

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

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August 15, 2022

UPLOADED TO VIEWPOINT & 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 and Zoning Board Members:

On behalf of Jeff and Melissa Foy ("Foy") please accept the attached supplemental documentation in support of zoning relief to be considered by the Zoning Board ("ZBA") tomorrow night, August 16, 2022. This information was just produced/received and is in response to submissions on behalf of Kathleen Thompson, 56 Ridges Ct. (by Durbin Law), and Robin Hackett/Patti, Ruby Palen ("Hackett/ Palen"), 46 Ridges Ct. These are the two closest neighbors across the street from Foy at 67 Ridges Ct., who requested denial of requested relief based upon the claim that their view will be diminished or eliminated, thus their property values will be diminished as a result of granting relief and subsequent construction of an addition as proposed by Foy. Hackett/ Palen et al, at 46 ridges Ct. has additionally submitted a document indicating support by a number of neighbors, virtually all of whom appear to have no view and are not affected by the relief in a way other than the general public. For the reasons that follow, all requests for denial of the requested relief on the basis of loss of use/diminished property values fail.

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

EXHIBITS:

1. 8/22 Abutter's View Shed Plan-By Ambit Engineering
 - 46 Ridges Ct. plan view
 - 46 Ridges Ct. aerial view
 - 56 Ridges Ct. plan view
 - 56 Ridges Ct. aerial view.

These plans/images conclusively demonstrate that the views to Little Harbor from 46 and 56 Ridges Ct. over the Foy property at 67 Ridges Ct., will not be eliminated. Significant views remain.

2. 8/14/22 letter, Robin Valeri, Broker, Keller Williams Coastal and Lakes & Mountains Realty- Providing expert opinion dispelling the 7/13/22 opinion of realtor Ali Goodwin, submitted by Durbin Law on behalf of Kathleen Thompson, 56 ridges Ct. In summary:
 - Claim that the addition will "directly blocks the water views" is incorrect as the entire view will not be blocked.
 - The property does not benefit from a water view easement, so diminishment of property value cannot be claimed as it cannot be marketed as ever having a deeded view. Construction or vegetation could block the view at any time, thus the value of neighboring homes is reflective of this.
 - Ms. Thompson or any neighbor over the years and while 67 Ridges Ct. was on the market for 85 days could have negotiated for a view easement.
 - Foy's are increasing their property value which has a positive impact upon comparables in the neighborhood.
 - Claimed Thompson value of \$2.3 million to be reduced by \$800,000-\$1 million is not realistic. Assessed value of Thompson property is approximately 800,000. Applying equalization ratio brings market value to approximately \$1 million. Foy home assessed at \$1.8 million, equalization ratio brings assessed value to approximately \$2.25 million. Foy's paid \$2.65 million, roughly 17-18% higher than equalized assessed value. Same percentage applied to Thompson property brings value to between 1.2 and \$1.3 million. Value not diminished with a partial loss of water view.
 - Foy's property taxes at approximately \$26,000 are 2.3 times Thompson at approximately \$11,000. Reflective of consideration of water access/view for Foy and none for Thompson.
3. 8/15/22 Technical Analysis Report-Probability of Diminution in Value by Expanding the Footprint of Real Estate Located at Map 207 Lot 59, 57 Ridges Ct., Portsmouth New Hampshire- by Peter Stanhope, the Stanhope Group. Summarizing:
 - Analysis of similarly situated sales in Portsmouth New Hampshire and competing properties within 1 mile

- Realtor Ms. Goodwin's \$2.3 million value and loss of up to \$1 million from loss of use is not supported. If \$2.3 million is used, a loss of \$1 million would indicate no view value of \$1,300,000. That value is supported by sales of South end properties without views.
- Conclusion- "There is no market evidence that suggests a partial loss of a partial view within the marketplace would result in a diminution in value. A purchaser of 56 Ridges Ct., Portsmouth New Hampshire, would pay the same premium price for a partial territorial view, with and without the addition garage added to 67 Ridges Ct."

The 7/19/22 opposition letter and supporting materials submitted by Durbin Law on behalf of Kathleen Thompson, 56 Ridges Ct. admits that a property owner "never truly has a right to a view unless one is protected through an easement or other similar legal instrument." While the effect of lost views upon neighboring property values is a factor that may be considered, see Devaney v. Town of Windham, 132 NH 302 (1989) that case is distinguishable because there, the development by the owner over whose property the neighbor's view was blocked undertook construction without first obtaining permits and approvals from the town despite being told that he must cease and desist the illegal expansion. Moreover, the actions by that property owner apparently totally obstructed the neighbor's view and decreased sunlight on her property. These factors are not here at play.

Additionally, in O'Sullivan v. Town of North Hampton 2019 WL2375381, at 2, (unpublished) (relying upon Harborside Assocs. v. Parade Residence Hotel, 162 NH 508, 519-520 (2011)) the Court found that it was proper for the Board of Adjustment to rely upon expert testimony and their own knowledge experience and observation. Here we have superior expert testimony and backup support concluding that there will be no diminution of property values.

Turning to the 7/19/22 memorandum by Hackett/Palen, adding the names of nearby residents (without signatures) in support of the request for denial, all references to the proximity of the addition to the water/environmental concerns are nonissues. No variance is required for the setback from the water. Moreover, any such wetland buffer issues are the purview of the Planning Board, not the Zoning Board of Adjustment. Finally, other than Thompson at 56, and Hackett/Palen at 46, none of the other signatories have standing to complain. Upon information and belief, none of the additional purported signatories, claim a loss of view from their homes/lots.

The ZBA is here urged to follow the law with respect to who may challenge a zoning decision in court. Pursuant to RSA 677:4 only a "person aggrieved", may appeal such decision. A person aggrieved is any person directly affected by the decision. To prove that a person is "directly affected" for standing purposes, they must show "some direct definite interest in the outcome of the action or proceeding" Hannaford Bros. Co. v. town of Bedford, 164 NH 764, 767 (2013). (citing Golf Course Investors of New Hampshire v. Town of Jaffrey, 161 NH 675, 680 (2011)). Parties asserting standing must be impacted differently than the public at large. Office of Energy and Planning, The Board of Adjustment in New Hampshire: A Handbook for Local Officials, at p. 4 – 2 (2018) (citing Weeks Restaurant Corp. v. City of Dover, 119 NH 541 (1975)). The factors to be considered to make a determination as to whether standing exists are:

1. The proximity of the challenging parties property to the subject site;
2. The type of change proposed;
3. The immediacy of the injury claimed; and
4. The challenging party's participation in the administrative hearings. *Weeks, supra* at 545.

In the instant case, other than Thompson and Hackett/Palen, none of the other signatories to the 7/19/22 opposition memo appear to have an interest in this matter other than as a member of the general public because their views from their homes are not affected by the Foy application/proposal, thus their position(s) should be entirely discounted.

For the reasons set forth herein, together with the original zoning application and materials submitted in support of the requested relief, Jeff and Melissa Foy respectfully request ZBA approval of the pending zoning relief requested.

Very truly yours,



R. Timothy Phoenix

RTP/msw
Encl.

cc: Client
Maugel DeStefano Architects
Ambit Engineering
Durbin Law

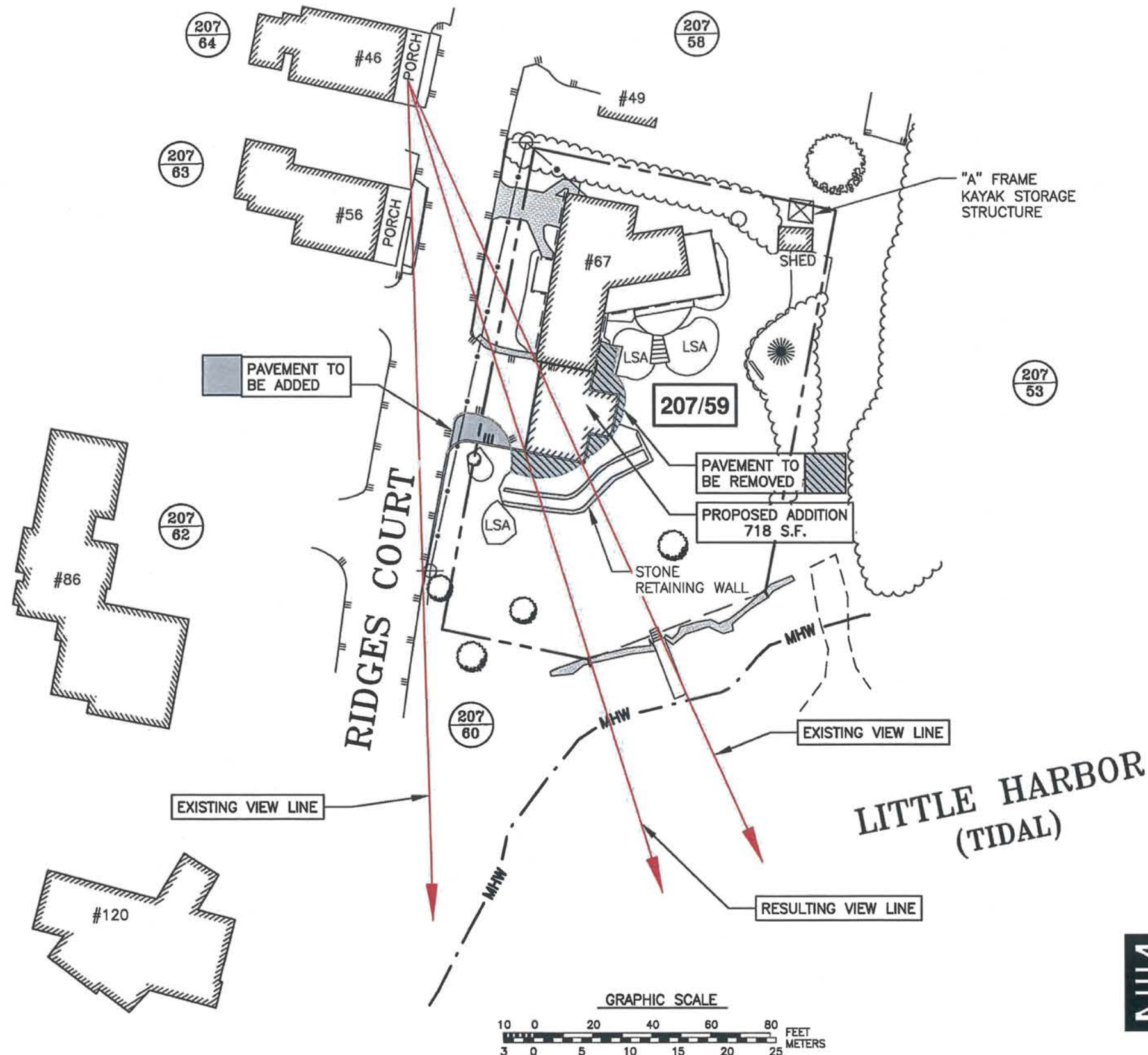
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46 RIDGES COURT ABUTTER VIEW SHED

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

EXHIBIT 1



SCALE: 1"=40'

10 AUGUST, 2022



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

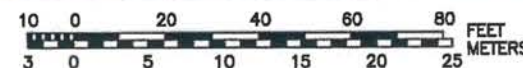
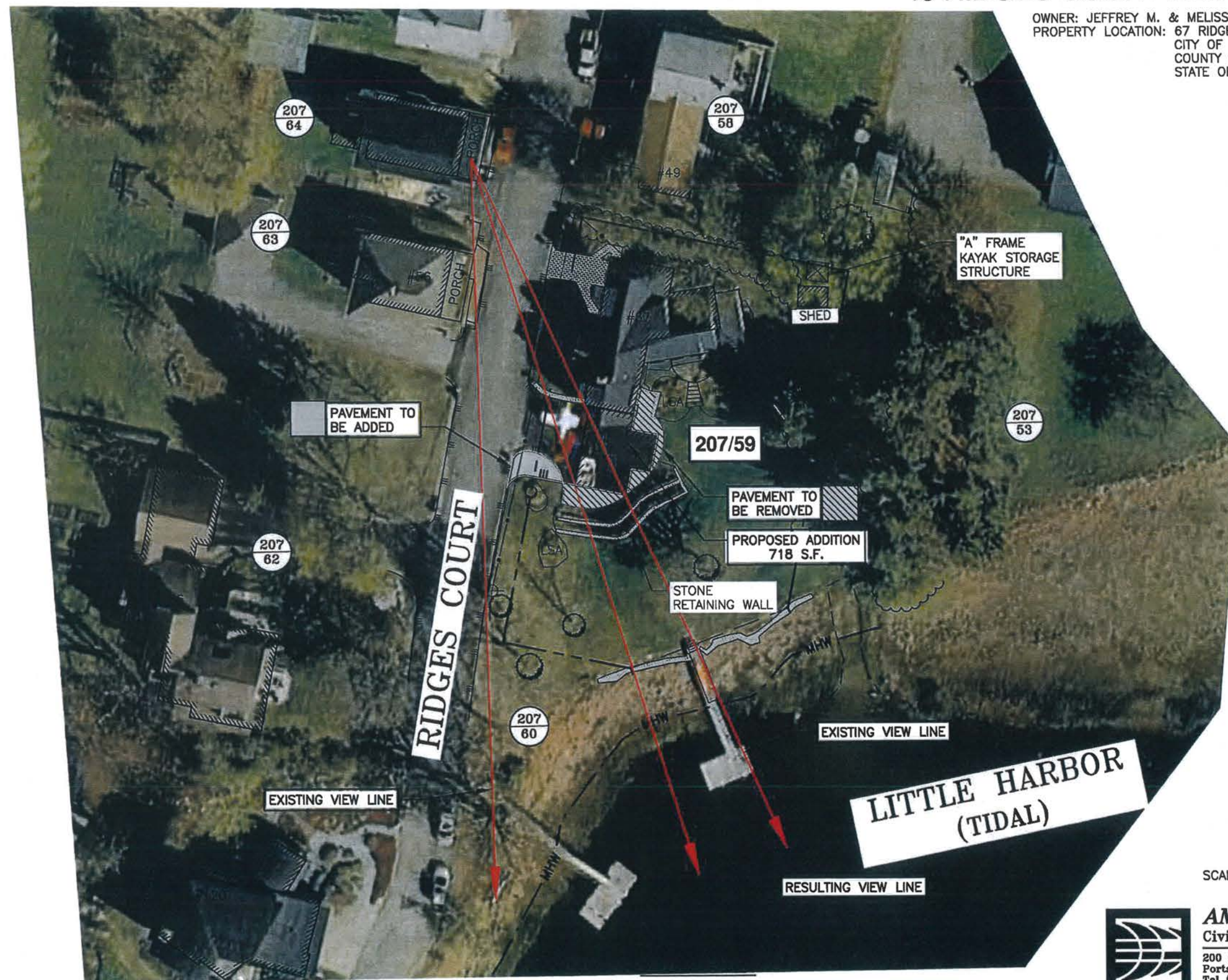
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

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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

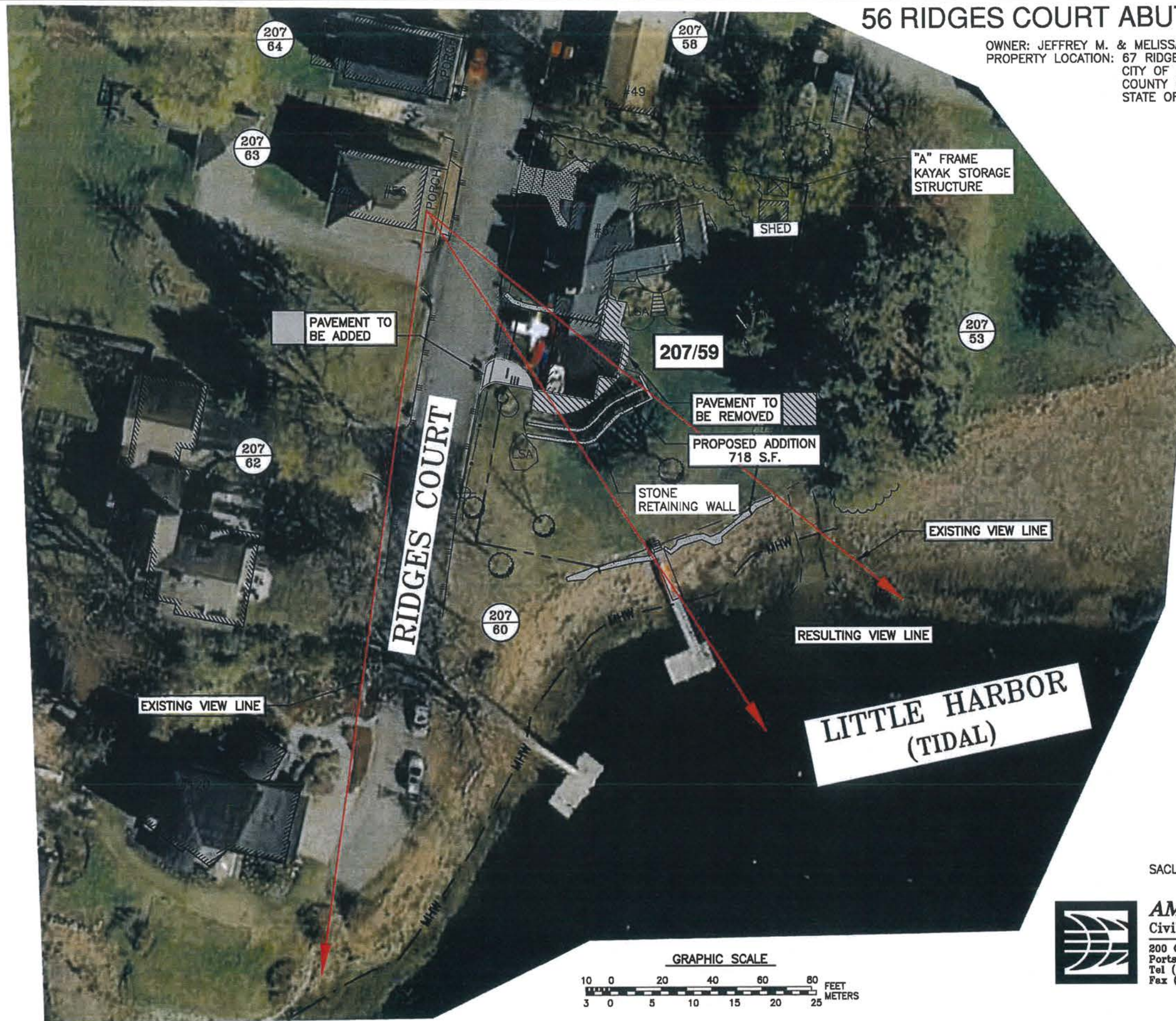


SCALE: 1"=40' 10 AUGUST, 2022



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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

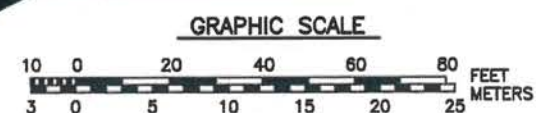
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10 AUGUST, 2022



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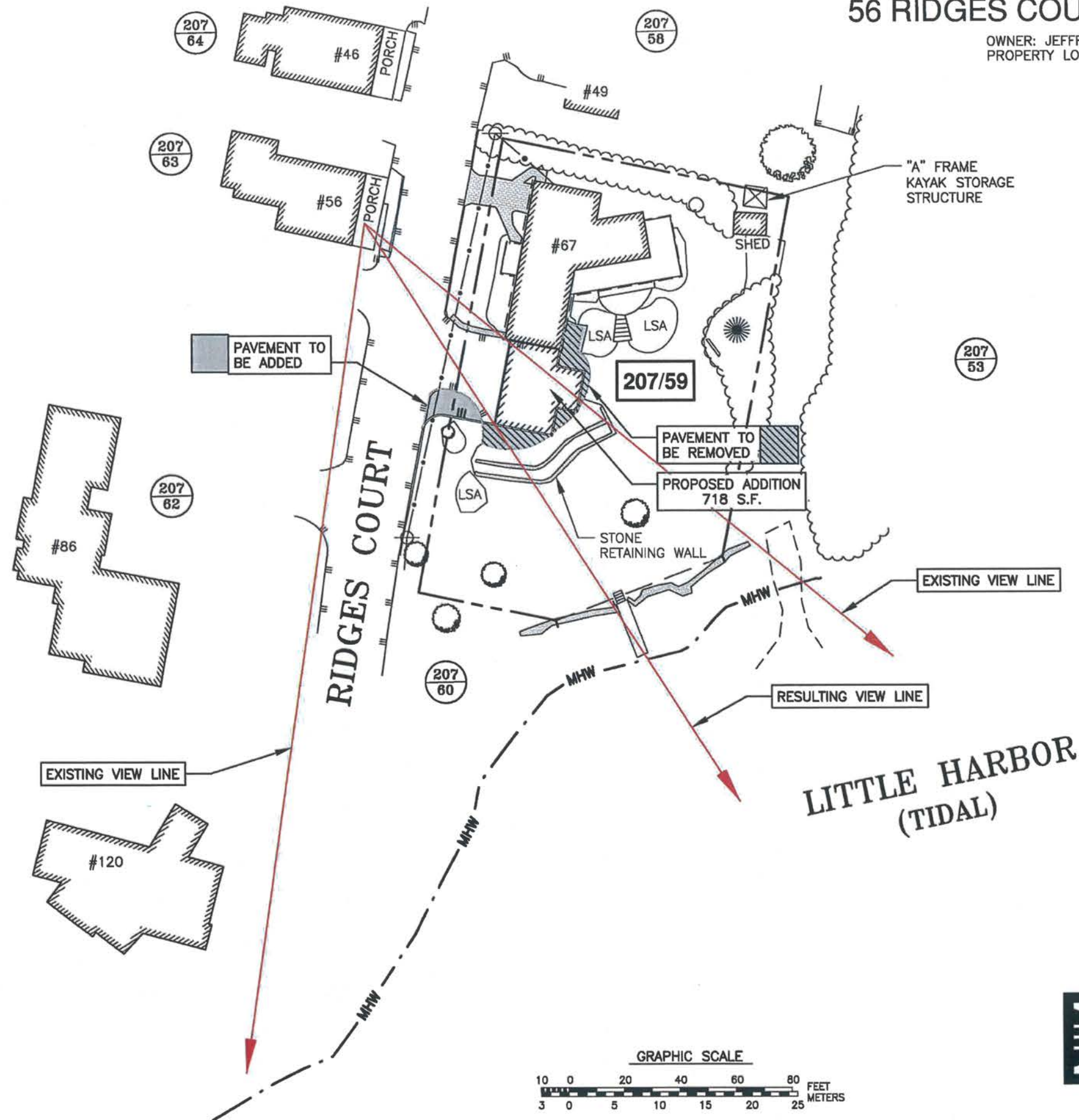


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56 RIDGES COURT ABUTTER VIEW SHED

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



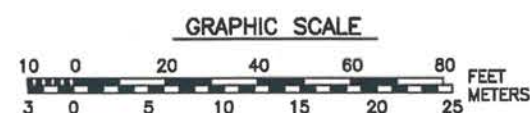
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10 AUGUST, 2022



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FB 222 PG 66

1153.02



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

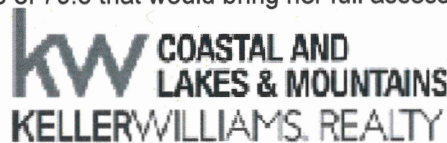
Dear Zoning Board of Adjustment Members,

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:

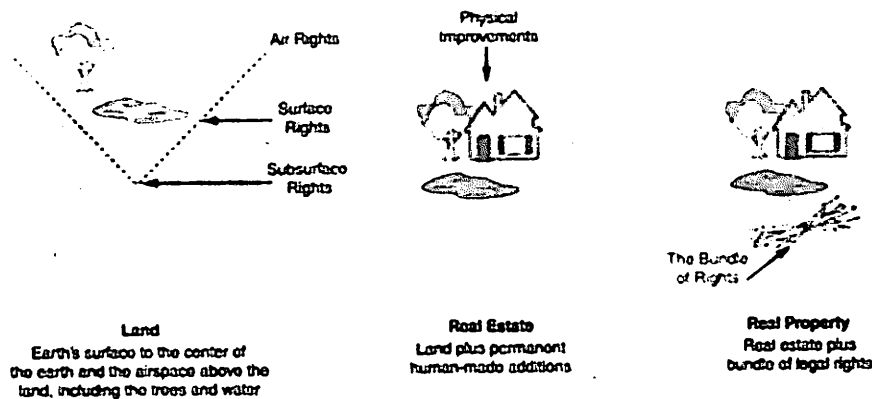
The most probable price which a property should bring in a competitive and open market under all condition's requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation 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 edition, 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.

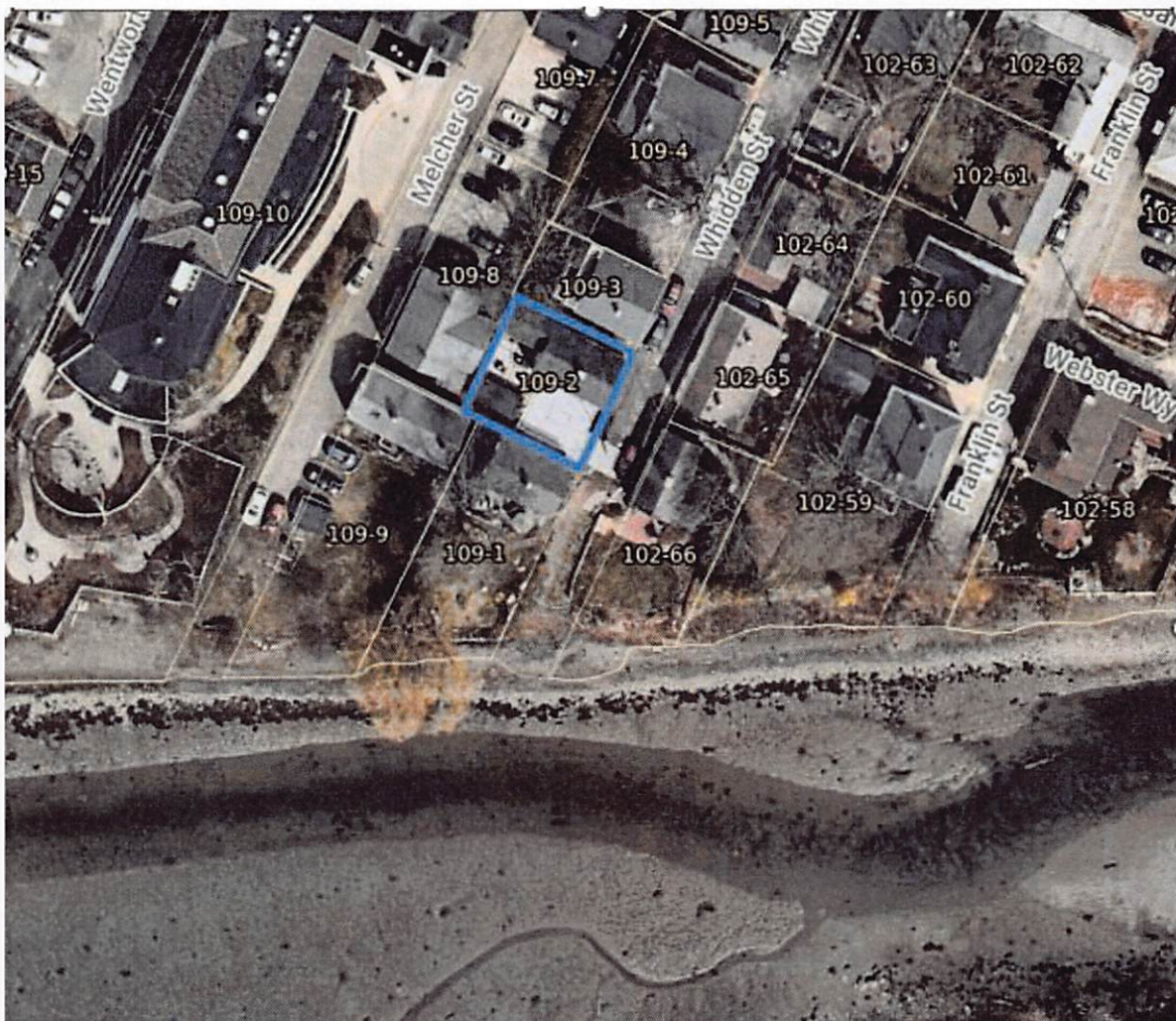


SALE #1:

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:
IMPROVEMENTS:
VISIBILITY:
SCHOOL DISTRICT:
COMMENTS:

Partial water views
Original construction
Partial views of Piscataqua River
Little Harbor
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,

A handwritten signature in black ink, appearing to read "Peter E. Stanhope".

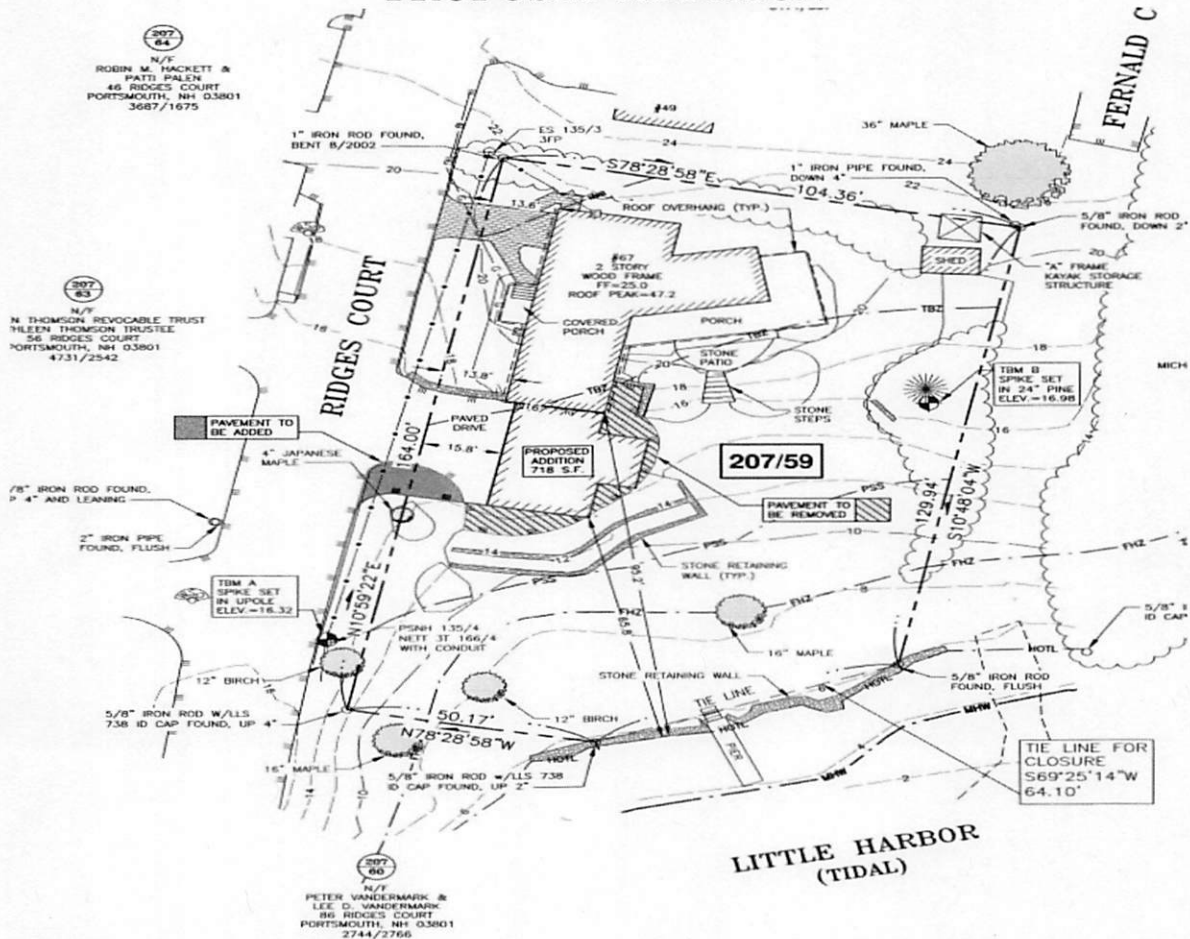
Peter E. Stanhope, NHCG-31

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.

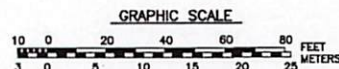
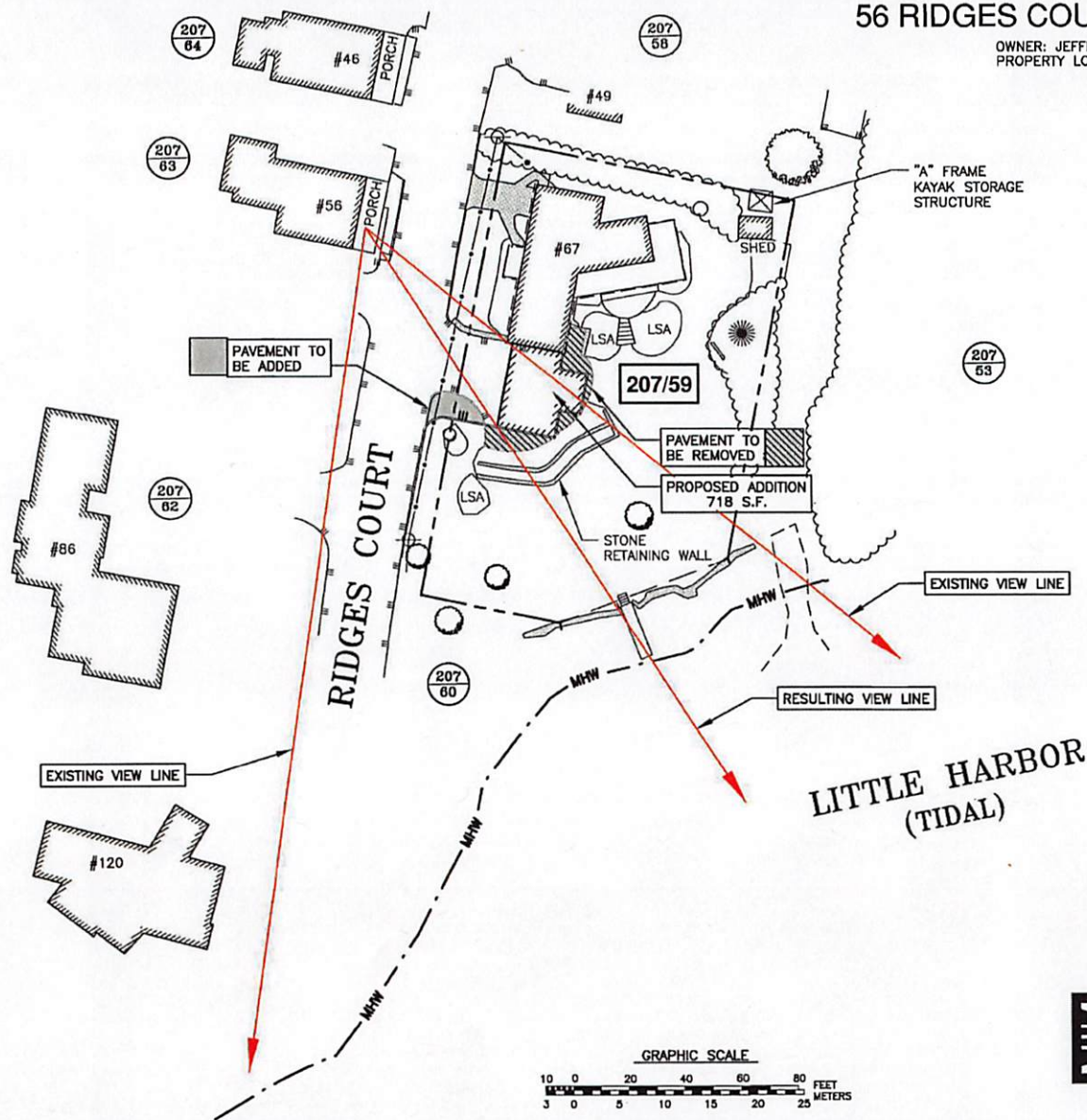
PROPOSED ADDITION



2002
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N
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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

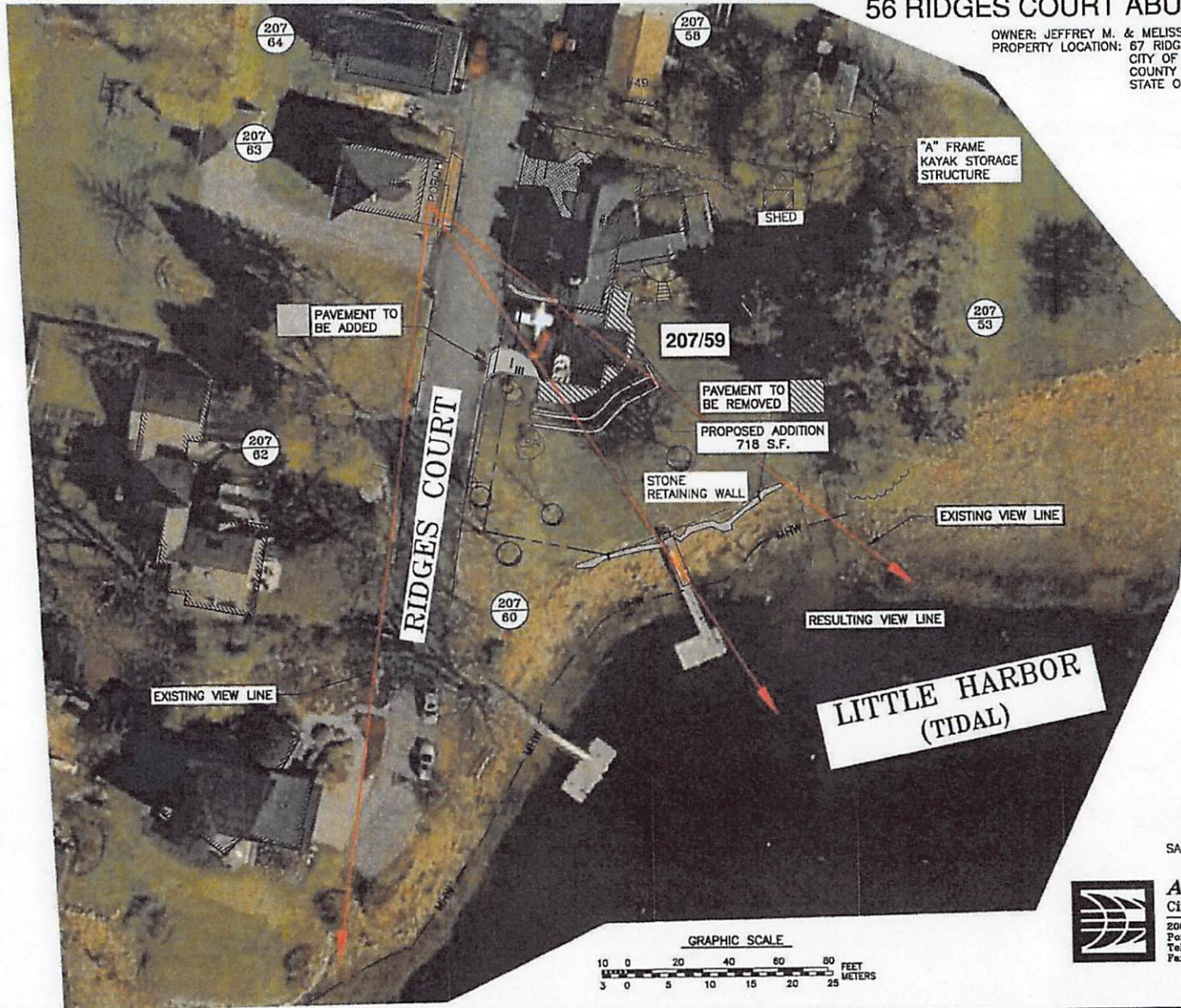
FB 222 PG 66

1153.02

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
MAGNETIC
PLAN
REF. 1



SACLE: 1"=40'

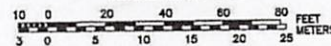
10 AUGUST, 2022



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors

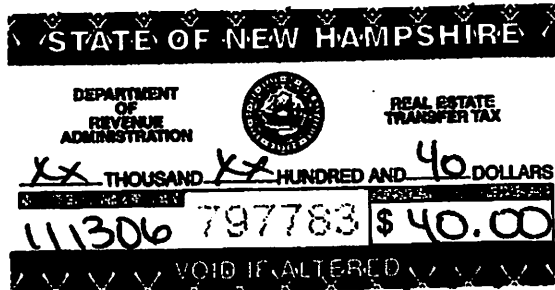
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 430-2316

GRAPHIC SCALE



FB 222 PG 66

1153.02

**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

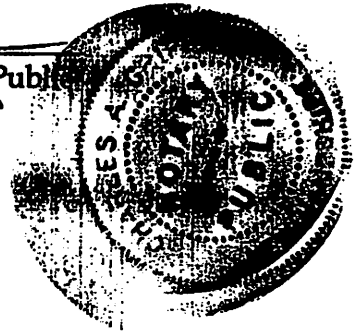
STATE OF NEW HAMPSHIRE
ROCKINHAM, SS

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
Co-Owner THOMSON KATHLEEN Y TRUSTEE
Address 56 RIDGES CT
PORTSMOUTH, NH 03801

Sale Price \$0
Certificate
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

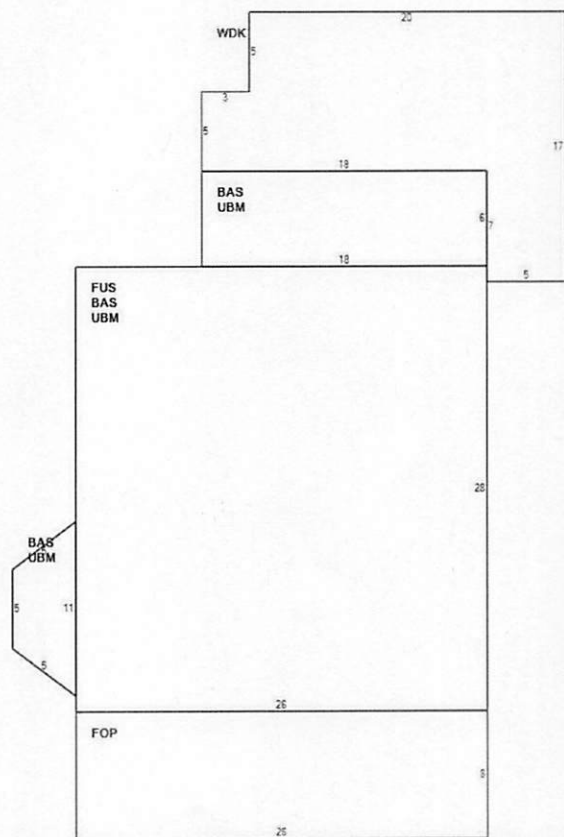
Year Built: 1927
Living Area: 1,596
Replacement Cost: \$333,824
Building Percent Good: 65

Less Depreciation: \$217,000

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	

A black and white photograph of a two-story house with a prominent front porch and a small dormer window on the roof. The house has light-colored siding and dark trim around the windows and porch. A large bush is in the foreground.

Building Layout



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,

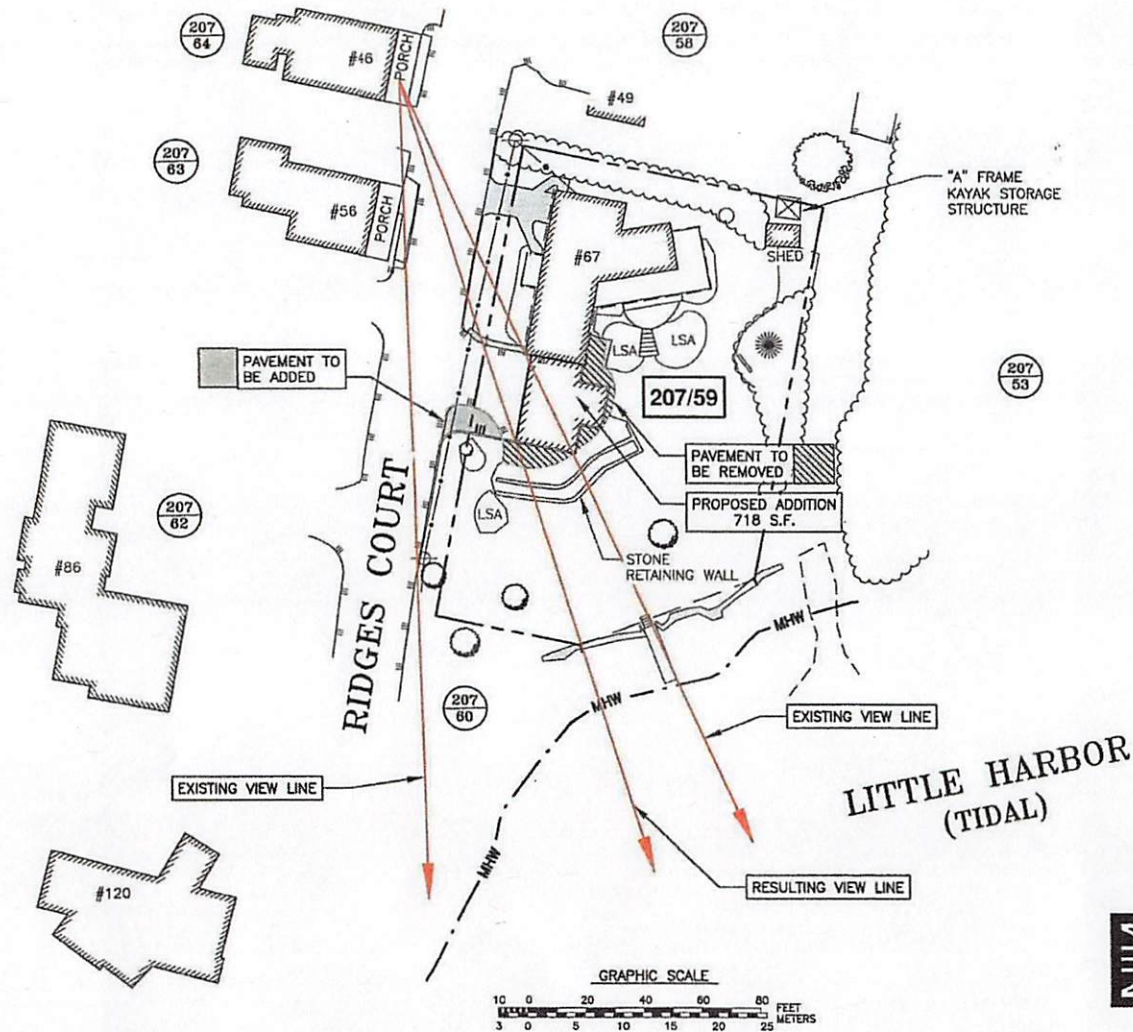
A handwritten signature in cursive script that reads "Ali Goodwin".

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

2002
MAGNETIC
PLAN
REF. 1

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



SCALE: 1"=40' 10 AUGUST, 2022



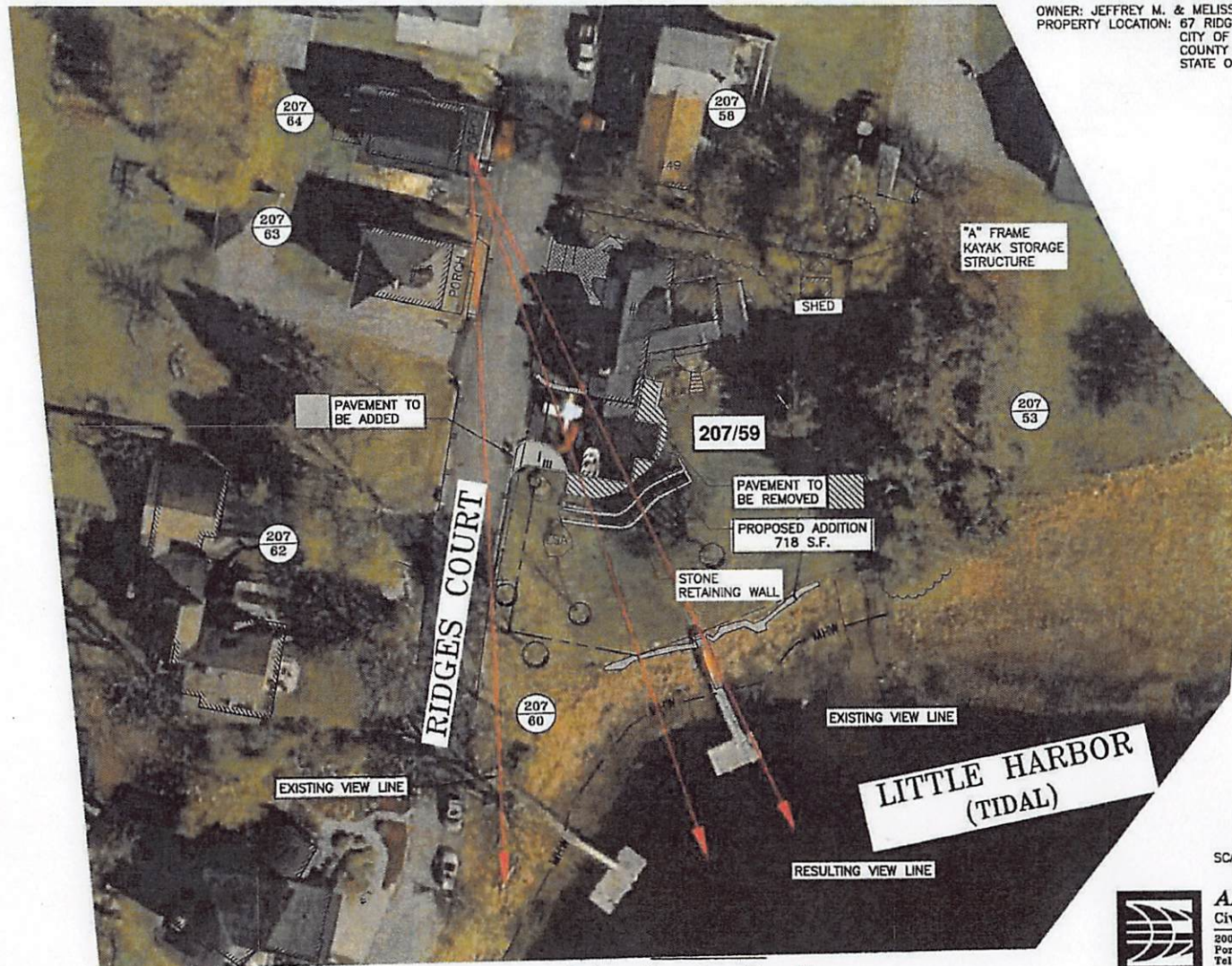
AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 438-2315

FB 222 PG 66 1153.02

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
MAGNETIC
PLAN
REF. 1



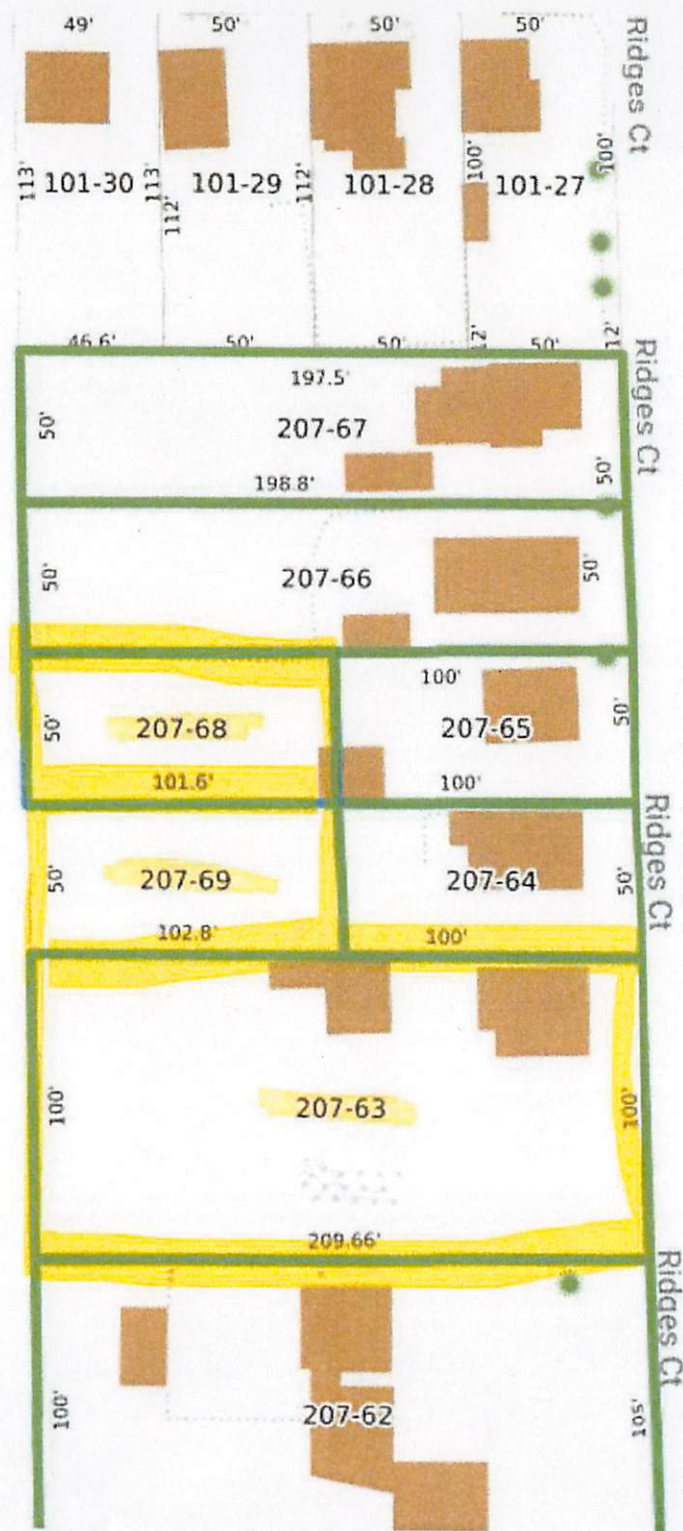
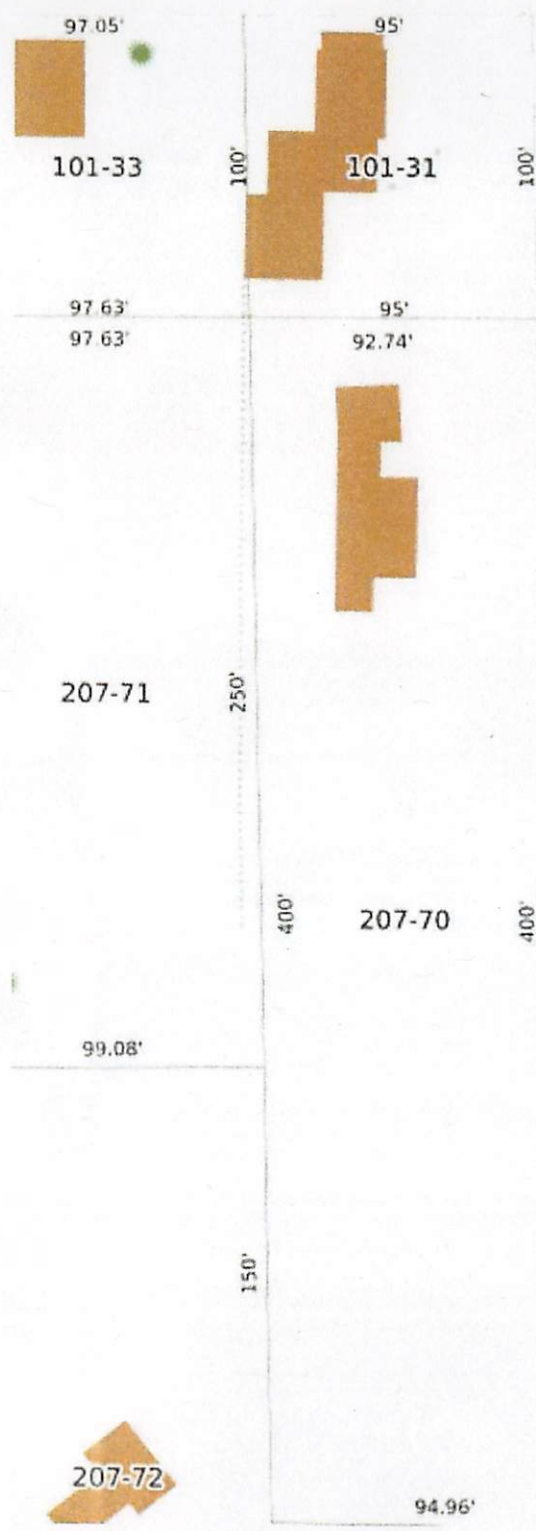
10 0 20 40 60 80 FEET
3 0 5 10 15 20 25 METERS

SCALE: 1"=40' 10 AUGUST, 2022



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

FB 222 PG 66 1153.02



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