

**Zoning Board of Adjustment  
Monday, October 1, 2018, 6:30 p.m.  
City Hall Council Chambers  
3 Washington Street, 2<sup>nd</sup> Floor**

**AGENDA**

- I. Introduction of Board Members
- II. Minutes of the Previous Meeting – September 4, 2018
- III. Unfinished Business
- IV. Hearings:

**Continued ZBA 18-12:/** Petitioner, Kay M. Alderman of 350 Hurricane Rd, requests a Variance for property located at 350 Hurricane Rd., Tax Map # 234-019-000, owned by the Petitioner and is in the Rural District. The Petitioner requests a Variance to permit the extension of a garage to within 11 feet of side boundary line and to within approximately 45+/- feet of Hurricane Rd. where 50 feet is the setback requirement for both side and front side yards per Section 102-791, Basic Zone Dimensional Requirements.

**ZBA 18-17:/** Petitioner, The Prospect Woodward Home of 194-202 Court St., request a Variance for property located at 95 Wyman Rd., Tax Map #221-019-000, owned by the Petitioner and is in the Rural District. The Petitioner requests a Variance to permit a free standing sign 29.32 square feet in an area where 20.00 square feet is the maximum area allowed per Section 102-1310.2B.

**ZBA 18-18:/** Petitioner, Hundred Nights, Inc., of 17 Lamson St., Keene requests an Appeal of an Administrative Decision based on the definition of a hotel versus a lodging house and the Administrative Decision by the Zoning Administrator that Hundred Nights, Inc. “is considered to be a lodging house under the City’s Zoning Ordinance, and not a Hotel.

**Continued ZBA 18-14:/** Petitioner, Hundred Nights, Inc. of 17 Lamson St., Keene requests a Variance for property located at 76 Railroad St., Keene, Tax Map # 574-010-000, owned by The Moving Company Dance Center, 76 Railroad St., Keene and is in the Central Business District. The Petitioner requests a Variance to permit a lodging house in the Central Business District where a lodging house is not a permitted use per Section 102-482 of the Zoning Ordinance.

**ZBA 18-19:/** Petitioner, Hope Chapel of 667 Main St., represented by Chad Branon of Fieldstone Land Consultants, PLLC of 206 Elm St., Milford, NH, requests an Enlargement of a Non-Conforming Use for property located at 667 Main St., Tax Map #120-055-000, owned by Keene Four Square Church, 667 Main St., Keene. The Petitioner requests an Enlargement of a Non-Conforming Use to expand the existing church with a building addition and associated site improvements.

- V. New Business: Monthly packet prodigal
- 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**

**Monday, September 4, 2018**

**6:30 PM**

**Council Chambers**

**Members Present:**

Nathaniel Stout, Chair  
Joshua Gorman, Vice Chair  
Michael Welsh  
Jane Taylor  
Louise Zerba, Alternate

**Staff Present:**

Thomas Mullins, City Attorney  
Gary Schneider, Plans Examiner  
John Rogers, Zoning Administrator

**Members Not Present:**

**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-June 4, 2018 & August 6, 2018**

Ms. Zerba and Ms. Taylor recused themselves from voting because they did not attend the meeting on June 4, 2018.

Chair Stout noted a correction on page 5, seventh paragraph, "After a brief" should be changed to "After a brief discussion among Board members ensued, the Board agreed to withdraw the motion". In addition, on page 5, last paragraph, "Mr. Welsh made a motion to deny the request of" should be changed to "Mr. Welsh made a motion to deny the request to".

Mr. Welsh made a motion to approve the minutes for June 4, 2018 as amended. The motion was seconded by Vice Chair Gorman, which carried unanimously.

Mr. Welsh and Ms. Zerba recused themselves from voting because they were in not in attendance of the meeting on August 6, 2018.

Chair Stout noted the minutes need to reflect the Board welcomed Ms. Taylor to the Board under Item I.

Ms. Taylor made a motion approve the minutes for August 6, 2018. The motion was seconded by Vice Chair Gorman, which carried unanimously.

#### IV. Hearings

**Continued ZBA 18-12:/ Petitioner, Kay M. Alderman of 350 Hurricane Rd, requests a Variance for property located at 350 Hurricane Rd., Tax Map # 234-019-000, owned by the Petitioner and is in the Rural District. The Petitioner requests a Variance to permit the extension of a garage to within 11 feet of side boundary line and to within approximately 45+/- feet of Hurricane Rd. where 50 feet is the setback requirement for both side and front side yards per Section 102-791, Basic Zone Dimensional Requirements.**

Chair Stout asked for a City staff report. Mr. Schneider reported there was a request for continuance based on medical issues that occurred with the Petitioner over the weekend. The request is to postpone the hearing until the next Board meeting that will be held on October 1, 2018.

Vice Chair Gorman made motion to postpone ZBA 18-12 until the next Board meeting that will be held on October 1, 2018 at 6:30 PM in Council Chambers. The motion was seconded by Mr. Welsh, which carried unanimously.

Chair Stout announced that in the interest of time he would move to ZBA 18-14 ahead of ZBA 18-13.

**Continued ZBA 18-14:/ Petitioner, Hundred Nights, Inc. of 17 Lamson St., Keene requests a Variance for property located at 76 Railroad St., Keene, Tax Map # 574-010-000, owned by The Moving Company Dance Center, 76 Railroad St., Keene and is in the Central Business District. The Petitioner requests a Variance to permit a lodging house in the Central Business District where a lodging house is not a permitted use per Section 102-482 of the Zoning Ordinance.**

Mr. Rogers reported a request was received in August from Hundred Nights for a zoning determination on the use of Hundred Nights to be considered a hotel and not a lodging house. Based on this request and as the Zoning Administrator, he determined Hundred Nights is a lodging house and not a hotel. Mr. Rogers explained that based on this determination, Hundred Nights have expressed their desire to appeal this decision to the ZBA. In addition, based on the appeal process, Hundred Nights is asking for a continuance on the Variance application.

Mr. Rogers distributed a copy of the letter of request for the postponement from Hundred Nights. The email was dated Tuesday, September 4, 2018, and sent from Mindy Cambiar. In the email Ms. Cambiar requested the following:

- 1) Hundred Nights will be submitting an application to appeal the Administrative Decision regarding the definition of the use of Hundred Nights as a hotel rather than a lodging house. The application will be submitted before September 14, 2018, so that it can be brought up at the October meeting.
- 2) Due to the fact that Hundred Nights is going to submit an Appeal of the Administrative Decision, Hundred Nights is requesting that they be allowed to postpone the presentation and decision of the previously applied for zoning Variance that, if granted, would allow Hundred Nights to operate a lodging house in the Central Business Zone.

Mr. Rogers also distributed a copy of the letter the City sent to Hundred Nights. The letter informed Hundred Nights of a receipt of a request to define the use of the Hundred Nights Homeless Shelter as a hotel rather than a lodging house for purposes of the City of Keene Zoning Ordinance.

Chair Stout recognized a member of the public that presented question. Chair Stout announced this was not a public hearing at this time. However, he asked the Board how they would feel about taking a comment from the public. After a brief discussion, the Board agreed to take a comment from the public if the question is in regards to procedures.

Stephen Bragdon, 51 Railroad Street, stated he wanted to point out to the Board this hearing was schedule for September and all of the opposition was present. Chair Stout told Mr. Bragdon that was not a procedural question and would not allow him to continue. Mr. Bragdon then asked if the Board was planning on having the hearing on the question if Hundred Nights is a boarding house or a hotel before the October hearing. Chair Stout replied in the negative and stated that the next time the ZBA considers this matter will be in a public session that has been duly noted. Mr. Bragdon asked if the hearing would be on the whole zoning issue. Chair Stout replied that was not an answer that he could provide at this time and was something that would be addressed by the Administration. Mr. Bragdon added that this process is leaving a lot of people in limbo. Chair Stout reminded Mr. Bragdon this was not a public hearing.

Ms. Taylor then made a motion to continue ZBA 18-14 to October 1, 2018 at 6:30 PM in Council Chambers. Vice Chair Gorman seconded the motion, which carried unanimously.

**Continued ZBA 18-13:/ Petitioner, Jacob D. and Geraldine J. Liebert of 447 Hurricane Rd, represented by Brickstone Land Use Consultants, LLC of 185 Winchester St., Keene, requests a Variance for property located at 0 Hurricane Rd., Tax Map # 225-016-000, owned by the Petitioner and is in the Rural District. The Petitioner requests a Variance to allow construction of a single family home on an existing two acre lot in the Rural District where five acres is required per Section 102-791, Basic Zone Dimensional Requirements.**

Chair Stout stated that as a member of the Board he is compelled to recuse himself from the hearing as he is an abutting neighbor to the Petitioner. Vice Chair Gorman assumed the role of Chair Pro-Tem.

Chair Pro-Tem Gorman asked for the City staff report. Mr. Schneider displayed a map, indicating the location of the property is in highlighted yellow on the map and located at 0 Hurricane Road. He noted there is no structure on the property at this point. Mr. Schneider then indicated the red line on the map indicates the 200 foot abutters list.

Mr. Rogers provided a brief history on the property by explaining the property was a subdivision that was approved in 1976 by the Planning Board. In 1976, the Zoning Code allowed for 2 acre lots and this property was located in what was known as the Agricultural Zone. The zone is now called the Rural Zone.

Mr. Rogers reported in 1977, there was a zoning change. He noted at that time, nothing was done to the property. Mr. Rogers stated there is an RSA that speaks to having a five year exemption from changes to the zoning code as long as there has been some substantial development. He

explained in this case, it is a vacant lot and there was no development that was required per the subdivision and already on a city road with no city utilities.

Mr. Rogers then noted the five year exemption has come and gone. He said to qualify for the exemptions there would have to be some substantial development, which has not occurred. It has been the interpretation of the Department in the past that it does not meet today's zoning of a five acre lot and is reason why the Petitioner is before the ZBA.

Mr. Welch asked if the change Mr. Rogers was referring to is the passage of a five acre minimum as opposed to a two acre minimum. He asked when the ordinance was changed to the Steep Slope Ordinance. Mr. Rogers replied approximately 4-5 years ago. In addition, Mr. Welch asked when the Surface Water Ordinance occurred. Mr. Rogers replied this occurred during the same time period as the Steep Slope Ordinance. He noted those areas would have to be addressed if the Petitioner was granted a Variance. Mr. Welch referred to the map stating that lots on the map seem to indicate the lots are less than five acres with existing structures. Mr. Rogers stated in 1976, these lots were approved by the Planning Board.

Chair Pro-Tem Gorman welcomed the Petitioner.

David Bergeron, Brickstone Land Use Consultants, LLC of 185 Winchester Street, stated that he is representing the land owners. Mr. Bergeron presented a plan of the subdivision that was actually a two lot subdivision that was approved in 1976. Mr. Bergeron stated the Liebert's purchased the property in 1986 and at the time the Zoning Board still allowed development in the Rural Zone if they met certain conditions. He reported they purchased the property with the idea to eventually do something with the lot. In 2015, a Variance was granted for the application and that has since lapsed.

Mr. Bergeron then presented a blow up of the two acre lot. He reported they conducted wetland delineation on the lot as well as a soil test. Mr. Bergeron then referred the Board to the letter sent by Tom Forest, a septic designer that determined the lot will support the necessary utilities to develop the lot. In addition, Mr. Bergeron reported that in the letter Mr. Forest stated he found a large enough area for a septic system to support a three bedroom house.

Chair Pro-Tem Gorman stated that he was unable to find the septic approval letter Mr. Bergeron referenced. Mr. Bergeron presented the Board with a copy of the letter. Chair Pro-Tem Gorman asked the Board if they objected to him reading the letter. With no objection, Chair Pro-Tem Gorman read the letter sent by the septic designer, Tom Forest. The letter confirmed that lot Tax Map #225-016-000 was investigated to determine the lot can support a septic system per State of New Hampshire design requirements. A test pit and perk test were conducted on the lot. It was determined the lot contains the proper soils and a large enough receiving area for a three bedroom system.

Mr. Bergeron then reviewed the criteria.

*Granting the variance would not be contrary to the public interest.*

Mr. Bergeron stated this two acre lot has been in existence for 40 years and predates the change in the Rural Zone from two acres to a minimum of five acres for a building lot. The surrounding area has several residential properties that are less than five acres in size that were most likely

constructed at the time when the Rural Zone allowed two acre lots. Mr. Bergeron stated that the Variance would not be contrary to the public interest.

*If the variance were granted, the spirit of the ordinance would be observed.*

Mr. Bergeron stated the intent of the Rural Zone is to provide low density development and room for on-site utilities for the residences. The zone has 50 foot setbacks to allow more room and privacy between residences. The setbacks between a residence built on this lot and the abutting properties will meet or exceed the minimum setback requirements. He stated the houses on the abutting properties are all located approximately 200 feet from the potential building site on this lot. Mr. Bergeron stated they have had a test pit done on the existing lot to determine the suitability for a septic system and well and have determined that the lot will support the necessary utilities to develop the lot.

*Granting the variance would do substantial justice.*

Mr. Bergeron stated this lot has existed since 1975. The Liebert's purchased the property in January of 1983 and at that time the Keene Zoning Ordinance allowed construction on a two acre lot in the Rural Zone with the proper soils which they felt would have allowed them to build on the lot. He noted that a 1986 zone change removed that provision in the ordinance eliminating their ability to attempt to comply with the ordinance.

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

Mr. Bergeron stated this lot has existed in this location for 40 years and has been part of the existing neighborhood. There are other lots in this area that are less than five acres and consistent in size with this one. He stated granting the Variance would allow the use of the property that is similar and consistent with the character of other lots in the neighborhood and would not reduce property values.

*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:*

*1. 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.*

Mr. Bergeron stated the restrictions to the property create an unnecessary hardship to the owner. The owner purchased the lot with the idea of selling it in the future for a building lot. The current restrictions to the lot take that ability away from the owner and the lot cannot be developed without the Variance. In addition, he noted there are several other developed lots along this area of Hurricane Road that are less than five acres and this lot is similar in size to other properties in the zone.

*ii. The proposed use is a reasonable one because:*

Mr. Bergeron stated the surrounding lots vary in size with many along the frontage of Hurricane Road less than five acres in size. Allowing the development of the lot would reflect the character of the neighborhood and would be in keeping with other developed lots that surround the

property. He noted the intent of the ordinance can be maintained. In addition, he stated the setbacks from abutting properties will be maintained and buildings will be more than the required setback from each other.

*B. Explain how, if the criteria and 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.*

Mr. Bergeron stated the Liebert's own the abutting property as well as the two acre lot. They looked at the possibility of adding land area to the two acre lot to make the lot conform to the five acre minimum required by Zoning. However due to the adoption of two land use regulations by the City of Keene, adding additional land area to the lot is not a reasonable alternative. Mr. Bergeron stated the Hillside Protection Ordinance and the Surface Water Protection Ordinance prevent use of much of the land owned by the Liebert's for low density purposes. He noted the Hillside Protection Ordinance prohibits land in excess of 25% from lot size calculations and allows only half of the land area between 15% and 25% in lot size calculations. In addition, he noted the Surface Water Protection Ordinance prohibits wetlands in lot size calculations.

The Liebert's own 41.5 acres. Approximately 1.75 acres is wetlands and cannot be use to add to the existing lot. Approximately 41.5% is steeper than 25% and cannot be counted for density. Approximately 42% is between 15% and 25% so only half can be counted for density. Due to the location of the steep slopes and the wetlands, approximately 20 acres would need to be added to the two acre lot to conform to the lot size requirements.

Ms. Zerba referenced the long driveway along the with amount of vegetation that would be cut off. She asked what this will do to the water runoff. Mr. Bergeron stated there are requirements in the Steep Slope Ordinance that require erosion control and that the driveway standards not be more than 10 feet wide. In addition, he stated there are storm water requirements that must be met in order to maintain the runoff.

Mr. Welsh asked City staff if there is a five year grandfather clause on other rules about land use such as Surface Water and Steep Slopes. Mr. Rogers replied the RSA speaks to the regulations in general and any of those would apply. He stated the interpretations from the City staff from the RSA, in regards to the five year exemption window, have long since passed.

Mr. Welsh referenced the ability to count accessibly Steep Slopes or Wetland as lot size. He asked if the grandfather clause is in place would not the necessity of expanding the lot be just a mere three acres in order to get it up to five acres. Mr. Bergeron replied that the RSA state law has nothing to do with the City of Keene municipal regulations, which are the Steep Slopes and Wetlands Ordinances. He noted that once ordinances are enacted they must be met.

Chair Pro-Tem Gorman asked for the actual usable acreage of the proposed lot. Mr. Bergeron replied that as far as usable land, to be able to develop, he explained the state allows a septic system up to 35% slope. He stated they can still develop the lot and meet the requirement for setbacks. He stated these restrictions apply primarily to figuring lot size and the amount of area that can be impacted.



Chair Pro-Tem Gorman asked the reason why the Petitioner's did not take advantage of the Variance at that time. Mr. Bergeron replied his clients are transitioning to retiring and trying to decide where they want to go. He explained that time had got away from them and they just plan forgot.

Mr. Welsh asked if granting the prior Variance if there was any provision for a land owner to ask for an extension on the timeframe as opposed to coming before the Board. Mr. Bergeron replied in the affirmative. Mr. Rogers added that it has been practice of the Board to grant extensions. Chair Pro-Tem Gorman asked for public comment for those in favor of the application.

With no comment, Chair Pro-Tem Gorman welcomed those opposed to the application.

Pat Gutierrez, 467 Hurricane Road, stated their home is located down the road from the proposed lot. She indicated the location of her property on the map, stating that her property used to be called "Bossy Boots Trust". She stated they purchased their property two years ago and are concerned because they thought they had purchased an idyllic piece of property in Keene. She noted her home was built in 1810 and is situated on 2.5 acres. Ms. Gutierrez stated she researched the statute that requires an applicant to establish the four criteria to obtain a Variance. She stated that she wished to address the criteria.

Ms. Gutierrez addressed the criteria.

- She stated in the State of New Hampshire, the applicant has to establish special conditions that distinguish it from the area. She stated that she would put forth that New Hampshire is not called the "Granite State" for nothing. Ms. Gutierrez stated there is a huge ridge behind her home and the area is all rocky and unusable. She said their leach field abuts the wetland that is on the Liebert's property heading south toward Keene. In addition, their well is not that far from their leach field and the Liebert's septic system would be above this area. She noted this is a concern.
- Ms. Gutierrez said the applicant must demonstrate their property is different from surrounding properties and zoning restrictions that would make their property distinct. She stated that she would pose the land is all very similar and consists of rocky ledge. In addition, she stated that it would be wrong for the Zoning Board to set precedence that a hardship is considered if a landowner is unable to develop a property they purchased 40 years earlier.
- She said the reasonable use aspect is not supposed to affect abutting neighbors. Ms. Gutierrez stated that she does not understand how this parcel would be that unique to be granted this Variance. She said granting the Variance sets precedence that all other large tracts of land on Hurricane Road can be developed.
- She said in reference to the public interest she proposes that if it is supposed to be a rural area she is not sure why a Variance would be granted for a two acre lot. She noted the site would need a new driveway through a wetland and proposed site was a lousy piece of land. In addition, she explained there are a lot of problems with runoff on Hurricane Road. She approached the Board with photographs of the damage from a storm that happened in August.
- Ms. Gutierrez referred to the criteria of diminishing value to surrounding properties. She stated that she has been investing in her property and questioned how her property would

not be deemed less valuable if there is a neighbor with only so many feet above her property.

Chair Pro-Tem Gorman asked when Ms. Gutierrez purchased her property. Ms. Gutierrez replied in 2016. Chair Pro-Tem Gorman asked if she was aware of the Variance that was granted three years ago. Ms. Gutierrez replied that she was not.

Sharon Stout, 446 Hurricane Road, stated her property was diagonally across from the Petitioner's property. She stated there is a huge culvert underneath the road that is right next to her property. Ms. Stout said it is possible if wetlands are taken away, the City would have to do an incredible amount of work to get the drainage out. She reported that the City has put in a culvert and water really rushes through when it storms. In conclusion, she stated the whole reason Variances expire is because things change and there have been substantial storms that are causing this to happen.

Terrence Mack, 460 Hurricane Road, stated that he has lived in his home for 57 years. He reported that his lot was established in the 1940's.

Mr. Mack stated that the flooding is a horror show and has been going on more and more over the past 20-25 years. He stated that he never used to get water in his dug cellar. Mr. Mack explained what has happened is that many more new homes have been built on slopes on Hurricane Road. He further explained that instead of a slope for water to soak in as coming down, these homes are plateaued. Ditches behind these homes have been dug to protect their land.

Mr. Mack stated that he sent photographs from the last storm to the City. He noted that he stood in front of his house in water that was ankle deep to photograph the amount of water.

Mr. Mack explained that water comes down in front of his house and then enters into the wetland. He reiterated there is a tremendous amount of water. He explained those wetlands are flooded temporally and is wet year round. He said that water is constantly running off and any storm we get accumulates. He said the culvert Ms. Stout referenced does not take the water below. He noted this is 24-30 inch culvert and that water crosses the road and drops down about 60-70' into White Brook.

Mr. Mack stated the torrent of water is unbelievable and he is getting tired of having to replace his driveway. In addition, he noted that the culverts above his home plug up. He reported there was a major revamping with these culverts a few years ago. Mr. Mack stated what the Petitioner is proposing to develop, is the whole front section piece of land that floods. He stated to even consider a roadway through that property it would take several thousands of yards of fill. Mr. Mack noted this would be a complicated fill.

Mr. Mack then stated that it would take a 30 inch culvert on both sides of the road to accommodate the terrible amount of water that comes down Hurricane Road. He said the land has been this way for 60 years and he can never image developing this land. Mr. Mack explained the natural water ways are protecting the people above him as well as protecting his house. He reiterated those wetlands are very important. He said with the storm patterns changing, becoming more violent a mistake will be made with the wetlands and Hurricane Road will be in trouble.

Matthew Hall, 431 Hurricane Road, referenced the large culvert and stated that the culvert fails. Mr. Hall stated that he is down the hill and aware of the yards of fill he receives gratis from the City. In addition, he stated the ditch by his home has eroded so badly that the original asphalt from the road is exposed. He noted the old asphalt road is 18 inches down. Mr. Mack stated there is a water problem that goes further down the hill.

Ms. Taylor asked Mr. Bergeron if the largest lot on the subdivision has anything built on it. Mr. Bergeron replied in the affirmative, adding that it is a single family home. Mr. Bergeron indicated the location of the property on the map.

Mr. Bergeron stated that he wanted to address some of the issues discussed by the abutters. He addressed the property at 467 Hurricane Road. He stated as far as developing, everything is downhill from this abutter. In addition, he referenced the septic, well and runoff noting that everything goes away from this abutter and there should not be any impact.

Mr. Bergeron stated he recognizes there are issues on Hurricane Road and an issue with runoff because of the steep slopes. In addition, he noted there are regulations in place such as the Steep Slope Ordinance that require additional steps to be taken. He said as far as wetland permits, there is a new regulation that came out last year that deals with street crossings. He explained street crossings must have a runoff designed to prove to be able to pass the minimum of 50 year storms. Mr. Bergeron reiterated that all requirements that have to met and addressed.

Mr. Bergeron added that a storm water control system would be a good idea in this area and in return benefit the neighborhood.

Mr. Mack stated that something was brought up about the driveway that is going to be put in using part of the old road. He noted there is no old road Hurricane Road and that the road was redesigned back in 1760. In 1760, there was an old strip of road, offset from where it is now and he noted this was a wagon road. Mr. Mack reiterated there is no old road.

With no further comment, Chair Pro-Tem Gorman closed the public hearing.

Ms. Taylor commented that she disagrees with the City's interpretation. She stated that one of the roles of the Zoning Board is to determine that the right application is in front of the Board. She stated that she is not convinced this application requires a Variance at all. She stated the statute that has been referenced the five year exemption has been rewritten several times. Ms. Taylor stated that one of the provisions in it applies to both sites and subdivision. She said the statute has what it calls active and substantial development of a subdivision. She said her question and concern is that if there is a two lot subdivision and 50% of lot has been developed is that not active and substantial development. She said if there are two lots and one has been developed then the other one should be alright. Ms. Taylor stated her concern is whether a Variance is required and that the law is not as clear as it could be.

Mr. Rogers stated the RSA states that for every subdivision and site plans, the five year exemption does not imply unless there has been active development. He said using the Planning Board rules, their definition of active and substantial development speaks to construction or insulation of basic infrastructure. Mr. Rogers noted this project did not require since it was an already existing road. In addition, he said it also requires at least one building foundation, access

ways, minimum gravel base utilities and underground conduit. He said none of which occurred on this property and the reason why staff determined a Variance was required.

Ms. Taylor stated that she wanted to raise the point that she believes active and substantial development is when there is at least 50% of the lot developed. She also noted that this law was substantially different years ago.

Chair Pro-Tem Gorman reopened the public hearing to ask Mr. Bergeron a question.

Chair Pro-Tem Gorman asked if the two lot subdivision in 1976 was an existing single lot with a dwelling unit already on the lot and then got approved to subdivide the lot. Mr. Bergeron replied in the affirmative. Ms. Taylor stated that her point was that the law was completely different at that time. Mr. Bergeron stated the Petitioner is willing to take the time for the Board to look into this before acting on a Variance. Chair Pro-Tem Gorman asked if this would call for a review of the Administrative Decision. Mr. Rogers replied this would be left up to the Board. He stated that it was the practice of both the Department and Board to look at the property as already having received a Variance and has been the practice to look at these type properties requiring a Variance.

With no further comment, Chair Pro Tem Gorman closed hearing.

Mr. Welsh stated the basis for granting a Variance is clear right now and asked if the same basis was in place when the Variance was granted in 2015. Mr. Welsh then asked if it was reasonable to consider those arguments back in 2015 are similar to the arguments today in regards to granting a Variance. Mr. Rogers stated that he would recommend the Board take this application on its own and not think of the 2015 Variance application.

Ms. Zerba stated that she was in a quandary because the change in climate has changed and storms are greater in intensity. She noted that she came in ready to approve the request. After listening to the neighboring comments about the storm water issues in that area, she noted her concern. Ms. Zerba asked if City staff and the applicant could get together to try to see if the City is responsibility for installing a bigger culvert to protect the abutting properties. Mr. Rogers stated that if the Variance was granted the applicant would have to go through the process in regards to building permits and regulations for Surface Water and Steep Slopes. Ms. Zerba asked if there could be a condition put on the Variance as no storm water runoff as a result of the construction. Mr. Rogers replied that he would not recommend having this type of condition due to what is already in place for permitting.

Chair Pro-Tem Gorman stated that it was important for the Board to recognize the wetlands are fairly independent areas of the Zoning Board. He stated the Board should be concerned with the five criteria.

Ms. Taylor stated that she hopes in the future if the Board continues applications, the Board has copies of the minutes in order to have a better insight into what has occurred.

Chair Pro-Tem Gorman stated that it would be his inclination to continue with the Variance application because the property was granted a Variance three years ago. He explained that that Variance has expired due to lack of action and the Petitioner now wants to develop the property. Chair Pro Tem Gorman asked if the Board agreed. All members of the Board agreed.

The Board reviewed the criteria.

1. *Granting the variance would not be contrary to the public interest-* Ms. Zerba stated that her original thinking is that there are other pieces of property along Hurricane Road that are less than five acres. Notably in that a two acre area and she stated this would not be a unique request. Mr. Welsh stated that the Board has heard well considered arguments about the nature of storms and different conditions that have beset the area over time. He stated his sense is the nature of storms and an increase in frequency was something that was noticed 3-4 years ago in spite of recommendation not to consider. He said his sense is having not heard enough of an argument to consider the original Variance an error. Chair Pro-Tem Gorman stated that he would agree with Ms. Zerba's comments in terms of the multitude of 2 +/- acre properties in that area are all fairly close to the application. He said the water problem does already exist on the street and he does not know how building on more stringent guidelines than ever before would negatively impact a situation that already exists. Ms. Zerba stated that she would like to see some form of mitigation in that area.
2. *If the variance were granted, the spirit of the ordinance would be observed-* Mr. Welsh stated this was evident based on the reasons presented. Ms. Zerba stated all of the setbacks have been met. In addition, she stated the septic and well has been approved by a qualified person. Ms. Taylor stated that it meets all of the requirements as she understands for size. She also stated that a Variance in her opinion in this case is overkill.
3. *Granting the variance would do substantial justice-*Ms. Zerba stated the Liebert's purchased the property believing that it would be a two plot subdivision and would be allowed to construct a single family home on the lot. Mr. Welsh stated that he would concur with Ms. Zerba's comments. He stated that the background he has read is that justice is a concept not a legal term. Mr. Welsh stated the arguments heard are about fairness and are reasons why the Variance is being looked at now. He stated that he does not think ill will be served by granting the Variance.
4. *If the variance were granted, the values of the surrounding properties would not be diminished-* Mr. Gorman stated that it does meet setbacks and does fit the mold in terms surrounding lots. He stated that he does not know how it can have a diminutive impression that substantially already exists. Mr. Gorman stated that it was not egregious in terms of setbacks. He stated that he does not know that it would have any impact and is a reasonable request.

Ms. Taylor stated the property has adequate road frontage and meets all regulatory requirements. She questioned if there is any relationship between restriction and the actual existence of the 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-* Ms. Zerba stated there are already two acre or smaller lots in that area and does not think there is an unfair or substantial relationship.

- ii. *The proposed use is a reasonable one-* Mr. Gorman stated that the Board had already covered this answer and referred to the discussion in the previous comments.

*5B. Explain how, if the criteria and 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-*Mr. Welsh stated in regards to the condition, the applicant has done his due diligence to try to creatively problem solve on a reconfiguring the lot. He stated he was impressed with the difficulty of the task and the effort behind it. Mr. Welsh stated the granting of the Variance is appropriate under this condition.

Ms. Zerba made a motion to approve ZBA 18-13 to allow construction of a single family home on an existing two acre lot in the Rural District where five acres is required per Section 102-791. The motion was seconded by Mr. Welch, which carried unanimously.

The Board reviewed the Findings of Fact.

*Granting the Variance would not be contrary to the public interest:* Granted- 4-0

*If the variance were granted, the spirit of the ordinance would be observed.* Granted, 4-0

*Granting the Variance would do substantial justice.* Granted 4-0

*If the Variance were granted, the values of the surrounding properties would not be Diminished.* Granted 4-0

*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.* 4-0

With a vote of 4-0, the Zoning Board of Adjustment approved ZBA 18-14.

Chair Stout rejoined the meeting.

**ZBA 18-15:/ Petitioner, Raette Trombly of Keene, requests a Change of a Non-conforming Use for property located at 15 King Ct., Keene, Tax Map #112-022-000, owned by William Stretch, Jr. of Oshawa, Ontario, and is in the Low Density District. The Petitioner requests a Change of a Non-Conforming Use to permit a fitness facility use in an already non-conforming use of a retail facility.**

Mr. Schneider indicated the location of the property is located just before the intersection of Main Street and Route 101. He described the street as a small, dead end street. Mr. Schneider reported that 15 King Court used to be the location of Indian King Framery, which was a retail

store. The proposal is for a woman's fitness center. He noted the change of use is the reason why the Petitioner is present.

Mr. Rogers added that under Section 102-207 of the Zoning Code it states, *"The zoning board of adjustment may, in appropriate circumstances and with appropriate safeguards, permit a nonconforming use to be changed to another nonconforming use, provided such changed use is more in conformity with the spirit and intent of this chapter than the prior use and is not more injurious, obnoxious or offensive to the neighborhood than the existing use"*. Mr. Rogers stated the applicant was before the Board to change from one nonconforming use to another.

Chair Stout asked if the property was located in the Low Density District. Mr. Rogers replied in the affirmative. Mr. Schneider added that the Low Density District is for residential lots for single family dwelling units.

Chair Stout asked if Board would vote to affirm the application if the use is more conforming than the prior special use. In addition, he asked if use is found to be less nonconforming the Board would vote against the application. Mr. Rogers replied in the affirmative.

Mr. Welsh stated when considering a change in use, he was unable to find a definition for retail but was able to find the definition of a health and fitness facility. He asked if a fitness facility was the designation for the existing Variance. Mr. Schneider stated that it was their understanding that Indian King Framery made frames and sold them and would be considered a retail establishment. He also noted that there was not a definition for retail. Mr. Rogers asked the Board to follow the definition for a health and fitness facility when considering the application.

Chair Stout then read the permitted uses in the Low Density District as follows:

- Accessory Dwelling Unit
- Dwelling, Single Family
- Group Home
- Harvesting of Forestry Products
- Historic Site Open to Public
- Home Occupation Incidental to Main Residential Use
- Institutional Use

Chair Stout welcomed the applicant to come forward.

David Bergeron, Brickstone Land Use Consultants, LLC of 185 Winchester Street, stated that he was representing the Petitioner. He presented an existing condition plan for the property. Mr. Bergeron then referred to a map and indicated the location King Court. John R. Coughlin Real Estate and Clough Harbor and Associates are located at the end of King Court. Mr. Bergeron stated that King Court is basically all commercial uses and in the back part of the UNH facilities with dorm buildings are located. He indicated there are 14 parking spaces along the front of the building and eight spaces in the back of the building.

Mr. Bergeron stated the proposed use is a fitness center and operation would be Monday through Friday and open on Saturday until noon.

Mr. Bergeron reviewed the criteria.

1. *The change of use will be more in the spirit and intent of the Zoning Ordinance.* Mr. Bergeron stated the change in use to a fitness facility will be more conforming than the previous use as a retail store. The existing building is a two story building containing 4,560 square feet of office and retail space. He stated that Zoning requires one parking space per 200 square feet or 23 total parking spaces, which is nonconforming.

He stated that the proposed fitness center is required to provide one parking space per 500 square feet of floor area or 10 total parking spaces, which conforms to the Zoning requirement.

2. *The changed use will not be more injurious, obnoxious or offensive to the neighborhood.* Mr. Bergeron stated the location is surrounded by businesses to the east on King Court, the state highway to the south and Keene State College to the north and west. He noted there is one single family that abuts the property to the north and is over 250 feet from the building.

He reported all activities at the fitness facility will be conducted indoors and will not result in excess noise. All cars going to the facility will use King Court for access and will not pass by the residence on Appleton Street.

Mr. Bergeron stated the fitness facility closes at 7:30 PM Monday through Friday and noon on Saturday. He noted that there will be no activity late at night.

The site is served by City sewer and water and is adequate for the proposed use.

In conclusion, Mr. Bergeron emphasized the proposed fitness facility will not be injurious, obnoxious or offensive to the neighborhood.

Ms. Taylor asked if the intent was to keep the same parking configuration. Mr. Bergeron replied in the affirmative. Ms. Taylor asked if the change of use would require a site plan review. Mr. Rogers replied this would be required to go through the Planning process. Ms. Taylor asked how many employees or participants would be at the facility throughout the day.

Ms. Jacqueline Trombly, 43 Evans Circle, replied there would be 40 people throughout the day between the hours of 5am-7pm.

Ms. Zerba asked if this was Ms. Trombly's current business at the moment. Ms. Trombly replied they are hoping to purchase an existing business and then relocate the business. Ms. Taylor asked if the fitness facility would be on both floors. Ms. Trombly replied in the affirmative. Ms. Taylor asked how many people the facility could accommodate at one time. Ms. Trombly replied 30 people. Ms. Taylor asked what would happen if they all came in separate cars. Mr. Bergeron stated there are 24 parking spaces and more parking on site could be a possibility with an expansion. He stated at this point they are not sure if this would be necessary. Mr. Bergeron noted there are a total of 14 parking spaces in the back and eight in the front of the building. Ms. Trombly stated there are also additional six parking spaces that belong to State that could be of use.



Vice Chair Gorman asked if the parking at the proposed fitness center exceeds the required parking for a fitness center. Mr. Bergeron replied in the affirmative, noting that ten spaces are required by Zoning.

Chair Stout noted there is no definition of a fitness facility in the Zoning Ordinance. Mr. Rogers stated there is no definition and referred to the Board to the definition of a health and fitness center. Chair Stout asked the Board to stick to the official definition of a health and fitness. Chair Stout asked applicant if they would be fine with voting as a health and fitness center. Ms. Trombley replied in the affirmative.

Ms. Taylor asked if the applicant will provide additional services such as retail clothing or selling of supplements. Ms. Taylor stated the reason she is asking this question is because the definition of a health and fitness center may include but not limited to certain activities. Ms. Taylor referred to the health and fitness definition and read the list of activities as follows: *“Activities which are normal and incidental to health and fitness centers may include, but are not limited to, childcare; juice bars; cafes; retail sales of sporting accessories, clothing and equipment; retail sales of health supplements; massage therapy; chiropractic therapy; tanning; manicures; pedicures; spa treatments and saunas”*.

Ms. Trombley replied they would just have exercise equipment and exercise classes. She stated they are not looking to add retail inside the building. Ms. Trombley noted there was not enough parking to add retail. Chair Stout stated that Ms. Taylor’s line of questioning could lead to some conditions if the Board finds necessary.

Ms. Zerba asked if there would be any exterior changes to the building. Mr. Bergeron replied in the negative.

Ms. Zerba asked if there would be additional lighting installed. Mr. Bergeron replied there additional lighting may be installed. He noted this would be a Planning Board issue.

Chair Stout welcomed public comment.

With no comment, Chair Stout closed meeting.

The Board reviewed the criteria.

1. *The change of use will be more in the spirit and intent of the Zoning Ordinance.* Ms. Zerba stated there is so much commercial space already in that area and was not opposed to the space becoming a fitness center. Ms. Taylor stated that she finds the use as problematic and does not see how it is a less intense or equivalent type of use. She reiterated that she has concerns and does not think the use is in the Spirit of the Ordinance. Ms. Taylor stated the use is more intense due to the hours of operation and the number of cars that would be using site.

Chair Stout stated that he agreed with Ms. Taylor’s comments. In addition, he stated if the fitness facility got to be very popular the traffic could spill out to the neighborhood. Vice Chair Gorman noted that any operation could become popular and spill outside of the area. In addition, he stated the facility could become too big for the location and is

speculative. He stated that in his opinion, he does not think that a fitness facility use is more nonconforming than the already nonconforming retail use.

Mr. Welch stated he thinks more of potential uses than actual uses. He stated the array of potential under the category of retail is more nonconforming with the Low Density Zone. In addition, he stated the potential that is a front to the intent of the Low Density Zone is less with a fitness facility than a retail facility. Chair Stout stated the nature of business groups of people arrive together and do not have that in most retail operations. He asked the Board to consider a condition that the fitness center offers classes of a certain size to prevent possible interference with neighbors. Ms. Taylor stated she had a problem with setting this type of condition that could limit someone's business.

2. *The change use will not be more injurious, obnoxious or offensive to the neighborhood.* Vice Chair Gorman stated the given nature of neighborhood, it is not residential in all reality. He noted the office building next to, the college property behind and the highway right next to this property in question speak to the use nicely. Chair Stout stated he would agree with Vice Chair Gorman. However, Chair Stout stated that an argument about an oddly placed zone is no argument in terms of a court of law. Vice Chair. Gorman stated that he was not arguing the zone is inappropriate, he is arguing more that the properties within zone are nonconforming. Mr. Welsh stated the condition of existing neighborhood is that such proposed use is not more injurious or obnoxious and pulls his answer in agreeing in the change of use.

Ms. Zerba stated she would support this by placing a condition to add the wording, "Operations will close at 7:30 PM Monday through Friday and noon on Saturday and Sunday".

Ms. Taylor stated she agreed with Chair Stout comments about taking the zone as it is noting that she is more concerned with a 5 AM start time. She explained there are residential uses that abut the back side. Ms. Taylor stated that she had a sense she would not want that activity in her back yard at 5 AM.

Vice Chair Gorman asked City staff if there is any stipulation in retail use when choosing to open or close doors. Mr. Schneider replied there is some indication when lights need to be shut down. Vice Chair Gorman stated that as current existing retail use, someone could and open doors at 5 AM and close at 2 AM. Mr. Rogers replied there are stipulations in regards to the Sign Code about shut off with signs.

Mr. Welch made a motion to approve the change of use will not be more injurious, obnoxious or offensive to the neighborhood. The motion was seconded by Vice Chair Gorman, which carried unanimously.

The Board reviewed the Findings of Fact.

1. *The change of use will be more in the spirit and intent of the Zoning Ordinance.* Granted 4-1, Ms. Taylor opposed.
2. *The change use will not be more injurious, obnoxious or offensive to the neighborhood.* Granted 4-1, Ms. Taylor opposed.

Vice Chair Gorman made a motion to approve the Change of a Non-Conforming Use to permit a health fitness facility use in an already non-conforming use of a retail facility. Mr. Welsh seconded the motion, which carried unanimously.

On a vote of 4-1, the Zoning Board of Adjustment approved ZBA 18-15. Ms. Taylor voted in opposition.

**ZBA 18-16:/ Petitioner, Jeremiah Boucher of Keene Self Storage, LLC, 12 Bradco St., requests a Special Exception for property located at 12 Brado St., Tax Map #117-041-000, owned by Gridley Enterprises, LLC of 33 Hall Court, Peterborough, NH and is in the Industrial District. The Petitioner requests a Special Exception for a proposed expansion of the existing self-storage facility.**

Mr. Schneider indicated the location of the property is on Bradco Street and is adjacent to Hamshaw Lumber. Bradco Street is located off of Winchester Street and across the street from Matthew's Road.

Mr. Schneider stated the property is located in the Industrial Zone and the Petitioner is requesting to expand by adding more storage units.

Mr. Rogers stated this property, under the permitted uses, does require a Special Exception from the Board. He reported the property did receive a Special Exception in 1999. Mr. Rogers stated there were some conditions placed on that approval and that it would be up to the Board to determine to continue with those conditions. He said if there is an expansion of the use, under Section 102-37b the Applicant must obtain a new special exception. Mr. Rogers read Section 102-37b (b) *any addition or expansion of an existing use for which a special exception has been granted must receive a new special exception if:*

- (1) *There is an addition or expansion of over 20 percent or over 500 square feet, whichever is less, of the area of the existing structure.*

Chair Stout asked if new conditions would follow or if the Board would have to reiterate the new Special Exception. Mr. Rogers recommended the Board reiterate the new conditions in the Special Exception, if approved. Mr. Rogers stated the existing conditions were an existing 50 foot buffer enhanced with evergreen under direction of the Planning Board. The second condition was that the building construction was to be of natural color with more in keeping with neighborhood under direction of the Planning Board. Chair Stout asked if there is confirmation conditions were met. Mr. Rogers replied that one of the things that would need to be reaffirmed is the buffer zone. There was concern noted in the file that the buffer zone was not being done correctly. In addition, recently there was a concern with the buffer zone being cut down. He stated that one of the abutters is present and could fill the Board in on the current conditions. Ms. Taylor noted she was a Board member the first time this petition was heard and recalls conditions were placed on the approval. After the approval, she stated all existing trees were cut down and the City got involved.

Ms. Taylor asked City staff if this application would have to go to before the Planning Board for site review. Mr. Rogers replied in the affirmative, if the Special Expectation was granted.

Chad Brannon, Civil Engineer for Fieldstone Land Consultants LLC, representing Keene Self-Storage stated the site consists of 5.4 acres of land. He said the plan before the Board is the same that was approved in 1999. He stated he was under the impression there was a time condition where they would have to come back before the Board for a Special Exaction. He noted there no modifications that have been done from a layout and building standpoint.

Mr. Brannon presented a site plan to the Board explaining when the construction happened by the previous owner pointing out the yellow highlighted buildings. The square footage of the building that exists now is 28,275 square feet and the proposed buildings highlighted in blue are 16,750 square feet.

Mr. Brannon described the site as straight forward with a main entrance that comes into the site on the east of the property. The office area is located on the front corner of the building that is situated on the east side of the building. Mr. Brannon stated the building runs along the eastern boundary of the property.

Mr. Brannon stated his client is proposing to construct additional units because the site is nearly at 100 % capacity. He stated they would address, through the Planning process, any storm water, lighting or any of the other 19 development standards.

Mr. Brannon stated they are here at this meeting to specifically address the expansion of use.

Chair Stout asked the Board if there were any questions.

Ms. Zerba asked if Mr. Brannon was representing the same owner in 1999. Mr. Brannon stated that he was representing Keene Self-Storage, LLC and that his client was looking to purchasing the property. He stated that he knows based on site inspections that he was not aware of any tree cutting that has happened recently. He suspects concerns relative to the buffer but noted this can be addressed with the approval. Chair Stout stated that he wanted to make it clear the Board has the right to follow through on special Conditions.

Ms. Taylor asked what type of storage the Petitioner was proposing. Mr. Brannon replied that there typically there is a contract between land owner and the person renting that spells out what is and what is not allowed. He noted storing hazardous material onsite is always prohibited. He said fuel and automotive are on occasion accepted. Mr. Brannon noted there is someone on site at all times, observing site conditions. Mr. Rogers read a storage facilities restrictions in the Industrial Zone under Section 102-632 as follows, "*The following cannot be stored in these facilities: perishable foods; live or dead animals or plants; explosives including fireworks; flammable liquids; any hazardous material of any kind; items that may give off offensive or noxious odors; any liquids that leak, freeze, or break their container; automobiles; and trucks. Outdoor storage is prohibited*".

Chair welcomed public comment.

Armanda Henderson, 16 Bergeron Avenue, stated that she is an abutter of the storage units. She stated she took pictures of the fresh cut trees. Ms. Henderson noted these are not the pines that were supposed to be the buffer because these trees died years ago. Ms. Henderson asked to

present these pictures to the Board. Chair Stout asked the Board if they wished to see the pictures. All members of the Board agreed.

She noted once fall comes there is a direct view of the storage units. She took another picture in September of the trench right by the storage unit that is directly behind her house. She presented other pictures that showed the high amounts of water.

Ms. Henderson asked if the design of the proposed storage units is the same design as the current units and if the units would be facing Bergeron Avenue. In addition, she asked Mr. Brannon to confirm what the yellow units and blue units are depicted on his diagram.

Vice Chair Gorman stated the pictures Ms. Henderson provided indicate fresh cuts. He asked her if these trees are on the storage property or on a different property. Ms. Henderson replied this was where the buffer was supposed to be located. Vice Chair Gorman noted that the photos depicted fairly recent fresh cuts and the trees seemed to be a couple of inches in diameter. Ms. Henderson stated that was correct.

Mr. Brannon clarified the yellow buildings on the plan do exist and any work on the site further will be away from residential properties. In addition, he noted there will be no impact on the buffer areas in question. He said when he visited the site he did not walk behind the building to see the tree cuts. He stated that could be addressed further as a part of the permit process. The proposed style of the buildings is a metal building verses concrete block. He stated there will be a similar design with a peaked roof. He added the height and material that will be used is more common for self-storage units today.

Mr. Brannon reviewed the criteria.

1. *The proposed use is similar to one or more of the uses already authorized in that district and is in an appropriate location.* Mr. Brannon stated this project proposes to expand the existing self-storage facility on the subject property. He stated this use already exists in the district and is an appropriate use for this location.
2. *Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.* Mr. Brannon stated an approval of the proposed expansion of the existing self-storage facility would have no negative impacts on the value of any property within the district nor would it be injurious, obnoxious or offensive to the neighborhood. He stated this proposal would result in no changes to the neighborhood as the use already exists on-site.
3. *There will be no nuisance or serious hazard to vehicles or pedestrians.* Mr. Brannon stated this proposal would not cause any nuisance or serious hazard to vehicles or pedestrians. He explained the existing entrance to the self-storage facility is adequate for the expansion and self-storage sites in general do not generate any measureable traffic.
4. *Adequate and appropriate facilities (i.e. sewer, water, street, parking, etc.) will be provided for the proper operation of the proposed use.* Mr. Brannon stated adequate and appropriate facilities for this project will be provided for the proper operation of the

proposed use. He stated this project will require Planning Board review and approval and all necessary improvements to the property will be incorporated into the final design plans. Mr. Brannon noted the same proposal was previously approved but was never constructed so the approvals have lapsed. In addition, he noted that low mounted lighting will be added and would primarily be for security and not for lighting the parking lot.

Chair Stout welcomed public comment.

Ms. Henderson referred to the pictures she presented and indicated vehicles have been stored at these units. She noted that she understood that vehicles would not be stored here so it does not turn into a junk yard.

She stated that when they started construction last time there was so much vibration that everything was falling off her hutch. Ms. Henderson called the Planning Board to address the noise and vibrations.

With no comment, Chair Stout closed the hearing.

Chair Stout stated that he was unsettled. He stated that he would prefer to hold off on a vote until City staff provides a report about the buffer requirements in the previous Special Exception. Mr. Rogers stated that would be regardless of this Special Exception as well as the complaint about the buffer zone and vehicles being stored. He stated the complaint about the vehicles would be dealt with as a site plan violation and that the Board could move forward with the application. He noted regardless of what happens at this meeting they would address if there are site plan violations at the property. Chair Stout stated the issue he has is that if the Board approves new petition it may not have conditions and if there are, those conditions may or may not be met.

Mr. Rogers noted that the way the conditions should have been addressed at the site plan review by Planning Board. Chair Stout asked if the Special Exception was imposed by the Zoning Board. Mr. Rogers replied the Special Expectation was imposed by the Zoning Board on a condition it be approved by the Planning Board. Chair Stout stated that he has trouble passing an affirmative vote on a Special Exception if he feels the applicant did not meet the conditions. Mr. Rogers stated conditions put on by Zoning Board were that buffer zone and the color of the buildings would be dealt with at the Planning Board level. Mr. Rogers read the conditions as follows "*an existing 50 foot buffer be enhanced with appropriate evergreens under the direction of the Planning Board*" He said the Planning Board dealt with buffer zone.

Ms. Taylor stated that her recollection is that the buffer was supposed to be an evergreen buffer that was cut down. She stated this would have been in violation of the Zoning Board's approval regardless of the site plan. She suggested two courses of action. The first is to put off the application until the status of the enforcement of the original Special Exception is determined. Secondly, the Zoning Board could consider altering the new Special Exception. She noted Magnolia Way did not exist 20 years ago. She suggested the Board consider putting a condition that a vegetative buffer be maintained between this property and residential abutting properties.

Vice Chair Gorman asked if it is reasonable by putting a condition to restore the buffer prior to construction begins. He noted that they do not seem to be true to their word and would enforce

the matter. Ms. Zerba stated that she liked that idea. Chair Stout stated he is highly skeptical of imposing any new condition when the past ones have not been met and does not see the effectiveness. Vice Chair Gorman stated the effectiveness is that the Petitioner wants to build additional units and cannot do so until vegetative buffer have been built.

Mr. Brannon requested to make a comment. The Board then agreed to reopen the public hearing to hear his comments.

Mr. Brannon stated that he was representing the new owner of the property, Keene Storage, LLC. He reiterated that he could not speak to any of the issues that have occurred in the past. Mr. Brannon stated that any issues relative to the buffer they would be willing to address at the approval and site plan approval. He stated that it was a condition of the Board in the past and should be moving forward.

Jim Dempsey, Bergeron Avenue, stated the applicant is not the current owner. He stated the new owner would assume responsibility of the corrective activity.

Vice Chair Gorman asked City staff if violations carry with property. Mr. Rogers replied in the affirmative. Mr. Schneider clarified there is only one house on Magnolia Way and that none of these other lots have been built on.

Mr. Dempsey recommended that if this petition is approved, there is a condition that they will put something up that will not die. Chair Stout stated that it is always a complicated distinguishes between the Planning Board and Zoning Board. Chair Stout stated he has been on both Boards and he considers it to be very serious when conditions are not met from either Board. He noted this happens far too often.

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

Ms. Taylor asked if the lots on Magnolia Way are still capable of being built. Mr. Schneider replied in the affirmative.

Mr. Rogers then referenced Section 102-92 of the Zoning Code as follows, *“All lots with an approved site plan shall be maintained on a regular basis. Maintenance shall include, at a minimum, replacing dead trees, shrubs, etc.; trimming and mowing; and maintenance/painting of fences, flagpoles, and other items that contribute to the total esthetic look of the site”*. He stated that was Section the City would address with the property owner, regardless of the outcome of this meeting.

Chair Stout suggested that if this is not continued for staff review, he would vote against the application. Ms. Zerba stated that she was not in favor of postponement and recommended Vice Chair Gorman’s recommendation of a special condition. The Board then discussed the different options for conditions.

After the discussion concluded, Chair Stout asked if there was a motion.

Vice Chair Gorman made a motion to approve the Special Exception for ZBA 18-16 provided that all previous zoning and site plan conditions are met prior to the beginning of any new

construction. In addition, a continuous vegetative evergreen buffers are established along the boundary between all residential properties and the self-storage units. Ms. Zerba seconded the motion, which carried unanimously.

The Board reviewed the criteria.

1. *The proposed use is a similar to one or more of the uses already authorized in that district and is in the appropriate location for such a use.* Ms. Taylor stated it is in an appropriate zoned area and is an existing use in this district
2. *Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.* Ms. Zerba and Ms. Taylor stated that as long as all the conditions must be observed. Chair Stout reiterated the same.
3. *There will be no nuisance or serious hazard to vehicles or pedestrians.* Vice Chair Gorman stated that he does not believe this would be an issue. Ms. Taylor noted there are adequate accommodations such as a fence.
4. *Adequate and appropriate facilities (i.e. sewer, water, street, parking, etc.) will be provided for the proper operation of the proposed use.* Vice Chair Gorman stated these facilities are already located on the property.

The Board reviewed the Findings of Fact.

*The proposed use is a similar to one or more of the uses already authorized in that district and is in the appropriate location for such a use.* Granted 5-0

*Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.* Granted 5-0

*There will be no nuisance or serious hazard to vehicles or pedestrians.* Granted 5-0

*Adequate and appropriate facilities (i.e. sewer, water, street, parking, etc.) will be provided for the proper operation of the proposed use.* Granted 5-0

On a vote of 5-0, the Zoning Board of Adjustment approved ZBA 18-16 with conditions listed.

#### **V. New Business:**

#### **VII. Adjournment**

Ms. Zerba made a motion to adjourn the meeting, which was seconded by Mr. Welch and carried unanimously. Hearing no further business, Chair Stout adjourned the meeting at 9:45 PM.

Respectfully submitted by,  
Jennifer Clark, Minute Taker



# 350 Hurricane Rd. ZBA 18-12



Petitioner requests a Variance to permit the extension of a garage to within 11ft. Of side boundary line and within approximately 45+/- ft. of Hurricane Rd. where 50 ft. is required for both front and back setbacks per Section 102-791.



# City of Keene

*New Hampshire*

## NOTICE OF HEARING

### ZBA 18-12

A meeting of the Zoning Board of Adjustment will be held on Monday, August 6, 2018 at 6:30 PM in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of, Kay M. Alderman of 350 Hurricane Rd., Keene, who requests a Variance for property located at 350 Hurricane Rd., Keene, Tax Map Parcel #234-019-000, owned by the Petitioner and is in the Rural District. The Petitioner requests a Variance to permit the extension of a garage to within 11 feet of the side boundary line and to within approximately 45+/- feet of Hurricane Rd. where 50 feet is the setback requirement for both side and front side yards per Section 102-791, Basic Zone Dimensional Requirements.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance: August 26, 2018

**APPLICATION FOR APPEAL**

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

<b>For Office Use Only:</b>	
Case No.	<u>ZBA 18-12</u>
Date Filed	<u>7/19/18</u>
Received By	<u>[Signature]</u>
Page	<u>1</u> of <u>29</u>
Reviewed By	<u>[Signature]</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) Kay M. Alderman Phone: 603-355-1875  
 Address 350 Hurricane Road, Keene, NH 03431  
 Name(s) of Owner(s) Kay M. Alderman  
 Address 350 Hurricane Road, Keene, NH 03431  
 Location of Property 350 Hurricane Road, Keene, NH 03431

**SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 234-019-000 Zoning District Rural  
 Lot Dimensions: Front 275' Rear 360' Side 540' Side 597'  
 Lot Area: Acres 3.9 Square Feet \_\_\_\_\_  
 % of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing N/A Proposed N/A  
 % of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing N/A Proposed N/A  
 Present Use single family residence  
 Proposed Use single family residence

**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.

Kay M. Alderman Date July 19, 2018  
 (Signature of Owner or Authorized Agent)

Please Print Name Kay M. Alderman

APPLICATION FOR A VARIANCE

- A Variance is requested from Section(s) 102-791 of the Zoning Ordinance to permit:

Extension of garage to within 11 feet of side boundary line and to within approximately 45+- feet of Hurricane Road where 50 feet is the setback requirement for both side and front side yards.

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

The granting of a variance will not be contrary to the public interest, since the proposed garage extension is in keeping with the single family residential use as permitted in the underlying zoning zone, will not alter the essential character of the neighborhood and will not threaten the basic zoning objectives, including the public health, safety and welfare. There are surrounding vegetative buffers, and the modest extension of the garage to allow for a mudroom will have no negative impact on the neighbors or public.

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

Granting the variance will be consistent with the spirit of the ordinance since the variance would allow a use that is allowed in the underlying zone and is compatible with the surrounding uses in the neighborhood. Again, the goal of the zoning ordinance is to promote health, safety and welfare and to preserve the values and character of the Rural District and the particular neighborhood. More specifically, the goal of the setbacks in the Rural District is to preserve air and light and provide privacy among neighbors. The proposed garage extension will not adversely affect these goals.

3. *Granting the variance would do substantial justice because:*

The granting of the variance will do substantial justice. This standard requires a balancing test. If the loss to the landowner

is greater than the gain to the general public, then there would be an injustice if the variance is denied. The loss to the landowner relates to her inability to make reasonable use of her house, because of the lack of a mudroom and the need to enter the current garage and descend into the cellar to do washing and drying of clothes. This has become a substantial physical hardship. Meanwhile, there is no gain to the public by denial of the variance in these particular circumstances.

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

Granting the variance will not adversely affect the value of surrounding properties because the Alderman property is surrounded by dense vegetation and by properties used for similar single-family residential. The only affected property is the Rhoades house. The Rhoades do not object to the proposed variances. The existing shared boundary line is vegetated and the roadway/driveway along the boundary into the back portion of the property will be eliminated. Ms. Alderman and Mr. Mountford are willing to plant evergreen trees to provide additional screening if the Rhoades wish. The extension of the garage is modest and will hardly be noticeable to neighbors.

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.*

*Special Conditions.* The house was built in its present location decades ago, notwithstanding a large lot, because of ledge in the front yard (visible as a mound in photographs) and the dipping elevation on the east side of the house extending to the east boundary next to the mobile home on the lot to the east. The land on the north side of the road is vacant woodland.

i. *There is no fair and substantial relationship between the general purposes of the setbacks Rural District and the specific application of the setback provisions in light of the existing neighborhood, including:*

- a) The existing garage was built more than 20 years ago 23 feet from the side boundary and 45 feet from the right of way because of the special conditions of the lot.

- b) There is existing vegetation along the westerly boundary, shared by the Rhoades property.
- c) Additional screening can be installed if the Rhoades request.
- d) The goal of the zoning ordinance is to promote health, safety and welfare and to preserve the values and character of the City and the particular neighborhood. More specifically, the goal of the setbacks in the Rural District is to provide air and light and provide privacy among neighbors. The proposed garage extension will not adversely affect these goals.

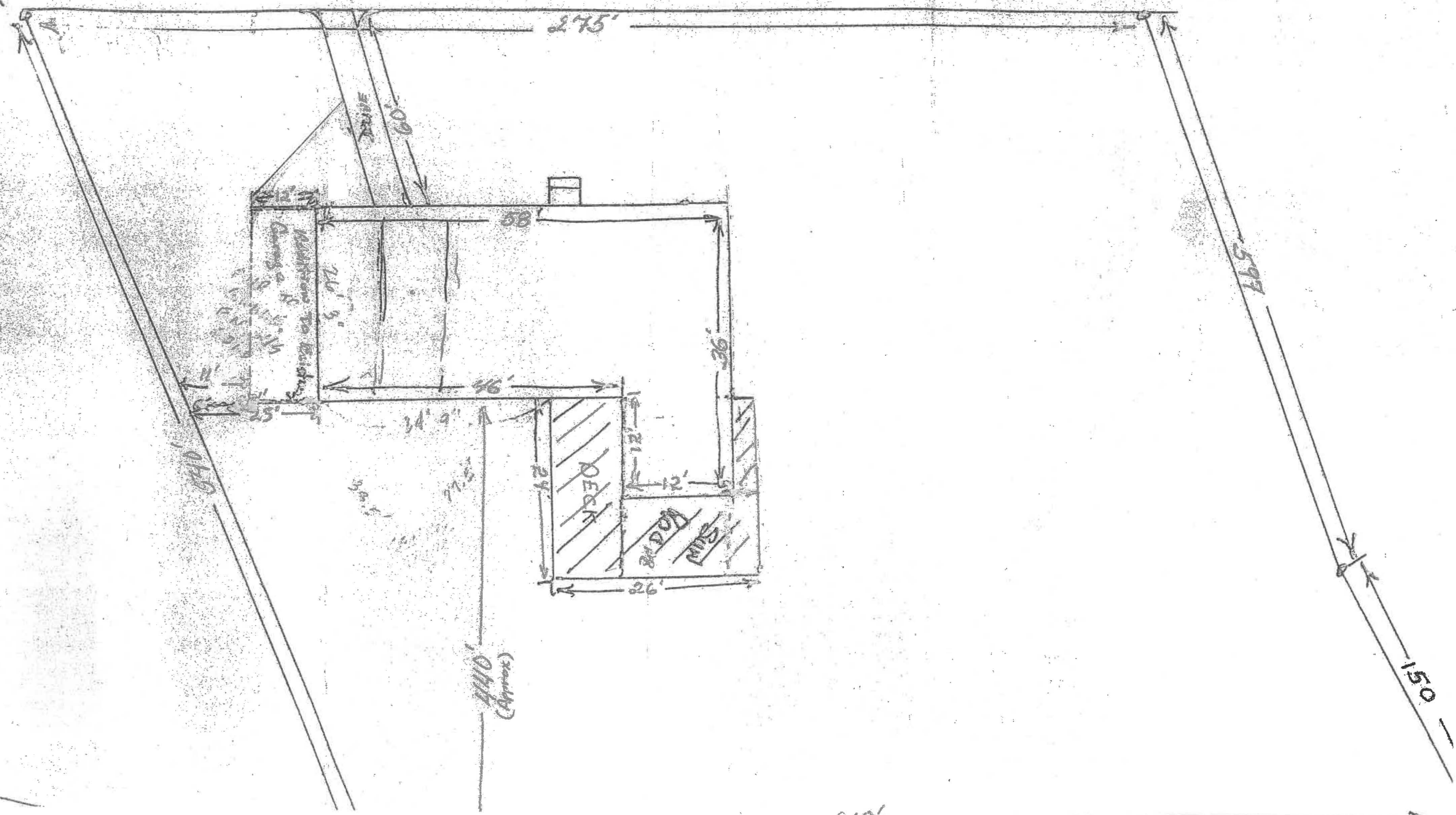
*ii. The proposed use is a reasonable one because:*

The house lacks a mudroom, and the existing garage is immediately adjacent to living area. Moreover, the only place now for the washer/dryer is in the cellar accessed by stairs located in the garage. A mudroom is an important feature in a rural New Hampshire house and will provide space for the washer and dryer on the same level as the house. This is critical as the owners age in place and in light of their physical conditions. What also makes the proposed encroachment into the setbacks reasonable is the current existence of a roadway/driveway running along the west boundary of 350 Hurricane Road. This roadway will be eliminated. Also, there is vegetative screening along the west boundary that provides adequate screening between the neighboring houses.

PLOT PLAN  
H.V. BIRDSON  
350 HURRICANE ROAD  
KEENE, N.H.  
RECORDED IN VOL. 1174, PAGE 326  
CHESTER REGISTRY

NORTH

HURRICANE ROAD



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# 95 WYMAN RD. ZBA 18-17



Petitioner requests a Variance to permit a free standing sign 29.32 square feet in an area where 20 square feet is the maximum area allowed per Section 102-1310b.



**City of Keene**  
*New Hampshire*

**NOTICE OF HEARING**

**ZBA 18-17**

A meeting of the Zoning Board of Adjustment will be held on Monday, October 1, 2018 at 6:30 PM in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of The Prospect Woodward Home of 194-202 Court St., who request a Variance for property located at 95 Wyman Rd., Tax Map #221-019-000, owned by the Petitioner and is in the Rural District. The Petitioner requests a Variance to permit a free standing sign 29.32 square feet in an area where 20.00 square feet is the maximum area allowed per Section 102-1310.2b.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance: September 18, 2018

# APPLICATION FOR APPEAL

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

<b>For Office Use Only:</b>	
Case No.	<u>ZBA 18-17</u>
Date Filed	<u>9/16/18</u>
Received By	<u>CJM</u>
Page	<u>1</u> of <u>11</u>
Reviewed By	<u>G.S.</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) The Prospect Woodward Home Phone: \_\_\_\_\_  
Address 194-202 Court Street Keene NH 03431  
Name(s) of Owner(s) Same as above  
Address \_\_\_\_\_  
Location of Property 95 Wyman Road

### **SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 221-019-000-000 Zoning District Rural  
Lot Dimensions: Front 1810' +/- Rear 912' +/- Side 1730' +/- Side 1650' +/-  
Lot Area: Acres 37 +/- Square Feet 1,611,720 +/-  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 0.02% Proposed 4.5%  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 0.02% Proposed 10.2%  
Present Use Continuing Care Retirement Committee (Hillside Village)  
Proposed Use Continuing Care Retirement Community

### **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.

Kimball B Temple Date 9/6/18  
(Signature of Owner or Authorized Agent)

Please Print Name KIMBALL B TEMPLE MD

PROPERTY ADDRESS 95 Wyman Road

---

***APPLICATION FOR A VARIANCE***

- A Variance is requested from Section (s) 102.1310.2.B of the Zoning Ordinance to permit:  
a free standing sign 29.32 sf in area where 20.00 sf is the maximum area allowed.  
See Attached

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:

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

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

3. Granting the variance would do substantial justice because:

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

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:

and

ii. The proposed use is a reasonable one because:

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.

**PROPERTY ADDRESS** 95 Wyman Road, Hillside Village

**APPLICATION FOR A VARIANCE**

- A variance is requested from Section (s) 102-1310.2.b Signs in office district, neighborhood business district, and legal non-conforming commercial property in any district of the Zoning Ordinance to permit:  
Construction of a freestanding sign 29.32 sf in area on a legal non-conforming commercial property in the Rural District where 20 sf is the maximum area allowed for a freestanding sign.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

- 1. Granting the Variance would not be contrary to the public interest because:**  
It is in the public interest to allow clear, well designed signage to identify an institutional use in the Rural District. Hillside Village is a unique project and contains three very large buildings on a 50 acre site. The signage for Hillside Village needs to fit the design of the buildings at the site and provide a balance so it will not look out of place. Allowing a sign size of 29.32 sf accomplishes this without creating a threat to public health, safety or welfare.  
It is in the public interest to allow a larger sign on a property when there is no threat to public health, safety or welfare.
- 2. If the variance were granted, the spirit of the ordinance would be observed because:** The spirit of the ordinance regarding signs is *“the effective use of signage to direct movement, to advertise, and to inform the public while protecting the safety and general welfare of the public, preserving neighborhood character, and minimizing visual clutter.”* Hillside Village is a 50 +/- acre site containing large buildings which are surrounded by forests and an open field. The proposed signs are designed to complement the building designs in this setting. The proposed signs are an attractive site feature which identify the buildings and their main access points without causing a threat to the safety and general welfare of the public. The size of the signs is compatible with the buildings in this setting and therefore meets the spirit of the ordinance.
- 3. Granting the variance would do substantial justice because:**  
Hillside Village falls under the Institutional Use definition in the zoning ordinance. When the Institutional Use category was created, signs for institutional uses were not addressed. In this case, Hillside Village is considered a legal, non-conforming commercial property and is required to meet the sign dimensional requirements for the Office District. Buildings and lots in the office district are very small and the sign dimensional restrictions reflect that. On a large 50-acre site with four and five story buildings, a 20 sf freestanding sign is too small and out of proportion, looking like a mistake. There would be no benefit to the public to deny the variance request. In this case, granting the variance to allow a sign which is sized to be in balance with the site would do substantial justice.

4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** The proposed signs are located at the main entries to the Community Building and the Health Center. They are not visible from any adjacent properties. The proposed signs are attractive and in balance with the existing buildings at the site. Granting the variance will not diminish the values of surrounding properties.

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 50-acre property contains three large four and five story buildings making it unique in the Rural District. This creates a special condition for this property and distinguishes it from all other properties in this area.

The ordinance requires that signs for this use meet the size requirements for signs in the Office District. The existing lots and buildings in the Office District are very small, so it makes sense to require smaller signs which are in scale with the area. It is not fair or reasonable to limit freestanding signs to no more than 20 sf when they will be placed in front of such large buildings. The signs will look too small and out of balance. They will detract from the overall appearance of this area.

If the variance is granted there will be no threat to public health, safety or welfare. Denial of the variance would not benefit the public and would result in an unnecessary hardship to the landowner.

**And**

ii. **The proposed use is a reasonable one because:**

The proposed signage has been designed to complement the building architecture at Hillside Village while clearly identifying the site. It is in balance with the scale of the buildings at this site. The signs will not be visible from adjacent properties. The proposed use is reasonable because, as proposed, the use will not pose a threat to public health, safety or welfare; it meets the spirit of the ordinance; and it will not result in diminished property values.

**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.**

This 50-acre property contains three large four and five story buildings making it unique in the Rural district. This creates a special condition for this property and distinguishes it from all other properties in this area.

The ordinance requires that signs for this use meet the size requirements for signs in the Office District. The existing lots and buildings in the Office District are very small, so it makes sense to require smaller signs which are in scale with the area. It is not fair or reasonable to limit freestanding signs to no more than 20 sf when they will be placed in front of such large buildings. The signs will look too small and out of balance. They will detract from the overall appearance of this area.

A variance is necessary to allow signs appropriate in scale for this site. If the variance is granted there will be no threat to public health, safety or welfare. Denial of the variance would not benefit the public and would result in an unnecessary hardship to the landowner.





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SIGNWORKS**  
SIGNAGE ■ GRAPHICS ■ DISPLAYS

PO BOX 127 ■ PETERBOROUGH ■ NH ■ 03458  
603.924.3332  
www.ArchetypeSignworks.com

CLIENT:  
HILLSIDE VILLAGE  
WYMAN ROAD  
KEENE, NH

PROJECT:  
EXTERIOR SIGNAGE  
MAIN ID SIGNS

TITLE:  
COMMUNITY CENTER SIGN  
PROJECTED APPEARANCE  
WITH LANDSCAPING

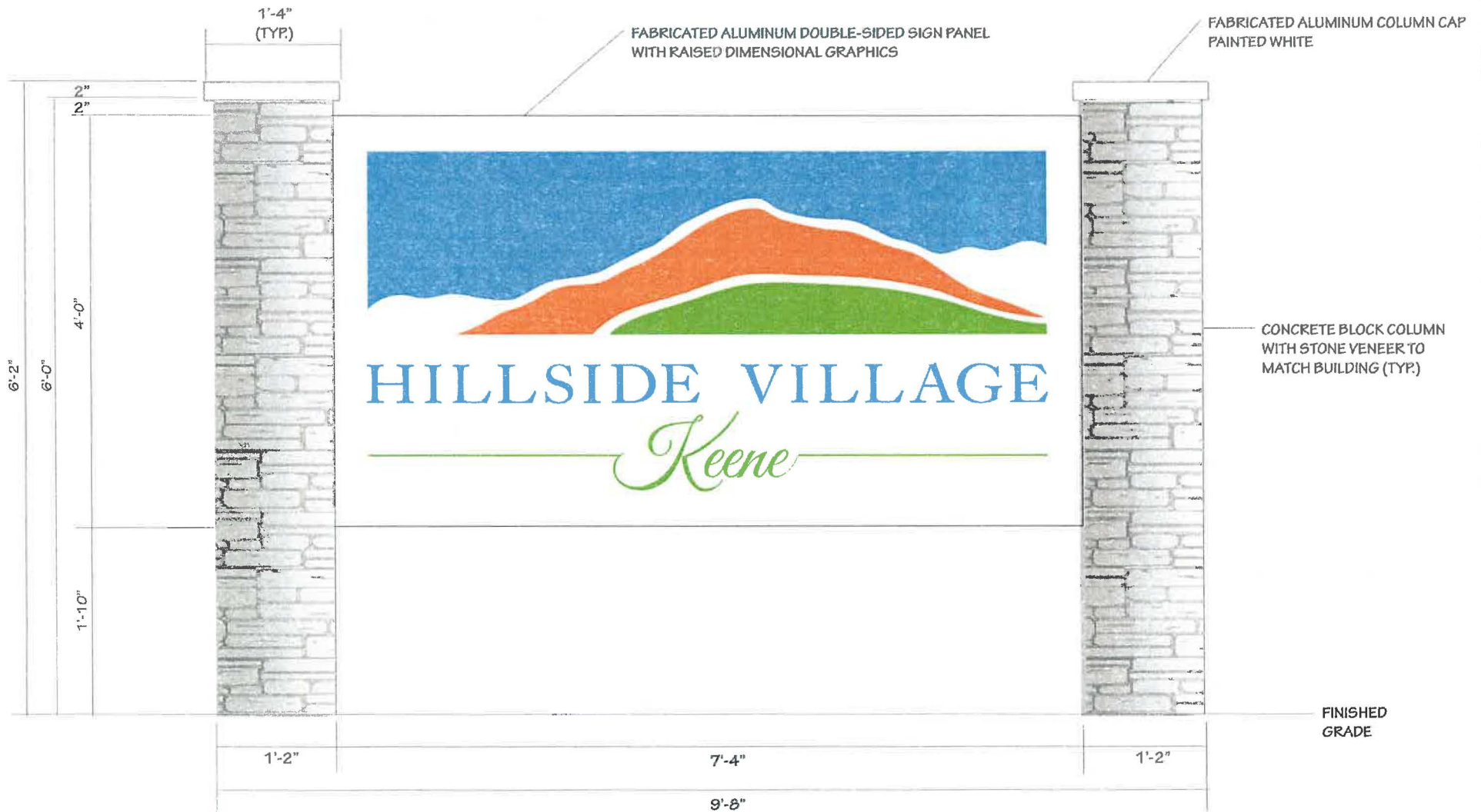
DRAWING NO.:  
180906-001-A

SCALE:  
N.T.S.

DATE:  
09-06-2018

FOR PERMITTING

SIGN PANEL AREA:  
7.33' W X 4.00' H = 29.32 SQ. FT.



ILLUMINATION: EXTERNAL FROM GROUND

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603.924.3332

www.ArchetypeSignworks.com

CLIENT:  
HILLSIDE VILLAGE  
WYMAN ROAD  
KEENE, NH

PROJECT:  
EXTERIOR SIGNAGE  
MAIN ID SIGNS

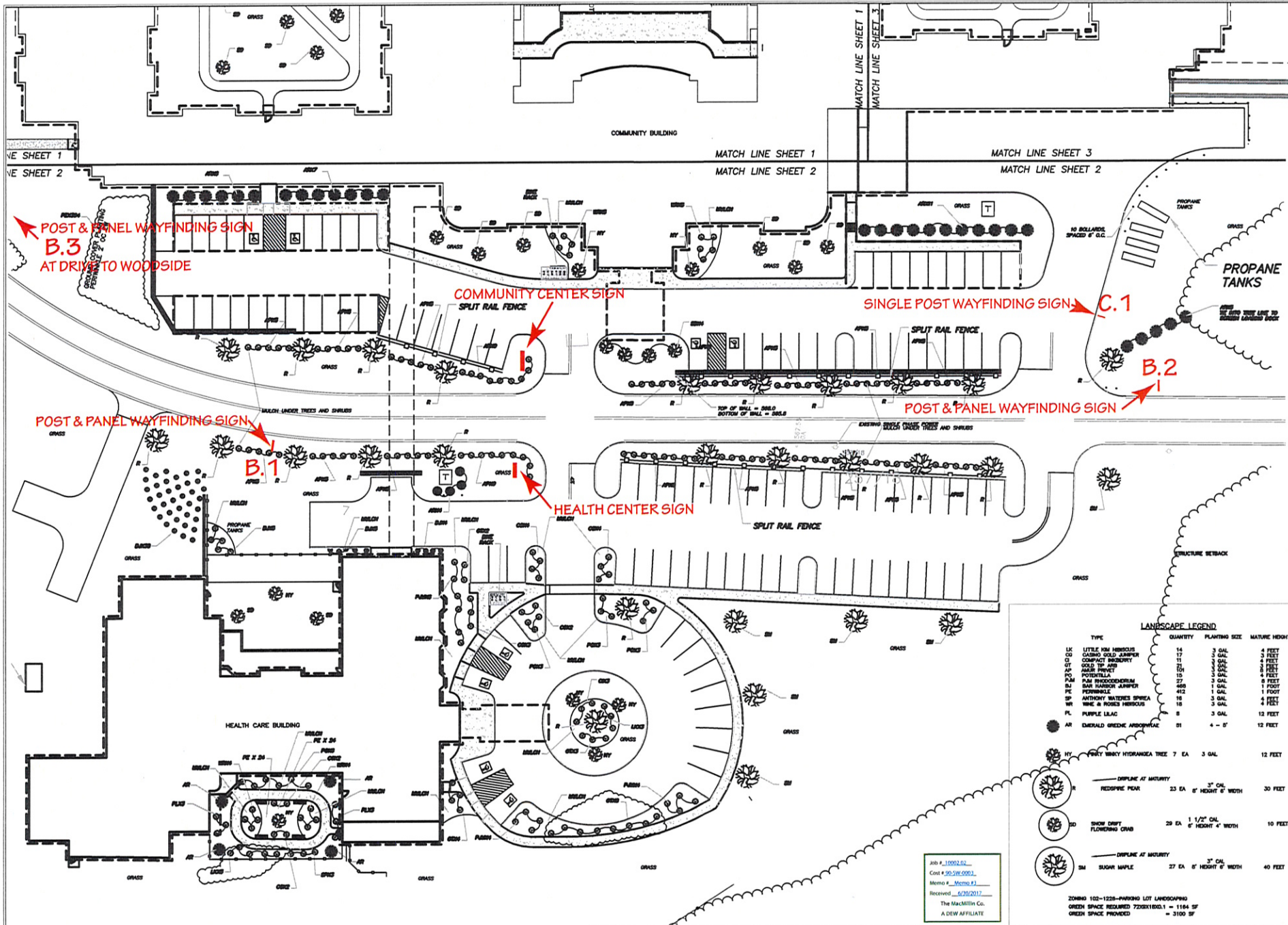
TITLE:  
COMMUNITY CENTER SIGN  
FRONT ELEVATION VIEW

DRAWING NO.:  
180906-002-A

SCALE:  
N.T.S.

DATE:  
09-06-2018

FOR PERMITTING



SCALE: 1"=20'

REV.	DESCRIPTION	DATE
1	RELEASE FOR BID 01/20/17	

DESIGNED BY: LPS  
 CHECKED BY: JH  
 DATE PLAN: 08/16/16  
 DATE REVISION: 11/06/16  
 PROJECT NO.: 2006A  
 OLD NO.: 2006A-001

**SVE Associates**  
 Engineering  
 Surveying  
 Landscape Architecture  
 Planning  
 47 Marlboro Street  
 Exeter, NH 03042  
 Phone: (603) 355-1522  
 Fax: (603) 355-2999  
 website: www.sveassoc.com

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**Brickstone**  
 Land Use Consultants LLC  
 100 Planning, Engineering and Construction Company  
 Exeter, NH 03042  
 Phone: (603) 857-0110

Project:  
**HILLSIDE VILLAGE**  
 WYMAN ROAD  
 KEENE, NEW HAMPSHIRE

HEALTH CENTER  
 LANDSCAPING  
 PLAN

SHEET

**LA-2**  
 EXTERIOR  
 SIGNAGE

**LANDSCAPE LEGEND**

TYPE	QUANTITY	PLANTING SIZE	MATURE HEIGHT
LK LITTLE LEM HERBISCE	14	3 GAL	4 FEET
OG GARDING GOLD JAMPER	17	3 GAL	3 FEET
Q COMPACT QUINCY	11	2 GAL	4 FEET
GT GOLD TR AMP	23	2 GAL	2 FEET
AP ASH PRIDE	15	3 GAL	8 FEET
PO POTENTILLA	15	3 GAL	4 FEET
PLM PLUM PRINCE OF ORANGE	22	3 GAL	8 FEET
BJ BAN HARBOR JAMPER	468	1 GAL	1 FOOT
PE PERENNIAL	412	1 GAL	1 FOOT
SP ANTHONY WATERS SPIREA	18	3 GAL	4 FEET
WR WINE & ROSES HERBISCE	18	3 GAL	4 FEET
PL PURPLE LILAC	8	3 GAL	12 FEET
AR ARNICA GREENE ARNICA	01	4 - 6"	12 FEET
HY HEAVY IRONY HYDRANGEA TREE	7 EA	3 GAL	12 FEET
DIPLANE AT MATURITY			
R REDSPICE PEAR	23 EA	3" CAL	30 FEET
DIPLANE AT MATURITY			
SD SHOW DRIFT FLOWERING CRAB	29 EA	1 1/2" CAL	10 FEET
DIPLANE AT MATURITY			
SM SUGAR MAPLE	27 EA	6" HEIGHT 6" WIDTH	40 FEET

ZONING 103-1228-PARKING LOT LANDSCAPING  
 GREEN SPACE REQUIRED 7200X1800.1 = 1164 SF  
 GREEN SPACE PROVIDED = 3100 SF

Job # 1002.02  
 Cost # 905W-0001  
 Memo # Memo\_F1  
 Received 6/20/2017  
 The MacMillin Co.  
 A DEW AFFILIATE



# City of Keene

*New Hampshire*

## NOTICE OF HEARING

### ZBA 18-18

A meeting of the Zoning Board of Adjustment will be held on Monday, October 1, 2018 at 6:30 PM in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of Hundred Nights, Inc., of 17 Lamson St., Keene requests an Appeal of an Administrative Decision based on the definition of a hotel versus a lodging house and the Administrative Decision by the Zoning Administrator that Hundred Nights, Inc. “is considered to be a lodging house under the City’s Zoning Ordinance, and not a Hotel.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance: September 18, 2018

**APPLICATION FOR APPEAL**

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

<b>For Office Use Only:</b>	
Case No.	<u>ZBA 18-18</u>
Date Filed	<u>9/13/18</u>
Received By	<u>CM</u>
Page	<u>1</u> of <u>5</u>
Reviewed By	<u>G.S.</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) Hundred Nights Inc Phone: 603 352 5997  
 Address PO Box 833 17 Lamson St Keene NH 03431  
 Name(s) of Owner(s) Executive Director - Mindy Cambia  
 Address \_\_\_\_\_  
 Location of Property \_\_\_\_\_

**SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number \_\_\_\_\_ Zoning District \_\_\_\_\_  
 Lot Dimensions: Front \_\_\_\_\_ Rear \_\_\_\_\_ Side \_\_\_\_\_ Side \_\_\_\_\_  
 Lot Area: Acres \_\_\_\_\_ Square Feet \_\_\_\_\_  
 % of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing \_\_\_\_\_ Proposed \_\_\_\_\_  
 % of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing \_\_\_\_\_ Proposed \_\_\_\_\_  
 Present Use \_\_\_\_\_  
 Proposed Use \_\_\_\_\_

**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.

Mindy Cambia for Hundred Nights Date 9/13/18  
 (Signature of Owner or Authorized Agent)  
 Please Print Name Mindy Cambia

PROPERTY ADDRESS \_\_\_\_\_

***APPEAL OF AN ADMINISTRATIVE DECISION***

**Relating to the Interpretation and Enforcement of the Provisions of the Zoning Ordinance**

- Section (s) of the Zoning Ordinance in question:

Definitions, Hotel vs Lodging House

- Decision of the Zoning Administrator to be reviewed:

"Accordingly, based on current use and configuration, the Hundred Night Shelter is considered to be a Lodging House under the City's Zoning Ordinance, and not a hotel." Taken from Zoning Administrator's Letter of August 30, 2018

- Basis for error in the Zoning Administrator's decision:

See attached note - text would not fit in this box

- Statement from the Zoning Administrator:

See attached Letter from Zoning Administrator

## Basis For Error in the Zoning Administrator's Decision

We believe that the use of Hundred Nights, Inc. should be defined as a hotel rather than a Lodging House for the following reasons:

- 1) "to let" generally means "to lease" in the real estate context. A tenancy is created.
- 2) A landlord leases a leasehold to a tenant. Landlord-Tenant law is historically distinct from the law of contracts.
- 3) A guest of a hotel, or a guest of Hundred Nights does not have a Landlord-Tenant relationship with the owner. They have a contractual agreement that is outside of Landlord-Tenant law (unlike a lodging house). Neither context creates a tenancy.
- 4) A guest of a hotel or Hundred Nights can be removed with a no-trespass. There no legal protections akin to Landlord-Tenant rights, and nor is there any right to due process prior to removal.
- 5) RSA 540-B "shared facilities" provides the NH statutory provisions for landlords and tenants concerning lodging houses. It explicitly excludes hotels as well as shelters.

LAW:

RSA 540:1a excludes the following:

IV. The term "tenant" or "tenancy" shall not include occupants or occupancy in the following places and the provisions of this chapter shall not apply to:

(a) Rooms in rooming or boarding houses which are rented to transient guests for fewer than 90 consecutive days. For purposes of this subparagraph, if the owner of the facility directs the occupant to move from one room to another in the same rooming or boarding house, or directs the occupant to move from one of the owner's rooming or boarding houses to another, the 90-day period for computing consecutive days of occupancy shall not be broken. Consecutive days of occupancy shall not include a voluntary move from one room to another if the move was made at the request of the occupant after the occupant has been notified of the exemption from tenancy under this subparagraph. Such request shall be in writing and shall include the following statement:

"I request a move from \_\_\_\_\_ to \_\_\_\_\_. I have received a copy of RSA 540:1-a, IV(a) and understand that any time I spent in the first room shall not apply toward the 90 consecutive days of occupancy required for tenancy under RSA 540."

(b) Rooms in hotels, motels, inns, tourist homes and other dwellings rented for recreational or vacation use.

(c) Rooms in student dormitories, nursing homes, hospitals and any other facilities licensed under RSA 151 or certified under RSA 126-A, convents, monasteries, asylums, or group homes.

(d) A single-family home in which the occupant has no lease, which is the primary and usual residence of the owner.

(e) Residential real estate under RSA 540-B.

(f) Vacation or recreational rental units under RSA 540-C.

(g) Residential units leased by a member of a fraternal or social organization that provides student housing for a postsecondary institution in a structure owned and operated by the fraternal or social organization.

540-B:1 Definition; Shared Facility. –

I. A "shared facility" means real property rented for residential purposes which has separate sleeping areas for each occupant and in which each occupant has access to and shares with the owner of the facility one or more significant portions of the facility in common, such as kitchen, dining area, bathroom, or bathing area, for which the occupant has no rented right of sole personal use.

II. A shared facility shall not include:

(a) Facilities rented to transient guests intended for use of less than 90 days.

(b) Rooms in hotels, motels, inns, tourist homes, and other dwellings rented for recreational or vacationing use.

(c) Rooms provided ancillary to other primary purposes such as jails, student dormitories, nursing homes, hospitals, group homes, and emergency shelters.

The zoning ordinance defines lodginghouse as follows:

*Lodginghouse* shall mean any dwelling for more than four unrelated persons, which **lets** sleeping accommodations for a transient or permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants. For purposes of this article the term lodging house shall not include a hotel or motel.

Black's law dictionary defines "let" as "to demise or lease a certain property". Lease is defined as "any agreement which gives rise to relationship of landlord and tenant (real property). . . " Demise is "to convey or create an estate for years or life. To lease. . . " Demise is synonymous with "lease" or "let".

It is clear that Hundred Nights does not let property to individuals occupying the shelter. There is no landlord-tenant relationship created. Therefore, under the plain meaning and construction of the definition of lodginghouse in the zoning ordinance, Hundred Nights is not a lodginghouse. Under the traditional rules of statutory construction, words and phrases of an ordinance are construed according to the common and approved usage of the language. See, Fox v. Town of Greenland, N.H. 600 (2004).

The definition of hotel under the zoning ordinance is as follows:

Hotel shall mean a building or group of buildings which provides sleeping accommodations on a transient basis, with or without meals, but without separate cooking facilities for individual occupants.

Black's Law dictionary defines "transient" as "not permanent", not lasting, temporary". A shelter such as Hundred Nights does not provide permanent or lasting occupancy, only temporary shelter. Each individual seeking to be sheltered at Hundred Nights must check-in on a daily basis. There are no permanent occupants except for a single resident employee. Therefore, it meets the definition of providing sleeping accommodations on a transient basis.





# City of Keene

*New Hampshire*

August 30, 2018

The City is in receipt of a request to define the use of the Hundred Nights Homeless Shelter as a hotel rather than a lodging house for purposes of the City of Keene Zoning Ordinance.

While the definition of both “hotel” and “lodging house” appear to be similar under the City of Keene’s Zoning Ordinance, a lodging house is defined in part as “any dwelling for more than four unrelated persons, which lets sleeping accommodations for a transient or permanent basis...

In contrast, a hotel is defined in part as “... a building or group of buildings which provides sleeping accommodations on a transient basis...” The definition of a “hotel” does not include contain a reference to permanent occupants because a hotel is intended to be transient. Accordingly, the lodging house definition specially exempts a hotel or motel from the definition because a lodging house is essentially a residence that can also contain more than 4 unrelated persons.

The determination of the use would be dependent on the layout of the building and the services provided. The lodging house definition has been applied to various properties in the City, including the Hundred Night Shelter, and the determination includes having more than four unrelated persons living within one dwelling. Hotels are set up with individual sleeping rooms for a transient purpose, regardless of whether or not the occupants of the individual rooms are related.

Accordingly, based on the current use and configuration, the Hundred Night Shelter is considered to be a Lodging House under the City’s Zoning Ordinance, and not a hotel.

John Rogers, CBO  
Zoning Administrator  
Building and Health Official  
Community Development Department  
City of Keene  
3 Washington Street  
Keene N.H. 03431  
603-352-5440 x 6040

# 76 Railroad St. ZBA 18-14



Petitioner requests a Variance to permit a lodging house in the Central Business District where a lodging house is not a permitted use per Section 102-482.



# City of Keene

*New Hampshire*

## NOTICE OF HEARING

### ZBA 18-14

A meeting of the Zoning Board of Adjustment will be held on Monday, August 6, 2018 at 6:30 PM in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of, Hundred Nights Shelter of 17 Lamson St., who requests a Variance for property located at 76 Railroad St., Keene, Tax Map Parcel #374-010-000, owned by The Moving Company Dance Center and is in the Central Business District. The Petitioner requests a Variance to permit a lodging house in the Central Business District where a lodging house is not a permitted use per Section 102-482 of the Zoning Ordinance.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance: August 26, 2018

**APPLICATION FOR APPEAL**

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

<b>For Office Use Only:</b>	
Case No.	ZBA 18-14
Date Filed	7/20/18
Received By	[Signature]
Page	1 of 17
Reviewed By	

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) Hundred Nights Inc Phone: 603 552 5197  
 Address 17 Hanson St, Keene NH 03431  
 Name(s) of Owner(s) The Moving Company Dance Center  
 Address 76 Railroad St Keene NH 03431  
 Location of Property 76 Railroad St Keene NH 03431

**SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 574-010-000 Zoning District Central Business  
 Lot Dimensions: Front 125' Rear 125' Side 59.09' Side 137.7'  
 Lot Area: Acres 0.28 Square Feet 12196.8  
 % of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 62 Proposed Same  
 % of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 62 Proposed Same  
 Present Use Children's Dance + Performance space  
 Proposed Use Shelter and Resource Center for the homeless and disenfranchised

**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.

[Signature] Date 7/20/18  
 (Signature of Owner or Authorized Agent)

Please Print Name Reagan Messer

K:\ZBA\WCA Form\Variances Application 2-110.doc 6/22/2017

**PROPERTY ADDRESS: 76 Railroad Street**

***APPLICATION FOR A VARIANCE***

A Variance request from section(s) 102-482 of the Zoning Ordinance to permit a:

Lodging House in the Central Business District. A Lodging House is not listed as a permitted use.

Hundred Nights would like a variance to this provision to enable us to operate our Shelter and Resource Center at the above property address located in the Central Business District.

**DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:**

**(1) Granting the variance would not be contrary to the public interest because:**

There is a definite need for emergency shelter in the City of Keene. The SCS shelters have been consistently full. The number of people served by Hundred Nights has grown over the last several years:

2013 - 112 individuals with 1,542 shelter bed-nights

2017 - 203 individuals with 5,620 shelter bed-nights

2017 totals include 11 families with 22 children under age 18.

Hundred Nights provides shelter in a safe, controlled environment always with an awake staff person on duty overnight. Providing shelter in the winter prevents frostbite, issues with hypothermia and death. It offers individuals and families a safe place to stay out of the woods, out of tents and away from remote areas of town where emergency services might not be able to respond as quickly if needed. It minimizes health risks such as outbreaks of Hepatitis C due to the lack of clean restroom facilities.

**(2) If the variance were granted, the spirit of the ordinance would be observed because:**

The location and proximity of the proposed property is conveniently located to other resources used by Hundred Nights clients/guests such as Monadnock Family Services and the Salvation Army, which are on either side of the building at 76 Railroad St., as well as The Community Kitchen and the Unitarian Universalist Church, which offers a breakfast program during the Hundred Nights shelter season.

In accordance with RSA 674:17 Purposes of Zoning Ordinances, "to promote health and general welfare" is listed as a purpose for which Ordinances are designed and adopted. Granting this variance will enable Hundred Nights to promote the health and general welfare of our guests/clients. The spirit of the ordinance is to protect the health, safety, and welfare of the public.

**(3) Granting the variance would do substantial justice because:**

The homeless population needs a safe and warm place to sleep overnight as well as a center open daily to have a place to be and to connect them to the resources which could improve their living situation. There is nothing more just than offering shelter, food, security and safety to the most vulnerable segment of our community.

The increase in space at the 76 Railroad St. location will give Hundred Nights the ability to offer separate sleeping accommodations for specific populations; for example, families would have dedicated family rooms, while individual men and women would each have dedicated dormitory style rooms. The increased amount of space will also open up the possibility of offering other services, e.g. resume writing, job search assistance, interview training, in addition to having adequate space inside for serving lunch and weekend meals to the number of people who currently come in for meals.

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

Hundred Nights Inc. has been operating in the building at 17 Lamson St. since 2010. The comparison of Assessed Values between 2011 and 2018 for all the abutters to the 17 Lamson St. property, combined, shows an increase in property values of 6.45%. By comparison, the property values for **all** of Keene, taken from the City website, shows a combined decrease of -3.49% between 2011 and 2017 (information about 2018 was not yet available).

**(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:**

Hundred Nights, Inc. is seeking a variance for the provision that does not identify a Lodging House as permitted use in the Central Business District.

As defined in the ordinance, "The intent of the Central Business District (CBD) is to be the center or hub of the community". Issuing a variance to the Central Business District use provisions enabling Hundred Nights to operate a "Lodging House"/Shelter is not contrary to the CBD intent. Currently, Hundred Nights operates a licensed Lodging House in the CBD. The clients of Hundred Nights

As defined in the ordinance, a "Hotel shall mean a building or group of buildings which provides sleeping accommodations on a transient basis, with or without meals, but without separate cooking facilities for individual occupants". Hotels are a permitted use for Central Business. This definition of a hotel for zoning

purposes describes exactly what Hundred Nights shelter does, “provides sleeping accommodations on a transient basis, with or without meals, but without separate cooking facilities for individual occupants.” While Hundred Nights does not consider itself to be a hotel, nor does it charge a fee for the sleeping accommodations provided on a transient basis as a hotel does, using the provided Zoning definition the services that are provided by Hundred Nights fit the allowed use of a hotel, as much as the hotel across the street from 76 Railroad St does. The difference is in who is making use of the sleeping accommodations provided – paying customers or homeless individuals and families. It follows “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”.

As stated in **RSA 674:17 Purposes of Zoning Ordinances**, every zoning ordinance shall be adopted in accordance with the requirements of RSA 674:18. Item c listed under “Zoning ordinances shall be designed:” states “to promote health and the general welfare”. A variance for Hundred Nights to operate at the above property address will promote health and the general welfare.

and

**ii. The proposed use is a reasonable one because:**

The mission of Hundred Nights, Inc. and the needs being addressed in the community by Hundred Nights are suitable for this location. The increased amount of space will enable HN to better address the needs of its guests/clients. It offers the ability to separate sleeping accommodations for specific populations, have more (much needed) bathroom, shower and laundry facilities and increases space for other services and meals offered. More general open space indoors will help reduce the daytime activity outside the building. There are other social services offered at both adjacent buildings, by Monadnock Family Services and the Salvation Army, that serve overlapping clientele.

**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.**

17 Lamson St Abutters List and  
Changes in Property Values 2011 to 2018

Parcel Number	GIS Number	Cama Number	Property Address	Owner Name	Owner Address	Owner Address 2	Owner City	Owner State	Owner Zip	Value 2011	Value 2018	% Change
575-013-000	575-013-000-001	575-013-000-001-000	2 GILBO AVE.	MASTROGIOVA NNI PAUL	8 GALES RD.		ABBOT	ME	04406	53,400	56,000	4.87%
575-021-000	575-021-000-000	575-021-000-000-000	0 GILBO AVE.	CITY OF KEENE	3 WASHINGTON ST.		KEENE	NH	03431	151,700	224,500	47.99%
575-022-000	575-022-000-000	575-022-000-000-000	19 GILBO AVE.	PENNY LANE REALTY LLC	497 MARLBORO ST.		KEENE	NH	03431	198,800	205,800	3.52%
575-023-000	575-023-000-000	575-023-000-000-000	0 GILBO AVE.	GREENWALD MITCHELL H. REVOCABLE TRUST	PO BOX 361		KEENE	NH	03431	115,700	63,800	-44.86%
575-024-000	575-024-000-000	575-024-000-000-000	49-55 MAIN ST.	GREENWALD MITCHELL H. REVOCABLE TRUST	PO BOX 361		KEENE	NH	03431	1,305,800	1,330,400	1.88%
575-025-000	575-025-000-000	575-025-000-000-000	45-47 MAIN ST.	GREENWALD MITCHELL H. REVOCABLE TRUST	PO BOX 361		KEENE	NH	03431	755,800	784,500	3.80%
575-026-000	575-026-000-000	575-026-000-000-000	35-43 MAIN ST.	GREENWALD MITCHELL H. REV. TRUST	PO BOX 361		KEENE	NH	03431	844,500	860,000	1.84%
575-027-000	575-027-000-000	575-027-000-000-000	0 LAMSON ST.	COUNTY OF CHESHIRE	33 WEST ST.		KEENE	NH	03431	116,700	99,900	-14.40%
575-028-000	575-028-000-000	575-028-000-000-000	17-19 FEDERAL ST.	PARISH OF ST. JAMES CHURCH	44 WEST ST.		KEENE	NH	03431	628,100	678,600	8.04%
575-030-000	575-030-000-000	575-030-000-000-000	15-23 MAIN ST.	ARC CBKNENH001 LLC	PO BOX 4900 DEPT. 604		SCOTTSDALE	AZ	85261-4900	1,155,100	1,121,600	-2.90%
575-031-000	575-031-000-000	575-031-000-000-000	1-9 MAIN ST.	COOPER PAUL R.	81 MORNING ST.		PORTLAND	ME	04101-4429	1,174,700	1,335,700	13.71%
575-032-000	575-032-000-000	575-032-000-000-000	20-22 WEST ST.	SOHN DAVID	1666 BELL BLVD. APT. 738		BAYSIDE	NY	11360	439,000	421,400	-4.01%
575-033-000	575-033-000-000	575-033-000-000-000	34 WEST ST.	WEST STREET KEENE LLC	25 CONSTITUTION DR.		BEDFORD	NH	03110	781,000	601,200	-23.02%
575-034-000	575-034-000-000	575-034-000-000-000	44 WEST ST.	PARISH OF ST. JAMES CHURCH	44 WEST ST.		KEENE	NH	03431	1,163,600	1,832,900	57.52%
575-035-000	575-035-000-000	575-035-000-000-000	49 SAINT JAMES ST.	CROTEAU JOHN M. JR.	111 JORDAN RD.		KEENE	NH	03431	174,700	174,000	-0.40%
575-036-000	575-036-000-000	575-036-000-000-000	43 SAINT JAMES ST.	CROTEAU JOHN M. JR.	111 JORDAN RD.		KEENE	NH	03431	595,700	599,300	0.60%
575-037-000	575-037-000-000	575-037-000-000-000	60 WEST ST.	KEENE PUBLISHING CORP	PO BOX 546		KEENE	NH	03431	891,900	893,100	0.13%
575-048-000	575-048-000-000	575-048-000-000-000	55 WEST ST.	NGM INSURANCE CO.	55 WEST ST.		KEENE	NH	03431	6,695,500	6,569,900	-1.88%
575-049-000	575-049-000-000	575-049-000-000-000	33 WEST ST.	COUNTY OF CHESHIRE	PO BOX 584		KEENE	NH	03431	842,300	938,500	11.42%
575-050-000	575-050-000-000	575-050-000-000-000	19-25 WEST ST.	WHETSTONE LTD	PO BOX 53		VERNON	VT	05354	486,000	447,500	-7.92%
575-051-000	575-051-000-000	575-051-000-000-000	50 CENTRAL SQ.	MEDNICK TERRY A. REV. LIVING TRUST	75 OVERLOOK DR.		HALES LOCATION	NH	03860	619,900	640,200	3.27%
575-052-000	575-052-000-000	575-052-000-000-000	48 CENTRAL SQ.	GREATER KEENE CHAMBER OF COMMERCE	48 CENTRAL SQ.		KEENE	NH	03431	245,200	246,900	0.69%



575-053-000	575-053-000-000	575-053-000-000-000	2-20 MAIN ST.	EIGHTY-EIGHT LAMBERT AVENUE NOMINEE TRUST	133 OLD CHESTERFIELD RD.	17 Lamson St Abutters List Winchester Property Values 2011 to 2018	WINCHESTER	NH	03470	1,485,300	1,490,600	0.36%
575-053-000	575-053-000-000	575-053-000-000-000 (Bldg2)	2-20 MAIN ST. Bldg 2	EIGHTY-EIGHT LAMBERT AVENUE NOMINEE TRUST	133 OLD CHESTERFIELD RD.		WINCHESTER	NH	03470	0	0	
575-053-000	575-053-000-000	575-053-000-000-000 (Bldg3)	2-20 MAIN ST. Bldg 3	EIGHTY-EIGHT LAMBERT AVENUE NOMINEE TRUST	133 OLD CHESTERFIELD RD.		WINCHESTER	NH	03470	0	0	
575-054-000	575-054-000-000	575-054-000-000-000	22-36 MAIN ST.	JAZZLYN HOSPITALITY LLC	440 BEDFORD ST.		LEXINGTON	MA	02420-1547	2,080,500	2,631,000	26.46%
575-055-000	575-055-000-000	575-055-000-000-000	42-46 MAIN ST.	1709 CHURCH STREET LLC	PO BOX 662		KEENE	NH	03431	2,239,800	2,107,100	-5.92%
575-056-000	575-056-000-000	575-056-000-000-000	64 MAIN ST.	MONADNOCK COMMUNITY SERVICE CENTER INC	64 MAIN ST. 2ND FLOOR		KEENE	NH	03431	806,500	1,239,200	53.65%
575-056-000	575-056-000-001	575-056-000-001-001	64 MAIN ST.	MONADNOCK COMMUNITY SERVICE CENTER INC	64 MAIN ST. 2ND FLOOR		KEENE	NH	03431	204,000	211,500	3.68%
575-056-000	575-056-000-001	575-056-000-001-002	64 MAIN ST.	MONADNOCK COMMUNITY SERVICE CENTER INC	64 MAIN ST. 2ND FLOOR		KEENE	NH	03431	107,100	168,100	56.96%
575-056-000	575-056-000-001	575-056-000-001-003	64 MAIN ST.	MONADNOCK COMMUNITY SERVICE CENTER INC	64 MAIN ST. 2ND FLOOR		KEENE	NH	03431	163,500	260,100	59.08%
Totals										26,521,800	28,233,300	6.45%

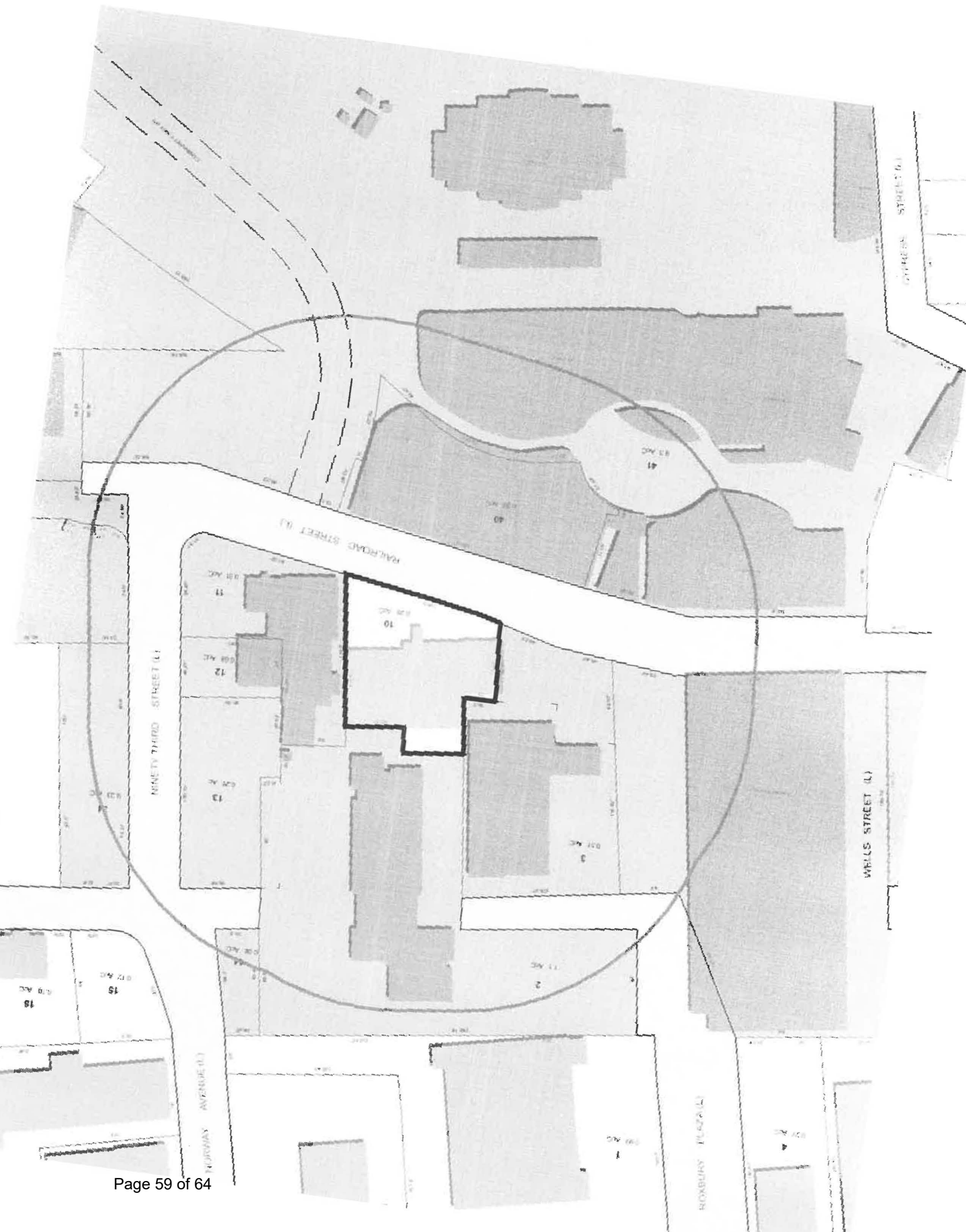
Table taken from <https://ci.keene.nh.us/assessing/tax-rate-information> Tax Rate info

Tax Year	Ratio	Total Tax Rate	Local School	State School	City	County	City Total Accessed Value
2017	98.10%	\$37.22	\$17.26	\$2.36	\$14.06	\$3.54	1,796,036,300
2016	100.20%	\$36.39	\$16.36	\$2.43	\$14.02	\$3.58	1,788,633,815
2015	106%	\$34.41	\$15.28	\$2.35	\$13.42	\$3.36	1,843,788,675
2014	106.70%	\$33.68	\$15.04	\$2.39	\$12.93	\$3.32	1,847,044,075
2013	105.90%	\$32.75	\$14.60	\$2.44	\$12.44	\$3.27	1,846,896,575
2012	108.20%	\$31.40	\$13.54	\$2.47	\$12.15	\$3.24	1,857,058,431
2011	100.40%	\$30.82	\$13.32	\$2.37	\$11.78	\$3.35	1,860,935,000
2010	100.30%	\$30.17	\$13.55	\$2.27	\$11.32	\$3.03	1,902,367,700
2009	101.80%	\$28.80	\$12.82	\$2.21	\$10.94	\$2.83	1,927,915,709
2008	100.20%	\$27.40	\$11.95	\$2.22	\$10.62	\$2.61	1,927,581,987
2007	100%	\$25.79	\$11.62	\$2.02	\$10.22	\$1.93	1,933,303,000
2006	99.60%	\$25.54	\$11.92	\$2.02	\$9.92	\$1.68	1,914,596,233
2005	100%	\$26.19	\$11.71	\$2.36	\$10.44	\$1.68	1,734,668,200
2004	100%	\$28.34	\$13.69	\$2.76	\$9.93	\$1.96	1,537,318,200
2003	97.70%	\$29.12	\$13.39	\$4.04	\$9.56	\$2.13	1,406,756,000
2002	98.60%	\$32.05	\$14.58	\$5.00	\$10.09	\$2.38	1,254,896,000
2001	100%	\$32.65	\$14.29	\$5.88	\$10.20	\$2.28	1,144,919,900
2000	99%	\$33.82	\$14.91	\$6.55	\$9.99	\$2.37	1,027,674,600

**Calculations from above table information**

% Diff  
from  
2009 to  
2017  
-6.84%

% Diff  
from  
2011 to  
2017  
-3.49%



677 MAIN ST  
ZBA 18-19



Petitioner requests an Enlargement of a Non-Conforming Use to expand the existing church with a building addition and associated site improvements.



# City of Keene

New Hampshire

## NOTICE OF HEARING

### ZBA 18-19

A meeting of the Zoning Board of Adjustment will be held on Monday, October 1, 2018 at 6:30 PM in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of Hope Chapel of 667 Main St., represented by Chad Branon of Fieldstone Land Consultants, PLLC of 206 Elm St., Milford, NH, requests an Enlargement of a Non-Conforming Use for property located at 667 Main St., Tax Map #120-055-000, owned by Keene Four Square Church, 667 Main St., Keene. The Petitioner requests an Enlargement of a Non-Conforming Use to expand the existing church with a building addition and associated site improvements.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance: September 18, 2018

# APPLICATION FOR APPEAL

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

<b>For Office Use Only:</b>	
Case No.	<u>ZBA 18-19</u>
Date Filed	<u>9/17/18</u>
Received By	<u>CSM</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

- 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**

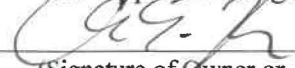
Name(s) of Applicant(s) Hope Chapel Phone: 603-355-1302  
Address 667 Main Street, Keene, NH 03431  
Name(s) of Owner(s) Keene Four Square Church  
Address 667 Main Street, Keene, NH 03431  
Location of Property 667 Main Street

## **SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 41-1-15 Zoning District Low Density  
Lot Dimensions: Front 176.65' Rear 347.55' Side 441.49' Side 590.12'  
Lot Area: Acres 2.66 Square Feet 115,690  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 6.2 Proposed 12.9  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 54.5 Proposed 44.8  
Present Use Church  
Proposed Use Church

## **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.

 Date 9/17/18  
(Signature of Owner or Authorized Agent)

Please Print Name Chad E. Branon

***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:  
Expand the existing church with a building addition and associated site improvements. This use already exists in the district and is an appropriate use for this location.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

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

An approval of the proposed expansion of the existing church would have no negative impacts on the value of any property within the district nor would it be injurious, obnoxious or offensive to the neighborhood. This proposal would result in no changes to the neighborhood as the use already exists on-site.

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

This proposal would not cause any nuisance or serious hazard to vehicles or pedestrians. The site improvements proposed will reduce the amount of existing impervious cover on-site therefore reducing the number of parking spaces and potential traffic over what presently exists. This project also proposes to reduce the width of the existing curb cut to allow for better traffic flow and safety entering and exiting the site. The project also incorporates on-site pedestrian and vehicular traffic circulation improvements. Based on this evaluation this project should have no adverse impacts on the traffic characteristics of the surrounding roadway network.

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

Adequate and appropriate facilities for this project will be provided for the proper operation of the proposed use. The site is serviced by municipal sewer and water, propane gas and overhead utilities. This project will require Planning Board review and approval and all necessary improvements to the property will be incorporated into the final design plans. The site will maintain all existing utility connections.





