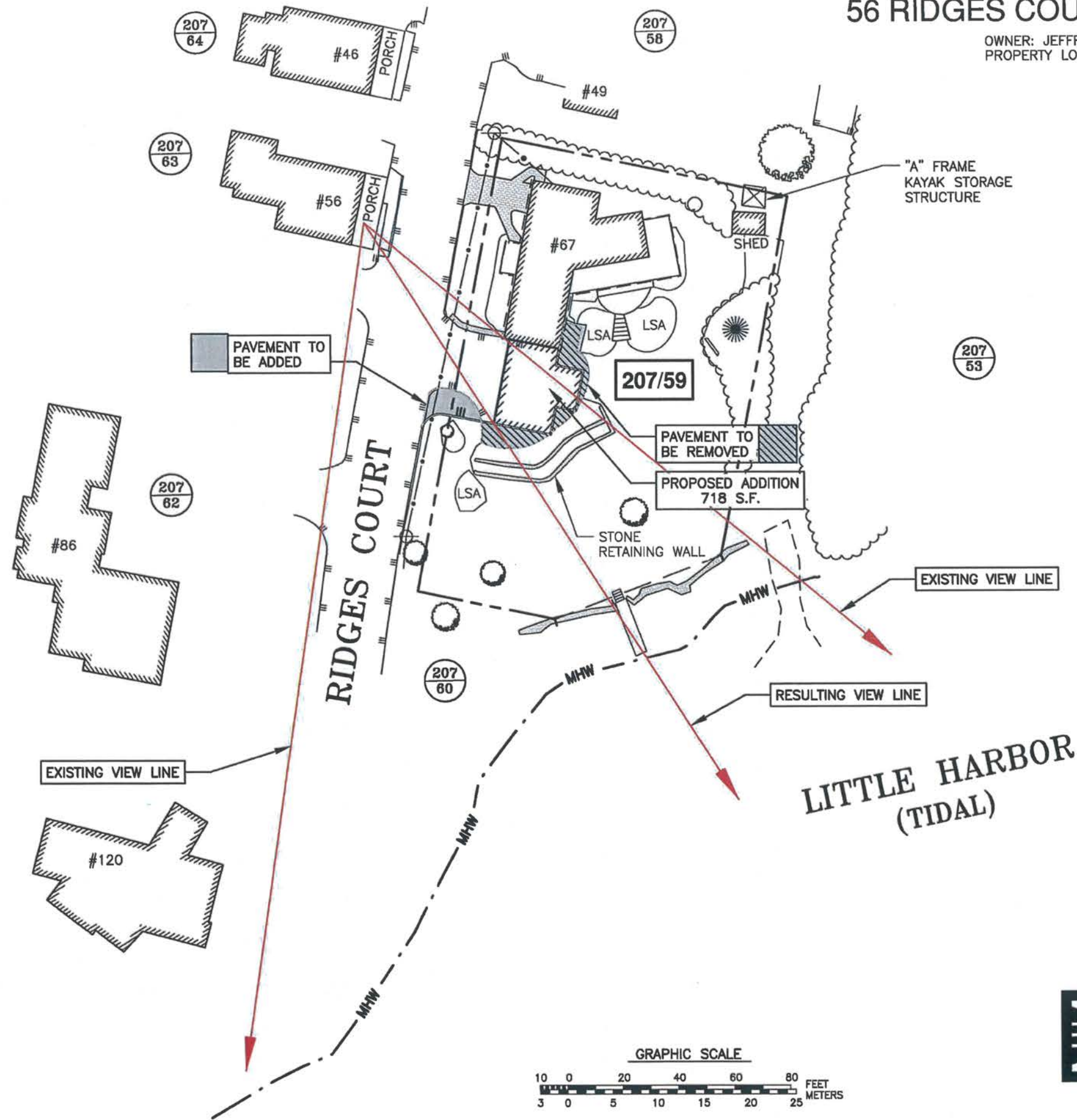
AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

1

J:\OBS1\N11005\N1153\2022 Building Addition-Variance\Plans & Specs\Site\1153.02 VIEW SHED.dwg, 8/10/2022 10:12:22 AM, SHARP MX-3071 (0300380X00)

56 RIDGES COURT ABUTTER VIEW SHED

OWNER: JEFFREY M. & MELISSA FOY
PROPERTY LOCATION: 67 RIDGES COURT
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



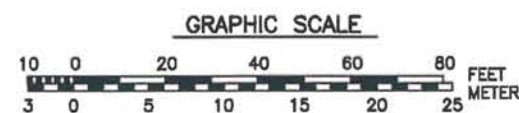
SACLE: 1"=40' 10 AUGUST, 2022



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

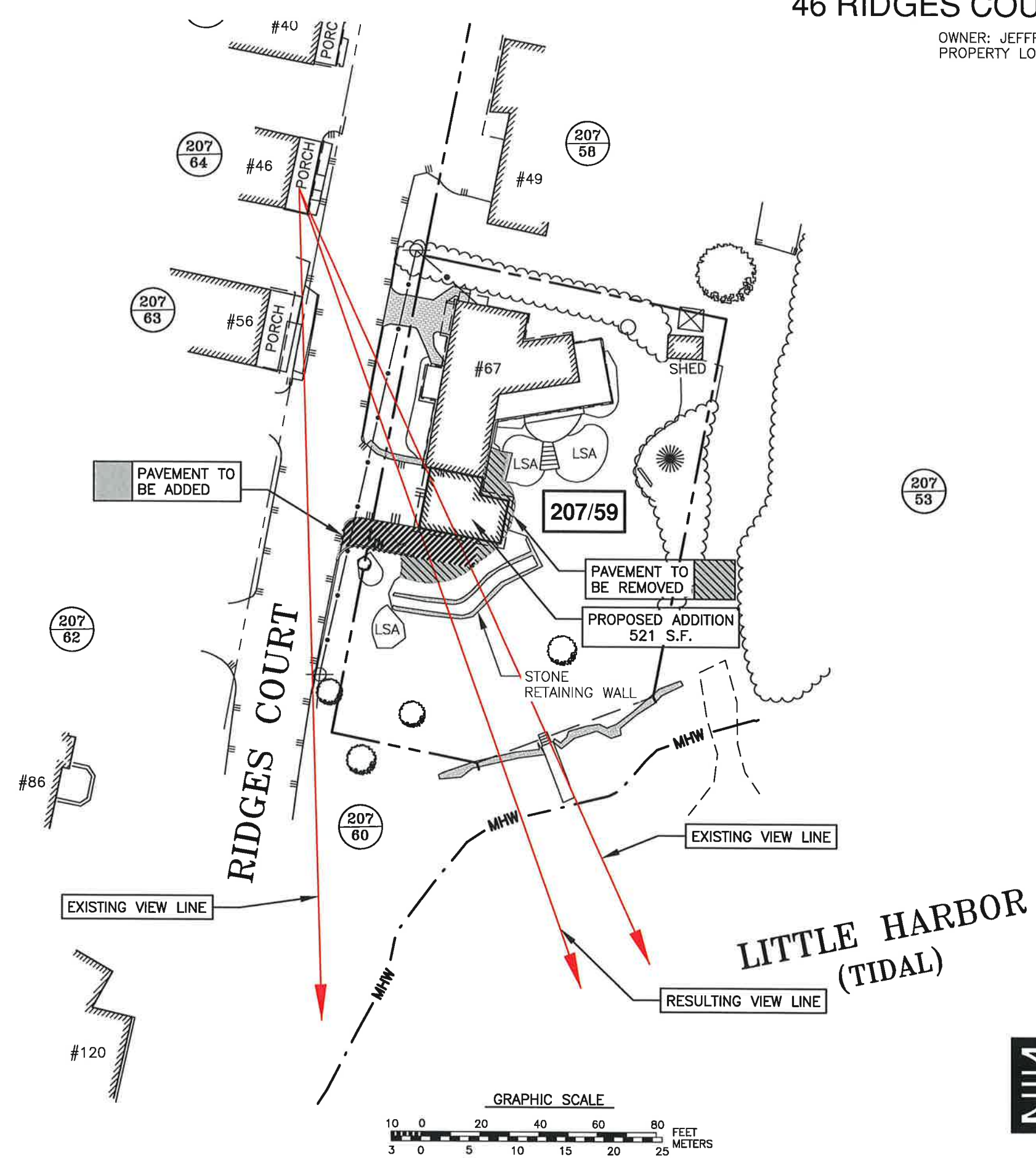
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46 RIDGES COURT ABUTTER VIEW SHED

OWNER: JEFFREY M. & MELISSA FOY
PROPERTY LOCATION: 67 RIDGES COURT
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



PAVEMENT TO BE ADDED

PAVEMENT TO BE REMOVED

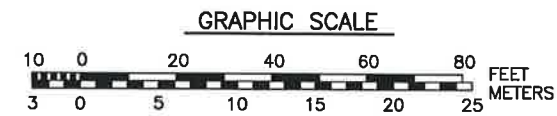
PROPOSED ADDITION
521 S.F.

MHW

EXISTING VIEW LINE

RESULTING VIEW LINE

EXISTING VIEW LINE



SCALE: 1"=40' 1 NOVEMBER, 2022



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

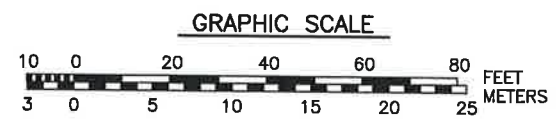
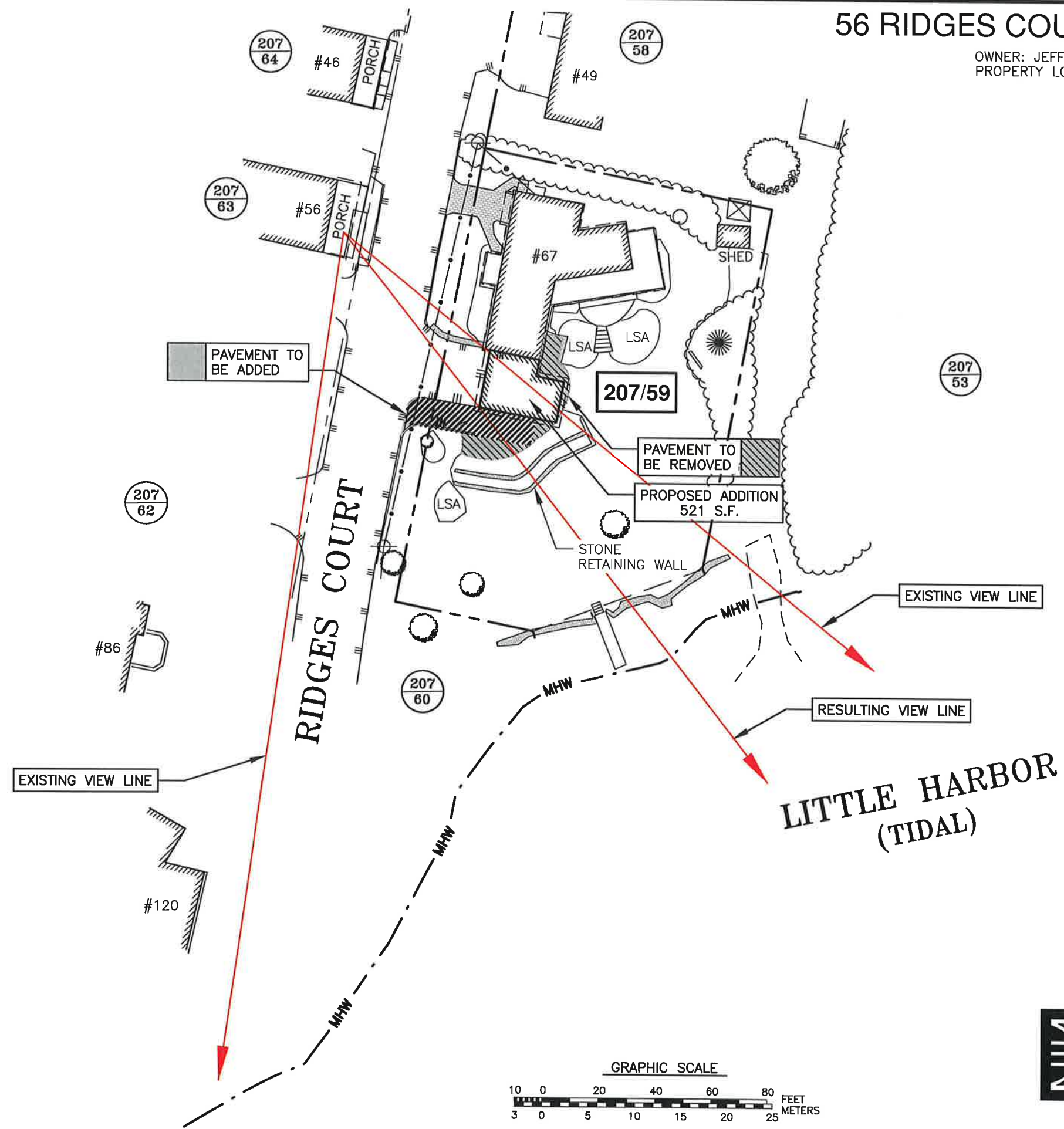
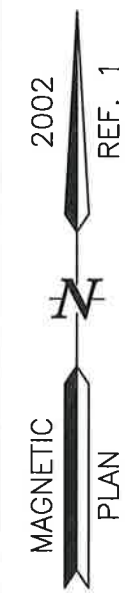
200 Griffin Road - Unit 3
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3

J:\JOBS\100s\100s\1153\2022 Building Addition-Variance\Plans & Specs\Site\1153.02 VIEW SHED.dwg, 11/1/2022 2:47:16 PM, SHARP MX-3071 (03000380X00)

56 RIDGES COURT ABUTTER VIEW SHED

OWNER: JEFFREY M. & MELISSA FOY
PROPERTY LOCATION: 67 RIDGES COURT
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



SACLE: 1"=40' 1 NOVEMBER, 2022



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315



750 Lafayette Rd, Ste 201
Portsmouth, NH 03801
Direct: (603) 610-8560

August 14, 2022

City of Portsmouth Zoning Board of Adjustment
1 Junkins Ave.
Portsmouth, NH 03801

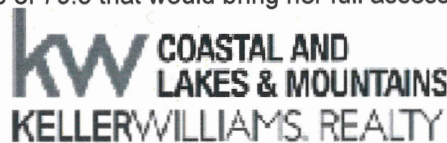
Dear Zoning Board of Adjustment Members,

I am writing as a Broker familiar with the Portsmouth area as I live in the city, and have been with Keller Williams Coastal and Lakes & Mountain Realty for the past seven years. I was the buyer's real estate broker for the Foy's purchase of 67 Ridges Court in 2021.

There are several reasons as to why their proposed construction should be approved. First, the letter from Mrs. Thomson's real estate broker stating that the addition will "directly block the water views" is incorrect as the entire view will not be blocked. However, as the property has never been deeded as a water view easement, there should be no diminishment to her property value as it can not be marketed as ever having a deeded view. Mrs. Thomson has a view through the Foy's property and that has never been guaranteed, as construction or vegetation may occur at any time and the price for her home needs to be reflective of this. Whenever a home is being contemplated or shown, this fact is always part of any real estate conversation. For example, if someone is interested in purchasing a property abutting conservation land or land that is in current use, I always make certain that the potential buyers are aware that it is not their land and whoever owns the land can, within zoning laws, develop or sell the land however they want. Unless there is a view easement, a view is not guaranteed.

In addition, any neighbor had ample time to speak and negotiate with the previous owner of 67 Ridges when the property was on the market for over 85 days prior to going under contract, to purchase a water view easement. There was plenty of notice as there was a large sign stating the home was for sale. According to city records, Mrs. Thomson has lived in her home for many years and has had plenty of time to secure an easement for water view from the previous owners of 67 Ridges if she was so concerned about her view as there is nothing in the deed that secures water view rights.

Mrs. Thomson's real estate broker wrote there would be a diminished property value of \$800,000 to \$1 million dollars if her water view across the Foy's property was partially lost. This does not seem realistic based on recent comparable sales in the South End. The Foy's are increasing the value of their home which in turn has a positive impact on comparables in that neighborhood. The Foy's also pay in property taxes for their water frontage and view: They live on 0.374 acres and pay over \$26,000, whereas Mrs. Thomson lives directly across the street on 0.48 acres and pays approximately \$11,000. When reviewing the Portsmouth tax assessment records, I found Mrs. Thomson's home at 56 Ridges Court plus two additional adjacent vacant land parcels to be assessed for just under \$800,000. When applying the 2021 Portsmouth equalization ratio of 79.5 that would bring her full assessed market value to just under \$1M.



Main Office: (603) 610-8500

Each Office is Independently Owned and Operated

This is not intended as a solicitation if your home is currently listed.



750 Lafayette Rd, Ste 201
Portsmouth, NH 03801
Direct: (603) 610-8560

Desirable properties in Portsmouth in the current real estate market are generally selling for higher than full assessed market value even after applying the equalization ratio. For example, the Foy's home at 67 Ridges Court has a tax assessment of just under \$1.8M. After applying the equalization ratio, their full assessed market value would be just over \$2.25M. The Foy's bought their home for \$2.65M or roughly 17-18% higher than the full assessed value.

If I were to apply the same percentage to Mrs. Thomson's property, her property would be worth in today's market just under \$1.2M or perhaps as high as \$1.3M, although I have never been inside the home to know the current condition of the property or the systems. I know the Foy's home was fully updated in 2002. Therefore, I feel the market value of Ms. Thomson's home is between \$1.2M - \$1.3M and that value of \$1.2M or \$1.3M would not diminish with a partial loss of water view.

In conclusion, it is my opinion that the Foy's proposed construction will definitely not diminish home values and should only have a positive effect on bringing up property values and enhancing the desirability of the neighborhood.

Sincerely,

Robin Valeri

Broker

Keller Williams Coastal and Lakes & Mountain Realty

TECHNICAL ANALYSIS REPORT

PROBABILITY OF DIMINUTION IN VALUE BY EXPANDING THE FOOTPRINT OF REAL ESTATE LOCATED AT MAP 207 LOT 59, 57 RIDGES COURT, PORTSMOUTH, NH.

Prepared for

R. Timothy Phoenix, Esquire
Hoefle, Gormley, Phoenix & Roberts, PLLC
127 Parrott Avenue
Portsmouth, NH 03801

Prepared by

Peter E. Stanhope, NHCG-31
The Stanhope Group, LLC
500 Market Street, Unit 1C
Portsmouth, NH 03801
File #220591

CLIENT: R. Timothy Phoenix, Esquire for Jeffrey & Melissa Foy

INTENDED USERS: Client, Jeffrey & Melissa Foy, Portsmouth Zoning Board of Adjustment

PROBLEM TO BE SOLVED: The purpose of this report is to determine if diminution in market value is evident within the submarket to abutters 56 & 46 Ridges Court, Portsmouth, NH 03801 based upon proposed 718 SF (+/-) garage addition added to Lot 207/59.

INTENDED USE: The intended use includes assisting the client in determining if any diminution is recognized within the submarket. The appraiser does not intend use of this report by any other party than those disclosed above, or for any other purpose by the client.

DATE OF INSPECTION: August 8th, 2022

DATE OF REPORT: August 15th, 2022

USPAP COMPLIANCE: As there is no individual parcel of real estate appraised, this analysis is not a USPAP Standard 1 or Standard 2 Appraisal Report.

DEFINITION OF MARKET VALUE

As defined by the Federal Register and FIERRA (1989) (12 C.F.R. Part 34.42(g); 55 *Federal Register* 34696, August 24, 1990, as amended at 57 *Federal Register* 12202, April 9, 1992; 59 *Federal Register* 29499, June 7, 1994) as follows:

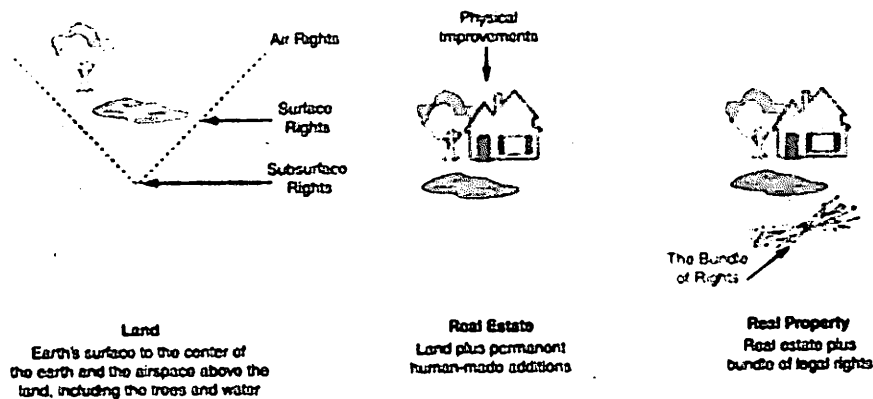
The most probable price which a property should bring in a competitive and open market under all condition's requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. The buyer and seller are typically motivated;
2. Both of the parties are well informed or well advised, and are each acting in what they consider to be their own best interest;
3. A reasonable period of time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangement comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

LAND, REAL ESTATE AND REAL PROPERTY

As defined in Real Estate Practice, 19th addition, real estate is defined as land plus all human-made improvements to the land that are permanently attached to it. Real property is the interest, benefits, and rights that are automatically included in the ownership of real estate. Ownership rights of real property are included in bundle of legal rights, which include the following rights:

- **Right to possession;**
- **Right to control the property within the framework of the law;**
- **Right of enjoyment (to use the property in any legal manner),**
- **Right of exclusion (to keep others from entering or using the property);**
- **Right of disposition (to sell, will, transfer, or otherwise dispose of or encumber the property).**



Addition to the bundle of rights, land is defined as the earth's surface extending downward to the center of the earth, and upward to infinity (Filmore, G.; Wellington, A.; Robert, K. 19th ed. Modern Real Estate Practice). This includes subsurface rights, as well as air rights, or view rights. This is particularly important in the practice of real estate when dealing with easements, which is the right to use the land of another for a particular purpose. An easement is created by a written agreement between the parties that establishes the easement right.

No noted view easements on legal description of either 56 Ridges Court, Portsmouth, NH 03801 or 46 Ridges Court, Portsmouth, NH 03801. See attached legal descriptions.

SCOPE OF WORK: I have visited the subject neighborhood and am familiar with its character having previously resided on the adjoining street.
I have interviewed Realtors, assessors and appraisers to form my concluded opinion.

**BASIS OF
CONCLUSIONS:**

The “right of a view” of natural air and light has been debated by government agencies, Realtors and before courts for many years. More recently a number of states have adapted view descriptions with this language for non-owned or non-eased views: **a landowner has no right of light or natural air over adjoining property.**

A review of deeds for real estate located on the westerly side of Ridges Court with any view over map 207 lot 59 identified no easements to view over this lot. These views are sometimes referred to Territorial Views or views that can be seen from the subject but are subject to interruption.

Everyone is entitled to a territorial view from owned real estate but ownership acquires no view right over the non-owned property of others.

Not all views are equal. The following view description are often used:

- Peek-A-Boo View, a sliver over only one limited area of property and not widely visible.
- Partial View, typically obstructed by other buildings, landscaping and natural growth but not similar to non-owned or non-eased views from real estate on the westerly side of Ridges Court over the easterly side real estate.
- Panoramic View, typically wide non-obstructed owned views from all areas of a site. In the case of Ridges Court, waterfront real estate.

View impact on market value of the fee simple interest in national published data for owned or eased views vary widely depending on what is viewed. The range for owned or eased is reported to be 1% to 2.5% for open space to 10%-30% for panoramic ocean or sunset views. These are the premium over non-view properties.

There is no consistent published data for a premium for real estate having a non-owned or non-eased territorial view as these views are not included in the fee simple bundle of rights owned.

A visit to the subject neighborhood and a review of plans prepared by AMBIT Engineering, Inc. shows a non-owned or non-eased views over lots 207/59 and 207/60 to the end of Ridges Court and beyond. The proposed improvements to lot 207/59 make a small reduction on what is visible water from porch areas of lots 207/63 and 64. The area of these views over a second lot, lot 207/60 is a narrow strip of area on the east side of Ridges Court that fails to have development potential. Without landscaping modification to this lot, a portion of non-owned or non-eased territorial views has the potential to be preserved. This portion of the view along with the non-owned or non-eased view area of lot 207/59 are not included in the fee simple bundle of rights of 207/63 and 64 due to the shape and zoning requirements. Non-owned and non-eased views cannot be included in the valuation of either lots 207/63 and 64 in fee simple. To

represent that these properties have owned or eased views is a misrepresentation. The appraisal of either parcels of real estate in fee simple would exclude any non-owned or non-eased right to view natural air and light or in this case, the water.

**REALTOR ESTIMATED
LOSS IN VALUE:**

An opinion of a Realtor has been put on the record that approval for an increase in the size of the footprint of lot 207/59 would impact the fair market value of 207/63 and 64 parcels by a reduction of \$1,000,000. First, lots 207/63 and 64 do not own either the view over lot 207/59 or lot 207/60, therefore you cannot lose what you don't own. The Realtor is quoted in The Durbin Law Variance Application as 207/63 having "6 parcels". The municipal tax records and mapping are inconsistent with 6 lots. In addition to the approved lot 207/63, there are two additional owned lots on a ROW to the rear of the improved lot. They are 207/68 and 69. These are also valuable parcels of real estate and may have been included in the \$2,300,000 estimate. They are not influenced by the view issue and are excluded from consideration here.

Even if lots 207/63 and 64 had owned or eased view rights, the \$1,000,000 loss in value is not supported. What the Realtor's opinion lacks is sufficient data supporting their conclusion. I have independently examined the data and cite the following in regards to their conclusion:

The following is relevant data that demonstrates the \$2,300,000 is not supported, nor is the \$1,000,000 supported.

EXTRAORDINARY ASSUMPTIONS

The term Extraordinary Assumption is defined by USPAP (2017-2018 Edition) as "an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions." USPAP explains further by stating that "Extraordinary Assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of a property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis."

The appraiser has used an extraordinary assumption that the abutter property to the subject located at 56 Ridges Court is of average interior conditions and quality.

DECRPTION OF ABUTTER 56 RIDGES COURT

56 Ridges Court, Portsmouth, NH 03801 abuts the subject to the West, across Ridges Court, - Tax Map-207/Lot 63, legal description Book 4731; Page 2542-2543, total site area of approximately 0.48 acres (+/-), with no owned waterfront access and partial views of Little Harbor. **No view or water easement noted on legal description.** Per public records, the dwelling is a colonial build, constructed in 1927, consisting of 3 bedrooms, 1 bath, and 1596 SF (+/-) of gross living area. Based on exterior inspection from the street, original characteristics of the dwelling were observed, including brick

foundation and clapboard siding. The exterior of the dwelling is of fair-average quality based off exterior inspection from the street. Interior quality and conditions noted as average based upon an extraordinary assumption that the exterior and interior updating is of equivalent nature. Public tax assessments records indicate interior conditions as average.



ABUTTER'S DATA

LOCATION: 56 Ridges Court, Portsmouth, NH 03801
ACCESS: East on New Castle Ave, turn right onto Ridges Court
HIGHEST & BEST USE: Residential Use
SALE DATE: None
LIST PRICE: None
SALE PRICE: None
SALE PRICE/SF: None
DEED TYPE: Quitclaim
VIEW EASEMENTS: None noted on legal description

SALE CONDITIONS:	No recent sales
STATUS AT SALE:	No recent sales
SOURCES:	Public records
CONFIRMED BY:	Monica Rose Marcheterre (08/10/2022)
MAP/LOT:	Tax Map 207/Lot 63
LOT SIZE:	.48 acres (+/-)
WATER FRONTAGE:	No direct water access
SHAPE:	Mostly rectangular
TOPOGRAPHY:	Moderately flat
CHARACTER:	Partial water view
IMPROVEMENTS:	Original construction
VISIBILITY:	Partial views of Little Harbor
COMMENTS:	No identified recent sales of abutter 56 Ridges Court, Portsmouth, NH 03801 per public records. Exterior inspection from street notes partial views of Little Harbor from front of dwelling.

SALES COMPARISON APPROACH & MARKET DATA

The value of partial-water views within the marketplace is highly subjective, with quantitative data not available using the extraction method. This is due to the nature of the contributions, with other contributing factors of real property that influence value, (i.e., improvements, location, amenities, land) within the subject's submarket of high end valued real estate. It is known to the appraiser through research, the appraiser's knowledge, competency, and experience within the area, that a property with owned waterfront would sell for a significant premium over a property with partial water views within the marketplace. Due to limited inventory within the subject's and abutters submarket, waterfront and partial water-view sales are limited. Properties with partial territorial water views within the submarket of Portsmouth have been analyzed, studied, and applied within this report. Each sale chosen will be analyzed for property rights conveyed, market conditions, date and time of sale, location, design of build, quality of construction, age of construction, gross living area, bedroom and bath counts, functional utility, views, and amenities. The sales below are the comparable sales to 56 Ridges Court, Portsmouth, NH 03801 based upon an extraordinary assumption.



SALE #1:

LOCATION:	39 Holmes Court, Portsmouth, NH 03801
ACCESS:	North on Marcy Street, turn right onto Holmes Court
HIGHEST & BEST USE:	Residential Use
SALE DATE:	03/22
LIST PRICE:	\$800,000
SALE PRICE:	\$800,000
SALE PRICE/SF:	\$663.90/SF
SALE CONDITIONS:	Cash/none
STATUS AT SALE:	Improved residential
SOURCES:	Public records
CONFIRMED BY:	Monica Marcheterre (08/11/2022)
MAP/LOT:	Map 0207- Lot 0062
LOT SIZE:	0.48 acre
WATER FRONTAGE:	No direct water frontage
SHAPE:	Mostly rectangular
TOPOGRAPHY:	Moderately flat

CHARACTER:	Partial water views
IMPROVEMENTS:	Original construction
VISIBILITY:	Partial views of Piscataqua River
SCHOOL DISTRICT:	Little Harbor
COMMENTS:	Recent sale of 39 Holmes Court, Portsmouth, NH 03801 on 03/22/2022 for \$800,000 (NEREN MLS#4902025). Sold as a package deal with 43 Holmes Court, Portsmouth, NH 03801 for a total of \$2,000,000. 43 Holmes Court has direct water access. Realtor confirmation of direct water views from third floor of 38 Holmes Court. This is kept in the appraiser's work file.



SALE #2:

LOCATION:	43 Whidden Street, Portsmouth, NH 03801
ACCESS:	SE on Pleasant Street, take right onto Whidden Street
HIGHEST & BEST USE:	Improved residential
SALE DATE:	05/13/2022
LIST PRICE:	\$1,430,000
SALE PRICE:	\$1,430,000
SALE PRICE/SF:	\$816.21/sf
SALE CONDITIONS:	Conventional/none
STATUS AT SALE:	Improved residential
SOURCES:	Public records
CONFIRMED BY:	Monica Rose Marcheterre (08/11/2022)
MAP/LOT:	Map 0109/0002
LOT SIZE:	2,613 SF (+/-)

WATER FRONTAGE:	No direct water frontage
SHAPE:	Mostly square
TOPOGRAPHY:	Mostly flat
CHARACTER:	Partial water views South Mill Pond
IMPROVEMENTS:	Original construction
VISIBILITY:	Partial water views
SCHOOL DISTRICT:	Little Harbor
COMMENTS:	Recent sale of 43 Whidden Street, Portsmouth, NH 03801, in local NEREN MLS #4909895 sold on 05/13/2022 for \$1,430,000. Partial water views disclosed on listing and noted by appraiser from exterior site inspection.



LISTING #3:

LOCATION:	260 Marcy Street, Portsmouth, NH 03801
ACCESS:	SE on Pleasant Point Drive, turn left onto Marcy Street
HIGHEST & BEST USE:	Improved residential
SALE DATE:	Active
LIST PRICE:	\$1,750,000
SALE PRICE:	Active listing
SALE PRICE/SF:	N/A
SALE CONDITIONS:	N/A
STATUS AT SALE:	N/A
SOURCES:	Public records
CONFIRMED BY:	Monica Rose Marcheterre (08/11/2022)
MAP/LOT:	Map 0103/Lot 0049
LOT SIZE:	3,049 SF (+/-)
WATER FRONTAGE:	No direct water frontage
SHAPE:	Mostly square moderately
TOPOGRAPHY:	Flat
CHARACTER:	Partial water views

IMPROVEMENTS:	Original construction
VISIBILITY:	Partial water views
SCHOOL DISTRICT:	Little Harbor
COMMENTS:	An active listing within the submarket of Portsmouth, NH with accessibility to Little Harbor School district. 260 Marcy Street is listed on local NERENMLS# 4901665 for \$1,750,000 with 142 days on market. This listing is confirmed to have partial water views from the second and third floor of the dwelling by the listing broker. This is kept in the appraisers work file.

Two other properties were considered. See map and comments below.

The appraiser has selected comparable sales to the subject property that are competing properties. The appraiser conducted an extensive search of comparable properties (up to 18 months), that were similar style, location, GLA, age, utility and similar partial water views to 56 Ridges Court, Portsmouth, NH 03801. Consideration given to all comparables, all located under 1 mile from subject.



Comparable 1 a 1900's New Englander, noted with 3 bedrooms, 1 full bath, 1 half bath, 1205 SF (+/-) of living area, and partial water views. Comparable 2 noted as a 1760 colonial build, with 2 bedrooms, 2 full baths, 1 half bath, 1752 SF (+/-) of living area, and partial water views. Comparable 3 noted with 3 bedrooms, 2 full baths, 1 half bath, 2,210 SF (+/-) of living area, and partial water views from second and third floor. All comparables with accessibility to Little Harbor School.

Two other considered sales, 491 Marcy Steet, Portsmouth, NH 03801 NERENMLS#4898626, an active listing within 1 mile distance, listed for \$895,000 DOM 170, with partial water views disclosed on listing. Not further weighted due to utility differences, a single family converted into a two-unit. This listing is a 1750's colonial build, with 1800 SF (+/-), with partial water views similar to subject. This listing was noted and analyzed.

1B Jackson Hill Street, Portsmouth, NH 03801 NERENMLS#4924378 also considered, an active listing within 1 mile distance, listed for \$1,399,000 DOM 4, with water views and water access. This is a 1725 colonial build with original characteristics. This was chosen for similar attributes to 56 Ridges Court, with similar gross living area noted at 1374 SF (+/-). This listing is noted with superior water access, however, was noted and analyzed for other similarities.

These sales are the best market data properties identified to 56 Ridges Court, Portsmouth NH 03801. All comparables within 1-mile, similar age, style, partial water views, and would attract a similar purchaser in the marketplace. **Based on these comparable properties, the Realtor's estimated fair market value of \$2,300,000 for 56 Ridges Court, Portsmouth NH 03801 is not supported based upon an extraordinary assumption the dwelling is of average interior conditions. The appraiser's conclusions are supported by sales, listings, and pending properties within the submarket of Portsmouth, and stated in this report.**

I have considered the math in the Realtor's conclusions. First, even using the \$2,300,000 which is not supported, if the total view was lost, again this is not the case in this situation, a loss of \$100,000 would indicate a no view value of \$1,300,000. South End Portsmouth properties in similar high value neighborhoods are demanding price premiums without views substantially higher than the \$1,300,000. The only conclusion that can be drawn from this is the \$2,300,000 and \$1,000,000 are unfounded.

RECONCILIATION

There is no market evidence that suggests a partial loss of a partial view within the marketplace would result in a diminution of value. A purchaser of 56 Ridges Court, Portsmouth, NH would pay the same premium price for a partial territorial view, with and without the addition garage added to 67 Ridges Court.

The garage addition to 67 Ridges Court, Portsmouth suggests no negative influence on surrounding property values based on relevant data. Remodeling and upgrading dwellings is supported by the theory of the principle of progression and regression, which suggests that

superior high-quality builds will have a positive influence on values and marketability on inferior quality dwellings within the immediate area. Additionally, both the abutters lots will have additional, unobstructed territorial water views from Tax Map 207/ Lot 60, a 0.07-acre lot which does not meet current zoning requirements for future development.

FINAL CONCLUSIONS

Granting of the variance will not result in diminution in fair market value to any neighborhood property for partial loss of non-owned or non-eased views.

I can find no support for lot 207/63 Realtor valuation conclusions.

Respectfully,



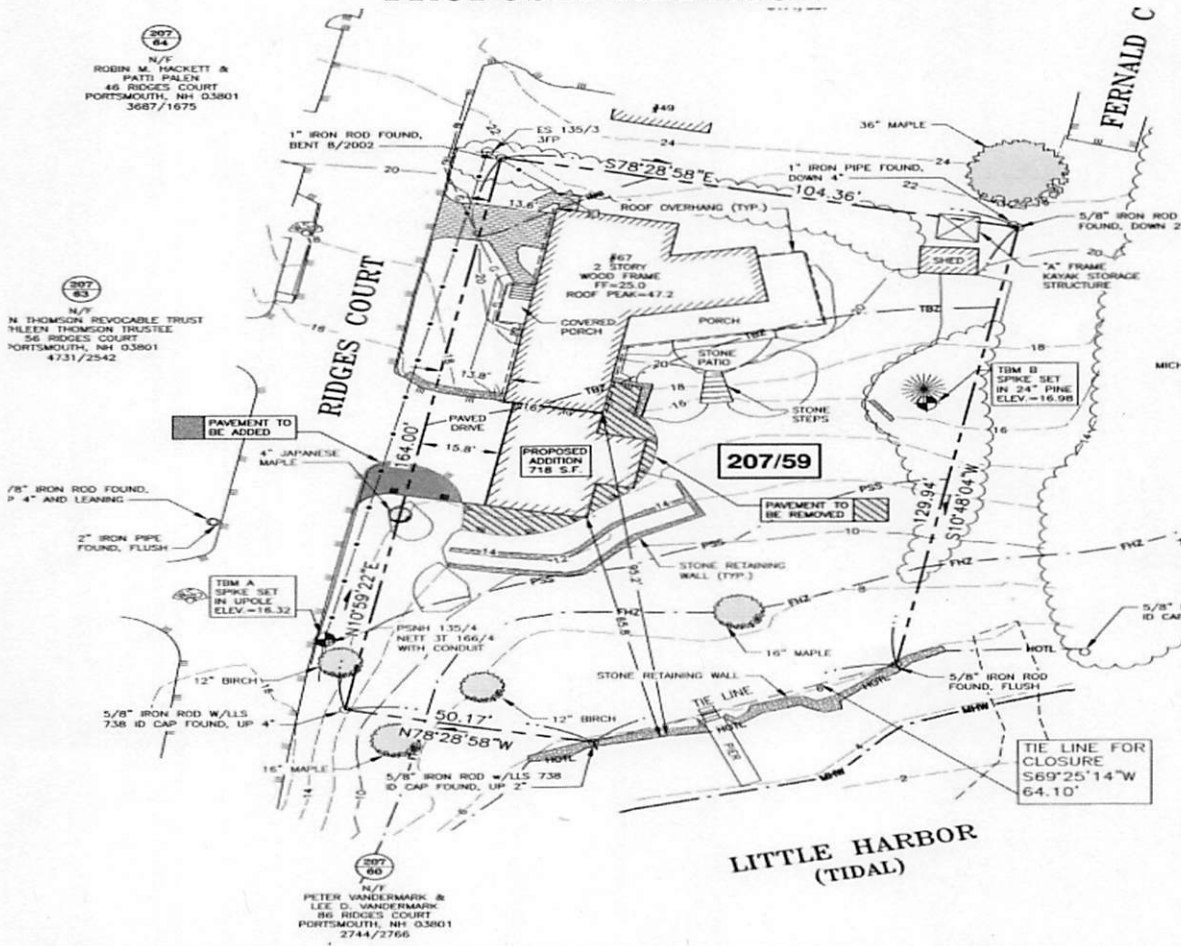
Peter E. Stanhope, NHCG-31

Enclosures: Addenda
Curriculum Vitae
NH Certification

REPORT ADDENDA

MAP/LOT Tax Map- 207/Lot 59,
 LOT SIZE: 0.37 Acres (+/-)
 WATER FRONTAGE: 64 Feet (+/-) owned with private dock
 SHAPE: Irregular
 TOPOGRAPHY: Slightly Sloping
 CHARACTER: Waterfront/Owned
 IMPROVEMENTS: Remodeled Cape
 VISIBILITY: Ridge's Court, 180 degree-water view
 COMMENTS: 67 Ridge's Court was originally listed for \$2,950,000 on 05/27/2021, with 94 days on market, and closed on 09/03/2021 for \$2,650,000 through cash transaction. Market conditions during listing months were increasing at 1% a month, 12 % annually rounded. The subjects market value was identified by recent sale, and estimated at \$2,650,000 retrospectively at time of sale.

PROPOSED ADDITION

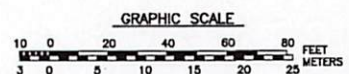
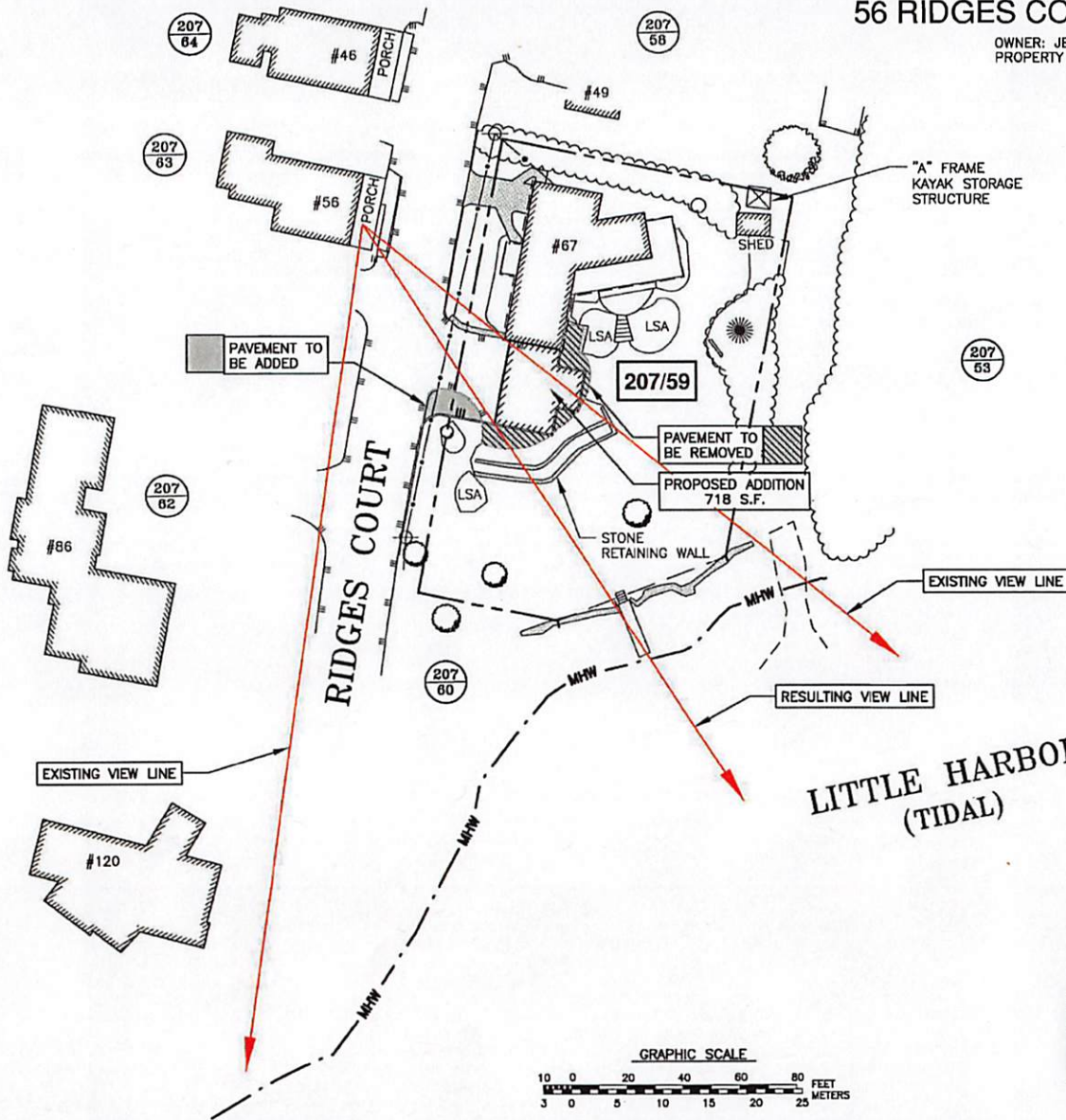


J:\JOBS\1\N11005\N1150s\N1153\2022 Building Addition-Variance\Plans & Specs\Site\1153.02 VIEW SHED.dwg. 8/10/2022 10:12:22 AM. SHARP MX-3071 (0300350X00)



56 RIDGES COURT ABUTTER VIEW SHED

OWNER: JEFFREY M. & MELISSA FOY
PROPERTY LOCATION: 67 RIDGES COURT
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



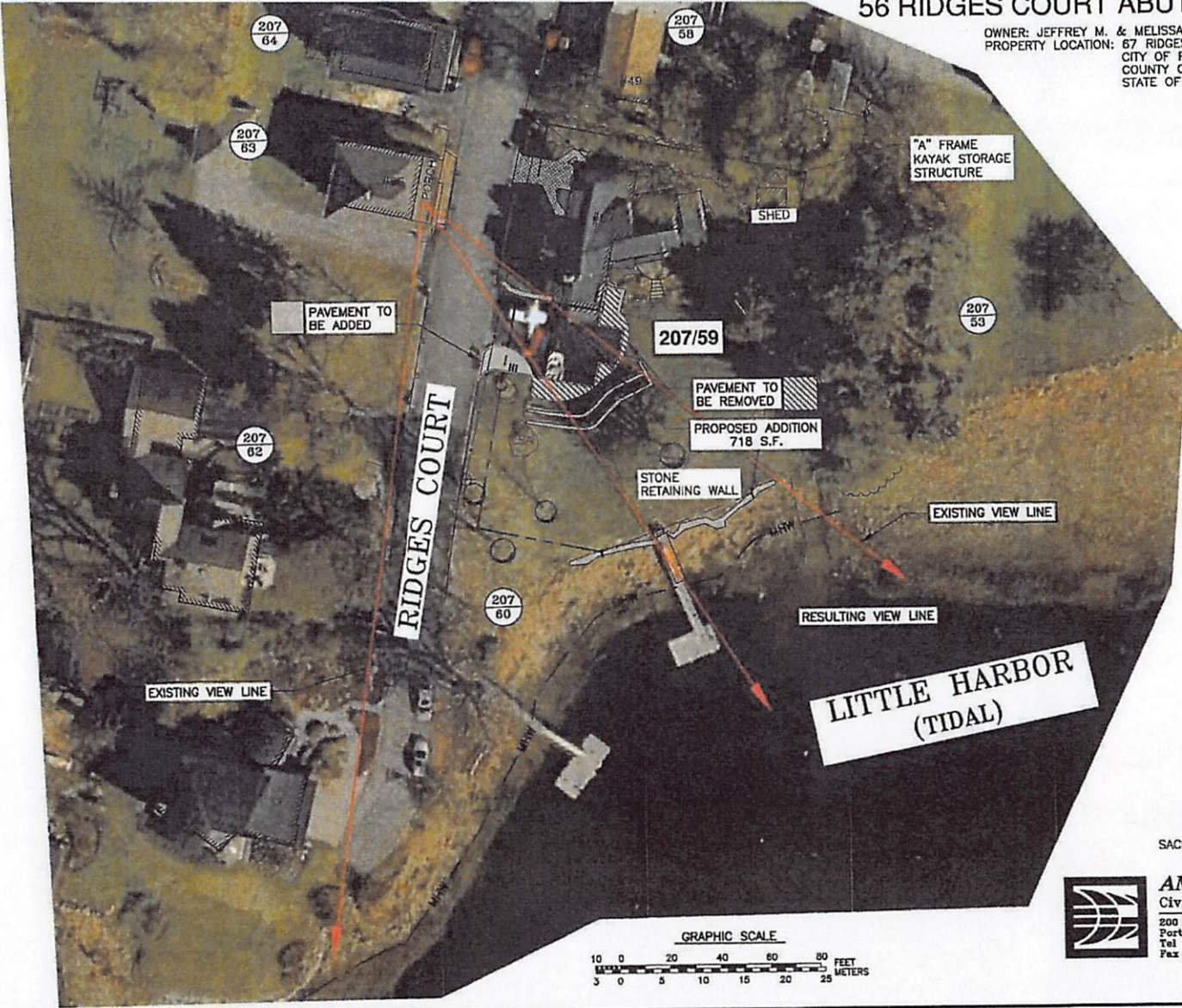
SACLE: 1"=40' 10 AUGUST, 2022

AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 430-9282
 Fax (603) 436-2315

56 RIDGES COURT ABUTTER VIEW SHED

OWNER: JEFFREY M. & MELISSA FOY
 PROPERTY LOCATION: 67 RIDGES COURT
 CITY OF PORTSMOUTH
 COUNTY OF ROCKINGHAM
 STATE OF NEW HAMPSHIRE

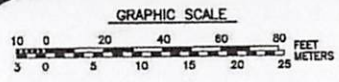
2002
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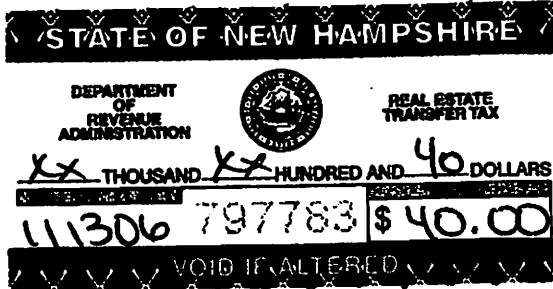


**LITTLE HARBOR
 (TIDAL)**

SACLE: 1"=40' 10 AUGUST, 2022

AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 430-9282
 Fax (603) 430-2316





QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS, THAT I, KATHLEEN Y. THOMSON, single, of 56 Ridges Court, Portsmouth, Rockingham County, New Hampshire, 03801

For consideration paid, grant to **KATHLEEN Y. THOMSON, TRUSTEE OF THE KATHLEEN Y. THOMSON REVOCABLE TRUST OF 2006, u/d/t November 7, 2006, of 56 Ridges Court, Portsmouth, Rockingham County, New Hampshire, 03801**

With Quitclaim Covenants,

Four certain lots of land with the buildings thereon, situate in said Portsmouth, being Lots number 41, 42, 55 and 56 on a Plan of Lots owned by Rienzi Ridge, and recorded in Rockingham County Registry of Deeds, Plan Book 1, Page 77. Said lots described as one parcel are bounded and described as follows:

Beginning in the Easterly side of a proposed new street as shown on said Plan, leading southerly from New Castle Avenue, at a point 313 feet southerly from the southerly sideline of said Avenue, thence running easterly by Lot 43 and 54 on said Plan 207.32 feet, more or less, to another proposed new street, as shown on said Plan, at a point 313 feet southerly from said southerly sideline of said Avenue; thence turning and running southerly by said proposed new street 100 feet to Lot 57 on said Plan; thence turning and running westerly by Lots 57 and 40 on said Plan 209.66 feet, more or less, to said first named proposed new street, and then northerly by said new street 100 feet to the point begun at.

Being the same premises described in deed of William A. Thomson, Jr., Executor of the Estate of Florence M. Thomson to William A. Thomson and Kathleen Thomson, dated August 31, 1976, recorded in Rockingham County Registry of Deeds, Book 2265, Page 79. William A. Thomson died June 17, 1995, at Boston, Massachusetts. See death certificate recorded herewith.

This is a non-contractual transfer pursuant to NH RSA 78-B.

070093

2006 NOV 13 PM 12:30

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

Signed this 7th day of November, 2006.

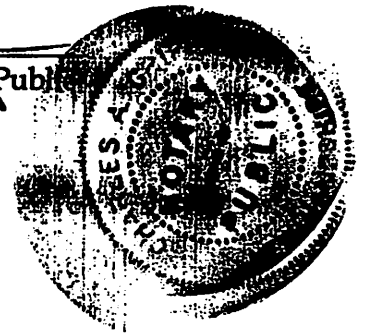

Kathleen Y. Thomson

STATE OF NEW HAMPSHIRE
ROCKINHAM, SS

Personally appeared KATHLEEN Y. THOMSON before me this 7th day of November, 2006, known to me or satisfactory proved to be the person whose name is subscribed to the foregoing instrument and executed the same for the purposes therein contained.

Before me,


Charles A. Griffin, Notary Public



My commission expires: 02/11/09

56 RIDGES CT

Location 56 RIDGES CT

Mblu 0207/ 0063/ 0000/ /

Acct# 28716

Owner THOMSON KATHLEEN Y
REVOC TRUST 2006

PBN

Assessment \$757,200

Appraisal \$757,200

PID 28716

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$227,300	\$529,900	\$757,200

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$227,300	\$529,900	\$757,200

Owner of Record

Owner	THOMSON KATHLEEN Y REVOC TRUST 2006	Sale Price	\$0
Co-Owner	THOMSON KATHLEEN Y TRUSTEE	Certificate	
Address	56 RIDGES CT PORTSMOUTH, NH 03801	Book & Page	4731/2542
		Sale Date	11/13/2006

Ownership History

Ownership History				
Owner	Sale Price	Certificate	Book & Page	Sale Date
THOMSON KATHLEEN Y REVOC TRUST 2006	\$0		4731/2542	11/13/2006

Building Information

Building 1 : Section 1

Year Built:	1927
Living Area:	1,596
Replacement Cost:	\$333,824
Building Percent Good:	65

Replacement Cost
 Less Depreciation: \$217,000

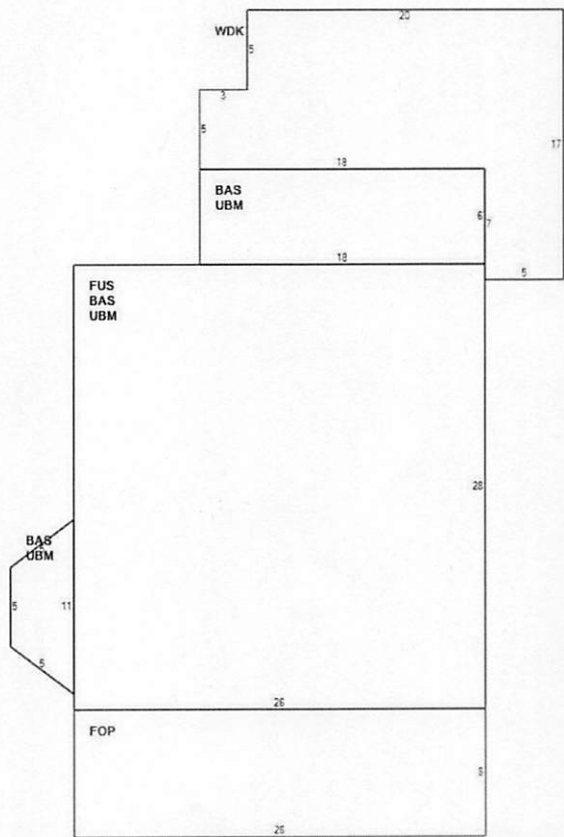
Building Attributes	
Field	Description
Style	Conventional
Model	Residential
Grade:	B
Stories:	2
Occupancy	1
Exterior Wall 1	Asbest Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Carpet
Interior Flr 2	Hardwood
Heat Fuel	Gas
Heat Type:	Steam
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	1
Total Half Baths:	1
Total Xtra Fixtrs:	1
Total Rooms:	6
Bath Style:	Avg Quality
Kitchen Style:	Avg Quality
Kitchen Gr	
WB Fireplaces	0
Extra Openings	0
Metal Fireplaces	0
Extra Openings 2	0
Bsmt Garage	

Building Photo



(<https://images.vgsi.com/photos2/PortsmouthNHPhotos/A00\00\02\159.JPG>)

Building Layout



(ParcelSketch.ashx?pid=28716&bid=28716)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	868	868
FUS	Upper Story, Finished	728	728
FOP	Porch, Open	208	0
UBM	Basement, Unfinished	868	0
WDK	Deck, Wood	250	0
		2,922	1,596

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
REC	REC ROOM	140.00 S.F.	\$2,300	1

Land

Land Use

Use Code 1012
 Description SFR WATERINFL
 Zone SRB
 Neighborhood 101
 Alt Land Appr No
 Category

Land Line Valuation

Size (Acres) 0.48
 Frontage
 Depth
 Assessed Value \$529,900
 Appraised Value \$529,900

Outbuildings

Outbuildings					Legend	
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
FGR1	GARAGE-AVE	02	DETACHED	440.00 S.F.	\$6,800	1
SHD1	SHED FRAME			180.00 S.F.	\$1,200	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2020	\$227,300	\$529,900	\$757,200
2019	\$227,300	\$529,900	\$757,200
2018	\$203,300	\$463,200	\$666,500

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$227,300	\$529,900	\$757,200
2019	\$227,300	\$529,900	\$757,200
2018	\$203,300	\$463,200	\$666,500



July 13, 2022

City of Portsmouth Zoning Board of Adjustment
1 Junkins Ave.
Portsmouth, NH 03801

Dear Zoning Board of Adjustment Members,

I am writing on behalf of Kathleen Thomson, owner of 56 Ridges Court, Portsmouth, NH. 56 Ridges Court is located directly across the street from 67 Ridges Court.

Mrs. Thomson and four generations of the Thomson family have enjoyed nearly 100 years of scenic water views of Little Harbor from their home at 56 Ridges Court. In recent years, the property and home across the street at 67 Ridges Court has evolved significantly, with each new owner expanding the overall square footage and footprint of the home as well as different garage configurations. The addition proposed by the Foy's in the current variance request is the most ambitious renovation proposed to date. If this proposed addition is erected it will, for the first time, directly block the water views from Mrs. Thomson's property, as well as views from several neighbors. The proposed expansion will diminish sight lines / water views between Mrs. Thomson's front porch, living room, dining room, and bedrooms and Little Harbor. The proposed expansion also reduces the overall ambience and openness to the water, which been a unique neighborhood feature for this cluster of homes that dead-end into Little Harbor.

Water views are highly coveted in the Seacoast area. Therefore, the substantial change in water views also has a significant impact in the market value of these neighboring properties and has the most direct impact on the market value of Mrs. Thomson's home. The average price difference between a home with a water view and a similar home in the same neighborhood with no water view is between \$800,000 and \$1 million dollars. Based on comparable sales in the South End from the past 18 months, Mrs. Thomson's fair market value for her home on 6 parcels is \$2.3 million. Should the Foy's variance be granted, Mrs. Thomson's market value would decrease to \$1.4 million. That is a significant amount of lost value.

In sum, the Foy's proposed expansion at 67 Ridges Court will be highly detrimental to the neighborhood, result in loss of property value for 56 Ridges Court, and diminish the enjoyment that Mrs. Thomson and her family have treasured from Little Harbor views for nearly a century.

Sincerely,

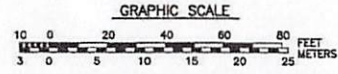
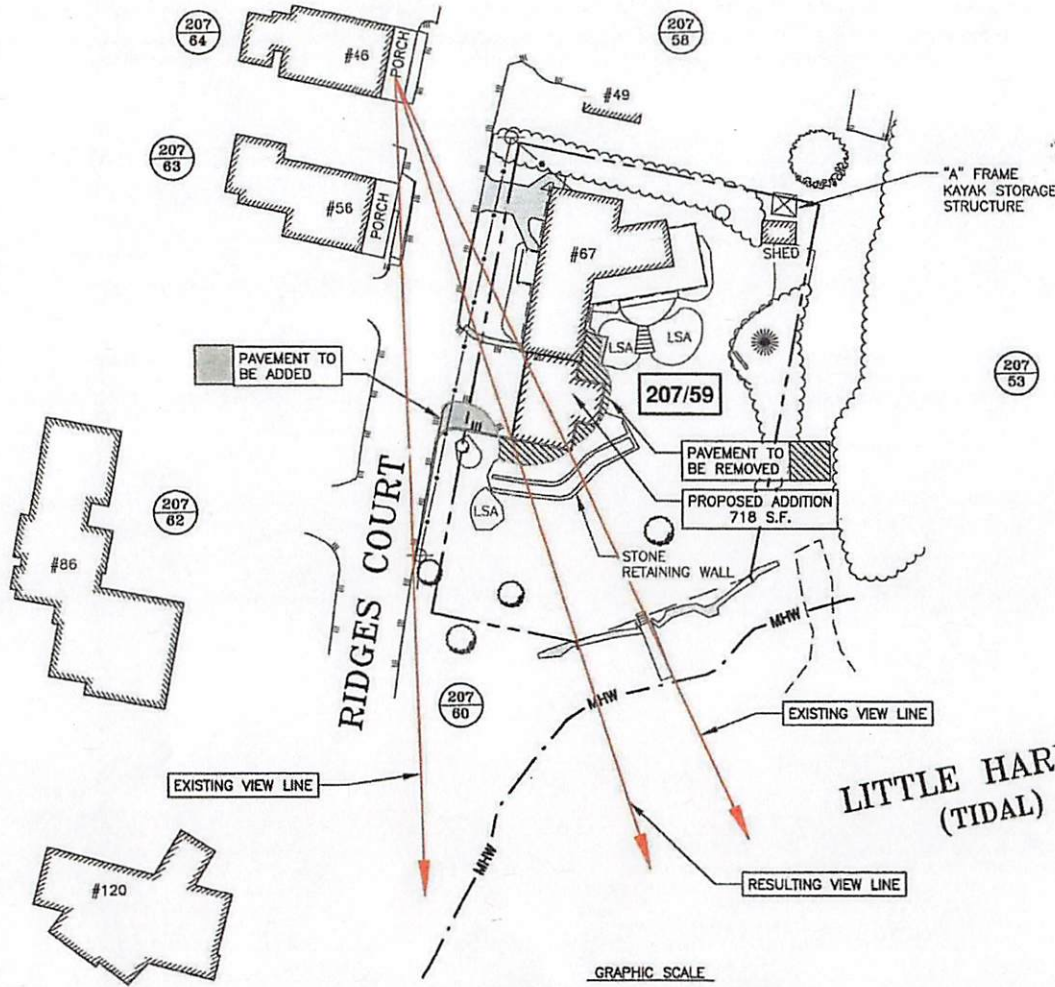
A handwritten signature in cursive script that reads "Ali Goodwin".

Ali Goodwin, Realtor® • Luxury Division
Haven Homes + Lifestyle at Keller Williams Coastal and Lakes & Mountains Realty
Cell: 603-957-8466 • Email: ali@aligoodwin.com

46 RIDGES COURT ABUTTER VIEW SHED

OWNER: JEFFREY M. & MELISSA FOY
 PROPERTY LOCATION: 67 RIDGES COURT
 CITY OF PORTSMOUTH
 COUNTY OF ROCKINGHAM
 STATE OF NEW HAMPSHIRE

2002
 REF. 1
 MAGNETIC
 PLAN



SCALE: 1"=40' 10 AUGUST, 2022

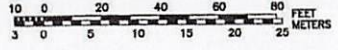
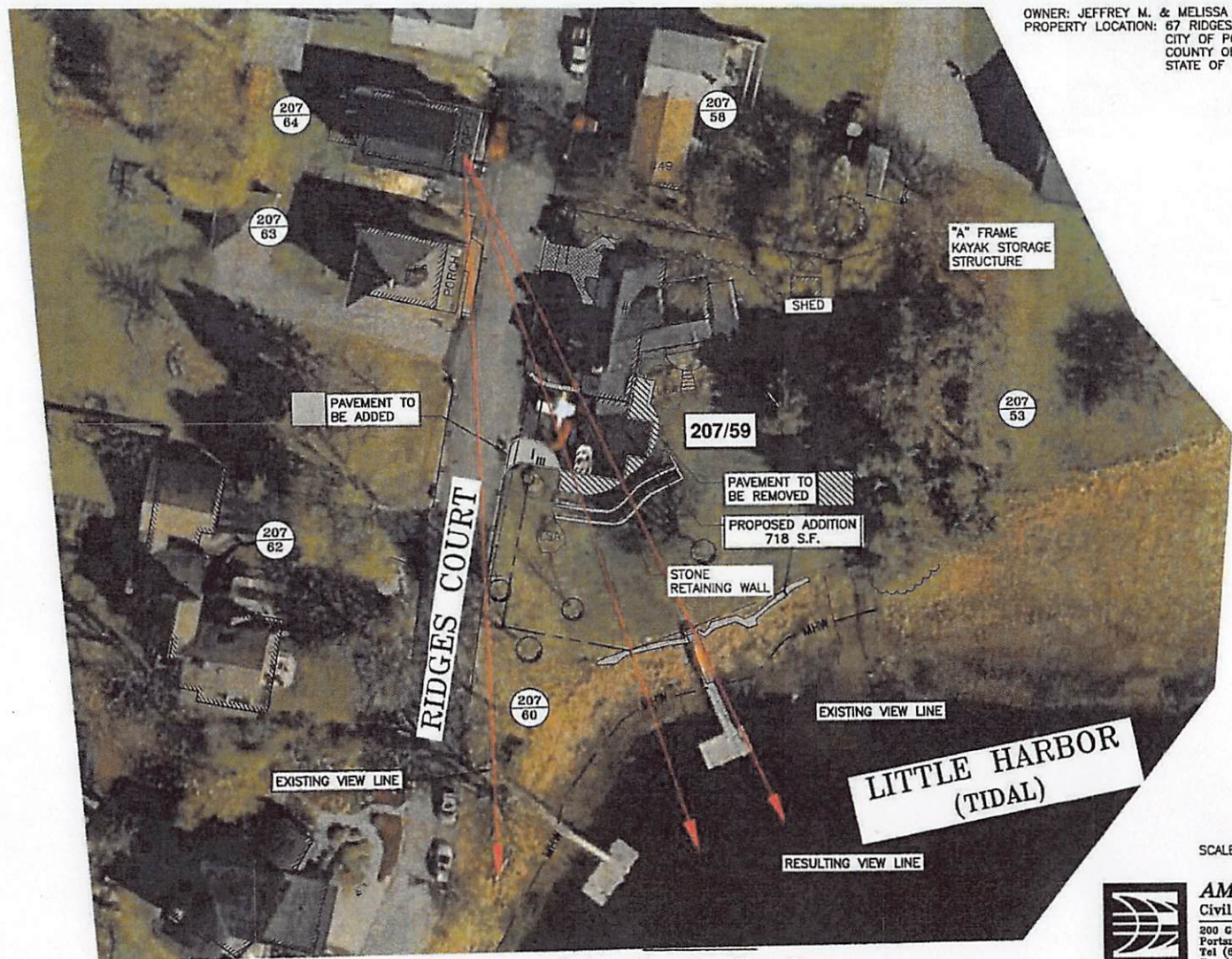


AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 430-9282
 Fax (603) 438-2315

46 RIDGES COURT ABUTTER VIEW SHED

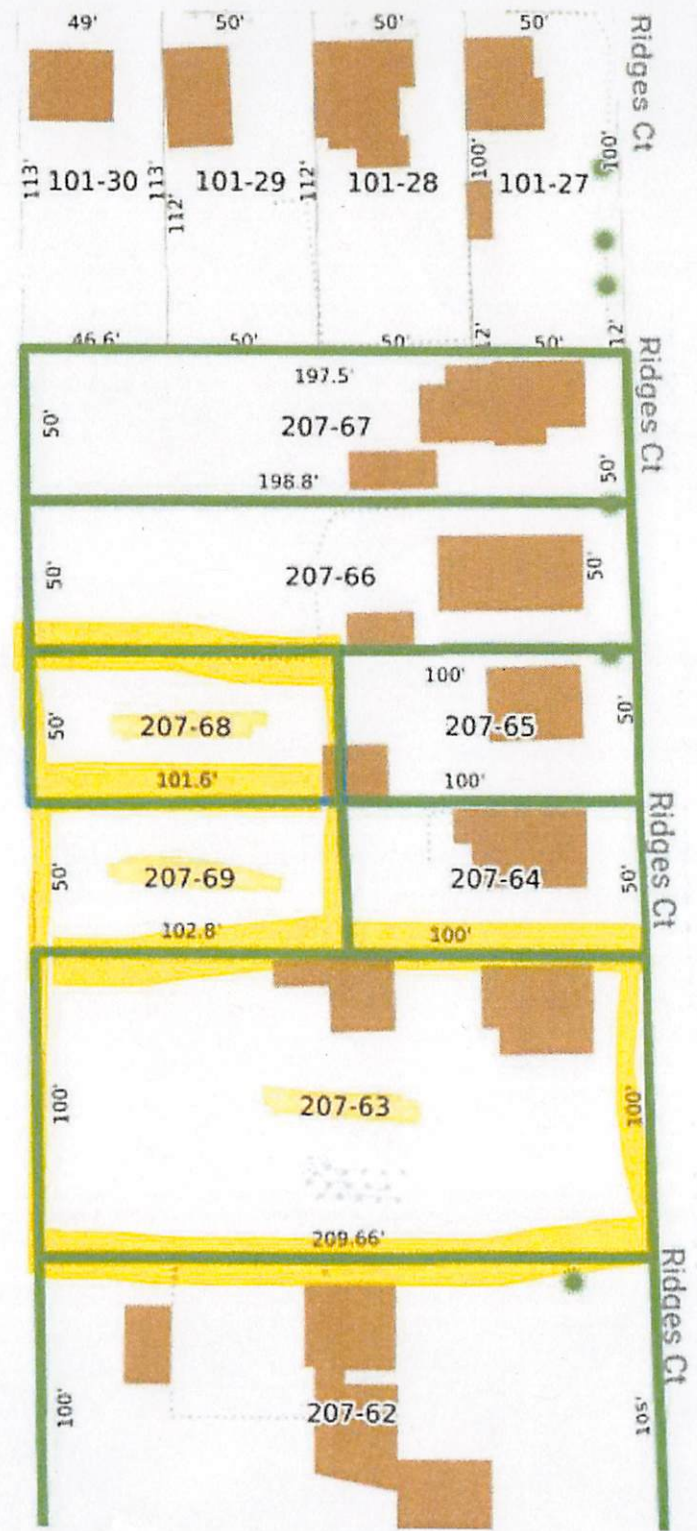
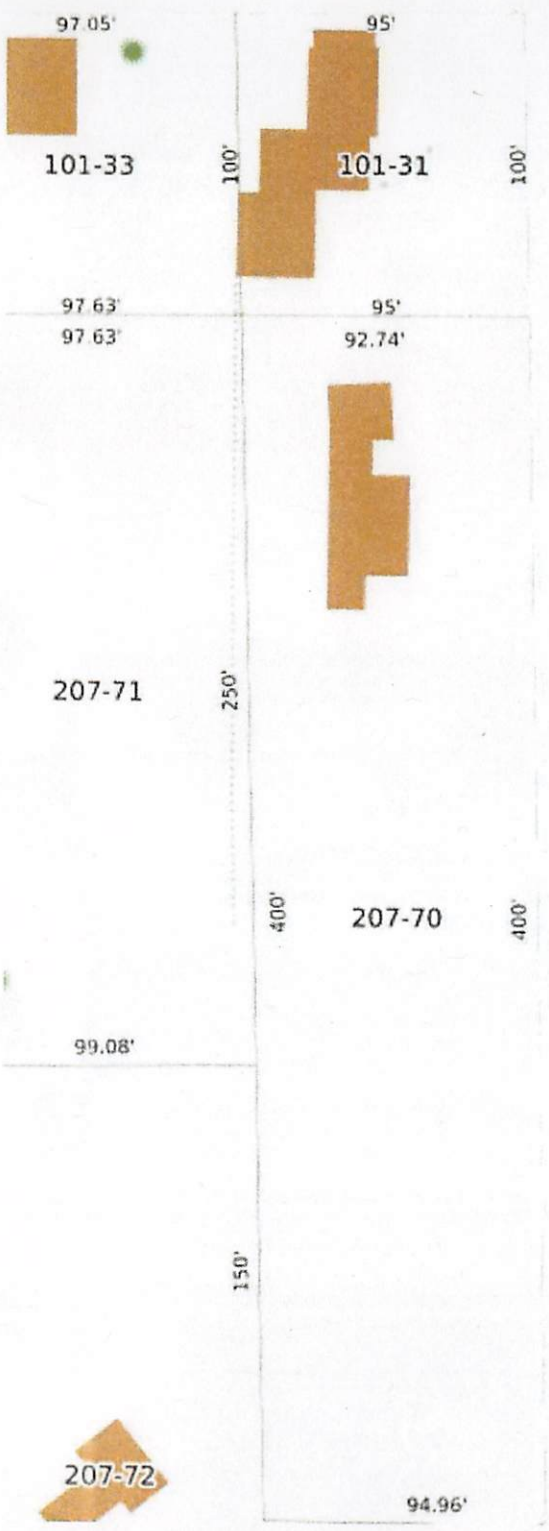
OWNER: JEFFREY M. & MELISSA FOY
 PROPERTY LOCATION: 67 RIDGES COURT
 CITY OF PORTSMOUTH
 COUNTY OF ROCKINGHAM
 STATE OF NEW HAMPSHIRE

2002
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SCALE: 1"=40' 10 AUGUST, 2022

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 800 Griffin Road - Unit 3
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 Fax (603) 430-2315



Peter E. Stanhope, Certified General Appraiser
(NHCG-31 and MECG-647)

EDUCATION:

American Institute of Real Estate Appraisers 1980 - 1984
University of New Hampshire 1960 - 1964

EXPERIENCE:

The Stanhope Group - Chief Appraiser 1967 - Present
Appraisal of complex residential, industrial and commercial real estate throughout northern New England for corporations, government agencies, financial institutions, law firms, and private individuals.

RELATED EXPERIENCE:

Adjunct Faculty, University of New Hampshire 1981 - 1999
Adjunct Faculty, Real Estate Center, University of Maine 1983 - 1990

ADDITIONAL EXPERIENCE:

National Business Institute
Foreclosure: Appraisal Review, Webinar Speaker
Appraisals in Estate Planning and Administration, Webinar Speaker
Maine Public Television
Format development and moderator of a six hour television special on residential and income property valuation
New Hampshire Commercial Investment Board of Realtors
Program presenter for "A Look at the Rate Value Relationship"
New Hampshire Bar Association
Program presenter for "The Appraisal In Tax Abatement", "Introduction and Overview of Divorce Litigation", and "Use of Experts in Divorce Litigation"
New Hampshire Trial Lawyers Association
Program presenter for the Annual Family Law Forum
Expert Witness (Testimony Before):
State of New Hampshire
Circuit Courts and Superior Courts
Board of Taxation and Land Appeal
State of Maine - York and Cumberland Superior Courts
U.S. Bankruptcy Court - Manchester, NH; Rutland, VT and Portland, ME
U.S. District Court - Concord, NH; Boston, MA, Worcester, MA

DESIGNATIONS, CERTIFICATIONS & AFFILIATIONS:

Appraisal Institute
Practicing Affiliate Member
National Association of Realtors, Appraisal Section
General Accredited Member
State of New Hampshire
Certified General Real Estate Appraiser
Licensed Real Estate Broker
State of Maine
Certified General Real Estate Appraiser

OFFICERSHIPS, COMMITTEES & ACTIVITIES:

New Hampshire Mortgage Banker's Association
Former Board of Directors Member
New Hampshire Commercial and Industrial Realtors
Former Board of Directors Member
New Hampshire Housing Finance Authority
Reverse Elderly Equity Loan Study Committee, Single Family Committee
National Association of Realtors
National Appraisal Committee Appraisal Section, Former NH Delegate
City of Portsmouth Economic Development Loan Program
Former Loan Review Board Member
Strafford County Regional Planning Commission Former Member
Town of Durham
Historic District Commission (Chairman 2012 - 2017) 2011 - 2018
Oyster River Advisory Committee
NH Rivers Management and Protection Program 2011 - 2012

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

March 7, 2023

HAND DELIVERED

Peter Stith, Principal Planner
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Jeffrey and Melissa Foy, Owner/Applicant
67 Ridges Court
Tax Map 207/Lot 59
Single Residence B District
LU-22-199

Dear Mr. Stith & Zoning Board Members:

On behalf of Jeffrey and Melissa Foy ("Foy"), enclosed please find the following in support of our pending request for zoning relief:

Exhibit B-Rev.3- 3/21/23 Architectural Plans-by DeStefano Mangel Architects

This plan set brings the architectural design up to date. The primary changes from the previously submitted architectural plans are a rear deck, which requires no zoning relief, and an expanded front dormer in the roofline to the right of the main entryway. See page 1 of the exhibit for the Site Plan view, and page 2, Proposed West Elevation for the building elevation view. The dormer is expanded to create space for a master bath.

Relief is required because slightly over 50% of the expanded 16 foot wide dormer is within the 19 foot front setback, although no closer than other areas such as the front entryway which has previously been granted relief. The dormer is approximately 14 feet from the front lot line, with the front of the home approximately 13.5 feet.

DANIEL C. HOEFLE

R. TIMOTHY PHOENIX

LAWRENCE B. GORMLEY

STEPHEN H. ROBERTS

R. PETER TAYLOR

ALEC L. MCEACHERN

KEVIN M. BAUM

JACOB J.B. MARVELLEY

GREGORY D. ROBBINS

PETER V. DOYLE

MONICA F. KIESER

DUNCAN A. EDGAR

STEPHANIE J. JOHNSON

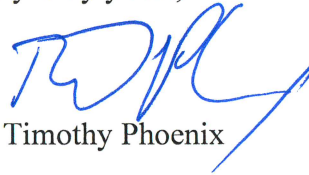
OF COUNSEL:

SAMUEL R. REID

JOHN AHLGREN

The arguments supporting compliance with the 5 variance requirements are essentially the same as addressed in our previous memoranda, which we will address at the hearing scheduled for March 21, 2023.

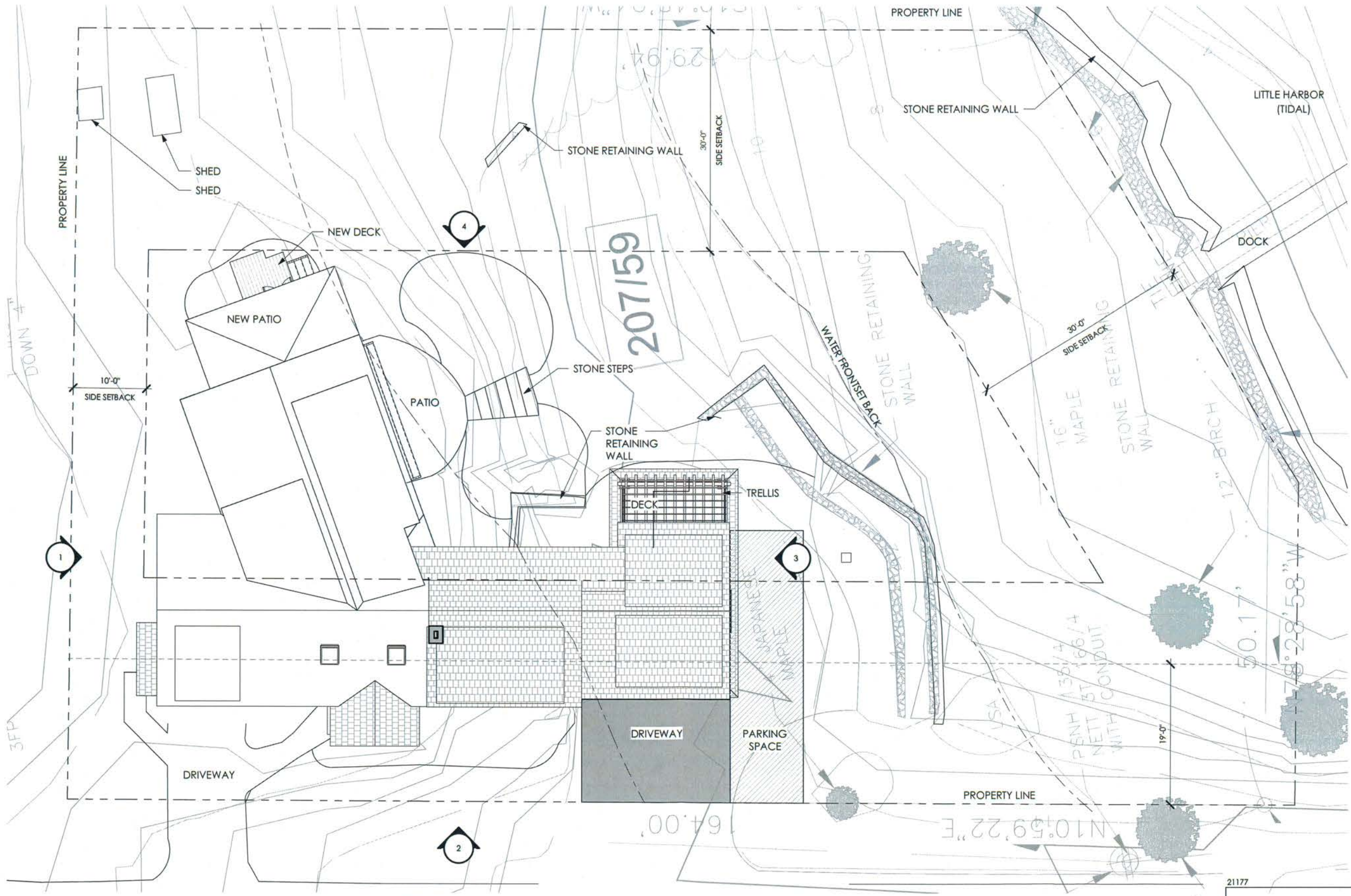
Very truly yours,



R. Timothy Phoenix

Encl.

cc: Client (via email)
Ambit Engineering, Inc. (via email)
DeStefano | Mangel (via email)



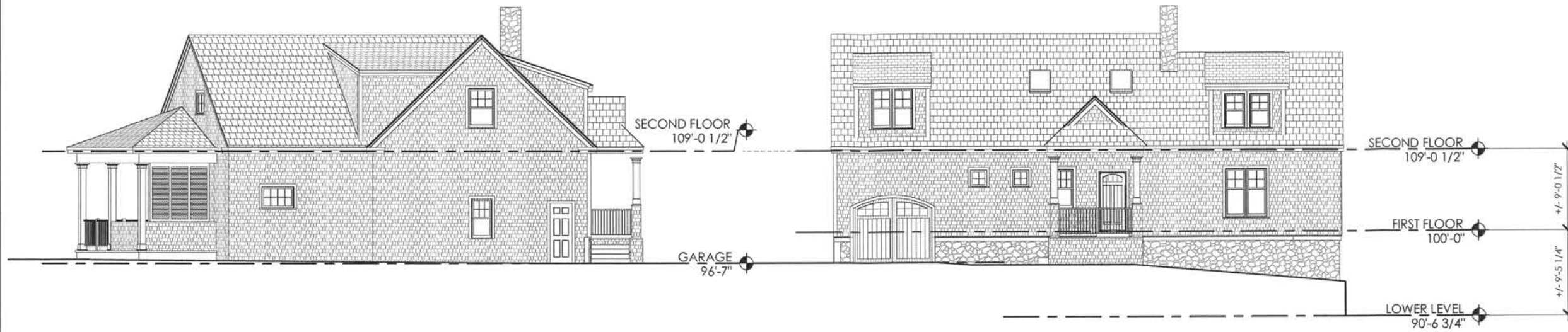
SCHEMATIC DESIGN FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

SITE PLAN
 1/8" = 1'-0"

EXHIBIT B-REV. 3

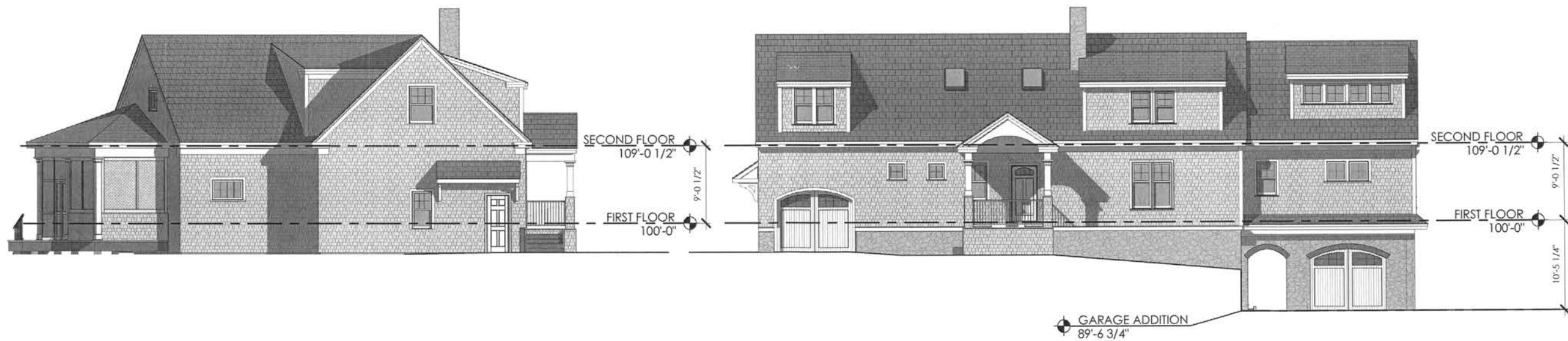
MARCH 21, 2023

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 DESTEFANO
 MAUGEL
 ARCHITECTS



EXISTING NORTH ELEVATION

EXISTING WEST ELEVATION



PROPOSED NORTH ELEVATION 1
1/8" = 1'-0"

PROPOSED WEST ELEVATION 2
1/8" = 1'-0"

SCHEMATIC DESIGN FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

ELEVATIONS
 1/8" = 1'-0"

MARCH 21, 2023

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 MAUGEL
 ARCHITECTS



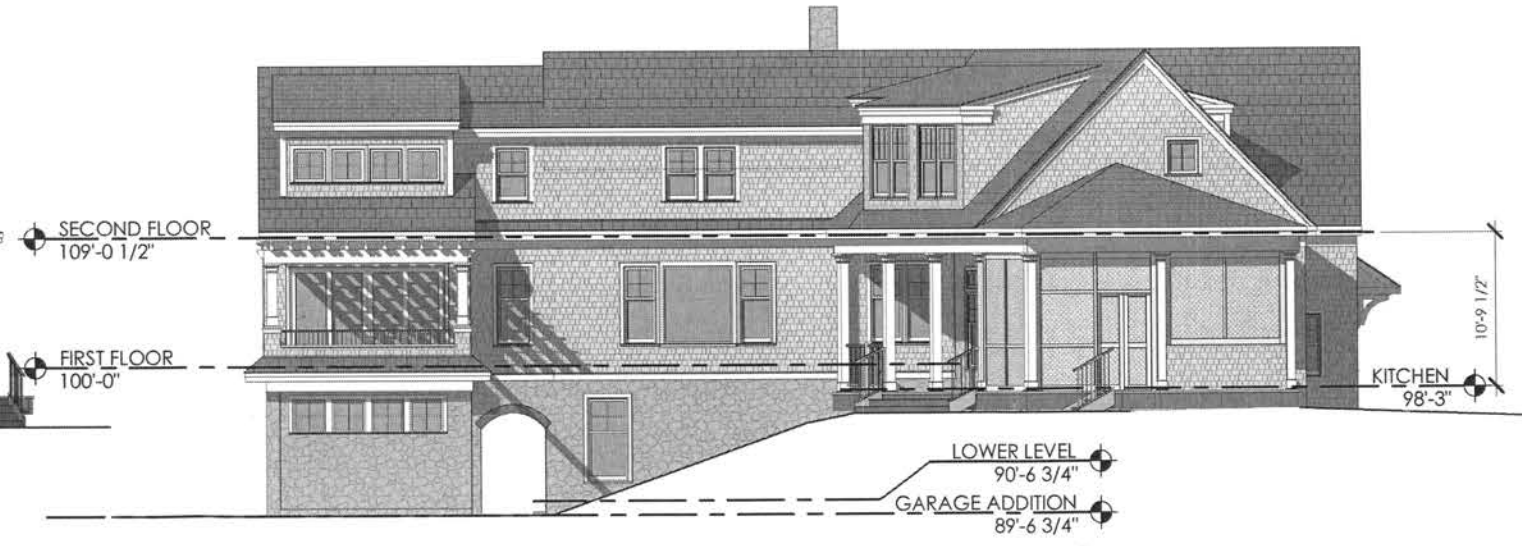
EXISTING SOUTH ELEVATION



EXISTING EAST ELEVATION



PROPOSED SOUTH ELEVATION 3
1/8" = 1'-0"



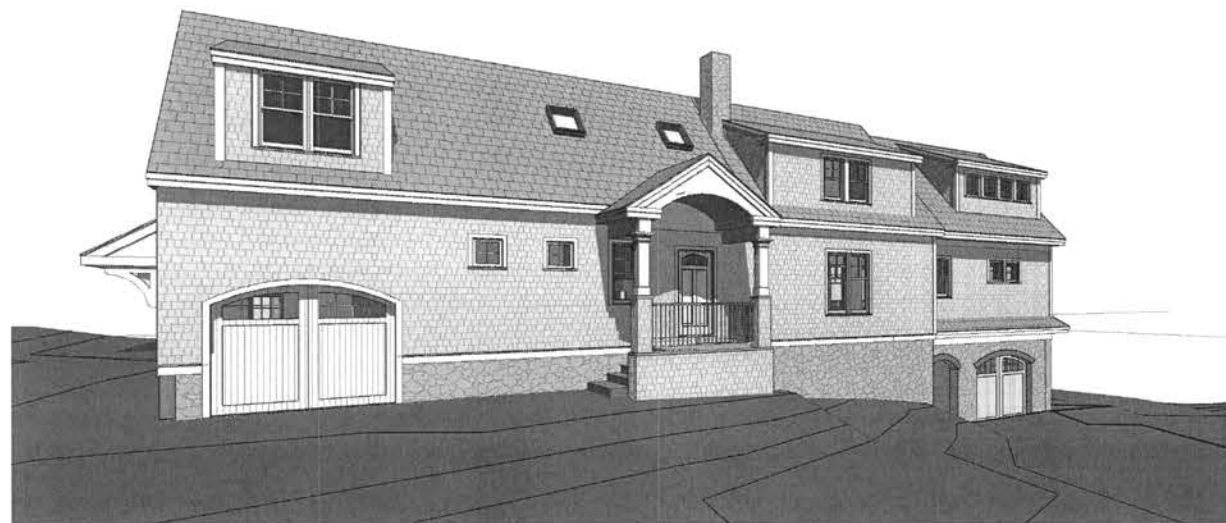
PROPOSED EAST ELEVATION 4
1/8" = 1'-0"

SCHEMATIC DESIGN FOR
FOY RESIDENCE
67 RIDGES CT
PORTSMOUTH, NH

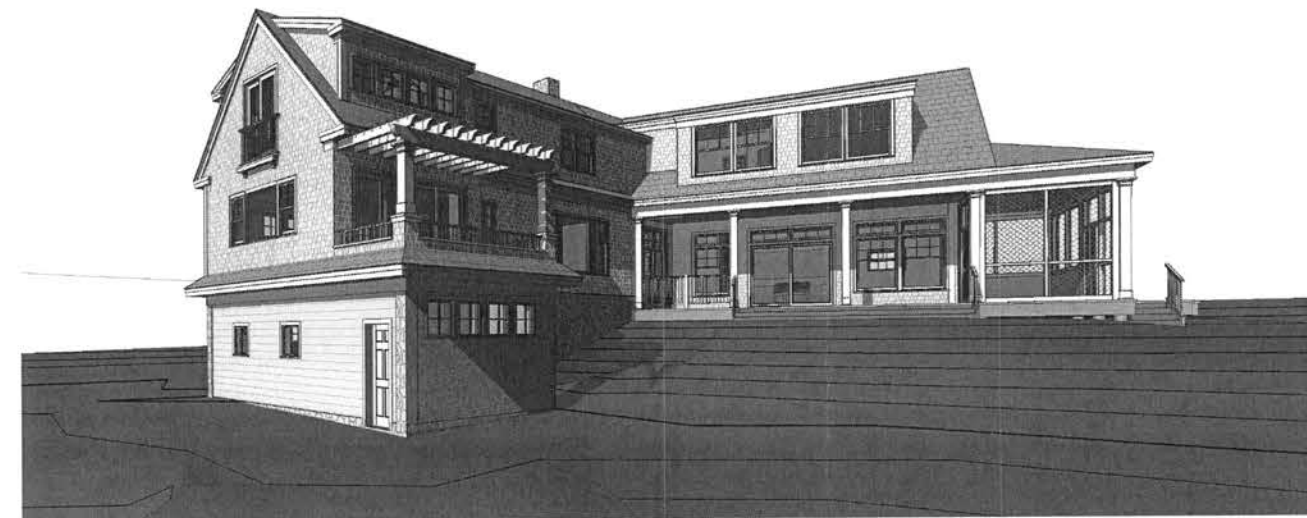
ELEVATIONS
1/8" = 1'-0"

MARCH 21, 2023

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DESTEFANO
MAUGEL
ARCHITECTS



PROPOSED FRONT VIEW



PROPOSED REAR PERSPECTIVE

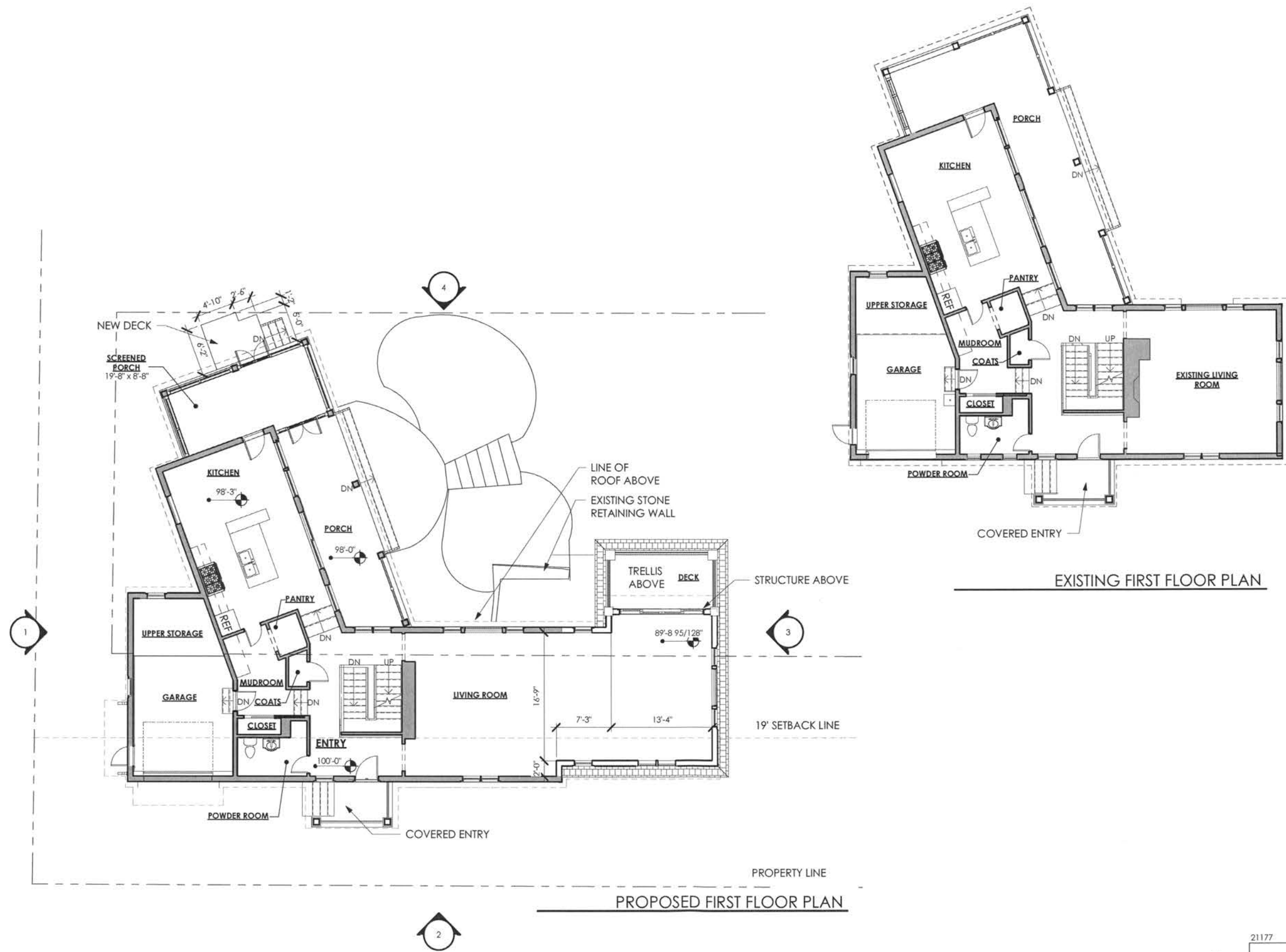
SCHEMATIC DESIGN FOR
FOY RESIDENCE
67 RIDGES CT
PORTSMOUTH, NH

PERSPECTIVES

MARCH 21, 2023



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SCHEMATIC DESIGN FOR
FOY RESIDENCE
 67 RIDGES CT
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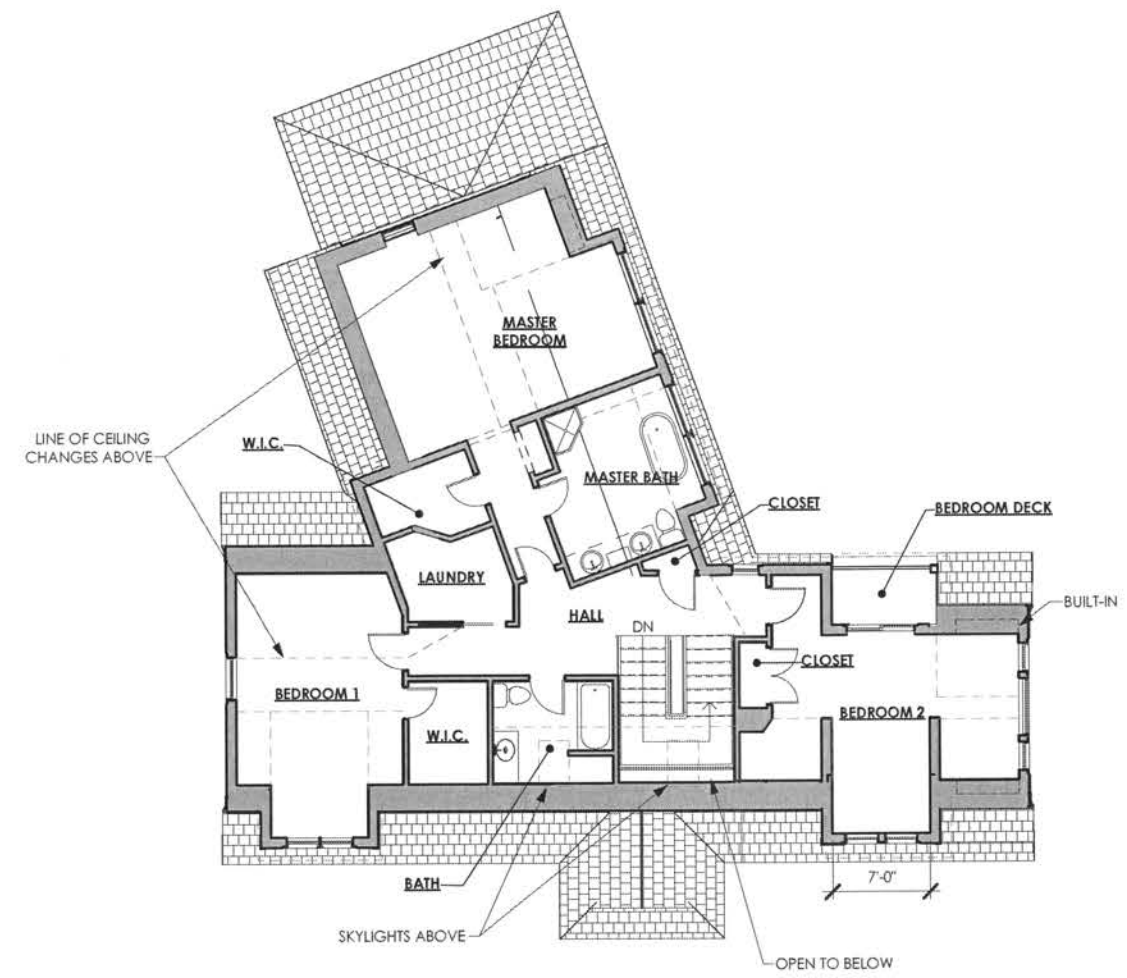
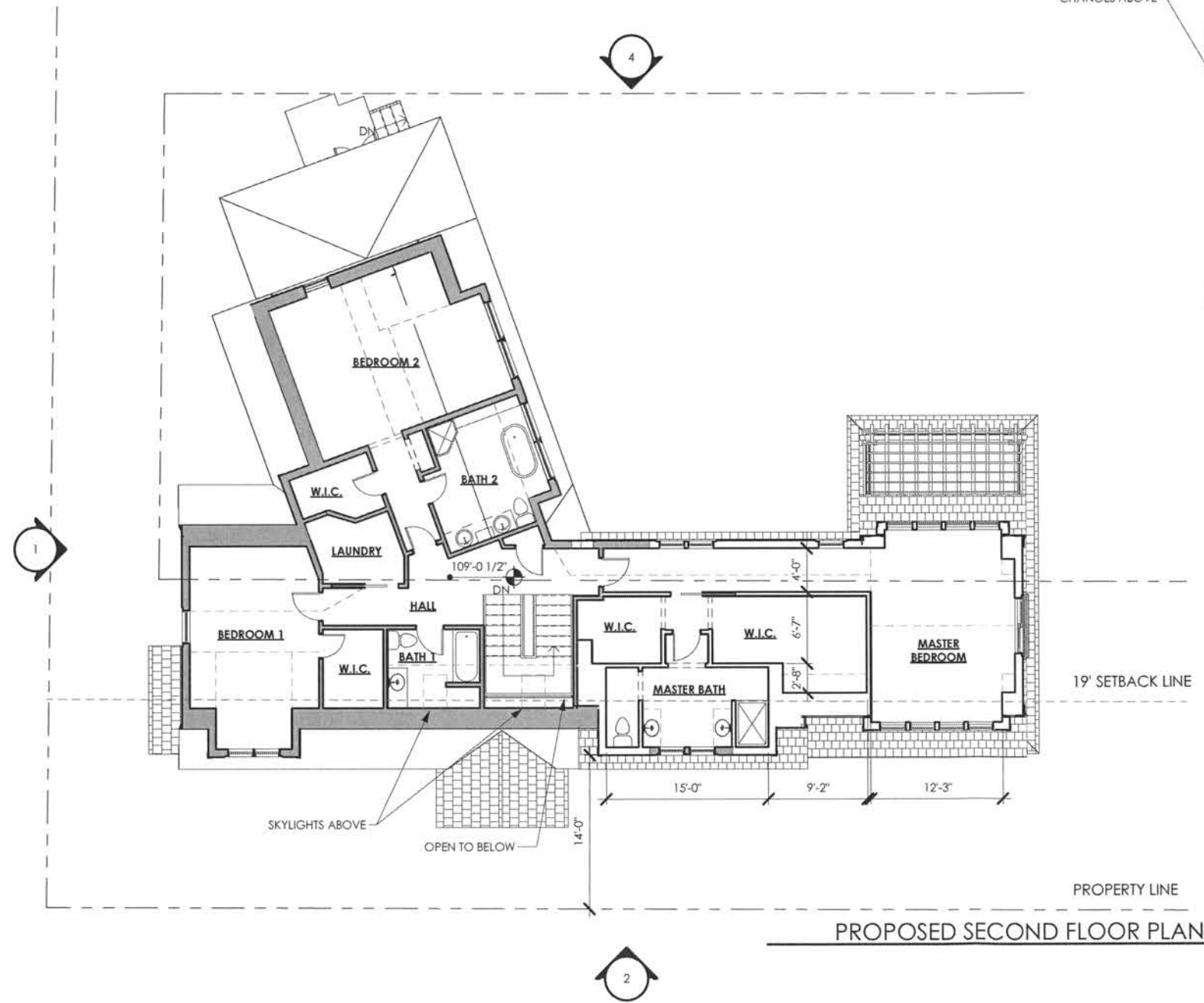
FLOOR PLAN
 1/8" = 1'-0"

MARCH 21, 2023

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EXISTING SECOND FLOOR PLAN

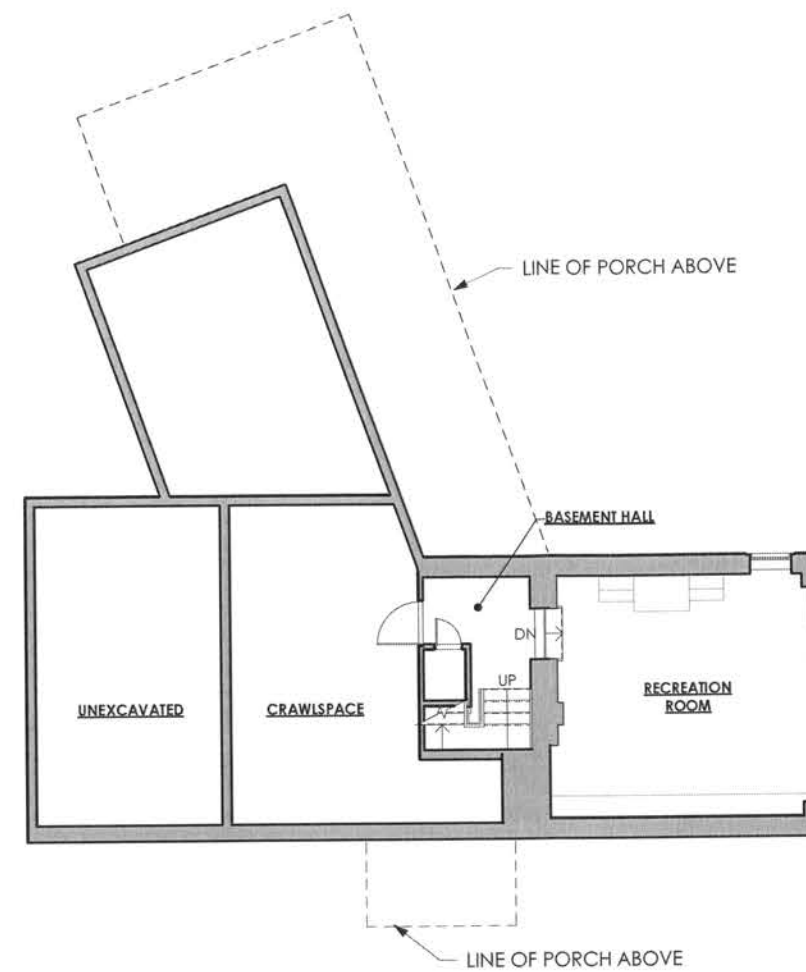
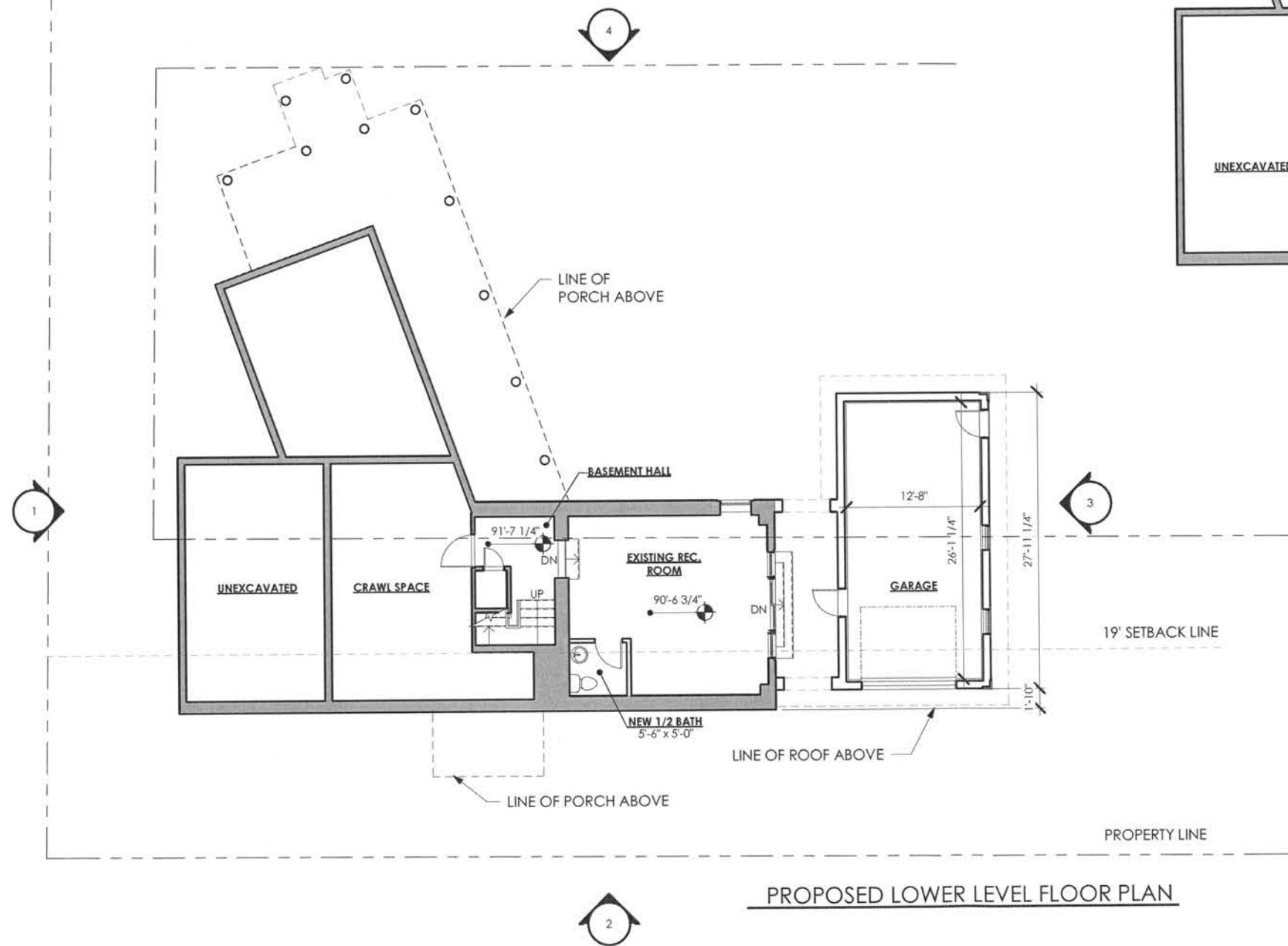
PROPOSED SECOND FLOOR PLAN

SCHEMATIC DESIGN FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

FLOOR PLAN
 1/8" = 1'-0"

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 MARCH 21, 2023





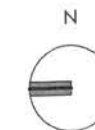
EXISTING LOWER LEVEL FLOOR PLAN

PROPOSED LOWER LEVEL FLOOR PLAN

SCHEMATIC DESIGN FOR
FOY RESIDENCE
 67 RIDGES CT
 PORTSMOUTH, NH

FLOOR PLAN
 1/8" = 1'-0"

MARCH 21, 2023



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