

APPLICANTS' NARRATIVE
LOT UNMERGER REQUEST
VINCENT AND MONICA ZINGANELLO
135 THAXTER ROAD

The property located at 135 Thaxter Road was originally Lots 52 and 53 as shown on the Westfield Park Plan recorded as Plan 0643 in the Registry of Deeds in 1929 (plan attached).

In 1933, Lot #53 was conveyed to Harry F. Downing (Bk 888 Pg 410, deed attached).

In 1936, Lot #52 was conveyed to Harry F. Downing (Bk 920, Pg 365, deed attached).

After the death of Harry F. Downing, his wife Bernice conveyed the two lots to a trust in December of 1980 (Bk 2379, Pg 328, deed attached).

Bernice Downing's son, Harry f. Downing, Jr., as Trustee of the trust conveyed the property as two lots to Dale and Nicholas Genimatases in 1989 (Bk 2802, Page 921, deed attached).

In January 1990, the Rockingham Superior Court in Docket 89-E-553 issued a decree that the Genimatases were the owners of two lots, being Lots 52 and 53 on the Westfield Park Plan. (Decree recorded at Bk 2824, Pg 2237 attached.)

The Genimatases conveyed the two lots to the applicants on July 26, 1999. (Deed attached, Bk 3410, Pg 726.)

None of the applicants' predecessors in title voluntarily merged the two lots and the property has always been conveyed as two lots, Lots 52 and 53 as shown on the Westfield Park Plan.

The applicants' have not voluntarily merged the two lots and Lot #53 has remained a vacant lot since 1933, and has no structures or improvements associated with Lot #52 thereon.

The two lots were involuntarily merged by the City Assessor's Office subsequent to 1983 when the tax card showed two separate lots.


Bernie W. Pelech, Esq.
Attorney for Applicants

0643

*Revised and Replotted
Dec. 3, 1924
John W. Dunsen, C.E.*

PLAN OF WESTFIELD PARK

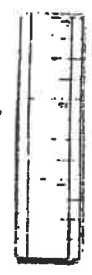
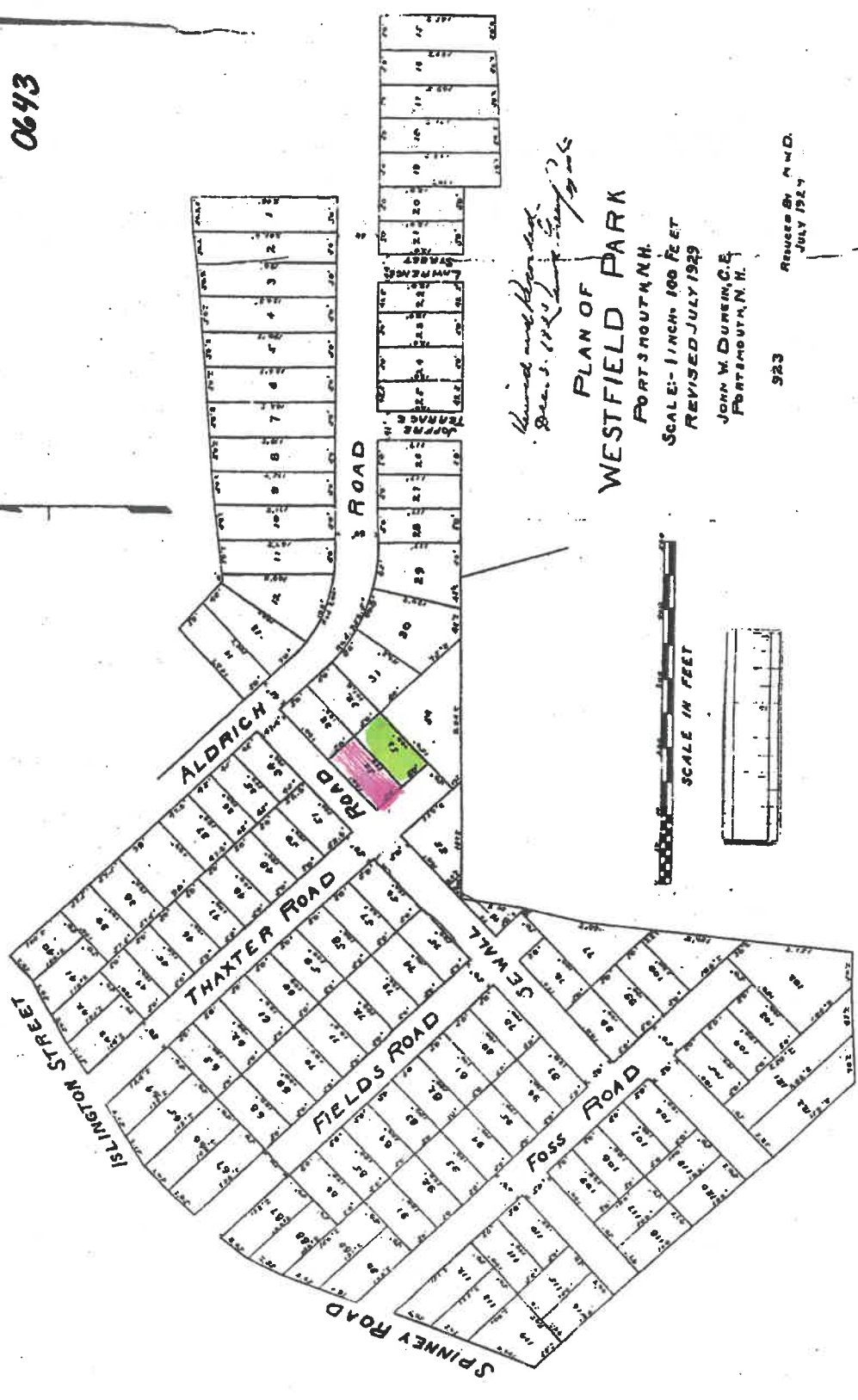
PORTSMOUTH, N.H.

SCALE - 1 INCH = 100 FEET
REVISED JULY 1929

JOHN W. DUNSEN, C.E.
PORTSMOUTH, N. H.

323

REVISED BY A.M.D.
JULY 1927



See Book 20 Plat 4

135 THAXTER RD.



**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 4/1/2019
Data updated 7/17/2019

Running Southwesterly by Sewall Road One Hundred (100) feet to the point of beginning.

Meaning and intending to describe and convey the same premises conveyed to Dale T. Genimatas and Nicholas W. Genimatas by deed of Harry F. Downing, Jr., Trustee, dated July 27, 1989 and recorded in the Rockingham County Registry of Deeds at Book 2802, Page 0921.

Signed this July 26, 1999.

Dale T. Genimatas
 DALE T. GENIMATAS

Nicholas W. Genimatas
 NICHOLAS W. GENIMATAS

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 26th day of July, 1999 by DALE T. GENIMATAS and NICHOLAS W. GENIMATAS.

[Signature]
 Notary Public/Justice of the Peace

N:\data\5\59497\mcb\DEED.DOC
July 23, 1999

STATE OF NEW HAMPSHIRE

DEPARTMENT OF REVENUE ADMINISTRATION

REAL ESTATE TRANSFER TAX

3 THOUSAND 7 HUNDRED AND 50 DOLLARS

072199 389318 \$3750.00

VOID IF ALTERED

2924 P2737

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT
DOCKET #9-E-553

IN EQUITY

Nicholas W. Genimatas and Dale T. Genimatas

v.

Portsmouth Building Trust a/k/a Portsmouth Building Association
its trustees, beneficiaries, successors and/or assigns
and
whom it may concern

DECREE

After hearing petitioners in the above entitled matter, and on the report of the Guardian Ad Litem, the Petitionees, being Portsmouth Building Trust a/k/a Portsmouth Building Association, its trustees, beneficiaries, successors and/or assigns and/or any other entity or unknown person who claims or may claim any interest or estate in and to the subject matter of this action, there having been no appearance filed by any such person, it is hereby Ordered, Adjudged and Decreed as follows:

1. The Petitioners, Nicholas W. Genimatas and Dale T. Genimatas, are the owners in fee simple of land located in the City of Portsmouth, County of Rockingham, State of New Hampshire, and being shown as lots numbered 52 and 53 on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire, revised July 1929, by John W. Durgin, C. E. and recorded in the Rockingham County Registry of Deeds"; and being the same premises acquired by your petitioners by warranty deed from the Bernice M. Downing Trust, dated July 27, 1989, recorded in the Rockingham County Registry of Deeds at Book 2802, Page 921, to which deed reference is made for a more particular description as follows:

A certain parcel of land with the buildings thereon situate in said Portsmouth on the Northeastly side of Thaxter Road and known as Lot Number Fifty-Three (53) as shown on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire, revised July 1929 by John W. Durgin, C. E. and recorded in Rockingham Registry of Deeds." said parcel is bounded and described as follows:

Beginning on Thaxter Road at the corner of Lot Number Fifty-Two (52) as shown on said plan, and running thence Northeastly by said Lot Number Fifty-Two (52) one hundred feet (100) to Lot Number Thirty-Two, as shown on said Plan; thence turning and running Southeastly by said Lot Number (52) Fifty-Two, as shown on said Plan, fifty feet (50) to Lot Number Fifty-Four (54); thence turning and running Southwestly by said Lot Number Fifty-Four (54) one hundred feet (100) to said Thaxter Road; thence turning and running Northwestly by said Thaxter Road fifty feet (50) to the point of beginning.

63571

Jun 29 10 14 AM '90

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

02824 P2738

And a certain lot or parcel of land situate in said Portsmouth and known as Lot Number Fifty-Two on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire" and drawn by John W. Durgin, C. E. and recorded in Rockingham County Registry of Deeds. Said parcel is bounded and described as follows:

Beginning at the Westerly corner of the lot on the corner of Thaxter and Sewall Roads thence running Southeasterly by Thaxter Road Fifty (50) feet to Lot number Fifty-Three as shown on said plan; thence running Northeasterly by Lot Number Fifty-Three (53) as shown on said plan One Hundred (100) feet to a common corner with Lots Number Thirty-Two (32) and Number Thirty-Three (33) as shown on said plan; thence running Northwesterly by Lot Number Thirty-Three (33) as shown on said plan Fifty (50) feet to Sewall Road; thence running Southwesterly by Sewall Road One Hundred (100) feet to the point of beginning.

And the said Nicholas W. Genimatas and Dale T. Genimatas hold the same free and clear of all claims of Portsmouth Building Trust a/k/a Portsmouth Building Association, its trustees, beneficiaries, successors and/or assigns and/or any unknown other entity or unknown persons who claim or may claim any interest or estate in and to the subject matter of this action.

2. That title to the said real estate of said petitioner, Nicholas W. Genimatas and Dale T. Genimatas, as held and claimed by them as aforesaid is hereby ordered and decreed to be the sole and exclusive possession of said Petitioners, Nicholas W. Genimatas and Dale T. Genimatas, in fee simple, free and clear of all claims or rights of Portsmouth Building Trust a/k/a Portsmouth Building Association and/or any other person or entities who may claim an interest adverse to the Petitioners.

3. That a copy of this Decree be ordered recorded in the Rockingham County Registry of Deeds as evidence of the title of your Petitioners, Nicholas W. Genimatas and Dale T. Genimatas as against any interest of Portsmouth Building Trust a/k/a Portsmouth Building Association, its trustees, beneficiaries, successors and/or assigns, and/or any other entity or unknown persons who claim or may claim any interest in and to the subject matter of this action.

Date

1-22-90


Presiding Justice

A TRUE COPY ATTEST
CLERK 

W2802 P0921

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS

THAT I, Harry F. Downing, Jr., Trustee of trust dated December 8, 1980 recorded in the Rockingham County Registry of Deeds at Book 2379, Page 325 of 135 Thaxter Road, Portsmouth, County of Rockingham and State of New Hampshire, for consideration paid, grant to Dale T. Genimatas and Nicholas W. Genimatas, being husband and wife of 1 Pickernell Lane, Kittery, County of York and State of Maine with WARRANTY COVENANTS, as joint tenants with the rights of survivorship the following described premises.

Two certain lots or parcels of land with the buildings thereon situated in said Portsmouth, County of Rockingham and State of New Hampshire on the Northeastly side of Thaxter Road and known as Lot Number fifty-three (53) as shown on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire, revised July 1929 by John W. Durgin, C.E. and Lot Number Fifty-two (52) on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire" and drawn by John W. Durgin, C.E. both being recorded in Rockingham County Registry of Deeds. Said parcels being bounded and described as follows:

Parcel 1. Beginning on Thaxter Road at the corner of Lot Number Fifty-two (52), as shown on said Plan, and running thence Northeastly by said Lot Number Fifty-two (52) one hundred feet (100) to Lot Number Thirty-two, as shown on said Plan; thence turning and running Southeastly by said Lot Number (52) Fifty-two, as shown on said Plan, fifty feet (50) to Lot Number Fifty-four (54); thence turning and running Southwestly by said lot Number Fifty-four (54); one hundred feet (100) to said Thaxter Road; thence turning and running Northwestly by said Thaxter Road fifty feet (50) to the point of beginning.

Parcel 2. Beginning at the Westerly corner of the lot on the corner of Thaxter and Sewall Roads thence running Southeastly by Thaxter Road Fifty (50) feet to Lot number fifty-three (53) as shown on said Plan; thence running Northeastly by Lot Number Fifty-three (53) as shown on said Plan One hundred (100) feet to a common corner with Lots Number thirty-two (32) and Number thirty-three (33) as shown on said plan; thence running Northwestly by Lot Number thirty-three (33) as shown on said plan Fifty (50) feet to Sewall Road; thence running Southwestly by Sewall Road One Hundred (100) feet to the point of beginning.

Meaning and intending to describe and convey the premises set forth in deed of Bernice M. Downing to Bernice M. Downing, Trustee dated December 8, 1980 and recorded in the Rockingham County Registry of Deeds at Book 2379, Page 328. Harry F.

32614

JUL 31 9 19 AM '80

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

STATE OF NEW HAMPSHIRE
TAX ON TRANSFER
OF REAL PROPERTY
JUL 31 '80
999.00

STATE OF NEW HAMPSHIRE
TAX ON TRANSFER
OF REAL PROPERTY
JUL 31 '80
618.00

#2802 P0922

Downing, Jr. is Successor Trustee of the trust a declaration and memorandum of which dated December 8, 1980 and recorded in said registry at Book 2379, Page 325.


Both of the above parcels are subject to the following conditions:

No dwelling house shall be erected on said land to cost less than \$3,000.00. No dwelling house or other building shall be erected nearer than twenty-five feet fronting to said road; any garage or other out-buildings erected on said lot shall not be erected or maintained in front of the rear lines of any dwelling house erected on said lot; its grantors, successors, or assigns hereby reserve the right as against the grantee and his heirs and assigns to enter on conditions broken if and in the event that he or they shall violate any of the said conditions and it is hereby agreed that by said re-entry the grantor, its successors or assigns shall terminate the estate of said grantee or his heirs or assigns in said granted premises. (Note is made of the fact that the term grantor used in the above stated condition makes references to Charolette M. Paterson as to Lot 53 and the Portsmouth Building Association as to Lot 52).

WITNESS our hands and seals this 27th day of July, 1989.

WITNESS:

JULY 27, 1989


Harry F. Downing, Jr. Trustee
pursuant to Trust dated
December 8, 1980 and recorded
at the Rockingham County
Registry of Deeds at Book 2379
Page 325

STATE OF NEW HAMPSHIRE
Rockingham, ss.

Personally appeared Harry F. Downing, Trustee, known to me, or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.

Before me,


Justice of the Peace/Notary Public

QUIT-CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That I, BERNICE M. DOWNING of the City of Portsmouth, County of Rockingham and State of New Hampshire

for consideration paid, grant to BERNICE M. DOWNING, TRUSTEE under Declaration of Trust dated this date and recorded herewith

with QUITCLAIM COVENANTS A certain parcel of land with the buildings thereon situate in said Portsmouth on the Northeasterly side of Thaxter Road and known as Lot Number Fifty-three (53) as shown on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire, revised July 1929 by John W. Durgin, C. E. and recorded in Rockingham Registry of Deeds." Said parcel is bounded and described as follows: Beginning on Thaxter Road at the corner of Lot Number Fifty-two (52), as shown on said Plan, and running thence Northeasterly by said Lot Number Fifty-two (52) one hundred feet (100) to Lot Number Thirty-two, as shown on said Plan; thence turning and running Southeasterly by said Lot Number (52) Fifty-two, as shown on said Plan, fifty feet (50) to Lot Number Fifty-four (54); thence turning and running Southwesterly by said Lot Number Fifty-four (54) one hundred feet (100) to said Thaxter Road; thence turning and running Northwesterly by said Thaxter Road fifty feet (50) to the point of beginning.

No dwelling house shall be erected on said land to cost less than \$3,000.00. No dwelling house or other building shall be erected nearer than twenty-five feet fronting to said road; any garage or other out-buildings erected on said lot shall not be erected or maintained in front of the rear lines of any dwelling house erected on said lot; its grantors, successors, or assigns hereby reserve the right as against the grantee and his heirs and assigns to enter on conditions broken if and in the event that he or they shall violate any of the said conditions and it is hereby agreed that by said re-entry the grantor, its successors or assigns shall terminate the estate of said grantee or his heirs or assigns in said granted premises.

Meaning and intending hereby to describe all and the same premises conveyed by Charlotte M. Paterson to Harry F. Downing dated November 29, 1933 and recorded in Rockingham County Records in Book 888 Page 410. My title is derived under the will of the late Harry F. Downing, deceased filed in the Rockingham County Registry of Probate.

And, a certain lot or parcel of land situate in said Portsmouth and known as Lot Number fifty-two (52) on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire" and drawn by John W. Durgin, C. E. and recorded in Rockingham County Registry of Deeds. Said parcel is bounded and described as follows: Beginning at the Westerly corner of the lot on the corner of Thaxter and Sewall Roads thence running Southeasterly by Thaxter Road Fifty (50) feet to Lot number fifty-three (53) as shown on said Plan; thence running Northeasterly by Lot Number Fifty-three (53) as shown on said Plan One hundred (100) feet to a common corner with Lots Number thirty-two (32) and Number thirty-three (33) as shown on said plan; thence running Northwesterly by Lot Number thirty-three (33) as shown on said plan Fifty (50) feet to Sewall Road; thence running Southwesterly by Sewall Road One hundred (100) feet to the point of beginning.

Said premises are conveyed, however, under and subject to the following conditions and restrictions, viz; no dwelling house shall be erected on said land to cost less than Three Thousand (\$3,000) Dollars. No dwelling house or other buildings shall be erected nearer than Twenty-five (25)

DEC 9 9 55 AM '00 25900

feet to said Thaxter Road fronting on said road. No garage or other out building erected on said Lot shall be erected or maintained in front of the rear lines of any dwelling house erected on said Lot and the grantee hereby covenants and agrees to and with said Grantors that all deeds and conveyances of other lots of land shall be subject thereto. The grantors, and its successors and assigns, do hereby reserve the right as against the grantee and his heirs and assigns to enter on conditions broken if and in the event that he or they shall violate any of the said conditions. And it is hereby agreed that by said re-entry said grantors, its successors and assigns shall terminate the estate of said grantee and his heirs or assigns in said granted premises.

Meaning and intending hereby to describe and convey all and the same premises conveyed by the Portsmouth Building Association to Harry F. Downing by deed dated July 15, 1936 and recorded Rockingham County Records in Book 920 Page 365. My title is derived under the will of the late Harry F. Downing deceased filed in the Rockingham County Registry of Probate.

And I, Bernice M. Downing, as a widow,

WITNESS my hand and seal this ^(No Federal Revenue Stamps required) 27th day of December, 1980.

Bernice M. Downing
Bernice M. Downing

WITNESS:

Margaret F. Windille
Margaret M. Downing

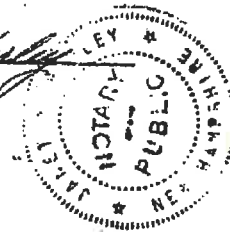
STATE OF NEW HAMPSHIRE

Rockingham, ss:

On the 27th day of December, 1980 personally appeared Bernice M. Downing known to me, or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

Before me,

Just M. [Signature]
Notary Public



My Commission expires:
MY COMMISSION EXPIRES MARCH 24, 1983

090119 STATE OF NEW HAMPSHIRE
TAX ON TRANSFER OF REAL PROPERTY
STATE TAX COMMISSION
DEC-1980 1.000

\$5.50 Rev.

Know all Men by these Presents

Book 0888 Page 0410

THAT I, Charlotte M. Paterson of Portsmouth in the County of Rockingham and State of New Hampshire

Paterson
to
Downing

for and in consideration of the sum of One Dollar and other valuable considerations to me in hand, before the delivery hereof well and truly paid by Harry F. Downing of said Portsmouth

Delivered to
S. & Waldron

the receipt whereof I do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said Harry F. Downing and his heirs and assigns forever,

A certain parcel of land with the buildings thereon situate in said Portsmouth on the Northeasterly side of Thaxter Road and known as Lot Number fifty-three (53) as shown on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire, revised July 1929 by John W. Durgin, C.E. and recorded in Rockingham Registry of Deeds." Said parcel is bounded and described as follows; Beginning on Thaxter Road at the corner of Lot Number fifty two (52) as shown on said Plan, and running thence Northeasterly by said Lot Number fifty-two (52) one hundred feet (100) to Lot Number thirty two, as shown on said Plan; thence turning and running Southeasterly by said Lot Number (52) fifty-two, as shown on said Plan, fifty feet (50) to Lot Number Fifty four (54); thence turning and running Southwesterly by said Lot Number fifty-four (54) one hundred feet (100) to said Thaxter Road; thence turning and running Northwesterly by said Thaxter Road fifty feet (50) to the point of beginning.

No dwelling house shall be erected on said land to cost less than \$3,000.00. No dwelling house or other building shall be erected nearer than twenty-five feet fronting to said road; any garage or other out-buildings erected on said lot shall not be erected or maintained in front of the rear lines of any dwelling house erected on said lot; its grantors, successors, or assigns hereby reserve the right as against the grantee and his heirs and assigns to enter on conditions broken if and in the event that he or they shall violate any of the said conditions and it is hereby agreed that by said re-entry the grantor's successors or assigns shall terminate the estate of said grantee or his heirs or assigns in said granted premises.

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging to ~~Harry F. Downing~~ the said grantee and his heirs and assigns, to ~~and their~~ proper use and ~~enjoyment~~ forever. And I the said grantor and my heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said grantee and his heirs and assigns, that until the delivery hereof I am the lawful owner of the said premises, and I am seized and possessed thereof in my own right and fee simple, and have full power and lawful authority to grant and convey the same in ~~any manner~~ ~~addressed~~, that the said premises are free and clear from all and every incumbrance whatsoever, and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said grantee and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, Edward L. Paterson, husband of the said Charlotte M. Paterson for the consideration aforesaid, do hereby release my right of ~~claim~~ ~~in~~ the ~~above~~ mentioned premises.

And we each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale or execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as so reserved as secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An act to exempt the Homestead of Families from attachment and levy or sale, on execution," or by any other Statute or Statutes of said State. Under and by virtue of any law of the State of New Hampshire, and all other rights and interest therein, ~~in which we have heretofore~~ ~~our~~ ~~rights~~ ~~and~~ ~~interest~~ ~~therein~~, this twenty-ninth day of November in the year of our Lord ~~1933~~ ~~1933~~ 1933.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF US:

Margaret McGaffery

Charlotte M. Paterson (I.S.)
Edward L. Paterson (I.S.)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, SS. November 29th A.D. 19 33 .
Personally appeared the above named Charlotte M. Paterson and Edward L. Paterson and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME,
..... Margaret McGaffery..... Justice of the Peace.

Received and recorded.. Feb. 9, 19 34. John M. A. Green... Register.

\$1.00 Rev.

Know all Men by these Presents,

THAT we, R. Clyde Margeson, Richman P. Margeson, Edward Seybolt, Henry B. Tilton and Fred A. Gray, all of Portsmouth in the County of Rockingham and State of New Hampshire, as trustees of the Portsmouth Building Association of said Portsmouth, are empowered to make conveyances of real estate owned by the said Association by virtue of powers conferred upon them as Trustees under a certain declaration of trust dated April 8, 1913 and recorded in Rockingham Registry of Deeds Book 674, Page 269,

for and in consideration of the sum of One Dollar and other valuable considerations to us in hand, before the delivery hereof well and truly paid by Harry F. Downing of said Portsmouth

Margeson et als to Downing

the receipt whereof We do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said Harry F. Downing and his heirs and assigns forever,

del. to grantees

A certain lot or parcel of land situate in said Portsmouth and known as Lot Number fifty two (52) on a plan entitled "Plan of Westfield Park, Portsmouth, New Hampshire" and drawn by John W. Durgin, C. E. and recorded in Rockingham Registry of Deeds.

Said parcel is bounded and described as follows; Beginning at the Westerly corner of the lot on the corner of Thaxter and Sewall Roads thence running Southeasterly by Thaxter Road fifty (50) feet to Lot number fifty three (53) as shown on said Plan; thence running Northeasterly by Lot Number fifty three (53) as shown on said Plan One hundred (100) feet to a common corner with Lots Number thirty two (32) and Number thirty three (33) as shown on said plan; thence running Northwesterly by Lot Number thirty three (33) as shown on said plan Fifty (50) feet to Sewall Road; thence running Southwesterly by Sewall Road One Hundred (100) feet to the point of beginning.

Said premises are conveyed, however, under and subject to the following conditions and restrictions, viz; No dwelling house shall be erected on said land to cost less than Three Thousand (\$3,000) Dollars. No Dwelling house or other buildings shall be erected nearer than Twenty-five (25) feet to said Thaxter Road fronting on said road.

No garage or other out building erected on said Lot shall be erected or maintained in front of the rear lines of any dwelling house erected on said Lot and the grantee hereby covenants and agrees to and with said Grantors that all deeds and conveyances of other lots of land shown on said plan as fronting upon Thaxter Road shall contain the same conditions and restrictions and that the said other lots of land shall be subject thereto. The grantors, and its successors and assigns, do hereby reserve the right as against the grantee and his heirs and assigns to enter on conditions broken if and in the event that he or they shall violate any of the said conditions. And it is hereby agreed that by said recited grantors, its successors and assigns shall terminate the estate of said grantee and his heirs or assigns in said granted premises.

Harry Downing the said grantee and his heirs and assigns, to the same belonging, to ~~the said grantee and his heirs and assigns, to~~ ~~their own use and benefit forever.~~ And we the said grantors and our heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said grantee and his heirs and assigns, that until the delivery hereof we are the lawful owner of the said premises, and we seized and possessed thereof in our own right and fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that we and our heirs, executors and administrators, shall and will warrant and defend the same to the said grantee and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, ~~wife of the said~~ in consideration aforesaid, do hereby release my right of dower in the above mentioned premises.

And we each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights whatsoever in said premises and in each and every part thereof, as our Family Homestead, as are reserved to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy or sale on execution, or by any other Statute or Statutes of said State."

In Witness whereof we have hereunto set our hand and seals, this fifteenth day of July in the year of our Lord one thousand nine hundred and 1936

SIGNED, SEALED AND DELIVERED IN PRESENCE OF US:
Jeremy R. Waldron R. Clyde Margeson (L.S.)
Richman P. Margeson (L.S.)
Edward Seybolt (L.S.)
Henry B. Tilton (L.S.)
Fred A. Gray (L.S.)

STATE OF NEW HAMPSHIRE, Rockingham, ss. July 21st A. D. 19 36.
Personally appeared the above named R. Clyde Margeson, Richman P. Margeson, Edward Seybolt, Henry B. Tilton and Fred A. Gray, individuals, and in their said capacities as trustees, and acknowledged the foregoing instrument to be their voluntary act and deed.

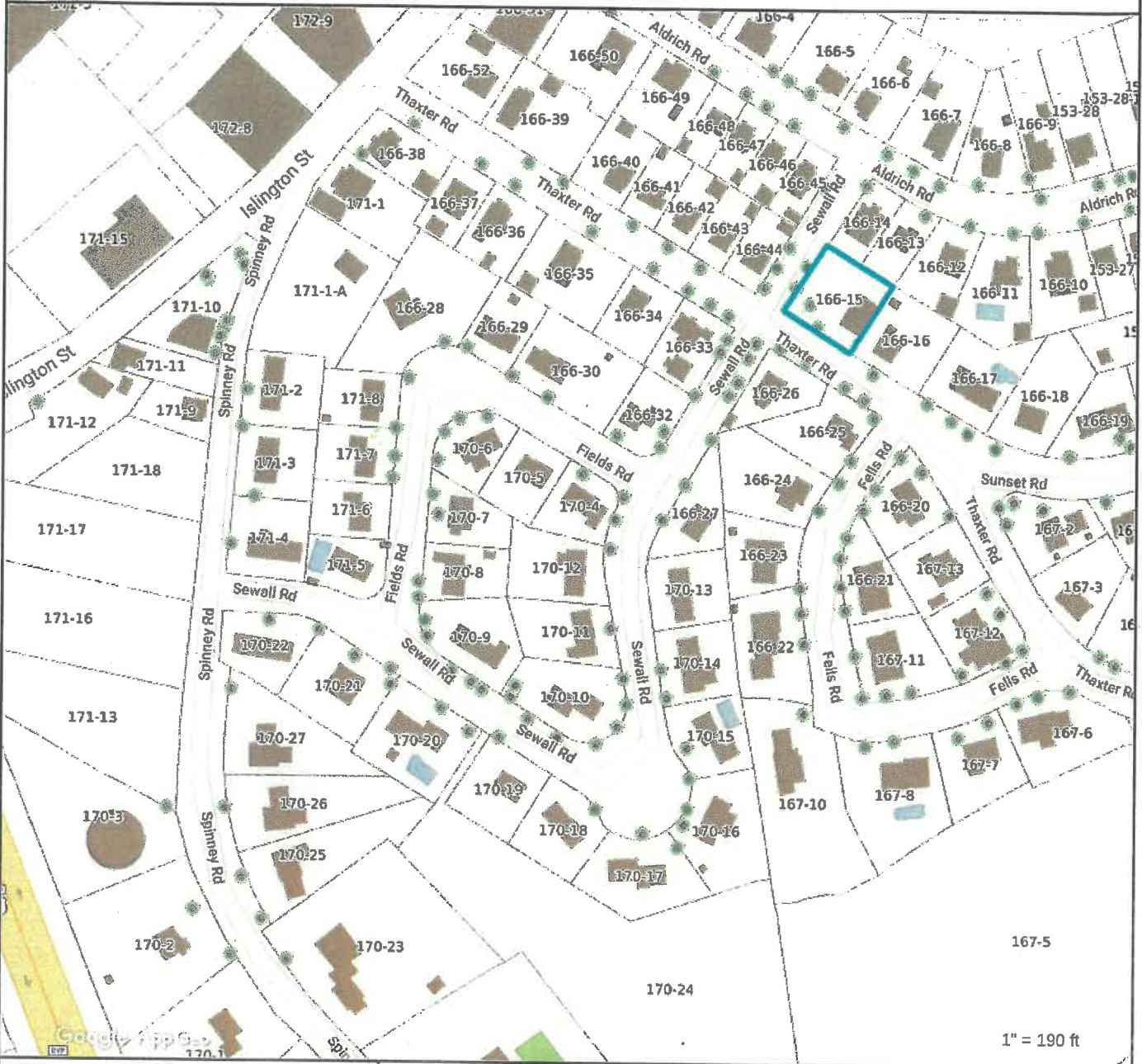
BEFORE ME,

.....Jeremy R. Waldron.....Justice of the Peace.


Received and recorded August 3, 10 A.M. 19 36.

John H. ... Register.

135 Thaxter Rd.



Property Information	
Property ID	0166-0015-0000
Location	135 THAXTER RD
Owner	ZINGARIELLO VINCENT



**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 4/1/2019
Data updated 7/17/2019

1" = 190 ft

CITY OF PORTSMOUTH, NH
APPLICATION FOR RESTORATION OF INVOLUNTARILY MERGED LOTS
PURSUANT TO RSA 674:39-aa

Name of Property Owner(s): VINCENT ZINGARIELLO and MONICA ABRUZZESE

Mailing Address: 135 THAXTER Rd. PORTSMOUTH, NH 03801

Telephone Number: 603 770 7999

Email Address: _____

Street Location of Parcels Affected by the Requested Restoration:

135 THAXTER Rd.

Properties Requested to be Restored (attach additional sheet if needed):

Parcel 1

Current Deed Reference: Book 340 Page 726 Date Recorded 7/26/1999

Tax Map 166 Lot Number 15

Parcel 2

Current Deed Reference: Book 340 Page 726 Date Recorded 7/26/99

Tax Map 166 Lot Number 15

Parcel 3

Current Deed Reference: Book _____ Page _____ Date Recorded _____

Tax Map _____ Lot Number _____

Please state when you believe the involuntary merger took place:

SUBSEQUENT TO 1983 WHEN THE TAX CARD SHOWED 2 LOTS

Signature(s) of Property Owner(s):

Signature: [Signature] Name: Vincent Zingariello Date: 2.26.2021

Signature: [Signature] Name: Monica Zingariello Date: 2.26.2021
Monica Abruzzese Monica Abruzzese

Bernie Pelech

From: Bernie Pelech
Sent: Wednesday, March 10, 2021 1:16 PM
To: Bernie Pelech







Sent from my iPhone



CITY OF PORTSMOUTH

Assessors Office

Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
Tel: (603) 610-7249 – Fax: (603) 427-1579

To: Dexter Legg, Chair Planning Board
Cc: Karen S. Conard, City Manager
From: Rosann Lentz, City Assessor, *Rosann Lentz*
Date: May 27, 2021
RE: City Council Referral- Request of Restoration of Involuntarily Merged Lots to pre-merger status at 135 Thaxter Road – RIML-21-2

At its meeting May 17, 2021, the City Council considered a request from Bernie W. Pelech, Esq., on behalf of the property owners Vincent and Monica Zinganello, requesting the restoration of involuntarily merged lots at 135 Thaxter Road to their pre-merger status pursuant to NH RSA 674:39-aa. These lots are represented as Map 166 Lot 15 and historical Plan 46A Lots 52 and 53. The Council voted to refer to the Planning Board and Assessor for report back.

Description

Current assessment records identify the parcel as having .23 +/- acres with a 3 bedroom 1.5 bath single family dwelling built around 1930 located on the parcel.

History

Deeds: Older assessment records dating back to the 50's identified the parcel as 2 separate lots until 1983. According to the deeds researched back to 1930, book 920 page 365 and 1934 book 888 page 410, identified two vacant lots (lot 52 and lot 53) and were deeded individually to Harry F. Downing. In 1989, these two lots were transferred to Dale T. and Nicholas W. Genimatas on one deed and identified as two individual lots.

Property Assessment Records: Between 1953 and 1972 property assessment records show Plan 46A Lots 52 and 53 separately assessed. Assessment records for Tax Year 1983 show one assessment for both lots.

Building Inspection/Planning Records/Ariel Records

2020 Ariel views of the lots show the driveway to the dwelling straddles the property line of lots 52 and 53 of the requested un-merger. Additionally, in 2011 Vincent Zingariello applied for and was granted a driveway permit to expand the frontage of the driveway located at 135 Thaxter Road by 10 to 12 feet. This expansion again straddled the property lines of the requested un-merger of lots 52 & 53.

Court Decisions

Upon review of various New Hampshire court decisions concerning the denial of restorations of lots, the courts have held that the conveyance of multiple lots in a single deed does not, standing alone, support a voluntary merger *Roberts v. Town of Windham*, 165 N.H. 186,192 (2013).

Additionally, court decisions also looked at the use of the property in its entirety by reviewing a lots physical characteristics and the overt actions that occurred over time to the placement of buildings, driveways, outbuildings etc. These decisions, citing totality of changes, can reasonably support that lots by predecessors or current owners were voluntarily merged when facts show the primary and accessory buildings, access, etc. work as a unit. *Robillard v. Town of Hudson*, 120 N.H. 477,416 (1980); *Town of Newbury v. Landrigan*, 165 N.H.236,241 (201); and *Roberts v. Town of Windham*, 165 N.H. 186 (2013).

Additionally, the New Hampshire Municipal Association has interpreted the above court decision to mean, "Governing bodies and zoning boards of adjustment now know they should review requests to unmerge lots based upon all of the circumstances of actual use of the property, and that the lack of a request to voluntarily merge the lots by the current or former owner will not, standing alone, support such a request").

Summary

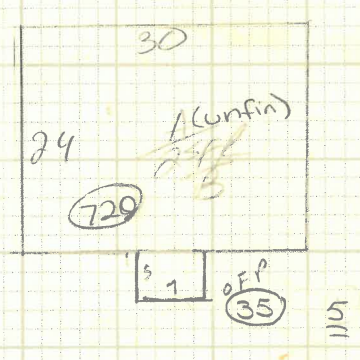
No written request for voluntary merger was found but the above court decision identifies that it is not only a formal request for un-merger that should be taken into consideration when approving or denying a request for restoration of involuntarily merged lots.

When reviewing the Ariel photos and looking at the request for expansion of frontage to the existing driveway by Mr. Zingariello in 2011, it is reasonable to support that the property was treated as a unit and voluntarily merged through an overt action by the current owner.

Cc: file

Attachments

OCCUPANCY			INTERIOR FINISH				COMMERCIAL COMPUTATIONS					OCCUPANCY				
1 VAC. LOT	2 DWELLING	3 OTHER	DRYWALL PLASTER	B	1	2	3	EXTERIOR WALL CODES	1 BRICK	3 GLASS	5 STUCCO	7 STONE	9 CONCRETE	SINGLE FAMILY	STORES	
			WOOD PANELING					2 FRAME	4 BLOCK	6 TILE	8 METAL	0 ENAM. STL.	MULTI FAMILY	OFFICES		
STORY HEIGHT			FIBERBOARD					EXTERIOR WALLS					APARTMENTS			
1.0	1.5	2.0	UNFINISHED					EFF. PERIMETER					L/F			
BASEMENT			LIVING ACCOMMODATIONS				NO. OF UNITS					1				
1 NONE	2 CRAWL	3 PART	NO. OF UNITS	TOTAL ROOMS	BED ROOMS	FAMILY ROOMS	AVG. UNIT SIZE					1				
		4 FULL	001	06	03	02	BASEMENT SIZE					1				
HEATING			OTHER FEATURES				SCHEDULE					1				
1 NONE	2 BASE	3 AIR CON	PART MASONRY WALLS				HT.					1				
WARM AIR - F OR G			FIREPLACE				BASEMENT					1				
HOT WATER/STEAM			BASEMENT REC. ROOM				FIRST					1				
ELECTRIC			FIN. BASEMENT LIVING AREA				SECOND					1				
FLOOR/WALL FURNACE			BASEMENT GARAGE									1				
UNIT HEATERS			MODERNIZED KITCHEN									1				
PLUMBING			REMODELING DATA				SUBTOTAL					1				
PLUMBING POINTS			YEAR				LIGHTING					1				
STANDARD			KITCHEN				HTG./AIR CON.					1				
BATHROOM			PLUMBING				SPRINKLER					1				
HALF BATH			ERECTED				PARTITIONS					1				
SINK/LAVATORY			AGE				INTERIOR FINISH					1				
WATER CLOSET/URINAL			CDU RATING									1				
NO PLUMBING			DWELLING COMPUTATIONS				SF/CF PRICE					1				
ATTIC			2.0 STORY				AREA CUBE					1				
1 NONE	2 UNFIN	3 PT. FIN	0.720 S.F.				SUBTOTAL					1				
		4 FULL FIN	48,640				SPECIAL FEATURES*					1				
ROOF			HEATING				TOTAL BASE					1				
SHINGLE-ASP/ASB./WOOD			PLUMBING				GRADE FACTOR					1				
SLATE/TILE/METAL			ATTIC				REPLACEMENT COST					1				
COMP. ON WOOD FRAME			ADDNS. & PCHS.				FUNCTIONAL DEPRECIATIONS FACTORS					1				
COMP. ON STEEL FRAME			TOTAL				SURPLUS CAP					1				
WALLS			+ 2,650				ENCROACHMENTS					1				
FRAME SIDING ALUM./VINYL/STUCCO			TOTAL				COMM. LOCATION					1				
SHINGLE-ASP/ASB./WOOD			51,790				ECONOMIC					1				
CONCRETE BLOCK			O.F. POINTS				SUMMARY OF OTHER BUILDINGS					1				
BRICK VENEER/STONE			+ 2,100				TYPE					1				
PLATE GLASS FRONT			TOTAL				NO.					1				
FLOORS			53,890				CONSTRUCTION					1				
CONCRETE			GRADE				SIZE					1				
WOOD			B-1				RATE					1				
TILE			X 11.7				GRADE					1				
CARPET			TOTAL				ERECTED					1				
WD./STL. FRAME			63050				CDU					1				
REINF. CONC.			C & D FACT. %				REPLACEMENT COST					1				
			REPL. COST				DEPR.					1				
			63050				TRUE VALUE					1				
			DEPR. 25% X 75				TOTAL OF CARDS					1				
			TRUE VALUE				DATE					1				
			47300				DATE					1				



TLA 1440

GRADE DENOTES QUALITY OF CONSTRUCTION: A—EXCELLENT; B—GOOD; C—AVERAGE; D—CHEAP; E—VERY CHEAP
 CDU FACTOR REFERS TO THE CONDITION, DESIRABILITY, AND USEFULNESS OF THE BUILDING

DOWNING BERNICE M TRSTEE
135 THAXTER ROAD
PORTSMOUTH NH 03801

PROPERTY LOCATION		SIDE	LOCATION CODE		PLAN LOT 046A 053 U66 015	
135	THAXTER ROAD	E	/	/		
CITY OF PORTSMOUTH N.H. JOHN B. PETTY CAE, ASSESSOR			TYPE	PROJECT	CONTROL NO	CARD
			RESD	31001	1803461005300	1 OF 1

RECORD OF TRANSFER	DATE	BOOK	PAGE	AMOUNT	MORTGAGE
1 DOWNING/HARRY F	122749	N/A	N/A		
2 Downing Bernice M	12/8/80	2379	328		
3					
4					
5					
6					
7					

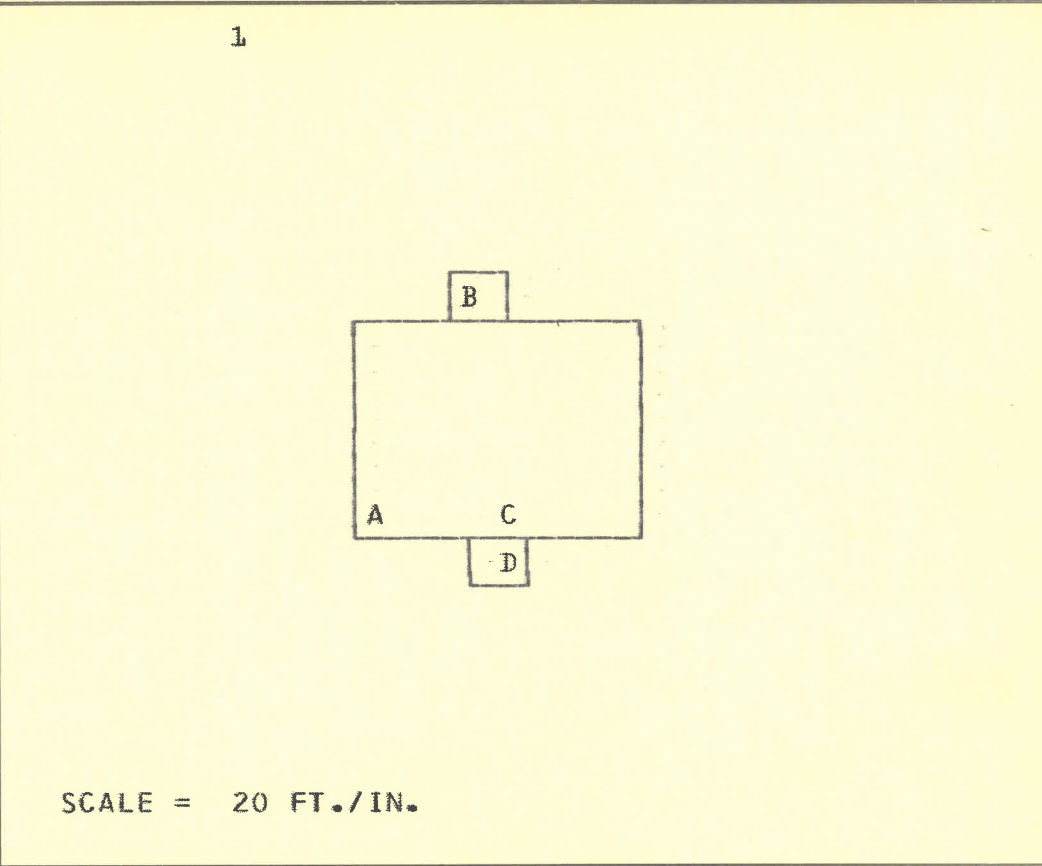
LAND FACTORS		LAND IMPROVEMENTS			SUMMARY
TOPOGRAPHY-1 LEVEL	LOCATION FAIR +				19 72
IMPROVEMTS-1 C WATER	DRAINAGE GOOD				LAND
-2 SEWER	ZONING 02				BLDGS
-3 ELEC	NEIGHBORHOOD STATIC				TOTAL
	SOIL-1 SANDY				3300
	-2 LOAM				17300
		VALUE	EQ	ASSESSMENT	20600
STREET/RD-2 IMPROVE					19
					LAND
					BLDGS
					TOTAL

ACREAGE COMPUTATION							
TYPE	ACRES	PRICE	TOTAL	DEPR	VALUE	EQ	ASSESSMENT
1 H-LOT 33 A	.110	10000	3300		3300	100	3300
2							
3							
4							
5							
6							
	.110		ACREAGE TOTAL		3300	100	3300

LOT COMPUTATION												
FRONT	REAR	FRONTAGE	DEPTH	STREET PRICE	DEPTH %	ADJ FR PR	TOTAL	DEPRECIATION	CORNER	VALUE	EQ	ASSESSMENT
1												
2												
3												
4												
LOT TOTAL												
LAND TOTAL										3300	100	3300

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CONTROL NO.	STRUCTURE VALUE													
180 3461005300	STRUCTURAL ELEMENTS					PRICE								
OUT BUILDINGS	BASE. A 744SF					19320								
ITEM 1 2 3 4 5 6	FOUNDATION. CONC WALLS													
PIER FOUND X	EXT WALLS. FRAME CLAPBOARDS					390								
WALL FOUND	INSULATION. BLANKET													
SKIDS	ROOF. GABLE ASPH SHG													
SGLE SDG	BASEMENT. FULL CONCRETE FLOOR													
DBL SDG X	FLOORS. 1 HARDWD													
SHING WALLS	INT FIN. 1 PLASTR													
CONC BLOCK	2 PLASTR													
BRICK	ROOMS. LAYOUT G COND G													
STONE	ATTIC. FULL AT STAIR FULL FLR					340								
FLOOR W	HEAT. 1 H-W CAST					1580								
INT FINISH	2 H-W CAST													
PLUMB	FIREPLACES. 1 STACKS 1					1090								
ELEC	PLUMBING. BATH 1 SINK 1													
	TILE. NONE													
	DORMERS. NONE													
	SEG. B OPEN-PORCH 24SF					202								
	C ADDITION 14SF					326								
	D OPEN-PORCH 35SF					249								
	SUB TOTAL FACTOR					23497								
OCCUPANCY	CONSTRUCTION	CLASS	AGE	REMOD	COND	REPLACEMENT VALUE	PHYS DEPR	PHYSICAL VALUE	FUNC DEPR	ACTUAL VALUE	EQ	ASSESSMENT	SALE PRICE	DATE MO/YR
DWLG 1 FAM 1-DT GAR33	2.0S FR B A 1.0S FR 2	3 3	1930± OLD	NO	G F	23497 1168	30 25	16448 876		16448 876	100 100	16400 900		
													LISTED DATE	LISTER
													02/16/72	3416
													SIGNATURE	REVIEW
													X SIGNED	2735
BUILDING TOTAL										17324	100	17300		



A 24-31-24-31					
SEG	TYPE	STOR	CONS	CLASS	DIMENSIONS
B	30	1.0	FRAM	3	4-6-4-6
C	01	1.0	FRAM	3	2-7-2-7
D	30	1.0	FRAM	3	5-7-5-7

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DOWNING BERNICE M TRSTEE
135 THAXTER ROAD
PORTSMOUTH NH 03801

PROPERTY LOCATION		SIDE	LOCATION CODE		PLAN LOT 046A 052 // 466 015	
135 THAXTER ROAD		E	/ / / /			
CITY OF PORTSMOUTH N.H. JOHN B. PETTY CAE, ASSESSOR			TYPE	PROJECT	CONTROL NO	CARD
			RES D	31001	1803461005200	1 OF 1

LAND DEPRECIATION CODES
3-VACANCY

RECORD OF TRANSFER	DATE	BOOK	PAGE	AMOUNT	MORTGAGE
1 DOWNING/HARRY F	80336	0920	365		
2 Downing Bernice M	12/8/80	2379	328		
3					
4					
5					
6					
7					

LAND FACTORS		LAND IMPROVEMENTS			SUMMARY	
TOPOGRAPHY-1 LEVEL	LOCATION DRAINAGE ZONING NEIGHBORHOOD SOIL-1 -2	FAIR + GOOD 02	STATIC SANDY LOAM	VALUE	EQ	ASSESSMENT
STREET/RD-2 IMPROVE						

ACREAGE COMPUTATION								19 LAND BLDGS TOTAL
TYPE	ACRES	PRICE	TOTAL	DEPR	VALUE	EQ	ASSESSMENT	
1 H-LOT 33 A	.110	10000	3300	25	2475	100	2500	19 LAND BLDGS TOTAL
2								19 LAND BLDGS TOTAL
3								19 LAND BLDGS TOTAL
4								19 LAND BLDGS TOTAL
5								19 LAND BLDGS TOTAL
6								19 LAND BLDGS TOTAL
		.110	ACREAGE TOTAL		2475	100	2500	19 LAND BLDGS TOTAL

LOT COMPUTATION												19 LAND BLDGS TOTAL	
FRONT	REAR	FRONTAGE	DEPTH	STREET PRICE	DEPTH %	ADJ FR PR	TOTAL	DEPRECIATION	CORNER	VALUE	EQ	ASSESSMENT	
1													19 LAND BLDGS TOTAL
2													19 LAND BLDGS TOTAL
3													19 LAND BLDGS TOTAL
4													19 LAND BLDGS TOTAL
LOT TOTAL													19 LAND BLDGS TOTAL
LAND TOTAL										2475	100	2500	19 LAND BLDGS TOTAL

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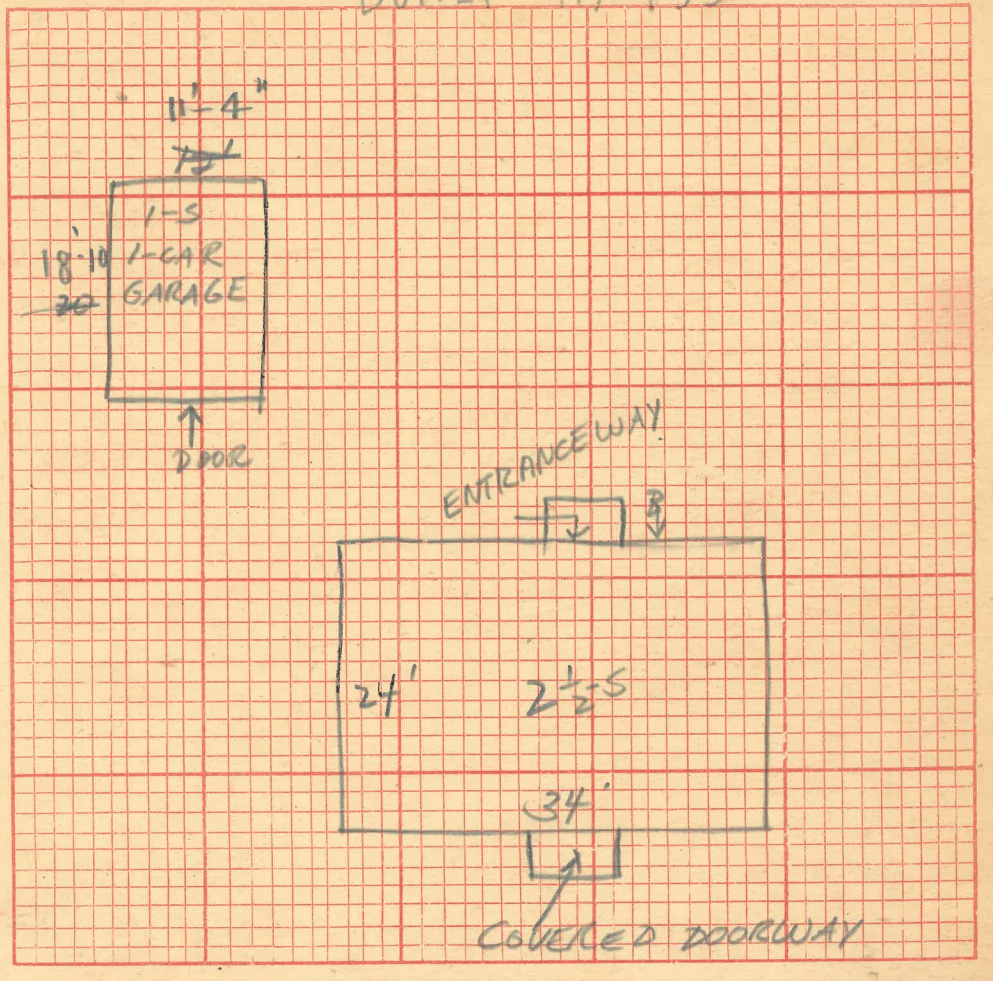
CONTROL NO.		STRUCTURE VALUE																			
180 3461005200		STRUCTURAL ELEMENTS				PRICE															
OUT BUILDINGS																					
ITEM	1	2	3	4	5	6															
PIER FOUND																					
WALL FOUND																					
SKIDS																					
SGLE SDG																					
DBL SDG																					
SHING WALLS																					
CONC BLOCK																					
BRICK																					
STONE																					
FLOOR																					
INT FINISH																					
PLUMB																					
ELEC																					
SIZE																					
AREA																					
SUB TOTAL FACTOR																					
OCCUPANCY	CONSTRUCTION	CLASS	AGE	REMOD	COND	REPLACEMENT VALUE	PHYS DEPR	PHYSICAL VALUE	FUNC DEPR	ACTUAL VALUE	EQ	ASSESSMENT	SALE PRICE	DATE MO/YR							
													LISTED DATE	LISTER							
														3416							
													SIGNATURE	REVIEW							
													0 LAND	2735							
BUILDING TOTAL																					

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RECORD OF BUILDINGS

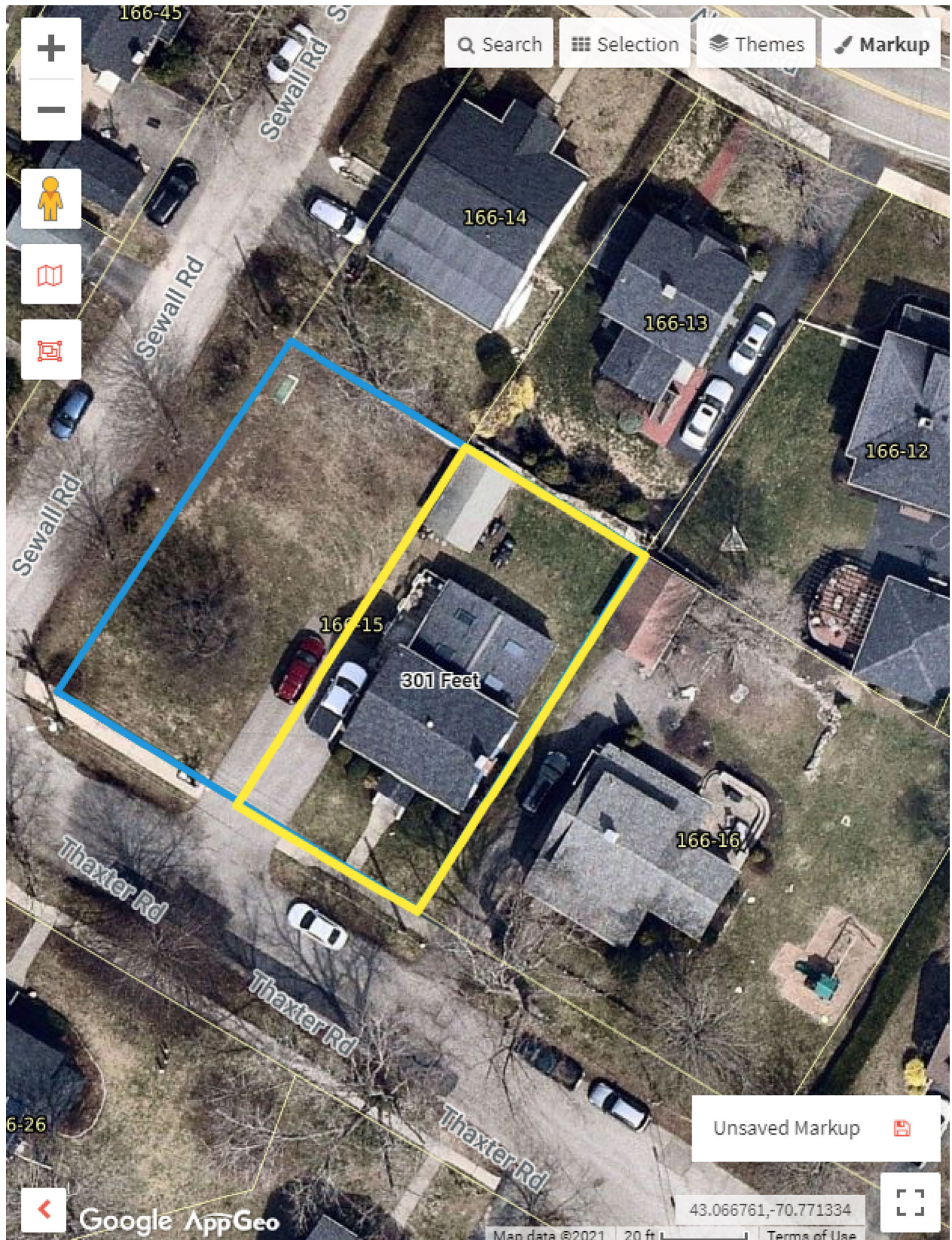
Gar. should be 11'4" inches by 18'ft. 10 inches
 BUILT 10/1933

CONSTRUCTION		FLOORS		COMPUTATIONS		
OCCUPANCY		G.	B.	1	2	3
SINGLE FAMILY	✓					
TWO FAMILY						
APARTMENT						
STORE						
THEATRE						
HOTEL						
OFFICES						
WAREHOUSE						
COMM. GARAGE						
GAS STATION						
FOUNDATION		INTERIOR FINISH		ADDITIONS		
CONCRETE	✓	CEMENT				
CONCRETE BLOCK		EARTH				
BRICK OR STONE		PINE	✓	✓		
PIERS		HARDWOOD				
CELLAR AREA FULL	✓	ATTIC FL. & STRS.				
NO. CELLAR						
EXTERIOR WALLS		HEATING		BASEMENT		
CLAPBOARDS	✓	PIPELESS FURNACE				
WIDE SIDING	6TH	HOT AIR FURNACE				
DROP SIDING		FORCED AIR FURN.				
NO SHEATHING		STEAM	PIPE	✓		
WOOD SHINGLES		HOT WAT. OR VAPOR				
ASBES. SHINGLES		NO HEATING				
STUCCO ON FRAME		PLUMBING				
STUCCO ON TILE		BATHROOM				
BRICK VENEER		TOILET ROOM				
BRICK ON TILE		WATER CLOSET				
SOLID BRICK		KITCHEN SINK				
STONE VENEER		STD. WAT. HEAT				
CONC. OR CIND. BL.		AUTO. WAT. HEAT				
ROOFING		TILING		TOTAL		
ASPH. SHINGLES	6TH	BATH FL. & WCOT.				
WOOD SHINGLES		TOILET FL. & WCOT.				
ASBES. SHINGLES		LIGHTING				
SLATE		ELECTRIC				
TILE		NO LIGHTING				
METAL		NO. OF ROOMS				
COMPOSITION		BSMT.	1	2ND.	3rd bath	
ROLL ROOFING		1ST.	3	3RD.		
INSULATION						



SUMMARY OF BUILDINGS											
OCCUPANCY	TYPE	GRADE	AGE	DATE REMOD.	COND.	REPL. VAL.	PHYS. DEPR.	PHYS. VALUE	FUNCT. DEPR.	SOUND VALUE	
			18			7800	30%	5400	10%	4900	
						19	TOTAL VALUE BUILDINGS				
						19	TOTAL VALUE BUILDINGS				

* Obsolete Kitchen etc.



All driveway access to a public street shall require a driveway permit.

City of Portsmouth Application for Driveway Permit

PROPERTY OWNER (Printed): Vincent Zingariello
 ADDRESS OF PROPERTY: 135 Thaxter Rd Portsmouth
 MAILING ADDRESS: SAME
 DAYTIME PHONE NUMBER: 603-770-7999
 TAX MAP: _____ LOT: _____
 PLAN SUBMITTED: Yes No
 PROPERTY OWNER SIGNATURE: *Vincent Zingariello*

If the proposed driveway has been approved by the Planning Board as part of the site review or subdivision process please attached the approved plan. If the proposed driveway has not been approved by the Planning Board through the site review or subdivision process, submit such plans and details as described in the driveway specifications.

The City of Portsmouth reserves the right to deny any permits when:

- > The proposed driveway does not conform to the requirements of the Portsmouth Zoning Ordinance;
- > The proposed driveway does not conform to the Driveway Specifications that are part of this permitting process; or
- > The proposed driveway would present an unreasonable safety risk to the public.

If the driveway permit application is approved, the applicant shall obtain the necessary Excavation Permit. The application fee and insurance requirements shall be determined in accordance with the City of Portsmouth Excavation Permit. The fee shall be payable to the City of Portsmouth and submitted to the Public Works Dispatcher at the time the applicant applies for the Excavation Permit. Owner/Contractor may be required to provide bonding.

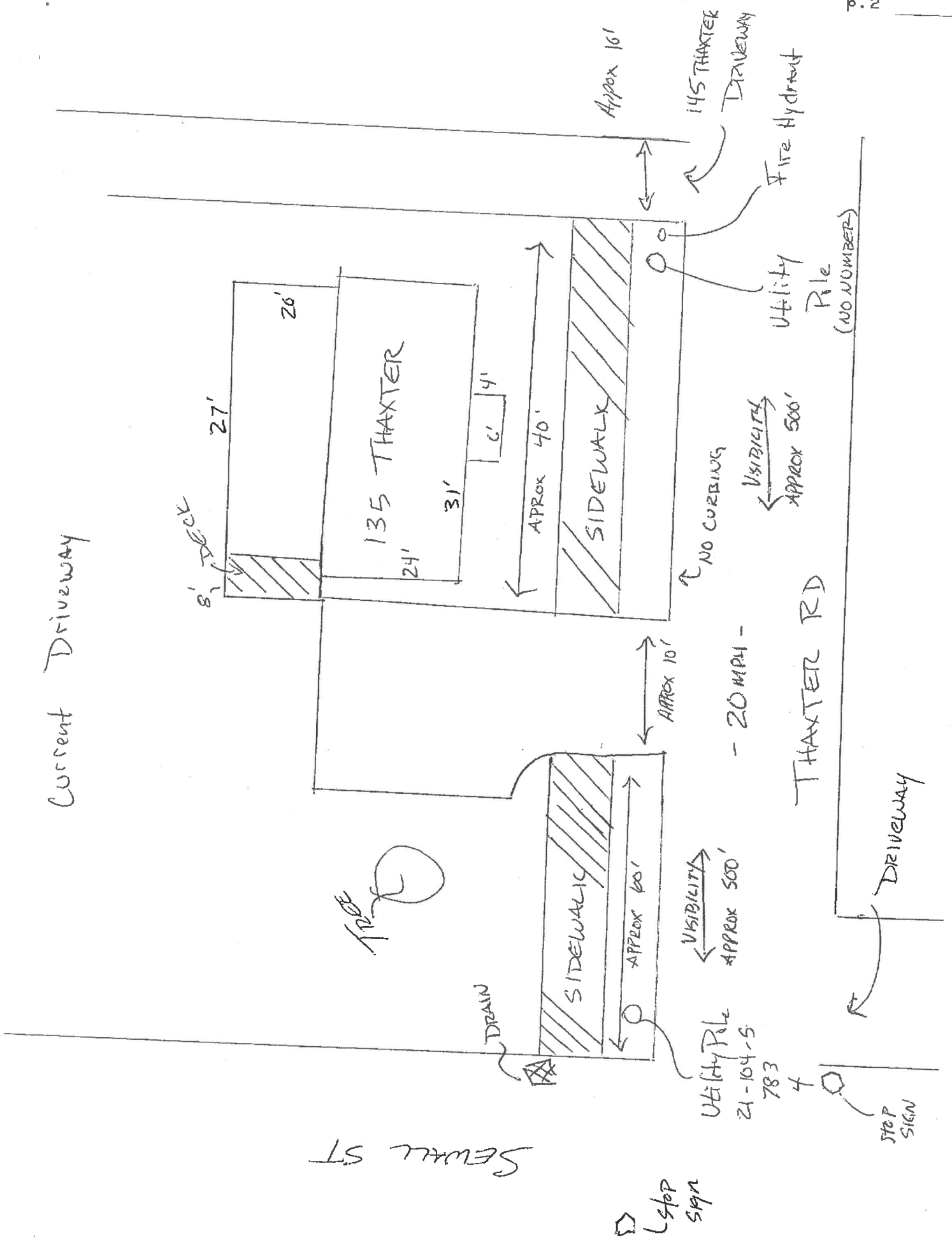
The cost of all work shall be borne by the applicant/ property owner.

For City Use:

[Signature]

Approved by: _____
 Dated: 4/22/11
 Forward to Traffic & Safety Committee: Yes No
 Conditions/Requirements: _____

Current Driveway



Stop Sign

SEWELL ST

Utility Pole 21-104-5 783 4

STOP SIGN

- 20 MPH -

THAXTER RD

Driveway

NO CURBING
VISIBILITY
APPROX 500'

Utility Pole (NO NUMBER)

Fire Hydrant

NO CURBING

SIDEWALK

APPROX 40'

31'

135 THAXTER

26'

27'

8' SIDEWALK

Approx 16'

145 THAXTER DRIVEWAY

Proposed Driveway 135 Thaxter Road

