

## PLANNING DEPARTMENT

Town of Durham

8 Newmarket Road

Durham, NH 03824-2898

Phone (603) 868-8064

[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

## **CONDITIONAL USE APPLICATION**

Date: 9-22-24

### **Property information**

Property address/location: 4 Riverview Court

Tax map #: 214; lot #'s): 11; Zoning District: Res

### **Property owner**

Name (include name of individual): Arthur McManus

Mailing address: 29 Frontier St Rye NH 03870

Telephone #: 603-303-8509 Email: arthurlmcmanus@hotmail.com

### **Engineer, Surveyor, or Other Professional**

Name (include name of individual): Fieldstone Land Consultants – Chris Guida, C.S.S., C.W.S.

Mailing address: 206 Elm St, Milford NH 03055

Telephone #: 603-801-2848

Email address: CAGuida@FieldstoneLandConsultants.com

### **Proposed project**

Activity within the WCOD X; Activity within the SPOD X; Other proposal or activity \_\_\_\_\_

**What is the proposed project?** This proposal includes the request to add a detached carriage house for two vehicle storage, extending the existing driveway to provide vehicle access to carriage house, as part of driveway work take advantage of this effort to submerge utilities (electrical/communication) lines to house, and lastly add a shed.

The detached carriage house will be 25'x28' and will provide vehicle storage (with living space above) to the furthest possible point away from Oyster River while meeting all setbacks. We will extend the existing driveway to provide vehicle access to carriage house and create a circular driveway back up to Riverview Court by taking advantage of an existing maintenance access path/road (already clear of trees as its currently used for maintenance access for utilities/services to the house. As part of the driveway work, we'd like to invest in submerging utilities (electrical/communication) from Riverview Court utility pole to the house (and back to the carriage house). Lastly is a request to add a 12'x18' shed to the northwest part of the property.

**Which provision in the zoning ordinance calls for this conditional use?**

175-72. Conditional Uses in the SPOD.

**Justification for granting the conditional use:**

We believe that this request meets the 4 specific criteria and all 8 general use criteria for receiving approval.

The proposed is the furthestmost point on the property for a 2-car carriage house while staying within the setbacks.

Soil disturbance will be done only to the extent needed to complete the designs outlined in the plan and will not significantly change the appearance of the grading in the area. The plans have been designed to maintain the existing grade as much as possible by utilizing all retaining methods possible.

There project will have is minimal impact on woodlands and healthy trees and any impact to the elevations will be designed and implemented to mitigate impact to disturbed soil during and after construction.

There will be no impact to any rare species, rare habitats, water quality, aquatic connectivity, or wildlife corridors.

**Have you completed the conditional use checklist? Yes**

*(over)*

## Other Information

Please note the following:

- Coordinate with Michael Behrendt, the Durham Town Planner, at 868-8064 or [mbehrendt@ci.durham.nh.us](mailto:mbehrendt@ci.durham.nh.us) about the process and other information that may be needed.
- Coordinate with Tracey Cutler, Planning Department Administrative Assistant, at 868-8064 or [tcutler@ci.durham.nh](mailto:tcutler@ci.durham.nh) about fees and preparing the abutters list. All property owners within 300 feet of the site will be notified about the application and public hearing.
- Please be sure to attend all meetings of the Planning Board and the Conservation Commission, if the latter will be making a recommendation.
- The Planning Board may schedule a site walk after the first meeting.
- A public hearing will be held on the application. A sign must be placed on the property by the applicant at least 10 days prior to the hearing.
- The applicant will need to address the eight general conditional use criteria. For conditional uses within the Wetland or Shoreland Overlay Districts four additional specific criteria must be addressed by the applicant.
- For conditional uses within the Wetland or Shoreland Overlay Districts, the application will be presented to the Conservation Commission for a recommendation.
- See Article VII in the Zoning Ordinance for additional information about conditional uses.
- We encourage you to check with the New Hampshire Division of Environmental Services to see if any state permits are needed prior to spending money on any Town applications.

## Abutter Notices

**\*\*\*Please note. It is the sole responsibility of the applicant to prepare the abutters list with labels/envelopes accurately.** Coordinate with Tracey Cutler on the process. It is critical that applicants include correct updated information. Courts are strict about notifications and may overturn approvals for failure to provide correct information on abutter names and addresses.

## Submission of application

This application must be signed by the property owner(s) *and/or* the agent.

*I(we) attest to the best of my(our) knowledge that all of the information on this application form and in the accompanying application materials and documentation is true and accurate. As agent, I attest that I am duly authorized to act in this capacity.*

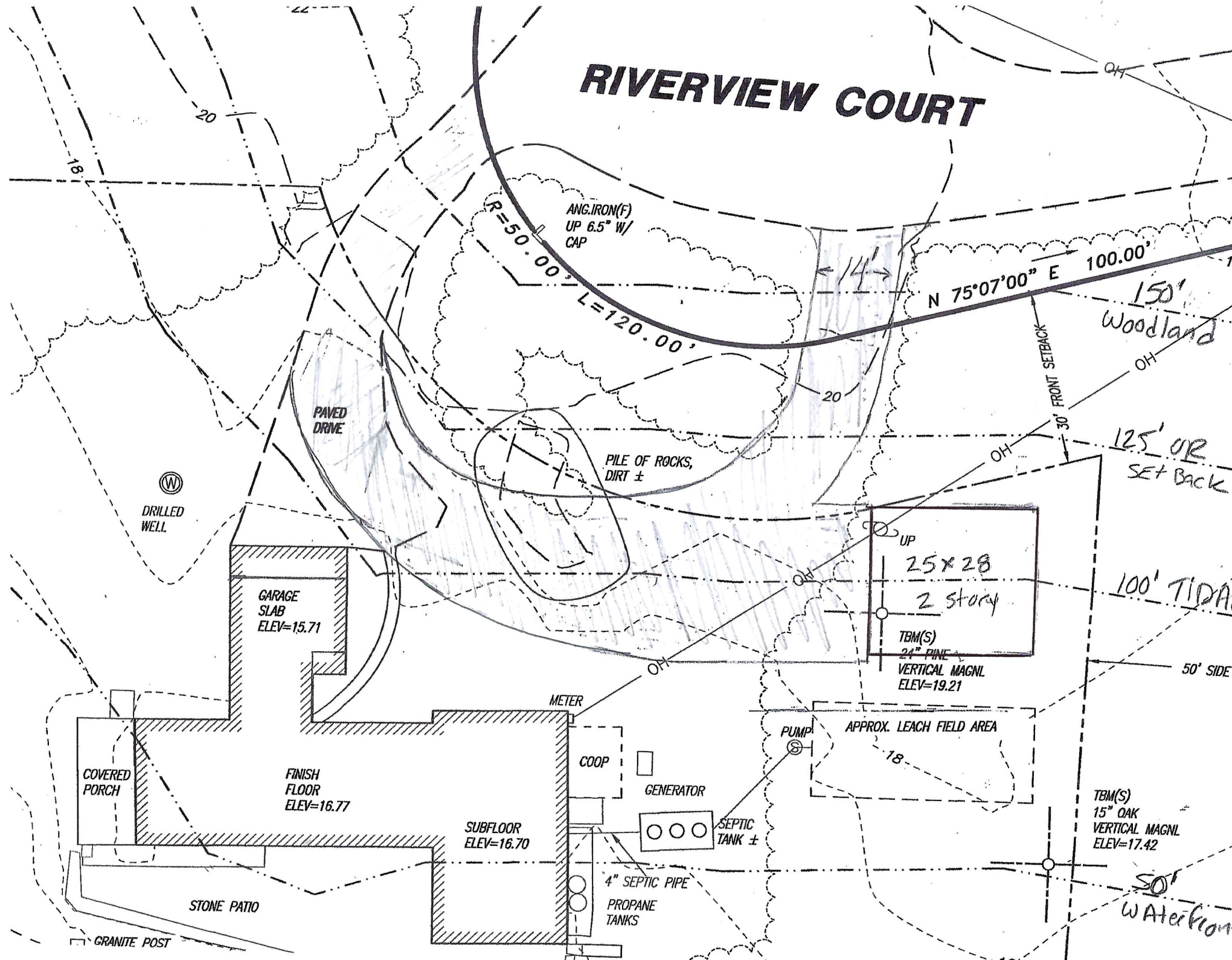
Signature of property owner: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of agent: \_\_\_\_\_

Date: \_\_\_\_\_

# RIVERVIEW COURT



ANG. IRON(F)  
UP 6.5° W/  
CAP

R=50.00'  
L=120.00'

N 75°07'00" E 100.00'

150'  
Woodland

PAVED  
DRIVE

PILE OF ROCKS,  
DIRT ±

30' FRONT  
SETBACK

125' OR  
SET BACK

Ⓜ  
DRILLED  
WELL

GARAGE  
SLAB  
ELEV=15.71

UP  
25x28  
2 story  
TBM(S)  
24" PINE  
VERTICAL MAGN.  
ELEV=19.21

100' TIDAL

50' SIDE

COVERED  
PORCH

FINISH  
FLOOR  
ELEV=16.77

METER

COOP

GENERATOR

PUMP

APPROX. LEACH FIELD AREA

SUBFLOOR  
ELEV=16.70

SEPTIC  
TANK ±

TBM(S)  
15" OAK  
VERTICAL MAGN.  
ELEV=17.42

STONE PATIO

4" SEPTIC PIPE  
PROPANE  
TANKS

50'  
Waterfront

GRANITE POST

## Durham Zoning Ordinance – 8 Conditional Use General Criteria

### 175-23. Approval Criteria.

...C. **Criteria Required for Consideration of a Conditional Use Permit.** A conditional use permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following conditional use permit criteria (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application):

1. Site suitability: The site is suitable for the proposed use. This includes:

a. Adequate vehicular and pedestrian access for the intended use.

*The proposed extension of the existing driveway to be aligned with new carriage house orientation will meet current standards allowing safe access for users.*

b. The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.

*The proposed use will only require electric/communication cable utility services. The proposed services will be brought to the site through underground conduit(s) from new utility pole/services on Riverview Court. The proposed renovation includes a new on-site septic system for wastewater disposal. The new driveway extension will provide upgraded access to property maintenance needs as well as clear access to house for fire and safety vehicles.*

c. The absence of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.

NA

d. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

*The proposed use will require electric/communication cable utility services. The proposed services will be brought to the house through a utility drop and underground conduit(s) from a utility pole/service on Riverview Court during the construction of the driveway to minimize impact to the lot. This work to submerge utilities will also be used to provide electricity, water, and sewer to the carriage house. The proposed renovation includes a new on-site septic system for wastewater disposal. A separate replacement system permit will be submitted.*

2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

*The proposed carriage house is set within both front and side setbacks. The proposed project also includes extending the existing driveway to create a circular driveway and will not have any impacts greater than the impacts of adjacent existing uses as the abutting parcels and other nearby parcels have similar structures. It will not significantly increase traffic, noise, odors, vibrations, dust fumes, exterior lighting, and glare.*

3. Character of the site development: The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood. This shall include, but not be limited to, the relationship of the building to the street, the amount, location, and screening of off-street parking, the treatment of yards and setbacks, the buffering of adjacent properties, and provisions for vehicular and pedestrian access to and within the site.

*The proposed carriage house is set within both front and side setbacks. It will be a two-story carriage house with vehicle storage below and living area above. To accommodate the new vehicle storage in the carriage house we seek the approval to extend the existing driveway in front of the house looping to meet the carriage house and then back to Riverview Court to create a circular driveway.*

4. Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, the architectural treatment of the front or street elevation, the location of the principal entrance, and the material and colors proposed to be used.

*The two car, two story carriage house will be consistent with other properties in the neighborhood. The structure will meet the Town of Durham dimensional requirements including maximum height (30 feet) and including all impervious aspects of this proposal, still will be less than 10% (well short of the maximum impervious lot coverage of 20%).*

5. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

NA

6. Impact on property values: The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.

*The project will not cause nor contribute to a significant decline in property values of adjacent properties since it will have similar features and development of the neighborhood.*

7. Availability of Public Services & Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured, to the end that the

use will be capable of proper operation. In addition, it must be determined that these services will not cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

*The proposed use will require electric/communication cable utility services. The proposed services will be brought to the house through a utility drop and underground conduit(s) from a utility pole/service on Riverview Court during the construction of the driveway to minimize impact to the lot. This work to submerge utilizes will also be used to provide electricity, water, and sewer to the carriage house. The proposed renovation includes a new on-site septic system for wastewater disposal. A separate replacement system permit will be submitted.*

8. Fiscal impacts: The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the fiscal impact of the project on the town. The Planning Board may commission, at the applicant's expense, an independent analysis of the fiscal impact of the project on the town.

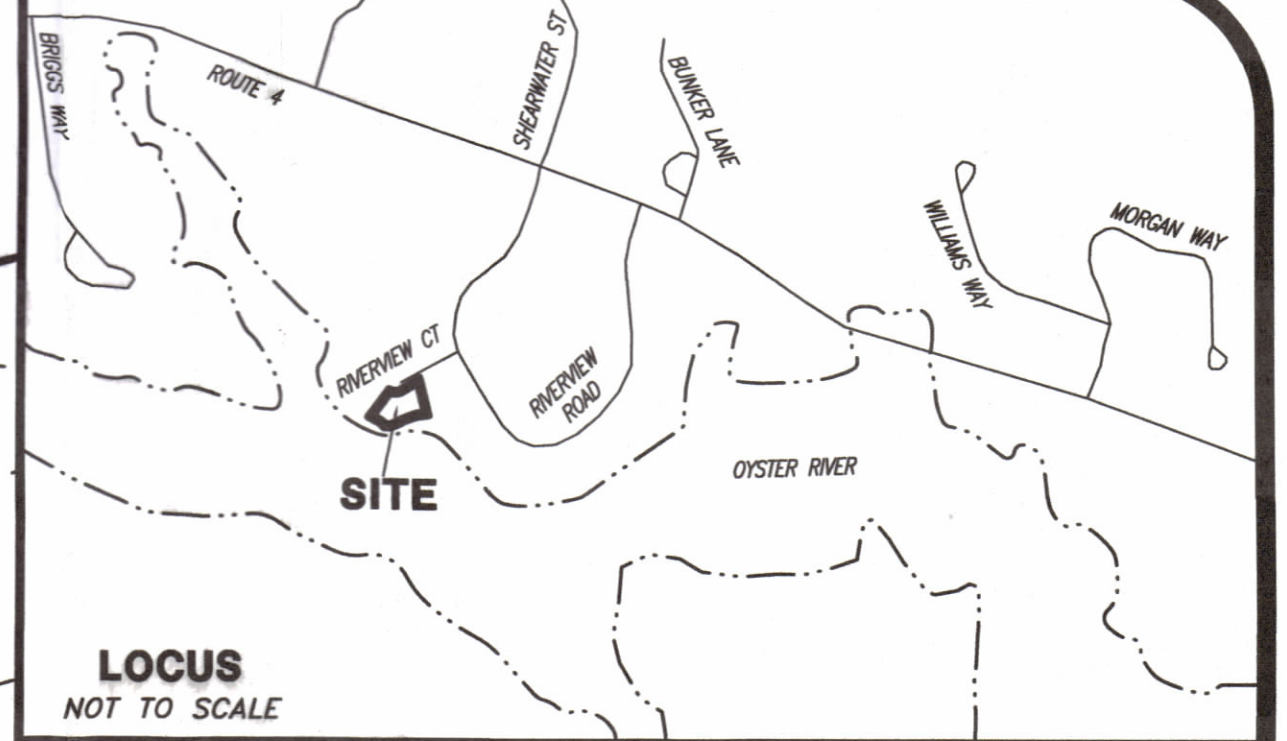
*The redevelopment is not a change of use, therefore will not have a negative fiscal impact on the neighborhood or the Town of Durham.*

**214-12**  
**AHMAD ETEBARI & MAHANAZ MOALLEMI**  
 3 RIVERVIEW COURT  
 DURHAM, NH 03824  
 BK 2814 PG 607 7/30/2003

**214-13**  
**MATCHING DONORS**  
**ORG., INC.**  
 766 TURNPIKE STREET  
 CANTON, MA 02021  
 BK 4837 PG 946 11/25/2020

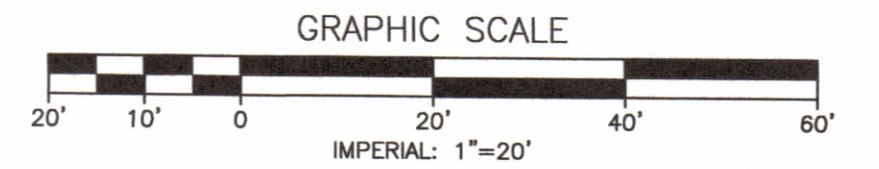
**214-10**  
**JAMES V. MCKIERNAN**  
**2016 REVOCABLE TRUST**  
 2 RIVERVIEW COURT  
 DURHAM, NH 03824  
 BK 4447 PG 231 12/21/2016

**214-11**  
**1.6 +/- ACRES**  
 (PER TAX CARD)



**REFERENCE PLAN:**  
 "SUBDIVISION PLAN - OYSTER RIVER DEVELOPMENT - SECTION 2 LOTS 8 THROUGH 24" - SCALE 1"=50', DATED FEBRUARY 21, 1959 - PREPARED BY G.L. DAVIS AND ASSOCIATES AND RECORDED IN THE SCRD AS PLAN 30A POCKET 4 FOLDER 3

- NOTES:**
- THE OWNERS OF RECORD FOR TAX MAP 214 LOT 11 ARE ARTHUR L. MCMANUS, JR. & DEBORAH MCMANUS OF 29 FRONTIER STREET, RYE, NH 03870. SEE S.C.R.D. BK. 5180 PG. 597 DATED 4/29/2024.
  - THE PURPOSE OF THIS PLAN IS TO DEPICT THE EXISTING OBSERVABLE CONDITIONS AND PROPOSED ADDITIONS FOR TAX MAP 214 LOT 11, AS SHOWN.
  - ZONING FOR TAX MAP 214 LOT 11 IS RC (RESIDENCE COASTAL), MINIMUM BUILDING SETBACKS INCLUDE 125 FT. TOWN SHORELAND, 50 FT. SIDE, AND 30 FT. FRONT.
  - THE SURFACE FEATURES SHOWN WERE DEVELOPED FROM THE REFERENCE PLAN CITED HEREON TOGETHER WITH AN ON THE GROUND FIELD SURVEY BY THIS OFFICE DURING THE MONTH OF AUGUST, 2024.
  - HORIZONTAL ORIENTATION IS BASED UPON THE REFERENCE PLAN NOTED HEREON. VERTICAL DATUM IS NAVD88 PER A GPS CORS SOLUTION.
  - TAX MAP 214 LOT 11 IS SUBJECT TO NH SHORELAND WATER QUALITY PROTECTION ACT (RSA 483-B) AND ITS ASSOCIATED RULES, ENV-WQ 1400.
  - LOT LINES ARE SHOWN PER THE REFERENCE PLAN NOTED HEREON. THIS IS NOT TO BE CONSIDERED A BOUNDARY SURVEY BY THIS OFFICE.
  - A PORTION OF THE PARCEL IS SUBJECT TO THE 100 YEAR FLOOD HAZARD AREA ZONE AE PER FEMA FIRM MAP #33017C0320E, REVISED DATE 9/30/2015.
  - NO EASEMENTS WERE RECOVERED BY THIS OFFICE FOR THE SUBJECT PARCEL.



REV.	DATE	DESCRIPTION	C/O	DR	CK

**PROPOSED CONSTRUCTION PLOT PLAN**

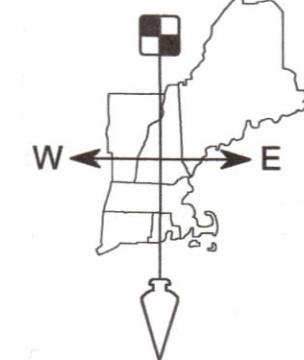
**TAX MAP 214 LOT 11**  
**(4 RIVERVIEW COURT)**  
**DURHAM, NEW HAMPSHIRE**

PREPARED FOR:  
**ARTHUR MCMANUS**  
 29 FRONTIER STREET, RYE, NH 03870

LAND OF:  
**ARTHUR L. MCMANUS, JR.**  
**& DEBORAH MCMANUS**  
 29 FRONTIER STREET, RYE, NH 03870

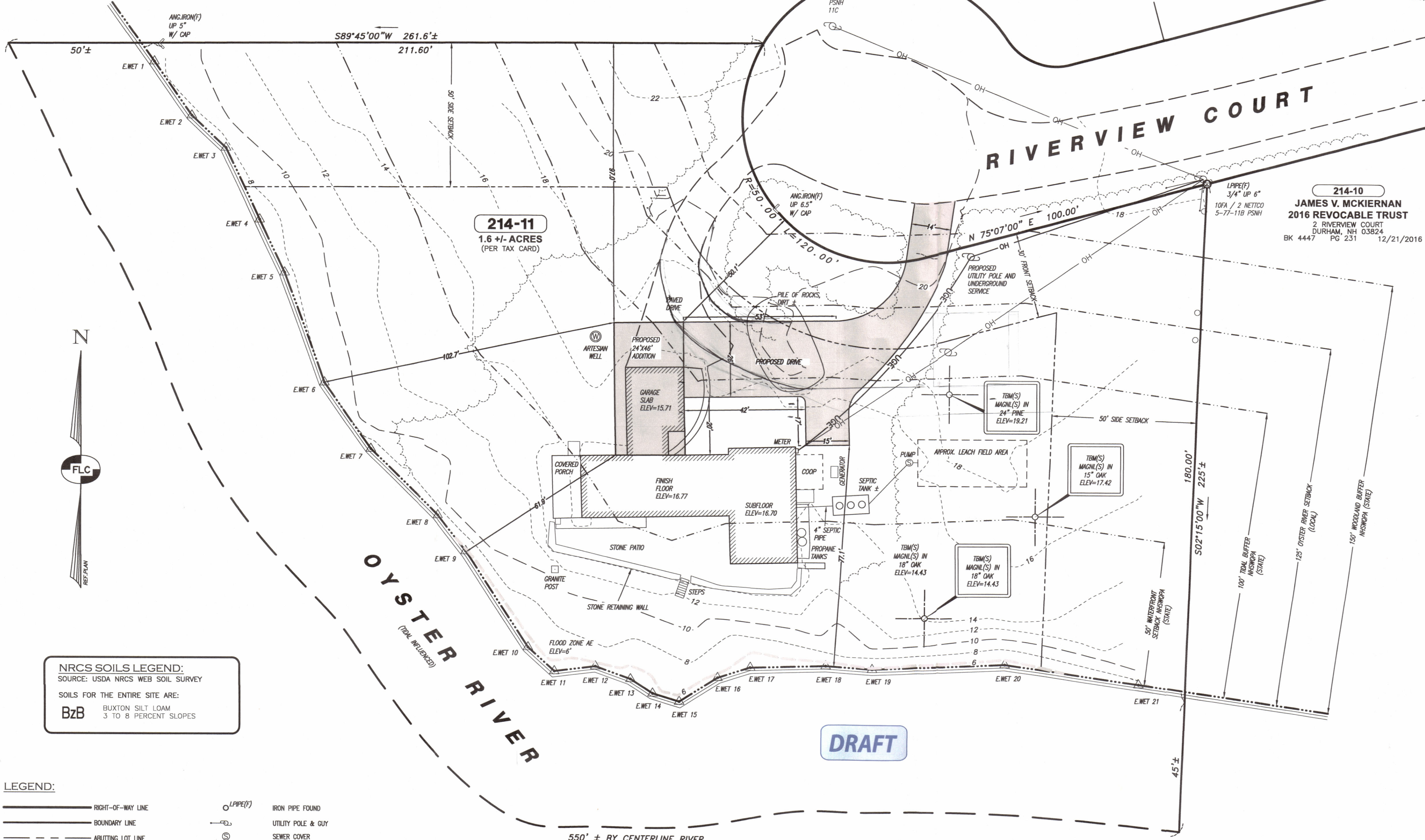
SCALE: 1" = 20' SEPTEMBER 6, 2024

Surveying ♦ Engineering ♦ Land Planning ♦ Permitting ♦ Septic Designs



**FIELDSTONE**  
**LAND CONSULTANTS, PLLC**

206 Elm Street, Milford, NH 03055  
 45 Roxbury Street, Keene, NH 03431  
 Phone: (603) 672-5456 Fax: (603) 413-5456  
 www.FieldstoneLandConsultants.com



**NRCS SOILS LEGEND:**  
 SOURCE: USDA NRCS WEB SOIL SURVEY  
 SOILS FOR THE ENTIRE SITE ARE:  
**BzB** BUXTON SILT LOAM  
 3 TO 8 PERCENT SLOPES

- LEGEND:**
- RIGHT-OF-WAY LINE
  - BOUNDARY LINE
  - ABUTTING LOT LINE
  - BUILDING SETBACK LINE
  - EDGE OF PAVEMENT
  - EDGE OF TREE LINE
  - 10' CONTOUR INTERVAL
  - 2' CONTOUR INTERVAL
  - OVERHEAD UTILITY LINE
  - SHORELAND SETBACK LINE
  - EDGE OF WETLANDS
  - WETLANDS BUFFER LINE
  - CENTERLINE OF RIVER ±
  - FLOOD ZONE AE
  - IRON PIPE FOUND
  - UTILITY POLE & GUY
  - SEWER COVER
  - EXISTING BUILDING
  - TAX MAP & LOT NUMBER
  - ANGLE IRON FOUND
  - PROPOSED BUILDING
  - PROPOSED EDGE OF PAVEMENT

**CERTIFICATION:**  
 WETLANDS WERE DELINEATED IN ACCORDANCE WITH THE US ARMY CORPS OF ENGINEERS 1987 WETLAND DELINEATION MANUAL Y-87-1 AND INTERIM REGIONAL SUPPLEMENT FOR NORTHEAST AND NORTHCENTRAL REGION AND FIELD INDICATORS FOR HYDRIC SOILS IN NEW ENGLAND BY CHRISTOPHER A. GUIDA, C.W.S. IN JULY, 2024.

DATE: \_\_\_\_\_

**CERTIFICATION:**  
 I HEREBY CERTIFY THAT THE EXISTING IMPROVEMENTS SHOWN ARE THE RESULT OF AN ON-SITE FIELD SURVEY PERFORMED BY FIELDSTONE LAND CONSULTANTS, PLLC DURING THE MONTH OF AUGUST, 2024.

DATE: \_\_\_\_\_

**DRAFT**



### Conditional Use Criteria – 4 Specific Criteria

Wetland Conservation Overlay District and Shoreland Protection Overlay District

Excerpt from Durham Zoning Ordinance. Please address criteria under B - 1, 2, 3, and 4.

#### **175-72. Conditional Uses in the SPOD.**

...B. The Planning Board shall approve a Conditional Use Permit for a use in the WCOD/SPOD only if it finds that all four of the following criteria have been met in addition to the general criteria for conditional uses and any performance standards for the particular use:

1. There is no alternative design and location on the parcel for the proposed project that would:
  - a) have less adverse impact on the WCOD/SPOD and overall ecological values;
  - b) be workable; and
  - c) be reasonable to expect the applicant to utilize.

*No. Approximately 90% of the 1.6 ac property falls within the WCOD and the other 10% is restricted by front and side setbacks. Within these constraints we have a proposed location of the carriage house to the furthest point northeast of the Oyster River on the property while maintaining compliance with both front and side setbacks (no variances needed). Also included in the proposed is a driveway extension; this has been designed to utilize the existing driveway and extend it in front of house to provide access to the carriage house (the existing house sits between a 30-40' of the driveway extension and Oyster River providing erosion mitigation). The property's current "access" road from Riverview Court to east side of house utilized for maintenance of utilities and services will be converted to driveway. There is approximately 35' of the new driveway that is outside the 125' setback as it approached Riverview Court to the North. There will be a need for a small(3'-4' at its tallest point) retaining wall to the north of the extended driveway in front of house. As part of this application, we have included a driveway "give back" by removing an estimated 300 sf section of the existing driveway to the northwest of the house and re-soil with vegetation. Another benefit from the work associated with the new driveway is that we would like to invest and improve the property by submerging utilities lines from the utility pole on Riverview Court to the house. We would take advantage of the submerged utility access to also provide electricity, water, and septic access back to the carriage house.*

2. The design, construction, maintenance and operation of the proposed structures and activities within the wetland (for WCOD)/water resource (for SPOD) and buffer will minimize soil disturbance and adverse impacts to water quality to the extent workable.

*Owner will work to minimize overall impact of soil disturbance as part of the proposed project as determined by the planning board. Soil disturbance will be done only to the extent needed to complete the designs outlined in the plan and will not significantly change the appearance of the grading in the area. The plans have been designed to maintain the existing grade as much as possible by utilizing all retaining methods possible.*

3. Mitigation and restoration activities of the area being disturbed will allow for the site to perform the functions of the wetland (for WCOD)/water resource (for SPOD) and buffer to the extent workable. Planting of native or naturalized vegetation shall be included as appropriate (See Section 175-60 A. 1. for reference).

*We are fortunate to have approximately 66% of the 1.6 acers as woodlands. This project minimizes impact to the existing woodland, there will not be needed for the construction of the driveway and will be minimal to the extent necessary to achieve construction of the carriage house. There have already been several trees in this area designated as unhealthy trees that will be removed outside of this request. This project minimizes impact to the property as much as possible and the finished elevations will still allow for a healthy environment allowing the lot to perform as it is today.*

*The owner will utilize generally accepted methods including silk fences on the property and will continue to utilize other necessary methods to minimize impact as much as possible.*

*The project is committed to a thorough redevelopment process and all disturbed or exposed areas will be loamed, seeded, and Planting of native or naturalized vegetation following construction will be part of project.*

4. The proposed project will not have substantial adverse impacts to known rare species, rare habitats, water quality, aquatic connectivity, or wildlife corridors. Applicants are not required to provide supporting documentation for this criterion unless the Planning Board has good reason to believe this criterion applies.

*Does not apply. There have been no identification of any of the above on the property.*