

APPLICATION OF CHRISTOPHER CLEWS, TRUSTEE  
799 SOUTH STREET

APPLICANT'S NARRATIVE

**I. THE PROPERTY**

799 South Street is a 4 unit residential structure owned by Christopher Clews, Trustee of the Noele Clews Trust.

The 799 South Street lot contains 76,889 square feet and has 295.08 feet of frontage on South Street and is 377 feet in depth. The site presently contains a 4 unit residence as well as a garage and shed. The property is located in a General Residence A (GRA) District. Surrounding properties are residential in nature. The Lot is 10 times the required lot size for the GRA zone which is 7,500 square feet.

**II. THE PROPOSAL**

The Applicant proposes to subdivide the existing lot into 3 lots by creating two new lots of 9,000 +/- square feet each, with each new lot having 100 feet of frontage on South Street. The remaining lot of over 58,800 square feet would contain the existing structure and have 95.08 feet of frontage on South Street.

The proposed new lots will meet all of the zoning ordinance requirements, while the remaining lot will require the applied for variance from Article 5 Section 10.520 to allow street frontage of 95.08 feet where 100 feet is required. (A variance of 4.92 feet) The 2 new lots would contain single family dwelling units meeting all zoning requirements. The two new lots would be accessed by the existing circular driveway, while the remaining lot with the 4 unit structure would be accessed by a proposed new driveway from South Street to be shown in the Subdivision approval process by Ambit Engineering on plans to be filed.

**III. ARGUMENT**

It is the Applicant's position that the within Application meets the five (5) criteria necessary for the Board to grant the requested variance. The variance being sought is for 4.92 feet of frontage or a 4.92% variance from the required 100 feet.

Granting the requested variance would not result in any substantial change in the characteristics of the neighborhood or threaten public health, safety or welfare. As can be seen from the submitted Tax Maps and aerial photos, the site is one of the largest lots in the area, and the fact that the frontage for the proposed 58,800 + square foot lot is 95.08 feet will be indistinguishable. Thus, a lot with 95.08 feet of frontage will certainly not substantially alter the characteristics of the neighborhood, nor will it threaten public health, safety or welfare. Thus, the Application meets the criteria set forth for whether or not granting the variance would be in

keeping with the spirit and intent of the ordinance and would be in the public interest. The test for these 2 criteria are the same and were set forth by the NH Supreme Court in the case of Malachy Glen v. Town of Chichester, 155 NH 102 (2007).

Granting the requested variance will certainly not result in any diminution in value of surrounding properties. The surrounding properties are residential in nature and the newly created lots with single family dwellings will not in any way diminish surrounding property values. The fact that one of the three lots has 95.08 feet of frontage will have no effect on surrounding property values.

Substantial justice will be done by granting the variance as the hardship upon the owner and Applicant is not outweighed by some benefit to the general public. To the contrary, the general public will be benefited by the variance being granted as 2 additional housing units will be constructed in an area where the use is allowed.


Finally, there are special conditions with regard to the lot at 799 South Street which differentiates it from many of the lots similarly situated as can be seen from the Tax Map submitted in comparison to other lots along South Street this is a large lot with considerable open space which differentiates it from other lots similarly situated. There is no fair and substantial relationship between the spirit and intent of the ordinance as it is applied to 799 South Street because the frontage is 95.08% of what is required by the ordinance and there will be adequate light and air as well as suitable access for emergency vehicles. Furthermore, the use is an allowed use and thus the criteria for whether or not a hardship exists is met by the within Application.

#### IV. CONCLUSION

In conclusion, it is the Applicant's position that the variance request meets the five (5) criteria necessary for the Board to grant the requested variance are met by the within Application and it is respectfully requested that the Application be granted as presented and advertised.

Respectfully submitted,

Dated: February 26, 2019,

  
Bernard W. Pelech, Esq.  
Bosen and Associates

## STATEMENT OF AUTHORIZATION

The undersigned, Christopher Clews, Trustee of the Noel M. Clews Trust, owner of property at 799 South Street, Portsmouth, NH, do hereby authorize Bernard W. Pelech, and Bosen and Associates , as attorneys, and Ambit Engineering, Inc as project engineers to prepare and file any and all applications for the City of Portsmouth Zoning Board of Adjustment and Planning Board, and further authorizes Bernard W. Pelech and Bosen and Associates, and Ambit Engineering to represent my interests before the Zoning Board and/or Planning Board for the City of Portsmouth with regard to the property located at 799 South Street.



Dated: February 23 2019

Christopher Kit Clews, Trustee

Variance Application  
799 South Street  
Proposed Subdivision

SITE PHOTOGRAPHS  
Portsmouth, NH

Site Photograph #1

February 2019

## Lot 3



Site Photograph #2

February 2019

## Lot 2





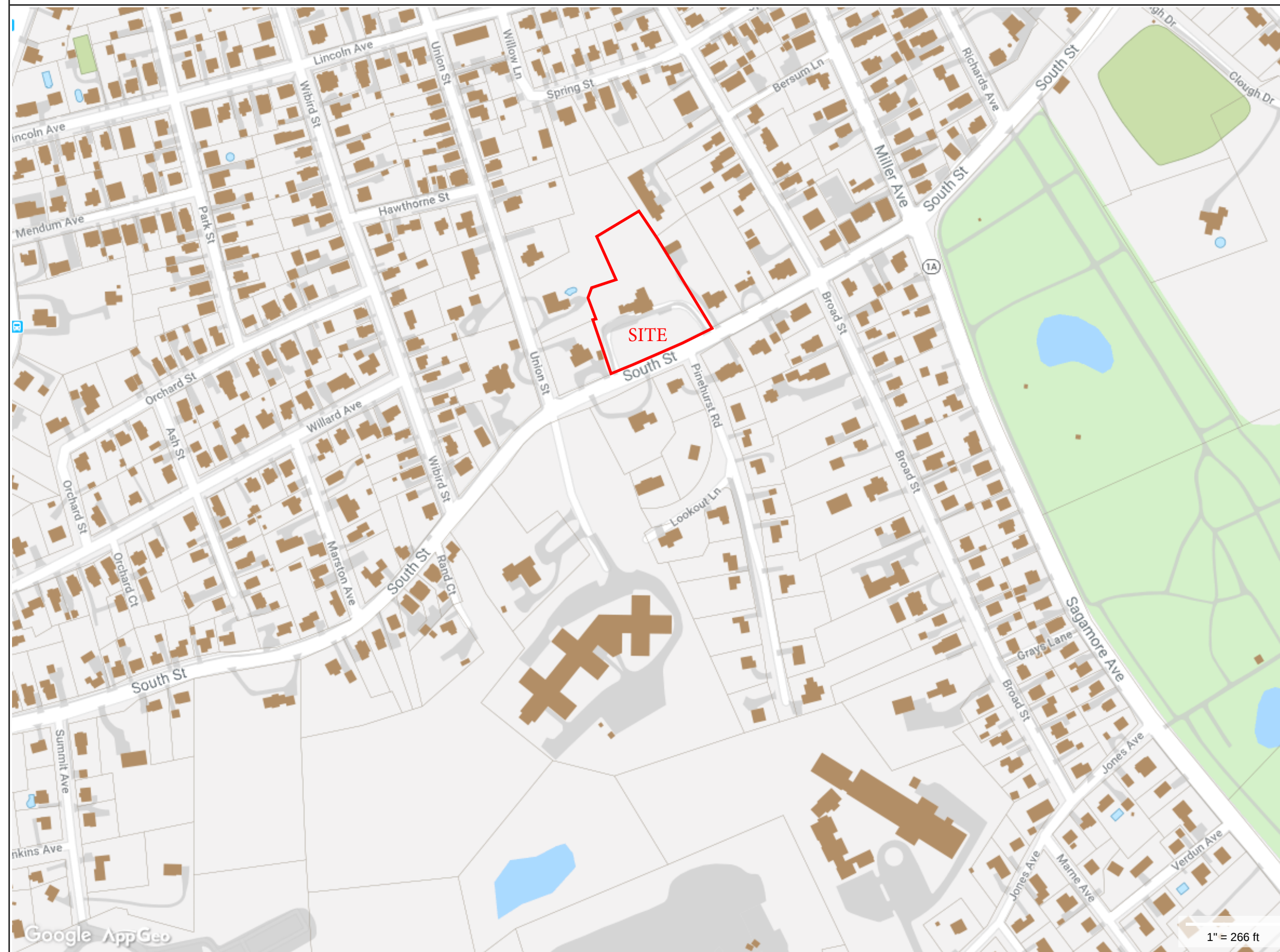
Site Photograph #3

February 2019

# Lot 1



## Site Map



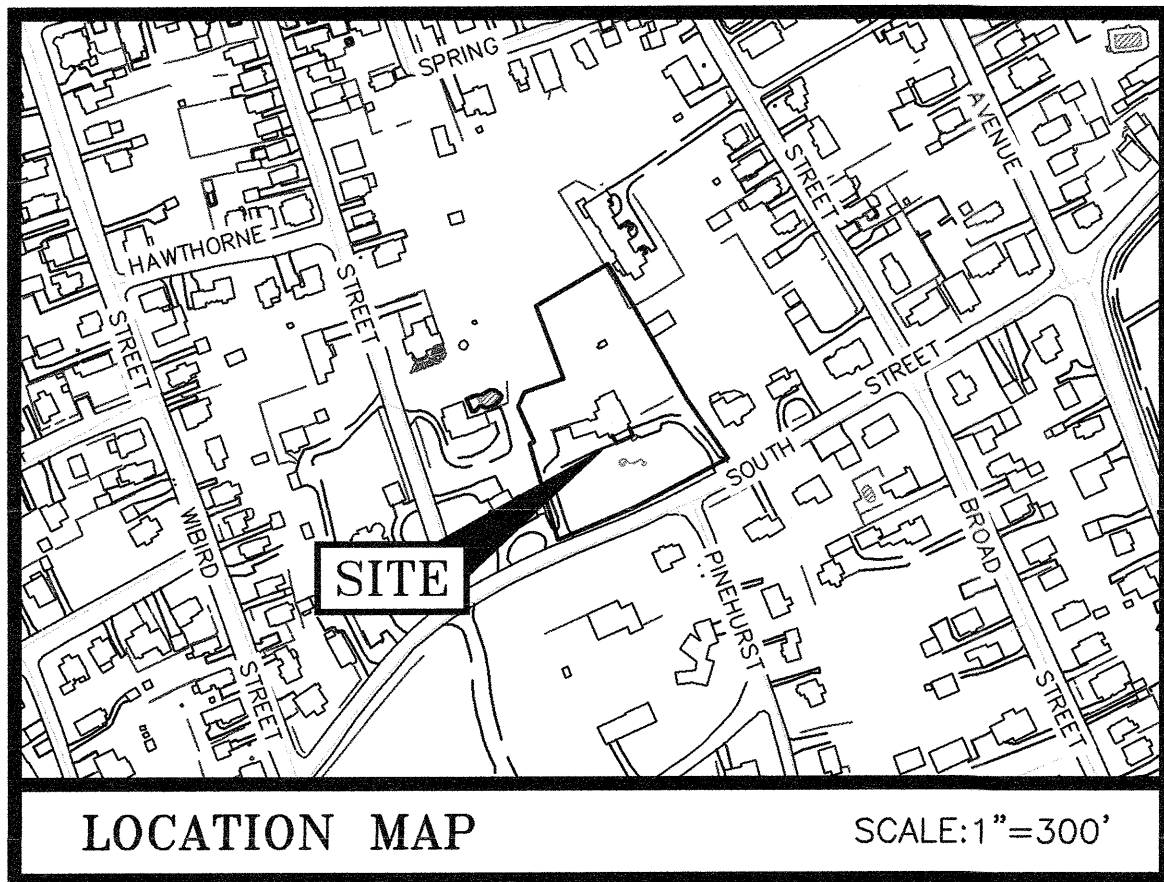
MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/30/2018  
Data updated 11/19/2018

$$1'' = 266 \text{ ft}$$





LEGEND:

EXISTING

- N/F  
RP  
RCRD  
RR SPK FND  
IR FND  
IP FND  
DH FND  
NHFB FND  
TB FND  
BND w/DH  
ST BND w/DH  
D  
UNDERGROUND ELECTRIC  
OVERHEAD ELECTRIC WIRES  
EDGE OF PAVEMENT (EP)  
WOODS / TREE LINE  
UTILITY POLE (w/ GUY)  
WATER SHUT OFF/CURB STOP  
GATE VALVE  
HYD  
METER (GAS, WATER, ELECTRIC)  
CATCH BASIN
- NOW OR FORMERLY  
RECORD OF PROBATE  
ROCKINGHAM COUNTY  
REGISTRY OF DEEDS  
MAP 11 / LOT 21  
RAILROAD SPIKE FOUND/SET  
IRON ROD FOUND/SET  
IRON PIPE FOUND/SET  
DRILL HOLE FOUND/SET  
NHDOT BOUND FOUND  
TOWN BOUND FOUND  
BOUND w/ DRILL HOLE  
STONE BOUND w/DRILL HOLE  
BND w/DH  
ST BND w/DH

PLAN REFERENCES:

- 1) STANDARD BOUNDARY SURVEY FOR PROPERTY AT 613 UNION STREET, ROCKINGHAM COUNTY, PORTSMOUTH, NEW HAMPSHIRE OWNED BY JOHN R. & ELIZABETH U. FEGELA. DATED 5/15/98 BY EASTERLY SURVEYING. RCRD #D-26381.  
2) SITE PLAN, BROAD PARK CONDOMINIUMS OFF BROAD STREET, PORTSMOUTH, N.H. DATED 3/10/81 BY RICHARD P. MILLETTE AND ASSOCIATES. RCRD #D-10137.  
3) PLAN OF RAND AND HISLOP LAND, SOUTH, UNION AND SPRING STS., PORTSMOUTH, N.H. DATED OCT. 1943 BY JOHN W. DURGIN. RCRD #01239.  
4) PLAN OF LOTS, PORTSMOUTH, N.H. OWNED BY C.W. BREWSTER. DATED OCT. 1931 BY JOHN W. DURGIN. RCRD #0687.

VARIANCE REQUEST:

- 1) SECTION 10.521-TO ALLOW 95.08' OF FRONTAGE FOR LOT 2, WHERE 100' IS REQUIRED.

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

JOHN R. CHAGNON, LLS DATE 2-22-19

