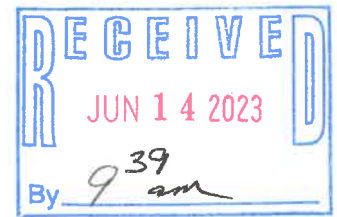


June 14, 2023



HAND DELIVERED & VIA EMAIL

Phyllis Eldridge, Chair
Portsmouth Zoning Board of Adjustment ("ZBA")
1 Junkins Ave
Portsmouth, NH 03801

Re: 635 Sagamore Development, LLC, Owner/Applicant "635"
Project Location: 635 Sagamore Avenue
Tax Map 222, Lot 19
General Residence A (GRA Zone)

Dear Ms. Eldridge and Zoning Board Members:

On behalf of the abutters of 635 Sagamore Ave. ("Abutters") please accept this letter as a request for reconsideration of the May 16th 2023 vote by the ZBA approving (6-0) the Applicant's Request for variance. Request For Rehearing of the earlier approval to be considered by the ZBA for the following reasons:

- The current application does not meet the Unnecessary Hardship criteria in the applicant's proposal of 4 single family homes where one is permitted. The claimed Unnecessary Hardship is not achieved based on the applicant's arguments. See relevant rationale below.
- The applicant and the ZBA were using inaccurate numbers in their calculations regarding comparative projects. Tax records and association documentation clearly state the difference. (Exhibit 1.).
- The Spirit of the Ordinance is Not Observed, and it is Contrary to the public interest most especially for the direct Sagamore Ave abutters. See reasons below.

EXHIBITS

Portsmouth tax record data and association documents

HISTORY/REQUEST FOR RECONSIDERATION

Briefly, the history of this matter is that 635, has been on and off the ZBA's agenda for more than a year. Initially with a very unreasonable request for five freestanding houses on 1.94 acres. They withdrew the original application and reapplied stating they reduced the project 20% which is true only in building count. The two homes that replace three of five in the original plan are larger in size – hence not a 20% reduction. 635 held an onsite meeting with Sagamore Ave residents including Tidewatch (TW) residents. In that meeting, no one denied that a residential use (more conforming use) of the property would not be good for abutters as well as the general public. Only one attendee did not leave with major concerns regarding the placement, density, and safety of the project.

In the May 16th meeting all the variance criteria were duly considered and we respect and appreciate the board's efforts. Again, we respectfully request the board reconsider their decision on 635 regarding;

The Spirit of the Ordinance and Public Interest. If the ZBA were to consider this application from the perspective of the Sagamore Ave abutters only and not the TW neighbors, Mr. Mannel's statements would be very relevant. I paraphrase 'Looking at the project when I first saw it, I did not think it was feasible.' and 'If TideWatch wasn't there this would not fly at all'. For the immediate abutters on Sagamore Ave, three of which are in the opposition documentation and two of whom were at the May 16th meeting, this project clearly flies in the face of the Spirit of the Ordinance and for sure changes the Essential Character of the Locality.

The Proposed Development Offends the Spirit of the Ordinance and Is Not Consonant with the Public Interest.

These factors are generally considered jointly. *See Farrar v. City of Keene*, 158 N.H.

684, 691 (2009). A project violates these tests if it "alters the essential character of the neighborhood" or "would threaten the public health, safety, or welfare." *Id.* The instant petition does both.

The density and layout of the Proposed Development clash with the neighborhood's character. Although Applicant contends otherwise, Tidewatch and the Sagamore Court apartment buildings are not suitable comparators. They are too dissimilar from the Proposed Development. To start, Sagamore Court is in the Garden Apartment/ Mobile Home Park zone, which is significantly more density tolerant than the SRA zone. *See Ordinance*, § 10.410.

Additionally, apartment buildings and condominiums have a rich density per building, which results in a site layout materially different from Applicant's *de facto* cluster development. Tidewatch may have 117 units on ± 59.53 acres, but it only has 44 residential buildings. This creates an open, uncrowded layout with one freestanding building per ±1.35 acres, which is commensurate with the spirit of §§ 10.513 and 10.521 and the objectives of a single residence zone. The Proposed Development, on the other hand, seeks to establish one freestanding building per 21,198 square feet or approximately 1/4 acre (of note, the buildings will be more dense in actuality). While it is true that the Property borders the more lenient SRB zone, proximity to another zoning district does not provide license to flaunt the density requirements of the SRA zone. Indeed, if border properties could regularly partake in the privileges of neighboring zones, zoning boundaries would become illusory. Slowly, the benefits of the favorable zone would spread and alter the essential character of each neighborhood.

Perhaps most significantly, none of the properties across Sagamore Ave., which begins the SRB zone, have density comparable to the Proposed Development.

The spacing between each unit is equally problematic. Applicant heralds the distances between buildings as "voluntary setbacks" like those imposed by the Ordinance but, in reality, the setbacks are significantly shorter than what the SRA zone imposes. The SRA zone requires 20 feet of side yard (or setback) on each lot. *See Ordinance*, § 10.521. This results in each freestanding building having at least 40 feet of space between them. Applicant's proposal is half that distance. All of the freestanding buildings will be closely clustered, negating the benefit and promise of a single-family residence zone, like SRA. No other structures in the area are so closely grouped.

Simply put, squeezing four single-family homes onto a ± 1.94-acre lot is antithetical to the neighborhood's character and is generally bad for the quality of life enjoyed in the area.

Regarding Unnecessary Hardship, there were several members of the board that stated they either did not see the hardship or were struggling with seeing an unnecessary hardship with the current proposal. The applicant did not present a clear argument for Unnecessary Hardship for the board to consider nor did they meet the criteria required to demonstrate unnecessary hardship. As an example, when Vice Chair Margeson asked attorney Phoenix '...is Walker your main argument' his reply was "Whatever you guys are convinced by is my main argument". Importantly, Walker vs City of Manchester was overturned. Further, the applicant is not exactly accurate regarding the unique characteristics of the property related to surrounding properties. There are in fact similar properties in the zone and nearby as Vice Chair Margeson pointed out in the meeting and is documented below. Related to several members of the board discussing hardship – it could clearly be removed by constructing one or two freestanding dwellings. See other related reasons below. Related to the term "reasonable" in the variance criteria, one or two free standing dwellings could be considered reasonable. Four, placed on such a small portion of the lot (required by the lot's make up) standing very close to the road and neighbors is unreasonable.

Applicant Has Not Demonstrated an Unnecessary Hardship.

A nonconforming use is not the type of special feature that justifies a variance.

Nonconforming uses are largely seen as a benefit, not a burden, to landowners. Additionally, Applicant can abandon its nonconforming use at any time and alleviate the alleged encumbrance. Something which can so easily be dispensed with hardly qualifies as a hardship. A nonconforming use qualifies as a hardship only when the applicant requests a variance integral to the nonconforming use. A nonconforming landscape depot, for example, may use its nonconformity when seeking relief from residential restrictions. Here, Applicant's nonconformity of being a business in a residential zone is immaterial to the proposed residential development. It does not inhibit Applicant from developing a residential home in conformance with the Ordinance or render the Ordinance's purpose inapposite. RSA 674:33, I(l)(b)(l).

Applicant's reliance on other densely developed parcels in the area fares no better. A condition that affects an entire area is not a "special condition" on the property but rather a common denominator for every property. The case cited by Applicant, *Walker v. City of Manchester*, 107 N.H. 382 (1966), was overturned when the legislature amended the unnecessary hardship standard in RSA 674:33. The statute unequivocally provides that the subject property's special conditions must "distinguish it from other properties in the area." See RSA 674:33, I(E) (b)(l). A feature that affects every property in the area hardly qualifies. Additionally, Applicant, when assessing the density of other properties, is comparing apples and oranges. See *infra* § ii.

Applicant also relies on the size of its Property. However, the Property is not so disproportionately large that it creates an unnecessary hardship. Applicant pins the Property at

± 1.94 acres. Property sizes in the area vary, but many are comparable to the Property. For example, Tax Map 222, Lot 17 is ±.86 acres; Tax Map 222, Lot 14-1 is ±1.51 acres; Tax Map 222, Lot 12 is ±1.7 acres; Tax Map 222, Lot 11 is ±1.48 acres; Tax Map 223, Lot 36 is ±1.310 acres; Tax Map 223, Lot 13 is ±1.030 acres; Tax Map 223, Lot 18 is ±1.170 acres; Tax Map 223,

Lot 21 is ±1.490 acres; Tax Map 223, Lot 26 is ±1.200 acres; Tax Map 223, Lot at 27 is ±3.320 acres; Tax Map 2. Some properties are as small as .267 acres (Tax Map 223, Lot 15). While the Property is one of the larger parcels, it is not so large that application of the density ordinance no longer has a fair or reasonable use. See RSA 674:33. Density promotes open space, alleviates municipal resource burdens, limits crowds, and prevents the intensive use of real property.

Those objectives still apply to Applicant's only marginally larger parcel. All real property is unique, and all property has special features. See *DeLucca v. DeLucca*, 152 N.H. 100, 104 (2005) (noting that all real property is unique). But the hardship standard asks whether the ordinance uniquely burdens the subject property compared to other properties in the area. This Property is not so burdened. *Garrison v. Town of Henniker*, 154 N.H. 26, 33 (2006) ("There is no evidence in the record that the property at issue is different from other property zoned rural residential. While its size may make it uniquely appropriate for GME's business, that does not make it unique for zoning purposes.")

Finally, the Proposed Development is simply not reasonable. Applicant is attempting to squeeze four three-bedroom homes, each with a two-car garage, on a ± 1.94-acre parcel. A more reasonable proposal would be two similarly sized homes. A variance cannot be issued because the Proposed Development does not meet the unnecessary hardship test under RSA 674:33.

Madam Chair, on behalf of all the abutters, we greatly appreciate the ZBA's work and your consideration of this request. As you bring this to the board for consideration and a vote, I assume only those that voted on 635 on May 16th would vote on this request.

Respectfully,

Timothy A. McNamara

RECEIVED
JUN 14 2023
By 9 39



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
390 Safford Road, Unit 2
Portsmouth, N.H. 03801-7214
Tel: (603) 430-9022
Fax: (603) 430-7312

**TIDEWATCH
CONDOMINIUMS
579 SAGAMORE AVENUE
PORTSMOUTH, N.H.**

SCALE: 1" = 100' MARCH 2008

**PAVEMENT MAINTENANCE
SITE PLAN**

C1

EXHIBIT 1

Appendix A, including land, all buildings and other improvements and structures now or hereafter thereon, all easements, rights and appurtenances belonging thereto, and all personal property now or hereafter used in connection therewith, which have been or are intended to be submitted to the provisions of the Act.

16. "Unit" means a part of the Condominium intended for independent ownership, all as more particularly described in Article II, Paragraph 4 hereof.

ARTICLE II STATUTORILY REQUIRED INFORMATION

1. Name. The name of the Condominium is and shall be Tidewatch Condominiums.
2. Location. The Condominium is located off of Sagamore Avenue in the City of Portsmouth, County of Rockingham and State of New Hampshire and is comprised of 117 Units in 44 buildings in addition to a Maintenance/Meeting Building and a Mail House.
3. Legal Description by Metes and Bounds. A legal description of the land submitted to the Act is described in Appendix A and made a part hereof.
4. Unit Boundaries and Maintenance Responsibilities. A description of the boundaries of the Units is in accordance with the provisions of RSA 356-B: 12 which boundaries are further detailed as follows:

A. Horizontal Boundaries:

- i. Lower Boundary: The top surface of the unfinished concrete skin in the crawl space; the top surface of any finished flooring for the first and second floors and lofts, attics and garage storage areas or finished rooms within the garages; and the upper surface of the concrete floor of garages; and
- ii. Upper Boundary: The upper boundary of the crawl space is the plane formed by lower surface of the floor joists above the crawl spaces; the upper boundary of the first and second floors and lofts and attic areas is the horizontal plane of the finished surface of any ceiling and where applicable, beams, rafters, and closed fireplace dampers, extended to an intersection with the vertical perimeter boundaries; the upper horizontal boundaries of any garage shall be plane formed by the roof rafters, unless the upper portion of a garage contains a finished room in which case the upper horizontal boundary shall be the plane formed by the ceiling joists.

EXHIBIT 1

APPENDIX A

See, Book 5222, Pages 2514-15 in the Rockingham County Registry of Deeds for a description of the Property, along with a site plan entitled, "Amended Site Plan - Phase III - Tidewatch Condominium Portsmouth, N.N. Prepared for TWC of Portsmouth, L.L.C." dated April 21, 1997 recorded in the Rockingham County Registry of Deeds as Plan D-27541, which descriptions and document are incorporated herein by reference.

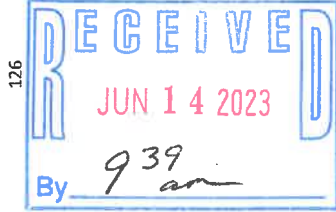
EXHIBIT 1

2019 Preliminary Residential Values by Address

MAP/LOT	OWNER NAME 1	OWNER NAME 2	STREET NAME	DIST	LAND USE	NBHD	PRIOR VALUE	PRELIMINARY VALUE
0222/0021/0107//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 120,300.00	\$ 123,200.00
0222/0021/0108//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 120,100.00	\$ 123,000.00
0222/0021/0111//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 138,300.00	\$ 141,700.00
0222/0021/0112//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 138,300.00	\$ 141,700.00
0222/0021/0113//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 138,500.00	\$ 141,800.00
0222/0021/0114//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 138,300.00	\$ 141,700.00
0222/0021/0115//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 120,100.00	\$ 123,000.00
0222/0021/0116//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 120,000.00	\$ 122,900.00
0222/0021/0117//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 155,500.00	\$ 159,300.00
0222/0021/0119//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 138,600.00	\$ 142,000.00
0222/0021/0120//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 138,600.00	\$ 142,000.00
0222/0021/0097//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 129,800.00	\$ 133,000.00
0222/0021/0098//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 130,000.00	\$ 133,200.00
0222/0021/0099//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 130,100.00	\$ 133,200.00
0222/0021/0104//	SAGAMORE COURT LIMITED PARTNSHP	C/O FOREST PROPERTIES MGMT INC	SAGAMORE AVE	R	1020	221	\$ 155,500.00	\$ 159,300.00
0222/0021/0134//	GUNYA CORP		SAGAMORE AVE	R	1020	221	\$ 81,400.00	\$ 83,400.00
0222/0021/0130//	IWASECZKO TATIANA		SAGAMORE AVE	R	1020	221	\$ 138,000.00	\$ 141,400.00
0222/0021/0141//	PARKS ELISSA REVOCABLE TRUST		SAGAMORE AVE	R	1020	221	\$ 156,200.00	\$ 160,000.00
0222/0021/0144//	SAGAMORE COURT LIMITED PARTNERSHIP	PARKS ELISSA TRUSTEE	SAGAMORE AVE	R	1020	221	\$ 138,600.00	\$ 142,000.00
0222/0021/0122//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 130,400.00	\$ 133,600.00
0222/0021/0123//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 129,800.00	\$ 133,000.00
0222/0021/0124//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 81,800.00	\$ 83,800.00
0222/0021/0125//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 122,100.00	\$ 125,100.00
0222/0021/0127//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 146,900.00	\$ 150,500.00
0222/0021/0126//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 146,500.00	\$ 150,100.00
0222/0021/0129//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 130,100.00	\$ 133,200.00
0222/0021/0128//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 129,700.00	\$ 132,900.00
0222/0021/0132//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 138,300.00	\$ 141,700.00
0222/0021/0131//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 119,800.00	\$ 122,700.00
0222/0021/0133//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 119,800.00	\$ 122,700.00
0222/0021/0135//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 155,800.00	\$ 159,600.00
0222/0021/0136//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 138,300.00	\$ 141,700.00
0222/0021/0138//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 138,200.00	\$ 141,600.00
0222/0021/0137//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 138,800.00	\$ 142,200.00
0222/0021/0139//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 120,100.00	\$ 123,000.00
0222/0021/0142//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 156,300.00	\$ 160,100.00
0222/0021/0143//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 138,200.00	\$ 141,600.00
0222/0021/0140//	SAGAMORE COURT LIMITED PARTNSHP		SAGAMORE AVE	R	1020	221	\$ 120,100.00	\$ 123,000.00
0222/0012/0000//	CHRISTY JOAN F REVOCABLE TRUST	CHRISTY JOAN F TRUSTEE	SAGAMORE AVE	R	1010	112	\$ 427,600.00	\$ 474,800.00

7/12/2019

Source: Portsmouth Tax Assessor. Verifies there are 117 Units in Tidewatch / 579 Sagamore Ave.



This page (126) is included to verify the sequencing of recorded page numbers. The 117 Units in Tidewatch located at 579 Sagamore Ave are listed on pages 127 - 129 and 131.

MAP/LOT	OWNER NAME 1	OWNER NAME 2	STREET NAME	DIST	LAND USE	NBHD	PRIOR VALUE	PRELIMINARY VALUE
0223/0030/0088//	ABBRECHT MARCI K REVO TRUST	ABBRECHT MARCI K TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 843,500.00	\$ 883,700.00
0223/0030/0057//	ADAMS LIVING TRUST	ADAMS JOHN H AND JOANN G TRUSTEES	SAGAMORE AVE	R	1020	219	\$ 589,800.00	\$ 646,400.00
0223/0030/0103//	ADE BARBARA E		SAGAMORE AVE	R	1020	219	\$ 805,700.00	\$ 855,300.00
0223/0030/0047//	AHN AMANDA L		SAGAMORE AVE	R	1020	219	\$ 470,700.00	\$ 568,400.00
0223/0030/0016//	ALEXANDER NANCY H REVO TRUST	ALEXANDER NANCY H TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 616,600.00	\$ 654,500.00
0223/0030/0037//	BAKER POLLOCK REVOCABLE TRUST OF 2013	POLLOCK STEVEN & BAKER POLLOCK LEE	SAGAMORE AVE	R	1020	219	\$ 715,100.00	\$ 749,400.00
0223/0030/0054//	BARLEVI FAMILY TRUST (99.5%)	BARLEVI VICKY A T TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 449,400.00	\$ 522,400.00
0223/0030/0092//	BARRETTE VICKY A T REVO TRUST 2010	BARRETTE VICKY A T TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 797,600.00	\$ 837,100.00
0223/0030/0053//	BARRON M TRUST 1998	BARRON MARION/BARRON THOMAS J TRUSTEES	SAGAMORE AVE	R	1020	219	\$ 606,900.00	\$ 690,900.00
0223/0030/0098//	BARTKO PENELOPE A REVO TRUST	BARTKO PENELOPE & MAXIM BARTKO TRUSTEES	SAGAMORE AVE	R	1020	219	\$ 859,800.00	\$ 902,800.00
0223/0030/0109//	BARZYK PATRICIA T	BARZYK PETER P III	SAGAMORE AVE	R	1020	219	\$ 865,300.00	\$ 1,060,400.00
0223/0030/0079//	BILLER RONALD T	LAMB CAROL E	SAGAMORE AVE	R	1020	219	\$ 768,000.00	\$ 796,500.00
0223/0030/0029//	BLODGETT VICTORIA F 2009 REVO TRUST	BLODGETT VICTORIA F TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 668,000.00	\$ 708,600.00
0223/0030/0078//	BOSCKETTI CARL M	BOSCKETTI SANDRA A	SAGAMORE AVE	R	1020	219	\$ 778,100.00	\$ 824,400.00
0223/0030/0027//	BOWLBY RITA L REVO TRUST 06	BOWLBY RITA L TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 513,300.00	\$ 577,000.00
0223/0030/0046//	BURDETTE RODNEY E 2009 TRUST	BURDETTE RODNEY E TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 621,600.00	\$ 705,900.00
0223/0030/0024//	BURNHAM JOHN K	BURNHAM HELEN F	SAGAMORE AVE	R	1020	219	\$ 520,219	\$ 586,500.00
0223/0030/0122//	CAIL SHEILA CURTIN REVO TRUST 2002	CAIL SHEILA C TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 687,300.00	\$ 728,600.00
0223/0030/0062//	CHRISTIANSEN BIRGIT S	MALLOY PATRICK E	SAGAMORE AVE	R	1020	219	\$ 454,900.00	\$ 528,800.00
0223/0030/0089//	CORMACK JANETTE DECLARATION OF TRUST	CORMACK JANETTE TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 789,900.00	\$ 978,200.00
0223/0030/0118//	CUNNINGHAM LINDA R IRREVOCABLE TRUST	CUNNINGHAM LINDA R TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 571,800.00	\$ 762,100.00
0223/0030/0080//	D ADAMO CHRISTINA M 2008 REVOCABLE TR	D ADAMO CHRISTINA M TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 853,400.00	\$ 876,700.00
0223/0030/0117//	DAVIS JUDITH A REVO TRUST	DAVIS JUDITH A TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 626,800.00	\$ 738,800.00
0223/0030/0052//	DENNIS EVELYN J REVO TRUST	DENNIS EVELYN J TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 579,600.00	\$ 682,800.00
0223/0030/0048//	DESMOND PHILIP	DESMOND JANETTE	SAGAMORE AVE	R	1020	219	\$ 512,200.00	\$ 641,500.00
0223/0030/0021//	DIAMOND JAMES W REVO TRUST -1990	DIAMOND JAMES W TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 521,400.00	\$ 574,400.00
0223/0030/0068//	DIMATTEO T&L FAM REV TRUST OF 2017	DIMATTEO THOMAS R & LAUREL D TTEES	SAGAMORE AVE	R	1020	219	\$ 473,300.00	\$ 571,600.00
0223/0030/0020//	DRAKE JR LAWRENCE C LIV TRUST (50% INT)	DRAKE JR LAWRENCE C TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 620,900.00	\$ 677,100.00
0223/0030/0086//	FESSENDEN PAMELA		SAGAMORE AVE	R	1020	219	\$ 588,700.00	\$ 654,300.00
0223/0030/0082//	FITZGERALD GEOFFREY 1997 TRUST	FITZGERALD GEOFFREY TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 560,000.00	\$ 693,500.00
0223/0030/0116//	FORMAN MARIANNE I 1989 REVO TRUST	FORMAN MARIANNE TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 575,300.00	\$ 678,000.00
0223/0030/0033//	FRANTZ SUSAN M REVO TRUST	FRANTZ SUSAN M TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 590,100.00	\$ 688,700.00
0223/0030/0049//	FRANZOSO BARBARA DUNFEY	D S	SAGAMORE AVE	R	1020	219	\$ 566,600.00	\$ 560,000.00
0223/0030/0100//	GRAY JANICE C REVO TRUST	GRAY JANICE C TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 868,000.00	\$ 919,800.00
0223/0030/0055//	GRIFFIN MICHAEL J REVO TRUST O7	GRIFFIN MICHAEL J TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 470,700.00	\$ 568,400.00
0223/0030/0099//	HAMBLETT SUZANNE S REVO TRUST 1997	HAMBLETT SUZANNE S TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 862,500.00	\$ 905,100.00
0223/0030/0028//	HAMMOND FAMILY TRUST	HAMMOND GLENN K & HAMMOND JOAN E TTEES	SAGAMORE AVE	R	1020	219	\$ 622,700.00	\$ 709,800.00
0223/0030/0003//	HARTMAN FAMILY REVO TR OF 2018	HARTMAN JOHN E & ANN O'D TRUSTEES	SAGAMORE AVE	R	1020	219	\$ 673,600.00	\$ 741,200.00
0223/0030/0083//	HARVELL CYNTHIA H 1991 TRUST	HARVELL CYNTHIA H TRUSTEE	SAGAMORE AVE	R	1020	219	\$ 741,600.00	\$ 786,700.00
0223/0030/0035//	HINDLE JOHANNA TRUST		SAGAMORE AVE	R	1020	219	\$ 524,300.00	\$ 590,200.00

40 Units

Note: The 117 Units in 44 Buildings that comprise Tidewatch begin with Units 1-110, then there is a gap, and Units 116-122 comprise the remainder. Units 111-115 DO NOT exist.

MAP/LOT	OWNER NAME 1	OWNER NAME 2	STREET NUM	STREET NAME	DIST	LAND USE	NBHD	PRIOR VALUE	PRELIMINARY VALUE
0223/ 0030/ 0051/ /	HINES LARRY L	HINES SONA J	579	SAGAMORE AVE	R	1020	219	\$ 532,800.00	\$ 627,500.00
0223/ 0030/ 0058/ /	HITCHCOCK E F & MCCABE C M REVOC TRUST	HITCHCOCK E F & MCCABE C M TRUSTEES	579	SAGAMORE AVE	R	1020	219	\$ 453,600.00	\$ 565,400.00
0223/ 0030/ 0004/ /	HOBSON MARYLAIN REALTY TRUST		579	SAGAMORE AVE	R	1020	219	\$ 641,800.00	\$ 742,300.00
0223/ 0030/ 0066/ /	HOWARD JOHN R REVOCABLE TRUST	HOWARD JOHN R TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 574,100.00	\$ 687,100.00
0223/ 0030/ 0121/ /	HURST RODNEY	HURST LINDA J	579	SAGAMORE AVE	R	1020	219	\$ 547,500.00	\$ 640,500.00
0223/ 0030/ 0045/ /	HUSZAR ROBERT J	HUSZAR JEAN R	579	SAGAMORE AVE	R	1020	219	\$ 526,500.00	\$ 620,100.00
0223/ 0030/ 0107/ /	JACKSON HOLE RANCH 2 LLC		579	SAGAMORE AVE	R	1020	219	\$ 861,800.00	\$ 904,900.00
0223/ 0030/ 0001/ /	JACOBSEN GEORGE W JR	JACOBSEN SUSAN W	579	SAGAMORE AVE	R	1020	219	\$ 562,000.00	\$ 536,700.00
0223/ 0030/ 0070/ /	JONES LEONARD S	MORNER CLAUDIA J	579	SAGAMORE AVE	R	1020	219	\$ 648,200.00	\$ 738,400.00
0223/ 0030/ 0043/ /	KANE JOHN	ALDEN MELISSA	579	SAGAMORE AVE	R	1020	219	\$ 450,800.00	\$ 579,300.00
0223/ 0030/ 0044/ /	KANIN ERIC D	KANIN KAREN	579	SAGAMORE AVE	R	1020	219	\$ 462,500.00	\$ 577,200.00
0223/ 0030/ 0104/ /	LALOS KATHERINE T REVOC TRUST	LALOS KATHERINE T TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 899,900.00	\$ 957,200.00
0223/ 0030/ 0059/ /	LAMB VICCI A	LAMB CAROL E	579	SAGAMORE AVE	R	1020	219	\$ 452,200.00	\$ 526,300.00
0223/ 0030/ 0030/ /	LANNON MICHAEL J REV TRUST (50% INT)	LANNON GEORGINA REV TRUST (50% INT)	579	SAGAMORE AVE	R	1020	219	\$ 649,500.00	\$ 800,100.00
0223/ 0030/ 0074/ /	LEWIS KATHERINE H	ALANDYDY PATRICIA J REVOC TRUST	579	SAGAMORE AVE	R	1020	219	\$ 577,300.00	\$ 586,900.00
0223/ 0030/ 0038/ /	LOOSER KEVIN G REVOCABLE TRUST	MCCARTHY R B & S I TRUSTEES	579	SAGAMORE AVE	R	1020	219	\$ 740,400.00	\$ 772,000.00
0223/ 0030/ 0031/ /	MCCARTHY R B & S I REVOC TRUST	MCCOOL JANICE M	579	SAGAMORE AVE	R	1020	219	\$ 676,500.00	\$ 738,900.00
0223/ 0030/ 0105/ /	MCCOOL PAUL J	MCCOOL JANICE M	579	SAGAMORE AVE	R	1020	219	\$ 608,700.00	\$ 759,500.00
0223/ 0030/ 0019/ /	MCNAMARA TIMOTHY A	MCNAMARA MARY ELLEN	579	SAGAMORE AVE	R	1020	219	\$ 693,000.00	\$ 822,000.00
0223/ 0030/ 0032/ /	MELITA JOHN F & THOMAS J &	TIMOTHY J & MELITA-JOHNSON LINDA J	579	SAGAMORE AVE	R	1020	219	\$ 484,500.00	\$ 544,500.00
0223/ 0030/ 0034/ /	MELLIN FAMILY TRUST	MELLIN S R & J H TRUSTEES	579	SAGAMORE AVE	R	1020	219	\$ 625,600.00	\$ 696,400.00
0223/ 0030/ 0097/ /	MEUSE JAMES DAVID	MEUSE KIMBERLY RAE	579	SAGAMORE AVE	R	1020	219	\$ 902,000.00	\$ 946,800.00
0223/ 0030/ 0025/ /	MILLER ALICE T REVOCABLE TRUST	MILLER ALICE T TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 676,600.00	\$ 718,600.00
0223/ 0030/ 0071/ /	MINICH GEORGE MARSHALL	MINICH IRENE BULLINGER	579	SAGAMORE AVE	R	1020	219	\$ 644,400.00	\$ 724,600.00
0223/ 0030/ 0067/ /	MORE BROTHER INVESTMENTS LLC	C/O GENE FISK & ASSOCIATES LLC	579	SAGAMORE AVE	R	1020	219	\$ 536,500.00	\$ 632,000.00
0223/ 0030/ 0096/ /	MORIN JOHN & MIMI FAMILY TRUST	MORIN JOHN E TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 868,600.00	\$ 912,200.00
0223/ 0030/ 0061/ /	MORLEY FAMILY LIVING TRUST	MORLEY JOHN J & SHAWNNA M CO-TRUSTEES	579	SAGAMORE AVE	R	1020	219	\$ 532,100.00	\$ 626,800.00
0223/ 0030/ 0072/ /	MORRIS JAFFE NANCY REVOC TRUST	MORRIS JAFFE NANCY TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 622,100.00	\$ 708,300.00
0223/ 0030/ 0040/ /	MURPHY KENNETH D REVOC TRUST	SPAHR ALLISON M REVOC TRUST	579	SAGAMORE AVE	R	1020	219	\$ 527,700.00	\$ 593,300.00
0223/ 0030/ 0102/ /	NEWELL BARBARA A REVOCABLE TRUST	NEWELL BARBARA A TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 838,000.00	\$ 889,000.00
0223/ 0030/ 0002/ /	OBRIEN EDWARD J REVOCABLE TRUST 1998	OBRIEN EDWARD J SUSAN B TRUSTEES	579	SAGAMORE AVE	R	1020	219	\$ 452,600.00	\$ 566,300.00
0223/ 0030/ 0036/ /	OJA SHARON NODIE		579	SAGAMORE AVE	R	1020	219	\$ 667,000.00	\$ 708,300.00
0223/ 0030/ 0095/ /	O'LEARY KEVIN J	O'LEARY SUSAN W	579	SAGAMORE AVE	R	1020	219	\$ 1,071,500.00	\$ 1,062,900.00
0223/ 0030/ 0017/ /	PATERSON JOYCE M		579	SAGAMORE AVE	R	1020	219	\$ 645,100.00	\$ 691,800.00
0223/ 0030/ 0005/ /	PONTRELO MARY E	PRAATT JANE REVOLDS TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 420,700.00	\$ 525,700.00
0223/ 0030/ 0084/ /	PRAATT JANE REVOLDS REVOC TRUST		579	SAGAMORE AVE	R	1020	219	\$ 789,800.00	\$ 838,200.00
0223/ 0030/ 0012/ /	RICHARD ANNE A		579	SAGAMORE AVE	R	1020	219	\$ 536,700.00	\$ 616,700.00
0223/ 0030/ 0094/ /	ROALSVIG JEAN	ROALSVIG KNUI	579	SAGAMORE AVE	R	1020	219	\$ 610,700.00	\$ 699,300.00
0223/ 0030/ 0008/ /	ROGERS-SZULC REVOCABLE TRUST OF 2014	ROGERS KS & ROGERS SZULC AM TRUSTEES	579	SAGAMORE AVE	R	1020	219	\$ 615,200.00	\$ 692,700.00
0223/ 0030/ 0013/ /	ROSS KATHLEEN M 1992 TRUST	ROSS KATHLEEN M TRUSTEE	579	SAGAMORE AVE	R	1020	219	\$ 594,700.00	\$ 692,600.00

40 Units



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

May 23, 2023

635 Sagamore Development, LLC
3612 Lafayette Rd Dept 4
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 635 Sagamore Avenue (LU-22-209)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 16, 2023**, considered your application for the removal of existing structures and constructing 4 single family dwellings which requires the following: 1) A Variance from Section 10.513 to allow four free-standing dwellings where one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 21,198 square feet per dwelling where 43,560 square feet is required. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. As a result of said consideration, the Board voted to **deny** the request initially because the proposed plan did not meet the hardship criteria. This motion failed. The Board then voted to **approve** the variances for the project as presented with the following **condition**:

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Joseph Coronati, Jones & Beach
R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-16-2023

Property Address: 635 Sagamore Avenue

Application #: LU-22-209

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> Having more conforming structures on the parcel is much better than the existing condition.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The SRA zone limits one dwelling unit per acre, and the applicant is asking for four units on nearly two acres, which would be directly across the street, the SRB zone. Comparing the four dwelling units at 21,200 square feet per unit to Tidewatch's 122 units at 19,300 square feet per unit, the project would be less dense.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The project would have no effect on anything across the street or at Tidewatch because one wouldn't even see the properties.

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The project would have no effect on anything across the street or at Tidewatch because one wouldn't even see the properties. • The project would not alter the essential characteristics of the neighborhood because the large lot could not reasonably be subdivided based on its irregular shape and street frontage.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The property has special conditions of being an oversized lot for the area as well as an angled and elevated one, and only so much of it is usable. • Limiting the lot to a single-family home would be a hardship and four single-family units on nearly two acres was a more than reasonable use and a huge improvement to the existing property.

<p>Stipulations</p>
<p>1. <i>The design and location of the dwellings may change as a result of Planning Board review and approval.</i></p>