



City of Keene
New Hampshire

**PLANNING, LICENSES AND
DEVELOPMENT COMMITTEE
AGENDA
Council Chambers A
September 12, 2018
7:00 PM**

David C. Richards
Philip M. Jones
George S. Hansel
Bartlomiej K. Sapeta
Margaret M. Rice

-
1. Attorney Homer S. Bradley, Jr. - Request to Unmerge Lots - 15 and 19 Giffin Street
 2. Steve Piispanen/Keene Auto Body - Request to Discharge Fireworks
 3. Peg Bruce/Kiwanis Club of Keene - Request to Use City Property - Tree Lighting Event
 4. Daron Friedman - Request to Acquire Property - Washington Street
 5. Annual Fire Prevention Parade - Fire Department

Non Public Session
Adjournment



City of Keene, N.H.
Transmittal Form

July 31, 2018

TO: Mayor and Keene City Council

FROM: Attorney Homer S. Bradley, Jr.

THROUGH: Patricia A. Little, City Clerk

ITEM: 1.

SUBJECT: Attorney Homer S. Bradley, Jr. - Request to Unmerge Lots - 15 and 19 Giffin Street

COUNCIL ACTION:

In City Council September 6, 2018.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

Communication - Bradley

BACKGROUND:

Pursuant to NHRSA 674:39-aa; Attorney Bradley is submitting a request to unmerge two lots at 15 and 19 Giffin Street.

BRADLEY & FAULKNER, PC

ATTORNEYS AT LAW

Homer S. Bradley, Jr.
Rand S. Burnett
Gary J. Kinyon
Douglas F. Green

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KEENE, NEW HAMPSHIRE 03431-0666

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(603) 352-2031

Kerry K. O'Neill
Ashley L. Noyes

July 19, 2018

City of Keene
Honorable Mayor/Members of the City Council
3 Washington Street
Keene, NH 03431

Re: Russell W. Wilber and Patricia A. Wilber – 15 & 19 Giffin Street

Honorable Mayor and Members of the City Council:

I am submitting herewith an Application by Russell W. Wilber and Patricia A. Wilber to unmerge lots identified as 15 Giffin Street and 19 Giffin Street on Tax Map 532 as Lot 68. This request is made pursuant to RSA 674:39-aa.

The land identified as 15 Giffin Street and the land with the buildings thereon at 19 Giffin Street have always been described in the deeds as separate parcels.

I am submitting herewith, in addition to the application, photocopies of all of the deeds in the chain of title. As you will see, the deed which Leslie and Evelyn Wilber (later Evelyn Ruby Dziengowski) received from Charles A. Pierce to the land now identified as 15 Giffin Street was not recorded and is now lost. Nevertheless, Mrs. Dziengowski and her son, Russell Wilber, have paid the taxes on the land identified as 15 Giffin Street since about 1930.

Very truly yours,



Homer S. Bradley, Jr.

HSB/amp
cc: Board of Tax Assessors, City of Keene
Mr. and Mrs. Russell W. Wilber

P.S. I am very embarrassed that, after all these years, I spelled Russell W. Wilber's name incorrectly in the most recent deed.

In City Council September 6, 2018.

Referred to the Planning, Licenses and Development Committee.


City Clerk

CITY OF KEENE

APPLICATION FOR RESTORATION OF INVOLUNTARILY MERGED LOTS
PURSUANT TO RSA 674:39-aa

Name of property owner(s): Russell W. Wilber and Patricia A. Wilber

Mailing Address: 173 Joslin Road, Surry, New Hampshire 03431

Telephone #: 603-352-4466

Email address: sbradley@bradleyfaulkner.com

Street Location of Parcels affected by the requested Restoration:

15 Giffin Street
19 Giffin Street

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

Parcel 1:

Current Deed Reference (book & page):

Book 3031, Page 987

Date Recorded: July 10, 2018

Book 2692, Page 619

Date Recorded: May 9, 2011

Tax Map: 532

Lot Number: 68

Please state when you believe the involuntary merger took place: Unknown

19 Giffin Street and 15 Giffin Street have always been described as separate lots.

Signature: Russell W. Wilber Name: Russell W. Wilber Date: 7-20-18

Signature: Patricia A. Wilber Name: Patricia A. Wilber Date: 7-20-18

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Regulation of Subdivision of Land

Section 674:39-aa

674:39-aa Restoration of Involuntarily Merged Lots. –

- I. In this section:
 - a. "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.
 - b. "Owner" means the person or entity that holds legal title to the lots in question, even if such person or entity did not hold legal title at the time of the involuntary merger.
 - c. "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.
- II. Lots or parcels that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the appropriate registry of deeds, provided:
 - a. The request is submitted to the governing body prior to December 31, 2021.
 - b. No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.
- III. All decisions of the governing body may be appealed in accordance with the provisions of RSA 676.
- IV. Any municipality may adopt local ordinances, including ordinances enacted prior to the effective date of this section, to restore previously merged properties that are less restrictive than the provisions in paragraph I and II.
- V. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.



City of Keene, N.H.
Transmittal Form

September 4, 2018

TO: Mayor and Keene City Council

FROM: Steven Piispanen, Owner - Keene Auto Body

THROUGH: Patricia A. Little, City Clerk

ITEM: 2.

SUBJECT: Steve Piispanen/Keene Auto Body - Request to Discharge Fireworks

COUNCIL ACTION:

In City Council September 6, 2018.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

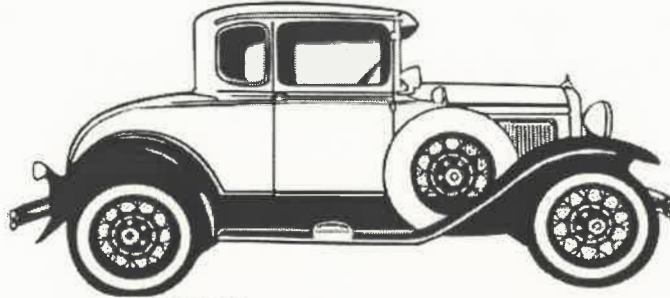
Communication - Piispanen

Property Owner's Permission

Certificate of Insurance

BACKGROUND:

Keene Auto Body is celebrating their 90th anniversary on September 29 and would like to have a fireworks display as part of the celebration.



KEENE AUTO BODY INC.

543 MAIN STREET

KEENE, NH 03431

(603) 352-3103

FAX (603) 352-9130

August 28, 2018

City of Keene
Keene City Council
3 Washington St
Keene, NH 03431

City Council Members:

Per this letter, Keene Auto Body, Inc request our approval to host a Class B Fireworks display on September 29th. The fireworks will be at the end of our 90th Anniversary Celebration, taking place at approximately 9pm.

The fireworks will be set up at 80 Silent Way, property is owned by Steven Walsh. I have attached a letter of approval from Mr. Walsh and also an Insurance Rider naming the City of Keene as a co-insured. Thank you in advance for your consideration

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Piispanen". The signature is written in a cursive style and extends across the width of the page.

Steven Piispanen
Owner/President
Keene Auto Body, Inc.

In City Council September 6, 2018.
Referred to the Planning, Licenses
and Development Committee.

A handwritten signature in black ink, appearing to read "Patricia Cottle". The signature is written in a cursive style.

City Clerk

August 28, 2018

City of Keene
Keene City Council
3 Washington St
Keene, NH 03431

City Council Members:

I give permission for Keene Auto Body to use 80 Silent Way, Keene NH for their Class B Fireworks display on September 29th. The fireworks will be at the end of their 90th Anniversary Celebration, taking place at approximately 9pm.

Sincerely,

Steven Walsh
Owner
80 Silent Way

A handwritten signature in cursive script that reads "Steven Walsh". The signature is written in black ink and is positioned below the typed name and address.

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OF PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER FEDERATED MUTUAL INSURANCE COMPANY HOME OFFICE: P.O. BOX 328 OWATONNA, MN 55060		CONTACT NAME: CLIENT CONTACT CENTER PHONE (A/C, No, Ext): 888-333-4949 FAX (A/C, No): 507-446-4664 E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM	
INSURED KEENE AUTO BODY INC 543 MAIN ST KEENE, NH 03431-4038 381-295-5		INSURER(S) AFFORDING COVERAGE INSURER A: FEDERATED MUTUAL INSURANCE COMPANY INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 13935	

COVERAGES CERTIFICATE NUMBER: 18 REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER: _____	N	N	9325641	09/01/2018	09/01/2019	EACH OCCURRENCE	\$1,000,00
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,00
							MED EXP (Any one person)	EXCLUDED
							PERSONAL & ADV INJURY	\$1,000,00
							GENERAL AGGREGATE	\$2,000,00
							PRODUCTS - COMP/OP AGG	\$2,000,00
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	9325641	09/01/2018	09/01/2019	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,00
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION	N	N	9325643	09/01/2018	09/01/2019	EACH OCCURRENCE	\$2,000,00
							AGGREGATE	\$2,000,00
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE	OTHER
							E.L. EACH ACCIDENT	
							E.L. DISEASE - EA EMPLOYEE	
							E.L. DISEASE - POLICY LIMIT	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

381-295-5
 CITY OF KEENE
 3 WASHINGTON ST
 KEENE, NH 03431-3124

18 0

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



City of Keene, N.H.
Transmittal Form

July 25, 2018

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: 3.

SUBJECT: Peg Bruce/Kiwanis Club of Keene - Request to Use City Property - Tree Lighting Event

COUNCIL ACTION:

In City Council August 2, 2018.

More time granted.

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the request from the Keene Kiwanis Club to use downtown City rights-of-way for the Annual Tree Lighting Ceremony be placed on more time to allow City staff to hold protocol meeting(s) with the petitioner.

BACKGROUND:

Peg Bruce, of 15L Windsor Court reported that their license request is pretty much the same as last year. She continued this year the license for the event also includes their request to install holiday lights in October and remove them in April. Chair Richards confirmed the motion is to place this item on more time to allow protocol meetings to take place.

Chair Richards asked for Committee questions or comments.

There being no questions or comments from the Committee, Chair Richards asked for a motion.

Councilor Hansel made the following motion which was seconded by Councilor Sapeta.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the request from the Keene Kiwanis Club to use downtown City rights-of-way for the Annual Tree Lighting Ceremony be placed on more time to allow City staff to hold protocol meeting(s) with the petitioner.



City of Keene, N.H.
Transmittal Form

August 29, 2018

TO: Mayor and Keene City Council

FROM: Planning, Licenses and Development Committee

ITEM: 4.

SUBJECT: Daron Friedman - Request to Acquire Property - Washington Street

COUNCIL ACTION:

In City Council September 6, 2018.

Referred back to the Planning, Licenses and Development Committee.

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that the portion of City owned property located to the rear of 527 and 529 Washington Street, and to the West of Beaver Brook, being an unused part of Ellis-Harrison Park, be declared surplus property for purposes of Resolution R-2010-31, and that the request to purchase the property be referred to the Finance, Organization and Personnel Committee for further recommendation.

BACKGROUND:

Rhett Lamb, ACM/Community Development Director introduced the applicant Daron Friedman. Mr. Friedman explained he acquired the 529 Washington Street property last year and discovered he only owns about eight feet past his building. The abutting property is a City park. Mr. Lamb referred to the slide depicting the properties. Mr. Lamb confirmed for Chair Richards the property under discussion is a designated City Park. He continued the park property is to the east side of Beaver Brook with a park facility and access off of 93rd Street. The area Mr. Friedman is interested in is the back of the two properties which is mainly floodplain, steep slope, and undeveloped treed area. It is not accessed for park purposes in any way. Mr. Lamb noted the City acquired the property in the 1960's through a tax deed process.

Mr. Lamb referred to Resolution R-2010-31 Relating to the Sale of City owned Real Property and explained the two step process:

- Council determines whether or not the property is surplus
- If Council determines the property is surplus a report/appraisal/evaluation of special circumstances is prepared and sent through the City Manager to the FOP Committee. The FOP Committee would determine if the property could be sold and under what circumstances.

Mr. Lamb advised we are here tonight to discuss the first step; to determine whether or not the property is surplus. Chair Richards asked what could be built there. Mr. Lamb indicated the location is not something the City would consider for development. He pulled up the slide depicting the floodplain layer in the area. Andy Bohannon, Parks & Recreation Director concurred with Mr. Lamb's comments adding we stay in the maintained area (George Street side) and do not go on the other side of the Brook at all. Mr. Lamb commented there are four to five abutters to this property and the City has no access to this land from Washington Street.

Chair Richards asked the City Attorney about the rules when something is dedicated as a park. Attorney Mullins noted the research he did and that he prepared an internal memo today for staff. Attorney Mullins reported there is an applicable State Statute which he explained for those present. He continued the process is the same as a discontinuance of a highway. This is a process Council is aware of and will have to run if the property is determined to be surplus. Attorney Mullins also noted this would be only a partial discontinuance of the Park. He also explained a public hearing is part of the process.

Chair Richards asked for Committee questions or comments.

Councilor Rice asked if the public hearing had to happen first. Attorney Mullins indicated Council could make the determination but the public hearing would have to happen before the transfer.

Councilor Hansel asked if the section of the stream was in a natural state and is there any reason the City would have to go in there, in the future, to make improvements. Mr. Lamb replied he is not aware of any improvements in this section like there are further downstream. He continued in this area it would be easy to conclude it is a natural stream.

Councilor Jones asked if we can consider it parkland if we do not have access to it. Attorney Mullins replied in the affirmative. He pointed out there is a 15-foot reserved Right-of-Way and we are researching its underlying intent and who has access to it. The City does have some drainage issues with this property so we would want to retain some kind of right of access or easement. There are still things we need to look at he added. Councilor Jones asked about Planning Board steps. Mr. Lamb indicated one part of the process would be approval of a subdivision plan or boundary line adjustment. He also noted the importance of having the survey information prepared before the transfer. Councilor Jones asked if this is where the public would weigh-in on flooding. Mr. Lamb suggested the flooding issue would probably come up at the public hearing prior to the Planning Board step(s). Attorney Mullins confirmed the discontinuance notice would include abutters.

Councilor Hansel commented in most cases the property would be put on the open market. He then asked if that would be the case here. The City Manager commented in this case, because of the location restrictions it is really only valuable to the abutters. One of the things we were looking at doing in the future is an amendment to the Resolution for Tax Deeded Property. There is some language not yet adopted locally that would make the process easier to go through. For this instance we were talking about making sure the abutters were notified and that they have the opportunity to weigh-in if they have interest in the property. Because of the restrictions and access this was not something we were recommending to be open to the general public. Taking it a little further Attorney Mullins commented this is going to be interesting; all three Committees of the City Council will be taking a look at this thing. You are here tonight to make a recommendation on whether or not it should be surplus property. He reiterated the process that would take place after the determination. He also noted because this property has been in the City's possession for over 10 years it is not subject to any of the other rules otherwise associated with tax deeded property. Mr. Lamb also pointed out if and when this portion of the property is severed it would no longer have frontage on a Class V highway so arguably it would not comply with the zoning ordinance as a free-standing lot. This goes to the City Manager's comment that it is only really usable by abutters.

Councilor Sapeta asked if it would be possible to sell it to a non-profit entity that wants to preserve it forever. Mr. Lamb replied he believes that would be possible if it complied with the zoning ordinance unless it was established as purely conservation use. Councilor Sapeta said he is looking at it from the perspective is it fair to open this for only one person to buy. He does concur with the environmental issues. Mr. Lamb noted these things can be part of the report provided to the City Manager and then onto the appropriate Committees. Chair Richards noted we will be doing a site visit for this thing to move forward. Attorney Mullins reiterated the steps in the process and confirmed the land would stay as a park if it fails at any one of the steps. Chair Richards commented he is in favor as far as let's see what else happens. Councilor Jones asked if step three would be the

discontinuance, site visit by City Council, and a public hearing. Attorney Mullins replied in the affirmative.

There being no further questions from the Committee or public Chair Richards asked for a motion.

Councilor Hansel made the following motion which was seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that the portion of City owned property located to the rear of 527 and 529 Washington Street, and to the West of Beaver Brook, being an unused part of Ellis-Harrison Park, be declared surplus property for purposes of Resolution R-2010-31, and that the request to purchase the property be referred to the Finance, Organization and Personnel Committee for further recommendation.



City of Keene, N.H.
Transmittal Form

September 5, 2018

TO: Planning, Licenses and Development Committee

FROM: Mark Howard, Fire Chief

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: 5.

SUBJECT: Annual Fire Prevention Parade - Fire Department

RECOMMENDATION:

Move that the Planning, Licensing and Development Committee recommend that the Fire Department be granted permission to use City property for the 2018 Annual Fire Prevention Parade to be held on Sunday, October 7, 2018.

BACKGROUND:

Annually, the fire department requests permission for use of City property and City streets for the Fire Prevention Parade. The parade kicks off Fire Prevention Week activities. This year we are requesting the use of the parking lot in the area of Fleet Services located at 350 Marlboro Street for the parade line-up. The parade will start at 1:00 pm at 350 Marlboro Street and proceed westerly along Marlboro Street to North on Main Street to Washington Street where it will disperse at Vernon Street. Following the parade there will be an awards ceremony at the Central Fire Station on Vernon Street