



# TOWN OF EXETER, NEW HAMPSHIRE

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709

[www.exeternh.gov](http://www.exeternh.gov)

## LEGAL NOTICE EXETER ZONING BOARD OF ADJUSTMENT AGENDA

The Exeter Zoning Board of Adjustment will meet on Tuesday, June 18, 2024 at 7:00 P.M. in the Nowak Room located in the Exeter Town Offices, 10 Front Street, Exeter, to consider the following:

### **NEW BUSINESS: PUBLIC HEARINGS**

The application of I.S. Realty Trust for a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations-Residential to permit the subdivision of a 5.58-acre parcel into three (3) residential lots with two of the lots having less than the required minimum lot frontage. The subject property is located at 100 Linden Street (and Patricia Avenue) in the R-2, Single Family Residential zoning district. Tax Map Parcel #104-71. ZBA Case #24-5.

The application of Dennis Biery for a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations-Residential to permit the subdivision of a 4.47-acre parcel into two (2) single-family residential lots with both lots having less than the required minimum lot frontage. The subject property is located at 165A Kingston Road, in the R-1, Low Density Residential zoning district. Tax Map Parcel #115-12. ZBA Case #24-6.

### **OTHER BUSINESS:**

- RiverWoods Company of Exeter – ZBA Case #24-4  
7 RiverWoods Drive, Tax Map Parcel #97-23  
Request for rehearing – Variance from Article 6, Section 6.1.2.D to permit parking within the required 100-foot landscape buffer, in the R-1, Low Density Residential zoning district.
- Election of Officers
- Approval of Minutes: April 16, 2024

### **EXETER ZONING BOARD OF ADJUSTMENT**

*Robert V. Prior, Chairman*

Town of Exeter  
Zoning Board of Adjustment  
April 16, 2024, 7 PM  
Town Offices Nowak Room  
Draft Minutes

I. **Preliminaries**

**Members Present:** Vice-Chair Esther Olson-Murphy, Clerk Theresa Page, Laura Davies, Joanne Petito - Alternate, and Mark Lemos - Alternate  
Town Code Enforcement Officer Doug Eastman was also present.

**Members Absent:** Chair Robert Prior, Laura Montagno - Alternate, Martha Pennell - Alternate

**Call to Order:** Acting Chair Esther Olson-Murphy called the meeting to order at 7 PM.

I. **New Business**

- A. The continuation of the application of The RiverWoods Company of Exeter for a variance from Article 4, Section 4.3 Schedule II to exceed the maximum height requirement in the R-1, Low Density Residential zoning district for the proposed construction of a new health center building; and a variance from Article 6, Section 6.1.2.D to permit parking and portions of the driveway within the required 100-foot landscape buffer. The subject properties are located at 7 RiverWoods Drive, 5 Timber Lane, 6 White Oak Drive, 78 Kingston Road and 67 Kingston Road, in the R-1, Low Density Residential zoning district. Tax Map Parcels #97-23, #98-37, #80-18, #97-29 and #97-44 (all now merged via voluntary lot merger). ZBA Case #24-4.

Ms. Olson-Murphy said at the end of the last meeting, the Board had closed the public hearing and were ready to deliberate, but we were under a time crunch. We have received additional photos from RiverWoods showing the site in winter, as well as a letter from abutter Mrs. Hooten indicating that she was unable to attend the last meeting but was upset that it sounded like she approved of this construction. She met with RiverWoods but did not approve, and would like that corrected in the record.

Mr. Baum went through the variance criteria as pertaining to the height variance. 1) The variance will not be contrary to the public interest and 2) The spirit of the ordinance will be observed; he doesn't think there's any health, safety, or welfare issue. That's a blocking of light or inability for emergency services, and there's no evidence that either will occur. There is enough distance from abutting properties. This would not be taller than other buildings in town. Regarding the essential character of the neighborhood, it is largely residential. It's somewhat unique because of the campus and institutional buildings. If it's a question between the flat or gabled roof, he thinks the gabled roof fits in better

45 with the neighborhood but is taller than anything else in that area. Ms. Davies  
46 said it's more massive; the length is also an issue. Mr. Baum agreed that that is  
47 not consistent with the surrounding properties. Mr. Lemos said a length of 44 feet  
48 that close to the road makes it very different. Ms. Page said given the length, the  
49 added roof space for that continuous line does stand out. Exhibit 2 of the  
50 additional materials depicts what looks like a block. Ms. Olson-Murphy said it's  
51 gabled, but the peak of the roof is still flat. It doesn't look like a house. Ms.  
52 Davies said in the public comments, more people didn't want to see it rather than  
53 having architectural consistency. 3) Substantial justice is done; Mr. Baum said it's  
54 a question of whether they have their preferred architecture and additional height  
55 vs the aesthetic impact to the neighbors. Ms. Olson-Murphy said she doesn't  
56 know if the preferred architecture outweighs the concerns of the neighbors. They  
57 can still have their building without it [the gabled roof]. 4) The value of  
58 surrounding properties will not be diminished; Mr. Baum said expert testimony on  
59 this is not conclusive but cannot be ignored. There's an appraisal and evidence.  
60 Ms. Davies said it wasn't an appraisal, since there was no evaluation of market  
61 data; it was an opinion letter. She agrees with the general conclusion he came to  
62 about property values. He also says it doesn't alter the essential character of the  
63 neighborhood, but she doesn't agree with that conclusion. Mr. Baum said that  
64 was beyond the scope of his evaluation. This criteria is met by the applicant. 5)  
65 Literal enforcement of zoning ordinance will result in an unnecessary hardship;  
66 Mr. Baum said there are special conditions of this property, given the size and  
67 the layout. He has more trouble about the next prong. The purpose of height  
68 restrictions are to avoid large, massive buildings blocking viewshed and looming  
69 over other properties. Despite the size of this property - and he understands  
70 about the restrictions from wetlands and conservation land - it's sited right in the  
71 spot where it has the most impact to abutters. It can be constructed without relief,  
72 so the primary reason for the relief is aesthetic. We're weighing the gables vs the  
73 massing, and that massing is going to stick out. Ms. Page said the applicant  
74 noted that just because they're asking for a variance doesn't make the use  
75 unreasonable, but we have to look at the special conditions as related to the use.  
76 The special conditions are the size of the property, which goes against the idea  
77 that there isn't a way to work within the restrictions. Mr. Baum said there is  
78 significant space to work with on this property.

79  
80 Ms. Davies moved to deny the motion for a variance from Article 4, Section 4.3 Schedule  
81 II to exceed the maximum height requirement based on not meeting variance criteria #1,  
82 the public interest, based on altering the essential character of the neighborhood, and  
83 #5b, that the proposed use is a reasonable one. Ms. Page seconded. Ms. Olson-  
84 Murphy, Ms. Page, Mr. Lemos, Mr. Baum, and Ms. Davies voted aye. The motion  
85 passed 5-0 and the variance was denied.

86  
87 Ms. Olson-Murphy asked the Board to consider the request for a variance from  
88 Article 6, Section 6.1.2.D to permit parking and portions of the driveway within the

89 required 100-foot landscape buffer. Mr. Baum said we were also talking about the dog  
90 park and the pickleball courts being in the buffer. Ms. Page said there were a handful of  
91 parking spaces on the side abutting the Hooten property as well as on White Oak which  
92 would be moved. This is considered an access road. The loop would be considered a  
93 service road within the buffer and has several parking spaces. Mr. Lemos said there's  
94 parking by the pickleball courts currently. Ms. Davies said that parking is planned to go  
95 away.

96 Mr. Baum went through the criteria for the buffer variance request. 1) The  
97 variance will not be contrary to the public interest and 2) The spirit of the ordinance will  
98 be observed; he said this doesn't have the same impact on the neighborhood. There's  
99 some impact to the Hooten lot and to the Jolly Rand trail, but it will be fairly limited,  
100 visually. The dog park and pickleball courts are already in the buffer, they would just be  
101 relocated. There's no threat to the public health, safety, or welfare. The question is  
102 whether it alters the essential character of the neighborhood. Ms. Page said Article  
103 6.1.2.D gives us some information behind the purpose: providing adequate division or  
104 transition from abutting land uses and having vegetation that's sufficient in size to shield  
105 the development from abutting properties. No dwelling, accessory structure, collector or  
106 service roads, or parking areas are permitted in the buffer, but access roads are  
107 permitted to cross the buffer area. Ms. Olson-Murphy said that's what they're seeking a  
108 variance for. Ms. Page said the ordinance is so specific that she worries about the  
109 legality of approving a variance. Ms. Davies said this is a special exception use which is  
110 much more massive in scale than other uses of the neighborhood, and the 100-foot  
111 buffer was specifically included to prevent this type of thing. This isn't in the back corner  
112 where it's not going to bother anybody. It's very near to the abutters. She's very opposed  
113 to any development in the buffers. The entire parcel is supposed to have this 100-foot  
114 buffer. Mr. Baum said because of the wetlands, there will be a natural buffer and  
115 additional land preserved. Mr. Lemos said this request bothered him more than the  
116 height variance. The actual building is almost encroaching on the buffer, it's about 9 feet  
117 away. The road is only 17 feet from the property line. Mr. Baum said the access road is  
118 permitted. This is about the service road and the parking. 3) Substantial justice is done;  
119 Mr. Baum said the harm to the applicant is the loss of the parking space and the  
120 perimeter service road. The benefit to the public is preservation of the buffer. Ms. Olson-  
121 Murphy said they may be able to finagle the parking, but they can't put the building there  
122 without that road around it. Mr. Lemos said they'd have to change the design. 4) The  
123 value of surrounding properties will not be diminished; Mr. Baum said we have the  
124 appraiser's opinion. No contrary evidence was presented. He thinks that criteria is met,  
125 or at least we don't have enough to rebut the testimony. 5) Literal enforcement of zoning  
126 ordinance will result in an unnecessary hardship; Mr. Baum said the special conditions  
127 are met given the size and shape of this lot. The parking is limited by the gas easement  
128 and the wetlands. Ms. Davies said there's space elsewhere on this very big campus,  
129 which is a counter-balance to the gas line and the wetlands. This is a big development in  
130 a small part of the site. Given the impact and harm to the neighborhood, this is not a  
131 reasonable request. There was a desire to keep visual, noise, and other buffers to the  
132 surrounding properties, including from the pickleball court which is surprisingly noisy.



133 Ms. Page said the gasline does contribute to the special conditions of this property, but  
134 the buffer restriction does serve the purpose of the ordinance in a fair and substantial  
135 way.  
136

137 Ms. Page moved to deny the variance requested from Article 6, Section 6.1.2.D to permit  
138 parking and portions of the driveway within the required 100-foot landscape buffer, as it  
139 fails to meet requirements of #1, the variance will not be contrary to the public interest;  
140 #2, the spirit of the ordinance will be observed; and #5, unnecessary hardship. Ms.  
141 Davies seconded. Ms. Olson-Murphy, Ms. Page, Mr. Lemos, Mr. Baum, and Ms. Davies  
142 voted aye. The motion passed 5-0 and the variance was denied.

143  
144 **II. Other Business**

145 A. Minute Approval: February 20, 2024

146 Mr. Lemos moved to approve the minutes for February 20, 2024 as presented. Mr.  
147 Baum seconded. Ms. Olson-Murphy, Ms. Page, Mr. Lemos, Mr. Baum, and Ms. Davies  
148 voted aye, and the motion passed 5-0.

149  
150 B. Minute Approval: March 19, 2024

151 Ms. Davies said she doesn't see the statement read at the beginning about the impact of  
152 the appeal. Ms. Page said she thinks that's in here. Mr. Baum said it's on line 333.

153 Ms. Page moved to approve the minutes for March 19, 2024 as presented. Mr. Baum  
154 seconded. Ms. Olson-Murphy, Ms. Page, Mr. Lemos, and Mr. Baum voted aye. Ms.  
155 Davies abstained as she did not finish reviewing them. The motion passed 4-0-1.

156  
157 **III. Adjournment**

158 Ms. Davies moved to adjourn. Mr. Lemos seconded. All were in favor and the meeting  
159 was adjourned at 7:50 PM.

160  
161 Respectfully Submitted,  
162 Joanna Bartell  
163 Recording Secretary  
164  
165

Town of Exeter  
APPLICATION FOR A

# VARIANCE

|                   |  |
|-------------------|--|
| Case Number:      | <u>2BA #24-5</u>                               |
| Date Filed:       | <u>5/21/24</u>                                 |
| Application Fee:  | \$ <u>100.00</u>                               |
| Abutter Fees:     | \$ <u>80.00</u>                                |
| Legal Notice Fee: | \$ <u>50.00</u>                                |
| TOTAL FEES:       | \$ <u>230.00</u>                               |
| Date Paid:        | <u>5/21/24</u> Check # <u>960</u><br><i>Wm</i> |

Name of Applicant I.S. REALTY TRUST  
(If other than property owner, a letter of authorization will be required from property owner)

Address 100 LINDEN STREET & PATRICIA AVENUE

Telephone Number (603) 793-9698 IAN WINTER

Property Owner SAME

Location of Property 100 LINDEN STREET & PATRICIA AVENUE

(Number, street, zone, map and lot number)

Applicant Signature *[Signature]*

Date 05-20-2024

NOTE: This application is not acceptable unless all required statements have been made.  
Additional information may be supplied on a separate sheet if space is inadequate.

## APPLICATION FOR A VARIANCE

A variance is requested from article 4 section 4.3 of the Exeter zoning ordinance to permit:

2 RESIDENTIAL LOTS WITH REDUCED FRONTAGE -

ZONING BOARD OF ADJUSTMENT

**APPLICATIONS SKETCH PLAN  
REQUIREMENTS/CHECKLIST**

- 1. Title Block – descriptive name of project, north arrow (approximate), street address, date and scale (not less than 1" = 40').
- 2. Location map showing relevant streets and zoning district boundaries.
- 3. Names and addresses of applicant, record owner and abutting property owners, including those across the street.
- 4. Existing and proposed streets, driveways, parking areas (with delineation of spaces) and sidewalks.
- 5. Location of existing and proposed buildings and property lines.
- 6. Distances on all sides between buildings and property lines.
- 7. Existing and proposed tree lines, landscape buffers, screening and fences.
- 8. Location of existing landmarks including streams, brooks, wetlands, rock outcroppings, wooded areas and other significant environmental features.
- 9. Generalized floor plans showing dimensions and the square footage of areas for proposed uses.

N/A

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Plans should be no larger than 11" x 17" in size. They need not be prepared by an architect or land surveyor but they must be legibly drawn with printed labels. PLANS MUST CONTAIN ALL OF THE ABOVE INFORMATION IN ORDER FOR THE APPLICATION TO BE PLACED ON THE AGENDA FOR A ZONING BOARD OF ADJUSTMENT HEARING.

**FACTS SUPPORTING THIS REQUEST:**

**1. The variance will not be contrary to the public interest;**

BECAUSE IT WILL ALLOW A GOOD AND REASONABLE USE.

**2. The spirit of the ordinance is observed;**

BECAUSE THE LOTS SEEKING RELIEF WILL FAR EXCEED THE REQUIRED AREA OF 15,000 S.F. LOT 1 WILL BE 35,066 S.F. AND LOT 2 WILL BE 2.81 ACRES.

**3. Substantial justice is done;**

BECAUSE IT WILL ALLOW 2 RESIDENTIAL LOTS WITHOUT HAVING TO CONSTRUCT A VERY EXPENSIVE ROAD WHICH COULD BE A BURDEN TO THE TOWN.

**4. The values of surrounding properties are not diminished;**

THIS PROPOSAL IS BETTER TO PRESERVE ADJUTING PROPERTY VALUES AS PROPOSED TO MORE LOTS WITH A ROAD

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

LITERAL ENFORCEMENT WOULD REQUIRE CONSTRUCTION OF VERY EXPENSIVE ROADWAY.  
CONSTRUCTION OF A SHARED DRIVEWAY FOR 2 LOTS IS MOST REASONABLE. THIS PROPOSAL ALSO ALLOWS FOR ADDITIONAL OPEN SPACE.

ABUTTER LABELS AND LISTS:

Abutter labels and lists must be attached to this application. Please contact the Planning Office if you have any questions.

ADDITIONAL MATERIALS:

If provided with the application, additional submission materials will be sent to the ZBA members in their monthly packet of information. Please contact the Planning Office if you have any questions regarding additional submission materials.

# Millennium Engineering, Inc.

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P.O. Box 745  
(603) 778-0528

Exeter, NH 03833  
FAX (603) 772-0689

May 21, 2024

Town of Exeter  
Zoning Board of Adjustment  
10 Front Street  
Exeter, NH 03833

Re: Application for Variance for insufficient frontage for Subdivision Map 104 Lot 71,  
100 Linden Street Exeter, NH.

Dear Chair:

The request is made to divide this 5.58-acre parcel into 3 lots. Lot 3 is to contain the existing dwelling and will be 1.96 acres size. Lot 1 & 2 will require a variance for reduced frontage. Lot 1 will be 0.81 acres in size and Lot 2 will be 2.81 acres.

Lots 1 and 2 are to share a common driveway and shall otherwise meet all zoning requirements.

Respectfully,



Henry H. Boyd, Jr., LL.S.  
Millennium Engineering Inc.



95-61

95-29

04-69

96

17

104-50

104-70

19

104-49

104-73-1

PATRICIA AVE

102

104-71

1

104-48

104-73

104-72

100

-74

14

104-75

104-28

104-27

16

110

104-76

104-26

18

# ASSESSOR'S RESEARCH SHEET

CLIENT:

PROJECT #:

DATE:

PROJECT ADDRESS:

| MAP   | LOT | NAME / PROPERTY ADDRESS  | DEED REFERENCE |      | LOCUS         |
|---|-----|--------------------------|----------------|------|---------------|
|   |     |                          | BOOK           | PAGE |               |
| 104   | 71  | IS Realty Trust          | 5961           | 2005 | 100 Linden St |
| 3 Vintage Dr Exeter, NH 03833                 |     |                          | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:  |     |                          | BOOK           | PLAN |               |
| MAP   | LOT | NAME / PROPERTY ADDRESS  | DEED REFERENCE |      | LOCUS         |
| 104   | 72  | Gary Morrisette          | 2401           | 1579 | 102 Linden St |
| 102 Linden St Exeter, NH 03833                |     |                          | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:  |     |                          | BOOK           | PLAN |               |
| MAP   | LOT | NAME / PROPERTY ADDRESS  | DEED REFERENCE |      | LOCUS         |
| 104   | 73  | Kathleen Klose           | 6350           | 0584 | 104 Linden St |
| 42 Prospect St Newburyport, MA 01950          |     |                          | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:  |     |                          | BOOK           | PLAN |               |
| MAP   | LOT | NAME / PROPERTY ADDRESS  | DEED REFERENCE |      | LOCUS         |
| 104   | 70  | Cypress Cir - Condo Main | 5972           | 0041 | Cypress Cir   |
| Residences at Linden St<br>56 Central Ave. #1 |     |                          | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES: Newton, MA 02458                       |     |                          | BOOK           | PLAN |               |
| MAP   | LOT | NAME / PROPERTY ADDRESS  | DEED REFERENCE |      | LOCUS         |
| 104   | 49  | Daniel Doucet            | 5007           | 0160 | 19 Thelma Dr  |
| 19 Thelma Dr Exeter, NH 03833                 |     |                          | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:  |     |                          | BOOK           | PLAN |               |



**MILLENNIUM ENGINEERING, INC.**

ENGINEERING AND LAND SURVEYING

62 ELM STREET SALISBURY MA. 01952

PHONE: (978) 463-8980



# ASSESSOR'S RESEARCH SHEET

CLIENT:

PROJECT #:

DATE:

PROJECT ADDRESS:

| MAP                                | LOT | NAME / PROPERTY ADDRESS | DEED REFERENCE |      | LOCUS         |
|------------------------------------|-----|-------------------------|----------------|------|---------------|
| 104                                | 48  | Joyama Realty Trust     | BOOK           | PAGE | Patricia Ave  |
| 1 Patricia Ave Exeter, NH 03833    |     |                         | 5178           | 1994 |               |
|                                    |     |                         | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:                             |     |                         | BOOK           | PLAN |               |
|                                    |     |                         |                |      |               |
| MAP                                | LOT | NAME / PROPERTY ADDRESS | DEED REFERENCE |      | LOCUS         |
| 104                                | 28  | Hipkiss Family Trust    | BOOK           | PAGE | 14 River Bend |
| 14 River Bend Cir Exeter, NH 03833 |     |                         | 0437           | 1689 | Cir           |
|                                    |     |                         | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:                             |     |                         | BOOK           | PLAN |               |
|                                    |     |                         |                |      |               |
| MAP                                | LOT | NAME / PROPERTY ADDRESS | DEED REFERENCE |      | LOCUS         |
| 104                                | 76  | TPJP-Invest LLC         | BOOK           | PAGE | 110 Linden St |
| PO Box 924 Raymond, NH 03077       |     |                         | 6413           | 0521 |               |
|                                    |     |                         | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:                             |     |                         | BOOK           | PLAN |               |
|                                    |     |                         |                |      |               |
| MAP                                | LOT | NAME / PROPERTY ADDRESS | DEED REFERENCE |      | LOCUS         |
|                                    |     |                         | BOOK           | PAGE |               |
|                                    |     |                         | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:                             |     |                         | BOOK           | PLAN |               |
|                                    |     |                         |                |      |               |
| MAP                                | LOT | NAME / PROPERTY ADDRESS | DEED REFERENCE |      | LOCUS         |
|                                    |     |                         | BOOK           | PAGE |               |
|                                    |     |                         | PLAN REFERENCE |      | ESMT'S ETC.   |
| NOTES:                             |     |                         | BOOK           | PLAN |               |
|                                    |     |                         |                |      |               |



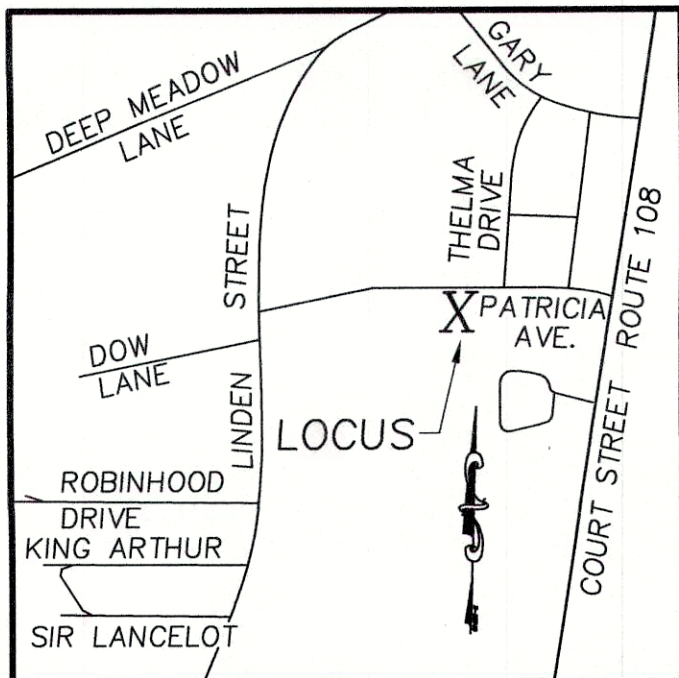
**MILLENNIUM ENGINEERING, INC.**

ENGINEERING AND LAND SURVEYING

62 ELM STREET SALISBURY MA. 01952

PHONE: (978) 463-8980





**NOTES:**

- 1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
- 2) THIS PARCEL DOES NOT LIE WITHIN A FLOOD ZONE. SEE F.I.R.M. COMMUNITY PANEL 330130 0404 E EFFECTIVE DATE MAY 17, 2005.
- 3) THE LANDOWNER IS RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL WETLANDS REGULATIONS, INCLUDING ANY PERMITTING AND SETBACK REQUIREMENTS REQUIRED UNDER THESE REGULATIONS.

**PROPOSED DWELLING NOTE**

PROPOSED DWELLINGS AS SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL DWELLINGS MAY DIFFER IN SIZE, SHAPE AND LOCATION BUT SHALL COMPLY WITH TOWN OF EXETER ZONING REGULATIONS.

**PLAN REFERENCES**

- "LOT LINE ADJUSTMENT PLAN FOR PAUL MORRISETTE 100 LINDEN STREET EXETER, NH" SCALE: 1"=50' DATE: APRIL 2001 BY: LITTLE RIVER SURVEY COMPANY. D-29070
- "SUBDIVISION OF LAND FOR NELSON J. MORRISETTE IN EXETER, NH" SCALE: 1"=50' DATE: AUG. 1976 BY: PARKER SURVEY ASSOC. INC. D-6229
- "PLAN OF LAND IN EXETER, NH SHOWING A PROPOSED SEWER EASEMENT AT 100 LINDEN STREET AND PATRICIA AVENUE RECORD OWNER I.S. WINTER REALTY TRUST 3 VINTAGE DRIVE EXETER, NH" SCALE: 1"=50' DATE: APRIL 26, 2019 BY: MILLENNIUM ENGINEERING, INC.. D-41465

**ZONING DISTRICT**

**R-2 RESIDENTIAL**

**MINIMUM REQUIREMENTS**

|                          |             |
|--------------------------|-------------|
| AREA (NO SEWER)          | 1 ACRE      |
| AREA (SEWER)             | 15,000 S.F. |
| LOT WIDTH                | 100'        |
| LOT DEPTH                | 100'        |
| <b>BUILDING SETBACKS</b> |             |
| FRONT                    | 25'         |
| SIDE                     | 15'         |
| REAR                     | 25'         |
| HYDRIC B SOILS           | 40'         |
| <b>BUILDING COVERAGE</b> |             |
| MAXIMUM                  | 25%         |
| <b>OPEN SPACE</b>        |             |
| MINIMUM                  | 40%         |

104  
71  
**RECORD OWNER**

I S REALTY TRUST  
C/O S. MITCHELL WINTER, TRUSTEE  
3 VINTAGE DRIVE  
EXETER, NH 03833  
BK. 5961 PG. 2005  
  
243,255 S.F.  
5.58 ACRES  
AREA PRIOR TO SUBDIVISION

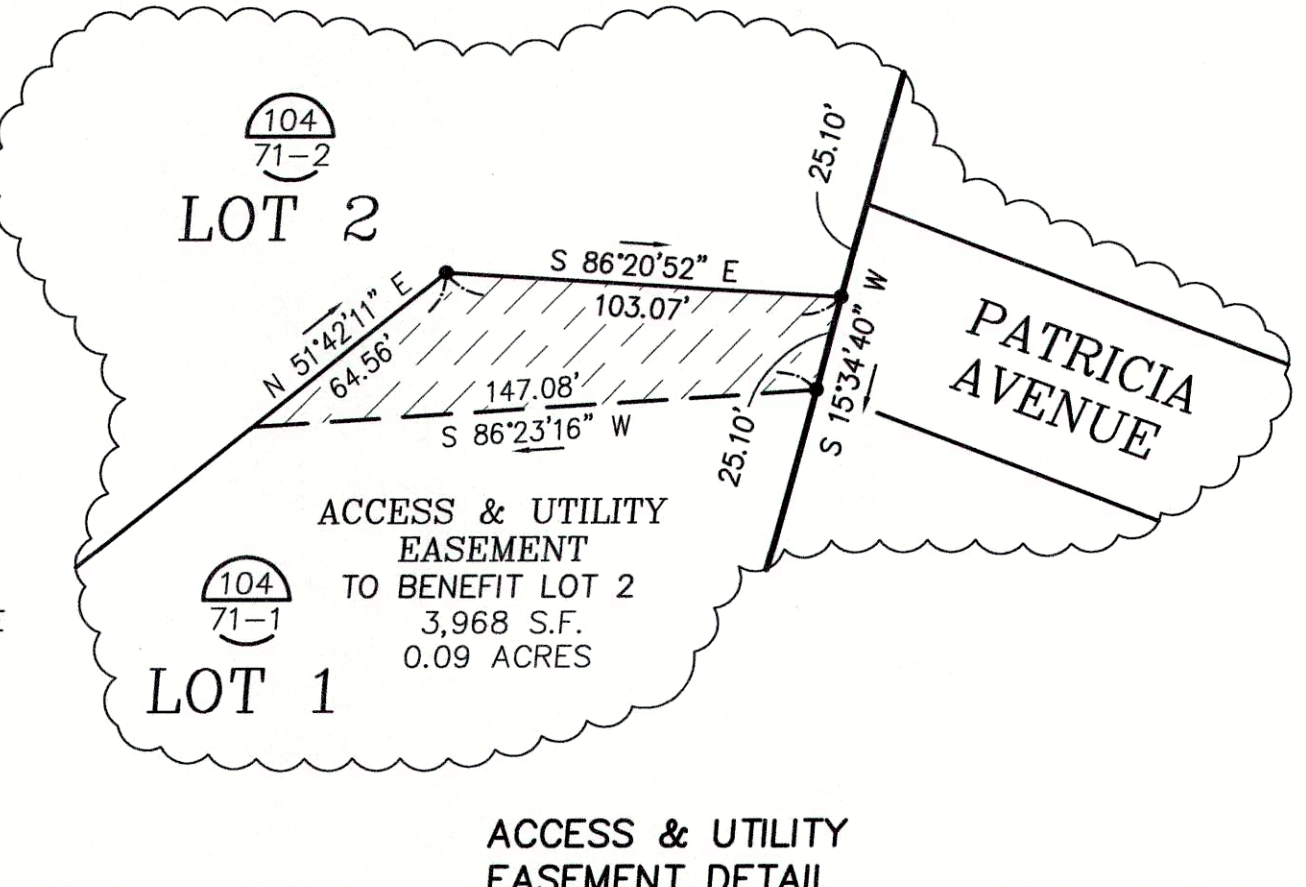
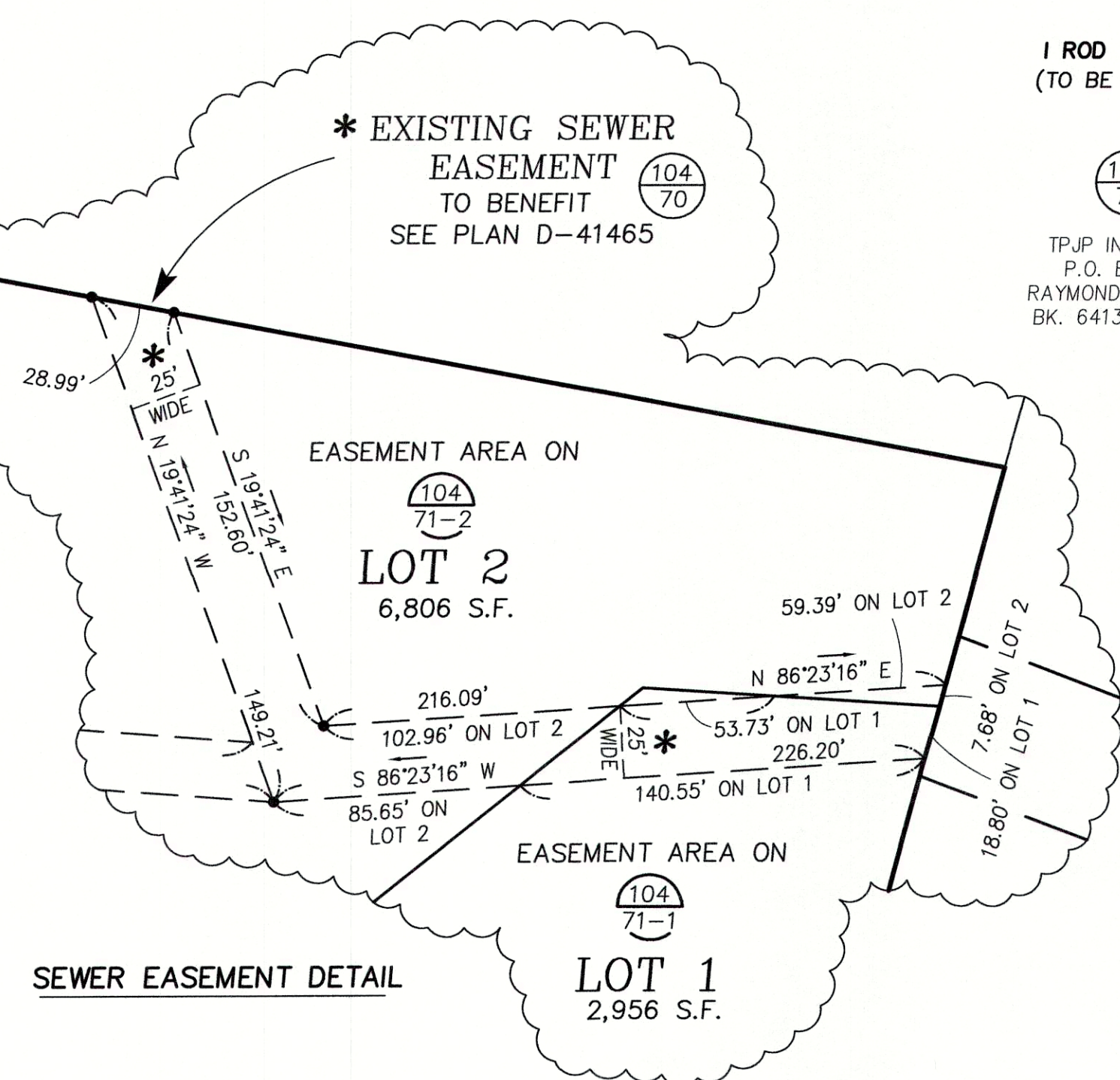
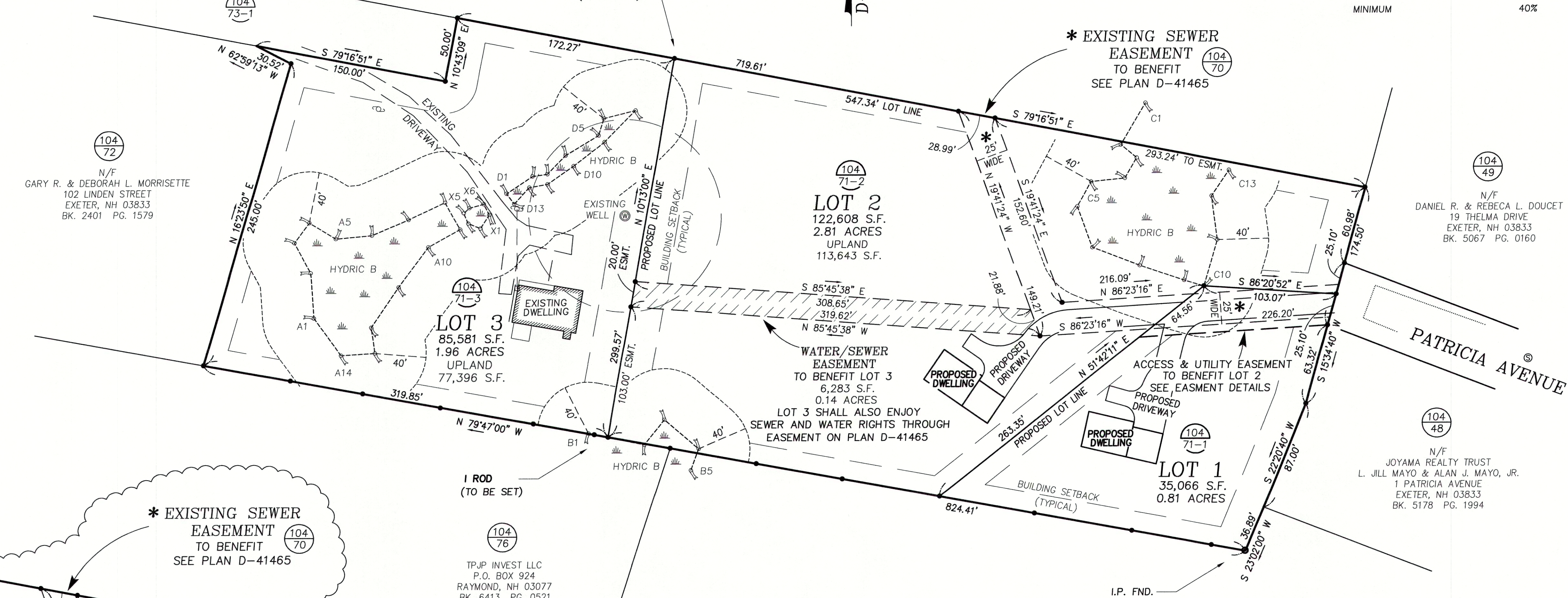
LOCUS MAP  
NOT TO SCALE

N/F  
GARY R. & DEBORAH L. MORRISETTE  
102 LINDEN STREET  
EXETER, NH 03833  
BK. 5348 PG. 0249

104  
70  
CONDO MAIN  
RESIDENCES AT LINDEN ST  
56 CENTRAL AVENUE #1  
NEWTON, MA 02458  
BK. 5972 PG. 0641

D-29070

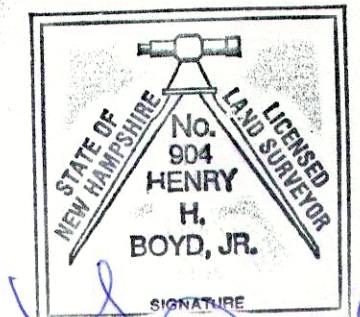
50' RIGHT OF WAY



WETLANDS DELINEATION BY  
WEST ENVIRONMENTAL  
48 STEVENS HILL ROAD  
NOTTINGHAM, NH 03290

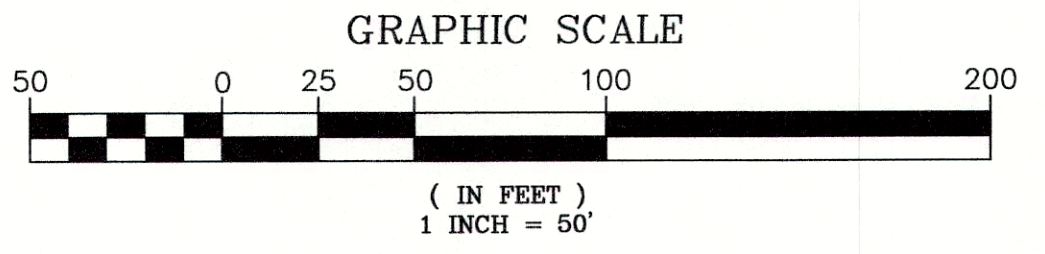
THE CERTIFICATIONS SHOWN HEREON ARE INTENDED TO MEET REGISTRY OF DEEDS REQUIREMENTS AND ARE NOT A CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT TOWN ASSESSORS' RECORDS.

I CERTIFY:  
THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND BETWEEN DECEMBER OF 2018 AND MARCH OF 2019.  
THAT THIS SURVEY CONFORMS TO THE REQUIREMENTS FOR ACCURACY FOR N.H. URBAN SURVEY.



05-20-2024  
LICENSED LAND SURVEYOR DATE

- LEGEND**
- I.P. IRON PIPE
  - D.H. DRILL HOLE
  - I ROD IRON ROD FND. UNLESS NOTED OTHERWISE
  - FND. FOUND
  - ASSESSORS MAP AND PARCEL
  - WET FLAG
  - WETLANDS
  - SEWER MANHOLE



**VARIANCE PLAN**  
IN  
**EXETER, NH**

SHOWING  
**A SUBDIVISION AT  
100 LINDEN STREET AND PATRICIA AVENUE**

PREPARED FOR  
**I S REALTY TRUST**  
3 VINTAGE DRIVE EXETER, NH 03833

**MILLENNIUM ENGINEERING INC.**  
ENGINEERS AND LAND SURVEYORS  
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833  
PHONE: (603) 778-0528 FAX: (603) 772-0689

|                    |                  |                  |
|--------------------|------------------|------------------|
| SCALE: 1"=50'      | DRWN. BY: H.H.B. | PROJECT: E182237 |
| DATE: MAY 20, 2024 | CHKD. BY: R.S.G. |                  |

| NO. | DATE | DESCRIPTION | BY |
|-----|------|-------------|----|
|     |      |             |    |
|     |      |             |    |



TOWN OF EXETER  
ZONING BOARD OF ADJUSTMENT

Application for  
**VARIANCE**

JANUARY 2010

## **ZONING BOARD OF ADJUSTMENT APPLICATION CHECKLIST**

For an application to be considered complete, you must have the following:

- ✓ Application Form.
- ✓ Complete Abutters List.
- ✓ Three (3) pre-printed 1" x 2 5/8" labels for each abutter, the applicant and all consultants.
- ✓ Letter of Explanation.
- ✓ Vicinity Ownership Map.
- ✓ Ten (10) copies of Entire Application. (10 plus original)
- N/A ○ Letter from Owner Authorizing Applicant to file on Owner's behalf.
- ✓ Filing Fees: *effective January 1, 2008*
  - \$100.00 Application Fee.
  - \$10.00 Per Abutter
  - Legal Notice Fee: Actual Cost of Advertisement.

*Note: All of the above referenced items must be submitted to the Planning Office on or before deadline dates. See Schedule of Deadlines and Public Hearings for more information.*

Town of Exeter  
APPLICATION FOR A

# VARIANCE

|                               |
|-------------------------------|
| Case Number: _____            |
| Date Filed: _____             |
| Application Fee: \$ _____     |
| Abutter Fees: \$ _____        |
| Legal Notice Fee: \$ _____    |
| TOTAL FEES: \$ _____          |
| Date Paid _____ Check # _____ |

Name of Applicant Dennis Biery  
(If other than property owner, a letter of authorization will be required from property owner)

Address 133 North Shore Road, Derry, NH 03038

Telephone Number ( 603 ) 235-7069

Property Owner Biery Family Trust (Trustees - Margaret Ann & Dennis William Biery)

Location of Property 165A Kingston Road, Exeter, NH 03833

Zoning District: R-1 Tax Map 115, Lot 12

(Number, street, zone, map and lot number)

Applicant Signature 

Date 5/23/24

*NOTE: This application is not acceptable unless all required statements have been made.  
Additional information may be supplied on a separate sheet if space is inadequate.*

## APPLICATION FOR A VARIANCE

A variance is requested from article 4 section 3 (Frontage) of the Exeter zoning ordinance to permit:

Per Schedule II: Density and Dimensional Regulations - Residential, the minimum required frontage within the R-1 Low Density District is 150 feet.

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**FACTS SUPPORTING THIS REQUEST:**

**1. The variance will not be contrary to the public interest;**

- The proposed subdivision will create two single-family homes, increasing the town's tax base and providing additional housing options.
  - The project will utilize existing infrastructure (access road, utilities) and minimize site disturbance through careful placement of homes and driveways.
  - Wetlands and significant environmental features will be protected during construction.
  - The proposed subdivision will restore the use to single-family and does not alter the essential character of the neighborhood or threaten public health, safety, or welfare.
- 

**2. The spirit of the ordinance is observed;**

- The intent of the Single-Family (R-1) Zone is to promote residential development. This project converts an underutilized, non-conforming, grandfathered commercial property into two residential lots.
  - The proposed lot sizes (2.260 and 2.113 acres) are comparable to or exceed other single-family lots in the surrounding area.
  - The project adheres to all other zoning requirements not being requested for a variance, such as setbacks and building heights.
  - It restores the residential use to the lot.
- 

**3. Substantial justice is done;**

- A strict interpretation of the frontage requirement would prevent development of this property, hindering its potential use and limiting the town's housing options.
  - Granting the variance allows the Biery Family Trust to develop their land for a permitted use within the zone while still complying with the overall intent of the ordinance.
  - The project will not negatively impact surrounding properties or traffic patterns, and will enhance the existing property by eliminating a non-conforming, grandfathered use thus creating a benefit to the abutters and town.
- 

**4. The values of surrounding properties are not diminished;**

- The addition of two well-maintained single-family homes will likely enhance the overall aesthetics of the neighborhood.
  - The project design ensures ample space between existing and proposed structures, minimizing any potential view obstruction or privacy concerns.
  - The project adheres to setback requirements, ensuring compatibility with neighboring properties.
  - The project will remove a non-conforming use and will eliminate the commercial use.
-

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

- ~~The existing property layout with frontage on a private right-of-way presents a unique challenge that cannot be addressed without a variance.~~
- ~~While a single-family home could technically be built on the entire lot, this configuration would be inefficient and not maximize the property's value for residential use. Granting the variance allows for a more practical and financially viable development plan that aligns with the overall zoning intent.~~
- ~~Granting the variance allows for reasonable development of the property while upholding the spirit of the zoning ordinance.~~
- ~~This use conforms with the spirit and intent of the ordinance, and it enhances the value of the overall property. The lot will require significant expense to develop, this is a reasonable use. The lot is distinguished from others as it has shared access, limited frontage, and otherwise presents challenges due to the configuration of the lot.~~

ABUTTER LABELS AND LISTS:

Abutter labels and lists must be attached to this application. Please contact the Planning Office if you have any questions.

ADDITIONAL MATERIALS:

If provided with the application, additional submission materials will be sent to the ZBA members in their monthly packet of information. Please contact the Planning Office if you have any questions regarding additional submission materials.

ZONING BOARD OF ADJUSTMENT

**APPLICATIONS SKETCH PLAN  
REQUIREMENTS/CHECKLIST**

- 1. Title Block – descriptive name of project, north arrow (approximate), street address, date and scale (not less than 1" = 40').
  - 2. Location map showing relevant streets and zoning district boundaries.
  - 3. Names and addresses of applicant, record owner and abutting property owners, including those across the street.
  - 4. Existing and proposed streets, driveways, parking areas (with delineation of spaces) and sidewalks.
  - 5. Location of existing and proposed buildings and property lines.
  - 6. Distances on all sides between buildings and property lines.
  - 7. Existing and proposed tree lines, landscape buffers, screening and fences.
  - 8. Location of existing landmarks including streams, brooks, wetlands, rock outcroppings, wooded areas and other significant environmental features.
  - 9. Generalized floor plans showing dimensions and the square footage of areas for proposed uses.
- 

Plans should be no larger than 11" x 17" in size. They need not be prepared by an architect or land surveyor but they must be legibly drawn with printed labels. **PLANS MUST CONTAIN ALL OF THE ABOVE INFORMATION IN ORDER FOR THE APPLICATION TO BE PLACED ON THE AGENDA FOR A ZONING BOARD OF ADJUSTMENT HEARING.**



# Dennis Biery

133 North Shore Road  
Derry, NH 03833  
603-235-7069

March 29, 2024

Exeter Planning Department  
Town of Exeter  
10 Front Street  
Exeter, NH 03833

RE: "Request for Review" Application by the Rockingham County Conservation District (RCCD) – Test Pit Witness - Map 115, Lot 12 at 165A Kingston Road, Exeter NH 03833

To Exeter Planning Board,

Please be advised that Bruce Scamman of Emanuel Engineering, Incorporated and James Verra and Associates, Incorporated is authorized to be MY agent at the Exeter Planning Board for an application for a Subdivision. This will authorize Bruce Scamman to apply for local and state development approvals on my behalf. I also authorize Bruce Scamman to speak on my behalf at Town of Exeter meetings and hearings. Should you have any questions, please advise.

Very truly yours,

Dennis Biery





April 30, 2024

Exeter Planning Board  
Town of Exeter  
10 Front Street  
Exeter, NH 03833

RE: Letter of Explanation - "Biery Family Trust"  
165A Kingston Road (Site)  
Exeter, NH 03833  
Tax Map 115, Lot 12

Dear Members of the Exeter Planning Board,

On behalf of the Biery Family Trust located at 165A Kingston Road, Exeter, NH, Tax Map 115, Lot 12, we offer the following narrative overview to help the board familiarize themselves with the project.

The subject parcel is located on a 4.474-acre site, which is within the Single Family (R-1) Zone, currently whose building's use is commercial wholesale. There is an existing 2,050 square-foot garage, 820 square-foot shed, several stockpile/material areas, and a gravel driveway servicing the existing garage. The property has access to a 50-foot-wide right-of-way that gives vehicle and pedestrian access to Kingston Road (Route 111). Wetlands on site were delineated by Joseph W. Noel CWS #086 on April 24, 2024. Soils were delineated by Emanuel Engineering, Inc. online via the USDA-NRCA Web Soil Survey on April 25, 24. Approximately 70% of the property is woodlands. There are no other known significant environmental features.

It is proposed that the existing lot is to be subdivided into two individual single-family residential lots (one 2.260 acre lot and one 2.113 acre lot). Two separate 12 foot-wide driveways are proposed on both sides of the property line delineating the two proposed lots, giving access to each of the two proposed 35'x70' 5-bedroom houses. Separate wells, and separate septic systems are to service each of the lots individually. Associated utilities are also proposed. The existing garage is to remain on site, but the existing chicken coop and material stockpiles are to be removed. After building the proposed driveways and structures, and associated grading, the approximate estimated site disturbance is +/-65,000 square feet.

If you have any other questions concerning this project, please reach out to us.

Sincerely,

A handwritten signature in black ink, appearing to read 'JJ MacBride', is written over a light blue horizontal line.

JJ MacBride, PE  
Civil Engineer

*civil & structural consultants, land planners*

118 PORTSMOUTH AVE. A202, STRATHAM, NH 03885 P: 603-772-4400 F: 603-772-4487 [WWW.EMANUELENGINEERING.COM](http://WWW.EMANUELENGINEERING.COM)

*Cathy Ann Biery*

LCHIP ROA658538 25.00  
RECORDING 14.00  
SURCHARGE 2.00



*M*  
*Keri J Marshall*

**DEED**

**THIS INDENTURE**, made as of this 13th day of July, 2023, between Margaret Ann Biery, and her husband Dennis William Biery, having an address at 133 North Shore Road, Derry, NH 03038, as the grantors hereunder (collectively hereinafter referred to as the "Grantor"), and Margaret Ann Biery and Dennis William Biery, having an address at 133 North Shore Road, Derry, NH 03038, as Trustee under the Declaration of Trust of even date herewith, known as the Biery Family Trust, made by Margaret Ann Biery and Dennis William Biery and said Trustee, as the grantee hereunder (hereinafter referred to as the "Grantee").

**WITNESSETH**, that Grantor, in consideration of Ten Dollars and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, convey and release unto Grantee and the heirs, executors, administrators, successors and assigns of Grantee forever,

**ALL** those certain plots, pieces or parcels of land, with the buildings and improvements thereon erected, situate, lying and being on 165 A Kingston Road, Exeter, NH, being more particularly described in Exhibit A attached hereto and made a part hereof,

**TOGETHER** with the appurtenances and all the estate and rights of Grantor in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto Grantee and the heirs, executors, administrators, successors and assigns of Grantee forever.

**IN WITNESS WHEREOF**, Grantor has duly executed this Deed on the date first above written.

*Margaret Biery*  
\_\_\_\_\_  
Margaret Ann Biery  
Grantor

*D. W. Biery*  
\_\_\_\_\_  
Dennis William Biery  
Grantor

STATE OF NEW HAMPSHIRE, COUNTY OF ROCKINGHAM, ss.

The foregoing instrument was acknowledged before me on the *13* day of July, 2023, by Margaret Ann Biery and by Dennis William Biery.



*Keri J. Marshall*  
\_\_\_\_\_  
Notary Public  
My commission expires on

Justice of the Peace - New Hampshire  
My Commission Expires July 14, 2026

**KERI J. MARSHALL**  
Justice of the Peace - New Hampshire  
My Commission Expires July 14, 2026

**Exhibit A**

A certain parcel of land with the buildings, if any thereon, situated off of New Hampshire Route 111, located in the Town of Exeter, County of Rockingham and State of New Hampshire and shown as Lot 2 on a Plan of Land entitled, "Subdivision of Land for Walter Biery off Route 111 Exeter, NH", dated September 13, 1993, recorded in the Rockingham County Registry of Deeds as Plan D-22649, bounded and described as follows:

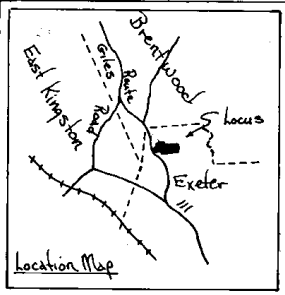
Beginning at a drill hole found at the intersection of two stone walls at a southerly point of the herein described premises and at land now or formerly of Will H. Weete and Cammille Weete and at Lot 1 as shown on said Plan; thence turning and running by Lot 1 in the following courses and distances: North  $32^{\circ} 08' 25''$  West, 61.51 feet to a T-bar; thence North  $05^{\circ} 13' 28''$  West, 216.91 feet to a T-bar; thence turning and running still by Lot 1 South  $80^{\circ} 22' 12''$  East, 150.15 feet to a T-bar; thence North  $83^{\circ} 21' 57''$  East, 100.00 feet to a T-bar; thence turning at land now or formerly of Guy William Woollard and Dorothy M. Connors North  $06^{\circ} 38' 03''$  West, 482.74 feet to an iron rod; thence turning and running South  $77^{\circ} 12' 46''$  West, 382.00 feet to an iron rod at land now or formerly of Daniel W. Jones; thence turning and running by land of said Jones, South  $08^{\circ} 23' 42''$  East, 580.82 feet to a drill hole in the intersection of two stone walls; thence turning and running at land now or formerly of the aforesaid Weete along a stone wall South  $63^{\circ} 15' 12''$  East, 166.41 feet to a drill hole at the point of beginning.

Together with a right of way over Lot 1, which right of way includes a twelve-foot wide driveway constructed within the area shown on said Plan as "Proposed 50' R.O.W." and which right of way may be improved, maintained and used for vehicular and pedestrian travel to and from Route 111 to said Lot 2. This right of way shall be perpetual and shall run with the land. This right of way extends from Route 111 to Lot 2.

Meaning and intending to convey to the Biery Family Trust, Margaret Ann Biery and Dennis William Biery, Trustees, the same premises conveyed to Dennis W. Biery, by deed of Walter L. Biery and Eleanor K. Biery, dated September 6, 1996 and recorded in the Rockingham County Registry of Deeds at Book 3176, Page 1917.

This is a noncontractual transfer and exempt from transfer tax pursuant to RSA 78-B:2 IX.

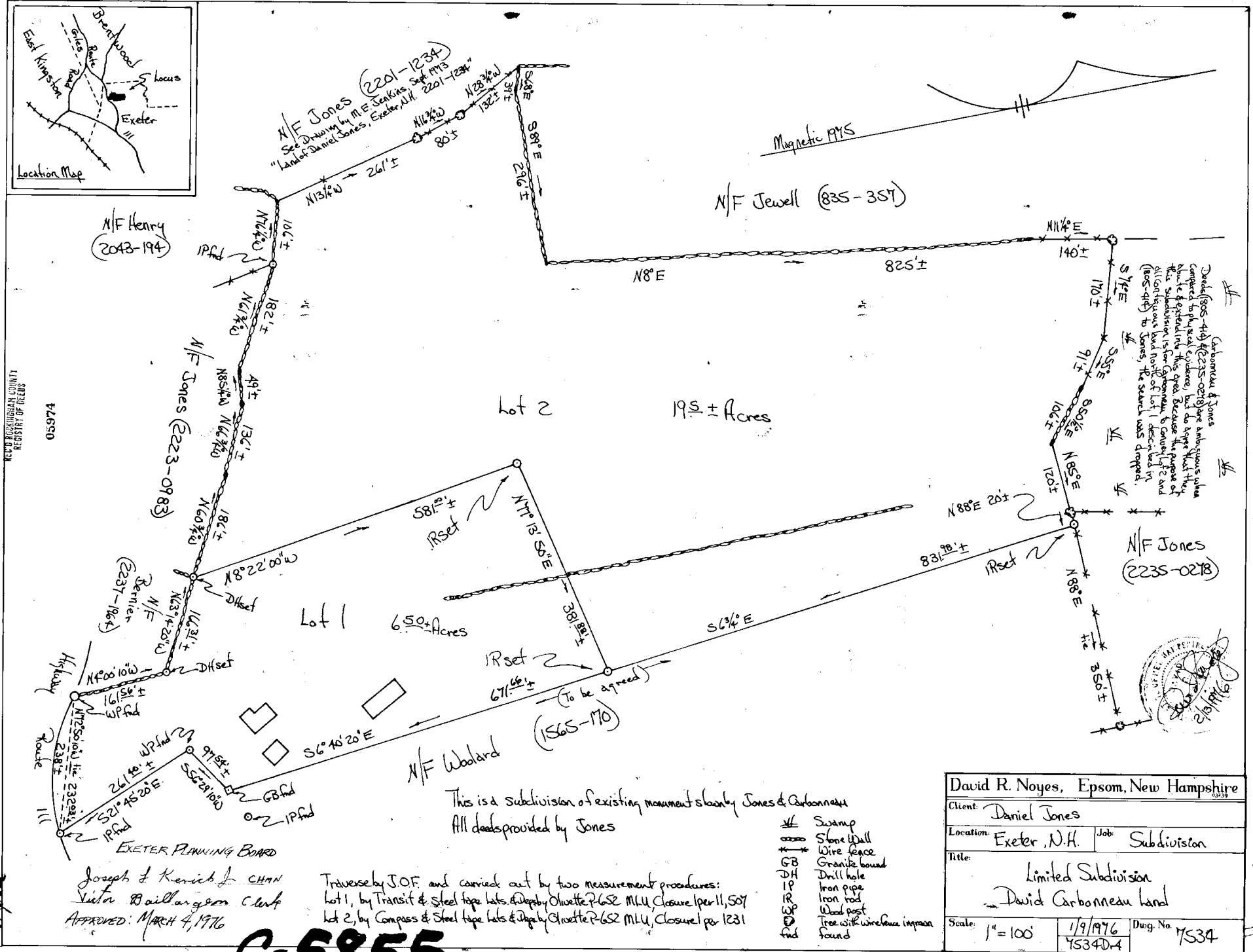
No title search was requested or performed.



'76 MAR 31 P. 1: 05

NEW HAMPSHIRE COUNTY  
REGISTRY OF DEEDS

05974



Carboneau & Jones  
David (805-414) & (2235-0218) are ambiguous when compared to physical evidence, but do hope that they have provided this area because the purpose of this subdivision is for Carboneau to convey Lot 2 and (805-414) to Jones, the search was dropped.



|   |              |
|---|--------------|
| David R. Noyes, Epsom, New Hampshire                  |              |
| Client:   | Daniel Jones |
| Location:   | Exeter, N.H. |
| Job:  | Subdivision  |
| Title:<br>Limited Subdivision<br>David Carboneau land |              |
| Scale:  | 1" = 100'    |
| Date:   | 1/9/1976     |
| Dwg. No.:   | 75340.4      |
| Dwg. No.:   | 7534         |

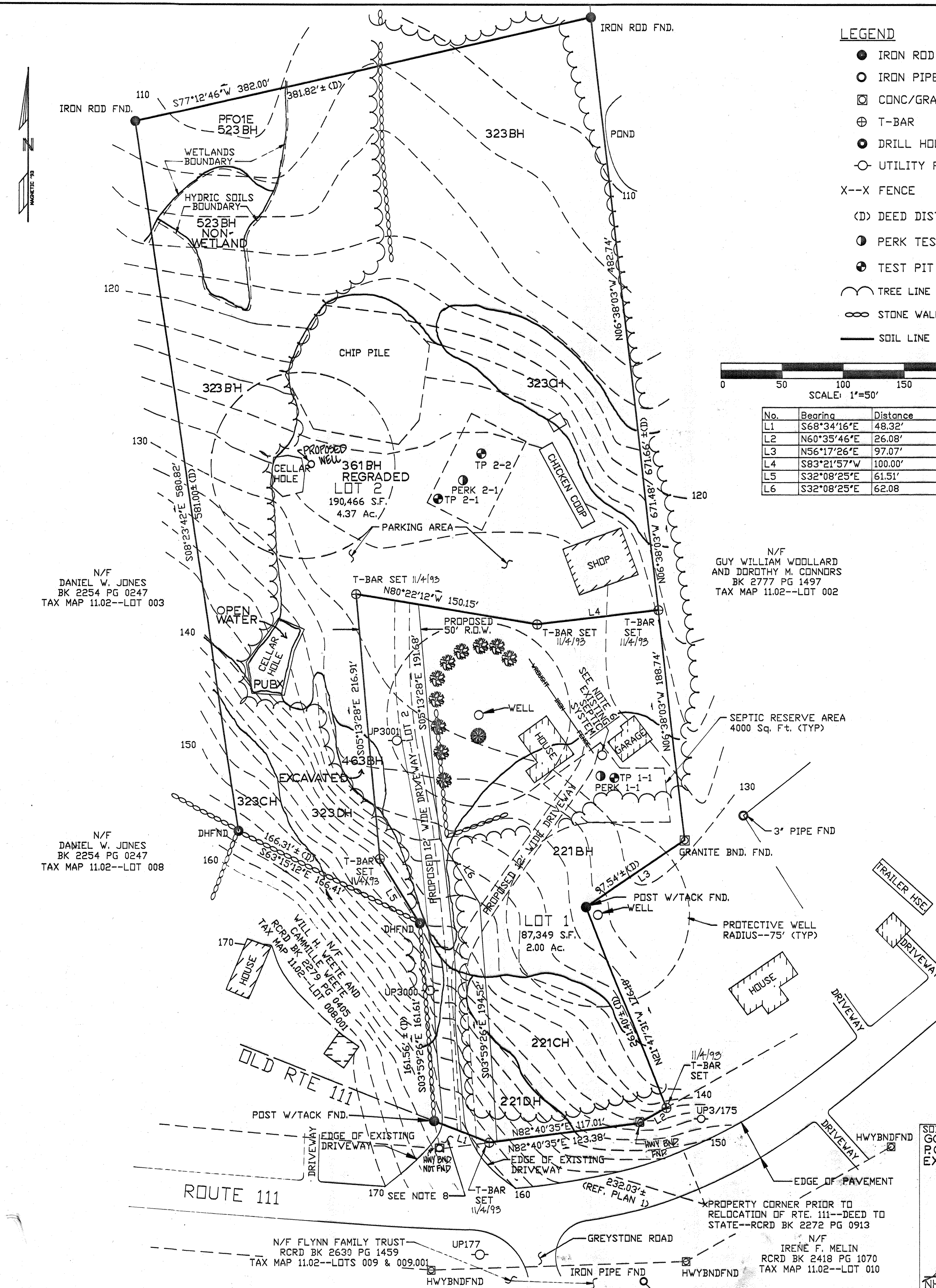
- Swamp
- Stone Wall
- Wire fence
- Granite bound
- Drill hole
- Iron pipe
- Iron rod
- Wood post
- Tree with wirehouse impression found

EXETER PLANNING BOARD  
Joseph & Kenneth J. Chan  
Justin Baillargeon Clerk  
APPROVED: MARCH 4, 1976

Traverse by J.O.F. and carried out by two measurement procedures:  
Lot 1, by Transit & steel tape lots & depth Olivette P-6S2 M.L.U. Closure 1 per 11,507  
Lot 2, by Compass & steel tape lots & depth Olivette P-6S2 M.L.U. Closure 1 per 1231

**C-5855**





N/F DANIEL W. JONES  
BK 2254 PG 0247  
TAX MAP 11.02--LOT 003

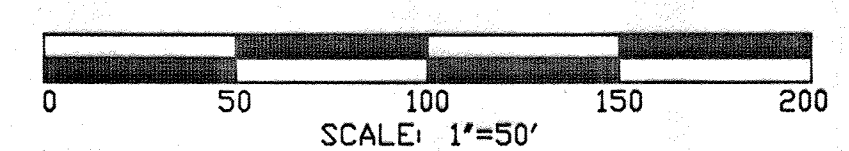
N/F DANIEL W. JONES  
BK 2254 PG 0247  
TAX MAP 11.02--LOT 008

N/F FLYNN FAMILY TRUST  
RCRD BK 2639 PG 1459  
TAX MAP 11.02--LOTS 009 & 009.001

N/F GUY WILLIAM WOOLLARD AND DOROTHY M. CONNORS  
BK 2777 PG 1497  
TAX MAP 11.02--LOT 002

N/F IRENE F. MELIN  
RCRD BK 2418 PG 1070  
TAX MAP 11.02--LOT 010

- LEGEND**
- IRON ROD
  - IRON PIPE
  - ◻ CONC/GRAN BND
  - ⊕ T-BAR
  - DRILL HOLE
  - UTILITY POLE
  - X-X FENCE
  - (D) DEED DISTANCE
  - PERK TEST
  - TEST PIT
  - TREE LINE
  - STONE WALL
  - SOIL LINE



| No. | Bearing     | Distance |
|-----|-------------|----------|
| L1  | S68°34'16"E | 48.32'   |
| L2  | N60°35'46"E | 26.08'   |
| L3  | N56°17'26"E | 97.07'   |
| L4  | S83°21'57"W | 100.00'  |
| L5  | S32°08'25"E | 61.51'   |
| L6  | S32°08'25"E | 62.08'   |

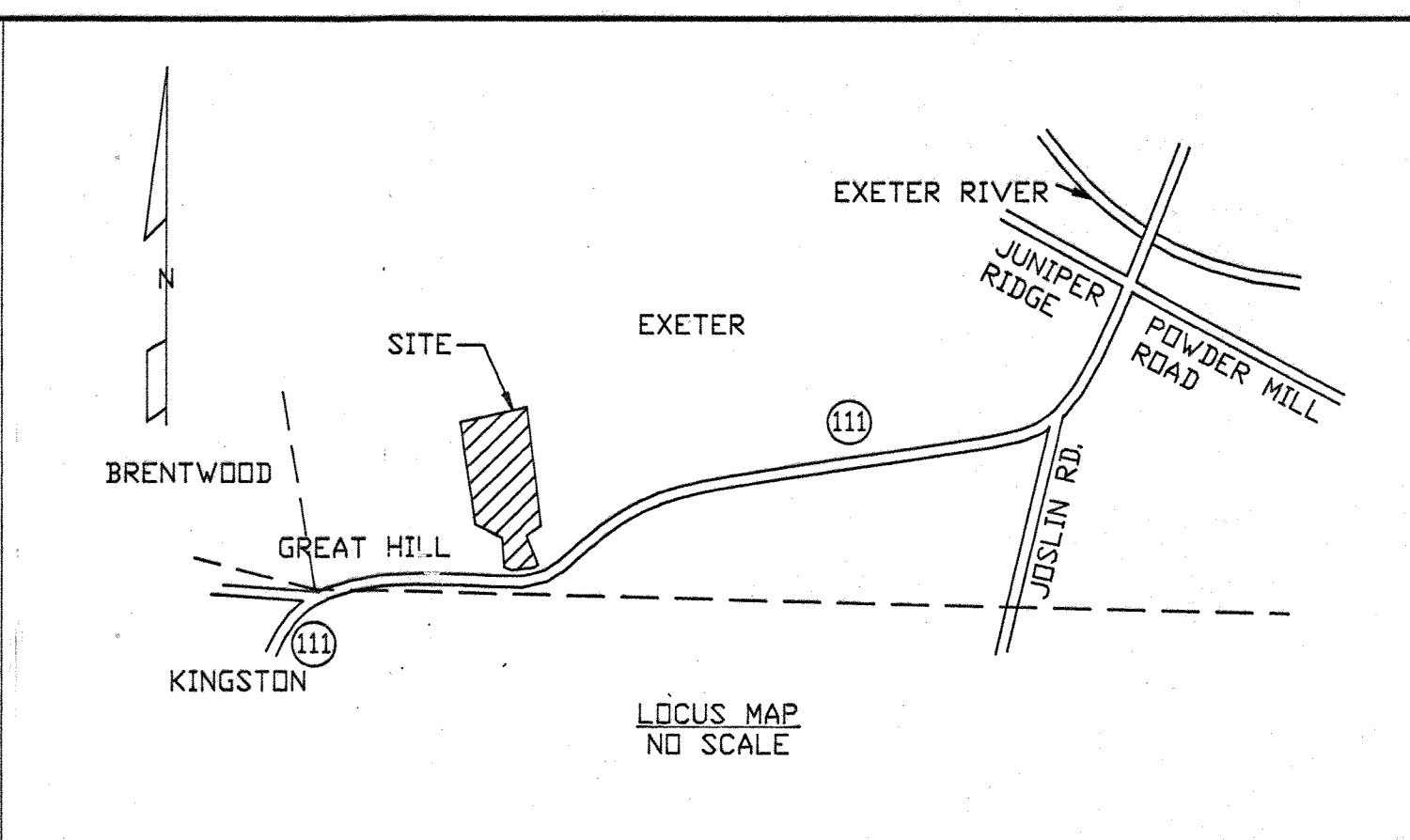
- TEST PIT DATA**
- WITNESSED BY JIM HAYDEN 8/25/93  
EVALUATED BY FRED EMANUEL 8/25/93
- TEST PIT #1-1  
0'-2"---2.5Y 4/3---FINE SAND, GRANULAR, LOOSE  
2'-24"---10YR 6/6---FINE SAND, GRANULAR, LOOSE  
24'-108"---5Y 6/4---FINE SAND, GRANULAR, LOOSE  
ESHWT---NONE  
NO OBSERVED WATER---NO REFUSAL  
ROOTS TO 54'
- TEST PIT #2-1  
0'-32"---2.5Y 6/4---FINE TO COARSE SAND, GRANULAR, LOOSE  
32'-96"---2.5Y 6/4---FINE SAND, GRANULAR, FRIABLE  
ESHWT---@ 32'  
NO OBSERVED WATER---NO REFUSAL  
ROOTS TO 0'
- TEST PIT #2-2  
0'-3"---2.5Y 4/3---LOAMY SAND, GRANULAR, LOOSE  
3'-53"---2.5Y 5/4---GRAVEL, GRANULAR, LOOSE  
54'-96"---2.5Y 5/6---VERY FINE SAND, GRANULAR MASSIVE, FIRM  
ESHWT---@ 53'  
NO OBSERVED WATER---NO REFUSAL  
ROOTS TO 0'

**PERCOLATION TEST DATA**

| TEST No. | RATE         | DEPTH | DATE   |
|----------|--------------|-------|--------|
| 1-1      | < 2 MIN/INCH | 28'   | 9/3/93 |
| 2-1      | < 2 MIN/INCH | 24'   | 9/3/93 |

**NOTES CONTINUED:**

9. THE PROPOSED 50 FOOT PRIVATE RIGHT OF WAY THROUGH LOT 1 IS INTENDED TO PROVIDE THE REQUIRED FRONTAGE FOR LOT 2 TO MEET THE TOWNING 200 FT. FRONTAGE REQUIREMENT FOR THE R-1 ZONING DISTRICT.
10. REFER TO EASEMENT AGREEMENT GRANTING LOT 2 ACCESS ACROSS LOT 1. EASEMENT TO BE RECORDED AT SAME TIME THIS PLAN IS RECORDED.
11. NH WATER SUPPLY & POLLUTION CONTROL DIVISION SUBDIVISION APPROVAL # 41733 DATED 9/30/93.



**NOTES**

1. OWNER OF RECORD: WALTER L. BIERY AND ELEANOR K. BIERY OF 146 LITTLE MILL ROAD, SANDOWN, NH, RECORDED AT R.C.R.D. BK. 2973 PG. 2595. EXETER TAX MAP 11 LOT 003.001.
2. TOTAL AREA OF PROPERTY IS 277,815 SQ. FT. OR 6.37 ACRES.
3. THIS SUBDIVISION IS IN THE R1 ZONED DISTRICT--SINGLE FAMILY, MINIMUM 2 ACRES, 200 FT. FRONTAGE AND 150 FT. DEPTH.
4. ELEVATION FOR A BENCHMARK WAS INTERPOLATED FROM THE USGS KINGSTON QUADRANGLE (7.5' SERIES).
5. PARCEL IS NOT IN A FLOOD HAZARD ZONE; REFERENCE FLOOD BOUNDARY AND FLOODWAY MAP PANEL NO. 330130 0005.
6. LOT 1--SIZE AND CONDITION OF EXISTING SEPTIC SYSTEM IS UNKNOWN. A REPLACEMENT SYSTEM MEETING CURRENT DESIGN STANDARDS IS PROPOSED.
7. EASEMENT FOR POLES, WIRES AND OTHER APPURTENANCES NECESSARY FOR TRANSMISSION OF ELECTRIC ENERGY AND INTELLIGENCE RECORDED AT RCRD BK. 2211 PG. 131.
8. THIS PARCEL IS PART OF THE DISCONTINUED PORTION OF KINGSTON ROAD (A.K.A. RTE 111). PER ARTICLE 58 OF TOWN OF EXETER WARRANT 1978, WHICH WAS PASSED, IT HAS NOT YET BEEN TRANSFERRED BY TOWN OF EXETER TO THE OWNER OF THE PROPERTY LISTED AS TAX MAP 11 LOT 003.001. SEE NOTED AREA ON PLAN AND PLAN REFERENCE #2.

**REFERENCE PLANS**

1. RCRD C-5855--LIMITED SUBDIVISION, DAVID R. CARBONNEAU LAND--DATED 1/9/1976, FOR DANIEL JONES BY DAVID R. NOYES (RLS No. 84). (TAX MAP 11 LOTS 003 AND 003.001)
2. NHDDT HIGHWAY PLAN ROUTE 111 PROJECT S-2377, HHS-28(16) SHEET 6 OF 51 DATED AND VERIFIED 3/31/1977.

|              |              |                                    |     |
|--------------|--------------|------------------------------------|-----|
| 3            | 11/1/93      | ADD NOTES & DATES                  | ASE |
| 2            | 09/27/93     | ADD NOTE 9 & LOT #2 WELL LOCATIONS | ASE |
| 1            | 09/10/93     | FOR APPROVAL                       | ASE |
| SCALE 1"=50' |              | CERTIFIED FOR FABRICATION BY:      |     |
| DESIGN       |              | DATE                               |     |
| CHECKED      |              | CERTIFIED FOR CONSTRUCTION BY:     |     |
| DRAWN        | GK APRIL '93 | DATE                               |     |
| CHECKED      |              | DATE                               |     |

I CERTIFY THAT THIS SURVEY PLAT WAS PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION.

*Robert M. Moynihan* 9/13/93

THIS PLAN IS A RESULT OF FIELD SURVEY PERFORMED BY A.R., G.K. AND F.E. DURING THE MONTH OF APRIL 1993. THE ERROR OF CLOSURE IS BETTER THAN 1/10000. SURVEY PER NHLSA STANDARDS: CATEGORY 1, CONDITION 1.

AREA CALCULATIONS ARE PER BENCHMARK SOFTWARE.

TOWN OF EXETER PLANNING BOARD

CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_

SOILS GOVE ENVIRONMENTAL SERVICES, INC.  
P.O. BOX 118  
EXETER, NH 03833-118

STATE OF NEW HAMPSHIRE  
JAMES P. GOVE  
No. 004  
9-10-93  
NH CERTIFIED SOIL SCIENTIST DATE 9/10/93

SEAL

THE STATE OF NEW HAMPSHIRE  
FRED EMANUEL  
No. 2861  
REGISTERED PROFESSIONAL ENGINEER  
DATE 9/10/93

SEAL

R.G. Moynihan  
CIVIL ENGINEER AND SURVEYOR  
75 Mast Road  
Lee, N.H. 03824  
603-659-2596

DATE 9/13/93

EMANUEL COMPANIES, INC.  
ENGINEERS - CONSTRUCTORS - DEVELOPERS

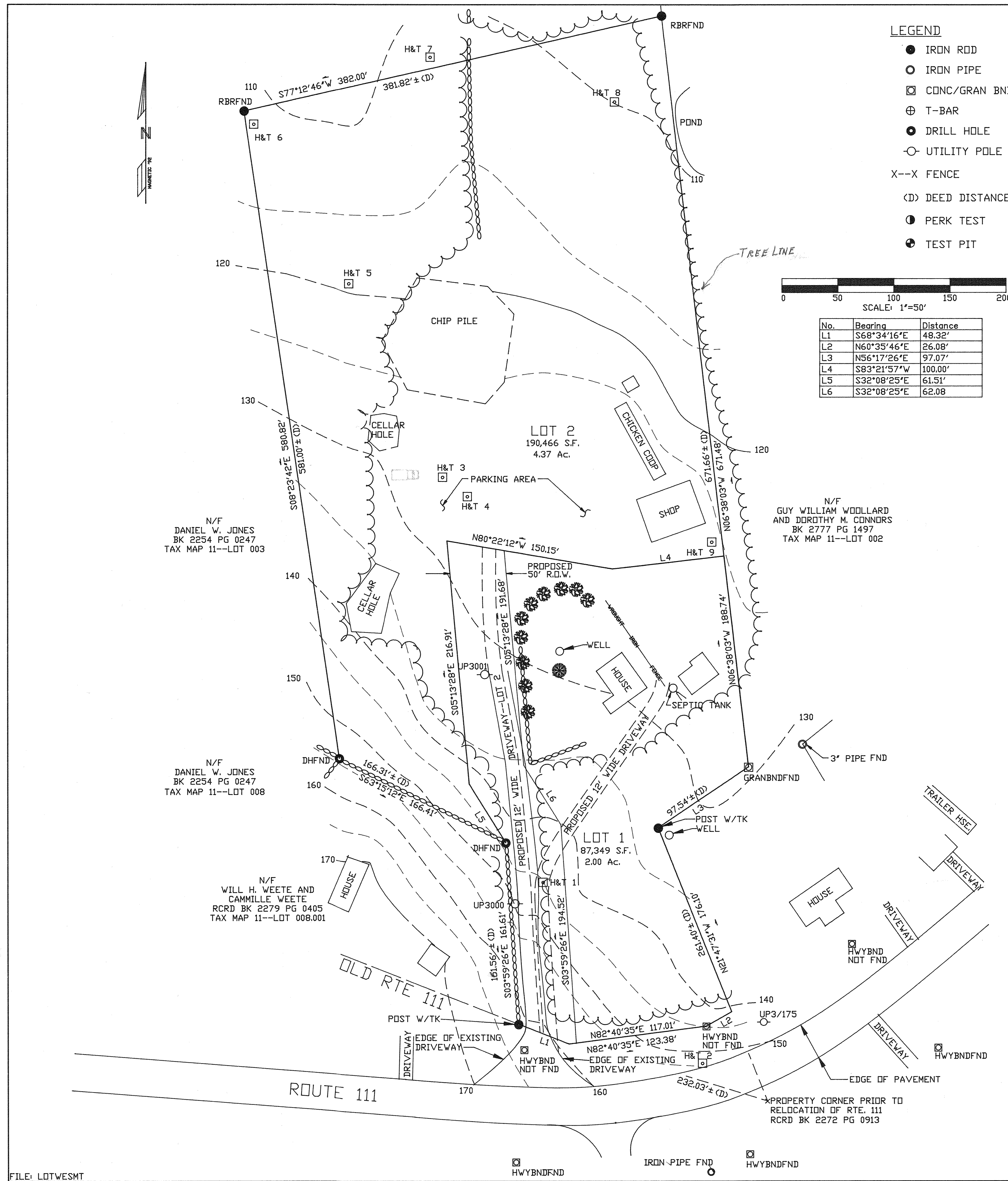
62 PORTSMOUTH AVE.  
STRATHAM, NH 03885  
603-772-4400

CLIENT  
WALTER L. BIERY  
146 LITTLE MILL ROAD  
SANDOWN, NH 03873  
603-772-6690

TITLE  
SUBDIVISION OF LAND  
FOR  
WALTER BIERY  
OFF  
ROUTE 111  
EXETER, NH  
PLAN OF LOTS

|             |          |       |
|-------------|----------|-------|
| J.O. NUMBER | DWG. NO. | ISSUE |
| 93-8        | 1        | 3     |





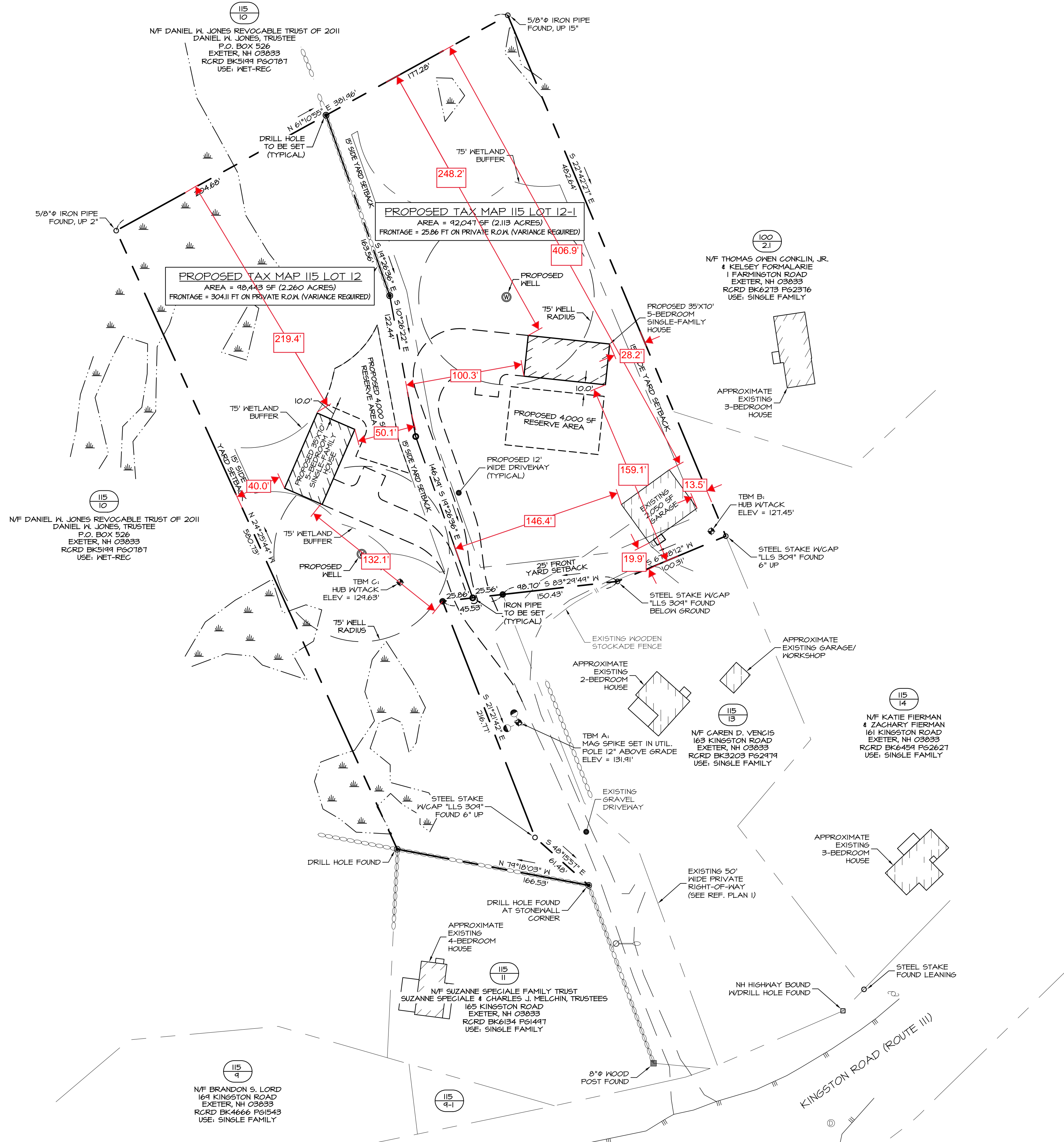
|  |          |                           |
|--|----------|---------------------------|
| SCALE 1"=50'   |          | CERTIFIED FOR FABRICATION |
| DESIGN   | CHECKED  | DATE                      |
| DRAWN  | CHECKED  | DATE                      |
| EMANUEL COMPANIES, INC.<br>ENGINEERS - CONSTRUCTORS - DEVELOPERS             |          |                           |
| 62 PORTSMOUTH AVE.<br>STRATHAM, NH 03885<br>603-772-4400                     |          |                           |
| CLIENT   |          |                           |
| WALTER BIERY<br>P.O. BOX 552<br>STRATHAM, NH 03885                           |          |                           |
| TITLE  |          |                           |
| SUBDIVISION OF LAND<br>FOR<br>WALTER BIERY<br>OFF<br>ROUTE 111<br>EXETER, NH |          |                           |
| PLAN OF LOTS   |          |                           |
| J.D. NUMBER  | DWG. NO. | ISSUE                     |
| 93-8   |          |                           |

*Copies sent to Biery & Exeter Planning Board 23 June 93*



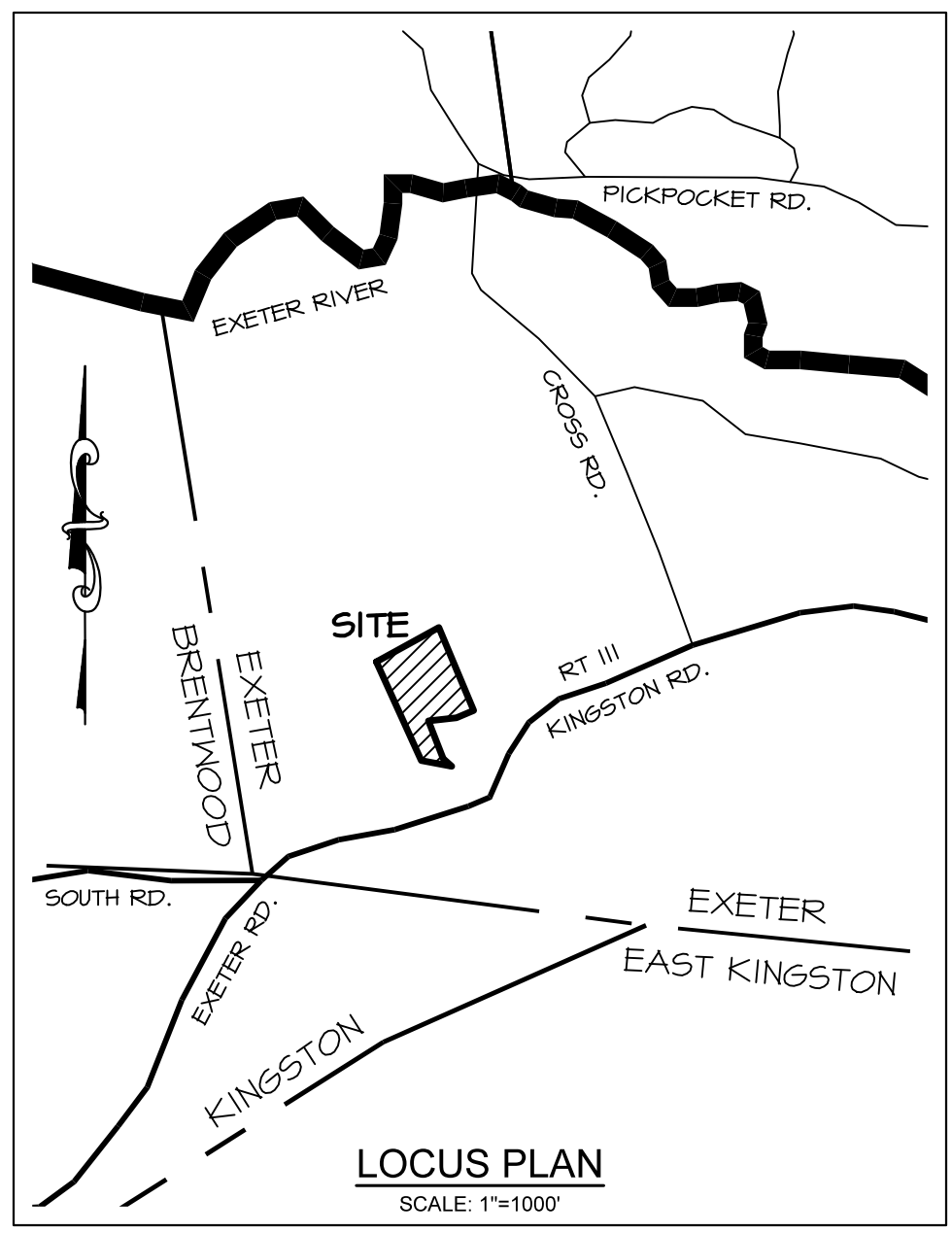
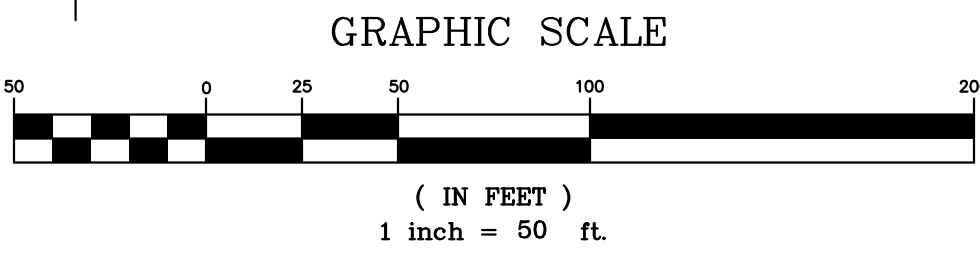
**ADDITIONAL ABUTTERS:**

115  
9-1  
N/T TOWN OF EXETER  
10 FRONT STREET  
EXETER, NH 03833  
RCRD BK5460 PG1190  
USE: MUNICIPAL



**LEGEND**

|     |                        |
|-----|------------------------|
| ●   | REBAR                  |
| ○   | IRON PIPE              |
| ○   | DRILL HOLE             |
| ○   | TYPICAL                |
| --- | PROPERTY LINE          |
| --- | EDGE OF PAVEMENT (EOP) |
| --- | SOIL DELINEATION       |
| --- | OVERHEAD UTILITIES     |
| ○   | UTILITY POLE           |
| ○   | GUY WIRE               |
| ○   | WELL                   |
| ○   | STONE WALL             |
| ○   | WETLANDS               |
| ○   | TREE LINE              |



**REFERENCE PLANS:**

- "SUBDIVISION OF LAND FOR WALTER BIERY" BY EMANUEL COMPANIES, INC., DATED NOVEMBER 11, 1993; SCALE: 1"=50'; RCRD D-22644.
- "LIMITED SUBDIVISION - DAVID CARBONNEAU LAND" BY DAVID R. NOYES; DATED JANUARY 9, 1976; SCALE: 1"=50'; RCRD C-5855.

**NOTES:**

- OWNER OF RECORD: TAX MAP 115, LOT 12 BIERY FAMILY TRUST MARGARET ANN BIERY & DENNIS WILLIAM BIERY, TRUSTEES 133 NORTH SHORE ROAD DERRY, NH 03833 RCRD BK6554 PG2063
- THE INTENT OF THIS SKETCH IS TO SHOW DISTANCES ON ALL SIDES BETWEEN BUILDINGS (EXISTING AND PROPOSED) AND PROPERTY LINES FOR EXETER, NH TAX MAP 115 LOT 12.
- PARCEL IS ZONED SINGLE FAMILY (R-1) PER THE ZONING MAP OF EXETER, NEW HAMPSHIRE 2014. THE SUBJECT PARCEL IS NOT LOCATED WITHIN THE AQUIFER PROTECTION OVERLAY.
- PARCEL IS NOT IN A FLOOD HAZARD ZONE, REFERENCE FLOOD INSURANCE RATE MAP 33015C0384E, DATED MAY 17, 2005.
- FIELDWORK CONDUCTED BY JAMES VERRA AND ASSOCIATES, INC. IN JANUARY 2024. HORIZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD83. ESTABLISHED BY SURVEY GRADE GPS OBSERVATIONS. UNITS: US SURVEY FOOT.
- APPROXIMATE LOCATIONS OF BUILDINGS ON ADJUTING LOTS WITHIN 100 FEET OF SUBJECT PARCEL WERE DELINEATED VIA GOOGLE AERIAL PHOTOGRAPHY ON APRIL 25, 2024.
- WETLANDS WERE DELINEATED BY JOSEPH M. NOEL CWS #086 ON APRIL 24, 2024.
- SOILS WERE DELINEATED BY EMANUEL ENGINEERING, INC. ONLINE VIA THE USDA-NRCS WEB SOIL SURVEY ON APRIL 25, 2024.
- PROPERTY TO BE SERVICED BY ON-SITE WELL AND SEPTIC.
- ALL CONSTRUCTION SHOULD COMPLY WITH FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS.
- THIS PLAN WAS PREPARED WITH ON-SITE FIELD SURVEY AND EXISTING PLANS. THE CONTRACTOR SHOULD NOTIFY EMANUEL ENGINEERING, INC. DURING CONSTRUCTION IF ANY DISCREPANCY TO THE PLAN IS FOUND ON SITE.
- BEFORE ANY EXCAVATION, DIG SAFE AND ALL UTILITY COMPANIES SHOULD BE CONTACTED 72 HOURS BEFORE COMMENCING BY THE CONTRACTOR. CALL DIG SAFE @ 811 OR 1-888-DIG-SAFE.
- ALL UTILITIES SHALL BE LOCATED UNDERGROUND EXCEPT AS NOTED ON PLAN APPROVED BY THE PLANNING BOARD.

|            |                       |              |      |
|------------|-----------------------|--------------|------|
| 1          | MAY 17, 2024          | FOR APPROVAL |      |
| ISS. DATE: | DESCRIPTION OF ISSUE: |              | CHK. |
| DRAWN:     | JJM                   | DESIGN:      | JJM  |
| CHECKED:   | BDS                   | CHECKED:     | BDS  |

**EMANUEL ENGINEERING**  
118 PORTSMOUTH AVENUE, A202  
STRATHAM, NH 03885  
P: 603-772-4400 F: 603-772-4487  
WWW.EMANUELENGINEERING.COM

CLIENT:  
**DENNIS BIERY**  
133 NORTH SHORE ROAD  
DERRY, NH 03038

TITLE:  
**BUILDING SETBACK SKETCH**  
FOR  
**BIERY FAMILY TRUST**  
165A KINGSTON ROAD (SITE)  
EXETER, NH 03833

|          |        |        |
|----------|--------|--------|
| PROJECT: | SCALE: | SHEET: |
| 23-1138  | 1"=50' | SK1    |

SEAL:



**OWNER/APPLICANT**  
 BIERY FAMILY TRUST  
 MARGARET ANN BIERY & DENNIS WILLIAM BIERY, TRUSTEES  
 133 NORTH SHORE ROAD  
 DERRY, NH 03038

**CIVIL ENGINEER**  
 EMANUEL ENGINEERING, INC.  
 118 PORTSMOUTH AVENUE, SUITE A202  
 STRATHAM, NH 03885

**LAND SURVEYOR**  
 JAMES VERRA & ASSOCIATES, INC.  
 101 SHATTUCK WAY, SUITE 8  
 NEWINGTON, NH 03801

**SOIL & WETLAND CONSULTANT**  
 JOSEPH W. NOEL  
 P.O. BOX 174  
 SOUTH BERWICK, ME 03908

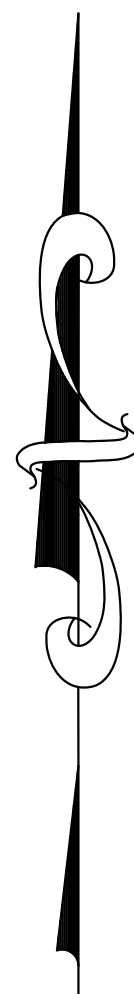
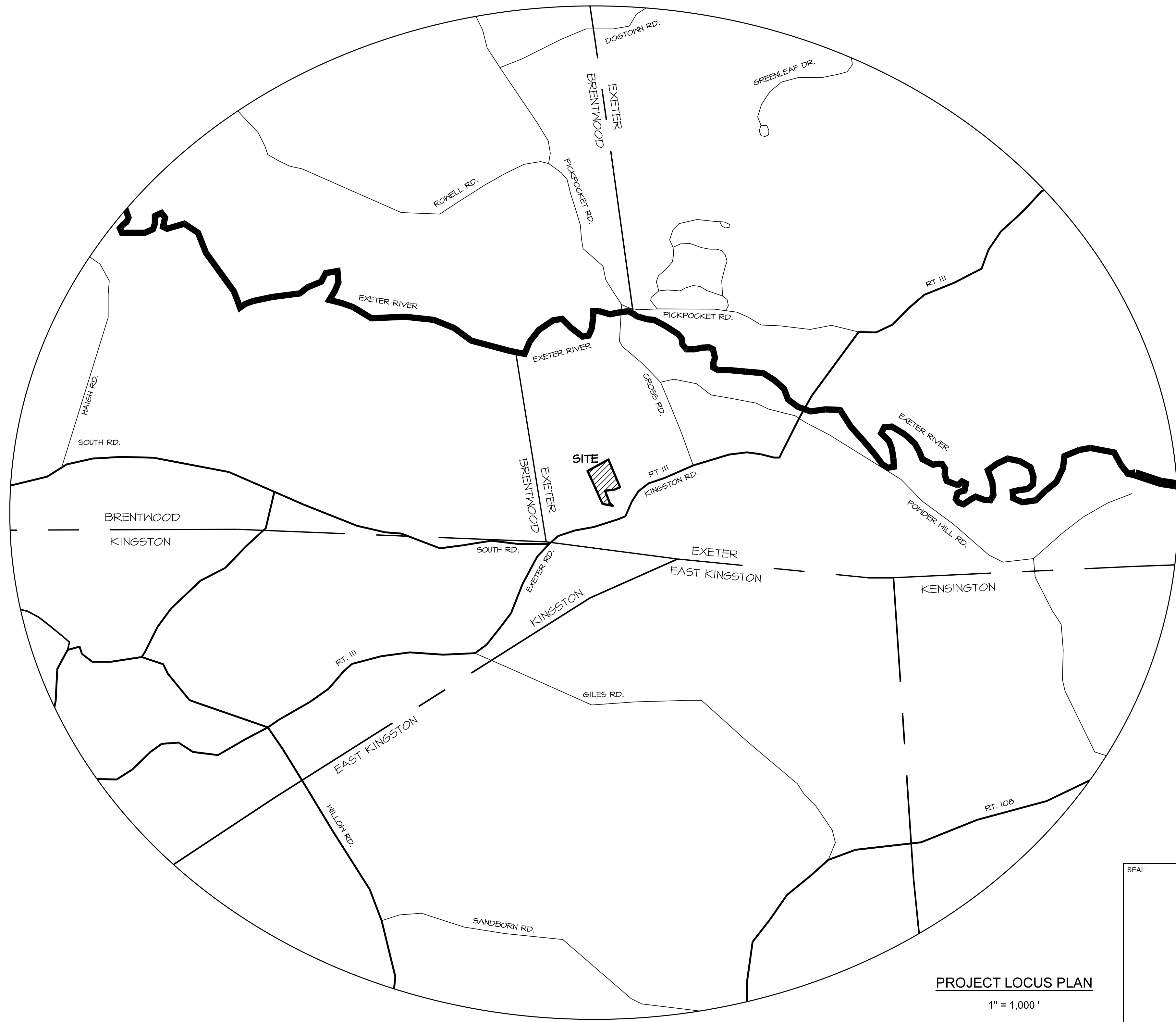
**ATTORNEY**  
 MARSHALL LAW OFFICE PLLC  
 47 DEPOT ROAD  
 EAST KINGSTON, NH 03827

# SUBDIVISION PLAN FOR THE BIERY FAMILY TRUST

EXETER TAX MAP 115 LOT 12  
 165A KINGSTON ROAD (SITE)  
 EXETER, NH 03833

APPROVED BY THE TOWN OF EXETER PLANNING BOARD  
 CHAIRPERSON \_\_\_\_\_ DATE \_\_\_\_\_


- PERMITS/APPROVALS:**
- NHDES APPROVAL FOR SUBDIVISION OF LAND (TO BE OBTAINED)



**PROJECT DRAWING SET:**

|    |                        |
|----|------------------------|
| C1 | COVER SHEET            |
| C2 | EXISTING CONDITIONS    |
| C3 | SUBDIVISION PLAN       |
| C3 | NHDES SUBDIVISION PLAN |

PROJECT LOCUS PLAN  
 1" = 1,000'

|   |                       |              |      |
|---|-----------------------|--------------|------|
| 1   | APR 30, 2024          | FOR APPROVAL |      |
| ISS. DATE:  | DESCRIPTION OF ISSUE: |              | CHK. |
| DRAWN: JJM  | DESIGN: JJM           |              |      |
| CHECKED: BDS  | CHECKED: BDS          |              |      |
| <br>118 PORTSMOUTH AVENUE, A202<br>STRATHAM, NH 03885<br>P: 603-772-4400 F: 603-772-4487<br>WWW.EMANUELENGINEERING.COM |                       |              |      |
| CLIENT:   |                       |              |      |
| DENNIS BIERY<br>133 NORTH SHORE ROAD<br>DERRY, NH 03038   |                       |              |      |
| SEAL:   |                       |              |      |
| TITLE:  |                       |              |      |
| COVER SHEET<br>FOR<br>BIERY FAMILY TRUST<br>165A KINGSTON ROAD (SITE)<br>EXETER, NH 03833   |                       |              |      |
| PROJECT:  | SCALE:                | SHEET:       |      |
| 23-1138   | AS SHOWN              | COVER        |      |



| SOILS LEGEND |   |
|--------------|---|
| SYMBOL       | DESCRIPTION   |
| 33A          | SCITICO SILT LOAM, 0 TO 5 PERCENT SLOPES                    |
| 6TD          | PAXTON FINE SANDY LOAM, 15 TO 25 PERCENT SLOPES, VERY STONY |
| 313A         | DEERFIELD LOAMY FINE SAND, 0 TO 3 PERCENT SLOPES            |

SOILS DELINEATED BY EMANUEL ENGINEERING, INC. ONLINE VIA THE USDA-NRCS WEB SOIL SURVEY ON APRIL 25, 2024.

**ADDITIONAL ABUTTERS:**

115  
4-1

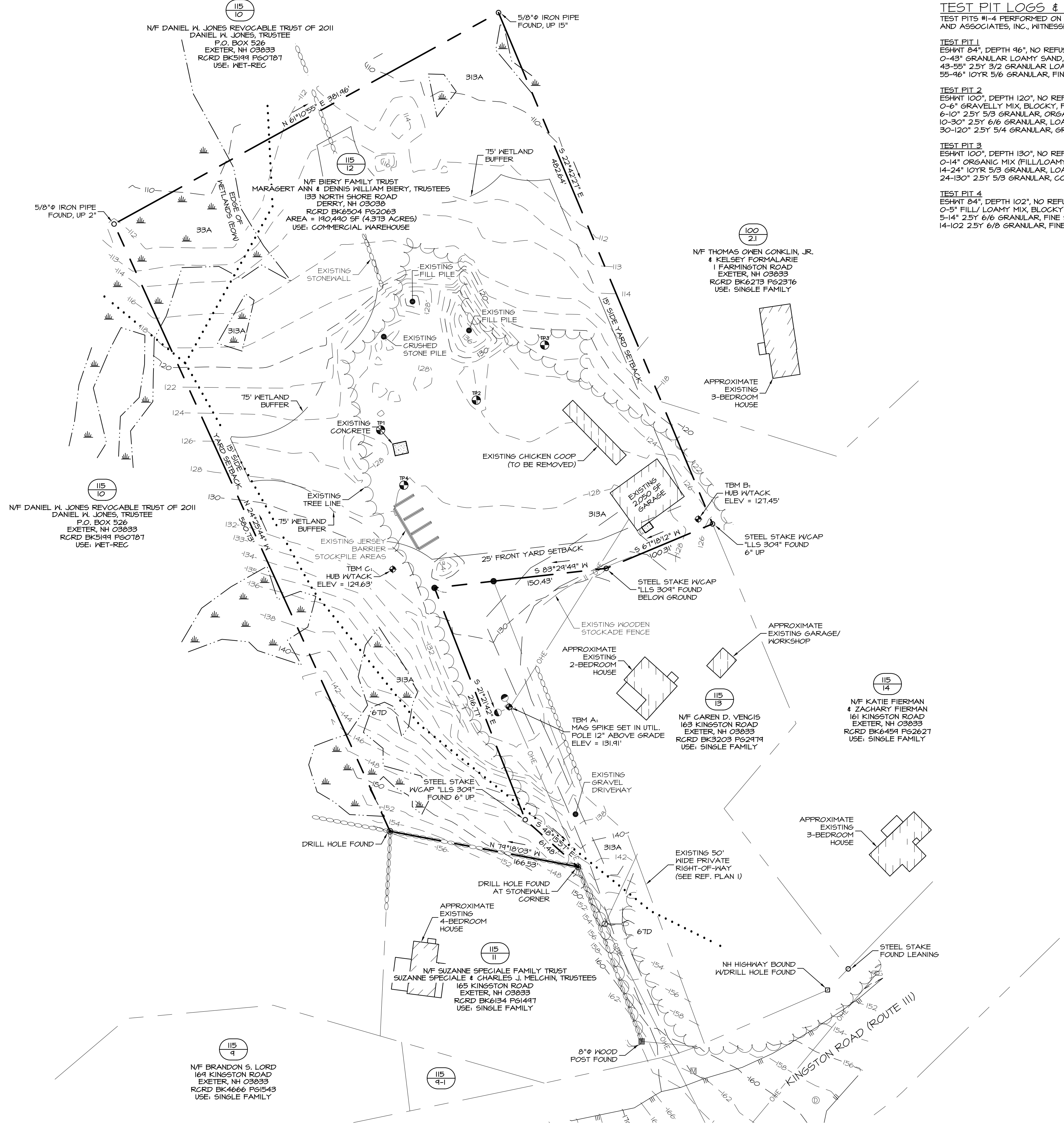
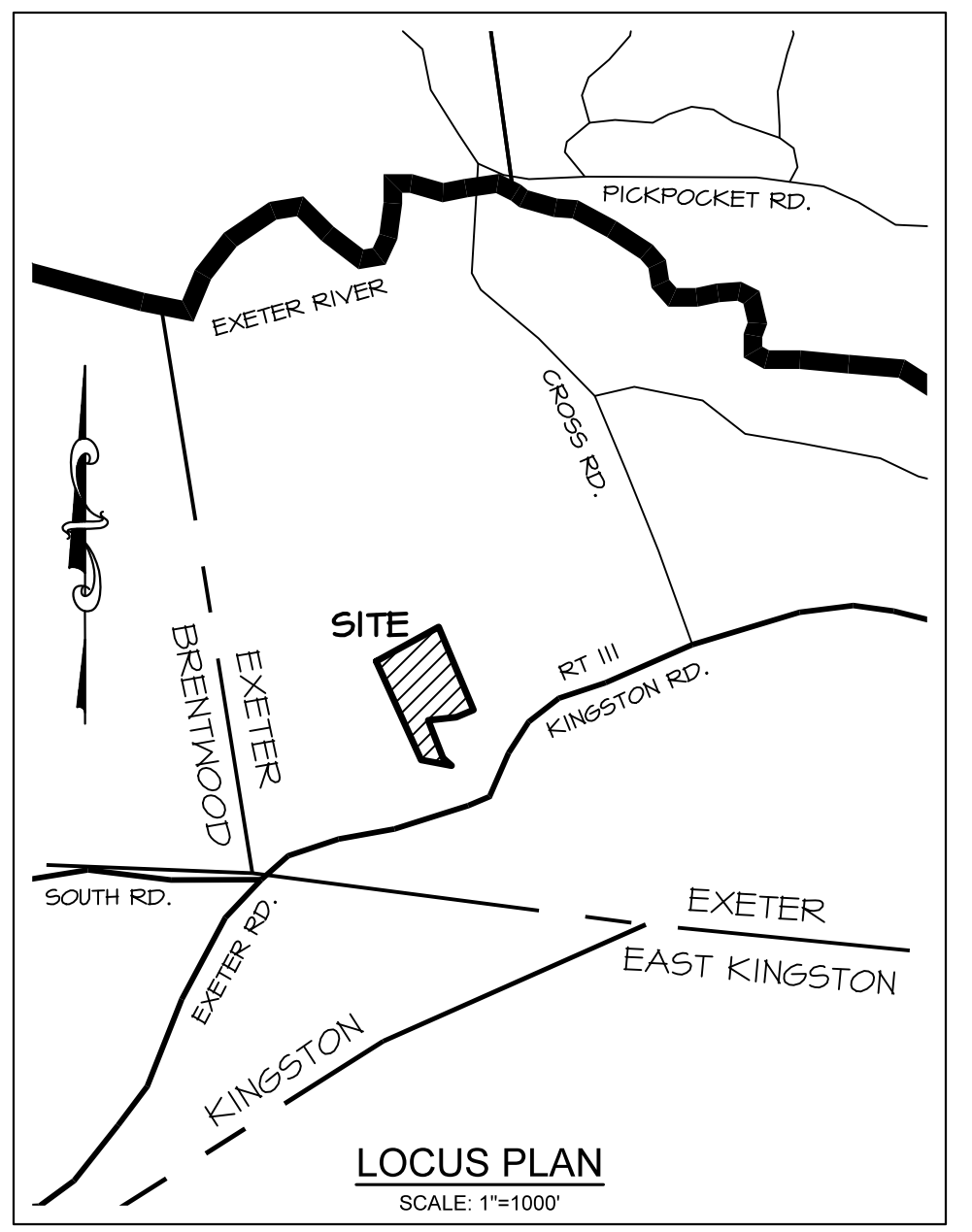
N/F TOWN OF EXETER  
10 FRONT STREET  
EXETER, NH 03833  
RCRD BK5460 PG1190  
USE: MUNICIPAL

**LEGEND**

- REBAR
- IRON PIPE
- DRILL HOLE
- TYPICAL (TYP)
- PROPERTY LINE
- EDGE OF PAVEMENT (EOP)
- SOIL DELINEATION
- OVERHEAD UTILITIES
- UTILITY POLE
- GUY WIRE
- WELL
- STONE WALL
- WETLANDS
- TREE LINE

**GRAPHIC SCALE**

( IN FEET )  
1 inch = 50 ft.



**TEST PIT LOGS & SOIL DATA:**  
TEST PITS #1-4 PERFORMED ON APRIL 10, 2024 BY RYAN FOWLER OF JAMES VERRA AND ASSOCIATES, INC., WITNESSED BY MIKE CUOMO OF RCGD.

**TEST PIT 1**  
ESHNT 04", DEPTH 96", NO REFUSAL, OBSERVED WATER 90", ROOTS NOT OBSERVED, 0-43" GRANULAR LOAMY SAND, BLOCKY, FRIABLE, FILL (TREES/STUMPS, BRICKS)  
43-55" 2.5Y 3/2 GRANULAR LOAMY SAND, LOOSE  
55-96" 10YR 5/6 GRANULAR, FINE SANDY LOAM, LOOSE

**TEST PIT 2**  
ESHNT 100", DEPTH 120", NO REFUSAL, NO OBSERVED WATER, ROOTS NOT OBSERVED  
0-6" GRAVELLY MIX, BLOCKY, FRIABLE, FILL  
6-10" 2.5Y 5/3 GRANULAR, ORGANIC LOAMY SAND, LOOSE  
10-30" 2.5Y 6/6 GRANULAR, LOAMY SAND, LOOSE  
30-120" 2.5Y 5/4 GRANULAR, GRAVELLY COARSE SAND, LOOSE

**TEST PIT 3**  
ESHNT 100", DEPTH 130", NO REFUSAL, OBSERVED WATER 41", ROOTS 33"  
0-14" ORGANIC MIX (FILL/LOAMY SAND), BLOCKY, FRIABLE, FILL  
14-24" 10YR 5/3 GRANULAR, LOAMY SAND, LOOSE  
24-130" 2.5Y 5/3 GRANULAR, COARSE GRAVELLY SAND, FRIABLE

**TEST PIT 4**  
ESHNT 04", DEPTH 102", NO REFUSAL, NO OBSERVED WATER, ROOTS NOT OBSERVED  
0-5" FILL/ LOAMY MIX, BLOCKY FRIABLE, FILL  
5-14" 2.5Y 6/6 GRANULAR, FINE SAND WITH STONES, LOOSE  
14-102 2.5Y 6/8 GRANULAR, FINE SAND, LOOSE

- NOTES:**
- OWNER OF RECORD:  
TAX MAP 115, LOT 12  
BIERY FAMILY TRUST  
MARGARET ANN BIERY & DENNIS WILLIAM BIERY, TRUSTEES  
133 NORTH SHORE ROAD  
DERRY, NH 03038  
RCRD BK6504 PG2063
  - THE INTENT OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS AND TOPOGRAPHY OF EXETER, NH TAX MAP 115 LOT 12.
  - PARCEL IS ZONED SINGLE FAMILY (R-1) PER THE ZONING MAP OF EXETER, NEW HAMPSHIRE 2019. THE SUBJECT PARCEL IS NOT LOCATED WITHIN THE AQUIFER PROTECTION OVERLAY.
  - PARCEL IS NOT IN A FLOOD HAZARD ZONE, REFERENCE FLOOD INSURANCE RATE MAP 33015C0384E, DATED MAY 17, 2005.
  - FIELDWORK CONDUCTED BY JAMES VERRA AND ASSOCIATES, INC. IN JANUARY 2024. HORIZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD83. ESTABLISHED BY SURVEY GRADE GPS OBSERVATIONS. UNITS: US SURVEY FOOT.
  - APPROXIMATE LOCATIONS OF BUILDINGS ON ABUTTING LOTS WITHIN 100 FEET OF SUBJECT PARCEL WERE DELINEATED VIA GOOGLE AERIAL PHOTOGRAPHY ON APRIL 25, 2024.
  - WETLANDS WERE DELINEATED BY JOSEPH W. NOEL CNS #086 ON APRIL 24, 2024.
  - SOILS WERE DELINEATED BY EMANUEL ENGINEERING, INC. ONLINE VIA THE USDA-NRCS WEB SOIL SURVEY ON APRIL 25, 2024.
  - PROPERTY TO BE SERVICED BY ON-SITE WELL AND SEPTIC.
  - ALL CONSTRUCTION SHOULD COMPLY WITH FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS.
  - THIS PLAN WAS PREPARED WITH ON-SITE FIELD SURVEY AND EXISTING PLANS. THE CONTRACTOR SHOULD NOTIFY EMANUEL ENGINEERING, INC. DURING CONSTRUCTION IF ANY DISCREPANCY TO THE PLAN IS FOUND ON SITE.
  - BEFORE ANY EXCAVATION, DIG SAFE AND ALL UTILITY COMPANIES SHOULD BE CONTACTED 72 HOURS BEFORE COMMENCING BY THE CONTRACTOR. CALL DIG SAFE @ 811 OR 1-888-DIG-SAFE.
  - ALL UTILITIES SHALL BE LOCATED UNDERGROUND EXCEPT AS NOTED ON PLAN APPROVED BY THE PLANNING BOARD.

- REFERENCE PLANS:**
- "SUBDIVISION OF LAND FOR WALTER BIERY" BY EMANUEL COMPANIES, INC.; DATED NOVEMBER 11, 1993; SCALE: 1"=50'; RCRD D-22644.
  - "LIMITED SUBDIVISION - DAVID CARBONNEAU LAND" BY DAVID R. NOYES; DATED JANUARY 9, 1976; SCALE: 1"=50'; RCRD C-5055.

|            |                       |              |      |
|------------|-----------------------|--------------|------|
| 1          | APR 30, 2024          | FOR APPROVAL |      |
| ISS. DATE: | DESCRIPTION OF ISSUE: |              | CHK. |
| DRAWN:     | JJM                   | DESIGN:      | -    |
| CHECKED:   | BDS                   | CHECKED:     | -    |

**EMANUEL ENGINEERING**  
118 PORTSMOUTH AVENUE, A202  
STRATHAM, NH 03885  
P: 603-772-4400 F: 603-772-4487  
WWW.EMANUELENGINEERING.COM

CLIENT:  
**DENNIS BIERY**  
133 NORTH SHORE ROAD  
DERRY, NH 03038

TITLE:  
**EXISTING CONDITIONS FOR BIERY FAMILY TRUST 165A KINGSTON ROAD (SITE) EXETER, NH 03833**

|          |        |        |
|----------|--------|--------|
| PROJECT: | SCALE: | SHEET: |
| 23-1138  | 1"=50' | C1     |

SEAL:







| SOILS LEGEND |   |
|--------------|---|
| SYMBOL       | DESCRIPTION   |
| 33A          | SCITIGO SILT LOAM, 0 TO 5 PERCENT SLOPES                    |
| 6TD          | PAXTON FINE SANDY LOAM, 15 TO 25 PERCENT SLOPES, VERY STONY |
| 313A         | DEERFIELD LOAMY FINE SAND, 0 TO 3 PERCENT SLOPES            |

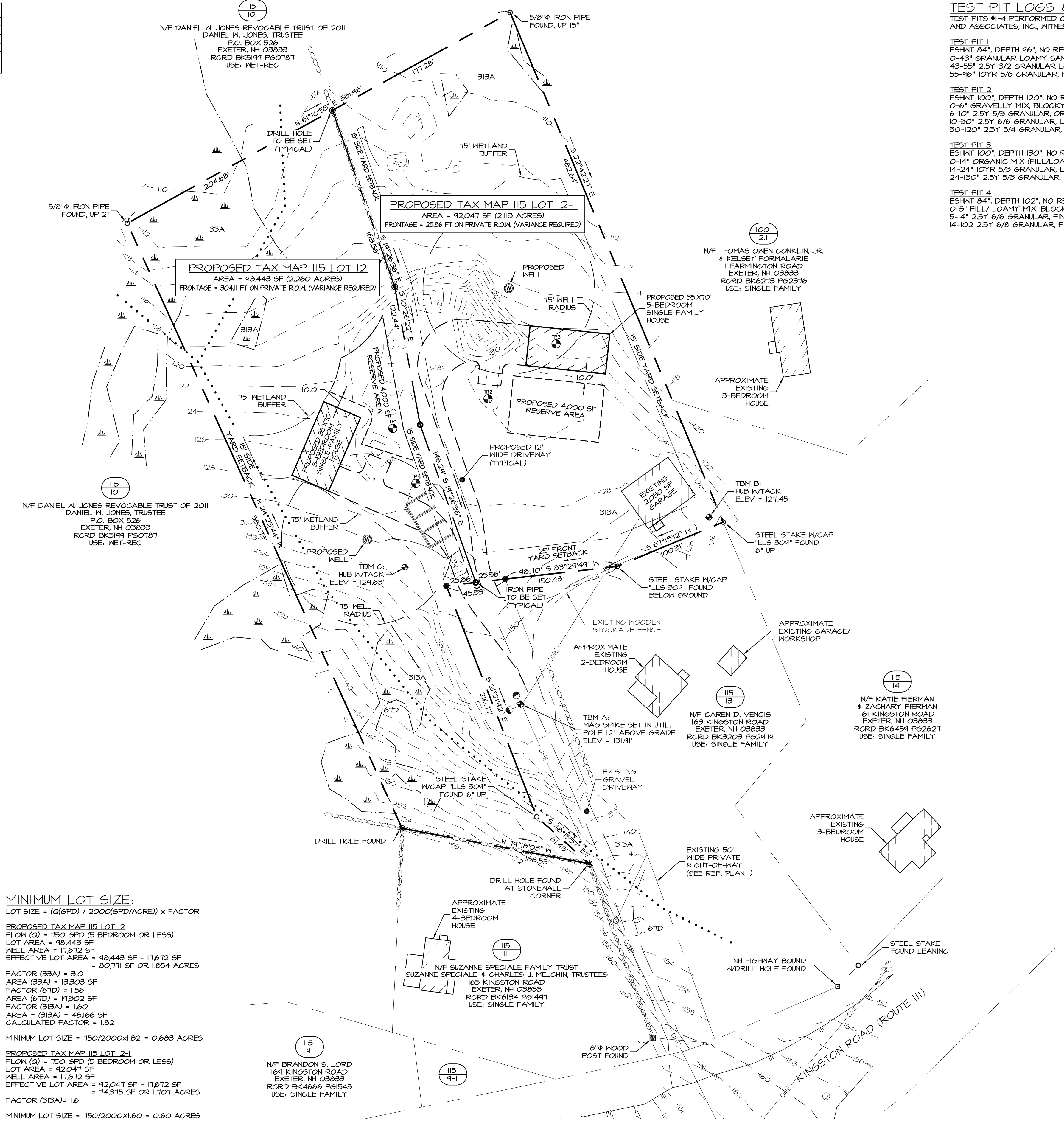
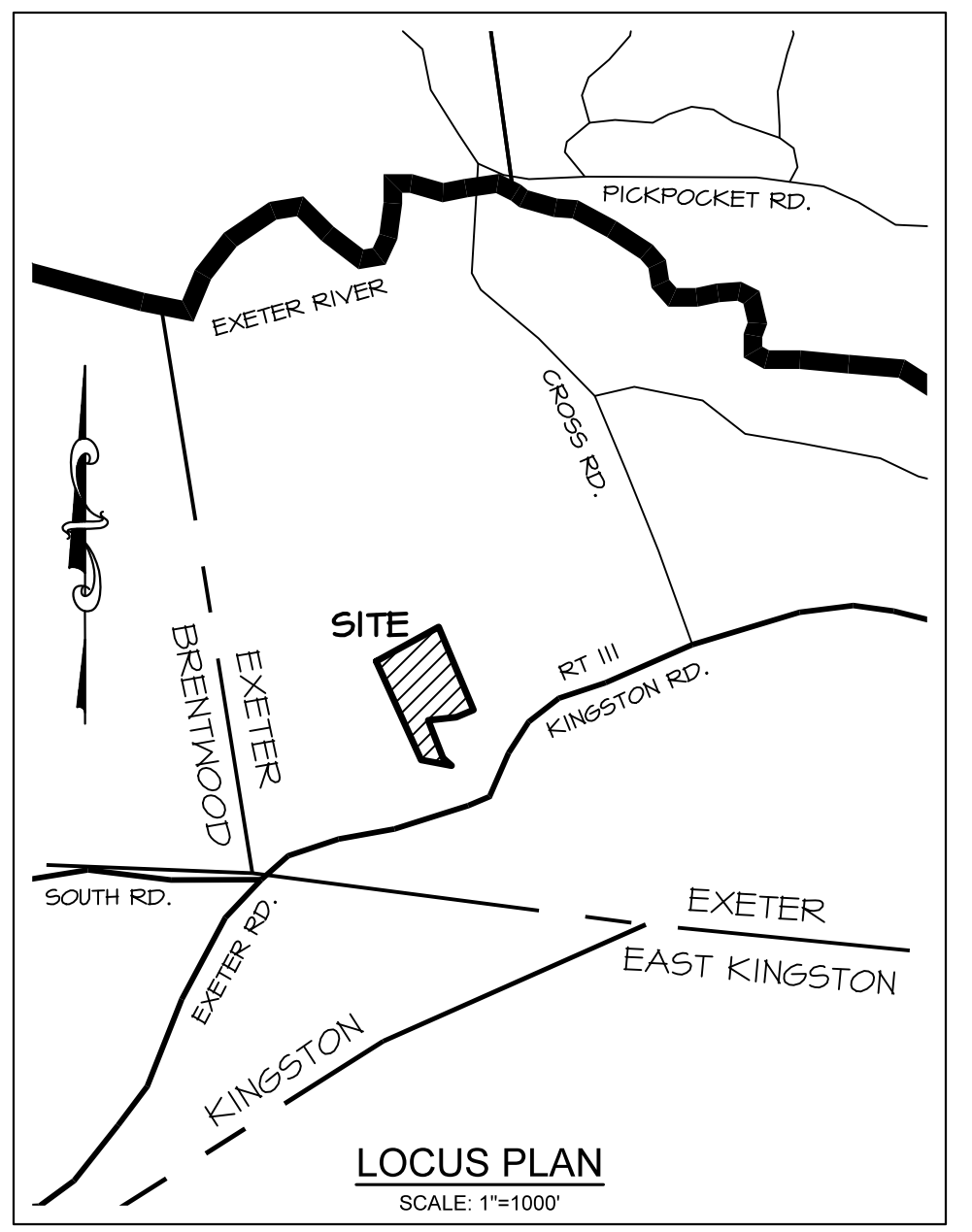
SOILS DELINEATED BY EMANUEL ENGINEERING, INC. ONLINE VIA THE USDA-NRCS WEB SOIL SURVEY ON APRIL 25, 2024.

**ADDITIONAL ABUTTERS:**

115  
4-1  
N/F TOWN OF EXETER  
10 FRONT STREET  
EXETER, NH 03833  
RCRD BK5460 PG1190  
USE: MUNICIPAL

**LEGEND**

- REBAR
- IRON PIPE
- DRILL HOLE
- TYPICAL
- PROPERTY LINE
- EDGE OF PAVEMENT (EOP)
- SOIL DELINEATION
- OVERHEAD UTILITIES
- UTILITY POLE
- GUY WIRE
- WELL
- STONE WALL
- WETLANDS
- TREE LINE



**MINIMUM LOT SIZE:**  
LOT SIZE = (GPD) / 2000(GPD/ACRE) x FACTOR

**PROPOSED TAX MAP 115 LOT 12**  
FLOW (Q) = 750 GPD (5 BEDROOM OR LESS)  
LOT AREA = 48,443 SF  
WELL AREA = 17,612 SF  
EFFECTIVE LOT AREA = 48,443 SF - 17,612 SF  
= 80,771 SF OR 1.854 ACRES

FACTOR (33A) = 3.0  
AREA (33A) = 13,303 SF  
FACTOR (6TD) = 1.56  
AREA (6TD) = 14,302 SF  
FACTOR (313A) = 1.60  
AREA (313A) = 48,166 SF  
CALCULATED FACTOR = 1.82  
MINIMUM LOT SIZE = 750/2000x1.82 = 0.683 ACRES

**PROPOSED TAX MAP 115 LOT 12-1**  
FLOW (Q) = 750 GPD (5 BEDROOM OR LESS)  
LOT AREA = 42,041 SF  
WELL AREA = 17,612 SF  
EFFECTIVE LOT AREA = 42,041 SF - 17,612 SF  
= 74,375 SF OR 1.707 ACRES

FACTOR (313A) = 1.6  
MINIMUM LOT SIZE = 750/2000x1.60 = 0.60 ACRES

**TEST PIT LOGS & SOIL DATA:**  
TEST PITS #1-4 PERFORMED ON APRIL 10, 2024 BY RYAN FOWLER OF JAMES VERRA AND ASSOCIATES, INC., WITNESSED BY MIKE CUOMO OF RCGD.

**TEST PIT 1**  
ESHNT 04", DEPTH 96", NO REFUSAL, OBSERVED WATER 90", ROOTS NOT OBSERVED, 0-43" GRANULAR LOAMY SAND, BLOCKY, FRIABLE, FILL (TREES/STUMPS, BRICKS)  
43-55" 2.5Y 3/2 GRANULAR LOAMY SAND, LOOSE  
55-96" 10YR 5/6 GRANULAR, FINE SANDY LOAM, LOOSE

**TEST PIT 2**  
ESHNT 100", DEPTH 120", NO REFUSAL, NO OBSERVED WATER, ROOTS NOT OBSERVED  
0-6" GRAVELLY MIX, BLOCKY, FRIABLE, FILL  
6-10" 2.5Y 5/3 GRANULAR, ORGANIC LOAMY SAND, LOOSE  
10-30" 2.5Y 6/6 GRANULAR, LOAMY SAND, LOOSE  
30-120" 2.5Y 5/4 GRANULAR, GRAVELLY COARSE SAND, LOOSE

**TEST PIT 3**  
ESHNT 100", DEPTH 130", NO REFUSAL, OBSERVED WATER 41", ROOTS 33"  
0-14" ORGANIC MIX (FILL, LOAMY SAND), BLOCKY, FRIABLE, FILL  
14-24" 10YR 5/3 GRANULAR, LOAMY SAND, LOOSE  
24-130" 2.5Y 5/3 GRANULAR, COARSE GRAVELLY SAND, FRIABLE

**TEST PIT 4**  
ESHNT 04", DEPTH 102", NO REFUSAL, NO OBSERVED WATER, ROOTS NOT OBSERVED  
0-5" FILL/ LOAMY MIX, BLOCKY FRIABLE, FILL  
5-14" 2.5Y 6/6 GRANULAR, FINE SAND WITH STONES, LOOSE  
14-102 2.5Y 6/8 GRANULAR, FINE SAND, LOOSE

- NOTES:**
- OWNER OF RECORD:  
TAX MAP 115, LOT 12  
BIERY FAMILY TRUST  
MARGARET ANN BIERY & DENNIS WILLIAM BIERY, TRUSTEES  
133 NORTH SHORE ROAD  
DERRY, NH 03038  
RCRD BK6504 PG2063
  - THE INTENT OF THIS PLAN IS TO SHOW ALL INFORMATION REQUIRED BY NHDES FOR A STATE SUBDIVISION APPROVAL FOR EXETER TAX MAP 15 LOT 12.
  - PARCEL IS ZONED SINGLE FAMILY (R-1) PER THE ZONING MAP OF EXETER, NEW HAMPSHIRE 2014. THE SUBJECT PARCEL IS NOT LOCATED WITHIN THE AQUIFER PROTECTION OVERLAY.
  - PARCEL IS NOT IN A FLOOD HAZARD ZONE; REFERENCE FLOOD INSURANCE RATE MAP 33015C0384E, DATED MAY 17, 2005.
  - FIELDWORK CONDUCTED BY JAMES VERRA AND ASSOCIATES, INC. IN JANUARY 2024. HORIZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD83. ESTABLISHED BY SURVEY GRADE GPS OBSERVATIONS. UNITS: US SURVEY FOOT.
  - APPROXIMATE LOCATIONS OF BUILDINGS ON ABUTTING LOTS WITHIN 100 FEET OF SUBJECT PARCEL WERE DELINEATED VIA GOOGLE AERIAL PHOTOGRAPHY ON APRIL 25, 2024.
  - WETLANDS WERE DELINEATED BY JOSEPH W. NOEL CHS #086 ON APRIL 24, 2024.
  - SOILS WERE DELINEATED BY EMANUEL ENGINEERING, INC. ONLINE VIA THE USDA-NRCS WEB SOIL SURVEY ON APRIL 25, 2024.
  - PROPERTY TO BE SERVICED BY ON-SITE WELL AND SEPTIC.
  - ALL CONSTRUCTION SHOULD COMPLY WITH FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS.
  - THIS PLAN WAS PREPARED WITH ON-SITE FIELD SURVEY AND EXISTING PLANS. THE CONTRACTOR SHOULD NOTIFY EMANUEL ENGINEERING, INC. DURING CONSTRUCTION IF ANY DISCREPANCY TO THE PLAN IS FOUND ON SITE.
  - BEFORE ANY EXCAVATION, DIG SAFE AND ALL UTILITY COMPANIES SHOULD BE CONTACTED 72 HOURS BEFORE COMMENCING BY THE CONTRACTOR. CALL DIG SAFE @ 811 OR 1-888-DIG-SAFE.
  - ALL UTILITIES SHALL BE LOCATED UNDERGROUND EXCEPT AS NOTED ON PLAN APPROVED BY THE PLANNING BOARD.
  - THE LANDOWNER IS RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL WETLANDS REGULATIONS, INCLUDING ANY PERMITTING AND SETBACK REQUIREMENTS REQUIRED UNDER THESE REGULATIONS.

- REFERENCE PLANS:**
- "SUBDIVISION OF LAND FOR WALTER BIERY" BY EMANUEL COMPANIES, INC.; DATED NOVEMBER 11, 1993; SCALE: 1"=50'; RCRD D-22644.
  - "LIMITED SUBDIVISION - DAVID CARBONNEAU LAND" BY DAVID R. NOYES; DATED JANUARY 9, 1976; SCALE: 1"=50'; RCRD G-5855.

|            |                       |              |      |
|------------|-----------------------|--------------|------|
| 1          | APR 30, 2024          | FOR APPROVAL |      |
| ISS. DATE: | DESCRIPTION OF ISSUE: |              | CHK. |
| DRAWN:     | JJM                   | DESIGN:      | JJM  |
| CHECKED:   | BDS                   | CHECKED:     | BDS  |

**EMANUEL ENGINEERING**  
118 PORTSMOUTH AVENUE, A202  
STRATHAM, NH 03885  
P: 603-772-4400 F: 603-772-4487  
WWW.EMANUELENGINEERING.COM

CLIENT:  
**DENNIS BIERY**  
133 NORTH SHORE ROAD  
DERRY, NH 03038

TITLE:  
**NHDES SUBDIVISION PLAN FOR BIERY FAMILY TRUST 165A KINGSTON ROAD (SITE) EXETER, NH 03833**

|          |        |        |
|----------|--------|--------|
| PROJECT: | SCALE: | SHEET: |
| 23-1138  | 1"=50' | C3     |

SEAL:





EMANUEL ENGINEERING, INC.  
118 PORTSMOUTH AVENUE  
STRATHAM, NH 03885

EMANUEL ENGINEERING, INC.  
118 PORTSMOUTH AVENUE  
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JAMES VERRA &  
ASSOCIATES, INC.  
101 SHATTUCK WAY, SUITE 8  
NEWINGTON, NH 03801

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101 SHATTUCK WAY, SUITE 8  
NEWINGTON, NH 03801

JAMES VERRA &  
ASSOCIATES, INC.  
101 SHATTUCK WAY, SUITE 8  
NEWINGTON, NH 03801

MARSHALL LAW OFFICE PLLC  
47 DEPOT ROAD  
EAST KINGSTON, NH 03827

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47 DEPOT ROAD  
EAST KINGSTON, NH 03827

MARSHALL LAW OFFICE PLLC  
47 DEPOT ROAD  
EAST KINGSTON, NH 03827

JOSEPH W. NOEL  
P.O. BOX 174  
SOUTH BERWICK, ME 03908

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SOUTH BERWICK, ME 03908

JOSEPH W. NOEL  
P.O. BOX 174  
SOUTH BERWICK, ME 03908

TOWN OF EXETER  
10 FRONT STREET  
EXETER, NH 03833

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10 FRONT STREET  
EXETER, NH 03833

TOWN OF EXETER  
10 FRONT STREET  
EXETER, NH 03833

BIERY FAMILY TRUST  
133 NORTH SHORE ROAD  
DERRY, NH 03038

BIERY FAMILY TRUST  
133 NORTH SHORE ROAD  
DERRY, NH 03038

BIERY FAMILY TRUST  
133 NORTH SHORE ROAD  
DERRY, NH 03038

THOMAS OWEN CONKLIN JR.  
1 FARMINGTON ROAD  
EXETER, NH 03833

THOMAS OWEN CONKLIN JR.  
1 FARMINGTON ROAD  
EXETER, NH 03833

THOMAS OWEN CONKLIN JR.  
1 FARMINGTON ROAD  
EXETER, NH 03833

DANIEL W. JONES REVOCABLE TRUST  
P.O. BOX 526  
EXETER, NH 03833

DANIEL W. JONES REVOCABLE TRUST  
P.O. BOX 526  
EXETER, NH 03833

DANIEL W. JONES REVOCABLE TRUST  
P.O. BOX 526  
EXETER, NH 03833

SUZANNE SPECIALE FAMILY TRUST  
165 KINGSTON ROAD  
EXETER, NH 03833

SUZANNE SPECIALE FAMILY TRUST  
165 KINGSTON ROAD  
EXETER, NH 03833

SUZANNE SPECIALE FAMILY TRUST  
165 KINGSTON ROAD  
EXETER, NH 03833

CAREN D. VENCIS  
163 KINGSTON ROAD  
EXETER, NH 03833

CAREN D. VENCIS  
163 KINGSTON ROAD  
EXETER, NH 03833

CAREN D. VENCIS  
163 KINGSTON ROAD  
EXETER, NH 03833

KATIE FIERMAN  
161 KINGSTON ROAD  
EXETER, NH 03833

KATIE FIERMAN  
161 KINGSTON ROAD  
EXETER, NH 03833

KATIE FIERMAN  
161 KINGSTON ROAD  
EXETER, NH 03833

## Planning Board Fee Calculation

By Emanuel Engineering, Inc.  
Project: Biery, Dennis - Exeter  
EEI #: 23-1138  
Date: 05/23/24

| <b>Type: Non-residential Site Plan Review</b> |             |                  |                 |
|---|-------------|------------------|-----------------|
| <b>Item</b>                                   | <b>Unit</b> | <b>Cost/Unit</b> | <b>Cost</b>     |
| Application                                   | Flat Fee    | \$100            | \$100.00        |
| Abutter Notice                                | 11 abutters | \$10/abutter     | \$110.00        |
| Legal Notice Fee                              | Flat Fee    | \$50             | \$50.00         |
| <b>Total</b>                                  |             |                  | <b>\$260.00</b> |





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LIZABETH M. MACDONALD  
JOHN J. RATIGAN  
ROBERT M. DEROSIER  
CHRISTOPHER L. BOLDT  
SHARON CUDDY SOMERS  
DOUGLAS M. MANSFIELD  
KATHERINE B. MILLER  
CHRISTOPHER T. HILSON  
HEIDI J. BARRETT-KITCHEN  
JUSTIN L. PASAY  
ERIC A. MAHER  
CHRISTOPHER D. HAWKINS  
ELAINA L. HOEPPNER  
WILLIAM K. WARREN  
BRIANA L. MATUSZKO  
ALI GENNARO

May 15, 2024

Esther Olson-Murphy, Acting Chair  
Zoning Board of Adjustment  
Town of Exeter  
10 Front St  
Exeter, NH 03833

RETIREED  
MICHAEL J. DONAHUE  
CHARLES F. TUCKER  
ROBERT D. CIANDELLA  
DENISE A. POULOS  
NICHOLAS R. AESCHLIMAN

Re: Application of RiverWoods Company of Exeter for Height and Landscape Buffer  
Encroachment Buffer

Dear Chair Olson-Murphy and Members of the ZBA :

Attached please find a Partial Motion for Rehearing. RiverWoods is not appealing the denial of the height variance nor the denial of the landscape encroachment buffer as it pertains to the service road and adjacent parking. RiverWoods is requesting a rehearing of the decision to deny the variance to allow eleven parking spaces to encroach into a portion of the landscape buffer on what was formerly 67 Kingston Road. The request for rehearing makes reference to a submittal made on April 8, 2024 at the request of the ZBA and which shows the entirety of the RiverWoods property. For your convenience, we have attached a copy of that plan along with the motion to rehear.

We ask that this matter be taken up at the next ZBA meeting. If there are any questions, please do not hesitate to contact me.

Very truly yours,  
DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers  
SCS/sac  
Enclosures

cc: Justine Vogel

4883-6607-6862, v. 1

DONAHUE, TUCKER & CIANDELLA, PLLC  
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833  
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801  
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253  
83 Clinton Street, Concord, NH 03301

**PARTIAL MOTION TO REHEAR VARIANCE FOR BUFFER  
ENCROACHMENT ZBA CASE 24-4**

Introduction – This constitutes a Motion for Rehearing by the RiverWoods Company, at Exeter, New Hampshire (“RiverWoods”) from the Zoning Board of Adjustment’s (“ZBA”) denial of RiverWoods Applications for Variances on April 19, 2024, pursuant to RSA 677:2 and RSA 677:3. This motion is timely filed pursuant to the requirements of RSA 677:2 and Bosnetto v. Town of Richmond, 163 N.H. 736, 742 (2012).

**I. Factual Context**

RiverWoods Applications for Variances for height relief and landscape buffering were both heard on March 16, 2024. Following deliberations by the ZBA on March 16, 2024, both variances were denied on April 19, 2024. RiverWoods does not contest the denial of the height variance. With regard to the landscape buffer encroachment variance, this variance was denied because it did not meet the public interest and spirit and intent criteria nor the hardship criteria. RiverWoods does not contest the denial of the landscape buffer variance as it pertains to the service road and parking immediately adjacent to the proposed building. RiverWoods does contest the denial of the landscape buffer variance as it pertains to the construction of eleven parking spaces within the landscape buffer located on what was 67 Kingston Road.

**II. Argument**

a. Standard for Granting a Motion for Rehearing

The “rehearing process is designed to afford local zoning boards of adjustment an opportunity to correct their own mistakes before appeals filed with the court.” Loughlin, New Hampshire Practice, 15 Land Use Planning and Zoning § 21.19. In general, requests for rehearings should be granted “only if the petitioner can demonstrate that the Board committed error or that there is new evidence that was not available at the time of the first hearing.” Id. at § 21.18. The ZBA may grant such a rehearing if in its opinion good reason is stated in the motion.

b. Evidence Submitted at March 16, 2024 Meeting

The following evidence was submitted by the applicant to show that the variance criteria were met:

1. The variance for the buffer encroachment pertains to eleven proposed parking spaces within the buffer area abutting property owned by Ruth Hooten.
2. Evidence presented by Erik Saari of Altus Engineering indicates that operational needs require parking for visitors and staff on what was formerly 67 Kingston Road and the site plan shows that these parking spaces are encroaching in the landscape buffer so as to avoid being placed in wetlands. Mr. Saari further indicated that the siting of the project is based on the need for a central location and on the limited options to achieve this goal

given wetlands and conservation restrictions on much of the RiverWoods property. See also Petitioner's Exhibit 1 submitted on April 8, 2024.

3. Evidence was presented by Robbi Woodburn that on the property which previously was 67 Kingston Road that a 3 foot high berm will be created to gain height and 12-16 foot evergreens will be planted, both of which will block the view of the proposed parking from the abutting property. Further, Robbi Woodburn indicated that additional evergreens will be planted along the edge of Mrs. Hooten's property. See Final Minutes of March 16, 2024, p. 5.
4. RiverWoods argued that based on the evidence presented the variance would not be contrary to the public interest and the spirit and intent of the ordinance; under New Hampshire law, both criteria are to be viewed in tandem. Specifically, RiverWoods argued that no buildings were encroaching in the buffer area and that the area to be encroached upon for use as 11 parking spaces will have berms and planting to block the view of the 11 cars parked in the encroached area. Riverwoods also indicated the 11 parking spaces encroaching in the buffer to the Hooten property would be for staff and visitors. (See, Final Minutes of March 16, 2024, p. 6)<sup>1</sup>
5. RiverWoods argued that the substantial justice component of the variance criteria was met for the 11 parking spaces on what was formerly 67 Kingston Road. RiverWoods noted that denial of the variance for 11 parking spaces at the proposed location would harm the ability to provide parking for visitors and would not result in any corollary gain to the public. Failure to meet the substantial justice criteria was not cited as part of the rationale for denying the variance.
6. RiverWoods argued that there is no diminution of property values resulting from the encroachment, citing the opinion report by Brian White to confirm no diminution in property values. (p. 7) and the Board concurred that there was no diminution of property values.
7. RiverWoods argued that the hardship criteria was met, and regarding the special condition of the property, presented statistics noting the size of the parcel at 204 acres and that a landscape buffer must exist for the entirety of the property consisting of all merged parcels. RiverWoods argued that there was no fair and substantial relation between the purpose of the ordinance and the application given that the property directly impacted by the encroachment for parking will be shielded from the parking due to a berm and plantings. RiverWoods also indicated that given the total amount of landscape buffer which will remain intact on all RiverWoods properties and taking into account that the use and the location of the health center are allowed as a matter of right, that the request is reasonable. (See, Final Minutes of March 16, 2024, p. 7).

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<sup>1</sup> In discussion at the April 19, 2024 ZBA meeting, evidence was presented that White Oak Drive was an access road and therefore not subject to the requirements of the zoning ordinance. The ZBA acknowledged this fact and correctly did not note White Oak Drive as part of the denial of the variance.

C. The ZBA's Conclusion that Granting the Variance Will Be Contrary to the Public Interest was Erroneous; Likewise, the Decision that Granting the Variance Violates the Spirit and Intent of the Ordinance Was Erroneous

1. In denying this variance, the ZBA focused on the encroachment concerning the service road and on whether the encroachments will alter the essential character of the neighborhood. However, to the extent that their analysis pertained to the encroachment for the eleven parking spaces under discussion here, the ZBA conflated their concerns about the proposed size and location of the health center building with the analysis required to determine whether the proposed encroachments themselves will alter the essential character of the neighborhood. The answer to that limited question is no, and the ZBA committed error in not separating out the nature of the concerns about the character of the neighborhood relative to the healthcare building and the character of the neighborhood relative to the limited encroachments in the buffer. Given that the health center building meets dimensional requirements, it will now be within the jurisdiction of the Planning Board to address the concerns raised by the ZBA and members of the public.

D. The ZBA's Conclusion that the Hardship Criteria Was Not Met Was Erroneous

1. The ZBA correctly noted that there are special conditions associated with this property by way of the size and shape of the lot and location of the gas easement and wetlands.
2. The ZBA committed error in concluding that there was no fair and substantial relationship between the purpose of the ordinance and its application to the facts at hand. The purpose of the ordinance is to provide adequate division or transition from abutting land uses and having vegetation that is sufficient in size to shield the development from abutting properties. The ZBA did not specifically address this criteria in relation to the 11 parking spaces on 67 Kingston Rd., however, the Board failed to acknowledge that the 11 parking spaces in question will be shielded from view of the abutting property by means of a berm and plantings, thus satisfying the underlying purpose of the ordinance. Further, the Board failed to acknowledge that failure to allow the 11 parking spaces in the proposed area will likely require redesign to include such parking in the wetlands.
3. The ZBA committed error in concluding that the proposed limited encroachment was unreasonable. In so doing, the ZBA conflated their questions about the size of the proposed health center, no portion of which encroaches into the buffer and which use and location is allowed as a matter of right, with the possible effects of the encroachment itself into a small portion of the buffer area which surrounds the entirety of the RiverWoods property. While RiverWoods did not have an opportunity to comment during the April 19, 2024 meeting due to the fact that the public hearing has closed, it is noteworthy that, following on the March 16, 2024 meeting, that RiverWoods calculated that the total encroached area next to the Hooten property is 3,354 sq feet. This figure should be compared to the total buffer area shown on Petitioner's Exhibit 1 which will remain unaffected. Thus, put in context, the Board committed an error in failing to take into account the modest amount of buffer impacted.

4. The Board also committed an error in failing to understand that the limited encroachment is driven by a lack of alternative sites for the proposed health center, and that these lack of alternatives are the driver behind the variance request. As presented to the Board on Petitioner's Exhibit 1, RiverWoods showed that the vast majority of RiverWoods property is subject to either wetlands or conservation easements. (See green area shown on Petitioner's Exhibit 1). This fact coupled with the need to honor the landscape buffer on the remaining portions of the property meant that there are no available options for siting the project. Despite this fact, the ZBA continued to insist that alternative locations existed which would prevent the need to encroach in the landscape buffer. In failing to recognize the inaccurate nature of this conclusion, the ZBA committed an error.

### III. Conclusion

The ZBA's decision was unlawful and unreasonable. The ZBA committed an error by determining that the landscape buffer encroachment variance, specifically as applied to the eleven parking spaces on what was formerly 67 Kingston Road, do not meet the criteria set forth above. There are compelling reasons to grant a partial rehearing to address the denial of a landscape buffer variance to allow the above referenced parking spaces.

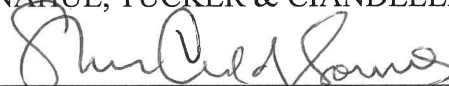
RESPECTFULLY SUBMITTED

The RiverWoods Company, at Exeter, New  
Hampshire  
By its Attorneys,

DONAHUE, TUCKER & CIANDELLA, PLLC

Date: May 15, 2024

By:



Sharon Cuddy Somers, Esquire  
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NOT FOR CONSTRUCTION

ISSUED FOR: PRESENTATION

ISSUE DATE: APRIL 5, 2024

| REVISIONS | NO.        | DESCRIPTION | BY  | DATE     |
|-----------|------------|-------------|-----|----------|
| 0         | CONCEPTUAL |             | EBS | 04/05/24 |

DRAWN BY: \_\_\_\_\_ EBS  
APPROVED BY: \_\_\_\_\_ EBS  
DRAWING FILE: 5015-SITE.dwg

SCALE:  
24" x 36" - 1" = 200'  
11" x 17" - 1" = NTS

OWNER:  
RIVERWOODS GROUP  
5 WHITE OAK DRIVE  
EXETER, NH 03833

APPLICANT:  
RIVERWOODS GROUP  
5 WHITE OAK DRIVE  
EXETER, NH 03833

PROJECT:  
RIVERWOODS SUPPORTIVE LIVING HEALTH CENTER  
TAX MAP 80 LOT 18  
5 WHITE OAK DRIVE  
EXETER, NH 03833

TITLE:  
OVERALL CAMPUS PLAN

SHEET NUMBER:  
**EXH-1**

