

**Zoning Board of Adjustment
Monday, October 2, 2017, 6:30 p.m.
City Hall Committee Room
3 Washington Street, 2nd Floor**

AGENDA

- I. Introduction of Board Members
- II. Minutes of the Previous Meeting, September 5, 2017
- III. Unfinished Business

Hearings:

Continued: Petitioner, Leah LaRock requests an extension to decision of approval with conditions dated July 6, 2015 for property located at 0 Daniels Hill Rd., which is in the Rural Zone. This approval was to permit the building of a single family dwelling on a lot with 1.76 acres where a five acre minimum lot size is required per Table 102-791, Basic Zone Dimensional Requirements of the Zoning Code.

Continued ZBA 17-15/ Petitioners, Michael Lynch and Jeanette Wright of 150 Meetinghouse Rd., Hinsdale, requests a Variance for property located at Grove and Water St., Tax Map Parcel #028-03-011. Represented by Wendy Pelletier of Cardinal Surveying and Land Planning; the Petitioners requests a Variance to permit the current open lot to be converted to a commercial parking lot per Section 102-422 of the Zoning Ordinance.

ZBA 17-16/ Petitioners, Suzanne and David Boisvert of 35 Keene Rd., Winchester, requests a Variance for property located at 361 Court St., Tax Map Parcel #008-02-001, owned by Prospect Hill Home of 361 Court St. the Petitioners requests an Enlargement of a Nonconforming Use to allow double occupancy in rooms that meet state licensing requirements HeP807 Chapter, from 17 to 26 beds.

ZBA 17-17/ Petitioners, Michael Lynch and Jeanette Wright of 150 Meetinghouse Rd., Hinsdale, requests a Variance for property located at Grove and Water St., Tax Map Parcel #028-03-011. Represented by Wendy Pelletier of Cardinal Surveying and Land Planning; the Petitioners requests a Variance to permit parking lot setbacks and lot coverage per Sections 102-1226 and 102-791.

- IV. New Business
- VI. Communications and Miscellaneous
- VII. Non Public Session: (if required)
- VIII. Adjournment

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City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Tuesday, September 5, 2017

6:30 PM

Second Floor Committee Room

Members Present:

Nathaniel Stout, Chair
Jeffrey Stevens, Vice Chair
Louise Zerba, Alternate
Josh Gorman
Thomas Plenda

Staff Present:

Gary Schneider, Plans Examiner
John Rogers, Zoning Administrator

Members Not Present:

John Rab, Alternate
Stephanie Gaiser, Alternate

I. Introduction of Board Members

Chair Stout called the meeting to order at 6:30 PM, introduced members of the Board and welcomed everyone to the meeting.

II. Minutes of the Previous Meeting

Chair Stout noted a correction to the minutes of June 5, 2017, on page 4 and page 7. The reference to Co-Chair Stevens should be changed to Vice Chair Stevens.

Mrs. Zerba made a motion to accept the minutes from June 5, 2017 as amended. The motion was seconded by Vice Chair Stevens, which carried unanimously.

IV. Hearings

Petitioner, Leah LaRock requests an extension to decision of approval with conditions dated July 6, 2015 for property located at 0 Daniels Hill Rd., which is in the Rural Zone. This approval was to permit the building of a single family dwelling on a lot with 1.76 acres where a five acre minimum lot size is required per Table 102-791, Basic Zone Dimensional Requirements of the Zoning Code.

Mr. Schneider informed the Board that Ms. LaRock called shortly before the meeting, stating that she was in the midst of a storm that was going through her neighborhood in Spofford. Mr. Schneider stated that Ms. LaRock would be unable to attend the meeting due to the storm and the trees that had fallen down around her home.

Mr. Schneider explained that the Board could proceed with meeting by approving or denying the application. In addition, he said that if the Board had any questions about the application, the Board could also postpone the meeting. Mrs. Zerba suggested the hearing be postponed in case of questions. Vice Chair Stevens said that there have a number of extensions with the application and with nothing new being proposed he thought the Board could move forward with approving or denying the application. He noted that he would not have any questions for the applicant even if she were present at the meeting because the request was a fairly standard procedure. Mr. Gorman agreed with Vice Chair Stevens, stating that the request was a straight forward extension.

Mrs. Zerba reported she visited the site of the property and noticed that the property located to the north of the application, had loads of brush near the property line. She asked if the owner of the property was putting this in place as a separation of the property. Mrs. Zerba said that if there were people representing the abutting property present at the meeting they should be acknowledged. All members of the Board agreed.

Mr. Rogers said that if any members of the Board had any questions they could refer to the Notice of Decision from the July 6, 2015 meeting. He referred the Board to their meeting packets. Mr. Rogers said that there were conditions attached to the original approval. Chair Stout asked if those conditions would apply, should the Board approve the requested extension. Mr. Rogers replied in the affirmative.

Chair Stout said that the Board would be remiss not to allow public testimony as well as to have the applicant hear these statements.

Mr. Schneider said that the reason the application had been postponed was due to the fact that the ZBA had not held a meeting for the past two months. He said that it was not the petitioner's fault not to be heard in a timely manner and did not see where it would be a problem to postpone the hearing to next month.

Mrs. Zerba made a motion to postpone the hearing of ZBA 14-12 to the next ZBA meeting that will be held on October 3, 2017. The motion was seconded by Mr. Plenda, which carried unanimously.

ZBA 17-13/ Petitioners, Robert J. Koning and Catherine R. Owen of 250 Summit Rd., Keene, requests a Variance for property located at 35 Summit Ridge Dr., Keene, Tax Map Parcel #918-10-011.0100, which is in the Rural District and owned by the applicants. Represented by Brickstone Land Use Consultants, LLC of 185 Winchester St., Keene; the Petitioners requests a Variance to permit a home occupation up to 1,200 sq. ft. in an accessory building on a lot in the Rural District where a maximum home occupation size of 300 sq. ft. is permitted per Section 102-921 (a) (5) Home Occupation Criteria of the Zoning Ordinance. The home occupation will be located in an existing barn on a lot to be merged with 250 Summit Rd. The merged properties will be 15.2 acres in size.

Mr. Schneider displayed a map that indicated the location of the property on Summit Road. He indicated that Summit Road was located on the right hand corner of the map and toward the bottom of the map was the intersection of Hastings Avenue and Maple Avenue. Mr. Schneider pointed out that the area on the map highlighted in yellow represented the 250 feet of abutters on Summit Ridge Drive.

Mr. Schneider explained that the property was divided into two separate pieces of property. He said that the owner of the property's house was located at 250 Summit Road and in back of the house there was an existing barn located at 35 Summit Ridge Drive. Mr. Schneider referred to the map he displayed, indicating that the property line between the two properties was between the house and the existing barn.

Mr. Schneider said the applicant's proposal was to merge the two properties in order to have a home occupation. He said that the reason why the applicant was before the ZBA was due to the fact that a home occupation has a maximum square footage requirement . Mr. Schneider provided the Board with a copy of the Zoning Code criteria for a home occupation. He read Section 102-921 from the code as follows: (a) Home occupations or home vocational activity may be permitted in all zoning districts provided that: (5) "It does not result in the use of an area equal to more than ten (10%) of the total gross floor area of the dwelling unit up to a maximum of three hundred (300) square feet, which may be in the dwelling or an accessory building".

Mr. Schneider said that the applicant was before the Board because a home occupation could not exist if the structure was located on a separate piece of property. He explained that the structure would not be considered an accessory structure because in order to apply for the home occupation the building has to be located on the property where the house is located. Mr. Schneider reported that he spoke with the Planning Department and the two properties had not been merged. He suggested if the ZBA approved the application to make a condition that both properties be merged. Chair Stout asked if there was a definite time for the merger of the two properties. Mr. Rogers said that answer to the questions could be answered by the applicant or the representative of the applicant because it was spelled out in the notice of the hearing that the lots be merged.

Chair Stout welcomed David Bergeron, Brickstone Land Consultants, Keene, NH.

Mr. Bergeron stated that he represented the owner of the property.

Mr. Bergeron displayed a map that indicated the location of Summit Road and Summit Ridge Drive.

He said that the property was originally part of a subdivision that was done many years ago and consisted of five separate lots. Mr. Bergeron said that the previous owner of the property had a contracting business and used the barn as part of this business. He explained that when the previous owner left they subdivided the property and the barn was left alone on another lot.

Mr. Bergeron said that the current owner of the property, Mr. Koning, purchased the two lots with the house and the barn. He said that Mr. Koning has lived at this location for 15 years and has operated a home occupation primarily out of his home for a number of years. He described Mr. Koning's business as mechanical design work, noting that he has worked with companies such as Markem and Precitech.

Mr. Bergeron reported that Mr. Koning's business has started to grow and as part of that natural progression Mr. Koning needs additional space. He said that the idea is to move the operation into the barn that has 1,200 square feet and would strictly be used for his home occupation.

Mr. Bergeron said that if the application was approved, Mr. Koning would request to merge these two lots into one lot in order to make the barn an accessory use to the house.

Mr. Plenda asked Mr. Bergeron what the issue was with zoning. Mr. Bergeron replied that the zoning issue is that the City has regulations with a home occupation that are specific. He explained that a home occupation cannot occupy more than 300 square feet in a house or in an accessory building on the same lot. He said that the request is to use the barn that is approximately 1,200 square feet due to the type of business.

Mr. Bergeron said that Mr. Koning designs prototypes and needs additional space due to the size of machinery. He noted that a typical type of home occupation such as a beauty parlor could easily be done in a home within 300 square feet.

Mr. Bergeron said that the barn needs additional work such as new windows, insulation and heat. He noted that the character of the barn as well as the size or shape will remain the same and all changes will be interior to the building.

Mr. Plenda asked if the changes from two lots to one lot would change anything about the zoning requirements and the 300 square foot limitation. Mr. Bergeron replied that a lot such as the application, with fifteen acres in size, is permitted to have home occupation but cannot occupy more than 300 square feet without a Variance from the ZBA. Mr. Bergeron said that there are regulations that specifically spelled out certain things that have to be met in order to have a home occupation.

Mr. Rogers clarified that for the barn to be considered an accessory structure to the house the barn must be on the same lot.

Mr. Plenda stated that he needed further clarification. Mr. Bergeron read Section 102-921 (5) "It does not result in the use of an area equal to more than ten (10%) percent of the total gross floor area if the dwelling unit up to a maximum of three hundred (300) square feet, which may in the dwelling or an accessory building". He said that the limitation was the 300 square feet and that the owner was requesting to use more than 300 square feet for a home occupation.

Mr. Bergeron continued his presentation and referring to the map, indicating the location of the condominiums across the street from the property. He said that the condominiums are 500 feet away from the barn. He noted these were the closest structures to the barn and that the barn was located in an area that was fairly well protected, distance wise from Summit Ridge Drive and Summit Road.

Mr. Bergeron said that the access to the barn would be from the entrance to the driveway of the house. Mr. Bergeron said that all deliveries would use entrance to the home. He displayed an image by Google Earth to show the tree covering at the property and the location of the abutting condominiums.

Chair Stout asked Mr. Bergeron to explain the process of work that would take place in the barn. He noted that he was primarily concerned about any activities that may cause environmental issues. Mr. Bergeron explained that Mr. Koning work is mechanical engineering and works as an independent contractor for companies such as Markem and Precitech. He further explained that Mr. Koning will design new parts for these companies as instructed.

Mr. Bergeron said that Mr. Koning would like to physically be able to build these parts at his location. He described the parts as primarily metal and compared the business to a machine shop.

Mrs. Zerba asked about the noise level associated with the compressors and if the noise level would affect the abutters. Mr. Bergeron said that Mr. Koning had turned on the compressor and went out to the property line to take some noise reading levels.

Mr. Bergeron reported that the average run time was five minutes and the decibel level at the property line was about 33 decibels. He noted that the maximum noise level was at 44 decibels. He provided the Board with a breakdown of what each decibel means. He used the example of a quiet bedroom being at a level of 30 decibels, a library at a level of 40 and the average conversational speech at 60 decibels. He said based on their calculations, 150 feet away from the barn, 33 decibels would drop to 25 decibels. Mr. Bergeron said that by moving the operation to the barn would lower the decibel level due to the location of the barn being further away from the abutters.

Mr. Bergeron explained that all of the work would take place inside the barn and that precision machining has to take place inside a controlled environmental. Vice Chair Stevens asked if the parts made would be delivered to the buyer. Mr. Bergeron replied in the affirmative.

Mrs. Zerba said that she was concerned if the property was ever sold, the Variance would go with the property. Mr. Rogers explained to the Board that the Variance being sought was for the size of the area of the dwelling unit and all the rest of the criteria would still apply to the home occupation. He said that if someone new purchased the property and wished to have a home occupation, they would have to meet all of the criteria.

Mr. Bergeron reviewed the criteria:

- Mr. Bergeron said that the Keene Master Plan recommends the creation of live/work properties within the community. He said that Mr. Koning could continue to live/work at his home if the Variance was granted. The home occupation will operate Monday thru Friday from 8AM to 5 PM and will not operate nights or weekends. He said that it is in the public interest to allow home occupations which will maintain the character of the residential property, which is consistent with the Keene Master Plan, and would not be a nuisance or hazard to the neighborhood.
- He said that the spirit of the ordinance, in this case, is to protect the public health, safety and welfare by restricting home occupations in size to limit the intensity of use. Mr. Bergeron said in this case, the home occupation already exists at the property. He said that the proposal is to move the home occupation into the existing 1,200 square foot barn located on the property. The additional space and higher ceiling height in the barn will allow for modern manufacturing equipment to be purchased which is needed for Mr. Koning's work. The existing barn will be re-painted, insulated, new windows will be installed and a new overhead door will be installed. Mr. Bergeron said that Mr. Koning is currently the only employee. At some time in the future, Mr. Koning would like to hire one employee. All truck deliveries will be via Summit Road and there will be no increase in truck delivery traffic. Public welfare will be enhanced by the project because the existing will be improved and will result in an increase to the property tax assessment. Mr. Bergeron said that the proposal meets the spirit and intent of the ordinance.
- Mr. Bergeron said that granting the Variance would do substantial justice because when merged, the property will be in excess of 15 acres. The existing barn is located over 800 feet from Summit Road, over 400 feet from Summit Ridge Road and over 200 feet from the closest neighbor.
- If the Variance were granted, Mr. Bergeron said that the values of the surrounding properties would not be diminished because the home occupation already exists at the property. The exterior of the barn will be repainted, new windows installed and an overhead door would also be installed. Otherwise, the building appearance will remain the same. All business activities will be conducted indoors. The business will operate normal business hours, Monday to Friday 8 AM to 5 PM and not on weekends. The use as proposed will not generate excess noise, will not increase traffic and will not be a threat to public safety or public welfare.
- Mr. Bergeron said that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because the merged lots will form a property over 15 acres in size with an existing house, two sheds and a 1,200 square foot bar. He noted that the existing barn is barely visible from the public rights of way. Mr. Bergeron said that Mr. Koning needs the high ceiling height in the barn for the specialized machines. He said that denial of the Variance would serve no public purpose in this case because of the type of home occupational space.
- Mr. Bergeron said that the proposed use is a reasonable one because the home occupation already exists on the property. He said that it has never resulted in a nuisance or hazard and has not diminished property values in the neighborhood.

The move to the existing 1,200 sf barn will not increase traffic or noise. It will not change the residential appearance of the property and will not diminish surrounding property values. He said that it is fair and reasonable to allow this use under these circumstances.

- Mr. Bergeron said that an unnecessary hardship will be deemed to exist because the home occupation already exists on the property. It has never resulted in a nuisance or hazard and has not diminished property values in the neighborhood. The move to the existing 1,200 square foot barn will not increase traffic or noise. He said that it will not change the residential appearance of the property and will not diminish surrounding property values. It is fair and reasonable to allow this use under these circumstances. In addition, Mr. Bergeron said that is an unfair and an unnecessary hardship to restrict this property when allowing an existing home occupation to move into an existing larger space with higher ceilings will fulfill the general public purposes of the ordinance by maintaining property values without being a nuisance or hazard to the neighborhood. Mr. Bergeron said that a Variance is necessary to allow the proposed use on this site.

Chair Stout welcomed public comment.

Stephanie Clarke, 37 Summit Ridge Drive, Keene, NH spoke in support of the application. She said that she recently moved into the neighborhood and has seen the work of Mr. Koning and has no objection.

With no further comment, Chair Stout closed the public hearing.

The Board reviewed the criteria.

Granting the Variance would not be contrary to the public interest:

Mr. Gorman said that the Variance would not be contrary to the public interest in that the barn already exists and the business already exists. He said that the owner was reasonably trying to expand his business. Mr. Gorman said that it does not seem size really alters the scope of what Mr. Koning was doing other than the use of bigger machines, that no one can see or hear.

Mrs. Zerba said that all activity will occur inside building, no changes to the exterior and operation between hours of 8AM and 5PM Monday thru Friday, would not be contrary to the public interest.

Mr. Plenda said that he was not prepared to say that it was irrelevant, if the zoning ordinance criteria listed the use of a home occupation as a maximum of 300 square feet. Vice Chair Stevens said that the point of the ZBA is to look at such an application and determine if the increase in size negatively affects the property and surrounding areas.

If the Variance were granted, the spirit of the Ordinance would be observed:

Vice Chair Stevens said that if the Variance is granted, the spirit of the organization is observed even by taking into consideration the extended size of the operation. He said that he does not think the Variance would negatively affect the property and the noise level would not be larger due to the size of building. Mrs. Zerba agreed with Vice Chair Stevens, adding that the spirit of the ordinance is well served.

Granting the Variance would do substantial justice:

Mrs. Zerba said that it would allow the owner of the property to run a business out of his home, which is done throughout the City. She noted that there would be no adverse changes to the property. Mr. Gorman said that the Board should take into consideration that the property was a 15 acre lot, which is substantial for Keene, and that the ZBA would be allowing someone to perform an occupation in a barn that already exists. Vice Chair Stevens said the injustice in denying the application would be a far greater negative to the applicant than it would be to the City of Keene. Chair Stout said that the City has a long and proud history of precision technology. He said that this type of resurgence of precision technology coming to the City in a manageable way is exciting to see.

If the Variance were granted, the values of the surrounding properties would not be diminished:

Mrs. Zerba said that her concerns with the noise and lighting would be addressed in Section 102-921 of the Keene Zoning Ordinance. Additionally, Mrs. Zerba said that it was important to hear from an abutter to property that there was no problem allowing use of the barn to be a home occupation.

Unnecessary Hardship

E. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:

ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property:

x. The proposed use is a reasonable one

Vice Chair Stevens said that proposed application was entirely reasonable and other than size and some of the scope of the business, very little was changing.

Chair Stout reviewed the Findings of Fact:

Mrs. Zerba made a motion to approve ZBA 17-13 to request to permit a home occupation up to 1,200 square feet, with a maximum size of 300 square feet, permitted through Section 102-921 that the criteria will be met, and conditioned upon the two properties be merged. Mr. Gorman seconded the motion, which carried unanimously.

Granting the Variance would not be contrary to public interest: Granted 4-1, Mr. Plenda opposed

If the Variance were granted, the spirit of the Ordinance would be observed: Granted 4-1, Mr. Plenda opposed.

Granting the Variance would do substantial justice: Granted, 4-1, Mr. Plenda opposed

If the Variance were granted, the values of the surrounding properties would not be diminished: Granted, 4-1, Mr. Plenda opposed

Unnecessary Hardship

E. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:

ix. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: Granted, 4-1, Mr. Plenda opposed

x. The proposed use is a reasonable one: Granted, 5-0

With a vote of 4-1, The Zoning Board of Adjustment approved ZBA 17-13. Mr. Plenda opposed.

ZBA 17-14/ Petitioners, 256 Investment Associates, of 40 Sawyer Pond Rd., Mirror Lake, NH, requests a Variance for property located at 329 Winchester St., Keene, Tax Map Parcel #053-01-021, which is in the Commerce District and owned by the applicants. Represented by Michael Lussier of Wiley Management, 4 Brimstone Hill Rd., Suite 7 Epsom, NH; the Petitioners requests a Variance to permit a second menu board per Section 102-1311 of the Zoning Ordinance.

Mr. Schneider presented a map indicating the location of the property. He indicated the location of the in reference to Key Road, the roundabout and Route 10. He reported that Wendy's had just completed a major renovation of their site and interior renovations to their building. Mr. Schneider referred the Board to the picture that was included in their packet and explained that the picture distinctly indicates where a menu board sign was erected. He said that beyond the place of that menu board there is another menu board, closer to the building that has been there for some time.

Mr. Schneider said that the City sign code limits the number of menu board signs to one per property. He explained that was the reason why the applicant was before the Board. John Hill, 225 Perry Road, Rindge, NH stated that he was one of the partners of the Wendy's restaurant. He explained that the traffic coming off of Winchester Street and Ivy Drive was causing a traffic issue. Mr. Hill said that traffic from both of these streets meet in the middle at the drive thru, therefore causing a backup of traffic. As this occurs, Mr. Hill said that customers are parking and people are unable to back out of their parking spaces. He said that they were proposing to put a menu a board so that customers entering from the back driveway can access a menu board and the customers entering from the front driveway can access a menu board. Mr. Hill said that the two lanes of traffic would convene, pick-up their food and leave.

Mrs. Zerba asked if both lanes of the traffic would be using the proposed menu board. Mr. Hill replied that only one lane will use the proposed menu board. He explained that if they are limited to just the one menu board they would need to try to position the board to catch both back traffic and front traffic. Mr. Hill said that during the renovation they noticed at lunch time there is a line of traffic coming in from the back entrance and the traffic from Winchester Street are trying to cut into the lane that is backed up from Ivy Drive. He said that the addition of another menu board will help alleviate the traffic issue and speed up the level of service.

Mr. Rogers referred the Board to their packets that contained a small plot plan with the two lanes of travel.

Mr. Hill said that the existing menu board would be relocated to the back of the entrance and they would install another menu board for the traffic coming from Winchester Street. He explained that both lanes of traffic would merge and proceed to pick-up orders.

Chair Stout asked how many car lengths would be from the first menu board to the service window. Mr. Hill replied that it would be five car lengths. He said that the McDonald's located next door had two lanes of traffic and merged into one lane to pick up their orders.

Chair Stout asked if there was anything unique about the parking lot that would necessitate a second menu board. Mr. Schneider said that McDonald's only has one menu board sign and the City code states that a business can only have one menu board. He said from a personal side, he frequents both locations and he noticed that from the southern lane of the McDonald's site the menu board is difficult to read.

Mike Lussier, Manager at Wiley Management, 114 Royal Ave Keene, NH, said that the uniqueness that separates Wendy's from McDonalds was the width of the lot. He explained that McDonalds has parking along the drive-thru side of the building and Wendy's was restricted due to the size of the lot space. He said that if a customer is entering the drive-thru, the customer is committed to the drive-thru and unable to turn around. Mr. Lussier said that if the customer misses the menu board they have to drive all the way around the building and get back into line to see the menu board to place their order.

Mr. Gorman said that it seems that the solution presented by the applicant would eliminate a traffic bottle neck. Mr. Plenda asked if they could install two, two-way speakers and one menu board. Mr. Hill replied that strategically the way that it is set-up a customer would not be able to see just one menu board because the traffic was coming from two directions. He explained that there is parking along the back side of Ivy Lane and when the traffic backs up the customers stuck in their parking spaces due to traffic.

Mrs. Zerba asked how the second menu board sign would alleviate the line of traffic. Mr. Hill replied that their speed of service would increase. He explained that Wendy's tries to have a 4 -5 car space, so that when a customer places their order, there is enough time to

make that order. He noted that Wendy's food is made to order. Mr. Hill said that after their remodel, business has increased and should be all the more reason to help alleviate the traffic issue.

Mrs. Zerba asked Mr. Rogers what would make this request so unique for this setting so that it would not set precedence for two sign requests. Mr. Rogers replied that by looking at the current layout of the property, one menu board would not be visible from both lanes. He said that the size of the lot and the way the applicant was trying to bring traffic through was unique.

Mr. Lussier said that 12 years ago, Wendy's was set-up with two menu boards. He said that he had tried to inquire if a Variance was already in place. Mr. Lussier said that the second menu board was taken down eight to twelve months ago because it was obsolete. Mr. Schneider said that the Zoning Department checked their files but were unable to find any Variance for the second menu board.

Chair Stout asked if approved, would they be affecting traffic flow on the site plan. Mr. Rogers said that site plan as it sits has been approved. Mr. Schneider said that the only thing that has not been compliant was the menu board sign.

Chair Stout asked the applicant if they wanted to review the criteria. Mr. Hill declined.

Chair Stout welcomed public comment.

With no public comment, Chair Stout closed public hearing

Mr. Gorman made a motion to approve ZBA 17-14 for an addition of a second menu board, where two menu boards are not permitted. Mrs. Zerba seconded the motion, which carried unanimously.

Granting the Variance would not be contrary to the public interest:

Mr. Gorman said that if the menu board was going to remediate a traffic problem, it would benefit the public. Vice Chair Stevens said that the purpose of the sign code is to prevent excess light pollution. He said that the extra lighting from the second sign would not make that much of a difference. Mrs. Zerba said that the public would be well served due to the uniqueness of the property.

If the Variance were granted, the spirit of the Ordinance would be observed:

Vice Chair Stevens said that he would refer to his previous comments as well the comments made by Mr. Gorman and Mrs. Zerba.

Granting the Variance would do substantial justice:

Mrs. Zerba said that granting the Variance would do substantial justice because it would allow Wendy's to better serve their customers. Mr. Plenda said that it also helps traffic flow, which helps everyone that drives in that vicinity.

If the Variance were granted, the values of the surrounding properties would not be diminished:

Vice Chair Stevens said that he did not believe that the values of the surrounding properties would go up or down if the Variance were granted.

Unnecessary Hardship

E. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:

ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property:

Mr. Gorman said that reason behind the Ordinance is geared toward light pollution and distractions. He noted that none of those things apply in this case.

x. The proposed use is a reasonable one:

All members of the Board agreed that the proposed use was a reasonable one.

Chair Stout reviewed the Findings of Fact:

Granting the Variance would not be contrary to the public interest: Granted, 5-0

If the Variance were granted, the spirit of the Ordinance would be observed: Granted, 5-0

Granting the Variance would do substantial justice: Granted, 5-0

If the Variance were granted, the values of the surrounding properties would not be diminished: Granted, 5-0

Unnecessary Hardship

E. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:

ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property: Granted, 5-0

x. The proposed use is a reasonable one: Granted, 5-0

With a vote of 5-0, The Zoning Board of Adjustment approved ZBA 17-14.

ZBA 17-15/ Petitioners, Michael Lynch and Jeanette Wright of 150 Meetinghouse Rd., Hinsdale, requests a Variance for property located at Grove and Water St., Tax Map Parcel #028-03-011. Represented by Wendy Pelletier of Cardinal Surveying and Land Planning; the Petitioners requests a Variance to permit the current open lot to be converted to a commercial parking lot per Section 102-422 of the Zoning Ordinance.

Mr. Schneider reported that a letter that was sent from the applicant, Wendy Pelletier, dated September 5, 2017. He provided the Board with a copy of the letter. Ms. Pelletier requested the application be continued to the next public hearing. She stated in the letter that it had come to their attention that the lot is not in fact “grandfathered” for setbacks and lot coverage as they had been told, and that they must seek additional Variances. In addition, she stated that she also learned last week that the lot is considered to be in the proposed Residential Preservation District, which she stated has much stricter criteria than the High Density District does.

Mr. Rogers explained that last year that this application that had come forward for a Variance for a commercial parking lot and was approved. He said that it was back before the ZBA because it was determined that their abutter notification was inadequate. Mr. Rogers said with that determination, the application would have to start at the beginning of the process.

Mr. Rogers said that the applicant may need to have additional Variances in order to build this parking lot as shown on the plan. He said that this information was made apparent to the applicant.

Mrs. Zerba asked if the Planning Board would be involved due to all of the landscaping changes. Mr. Rogers said that in his opinion the ZBA would have to address some of them and that is where Variances would need to come into place. He said that the Planning Board’s involvement would be approved by the ZBA.

Mr. Gorman made a motion to continue ZBA 17-15 to the next ZBA meeting held on October 3, 2017. The motion was seconded by Mrs. Zerba, which carried unanimously.

V. New Business:

Chair Stout announced that Stephanie Gaiser, was a new member of the ZBA and would be an Alternate. He said that Ms. Gaiser would be invited to participate in the conversation but not the vote during a full Board meeting.

Mr. Schneider said that they have arranged for Ms. Gaiser to have a copy of the audio for this meeting so she can familiarize herself with the process.

VI. Communications and Miscellaneous

None

VII. Adjournment

Hearing no further business, Chair Stout adjourned the meeting at 8:00 PM.

Respectfully submitted by,
Jennifer Clark, Minute Taker



NOTICE OF DECISION

July 6, 2015

AMENDED

ZONING BOARD OF ADJUSTMENT

CASE NUMBER: ZBA 14-12
Property Address: 0 Daniels Hill Rd.
Zone: Rural Zone
Owner: Leah LaRock
Petitioner: Leah LaRock

You are hereby notified that the request for a Variance for property located at 0 Daniels Hill Rd., which is in the Rural Zone and based upon the record and which is incorporated by reference has been approved by a vote of 5-0. This approval is to be permitted to build a single family dwelling on a lot with 1.76 acres where a five (5) acre minimum lot size is required per Table 102-791 Basic Zone Dimensional Requirements of the Zoning Code.

Conditions:

1. Prior to granting of a building permit, the owner will install a 6"-12" berm across the first Woods Road near Daniels Hill Road, and also across the second Woods Road located (easterly) towards Route 9 over the existing open area. In regards to the berm located (easterly) across the second Woods Road, this berm is to extend to the existing berm on the lot.
2. That the owner maintains a vegetated buffer of approximately 20 feet along the road frontage westerly of the driveway. The buffer does not have to be opaque but shall have a density similar to the existing vegetation. This buffer may include new trees or the existing trees.
3. Mr. Robert Hitchcock of SVE Associates will verify that the development of the property does not increase the runoff onto the abutting property to the East.


Corinne Marcou, Clerk

NOTE: Any person affected has a right to appeal this Decision. If you wish to appeal, you must act within thirty-(30) days of the date of this notice. The necessary first step, before any appeal may be taken to the Courts, is to apply to the Board of Adjustment for a rehearing. The motion for rehearing must set forth all the grounds on which you will be base your appeal. See New Hampshire Statutes, RSA Chapter 677, for details.

Grove St. & Water St. ZBA 17-15



Petitioner is requesting a Variance to permit the current open lot to be converted to a commercial parking lot per Section 102-422.



City of Keene
New Hampshire

NOTICE OF HEARING

ZBA 17-15

A meeting of the Zoning Board of Adjustment will be held on Tuesday, September 5, 2017 at 6:30 PM in the City Hall Committee Room, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the petition of Michael Lynch and Jeanette Wright of 150 Meetinghouse Rd., Hinsdale, requests a Variance for property located at Grove and Water St., Tax Map Parcel #028-03-011. Represented by Wendy Pelletier of Cardinal Surveying and Land Planning; the Petitioners requests a Variance to permit the current open lot to be converted to a commercial parking lot per Section 102-422 of the Zoning Ordinance.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice Issuance Date: August 21, 2017

APPLICATION FOR APPEAL

Zoning Board of Adjustment
3 Washington Street, Fourth Floor
Keene, New Hampshire 03431
Phone: (603) 352-5440

For Office Use Only:	
Case No.	<u>ZBA 17-15</u>
Date Filed	<u>8/18/17</u>
Received By	<u>CS</u>
Page	<u>1</u> of <u>9</u>
Reviewed By	<u>CS</u>

The undersigned hereby applies to the City of Keene Zoning Board of Adjustment for an Appeal in accordance with provisions of the New Hampshire Revised Statutes Annotated 674:33.

TYPE OF APPEAL - MARK AS MANY AS NECESSARY

- APPEAL OF AN ADMINISTRATIVE DECISION
- APPLICATION FOR CHANGE OF A NONCONFORMING USE
- APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE
- APPLICATION FOR A SPECIAL EXCEPTION
- APPLICATION FOR A VARIANCE
- APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

SECTION I - GENERAL INFORMATION

Name(s) of Applicant(s) Wendy Pelletier, Cardinal Surveying & Land Planning Phone: 499-6151
Address 463 Washington Street, Keene
Name(s) of Owner(s) Michael Lynch & Jeanette Wright
Address 150 Meetinghouse Road, Hinsdale, NH
Location of Property Grove & Water St.

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 028-03-011-0000 Zoning District High Density
Lot Dimensions: Front 66.22 Rear 55.62 Side 73.52 Side 70.33
Lot Area: Acres .11 Square Feet 4,635
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 0 Proposed _____
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 100 Proposed 100
Present Use Open Lot
Proposed Use Commercial Parking Lot

SECTION III - AFFIDAVIT

I hereby certify that I am the owner or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law.

Wendy J. Pelletier Date 8/18/2017
(Signature of Owner or Authorized Agent)

Please Print Name Wendy Pelletier

APPLICATION FOR A VARIANCE

- A Variance is requested from Section (s) 102-422 of the Zoning Ordinance to permit:
The current open lot to be converted to a commercial parking lot.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:

1. Granting the variance would not be contrary to the public interest because:

THIS APPLICATION IS BEING SUBMITTED TO CORRECT THE ABUTTER NOTIFICATION ERROR THAT WAS DISCOVERED.
A VARIANCE WAS GRANTED FOR THIS LOT ON JULY 5, 2016.

-- THE LOT HAS BEEN USED AS A PARKING LOT ASSOCIATED WITH A FORMER FACTORY ACROSS THE STREET. WE REQUEST PERMISSION TO CONTINUE ~~THE~~ TO USE IT AS A PARKING LOT WHICH WILL HELP TO ALLEVIATE A SHORTAGE OF PARKING AT NEARBY APARTMENTS.

2. If the variance were granted, the spirit of the ordinance would be observed because:

THE PARKING LOT WOULD SERVICE NEIGHBORING APARTMENT BUILDINGS, THERE BY BEING AN ASSOCIATED ~~RESIDENTIAL~~ USE.

3. Granting the variance would do substantial justice because:

THE PARKING LOT WILL ADD 11 OFF STREET PARKING SPACES TO THE NEIGHBORHOOD.

4. If the variance were granted, the values of the surrounding properties would not be diminished because

THE PARKING LOT WILL BE UPGRADED WITH FENCING AND LANDSCAPE PLANTERS WHICH WILL IMPROVE THE CURRENT EMPTY PAVED LOT.

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

THIS IS A NON-CONFORMING BUILDING LOT AT 4,635 S.F.
THE MINIMUM LOT SIZE IS 6,000 S.F.

THE LOT SIZE AND LOCATION MAKE IT DIFFICULT TO
BUILD ON.

THE PROPOSED USE WILL BE ASSOCIATED WITH THE
HIGH DENSITY RESIDENTIAL USE.

and

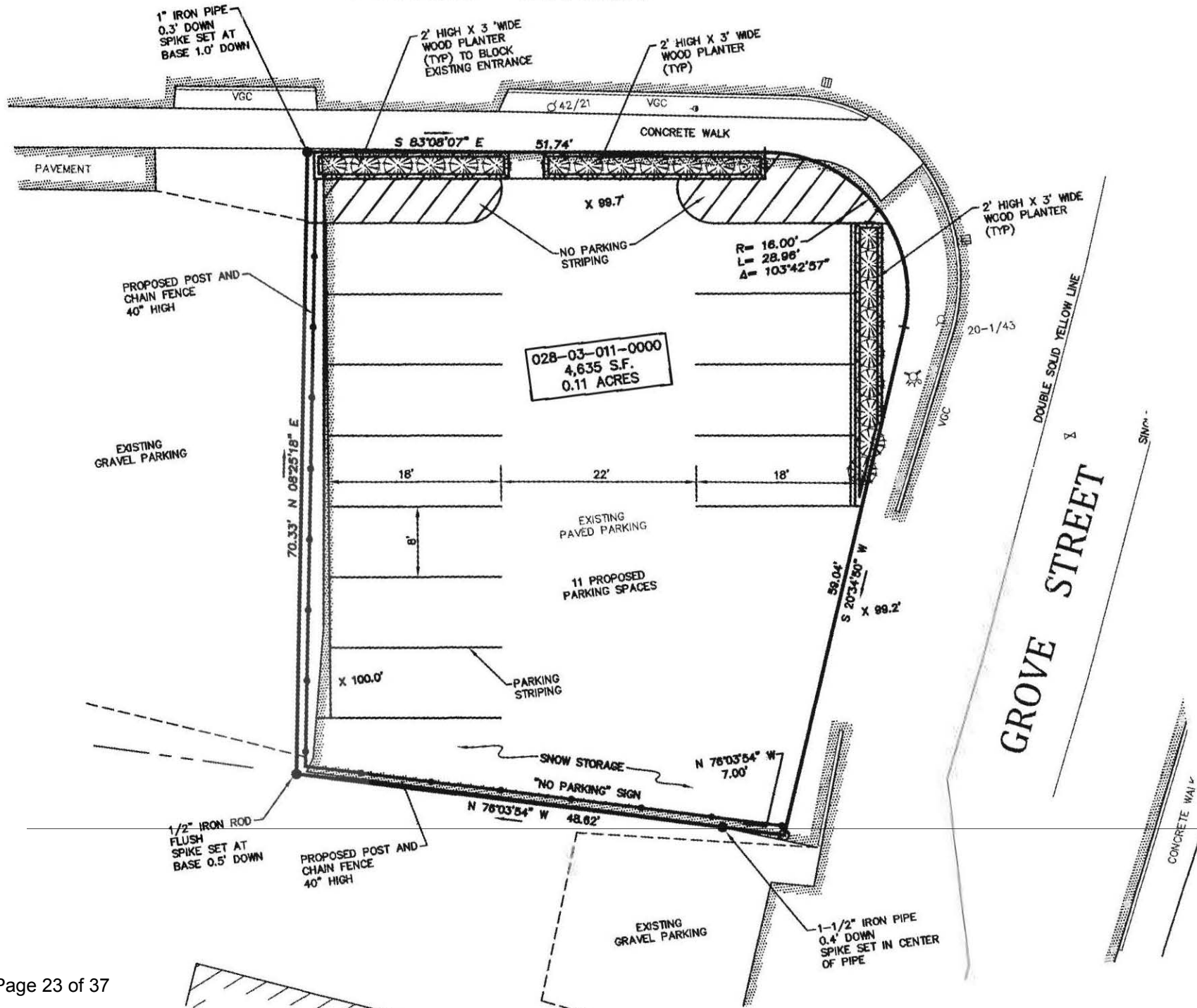
ii. The proposed use is a reasonable one because:

IT IS THE BEST USE FOR A SMALL CORNER LOT.
ANY STRUCTURE BUILT ON THE LOT WOULD DECREASE
TRAFFIC SIGHT DISTANCES AT A DIFFICULT CORNER.

B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

THE LOT IS UNDER SIZED AND CANNOT MEET
THE MINIMUM BUILDING REQUIREMENTS.

WATER STREET



361 Court St.
ZBA 17-16



Petitioner is requesting an Enlargement of a Non-Conforming Use to allow double occupancy in rooms that meet state licensing requirements HeP807 Chapter, from 17 to 26 beds.



City of Keene
New Hampshire

NOTICE OF HEARING

ZBA 17-16

A meeting of the Zoning Board of Adjustment will be held on Monday, October 2, 2017 at 6:30 PM in the City Hall Committee Room, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the petition of Suzanne and David Boisvert of 35 Keene Rd., Winchester, requests a Variance for property located at 361 Court St., Tax Map Parcel #008-02-001, which is in the Medium Density District and owned by Prospect Hill Home of 361 Court St. The Petitioners requests an Enlargement of a Nonconforming Use to allow double occupancy in rooms that meet state licensing requirements HeP807 Chapter, from 17 to 26 beds.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice Issuance Date: September 21, 2017

APPLICATION FOR APPEAL

Zoning Board of Adjustment
3 Washington Street, Fourth Floor
Keene, New Hampshire 03431
Phone: (603) 352-5440

For Office Use Only:	
Case No.	<u>2BA 17-16</u>
Date Filed	<u>9/15/17</u>
Received By	<u>GM</u>
Page	<u>1</u> of <u>9</u>
Reviewed By	<u>GS</u>

The undersigned hereby applies to the City of Keene Zoning Board of Adjustment for an Appeal in accordance with provisions of the New Hampshire Revised Statutes Annotated 674:33.

TYPE OF APPEAL

- APPEAL OF AN ADMINISTRATIVE DECISION
- APPLICATION FOR CHANGE OF A NONCONFORMING USE
- APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE
- APPLICATION FOR A SPECIAL EXCEPTION
- APPLICATION FOR A VARIANCE
- APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

SECTION I - GENERAL INFORMATION

Name(s) of Applicant(s) Suzanne and David Boisvert Phone: 603-762-0611
Address 35 Keene Rd Winchester, NH 03470
Name(s) of Owner(s) Prospect Hill Home
Address 361 Prospect St Keene NH
Location of Property 361 Prospect St Keene NH
Court

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 8-2-1 Zoning District Medium Density
Lot Dimensions: Front 150' Rear 150' Side 225' Side 225'
Lot Area: Acres .78 Square Feet 33979
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 15 1/2 Proposed 15 1/2
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 32 1/2 Proposed 32 1/2
Present Use Health Care Facility
Proposed Use Health Care Facility

SECTION III - AFFIDAVIT

I hereby certify that I am the owner in fee or the authorized agent of the owner in fee of the property upon which this appeal is sought and that all information provided by me is true under penalty of law.

[Signature] Date 9/15/17
(Signature of Owner or Authorized Agent)

Please Print Name Suzanne Boisvert

PROPERTY ADDRESS

361 Court St

APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE

A nonconforming use may be enlarged and/or expanded, provided such enlargement and/or expansion does not violate any of the basic zone dimensional requirements set forth in the Zoning Ordinance. Such enlargement and/or expansion must receive permission from the Zoning Board of Adjustment, which must find that the enlargement and/or expansion meets the conditions listed below.

- An enlargement and/or expansion of a nonconforming use is requested in order to:

Allow Double Occupancy in rooms that meet State Licensing Requirements HeP 807 Chapter, from 17 to 26 Beds.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

- Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.

Since the proposed change is asking for double occupancy, which has to do with the internal use of the facility, we find that there is no adverse effect to the neighborhood that would be injurious, obnoxious, or offensive. This is a common practice for Health Care Facilities in Keene and the State of New Hampshire and our country.

- There will be no nuisance or serious hazard to vehicles or pedestrians.

Internal Double occupancy in rooms that meet minimum requirements will not be a hazard or nuisance to vehicles or pedestrians.

- Adequate and appropriate facilities (i.e., water, sewer, streets, parking, etc.) will be provided for the proper operation of the proposed use.

The Health Care Facility has all the needed facilities such as city water and sewer, security, Fire safety suppressant systems and means of egress, and will also be regulated by the State of New Hampshire rules and codes for Residential Treatment and Rehabilitation Facilities. Residents/patients do not generally have or will be allowed vehicles, so there will be no increase in parking needs. We will have a van for transportation purposes.

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These drawings are LIMITED SCOPE and are intended only to describe general design intent, scale, overall spatial relationships and material where indicated. These drawings shall be considered preliminary for purposes of design review, comment, or budget pricing only, unless expressly released for other purposes as indicated in the issue log. The architect assumes responsibility for errors in the information provided, and not for omissions.

Architect:
Timothy Sampson
 NCARB, LEED AP
 103 Roxbury Street
 Suite 206
 Keene, NH
 603 769 7736



© SAMPSON DESIGN
 2017 W017-037

Prepared For
Suzanne Boisvert
 Winchester, NH

PROJECT
Prospect Place LLC
 631 Court Street
 Keene, NH 03431

TITLE
**Site Plan
 Zoning Data
 Notes**

Date:	Revisions:
9.15.17	ZBA Application
-	-

SCALE 1" = 20'

DATE 9.15.17

SHEET NUMBER

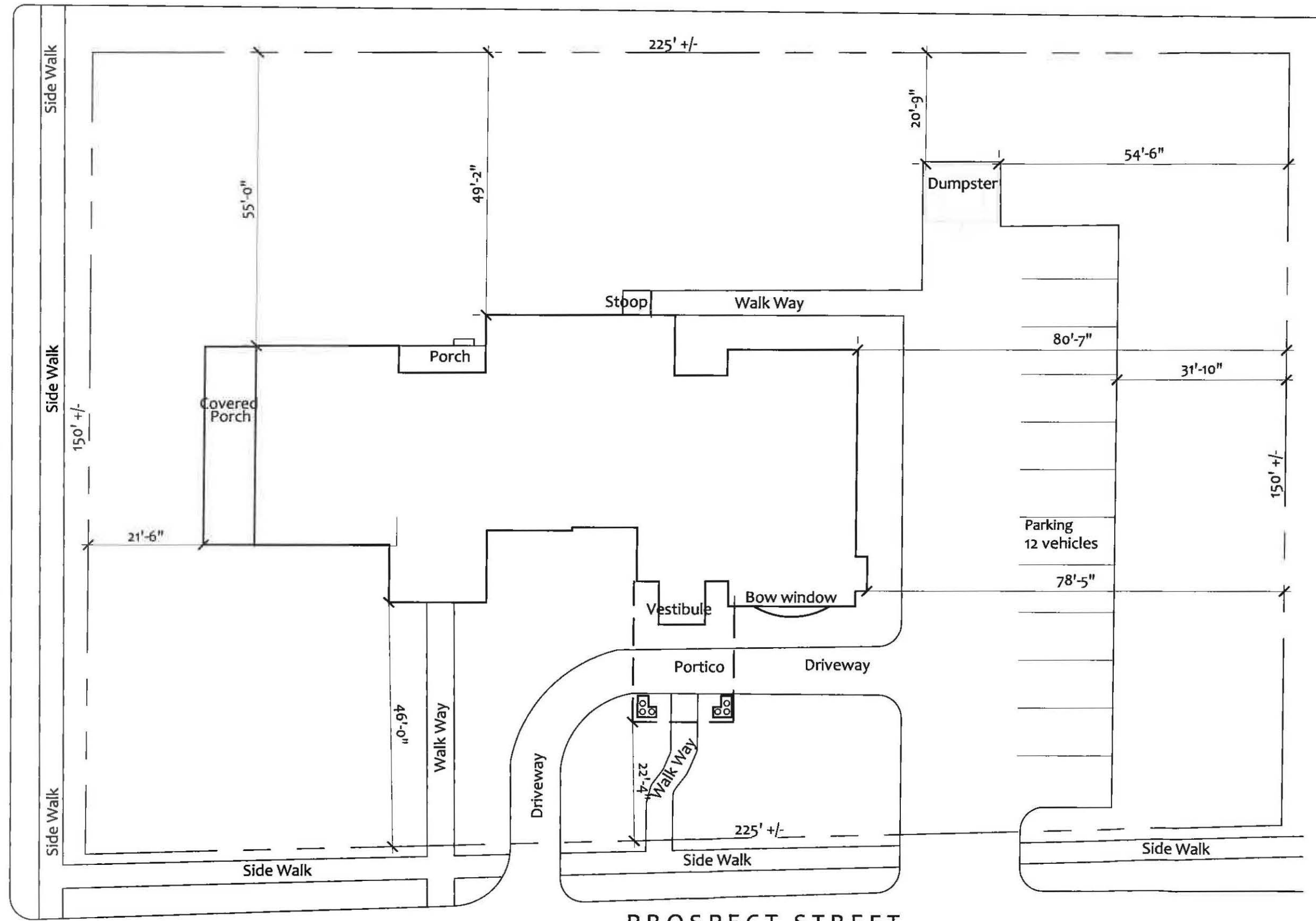
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NORTH STREET

COURT STREET

PROSPECT STREET



Site Plan
 Scale: 1" = 20'



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Grove St. & Water St. ZBA 17-17



Petitioner is requesting a Variance to permit parking lot setbacks and lot coverage per Section 102-1226 & 102-791.



City of Keene

New Hampshire

NOTICE OF HEARING

ZBA 17-17

A meeting of the Zoning Board of Adjustment will be held on Monday, October 2, 2017 at 6:30 PM in the City Hall Committee Room, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the petition of Michael Lynch and Jeanette Wright of 150 Meetinghouse Rd., Hinsdale, requests a Variance for property located at Grove and Water St., Tax Map Parcel #028-03-011 which is in the High Density District. Represented by Wendy Pelletier of Cardinal Surveying and Land Planning; the Petitioners requests a Variance to permit parking lot setbacks and lot coverage per Sections 102-1226 and 102-791 of the Zoning Ordinance.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice Issuance Date: September 21, 2017

APPLICATION FOR APPEAL

Zoning Board of Adjustment
3 Washington Street, Fourth Floor
Keene, New Hampshire 03431
Phone: (603) 352-5440

For Office Use Only:	
Case No.	<u>9 ZBA 17-17</u>
Date Filed	<u>9/15/17</u>
Received By	<u>CWH</u>
Page	<u>1</u> of <u>10</u>
Reviewed By	<u>GS</u>

The undersigned hereby applies to the City of Keene Zoning Board of Adjustment for an Appeal in accordance with provisions of the New Hampshire Revised Statutes Annotated 674:33.

TYPE OF APPEAL - MARK AS MANY AS NECESSARY

- APPEAL OF AN ADMINISTRATIVE DECISION
- APPLICATION FOR CHANGE OF A NONCONFORMING USE
- APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE
- APPLICATION FOR A SPECIAL EXCEPTION
- APPLICATION FOR A VARIANCE
- APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

SECTION I - GENERAL INFORMATION

Name(s) of Applicant(s) Wendy Pelletier, Cardinal Surveying & Land Planning Phone: 499-6151
Address 463 Washington Street, Keene
Name(s) of Owner(s) Michael Lynch & Jeanette Wright
Address 150 Meetinghouse Road, Hinsdale, NH
Location of Property Grove & Water St.

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 028-03-011-0000 Zoning District High Density
Lot Dimensions: Front 66.22 Rear 55.62 Side 73.52 Side 70.33
Lot Area: Acres .11 Square Feet 4,635
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 0 Proposed _____
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 100 Proposed 100
Present Use Open Lot
Proposed Use Commercial Parking Lot

SECTION III - AFFIDAVIT

I hereby certify that I am the owner or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law.

Wendy Pelletier Date 8/18/2017 19-15-17
(Signature of Owner or Authorized Agent)

Please Print Name Wendy Pelletier

APPLICATION FOR A VARIANCE

- A Variance is requested from Section (s) 102-1226 & 102-791 of the Zoning Ordinance to permit:
Parking lot setbacks & lot coverage

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:

1. Granting the variance would not be contrary to the public interest because:
This is an existing non-conforming lot that has been used as a parking lot to a factory that was located across Water Street. The factory lot was sold off separately from the parking lot.
The lot is separated from the adjacent dwellings by their parking areas, therefore a variance for the setback requirements would not effect the abutting lots.
The lot is currently 100% paved. We are asking to remain at 100%.
These requests do not increase the non-conformity of the lot.

2. If the variance were granted, the spirit of the ordinance would be observed because:
The residential/multi family appearance of the neighborhood would not be changed.
This would continue to be non-conforming use but does not increase in non-conformity.

3. Granting the variance would do substantial justice because:
The lot is undersized for a house lot and is being used for the same use being requested. The parking lot will add 11 parking spaces to be rented to abutting apartment buildings to help alleviate a parking shortage.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:
The use of the lot will remain the same as it has been for over 30 years. It will actually add to the value of some of the apartments that will now be able to offer additional parking spaces to their tenants.

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: The lot is undersized for the zone at only 4,635 s.f. making it a difficult lot to build a structure on and maintain the setbacks and lot coverage requirements.

and

ii. The proposed use is a reasonable one because: This would be a continued use of how the lot has been used for the past 30+ years. The improvements to the lot with fencing and a landscaped barrier would actually increase the curb appeal to the lot from what is there now.

B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Conforming to the parking lot setbacks and green space requirements would decrease the proposed spaces from 11 to 5, which would decrease the lots value to the owners.

4.3/9

VGC

WATER STREET

1" IRON PIPE
0.3' DOWN AT
SPIKE SET
BASE 1.0' DOWN

VGC

C 42/21

VGC

VGC

20-1/43

VGC

GROVE STREET

WALK

PAVING SETBACK LINE

EXISTING
PAVED PARKING

VGC

WATER STREET

