

**Zoning Board of Adjustment  
Monday, August 5, 2019, 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 – June 3, 2019
- III. Unfinished Business
- IV. Hearings:

**ZBA 19-08:/** Petitioner, Monadnock Affordable Housing Corp., of 831 Court St., Keene, requests a Variance for property located at 105 Castle St., Keene, Tax Map Parcel #567-006-000-000, which is in the Medium Density District. The Petitioner requests a Variance to permit more dwelling unites than allowed per minimum lot dimension requirements per Section 102-791, Basic Zone Dimensional Requirements.

**ZBA 19-09:/** Petitioner, Monadnock Affordable Housing Corp., of 831 Court St., Keene, requests an Enlargement of a Nonconforming Use for property located at 105 Castle Street, Keene, Tax Map Parcel #567-006-000-000, which is in the Medium Density District. The Petitioner requests an Enlargement of a Nonconforming Use to remove a nonconforming office use at 105 Castle St., and replace with an additional 30 senior housing units. Adding the units to the lot will be an enlargement of a nonconforming use, which is an apartment building greater than three units. 105 Castle St. currently has and will continue to have, maintenance space for Harper Acres. Meals on Wheels space and community space. There will be a reduction level of nonconformity in other respects by eliminating the commercial office.

**ZBA 19-10:/** Petitioner, Monadnock Affordable Housing Corp., of 831 Court St., Keene, requests a Variance for property located at 105 Castle Street, Keene, Tax Map Parcel #567-006-000-000, which is in the Medium Density District. The Petitioner requests a Variance for property located at 105 Castle St. to construct a 38 foot 2 ½-story building to be built in the Medium Density District per Section 102-791 of the Zoning Code.

**ZBA 19-11:/** Petitioner, The Colonial Theater Group, Inc., of 95 Main St., Keene, requests a Special Exception for property located at 89 Main St., Tax Map Parcel #575-008-000 (001 thru 007) which is in the Central Business District. The Petitioner requests a Special Exception from Zoning Ordinance Section 102-791, the Basic Zone Dimensional Requirements; Central Business District maximum building height of 55 feet to 75 feet.

- V. New Business:
  - Amendments to the Rules of Procedure
  - Alternates removing themselves from the decision process
- 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, June 3, 2019**

**6:30 PM**

**Council Chambers**

**Members Present:**

Joshua Gorman, Chair  
Jane Taylor, Vice Chair  
Michael Welsh  
Joshua Greenwald  
Joseph Hoppock  
Michael Remy, Alternate

**Staff Present:**

John Rogers, Zoning Administrator  
Corinne Marcou, Zoning Clerk

**Members Not Present:**

Louise Zerba, Alternate

**I. Introduction of Board Members**

Chair Gorman called the meeting to order at 6:30 PM, welcomed the public, explained the rules of procedure, and introduced the Board members. The Chairman noted that Mr. Remy would participate but would not be a voting member at this meeting.

**II. Minutes of the Previous Meeting – May 6, 2019**

Mr. Hoppock moved to approve the minutes of May 6, 2019. He questioned if the acronym AUNE on page five should be written out. Mr. Hoppock moved to request that the minutes be amended to spell out Antioch University New England before the abbreviation on page five. Mr. Remy noted the acronym was defined on page four. Mr. Hoppock withdrew his motion to amend the minutes.

Mr. Hoppock moved to approve the minutes of May 6, 2019 as presented, which Vice Chair Taylor seconded and the Zoning Board of Adjustment carried unanimously.

**III. Unfinished Business**

Mr. Rogers reported no unfinished business.

**IV. Hearings:**

**ZBA 19-07:/ Petitioner, Brady Sullivan Keene Properties, LLC of**  
**670 North Commercial Street, Suite 303, Manchester, NH, requests**

**a Variance for property located at 0 Island Street, Keene, Tax Map Parcel #583-014-000-000, which is in the Commerce District. The Petitioner requests a Variance to allow a self-storage facility within the Commerce District where it is not a permitted use per Section 102-542, Permitted Uses, of the Zoning Ordinance.**

The Chairman opened the public hearing, introduced the application, and requested staff comments.

Mr. Rogers recalled that the applicant withdrew this application earlier this year and thus the application before the Board at this meeting was essentially the same. He used an aerial map to remind the Board of this property's location in proximity to West and Island Streets, as well as the Colony Mill. He noted the proposed new building would actually cover multiple lots that would have to merge for this to occur. He also noted that the Commerce District continues down Island Street, past the proposed building location, where self-storage facilities are not a permitted use. The Zoning Ordinance book demonstrates permitted uses in the Commerce Zone on page 65. Mr. Rogers continued showing a satellite view of the same map, which highlighted the abutting (across the street) Mills of Keene rental complex of mixed-use spaces. Mr. Rogers displayed the Google Map street view of the property at 0 Island Street, where there is a visible "For Sale" sign for the lot. Mr. Rogers then referred to a proposed site location plan, which displayed the proposed building with respect to the Colony Mill and Poker Room. This site plan refers to a proposed three-story building. Mr. Rogers said that if the Board granted this Variance, the applicant would have to return to the Board requesting a Special Exemption for a three-story building, which the Board can grant in the Commerce District.

Vice Chair Taylor referred to the aerial map, which displayed a yellow highlighted area. The Vice Chair asked if the yellow highlight represented the entire area proposed. Mr. Rogers said no, there are five lots in the area and the yellow highlighted lot would be part of the merge. Vice Chair Taylor asked if Tax Map Parcel #583-014-000-000 encompasses more than the lot highlighted yellow on the aerial map. Mr. Rogers said the applicant chose that Tax Map Parcel number with the understanding that they would have to merge at least five lots. The Vice Chair asked if the other five lots would have different Tax Map Parcel numbers. Mr. Rogers replied in the affirmative and said up to six Tax Map Parcels could be involved in merging the lots.

Chair Gorman noted that the applicant was not present at the meeting. Mr. Rogers said he notified the applicant of this hearing, with no response. Mr. Greenwald said he was under the impression the applicant withdrew the application at the last minute; the Chair and Vice Chair replied that was not to their knowledge. Mr. Hoppock said the application was withdrawn without prejudice at the last hearing; the Chair agreed because the applicant had insufficient details for the five criteria and the Board requested they prepare themselves better. Mr. Greenwald asked if the applicant had prepared better. The Chair was unsure and said the exact same application was submitted this time but with an added

drawing. He could not say if their application resubmission changes their statement before the Board.

Chair Gorman asked staff to provide guidance on protocol in this situation. This was the first time Mr. Rogers experienced an applicant absent from their hearing. Vice Chair Taylor said she has unfortunately experienced an applicant not present for their hearing. She shared two options for the Board: 1) hold the public hearing, close the public hearing, and deliberate, or 2) move to continue the hearing until next month.

Mr. Greenwald asked if the application is the applicant's statement; the Chair said in theory, yes. The Vice Chair said there is no requirement for an applicant to appear, it is their option. The Chair clarified and the Board agreed they could deliberate based on the written application because there is no mandate for the applicant to appear.

Before deliberating, the Vice Chair suggested the Board should still hear from members of the public who appeared, which the Chair welcomed.

With no comments in favor of this Variance, the Chair heard comments in opposition. The Chair recognized Louise Zerba of 340 Pako Avenue, Keene, who was also speaking on behalf of Patricia Hurt of 108 Island Street, Keene. Ms. Hurt was not notified of the hearing despite having a residential property four houses down from this proposed building. Ms. Zerba shared Ms. Hurt's concerns:

1. Her home's foundation has been damaged and she has been forced to make several repairs already because of pile driving.
2. Traffic flow already makes it difficult to exit her driveway.
3. She maintains her home very well and she is concerned this project will reduce her property value.

Ms. Zerba continued sharing her own concerns about granting this Variance. She believes granting this Variance is contrary to the public interest because it is too close to residential properties on Island Street. She said homes on Island Street are being refurbished or are well maintained and she is concerned property values will decrease because of this project. She also thinks granting this Variance will alter the character of the neighborhood. While unrelated to the Zoning Board, she expressed concerns about the appearance of this proposed building adjacent to the Colony Mill, which is a historic property; she is concerned that this big, block building three stories high will dwarf the adjacent buildings on that street.

Vice Chair Taylor requested that Ms. Zerba repeat Patricia Hurt's name. Ms. Zebra said that Ms. Hurt's neighbor was also not notified.

Chair Gorman recognized Anthony Mastronardi of 100 Darling Road, Keene, who owns the building at 70 Island Street, which directly abuts the proposed project. His building at 70 Island Street has 10-12 windows facing north toward the Colony Mill and overlooking a field currently. As Mr. Mastronardi understood, the new building would place three

stories of brick within 20' of his building. He expressed concern about his property value and the negative impact for his tenants of looking out their windows at a brick wall. He suggested the applicant has sufficient property to move the building north or east, which would please Mr. Mastronardi. He is less concerned with what the applicants are doing or potential traffic impacts, but he believes the appearance will be detrimental. He thanked the Board for their work on this matter and the Chair thanked Mr. Mastronardi for coming to speak before the Board a second time.

The Chair provided Mr. Remy a chance to speak, as he is not allowed to after the public hearing under Board rules. Mr. Remy said he shared the public speakers' concerns about diminished property values. He was also unsure what about this property presents a hardship for the applicant to require this type of building. He said there are a number of other storage units in Keene, in other zones, that have found a way to make it work. He was unsure if this application presented a necessary usage or a hardship.

Chair Gorman closed the public hearing.

Mr. Hoppock referred to when the applicant was before the Board in February 2019, when the Board agreed the application did not demonstrate a special condition of the property that distinguishes it from other properties in the area. He continued referring to the application submitted for this meeting, which is nearly the same as what was submitted to the Board in February 2019. He said that at minimum, the application does not meet the requirement of demonstrating a special condition of the property. Mr. Hoppock said the applicant has the burden of proof on every requirement. He does not believe the applicant met the beginning of the Unnecessary Hardship requirement. Additionally, he heard concerns from the public about altering the essential character of the neighborhood due to the proposed size of the building; he heard concern about the size of the building affecting property values and safety issues with respect to increased traffic on an already heavily trafficked road. Based on those observations and the fact that the applicant was not present to defend the application, Mr. Hoppock said he was not prepared to support the application.

Vice Chair Taylor pointed out that the only differences she could find from what was submitted earlier were the elevation pictures and the cover sheet. She also pointed out on the cover sheet that the applicant proposes a 30,000 sf area, not just the footprint. She said the picture in February 2019 indicated 90,000 sf. Therefore, the Vice Chair said there are some inconsistencies in the application. Otherwise, the Vice Chair agreed with Mr. Hoppock that the application does not demonstrate special conditions of the property that would create a hardship. She said she was beginning to be more convinced, as well, that the application does not meet the second criteria; she was beginning to be convinced that the proposed use is not reasonable given the neighborhood, the type of street it is on, and nearby residential areas. The Vice Chair did not believe the proposed use was a reasonable one for that location.

Mr. Welsh agreed with the Vice Chair's, Mr. Hoppock's, and Mr. Remy's comments. He said the Board is obliged to take Use Variances more seriously than Dimensional

Variations; therefore, the Board must adhere rigorously to the Variance criteria. Mr. Welsh said the basis of the hardship in Criteria Five is something about the property that renders it unavailable or unusable for the other permitted use. He does not believe the applicant demonstrated that the property is unusable for the permitted use so he was inclined to vote negatively.

Mr. Greenwald agreed with Mr. Welsh and said his concern is Criteria Four; he thinks the surrounding properties would be diminished, contrary to the applicant's claim. He said 70 Island Street's property value and enjoyment of its current use would be diminished. For those reasons, Mr. Greenwald did not support the Variance.

The Chair agreed with the comments from the Board and heard a motion.

Vice Chair Taylor moved to approve ZBA 19-07:/ Petitioner, Brady Sullivan Keene Properties, LLC of 670 North Commercial Street, Suite 303, Manchester, NH, requests a Variance for property located at 0 Island Street, Keene, Tax Map Parcel #583-014-000-000, which is in the Commerce District. The Petitioner requests a Variance to allow a self-storage facility within the Commerce District where it is not a permitted use per Section 102-542, Permitted Uses, of the Keene Zoning Ordinance. Mr. Hoppock seconded the motion.

The Board reviewed the Findings of Fact:

*Granting the Variance would not be contrary to the public interest: **denied 0-5.***

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

*Granting the Variance would do substantial justice: **denied 0-5.***

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

*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:*
  - ix. *No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property: **denied 0-5.***
  - x. *The proposed use is a reasonable one: **denied 0-5.***
- 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: **denied 0-5.***

On a vote of 0-5, the Zoning Board of Adjustment motion to approve ZBA 19-07 did not pass.

Chair Gorman moved to deny ZBA 19-07, which Mr. Hoppock seconded.

On a vote of 5-0, the Zoning Board of Adjustment denied ZBA 19-07.

## **V. New Business**

The Vice Chair introduced new business to discuss and possibly refer to staff. She referred to the Zoning Board of Adjustment Rules of Procedure, rule D.a. as follows, *“Once the Board moves into deliberations, alternates shall remove themselves from the table and no longer participate with the Board.”* She said she thought the Board knew that alternates do not vote unless they are called to replace a regular member. The Vice Chair referred to NH state statute RSA 673:6, V, *“An alternate member of a local land use board may participate in meetings of the board as a nonvoting member pursuant to rules adopted under RSA 676:1,”* which she said are the Board’s Rules of Procedure. She thinks the Board has found discussion with alternate members to be valuable and she questioned why that line was in the Rules of Procedure, what its purpose was, or how it developed. She wanted to ask staff, in consultation with the City Attorney, to review amending the ZBA rules to allow alternate members to participate in deliberations. Mr. Rogers said staff could certainly research that rule and perhaps return to the Board with possible alternate versions of that part of the Rules of Procedure. The Vice Chair said she is aware of many other communities that allow alternates to participate in deliberations and then not vote. Her personal view is that it has value, but she would like to know if there was some underlying value to why it was written that way in Keene’s Rules of Procedure. Mr. Rogers will research and report to the Board in July.

Mr. Welsh posed a question related to the application ZBA 19-07 heard at this meeting, regarding the use of a particular parcel. Regarding hardship and the potential for other uses, he said the Zoning Board’s role is somewhat constrained to interpreting the rules with little judgement. He said the Planning Board has more latitude to make subjective judgements about the application of rules. He asked if the Planning Board has the power to look at a parcel and say it can be zoned differently. Mr. Rogers said there is a set procedure to rezone a piece of property; the Planning Board could not rezone a piece of property themselves. Mr. Welsh asked if the applicant in ZBA 19-07 made the right decision coming to the ZBA. Mr. Rogers said the applicant had many options before them and he can produce further materials for the Board on procedure.

Chair Gorman asked if it is correct that an applicant must go before City Council to rezone a piece of property. Mr. Rogers said yes, it would first go before the joint Planning Board-Planning, Licenses & Development Committee and then ultimately to City Council.



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

Hearing no further business, Chair Gorman adjourned the meeting at 7:01 PM.

Respectfully submitted by,  
Katrana Kibler, Minute Clerk

105 Castle St.  
ZBA 19-08



Petitioner requests a Variance to allow more dwelling units than allowed per minimum lot dimensional requirements per Section 102-791, Basic Zone Dimensional Requirements.



**NOTICE OF HEARING**

**ZBA 19-08**

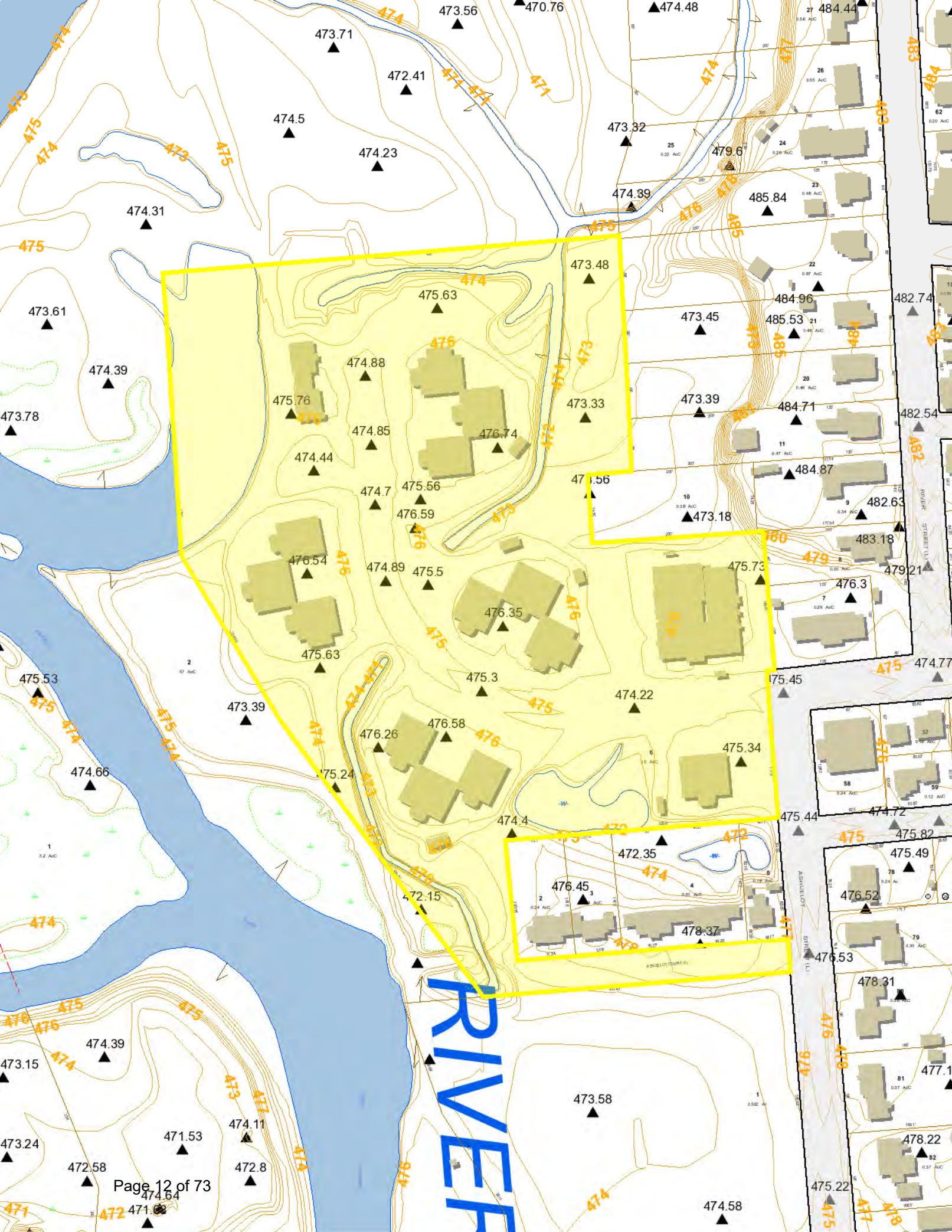
A meeting of the Zoning Board of Adjustment will be held on Monday, August 5, 2019 at 6:30 PM in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of Monadnock Affordable Housing Corp. of 831 Court St. who requests a Variance for property located at 105 Castle St., Keene, Tax Map Parcel #567-006-000-000, which is in the Medium Density District. The Petitioner requests a Variance to permit more dwelling unites than allowed per minimum lot dimension requirements per Section 102-791, Basic Zone Dimensional Requirements.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm. or online at <https://ci.keene.nh.us/zoning-board-adjustment>

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date: June 26, 2019



# 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 19-08</u>
Date Filed	<u>7/26/19</u>
Received By	<u>CJM</u>
Page	<u>1</u> of <u>5</u>
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) Keene Housing Phone: 603-352-6161  
Address 831 Court Street, Keene, NH 03431  
Name(s) of Owner(s) Monadnock Affordable Housing Corp.  
Address 831 Court Street, Keene, NH 03431  
Location of Property 105 Castle St.

## **SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 098-02-022 Zoning District Medium Density  
Lot Dimensions: Front 171 ft +/- Rear 2,072 ft +/- Side 329 ft +/- Side 438 ft +/-  
Lot Area: Acres 10.17 ac +/- Square Feet 443,005 sf +/-  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 10.6% +/- Proposed 11.3% +/-  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 28% +/- Proposed 29.5% +/-  
Present Use Commercial office space and other accessory uses (at 105 Castle St.)  
Proposed Use Housing and other accessory uses (at 105 Castle St.)

## **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 of Owner or Authorized Agent)  Date 7/18/19

Please Print Name Josh Meehan

PROPERTY ADDRESS 105 Castle St.

***APPLICATION FOR A VARIANCE***

- A Variance is requested from Section (s) 102-791 of the Zoning Ordinance to permit:  
more dwelling units than allowed per minimum lot dimension requirements.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:

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

Please see attached.

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

Please see attached.

3. Granting the variance would do substantial justice because:

Please see attached.

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

Please see attached.

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:

Please see attached.

and

ii. The proposed use is a reasonable one because:

Please see attached.

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.

Please see attached.



Application for a Variance  
(Minimum Lot Dimension per Dwelling Unit)  
Responses to Page 4 & 5 Application Questions  
105 Castle St.

1. Granting the variance for the 105 Castle St. site would not be contrary to public interest. The site is part of Harper Acres, a dense established senior housing community; the entire property has undergone recent site improvements to make it more efficient for the elderly residents and to help calm traffic. Due to the location of the site, it is largely out of view from the public eye and on a dead-end road that is now owned and maintained by Keene Housing, however, it is in reasonable proximity to downtown. The building at 105 Castle St. is currently non-conforming and the proposed change would still leave Harper Acres non-conforming with respect to the Minimum Lot Dimensions. However, by granting the variance and allowing the current building to be removed, the site can eliminate a non-conforming use and implement an appealing energy efficient building that will add to the number of fully accessible units at Harper Acres and help satisfy the drastic need for accessible senior housing in the Greater Keene area.
2. If the variance were granted and the proposed building approved, the spirit of the ordinance would still be maintained. The proposed building would be visually appealing, energy efficient and fit within the fabric of the neighborhood while fulfilling a housing hardship for seniors in the area. The proposed building would remove a non-conforming use at the site and allow Harper Acres to add to its number of fully accessible senior housing units while staying within the already established senior community.
3. The variance would be a step in the right direction to helping to alleviate the great need for senior housing in the area. The variance would allow the current non-conforming building to be removed and an efficiently designed building that would be constructed within the current constraints of the site to take its place. By granting the variance, Harper Acres would be more conforming to the number of ADA units required.
4. Granting the variance would not negatively impact the surrounding neighborhood in an obnoxious or offensive way. Most of the property is contained within the Harper Acres site and the proposed new building would be visually appealing and fit with the surrounding neighborhood. The recent traffic calming on the dead-end road of Castle St. limits the speed of cars going to and from the site and the nature of elderly drivers is to drive less than other demographics. Proposed parking at the site will be located behind the building, out of site from the general public and surrounding properties.



5. Unnecessary Hardship

- a.
  - i. If approved, the building would be constructed in such a way that it will add to the number of accessible units within the constraints of the site. The proposed building will fit the residential architecture style on Castle St. /Harper Acres and provide no unfavorable relationship between the general public purposes of the ordinance provision.
  - ii. The proposed use is reasonable because it will remove a current non-conforming use and replace with additional accessible senior housing at an established senior housing community. The location of the site on Castle St., in an existing senior housing complex will allow the new building to blend well with the surrounding senior housing complex and residential neighborhood.
- b. The property was constructed prior to the development of ADA rules. Therefore, the only way to create fully compliant accessible units would be to renovate/rehab the existing buildings. Renovating the existing buildings would cause a hardship because retrofitting the existing buildings to become ADA compliant and fully accessible would be difficult from a cost perspective and could result in a loss in valuable resources (senior housing units). Given the context of the site and neighborhood, the proposed building and use is reasonable and will allow Keene Housing to move in the direction of bringing Harper Acres into conformance with the required ADA units. This building will be a step in the right direction to providing adequate accessible senior housing for the greater Keene area that is in close proximity to downtown Keene, with public transportation available, as well as services and basic residential needs. We would like to remind you that per Section 674:33 of the New Hampshire Local Land Use Planning and Regulatory powers: "V. Notwithstanding subparagraph I(a)(2), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises..."<sup>12</sup>



PURPOSE OF DRAWING:  
 JULY 17, 2019  
 FOR REVIEW  
 NOT FOR CONSTRUCTION

**105 CASTLE STREET**

CASTLE STREET  
 KEENE, NH

PREPARED FOR:  
**KEENE HOUSING**  
 831 COURT ST.  
 KEENE, NH 03431

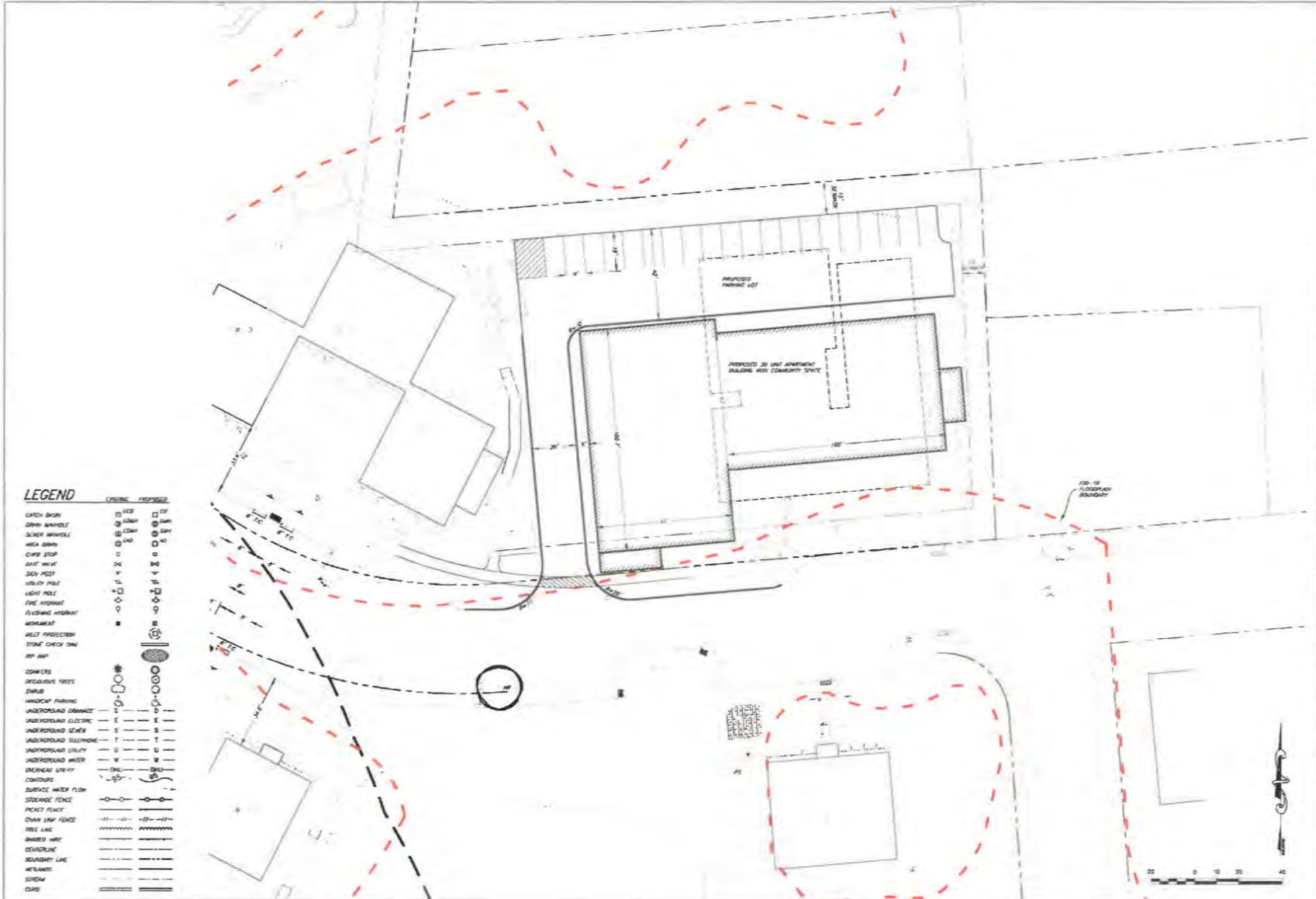
DATE:  
 REVISION:

**CONCEPT SITE PLAN**

DES. BY: BJS  
 CHKD. BY: BJS  
 DATE: 17.2019  
 PROJECT NO: 15-082  
 DWG. NO:

**FIG.-1**

SHEET 2 OF 2



**LEGEND**

EXISTING	PROPOSED
GATEY SIGN	ICE
SEWER MANHOLE	WATER
SEWER MANHOLE	SEWER
WATER MANHOLE	WATER
CURB STOP	WATER
GATE MARK	WATER
SEWER POLE	WATER
UTILITY POLE	WATER
LIGHT POLE	WATER
FIRE HYDRANT	WATER
ELECTRIC HYDRANT	WATER
MANHOLE	WATER
WELL PROTECTION	WATER
STONE CHECK DAM	WATER
RP AMP	WATER
CONCRETE	WATER
ORGANIC MATS	WATER
DRIVE	WATER
HANDICAP PARKING	WATER
UNDERGROUND DRAINAGE	WATER
UNDERGROUND ELECTRIC	WATER
UNDERGROUND SEWER	WATER
UNDERGROUND TELEPHONE	WATER
UNDERGROUND DRAINAGE	WATER
UNDERGROUND WATER	WATER
ORGANIC MATS	WATER
CONCRETE	WATER
SURFACE WATER FLOW	WATER
STORAGE FENCE	WATER
POCKET FENCE	WATER
OVER LAMP FENCE	WATER
RAIL LINE	WATER
INVERT MARK	WATER
CONTOURLINE	WATER
BOUNDARY LINE	WATER
WETLANDS	WATER
STREAM	WATER
DRIVE	WATER



① 3D View 1  
Scale: \_\_\_\_\_

105 CASTLE STREET

Concept Sketch Drawings Only  
NOT FOR CONSTRUCTION

A-250  
PERSPECTIVE  
Date: 07/17/2019  
Pro. No.: 17-004  
KEENE HOUSING



7/17/2019 4:52:34 PM © 2019 Stevens & Associates



1 3D View 2  
Scale

105 CASTLE STREET

Concept Sketch Drawings Only  
NOT FOR CONSTRUCTION

A-251  
PERSPECTIVE  
Date: 07/17/2019  
Pro. No.: 17-094  
KEENE HOUSING

**S&A** STEVENS &  
ASSOCIATES, P.C.  
SMALL DESIGN ARCHITECTURE  
ARCHITECTS ENGINEERS LANDSCAPE ARCHITECTS PLANNERS

7/17/2019 4:52:36 PM

© 2019 Stevens & Associates



# 200 foot Abutters List Report

Keene, NH  
July 12, 2019

## Subject Properties:

Parcel Number: 567-006-000  
CAMA Number: 567-006-000-000-000  
Property Address: 104 CASTLE ST.

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

Parcel Number: 567-006-000  
CAMA Number: 567-006-000-000-000 (Bldg2)  
Property Address: 104 CASTLE ST. Bldg 2

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

Parcel Number: 567-006-000  
CAMA Number: 567-006-000-000-000 (Bldg3)  
Property Address: 104 CASTLE ST. Bldg 3

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

Parcel Number: 567-006-000  
CAMA Number: 567-006-000-000-000 (Bldg4)  
Property Address: 104 CASTLE ST. Bldg 4

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

Parcel Number: 567-006-000  
CAMA Number: 567-006-000-000-000 (Bldg5)  
Property Address: 104 CASTLE ST. Bldg 5

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

Parcel Number: 567-006-000  
CAMA Number: 567-006-000-000-000 (Bldg6)  
Property Address: 104 CASTLE ST. Bldg 6

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

Parcel Number: 567-006-000  
CAMA Number: 567-006-000-000-000 (Bldg7)  
Property Address: 104 CASTLE ST. Bldg 7

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

---

## Abutters:

Parcel Number: 555-020-000  
CAMA Number: 555-020-000-000-000  
Property Address: 36 RIVER ST.

Mailing Address: CHRISTOPHERSON, MARK T.  
28 RIVER ST.  
KEENE, NH 03431

Parcel Number: 555-021-000  
CAMA Number: 555-021-000-000-000  
Property Address: 42 RIVER ST.

Mailing Address: YANNONE ERIC P.  
42 RIVER ST.  
KEENE, NH 03431

Parcel Number: 555-022-000  
CAMA Number: 555-022-000-000-000  
Property Address: 50 RIVER ST.

Mailing Address: VASSALL D. & L. TRUST  
50 RIVER ST.  
KEENE, NH 03431



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# 200 foot Abutters List Report

Keene, NH  
July 12, 2019

Parcel Number: 555-023-000  
CAMA Number: 555-023-000-000-000  
Property Address: 58 RIVER ST.

Mailing Address: SMELTZ JOHN E. JR.  
58 RIVER ST.  
KEENE, NH 03431

Parcel Number: 555-024-000  
CAMA Number: 555-024-000-000-000  
Property Address: 66 RIVER ST.

Mailing Address: CHANDLER JERRY E.  
66 RIVER ST.  
KEENE, NH 03431

Parcel Number: 555-025-000  
CAMA Number: 555-025-000-000-000  
Property Address: 0 RIVER ST.

Mailing Address: SULLIVAN EDWARD C.  
59 STELLA DR.  
BRIDGEWATER, NJ 08807-1838

Parcel Number: 555-026-000  
CAMA Number: 555-026-000-000-000  
Property Address: 72 RIVER ST.

Mailing Address: NELSON CYNTHIA J.  
72 RIVER ST.  
KEENE, NH 03431

Parcel Number: 566-001-000  
CAMA Number: 566-001-000-000-000  
Property Address: 0REAR WEST ST.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 566-002-000  
CAMA Number: 566-002-000-000-000  
Property Address: 0OFF PERHAM ST.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 567-001-000  
CAMA Number: 567-001-000-000-000  
Property Address: 0 ASHUELOT ST.

Mailing Address: JRR PROPERTIES LLC  
PO BOX 323  
KEENE, NH 03431

Parcel Number: 567-002-000  
CAMA Number: 567-002-000-000-000  
Property Address: 27 ASHUELOT CT.

Mailing Address: BARRETT, BETH ANN  
27 ASHUELOT CT.  
KEENE, NH 03431

Parcel Number: 567-003-000  
CAMA Number: 567-003-000-000-000  
Property Address: 23 ASHUELOT CT.

Mailing Address: DOYLE SUSAN C. REVOCABLE TRUST  
119 STEARNS RD.  
KEENE, NH 03431

Parcel Number: 567-004-000  
CAMA Number: 567-004-000-000-000  
Property Address: 9-17 ASHUELOT CT.

Mailing Address: DEACON JONES PROPERTIES LLC  
16 NORTH SHORE RD.  
SPOFFORD, NH 03462

Parcel Number: 567-005-000  
CAMA Number: 567-005-000-000-000  
Property Address: 92 ASHUELOT ST.

Mailing Address: HAGUE EMILY P. M.  
PO BOX 188  
CHELSEA, NY 12512-0188

Parcel Number: 567-007-000  
CAMA Number: 567-007-000-000-000  
Property Address: 91 CASTLE ST.

Mailing Address: PACCIONE, CATHY  
91 CASTLE ST.  
KEENE, NH 03431



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# 200 foot Abutters List Report

Keene, NH  
July 12, 2019

Parcel Number: 567-008-000  
CAMA Number: 567-008-000-000-000  
Property Address: 18 RIVER ST.

Mailing Address: O'DONNELL MICHAEL D.  
18 RIVER ST.  
KEENE, NH 03431-2427

Parcel Number: 567-009-000  
CAMA Number: 567-009-000-000-000  
Property Address: 24 RIVER ST.

Mailing Address: SULLIVAN THOMAS F. & LINDA M. REV  
TRUST  
24 RIVER ST.  
KEENE, NH 03431

Parcel Number: 567-010-000  
CAMA Number: 567-010-000-000-000  
Property Address: 0 RIVER ST.

Mailing Address: CHRISTOPHERSON MARK T.  
28 RIVER ST.  
KEENE, NH 03431

Parcel Number: 567-011-000  
CAMA Number: 567-011-000-000-000  
Property Address: 28 RIVER ST.

Mailing Address: CHRISTOPHERSON MARK T.  
28 RIVER ST.  
KEENE, NH 03431

Parcel Number: 567-057-000  
CAMA Number: 567-057-000-000-000  
Property Address: 80 CASTLE ST.

Mailing Address: JOSLYN MARJORIE A. FAMILY TRUST  
80 CASTLE ST.  
KEENE, NH 03431

Parcel Number: 567-058-000  
CAMA Number: 567-058-000-000-000  
Property Address: 109 ASHUELOT ST.

Mailing Address: MONADNOCK AFFORDABLE HOUSING  
CORP  
831 COURT ST.  
KEENE, NH 03431

Parcel Number: 567-059-000  
CAMA Number: 567-059-000-000-000  
Property Address: 47 PARK ST.

Mailing Address: WILKES, JODY C.  
47 PARK ST.  
KEENE, NH 03431

Parcel Number: 567-077-000  
CAMA Number: 567-077-000-000-000  
Property Address: 38 PARK ST.

Mailing Address: SWETT DAVID AND MARY ELLEN LIVING  
TRUST  
38 PARK ST.  
KEENE, NH 03431

Parcel Number: 567-078-000  
CAMA Number: 567-078-000-000-000  
Property Address: 93 ASHUELOT ST.

Mailing Address: LYDON KEVIN M. II  
10 EVANS CIR.  
KEENE, NH 03431-5232

Parcel Number: 567-079-000  
CAMA Number: 567-079-000-000-000  
Property Address: 87 ASHUELOT ST.

Mailing Address: BREHME CHRISTOPHER E.  
87 ASHUELOT ST.  
KEENE, NH 03431

Parcel Number: 567-080-000  
CAMA Number: 567-080-000-000-000  
Property Address: 83 ASHUELOT ST.

Mailing Address: CAVALIERE, ANTHONY J.  
83 ASHUELOT ST.  
KEENE, NH 03431

Parcel Number: 567-081-000  
CAMA Number: 567-081-000-000-000  
Property Address: 81 ASHUELOT ST.

Mailing Address: DAVIS GERALD L. & RICHARDS-DAVIS  
JOY L. REV. TRUST  
215 BRANCH RD.  
ROXBURY, NH 03431



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105 Castle St.  
ZBA 19-09



Petitioner requests an Enlargement of a Nonconforming Use to replace a nonconforming office use with an additional 30 senior housing units.



City of Keene  
New Hampshire

## **NOTICE OF HEARING**

### **ZBA 19-09**

A meeting of the Zoning Board of Adjustment will be held on Monday, August 5, 2019 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 Monadnock Affordable Housing Corp. of 831 Court St. who requests an Enlargement of a Nonconforming Use to remove a nonconforming office use at 105 Castle St., and replace with an additional 30 senior housing units. Adding the units to the lot will be an enlargement of a nonconforming use, which is an apartment building greater than three units. 105 Castle St. currently has and will continue to have, maintenance space for Harper Acres. Meals on Wheels space and community space. There will be a reduction level of nonconformity in other respects by eliminating the commercial office.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm. or online at <https://ci.keene.nh.us/zoning-board-adjustment>

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date: June 26, 2019

# APPLICATION FOR APPEAL

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

### For Office Use Only:

Case No. ZBA 19-09  
Date Filed 7/19/19  
Received By GM  
Page 1 of 10  
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

- 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

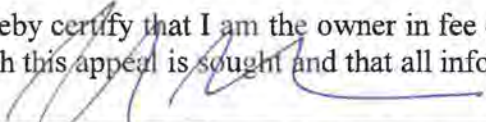
Name(s) of Applicant(s) Keene Housing Phone: 603-352-6161  
Address 831 Court Street, Keene, NH 03431  
Name(s) of Owner(s) Monadnock Affordable Housing Corp.  
Address 831 Court Street, Keene, NH 03431  
Location of Property 105 Castle St.

## SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 098-02-022 Zoning District Medium Density  
Lot Dimensions: Front 171 ft +/- Rear 2,072 ft +/- Side 329 ft +/- Side 438 ft +/-  
Lot Area: Acres 10.17 AC +/- Square Feet 443,005 sf +/-  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 10.6% +/- Proposed 11.3% +/-  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 28% +/- Proposed 29.6% +/-  
Present Use Commercial office space and other accessory uses (at 105 Castle St)  
Proposed Use Housing and other accessory uses (at 105 Castle St)

## SECTION III - AFFIDAVIT

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

  
(Signature of Owner or Authorized Agent)

Date 7/19/19

Please Print Name Joshua Meehan

PROPERTY ADDRESS 105 Castle St.

***APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE***

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

- An enlargement and/or expansion of a nonconforming use is requested in order to:  
Please see attached for responses.

**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.

Please see attached for responses.

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

Please see attached for responses.

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

Please see attached for responses.



Application for Enlargement of Nonconforming Use  
Responses to Page 4 Application Questions  
105 Castle St.

- An enlargement and/or expansion of a nonconforming use is requested in order to:
  - Remove a nonconforming office use at 105 Castle Street and replace with an additional 30 senior housing units. Adding units to the lot will be an enlargement of a nonconforming use, which is an apartment building greater than three units. 105 Castle Street currently has and will continue to have, maintenance space for Harper Acres, Meals on Wheels space and community space. However, we will be reducing the level of nonconformity in other respects by eliminating the commercial office.
- 1. The enlargement in use would not negatively impact the surrounding neighborhood in an obnoxious or offensive way and would eliminate a use that is currently non-conforming. The surrounding buildings on Castle St. are presently senior housing and while the proposed building will have a different shape and height, the new use will be consistent with Castle St./Harper Acres. Parking will be located behind the building, which will act as a screen to buffer the view from Castle St. The proposed building will be a 2½-story building which is non-conforming in this zone, however, a dormer style building with raised roof will make the building have a two-story appearance and help maintain the current visual characteristics of the neighborhood. Due to the constraints present at the site and the need for greater housing density, this approach is believed to be appropriate. The City of Keene has a need for additional senior housing and the proposed units will help alleviate the City's need by providing ADA compliant housing. Currently Keene Housing has up to a 4-year waiting list for elderly and disabled units.
- 2. Due to the design of the site and the existing conditions present, the proposed improvements will not pose a serious hazard to vehicles or pedestrians. Castle St. has recently undergone traffic calming and the road dead ends shortly after the site of the proposed building. The change in use will eliminate the office space and create new senior housing space; senior citizens generate less trips and travel less frequently than other demographics. The transition from office space to senior housing will create a fitting experience for the members of the neighborhood, which is mainly seniors.
- 3. Adequate and proper facilities for the site are presently provided and will be maintained for the proposed improvements. Recently, Keene Housing took ownership of a portion of Castle St. from the City of Keene, and maintains the street throughout the year. The

traffic-calming project that was recently completed has encouraged slower movement through the project area and eliminating the office space and transitioning to senior housing will generate less trips, which will equal less traffic in the neighborhood. The proposed improvements will meet the water, sewer and parking requirements. Effort is being made to place the parking behind the proposed building to utilize the existing building as a screen.

2 ½-story building at 63 Castle Street,  
in Medium Density district



3-story building with walkout at north  
corner of Castle and School Street.  
At edge of Medium Density district.

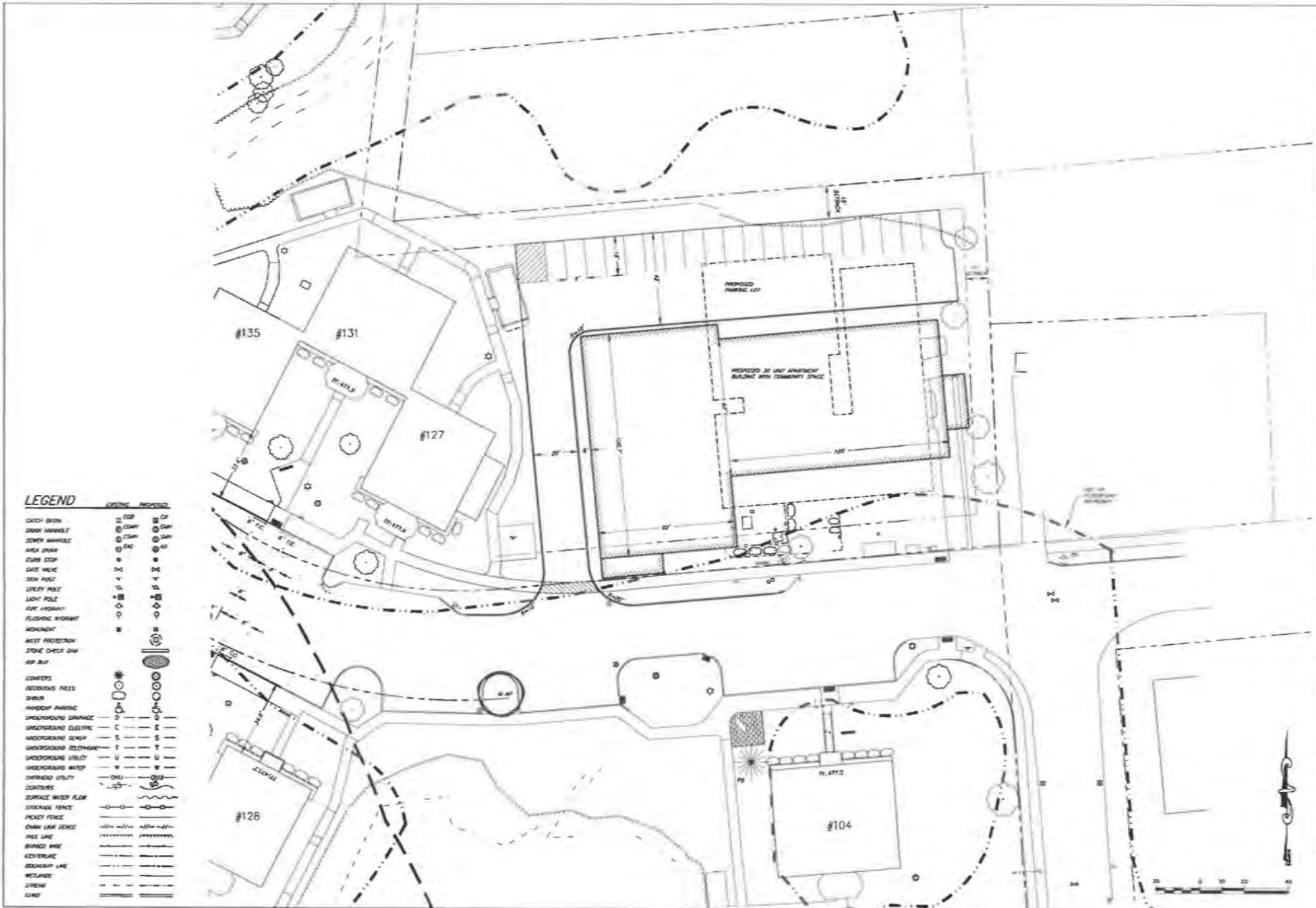


Large 2-story building at  
south corner of Castle and  
School Street. At edge of  
Medium Density district.









**LEGEND**

EXISTING	PROPOSED
CATCH BASIN	11' 10" 10"
DRAIN MANHOLE	10' 10" 10"
SEWER MANHOLE	10' 10" 10"
ARCH DRAIN	10' 10" 10"
DRIVE STOP	10' 10" 10"
DRIVE WADE	10' 10" 10"
SEW POST	10' 10" 10"
LIVERY POLE	10' 10" 10"
LIGHT POLE	10' 10" 10"
APIC HIGHWAY	10' 10" 10"
FLUORINE MANHOLE	10' 10" 10"
MONUMENT	10' 10" 10"
WELT PROTECTION	10' 10" 10"
STONE CHECK DAM	10' 10" 10"
HP BIP	10' 10" 10"
CONCRETE	10' 10" 10"
CONCRETE PILES	10' 10" 10"
SHRUB	10' 10" 10"
PROPOSED FINISH	10' 10" 10"
UNDERGROUND DRAINAGE	10' 10" 10"
UNDERGROUND ELECTRIC	10' 10" 10"
UNDERGROUND SEWER	10' 10" 10"
UNDERGROUND TELEPHONE	10' 10" 10"
UNDERGROUND UTILITY	10' 10" 10"
UNDERGROUND WATER	10' 10" 10"
OUTSIDE UTILITY	10' 10" 10"
CONTOUR	10' 10" 10"
SURFACE WATER FLOW	10' 10" 10"
STOCKADE FENCE	10' 10" 10"
POCKET FENCE	10' 10" 10"
CHAIN LINK FENCE	10' 10" 10"
WIRE LINE	10' 10" 10"
BARRIED WIRE	10' 10" 10"
CENTRIC LINE	10' 10" 10"
BOUNDARY LINE	10' 10" 10"
WETLAND	10' 10" 10"
STREAM	10' 10" 10"
CLAY	10' 10" 10"

**STEVENS & ASSOCIATES, INC.**  
**SA**  
 ARCHITECTS | ENGINEERS  
 100 MARKET ST., 3RD FLOOR  
 BOSTON, MA 02109  
 TEL: 617.552.1200  
 WWW.STEVENS-AND-ASSOCIATES.COM

PURPOSE OF DRAWING:  
 JULY 13, 2018  
 FOR REVIEW  
 NOT FOR CONSTRUCTION

**105 CASTLE STREET**  
 CASTLE STREET  
 KEENE, NH  
 PREPARED FOR:  
**KEENE HOUSING**  
 831 COURT ST.  
 KEENE, NH 03421

**CONCEPT SITE PLAN**

DES. BY	305
CHK. BY	105
DATE	7/17/2018
SCALE	1"=20'
PROJECT NO.	15-092
DWG. NO.	

**FIG. - 1**  
 SHEET 2 OF 2



① 3D View 2  
Date: \_\_\_\_\_

105 CASTLE STREET

Concept Sketch Drawings Only  
NOT FOR CONSTRUCTION

A-251  
PERSPECTIVE  
Date: 07/17/2019  
Pro. No.: 17-094  
KEENE HOUSING

**S&A** STEVENS &  
ASSOCIATES, P.C.  
SMART DESIGN FOR LIVABLE COMMUNITIES  
ARCHITECTS | ENGINEERS | LANDSCAPE ARCHITECTS | PLANNERS  
95 MAIN ST. | P.O. BOX 1586 | BRATTLEBORO, VT 05702  
PHONE: 802.257.9329 | FAX: 802.256.4892

7/17/2019 4:52:35 PM © 2019 Stevens & Associates



① 3D View 1  
Scale

105 CASTLE STREET

Concept Sketch Drawings Only  
NOT FOR CONSTRUCTION

A-250  
PERSPECTIVE  
Date: 07/17/2019  
Pro. No.: 17-094  
KEENE HOUSING

**S&A** STEVENS & ASSOCIATES, P.C.  
SMART DESIGN FOR LIVABLE COMMUNITIES  
ARCHITECTS | ENGINEERS | LANDSCAPE ARCHITECTS | PLANNERS  
95 MAIN ST. | PO. BOX 1586 | BURLINGTON, VT 05402  
PHONE: 802-533-9329 | FAX: 802-286-3892  
7/17/2019 4:52:34 PM © 2019 Stevens & Associates

105 Castle St.  
ZBA 19-10



Petitioner requests a Variance to construct a 38 foot, 2 1/2 story building in the Medium Density District per Section 102-791, Basic Zone Dimensional Requirements.



**NOTICE OF HEARING**

**ZBA 19-10**

A meeting of the Zoning Board of Adjustment will be held on Monday, August 5, 2019 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 Monadnock Affordable Housing Corp. of 831 Court St. who requests a Variance for property located at 105 Castle St. to construct a 38 foot 2 ½-story building to be built in the Medium Density District per Section 102-791 of the Zoning Code.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm. or online at <https://ci.keene.nh.us/zoning-board-adjustment>

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date: June 26, 2019

**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 19-10</u>
Date Filed	<u>7/19/19</u>
Received By	<u>CJM</u>
Page	<u>1</u> of <u>16</u>
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) Keene Housing Phone: 603-352-6161  
 Address 831 Court Street, Keene, NH 03431  
 Name(s) of Owner(s) Monadnock Affordable Housing Corp.  
 Address 831 Court Street, Keene, NH 03431  
 Location of Property 105 Castle St.

**SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 098-02-022 Zoning District Medium Density  
 Lot Dimensions: Front 171 ft +/- Rear 2,072 ft +/- Side 329 ft +/- Side 438 ft +/-  
 Lot Area: Acres 10.17 AC +/- Square Feet 443,005 sf +/-  
 % of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 10.6% +/- Proposed 11.3% +/-  
 % of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 28% +/- Proposed 29.6% +/-  
 Present Use Commercial office space and other accessory uses (at 105 Castle St)  
 Proposed Use Housing and other accessory uses (at 105 Castle St)

**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 7/19/19  
(Signature of Owner or Authorized Agent)

Please Print Name Joshua Meehan

K:\ZBA\Web\_Forms\Variance\_Application\_2010.doc 8/22/2017

PROPERTY ADDRESS 105 Castle St.

***APPLICATION FOR A VARIANCE***

- A Variance is requested from Section (s) 102-791 of the Zoning Ordinance to permit:  
a 38' tall, 2 1/2-story building to be built in the Medium Density district.

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

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

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

3. Granting the variance would do substantial justice because:  
Please see attached.

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

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:

Please see attached.

and

ii. The proposed use is a reasonable one because:

Please see attached.

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.

Please see attached.





Application for a Variance (Building Height and Number of Stories)  
Responses to Page 4 & 5 Application Questions  
105 Castle St.

1. The overall nature and use of the surrounding area would not change with the proposed building. The site is located in Harper Acres, which is home to 104 senior housing units, the new building would allow for up to 30 units. Many of which would be fully accessible and would help reduce the long waitlist Keene Housing currently experiences for senior housing. Effort has been made to keep the building architecturally pleasing to blend with the surrounding neighborhood and the buildings on Castle St. /Harper Acres. Efforts include utilizing gable roofs, similar other buildings in the district, adding dormers at the 3<sup>rd</sup> floor to reduce visual impact of the 3<sup>rd</sup> story and locating the building in a parcel with a dead end street that has a similar use. Furthermore, it is our opinion that it is in the public's interest to provide additional fully accessible ADA, senior housing units in the greater Keene area.
2. The proposed building would be visually appealing and fit within the fabric of the neighborhood while fulfilling a hardship for seniors in the area, which is access to fully accessible housing. The use of dormers in the roof is also utilized in the district, neighboring areas and is a consistent style for residential neighborhoods. By implementing a 38-foot tall, 2 ½-story dormer style building, we are able to obtain the look and architectural style of a 2-story building while being able to maximize the density of units of a 3-story building.
3. Granting the variance at 105 Castle St. would do substantial justice and allow the site to be more efficient while alleviating a hardship for elderly & disabled in the area. Harper Acres currently has 104 units, however, only 3 of these units are fully accessible. By granting the variance Harper Acres would be more conforming to the number of ADA units required. Furthermore, 105 Castle St. would become more conforming to the zoning district by removing the commercial office space presently locate at 105 Castle Street. Approval would also provide more ADA accessible senior housing units in Keene.
4. Granting the variance would not negatively impact the surrounding neighborhood in an obnoxious or offensive way and would eliminate a use that is currently non-conforming. The surrounding buildings on Castle St. are presently senior housing and while the proposed building will have a different shape and height, the new use will be consistent with Castle St. /Harper Acres. Note that Harper Acres is on its' own street, which is also a dead end street. Parking will be located behind the building. The proposed building will be a 2 ½ story building which is non-conforming in this zone, however, a dormer style

building roof will provide a building with a two-story appearance and help maintain the current visual characteristics of the neighborhood.

5. Unnecessary Hardship

a.

- i. If approved the proposed building would be built in such a way that it will have the appearance of a 2-story building, but will have a roofline, at 38-feet, slightly higher than the prescribed 35 feet, will allow what is typically un-inhabitable attic space to be used as adaptable living space. The proposed building will fit the residential architecture style on Castle St. /Harper Acres and provide no unfavorable relationship between the general public purpose of the ordinance provision.
- ii. The proposed building and site improvements would be reasonable because the difference in height from the ordinance is roughly 3' and an additional floor, while removing a non-conforming use, will allow Harper Acres to efficiently provide additional needed adaptable and accessible senior housing units on a site and that is limited to a residential neighborhood. The location of the site on Castle St., in an existing senior housing complex will allow the new building to blend well with the surrounding senior housing complex and residential neighborhood.

- b. The property was constructed prior to the development of ADA rules. Therefore there the only way to create fully compliant accessible units would be to renovate/rehab the existing buildings. Renovating the existing buildings would cause a hardship because of retrofitting the existing buildings to become ADA compliant and fully accessible would be difficult from a cost perspective and could result in a loose in valuable resources (senior housing units). Given the context of the site and neighborhood, the proposed building and use is reasonable and will allow for Keene Housing to move in the direction of bringing Harper Acres into conformance with the required ADA units. This building will be a step in the right direction to providing adequate accessible senior housing for the greater Keene area that is in close proximity to downtown Keene, with public transportation available, as well as services and basic residential needs.

**REFERENCE PLAN**

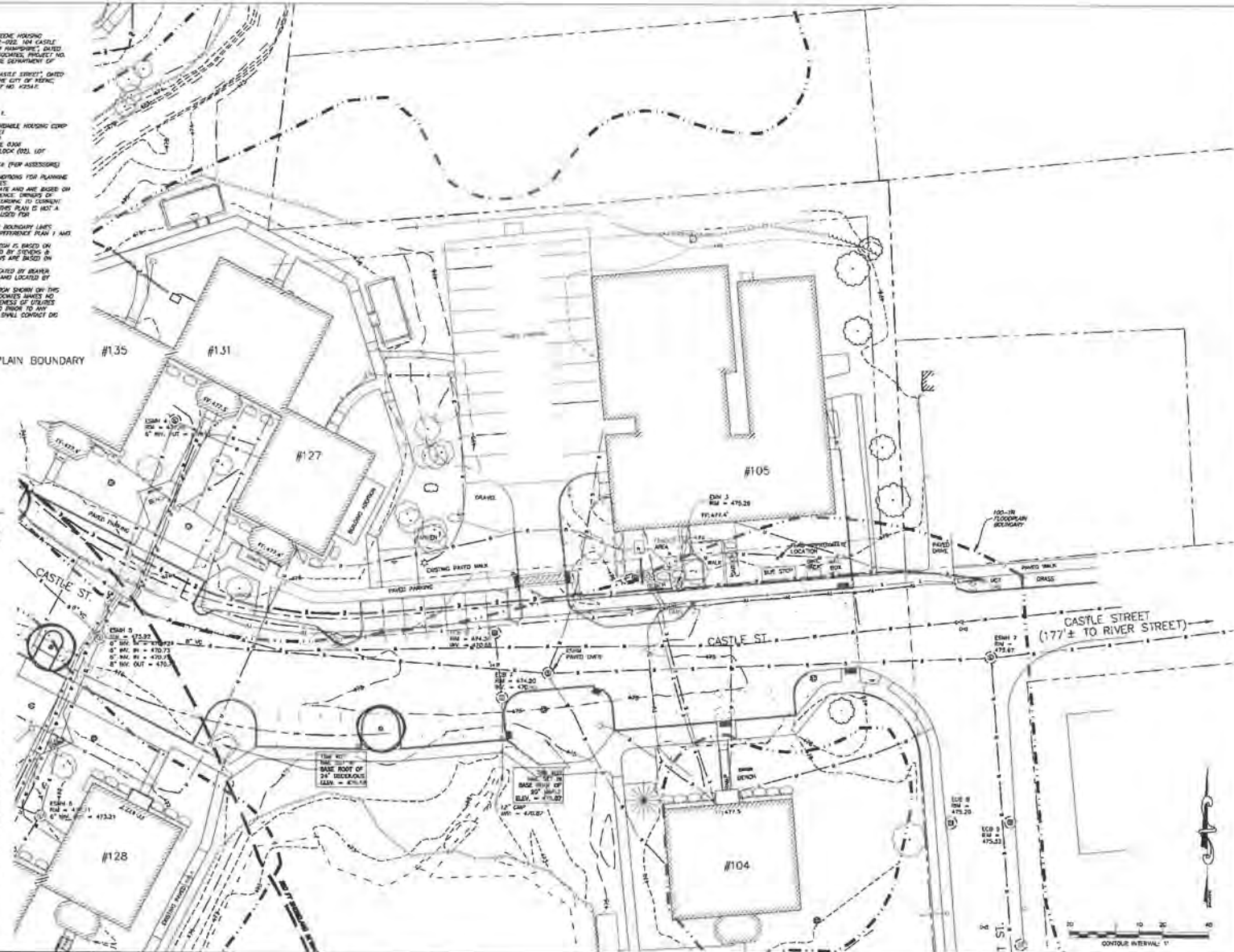
1. TYPICAL DOMESTIC PLAN, LAND OF FRESH HOUSING AUTHORITY, LOCATED AT 184 MAP 11-02-022, 104 CASTLE STREET, KEENE, DRAWING COUNTY, NEW HAMPSHIRE, DATED JUNE 15, 2009, PROVIDED BY THE ASSOCIATES, PROJECT NO. 45536, ON FILE BY THE CITY OF KEENE DEPARTMENT OF PUBLIC WORKS DEPARTMENT.
  2. TYPICAL DOMESTIC PLAN, PORTION OF CASTLE STREET, DATED DECEMBER 12, 2010, PROVIDED FOR THE CITY OF KEENE, PROVIDED BY THE ASSOCIATES, PROJECT NO. 45536.
- NOTES**
1. WORK IS BASED ON REFERENCE PLAN 1.
  2. DIMENSION OF RECORD, LOT 10-02-022, ADJACENT PROFESSIONAL HOUSING CORP, 811 COURT STREET, KEENE, NH 03501.
  3. 50-02-022 BUNDLES FOR MAP THIS BLOCK (202, LOT NUMBER 1022).
  4. AREA LOT 10-02-022 = 10.17 ACRES (TYP. ASSUMES).
  5. ZONING DISTRICT = MEDIUM DENSITY.
  6. PLANNED BY PLAN SHOW DESIGN CONDITIONS FOR PLANNING AND ENGINEERING THE DESIGN PURPOSES.
  7. PROPERTY LINES SHOWN ARE APPROXIMATE AND ARE BASED ON REFERENCE PLAN 1 AND PHYSICAL EVIDENCE, DIMENSIONS OF ADJACENT PROPERTIES ARE SHOWN ACCORDING TO CURRENT CITY OF KEENE ASSESSOR'S RECORDS, THIS PLAN IS NOT A BOUNDARY SURVEY AND IS NOT TO BE USED FOR DETERMINATION OF BOUNDARIES.
  8. CASTLE STREET IS A CITY HIGHWAY, THE BOUNDARY LINES ALONG CASTLE STREET ARE BASED ON REFERENCE PLAN 1 AND PHYSICAL EVIDENCE.
  9. PERMANENT IMPROVEMENT (SWAMP) WETLANDS ARE BASED ON REFERENCE PLAN 1, AND SUPPLEMENTED BY STUDIOS & ASSOCIATES 2012-NOT 2010, ELEVATIONS ARE BASED ON REFERENCE PLAN 1.
  10. WETLANDS SHOWN WERE DELINEATED BY BRUNN PRINCE LLC ON SEPTEMBER 25, 2010, AND LOCATED BY STUDIOS & ASSOCIATES OCTOBER 2010.
  11. THE LOCATION OF ANY GUTTER IMPROVEMENT SHOWN ON THIS PLAN IS APPROXIMATE, STUDIOS & ASSOCIATES MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF STUDIOS & ASSOCIATES FIELD VERIFICATION IS REQUIRED PRIOR TO ANY CONSTRUCTION ON THE SITE, CONSTRUCTION SHALL COMPLY TO THE SAFE AT 1-888-244-7933.

**FLOODPLAIN KEY**

--- = 100-YR FLOODPLAIN BOUNDARY

**LEGEND**

- |                       |     |
|-----------------------|-----|
| CATCH BASIN           | ECB |
| GRASS MANHOLE         | GMH |
| SEWER MANHOLE         | SMH |
| ALICA BASIN           | AOB |
| CURB STOP             | CS  |
| GATE VALVE            | GV  |
| OPEN POST             | OP  |
| UTILITY POLE          | UP  |
| LIGHT POLE            | LP  |
| FIRE HYDRANT          | FH  |
| FLOODING WETLAND      | FW  |
| NEAR SW               | NS  |
| MOVEMENT              | MO  |
| SKILLED WELL          | SW  |
| ROADWALL              | RO  |
| STONEWALL             | SO  |
| CONDUIT               | CO  |
| DECIDUOUS TREES       | DT  |
| SHRUB                 | SH  |
| MANHOLE PAVING        | MP  |
| UNDERGROUND DRAINAGE  | UD  |
| UNDERGROUND ELECTRIC  | UE  |
| UNDERGROUND SEWER     | US  |
| SEWER FORCE MAIN      | UFM |
| UNDERGROUND TELEPHONE | UT  |
| UNDERGROUND UTILITY   | UU  |
| UNDERGROUND WATER     | UW  |
| OVERHEAD ELECTRIC     | OE  |
| OVERHEAD TELEPHONE    | OT  |
| OVERHEAD UTILITY      | OU  |
| OVERHEAD WATER        | OW  |
| STOCKPILE FENCE       | SF  |
| CHAIN LINK FENCE      | CLF |
| TREE LINE             | TL  |
| GRAVE FINE            | GF  |
| CONTINUOUS            | CO  |
| BOUNDARY LINE         | BL  |
| WETLANDS              | W   |
| STREAM                | ST  |
| CLUB                  | CL  |



**STEVENS & ASSOCIATES, INC.**  
**SA**  
 ARCHITECTS • ENGINEERS  
 95 MAIN ST. | 2ND FLOOR  
 BRATTLEBORO, VT 05701  
 TEL: 802-251-8931 | FAX: 802-251-8932  
 WWW.STEVENS-ASSOCIATES.COM

PURPOSE OF DRAWING:  
 JULY 17, 2010  
 FOR REVIEW  
 NOT FOR CONSTRUCTION

**105 CASTLE STREET**  
 CASTLE STREET  
 KEENE, NH  
 PREPARED FOR:  
**KEENE HOUSING**  
 333 COURT ST.  
 KEENE, NH 03501

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

**EXISTING CONDITIONS PLAN**

DES. BY	ROC
CHECK BY	TES
DRAWN BY	ROC
SCALE	1" = 20'
DATE	7/17/10
PROJECT NO.	17-094
DWG. NO.	

**C-1**  
 SHEET 1 OF 2





① 3D View 1  
Side

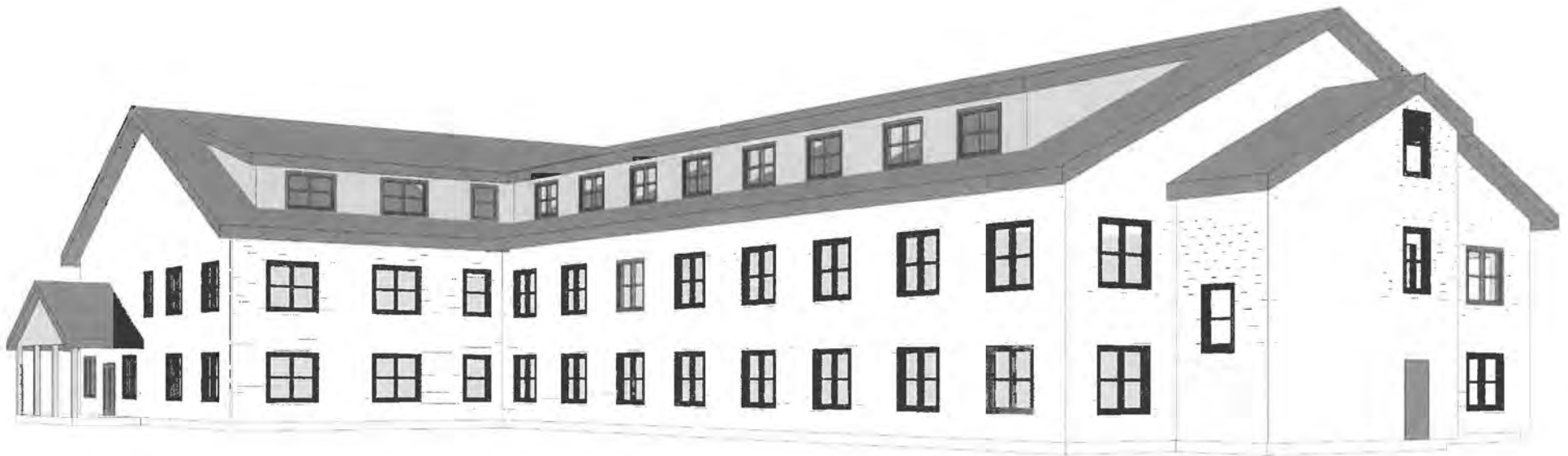
105 CASTLE STREET

Concept Sketch Drawings Only  
NOT FOR CONSTRUCTION

A-250  
PERSPECTIVE  
Date: 07/17/2019  
Pro. No.: 17-094  
KEENE HOUSING

**S&A** STEVENS &  
ASSOCIATES, P.C.  
SMART DESIGN FOR LIVABLE COMMUNITIES  
ARCHITECTS | ENGINEERS | LANDSCAPE ARCHITECTS | PLANNERS  
95 MAIN ST. | P.O. BOX 1586 | BRAintree, VT 05302  
PHONE: 802.257.9329 | FAX: 802.258.3892

7/17/2019 4:52:34 PM © 2019 Stevens & Associates



1 3D View 2  
Scale:

105 CASTLE STREET

Concept Sketch Drawings Only  
NOT FOR CONSTRUCTION

A-251  
PERSPECTIVE  
Date: 07/17/2019  
Pro. No.: 17-094  
KEENE HOUSING

**S&A STEVENS & ASSOCIATES, P.C.**  
SMART DESIGN FOR LIVABLE COMMUNITIES  
ARCHITECTS | ENGINEERS | LANDSCAPE ARCHITECTS | PLANNERS  
195 MAIN ST. | RD. BOX 1586 | KEENE, VT 05702  
PHONE: 802.257.9329 | FAX: 802.250.3992

7/17/2019 4:52:35 PM © 2019 Stevens & Associates

2 ½-story building at 63 Castle Street,  
in Medium Density district



3-story building with walkout at north  
corner of Castle and School Street.  
At edge of Medium Density district.



Large 2-story building at  
south corner of Castle and  
School Street. At edge of  
Medium Density district.



89 Main St.  
ZBA 19-11



Petitioner requests a Special Exception from Section 102-791, Central Business District maximum building height of 55 feet to 75 feet.





**NOTICE OF HEARING**

**ZBA 19-11**

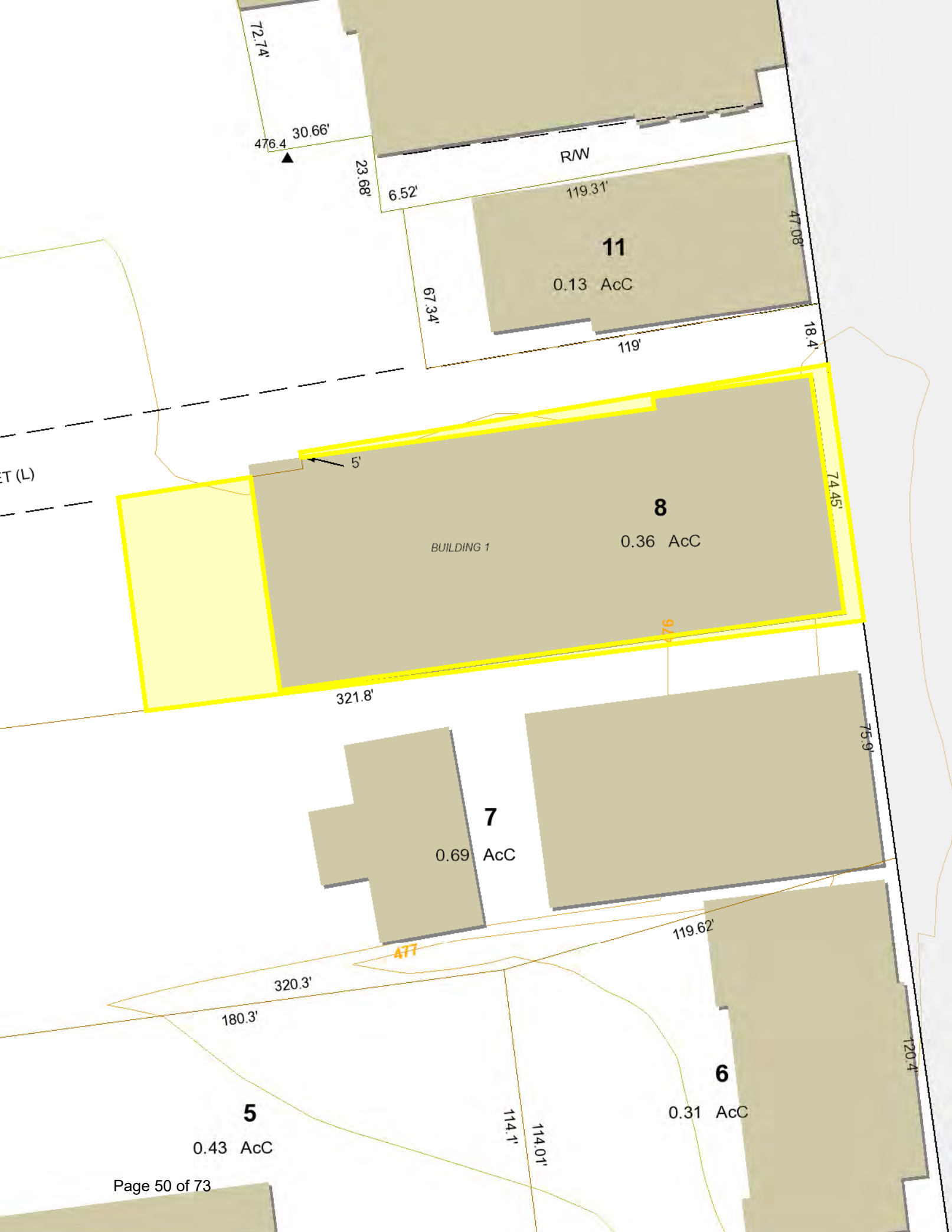
A meeting of the Zoning Board of Adjustment will be held on Monday, August 5, 2019 at 6:30 PM in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of The Colonial Theater Group, Inc., of 95 Main St., Keene, requests a Special Exception for property located at 89 Main St., Tax Map Parcel #575-008-000 (001 thru 007) which is in the Central Business District. The Petitioner requests a Special Exception from Zoning Ordinance Section 102-791, the Basic Zone Dimensional Requirements; Central Business District maximum building height of 55 feet to 75 feet.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm. or online at <https://ci.keene.nh.us/zoning-board-adjustment>

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date: June 26, 2019



ET (L)

# 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 19-11</u>
Date Filed	<u>7/19/19</u>
Received By	<u>CMH</u>
Page	<u>1</u> of <u>9</u>
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

- 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) Colonial Theater Group Inc. Phone: 603 357 1233 X102  
Address 95 Main Street  
Name(s) of Owner(s) Colonial Theater Group Inc.  
Address 95 Main Street, Keene, NH  
Location of Property 89 Main Street, Keene, NH

## **SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 575-008-000 (001 thru 007) Zoning District Central Business  
Lot Dimensions: Front 75.4 Rear 69.1 Side 217.7 Side 216.6  
Lot Area: Acres .363 Square Feet 15,826  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 90% Proposed 100%  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 90% Proposed 100%  
Present Use mixed uses: public theater, business offices, retail and apartments  
Proposed Use mixed uses: public theater, business offices and apartments

## **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.

Alexander Dujie Date 7/16/19  
(Signature of Owner or Authorized Agent)

Please Print Name Alexander Dujie

***APPLICATION FOR A SPECIAL EXCEPTION***

- Section of the Zoning Ordinance under which the Special Exception is sought:  
Sec. 102-791. - Basic zone dimensional requirements: In the CB District maximum building height is 55', with 75' allowed by Special Exception.

The Zoning Board of Adjustment shall have the power to hear and decide Special Exceptions to the terms of the Zoning Ordinance, and in doing so, may grant approval in appropriate cases and subject to appropriate conditions and safeguards for the protection of the public health, safety and welfare. Special Exceptions may be approved if the Board can make the following findings. All four conditions must be completed and satisfied.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION.

1. The proposed use is similar to one or more of the uses already authorized in that district and is in an appropriate location for such a use.

This requirement is satisfied as the proposed increase in building height is necessary to allow the continued competitive use of this special purpose building as a modern theater/performance venue. The use category has not changed from the original 1923 use of the property, is already allowed and the Main Street location is appropriate.

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

This requirement is satisfied as the 15 ft height increase above the existing Stagehouse roof has no impact on the Main Street facade and views of the building.

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

This requirement is satisfied as increasing the roof height of 18% of the building footprint does not impact either vehicle or pedestrian traffic.

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

This requirement is satisfied as the requested Special Exception places no increased burden on sewer, water, parking or other facilities necessary for the proper operation of the Theater.

# MEMO

**WELLER & MICHAL ARCHITECTS Inc.**

71 Main Street, Harrisville, NH 03450

**TO:** Corinne Marcou, Clerk Zoning  
Keene Zoning Board  
c/o Keene Planning Department

**FROM:** Charles Michal AIA  
Weller & Michal Architects Inc.

**PHONE:** 603-827-3840  
**email:** info@wapm.com

**DATE:** 7/26/2019

**RE:** Special Exception for Colonial Theater  
Section 102-791 Table 1 comments

**COPIES:** Owner, file

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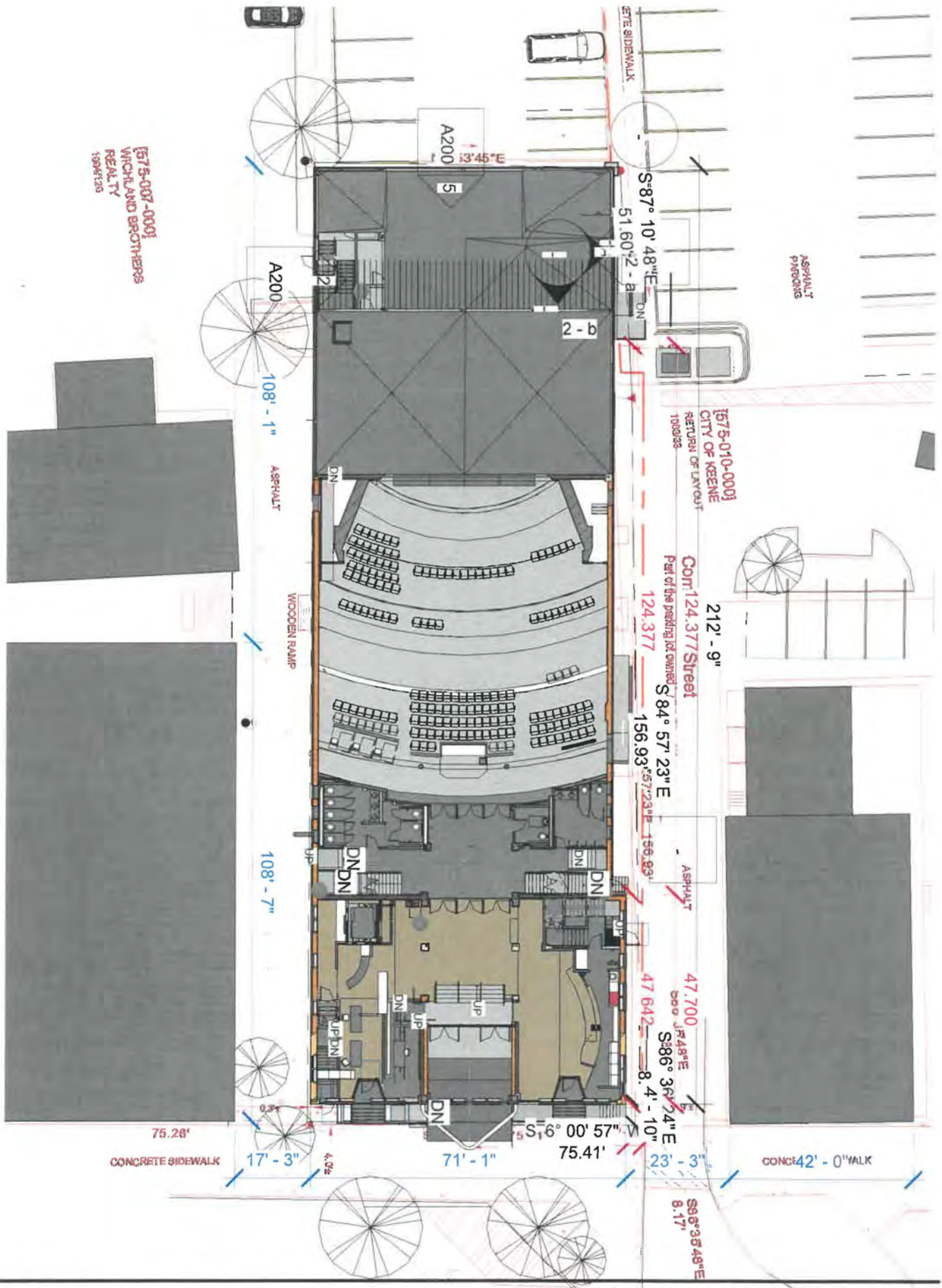
I provide the following to supplement materials provided in The Appeal for Special Exception filed on July 19<sup>th</sup>. The comments address five criteria for Special Exception for a height increase in the Central Business District.

A drawing illustrating this height increase is attached.

Per Table 1 in Section 102-791, footnote (b) the maximum building height, in stories, may be increased to up to 3½ stories; six stories in the central business zone only, and/or the maximum building height, in feet, may be increased to up to 50 feet; 75 feet in the central business zone only, if a special exception is granted therefor in accordance with section 102-37 pertaining to special exceptions by the zoning board of adjustment.

We state that:

1. There is adequate carrying capacity on public roads serving the proposed project site to accommodate traffic associated with and anticipated for the proposed project, as the Special Exception requested does not increase the capacity of the building nor change its current use. Increasing the roof height of 18% of the building footprint does not impact either vehicle or pedestrian traffic.
2. Parking requirements for the current use are based on number of seats which are not increased by the necessary height increase. Parking is satisfied as no increased parking is necessitated by the height increase, which simply accommodates the modern, current-day technology and equipment suitable for a live performance theater. [In the central business zone, parking capacity requirements may be satisfied on site or off site in accordance with division 7 of article 5.]
3. The design of the proposed remodeling is attractive and compatible with adjacent buildings and those in the vicinity, does not unreasonably obstruct vistas of hills that can be seen from any public ways on the valley floor, or the light and air available to adjacent buildings.
4. Adequate capacity and availability of emergency services exists as this is an existing use unchanged by the proposed height increase. The height increase does not introduce a higher occupied floor level than currently exists, and only increases the volume of the stage house for the theater.
5. Adequate existing sewer and water are available to serve the building.



575-010-0001  
 WICKLAND BROTHERS  
 REALTY  
 1994128

575-010-0001  
 CITY OF KEENE  
 RETURN OF LAYOUT  
 1006188

Com 124.377 Street  
 Part of the pending lot owned

47.700  
 48° 48' E

**Plot Plan**

**2020 Addition and Renovation**

Main Street

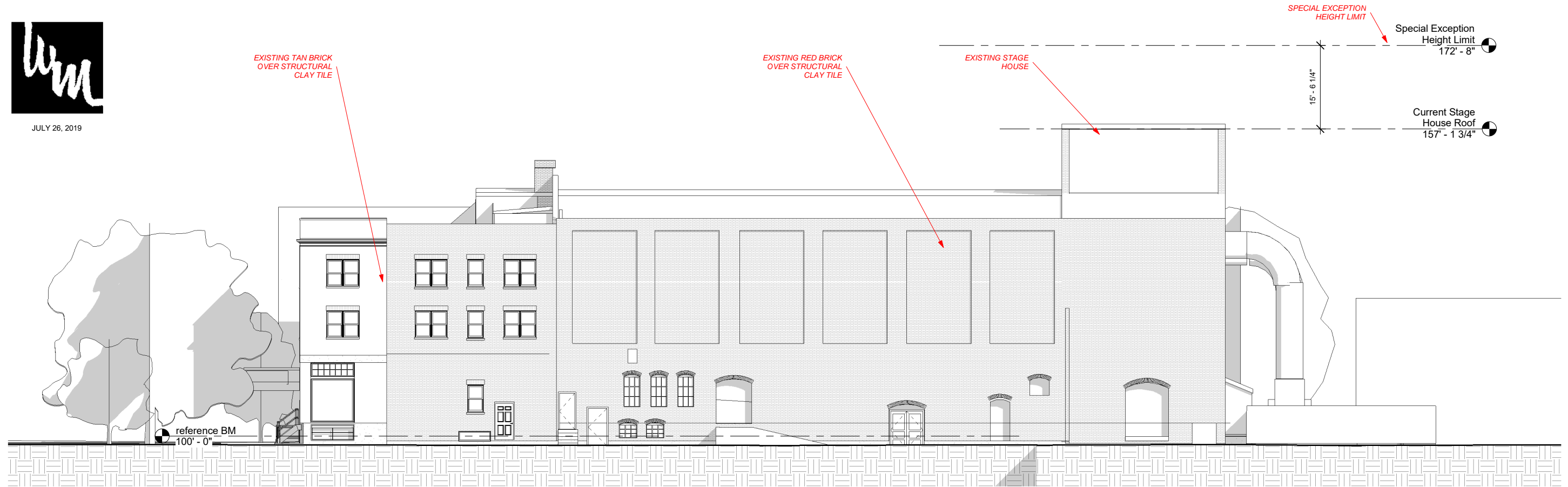
**ZBA**

WELLER & MICHAL ARCHITECTS





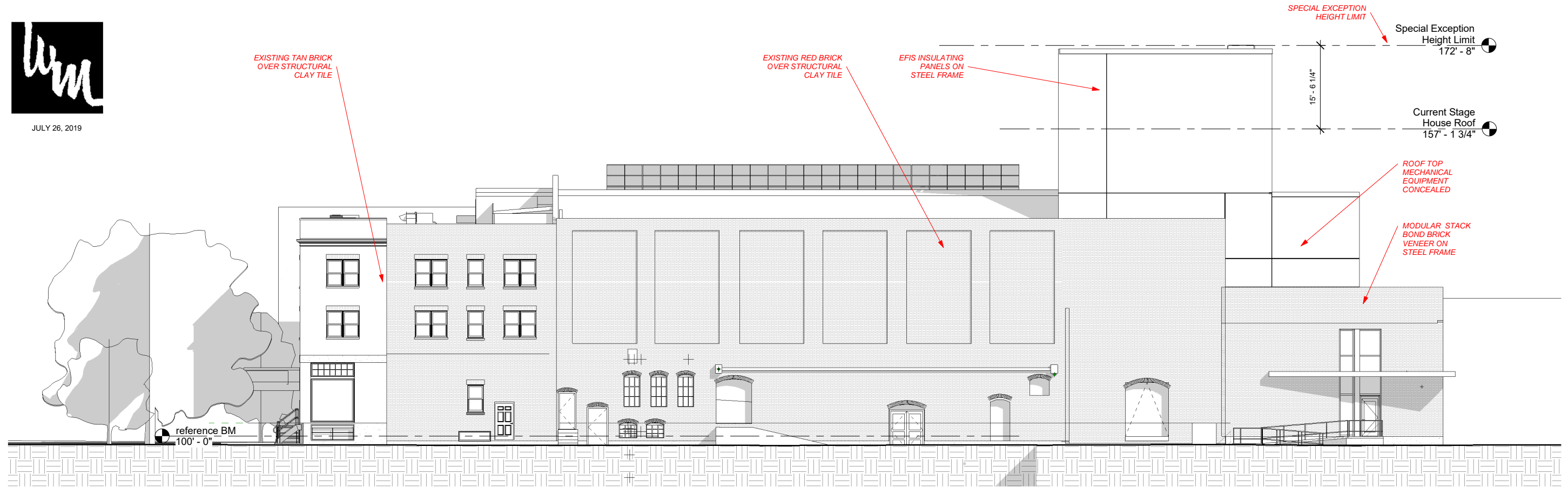
JULY 26, 2019



NORTH ELEVATION COLONIAL THEATER existing conditions  
ZONING BOARD APPEAL FOR SPECIAL EXCEPTION HEIGHT INCREASE



JULY 26, 2019



NORTH ELEVATION COLONIAL THEATER EXPANSION  
ZONING BOARD APPEAL FOR SPECIAL EXCEPTION HEIGHT INCREASE





# 200 foot Abutters List Report

Keene, NH  
July 08, 2019

## Subject Properties:

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-001  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-002  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-003  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-004  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-005  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-006  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-007  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

---

## Abutters:

Parcel Number: 574-042-000  
CAMA Number: 574-042-000-000-000  
Property Address: 0 RAILROAD ST.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST  
KEENE, NH 03431

Parcel Number: 575-004-000  
CAMA Number: 575-004-000-000-000  
Property Address: 31 EMERALD ST.

Mailing Address: HAMBLET JEANNA C. REV. TRUST  
16 DARLING RD.  
KEENE, NH 03431

Parcel Number: 575-005-000  
CAMA Number: 575-005-000-000-000  
Property Address: 7 EMERALD ST.

Mailing Address: 7 EMERALD STREET LLC  
7 EMERALD ST.  
KEENE, NH 03431



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# 200 foot Abutters List Report

Keene, NH  
July 08, 2019

Parcel Number: 575-006-000  
CAMA Number: 575-006-000-000-000  
Property Address: 115-117 MAIN ST.

Mailing Address: MCGREER HOLDINGS LLC  
115 MAIN ST.  
KEENE, NH 03431

Parcel Number: 575-007-000  
CAMA Number: 575-007-000-000-000  
Property Address: 101 MAIN ST.

Mailing Address: WICHLAND BROTHERS REALTY  
105 MAIN ST.  
KEENE, NH 03431

Parcel Number: 575-007-000  
CAMA Number: 575-007-000-000-000 (Bldg2)  
Property Address: 101 MAIN ST. Bldg 2

Mailing Address: WICHLAND BROTHERS REALTY  
105 MAIN ST.  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-000-000  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-001  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-002  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-003  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-004  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-005  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-006  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-008-000  
CAMA Number: 575-008-000-001-007  
Property Address: 89 MAIN ST.

Mailing Address: COLONIAL THEATRE GROUP INC  
PO BOX 77  
KEENE, NH 03431

Parcel Number: 575-009-000  
CAMA Number: 575-009-000-000-000  
Property Address: 20 COMMERCIAL ST.

Mailing Address: HAMBLET JEANNA C. REV. TRUST  
16 DARLING RD.  
KEENE, NH 03431



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# 200 foot Abutters List Report

Keene, NH  
July 08, 2019

Parcel Number: 575-010-000  
CAMA Number: 575-010-000-000-000  
Property Address: 0 COMMERCIAL ST.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 575-011-000  
CAMA Number: 575-011-000-000-000  
Property Address: 87 MAIN ST.

Mailing Address: PCT REAL ESTATE LLC  
87 MAIN ST.  
KEENE, NH 03431

Parcel Number: 575-012-000  
CAMA Number: 575-012-000-000-000  
Property Address: 81 MAIN ST.

Mailing Address: KEENE HOLDING CO LLC  
200 GRIFFIN RD. SUITE 1  
PORTSMOUTH, NH 03801-7145

Parcel Number: 575-013-000  
CAMA Number: 575-013-000-000-000  
Property Address: 2 GILBO AVE.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 575-013-000  
CAMA Number: 575-013-000-001-000  
Property Address: 2 GILBO AVE.

Mailing Address: MASTROGIOVANNI PAUL  
8 GALES RD.  
ABBOT, ME 04406

Parcel Number: 575-014-000  
CAMA Number: 575-014-000-000-000  
Property Address: 12 GILBO AVE.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 575-014-000  
CAMA Number: 575-014-000-001-00A  
Property Address: 12 GILBO AVE.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 575-014-000  
CAMA Number: 575-014-000-001-00B  
Property Address: 12 GILBO AVE.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 575-014-000  
CAMA Number: 575-014-000-001-00C  
Property Address: 12 GILBO AVE.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 575-015-000  
CAMA Number: 575-015-000-000-000  
Property Address: 0 GILBO AVE.

Mailing Address: CITY OF KEENE  
3 WASHINGTON ST.  
KEENE, NH 03431

Parcel Number: 575-057-000  
CAMA Number: 575-057-000-000-000  
Property Address: 82 MAIN ST.

Mailing Address: CAMPY LLC  
71 EAGLE DR.  
BEDFORD, NH 03110-4414

Parcel Number: 575-058-000  
CAMA Number: 575-058-000-000-000  
Property Address: 88-90 MAIN ST.

Mailing Address: XANTHOPOULOS GEORGE & ELENI  
LIVING TRUST  
553 WASHINGTON ST.  
KEENE, NH 03431



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# 200 foot Abutters List Report

Keene, NH  
July 08, 2019

Parcel Number: 575-059-000  
CAMA Number: 575-059-000-000-000  
Property Address: 100 MAIN ST.

Mailing Address: CHOW DOWN INVESTMENTS LLC  
PO BOX 143  
KEENE, NH 03431

Parcel Number: 575-060-000  
CAMA Number: 575-060-000-000-000  
Property Address: 102 MAIN ST.

Mailing Address: 102 MAIN STREET ASSOCIATES LLC  
PO BOX 3  
WALPOLE, NH 03608

Parcel Number: 575-061-000  
CAMA Number: 575-061-000-000-000  
Property Address: 106 MAIN ST.

Mailing Address: FARINA RONALD A. REV. TRUST  
17 MCKINLEY ST.  
KEENE, NH 03431

Parcel Number: 575-062-000  
CAMA Number: 575-062-000-000-000  
Property Address: 110-120 MAIN ST.

Mailing Address: R & M WEINREICH LLC  
110 MAIN ST.  
KEENE, NH 03431

Parcel Number: 584-075-000  
CAMA Number: 584-075-000-000-000  
Property Address: 37 EMERALD ST.

Mailing Address: FOX BARRY JOEL  
50 EASTVIEW RD.  
KEENE, NH 03431



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**CITY OF KEENE**  
**ZONING BOARD OF ADJUSTMENT**  
**RULES OF PROCEDURE**

**I. GENERAL RULES**

- A. **Authority:** These rules of procedure are adopted under the Authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the zoning ordinance and map of the City of Keene. The Zoning Board of Adjustment (ZBA) shall have and shall exercise all of the powers enumerated in RSA 674:33, or as otherwise provided by State statute and City Ordinances.
- B. **Purpose:** The purpose of these rules is to provide guidance to the City of Keene Zoning Board of Adjustment (“Board”) and all persons participating in proceedings held before the Board, and to allow for the orderly and efficient handling of all matters within the jurisdiction of the Board. Proceedings are not to be strictly governed by formal rules of evidence or parliamentary procedure. Instead, these rules are designed so that all parties interested in an application will be allowed a reasonable opportunity to fully participate and share their views, facts, evidence, and opinions for the Board’s consideration in reaching an appropriate decision. The Board is authorized, by a vote of two-thirds (2/3) of the five (5) member Board, to vote at any meeting to suspend, supplement, alter, or amend any specific rule or procedure, as may be appropriate in a particular matter, in order to best accomplish this purpose.
- C. **Officers:** All officers of the Board, including up to five (5) alternate members, shall be appointed by the Mayor of the City of Keene pursuant to RSA 673:6, and applicable City Ordinance.
- a. A *Chair* shall be elected annually by a majority vote of the Board in the month of January. The *Chair* shall preside over all meetings and hearings, appoint such committees as directed by the Board, and shall affix their signature in the name of the Board.
  - b. A *Vice-Chair* shall be elected annually by a majority vote of the Board in the month of January. The *Vice-Chair* shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.
  - c. A *Clerk* (who shall not be a Board member) shall be appointed by the City of Keene Zoning Administrator, to maintain a record of all meetings, transactions, and decisions of the Board, and perform such other duties as the Board may direct by resolution and otherwise assist the Board.

- d. The *Chair* and *Vice-Chair* shall serve for a one (1) year term and shall be eligible for re-election and shall continue to serve until annual elections are next held.

D. **Members and Alternates:** Up to five (5) alternate members may be appointed by the Mayor of the City of Keene, pursuant to RSA 637:6, and applicable City Ordinance to serve whenever a regular member of the Board is unable to fulfill that member's responsibilities.

- a. At meetings of the ZBA, alternates who are not activated to fill the seat of an absent or recused member, or who have not been appointed by the Chair to temporarily fill the unexpired term of a vacancy, may participate with the Board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, ask questions and interact with other Board members, the applicant, abutters, and the public. Alternates shall not be allowed to make or second motions. Once the Board moves into deliberations, alternates shall remove themselves from the table and no longer participate with the Board. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the Chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.
- b. Members must reside in the community and are expected to attend each meeting of the Board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Clerk as soon as possible. Members, including the Chair and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.

E. **Meetings:** Regular meetings shall be held in the ~~Committee Room~~ Council Chambers, at 3 Washington Street, Keene, New Hampshire, on the first Monday of each month unless otherwise duly noticed by the Clerk. Other meetings may be held on the call of the Chair provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.

- a. **Quorum:** A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of members.
  - i. The Clerk shall make every effort to ensure that all five (5) members, and one (1) or two (2) alternates, are present for the consideration of any appeal or application.
  - ii. If any regular Board member is absent from any meeting or hearing, or disqualifies them self from sitting on a particular case, the Chair shall designate one of the alternate members to sit in place of the

absent or disqualified member, and such alternate shall be in all respects a full member of the Board while so sitting.

iii. If there are less than five (5) members (including alternates) available, the Clerk, shall give the option to the applicant to proceed or not prior to the scheduled meetings. Should the applicant choose to proceed with less than five (5) members present that shall not solely constitute grounds for a re-hearing should the application be denied. All decisions of the Board shall require the concurrence of at least three (3) members. The option to request to reschedule a meeting of less than five (5) members is not absolute, and the Board may, at its discretion, proceed to consider an application with less than a five (5) member Board.

b. **Public Hearing Limits:** The Board shall not open a new or continued public hearing after 10:00 p.m.

c. **Disqualification:** If any member finds it necessary to disqualify (or recuse) themselves from sitting in a particular case, as provided in RSA 673:14, they shall notify the Clerk as soon as possible so that an alternate may be requested to sit in their place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.

i. Either the Chair or the member disqualifying before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall step down from the Board table during the public hearing and during deliberation on the case.

ii. Any interested person appearing in a proceeding, having any information or reason to believe that a Board member should be disqualified, shall notify the Chair as soon as possible and in any event before the commencement of such public hearing.

iii. Any Board member or other interested party may, in accordance with RSA 673:14, prior to the commencement of any public hearing, requests the Board to make the determination as to whether or not such Board member should be disqualified.

iv. In deciding issues of disqualification, the Board shall be guided by RSA 500-A:12, pertaining to jury selection and the requirement that jurors shall be “indifferent,” as well as the City of Keene Code of Ordinances §2-1111, *et seq.* (“Conflict of Interest”).

- d. **Voting:** Unless otherwise required by law (i.e. RSA 674:33, III) all actions before the Board (including appropriate findings of fact) shall require only a majority vote of those members acting on any matter. All members hearing a matter shall vote; abstention shall not be allowed.
- e. **Order of Business:** The order of business for regular meeting shall be as follows:
  - i. Call to order by the Chair
  - ii. Roll call by the Chair
  - iii. Minutes of previous meeting
  - iv. Unfinished business
  - v. Public hearing
  - vi. New business
  - vii. Communications and miscellaneous
  - viii. Other business
  - ix. Non-public session (if required)
  - x. Adjournment

(Note: although this is the usual order of business, the Board may change the order of business after the roll call in order to accommodate efficiency or the public.)

- f. **Nonpublic Sessions:** All deliberations of the Board shall be held in public. Nonpublic sessions shall be held only as necessary and in strict compliance with the provisions of RSA 91-A. The Board may also adjourn, as needed, to meet with its attorney to receive legal advice, which will not constitute a nonpublic session pursuant to RSA 91-A.

## II. PROCEDURES FOR FILING APPLICATIONS

### A. **Application/Decision**

- a. **Applications:** The original application forms may be obtained from either the Clerk or the ~~Code Enforcement~~ Community Development Department. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Clerk who shall record the date of receipt over their signature. The forms provided by the City must be used; correctness of the information supplied shall be the responsibility of the petitioner at all times. Applications should be identified as one of the following: Appeal of an Administrative Decision, Change of a Non-Conforming Use, Equitable Waiver of Dimensional Requirements, Special Exception and Variance. All forms and fees prescribed herein and revisions thereof shall be adopted by the Board and shall become part of these Rules of Procedure.
  - i. Applications to Appeal from an Administrative Decision taken under RSA 676:5 shall be filed within thirty (30) days of the



decision or when such decision becomes known or reasonably should have been known, by the petitioner as determined by the Board.

- b. A public hearing shall be held within ~~thirty (30)~~ forty five (45) days of the receipt of an application, unless extended by the Board for good cause shown. Public notice of public hearings on each application shall be published in the local newspaper and shall be posted at two locations, of which one posting may be on the City internet website, not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, action desired by the applicant, all applicable provisions of the zoning ordinance, the type of appeal being made, and the date, time, and place of the hearing.
  - i. Personal notice shall be made by Certified Mail to the applicant and to all abutters and holders of conservation, preservation or agricultural preservation restrictions not less than five (5) days before the date of the hearing.
- c. **Plot Plans:** A scale drawing showing the location and dimensions of all structures and open spaces on the subject lot and on the adjacent lots. Plans need not be professionally drawn, but must be a sufficient and accurate representation of the property. Plans deemed to be insufficient by the Clerk shall be returned, and no public hearing shall be scheduled until the receipt of an acceptable plan. The plot plan is to be a minimum of 8 ½ x 11 inches.
- d. **Abutter Notification Materials:** For the purpose of abutter notification, the following items shall be submitted with the application:
  - i. An abutters list that includes all owners of properties that directly abut and/or that are across the street or stream from the parcel(s) that will be subject to review, and all owners of properties located within two hundred (200) feet of the parcel(s) that will be subject to review. The two hundred (200) foot measurement shall not include the width of any streets or streams. The certified list shall include all property owner names, property street addresses, property tax map parcel numbers, and mailing addresses if different from the property address. In the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association as defined in RSA 356-B:3, XXIII.
  - ii. Two (2) sets of legible mailing labels (Avery size 5160 or equivalent) for each abutter and including the owner of the property that will be subject to review and his/her designated agent(s).

iii. A check in an amount sufficient to cover the cost of legal notice advertising and mailing of certified letters to abutters.

e. In accordance with RSA 676:5, IV, each application shall require the payment of an application fee to be determined by the Board, together with fees that may be required for investigative studies, document review or other administrative costs and expenses.

**B. Other Requirements**

a. **Appeals of Administrative Decisions:** An appeal from an administrative decision, filed in accordance with RSA 676:5, shall be filed within thirty (30) days of such decision.

b. **Person Authorized to Submit Applications:** To submit a proper application, an applicant must be one of the following persons:

i. The title or record owner of the subject property, or such owner's duly authorized agent, and signed as such on the application form.

ii. The holder of a valid Purchase & Sales Agreement or the holder of a valid Option for the purchase of the subject property (with a signed written consent of the title or record owner of such property, or such owner's duly authorized agent).

c. **Documentation of Title or Authority to Appeal:** The Board may require the holder of record title to submit documentary evidence as to Petitioner's title and holders of Purchase and Sale Agreements or Options may be required to submit evidence that they are valid holders of such agreements before the Board will consider their application.

d. **Inadequate Application:** Any Petitioner who submits an application, plans and/or exhibits that are deemed inadequate by the Clerk shall not be scheduled for a hearing before the Board until such time as the Clerk receives adequate plans or exhibits and application.

e. **Floor Plans:** When, in the opinion of the ~~Code Enforcement Community~~ Development Department, floor plans are necessary in the case of conversions or renovations to an existing structure, Petitioner shall furnish interior floor plans to scale. Floor plans need not be professionally drawn, but must be a sufficient and accurate representation of the floor plan.

C. **Deadline for filing:** All required information under these rules must be submitted to the Clerk before the scheduled deadlines to be submitted to the Board. The submittal deadline shall be no less than seventeen (17) days' prior to the next months meeting. The application will not be placed on the Agenda until all of the required information is received in a format acceptable to the Clerk.

- D. **Notification to Abutters and Public:** The Clerk will set a date, time, and place for a public hearing and shall notify the applicant and all abutters within two hundred (200) feet of the property (using the notification materials required by Paragraph A.d.i., above) by Certified Mail, and shall cause a public notice of the hearing to be published in a newspaper of general circulation in the area, at least five (5) days' prior to the date fixed for the hearing on the application (RSA 676:7, I). Pursuant to RSA 676:7, II, the public hearing shall be held within ~~thirty (30)~~ forty five (45) days of the receipt of a properly completed application (Paragraph A.b. above).
- E. **Fees:** The petitioner shall pay to the Clerk a non-refundable filing fee of One Hundred Dollars (\$100.00), at the time of filing. Additionally, reimbursement of the cost to notify each abutter, owner, and applicant by Certified Mail based on the current USPS postal rate and to publish a legal notice advertisement in the local newspaper, a fee of Twenty Five Dollars (\$25.00) must be paid at the time of filing.
- F. **Assistance by City Staff:** The Zoning Administrator will be available to assist the applicant with the application form, drawings and plans. If necessary, clarification of the Zoning Ordinance can be obtained from the Zoning Administrator, but the City will not provide legal advice as part of the application process.
- G. **Procedural Compliance:** Unless any objection is specifically raised or procedural defect otherwise noticed during a public hearing, the Board shall assume that any application has been properly filed and that due notice has been given as required by these Rules of Procedure, Keene's Zoning Ordinance, and State statutes.
- H. **Consent to Inspection:** Upon filing any application, the owner of the affected land implicitly consents to inspection of property and building by City staff and Board members upon reasonable prior notice and at a reasonable time. In the event that such inspection is refused when requested, the application shall be dismissed without prejudice by the Board.
- I. **Supplemental Information:** Any information and/or evidence that is provided after the submittal deadline which the Board determines to be material and necessary may result in a continuation of the public hearing in order to allow the Board an opportunity to review the information and/or evidence and/or to have City staff, legal counsel, abutters, or other interested persons review and provide input or advice to the Board in regards to such information and/or evidence.

### III. CONDUCT OF PUBLIC HEARINGS

- A. **Conduct:** The conduct of public hearings shall be governed by the following rules unless otherwise directed by the Chair:
- a. The Chair shall call the hearing in session, introduce the Board members, and review the previous meetings minutes for corrections.

- b. The Chair shall read the application and report on how public notice and personal notice were given and where appropriate, summarize the legal requirements that must be met by the applicant in order to obtain the relief requested.
- c. The Chair will ask for the Staff Liaison to report on the first case, identified by case number.
- d. Members of the Board may ask questions at any point during testimony.
- e. Each person who appears shall be required to state his name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.
- f. Any member of the Board, through the Chair, may request any party to the case to speak a second time. The Chair may impose reasonable time restrictions on individuals who wish to speak.
- g. Any party to the case who wants to ask a question of another party to the case must do so through the Chair.
- h. The applicant shall be called first to present his appeal.
- i. Those appearing in favor of the appeal shall be allowed to speak.
- j. Those in opposition to the appeal shall be allowed to speak.
- k. The applicant and those in favor shall be allowed to speak in rebuttal.
- l. Those in opposition to the appeal shall be allowed to speak in rebuttal.
- m. The Board will accept any evidence that pertains to the facts of the case or how the facts relate to the provisions of the zoning ordinance and State zoning law.
- n. After all parties have been afforded a reasonable opportunity to testify, the public hearing shall be declared closed by the Chair and no further testimony will be received from the applicant or any other parties (other than minor technical or procedural information as may be needed from City staff), unless the Board, on its own motion, shall reopen the public hearing to receive additional testimony or information. If the hearing is reopened, all interested parties shall be given the opportunity to speak to the issue requiring the reopening. All deliberations and decisions made by the Board shall continue to be conducted in public. The Board shall, when appropriate, render findings of fact.
- o. The Board may continue a public hearing to a place, date and time certain announced by the Chair without further public notice.

- B. **Voting:** Except as determined by the Board, the Board shall decide all cases immediately after the public hearing. Prior to voting the action, the Board shall render, as appropriate, findings of fact by majority vote. The Board will approve, approve with conditions, deny the appeal, or defer its decision.
- C. **Decisions:** Notice of the Decision will be made available for public inspection within five (5) business days as required by RSA 676:3, and will be sent to the applicant by regular mail. If the appeal is denied, the notice shall include the reasons therefore. The notice shall also be given to the Planning Board, the ~~Code Enforcement~~ Community Development Department, Assessor, and other City officials as determined by the Board. Decisions shall be based upon (1) all relevant facts and evidence introduced at the public hearing, (2) the application, (3) the Zoning Ordinance, and (4) applicable law.
- D. **Rehearing by the Board:** The Board may reconsider a decision to grant or deny an application, or any other decision or order of the Board, provided a Motion for Rehearing is submitted to the Board no later than thirty (30) calendar days commencing with the date following the date of the action of the Board for which the rehearing is requested. Motions for rehearing can only be received in the office of the Board during normal business hours of Monday thru Friday, 8:00 a.m. to 4:30 p.m., City Hall, 4<sup>th</sup> floor, ~~Code Enforcement~~ Community Development Department.
- E. **Motions for Rehearing:** The Board shall deliberate the Motion for Rehearing within ~~thirty (30)~~ forty five (45) days of the date of the filing of the Motion. The deliberation by the Board shall not require a public hearing, and shall be conducted solely by the Board and based upon the contents of the Motion. If the Board grants a motion for rehearing, the new public hearing shall be held within ~~thirty (30) days~~ forty five (45) of the decision to grant the rehearing provided all notice fees are paid and an updated abutters list is submitted by the party requesting the rehearing. Notification of the rehearing shall follow the procedures set forth in RSA 676:7.
- F. **Appeal:** Any further appeal of a final decision or order of the Board shall be in accordance with RSA 677:4, *et seq.*
- G. **Records:** The records of the Board shall be kept by the Clerk and made available for public inspection from the Clerk at City Hall, 4<sup>th</sup> floor, Code Enforcement Department, in accordance with RSA 673:17.
- a. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3.
  - b. Minutes of all meetings including names of Board members, persons appearing before the Board, and a brief description of the subject matter

shall be open to public inspection within five (5) business days of the public meeting. RSA 91-A:2, II.

- c. The official record of the Zoning Board of Adjustment proceedings shall be the minutes after they have been approved (with corrections, if required) by the Board at a subsequent meeting.

#### IV. MISCELLANEOUS

- A. **Amendments:** Rules of Procedure shall be adopted or amended by a majority vote at a regular meeting of the Board provided that such new rules or amendments are proposed and discussed prior to the meeting at which the vote is to be taken and shall be placed on file with the City Clerk and be available for public inspection pursuant to RSA 676:1.
- B. **Waivers:** Any portion of these rules of procedure may be waived in such cases where, in the opinion of the Board, strict conformity would pose a practical difficulty to the applicant and waiver would not be contrary to the spirit and intent of the rules.
- C. **Joint Meetings and Hearings:** RSA 676:2, provides that the Board of Adjustment may hold joint meetings or hearings with other land use Boards, including the Planning Board, the Historic District Commission, the Building Code Board of Appeals, and the inspector of buildings, and that each Board shall have discretion as to whether or not to hold a joint meeting with any other land use Board.
  - a. Joint business meetings with any other land use Board may be held at any time when called jointly by the Chair of the two (2) Boards.
  - b. A public hearing on any appeal to the Board of adjustment will be held jointly with another Board **only** under the following conditions:
  - c. The joint public hearing must be a formal public hearing on appeals to both Boards regarding the same subject matter; and
    - i. If the other Board is the Planning Board, RSA 676:2, requires that the Planning Board Chair shall chair the joint hearing. If the other Board is not the Planning Board, then the Board of Adjustment Chair shall chair the joint hearing; and
    - ii. The provisions covering the conduct of public hearings, set forth in these rules, together with such additional provisions as may be required by the other Board, shall be followed; and
    - iii. The other Board shall concur in these conditions.

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Originally Adopted: May 3, 1993

Revised: October 3, 1994

Revised: February 3, 2003

Revised: May 2, 2005

Revised: August 7, 2006

Revised: December 5, 2011

Revised: June 5, 2017

Revised: August 5, 2019

DRAFT

**CHAPTER 2**  
**HB 136 - FINAL VERSION**

2019 SESSION

19-0064  
11/01

HOUSE BILL            ***136***

AN ACT                increasing the maximum period for the zoning board of adjustment to hold a public hearing.

SPONSORS:            Rep. Tanner, Sull. 9; Rep. Carson, Merr. 7

COMMITTEE:          Municipal and County Government

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ANALYSIS

This bill increases the time frame within which the zoning board of adjustment must hold a public hearing.

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Explanation:        Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



**CHAPTER 2**  
**HB 136 - FINAL VERSION**

19-0064  
11/01

**STATE OF NEW HAMPSHIRE**

*In the Year of Our Lord Two Thousand Nineteen*

**AN ACT** increasing the maximum period for the zoning board of adjustment to hold a public hearing.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1       **2:1 Zoning Board of Adjustment; Public Hearing.** Amend RSA 676:7, II to read as  
2 follows:

3           **II.** The public hearing shall be held within [~~30~~] **45** days of the receipt of the notice  
4 of appeal.

**2:2 Effective Date.** This act shall take effect 60 days after its passage.

**Approved: May 10, 2019**  
**Effective Date: July 09, 2019**