



City of Portsmouth
Planning Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Jillian Harris, AICP, Planner
DATE: June 22, 2023
RE: Zoning Board of Adjustment June 27, 2023

The agenda items listed below can be found in the following analysis prepared by City Staff:

III. New Business

- A. 232 South Street
- B. 933 US Route 1 Bypass
- C. 176 Orchard Street
- D. 75 Salter Street #1
- E. 112 Mechanic Street
- F. 281 Cabot Street
- G. 800 Lafayette Road

III. NEW BUSINESS

- A.** The request of **JJCM Realty LLC and Topnotch Properties (Owners)**, for property located at **232 South Street** whereas relief is needed to construct a 12' x 20' garage which requires the following: 1) A Variance from Section 10.521 to a) permit a building coverage of 26% where 20% is permitted, and b) permit a side setback of 1.5 feet where 10 feet is required; and 2) A Variance from Section 10.571 to permit an accessory structure in the front yard. Said property is located on Assessor Map 111 Lot 2 and lies within the Single Residence B (SRB) and Historic District. (LU-23-80)

Existing & Proposed Conditions

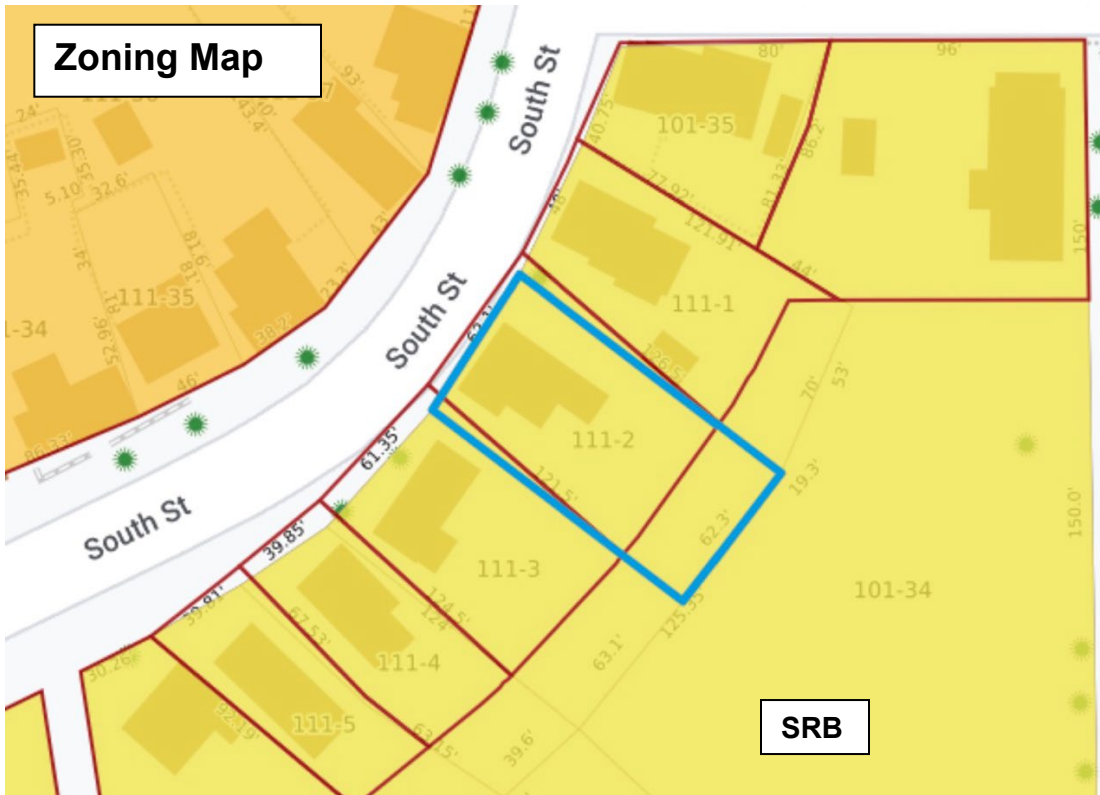
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Two-family	Construct a garage*	Primarily residential
<u>Lot area (sq. ft.):</u>	7,805	7,805	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,805	7,805	15,000 min.
<u>Lot depth (ft.):</u>	126	126	100 min.
<u>Street Frontage (ft.):</u>	64	64	100 min.
<u>Front Yard (Primary)(ft.):</u>	0	27	9 (per averaging calculation) min.
<u>Front Yard (Secondary) (ft.):</u>	N/A	N/A	30 min.
<u>Right Yard (ft.):</u>	14.5	1.5	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	23	26	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	3	3	3
<u>Estimated Age of Structure:</u>	1780	Variance request(s) shown in red.	

*Accessory structure located within the front yard

Other Permits/Approvals Required

- Certificate of Approval - Historic District Commission
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

January 26, 2021 – The Board granted a variance of 1) Section 10.521 to allow 23% building coverage where 20% is the maximum allowed; and 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance.

Planning Department Comments

The applicants are seeking to construct a 12' x 20' single car garage with a height of 14' to the left side of the two-family dwelling. The house is nonconforming on the front where the existing structure is built to the property line. The new structure is proposed to be constructed 27' from the front property line and 1.5' from the side property line in line with the existing driveway, which will require variances for the location within the front yard and the side setback and an increase in building coverage from 23% to 26% where 20% is required. At the January 26, 2021 Zoning Board of Adjustment meeting, the Board granted a variance from Section 10.521 to allow 23% building coverage where 20% is the maximum allowed for the construction of a two-story rear addition and deck.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

To: Portsmouth Zoning Board of ADJ.

From: Gary Beaulieu Topnotch Properties LLC and Jim Maher JJCM Realty LLC”

May 24, 2023

Project: 232 South St

Tax Map 111/ Lot 2

SRB Zone

EXHIBITS:

- A) Setback boundaries layered on existing conditions site plan prepared by Ambit Eng.
- B) Existing condition site plan as drawn March 2023 by Ambit Eng.
- C) Architects rendering of proposed garage and existing house.
- D) Aerial photos of subject property showing neighborhood.

PROJECT:

To build a 12w by 20 deep single car garage with a height reaching 14 ft at the peak. It will be wood framed with a concrete floor. The siding, trim, roofing and paint color will match the existing house. The garage door will be wood and be as similar in panels to the front as possible. There will be a window in front and a 30 x 6'8 door off the back for access to rear yard and deck.

THE PROPERTY:

232 South St is a 7805 sq. ft non conforming lot upon which exist a 2 1/2 story non conforming two family dwelling occupying a footprint of 1753 sq. ft including deck, stairs and porches.

Note: a variance was granted on Jan. 9th 2021 to expand building coverage to 22.9%.

The current coverage us 22.46% where 20% is the limit.

RELIEF NEEDED:

1) PZO 10.521 - Table of Dimension Requirements: To permit building coverage of 26% where 20% is the limit and 22.46% currently exists.

2) PZO 10.521- Table Of Dimension Requirements: To permit a setback of 1.5 ft on the left side where 10 ft is required.

3) PZO 10.571- Accessory Structure in Front Yard: Garage is approximately 27 ft from front boundary where 30 ft is required.

* This last relief request may not be necessary as during our prior variance application for the 1/19/21 ZBA Meeting, the planning staff had remarked that we are entitled to determining the front setback by averaging the distances of homes on either side within 200ft. Doing so resulted in an estimate of about 9ft. According through council we were advised that the setback relief was not required.

VARIANCE REQUESTED:

1) The Variance will not be contrary to the public interest

Response- granting of these variances will not alter the essential character of the locality. Also granting these variances would in no way threaten the public health safety or welfare of the neighborhood.

2) Granting the variance would observe the spirit of the ordinance

Response- there is no change in use and the project will enhance the appearance of the property. Also the garage would not pose a threat to the health, safety and well being of the locality. The HDC will work with us and address the historical architecture objection. Also, at 65% open space the lot will remain well below the 40% minimum required.

3) Granting the variance will be substantial justice

Response- The garage is keeping in the character of the locality most immediate neighbors have garages.

4) Granting the variance would not diminish the values of surrounding property

Response- No, it would not diminish values. It would be in keeping with the overall

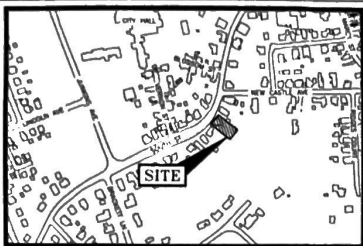
character of the neighborhood. The two family non conforming home already exists and the garage will be built in the same style and look of the existing house. It would not threaten the health, safety or welfare of the locality.

5) Owing to the special condition of the property that distinguish it from the other properties in the area

Response- No fair and substantial relationships exists between the general publics purposes of the ordinance and the specific application of the that those provisions to the property. In addition the proposed use is a reasonable one. The specific conditions of this property are that it is a narrow lot that has very little side yard space on either side and a wetland buffer that literally is the full rear yard (which would require a different set of reliefs). The left side yard shown on the plan is really the only place it can go and the driveway already exists that would lead naturally right into it. Accordingly to sum up, there is no benefit to the public outweighing the hardship to the applicant if the variances are denied.

CONCLUSION:

For all the reasons stated, Topnotch LLC and JJCM Realty LLC respectfully request that the Portsmouth Zoning Board of Adjustments grant the requested variances.



LOCATION MAP SCALE 1"=300'

LEGEND:

- N/T
R/P
N/C/R/D
- BOUNDARY
- SETBACK
- RAILROAD SPIKE FOUND/SET
- IRON ROD FOUND/SET
- EDGE OF PAVEMENT (EP)

PLAN REFERENCES:

- 1) STANDARD B.L.A.C.A.R.Y. SURVEY AND TOPOGRAPHIC PLAN, TAX MAP 111 - LOT 3 (OWNER OF 111/2 CONDO UNIT) CON. 7, LLC 234 SOUTH STREET, CITY OF PORTSMOUTH, NEW HAMPSHIRE, STATE OF NEW HAMPSHIRE, PREPARED BY HART CONSULTING, INC. DATED JUNE 2016, FINAL REVISION DATE MARCH 27, 2017 NOT RECORDED.
- 2) EXISTING CONCRETE PLAN FOR PROPERTY LOCATED AT 220-222 SOUTH STREET, PORTSMOUTH, NEW HAMPSHIRE, ROCKINGHAM COUNTY, PREPARED BY HIGHT HILL LAND SURVEYING SERVICES, INC. DATED JUNE 20, 2014 NOT RECORDED.
- 3) CONDOMINIUM SITE & FLOOR PLAN 232-234 SOUTH STREET, PORTSMOUTH, NEW HAMPSHIRE, ASSESSOR'S PARCEL 111-008 FOR RECORD B & B (BOOK 1020, PREPARED BY JAMES WEBER AND ASSOCIATES, INC., DATED APRIL 3, 2015 P.C.R.D. PLAN D-28829.
- 4) PLAN OF LOTS 234-234 SOUTH ST., PORTSMOUTH, N.H., PREPARED BY JOHN B. SLASON CIVIL ENGINEERS, FILE NO. 1829 PLAN L-1108, DATED OCTOBER 1994, NOT RECORDED.
- 5) LOT LINE REVISION, PORTSMOUTH, N.H., TUNGER & MARCONI, PREPARED BY JOHN B. SLASON ASSOCIATES, INC., DATED SEPTEMBER 4, 1979 R.C.R.D. PLAN C-9155.

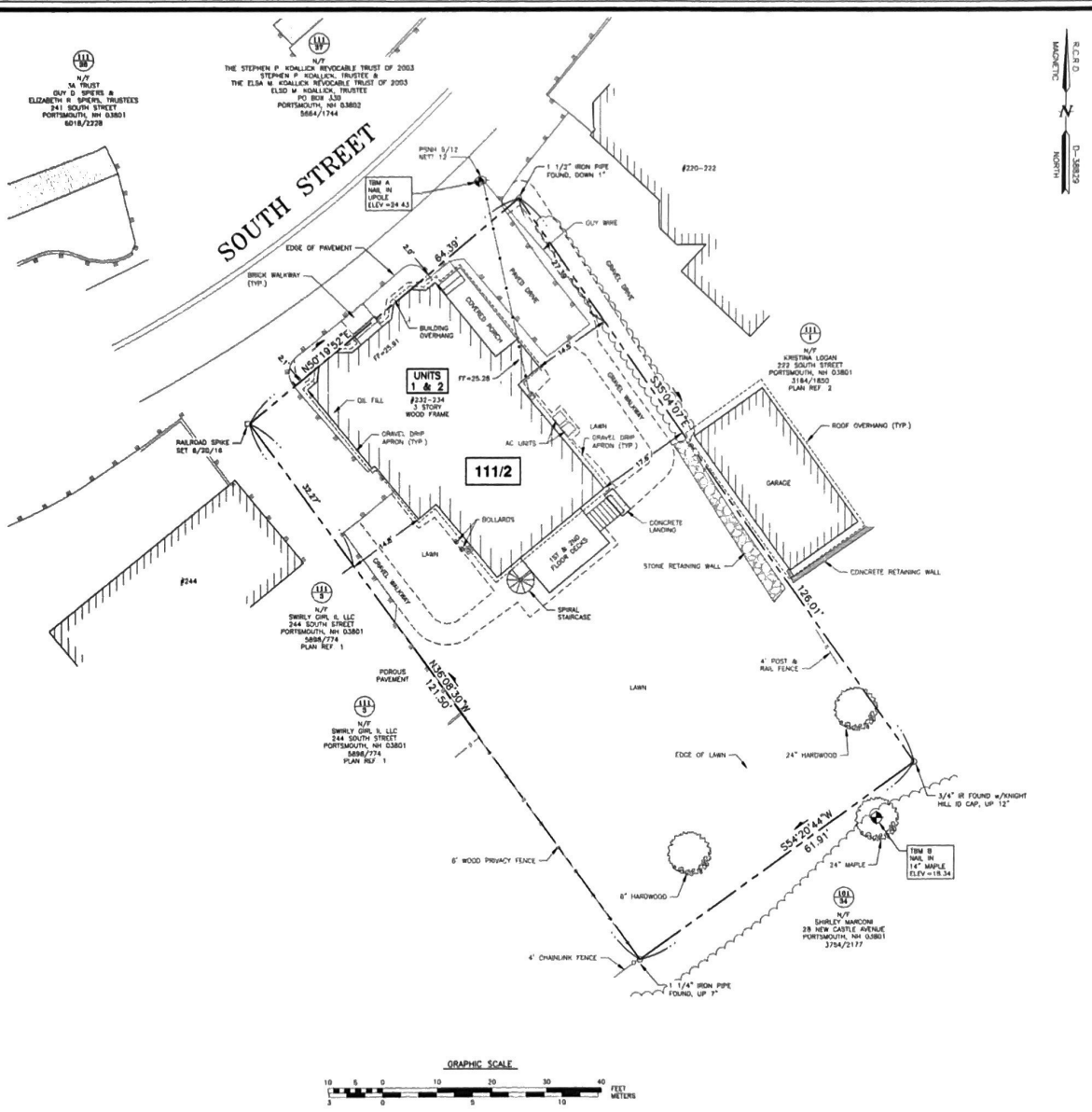
I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

- L. JOHN R. CHANDLER, LICENSED LAND SURVEYOR, HEREBY CERTIFY
- A) THAT THIS SITE PLAN ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS SHOWN HEREON, SPECIFICALLY UNITS 1 & 2 AND
 - B) THAT SAID UNITS 1 & 2 HAVE BEEN SUBSTANTIALLY COMPLETED, AND
 - C) THAT THIS PLAN COMPLIES WITH THE PROVISIONS OF RSA 356-B:20.

THIS PLAN IS A CONDOMINIUM INSTRUMENT UNDER RSA CHAPTER 356-B AND IS NOT A SUBDIVISION OF LAND.

I CERTIFY THAT THIS SURVEY PLAN IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

JOHN R. CHANDLER, L.S. #138 DATE



GRAPHIC SCALE



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
905 South Road - Unit B
Portsmouth, N.H. 03801-7114
Tel: (603) 430-8288
Fax: (603) 430-8118

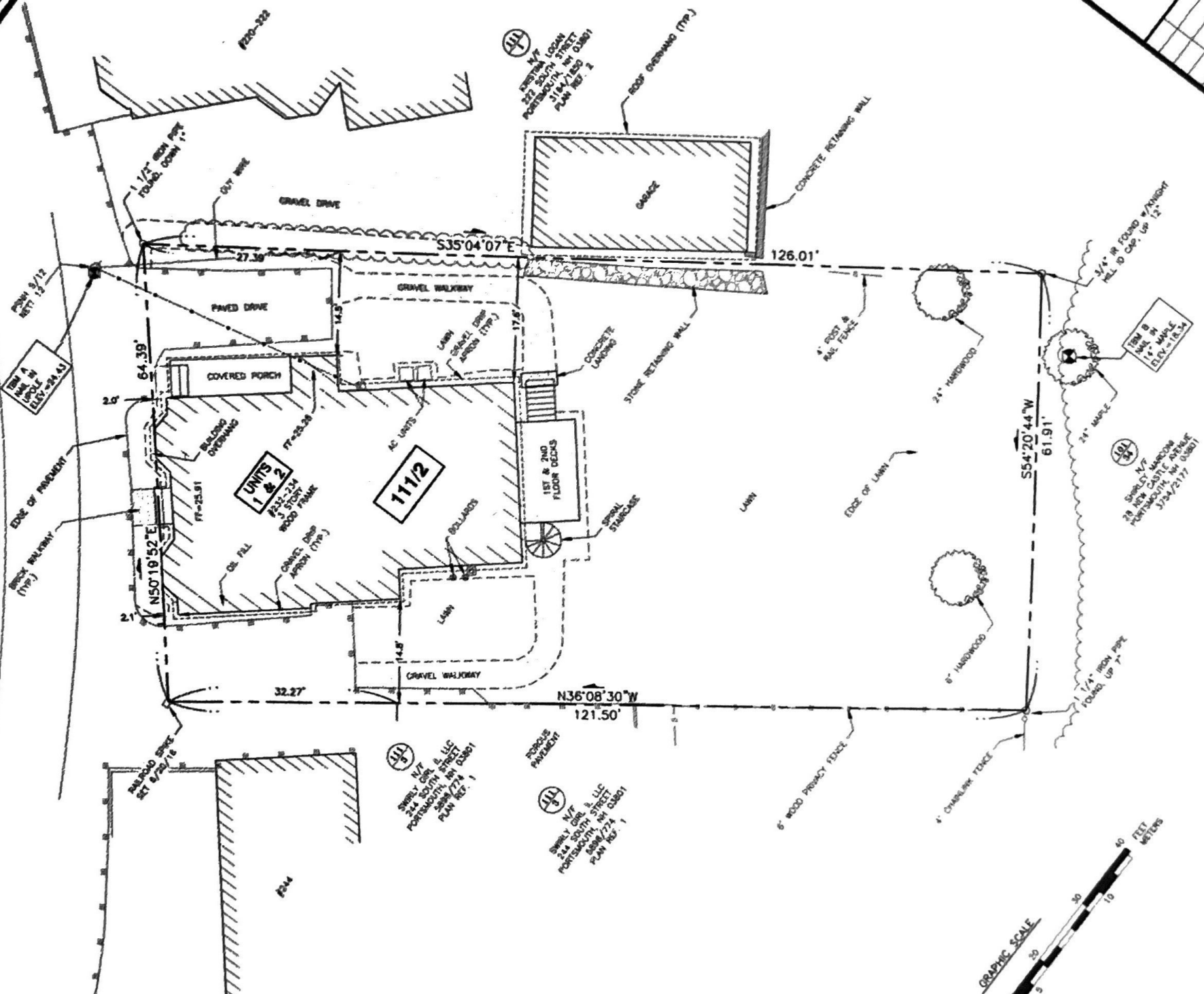
- NOTES:
- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 111 AS LOT 2.
 - 2) OWNER OF RECORD:
JJCM REALTY LLC & TOPNOTCH PROPERTIES, LLC
9 PASTURE LANE
BEDFORD, NH 03110
6198/478
 - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C02509, EFFECTIVE DATE JANUARY 29, 2021.
 - 4) EXISTING LOT AREA:
7,805 S.F.
0.1792 ACRES
SUBMITTED AREA:
7,805 S.F.
0.1792 ACRES
 - 5) THE PURPOSE OF THIS PLAN IS TO SHOW THE DECLARATION OF A 2 UNIT CONDOMINIUM ON THE PROPERTY AS ALLOWED BY RSA 356-B AND TO SHOW THE UNIT LAYOUT.
 - 6) VERTICAL DATUM IS HAVSBOR, BASIS OF VERTICAL DATUM IS REDUNDANT RTM GAGES OBSERVATIONS.
BENCHMARK: TBM A - NAIL SET IN POLE PSNH 5/12 ON SOUTH STREET. ELEV = 24.43
 - 7) OFFSETS SHOWN HEREON ARE TO SIDING AND ARE PERPENDICULAR TO BOUNDARY LINES.
 - 8) PARCEL BENEFITED BY A CONDITIONAL USE PERMIT APPROVED BY THE PORTSMOUTH PLANNING BOARD.

REVISIONS		
NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	3/21/23

CONDOMINIUM SITE PLAN
232 SOUTH STREET
CONDOMINIUM
TAX MAP 111 - LOT 2
OWNER/DECLARANT:
JJCM REALTY LLC & TOPNOTCH PROPERTIES, LLC
9 PASTURE LANE
BEDFORD, N.H. 03110
PROPERTY LOCATED AT:
232 & 234 SOUTH STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE
SCALE: 1" = 10'
OCTOBER 2022

DATE: 11/27/2003
PROJECT: 1112 SOUTH STREET
DRAWN BY: J. L. SMITH
SCALE: AS SHOWN
JOB NO: 0808

SOUTH STREET



PLAN 9/12
SITE 13

UNITS
1 & 2
233-234
J. L. SMITH
WOOD FRAME

1112

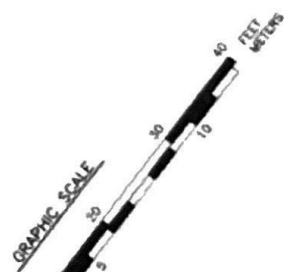
SMITH CIVIL & LAND SURVEYING, INC.
244 SOUTH STREET
PORTSMOUTH, NH 03801
PHONE: 603-774-0300
PLAN REF: 1

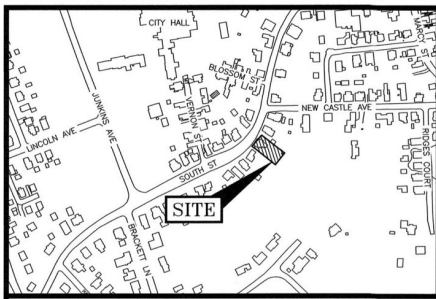
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PLAN REF: 2

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PLAN REF: 1





LOCATION MAP SCALE 1"=300'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY REGISTER OF DEEDS MAP 11 / LOT 21
- BOUNDARY
- SETBACK
- RAILROAD SPIKE FOUND/SET
- IRON ROD FOUND/SET
- EDGE OF PAVEMENT (EP)

PLAN REFERENCES:

- 1) STANDARD BOUNDARY SURVEY AND TOPOGRAPHIC PLAN, TAX MAP 111 - LOT 3, OWNER OF RECORD SWIRLY GIRL II, LLC 244 SOUTH STREET, CITY OF PORTSMOUTH, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE. PREPARED BY AMBIT ENGINEERING, INC. DATED JUNE 2016, FINAL REVISION DATE MARCH 27, 2017. NOT RECORDED.
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- 3) CONDOMINIUM SITE & FLOOR PLAN 262-264 SOUTH STREET CONDOMINIUM, PORTSMOUTH, NEW HAMPSHIRE, ASSESSOR'S PARCEL 111-005 FOR MICHAEL R. & DENISE TODD, PREPARED BY JAMES VERRA AND ASSOCIATES, INC., DATED APRIL 3, 2015. R.C.R.D. PLAN D-38829.
- 4) PLAN OF LOTS, NO. 254-264 SOUTH ST., PORTSMOUTH, N.H., PREPARED BY JOHN W. DURGIN CIVIL ENGINEERS, FILE NO. 1929 PLAN L-120, DATED OCTOBER 1954. NOT RECORDED.
- 5) LOT LINE REVISION, PORTSMOUTH, N.H., TUCKER & MARCONI, PREPARED BY JOHN W. DURGIN ASSOCIATES, INC., DATED SEPTEMBER 4, 1979. R.C.R.D. PLAN C-9159.

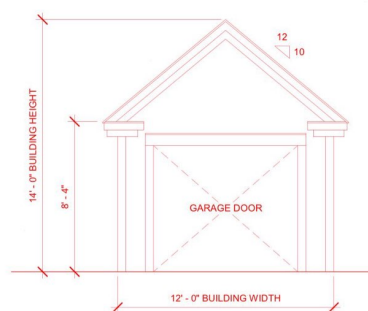
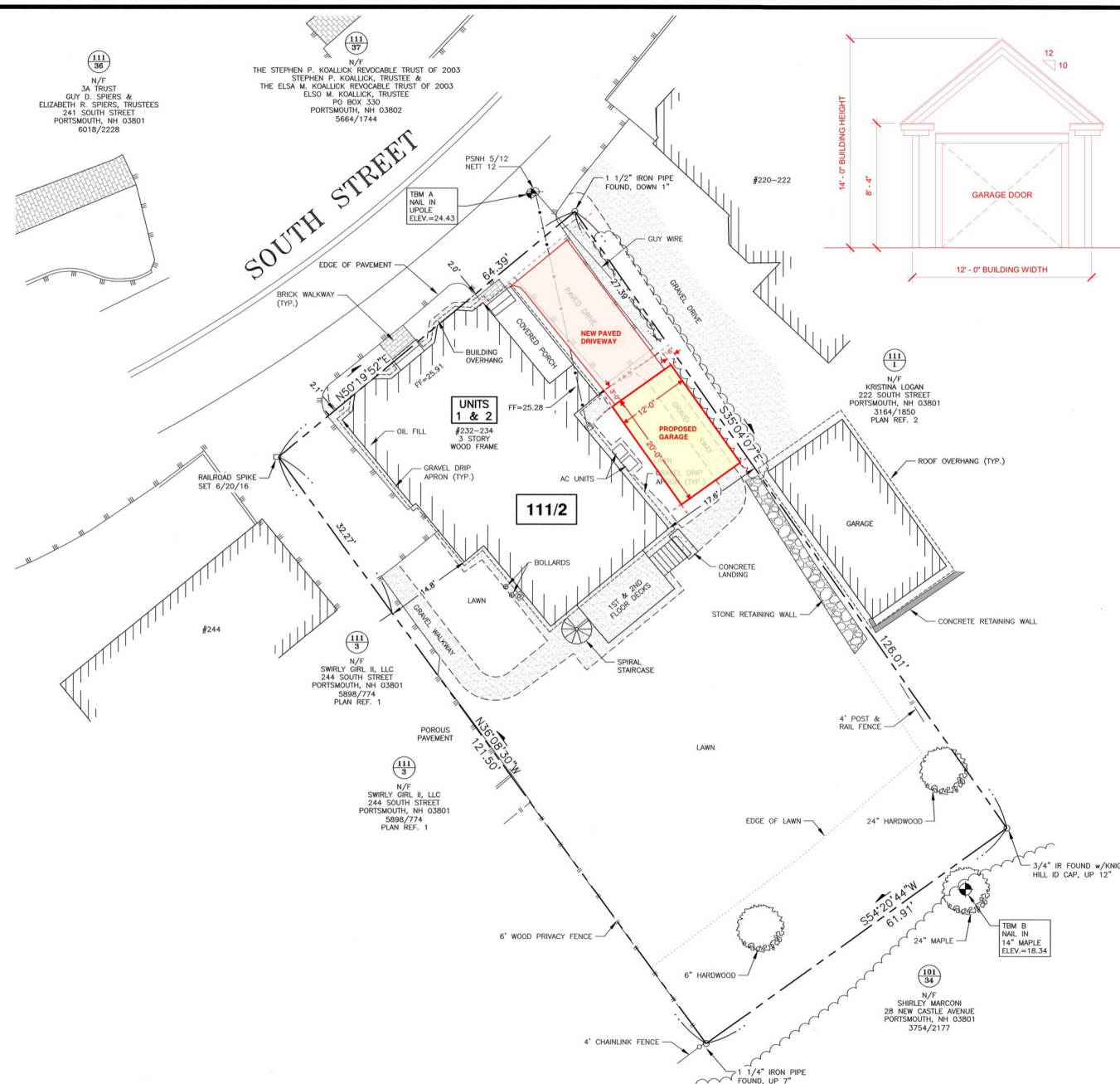
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JOHN R. CHAGNON, LLS #738 DATE



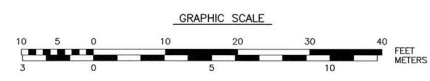
R.C.R.D. D-38829
MAGNETIC NORTH

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

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COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE



NAIL IN
UPOLE
ELEV. = 24.43

OF PAVEMENT

BOLLARD

BUILDING
OVERHANG

52"E

FF=25.91

**UNITS
1 & 2**

#232-234
3 STORY
WOOD FRAME

111/2

64.39'

27.39'

GRAVEL DRIVE

WALKWAY

COVERED PORCH

**NEW PAVED
DRIVEWAY**

FF=25.28

14.5'

3'-0"

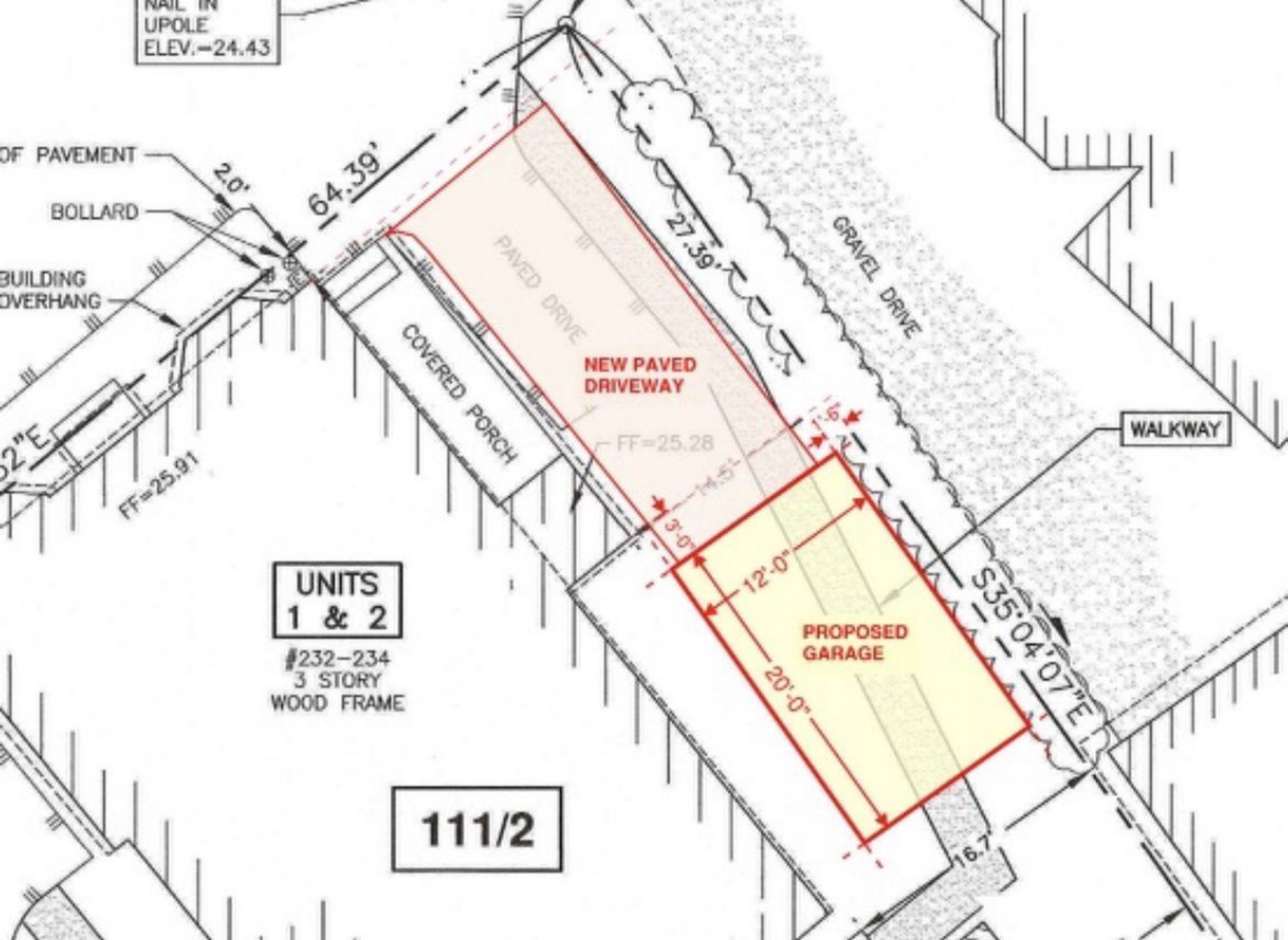
12'-0"

20'-0"

**PROPOSED
GARAGE**

S35°04'07"E

16.7







232 South St.

An aerial photograph of a residential neighborhood in winter. The ground is covered in snow, and many trees are bare. A white line originates from the text '232 South St.' and points to a light blue house with a dark roof. The house is situated on a street that runs diagonally across the frame. In the background, a large body of water is visible, along with a bridge and a city skyline under a clear blue sky.

232 South St.







