

**Zoning Board of Adjustment
Monday, April 5, 2021, 6:30 p.m.
City Hall Council Chambers
3 Washington Street, 2nd Floor**

AGENDA

- I. Introduction of Board Members
- II. Minutes of the Previous Meeting – March 1, 2021
- III. Unfinished Business
- IV. Hearings:

ZBA 21-08: Petitioner, Mint Car Wash of 435 Winchester St., Keene, represented by Jim Phippard of Brickstone Land Use Consultants, Keene, requests a Variance for properties located at 435 Winchester St., 433 Winchester St., and 0 Wetmore St., owned by MOC76 Realty Co, LLC, Tax Map #'s 115-029-000, 115-031-000, 115-030-000; that is in the Industrial, Commerce and High Density Districts. The Petitioner requests a Variance to permit a drive-thru carwash partially located within the High Density District where a drive in business is not a permitted use per Section 102-422 of the Zoning Ordinance.

ZBA 21-09: Petitioner, Cheshire Medical Center of 550 Court St., Keene, represented by Tom Hanna, Esq. of BCM Environmental & Land Law, Keene, requests a Special Exception for property located at 62 Maple Ave., owned by 62 Maple Ave. Keene, LLC, Tax Map # 227-006-000; that is in the Industrial Park District. The Petitioner requests a Special Exception from Sections 102-661 and 102-662 for the Industrial Park District and Section 102-1111, Permitted Locations for Institutional Use of the Zoning Ordinance.

ZBA 21-10: Petitioner, Monadnock Peer Support Agency of Keene, represented by Carol Slocum of The Masiello Group, requests a Variance for property located at 64 Beaver St., Tax Map # 553-035-000; that is in the Medium Density District. The Petitioner requests a Variance to permit a two dwelling unit with a 12,200 sq. ft. lot where 13,400 sq. ft. is required per Section 102-791 of the Zoning Ordinance.

- V. New Business:
Department review of board and commission legal ad fees.
Land Use Code update
- VI. Communications and Miscellaneous:
- VII. Non Public Session: (if required)
- VIII. Adjournment:

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1 City of Keene
2 New Hampshire

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5 ZONING BOARD OF ADJUSTMENT
6 MEETING MINUTES
7

8 **Monday, March 1, 2021**

6:30 PM

Remotely via Zoom

Members Present:

Joshua Gorman, Chair
Joseph Hoppock, Vice Chair
Arthur Gaudio
Jane Taylor
Michael Welsh

Staff Present:

John Rogers, Zoning Administrator
Corinne Marcou, Zoning Clerk

Members Not Present:

Louise Zerba, Alternate

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10 Chair Gorman read a prepared statement explaining how the Emergency Order #12, pursuant to
11 Executive Order #2020-04 issued by the Governor of New Hampshire, waives certain provisions
12 of RSA 91-A (which regulates the operation of public body meetings) during the declared
13 COVID-19 State of Emergency. He called the meeting to order at 6:32 PM.
14

151) **Introduction of Board Members**

16 Roll call was conducted.
17
18

192) **Minutes of the Previous Meeting – February 1, 2021**

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21 Ms. Taylor made a motion to approve the minutes of February 1, 2021. Mr. Hoppock seconded
22 the motion, which passed by unanimous vote with Mr. Welsh abstaining.
23

243) **Unfinished Business**

25
26 John Rogers, Zoning Administrator, stated there is nothing to report.
27

284) **Hearings**

29 a. **Continued ZBA 21-04:/** Petitioner, Nathan and Karen Manlove of 188 East Shore
30 **Rd., Swanzey, NH, represented by Chad Branon of Fieldstone Land Consultants of**
31 **Milford, NH, requests a Variance for property located at 163 Washington St., Tax**
32 **Map #553-011-000; that is in the Office District and owned by Kontor Partners,**

33 **LLC of 188 East Shore Rd., Swanzey, NH. The Petitioner requests a Variance to**
34 **allow eight parking spaces where the minimum of 13 is required per Section 102-793**
35 **of the Zoning Ordinance with one parking space for every 200 square feet of gross**
36 **area for an Office Use.**

37
38 Chair Gorman asked to hear from City Staff. Mr. Rogers stated that this property is on the right-
39 hand side heading north on Washington St. He continued that it is in the Office District where
40 the proposed use is an allowed use. It does have the requirement for 200 square feet of gross
41 area for each parking spot, which is why the Applicant is before the Board. This was originally a
42 single-family home and in 1970, it received a Special Exception to become a funeral home. Mr.
43 Rogers stated he was not able to locate a good copy of the Zoning Code from the 1970s, but he
44 assumes the funeral home business was an allowed use at the time with a Special Exception. The
45 building was converted back to a single-family home in 2003, which is what the current use is.
46 He showed a graphic of the property.

47
48 Mr. Welsh asked that when the property was a business, prior to being a single-family home, was
49 the parking in compliance with the Code. Mr. Rogers replied that the plan from the 1970s
50 required the business to have 19 parking spaces on site. He does not know how that worked and
51 if there was stacked parking though he speculated that there was a different impact when it was a
52 funeral home as opposed to an office with many people who would come at the same time and
53 leave at the same time.

54
55 Ms. Taylor asked if it is correct that the actual use itself, as an office building, is permitted in this
56 district and it is only the parking that the Board is addressing. Mr. Rogers replied that is correct.
57 Ms. Taylor stated that her other question might be for the Applicant. She noticed that there was
58 an expansion of the impervious coverage from the application and asked if Mr. Rogers knows
59 where that is as well as asking if it is a building expansion or just blacktop. Mr. Rogers replied
60 that he will let the Applicant speak to that and correct him if he is wrong, but his understanding
61 is that it would be for pavement installation for parking. Ms. Taylor asked if the percentage is
62 still within the Code limitations. Mr. Rogers replied yes, that is what their plan is showing.

63
64 Mr. Hoppock stated that he is looking at the picture of the property and the driveway looks like it
65 is a shared driveway with the neighbor on the right. Mr. Rogers replied that is correct.

66
67 Chair Gorman asked if there were any further questions. Hearing none, he opened the public
68 hearing and explained the procedures for members of the public to participate. He asked to hear
69 from Chad Branon.

70
71 Chad Branon, Civil Engineer with Fieldstone Land Consultants, of 206 Elm St. in Milford, NH.
72 He continued that he is representing Nathan and Karen Manlove tonight with their Variance
73 application. The Manloves are proposing to convert the property back into a commercial use,
74 which would make the property more conforming from a use standpoint, as this property is
75 situated in the Office Zone. The proposed use will be a professional office. The conversion will
76 consist of creating seven offices on the interior of the existing, Victorian-style main structure.
77 Those seven offices will share a conference room, kitchen, and bathroom facilities, with the
78 office space will be occupied primarily by therapists. This type of office use is by appointment

79 only and will not be open to the public. They consider that a unique characteristic, therefore
80 requiring less of a parking demand, which they think is consistent with their request before the
81 Board.

82
83 Mr. Branon continued that Section 102-793 of the Zoning Ordinance deals with the minimum
84 parking requirements for various uses and as was stated earlier, there is a 200 square feet
85 requirement for gross floor area for the office use. The gross floor area that is not shared or
86 common space or used for storage space inside the building as proposed for this conversation is
87 about 2,410 square feet and that requires 13 parking spaces per the City Ordinance. The subject
88 property currently proposes eight parking spaces, which is demonstrated on the exhibit plan they
89 submitted with the application. This is less than the required minimum, and as such, they are
90 before the Board seeking relief from the parking requirements in the form of a Variance.

91
92 Mr. Branon stated that he will go through the five criteria for the Variance.

93
94 1. *Granting the Variance would not be contrary to the public interest because:*

95
96 Mr. Branon stated that granting this Variance would allow the property to be converted back to a
97 conforming use, as the site is situated in the Office Zone. Granting this Variance would also
98 allow for the productive use of the existing property. Granting this Variance would not be
99 contrary to the public interest because this project will not alter the essential character of the
100 neighborhood or threaten the health, safety, or general welfare of the public. This proposal will
101 be in harmony with the surrounding properties.

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103 2. *If the Variance were granted, the spirit of the Ordinance would be observed*
104 *because:*

105
106 Mr. Branon stated that the proposal is consistent with the surrounding areas and would bring the
107 site into conformance with the underlying Zoning. The project will meet all the dimensional
108 standards and be in harmony with the neighborhood. This project will increase the City tax base
109 while having no measurable negative impacts to the public. The proposed use for the project as a
110 professional office that operates by appointment only is not open to the public is unique and will
111 not require the same parking demand as a standard office space. This proposal will not alter the
112 essential character of the neighborhood or threaten the health, safety, or general welfare of the
113 public. For these reasons, they believe that granting the Variance would observe the spirit of the
114 Ordinance.

115 3. *Granting the Variance would do substantial justice because:*

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117 Mr. Branon stated that granting this Variance would allow the landowner to reasonably utilize
118 the property with a use that is compatible with the local Zoning. Granting this Variance would
119 do substantial justice, as there would be a clear benefit and gain to the owner, his client, with no
120 loss to the public. The guiding rule on determining substantial justice is weighing the loss to the
121 individual versus the gain to the public, and it is their belief that a denial of this Variance request
122 would be an injustice to his client, as there would be no apparent gain to the public by denying
123 this application.

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

Mr. Branon stated that the subject property, as was stated previously, had been used commercially in the past and has most recently been used as a single-family home. The proposal before the Board, converting the property into professional office space, will be in harmony with the neighborhood and is a less intense use than a standard office or other permitted uses in the zone. The owner will be making improvements to the property and this will presumably increase the value of the subject property. They do not believe that the request for reduced parking in this Variance application would have any negative impacts on the surrounding property values and for these reasons, they do not believe that the conversion of this property to a conforming office use would have any negative impacts on the surrounding property values.

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:*

Mr. Branon stated that the subject property is a .31-acre site with existing improvements. He continued that these improvements include a 5,300 square foot Victorian-style main structure and a detached, two-car garage. The size of the property, along with the size of the existing improvements and the location of the existing improvements, restrict his clients' ability to conform to Section 102-793 of the Zoning Ordinance and the minimum parking requirements for an office use. The proposed use for the property is a professional office, which will include seven offices with a shared conference room, kitchen, and bathroom facilities. The office will be by appointment only and will not be open to the public. Due to the unique characteristics of this office use, there is less of a parking demand and the site will provide ample parking for the use as proposed. There is on-street parking available along the frontage of the property, which is utilized for businesses in the area. The conversion of this site into a conforming office use will not require significant site improvements, will not burden local services, and will not be a detriment to the surroundings. This proposal will likely increase the City's tax base and will be consistent with its surroundings while providing a much-needed service to the community. For these reasons, they do not believe that a fair and substantial relationship exists between the general public purpose of the Ordinance provision and the specific application of that provision to the property. The design of this site and the proposed use best fits the specific conditions of the property due to the size and location of the existing improvements and a denial of this Variance would prevent reasonable conforming use from occupying the site.

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

169 Mr. Branon stated that they believe the proposed use is reasonable because granting this
170 Variance would allow for the productive use of the existing property with a conforming use. He
171 continued that the conversion of the property from residential to office brings the site into
172 conformance with the underlying zoning, which is Office Zone. The proposed use as an office
173 space would be in harmony with the neighborhood and many of the surrounding properties. The
174 conversion of the property into an office space would not be contrary to the public interest
175 because this project will not alter the essential character of the neighborhood or threaten the
176 health, safety, or general welfare of the public. In their opinion, this proposal would, observe the
177 spirit and intent of the Ordinance. The project would have no measurable impacts on the
178 surroundings or their property values, and the proposal would allow a less intense office use to
179 occupy and utilize an existing building along Washington St., which would maintain the
180 beautiful setting along this section of Washington St. and allow the nice Victorian-style structure
181 to be reasonably repurposed. For all of those reasons they believe the proposed use is
182 reasonable.

183
184 Chair Gorman stated that he is trying to understand the parking situation. He asked if it is
185 correct that 13 spaces are required and Mr. Branon's clients have eight. Mr. Branon replied that
186 is correct. Chair Gorman stated that if there will be seven office suites, and thus seven individual
187 tenants who each have a car, that really leaves only one parking space for any clientele. If there
188 were seven business entities, he would have to assume for their success, there would need to be
189 much more parking spaces than that. He does see that this is becoming a more conforming use
190 as the property was already in existence and already structured this way many years ago, leaving
191 certain things beyond the Applicant's control. Chair Gorman asked how they propose making
192 the parking numbers work given that the on-street parking is not that abundant.

193
194 Mr. Branon replied that he has spent a great deal of time reviewing the parking with his clients,
195 talking about the proposed office use and how best the proposal will work. He continued that
196 generally speaking, therapists' hours of operation are varying throughout the day. It is not likely
197 that all seven offices would be occupied at the same time. It is a by-appointment business,
198 typically. There are eight parking spaces proposed on site, and some parking available on
199 Washington St. as well, and three parking spaces along the frontage of the subject property. He
200 has visited the site many times and has parked on Washington St. every time; the parking in front
201 of the property has been available all of the times that he has been there. They have not
202 considered those with this Variance application because they currently are not allowed to utilize
203 off-street parking. They do have two garage parking spaces that they have not accounted for in
204 the parking calculations, and in working with staff after they submitted the application, they
205 understand that they technically can count those. Practically speaking, there will be ten parking
206 spaces if they are able to utilize those interior garage spaces. That does change their request
207 slightly but they are confident that the site would function with eight spaces, which is why they
208 did not make a formal request to modify those numbers. That is a function of the intensity of the
209 use, the varying hours that each therapist works. Certainly, some of their work can happen
210 remotely and they do not have to be in the office. They may only be arriving at the office for
211 appointments with clients and not doing all of their work there throughout the day.

212
213 Chair Gorman thanked Mr. Branon and stated that the commentary about the garage has helped
214 in his understanding.

215

216 Ms. Taylor asked that unless they have already discussed the comings and goings of the tenants
217 with the tenants how does Mr. Branon or his clients know that the tenants will not be there. She
218 continued that raises a concern for her. Someone referenced earlier that the parking was shown
219 on the plan, but she cannot tell where they are even going to put eight spaces from the plan the
220 Board was given. She asked Mr. Branon to describe that.

221

222 Mr. Branon stated that as you come in on the shared driveway off Washington St., they are
223 proposing three parking spaces on the left-hand side, and those are complying spaces. They
224 propose them behind the front building line. As you, head toward the garage there are two
225 parking spaces to the right-hand side and then they are extending and constructing a parking area
226 to the north of the existing garage, and that will be an access aisle and three additional parking
227 spaces, which includes one ADA-acceptable space. Then there is a walkway on the north side of
228 the existing structure, which will provide ADA-compliant access to the building, which is a
229 design requirement. That totals eight spaces, with the two garage spaces that they technically are
230 allowed to use as well.

231

232 Ms. Taylor asked, regarding the two spaces by the garage, if it is correct that one of them would
233 be blocking one portion of the garage. Mr. Branon replied that they are currently reviewing this
234 with staff as part of site plan review, and there is some talk about whether they are allowed to
235 depict the garage spaces as employee parking. He continued that he thinks that one of the spaces
236 may just slightly encumber the garage door so they may have to make adjustments.

237

238 Ms. Taylor replied that potentially, they would either have to give up a space in front of the
239 garage door or one of the garage spaces. Mr. Branon replied that is correct, and that is part of the
240 reason why they left the request at eight and did not request a formal modification. He continued
241 that he feels they have to have some flexibility in working through the site plan review process
242 as well. Ms. Taylor stated that maybe they could potentially stretch it to nine spaces.

243

244 Ms. Taylor asked if the parking areas, which she had not understood to be the parking spaces,
245 meet all the setback requirements. Mr. Rogers stated that as Mr. Branon mentioned, his clients
246 also have an application before the Planning Board, thus, there are a set of plans that are being
247 reviewed for those specific things. They are waiting for feedback from Mr. Branon about that; to
248 be sure, the setback on the south side is being met, needing to have a five foot setback from the
249 property line.

250

251 Ms. Taylor stated that she knows they are not allowed to include calculation of on-street parking,
252 but realistically, they all know that people park on Washington St. She continued that her
253 concern with that potentially being client parking for the office tenants is that, although she
254 cannot tell from the plan, the elementary school has a drop-off lane and a bus lane that goes in
255 front of several of those houses. She does not know absolutely that it goes all the way to the
256 subject property but that is a concern, because obviously two or three times a day the pick-up,
257 drop-off, and busses take up a lot of that Washington St. frontage.

258

259 Mr. Branon stated that the parking layout does adhere to all of the setback requirements. Those
260 spaces are conforming as it pertains to the requirements. In front of this property, there is on-

261 street parking. He believes that the condition Ms. Taylor is referring to happens just beyond this
262 site. They do not believe that this use, as proposed, technically needs the on-street parking.
263 They think it is great that it is there as an option for this business, if the application is successful
264 this evening, and for all the businesses along Washington St. Nathan Manlove can address the
265 use of the office as he has the comfort level of how the operations would work within this
266 building.

267
268 Nathan Manlove of 188 East Shore Rd., Swanzey, stated that he is one of the owners of the
269 property, and it would be his business moving over there. He continued that right now his
270 business is renting space from the abutter, owned by Sunspace Realty. Speaking to the use of the
271 building, as Mr. Branon mentioned earlier, it is very common for therapists to work varying
272 hours and it would be incredibly rare for all seven to be there at once. Some therapists take days
273 off every single week, some work evenings, some work weekend hours, etc. The other important
274 aspect to note is that with the required changes this year, therapists are doing a significant
275 portion of their work via telehealth. While that will change and there will be clients coming back
276 into office spaces, telehealth is not leaving us. Thus, the actual amount of clients coming to the
277 practice is very limited, which helps the parking concern. For a point of reference, in his
278 caseload he has one client who comes to the office once a week, at this current time; all of his
279 other clients are remote.

280
281 Mr. Gaudio stated that he wants to pursue the number of people here a little more. He continued
282 that he understands that each of these therapists are not likely to have patients there all the time,
283 but he wonders about how often they will be leaving the premises and coming back. Even if
284 they were, if he were a tenant, he would be upset if he did not have a parking space and had to
285 search for an on street space. Mr. Gaudio suggested that they might require a reserved parking
286 space as part of their lease though that still does not account for all of the possible employees.
287 He assumes there is going to be at least one receptionist with possible one or two employees that
288 would be on site. That aside, they have anywhere from one to seven patients there, and if it is
289 like any other medical office, there is likely to be a waiting room and there could be a few others
290 there. He is concerned at the possible high number of necessary spaces as well as one of those
291 spaces is a handicapped space, not available to just anyone. Mr. Gaudio stated that it seems like
292 there are many people who would be parking along the front of the premises.

293
294 Mr. Branon stated that what is important here is that there are seven offices proposed in this
295 building, and the operations of this office are unique. As Mr. Manlove stated, he currently runs
296 his practice next door on a site that has a similar amount of parking, if not less, when you start
297 contemplating other tenants and so on in that particular site. He continued that they are trying to
298 represent the use that they are proposing on this property. They have his testimony, which is
299 based in large part on his understanding of his clients' business, but Mr. Manlove has stated for
300 the record how his business operates and what he is anticipating on that the site as designed and
301 as requested. They do not anticipate any issues. This is not a medical office or a dental office; it
302 is nothing that has that volume of people with that number of appointments proposed.
303 Unfortunately, regulations are written to cover a broad spectrum of uses. In this case, this use is
304 unique. It is unlike many office uses where it is a professional setting, by appointment only, and
305 as Mr. Manlove stated, it often might not be 8:00 AM to 5:00 PM; it can be off hours or
306 evenings. Thus, you would not have the intensity you would have in a typical office setting

307 throughout the day, and because of that, you do not have the same parking demand or parking
308 need. When Fieldstone Land Consultants proposes a project they present something they believe
309 will be supported by the infrastructure, whether that is parking, drainage, or all these other details
310 they are depicting on the plan, and they have confidence that this project and this proposal will
311 function appropriately on this site. The on-street parking is just an added service to all of the
312 businesses on Washington St. It is not something that they are planning on with this proposal.
313 This is a unique business, unique use, and unique proposal, and that is why they think this
314 particular use deserves some consideration in regards to the relief that they are requesting.

315
316 Chair Gorman stated that great lengths have been gone to in order to explain that this office use
317 is exceptional, in that both the tenants and their clients will be more sporadically present on the
318 property. He continued that from a zoning perspective, the only use they are approving is
319 “office,” not specifically, whether it will be appointment-only or how those office tenants will
320 conduct their business as that is not under the Board’s purview. His question is whether Mr.
321 Branon or the property owner would take exception to the Board placing some sort of
322 appointment-only condition to this Variance, if granted. Mr. Branon asked Karen or Nathan
323 Manlove to answer that. Mr. Manlove replied that they would allow or accept that.

324
325 Chair Gorman asked if members of the public had any questions or comments and explained the
326 procedures for participation. He asked Ms. Marcou if there were any members of the public
327 calling in and wishing to speak. Ms. Marcou replied no. Chair Gorman stated that he does not
328 see any attendees raising their hands. He closed the public hearing and stated that the Board will
329 discuss and vote upon ZBA 21-04.

330
331 The Board deliberated on the criteria.

332
333 Mr. Gaudio stated that he wishes he could be more certain about the actual number of parking
334 spaces. He continued that he understands the fact that this business will work by appointment
335 only and that perhaps not all of the tenants would be there at the same time, but he is still
336 concerned that they would have these spaces on the premises and the parking along the front be
337 consumed and spread out from there. He is not sure what the actual parking space numbers might
338 be and he wishes he could be more certain and finds this to be a problem. If there were too
339 many, it might be contrary to the public interest.

340
341 Ms. Taylor stated that she has similar concerns to Mr. Gaudio. She continued that one of the
342 issues that the Board has frequently before them is the intensity of the use. She has not heard
343 any concerns about this building reverting to an office use, but again, it is the intensity of use that
344 is creating the parking issue, and she has concerns that it is not necessarily in the public interest
345 to overburden the parking situation. Especially since it is directly across from other streets, and
346 very close to the elementary school where there are a lot of parking and traffic issues. She has
347 real concerns that this request is not necessarily in the public interest.

348
349 Mr. Welsh stated that he shares his fellow Board members’ concerns. He continued that he
350 imagines to this site’s previous use as a funeral home, which was a very intense use. He also
351 stated how hard it is to imagine compliant use with the standard of the public interest; however,
352 he thinks there are by-appointment office buildings up and down this part of Washington St.,

353 which seem to operate quite well with the nature of the neighborhood. Mr. Welsh stated that
354 there are businesses also on Washington St. closer in town, which have no parking at all and
355 seem to operate quite well which helps quiet his concerns. In addition, the possibility that the
356 Board may assign some condition, which the Applicant stated they would agree to, convinces
357 him that they can approve this in the public interest.

358
359 Chair Gorman stated that he agrees with Ms. Taylor and Mr. Gaudio as well as Mr. Welsh. He
360 continued that his thinking is that the Office Zone was created to be kind of a buffer between the
361 high commercial activity that occurs in the downtown and the residential activities that strongly
362 occur as you move further up Washington St. All of these houses were built long before any of
363 us were alive and they are there, and they do need a use. Single-family homes of that size and
364 scope, especially in sort of a commercial setting, that is a difficult use. He does see some
365 problems with the property that are beyond anyone's control. If the Board can add some leeway
366 as a result of that, combined with some conditions, he thinks he can get his head around this
367 being a suitable and beneficial use both for the owners as well as the community.

368
369 Mr. Hoppock stated that the comments that he heard in connection with the condition was really
370 related to appointment-only hours. He asked how Code Enforcement would go about enforcing
371 that. It seems like a reasonable condition, but he is not sure how they would make sure that is
372 being observed. Chair Gorman replied that is a valid point. He asked to hear from Mr. Rogers.
373 He continued that he guesses that staff's scope of enforcement would be minimal.

374
375 Mr. Rogers stated that he has some of the same concerns. He continued that obviously, it most
376 likely would be something Code Enforcement would not be monitoring; it would be more
377 complaint-based. If complaints were submitted, then staff would be speaking with the Applicant
378 in regards to reinforcing the idea that this was supposed to be appointment-only. That would
379 probably be all that staff could do. Chair Gorman replied that it seems like it would be more of a
380 good faith type of condition.

381
382 Ms. Taylor stated that she also has concerns with the suggested condition, because she thinks
383 that it goes beyond the scope of what the Board is able to do. She continued that she does not
384 think it is within the Board's power to tell anyone how to run their business. She does not think
385 it would be a good condition. She continued that she also wants to mention that the question
386 before them is the parking; it is not necessarily the fact that the Applicant wants to use the
387 building as an office building. Regardless of whether it is this particular owner or if he
388 eventually sells the building to another owner, this parking Variance runs with the property. It
389 does not disappear when the property is sold. That increases her anxiety. She thinks they could
390 still use this as an office building, but maybe not as intensely – that would require this many
391 parking spaces.

392
393 Chair Gorman stated that he hears what Ms. Taylor is saying, but would suggest that whether
394 they can use it as an office building is what is on the table. He continued that the building
395 already exists and it is 3,100 square feet and the parking requirements are one per 200 square
396 feet. Thus, unless they wanted to use less than 40% of their building, they really cannot use it as
397 an office, regardless of what type of office use it is. He does agree that the Board cannot tell
398 people how to run their business, but the Board does tell people whether they can have a business

399 at a location. This is the Office Zone and the building was built in the 1800s, as big as it is now;
400 it was not added onto and it is not being proposed to be added onto. If this building is to be used
401 as an office, regardless of the type of office, it does not seem as though it can be, under the
402 current parking guidelines.

403
404 Ms. Taylor asked Mr. Rogers if the parking spaces calculation is based on the entire floor area
405 that is being used, or just the area that is being used for offices. Mr. Rogers replied that in the
406 Zoning Code, the calculation is based off the gross floor area, where it is allowed to take out the
407 common spaces that are accessory to the use. It is not every square foot of the building.

408
409 Ms. Taylor asked if that means that when calculating the parking spaces you are only looking at
410 the square footage of those rooms designated for offices. Mr. Rogers replied that there are also a
411 few other areas; it is not just the office spaces. Mr. Branon spoke to it a bit in his narrative,
412 regarding what parts of the building he subtracted from the overall square footage.

413
414 Chair Gorman re-opened the public hearing to receive input from Mr. Branon.

415
416 Mr. Branon stated that the parking calculation, based on the City Ordinances, is somewhat
417 cumbersome and he spent a fair amount of time trying to determine what the parking
418 requirements are for this proposal. He continued that he submitted a parking summary with the
419 application. The summary outlines the calculations that include the count of all the hallways, at
420 least one bathroom, and other areas of the building though not all-common space is deducted. It
421 is a little confusing, and part of the reason for the parking summary was to outline to some extent
422 that if they just use the office spaces, the site would be more conforming. A couple of the offices
423 are under 200 square feet in size and others are between 200 and 300 square feet. They do count
424 the hallways, and the hallways in this old Victorian-style house are very wide. The main hallway
425 and the stairway and all of those areas have to be utilized in the parking calculations.
426 Unfortunately, that is part of the number that they are presenting, and ultimately, it is part of the
427 reason why they are seeking relief this evening.

428
429 Chair Gorman asked if there were any other questions for Mr. Branon relative to his parking
430 calculations.

431
432 Ms. Taylor asked if the intent is to use the building as it currently exists today, or if they are
433 dividing up rooms that exist into office space. Mr. Branon replied that his client is not proposing
434 any modifications to the interior to the building. He continued that they are not dividing up any
435 of the rooms. They are utilizing this building as it sits with the finished space on the inside and
436 calling the rooms throughout the building office spaces. There are seven rooms, with the
437 exception of what is going to be a shared conference room and a shared kitchen area. They are
438 just trying to utilize the building that exists now. That is what he tried to refer to, when he talked
439 about the size of the existing structure and its placement on the site. It is a beautiful building and
440 he thinks it would be a very nice professional office space.

441
442 Mr. Gaudio stated that if the Board were to take into consideration the two parking spaces within
443 the existing garage, the calculations would be much more in line with the requirements and less
444 problematic.

445
446 Mr. Branon replied that he is right, and the calculation comes out to 12.6 parking spaces. He
447 continued that certainly some interior renovations such as potentially enlarging a common space
448 would bring the calculations to a 12 requirement. It would not necessarily change the number of
449 offices that they are proposing inside the building; this is an exercise at that point. Mr. Branon
450 stated that he and the Applicant had recently received a staff review on a submitted site plan
451 package and are appraising the garage spaces with staff. It is his understanding that they can
452 count those though he does have a question in to staff as to whether they could utilize both
453 garage spaces if these were designated employee spaces, while still keeping that one conflict
454 space. They have not worked through that yet with staff. Worst case, they are probably at nine
455 spaces, based on this layout. They are trying to balance the improvements here with the
456 infrastructure and existing building. Thirteen is the technical requirement but that is utilizing a
457 lot of space inside the building that is not going to technically be offices, but he does understand
458 the requirements and that is why they worked through that. Comfortably speaking, they are
459 probably at nine, unless Mr. Rogers can confirm if they can have parking in tandem if they
460 restrict one of those spaces.

461
462 Chair Gorman asked if Mr. Rogers wanted to provide comment. Mr. Rogers replied that it is
463 under review at the moment. He continued that as Mr. Branon mentioned, one of staff's initial
464 concerns is with the one space that is to the right of the garage would partially be blocking access
465 for a vehicle that is going in and out of the garage. If the Board is inclined to allow that to be
466 counted and feels that if those two spaces were designated for use by one of the office users just
467 so there is no conflict with someone blocking someone else in, that is something staff could work
468 with.

469
470 Mr. Gaudio stated that he is concerned that they are premature, not knowing all the facts, yet as
471 Mr. Rogers said, if it acceptable to say that the number is not eight but ten, and if the Applicants
472 are okay with that, that might shape the matter a little different, too. Chair Gorman stated that he
473 agrees.

474
475 Chair Gorman stated that he would close the public hearing. He stated that if there are no more
476 questions for Mr. Branon the Board can discuss all of these developments.

477
478 Mr. Branon stated that one more piece is that it is his understanding that the City has been
479 contemplating zoning changes, and one of those is a change to the parking requirements to 250
480 square feet per space. He continued that that would ultimately make the parking requirement for
481 this site 10 spaces. It has not been voted on, but it will likely be voted on in the near future.

482
483 Chair Gorman replied that he is aware of that, and the Board members are aware of the zoning
484 proposals. He continued that unfortunately, they couldn't take any of those into consideration.
485 The rules they are bound by currently are just that, and they cannot look forward into the future,
486 although he appreciates Mr. Branon's point.

487
488 Chair Gorman closed the public hearing. He stated that the Board would continue deliberations.
489

490 Mr. Gaudio stated that he proposes that the number of parking spaces be changed from eight
491 spaces to ten. Chair Gorman stated that he agrees, especially if the garage spaces are for
492 employee or tenant use only to avoid people blocking each other in. Mr. Gaudio stated that he
493 thinks that Mr. Rogers and the applicant both said that ten spaces would be possible, and he
494 thinks they were saying as long as it is tenant parking in the garage.
495

496 Chair Gorman stated that he thinks eight is a lot further from 13, which is arguably 12 and 10 is a
497 lot closer than eight, just from a percentage standpoint. That, culminating with the availability of
498 some on-street parking and the proposed use in terms of these being therapist offices, does dim
499 his concerns about parking overload that would adversely affect the public. When he combines
500 that with the fact that this building does exist and has existed for over 100 years and that it does
501 need to be used for something, he thinks this is a pretty reasonable request.
502

503 Mr. Hoppock made a motion for the Zoning Board of Adjustment to approve ZBA 21-04 for a
504 Variance to allow ten parking spaces where a minimum of thirteen is required under Section
505 102-793. Mr. Gaudio seconded the motion.
506

507 Chair Gorman asked if Mr. Hoppock' motion includes that at least one of the two garage spaces
508 will be used for tenant parking only. Mr. Hoppock replied yes, he guesses that how the garage
509 gets used is up to the owner or the tenants; he is not going to impose a condition. He is just
510 counting the spaces. He thinks Mr. Gaudio is correct.
511

512 Mr. Rogers stated that the garage has garage doors on it and thus would be under the full control
513 of the property owner.
514

515 1. *Granting the Variance would not be contrary to the public interest.*
516

517 Met with a vote of 5-0.
518

519 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*
520

521 Met with a vote of 5-0.
522

523 3. *Granting the Variance would do substantial justice.*
524

525 Met with a vote of 5-0.
526

527 4. *If the Variance were granted, the values of the surrounding properties would not*
528 *be diminished.*
529

530 Met with a vote of 5-0.
531

532 5. *Unnecessary Hardship*

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

536 i. *No fair and substantial relationship exists between the general*
537 *public purposes of the ordinance provision and the specific*
538 *application of that provision to the property.*

539 *and*

540 ii. *The proposed use is a reasonable one.*

541

542 Met with a vote of 4-1. Mr. Gaudio was opposed.

543

544 B. *Explain how, if the criteria in subparagraph (A) are not established, an*
545 *unnecessary hardship will be deemed to exist if, and only if, owing to special*
546 *conditions of the property that distinguish it from other properties.*

547

548 Met with a vote of 4-1. Ms. Taylor was opposed.

549

550 The motion to approve ZBA 21-04 passed by unanimous vote.

551

552 **b. ZBA 21-05: Petitioner, Flyboy Realty, LLC of Keene, NH, represented by Jim**
553 **Phippard of Brickstone Land Use Consultants of 185 Winchester St., requests a**
554 **Variance for property located at 166 West St., Tax Map #576-002-000; that is in the**
555 **Central Business Limited District and owned by Flyboy Realty, LLC. The Petitioner**
556 **requests a Variance to allow a mixed-use building with eight one-bedroom**
557 **apartments and an office use of 6,136 sq. ft. with 39 parking spaces on a lot where 43**
558 **parking spaces are required per Section 102-793 of the Zoning Ordinance with one**
559 **parking space for every 200 square feet of gross area for an Office Use.**

560

561 Chair Gorman asked to hear from staff. Mr. Rogers stated that this property was before the
562 Board a while ago for a Variance from the Gilbo St. Overlay District requirements. He
563 continued that now that the Applicant has a more detailed working plan for the proposed new
564 building, the parking calculations are short a few parking spots. At the beginning of this process,
565 the Applicant was working on a conceptual plan for the new building, hence the reason this was
566 not in front of the Board a few months ago with the first Variance. Also, this property will be
567 subdivided with the former Friendly's building converted to office space as a separate lot that
568 will meet all of the parking requirements. This new building will be short four required spaces.

569

570 Mr. Gaudio asked if Mr. Rogers or the Applicant to explain to the Board how many square feet
571 are going to be dedicated or used for apartments, and how many square feet to be used for office
572 space in this building. Mr. Rogers replied that that would be a question for the Applicant.

573

574 Ms. Taylor asked, based on the more detailed plans if the building orientation for the new
575 construction will still be the same. Mr. Rogers replied yes, his understanding is that the footprint
576 is still the same as presented.

577

578 Ms. Taylor asked if it is correct that this does not impact the Variance that the Board already
579 granted on this parcel. Mr. Rogers replied that is correct.

580

581 Mr. Welsh stated that he is not saying that this is a condition of his approval, but it feels like he
582 has been involved with other reviews in which apartments or offices have made a condition of
583 their approval the leasing of parking space on adjacent properties. He asked if that is a practice
584 or if he is remembering that wrong. Mr. Rogers replied that there is the ability within the Zoning
585 Code to have off-site parking on another lot if the Applicant cannot meet the parking demand
586 with a lease agreement needing the City Manager approval. This is a process seen periodically
587 but not often. He would let the Applicant elaborate but this is a building that has the ability to
588 have shared parking, since it is going to be office space on the first floor and there will be
589 apartments on the second floor. Shared parking might be something to discuss with the
590 Applicant.

591
592 Chair Gorman asked if there were any more questions for Mr. Rogers. Hearing none, he opened
593 the public hearing and explained the procedures for participation. He asked to hear from Jim
594 Phippard.

595
596 Jim Phippard, of Brickstone Land Use Consultants, stated that he is presenting on behalf of
597 Flyboy Realty, LLC. Mr. Rogers is correct that his Applicant came before the Board and
598 received approval for a Variance to allow the front façade of the proposed new building, rather
599 than face Gilbo Ave., to face to the east on the property. Since that time, they have completed
600 the plans for the proposed new building and have been negotiating with the occupant of the
601 former Friendly's building, who has decided that he wants to own the building and does not want
602 to lease it from Flyboy Realty.

603
604 He continued that they have prepared an application for a subdivision for this property and noted
605 the presentation slide of the proposed subdivision with West St. on the left and Gilbo Ave. on the
606 right. The building on the left is the former Friendly's restaurant. This would create a
607 standalone lot with that building having 20 existing parking spaces. The existing building is
608 4,000 square feet with a single office user for the entire building and the 20 spaces complies with
609 the Zoning requirement. Everything else on the plan complies with the zone dimensional
610 requirements and that lot should be fine to stand alone. The lot to the right, which will front
611 Gilbo Ave., will be about 27,256 square feet and will consist of a single building with 39 on-site
612 parking spaces. Previously they had 40 spaces that they showed the Board at their previous
613 Variance application regarding the façade of this building. With the subdividing of the lot, they
614 can no longer share a dumpster with the front building (former Friendly's), so they lost one
615 parking space to a dumpster being located in the lower left corner. This new building, 6,136
616 square feet, would be two stories. The entire second floor would consist of eight one-bedroom
617 apartments and the entire ground floor would be an office space for Chesco. Chesco is an
618 existing business located on lower Winchester St. and would be relocating to this location.

619
620 Mr. Phippard stated that in determining the parking calculation for this space, and he reviewed
621 this again today with Mr. Rogers, they subtracted the elevator lobbies for this building because it
622 would be a shared space with both floors of the building and the common corridor area servicing
623 both areas, as well as the two stairwells. They do not count those as office space because they do
624 not generate a need for parking. They are just access spaces to get to the office spaces within the
625 building. That left a net of 5,450 square feet for the ground floor office space, requiring 27

626 parking spaces. Each of the eight apartments require two parking spaces, which is 16, plus 27,
627 results in 43 parking spaces required.

628

629 Mr. Phippard reviewed the individual criteria.

630

631 *1. Granting the Variance would not be contrary to the public interest.*

632

633 Mr. Phippard stated that he believes this to be true. He continued that the proposed uses for this
634 building are apartments and offices, which are permitted uses in the district. The mixed use
635 alone does not require a Variance; it is permitted and encouraged in the downtown area. These
636 one-bedroom apartments will provide additional, much needed housing for the downtown area.
637 The office space also allows for additional jobs as Chesco is relocating to this location from
638 Winchester St. This former location on Winchester St. is a shared building with the kidney
639 dialysis clinic. The clinic will be expanding their workforce in that location. Mr. Phippard
640 continued that this new building on West St. would improve the appearance of the property and
641 definitely would increase property value, resulting in more property tax revenue for the City of
642 Keene. They believe the 39 parking spaces that will be provided are adequate for the proposed
643 office use and the eight one-bedroom apartments, and therefore they think this should be
644 allowed.

645

646 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*

647

648 Mr. Phippard stated that the spirit of the Ordinance would be observed, because the spirit in this
649 case is to provide adequate off-street parking for the use of the proposed property, and 39 spaces
650 does that. He continued that these are existing, on-site parking spaces that they will utilize for
651 this proposed mixed use. The eight one-bedroom apartments are not large, are under 1,000
652 square feet, which typically one person occupies a one-bedroom apartment with some occupied
653 by two people. They therefore believe that the 16 parking spaces required for eight one-bedroom
654 apartments does not represent the actual need.

655

656 He continued that Chesco has existed in Keene for many years. They are well-established and
657 well-known, providing a needed service for people with disabilities and their employment.
658 Chesco typically will have up to 14 employees within the building during their office hours,
659 which are Monday through Friday, 9:00 AM to 5:00 PM, with rare exceptions. With only 14
660 employees, they would not be occupying space beyond that. The reason is employees typically
661 meet with clients in their homes or workplaces. These are clients with disabilities, who typically
662 are not driving on their own. Realistically, the most occupied parking spaces most of the time
663 would be the 14 employees and eight one-bedroom apartments, would be 22 spaces. They feel
664 that the additional parking spaces required by zoning are not going to be necessary to address
665 public safety in this case.

666

667 *3. Granting the Variance would do substantial justice.*

668

669 Mr. Phippard stated that redevelopment of this property would be better than to have it remain a
670 vacant restaurant and under the current pandemic conditions; it is unknown how long it would be
671 vacant. He continued that it is important to allow properties like this in the downtown area to be

672 redeveloped. They think this will improve the property value and that it does provide adequate
673 parking and will not result in a threat to public safety. They think it will not diminish property
674 values and will in fact enhance them, due to redevelopment of the property. The Keene Master
675 Plan encourages the redevelopment of properties like this and they think their proposal is
676 completely consistent with the Master Plan and would therefore do substantial justice. They
677 think denial of this Variance would not benefit the public in any way. Therefore, there is not a
678 public need that outweighs the need of the Applicant in this case.

679

680 *4. If the Variance were granted, the values of the surrounding properties would not be*
681 *diminished.*

682

683 Mr. Phippard stated that with the approval of the last Variance, the work on the property has
684 already begun. He continued that part of the redevelopment of the property was the
685 rehabilitation of the former restaurant building. The white paint has been removed from the
686 brick having been restored to the red brick appearance, which is more typical and more fitting in
687 the Historic District in Keene as well as in that area of West St. It has already enhanced the
688 property values, just by that beginning phase of work on the property. They think the proposed
689 new building, which will also use red brick on the ground floor, will also help to enhance
690 property values in the area. They think that this will not diminish values but will enhance them.
691 They think they are providing adequate parking and it will not result in a threat to public safety
692 and will not be a nuisance to vehicles or pedestrians in the area.

693

694 *5. Unnecessary Hardship*

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

698 *i. No fair and substantial relationship exists between the general*
699 *public purposes of the ordinance provision and the specific*
700 *application of that provision to the property.*

701

702 Mr. Phippard stated that this is an existing property in the downtown area. The existing parking
703 area extends all the way from the building near West St. to Gilbo Ave. It is in the Central
704 Business Limited District, the Gilbo Ave Overlay District and the Historic District, so there is a
705 lot of zoning in place. They think that adding the four additional parking spaces is just not
706 necessary. Because of the existing conditions on this property and the buildings as they are
707 located on the property, the Community Development Department regulations do not allow them
708 to extend the parking beyond the front lines of the building. That creates a unique condition on
709 this property that limits the amount of parking spaces they can add. They feel that justifies an
710 unnecessary hardship.

711

712 Mr. Phippard continued that the parking requirements for the City of Keene, as he has said to the
713 Board before, are completely archaic. They need to be updated again and there is a proposal
714 before the City Council for a partial update, which he is grateful. One of those amendments
715 would allow the Zoning Administrator to make a determination on what is adequate parking and
716 what is not, and be allowed to waive a small percentage of parking spaces. If that regulation
717 were in place today, he would not be before the Board. In the absence of that regulation, he went

718 to the Institute of Transportation Engineers (ITE), which generate a parking manual and a trip
719 generation manual. In the parking manual, they researched properties across the country. The
720 category that this project would fall under is Use Code 711, “small office space, less than 50,000
721 square feet.” The manual states that the peak number of parking spaces occupied is actually 0.79
722 times the number of employees. They have proposed 14 employees for this space. The manual
723 also says that for apartments in that type of location, 1.2 spaces per apartment would be
724 occupied. The current City of Keene Code requires two spaces per apartment and one space per
725 200 square feet of office area, not looking at the number of employees. Mr. Phippard stated that
726 he has used the parking manual in other applications before the Board, and it has always proven
727 to be true that their calculations based on actual uses in different locations around the country
728 show that the Keene parking regulations are outdated and not all of those parking spaces are
729 required. Based on that information, using the parking manual, they would only need 21 parking
730 spaces and they expect 21 to be occupied at any one time. They feel 39 parking spaces are more
731 than adequate even though 43 parking spaces are required by the archaic parking regulations.

732

733 *and*

734

ii. The proposed use is a reasonable one.

735

736 Mr. Phippard stated that the Board has already found that the office and apartments are
737 reasonable uses in this district. He continued that he and his clients think that 39 existing
738 parking spaces on site are more than adequate for the proposal, due to the limited number of
739 employees and the fact that the apartments are one-bedroom. They cannot change the number of
740 apartment bedrooms, unless they reduce the number of apartments, so that will not change. The
741 Board may question if another business moves into the building requiring for a larger office use.
742 In utilizing the ITE calculations, the 0.79 parking spaces per employee, would allow up to 35
743 employees to occupy that space and still not require additional parking spaces.

744

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

750

751 Mr. Phippard stated he heard Mr. Welsh ask about leasing spaces from adjacent properties. His
752 clients could go that route, but he does not feel that it would be necessary. He feels that they
753 have more than adequate parking based on the uses they are proposing. He has used the parking
754 manual with regards to other sites in the past and it has always proved adequate and reliable and
755 he would rely on it again under the circumstances. He reminded the Board that although they
756 cannot rely on this for their vote, the zoning regulations are going to change at some point and he
757 thinks they will be more reasonable with the actual parking that is required. There are plenty of
758 reasons for the City Council to approve that type of Ordinance change. He further stated that not
759 all this parking space is needed and the City shouldn't be looking at having that entire paved
760 surface which could create the water run-off associated with the paved parking. His client
761 believes it would be best to have that green space instead.

762

763 Mr. Phippard stated that he thinks this is a reasonable proposal before the Board with a small
764 number of non-compliant parking spaces. He hopes the Board can approve this request.

765
766 Ms. Taylor asked if it is correct that if they did not subdivide this parcel they would have
767 adequate parking, and this is only a function of the subdivision. Mr. Phippard replied no. He
768 continued that when they did their original proposal to add the additional building, they did not
769 have a finished floor plan. Once that was completed, after the Board had approved the Variance
770 for the façade location, it was realized there would not be enough parking spaces for the building
771 with the finished floor plan. Mr. Phippard stated that regardless of whether they were
772 subdividing the property, the project was going to be short a few parking spaces and they would
773 have to apply for a Variance.

774
775 Ms. Taylor stated that she reviewed the earlier application and the meeting minutes to refresh her
776 memory. She continued that she had asked staff if there was adequate parking for the project,
777 and the October 5, 2020 meeting minutes say: *“Staff spoke with Mr. Phippard and the owners*
778 *were going to make adjustments to meet the correct requirements.”* She guesses Mr. Phippard’s
779 understanding at that time was that he would somehow manage to deal with the correct number.
780 She asked what changed in the proposal.

781
782 Mr. Phippard replied that what changed was Chesco revised their proposed floor plan. He
783 continued that they are trying to accommodate Chesco’s needs, which will be the prime occupant
784 for the whole ground floor of that new building. What also changed was the size of the area for
785 the elevator. That resulted in a slight reconfiguration of some of the office space in the building
786 and left them with a little bit more square footage for office use, which he had not accounted for.
787 Then he had to eliminate one space for a dumpster location because there will no longer be a
788 shared dumpster. With both of these changes, the project is four parking spaces short.

789
790 Chair Gorman asked if it is correct that the office tenant does not have clients coming to and
791 from this location. Mr. Phippard replied that there are very few clients who come to the
792 building. He continued that all of the clients are people with disabilities and typically the staff is
793 visiting clients in the clients’ homes or workplaces, helping people are acclimated to a new job
794 or workspace, which typically occurs offsite. There is very little use by clients in the building in
795 their current office location.

796
797 Chair Gorman stated that relative to the information Mr. Phippard provided about the 0.79 spaces
798 per employee, given that they do not know if the office tenant will be the same one forever, is
799 whether that accounts for clients at all, or if that is just strictly the calculation set forth for
800 employees. Chair Gorman questioned what the calculation for clients is, in an average office use
801 would be. Mr. Phippard replied that it does account for the clients. These calculations are based
802 on nationwide studies of office buildings that have less than 50,000 square feet inside. It is all
803 types of offices that get addressed, such as real estate, legal, or others. Chair Gorman asked if
804 that is just a cumulative average of what may take place based on different data collection. Mr.
805 Phippard replied that several hundred studies were done, based on office uses of that size, and
806 this is the result of that data collection.

807

808 Chair Gorman asked if there were any further questions for Mr. Phippard. Hearing none, he
809 asked if members of the public had any questions or comments. He explained the procedures for
810 participation. He asked Ms. Marcou if there were any call-ins. Ms. Marcou replied no. Chair
811 Gorman stated that he does not see any Attendees with raised hands, either. He closed the public
812 hearing.

813
814 The Board deliberated on the criteria.

815
816 Mr. Hoppock stated that he does not see any issue with this application. He continued that he
817 does not think it would be contrary to the public interest, and the spirit of the Ordinance is being
818 observed, in terms of the details of the plan. He sees it improving the character of the
819 neighborhood, putting a viable business there. It is a responsible plan and he thinks they are
820 making the best out of the space they have. Mr. Phippard is probably spot on in his analysis of
821 the parking regulations and his use of the manual that he referenced. He thought that was
822 enlightening. He intends to support the application.

823
824 Mr. Welsh stated that he will second that and agrees with all of the points that Mr. Hoppock
825 made.

826
827 Ms. Taylor explained the question on the subdivision and whether or not the subdivision would
828 be approved or, if it was a different design, if the Board should have their approval contingent on
829 the subdivision being approved, but Mr. Phippard has indicated that because of changes to the
830 building itself they would need these spaces anyway. Thus, she does not have a problem with it
831 and does not think the Board needs to add that type of condition.

832
833 Mr. Gaudio stated that he agrees that it is not contrary to the public interest and the spirit of the
834 Ordinance would be observed. He continued that he thinks there is an unnecessary hardship but
835 they should not be making reference to the ITE parking manual. That is sort of like this Board
836 doing legislation to set up a new standard. He would rather do it based on an unnecessary
837 hardship.

838
839 Chair Gorman stated that they can have more discussion if needed, but it seems like the Board is
840 leaning in the same direction.

841
842 Mr. Hoppock made a motion for the Zoning Board of Adjustment to approve ZBA 21-05 for a
843 Variance to allow 39 parking spaces where 43 are required per Section 102-793 of the Zoning
844 Ordinance. Mr. Welsh seconded the motion.

845
846 *1. Granting the Variance would not be contrary to the public interest.*

847
848 Met with a vote of 5-0.

849
850 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*

851
852 Met with a vote of 5-0.

853

854 3. *Granting the Variance would do substantial justice.*

855

856 Met with a vote of 5-0.

857

858 4. *If the Variance were granted, the values of the surrounding properties would not be*
859 *diminished.*

860

861 Met with a vote of 5-0.

862

863 5. *Unnecessary Hardship*

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

867 i. *No fair and substantial relationship exists between the general*
868 *public purposes of the ordinance provision and the specific*
869 *application of that provision to the property*

870 *and*

871 ii. *The proposed use is a reasonable one.*

872

873 Met with a vote of 5-0.

874

875 The motion to approve ZBA 21-05 passed by unanimous vote.

876

877 c. **ZBA 21-06:/ Petitioner, Len Weldon of 165 South Lincoln St., Keene, requests a**
878 **Variance for property located at 424 Old Walpole Rd., Tax Map #207-002-000 that**
879 **is in the Rural District and owned by Monadnock Waldorf School, Inc. The**
880 **Petitioner requests a Variance to allow a multifamily dwelling of four units per**
881 **Section 102-332 of the Zoning Ordinance.**

882

883 Chair Gorman asked staff to speak. Mr. Rogers stated that this property is on Old Walpole Rd.
884 that is currently a private school by the Waldorf School, he believes for preschool and
885 kindergarten that sits on 11.8 acres in the Rural District. Back in 1991, it received a Special
886 Exception from the Board to allow for a private school. The Petitioner is applying for a multi-
887 family dwelling use with their intent is to create four units, which is not a permitted use in the
888 Rural District, which currently the only dwelling units allowed, is a single-family home.

889

890 Mr. Welsh asked if the Special Exception is pretty much the same thing as a Variance. Mr.
891 Rogers replied that if the Special Exception in 1991 was the same as it is today it is more dealing
892 with safety issues, as opposed to a Variance, where the main difference would be the hardship
893 clause that sits in the Variance and that the Special Exception does not have.

894

895 Mr. Welsh asked why they are not looking at this application as a Change in Non-Conforming
896 Use, which has a different set of standards and analysis. Mr. Rogers replied that when the school
897 came before the Board in 1991 for the Special Exception, the school use was a permitted use in
898 the Rural District with a Special Exception. Though it is a non-conforming use by today's
899 standards, Staff felt that this was such a significant change from the use for that district, where a

900 single-family home is allowed and they are looking to go to a four-unit, residential building, and
901 it was more appropriate for it to go with the Variance method.

902
903 Ms. Taylor stated that when she looked at the provisions for Rural District, an institutional use is
904 permitted, and under the definitions in the Zoning Ordinance, an institutional use includes
905 private schools. She asked if her reading is correct. Mr. Rogers replied that she is correct that in
906 the table of permitted uses within the Rural District, a Special Exception allows an institutional
907 use. He continued that it is an allowed use by Special Exception as long as it is subject to the
908 Article V Division 12, which is the institutional street list. Old Walpole Rd. is not on that street
909 list. It would not be an allowed use in this location.

910
911 Ms. Taylor stated that in regards to Mr. Welsh's question, her view is that to be a Change in
912 Non-Conforming Use it would have to be more conforming, and she assumes Mr. Rogers would
913 see a four-unit residential use as less conforming. Mr. Rogers replied that is correct. He
914 continued that since the time of the original approval as a private school based on what the
915 zoning ordinance was at the time, what is asked for with this application of a four unit dwelling
916 that does not resemble a single family home, which is the allowed residential use in this district.

917
918 Chair Gorman asked if there were any further questions for Mr. Rogers. Hearing none, he
919 opened the public hearing and explained the procedures for participation. He asked to hear from
920 the Petitioner, Len Weldon.

921
922 Len Weldon stated that his presentation has to do with Sections 102-331, which has to do with
923 the intent for the Rural District, and 102-332, which has to do with how this property can be
924 used. He continued that at this time it is a preschool with about 40 children and teachers who
925 meets five days a week. Dr. Weldon explained that the group he is representing to the Board
926 consists of four people, one of whom is his son, a former student of the Waldorf School. He
927 wishes it could remain as the Waldorf School, but insofar that it cannot, three former Waldorf
928 School students and one parent want to purchase this to change four large classrooms, each of
929 which has a bathroom and a kitchen, into four living spaces and then to begin to organically farm
930 at least one acre possibly up to four acres. As his proposal states, there will be no loss of open
931 space and there will be less actual use on that space and it may add a little bit of economic
932 vibrancy and some texture. When one looks at the permitted uses in Section 102-332, it allows
933 for a "manufacturing housing park" and a "manufacturing housing subdivision." This proposal
934 is just breaking this large building up into four units, which they think will have less impact. If
935 the Variance is granted the spirit of the Ordinance is observed. It is rural and less pressure on the
936 land. Mr. Weldon stated that he and his partners think this proposed project would add value and
937 certainly lessen some of the pressure in the area to have affordable housing.

938
939 Dr. Weldon stated that regarding the third criterion, creating a Variance would be substantially
940 just, in that, the spaces would come into existence and the fields would remain the same. He
941 continued that there would be no change to the water flows, how the land is shaped, or the
942 vegetation, other than where the organic garden would be after a bit of time. Dr. Weldon stated
943 that this housing stock is needed in this area and this project would generate less traffic in the
944 neighborhood.

945

946 He continued that if the Variance were granted the property values would not diminish, because
947 there would be less pollution and less noise and the beauty would remain or, in his opinion, be
948 enhanced by virtue of a farm and the noise of chickens. This property would probably
949 accommodate about 20 people, by their estimation. His son would own and occupy one of the
950 units and would watch it closely. Another former Waldorf student would also live there as they
951 begin to pay for this and they begin to afford this more. There would be no great injustice to any
952 of the neighboring properties. If he is not misinterpreting Section 102-332, manufactured
953 housing parks are great places for people to live if it became that, but he does not want to see this
954 particular piece of property have too many people using it.

955
956 He continued that they are asking for very little change, but it is not a single-family home, it
957 would be a multi-family dwelling. It would either be rental properties, but also they were
958 thinking that it would be individual condominiums, which he thinks brings a lot of stability.
959 That is substantially their argument, and he wants to emphasize to the Board that a permitted use
960 is a manufactured housing park. That is not well defined in that permitted use section, but his
961 assumption is a trailer park. He has only presented to the Board once, about 23 years ago when
962 he had a house on Main St. change to accommodate his practice. That house is beautiful and
963 maintained well. In this particular area they want to maintain the beauty and really be respectful
964 of all of the surroundings to keep this lovely area beautiful and desirable by virtue of housing,
965 not just urban housing, but rural housing.

966
967 Chair Gorman asked if Dr. Weldon would care to touch on the fifth criterion.
968

969 Dr. Weldon stated that essentially, no fair and substantial relationship exists between the general
970 public purposes of the ordinance provision and the specific application of that provision to the
971 property because the property is zoned Rural and will remain Rural. Remaining rural is not
972 negated by having four families, as there will be less people actually using the property. It is
973 11.8 acres, which is substantial, and he thinks cluster housing is a concept accepted in many
974 areas that are more progressive. He continued that this project is a reasonable one, because the
975 offer mentioned makes common sense in many regards and allows people with less money to be
976 in a beautiful, rural setting and enjoy the benefits that exemplify New Hampshire, which is rural,
977 affordable, and hopefully diverse. He did not mention this yet but they have already spoken with
978 owners of the school and just like his own backyard at 165 So. Lincoln St., they have a half acre
979 of big open land that the Waldorf School uses and that will be the same. Dr. Weldon stated that
980 if people want a little plot of land to have a garden on or a playground on that rural land that will
981 not change. They are hoping to have Waldorf families and other families enjoy the 11 acres, as it
982 is a nice thing for people to get out into the country. He thinks that addresses the fifth criterion.

983
984 Chair Gorman stated that he sees an Attendee with their hand raised, but they will have to wait
985 because he cannot call on them until this is open for public comment. He asked if anyone had
986 questions for Dr. Weldon. Dr. Weldon stated that one of his partners, Eric Olson, has prepared
987 quite a few items to discuss as well and he might be the one wishing to speak. He is a
988 spokesperson, too. Chair Gorman replied that if Mr. Olson is part of the application he is
989 welcome to speak.

990 Eric Olson of 5 Grant St. stated that he is a spokesperson in this case. He continued that what he
991 wants to add to the conversation is when they say that they would be keeping in rural, specifically,
992 what that means by the definition of the Ordinance. They are not just using “rural” as an adjective
993 but mean it in terms of the Ordinance. Section 102-331 says the intent of the Rural District is “to
994 *provide for scattered, very low density development, predominantly of a residential or agricultural*
995 *nature, which can be accommodated on the land without major disruption to the natural terrain,*
996 *vegetation, water courses, or surface drainage. Such lands are generally those outside of the*
997 *valley floor and beyond where city water, sewer and other utilities can be readily supplied.” He*
998 wanted to tie that in to what Dr. Weldon was saying, as their intention from turning this from a
999 single-family home to a multi-family unit as far as they can tell in no way changes the intent of
1000 the Zoning Ordinance.

1001
1002 Chair Gorman asked if Board members had questions for Dr. Weldon or Mr. Olson. Dr. Weldon
1003 stated that he had a question, which Chair Gorman allowed. Dr. Weldon asked if someone could
1004 define the permitted use of “manufactured housing park” or “manufactured housing subdivision”
1005 in Section 102-332. Chair Gorman asked for clarification that that is not what the application
1006 states. Dr. Weldon replied no, but that would certainly be more disruptive, he would think, and it
1007 seems like it is similar. Four trailer houses, or a large building with 5,700 square feet to
1008 accommodate four beautiful apartments or condominiums; it seems like the latter would
1009 definitely be less of an impact and really confluent with what Mr. Olson just said. Chair Gorman
1010 stated that he would ask City staff to provide that definition for Dr. Weldon, though that is not
1011 what their application states.

1012
1013 Mr. Rogers stated that the definition of “manufactured housing park” in the Zoning Ordinance is
1014 “*any lot, parcel, or tract of land designed, maintained, or intended for the purpose of supplying a*
1015 *location or accommodations for any manufactured housing and upon which any manufactured*
1016 *housing is parked to be occupied as a dwelling and includes all buildings used or intended for use*
1017 *as part of the park.” He continued that it essentially would be called a trailer park.*

1018
1019 Ms. Taylor asked Dr. Weldon to explain what he meant by “cluster housing” when he used the
1020 term in his application as that is not a defined term that she could find in the Zoning Ordinance.
1021 Dr. Weldon replied no, he does not think she will find the term there. He continued that it is just
1022 through some of his readings about how one can have a large population on the planet Earth and
1023 not sacrifice farmland or open land. He continued stating that instead of having a 2,000 to 5,000
1024 square foot home for one family, occupying five acres, you have four families occupying that
1025 home. The school is 5,700 square feet on two floors, so about 2,600 square feet per floor does
1026 not diminish the actual, available number of square feet of land. It is much easier on land and
1027 much better usage if you cluster homes. If you have 20 homes on a very small area that allows
1028 10 or 20 acres for those people who are living in that tight space to enjoy open spaces, rather
1029 than having 20 houses on 11 acres or 20 acres. Cluster housing is a concept to concentrate
1030 people actually living in a more open space.

1031 Ms. Taylor asked Mr. Rogers to expand on the statement from Dr. Weldon who mentioned
1032 potential condominiums. She asked how this would be handled in the Zoning Ordinance and if
1033 is a permitted use. Mr. Rogers replied that the Zoning Code does not speak to condominiums.

1034 Mr. Rogers stated that the City Ordinance has Section 102-288, which is the Conservation
1035 Residential Development District, which somewhat mentions what Dr. Weldon is speaking to in

1036 regards to being able to cluster. The Zoning Code does speak to that and is an allowed use in the
1037 Rural District. Mr. Rogers continued that with the 11.8 acreage on this property, he believes,
1038 without doing more research, would only allow for two dwelling units.

1039 Chair Gorman asked if there were any further questions for Dr. Weldon. Hearing none, he asked
1040 if there were members of the public wishing to speak, and explained the procedures for
1041 participation. He asked if there were any call-ins. Ms. Marcou replied no. She continued that
1042 the City received a letter of opposition, which was sent to the Board. Chair Gorman asked if
1043 everyone on the Board had a chance to review that letter. Ms. Taylor stated that she thinks it
1044 should be read into the record. She read it aloud as follows:

1045 *“To: The Zoning Board of Adjustment*

1046

1047 *Members of the ZBA. I rise in opposition to the variance request to allow a multi-*
1048 *family apartment dwelling of four units at 424 Old Walpole Road.*

1049

1050 *Keene Zoning provides other spots zoned and more suitable for multifamily units. I am sure*
1051 *many people would like to build multi dwellings on their lots. This is totally against the spirit of*
1052 *the zoning ordinance which is to provide adequate space and population density.*

1053

1054 *When you cram many housing units on one lot in a rural residential neighborhood it alters the*
1055 *character of the area.*

1056

1057 *So for this and other reasons I would hope you will deny this inappropriate variance request.*

1058

1059 *Thank you for hearing my response.*

1060

1061 *John Croteau*

1062 *185 Eastside Rd*

1063 *Harrisville, NH”*

1064

1065 Chair Gorman stated that he does not see any Attendees who wish to speak. He continued that
1066 he sees Mr. Olson’s hand up, but he cannot call on him to speak as a member of the public,
1067 because he has already spoken as an Applicant. Seeing no further public comment, Chair
1068 Gorman closed the public hearing and stated that the Board will discuss and vote on ZBA 21-06.

1069

1070 Mr. Gaudio stated that he has concerns about the spirit of the Ordinance and other provisions.
1071 His concerns are in that in granting a Variance for this 11.8-acre lot, this does not prohibit the
1072 owner returning in a year to subdivide 11 acres then selling them as half-acre lots while still
1073 having the four-unit building on .88 acres. He is not sure if the Board can deal with that within a
1074 Variance but, if the premise is keeping with the rural nature because that is 11 acres, there is no
1075 guarantee that it will be.

1076

1077 Mr. Hoppock stated that he did not hear anything in the presentation that led him to believe that
1078 there is a special condition of this property that distinguishes it from other properties in the area.
1079 He continued that he is not persuaded that the unnecessary hardship criterion has been met.

1080

1081 Ms. Taylor stated that she agrees with both Mr. Gaudio and Mr. Hoppock and definitely thinks
1082 that this does not meet the spirit of the Ordinance because of the nature of being a four-unit
1083 apartment building, as that is essentially, what is being asked for. As was mentioned earlier in
1084 another application, when the Board grants a Variance they do have to consider what happens
1085 with the next owner. Whereas this current potential owner may have wonderful, laudable ideas
1086 of keeping the land in farm, there is no guarantee that a future owner would do the same. Thus,
1087 she has some real concerns about both the spirit and hardship criteria.

1088

1089 Chair Gorman stated that he agrees with the three Board members. He continued that he thinks
1090 Dr. Weldon's intentions for the land and property are good, but unfortunately, it is not Dr.
1091 Weldon who receives the Variance, it is actually the property. When he thinks "rural," he does
1092 not think tenement house, and that is probably the reason that tenement house, especially one
1093 with four units, is not allowed in the Rural District. That is what is being applied for, regardless
1094 of the intent to use the land in a peaceful and productive manner. He does not really see a
1095 hardship, either.

1096

1097 Mr. Welsh stated that he agrees that everyone has summarized his thoughts well. He continued
1098 that while he does see the comparison with the manufactured housing, he sees this as
1099 significantly different from manufactured housing as he recognizes it, which is abundantly
1100 transportable, movable, and changeable with owners.

1101

1102 Mr. Hoppock made a motion for the Zoning Board of Adjustment to approve ZBA 21-06 for a
1103 multi-family dwelling of four units per Section 102-332 of the Zoning Ordinance where such
1104 units are not permitted. Ms. Taylor seconded the motion.

1105

1106 1. *Granting the Variance would not be contrary to the public interest.*

1107

1108 Not met by a vote of 0-5.

1109

1110 2. *If the Variance were granted, the spirit of the Ordinance would be observed*

1111

1112 Not met by a vote of 0-5.

1113

1114 3. *Granting the Variance would do substantial justice.*

1115

1116 Not met by a vote of 0-5.

1117

1118 4. *If the Variance were granted, the values of the surrounding properties would not be*
1119 *diminished.*

1120

1121 Not met by a vote of 0-5.

1122

1123 Mr. Hoppock stated that he is not sure there was any information they heard on this point and he
1124 is not sure the burden has been met. Mr. Hoppock stated that he votes no also on the premise
1125 that the evidence was not presented. Mr. Welsh agreed.

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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*
- and
- ii. *The proposed use is a reasonable one.*
- Not met by a vote of 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.*
- Not met by a vote of 0-5.
- The motion to approve ZBA 21-06 failed with a vote of 0-5.
- Mr. Hoppock made the following motion, seconded by Ms. Taylor.
- On a vote of 5-0, the Zoning Board of Adjustment denied ZBA 21-06.
- d. **ZBA 21-07:/ Petitioner, Edward J. Haas of 114 Jordan Rd., Keene, requests a Variance for property located at 114 Jordan Rd., Tax Map #232-015-000; that is in the Rural District. The Petitioner requests a Variance to allow a decrease of setback requirements from 50 ft. to 30 ft. for installation of solar panels per Section 102-791 of the Zoning Ordinance.**
- Chair Gorman asked to hear from staff. Mr. Rogers stated that the Applicant is before the Board seeking a Variance for a setback with the intention of installing solar panels. He continued that this property is in the Rural District where there is a 50-foot setback requirement and they are asking for the Variance for a 30-foot setback.
- Chair Gorman asked if anyone had questions for Mr. Rogers. Hearing none, he opened the public hearing and explained the procedures for participation. He asked to hear from the Petitioner, Edward Haas.
- Edward Haas stated that the solar panel plan displayed presents the project. He continued that they have an open field of about 1-acre in size and he would prefer to keep it wide open. The plan for this property is to maintain it as is, and maintain it as a meadow/native plant

1172 environment. He wants to introduce solar energy and solar panels, but does not have good
1173 building locations for them, due to the trees in the area and the orientation, but this upper corner
1174 of the field is perfect for it though he is concerned with sight lines and the arrangement. He
1175 stated he would prefer to arrange them so they do not impose on anyone's views. The request is
1176 for the setback requirement from the property line on the north side. The proposed project calls
1177 for the panels situated within the 30 foot side setback in order to have the best use, maintaining
1178 the meadow as wide open, and maintaining as much of it in meadow condition as possible. It
1179 also allows them to maximize their area of solar panels and minimize the height of the panels.
1180 Mr. Haas continued that there would be no issues with a view of the panels for his neighbor to
1181 the north, as that area has become overgrown with invasive species, which he intends to remove
1182 and replace with other native, screening plants. Jordan Rd. is down to the left and their driveway
1183 comes up through an orchard.

1184
1185 Mr. Haas continued that the next slide shows orientation of several views – slide A is from
1186 Jordan Rd., slide B is from the northeast corner and a view of where the panels would be located
1187 adjacent to the property line, and slide C is the view from the corner in the driveway near a stone
1188 wall. Regarding the view from Jordan Rd., the northeast corner of the field where they wish to
1189 place the panels is shown on the right as indicated by the arrow. If they are successful with
1190 placement using this 30-foot Variance and then minimizing the height, likely the panels will
1191 hardly be seen from Jordan Rd. The hill slopes up in this area and when trees are in bloom along
1192 with the growth along the road, the panels will be virtually invisible and low profile. From
1193 Jordan Rd. it would really take some effort to see the solar panels if you are driving by.
1194 Regarding the view from the northeast corner of the field, the forested property behind him is
1195 still part of his land. There is a wire fence at the property line, behind all of the growth to the
1196 left. That screening will be maintained. They intend to reduce the invasive species as much as
1197 possible and introduce native species. They will maintain the screening to ensure their
1198 neighbors' privacy, since they would just be looking at the back of the panels. Having the panels
1199 at this point allows it to be up on the flat of the land and also maximizes the area of the meadow
1200 that they can continue to have as a natural space. There is a picture of the view from the
1201 driveway. There is a stonewall and the arrow on the picture does not show it quite right but the
1202 panel location would be way back in the far corner.

1203
1204 Mr. Haas stated that he will go through the five criteria.

1205
1206 *1. Granting the Variance would not be contrary to the public interest because*

1207
1208 Mr. Haas stated that it is not contrary to the public interest because if the panels are visible at all
1209 from the public way or from other properties it would be a minor visibility and there is no
1210 reflection that would ever come off of it that would put sun glare on anyone. He continued that
1211 for his neighbor to the north, either the existing screen of shrubbery or the shrubs and screening
1212 that he will introduce would shield their view. If the Board grants the Variance, it also allows
1213 him to minimize the height of the panels while maximizing the area of coverage.

1214

1215 2. *If the Variance were granted, the spirit of the Ordinance would be observed because*

1216

1217 Mr. Haas stated that there would be no impact to adjacent properties because the sight lines
1218 would not be there.

1219

1220 3. *Granting the Variance would do substantial justice because*

1221

1222 Mr. Haas stated that the area in question is a meadow field, and if the Board grants the Variance,
1223 they can minimize the height and maximize the area of the panels for maximum power
1224 production while minimizing the impact on the meadow and maintaining the meadow area as
1225 large as possible. Also, since he applied for the Variance, he determined that the solar panels are
1226 in perfect alignment with the City of Keene's renewable energy goals.

1227

1228 4. *If the Variance were granted, the values of the surrounding properties would not be*
1229 *diminished because*

1230

1231 Mr. Haas stated that if the Variance were granted, the values of the surrounding properties would
1232 not be diminished because there is no change to the surrounding properties. He continued that if
1233 there is a sightline, perhaps where his neighbor across Jordan Rd. can see it, it is a minor view
1234 and it is from the corner of the panels in any case. The panels will not come nearly down to his
1235 driveway at all, as they lose solar efficiency. The goal is to keep them all on the flat of the
1236 property, which is well away from Jordan Rd. and his driveway. Certainly, the contribution to
1237 the city's renewable energy goals should be recognized.

1238

1239 5. *Unnecessary Hardship*

1240 A. *Owing to special conditions of the property that distinguish it from other*
1241 *properties in the area, denial of the variance would result in unnecessary*
1242 *hardship because:*

1243 i. *No fair and substantial relationship exists between the general public*
1244 *purposes of the ordinance provision and the specific application of that*
1245 *provision to the property because:*

1246 *and*

1247 ii. *The proposed use is a reasonable one because:*

1248

1249 Mr. Haas stated that they still could install the panels and still would work to minimize the
1250 sightlines and the impact on the area but it would reduce the amount of panels that they could
1251 install as well as raise them in height. He is not going have the panels above eight feet in height
1252 and hope to minimize the height if granted the Variance.

1253

1254 Ms. Taylor stated that she was hoping Mr. Haas would go a little deeper into the unnecessary
1255 hardship criteria, why he does not think there is a fair and substantial relationship between the
1256 Zoning Ordinance and how it applies to his property. She asked if there is a special condition of
1257 his property that the Board should know about.

1258

1259 Mr. Haas replied that he thinks the special condition is the growth that exists on the north
1260 property line. He continued that there is about 20 to 25 feet of random shrubs and vines and
1261 some trees and such in that area that creates an impenetrable dense screen already. That existing
1262 screen means that he is not really changing anything at all, whether it is 30 feet or 50 feet from
1263 that property line.

1264

1265 Ms. Taylor stated if, could Mr. Haas site the solar panel array 50 feet from the property line, or is
1266 this where he would prefer to put it.

1267

1268 Mr. Haas replied that it is certainly a preference, where he wants to put it, but the difference in
1269 siting it 30 or 50 feet from the property line means that he would impact the meadow. He
1270 continued that he would be taking away from the grassland area of the meadow. They plan to
1271 maintain that meadow in a natural grass state to facilitate a natural environment for pollinators
1272 and such; it will not be farmed or mowed into a lawn. If he brings the panels further away from
1273 the property line rather than using that border for them then he takes away from the meadows, or,
1274 at the same time he might reduce the area available to him for panels.

1275

1276 Ms. Taylor asked if he could explain, “reduce the area available for panels”. Mr. Haas replied
1277 that the panels are 3’x7’ and he hopes to get as many as 20 or 24 panels in the array. He
1278 continued that the more panels he can place without having view lines from the street, the more
1279 power he can produce. If he wanted to not have such impact on the meadow, he could go higher.
1280 That is perfectly allowed, but he would prefer not to have that height. He would prefer to keep
1281 the panels as low as possible and keep as much of the meadow as possible. If he put them 50
1282 feet from the property line the area behind them becomes shaded and it is not of any use for the
1283 meadow purposes. It still will be filled by shrubbery to create a shield for his neighbor but it
1284 would not contribute to the open meadow area.

1285

1286 Mr. Hoppock stated that the Board’s agenda packet shows Mr. Haas’s property with the existing
1287 woodland, driveway, and the corner of the property with the array of 20 solar panels in pairs of
1288 two. Mr. Haas replied that that is just a diagrammatic arrangement. He continued that he will
1289 settle on the specific arrangement pending the success of this request and how they will lay it out
1290 in relation to the other trees. He knows that if they can be within 30 feet of the north property
1291 line that makes the most favorable ability to get on a flat surface and to keep the panels tucked
1292 up into the corner.

1293

1294 Mr. Hoppock asked if that area of the property is a flat-surfaced area as opposed to the rest of the
1295 meadow. Mr. Haas replied that it is still a little sloped but you can see how the contour lines, on
1296 the next slide, are very close down along the driveway – that area is lined with fruit trees. As the
1297 contour lines flatten out you can see how the meadow flattens as you go up the hill there.

1298

1299 Mr. Hoppock asked if he has an idea of what the dimensions are of the whole array. Mr. Haas
1300 replied yes, depending on how many panels, it is on the order of 20 feet wide by 80 feet long.

1301 Mr. Hoppock asked if it is correct that it would be no more than eight feet high. Mr. Haas
1302 replied that is his intent.

1303
1304 Mr. Gaudio asked if he understands correctly that by keeping it back that far, 20 feet into the
1305 setback, Mr. Haas would be able to keep it at a lower height. He asked if there is something
1306 gained by the fact that he is putting it back there that allows him to keep it lower and less visible.
1307 Mr. Haas replied yes, he could get the same area with a lower angle of the panels. He continued
1308 that instead of putting in a two- or three-panel high structure he could stay with a two-panel high
1309 structure, which is his intent. Mr. Gaudio replied that the unique aspect to this property is that
1310 because of the hill slope and the ability to install the panels that would be the hardship. Mr. Haas
1311 replied that it would take away from the meadow area. Mr. Gaudio stated that it would make it
1312 more visible from the street or from someone else's property. Mr. Haas replied yes, if they came
1313 forward to the south, and maintained the 50-foot setback, they would likely be more visible from
1314 Jordan Rd.

1315
1316 Chair Gorman stated that it sounds like what Mr. Haas is trying to articulate is, that he is looking
1317 at a 20'x80' array of solar panels and his reasoning for placing them closer to the boundary than
1318 they could be per setbacks is to basically insulate visibility. In other words, this is going to
1319 enable Mr. Haas to keep the solar panels shorter, which will have less impact on his neighbors
1320 and keep them further away from the road, which will lessen the impact to passersby. He asked
1321 if that is accurate. Mr. Haas replied that is correct. He continued that the third reason is to
1322 maximize the open space that exists now, rather than to intrude upon it. He reminds them that
1323 20'x80' is an estimate but that is the footprint he is trying to stay within. Chair Gorman asked if
1324 it is correct that in the event that this Variance is granted, he can count on an array that is no
1325 more than two panels high. Mr. Haas replied yes.

1326
1327 Ms. Taylor asked if the Board denied the Variance, would Mr. Haas still move forward with
1328 building a solar array. Mr. Haas replied yes, they intend to move forward with the project. He
1329 continued that if the Variance is denied he probably would not be able to install as many panels
1330 as he would like because he has the competing interests of visibility and maintaining the open
1331 space of the meadow. He respects those as well but he would like to install as much solar
1332 capacity as possible to move more in the direction of electric power.

1333
1334 Chair Gorman asked if there were any further questions for Mr. Haas. Hearing none, he asked
1335 for public comment and explained the procedures for participation. He asked Ms. Marcou if
1336 there were any call-ins. Ms. Marcou replied no. Chair Gorman stated that he does not see any
1337 attendees with their hands raised. Seeing no public input, he closed the public hearing.

1338
1339 The Board deliberated on the criteria.

1340
1341 Mr. Welsh stated that he wants to start by expressing his admiration for and appreciation of his
1342 fellow Board members for extracting testimony that did such a great job of ascertaining the
1343 nature of hardship. He continued that he is prepared to vote in favor of this. One of the things

1344 that he gleaned from the testimony also is that in its own way the values of surrounding
1345 properties and the value of those properties to the people driving by or seeing them would not be
1346 diminished. He is convinced that the Applicant and the Board has made the case for this
1347 Variance.

1348
1349 Ms. Taylor stated that she takes the opposite view, and the purpose for her last question was
1350 basically to determine if this was an “it would be really nice” request or if this is a case where if
1351 the Applicant did not get the Variance for his project he could not do it. She continued that she
1352 is struggling, as she does not see the hardship. She thinks that the other criteria are probably
1353 met, but she is not convinced that there is a hardship. She thinks this is a preference of where to
1354 place the solar array.

1355
1356 Mr. Gaudio stated that he is going to be contrary to Ms. Taylor on the premise of the unnecessary
1357 hardship. In this situation, with the public interest and spirit of the Ordinance are connected, in
1358 that in order to further promote the public interest, which is to keep the elevation low and not be
1359 seen, there is an unnecessary hardship that is being experienced. He continued that if there was
1360 no hardship, the Applicant would have to go install the array at a higher elevation which would
1361 then be more likely to be seen leading to a negative effect on the public interest. He thinks there
1362 is an unnecessary hardship that distinguishes it from other properties.

1363
1364 Mr. Hoppock stated that he concurs with that opinion and notes that the special condition of the
1365 property is the terrain of that area, and that area is desirable for the reasons explained. He
1366 continued, stating that to keep the array at a low height and to get the best solar benefit from the
1367 location is, from what has been explained, is to keep it out of the line of sight from the neighbors
1368 and the travelers on Jordan Rd. Thus, he agrees that there is a hardship there and he thinks there
1369 would be an unnecessary hardship if the Variance were denied. He does not regard it as a
1370 preference of the owner.

1371
1372 Chair Gorman stated that he is inclined to agree. He continued that he does think it is a
1373 preference of the owner, but he does not think that is the only piece of the equation; he is entitled
1374 to have that preference. At the end of the day, that preference does lead to the greater good and
1375 denying the Variance would allow him to install the solar array in a way that is ineffective for
1376 both himself and his abutters as well as passersby. The Variance allows him to put the solar
1377 array in a manner that is productive for himself and has lesser impact to his abutters as well as
1378 passersby. He thinks it is unique and that it was well articulated by Mr. Gaudio and supported by
1379 Mr. Hoppock. He would be prepared to support this as well.

1380
1381 Mr. Hoppock made a motion for the Zoning Board of Adjustment to approve ZBA 21-07 to grant
1382 a Variance to allow a decrease of setback requirements from 50 feet to 30 feet for the installation
1383 of solar panels, which would normally be prohibited by Section 102-791 in terms of the side
1384 setback limitations.

1385

1386 Chair Gorman stated questioned the Board that if Mr. Haas plans to remove some invasive
1387 species, would they add the condition of that the maintenance of the buffer. He continued that he
1388 thinks there may be some merit to it.

1389
1390 Ms. Taylor replied that she thinks that is an excellent point and wonders if Mr. Hoppock is
1391 willing to amend his motion to add that condition.

1392
1393 Mr. Welsh stated that they heard from the applicant that he intends to maintain and maybe even
1394 improve the buffer by the removal of the invasive species and the replacement of more natural
1395 plants, but he thinks it would be a good addition to the motion.

1396
1397 Mr. Hoppock stated that he has no objection; he just is not sure how to describe the location of
1398 the buffer. Chair Gorman suggested “that a vegetative buffer be maintained along the property
1399 line.” Mr. Hoppock replied that he will amend the motion to add that.

1400
1401 Ms. Taylor suggested “Vegetative buffer of similar density to maintain the visual separation
1402 between this property and the abutter.” Chair Gorman suggested “A vegetative buffer containing
1403 year-round density to shield the view of the solar panels.” Ms. Taylor and Mr. Hoppock agreed.

1404
1405 Mr. Gaudio seconded the motion to approve ZBA 21-07 to grant a Variance to allow a decrease
1406 of setback requirements from 50 feet to 30 feet for the installation of solar panels, which would
1407 normally be prohibited by Section 102-791 in terms of the side setback limitations, with the
1408 condition that a dense, vegetative, year-round buffer be maintained by the property owner to
1409 shield his abutter from view of the back side of the solar panels.

1410
1411 Chair Gorman stated that he sees Mr. Haas’s hand up, but the public hearing is closed. Ms.
1412 Taylor stated that if they are in the voting process it is not appropriate to go back into the public
1413 hearing. Chair Gorman agreed. He continued that they have a motion on the table and they are
1414 prepared to vote on it.

1415
1416 1. *Granting the Variance would not be contrary to the public interest.*

1417
1418 Met with a vote of 5-0.

1419
1420 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1421
1422 Met with a vote of 4-1. Ms. Taylor was opposed.

1423
1424 3. *Granting the Variance would do substantial justice.*

1425
1426 Met with a vote of 5-0.

1427

1428 4. *If the Variance were granted, the values of the surrounding properties would not be*
1429 *diminished.*

1430
1431 Met with a vote of 5-0.

1432
1433 5. *Unnecessary Hardship*
1434 A. *Owing to special conditions of the property that distinguish it from other*
1435 *properties in the area, denial of the variance would result in unnecessary*
1436 *hardship because:*
1437 i. *No fair and substantial relationship exists between the general public*
1438 *purposes of the ordinance provision and the specific application of that*
1439 *provision to the property.*

1440 *and*
1441 ii. *The proposed use is a reasonable one.*

1442
1443 Met with a vote of 4-1. Ms. Taylor was opposed.

1444
1445 The motion to approve ZBA 21-07 with the condition was approved 4-1. Ms. Taylor was
1446 opposed.

1447
14485) **New Business**

1449 - **Department Review of Board and Commission Fees**

1450
1451 Mr. Rogers stated that they have not had a chance to do an analysis of the fees, but Ms. Marcou
1452 has been taking a look at the overall costs, especially in this new world of Zoom, and one of the
1453 big impacts that has had, is on the fees are the newspaper fees. Newspapers charge by the line,
1454 and they have had to add all of the Zoom information to the ads and that has been an added cost.
1455 They will continue to review and bring back a recommendation to the Board for a possible
1456 increase to those fees. They just wanted to give the reasoning behind this review. Last time they
1457 reviewed the fees the cost per line was also much less than it is today.

1458
14596) **Communications and Miscellaneous**

1460
1461 Mr. Rogers stated that staff is once again reviewing the possibility of hybrid meetings, now that
1462 the COVID-19 numbers are starting to decline and the number of people vaccinated is
1463 increasing. He continued that the City's overall intent is for some of the committees, especially
1464 some of the smaller ones, to be able to maintain social distancing in the Council Chambers. He
1465 wanted to gauge the feeling of the Board, regarding having a hybrid meeting in April, with the
1466 understanding that any of the Board members who are still not quite comfortable would still be
1467 able to join the meetings via Zoom.

1468
1469 Chair Gorman stated that he would prefer meeting in person. Mr. Hoppock and Mr. Gaudio
1470 agreed. Ms. Taylor stated that she would continue to be remote. Chair Gorman stated that they

1471 are all in this together. He asked if Ms. Taylor is okay with Board members meeting in person
1472 and having her continue to participate from home or if she would rather they all do the same.
1473 Ms. Taylor replied that she does not have a problem with the others meeting in person, but she is
1474 not quite ready to meet in person, nor has been vaccinated. Mr. Welsh stated that he thinks it is
1475 important for people to be ready and vaccinated before joining, or however else people need to
1476 be ready. He continued that he understands that the City will make a judgment based upon
1477 trends before changing it. That said, he would love to get away from Zoom. Others agreed.
1478

1479 Mr. Rogers thanked the Board for their feedback. He continued that he and other staff members
1480 will continue to discuss it, and he will let the Board know as they move forward. The intent is to
1481 maintain the option for any member to attend via Zoom until they feel comfortable to meet in
1482 public.
1483

14847) **Non-Public Session (If Required)**

1485

14868) **Adjournment**

1487

1488 There being no further business, Chair Gorman adjourned the meeting at 9:48 PM.
1489

1490 Respectfully submitted by,
1491 Britta Reida, Minute Taker
1492 Edits submitted by,
1493 Corinne Marcou, Zoning Clerk
1494 Edits submitted by,
1495 Jane Taylor, Board member

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435 WINCHESTER ST.
ZBA 21-08



Petitioner requests a Variance to allow a drive-thru carwash partially located within the High Density District where a drive in business is not a permitted use per Section 102-422 of the Zoning Ordinance



NOTICE OF HEARING

ZBA 21-08

A meeting of the Zoning Board of Adjustment will be held on Monday, April 5, 2021 at 6:30 PM to consider the petition of Mint Car Wash of 435 Winchester St., Keene; requests a Variance for properties located at 435 Winchester St., 433 Winchester St., and 0 Wetmore St. Due to the COVID-19 State of Emergency, this meeting will be held using the web-based platform, Zoom. The public may access/view the meeting online by visiting www.zoom.us/join or may listen to the meeting by calling (888) 475-4499. The Meeting ID is 839 9261 2795. To notify the public body of any access issues, call (603) 209-4697. More information is available at the City's Zoning Board of Adjustment webpage at www.ci.keene.nh.us/zoning-board-adjustment and on the enclosed document.

ZBA 21-08: The Petitioner, represented by Jim Phippard of Brickstone Land Use Consultants, Keene, requests a Variance for property located at 435 Winchester St., 433 Winchester St., and 0 Wetmore St., Tax Map #'s 115-029-000, 115-031-000, 115-030-000; that is in the Industrial, Commercial and High Density Districts. The Petitioner requests a Variance to allow a Variance to permit a drive-thru carwash partially located within the High Density District where a drive in business is not a permitted use per Section 102-422 of the Zoning Ordinance.

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 by appointment only or online at <https://ci.keene.nh.us/zoning-board-adjustment>. Please call (603) 352-5440 to make an appointment or to speak with a staff person.

Corinne Marcou, Zoning Clerk
Notice issuance date March 25, 2021

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.	_____
Date Filed	_____
Received By	_____
Page _____ of _____	
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) MINT CAR WASH Phone: C/O 357-0118
 Address 435 WINCHESTER STREET
 Name(s) of Owner(s) MOC76 REALTY CO LLC
 Address 435 WINCHESTER STREET KEENE, NH 03431
 Location of Property 435 WINCHESTER ST, 433 WINCHESTER ST, 0 WETMORE ST

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 115-028-000,115-031-000,115-030-000 Zoning District INDUSTRIAL, COMMERCE & HD
 Lot Dimensions: Front 213.03 Rear 174.16 Side 334.23 Side 395.04
 Lot Area: Acres 1.33 AC Square Feet 58,124
 % of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 9.3% Proposed 7.4%
 % of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 49.2% Proposed 47.0%
 Present Use CAR WASH, VACANT RESTAURANT, VACANT PARKING LOT
 Proposed Use CAR WASH

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 3/15/21

Please Print Name JAY CLARKE

5. Unnecessary Hardship

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

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

and

ii. The proposed use is a reasonable one because:

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

PROPERTY ADDRESS 433 Winchester Street

APPLICATION FOR A VARIANCE

- A variance is requested from Section (s) 102-422, **Permitted Uses in the High Density** district of the Zoning Ordinance to permit: a drive-thru carwash partially located within the HD district where a drive in business is not a permitted use.

Background: The owner of the Mint Carwash at 435 Winchester Street has purchased the adjacent properties at 433 Winchester Street (consisting of two parcels) and plans to merge the parcels to form one lot. 433 Winchester Street is the former Ocean Harvest restaurant with a parking lot on the adjacent parcel (0 Wetmore Street) to the west. The Mint Carwash property is zoned Industrial while the Ocean Harvest parcel is zoned Commerce, and the parking lot parcel is zoned High Density. This will result in three separate zones on one property. The applicant wishes to add a new drive thru carwash on the former Ocean Harvest site that will extend partially into the HD zone where the former parking lot was located. The drive thru carwash is a permitted use in the Commerce district but is not a permitted use in the HD district.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

1. **Granting the Variance would not be contrary to the public interest because:**
The former Ocean Harvest building is vacant with a commercial parking lot adjacent to it. Granting the variance will allow the property to be redeveloped with another commercial use in conjunction with the existing carwash next door. It will improve the appearance of the property, increase the property value, and increase property tax revenue for the City of Keene. The addition of a third drive thru tunnel at the Mint Carwash property would help to alleviate the queuing of cars during the peak business hours that occurs today. It will improve public safety at the site. It is in the public interest to have a property with a vacant building redeveloped with a use that will add jobs, expand the local tax base, and improve public safety.
2. **If the variance were granted, the spirit of the ordinance would be observed because:** The spirit of the ordinance in this case is to protect the public health, safety and welfare. The previous use on the property was a commercial use, a restaurant, with an adjacent commercial parking lot. That use extended from the existing Commerce zoned land into the existing High Density zoned land. To the west of the site is the existing driveway to the Mint Carwash from Wetmore Street. This existing driveway is also on High Density zoned land. Continuing west on Wetmore Street are residential homes. To protect the homes from noise and to provide screening, a six foot high solid fence was constructed along the west side of the driveway and along the rear property lines of the Mint Carwash site. This screening will remain and will help to screen the proposed new carwash. Granting the variance will allow the existing commercial use to be re-purposed to another commercial use which will improve public safety by reducing the queueing of cars leading into the

site. It will also maintain the screen fencing which will help to protect property values in the neighborhood.

3. Granting the variance would do substantial justice because: It will allow the property owner to improve the operation of the existing carwash without negative impacts to the public health, safety, and welfare. The additional carwash tunnel will help to reduce queueing of cars during peak hours and will improve traffic safety leading into the site. The new carwash will not be closer to the existing residential homes to the west of the site than the existing carwash, and it will be screened with the six foot solid fencing along the west side of the site. As such, it will not reduce property values. The values of this property will be significantly improved, and it will increase the City of Keene's tax base. There is no benefit to the public if the variance is denied in this case.

4. If the variance were granted, the values of the surrounding properties would not be diminished because: This proposal will remove a vacant commercial building and a small commercial parking lot. It will allow the property to be redeveloped and will improve the operation of the existing carwash. This proposal will help to reduce the queueing of cars which occurs today during peak hours of the operation. This will improve traffic safety at the site. This proposal maintains the 6' solid fencing along the west side of the site which provides a year-round screen for the residential properties to the west. The new carwash tunnel is no closer to the residential properties than the existing carwash. This proposal will enhance the appearance of the property and help to maintain property values in this area. Approving the variance will not result in a threat to public safety or be a nuisance to vehicles and pedestrians. It will allow a project which will enhance the value of this property and the neighborhood.

5. Unnecessary Hardship

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

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

This is an existing nonconforming property which falls within three different zoning districts. The former restaurant is on a 9686 sf lot in the Commerce district where 10,000 sf is the required minimum lot size. The restaurant parking lot is on a 5347 sf lot in the High density district where 6,000 sf is the required minimum lot size. By merging the two lots with the existing carwash lot, which is in the Industrial district, the total lot size will be 63,365 sf and will be conforming for lot size, however, the property remains in three zoning districts. The existence of three different zoning districts on one property creates a unique special condition for this site.

The original restaurant building was constructed in 1960 and has been continuously under commercial use since that time. While the building lies within the Commerce district the parking lot lies within the High Density district. The zoning at this location has never been altered to reflect this historic commercial use. A variance is necessary to allow the continued use of the site for a commercial use.

It would be unfair and unreasonable to deny the variance for this proposal when a commercial use has existed at this site for over 60 years.

And

ii. The proposed use is a reasonable one because: The proposed use as a carwash will improve the operation of the existing Mint Carwash. It will help to eliminate queueing of cars which now occurs during peak business hours. It will improve traffic safety at the site, and it will not diminish surrounding property values.

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

Two of the existing properties are nonconforming for lot sizes and for the commercial parking lot in the High Density zone. The existence of three zoning districts on such a small land area creates a special condition which makes it nearly impossible to bring into compliance. Merging the properties with the existing Mint Carwash property will make the properties more conforming, but a variance is the only means to allow this proposal and it would result in an unnecessary hardship if denied.



210 foot Abutters List Report

Keene, NH
March 02, 2021

Subject Property:

Parcel Number: 115-029-000
CAMA Number: 115-029-000-000-000
Property Address: 435 WINCHESTER ST.

Mailing Address: MOC76 REALTY CO. LLC
435 WINCHESTER ST.
KEENE, NH 03431

Abutters:

Parcel Number: 115-002-000
CAMA Number: 115-002-000-000-000
Property Address: 426-428 WINCHESTER ST.

Mailing Address: TBK REALTY INC
117 WEST ST.
KEENE, NH 03431

Parcel Number: 115-003-000
CAMA Number: 115-003-000-000-000
Property Address: 434 WINCHESTER ST.

Mailing Address: 434-440 WINCHESTER LLC
PO BOX 684
KEENE, NH 03431

Parcel Number: 115-004-000
CAMA Number: 115-004-000-000-000
Property Address: 440 WINCHESTER ST.

Mailing Address: 434-440 WINCHESTER LLC
PO BOX 684
KEENE, NH 03431

Parcel Number: 115-005-000
CAMA Number: 115-005-000-000-000
Property Address: 446 WINCHESTER ST.

Mailing Address: 434-440 WINCHESTER LLC
PO BOX 684
KEENE, NH 03431

Parcel Number: 115-006-000
CAMA Number: 115-006-000-000-000
Property Address: 452 WINCHESTER ST.

Mailing Address: DEAD RIVER COMPANY
82 RUNNING HILL RD. SUITE 400
SOUTH PORTLAND, ME 04106-3218

Parcel Number: 115-026-000
CAMA Number: 115-026-000-000-000
Property Address: 451 WINCHESTER ST.

Mailing Address: 451 WINCHESTER STREET LLC
549 US HWY. 1 BYPASS
PORTSMOUTH, NH 03801

Parcel Number: 115-026-001
CAMA Number: 115-026-001-000-000
Property Address: 449 WINCHESTER ST.

Mailing Address: 449 AND 453 WINCHESTER STREET
549 U.S. HWY. 1 BYPASS
PORTSMOUTH, NH

Parcel Number: 115-027-000
CAMA Number: 115-027-000-000-000
Property Address: 447 WINCHESTER ST.

Mailing Address: GUERIN PAMELA
27936 LOST CANYON RD. SUITE 201
SANTA CLARITA, CA 91387

Parcel Number: 115-028-000
CAMA Number: 115-028-000-000-000
Property Address: 443 WINCHESTER ST.

Mailing Address: WINN ST. REALTY TRUST
443 WINCHESTER ST.
KEENE, NH 03431

Parcel Number: 115-030-000
CAMA Number: 115-030-000-000-000
Property Address: 433 WINCHESTER ST.

Mailing Address: MOC76 REALTY CO. LLC
435 WINCHESTER ST.
KEENE, NH 03431



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210 foot Abutters List Report

Keene, NH
March 02, 2021

Parcel Number: 115-031-000
CAMA Number: 115-031-000-000-000
Property Address: 0 WETMORE ST.

Mailing Address: MOC76 REALTY CO. LLC
435 WINCHESTER ST.
KEENE, NH 03431

Parcel Number: 115-032-000
CAMA Number: 115-032-000-000-000
Property Address: 8 WETMORE ST.

Mailing Address: DRAKIOTES CHRIS DRAKIOTES KELLY
F
8 WETMORE ST.
KEENE, NH 03431

Parcel Number: 115-033-000
CAMA Number: 115-033-000-000-000
Property Address: 12 WETMORE ST.

Mailing Address: NIEMELA GREGORY A. NIEMELA LAURA
H.
12 WETMORE ST.
KEENE, NH 03431

Parcel Number: 115-034-000
CAMA Number: 115-034-000-000-000
Property Address: 9 WETMORE ST.

Mailing Address: CASEY, ANTHONY T. CASEY, SHANNON
L.
9 WETMORE ST.
KEENE, NH 03431

Parcel Number: 115-035-000
CAMA Number: 115-035-000-000-000
Property Address: 425-429 WINCHESTER ST.

Mailing Address: PERRINI JOSEPH J. JR.
1010 WOOL AVE.
FRANKLIN SQUARE, NY 11010

Parcel Number: 115-036-000
CAMA Number: 115-036-000-000-000
Property Address: 423 WINCHESTER ST.

Mailing Address: PERRINI JOSEPH J. JR.
1010 WOOL AVE.
FRANKLIN SQUARE, NY 11010

Parcel Number: 115-038-000
CAMA Number: 115-038-000-000-000
Property Address: 0 FAIRBANKS ST.

Mailing Address: MTAME LLC
417 WINCHESTER ST.
KEENE, NH 03431

Parcel Number: 115-039-000
CAMA Number: 115-039-000-000-000
Property Address: 16 FAIRBANKS ST.

Mailing Address: TOUCHETTE KATHLEEN
PO BOX 205
GILSUM, NH 03448

Parcel Number: 116-009-000
CAMA Number: 116-009-000-000-000
Property Address: 18 WETMORE ST.

Mailing Address: KONIG MARKUS S. KONIG EVELYN W.
18 WETMORE ST.
KEENE, NH 03431

Parcel Number: 116-010-000
CAMA Number: 116-010-000-000-000
Property Address: 22 WETMORE ST.

Mailing Address: LOWER FRED D.
77 HALLWOOD DR.
SURRY, NH 03431

Parcel Number: 116-012-000
CAMA Number: 116-012-000-000-000
Property Address: 30 WETMORE ST.

Mailing Address: LOWER FRED D. LOWER JUDITH A.
77 HALLWOOD DR.
SURRY, NH 03431

Parcel Number: 116-028-000
CAMA Number: 116-028-000-000-000
Property Address: 21 WETMORE ST.

Mailing Address: SELBY GENE L.
21 WETMORE ST.
KEENE, NH 03431



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210 foot Abutters List Report

Keene, NH
March 02, 2021

Parcel Number: 116-029-000
CAMA Number: 116-029-000-000-000
Property Address: 17 WETMORE ST.

Mailing Address: PARKHURST NORMAN E. PARKHURST
JOAN F.
17 WETMORE ST.
KEENE, NH 03431

Parcel Number: 116-030-000
CAMA Number: 116-030-000-000-000
Property Address: 20 FAIRBANKS ST.

Mailing Address: DRISCOLL BRIAN P.
20 FAIRBANKS ST.
KEENE, NH 03431

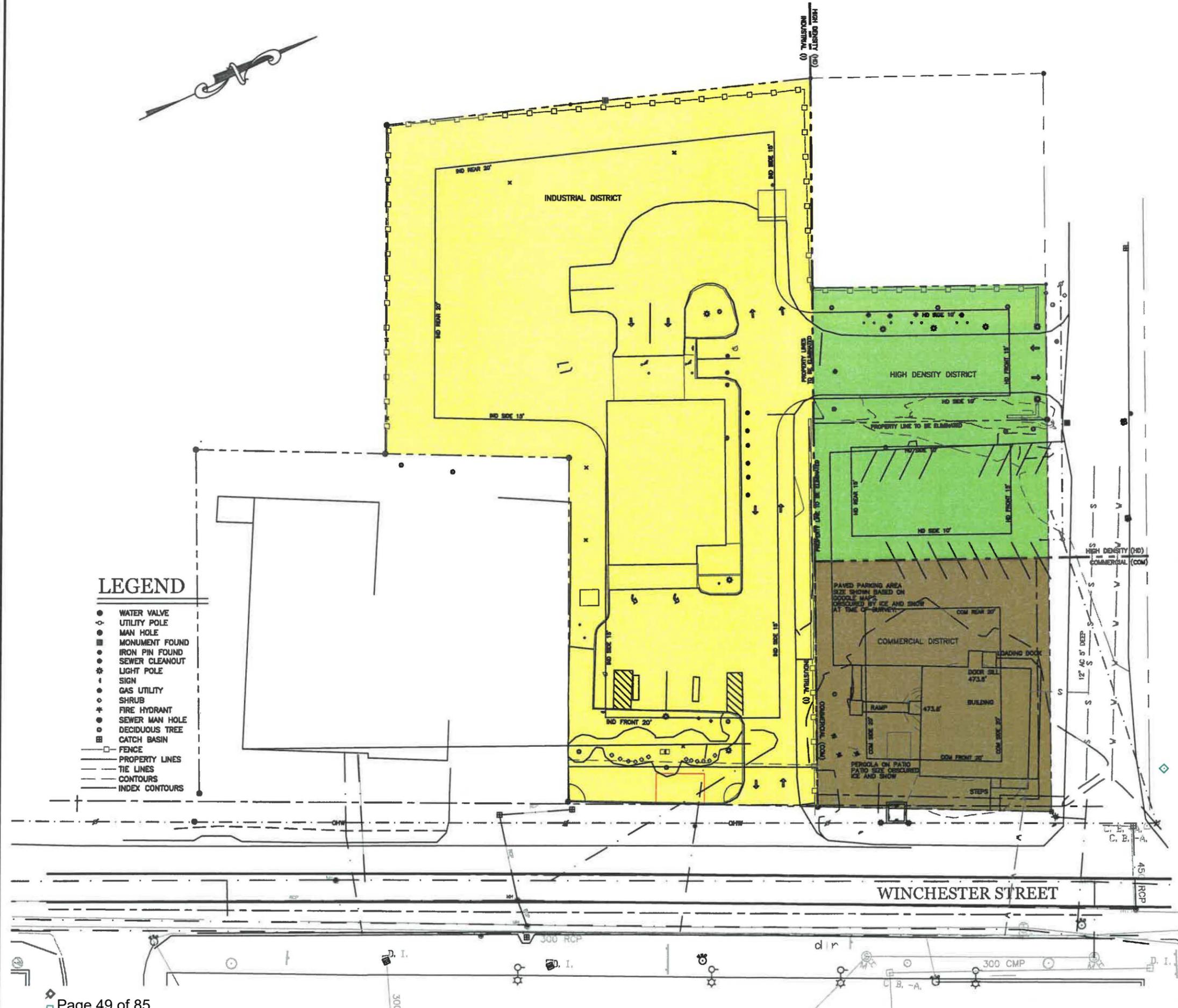


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3/2/2021

Page 3 of 3



LEGEND

- INDUSTRIAL DISTRICT
- HIGH DENSITY DISTRICT
- COMMERCIAL DISTRICT

LEGEND

- WATER VALVE
- UTILITY POLE
- MAN HOLE
- MONUMENT FOUND
- IRON PIN FOUND
- SEWER CLEANOUT
- ★ LIGHT POLE
- ↑ SIGN
- GAS UTILITY
- SHRUB
- ★ FIRE HYDRANT
- SEWER MAN HOLE
- DECIDUOUS TREE
- CATCH BASIN
- FENCE
- PROPERTY LINES
- TIE LINES
- CONTOURS
- INDEX CONTOURS

OWNER/DEVELOPER:
MOC76 REALTY CO. LLC
 435 WINCHESTER STREET
 KEENE, NH 03431

PLANNER:
Brickstone Land Use Consultants LLC
Site Planning, Permitting and Development Consulting
 185 Winchester Street, Keene, NH 03431
 Phone: (603) 357-0115

MINT CAR WASH
 433-435 WINCHESTER ST
 KEENE, NH 03431

EXISTING PLAN

SCALE: 1"=20'
 DATE: MARCH 17, 2021
 SHEET 1

LOT DATA TABLE

TAX MAP #: MERGED LOT 115-029-000-000			
ZONES: INDUSTRIAL, COMMERCIAL & HIGH DENSITY DISTRICTS			
MERGED LOT SIZE: 57,945 SF			
LOT FRONTAGE: WINCHESTER STREET 196.91' WETMORE STREET 214.84'			
PORTION OF TAX MAP #: MERGED LOT 115-029-000-000			
ZONE: HIGH DENSITY DISTRICT			
PORTION OF LOT IN HD: 10,584 SF			
BUILDING SETBACKS: FRONT 15' SIDE 10' REAR 15'			
NO PAVEMENT SETBACKS			
LOT COVERAGE:	EXISTING	PROPOSED	
BUILDINGS:	0 SF 0%	1,067 SF 10.1%	
PAVEMENT:	6,484 SF 61.3%	5,905 SF 55.8%	
TOTAL IMPERMEABLE:	6,484 SF 61.3%	6,972 SF 65.9%	
PORTION OF TAX MAP #: MERGED LOT 115-029-000-000			
ZONE: INDUSTRIAL DISTRICT			
PORTION OF LOT IN IND: 37,673 SF			
BUILDING SETBACKS: FRONT 20' SIDE 15' REAR 20'			
NO PAVEMENT SETBACKS			
LOT COVERAGE:	EXISTING	PROPOSED	
BUILDINGS:	3,140 SF 8.3%	3,140 SF 8.3%	
PAVEMENT:	12,534 SF 33.3%	12,534 SF 33.3%	
TOTAL IMPERMEABLE:	15,674 SF 41.6%	15,674 SF 41.6%	
PORTION OF TAX MAP #: MERGED LOT 115-029-000-000			
ZONE: COMMERCIAL DISTRICT			
PORTION OF LOT IN COM: 9,686 SF			
BUILDING SETBACKS: FRONT 20' SIDE 20' REAR 20'			
PAVEMENT SETBACKS: 5'			
LOT COVERAGE:	EXISTING	PROPOSED	
BUILDINGS:	2,294 SF 23.7%	1,530 SF 15.6%	
PAVEMENT:	4,157 SF 42.8%	4,420 SF 45.6%	
TOTAL IMPERMEABLE:	6,451 SF 66.5%	5,950 SF 61.4%	

OWNER/DEVELOPER:
MOC76
REALTY CO. LLC
435 WINCHESTER STREET
KEENE, NH 03431

PLANNER:
Brickstone
Land Use Consultants LLC
Site Planning, Permitting and Development Consulting
185 Winchester Street, Keene, NH 03431
Phone: (603) 357-0116

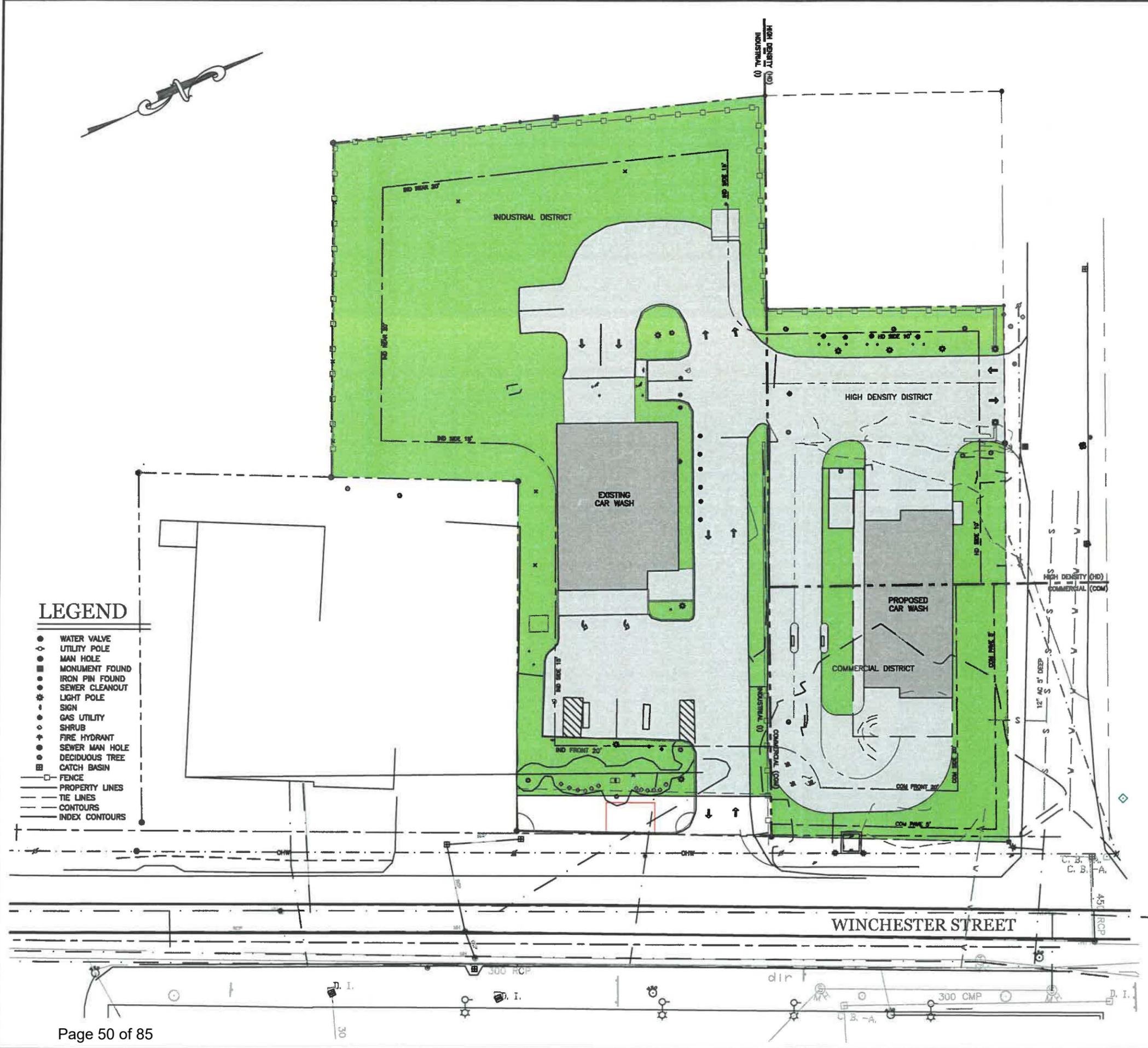
MINT CAR WASH
433-435 WINCHESTER ST
KEENE, NH 03431

PROPOSED PLAN

SCALE: 1"=20'

DATE: MARCH 17, 2021

SHEET 2



LEGEND

- WATER VALVE
- UTILITY POLE
- MAN HOLE
- MONUMENT FOUND
- IRON PIN FOUND
- SEWER CLEANOUT
- ★ LIGHT POLE
- ↑ SIGN
- GAS UTILITY
- SHRUB
- ★ FIRE HYDRANT
- SEWER MAN HOLE
- DECIDUOUS TREE
- CATCH BASIN
- FENCE
- PROPERTY LINES
- TIE LINES
- CONTOURS
- INDEX CONTOURS

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**62 MAPLE AVE.
ZBA 21-09**



Petitioner requests a Special Exception from Sections 102-661 & 102-662 for the Industrial Park District and Section 102-1111, Permitted Locations for Institutional Use of the Zoning Ordinance.



NOTICE OF HEARING

ZBA 21-09

A meeting of the Zoning Board of Adjustment will be held on Monday, April 5, 2021 at 6:30 PM to consider the petition of Cheshire Medical Center of 550 Court St., Keene, requests a Special Exception for property located at 62 Maple Ave. Due to the COVID-19 State of Emergency, this meeting will be held using the web-based platform, Zoom. The public may access/view the meeting online by visiting www.zoom.us/join or may listen to the meeting by calling (888) 475-4499. The Meeting ID is 839 9261 2795. To notify the public body of any access issues, call (603) 209-4697. More information is available at the City's Zoning Board of Adjustment webpage at www.ci.keene.nh.us/zoning-board-adjustment and on the enclosed document.

ZBA 21-09: The Petitioner, represented by Tom Hanna of BCM Environmental & Land Law, requests a Special Exception for property located at 62 Maple Ave., TMP #227-006-000; that is in the Industrial Park District. The Petitioner requests a Special Exception from Sections 102-661 and 102-662 for the Industrial Park District and Section 102-1111, Permitted Locations for Institutional Use of the Zoning Ordinance.

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 by appointment only or online at <https://ci.keene.nh.us/zoning-board-adjustment>. Please call (603) 352-5440 to make an appointment or to speak with a staff person.

Corinne Marcou, Zoning Clerk

Notice issuance date March 25, 2021

March 19, 2021

VIA HAND DELIVERY
Joshua Gorman, Chair
Zoning Board of Adjustment
City of Keene
3 Washington Street
Keene, NH 03431

**RE: Application for Special Exception
Cheshire Medical Center
Tax Map 227, Parcel 6- 62 Maple Avenue
Property Owned by 62 Keene Ave, LLC**

Dear Chair Gorman and Members of the Zoning Board:

Enclosed is the application packet to the Zoning Board of Adjustment (“ZBA”) for Cheshire Medical Center’s application for a Special Exception for its proposed activities at 62 Maple Avenue.

The enclosed application packet includes the following:

1. Application packet, including Special Exception Responses;
2. Memorandum from Dr. Caruso and Kathryn Willbarger, hospital CEO and COO, respectively;
3. Two (2) plans of 62 Maple Avenue property;
4. List of Abutters;
5. Two sets of mailing labels for all abutting property owners (as defined by RSA 672:3); and
6. A check in the amount of \$125.00 for the required fees (application and newspaper publication of public notice).

A check for the postage for mailing certified notice to abutters will be sent under separate cover once the fees have been calculated and confirmed by Corinne Marcou. Corinne, please let me know if I have omitted anything. Please also acknowledge receipt.

Cheshire Medical Center has entered into a purchase agreement with the owner of 62 Maple Avenue, and the purchase is subject to the condition that CMC is granted zoning

board approval to use the property for clinic and health care related functions as indicated in this application.

CMC expects that the build-out and integration of CMC and Dartmouth-Hitchcock Health programs, and the implementation of new programs, such as the medical residency program, will occur over a few years. The gradual implementation involves several factors, including the need for substantial renovation of space (the residency program, which will begin promptly, is budgeted to cost \$8 million), and concerted planning on how to use the new building's space and space that will be freed up at the main CMC Court Street campus.

We look forward to presenting the application.

Sincerely,



Thomas R. Hanna
(603) 352-1928 (office)
(603) 252-3916 (cell)
hanna@nhlandlaw.com

cc: Kathryn F. Willbarger
Kevin M. Forrest
Jason D. Reimers, Esq.

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.	_____
Date Filed	_____
Received By	_____
Page	_____ of _____
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

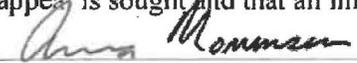
Name(s) of Applicant(s) Cheshire Medical Center Phone: 603-352-1928
Address 550 Court Street, Keene, NH 03431
Name(s) of Owner(s) 62 Maple Ave Keene, LLC
Address 300 Main Street, 5th Floor, Stamford, CT 06901-3032
Location of Property 62 Maple Avenue, Keene, NH 03431

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number Map 227, Parcel 6 Zoning District Industrial Park
Lot Dimensions: Front Approx. 822' Rear Approx. 845' Side Approx 1 800' Side Approx. 1,850'
Lot Area: Acres 50 +/- Square Feet 2,175,023
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 4.3% Proposed no change
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 15% +/- Proposed no change
Present Use former insurance company headquarters and offices
Proposed Use clinic, medical residency program (educational practicum), accessory support services

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 March 18, 2021
Please Print Name Anna Mommsen, Agent

APPLICATION FOR A SPECIAL EXCEPTION

- Section of the Zoning Ordinance under which the Special Exception is sought:
Industrial Park: Sec. 102-661-Intent; Sect.102-662- Permitted Uses
Institutional Use: Sec. 102-1111-Permitted Locations

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.

Please see attached separate sheet entitled SPECIAL EXCEPTION RESPONSES

2. 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 separate sheet entitled SPECIAL EXCEPTION RESPONSES

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

Please see attached separate sheet entitled SPECIAL EXCEPTION RESPONSES

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

Please see attached separate sheet entitled SPECIAL EXCEPTION RESPONSES

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.*

Cheshire Medical Center will be moving several of its clinical, health care and accessory support services from its 580 to 590 Court Street campus to 62 Maple Avenue, previous headquarters for Peerless Insurance Company and later Liberty Mutual Insurance Company. The uses are primarily Institutional Uses or accessory thereto. Maple Avenue is a street on which Institutional Uses are permitted by Special Exception, and there are several institutional uses on the street in the immediate vicinity of 62 Maple Avenue, including Cedarcrest Inc. across the street, a residence and facility for specialized care of disabled children; three churches within 1/10 of a mile; a private school, and the Keene Middle School.

The former insurance building and its 50-acre site are ideally located for the new Cheshire Medical Center activities. The site is located on an arterial street within two miles of the main Cheshire Medical Center and approximately 1/10 of a mile from Route 12. There is substantial parking, and the use is not dissimilar from the multi-decade insurance company use.

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

The medical center's proposed use, including a new Family Medicine Residency program with faculty oversight and an active public clinic, will have a similar impact on the neighborhood as the prior insurance company use. The integration of activities currently operating at the Court Street campus will occur over a few years and may include childcare for employees, the physical and occupational therapy departments, pediatric medicine, and various offices which are accessory to the health care/clinic programs. The site is close to a funeral home and commercial establishments to the south, several churches and the pediatric facility (Cedarcrest) across the street. In addition, the acquisition of the empty property will ensure its upkeep, which will maintain the character and values of the neighborhood.

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

The 62 Maple Avenue property has 553 parking spaces, which is adequate for the projected build-out and use of the existing space over a few years. We believe the traffic impact will be similar to the insurance company impact from a traffic and pedestrian perspective. Also, Maple Avenue has a sidewalk on the opposite side of the of the street.

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

Maple Avenue is an arterial street, which includes many existing institutional uses. The 62 Maple site is connected to City sewer and water and has substantial parking for the various proposed clinical activities, the medical residency program, the childcare center, and associated support services. It is an ideal site and building for Cheshire Medical Center's expansion, which will benefit the region's healthcare.



Cheshire Medical Center
Dartmouth-Hitchcock

DATE: March 19, 2021

TO: City of Keene Zoning Board

FROM: Don Caruso, MD, CEO Cheshire Medical Center
Kathryn Willbarger, Chief Operating Officer, Cheshire Medical Center

SUBJECT: 62 Maple Avenue – Application for Special Exception

Cheshire Medical Center and Dartmouth-Hitchcock Health (Dartmouth) have a unique opportunity to acquire and put into operation a marvelous site that is about two miles from Cheshire Medical Center's main campus at 580 Court Street and only 1/10th of a mile from Route 12. The site, the former home of Liberty Mutual Insurance Company, is located in a neighborhood consisting of several existing institutional uses. This opportunity will ease overcrowding at the main campus and allow Cheshire Medical Center and Dartmouth to create new programs that will serve the growing health needs of the City and the region.

The immediate impetus for acquiring this property is the collaboration between Cheshire Medical Center and Dartmouth to create a Family Medicine Residency program located in Keene at 62 Maple Avenue. The goal of this residency program is to assist with primary care physician recruitment, which is critical to the sustainability of Cheshire Medical Center and Dartmouth. The aging population and workforce in New Hampshire has created a significant and growing demand for primary care physicians at the same time we are seeing a large number of physician retirements. New Hampshire has long struggled to maintain an adequate primary care workforce, particularly in its most rural communities, in significant part due to limited production of new primary care physicians and the significant aging of the current primary care workforce.

In order to attract new primary care physicians to the Keene area, it is important that we create residency training programs here. Nationally, it is well-documented that physicians are more likely to remain in practice in the state where they complete residency training, with 56% remaining within 100 miles of their training site. The literature has repeatedly reinforced that these learners are more likely to return to work in rural communities.

Nearly all primary care, and specifically family medical care, occurs at the local, community level. To best train family physicians, it is important that the bulk of training occur directly at the community level including hospital, outpatient, and community care. Exposure to high-quality diagnosis and care of commonly occurring medical problems (rather than predominantly tertiary and quaternary care exposures) are critical to developing the competencies of a Family Medicine

resident. It is critical to train family medicine doctors in the environment they are most likely to ultimately practice in, and that is in community-based hospitals.

Family medicine curriculums require developing knowledge of a community's resources, how to work within those resources, and how to grow those resources. Cheshire Medical Center has developed, over many years, a robust community and population health plan and program. Hence, the foundation is now in place for a Family Medicine Residency in Keene. In addition, Cheshire Medical Center has a long-standing connection to medical training. The Family Medicine Residency program will require the development of a Family Medicine Practice, including physical space for both clinical care and the educational requirements of the residency. The new residency at 62 Maple Avenue will be the home base for both a faculty practice and the clinical training practice for the residents.

The main campus on Court Street has space challenges that will make it difficult to meet the increasing health care needs of our aging community. Therefore, in addition to using 62 Maple Avenue for the Family Medicine Residency, Cheshire Medical Center will, in the very near future, begin to move several of the programs currently occupying the main campus to the Maple Avenue facility. These programs are hospital and clinic functions that currently operate at the Court Street campus. These programs may include physical and occupational therapy; pediatrics; administration offices; human resources; the education department; quality improvement and risk; the switchboard; and the day care center for clinic and hospital employees.¹

As the purchase of 62 Maple Avenue is contingent on zoning approval, plans for moving programs such as these will begin as soon as zoning approval is obtained and the property purchased. Moving these select programs to Maple Avenue will free up needed clinical space at 580 Court Street to expand existing services such as surgery, cardiology, pain clinic, urology, orthopedics, and many other outpatient services. In addition, this will allow for potential new services such as a spine center and vein/vascular center as well as Inpatient renovations/expansion. As part of Cheshire Medical Center's master strategic plan to serve the community over time, 62 Maple Avenue will provide the additional space needed. Without the additional space that 62 Maple Avenue provides, Cheshire Medical Center will be challenged to meet the needs of our aging community.

¹ Day care for employees is a use that is permitted by right by Section 102-662.



200 foot Abutters List Report

Keene, NH
March 19, 2021

Subject Property:

Parcel Number: 227-006-000
CAMA Number: 227-006-000-000-000
Property Address: 62 MAPLE AVE.

Mailing Address: 62 MAPLE AVE KEENE LLC
300 MAIN ST. 5TH FLOOR
STAMFORD, CT 06901-3032

Abutters:

Parcel Number: 227-003-000
CAMA Number: 227-003-000-000-000
Property Address: 0 SUMMIT RD.

Mailing Address: C&S WHOLESALE GROCERS INC
7 CORPORATE DR.
KEENE, NH 03431-5042

Parcel Number: 227-004-000
CAMA Number: 227-004-000-000-000
Property Address: 30-32 MAPLE AVE.

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-001
Property Address: 30 MAPLE AVE. #30-1

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-002
Property Address: 30 MAPLE AVE. #30-2

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-003
Property Address: 30 MAPLE AVE. #30-3

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-004
Property Address: 30 MAPLE AVE. #30-4

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-005
Property Address: 30 MAPLE AVE. #30-5

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-006
Property Address: 30 MAPLE AVE. #30-6

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-007
Property Address: 30 MAPLE AVE. #30-7

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-008
Property Address: 30 MAPLE AVE. #30-8

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851



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200 foot Abutters List Report

Keene, NH
March 19, 2021

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-009
Property Address: 30 MAPLE AVE. #30-9

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-010
Property Address: 30 MAPLE AVE. #30-10

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-011
Property Address: 30 MAPLE AVE. #30-11

Mailing Address: POURMAHMOODIAN HOSSEIN
1801 CHAPMAN AVE. APT. 282
ROCKVILLE, MD 20852

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-012
Property Address: 30 MAPLE AVE. #30-12

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-013
Property Address: 30 MAPLE AVE. #30-13

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-014
Property Address: 30 MAPLE AVE. #30-14

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-015
Property Address: 30 MAPLE AVE. #30-15

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-016
Property Address: 30 MAPLE AVE. #30-16

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-017
Property Address: 30 MAPLE AVE. #30-17

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-018
Property Address: 30 MAPLE AVE. #30-18

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-019
Property Address: 30 MAPLE AVE. #30-19

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-020
Property Address: 30 MAPLE AVE. #30-20

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851



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200 foot Abutters List Report

Keene, NH
March 19, 2021

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-021
Property Address: 30 MAPLE AVE. #30-21

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-022
Property Address: 30 MAPLE AVE. #30-22

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-023
Property Address: 30 MAPLE AVE. #30-23

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-001-024
Property Address: 30 MAPLE AVE. #30-24

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-025
Property Address: 32 MAPLE AVE. #32-1

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-026
Property Address: 32 MAPLE AVE. #32-2

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-027
Property Address: 32 MAPLE AVE. #32-3

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-028
Property Address: 32 MAPLE AVE. #32-4

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-029
Property Address: 32 MAPLE AVE. #32-5

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-030
Property Address: 32 MAPLE AVE. #32-6

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-031
Property Address: 32 MAPLE AVE. #32-7

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-032
Property Address: 32 MAPLE AVE. #32-8

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851



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200 foot Abutters List Report

Keene, NH
March 19, 2021

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-033
Property Address: 32 MAPLE AVE. #32-9

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-034
Property Address: 32 MAPLE AVE. #32-10

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-035
Property Address: 32 MAPLE AVE. #32-11

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-036
Property Address: 32 MAPLE AVE. #32-12

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-037
Property Address: 32 MAPLE AVE. #32-13

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-038
Property Address: 32 MAPLE AVE. #32-14

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-039
Property Address: 32 MAPLE AVE. #32-15

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-040
Property Address: 32 MAPLE AVE. #32-16

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-041
Property Address: 32 MAPLE AVE. #32-17

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-042
Property Address: 32 MAPLE AVE. #32-18

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-043
Property Address: 32 MAPLE AVE. #32-19

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-044
Property Address: 32 MAPLE AVE. #32-20

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851



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200 foot Abutters List Report

Keene, NH
March 19, 2021

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-045
Property Address: 32 MAPLE AVE. #32-21

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-046
Property Address: 32 MAPLE AVE. #32-22

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-047
Property Address: 32 MAPLE AVE. #32-23

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-004-000
CAMA Number: 227-004-000-002-048
Property Address: 32 MAPLE AVE. #32-24

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-005-000
CAMA Number: 227-005-000-000-000
Property Address: 44 MAPLE AVE.

Mailing Address: CHESHIRE FAMILY FUNERAL HOME INC

PO BOX 19
WEST SWANZEY, NH 03469

Parcel Number: 227-007-000
CAMA Number: 227-007-000-000-000
Property Address: 84 MAPLE AVE.

Mailing Address: JOHNDOW, THOMAS ALAN JOHNDROW,
KATHRYN M.
84 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-008-000
CAMA Number: 227-008-000-000-000
Property Address: 90 MAPLE AVE.

Mailing Address: WHORFE FRANK WHORFE TAMMY
90 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-009-000
CAMA Number: 227-009-000-000-000
Property Address: 100 MAPLE AVE.

Mailing Address: TRINITY LUTHERAN CHURCH
100 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-010-000
CAMA Number: 227-010-000-000-000
Property Address: 150 MAPLE AVE.

Mailing Address: BIGELOW ALBERTA B.
150 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-011-000
CAMA Number: 227-011-000-000-000
Property Address: 447 PAKO AVE.

Mailing Address: BURKE MICHAEL A. BURKE REBECCA L.
447 PAKO AVE.
KEENE, NH 03431

Parcel Number: 227-012-000
CAMA Number: 227-012-000-000-000
Property Address: 445 PAKO AVE.

Mailing Address: MIZEL, MARK S.
445 PAKO AVE.
KEENE, NH 03431

Parcel Number: 227-013-000
CAMA Number: 227-013-000-000-000
Property Address: 433 PAKO AVE.

Mailing Address: ROBINSON, KAREN L. ROBINSON, JAY
M.
433 PAKO AVE.
KEENE, NH 03431-5030



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200 foot Abutters List Report

Keene, NH
March 19, 2021

Parcel Number: 227-017-000
CAMA Number: 227-017-000-000-000
Property Address: 105 MAPLE AVE.

Mailing Address: 1ST BAPTIST CHURCH OF KEENE
105 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-017-000
CAMA Number: 227-017-000-001-000
Property Address: 105REAR MAPLE AVE.

Mailing Address: 1ST BAPTIST CHURCH OF KEENE
105 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-017-000
CAMA Number: 227-017-000-001-001
Property Address: 105REAR MAPLE AVE.

Mailing Address: US CELLULAR
PO BOX 2629
ADDISON, TX 75001

Parcel Number: 227-017-000
CAMA Number: 227-017-000-002-001
Property Address: 105REAR MAPLE AVE.

Mailing Address: AT&T
1010 PINE 9E-L-01
ST. LOUIS, MO 63101

Parcel Number: 227-017-000
CAMA Number: 227-017-000-003-001
Property Address: 105REAR MAPLE AVE.

Mailing Address: VERIZON WIRELESS
PO BOX 2549
ADDISON, TX 75001

Parcel Number: 227-018-000
CAMA Number: 227-018-000-000-000
Property Address: 91 MAPLE AVE.

Mailing Address: CEDARCREST INC
91 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-019-000
CAMA Number: 227-019-000-000-000
Property Address: 79 MAPLE AVE.

Mailing Address: CEDARCREST INC.
91 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-020-000
CAMA Number: 227-020-000-000-000
Property Address: 71 MAPLE AVE.

Mailing Address: CEDARCREST FOUNDATION INC
91 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-021-000
CAMA Number: 227-021-000-000-000
Property Address: 63 MAPLE AVE.

Mailing Address: CEDARCREST INC.
91 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-022-000
CAMA Number: 227-022-000-000-000
Property Address: 59 MAPLE AVE.

Mailing Address: PARKWOOD REALTY TRUST
681 PARK AVE.
KEENE, NH 03431

Parcel Number: 227-023-000
CAMA Number: 227-023-000-000-000
Property Address: 57 MAPLE AVE.

Mailing Address: KEENE CHURCH OF THE NAZARENE
55 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-024-000
CAMA Number: 227-024-000-000-000
Property Address: 55 MAPLE AVE.

Mailing Address: KEENE CHURCH OF THE NAZARENE
55 MAPLE AVE.
KEENE, NH 03431



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200 foot Abutters List Report

Keene, NH
March 19, 2021

Parcel Number: 227-025-000
CAMA Number: 227-025-000-000-000
Property Address: 51 PARK AVE.

Mailing Address: NORTHERN NEW ENGLAND
TELEPHONE OPERATION
770 ELM ST.
MANCHESTER, NH 03101

Parcel Number: 227-026-000
CAMA Number: 227-026-000-000-000
Property Address: 631 PARK AVE.

Mailing Address: PPJ LTD. PARTNERSHIP
681 PARK AVE.
KEENE, NH 03431

Parcel Number: 513-001-000
CAMA Number: 513-001-000-000-000
Property Address: 0OFF ROUTE 12

Mailing Address: 62 MAPLE AVE KEENE LLC
300 MAIN ST. 5TH FLOOR
STAMFORD, CT 06901-3032

Parcel Number: 513-002-000
CAMA Number: 513-002-000-000-000
Property Address: 0off ROUTE 12

Mailing Address: 62 MAPLE AVE KEENE LLC
300 MAIN ST. 5TH FLOOR
STAMFORD, CT 06901-3032

Parcel Number: 513-003-000
CAMA Number: 513-003-000-000-000
Property Address: 417 PAKO AVE.

Mailing Address: JOHNSEN GLADYS I.
417 PAKO AVE.
KEENE, NH 03431

Parcel Number: 513-004-000
CAMA Number: 513-004-000-000-000
Property Address: 409 PAKO AVE.

Mailing Address: CURTISS ROBERT C. CURTISS
KATHLEEN M.
409 PAKO AVE.
KEENE, NH 03431

Parcel Number: 513-005-000
CAMA Number: 513-005-000-000-000
Property Address: 401 PAKO AVE.

Mailing Address: PHILLIPS BRIAN A. PHILLIPS EILEEN M.
401 PAKO AVE.
KEENE, NH 03431



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64 BEAVER ST. ZBA 21-10



Petitioner requests a Variance for property located at 64 Beaver St. to permit a two dwelling unit with 12,200 sq. ft. lot where 13,400 sq. ft. is required per Section 102-791 of the Zoning Ordinance.



NOTICE OF HEARING

ZBA 21-10

A meeting of the Zoning Board of Adjustment will be held on Monday, April 5, 2021 at 6:30 PM to consider the petition of Monadnock Peer Support Agency of Keene, requests a Variance for property located at 64 Beaver St. Due to the COVID-19 State of Emergency, this meeting will be held using the web-based platform, Zoom. The public may access/view the meeting online by visiting www.zoom.us/join or may listen to the meeting by calling (888) 475-4499. The Meeting ID is 839 9261 2795. To notify the public body of any access issues, call (603) 209-4697. More information is available at the City's Zoning Board of Adjustment webpage at www.ci.keene.nh.us/zoning-board-adjustment and on the enclosed document.

ZBA 21-09: The Petitioner, represented by Carol Slocum of The Masiello Group, requests a Variance for property located at 64 Beaver St., Tax Map# 553-035-000; that is in the Medium District. The Petitioner requests a Variance to permit a two dwelling unit with a 12,200 sq. ft. lot where 13,400 sq. ft. is required per Section 102-791 of the Zoning Ordinance.

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 by appointment only or online at <https://ci.keene.nh.us/zoning-board-adjustment>. Please call (603) 352-5440 to make an appointment or to speak with a staff person.

Corinne Marcou, Zoning Clerk
Notice issuance date March 25, 2021

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. _____
Date Filed _____
Received By _____
Page _____ of _____
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) Monadnock Peer Support Agency Phone: 603-352-5093
Address Attn: Christine Allen, PO Box 258, Keene, NH 03431
Name(s) of Owner(s) Monadnock Peer Support Agency
Address Attn: Christine Allen, PO Box 258, Keene, NH 03431
Location of Property 64 Beaver Street, Keene, NH 03431

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 553-035-000 Zoning District MD
Lot Dimensions: Front 60.39 Rear 59.32 Side 206 Side 194.97
Lot Area: Acres .28 Square Feet 12,196
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 16% Proposed _____
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing _____ Proposed _____
Present Use Charitable Building, Office Building, Commercial
Proposed Use Two Family Residential

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.

Christine Allen Date 3/19/21
(Signature of Owner or Authorized Agent)

Please Print Name Christine Allen, Interim Executive Director

PROPERTY ADDRESS 64 Beaver Street, Keene, NH 03431

APPLICATION FOR A VARIANCE

- A Variance is requested from Section (s) 102-791 of the Zoning Ordinance to permit:
Current Charitable bldg to be changed to a 2 family residence. Need 8000 SF for first dwelling unit, then 5400 SF for add'l unit totals 13,400 SF. Current lot has 12,200 SF

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:

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

See attached

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

See attached

3. Granting the variance would do substantial justice because:

See attached

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

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:

See attached

and

ii. The proposed use is a reasonable one because:

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.

See attached

Property Address: 64 Beaver Street, Keene, NH 03431

Application for Variance Section 102-791

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

We are requesting a variance to transition from the current office use, which is not permitted in the Medium Density (MD) District, to a 2-family residential use. The 2-family residential use is more in keeping with the current residential nature of the neighborhood.

A property in the MD District requires 8000 SF for the first unit plus 5400 SF for the second unit for a total of 13,400 SF. The 64 Beaver Street lot has 12,196 SF. Therefore, a variance is needed for the second unit. Our request for a variance is not contrary to the public interest because the property was previously used as a 2-family residence prior to office use of Monadnock Peer Support Agency. By granting this variance we would make the property more conforming as a residential use in the MD District. The structure as currently configured retains the features of a 2-family residence which it had prior to the current use. There are 2 separate electric services. Each floor has a kitchen, full bath, living room, and bedrooms. Each unit has its own entrance and two egresses.

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

The intent of MD District is to provide for a medium density/medium intensity residential area. Granting the variance would permit this property to convert to a 2-family residence which is in keeping with the spirit of the ordinance.

3. Granting the variance would do substantial justice because:

Converting this property back to a 2-family residential use is a benefit to the property owner and the neighborhood as the property will become more conforming with the neighborhood. Granting the variance would not have a negative impact on the residential nature of the neighborhood. Converting the property back to a 2 family would actually improve the neighborhood with less traffic coming and going from the property.

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

The property would become more conforming with surrounding properties; therefore, the property values of surrounding properties would not be diminished.

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:

Because the building was previously used as a 2-family residence which is more conforming to the MD District than the current use of the building as office space. The 2 family residential features have been retained. To require a conversion back to a one family would be unreasonable.

AND

ii. The proposed use is a reasonable one because:

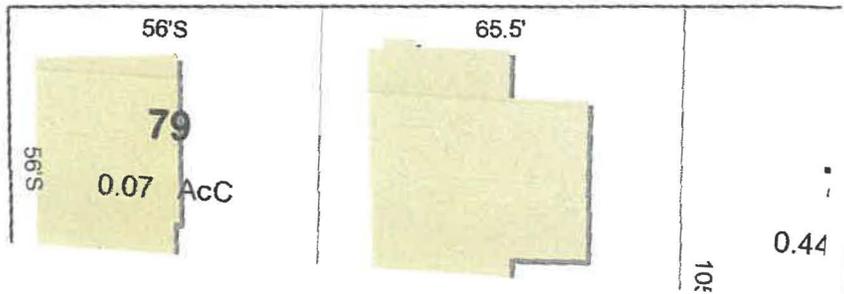
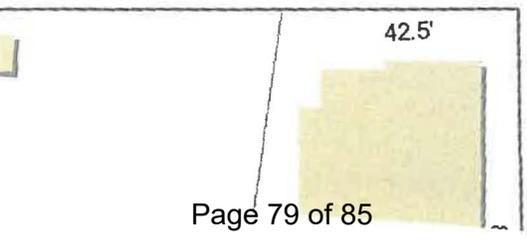
64 Beaver Street was previously a 2-family residence. The features of the 2-family residence have been retained and the lot is similar in size to other multi-family properties in the area. Approximately half of the 200 foot abutters are multi-family residences which are on similar or smaller lots. The property abutting 64 Beaver Street to the east is a 2-family residence on .29 acre (58 Beaver Street). The property abutting to the west is a 4 family residence located on a much smaller lot of .13 (70 Beaver Street). The intent of MD District is to provide for a medium density/medium intensity residential area. Granting the variance would permit this property to convert to a 2-family residence which is in keeping with the spirit of the ordinance.

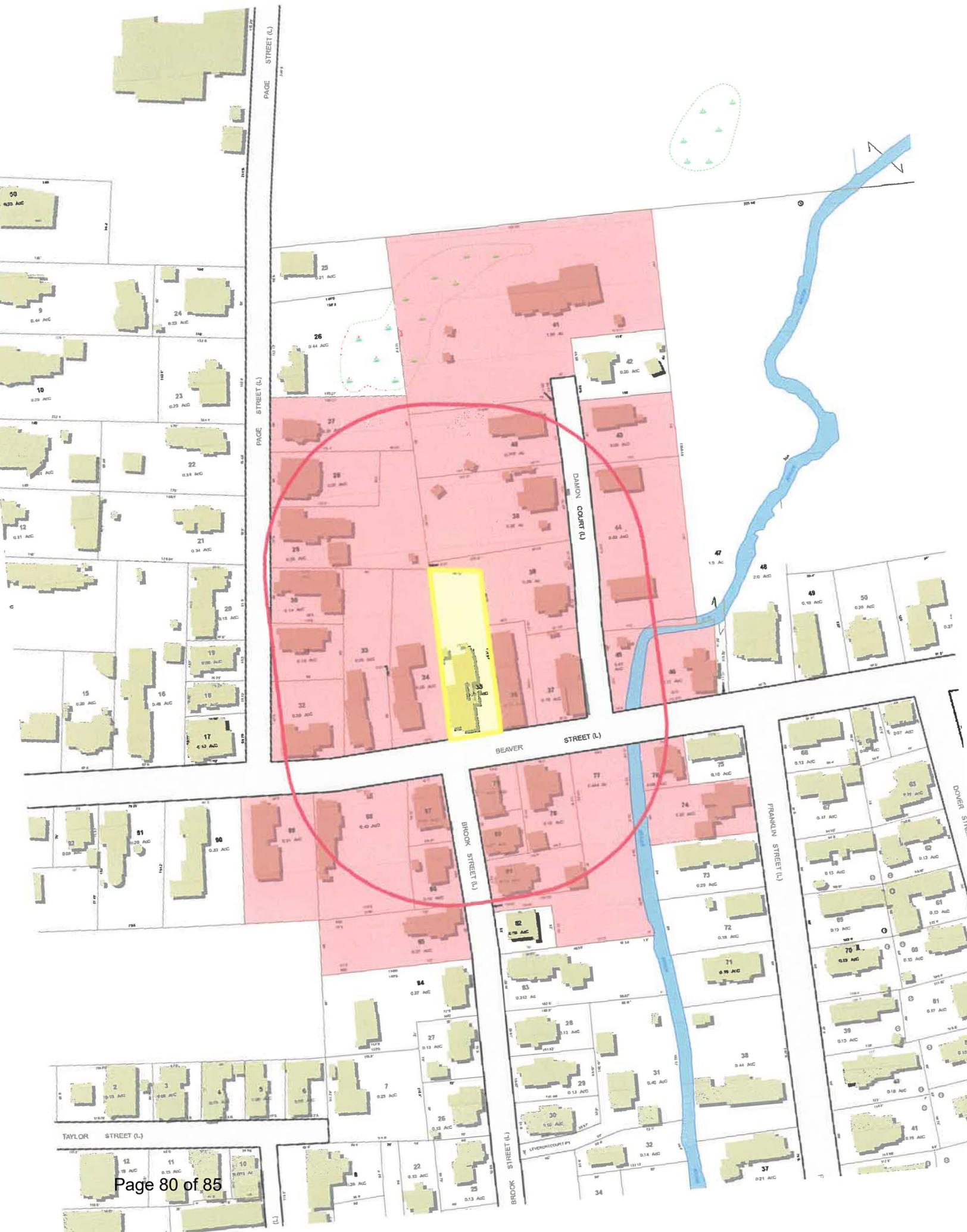
B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with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

It would be an unnecessary hardship to require this building to be converted to single family usage because all of the features of a 2-family residence have been retained in this property. Separate utilities, kitchens, bathrooms, living rooms, and bedrooms. Plus separate entrances and appropriate egresses.



BEAVER STREET







200 foot Abutters List Report

Keene, NH
March 19, 2021

Subject Property:

Parcel Number: 553-035-000
CAMA Number: 553-035-000-000-000
Property Address: 64 BEAVER ST.

Mailing Address: MONADNOCK AREA PEER SUPPORT
AGENCY
PO BOX 258
KEENE, NH 03431

Abutters:

Parcel Number: 553-027-000
CAMA Number: 553-027-000-000-000
Property Address: 39 PAGE ST.

Mailing Address: BARRETT DUFFY REV. TRUST
39 PAGE ST.
KEENE, NH 03431

Parcel Number: 553-028-000
CAMA Number: 553-028-000-000-000
Property Address: 33 PAGE ST.

Mailing Address: DRAGON, DENISE M.
33 PAGE ST.
KEENE, NH 03431

Parcel Number: 553-029-000
CAMA Number: 553-029-000-000-000
Property Address: 29 PAGE ST.

Mailing Address: BARRETT DUFFY REV. TRUST
39 PAGE ST.
KEENE, NH 03431

Parcel Number: 553-030-000
CAMA Number: 553-030-000-000-000
Property Address: 21 PAGE ST.

Mailing Address: KEELER TIMOTHY R.
21 PAGE ST.
KEENE, NH 03431

Parcel Number: 553-031-000
CAMA Number: 553-031-000-000-000
Property Address: 15 PAGE ST.

Mailing Address: TEMPLE, SAMUEL S. LOVE, BRIDGET K.
15 PAGE ST.
KEENE, NH 03431

Parcel Number: 553-032-000
CAMA Number: 553-032-000-000-000
Property Address: 42 BEAVER ST.

Mailing Address: TAYLOR, ALI
42 BEAVER ST.
KEENE, NH 03431

Parcel Number: 553-033-000
CAMA Number: 553-033-000-000-000
Property Address: 52 BEAVER ST.

Mailing Address: WEINREICH ROGER T. WEINREICH
MADELEINE
110 MAIN ST.
KEENE, NH 03431

Parcel Number: 553-034-000
CAMA Number: 553-034-000-000-000
Property Address: 58 BEAVER ST.

Mailing Address: PROPERTY OF THE SURVIVING
SPOUSE TRUST CREDIT TRUST
45 BEAVER ST.
KEENE, NH 03431

Parcel Number: 553-036-000
CAMA Number: 553-036-000-000-000
Property Address: 70 BEAVER ST.

Mailing Address: 70 BEAVER ST LLC
143 MAIN ST.
KEENE, NH 03431

Parcel Number: 553-037-000
CAMA Number: 553-037-000-000-000
Property Address: 76 BEAVER ST.

Mailing Address: Contact Town For Info



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200 foot Abutters List Report

Keene, NH
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Parcel Number: 553-038-000
CAMA Number: 553-038-000-000-000
Property Address: 16 DAMON CT.

Mailing Address: BAIRD ANDREW L.
16 DAMON CT.
KEENE, NH 03431

Parcel Number: 553-039-000
CAMA Number: 553-039-000-000-000
Property Address: 28 DAMON CT.

Mailing Address: WEED CHARLES F. & APRIL T. FAMILY
REV. TRUST
28 DAMON CT.
KEENE, NH 03431

Parcel Number: 553-040-000
CAMA Number: 553-040-000-000-000
Property Address: 36 DAMON CT.

Mailing Address: GONCALVES TONY S.
PO BOX 252
KEENE, NH 03431

Parcel Number: 553-041-000
CAMA Number: 553-041-000-000-000
Property Address: 45 DAMON CT.

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

Parcel Number: 553-043-000
CAMA Number: 553-043-000-000-000
Property Address: 35 DAMON CT.

Mailing Address: RAITTO, BRANDON A.
35 DAMON CT.
KEENE, NH 03431

Parcel Number: 553-044-000
CAMA Number: 553-044-000-000-000
Property Address: 15-27 DAMON CT.

Mailing Address: TOUSLEY FAMILY REV. TRUST
184 TALBOT HILL RD.
SWANZEY, NH 03446

Parcel Number: 553-045-000
CAMA Number: 553-045-000-000-000
Property Address: 0 DAMON CT.

Mailing Address: Contact Town For Info
,

Parcel Number: 553-046-000
CAMA Number: 553-046-000-000-000
Property Address: 92 BEAVER ST.

Mailing Address: LOWE CHRISTOPHER
PO BOX 271
HINSDALE, NH 03451

Parcel Number: 553-074-000
CAMA Number: 553-074-000-000-000
Property Address: 86 FRANKLIN ST.

Mailing Address: JEAN LIONEL G. JR. JEAN SALLY M.
577 WEST ST.
KEENE, NH 03431-2809

Parcel Number: 553-076-000
CAMA Number: 553-076-000-000-000
Property Address: 87 BEAVER ST.

Mailing Address: SANTONASTASO, MARIA VICTORIA
SANTONASTASO, MATTHEW JOHN
343 US ROUTE 202
RINDGE, NH 03461-7109

Parcel Number: 553-077-000
CAMA Number: 553-077-000-000-000
Property Address: 81 BEAVER ST.

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

Parcel Number: 553-078-000
CAMA Number: 553-078-000-000-000
Property Address: 69 BEAVER ST.

Mailing Address: ROELOFS JOAN
69 BEAVER ST.
KEENE, NH 03431



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200 foot Abutters List Report

Keene, NH
March 19, 2021

Parcel Number: 553-079-000
CAMA Number: 553-079-000-000-000
Property Address: 63 BEAVER ST.

Mailing Address: ROBERTSON W. HOWARD
63 BEAVER ST.
KEENE, NH 03431

Parcel Number: 553-080-000
CAMA Number: 553-080-000-000-000
Property Address: 55 BROOK ST.

Mailing Address: ROGERS EDGAR C. JR. ROGERS
ROSEMARY A.
55 BROOK ST.
KEENE, NH 03431

Parcel Number: 553-081-000
CAMA Number: 553-081-000-000-000
Property Address: 51 BROOK ST.

Mailing Address: TEAGUE, IAN T. TEAGUE, KRISTINA M.
51 BROOK ST.
KEENE, NH 03431

Parcel Number: 553-085-000
CAMA Number: 553-085-000-000-000
Property Address: 46 BROOK ST.

Mailing Address: SHJ PROPERTIES LLC
216 UPPER TROY RD.
FITZWILLIAM, NH 03447

Parcel Number: 553-086-000
CAMA Number: 553-086-000-000-000
Property Address: 54 BROOK ST.

Mailing Address: POLING SUELAIN M. MYRICK BRUCE
H.
54 BROOK ST.
KEENE, NH 03431

Parcel Number: 553-087-000
CAMA Number: 553-087-000-000-000
Property Address: 55 BEAVER ST.

Mailing Address: JEAN ALLEN APARTMENTS LLC
55 BEAVER ST. #2
KEENE, NH 03431-3490

Parcel Number: 553-088-000
CAMA Number: 553-088-000-000-000
Property Address: 45 BEAVER ST.

Mailing Address: COLLETT JANET I.
45 BEAVER ST.
KEENE, NH 03431

Parcel Number: 553-089-000
CAMA Number: 553-089-000-000-000
Property Address: 37-39 BEAVER ST.

Mailing Address: BEAVER CAROL A.
37 BEAVER ST.
KEENE, NH 03431



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3/19/2021

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Abutters List Report - Keene, NH

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(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 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)~~ **Sixty Two Dollars (\$62.00) 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