



## City of Keene Zoning Board of Adjustment

### AGENDA

**Monday, April 3, 2023**

**6:30 p.m. City Hall, 2<sup>nd</sup> Floor Council Chambers**

- I. Introduction of Board Members:
- II. Minutes of the Previous Meeting: November 7, 2022 & March 6, 2023
- III. Unfinished Business:
- IV. Hearings:

**Continued ZBA 23-03:** Petitioner, Samson Associates, LLC, and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 32 Optical Ave., Tax Map #113-006-000-000-000 and is in the Industrial Park District. The Petitioner requests to permit self-storage units on a lot in the Industrial Park District where self-storage units are not listed as a permitted use per Chapter 100, Article 6.3.5 of the Zoning Regulations.

**Continued ZBA 23-04:** Petitioner, Samson Associates, LLC, and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 32 Optical Ave., Tax Map #113-006-000-000-000 and is in the Industrial Park District. The Petitioner requests to permit a vehicle fueling station on a lot in the Industrial District where vehicle fueling station is not a permitted use per Chapter 100, Article 6.3.5 of the Zoning Regulations.

**ZBA 23-09:** Petitioners, Jeffrey William Tighe-Conway and Matthew Conway and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 8 Page St., Tax Map #553-018-000-000-000, is in the Medium Density District. The Petitioner requests a building with two dwelling units to have three parking spaces where four parking spaces (2 spaces per dwelling unit) are required per Chapter 100, Article 9.2, Table 9-1, Minimum On-site Parking Requirements of the Zoning Regulations.

**ZBA 23-10:** Petitioner, Lehen Industries of Keene, represented by Jim Phippard of Brickstone Land Use Consultants, LLC., requests a Special Exception for property located at 809 Court St., Tax Map #219-005-000-000-000, is in the Commerce District and is owned by Hillsborough Capital, LLC of Keene, NH. The Petitioner requests to permit light industrial use in the Commerce District per Chapter 100, Article 5.1.5 of the Zoning Regulations.

**ZBA 23-11:** Petitioner, Keene Meadow Solar Station, LLC, of Boston MA, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of Manchester NH, requests a Variance for property located at 0 Old Gilsum Rd., Tax Map #214-001-000-000-000, is in the Rural District and is owned by D-L-C Spofford, LLC of Stuart, FL. The Petitioner requests to permit a 30 acre large scale ground mounted solar energy system where 20 acres is allowed per Chapter 100, Article 8.3.7.C.2.b of the Zoning Regulations.

**ZBA 23-12:** Petitioner, Keene Meadow Solar Station, LLC, of Boston MA, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of Manchester NH, requests a Variance for property located at 0 Old Gilsum Rd., Tax Map #213-006-000-000-000, is in the Rural District and is owned by Platts Lot, LLC of West Swanzey, NH. The Petitioner requests to permit a 135 acre large scale ground mounted solar energy system where 20 acres is allowed per Chapter 100, Article 8.3.7.C.2.b of the Zoning Regulations.

**ZBA 23-13:** Petitioner, Carlisle Park Avenue, LLC, of Keene, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of Manchester NH, requests a Variance for property located at 800 Park Ave., Tax Map #227-002-000-000-000, is in the Commerce District. The Petitioner requests a parking area within eight feet and ten feet of the proposed property line per Chapter 100, Article 9.4, Table 9-2 of the Zoning Regulations.

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

Page intentionally left blank

1 City of Keene  
2 New Hampshire

3  
4  
5 ZONING BOARD OF ADJUSTMENT  
6 MEETING MINUTES  
7

8 **Monday, November 7, 2022**

**6:30 PM**

**Council Chambers  
City Hall**

**Members Present:**

Joshua Gorman, Chair  
Joseph Hoppock, Vice Chair  
Richard Clough

**Staff Present:**

John Rogers, Zoning Administrator  
Corinne Marcou, Zoning Clerk  
Michael Hagan, Plans Examiner

**Members Not Present:**

Jane Taylor  
Michael Welsh

9  
10  
11 **I) Introduction to Board Members**

12  
13 Chair Gorman called the meeting to order at 6:30 PM and explained the procedures of the  
14 meeting.  
15

16 **II) Minutes of the Previous Meeting: September 19 and October 3, 2022**

17  
18 Mr. Hoppock made a motion to approve the meeting minutes of September 19 and October 3,  
19 2022. Mr. Clough seconded the motion, which passed by unanimous vote.  
20

21 **III) Unfinished Business**

22  
23 **IV) Hearings**

24  
25 **A) Continued ZBA 22-13: Petitioners, Brian & Amalia Harmon, requests a**  
26 **Variance for property located at 27-29 Center St., Tax Map #568-016-000-000**  
27 **that is in the Downtown Transition District. The Petitioners requests a Variance to**  
28 **permit a multi-family dwelling with three units on a lot with 3,049 sq. ft. where**  
29 **18,800 sq. ft. is required, per Chapter 100, Article 4.6.1 of the Zoning Regulations**

30  
31 Chair Gorman introduced ZBA 22-13 and asked to hear from staff.

32 John Rogers, Zoning Administrator, read from the meeting minutes of the August 15, 2022 ZBA  
33 meeting:

34 *“Mr. Hagan stated that 27-29 Center St. is located in the Downtown Transition District. He*  
35 *continued that it is a brick building, built in 1920. It currently sits on 3,049 square feet where, if*  
36 *this Variance were granted, it would be required 18,800 square feet for a three unit building.*  
37 *This property received a Variance on September 7, 2021 to convert from an office building to a*  
38 *two-unit dwelling. In addition, four parking spaces were required, and a Variance was granted*  
39 *for three.*

40 *Mr. Welsh stated that the application before the Board is for the addition of another unit. He*  
41 *continued that they considered parking last time and asked if the Board should consider the*  
42 *addition of parking this time.*

43  
44 *Mr. Rogers replied that staff spoke with the Applicant, who will be presenting the Board with a*  
45 *different alternative that is allowed under the Zoning Code. He continued that a section of the*  
46 *Zoning Code speaks to the ability to provide the required off-street parking as ‘remote parking,’*  
47 *meeting the parking requirements by leasing off-site spaces somewhere within 1000 feet of where*  
48 *the required parking is needed. He will let the Applicant speak to that, but he believes their*  
49 *intent is to seek the additional parking spaces that would be required if this dwelling unit were*  
50 *granted through that ‘remote parking’ section of the Zoning Code.*

51  
52 *Chair Gorman asked, for clarity, if it is correct that with the Variance the Board approved, the*  
53 *Applicant had two and a half spaces. Mr. Rogers replied that he believes that what they*  
54 *presented at the previous Variance request was that they had three and something spaces. The*  
55 *Variance that was granted, was for the one parking space that was lacking, because with that*  
56 *granted Variance was for the two dwelling units, which would require four spaces. With this*  
57 *new request, would require two more spaces, and again, they are proposing to provide it*  
58 *through the remote parking section of the Zoning Code. Chair Gorman replied that it would be*  
59 *imperative for the Board to focus on these two, because they have already granted a Variance*  
60 *for the existing fourth one. Mr. Rogers replied that that would be his recommendation.*  
61 *Certainly if this Variance were to be approved, they could condition that approval on the*  
62 *Applicant meeting the parking demand for that third unit.*

63  
64 *Chair Gorman asked if there were any more questions for staff. Hearing none, he asked to hear*  
65 *from the Applicant.*

66  
67 *Brian Harmon and Amalia Harmon, of 184 Colby Road, Danville, introduced themselves. Mr.*  
68 *Harmon stated that he and Mrs. Harmon do understand, and they have two options for parking,*  
69 *but they do not have leases. He continued that they have not selected either of the two options,*  
70 *because they did not know where this Variance request would take them. Not having any*  
71 *previous knowledge of how best to prepare for the meeting, they did seek two particular areas*  
72 *for potential parking. They do not have those leases in hand. They would like time, if that were*  
73 *what the Board needs, to produce these leases or submit them somehow.*

74 *Mr. Rogers stated that just so the Board is aware, there is a whole process laid out in the Zoning*  
75 *Code for this parking lease agreement. He continued that there is an approval process that runs*  
76 *through the Community Development Department and ultimately is approved by the City*  
77 *Manager, if the Harmons are going to go with the remote parking.*

78  
79 *Chair Gorman stated that he would like to ask the Board if they are comfortable moving forward*  
80 *with the application without a lease in hand, but perhaps making that a contingency, should they*  
81 *see fit to approve the application otherwise.*

82  
83 *Ms. Taylor stated that if this moves forward, she thinks it would be appropriate to have that as a*  
84 *condition. Chair Gorman agreed. Mr. Hoppock agreed.*

85  
86 *Chair Gorman asked the Harmons if they are prepared to continue. He continued that the Board*  
87 *would be happy to continue this application to the next scheduled meeting, if they want to make*  
88 *further preparations. Mr. Harmon replied that he thinks they would like the opportunity to*  
89 *postpone this to the next meeting if possible. Chair Gorman replied that he is comfortable with*  
90 *that but cannot speak for the entire Board. He continued that they would have to make a motion.*

91  
92 *Ms. Taylor made a motion to move consideration of ZBA 22-13 to be considered further at the*  
93 *September meeting of the Zoning Board of Adjustment, at the Applicant's request. Mr. Hoppock*  
94 *seconded the motion."*

95  
96 *Mr. Rogers stated that at that point, a member of the public spoke, and that person is here tonight*  
97 *to give his thoughts. He continued that moving forward in the meeting minutes, another abutter,*  
98 *who was not able to be here tonight, spoke. He read from the minutes:*

99  
100 *"Frank DePippo, of Blue Spruce Ocean Holdings, stated that he owns the property next door at*  
101 *33 Center St. and has for many years. He continued that never has anyone removed his fence.*  
102 *The Board was given a photograph showing the potential parking, and he is very uncomfortable*  
103 *with it. The photo shows his fence in place. Mr. DePippo continued to share his opinions about*  
104 *the building, the parking, and the application. Chair Gorman stated that he is not comfortable*  
105 *allowing Mr. DePippo to continue in such depth, given that the Board has not yet heard from the*  
106 *Applicant. He continued that if the Board were going to continue this hearing, they would love*  
107 *to hear all of Mr. DePippo's input at the next hearing. He hears that Mr. DePippo is dissatisfied*  
108 *with a decision the Board has already made regarding a previous Variance, but that has been*  
109 *done, and they are moving on to this hearing. If they move this hearing to next month, he urges*  
110 *Mr. DePippo to come to speak, or write a letter to the Board. They did not know the application*  
111 *would be proposed for continuance, but it is an attempt to be fair to everyone, including Mr.*  
112 *DePippo.*

113  
114 *Mr. DePippo replied that he at least wants to submit a photograph he brought. Chair Gorman*  
115 *replied that he could submit it to City staff. Mr. DePippo continued to speak about his fence,*

116 *and Chair Gorman stated that the topic is not the Board's purview and he encourages Mr.*  
117 *DePippo to reach out to the appropriate City staff members instead.*

118  
119 *Chair Gorman called for a vote on the motion to continue ZBA 22-13 to the September 6, 2022*  
120 *meeting. The motion passed unanimously."*

121  
122 Chair Gorman thanked Mr. Rogers and asked if the Board had any questions.

123  
124 Mr. Hoppock asked if the Variance is for the square footage, not for the parking. Mr. Rogers  
125 replied that is correct; his understanding is that the applicants were going to try to meet the  
126 parking requirements in a different way, with remote parking.

127  
128 Chair Gorman asked if there were more questions. Hearing none, he asked to hear from the  
129 applicants.

130  
131 Brian and Amalia Harmon, of 184 Colby Rd., Danville, NH, introduced themselves. Mr.  
132 Harmon stated that they are here regarding 27-29 Center St. He continued that the last time they  
133 talked to the Board; they were in transition to get remote parking spaces, to meet the  
134 requirements to hopefully get the third unit approved. They did this; two parking spaces are  
135 required within 1,000 feet. They are happy to have done it as well, and take the parking burden  
136 away from that street.

137  
138 Chair Gorman asked if it is correct that the remote parking exempts this application from having  
139 the (Board) involved with parking, which would be handled by City staff. Mr. Rogers replied  
140 yes, the Zoning Code has a process with additional steps for the applicants to go through  
141 regarding remote parking, if this Variance were granted by the Board. Chair Gorman replied that  
142 the Board would then focus on the five criteria regarding inadequate lot size.

143  
144 Chair Gorman asked if the applicants wanted to go through the five criteria.

145  
146 Amalia Harmon stated that they are seeking to add a unit to the 27-29 Center St. property, which  
147 she and Mr. Harmon have owned since last March, with construction began in May. There has  
148 been an increase in construction materials costs and a decrease in the construction workforce.  
149 The property needed more work than she and Mr. Harmon had anticipated. The request is to  
150 apply the new grant program that Governor Sununu just launched, Invest NH. The program is  
151 specifically for projects with three or more units. There is plenty of room for a third unit.  
152 Governor Sununu wants to expand and accelerate housing and construction by incentivizing it  
153 with such grants, to alleviate the housing shortage. The program is for three units but she and  
154 Mr. Harmon have two, which is why they are asking for the third.

155  
156 Chair Gorman asked the Harmons to begin with the first criteria and give the Board some  
157 background as to why granting the Variance would not be contrary to the public interest. He

158 continued that what Ms. Harmon just went through was the background of their request and why  
159 they are applying for the Variance.

160

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

162

163 Mr. Harmon stated that Keene is experiencing a housing shortage/crisis, and granting this  
164 Variance would allow three dwelling units to provide much needed affordable housing. He  
165 continued that the essential character of the neighborhood would not be altered. There are  
166 residential units in the area and a few multi-family units as well.

167

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

169

170 Mr. Harmon stated that the proposed change, the addition of a unit, is necessary to continue the  
171 construction on the property. He continued that inflation has impacted his and Ms. Harmon's  
172 ability to (continue). It is difficult to keep going because everything is so expensive. He cannot  
173 find any qualified construction people to hire. In order to accelerate completion, the grant is  
174 needed, and the grant requires three units for application submittal to the Invest NH Housing  
175 Fund. This uses federal American Rescue Act dollars for one of the state's most critical needs,  
176 more workforce housing to help support businesses in need of more workers. Cheshire Hospital  
177 is in need, which is close. The property is close to everything, which is why he and Ms. Harmon  
178 love the building and location so much. It has a lot to offer, for many people. The third unit  
179 would bring costs down so someone could work and have money to be saved, instead of having  
180 it all go to a high mortgage.

181

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

183

184 Mr. Harmon stated that it would supply Keene with three more living units to house much-  
185 needed workforce. He continued that Governor Sununu predicts that the money will go a long  
186 way to help ease the state's housing crisis.

187

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

190

191 Mr. Harmon stated that the building is beautiful, historic and has so much potential. He  
192 continued that the offices were empty; he could not get anyone in there. This can be transformed  
193 into something desirable. Cities prosper and succeed by attracting young professionals and  
194 workforce. This will increase the value of the surrounding properties and improve the security  
195 and longevity of Keene's economy.

196

197 5. *Unnecessary Hardship*

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



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

202  
203 Mr. Harmon stated that the building does not impact the general public.

204  
205 *And*

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

207  
208 Mr. Harmon stated that the proposed use is reasonable because they can do so much with it, and  
209 it will be preserved and used for something instead of staying empty [inaudible]. The NH  
210 housing shortage will not be going away soon. He continued that in the local news on June 6,  
211 2021, Casey McDermott of NH Public Radio reported, “*New Hampshire’s housing landscape is*  
212 *pretty brutal.*” A Sentinel Source article from November 7, 2020 said, “*...apartment vacancy*  
213 *rates are low and the pandemic has exacerbated many aspects of the pre-existing housing*  
214 *crisis.*” Time is of the essence to apply for the grant. The grant requires the property to have the  
215 additional unit. This third unit is much needed by the community. Commissioner Taylor  
216 Caswell said the percent of available two-bedroom rentals in the state is below one percent and  
217 considered unhealthy from the business community’s perspective.

218  
219 *B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary*  
220 *hardship will be deemed to exist if, and only if, owing to special conditions of the property that*  
221 *distinguish it from other properties in the area, the property cannot be reasonably used in strict*  
222 *conformance with the ordinance, and a variance is therefore necessary to enable a reasonable*  
223 *use of it.*

224  
225 Mr. Harmon stated that if the criteria in subparagraph A are not established, an unnecessary  
226 hardship will be deemed to exist in that the intent of creating/constructing crucially needed  
227 housing may not be tangible. He continued that the building will sit empty and they cannot  
228 maintain the building without financial hardship as well as a negative impact on the  
229 neighborhood. There is definitely room for a third unit in the square footage of the building.  
230 The building is large [inaudible] a three-bedroom unit would fit. Their target (renters) are local  
231 workforce, like people working at Cheshire Hospital, wait staff, employees from the new M&T  
232 bank, paralegals, and so on and so forth.

233  
234 Chair Gorman asked what the square footage of the building is. Mr. Harmon replied 3,049  
235 square feet. Chair Gorman stated [inaudible] vary in size, in excess of 3,000 square feet  
236 [inaudible]. Mr. Harmon replied yes, it is 3,362 square feet.

237  
238 Chair Gorman stated that he understands that the crux of the Harmons’ application speaks to the  
239 housing shortage, which arguably the whole state and country are dealing with. He continued  
240 that the housing shortage is indisputable, but the point of the Board, or the purpose in his mind,  
241 is to make sure that there is smart housing - that is, not just creating more housing because it is  
242 needed, but creating housing that is sustainable for the community and beneficial to the

243 community. Otherwise, in his view, it is not worth having. Creating housing that is not healthy  
244 would be just as bad as having a housing shortage. His question is thus whether the Harmons  
245 can elaborate a little on the spirit of this particular Zoning Ordinance and why it exists relative to  
246 lot size. The concern would be shoehorning too much density into a certain area. He asked what  
247 the Harmons could say about the property that might let the Board know why that should be a  
248 concern on this particular parcel of land. He knows the building is already there; that is certainly  
249 part of it, and he knows it is on a small, pre-existing lot, which is certainly part of this as well.  
250 He asked why the Harmons think this is not going to create a situation that is contrary to the  
251 Ordinance, where there is too little space.

252 Mr. Harmon stated that they have this over the restaurants, The Pour House, and the Roxbury  
253 apartments; the common area is a hallway. He continued that the common area here (at 27-29  
254 Center St.) would be the porch and the side entrance. He presented drawings for a two-family.  
255 There is a washer/dryer area, too. He is comparing it to the larger places that have studio  
256 apartments with people coming and going, and he and Ms. Harmon have no intention to go to  
257 that scale at all.

258 Chair Gorman replied that [inaudible] he thinks Mr. Harmon is comparing 27-29 Center St. to  
259 10-unit buildings that exist in locations where such a thing is allowed. He continued that it  
260 would help if Mr. Harmon kept his focus on the zone that his and Ms. Harmon's property is in,  
261 and why they think the area would not be adversely impacted.

262  
263 Ms. Harmon stated that the upstairs was designed to have three bedrooms. She continued that  
264 the downstairs was designed to have three bedrooms, but if you break that in half and go from  
265 front to back on the right-hand side, you can have enough room for a living room, kitchen, and a  
266 bedroom and bathroom. On the other side is the same amount of space, but they will use what  
267 would have been a bedroom to be a kitchenette area, so it would not be too cramped. She  
268 showed where there would be one bedroom, and where there would be two bedrooms, and  
269 showed the unit that would be a one-bedroom.

270  
271 Chair Gorman stated that basically they are not changing the [inaudible]. He continued that they  
272 were originally intent on [inaudible]. With this application, they would have the same six  
273 bedrooms. Mr. Harmon replied that is correct. Chair Gorman stated that it would just have an  
274 extra kitchen and bathroom and an extra unit. Mr. Harmon replied that is correct. Ms. Harmon  
275 stated that [inaudible] and showed the common area, another way out. She continued that this  
276 would not change the outline of the outside of the house at all.

277  
278 Mr. Hoppock asked how many extra people they are anticipating. He continued that he wants to  
279 hear about the parking, too, because that is relevant to the second criterion about public health,  
280 safety, and welfare. Ms. Harmon replied that on the right-hand side is a one bedroom for one or  
281 two people. Mr. Harmon stated [inaudible]. Mr. Hoppock asked if it is correct that right now  
282 they have two units. Mr. Harmon replied yes. Mr. Hoppock asked if there would be six tenants  
283 the way they are now, and Mr. Harmon replied yes.

284

285 Mr. Hoppock asked again about parking. Mr. Harmon stated that remote parking would be at the  
286 community lot, on the closest side of the Colonial Theater, near/behind Margarita’s Restaurant.  
287 There are two spots there. He continued that they wanted it closer but they did not allow trucks,  
288 which he can understand. They wanted to make sure they could get a minivan or something  
289 substantial.

290  
291 Mr. Clough asked how far away that is. Mr. Rogers replied that if the Board gives him a few  
292 minutes and continues on, he research. He continued that also, just so the Board is aware, the  
293 requirements that still need to be followed for remote parking, per the Zoning Code, are: “*Where*  
294 *remote parking spaces are under separate ownership from the principal lot, a written and duly*  
295 *executed parking agreement between the record owners, which guarantees the use and operation*  
296 *of remote parking areas for the life of the principal use, shall be submitted to and approved by*  
297 *the Zoning Administrator and recorded in the County Registry of Deeds. Change of ownership*  
298 *or use of either parcel shall require a renewal of the agreement.*” He continued that staff would  
299 have to be provided with something that [inaudible] would not put the Variance in jeopardy.

300  
301 Chair Gorman asked if it would negate the Variance if the agreement expired, even though this is  
302 not a parking Variance. Mr. Rogers replied yes, because [inaudible] the Variance would be  
303 conditioned upon [inaudible]. Chair Gorman replied [inaudible].

304  
305 Mr. Clough stated that to him, a lot of the impetus to add the extra unit, at least in the narrative,  
306 is from Invest NH. He asked if the Harmons are aware of its status, and if they applied for it.  
307 Ms. Harmon replied that even though she and Mr. Harmon told them there was a Variance in the  
308 works, they said, “Just apply; we’ll deal with that later.” She continued that Invest NH also let  
309 her and Mr. Harmon know that that is a benefit to the City of Keene as well. For every unit they  
310 get \$10,000 that goes to the City to put to whatever they need. It does not need to be earmarked  
311 for one particular thing. Parking might be good.

312  
313 Chair Gorman stated that he is assuming the Harmons are aware of the elevated fire and life  
314 safety codes that come into play as a result of adding a third unit. Mr. Harmon replied yes, that  
315 is another reason for the hardship potential. That has quadrupled, especially after [the fire at]  
316 Cobblestone. His sprinkler contractors here in Keene [inaudible].

317  
318 Chair Gorman asked if there were more questions from the Board. Hearing none, he stated that  
319 he will open it up now to public input, and the Harmons will have the opportunity for rebuttal  
320 afterwards.

321  
322 Chair Gorman read into the record:

323  
324 *“ABUTTER’S PETITION*  
325 *TO CITY OF KEENE ZONING BOARD OF ADJUSTMENT*

326  
327 *RE: the Harmon request for Second Variance on property at 27-29 Center Street*

328 *1. The premises is located in the Historic District at 27-29 Center St. and is two stories in height.*  
329 *It has two entry doors in front, and abuts the public sidewalk, completely.*

330

331 *2. It was purchased by the Harmons from Leonide Realty, LLC, March 20, 2021 for \$187,000,*  
332 *and deed is recorded at Vol. 1174 page 943 of the Cheshire Registry. There is no mortgage of*  
333 *record, to petitioner's knowledge.*

334

335 *3. The Harmons' application for a variance to convert from an office building to a two-family*  
336 *residence was granted and a building permit was issued September 23, 2021, by the City of*  
337 *Keene.*

338

339 *The lot is 3048 square feet whereas 13,400 square feet is required by City Ordinance. The*  
340 *building does not meet maximum building coverage requirement of 50% or the minimum*  
341 *green/open space requirement of 30%.*

342

343 *The front setback is 0, and the minimum rear setback is approximately two feet where 15 feet is*  
344 *required.*

345

346 *There is a two-story green wooden porch across the entire rear portion of the building that*  
347 *closely abuts the Espieffs property, and appears to have been unused or maintained for many*  
348 *years. Whether it has historic importance is unclear.*

349

350 *4. Building renovations by Harmon ceased in May of 2022 because of claims that materials*  
351 *were more expensive, and of workforce problems.*

352

353 *5. Coincidentally, however, the State of New Hampshire's "Invest" program, enacted by the*  
354 *legislature in April 2022 to help fund housing, and funding commenced July 11, 2022 for*  
355 *projects with a minimum of three family units.*

356

357 *6. The present (second) petition for variance was filed by the Harmons on July 21, 2022 and*  
358 *was promptly noticed for hearing. However, due to an error, the hearing was rescheduled for*  
359 *August 15, 2022.*

360

361 *7. At the August 15 hearing, the Harmons were given a continuance to September 6, in order to*  
362 *provide alternative parking information.*

363

364 *However, no notice of this continuance was issued/mailed to abutters or others entitled to notice.*  
365 *Again, a Continuance was granted to the Harmons to September 26 [sic], without notice to*  
366 *abutters.*

367

368 *8. On the facts and evidence available, this second variance request should be denied. It asks*  
369 *for a third family to be permitted in the same living area already set aside for a second family*  
370 *unit. It is 'the straw that broke the camel's back.' This entire building is literally 'on the street.'*

371 *There is no setback for the intense traffic on Center St. (which comprises its 'front yard'). There*  
372 *is no place for children or adults to be safe from the ongoing traffic from the downtown and*  
373 *adjacent Court House area during all the seasons and weather conditions. It is a 'living trap'*  
374 *for youngsters coming and going. In short, it is a likely 'center' for emergency and police*  
375 *responses because of its density, configuration, lack of setback, and very dangerous location.*  
376 *Granting the variance would not be in the interest of justice, and would be contrary to the spirit*  
377 *of the ordinance.*

378  
379 *9. Finally, and most critically, the Board must deny the variance, and take other action in light*  
380 *of the bad faith and illegal demands of the Harmons, all set forth in Section 2: Property*  
381 *Information; Section 5.B filed with their petition, and in their handwriting – a copy of which is*  
382 *attached hereto for reference, and reads as follows:*

383  
384 *'If the criteria in sub par A are not established an unnecessary hardship will be deemed to exist in*  
385 *that the interest of creating, constructing crucially needed housing may not be tangible. The*  
386 *building will sit empty, and we cannot maintain an empty building, without financial hardship as*  
387 *well as a negative impact on the neighborhood.'*

388  
389 *The Harmons' threat is clear – give us the second variance or you get nothing but an empty*  
390 *building. They need the third unit to get State funding (which requires three units). They are*  
391 *retroactively willing to throw away their first granted variance from this Board. Their only*  
392 *interest is getting the State funds. This amounts to pure DURESS on this Board. The hearing is*  
393 *simply a formality, and the Board are nothing but Harmon actors, to see that the third unit*  
394 *variance is approved, and Harmon gets qualified for State funding.*

395  
396 *This Board's integrity is at stake. Even if you could find for the Harmons, your finding would be*  
397 *clouded by their Duress.*

398  
399 *This Board's official standing as a reliable and lawful body is at stake, and it must take action to*  
400 *protect its integrity and lawful responsibility.*

401  
402 *It should deny the pending petition for variance, and revoke the initial grant of variance, leaving*  
403 *the Harmons with an office building on Center St. The Board is free to take any other action it*  
404 *deems proper.*

405  
406 *Clearly, this matter should be referred to the City Attorney.*

407  
408 *I reserve my rights.*

409  
410 *Respectfully submitted,*  
411 *Peter S. Espiefs, November 7, 2022"*

412

413 Mr. Rogers stated that it appears that this parking lot, depending one where in the lot they've  
414 rented, might not be within a thousand feet section. He recommended that if this application is to  
415 be approved, that there is a condition that the Applicant obtain the recommended parking  
416 necessary as outlined in the Land Development Code. He continued that also, just as a note for  
417 the Board, the living space of the building is 2,736 square feet. The total building, because of the  
418 unfinished basement and the porches, is a total of 4,676 square feet.

419  
420 Chair Gorman stated that if this off-site parking does not meet the criteria, his understanding is  
421 that any action the Board takes tonight is relative solely to the lot size and if they cannot satisfy  
422 off-site parking requirements they would be going back for a parking Variance. He asked if that  
423 is correct. Mr. Rogers replied that would be his opinion, certainly if the Board got to the point of  
424 making a motion, he would recommend the motion have a condition placed on it to ensure that  
425 the parking would be satisfied in some manner, whether through an act of this Board or remote  
426 parking.

427  
428 Chair Gorman asked for public input.

429  
430 Peter Espiefs stated that he is the one who filed the petition in opposition. He continued that he  
431 thinks he has stated everything he can about this case. You cannot ask for a Variance based on  
432 finances. That is not one of the criteria for a Variance, but that is what the Harmons are saying.  
433 They need this Variance so they can get a third unit and get qualified for the NH state funding.  
434 They bought this property for \$187,000 and there is no mortgage. They want to see if they can  
435 get some money from the State and get the building to have three apartments. They already have  
436 approval for two, and could have done the two, but they are not going to do any now unless they  
437 get this Variance, and there is no legal basis for the Variance for the third unit. He thinks the  
438 Board can read and understand what the situation is. He does not have anything personal against  
439 the Harmons. He tried as best he could to get along with them when they first started, and went  
440 along with their two-apartment project. He did not oppose that. However, they are dealing with  
441 something else now. The Harmons have changed; they are not who they purport to be. They  
442 have been in business for a long time and know "all the tricks and the games." He will not  
443 tolerate this, and will appeal if the Board does not deny the Variance.

444  
445 Chair Gorman asked if there was any more public comment. Hearing none, he invited the  
446 Harmons to give rebuttal.

447  
448 Mr. Harmon stated that if this was a courtroom, he would ask that (Mr. Espief's words) to be  
449 stricken from the record. He continued that he is appalled at the words of this respected elder,  
450 and would argue that Mr. Espiefs does not know him and Ms. Harmon very well and does not  
451 know their intentions. His and Ms. Harmon's intentions are only for the people of this  
452 community, and they themselves are a part of the community. They want to help the  
453 community. Their son went to Keene State College, and they fell in love with it here (in Keene).  
454 He asks that that not be taken away from them. They have only good intentions in their hearts.  
455 Mr. Harmon questioned if this Variance would benefit him and Ms. Harmon then replied that of

456 course as they are here to invest in the community and this neighborhood. He likes this  
457 neighborhood and he does not understand why Mr. Espieffs is trying to shut them out. There is a  
458 place for everyone. He and Ms. Harmon have every good intention.

459

460 Chair Gorman closed the public hearing and asked the Board to deliberate.

461

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

463

464 Mr. Hoppock stated that the public interest is to regulate the density of land in terms of traffic,  
465 population, and overall use at one particular time by people or anything else. He continued that  
466 he finds the spirit of the Ordinance is jeopardized by this application. The lot is too small, and as  
467 Mr. Espieffs points out, and from what he can tell in the picture, there is really no frontage. He  
468 stated that he has been to the property and has seen it; it is a tight fit. He does not think that the  
469 2,736 square feet of living space can comfortably fit three units. He is not comfortable either  
470 with [inaudible] in a packed neighborhood. He thinks that does not satisfy the criterion.

471

472 Mr. Clough stated that he tends to agree. He continued that it is something he always sees the  
473 Board butting up against – many of these densities are based on lot size and building size is quite  
474 often skewed when they are closer to downtown. This is a situation where if this was centered  
475 on the lot it would not pass any sort of frontages or side setbacks; it is still tight. Then whatever  
476 use it has, it is cramped. Thinking of it as a residential unit where people would be there for  
477 multiple hours a day and especially overnight, it looks very cramped. He thinks that regarding  
478 the first criterion, the public interest, it is so tight to the sidewalk and is definitely questionable.

479

480 Mr. Hoppock asked Mr. Rogers for clarification, stating that it just dawned on him that this is a  
481 non-conforming building on a non-conforming lot already. Mr. Rogers replied that that is  
482 correct, that as it is mentioned this building would not meet the necessary setbacks and many of  
483 the Zoning dimensional requirements. Mr. Hoppock replied that those all are requirements that  
484 bar against density and overcrowding. Mr. Rogers replied that that is correct.

485

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

487

488 Chair Gorman stated that he thinks this dovetails with the Board's discussion on the first  
489 criterion. He continued that the spirit of the Ordinance is exactly as Mr. Hoppock and Mr.  
490 Clough discussed, to prevent overcrowding situations that can lead to uncomfortable living  
491 situations for not only the tenants at this building but also tenants or residents of surrounding  
492 properties. He is not sure that the housing shortage or the availability of government funds  
493 would trump the situation. He does not think a third unit would be in the spirit of the Ordinance.  
494 The Board has already given a Variance to this building and now they are being asked to make it  
495 even more non-conforming. He does not think that is within the spirit or intent of Zoning in  
496 general. In summary, in looking at the square footage of this lot, you can see the Harmons are  
497 not asking the Board to overlook a couple thousand square feet. It is a considerable amount  
498 more – 18,800 square feet is required. They are asking to allow a use that would require, per the

499 Zoning Code, approximately six times more square footage than it has. He has a hard time  
500 finding cause to think that this would be in the spirit of the Ordinance.

501  
502 Mr. Hoppock stated that he thinks granting the Variance would alter the essential character of the  
503 neighborhood. He continued that it would decrease public health, safety, or welfare with  
504 overcrowding.

505  
506 3. *Granting the Variance would do substantial justice.*

507  
508 Mr. Hoppock stated that he thinks the gain to the public in denying this application outweighs  
509 any loss to the individual. The gain to the public is the reduction of the likelihood of  
510 overcrowding in this already crowded area. It is supposed to be an area that transitions from  
511 downtown to residential or [inaudible].

512  
513 Mr. Clough stated that he agrees.

514  
515 4. *If the Variance were granted, the values of the surrounding properties would not be*  
516 *diminished.*

517  
518 Chair Gorman stated that he does not think the exterior appearance of the building [inaudible].  
519 He continued that he does not think that element of it could detract from value, but he does think  
520 the situation of overcrowding can detract from value. This is a tough one and he could go either  
521 way on it, but he thinks at the end of the day, two units are healthy for the values and three are  
522 not.

523  
524 Mr. Hoppock stated that he does not disagree and can attest that the overcrowding situation did  
525 develop there [inaudible]. He does not think this criterion is satisfied.

526  
527 Mr. Clough stated that he agrees that having done work on the outside would be great for the  
528 neighborhood. He continued that he can imagine it done up and looking beautiful, but again,  
529 changing the inside means it becomes a wash.

530  
531 5. *Unnecessary Hardship*

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

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

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

537  
538 Chair Gorman stated that the applicant did not give input on 5.A(i), but he addressed 5.A(ii).

539  
540 Mr. Hoppock stated that the applicant did not identify a special condition of the property that  
541 distinguishes it from other properties in the area. He continued that the other properties in the



542 area are all large and most are non-conforming. He does not think there is anything special about  
543 the Harmons' property. He knows that in other cases the Board has worked hard to help  
544 applicants determine what special conditions their properties might have, and in this case he has  
545 tried that and has been thinking about it, but just cannot identify a special condition of the  
546 property that distinguishes it from other properties in the area. Secondly, he thinks there is a fair  
547 and substantial relationship between the general public purpose of the Ordinance, protecting  
548 against density and overcrowding, and the application of that provision to this property. The  
549 square footage of a lot is designed to prevent the lot from being overcrowded. He does not think  
550 this criterion is met at all.

551  
552 Mr. Hoppock continued that regarding ii., the proposed use of a three-unit building is [inaudible],  
553 and is a reasonable use but not here in this particular location, in his view.

554  
555 Chair Gorman replied that he is inclined to agree. He continued that it becomes [inaudible] with  
556 the third unit. He was comfortable with the second unit when the applicants came in front of the  
557 Board because the property already exists and is on a small lot and needs some use, and he thinks  
558 it was challenging to find a use for it. He thinks the Harmons have done that and the Board has  
559 obliged in granting the first Variance for two units. It is unfortunate that the Harmons find  
560 themselves in a financial position where they are not able to continue with the process of  
561 building out the two units. However, while financial hardship can be a part of the Board's  
562 decision, he is not comfortable making it the whole basis of the decision. He also believes that  
563 inflationary pressures exist for everyone. As economics work, with inflation comes much higher  
564 rent prices, so he does not see any hardship there. If you put the money into an investment  
565 property, you will get the money out. That is just the way it goes – prices go up to build it,  
566 prices go up to rent it. In his mind, that is offsetting. That said he does not see that there is a  
567 specific hardship to this property, and if in fact there was, the first Variance satisfied that.

568  
569 Mr. Clough stated that he was not on the Board for the first Variance, but yes, when he looks at  
570 the total amount of living space, he sees that those two units are fairly large. He continued that  
571 he does not deny that it would be a fairly expensive space for someone to rent, but when you  
572 start to split that off and create a third unit (it changes). If they were all equal, then possibly you  
573 would have equity, but it will not be able to be split equally. Thus, you would still have an odd  
574 scenario, in terms of how many people are actually there. He has lived in rental units in Keene  
575 and had plenty of times when he had to hit the wall next to him because the people next door  
576 were making too much noise. Then you realize, oh, there are six people in this place and should  
577 have only had four. Thus, adding another unit, with the number of bedrooms that were already  
578 there, is a hard thing to be able to justify.

579  
580 Mr. Hoppock stated that he is still stuck on the fact that they have an Ordinance governing lot  
581 size, and the purpose is to regulate/bar against overcrowding. Applying the Ordinance to this  
582 property, there is a direct relationship between the Ordinance and what it is trying to avoid. He  
583 does not see anything about the property itself that is a special condition that would make the  
584 application of the Ordinance unfair or inappropriate.

585 Chair Gorman asked if anyone had anything else to say. Hearing none, he asked for a motion.

586

587 Mr. Hoppock made a motion for the Zoning Board of Adjustment to approve ZBA 22-13 on the  
588 condition of approved appropriate parking. Mr. Clough seconded the motion.

589

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

591

592 Denied with a vote of 0-3.

593

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

595

596 Denied with a vote of 0-3.

597

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

599

600 Denied with a vote of 0-3.

601

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

604

605 Denied with a vote of 0-3.

606

607 5. *Unnecessary Hardship*

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

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

612 *and*

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

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

619

620 Denied with a vote of 0-3.

621

622 The motion to approve ZBA 22-13 with the condition failed with a vote of 0-3.

623

624 Chair Gorman made a motion to deny ZBA 22-13. Mr. Clough seconded the motion, which  
625 passed by unanimous vote.

626

627           **B) ZBA 22-18: Petitioner, Keene Mini Storage, of 690 Marlboro Rd., requests a**  
628           **Variance for property located at 678 Marlboro Rd., Tax Map #214-107-000- 000-**  
629           **000 that is in the Industrial District. The Petitioner requests a Variance to permit an**  
630           **electronically activated changeable copy sign per Chapter 100, Article 10.3**  
631           **Prohibited Signs of the Zoning Regulations.**

632  
633 Chair Gorman introduced ZBA 22-18 and asked to hear from Mr. Rogers.

634  
635 Mr. Rogers stated that he and his wife are abutters, so he will let Michael Hagan, Plans Examiner  
636 speak to this.

637  
638 Mr. Hagan stated that 678 Marlboro Rd. is located on a 9.5 acre lot and is zoned Industrial. He  
639 continued that construction was done in 2019 to permit or convert office space to self-storage,  
640 with 11 buildings on site. Currently there are three freestanding signs; one for the Keene Mini  
641 Storage located to the east, and a sign to the west that used to be the Cheshire Oil sign, is now a  
642 sign for the gas prices. The other is a marquis sign for the Citco signs. Under the current  
643 Ordinance those signs would all be non-conforming.

644  
645 Chair Gorman asked if anyone had questions for Mr. Hagan. Hearing none, he asked to hear  
646 from the applicant.

647  
648 Jay Frazier of 290 Cheshum Rd., Harrisville, introduced Jim Robinson, owner of Keene Mini  
649 Storage. Mr. Frazier continued that they are looking to receive Variance to allow them to change  
650 their flip signs to digital activated signs. He asked Chair Gorman what the Board wants to know.

651  
652 Chair Gorman replied that Mr. Frazier is welcome to proceed however he wishes, such as going  
653 through the five criteria or giving a brief background as to why Mr. Frazier thinks this should be  
654 an acceptable request.

655  
656 Mr. Frazier stated that the flip signs have to be done by hand, which means going outside in the  
657 snow, standing on a milk crate, and flipping the signs down. He continued that with the  
658 volatility of fuel prices these days, it could happen two or three times a week. Keene Mini  
659 Storage has one fulltime employee, an office manager; that is basically it on the property.  
660 Occasionally he himself does maintenance for them or might go out and flip the signs and get  
661 them unfrozen from the ice and snow. The LED (signs) are what most other fueling stations  
662 have. It would have 10-inch digits and the LED signs are 27"x24", or about 4.5 square feet each.  
663 The current metal signs are 36"x32", or 8 square feet, so the LED signs would have a smaller  
664 footprint. The sign itself is 40 square feet. He is looking to have signs that can be changed  
665 remotely from the office, which is what nearly everyone else in this business does. He went  
666 through this process when Cheshire Oil owned all the T-Birds; there was a process for all the  
667 different stations in all the different towns, to get permits to change those signs.

668

669 Chair Gorman replied yes, the Board has heard a few of these (types of Variance requests) in the  
670 past few years, from some of the local gas stations.

671  
672 Mr. Frazier stated that a lot of it is a safety issue, such as having to put signs up on a pole on a  
673 windy day with things flying off.

674  
675 Mr. Hoppock asked how bright the lights are. He continued that regarding the picture the Board  
676 [inaudible]. He asked if there are any neighboring houses that would see this and be impacted by  
677 the light. Mr. Frazier replied that the apartment building on the corner of Factory Rd. is the  
678 closest residential building.

679  
680 Mr. Hoppock asked [inaudible]. He asked for Mr. Frazier's best guess. Mr. Frazier replied  
681 across the street, on the corner.

682  
683 Chair Gorman stated that the primary visual for the lighting, if you are an abutter, would be the  
684 coffee roaster. He asked if that were correct, that the coffee roaster is the most visible the light  
685 would be. The apartment buildings are either across the street or up the street. Mr. Frazier  
686 agreed.

687  
688 Mr. Clough asked if the lights are dimmable, and if Mr. Frazier would be able to program them  
689 so that when it is really dark they do not need to be as bright. Mr. Frazier replied no, they have  
690 just one setting. He continued that they would fit right into the footprint on that existing sign. It  
691 is a good-looking, two-post sign that has been there for years and has good landscaping around  
692 it. The whole property is landscaped well.

693  
694 Chair Gorman asked if Mr. Frazier could read through the five criteria.

695  
696 1. *Granting the Variance would not be contrary to the public interest because:*

697  
698 Mr. Frazier stated that the LED sign is more attractive and easier to read on a busy highway. He  
699 continued that he wants to emphasize that it is a busy highway, and people are looking at the  
700 price per gallon. Drivers coming from Factory Rd. and from the other direction will take a  
701 glance.

702  
703 2. *If the Variance were granted, the spirit of the Ordinance would be observed because:*

704  
705 Mr. Frazier stated that similar signs have been approved at most fueling locations in Keene.

706  
707 3. *Granting the Variance would do substantial justice because:*

708  
709 Mr. Frazier stated that LED price signs are easier to read after dark than the flip signs, which are  
710 not backlit and difficult to see at night.

711

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

714  
715 Mr. Frazier stated that the LED signs, like the existing flip signs, would be attached to the main,  
716 existing wooden sign with two posts. The sign has been on the property for years and is well-  
717 maintained and landscaped around.

718  
719 5. *Unnecessary Hardship*  
720 A. *Owing to special conditions of the property that distinguish it from other properties in the*  
721 *area, denial of the variance would result in unnecessary hardship because:*

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

724  
725 Mr. Frazier stated that the metal flip signs are difficult to change in the winter and accumulate  
726 ice and snow between their panels.

727  
728 *and*

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

730  
731 Mr. Frazier stated that (it gives) the ability to change prices from the office, without personnel  
732 having to sometimes go through snow banks, brush off the snow, and chip ice to flip the metal  
733 numerals.

734  
735 B. *Explain how, if the criteria in subparagraph (A) are not established, an unnecessary*  
736 *hardship will be deemed to exist if, and only if, owing to special conditions of the property that*  
737 *distinguish it from other properties in the area, the property cannot be reasonably used in strict*  
738 *conformance with the ordinance, and a variance is therefore necessary to enable a reasonable*  
739 *use of it.*

740  
741 Mr. Frazier stated that fueling locations need to have the ability to change prices frequently and  
742 safely, due to the volatility of the fuel prices.

743  
744 Chair Gorman asked if anyone had questions for the applicant.

745  
746 Mr. Hoppock asked if it is correct that the lot is relatively flat. He continued that in the picture,  
747 the topography looks flat, without hills. Mr. Frazier agreed. He continued that there is a hill  
748 coming in from Marlborough; when you pass the main brick building, you are going downhill.  
749 Mr. Hoppock replied that the land that makes up the lot is flat, though. Mr. Frazier replied that it  
750 is two different heights – half of the storage units are on a higher elevation. Mr. Hoppock asked  
751 if that affects the ability to see the sign. Mr. Frazier replied no, there is no crest of a hill; there is  
752 a good view all the way down through.

753  
754 Chair Gorman asked if there were more questions. Hearing none, he asked for public comment.

755 John Rogers of 660 Marlboro Rd. stated that he wanted to point out that regarding Mr.  
756 Hoppock's question. In regards to the sign, there is no residential use at 660 Marlboro so the  
757 sign would not be a deterrent to him. In addition, where the sign is located, directly across the  
758 street is a convenience store and a larger storage building. The residential properties in this area  
759 are non-conforming and cross the street in the Commerce District is a single family, a multi-  
760 family, but further west along Marlboro Road and not directly across from the sign. There are  
761 storage units between the sign and the Prime Roast building.

762  
763 Mr. Hoppock asked if it is correct that there is nothing beyond that. Mr. Rogers replied that  
764 further up, quite a ways up, is a plaza with commercial uses.

765  
766 Chair Gorman asked if there was any more public comment. Hearing none, he closed the public  
767 hearing and asked the Board to deliberate.

768  
769 Mr. Hoppock stated [inaudible], but on the other hand, he can see where [inaudible], so they can  
770 try it. He continued that the public interest is safety [inaudible].

771  
772 Mr. Hoppock made a motion to approve ZBA 22-18. Mr. Clough seconded the motion.

773  
774 1. *Granting the Variance would not be contrary to the public interest.*

775  
776 Mr. Hoppock stated that it is probably not contrary to the public interest because the public  
777 interest [inaudible]. A sign that would not distract a driver [inaudible] a sign that says "\$3.55 per  
778 gallon" or "\$5.60 for diesel." If you were looking for gas that is what you would want to see.  
779 What might distract the public is something that said, "Regular gas \$7.00 per gallon" or "\$1.50  
780 per gallon," but they are not worried about that. He thinks this meets the first criterion.

781  
782 Mr. Clough stated that if it were a blinking or flashing sign, that would be a distraction, but a  
783 stationary sign with just the numbers is not something he would see as a distraction.

784  
785 Chair Gorman stated [inaudible].

786  
787 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

788  
789 Mr. Hoppock stated that he does not see that the essential character of the neighborhood would  
790 be altered, given what is there already. He continued that [inaudible].

791  
792 Chair Gorman stated that the numbers would be smaller, so that probably helps comply with the  
793 Zoning Ordinance.

794  
795 Mr. Hoppock stated that he does not think the public health, safety, or welfare is at all  
796 threatened. Chair Gorman and Mr. Clough agreed.

797

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

799 Mr. Hoppock stated that the gain to the public, if the Board denied this, would be nominal. He  
800 continued that the loss to the public would be having easily readable signage. It would enhance  
801 the public safety; the gain to approving this would be that motorists could read the signs clearly  
802 and safely. The loss to the individual, if this were denied, would be the horrible inconvenience  
803 of having to go out in a snowstorm to flip the signs. He does not find this criterion to be a  
804 problem.

805  
806 Chair Gorman stated that he agrees that there is no gain to the public in denying this, and  
807 potentially a loss to the public in denying it. The gain to the applicant is obvious and reasonable,  
808 the same thing that has been afforded to most every other gas station that has come before the  
809 Board and asked for this.

810  
811 4. *If the Variance were granted, the values of the surrounding properties would not be*  
812 *diminished.*

813  
814 Chair Gorman stated [inaudible] the Board heard from an abutter that he did not see any problem  
815 with this [inaudible]. The criteria does not say it has to increase the values; it just cannot  
816 diminish them, and he does not think it will. Mr. Hoppock agreed.

817  
818 5. *Unnecessary Hardship*

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

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

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

825  
826 Mr. Hoppock stated that he thinks the special condition of the property is the nature of the use on  
827 the property presently, [inaudible]. He continued that as the Chair mentioned, they have had  
828 many of these cases where this is the standard of the industry, to have changeable signs. He  
829 thinks the special condition of the property is the nature of the business operating on it, and the  
830 application of the Ordinance to that particularly property, precluding that type of sign, does result  
831 in a hardship to the owner and on the property because a reasonable sign cannot be used. A  
832 Variance can be approved without jeopardizing health and safety. He finds this criterion to be  
833 met.

834  
835 Chair Gorman stated that he agreed. He continued that [inaudible].

836  
837 Chair Gorman asked the Board to vote on the criteria.

838  
839 1. *Granting the Variance would not be contrary to the public interest.*

840

841 Granted 3-0.

842

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

844

845 Granted 3-0.

846

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

848

849 Granted 3-0.

850

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

853

854 Granted 3-0.

855

856 5. *Unnecessary Hardship*

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

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

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

863

864 Granted 3-0.

865

866 The motion to approve ZBA 22-18 passed 3-0.

867

868 **V) Adjournment**

869

870 There being no further business, Chair Gorman adjourned the meeting at 8:04 PM.

871

872 Respectfully submitted by,

873 Britta Reida, Minute Taker

874

875 Reviewed and edited by,

876 Corinne Marcou, Zoning Clerk

877 John Rogers, Zoning Administrator

878 Michael Hagan, Staff Liaison



Page intentionally left blank

1 City of Keene  
2 New Hampshire

3  
4  
5 ZONING BOARD OF ADJUSTMENT  
6 MEETING MINUTES  
7

8 **Monday, March 6, 2023**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Joshua Gorman  
Joseph Hoppock, Chair  
Jane Taylor, Vice Chair  
Michael Welsh  
Richard Clough

**Staff Present:**

Michael Hagan, Plans Examiner/Staff Liaison  
Corinne Marcou, Zoning Clerk

**Members Not Present:**

John Rogers, Building & Health  
Official/Zoning Administrator

9  
10  
11 **I) Introduction of Board Members**

12  
13 Chair Hoppock called the meeting to order at 6:30 PM and explained the procedures of the  
14 meeting. Roll call was conducted.  
15

16 **II) Minutes of the Previous Meeting: November 7, 2022 & February 6, 2023**

17  
18 Chair Hoppock stated that there were problems with the audio of the November 7, 2022, meeting  
19 minutes. He asked if anyone could fill in some of the blanks or had suggestions. Mr. Welsh  
20 stated that given that there are so many “[inaudible]” points, he suggests this be a homework  
21 assignment for the Board members over the next month, to see if they can fill in some blanks.  
22 Chair Hoppock asked if others agreed. He continued that they would table the November 7  
23 meeting minutes until the next meeting.  
24

25 Vice Chair Taylor stated that regarding the February 6, 2023 meeting minutes, her name is noted  
26 at the end for having “reviewed and edited” the draft minutes. She continued that for  
27 clarification, she read the draft minutes and looked for missing words or typos. She did not edit  
28 the minutes by changing any text or content. Chair Hoppock asked if this is page 42 of 164 in  
29 the agenda packet. He suggested striking the words “and edited.” Vice Chair Taylor agreed.  
30

31 Mr. Gorman made a motion to approve the meeting minutes of February 6, 2023 with the  
32 aforementioned edit. Mr. Welsh seconded the motion, which passed by unanimous vote.

33 **III) Unfinished Business**

34

35 **IV) Hearings**

36

37 Chair Hoppock stated that ZBA 23-03 and 23-04 will not be addressed tonight. Zoning Clerk  
38 Corinne Marcou stated that the Petitioner's representative could not be present due to illness, and  
39 the Petitioner has requested for ZBA 23-03 and 23-04 to be continued to the April 3 ZBA  
40 meeting.

41

42 Vice Chair Taylor made a motion for ZBA 23-03 and 23-04, regarding 32 Optical Avenue, to be  
43 continued until the April 3, 2023, regular meeting. Mr. Gorman seconded the motion, which  
44 passed by unanimous vote.

45

46 **A) ZBA 23-02: Petitioner, Hundred Nights Foundation, Inc., and represented by**  
47 **Jim Phippard of Brickstone Land Use Consultants, LLC, requests an Equitable**  
48 **Waiver for property located at 122 Water St., Tax Map # 585-027-000-000-000 and**  
49 **is in the Business Growth and Reuse District. The Petitioner requests an Equitable**  
50 **Waiver from Article 5 Section 5.4.2, front setback, to allow a roof overhang to**  
51 **extend 2.87 feet into the front setback.**

52

53 Chair Hoppock introduced the petition and asked to hear from Staff.

54

55 Mr. Hagan stated that 122 Water St. is .62 acres and in the Downtown [Business] Growth and  
56 Reuse District. He continued that it is currently a three-story building being constructed. In  
57 November 2020, ZBA 20-11 received a Variance for a homeless shelter and a resource center to  
58 be built on this property.

59

60 Chair Hoppock asked if Mr. Hagan wants to speak to the overhang or let the Applicant do that.  
61 Mr. Hagan replied that the Applicant can speak to that.

62

63 Mr. Gorman asked what the setback is in this district. Mr. Hagan replied five feet. Mr. Gorman  
64 stated that it is then about halfway into the setback. Mr. Hagan replied that is correct.

65

66 Vice Chair Taylor stated that when looking at the Ordinance she got confused because there is a  
67 front setback and a corner setback. Usually, you do not see a corner setback. She asked what the  
68 distinction is. Mr. Hagan replied that he needed a minute to look it up.

69

70 Chair Hoppock asked to hear from the Petitioner.

71

72 Mindy Cambiar, Executive Director of Hundred Nights, of 447 Park Ave. stated that Mr.  
73 Phippard (of Brickstone Land Use Consultants, LLC) is ill and cannot be here tonight. She  
74 continued that she was here to share what he had to say; she did not expect to be here tonight.  
75 Mr. Phippard told her that it (the extension of the roof overhang into the setback) was an honest  
76 mistake on his part, and no one noticed it until the building was built and the roof was where it

77 was. Hundred Nights is addressing the safety issues by installing ice and snow guards on the  
78 roof and eliminating several of the solar panels they had planned to put there.

79  
80 Chair Hoppock asked when the error was discovered. Ms. Cambiar replied that she thinks it was  
81 a few weeks ago when someone from the City came by. She continued that she does not know  
82 the exact details, but it was long after the roof was on. She thinks it was when there was the first  
83 major snowfall.

84  
85 Mr. Gorman stated that the picture does not really tell everything about the application. He  
86 asked if the main roof is in the setback, or if it is the overhang. Ms. Cambiar replied that she  
87 thinks it is the overhang, not the actual roof.

88  
89 Mr. Hagan asked if Vice Chair Taylor was referencing what is on the form that was provided, the  
90 corner side setback, or if she is referencing out of the 4.3 section of the Downtown [Business]  
91 Growth [and Reuse] District code. He continued that he thinks Mr. Phippard is identifying that it  
92 is the corner side of that, but in the Zoning Ordinance it would be considered a side setback.  
93 They provided ten feet on that side.

94  
95 Vice Chair Taylor replied that for some reason she thought it was five feet on both sides. Mr.  
96 Hagan replied that it is. He continued that for a corner lot, and this gets into the Building Code a  
97 bit, they added that additional setback for fire separation purposes. Anything within five feet of  
98 a property line is required to have fire rating on the wall to avoid having to do all of those  
99 penetrations going down. There are no doors or openings on the front side, so they have tucked  
100 that one up nice and close and are fire rating that completely up and through. Looking at it from  
101 the front, there are two exits from the left-hand side/Community Way side. To avoid some of the  
102 Code requirements and to be able to get down and around, they tucked it on that.

103  
104 Vice Chair Taylor stated that she is still confused. She asked if only the Water St. side is into the  
105 setback. Mr. Hagan replied that is correct. He continued that it is a crown on the building. The  
106 roof edge does come to that crown, but it comes out as an “eave overhang crown detail.”

107  
108 Mr. Gorman stated that the building itself is within the setbacks. He continued that it is just the  
109 roof overhang that is hanging out a couple feet. Mr. Hagan replied that is correct. Mr. Gorman  
110 asked, regarding the side setback, if it is correct that the Zoning would only call for five feet and  
111 it is the Building Code and their preference that has set them back to ten feet. Mr. Hagan replied  
112 that is correct.

113  
114 Mr. Welsh stated that regarding the modifications made to the plan since the discovery of this  
115 encroachment, Ms. Cambiar mentioned that solar panels would no longer go on and the ice and  
116 snow guard would be placed along the roofline. He asked if that is a railing or some sort of  
117 barrier that keeps the snow from falling off. Ms. Cambiar replied that she does not know the  
118 specifics; all she knows is that they are putting fancy ice and snow guards on the roof of the  
119 building, and they had to eliminate about 25% of the solar panels.

120  
121 Chair Hoppock stated that on the application, the (response to the second criteria) says, “*While*  
122 *the site plan shows the building located at the front setback, they did not include the overhang on*

123 *that side of the building.*” He asked if Ms. Cambiar knew why the site plan did not include that.  
124 Ms. Cambiar replied that all she knows is what Mr. Phippard told her to say: it was an honest  
125 mistake on his part, and no one noticed it. She continued that she does not have any other  
126 details.

127  
128 Mr. Welsh stated that his question is for the Applicant and City Staff. He continued that in the  
129 testimony so far, he is not hearing any disagreement about the sequence of events, regarding how  
130 this (error) was discovered, or any contestation about whether it was a mistake or not a mistake.

131  
132 Mr. Hagan replied that speaking for the City side, this went through all the review processes, and  
133 eight different sets of eyes looked at this on many levels of construction and did not see the roof  
134 overhang. He continued that he could say it was an honest oversight in the review process, and  
135 certainly nothing that was concealed. It was just one of those things that was missed.

136  
137 Chair Hoppock asked Ms. Cambiar to describe the level of completion of the building project.  
138 Ms. Cambiar replied that it is currently between 70 to 75% complete. She continued that the  
139 exterior is nearly finished, other than some siding. Some of the siding is on, and some is not.

140  
141 Mr. Gorman asked if the roof is asphalt shingles. Ms. Cambiar replied yes.

142  
143 Chair Hoppock asked if there were any further questions from the Board. Hearing none, he  
144 asked if members of the public had any questions, or comments for or against this application.  
145 Hearing none, he closed the public hearing and asked the Board to deliberate on the Equitable  
146 Waiver criteria. He read them aloud.

147  
148 Vice Chair Taylor asked Mr. Hagan if she is correct in her understanding that given the way the  
149 building is constructed, if eaves were to be cut back, they would essentially have to replace the  
150 entire roof. Mr. Hagan replied that it would take some substantial reengineering as these are roof  
151 trusses on the building, making this a rather large undertaking to correct.

152  
153 Mr. Gorman stated that he thinks it is safe to say that the very reason they have a process for  
154 Equitable Waivers is a case like this, where there is an oversight that was unintentional from  
155 both parties. He continued that as a result, what they have now is beyond the point of repair.  
156 His only concern is the same concern that the City and Applicant both have – snow load onto  
157 sidewalks and it seems that the Applicant has taken steps to address that. The fact that it is an  
158 asphalt roof will prevent any type of real snow slide, such as a metal roof or solar panels. This  
159 (application) seems like a reasonable request to him.

160  
161 Chair Hoppock stated that he agrees. He continued that given the fact that construction is now  
162 75% complete, asking them to redo the roof is not a cost worth the benefit; it is too costly for the  
163 minimal benefit.

164  
165 Chair Hoppock stated that regarding criterion C., *“The physical or dimensional violation does  
166 not constitute a public or private nuisance, nor diminishes the value of other property in the  
167 area, nor interferes with or adversely affects any present or permissible future uses of any such  
168 property,”* due to the safeguards implemented - the snow guards that will prevent the ice and

169 snow from tumbling onto the sidewalk - he does not see that this mistake constitutes a public or  
170 private nuisance. It will not have any impact on the value of other property in the area, and he  
171 does not see how it could adversely affect any present or permissible future use of that property  
172 or any other property in the area. He thinks all the criteria are satisfied.

173  
174 Vice Chair Taylor stated that it is clear, from what was submitted to the Board, from Mr.  
175 Hagan's and Ms. Cambiar's comments, that this was a true accident and both parties were  
176 operating in good faith. She continued that it is fortunate that it was an error of only 2.5 feet, and  
177 not the building's footprint.

178  
179 Mr. Gorman made a motion to approve the application for Equitable Waiver for ZBA 23-02.  
180 Mr. Welsh seconded the motion.

181  
182 *A. The violation was not noticed or discovered by any owner, former owner, owner's agent or*  
183 *representative, or municipal official, until after a structure in violation had been substantially*  
184 *completed, or until after a lot or other division of land in violation had been subdivided by*  
185 *conveyance to a bona fide purchaser for value.*

186  
187 Vice Chair Taylor stated that she thinks the Board has heard that the violation was not noticed by  
188 the City, the owner, or any of the owner's agents until the exterior of this building, which this  
189 impacts, was approximately 75% complete. She continued that she thus thinks the first criterion  
190 is met.

191  
192 Met with a vote of 5-0.

193  
194 *B. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire,*  
195 *obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or*  
196 *representative, but was instead caused by either a good faith error in measurement or*  
197 *calculation made by an owner or owner's agent, or by an error in ordinance interpretation or*  
198 *applicability made by a municipal official in the process of issuing a permit over which that*  
199 *official had authority.*

200  
201 Mr. Gorman stated that he thinks the Board has heard from both sides that there was clearly no  
202 act of subterfuge. He continued that it was just an honest mistake. Chair Hoppock agreed.

203  
204 Met with a vote of 5-0.

205  
206 *C. The physical or dimensional violation does not constitute a public or private nuisance, nor*  
207 *diminishes the value of other property in the area, nor interferes with or adversely affects any*  
208 *present or permissible future uses of any such property.*

209  
210 Mr. Welsh stated that he thinks they have heard testimony from the owner that they have taken  
211 steps to make sure that the violation, now that it has been discovered, will not constitute a  
212 nuisance or a problem to the property values of the surrounding area. He continued that he has  
213 sometimes heard the term "ice and snow guards" used to refer to the two feet of metal at the end

214 of a roof that sometimes allows snow to slide; [Hundred Nights] is not doing that. This is  
215 something that they are trying to take care of. Chair Hoppock agreed.

216  
217 Met with a vote of 5-0.

218  
219 *D. Due to the degree of past construction or investment made in ignorance of the facts*  
220 *constituting the violation, the cost of correction so far outweighs any public benefit to be gained*  
221 *that it would be inequitable to require the violation to be corrected.*

222  
223 Mr. Clough stated that he thinks the Board heard that because of the design of the truss system,  
224 they could not cut this back; they could not make it flush with the building, which would bring it  
225 back to Code. He continued that besides the fact that that would possibly impact structural  
226 integrity of the building, in terms of water coming against it over a long period of time, it could  
227 possibly damage the building if it were to be altered that way. He thinks what [Hundred Nights]  
228 has come up with is the only way to mitigate it in the confines of what they have.

229  
230 Vice Chair Taylor stated that to add to that, the expense of doing anything to try and change the  
231 building is not reasonable. Mr. Gorman replied that furthermore, there would be very little gain  
232 in doing so. He continued that it would just be moving a dripline.

233  
234 Met with a vote of 5-0.

235  
236 Chair Hoppock stated that the fifth criterion does not apply to this application so they will skip it.

237  
238 The motion to approve ZBA 23-02 passed with a vote of 5-0.

239  
240 **B) ZBA 23-05: Petitioner, Jennifer Whitehead and Hans Porschitz requests a**  
241 **Variance for property located at 190 South Lincoln St., Tax Map #572-004-000-000-**  
242 **000, is in the Medium Density District, and owned by Aaron Cooper. The Petitioner**  
243 **requests to permit a smaller lot size than prescribed, a smaller side setback than**  
244 **prescribed and a less than 3 foot distance of a drive way to the property line, per**  
245 **Chapter 100, Articles 3.6.5, 1.3.3.A.3 and 9.3.2.2 of the Zoning Regulations.**

246  
247 Chair Hoppock introduced the petition and asked to hear from Staff.

248  
249 Mr. Hagan stated that 190 South Lincoln St. is located on a .13-acre lot, zoned Medium Density.  
250 He continued that it is a two-story single-family home, 1,600 feet, with an attic and was built in  
251 1920. Staff did not find any Variances for it in City records. Staff wants to clarify that in the  
252 application, the reference to Article 3.6.2 is actually for Low Density, not Medium Density  
253 where this property is located. He believes it was just a scrivener error on the application. The  
254 section the Petitioner is looking for relief from is Section 3.5.2, Medium Density.

255  
256 Mr. Gorman stated that it appears to him that there are two abutters who have agreed to adjust a  
257 boundary line, and that has created this situation, but by moving the line, nothing material is  
258 going to change on the property. He asked if that was accurate. Mr. Hagan replied that his  
259 understanding of the application was that they are seeking relief from three different sections by

260 moving this line. He continued that currently, if you were to go to this location – and as you can  
261 see in the picture – it already looks like that line exists the way it is. There is already a garden  
262 right up next to the garage, and the fence is right on that line; they are just looking to make it  
263 right by seeking this Variance.

264  
265 Chair Hoppock asked to hear from the Petitioner.

266  
267 Hans Porschitz of 196 South Lincoln St. and Aaron Cooper of 190 South Lincoln St. introduced  
268 themselves. Mr. Porschitz stated that Mr. Hagan said it properly – they just want to make right  
269 what has been used for years between the two different property owners. He continued that the  
270 room between the two houses, on the two properties, has been split by the property line at an  
271 awkward diagonal. It did not give full use of the space to either property. Over the years, ever  
272 since Jennifer (Whitehead) bought the property, and even before, that yard had been used by  
273 (people at) 196 (South Lincoln St.) Mr. Cooper did not even know that was part of his property.  
274 When they discovered that, they had a good relationship with Mr. Cooper, and said they would  
275 like to clean that up. Being in the Medium Density District with a small property puts them up  
276 against all these stipulations they are trying to get a Variance for tonight.

277  
278 Mr. Porschitz continued that the primary concern they have, in terms of potential hardship, is that  
279 in the back of the yard there are many roofs dumping into that area. Water comes into their  
280 basement on a regular basis. If the property line as currently drawn would potentially be covered  
281 with an impervious material or area, it could amplify the concern and the risk of having more  
282 water, because less pervious ground in that area being part of his and Ms. Whitehead’s property  
283 would allow them to keep it pervious. Chair Hoppock asked if he meant so that water leaches  
284 through into the ground. Mr. Porschitz replied yes, and not into their basement.

285  
286 Chair Hoppock stated that Mr. Cooper is free to add more if he wants. Mr. Cooper replied that  
287 he agrees with everything Mr. Porschitz said. He continued that as Mr. Porschitz said, it is just  
288 about cleaning it up. It is true, he (Mr. Cooper) did not even realize he owned that bit of  
289 property, which is not even usable for him. He would have to go around his garage to get to that  
290 tiny bit of land.

291  
292 Chair Hoppock, referencing the drawing in the application, asked if the intent is to put the  
293 property line abutting Mr. Cooper’s garage, and then in a straight line to the street from the  
294 corner of the garage. Mr. Cooper replied yes, stepping back from the garage but following the  
295 “eave line,” counting that as the building line on the property, the 6-inch overhang.

296  
297 Vice Chair Taylor stated that she has a question for Staff. She asked if it is correct that in  
298 essence this would make 196 South Lincoln St. a little more conforming, even though it will still  
299 be a non-conforming lot. Mr. Hagan replied that is correct. Vice Chair Taylor asked if it is  
300 correct that it will make 190 South Lincoln St. a little less conforming. Mr. Hagan replied that is  
301 correct.

302  
303 Mr. Gorman stated that he has a question for both the Applicant and his neighbor. He asked if  
304 they had made provisions for repairing the garage. Mr. Porschitz replied that it is in their interest  
305 to make that side of the garage look good, so they have already offered Mr. Cooper that they will



306 take care of that side of the garage. Mr. Gorman asked if he meant that he and Ms. Whitehead  
307 will take care of the backside of Mr. Cooper's garage. Mr. Porschitz replied yes. Mr. Gorman  
308 replied that this is about as well as neighbors could work together.  
309

310 Chair Hoppock asked if they have signed the boundary line adjustment agreement yet. Mr.  
311 Porschitz replied no, they were advised to seek these Variances first and then start the boundary  
312 line adjustment process.  
313

314 Vice Chair Taylor stated that she noticed a door on the side of the garage at 190 South Lincoln.  
315 She asked if Mr. Cooper would be able to walk on his own property while using that door. Mr.  
316 Cooper replied that there is no door on that side of the garage. He thinks what appears to Vice  
317 Chair Taylor as a door in the photo is actually a post in the yard, seen at an angle that makes it  
318 look like a door.  
319

320 Chair Hoppock asked if there were any further questions from the Board. Hearing none, he  
321 asked if members of the public had any questions or wanted to speak in favor of or in opposition  
322 to this application. Hearing none, he closed the public hearing and asked the Board to deliberate.  
323

324 Vice Chair Taylor stated that she wishes all neighbors would get along to the extent that these  
325 neighbors do. She continued that it is nice to see, compared to what the Board occasionally sees.  
326

327 *1. Granting the Variance would not be contrary to the public interest.*  
328

329 Chair Hoppock stated that it is certainly in the public interest to encourage this kind of  
330 agreement. He continued that for that reason, he thinks the first criterion is satisfied.  
331

332 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*  
333

334 Chair Hoppock stated that he does not see anything in the application that would change the  
335 character of the neighborhood in terms of safety of any kind or impact the neighborhood in a  
336 negative way.  
337

338 Mr. Gorman stated that this is an imaginary line that already exists. He continued that he thus  
339 does not see how it can be contrary to the spirit of the Ordinance or public interest. It does not  
340 have a true impact on anyone except the folks sitting in front of the Board tonight.  
341

342 Chair Hoppock stated that it does nothing to add to density and does not create fire issues or do  
343 anything like that. Vice Chair Taylor replied that what it does is reflect what is already on the  
344 ground and how the properties are already being used. She continued that it is just a matter of  
345 bringing the legal stuff into conformity with what is already there.  
346

347 *3. Granting the Variance would do substantial justice.*  
348

349 Chair Hoppock replied that the gain to the public for denying this would be nothing. He  
350 continued that the harm to the Applicants would be significant. As Vice Chair Taylor said, this  
351 is the space of the Applicant and the neighbor; it has no impact on anyone else.

352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397

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

Chair Hoppock stated that he does not see how this would affect surrounding properties in any way, in terms of values. Mr. Gorman stated that he would add that it does not have to raise the values, it just needs to not diminish them, and clearly, it does not diminish them. It will have zero effect. Chair Hoppock agreed.

Chair Hoppock stated that he agrees that the current configuration of the two subject properties is an interesting, unique characteristic of the property. He continued that they have managed to use that space in a way that has no impact on the surrounding area.

Mr. Gorman stated that he also thinks there is some merit to the argument of it being the spirit of self-preservation for them, just with drainage between the two properties. He continued that it is an opportunity to improve that area and at least someone has ownership of it who has an interest in it.

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*

Mr. Gorman stated that he thinks the hardship is there, given the current scope of what exists on the ground. Chair Hoppock agreed.

- and*
- ii. *The proposed use is a reasonable one.*

Vice Chair Taylor stated that what they are proposing is imminently reasonable.

Mr. Welsh made a motion to approve ZBA 23-05, request for a Variance at property located at 190 South Lincoln St., following the terms and conditions and the various Variance portions listed in the application material. Mr. Gorman seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

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

398 Met with a vote of 5-0.

399

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

402

403 Met with a vote of 5-0.

404

405 5. *Unnecessary Hardship*

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

408 i. *No fair and substantial relationship exists between the general public purposes of the*  
409 *ordinance provision and the specific application of that provision to the property*  
410 *and*

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

412

413 Met with a vote of 5-0.

414

415 The motion to approve ZBA 23-05 passed with a vote of 5-0.

416

417 C) **ZBA 23-06: Petitioner, Monadnock Affordable Housing Corp. of 831 Court**  
418 **St., Keene, represented by Stephen Bragdon of 82 Court St., requests a Variance for**  
419 **property located at 438 Washington St., Tax Map #531-054-000-000-000, is in the**  
420 **Low Density District and is owned by the Community College System of New**  
421 **Hampshire of 28 College Dr., Concord, NH. The Petitioner requests to allow**  
422 **multifamily housing use where multifamily housing use is not a permitted use per**  
423 **Chapter 100, Article 3.3.5 of the Zoning Regulations.**

424

425 D) **ZBA 23-07: Petitioner, Monadnock Affordable Housing Corp. of 831 Court**  
426 **St., Keene, represented by Stephen Bragdon of 82 Court St., requests a Variance for**  
427 **property located at 438 Washington St., Tax Map #531-054-000-000-000, is in the**  
428 **Low Density District and is owned by the Community College System of New**  
429 **Hampshire of 28 College Dr., Concord, NH. The Petitioner requests to allow**  
430 **buildings which cover more than 35% of the lot, impervious surfaces of more than**  
431 **45% coverage and less than 55% green/open space per Chapter 100, Article 3.3.3 of**  
432 **the Zoning Regulations.**

433

434 Chair Hoppock stated that he needs to recuse himself from ZBA 23-06, 23-07, (and 23-08) and  
435 the Applicant will have a four-member Board. The Petitioner agreed to proceed.

436

437 Vice Chair Taylor proposed taking the two Variances (23-06 and 23-07) together, because the  
438 nature of a Special Exception is separate. She continued that the information can be presented  
439 together and the Board will vote on them separately and then handle the Special Exception after  
440 the Variances. Others agreed.

441

442 Vice Chair Taylor introduced ZBA 23-06 and 23-07 and asked to hear from Staff.

443 Mr. Hagan stated that this is a property located at 438 Washington St. on 2.4 acres, zoned Low  
444 Density. He continued that currently it is a two-story building of about 19,417 square feet. The  
445 last use of the building was by the Community College System of NH. Prior to that, it was used  
446 by the School District. There are no Variances or ZBA applications on record. There have been  
447 multiple building permits for additions throughout the years since 1926.  
448

449 Mr. Welsh asked Mr. Hagan to walk the Board through the array of zoning districts in this area,  
450 such as where High Density is, where Low Density is, and so on and so forth. He continued that  
451 it seems like a complicated mix. Mr. Hagan replied yes, it is. He continued that everything  
452 abutting this property is in the Low Density District, including across the street. The building on  
453 the corner that is now used by Williams Construction was also in Low Density and received a  
454 Variance. It is kind of a commercial corridor but surrounded by Low Density. A commercial  
455 car garage is down the way. A couple of multi-family homes are in the area, such as on the  
456 corner of Woodbury St. and Washington St., and across the way not directly on the corner of  
457 George St. but one up from that corner single-family home. There are many single-family  
458 homes and then an industrial building down behind, People's Linen, which sits lower.  
459

460 Mr. Gorman asked what uses would be allowed for this building in the Low Density District.  
461 Mr. Hagan replied that the permitted uses in the Low Density District are single-family  
462 dwellings, small group homes, community gardens, conservation areas, and telecommunications  
463 facilities. Mr. Gorman replied that that means this huge brick building would have to become a  
464 single-family home, a community garden, a telecommunications facility, or a small group home  
465 with less than eight rooms. Mr. Hagan replied that is correct. He continued that the building's  
466 current use, through the university system, is considered a business use, office, or assembly. If  
467 that type of use wanted to go back in, he does not know what could fit into that niche without  
468 needing a lot of money put into it, but they definitely would have to find the right person.  
469

470 Vice Chair Taylor stated that her updated pages, from when they changed the Conservation  
471 Residential Development (CRD), Section 3.3.5 says that in the Low Density District, residential  
472 uses are single-family, two-family, and multi-family. Mr. Hagan replied that a CRD is allowed  
473 in the Low Density District, but they would have to go for a CRD in order to do that, which  
474 would be a Conditional Use Permit, approval from the Planning Board, and the whole process.  
475 Vice Chair Taylor replied yes, it looks a little daunting.  
476

477 Vice Chair Taylor asked how far down Washington St., going away from downtown, the Low  
478 Density District goes. Mr. Hagan replied that he does not have the map in front of him, but it  
479 does change again; he thinks there is a little spot zoning there for what existed. He continued  
480 that he cannot answer Vice Chair Taylor's question exactly without looking at the map, but it  
481 does about Medium Density. With the map on the screen, Vice Chair Taylor asked Mr. Hagan to  
482 point out the location of the school building they are talking about, which he did.  
483

484 Vice Chair Taylor asked if there were any further questions for Staff from the Board. Hearing  
485 none, she asked to hear from the Petitioner.  
486

487 Adam Kossayda (Attorney from Bragdon, Baron, and Kossayda, P.C.) stated that he is pinch-  
488 hitting for Stephen Bragdon, who is not available this evening. He continued that while they are

489 talking about zoning, he would like to point out that the Citizen's Way development is nearby,  
490 which is High Density. It is about a block away, just off Washington St., right off of the map  
491 that was just on the screen. Josh Meehan has asked him to give a high-level description of what  
492 this project entails, and then he will go through the criteria. He and Mr. Meehan agree to move  
493 forward with the four-member Board. He asks the Board to open all three of the petitions,  
494 starting with the use Variance as they have been discussing.  
495

496 Vice Chair Taylor replied that as she mentioned earlier, the Board will handle the Variances first  
497 and then go on to the Special Exception, because they have different criteria.  
498

499 Josh Meehan, Executive Director of Keene Housing, introduced himself. He continued that he  
500 wants to point out that the Petitioner is Monadnock Affordable Housing Corporation (MAHC),  
501 which is an affiliate non-profit of Keene Housing. Keene Housing is the housing authority  
502 created by the City of Keene in 1965. Its sole purpose is to create housing that people can afford  
503 in Keene. They currently own 600 units. The occupancy rate currently is 99.2%. In other  
504 words, they have .8 vacant units as of January 2023. They have 1,344 unique Applicants waiting  
505 for the 600 units that currently exist, 72% of whom are waiting for a studio or one-bedroom  
506 apartment. The proposed project consists of 75% one-bedroom units and 25% two-bedroom  
507 units, totaling 60 units in a two-phase project. Each phase has 30 units. Most residents in Keene  
508 Housing's small units like that are elderly or disabled. They have been looking for a site for  
509 quite some time that would suit that population, because one-bedrooms and studios make up  
510 such a large portion of the waiting list. They have been looking for a site on public  
511 transportation, close to downtown, and not in the floodplain as they cannot do any development  
512 in the floodplain with the federal money they use. Keene Housing proposes a two-phase project,  
513 with 30 units each phase; one phase includes an adaptive reuse of the old school building. It will  
514 be funded, if they are successful (getting their Petitions approved by the Board), primarily  
515 through tax credits and ongoing operating subsidy through a HUD program. Last Thursday, they  
516 had a well-attended meeting with about 20 abutters.  
517

518 Vice Chair Taylor asked him to go over the capacity again. Mr. Meehan replied 75% of the units  
519 will be one-bedroom, and 25% will be two-bedrooms. He continued that that is about eight two-  
520 bedrooms per 30. Their architect is here and can answer questions as well and knows all those  
521 numbers well. Mr. Gorman replied that he thinks it would be 45 one-bedrooms and 15 two-  
522 bedrooms. Mr. Meehan agreed. Vice Chair Taylor asked if it is correct that there would be no  
523 studio apartments. Mr. Meehan replied that is correct.  
524

525 Vice Chair Taylor asked what Keene Housing's demographic is. Mr. Meehan replied that it  
526 depends on the apartment size, but one-bedroom apartments typically have an elder, an elderly  
527 couple, or a younger person with disabilities. The average income for their elderly population is  
528 about \$17,000 per year. Those are folks on fixed incomes, typically Social Security and some  
529 annuities. They typically do not have cars, although some do. The packet has a parking study  
530 and a traffic analysis, and the Board can see that on average, Keene Housing has many more  
531 parking spaces than they have people who need those parking spaces. There would be a ceiling  
532 for income eligibility for this property; it would be restricted to people at 50% or less of the area  
533 median income. For two people that is about \$38,000 a year in income.  
534

535 Vice Chair Taylor asked how they decided on two buildings of 30 units each. Mr. Meehan  
536 replied that it is driven by the Low Income Housing tax credit, which is the only production  
537 program left in the United States. It is an IRS program, administered through the NH Housing  
538 Finance Authority (NHHFA). NHHFA puts development caps on each allocation of tax credits  
539 each year. Since NH gets the “small state” allocation, they do not get a lot of tax credit.  
540 NHHFA keeps the development caps relatively low so that, for example, Manchester does not do  
541 a 300-unit tax credit job, sucking up all the NH credits for the year. Keeping the cap somewhat  
542 low results in most tax credit developments being in the 26-30 unit range, because that is as  
543 many as they can build with the equity they are able to get through the tax credit program. That  
544 is why they propose a two-phase project, one tax credit allocation for each phase.  
545

546 Vice Chair Taylor asked what the time period would be. Mr. Meehan replied that he will defer  
547 to the architect for the construction time period. However, how the tax credit round works is  
548 they submit their pre-application in July, full application in August, and in the fall, they learn  
549 that they got the tax credit allocation. That is usually the corpus of the capital they are collecting  
550 to do a project like this. Once they know they have the funding set by fall, they would usually  
551 begin a few months later. They get going with design, anticipating that they will have a  
552 successful application.  
553

554 Vice Chair Taylor asked what would happen if they learnt that their first allocation of tax credits  
555 was granted but not the second one. Mr. Meehan replied that they would hold and then reapply.  
556 He continued that however, there is a point system, sort of like the Community Development  
557 Block Grant program, which Keene Housing relies on for a lot of the work they do. NHHFA  
558 awards extra points for phase two applications, to recognize that the system they have  
559 constructed requires projects to come in phases. They could not guarantee that if they were  
560 successful in phase one, they would immediately get a tax credit allocation for phase two, but  
561 they would be fairly confident. If they did not, they would simply reapply in the next round.  
562

563 Vice Chair Taylor asked if Mr. Kossayda wanted to go through the criteria.  
564

565 Mr. Kossayda stated that this building was last used as the River Valley Community College,  
566 which is part of the Community College Systems of NH, State-owned and exempt from zoning.  
567 He continued that before that, he believes it was City-owned as a public school, and thus, it has  
568 not had any zoning. It is 2.4 acres, which means they cannot do the CRD, which requires five  
569 acres. He thinks it is a minimum of five acres for Low Density. In the application, he said ten,  
570 but that is for a different district.  
571

572 *1. Granting the Variance would not be contrary to the public interest.*  
573

574 Mr. Kossayda stated that granting this Variance would be in the public interest. He continued  
575 that in the Comprehensive Master Plan (CMP), from which this Zoning Ordinance is derived, it  
576 is no secret that Keene has a shortage of housing, and affordable housing in particular. Mr.  
577 Meehan talked about the 1,300+ unique people on the waiting list for Keene Housing, which  
578 some are applying for multiple locations, so it is more like 3,000 people. Clearly, there is a need  
579 for housing in this community. Certainly, this would serve the public interest by permitting  
580 more housing to be built as sixty units will put a dent in the problem but will not solve it. As Mr.

581 Meehan indicated, not many properties will support this type of housing and be appropriate for  
582 the community and for the population that would live there. Thus, allowing this Variance meets  
583 the public interest so that Keene Housing can provide more housing, specifically affordable  
584 housing.

585  
586 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

587  
588 Mr. Kossayda stated that granting this Variance to permit multi-family housing on the property is  
589 within the spirit of the Ordinance. He continued that he suggests that the spirit of the Ordinance  
590 is not just the Land Development Code (LDC); it encompasses the CMP, which directs that they  
591 have this. Line after line, the CMP talks about smart growth, increase in the need for housing,  
592 and improving housing opportunities in the city, particularly in and around downtown. This is .8  
593 miles from Central Square, about a 16-minute walk. It is within biking distance, walking  
594 distance, and served by City bus. The Ordinance indicates that there should be housing, and they  
595 should take advantage of housing opportunities in that area, to support a robust downtown  
596 Keene. The Ordinance does contemplate multi-family use in this district as part of the CRD, but  
597 unfortunately, because this is only 2.4 acres, they cannot take advantage of that opportunity.

598  
599 He continued that one other indication that this would meet the spirit of the Ordinance, is that the  
600 Ordinance provides for a 20% housing density credit for affordable housing, as far as  
601 subdivision, and Keene Housing meets that criterion of low-income housing. The language in  
602 the Ordinance tracks with what Mr. Meehan explained about the funding sources. This  
603 Ordinance already carves out some exceptions for this type of housing, and that is what they are  
604 trying to do, but unfortunately, there are not many places where they can do it. Thus, they are  
605 asking the Board for a Variance. You cannot draw a zoning map that is perfect, and they have  
606 Low Density over a property that is exempt; there was a school there.

607  
608 3. *Granting the Variance would do substantial justice.*

609  
610 Mr. Kossayda stated that in a case he cited in his materials, the (NH) Supreme Court found that  
611 improving a dilapidated area of town to provide affordable housing did substantial justice. He  
612 continued that this is not a dilapidated area of town, and he is not suggesting that it is, but this  
613 building is not being used to its full potential and is just sitting there. The Community College  
614 System of NH has people in and out of it, but as far as he can tell, there are not many active  
615 classes happening. It is being underutilized. Because of that, potentially, it is falling into  
616 disrepair. Keene Housing wants to meet the public's need with their proposal to develop this  
617 property for 60 units of affordable housing and is consistent with the area's present use. It is  
618 zoned as single-family, but as Mr. Hagan indicated, multi-family houses are nearby with  
619 Citizen's Way around the corner. Across the street at 543 Washington St. is a multi-family  
620 housing building with approximately 30 units between the two buildings. He suggests that what  
621 Keene Housing proposes is a better use of the property than letting it just sit there and it would  
622 be consistent with the neighborhood. He also suggests that it does not harm the neighborhood to  
623 have new, well-maintained properties with Keene Housing managing this property as Mr.  
624 Meehan was suggesting. Rather than having a building there that is not being used, they would  
625 have two buildings that are being maintained.

626

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

629  
630 Mr. Kossayda stated that in the materials, he included an article from Alexandria, VA, where a  
631 study was done about whether low-income housing diminishes the value of a neighborhood. He  
632 continued that it is a misconception that the presence of low-income housing drops the value of  
633 surrounding properties; that is not what they found in Alexandria. There is no comparable study  
634 in Keene, NH, but this was the best actual study they could come up with. Well-maintained  
635 neighborhoods are what help to drive property values. This property is not on the tax rolls.  
636 Here, it would probably be subject to a PILOT or something of that nature with MAHC. Those  
637 are all considerations about value and suggests that it does not diminish the values of  
638 surrounding properties. To the contrary, just letting a building sit there like it is, exempt from  
639 zoning and being underutilized, diminishes the value of the surrounding properties.

640  
641 5. *Unnecessary Hardship*  
642 A. *Owing to special conditions of the property that distinguish it from other properties in the*  
643 *area, denial of the variance would result in unnecessary hardship because*  
644 i. *No fair and substantial relationship exists between the general public purposes of the*  
645 *ordinance provision and the specific application of that provision to the property because:*

646  
647 Mr. Kossayda stated that this property is unique. He continued that it has a giant, 19,000 square  
648 foot building that predates the Ordinances, and is a school. It is an industrial-type building, and  
649 because it is exempt, it is in a place where it can only be used, realistically, as a single-family  
650 home. It is not tall enough to be a telecommunications tower and it could not be used as a CRD.  
651 Because of the unique nature of this property, as encumbered by this building, it cannot be used.  
652 He does not see any possibility of someone tearing down this property at a price tag of a little  
653 over a million dollars to build a single-family home or converting the school into a single-family  
654 home; it is unrealistic, making this property stuck in limbo. Private schools are not allowed in  
655 this district, so it could not be a school without a Variance. It would have to be a public school  
656 or an exempt government organization, as far as he can tell. What can be done with this building  
657 to make it useful? MAHC thinks a reasonable use is to convert it to multi-family housing, which  
658 this community needs. The best use of the property is 60 units of high quality, affordable  
659 housing, as Mr. Meehan described. They think there is a hardship because there is nothing else  
660 to do with this property.

661  
662 *and*  
663 ii. *The proposed use is a reasonable one because:*

664  
665 Mr. Kossayda stated that MAHC thinks this is a reasonable use, given what is needed in this city  
666 for the population. He continued that they are working within the rest of the Ordinance. They  
667 have height restrictions; it can only be two stories, so they must sprawl a bit. To make it  
668 worthwhile at this price point, 60 units is what they propose. Acquiring it to only put in 30 units  
669 is not quite worth it, it would change the equation significantly. They suggest that their  
670 application is a reasonable use of this property that cannot otherwise be used. He is not sure the  
671 State cares if it is used, but MAHC does, and the City does.

672



673 Vice Chair Taylor asked if they could hear from the architect about the building, especially the  
674 second building that would be included in this.

675  
676 Jonathan Halle of Warrenstreet Architects stated that when Mr. Meehan first approached him, he  
677 came up with a concept to put almost 90 units on this property. He continued that housing is  
678 driven by finances and how to put these packages together, is always a balancing act. They  
679 could have asked the Board for additional height Variances, or talked about additional lot  
680 coverage, or other things, but in the reality of working through it with the whole team, they came  
681 up with two phases. The proposal is to create two land condominium units to support the two  
682 phases with each phase financed on its own merits, each having its own utilities, its own water  
683 and sewer connections, and stand alone. The first phase is the back building, chosen because  
684 they want to do all the site improvements in the back building to get people in. Phase two would  
685 be the renovation, the demolition of the auditorium, and the addition, because then they can stage  
686 the construction along Washington St. and not put the burden of two years of construction on the  
687 people who have already moved into the back of the property.

688  
689 Vice Chair Taylor asked what he means about two “condominium units.” Mr. Halle replied that  
690 the property would be subject to a subdivision at the Planning Board level, and they would create  
691 two land condominium units. That allows them to develop each phase on its own land unit. It  
692 owns its land unit, and the interest in the fee simple lot underneath it as part of a condominium  
693 association, but that land unit and the building, phase one and phase two, are standalone projects;  
694 financed individually. The investors who own phase one could be different investors than those  
695 who own phase two, depending on when those tax credits are allocated over time.

696  
697 Mr. Meehan stated that as an example, Keene Housing headquarters at 831 Court St. has Stone  
698 Arch Village Senior and Stone Arch Village Family. He continued that it is exactly like this,  
699 condominiums with two different tax credit properties on what looks to a person walking by like  
700 one big piece of land. Mr. Halle added that the condominiums are only the land units, not  
701 condominiums like you might think of with five condos in alignment. It is just the land itself  
702 that allows for financing of individual projects.

703  
704 Mr. Halle stated that they did an entire design exercise where they scaled the buildings down to  
705 two stories and looked at the parameters of the property. They got everything down to these two  
706 Variances and the Special Exception, in terms of making it completely Code compliant. The  
707 buildings are considered Type VB construction. They could be wood frame but might be metal  
708 stud. They are a simple two-story, slab on grade, asphalt shingle roof, very consistent with what  
709 are found in the neighborhood. The buildings are sprinkled and have a fire suppression system.

710  
711 Vice Chair Taylor stated that much of that is for the Planning Board. She asked if it would meet  
712 all the other setbacks and requirements. Mr. Halle replied other than the ones they are applying  
713 for, yes.

714  
715 Vice Chair Taylor asked how close the back building is to the nearest residential single-family  
716 home. Mr. Halle replied that they are well within the setback. He continued that they went  
717 round robin with City Staff, in that they found out that Woodbury St. is considered the front  
718 yard, not Washington St., because of the corner lot and Woodbury St. having a smaller frontage,

719 so the setbacks are related to that. The front yard happens to be Woodbury St. with the retaining  
720 wall. Washington St. is a side yard and the back property line, perpendicular to Woodbury St., is  
721 a side yard. The rear yard would be to the south.

722  
723 Vice Chair Taylor replied that she was concerned with how close that two-story building, quite  
724 sizable for the area, was to the residential properties on Woodbury St. Mr. Halle replied that  
725 they managed to locate the building without cutting the tree line. He continued that they had the  
726 property surveyed, had it field verified, and are placing the building in such a way that  
727 (addresses) some issues brought up at the neighborhood meeting - like the very large oak tree in  
728 the northwest corner on Woodbury St.; that will not be removed. A neighbor mentioned a couple  
729 pines that they would like to have removed, which MAHC had not intended to take down, but  
730 essentially, they are getting that they have placed the building such that they do not need to affect  
731 the tree line. The side setback, he believes, is 25 feet perpendicular to Woodbury St. going out.  
732 Mr. Meehan stated that it is 15 feet in the front, 10 feet on the sides, and 20 feet in the rear. Mr.  
733 Halle stated that on the northwest corner the building is about 40 feet from the property line, and  
734 in the southwest corner, opposite Woodbury St., the building sits right on the building's setback,  
735 so it is kind of skewed on an angle. Vice Chair Taylor asked if he means the existing building or  
736 the new one. Mr. Halle replied the new one. He continued that probably more than half of the  
737 new building is in area that is paved parking lot today, which is a paved area in the back.

738  
739 Vice Chair Taylor asked if they still plan to have the primary entrances on Washington St. Mr.  
740 Halle replied no; he believes the primary entrances to both buildings will be off the parking lot in  
741 the middle, between the two buildings. He continued that the entrances to the building in the  
742 back would face the parking lot, which is not in the front yard because of the orientation of  
743 Woodbury St. More than likely, the main entrance to the existing school and the addition to it  
744 would be off that parking lot as well. There are some parking spaces along Washington St., and  
745 they intend to leave the entrance that is the link between the auditorium and the school building,  
746 for those who choose to park on that side, but it will not be the main entrance.

747  
748 Vice Chair Taylor asked if, as far as vehicular entrance from a City street, the primary one will  
749 be Washington St. Mr. Halle replied yes. He continued that orienting to the north, there is an  
750 entrance on the corner lot, which will be a one-way in, bringing you up and around to the parking  
751 lot. The curb cut directly opposite George St. will be three lanes, a right lane, a left lane, and a  
752 middle lane he is not sure about. Vice Chair Taylor replied that hopefully there will not be  
753 people darting across Washington St. out of George St. Mr. Halle replied that that curb cut,  
754 which is currently about 35 feet, will be in the same location. He continued that they had a  
755 traffic memo done, and they talked about it and oriented it so that it is directly opposite George  
756 St. The Civil Engineer is doing turning radiuses for the Fire Department to accommodate the  
757 ladder trucks and so on and so forth. He believes everything is compliant.

758  
759 Mr. Gorman stated that he gets the gist of the application, that the city has this big, existing,  
760 brick building that needs to be repurposed and that it is sort of hamstrung by zoning and almost  
761 impossible to meet zoning while repurposing this building. He continued that he understands all  
762 of that, but the question/concern he has is taking a situation that is presented as a unique situation  
763 and then building more buildings to make it even more unique and more out of touch with  
764 zoning or surrounding properties. He asked what the importance is of having the second

765 building, if it is financial viability or is it a matter of them taking as much as they can for the  
766 sake of being able to develop this property?

767  
768 Mr. Meehan replied that he thinks it is a combination of both. He continued that there is an  
769 economy of scale that they need to meet, especially given the agreed upon purchase price, and  
770 obviously it is not up to the seller to care very much about Keene Housing's economies of scale.  
771 For this to pencil out, this two-phase project, 60 units is the way that the math works best. In  
772 addition, the profound need for these units in our community is not something that he can  
773 disregard; that is a big part of it, too. They do not have a lot of opportunity to build housing that  
774 folks need in Keene that checks those good planning boxes that he mentioned earlier, such as the  
775 ability to get to downtown easily or get on the bus. Certainly, a 30-unit project here does not  
776 make a lot of economic sense for Keene Housing.

777  
778 Mr. Kossayda stated that to add to that, there is a profound need, and they heard Mr. Halle say  
779 that he started this design with 90 units. He continued that if they had their druthers they would  
780 build up, but they are trying to make it as reasonable as possible, because that is part of what  
781 they must do when seeking a Variance. They are also balancing many different things within the  
782 Ordinance. As Mr. Halle said, they whittled it down to just two Variances and a Special  
783 Exception for the parking, which he can speak to later, including the traffic study for the Board's  
784 review. They are trying to balance all of those competing interests to do the most reasonable and  
785 best use of the property and make it worthwhile to meet the need for the public.

786  
787 Mr. Halle stated that doing housing is very difficult. He continued that if they started this today,  
788 they would not finish the two phases for more than five years from now. They are only adding  
789 60 units to the housing need across the city. If they could do all 60 units in one phase, they  
790 would, but they cannot figure out how to do that with the available financing.

791  
792 Mr. Halle stated that Matt Moore is here representing the Community College System. He is the  
793 Director of Facilities. If the Board has any questions, he can speak to how long this property has  
794 been on the market. MAHC has been in negotiations for over a year, just to get to this point,  
795 regarding what to do with this piece of property. It is encumbered with (issues) they do not need  
796 to talk about tonight, like who owns the retaining wall and how it will get repaired. There are a  
797 lot of pieces and parts to make this happen.

798  
799 Vice Chair Taylor asked if there were any further questions from the Board. Hearing none, she  
800 asked for public comment, beginning with Matt Moore, and asked to hear his perspective on how  
801 usable this property is and why the Community College System is selling it and how long (it has  
802 been on the market).

803  
804 Matthew Moore, Director of Capital Planning and Facilities for the Community College System  
805 of NH, stated that they have come to realize that with enrollment dropping and with combining  
806 with the university system in Keene, they have moved into classrooms at Keene State College  
807 (KSC) and have no further need for this building.

808  
809 Vice Chair Taylor asked for public comment, beginning with people in favor of the Variances.  
810

811 Chris Coates stated that he is the chair of the Keene Housing Commission. He continued that he  
812 is also on the board of Hundred Nights, and thanks the Board for their thoughtful process and  
813 decision around that. He is on multiple committees through his job as County Administrator,  
814 trying to figure out housing throughout Keene and Cheshire County. How to address this need,  
815 which is beyond crisis level, is a constant discussion. NH is within the top three of the “greying  
816 states,” and Cheshire County is in the top three “greying counties,” as in aging. Because of  
817 limited incomes, individuals are looking for different opportunities for housing. When River  
818 Valley Community College decided to move onto the KSC campus, the Commission decided to  
819 explore the opportunity of purchasing this building, because they knew the need. They hear  
820 about the need on a regular basis at their meetings and are always looking to do whatever they  
821 can to address those needs. He sees this as a “twofer project.” Keene Housing adding 60 units  
822 could possibly also loosen up other housing in the community for others to obtain. It is a win-  
823 win for everyone. Keene Housing is a good steward and a good neighbor, if you look at any of  
824 their properties. He himself is a neighbor, as he lives at 30 Gilsum St. Keene Housing takes  
825 very seriously the need to ensure that, not just for the sake of the neighbors but also for the sake  
826 of the individuals that choose their housing, that they feel comfortable and welcomed in the  
827 housing they live in and that it is a positive experience for them. Keene Housing met with  
828 abutters and that is important. He was on the board for nine years prior and now this is his  
829 second time around on the Commission, about three years in. There have been multiple projects.  
830 They start a conversation with the community that they are affecting and continue that  
831 conversation. They will have other conversations to hear people’s concerns and hear what they  
832 are excited about, to try to build off that. With any project, they promise to walk with those who  
833 are being affected and address those issues. They are excited about this opportunity.  
834

835 Hannah of 24 Vernon St. stated that she is currently staying at Monadnock Peer Support (MPS)  
836 in their Step-Up Step-Down program. She continued that she believes it will be very beneficial  
837 to build this affordable housing project. She and her mother are currently facing homelessness,  
838 through no fault of their own, due to her stepfather illegally taking her mother’s name off the  
839 mortgage. MPS is housing her until April 26, and after that, she has nowhere else to go. Adding  
840 this building will greatly affect many people who are in similar situations.  
841

842 Trish Lane from MPS stated that she (facilitates) groups and hears many stories like this. She  
843 continued that she knows many people are looking for housing, and sometimes her groups turn  
844 into a housing discussion, because the need is so high. She is passionate about this topic, and is  
845 here to support Hannah, who was brave to share her story tonight. Many others have stories like  
846 hers, need a place to live, and are often very depressed about it. She encourages people to keep  
847 trying and to remain hopeful. This [Variance application from MAHC] gives hope. She  
848 appreciates what is happening here and hopes the Board approves this.  
849

850 Madeline Ullrich, Executive Director of NH Care Collaborative, formerly known as Monadnock  
851 Collaborative, stated that Service Link is one of the programs they house and support. She  
852 continued that the Department of Health and Human Services (DHHS) runs it. All programs at  
853 the NH Care Collaborative are working with individuals who are going after long-term care and  
854 need various options to remain aging in place at home. Rents are [high]. There are people who  
855 own their own homes and have worked their entire lives until retirement and can no longer afford  
856 it, so Staff spends much of their time working with aging and disabled people in the community,

857 and Veterans, in the challenging task of finding housing. It is depressing. She gives kudos to  
858 Ms. Lane and Hannah, who said it well.

859  
860 Laura Tobin of Center St. stated that she recently started a new position in marketing, and the  
861 field has shifted so that her primary goal now is not to sell a product but to find employees.  
862 Unfortunately, she cannot find employees, because people cannot afford to live here, because  
863 there is not enough housing. Some people tend to think about these projects, like converting old  
864 schools into housing, as “giving people something that they haven’t earned or worked for,” but  
865 the truth is that the impact to the community, by not providing housing, is that the community is  
866 unsustainable. There are people like Hannah, who just said that she will not have a place to go.  
867 There are jobs for people like Hannah, but how can you think about looking for a job when you  
868 do not have a place to live? Finding a place to live becomes your priority; you cannot function  
869 (without it). She has been in that situation herself. She is still on the waitlist for Keene Housing,  
870 although she does not necessarily need it right now. She is able to work, but she was working so  
871 hard at finding housing that it was like a job itself.

872  
873 Ms. Tobin continued that not too far from the building is another large apartment building.  
874 People who live there work downtown, go to school at Antioch, and so on and so forth. Nearby  
875 is a gas station and laundromat. The area near this building has recently been the focus of some  
876 development already, so this (project) feels like a natural transition. It is also easy to access  
877 schools and hospitals from this location. Many nurses and teachers would qualify for Keene  
878 Housing services. Her understanding of the waitlist is that it is not just a matter of who comes  
879 first – certain people, such as people with disabilities or limitations, get priority. It makes sense,  
880 but it also means that those nurses and teachers, whose work will be increasingly needed in the  
881 upcoming years, do not have a place to go. Childcare is another big challenge. Many people  
882 cannot go back to work because they lack childcare. People have stopped entering into childcare  
883 as a career because it is not feasible, earning just \$11 to \$15 per hour. She asks the Board to  
884 consider the populations they are talking about – these people make the community work.

885  
886 John Bordenet of 22 Woodbury St. stated that he has lived there since 1991. His first experience  
887 with the property (in question) was bringing his daughter to the playground there, where they  
888 spent many hours. He continued that he has seen businesses come and go there, such as the  
889 American School of Gymnastics, T&T, and the community college. He would like to see a  
890 stable use for this property. He is excited about this project and hopes the Board will approve  
891 the (Variances) and Keene Housing will be able to move forward. He attended the abutters’  
892 meeting, and questioned the retaining wall. They have been looking for the City to do something  
893 about that retaining wall and the guardrail that sits on top of it, for years, with no movement by  
894 either the City or the school. Already, the possible next owners have made an agreement with  
895 the school and the City to take care of that issue before they even take the property. He supports  
896 it wholeheartedly.

897  
898 Dillon Benik of 635 West St. stated that he is the President of People’s Linen Service, which  
899 owns property at 44 George St. and 427 Washington St. His partner Dave owns 451 Washington  
900 St. and 463 Washington St., a multi-unit commercial space. He is fully in favor of this  
901 (Variance). He looks at the building (in question) every day and wishes it were developed  
902 somehow, into housing specifically. People’s Linen briefly looked into trying to do it

903 themselves, but that was not possible as a private entity, given the obstacles. When they heard  
904 about this (plan from Keene Housing) a few weeks ago they were excited. People's Linen has  
905 Staff that needs housing. They recently renovated 427 Washington St. to provide for their Staff,  
906 because the inventory of single-family homes to purchase in Keene is far below normal levels.  
907 The inventory for regular market rate housing is very low, and inventory for affordable housing  
908 is nonexistent.

909  
910 Ken Cost of 79 Ridgewood Ave. stated that they talk about housing constantly in this room, and  
911 the Southwest Regional Planning Commission is doing housing studies, so he does not think they  
912 need to talk about the housing need, which was expressed very clearly. He continued that he  
913 perked up when he heard that the architect was talking about 90 units, because he thinks the  
914 denser the better, to use land efficiently. He understands that is not happening here, but 60 is  
915 wonderful and there is no downside to this project. He hopes zoning does not become a blocking  
916 point. This project will reuse an existing building that has been standing vacant, and they heard  
917 from neighbors who are in favor of the project, and it fills a dire need in the community. Keene  
918 Housing has done an outstanding job identifying it and putting the package together. They found  
919 a willing seller, and they are a willing buyer. Nothing here would cause any issues and it is  
920 partly solving a major problem. He is part of the Monadnock Interfaith Project, which looks at  
921 housing a lot. He is very much in favor of this project, thinks it is an outstanding solution, and  
922 hopes there are many more like this.

923  
924 Phil Wyzik of 15 Base Hill Rd. stated that he is the CEO of Monadnock Family Services (MFS)  
925 in Keene. He continued that MFS is a non-profit mental health center that serves about 1,300  
926 people on a given month, most who live in the Keene area. MFS's mission is to take care of  
927 people with long-term mental health conditions and children with severe emotional disturbance.  
928 He supports all the speakers who spoke before him to say how wonderful this project is. He  
929 echoes their voices and believes this project is extremely worthwhile. Staff at MFS see people  
930 struggling with housing every day and people doing their best to regain their health, living in  
931 squalor because they have no other place. When the most recent survey of homelessness was  
932 done, MFS's outreach worker counted 30 tents, in January, with people trying to suffer through  
933 this NH winter. As people have said before him, the need for housing is great. Currently, MFS  
934 has 185 employees. Some people reject his offer of employment because they cannot find  
935 housing, and this is true for both entry-level employees earning \$16 or \$17 per hour as well as  
936 highly skilled professionals earning six figures. This project is not the solution to everything, but  
937 adding 60 units of affordable housing is, to him, significant.

938  
939 Mr. Wyzik continued that those individuals suffering with any kind of physical or mental health  
940 condition, as well as struggling with poverty, have a double whammy. It is clear in the literature  
941 he reads that as you struggle with poverty every day and your stresses, burdens, and worries  
942 continue, the cumulative effect is traumatic. It changes the way you live your life and the way  
943 your brain thinks. Once upon a time, we thought Keene would be the healthiest community in  
944 NH, with the "Healthy Monadnock" initiative. We know we need to address the effects of  
945 trauma and poverty. Regarding the question of whether this project is in the public interest, it  
946 seems to him that it is solving a problem for the University System of NH, which is in the public  
947 interest, and creating beds for people in the region, which solves a problem. He thinks it can be  
948 said, with no doubt, that Keene Housing produces wonderful environments for people to live in.

949 If you have been in any of their properties, you know they are nice places to live. The people  
950 living there, therefore, experience dignity and having people live in dignity is in the public  
951 interest. He suggests they do everything possible to help this project succeed, and if there is  
952 something they can do to create more housing of all types that would be helpful.

953  
954 Eric Willis of 18 Woodbury St. stated that when he bought his house in 1993, the real estate  
955 agent showed him how he did not have houses close to his, and tonight they are talking about  
956 “good neighbors” and there will be 72 windows in 30 units, two stories high, in his backyard.  
957 He continued that there is the question of how far from the line that first building is going to be,  
958 and there are many questions about that building, which will be built first; he would think the  
959 main building would be built first. He understands they want to take care of the construction  
960 staging out front, but it seems to him that they are “trying to jam a big square peg into a small  
961 round hole,” and if things do not go the way they hope, they will have to reapply for the first  
962 building again. It will still be sitting there and he wants Keene Housing to reconsider. Using  
963 that first building is a great use of the property, but the second building right on the line and two  
964 stories high with 30 units does not seem very neighborly to him in a place that is not zoned for  
965 60 units, with 30 of them right on his back line and 72 windows in his backyard. Repurposing  
966 the first building would be great. A fire truck can drive all the way around the building.  
967 However, putting a building in the back, about 10 feet from the property line, where there is soft  
968 material, and no road means a fire truck could not get back to that building and to him that is a  
969 weakness. He watched the Fire Department out there testing their new ladders, and they could  
970 get all the way around the building that is there.

971  
972 Mr. Willis continued that regarding people saying this property could not be a single-family  
973 home, he has seen many places operate out of there, like various schools. Offices and schools  
974 can be in that building. He does not see why Keene Housing could not just do away with their  
975 plan for a back building and put more use in the existing building in the front. If the Board  
976 approves this, he hopes they consider putting in something like when Liberty Mutual bought the  
977 formerly Peerless building on Maple Ave., a big berm of soil with arborvitae to give a little  
978 privacy barrier and a fence behind that would be nice, too since he is concerned about having 30  
979 units so close to him. He heard that Keene Housing “usually attracts” elderly and disabled  
980 people, and he heard talk about whether this depreciates the values, and he has never seen  
981 anyone seek out a house specifically to be nearby government or City-funded housing projects.  
982 His house had electric heat when he bought it, and he took it out and put in hot water heating,  
983 increasing the value. He told the bank and they laughed at him, saying that the house had a  
984 heating system in it when he bought it, so they would not increase the value of his house. That is  
985 what he sees with surrounding properties. It (Keene Housing’s project) might not drop the value  
986 a lot, but it will affect the salability. In a roundabout way, it does affect the value.

987  
988 Dante Diffendale stated that he currently resides at the Step Up Step Down program at 24  
989 Vernon St., at MPS. He continued that he has been homeless since 2019 and has been able to  
990 stay in Keene by sleeping on people’s couches, going to MPS, and living in a tent. Due to his  
991 physical and medical conditions and mental health, he will not survive being homeless. He  
992 almost did not survive the last time he was in a tent, which was in the summer. Thankfully, he  
993 had someone who did not tell her landlord that she let him move into her house, because he  
994 cannot be outside in the winter. At the end of his stay at MPS, he might have to leave Keene.

995 He moved here in 2008 because everything was cheaper here, and he loved Keene. He still loves  
996 Keene – its small-town feeling, the local shops, and being able to walk everywhere he needs to  
997 go. He does not want to have to leave Keene. When you are homeless, you cannot save money  
998 to get an apartment or save money for a security deposit and first and last month’s rent, or even  
999 to furnish an apartment. Being homeless is more expensive than people realize and he has zero  
1000 savings. He has been on Keene Housing’s waiting list for close to three years. He will have to  
1001 leave Keene in the middle of April because he has nowhere else to go. This project will not help  
1002 him, because according to the timelines it is still a long way away. He moved here to attend  
1003 KSC and fell in love with Keene’s people, atmosphere, and small-town life. In the part of NJ  
1004 where he is from, you cannot walk down Main St. and say “hi” to a stranger and get a “hi” back.  
1005 You *can* do that in Keene. He moved here knowing he was going to leave Keene after going to  
1006 KSC, but he fell in love with this city and does not want to have to leave.

1007  
1008 Vice Chair Taylor asked if there was any further public input in favor of or opposed to the  
1009 application. Hearing none, she gave the Applicant the opportunity to give rebuttal.

1010  
1011 Mr. Kossayda stated that he appreciates Mr. Willis’s comments and the discussion. He  
1012 continued that earlier, he spoke about trying to figure out which Variances to go for or not go for  
1013 with this unique property. Regarding building up versus out, this district has restrictions on  
1014 building up, so they are stuck with two stories unless they got a Variance for height. Then there  
1015 is the question of whether the building’s construction could support that kind of height, and the  
1016 financing problem (that requires them) to do 30 units at a time. Thus, it does not lend itself to  
1017 going up rather than out. The issue for this Board is whether to permit the multi-family housing  
1018 with 60 units and the Variance from the limitation on single-family use. The issue (of building  
1019 design/up versus out) is for the Planning Board to determine. Keene Housing did consider going  
1020 up. They welcome more discussion with neighbors about privacy interests and how to develop  
1021 the property to respect neighbors’ privacy, because those are well-informed points. Mr. Meehan  
1022 is always available to discuss that. That is why they had the roundtable with the neighbors  
1023 before coming to this Board, to address those issues.

1024  
1025 Mr. Kossayda stated that the question is not whether Keene needs housing, because it is clear  
1026 that it does, but it informs every one of the criteria that the Board has to decide on. He thinks it  
1027 outweighs the risk of harm that would be on the other side of the equations, for each criterion.  
1028 They heard that People’s Linen looked at the property and could not do what Keene Housing is  
1029 trying to do, so it speaks to the hardship, the uniqueness of this property, and the difficulty of  
1030 trying to develop it. He also asks the Board to look at the provisions he cited from the CMP  
1031 about being creative with the need for housing. The Community Development Department does  
1032 a great job but cannot look at every single individual property when drawing a Zoning map, and  
1033 this project did not exist at that time. He understands they try to avoid spot zoning, but this is a  
1034 unique opportunity for the City, and he thinks it is a reasonable request under the unique  
1035 circumstances of this lot. He appreciates everyone who spoke in favor and against this and the  
1036 civil discourse.

1037  
1038 Mr. Meehan stated that he appreciates everyone’s time and knows how much it means for  
1039 everyone to come out; it can be hard to talk about these issues in a public setting like this. He  
1040 continued that as Mr. Kossayda said, he would be more than happy to work with any abutters



1041 who have concerns about the proximity and how Keene Housing might accommodate for them to  
1042 feel more comfortable. He understands some people's desire for Keene Housing to just do the  
1043 one building, but he reiterates that it would be very difficult financially for them to move  
1044 forward with this project if they could not do 60 units.

1045  
1046 Mr. Gorman asked if Keene Housing would walk away from the (plan for) 30 units in the  
1047 existing building (if they could not do 60). Mr. Meehan replied that he does not know. He  
1048 continued that they would have to talk with the person who helps them find the money and do  
1049 some difficult math. They would try to figure out a way to make it work but it would be very  
1050 difficult. Mr. Gorman asked if it would become much less likely. Mr. Meehan replied yes.

1051  
1052 Vice Chair Taylor asked if there were any further questions from the Board. Hearing none, she  
1053 closed the public hearing and asked the Board to deliberate. She continued that they need to vote  
1054 on the two Variances separately, but first they can discuss their thoughts on the criteria and then  
1055 make separate motions.

1056  
1057 *1. Granting the Variance would not be contrary to the public interest.*

1058  
1059 Mr. Welsh stated that he appreciates that the Applicant has gone into the CMP for documentation  
1060 of public interest as well as the Code, and he thinks they made a compelling case that the CMP  
1061 does look for relief from Keene's housing problem from projects like this. He continued that the  
1062 Applicant has documented the need for housing of this sort. He thinks they did a good job  
1063 showing that it would not be contrary to the public interest.

1064  
1065 Vice Chair Taylor stated that she appreciates the references to the CMP, especially for the public  
1066 interest criteria; however, that is not the Ordinance. The CMP, even if the Planning Board and  
1067 City Council approved it, is still advisory.

1068  
1069 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*

1070  
1071 Mr. Welsh stated that he thinks it is a reasonable connection, in the spirit of the Ordinance, to  
1072 talk about the possibility of other multi-family units in this district that cannot be utilized  
1073 because it does not lend itself to CRD. He continued that he thinks that the spirit of multi-family  
1074 dwellings is there, even if it is not technically available without a Variance in this instance. The  
1075 spirit of the Ordinance comes from the CMP, even if it is not written in. It is in agreement and  
1076 concurrence.

1077  
1078 Mr. Clough stated that it was pointed out that this lot is unique in that when the Zoning was done  
1079 it was either in some way exempt or used in a completely different way than anything close by.  
1080 It was the one school and is currently owned by the State. Again, it is not something that the  
1081 City's Zoning touches. Thus, it has always been sort of outside the Zoning Ordinances just  
1082 because of its existence. Applying it solely by a Zoning Ordinance would be tricky, in his  
1083 opinion. It is a unique situation and needs to be looked at in a different way.

1084  
1085 Mr. Gorman stated that he goes back to Mr. Kossayda's point about Zoning being a broader  
1086 brush and not wanting a pocket of individual properties that are subtracted from the bigger

1087 picture, and he thinks that is the case here. He continued that the Ordinance is drafted to prevent  
1088 certain things from happening in a neighborhood, but in this particular instance, it probably was  
1089 not drafted with the school that already exists in mind. He thinks it is within the spirit of the  
1090 Ordinance to find a good purpose for this property and one that can benefit the greater good.

1091  
1092 3. *Granting the Variance would do substantial justice.*

1093  
1094 Vice Chair Taylor stated that they have had a great deal of testimony regarding the need for  
1095 housing, and in her opinion, that meets the criteria for substantial justice and outweighs, with all  
1096 due respect, any potential detriment to individual property owners.

1097  
1098 Mr. Gorman replied that he agrees. He continued that that does not diminutize the concerns of  
1099 the abutter, in his mind. Relative to that and what he would consider a just outcome for all  
1100 parties, he would be seeking some sort of stipulation for privacy screening along that boundary.  
1101 Vice Chair Taylor agreed.

1102  
1103 Mr. Welsh stated that he was thinking about the privacy screening and concerns of that sort that  
1104 have been raised, and wondering what the Board can do. He asked if they could attach a  
1105 condition that is incumbent on the Planning Board as they consider the specifics of this  
1106 application later. Mr. Gorman replied that in the past the Board has put a provision in place,  
1107 using fairly loose language and tying it to Planning Board approval. Vice Chair Taylor agreed.  
1108 She continued that she thinks this is an allowable condition, and yes, the Board has put that type  
1109 of condition on Variances previously.

1110  
1111 4. *If the Variance were granted, the values of the surrounding properties would not be*  
1112 *diminished.*

1113  
1114 Mr. Gorman stated that this is a case where the *current* situation is probably diminutizing  
1115 neighborhood property values. He continued that the development of this property, in his  
1116 opinion, would raise property values. A vacant building, in his experience, is about the utmost  
1117 detriment to a neighborhood that you can have. He thinks there was fact presented as well that  
1118 maybe what people think low-income housing does to a neighborhood is not actually the case.  
1119 That further supports his sentiment that this will not diminutize property values.

1120  
1121 Mr. Welsh stated that he always appreciates it when Applicants provide information of some sort  
1122 for this criterion to help the Board, and he thinks the article from the Applicant, even though it is  
1123 about Alexandria, is useful and worth bringing in. He continued that he also thinks it is worth  
1124 considering that there are similar existing uses in the area that do not diminutize property values  
1125 and enhance opportunities and overall property values. He is less concerned about that.

1126  
1127 5. *Unnecessary Hardship*

1128 A. *Owing to special conditions of the property that distinguish it from other properties*  
1129 *in the area, denial of the variance would result in unnecessary hardship because:*  
1130 *i. No fair and substantial relationship exists between the general public purposes*  
1131 *of the ordinance provision and the specific application of that provision to the*  
1132 *property*

1133 and

1134 ii. *The proposed use is a reasonable one.*

1135

1136 Mr. Gorman stated that this is a giant brick school building with an amazing amount of square  
1137 footage and over two acres, which can be either a community garden, a single-family home, or a  
1138 telecommunications facility. He continued that he thinks that embodies hardship.

1139

1140 Mr. Clough stated that he agrees. He continued that there are a not many choices there with a  
1141 building that does not seem suitable for any of them.

1142

1143 Mr. Welsh stated that it seems like neighbors and others have exerted their imaginations on this  
1144 one for a while, and come up blank, and this is the best and most likely use that the Board has  
1145 heard.

1146

1147 Vice Chair Taylor stated that Mr. Welsh's words go to the reasonableness of this. She continued  
1148 that in her view, the hardship comes with where the lot is, the size of the lot, and the monolith of  
1149 a building that is on it. That in itself creates a hardship, considering all the other factors.

1150

1151 Vice Chair Taylor asked if the Board had further comments on the criteria. Hearing none, she  
1152 asked for a motion.

1153

1154 Ms. Marcou asked if the Findings of Fact the Board just discussed were for ZBA 23-06 or for  
1155 both ZBA 23-06 and ZBA 23-07. Vice Chair Taylor replied that the discussion was about both  
1156 Variances, but they will vote on each separately. Mr. Gorman stated that as they get into the  
1157 second Variance, if any of the Findings of Fact change in any Board member's view, they could  
1158 just make note of that. He asked if that would be appropriate. Vice Chair Taylor replied yes,  
1159 unless anyone wants to go through them all again. Mr. Gorman replied that he does not want to.

1160

1161 Mr. Gorman made a motion to approve ZBA 23-06 with a condition of a privacy screening,  
1162 subject to Planning Board approval, on the northeast line of the property.

1163

1164 Mr. Hagan asked for clarification of which setback that is, for record keeping and for when Staff  
1165 is trying to enforce it. He asked if they could determine if that is the front setback, side setback,  
1166 or the rear setback. Vice Chair Taylor replied that it is the side setback on the northeast side of  
1167 the property.

1168

1169 Mr. Welsh seconded the motion.

1170

1171 1. *Granting the Variance would not be contrary to the public interest.*

1172

1173 Met with a vote of 4 to 0.

1174

1175 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1176

1177 Met with a vote of 4 to 0.

1178

1179 3. *Granting the Variance would do substantial justice.*

1180

1181 Met with a vote of 4 to 0.

1182

1183 4. *If the Variance were granted, the values of the surrounding properties would not be*  
1184 *diminished.*

1185

1186 Met with a vote of 4 to 0.

1187

1188 5. *Unnecessary Hardship*

1189 A. *Owing to special conditions of the property that distinguish it from other properties in the*  
1190 *area, denial of the variance would result in unnecessary hardship because:*

1191 i. *No fair and substantial relationship exists between the general public purposes of*  
1192 *the ordinance provision and the specific application of that provision to the property*

1193 *and*

1194 ii. *The proposed use is a reasonable one.*

1195

1196 Met with a vote of 4 to 0.

1197

1198 The motion to approve ZBA 23-06 with the condition passed with a vote of 4 to 0.

1199

1200 Vice Chair Taylor stated that they will now move on to ZBA 23-07. She asked if any Board  
1201 members have any differing comments on any of the criteria for this particular Variance  
1202 regarding impervious surface, less green building coverage, and less green open space than is  
1203 required by the Ordinance.

1204

1205 Mr. Gorman stated that his narrative will change slightly on the fifth criterion, just because he  
1206 thinks some of the hardships that encompass the existing building do change with the addition of  
1207 the second building. He continued that that is probably what creates the need for the less  
1208 impervious surfaces as well as that situation leading to parking, which they will get to.

1209 Specifically with the impervious surfaces, he would restate his position on the hardship to be that  
1210 this project is unlikely to ever happen if it does not happen with these measures in place, and if it  
1211 is unlikely to ever happen, then they come back to the same hardship of having a property that  
1212 cannot have a viable use. He thinks that for the sake of viability, that is the essence of the  
1213 hardship on this second Variance application.

1214

1215 Vice Chair Taylor asked if anyone else had comments. Hearing none, she asked for a motion.

1216

1217 Mr. Gorman made a motion to approve ZBA 23-07.

1218

1219 Mr. Gorman stated that his motion is to approve without condition, since they already placed the  
1220 condition on the first Variance.

1221

1222 Mr. Clough seconded the motion.

1223

1224 1. *Granting the Variance would not be contrary to the public interest.*

1225 Met with a vote of 4-0.

1226

1227 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1228

1229 Met with a vote of 4-0.

1230

1231 3. *Granting the Variance would do substantial justice.*

1232

1233 Met with a vote of 4-0.

1234

1235 4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

1236

1237 Met with a vote of 4-0.

1238

1239 5. *Unnecessary Hardship*

1241 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:*

1242 *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*

1243 *and*

1244 *ii. The proposed use is a reasonable one.*

1245

1246 Met with a vote of 4-0.

1247

1248 The motion to approve ZBA 23-07 passed with a vote of 4-0.

1249

1250 **E) ZBA 23-08: Petitioner, Monadnock Affordable Housing Corp. of 831 Court St., Keene, represented by Stephen Bragdon of 82 Court St., requests a Special Exception for property located at 438 Washington St., Tax Map #531-054-000-000-000, is in the Low Density District and is owned by the Community College System of New Hampshire of 28 College Dr., Concord, NH. The Petitioner requests a Special Exception from the parking requirements to allow less than two spaces per units per Chapter 100, Article 9.2.6, 9.2.7 and Table 9-1of the Zoning Regulations.**

1251

1252 Vice Chair Taylor introduced the petition and asked to hear from Staff.

1253

1254 Mr. Hagan stated that as part of the Special Exception process, it is under Section 25.8, not Section 25.7. He continued that it is the same property, and asked if the Board wants him to go over it again. A portion of the Ordinance allows up to 49% for the Special Exception.

1255

1256 Vice Chair Taylor asked him to go over the parking requirements. Mr. Hagan replied that it is Section 9.2.7, Reduction of Required Parking Spaces. He continued that Section C. of that is Major Reduction Requests, and says:

1257

1270

1271 “1. Requests for reductions in required parking that exceed 10% and are less than 50% shall be  
1272 considered by the Zoning Board of Adjustment through the special exception process.  
1273

1274 2. In determining whether to grant a special exception, the Zoning Board of Adjustment shall  
1275 make the following findings in addition to those required for a special exception.

1276 a. The specific use or site has such characteristics that the number of required parking spaces  
1277 is too restrictive.

1278 b. The requested reduction will not cause long term parking problems for adjacent properties  
1279 or anticipated future uses.”  
1280

1281 Vice Chair Taylor asked if the application was correct that the buildings, if built out in the  
1282 anticipated configuration would be 120 spaces. Mr. Hagan replied that is the required parking,  
1283 yes.  
1284

1285 Vice Chair Taylor stated that she has another question, regarding the provision of 9.2.9, Remote  
1286 Parking, because that was brought up in the application. She continued that Section A. says,  
1287 “The remote parking spaces shall be within a 1,000-foot walking distance of the property on  
1288 which the principal use is located.” She asked if that applies to a major reduction request. Mr.  
1289 Hagan replied that that would be part of the administrative portion of things. He continued that  
1290 they are seeking Section C, Major Reduction in Parking, asking for that exception to the required  
1291 parking spaces. They are required to have 120 and are looking to reduce it to 70 onsite parking  
1292 spaces. He asked if that answers her question. Vice Chair Taylor replied that if off-site parking  
1293 is needed, she is curious about how that would be handled. Mr. Hagan replied that it is up to the  
1294 Applicant to explain why they are going for a Variance and not asking for offsite parking. Vice  
1295 Chair Taylor stated that what she is asking is if that is an additional requirement, if you do not  
1296 have enough parking. Mr. Hagan replied that it is an option, which the Applicant chose not to  
1297 take.  
1298

1299 Mr. Gorman stated that his understanding is that the Applicant has two avenues to proceed with:  
1300 The first one, which they are doing, is to apply for a Special Exception, whereby the need for  
1301 offsite parking would not even come to play. However, if this Board rejects the Special  
1302 Exception application, the Applicant could then take their Variance for the 60 units to City Staff  
1303 with offsite parking accommodations and get approval that way. He asked if that is correct. Mr.  
1304 Hagan replied yes. He continued that he did not read (aloud) the third bullet point in Section C.  
1305 of Major Reduction Request, but basically the Applicant submitted that (parking study that 3.  
1306 requires) in order to go for a Special Exception. That third bullet point says that (the parking  
1307 study shall address) the following:  
1308

1309 “a. A description of the proposed use(s).

1310 b. Days and hours of operation of the use(s).

1311 c. Anticipated number of employees [...]

1312 e. The availability of nearby on-street parking or alternative modes of transportation (e.g.  
1313 public transit, multi-use pathways).

1314 f. The anticipated peak [...]

1315 Mr. Hagan continued that thus, there is a whole additional set of criteria that needs to be  
1316 provided, which is that parking analysis, which the Applicant provided as part of this path.

1317  
1318 Vice Chair Taylor replied that she did not see even the summary in the agenda packet she  
1319 received, so she feels in the dark as to what was in it. She asked if it was in others' agenda  
1320 packets. This application keeps referencing a "summary of a parking study," but she [does not  
1321 have it]. She assumes it is out there somewhere. Mr. Hagan replied that Staff has a copy of it if  
1322 she wants. Vice Chair Taylor replied that when something is so pertinent to an application it  
1323 needs to be provided to the Board.

1324  
1325 Vice Chair Taylor asked if the Board had further questions for Staff. Hearing none, she asked to  
1326 hear from the Applicant.

1327  
1328 Adam Kossayda stated that he is, again, representing MAHC, and Josh Meehan is with him. He  
1329 continued that he is sorry Vice Chair Taylor did not get a copy of the summary of the parking  
1330 study. The parking study is informed a lot by the data that Keene Housing has generated, which  
1331 found that Keene Housing is not using the parking that it has. Regarding Vice Chair Taylor's  
1332 earlier question about whether MAHC was pursuing a remote parking special exception, they are  
1333 not. They are only pursuing the request for major reduction, so they could have 70 spaces  
1334 instead of the 120 required by Table 9-1. Keene Housing found, in surveying properties like this  
1335 one, that they have empty parking lots all over town. MAHC put in the (application) that they  
1336 have these spaces available if they are needed, which are also on City bus, but that is the gist of  
1337 it. That is just to demonstrate the issue that they have parking spaces at properties that have two  
1338 parking spaces per unit, and they just are not used. Without going into too much detail, which  
1339 they have already gone into tonight, he reiterates that MAHC is balancing many different  
1340 interests within the Ordinance here – height, coverage, parking, and so on and so forth. They  
1341 found that they can peel back on parking, because they do not need it. They do not want to have  
1342 unused parking spaces. They would rather have housing units. That is what is informing this  
1343 request. In addition, the lot is only 2.4 acres, which is not a lot of space to work with. They do  
1344 not want parking to eat up the space.

1345  
1346 Mr. Kossayda stated that he will not read the application, but he will hit some of the high points.  
1347 MAHC is asking for permission to have only 70 spaces as opposed to 120 spaces. The Zoning  
1348 Ordinance specifically allows this, by Special Exception. Something unique, that was surprising  
1349 to him in the parking study, is that there will be less traffic than when this was used as a school.  
1350 If you have 200 students coming in and out of that building during the course of a day, there is a  
1351 lot of vehicular traffic, whereas if you have 60 residential units, people come, park, and leave  
1352 their vehicle. Thus, they think it will increase safety and would require less parking than what  
1353 was there before. That goes to the element of not endangering public health, safety, or welfare  
1354 by providing this Special Exception (Criterion B), and he suggests that it would not.

1355  
1356 Mr. Kossayda continued that regarding the third criterion, that *"the proposed use will be*  
1357 *established, maintained, and operated so as to be harmonious with the surrounding area and*

1358 *will not impede the development, use, and enjoyment of adjacent property,*” they do not  
1359 anticipate spilling off into the side streets or needing any on-street parking. Keene Housing  
1360 found .8 spaces per unit, on average.

1361  
1362 Mr. Meehan stated that it depends on the property, but they looked specifically at properties that  
1363 have a similar distribution by bedroom size as to what they hope to build here, and this is  
1364 summarized as “demand ratio.” For every unit, how many parking permits do you give out? To  
1365 park in a Keene Housing lot, residents need to give their registration to the Property Manager  
1366 and make sure everything is up to date, and then they get a parking sticker. Keene Housing is  
1367 thus able to accurately track how many parking spaces actually get used, versus how many they  
1368 have. Another Keene Housing property that looks very similar in terms of the distribution of  
1369 bedroom sizes is a property with 22% two-bedrooms, and the remaining ones are one-bedroom  
1370 units. Currently there are 18 parking permits for 45 spaces. Thus, .55 is the demand ratio. He  
1371 continued that he will not belabor this, other than to say that similarly, at a much larger scale,  
1372 Harper Acres has 112 units, the majority of which are one-bedroom units. There are 102 parking  
1373 spaces and 55 parking permits. The demand ratio is .49. He is not picking the two low-hanging  
1374 fruit; he could give more data that shows that is approximately what the parking demand looks  
1375 like for properties with this distribution by bedroom size.

1376  
1377 Ms. Marcou stated that the parking study was submitted, but it was missed, and she apologizes  
1378 that it did not make it into the agenda packet. She can make copies and provide them to the  
1379 Board if they want to take a 5-minute break. Vice Chair Taylor replied that she thinks they can  
1380 have the Applicant summarize the summary.

1381  
1382 Mr. Kossayda stated that he would be happy to. He continued that as Mr. Halle mentioned,  
1383 MAHC is relocating the exit curb cut to be directly across from George St., because that is a  
1384 safer way to have egress. When a driveway is kitty-corner across from you, you do not know  
1385 who is going next, but when it is straight ahead, it is a little easier to determine. The reduction in  
1386 parking will not produce more noise, odors, glare, or vibration (Criterion D). Again, they will be  
1387 reducing the amount of traffic that is in this building, compared to its previous use as a school  
1388 with 200 students. They expect to have more than enough parking with 70 spaces, based upon  
1389 data from the parking study and from the data Keene Housing has generated by surveying its  
1390 properties and permits.

1391  
1392 He continued that they will not place an excessive burden on public improvements or facilities  
1393 (Criterion E). A bus stop is up the street at Citizen’s Way, and some (residents) might use that  
1394 bus instead of driving downtown and clogging up parking. He does not think that is a burden; it  
1395 is a benefit to be so close to a bus stop. The extra space MAHC has here will be dedicated to  
1396 landscaping and a privacy shield. There will not be any “...*destruction, loss, or damage of any*  
1397 *feature determined to be of significant natural, scenic, or historic importance.*” (Criterion F).  
1398 They will preserve the building that is there. There is not anything that will be replaced with  
1399 pavement that would otherwise be of historic importance. They are trying to have less coverage  
1400 as opposed to more, reducing the amount of parking. There will not be a traffic hazard or  
1401 substantial increase in the level of traffic (Criterion G) because MAHC is actually asking to  
1402 reduce the number of vehicles permitted there.



1403 Mr. Kossayda continued that regarding the other elements Mr. Hagan mentioned, “a. *The*  
1404 *specific use or site has such characteristics that the number of required parking spaces is too*  
1405 *restrictive,*” they cannot fit 120 spaces there with this plan and this proposed project, because the  
1406 lot is only 2.4 acres. He continued that regarding “b. *The requested reduction will not cause*  
1407 *long term parking problems for adjacent properties or anticipated future uses,*” no. In the  
1408 application, he spelled out what is going on with each of the comparable properties in the City.  
1409 Luckily, Keene Housing has very accurate data since they control the parking permits. Anyone  
1410 who asks for a parking permit gets one, but they do not need to issue them for the spaces they  
1411 have. Thus, MAHC does not expect to be pouring out into the street or impacting other uses.

1412  
1413 He continued that the other elements (of Section C., Major Reduction Request) are in the parking  
1414 study, (as follows):

1415  
1416 *3.a. - A description of the proposed use(s):*  
1417 The proposed use is for these 70 spaces to serve the 60 units, 75% of which are one-bedroom  
1418 units. With most of those, if the resident(s) has/have a car at all, it is just one.

1419  
1420 *3.b. - Days and hours of operation of the uses:*  
1421 This is residential, so typically someone comes in and leaves once a day with their vehicle,  
1422 midweek.

1423  
1424 *3.c. - Anticipated number of employees and number of daily customers or clients:*  
1425 They are talking about 60 units, primarily single bedroom.

1426  
1427 Mr. Kossayda asked Mr. Meehan how many residents he thinks will be there. Mr. Meehan  
1428 replied about 90, but it is hard to say. He continued that there will also be a Property Manager,  
1429 Resident Services Coordinators, and a Community Gardener, none of whom are there full time,  
1430 but pop in for programming.

1431  
1432 Mr. Kossayda continued:

1433  
1434 *3.d. The anticipated rate of turnover for proposed spaces:*  
1435 Again, it is residential use, so there will not be a lot of turnover of those spaces. People will  
1436 have permits to use the parking spaces, so Keene Housing will control the number of spaces.

1437  
1438 *3.e. The availability of nearby on-street parking or alternative modes of transportation:*  
1439 As he mentioned, there is a bus stop at Citizen’s Way. There is on-street parking on Washington  
1440 St., but he does not anticipate they would need it.

1441  
1442 *3.f. The anticipated peak parking and traffic loads for each of the uses on the site:*  
1443 There is only one use on the site, which is residential. According to the parking study, peak  
1444 demand will be 59 occupied spaces, so 70 stalls is more than sufficient.

1445  
1446 *3.g. Total vehicle movements (for the parking facility as a whole):*  
1447 Table 1 in the parking study shows the proposed apartments will generate about 200 vehicle trips  
1448 on an average weekday basis, in a 24-hour period, with 34 in the morning and 28 in the evening.

1449 Vice Chair Taylor stated that Mr. Kossayda mentioned that there are parking spaces for the non-  
1450 residents, such as the Property Manager. Mr. Meehan replied yes, typically a few spaces are  
1451 reserved for Staff. He continued that for example, maintenance has a spot for their truck so they  
1452 can work in the property. Out of 70, they might reserve two spaces for Staff. Vice Chair Taylor  
1453 replied that Mr. Kossayda mentioned three or four Staff members. Mr. Meehan replied that no  
1454 Staff members are there permanently. He continued that Staff will come and go, but it would be  
1455 very unusual to have three Staff members there simultaneously. Even with 70 parking spaces,  
1456 many of them will be empty.

1457  
1458 Vice Chair Taylor asked about parking spaces for visitors. Mr. Meehan replied that typically,  
1459 there will be some visitors during a day, but he encourages the Board members to walk down  
1460 Castle St. in the middle of the day to get a good sense of what the parking demand is for Keene  
1461 Housing on a typical day. Similarly, the Rotary Club meets at Stone Arch Village Senior on  
1462 Thursdays, and that is probably as crowded as that parking lot ever gets, and there are still 15  
1463 spaces available. He is quite confident that there will not be any issues with lack of parking.

1464  
1465 Mr. Kossayda stated that Ashbrook Apartments on Key Rd. has 48 parking spaces for 24 units,  
1466 which is two spaces per unit, and there are 16 parking permits issued there right now. Thus,  
1467 there are 32 spaces available for visitors. They anticipate having more parking available than  
1468 they actually need. He realizes that parking is an issue in downtown Keene, but for residential  
1469 parking at Keene Housing properties, the population does not lend itself to having two vehicles  
1470 per one-bedroom unit; it is not what Keene Housing has seen. They ask the Board to consider a  
1471 Special Exception to allow 70 spaces, a major reduction, in the spirit of the Ordinance because it  
1472 is specifically prescribed in the Ordinance to allow a reduction in certain circumstances if the  
1473 Applicant meets the elements, and he thinks MAHC has.

1474  
1475 Vice Chair Taylor asked if it is correct that there is no on-street parking on Woodbury St. Mr.  
1476 Kossayda replied that is correct. He continued that that is where the retaining wall is, and a  
1477 walkway is on that, so there would not be space there for on-street parking. They do not  
1478 anticipate needing it, based on the traffic study and the local study, the latter of which is the best  
1479 data they think they could get, looking at what is happening here in Keene at similar properties,  
1480 not just an extrapolated study from an engineer.

1481  
1482 Vice Chair Taylor asked if the Board had any more questions. Hearing none, she asked if  
1483 members of the public wanted to speak for or against the Special Exception. Hearing none, she  
1484 closed the public hearing and asked the Board to deliberate.

1485  
1486 A. *The nature of the proposed application is consistent with the spirit and intent of the*  
1487 *Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies*  
1488 *with all applicable standards in this LDC for the particular use.*

1489  
1490 Mr. Gorman stated that he thinks the spirit and intent of the parking requirements within the  
1491 Zoning Code are to prevent situations where there is not adequate parking, and he thinks the  
1492 Applicant has made a good case that there is adequate parking for this particular use and this

1493 particular project. He continued that the Applicant brought plenty of merit to the table with the  
1494 parking study as well as their own data that Keene Housing collects from its properties. He  
1495 thinks the application is consistent with not creating a situation where there is lack of parking.  
1496

1497 Vice Chair Taylor stated that she reminds the Board that with a Special Exception, it is basically  
1498 a permitted use, but you have to look at it closely, in layman's terms. She continued that it is not  
1499 quite the standard of a Variance.  
1500

1501 Mr. Clough stated that it looks like in the application, the Applicant was erring a bit on the side  
1502 of making sure they were within the permitted exception. He continued that he is fine with it.  
1503

1504 *B. The proposed use will be established, maintained and operated so as not to endanger the*  
1505 *public health, safety, or welfare.*  
1506

1507 Mr. Gorman stated that his major concern here could be if, in a different scenario there were 90  
1508 units and 70 spots for 100+ people to fight over, but given that Keene Housing issues parking  
1509 permits, that negates any of the potential chaos that could occur by just having random parking  
1510 spaces that anyone could have a free-for-all with. Given that that is not the situation here, there  
1511 is really no opportunity for chaos. If parking permits are being issued and being used, that is  
1512 where it begins and where it ends, to him.  
1513

1514 Mr. Welsh stated that he would add that to the extent that orderly entry to and exit from the site  
1515 and movement around the site is an issue of public safety and welfare, it seems like they have  
1516 thought about that and put in a design that takes care of that. Vice Chair Taylor replied that they  
1517 can punt that issue to the Planning Board.  
1518

1519 *C. The proposed use will be established, maintained, and operated so as to be harmonious*  
1520 *with the surrounding area and will not impede the development, use, and enjoyment of*  
1521 *adjacent property.*  
1522

1523 Mr. Gorman stated that he does not think that this location and layout of the property is such that  
1524 it could spill over into adjacent properties, just by design, by the way in which it is all laid out  
1525 and what the properties surrounding it are. He continued that if it does spill out anywhere, he  
1526 could see it being on the on-street parking, which is there for the taking. If that does happen,  
1527 great, the on-street parking will get used and life will go on. He does not think it will affect  
1528 anyone's enjoyment or rightful peace. He cannot see that happening.  
1529

1530 Vice Chair Taylor stated that when she read this application, initially that was her concern. She  
1531 continued that she does not think there will be too many midnight riotous parties, but if it turns  
1532 out there is not enough parking on site, she questions where people will go. Woodbury St. is not  
1533 very conducive to on-street parking, even on the other side. Washington St. has half a dozen  
1534 spaces on the opposite side. She was concerned. It appears from the recitations of the traffic  
1535 study that it does not look like that will be an issue. If it does become an issue, the City will  
1536 have to address it with the property owners.  
1537

1538 *D. The proposed use will be of a character that does not produce noise, odors, glare, and/or*  
1539 *vibration that adversely affects the surrounding area.*

1540  
1541 Mr. Welsh stated that he is trying to imagine noise, odor, vibrations, or glare. He continued that  
1542 the nature of the design the Applicant presented to the Board – and again, these are details for the  
1543 Planning Board – is one where most of these issues will be contained between the two buildings.  
1544 Glare of people turning around with their headlights on, noise, and so on and so forth, will be  
1545 absorbed and for the most part kept away from the neighbors in the surrounding area.

1546  
1547 Mr. Gorman stated that if noise, glare, and so on and so forth was going to be a problem with 70  
1548 parking spaces, he thinks it would definitely be a problem with 120. He continued that if there  
1549 were a good argument for reducing, [this is it].

1550  
1551 Vice Chair Taylor stated that she would suspect that if there were a problem, as Mr. Welsh said,  
1552 it would be felt by the residents in the two buildings, not necessarily by the people in the  
1553 neighborhood.

1554  
1555 *E. The proposed use will not place an excessive burden on public improvements, facilities,*  
1556 *services, or utilities.*

1557  
1558 Mr. Clough stated that they seem to be utilizing existing curb cuts with slight adjustments. He  
1559 continued that that is a minimal change. Everything else is interior.

1560  
1561 Vice Chair Taylor stated that it strikes her that everything that would come under this would be  
1562 internal to the site and the responsibility of Keene Housing and not the City.

1563  
1564 *F. The proposed use will not result in the destruction, loss, or damage of any feature*  
1565 *determined to be of significant natural, scenic, or historic importance.*

1566  
1567 Mr. Gorman stated that he thinks they are saving a historic building, taking parts of it off that are  
1568 non-historic. He continued that he thinks they mentioned they are even saving an old tree. Thus,  
1569 he thinks they are doing the best they can to preserve what is worth saving and using the rest to  
1570 the best that it can be used. That includes the parking plan.

1571  
1572 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the level*  
1573 *of traffic congestion in the vicinity of the use.*

1574  
1575 Vice Chair Taylor stated that this is one she had some concern with, which was the reason for  
1576 her question originally about whether there would be any curb cuts on the Woodbury St. side.  
1577 She continued that she does have some concerns, because Washington St. can get busy up there,  
1578 especially with people thinking they are no longer in a 30 mph zone, when they speed toward the  
1579 highway. She can foresee some potential issues with traffic turning into and coming out of  
1580 Washington St., but that is a Planning Board issue.

1581

1582 Mr. Gorman stated that specifically relative to (Criterion G.), he goes back to the same argument  
1583 as the noise and glare –it will be a lot less congested with 70 cars than 120. Vice Chair Taylor  
1584 replied right, but with 290 vehicle movements per 24 hours, that is dumping quite a bit of  
1585 additional traffic in and out of that parcel. Admittedly, when it was a school there was probably  
1586 more, but that was a very long time ago. Mr. Gorman replied that he agrees that it would  
1587 definitely be more (traffic) than it is now, because right now it is near zero, but to get that  
1588 building anywhere near an appropriate use they will have a sizable traffic impact. He is fairly  
1589 confident that mostly one-bedroom apartments, with a small amount of two-bedroom apartments,  
1590 is probably about as minimal of an impact as they could get. If it were a school or whatever  
1591 other use could come into play, he thinks the traffic counts would increase from (this proposal).

1592  
1593 Vice Chair Taylor stated that then they have the two extra criteria for parking:

1594  
1595 *2.a. The specific use or site has such characteristics that the number of required parking spaces*  
1596 *is too restrictive.*

1597  
1598 Vice Chair Taylor stated that it comes down to the question of whether 120 parking spaces is too  
1599 restrictive.

1600  
1601 Mr. Gorman stated that he thinks the Applicant made the case adequately that it is too restrictive,  
1602 because they do not have enough land to have (120 parking spaces). He continued that when this  
1603 Board approved the units that they just approved, it was fairly impossible for MAHC to put 120  
1604 parking spaces in there. He thinks it is too restrictive in this specific application.

1605  
1606 Vice Chair Taylor stated that she thinks the traffic study indicates, as do Keene Housing's  
1607 statistics, that it is too restrictive because there may not be a need for as many spaces as the  
1608 Ordinance requires.

1609  
1610 *2.b. The requested reduction will not cause long term parking problems for adjacent properties*  
1611 *or anticipated future uses.*

1612  
1613 Mr. Gorman stated that he thinks the future use will be 60 units, unless someone comes in front  
1614 of the Board again to get a different use, so this whole problem would be tackled again if that  
1615 ever does happen. He continued that given that, and the data that was presented to the Board, he  
1616 does not think there will be any long term parking problems for adjacent properties with this use,  
1617 and he thinks any future use, the Board will get another crack at it.

1618  
1619 Mr. Welsh stated that he is impressed by the data the Applicant presented about the use of  
1620 parking at their other sites, and also impressed that this gives them a pretty good in for using  
1621 those other sites as excess parking if the need arises since this is a specific feature of this user.  
1622 Vice Chair Taylor replied that her only concern there is that the other properties are at a distance,  
1623 so they would have to figure out something.

1624

1625 Mr. Gorman stated that there are 45 one-bedroom units and 15 two-bedroom units, so a  
1626 cumulative number of bedrooms is not much past 70; it is 75. He continued that he knows the  
1627 Zoning Ordinance calls for two spaces (per unit), but logic may prevail in saying that if you have  
1628 75 bedrooms, 70 parking spaces will probably prove adequate. That is further supported by the  
1629 data the Board was given.

1630  
1631 Vice Chair Taylor asked if the Board had anything further to add. Hearing none, she asked for a  
1632 motion.

1633  
1634 Mr. Gorman made a motion to approve Special Exception ZBA 23-08. Mr. Clough seconded the  
1635 motion.

1636  
1637 *A. The nature of the proposed application is consistent with the spirit and intent of the*  
1638 *Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies*  
1639 *with all applicable standards in this LDC for the particular use.*

1640  
1641 Met with a vote of 4-0.

1642  
1643 *B. The proposed use will be established, maintained and operated so as not to endanger the*  
1644 *public health, safety, or welfare.*

1645  
1646 Met with a vote of 4-0.

1647  
1648 *C. The proposed use will be established, maintained, and operated so as to be harmonious*  
1649 *with the surrounding area and will not impede the development, use, and enjoyment of*  
1650 *adjacent property.*

1651  
1652 Met with a vote of 4-0.

1653  
1654 *D. The proposed use will be of a character that does not produce noise, odors, glare, and/or*  
1655 *vibration that adversely affects the surrounding area.*

1656  
1657 Met with a vote of 4-0.

1658  
1659 *E. The proposed use will not place an excessive burden on public improvements, facilities,*  
1660 *services, or utilities.*

1661  
1662 Met with a vote of 4-0.

1663 *F. The proposed use will not result in the destruction, loss, or damage of any feature*  
1664 *determined to be of significant natural, scenic, or historic importance.*

1665  
1666 Met with a vote of 4-0.

1667  
1668 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the*  
1669 *level of traffic congestion in the vicinity of the use.*

1670

1671 Met with a vote of 4-0.

1672

1673 *2.a. The specific use or site has such characteristics that the number of required parking spaces*  
1674 *is too restrictive.*

1675

1676 Met with a vote of 4-0.

1677

1678 *2.b. The requested reduction will not cause long term parking problems for adjacent properties*  
1679 *or anticipated future uses.*

1680

1681 Met with a vote of 4-0.

1682

1683 The motion to approve ZBA 23-08 passed with a vote of 4-0.

1684

1685 Chair Hoppock rejoined the meeting.

1686

1687 **I) New Business**

1688

1689 Chair Hoppock asked if there was any new business. Mr. Hagan replied not at this time.

1690

1691 **II) Communications and Miscellaneous**

1692

1693 **III) Non-public Session (if required)**

1694

1695 **IV) Adjournment**

1696

1697 There being no further business, Chair Hoppock adjourned the meeting at 9:46 PM.

1698

1699 Respectfully submitted by,

1700 Britta Reida, Minute Taker

1701

1702 Reviewed and edited by,

1703 Corinne Marcou, Zoning Clerk

Page intentionally left blank



32 OPTICAL AVE.  
ZBA 23-03



Petitioner requests a Variance to permit self-storage units on a lot in the Industrial Park District where not permitted per Chapter 100, Article 6.3.5 of the Zoning Regulations.



**NOTICE OF HEARING**

**ZBA 23-03**

A meeting of the Zoning Board of Adjustment will be held on **Monday, March 6, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-03:** Petitioner, Samson Associates, LLC, and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 32 Optical Ave., Tax Map #113-006-000-000-000 and is in the Industrial Park District. The Petitioner requests to permit self-storage units on a lot in the Industrial Park District where self-storage units are not listed as a permitted use per Chapter 100, Article 6.3.5 of the Zoning Regulations. You are receiving notice of this hearing as an abutter to or owner of property within 200-ft of the subject parcel.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

**Corinne Marcou, Zoning Clerk**  
**Notice issuance date February 23, 2023**

City of Keene, NH

# Zoning Board of Adjustment Variance Application



For Office Use Only:	
Case No.	ZBA 23-03
Date Filled	2/15/23
Rec'd By	JAM
Page	of
Rev'd by	

If you have questions on how to complete this form, please call: (603) 352-5440 or email: [communitydevelopment@keeneh.gov](mailto:communitydevelopment@keeneh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, 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. If applicant or authorized agent, a signed notification from the property owner is required.

NAME/COMPANY: Samson Associates LLC

MAILING ADDRESS: 32 Optical Ave Keene NH 03431

PHONE: 413-221-4806

EMAIL: scott@samson-mfg.com

SIGNATURE: *Scott Samson*

PRINTED NAME: Scott Samson

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

NAME/COMPANY: James Phippard / Brickstone Land Use Consultants LLC

MAILING ADDRESS: 185 Winchester Street Keene NH 03431

PHONE: (603) 357-0116

EMAIL: [jphippard@ne.rr.com](mailto:jphippard@ne.rr.com)

SIGNATURE: *James P Phippard*

PRINTED NAME: James P Phippard



**SECTION 4: APPLICATION CRITERIA**

*A Variance is requested from Article (s)*

*of the Zoning Regulations to permit:*

See Attached

*Briefly describe your responses to each criteria, using additional sheets if necessary:*

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

[Empty response area for criterion 1]

**PROPERTY ADDRESS 32 Optical Avenue**

**APPLICATION FOR A VARIANCE**

- A variance is requested from Section (s) 6.3.5 of the Land Development Code of the Keene Zoning Ordinance to permit: Self Storage units on a lot in the Industrial Park district where self storage units are not listed as a permitted use.

**Background:** Samson Associates LLC is the owner of Tax Map 113-006-000, a 10.84 acre lot in the Industrial Park District located at 32 Optical Avenue. The lot contains an existing 55,200 sf building which houses Samson Manufacturing. 124 parking spaces and several loading dock areas also exist at the site.

To the south of the existing developed portion of the lot is a flat field and wooded area which the owner wants to utilize. He is proposing to subdivide approximately 4.09 acres from the 10.84 acre tract. It will leave the Samson Manufacturing facility on a 6.75 acre lot with the existing parking and loading dock areas. Both lots will comply with the zone dimensional requirements.

At the west end of the proposed 4.09 acre lot the applicant is proposing to add an EV Charging station for up to 10 vehicles. This application proposes to add 36, 240 sf of self storage units on the balance of the new lot. A variance is needed to allow this use in the Industrial Park district.

The self storage units would be open to the public 24/7. The storage facility will be fenced in with 6' high chain link fencing. Access to the storage units will be controlled by a gate operated by a keypad. Lighting will be full cutoff LED fixtures mounted on the buildings at a 9' height. Lighting will be reduced by 50% after 10 PM as required by city regulations.

**DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:**

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

Self storage units are in great demand in the Keene area. It is in the public interest to create self storage units which are located in town, and close to a state highway. This is an area of vacant land in the middle of the industrial park. Developing this site with self storage units is a low intensity use which will add value to the property and increase property taxes for the City. It is in the public interest to allow new development in the industrial park area which is low intensity and will increase the tax base.

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

The Industrial Park district is intended to provide clean, low intensity industrial uses in an attractive industrial park environment. Self storage units are a low intensity industrial use. The proposed facility will be fenced and screened with an arborvitae hedge. This location is close to the state highway and close to downtown Keene. This is a low intensity use and as proposed meets the spirit of the ordinance.

3. **Granting the variance would do substantial justice because:** The property owner is trying to find a reasonable use for this vacant portion of his lot. Self storage units are a low intensity use and, in this location, will have no negative effects on surrounding properties. There is no public benefit to denying a variance to allow the proposed use when there are no negative effects to the public. It will do substantial justice for the property owner.
  
4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** This is a low intensity industrial use. The estimated traffic for this use, based on ITE Trip Generation Manual, will be up to 90 vehicle trips on a weekday with 5 vehicle trips during the AM peak hour (7AM-9AM) and 9 vehicle trips during the PM peak hour (4PM-6PM). This is a very low amount of traffic and will have no effect on the safety or capacity on Optical Avenue. This location is in the middle of the industrial park and not near a residential neighborhood. The full cutoff LED fixtures will be mounted at 9 foot height and light levels will be reduced by 50% after 10 PM. It will improve the value of this property. The proposed use will help fill a need in the community and will not diminish 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:**

When the Industrial Park district was created back in the 1950's there was a growing demand for sites for large industrial buildings which could accommodate a large workforce. Today there is little demand for such sites. The owner of the property is trying to find a use for his vacant land which will be low intensity and be compatible with the industrial uses in the area. Self storage units are recognized as a low intensity industrial use and are compatible with the industrial uses in this area.

The existing Industrial Park zoning is very restrictive and greatly limits the businesses who can locate there. This creates a special condition for this site. The proposed use is a low intensity industrial use which is needed in Keene. This location is near the state highway and away from a residential neighborhood. It will comply with all zone dimensional requirements and will not have negative impacts on the existing business in the area.

Denying the variance provides no benefit to the public and will result in an unnecessary hardship to the owner.

**And**

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

This is a low intensity industrial use in the middle of the industrial park area. It is close to the state highway and is not near a residential neighborhood. There is a need for additional storage units in Keene. This is a reasonable use of this property.

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

The existing Industrial Park zoning is very restrictive and greatly limits the businesses who can locate there. This creates a special condition for this site. The proposed use is a low intensity industrial use which is needed in Keene. This location is near the state highway and away from a residential neighborhood. It will comply with all zone dimensional requirements and will not have negative impacts on the existing business in the area.

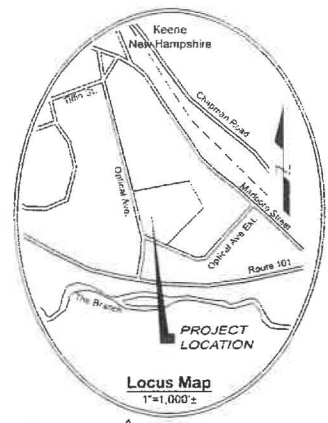
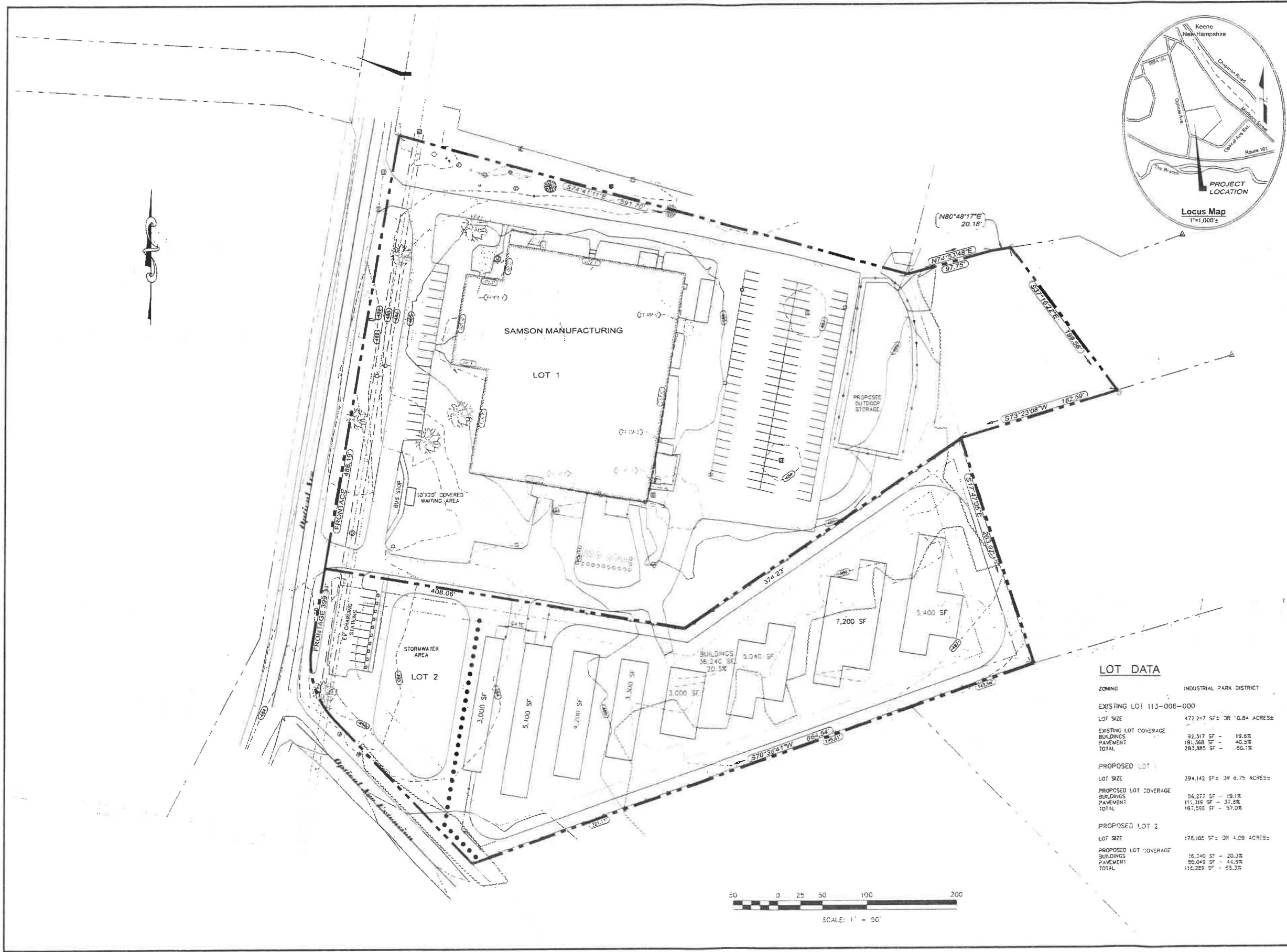
Denying the variance provides no benefit to the public and will result in an unnecessary hardship to the owner.



## NOTICE LIST

**This template can be used to record the name, mailing address, street address, and tax map parcel (TMP) # for each party that is required to be noticed as part of an application.**

OWNER NAME	MAILING ADDRESS	STREET ADDRESS (If different from mailing address)	TAX MAP PARCEL (TMP) #
Samson Associates LLC	32 Optical Ave Keene NH 03431-4319		113-006-000-000-000
HL Realty Holdings LLC	PO Box 323 Keene NH 03431	0 Optical Ave	113-005-000,113-003-000
Mountain Realty LLC	59 Optical Ave Keene NH 03431		241-006-000-000-000
50 Optical Avenue LLC	1 Kenner Ct. Riverdale NJ 07457	50 Optical Ave	241-007-000-000-000
RJ Hall Company	21 Sunset Terr. Keene NH 03431-0626	58 Optical Ave	241-008-000-000-000
<b>Penny D Bell</b>	PO Box 122 Keene NH 03431	505 & 511 Marlboro St	241-011-000, 241-012-000
Charles R Criss Revocable Trust	497 Marlboro St Keene NH 03431		241-013-000-000-000
Andrew T Christie & Rhonda Patnode	487 Marlboro St Keene NH 03431		241-014-000-000-000
<b>Penny D Bell</b>	511 Marlboro St Keene NH 03431	508 Marlboro St	241-071-000-000-000
East Keene RE LLC	7 Corporate Dr. Keene NH 03431	6-8-10 Optical Ave	597-005-000-000-000
<b>MBP Corp</b>	7 Optical Ave. Keene NH 03431		597-006-000-000-000
Brickstone Land Use Consultants LLC	185 Winchester St Keene NH 03431		



REVISIONS:

OWNER/DEVELOPER:  
**SAMSON ASSOCIATES LLC**  
 32 OPTICAL AVENUE  
 KEENE, NH 03431-4319

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

32 OPTICAL AVENUE  
 KEENE, NH

## CONCEPT PLAN

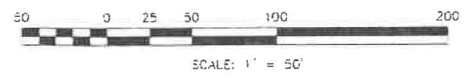
SCALE: 1"=50'

DATE: FEBRUARY 14, 2023

SHEET 1

### LOT DATA

ZONING	INDUSTRIAL PARK DISTRICT
EXISTING LOT 113-006-000	
LOT SIZE	472,247 SF ± OR 10.84 ACRES ±
EXISTING LOT COVERAGE	-
BUILDINGS	82,517 SF - 19.8%
PAVEMENT	191,368 SF - 40.5%
TOTAL	283,885 SF - 60.1%
PROPOSED LOT 1	
LOT SIZE	294,142 SF ± OR 6.75 ACRES ±
PROPOSED LOT COVERAGE	54,277 SF - 19.1%
BUILDINGS	111,315 SF - 37.8%
PAVEMENT	167,598 SF - 57.0%
TOTAL	
PROPOSED LOT 2	
LOT SIZE	178,105 SF ± OR 4.09 ACRES ±
PROPOSED LOT COVERAGE	36,240 SF - 20.3%
BUILDINGS	90,045 SF - 44.9%
PAVEMENT	112,289 SF - 65.3%
TOTAL	





# City of Keene

New Hampshire

## NOTICE OF HEARING

### ZBA 23-04

A meeting of the Zoning Board of Adjustment will be held on **Monday, March 6, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-04:** Petitioner, Samson Associates, LLC, and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 32 Optical Ave., Tax Map #113-006-000-000-000 and is in the Industrial Park District. The Petitioner requests to permit a vehicle fueling station on a lot in the Industrial District where vehicle fueling station is not a permitted use per Chapter 100, Article 6.3.5 of the Zoning Regulations.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

**Corinne Marcou, Zoning Clerk**  
**Notice issuance date February 23, 2023**

City of Keene, NH

# Zoning Board of Adjustment Variance Application



For Office Use Only:	
Case No.	2BA23-01
Date Filled	2/15/23
Rec'd By	cmh
Page	of
Rev'd by	

If you have questions on how to complete this form, please call: (603) 352-5440 or  
email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, 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. If applicant or authorized agent, a signed notification from the property owner is required.

NAME/COMPANY: Samson Associates LLC

MAILING ADDRESS: 32 Optical Ave Keene NH 03431

PHONE: 413-221-4806

EMAIL: [scott@samson-mfg.com](mailto:scott@samson-mfg.com)

SIGNATURE:

PRINTED NAME: Scott Samson

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

NAME/COMPANY: James Phippard / Brickstone Land Use Consultants LLC

MAILING ADDRESS: 185 Winchester Street Keene NH 03431

PHONE: (603) 357-0116

EMAIL: [jhippard@ne.rr.com](mailto:jhippard@ne.rr.com)

SIGNATURE:

PRINTED NAME: James P Phippard

**SECTION 2: PROPERTY INFORMATION**

Property Address: 32 Optical Ave

Tax Map Parcel Number: 113-006-000-000-000

Zoning District: Industrial Park

Lot Dimensions: Front: LOT 1 = 488 LOT 2 = 399 Rear: LOT 1 = 199 LOT 2 = 264 Side: LOT 1 = 709 LOT 2 = 782 Side: LOT 1 = 965 LOT 2 = 665

Lot Area: Acres: LOT 1 = 6.75 LOT 2 = 4.09 Square Feet: LOT 1 = 294,142 SF LOT 2 = 178,105 SF

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: LOT 1 = 19.1% LOT 2 = 0 Proposed: LOT 1 = 19.1% LOT 2 = 20.3%

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: LOT 1 = 56% LOT 2 = 0% Proposed: LOT 1 = 57% LOT 2 = 65%

Present Use: Manufacturing Facility

Proposed Use: Lot 1: Manufacturing Lot 2: EV Charging Stations & Self Storage

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

See Attached

**SECTION 4: APPLICANTION CRITERIA**

A Variance is requested from Article (s) \_\_\_\_\_ of the Zoning Regulations to permit:

See Attached

Briefly describe your responses to each criteria, using additional sheets if necessary:

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

[Empty response area for criterion 1]

**PROPERTY ADDRESS 32 Optical Avenue**

**APPLICATION FOR A VARIANCE**

- A variance is requested from Section (s) 6.3.5 of the Land Development Code of the Keene Zoning Ordinance to permit: A vehicle fueling station on a lot in the Industrial Park district where vehicle fueling station is not listed as a permitted use.

**Background:** Samson Associates LLC is the owner of Tax Map 113-006-000, a 10.84 acre lot in the Industrial Park District located at 32 Optical Avenue. The lot contains an existing 55,200 sf building which houses Samson Manufacturing. 124 parking spaces and several loading dock areas also exist at the site.

To the south of the existing developed portion of the lot is a flat field and wooded area which the owner wants to utilize. He is proposing to subdivide approximately 4.09 acres from the 10.84 acre tract. It will leave the Samson Manufacturing facility on a 6.75 acre lot with the existing parking and loading dock areas. Both lots will comply with the zone dimensional requirements.

At the west end of the proposed 4.09 acre lot the applicant is proposing to add an EV Charging station for up to 10 vehicles. The existing zoning ordinance considers the use a vehicle fueling station where electricity is an alternative fuel type. A variance is needed to allow this use in the Industrial Park district. The EV charging station would be open to the public and available for use 24/7. Level One, Level Two and Level Three chargers will be installed.

The applicant is also proposing a new bus stop to be located at the front of the existing building. City Express would be able to use the bus stop to pick up and drop off employees of the businesses in the Industrial Park, and to bring customers of the EV charging station to the downtown area while their vehicles are charging.

**DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:**

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

It is in the public interest to promote the use of electric vehicles to help reduce the use of fossil fuels and to reduce air pollution. EV charging stations can be hard to find in Keene and the addition of ten chargers would help visitors to the area and help local residents who may not be able to afford a rapid Level Three charger on their own. As electric vehicles become more popular, more charging stations will be needed. This proposal will help to fulfill that need and would not be contrary to the public interest.

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

The Industrial Park district is intended to provide clean, low intensity industrial uses in an attractive industrial park environment. This new technology was not contemplated when the IP district was created in Keene back in 1957. It is in the spirit of the ordinance to encourage clean technology and the use of electric vehicles. Granting the variance will allow a small, 10 space charging station

located close to the State highway and close to downtown Keene. This is a low intensity use and as proposed meets the spirit of the ordinance.

3. **Granting the variance would do substantial justice because:** The property owner is trying to find a reasonable use for this vacant portion of the lot. The proposed EV charging station is a low intensity use which is needed in Keene. There is no public benefit to denying a variance to allow the proposed use when there are no negative effects to the public. It will do substantial justice for the property owner.
4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** A 10-space EV charging station is a very low intensity use which will have no effect on surrounding properties. The site is located near the State highway and away from any residential uses. It will improve the value of this property. The proposed use will help fill a need in the community and will not diminish 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:**

When the Industrial Park district was created back in the 1950's electric cars did not exist. EV charging stations are not recognized in the zoning ordinance as a separate use but are lumped in as a vehicle fueling station using an alternative fuel. The ordinance fails to recognize that electricity as a fuel does not have the same risks or issues as gasoline and diesel fuels and should be treated differently than a traditional gas station. If the existing manufacturing facility was installing these chargers for their own use it would be allowed as an accessory use. Allowing public access to the chargers results in the use being classified as a vehicle fueling station and requires a variance. This proposal is a public benefit and should be allowed under the zoning ordinance in appropriate locations such as this Optical Avenue site. It is a safe, low intensity use and will comply with all zone dimensional requirements. Denying the variance provides no benefit to the public and will result in an unnecessary hardship to the owner.

**And**



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

This is a low intensity use in the middle of the industrial park area. It is close to the state highway and will have access to a new bus stop to accommodate users of the charging stations. There are very few public charging stations in Keene, and this will provide a needed public service. This is a reasonable use of this property.

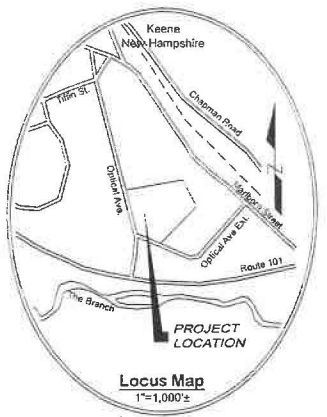
**B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with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

The property is located within an existing industrial park which was created in the 1950's. EV charging stations are a new technology which is not recognized in the zoning ordinance. The ordinance results in a special condition which unnecessarily limits use of the property and prohibits a public EV charging station. The proposed use will comply with all zone dimensional requirements. Denying the variance provides no benefit to the public and will result in an unnecessary hardship to the owner.

**NOTICE LIST**

This template can be used to record the name, mailing address, street address, and tax map parcel (TMP) # for each party that is required to be noticed as part of an application.

OWNER NAME	MAILING ADDRESS	STREET ADDRESS (If different from mailing address)	TAX MAP PARCEL (TMP) #
Samson Associates LLC	32 Optical Ave Keene NH 03431-4319		113-006-000-000-000
HL Realty Holdings LLC	PO Box 323 Keene NH 03431	0 Optical Ave	113-005-000,113-003-000
Mountain Realty LLC	59 Optical Ave Keene NH 03431		241-006-000-000-000
50 Optical Avenue LLC	1 Kenner Ct. Riverdale NJ 07457	50 Optical Ave	241-007-000-000-000
RJ Hall Company	21 Sunset Terr. Keene NH 03431-0626	58 Optical Ave	241-008-000-000-000
Penny D Bell	PO Box 122 Keene NH 03431	505 & 511 Marlboro St	241-011-000, 241-012-000
Charles R Criss Revocable Trust	497 Marlboro St Keene NH 03431		241-013-000-000-000
Andrew T Christie & Rhonda Patnode	487 Marlboro St Keene NH 03431		241-014-000-000-000
Penny D Bell	511 Marlboro St Keene NH 03431	508 Marlboro St	241-071-000-000-000
East Keene RE LLC	7 Corporate Dr. Keene NH 03431	6-8-10 Optical Ave	597-005-000-000-000
MBP Corp	7 Optical Ave. Keene NH 03431		597-006-000-000-000
Brickstone Land Use Consultants LLC	185 Winchester St Keene NH 03431		



REVISIONS:

---

OWNER/DEVELOPER:  
**SAMSON ASSOCIATES LLC**  
 32 OPTICAL AVENUE  
 KEENE, NH 03431-4319

---

PLANNER:  
**Brickstone Land Use Consultants LLC**  
Site Planning, Permitting and Development Consulting  
 185 Winchester Street, Keene, NH 03431  
 Phone: (603) 357-0119

---

32 OPTICAL AVENUE  
 KEENE, NH

---

**CONCEPT PLAN**

---

SCALE: 1"=50'

---

DATE: FEBRUARY 14, 2023

---

SHEET 1

**LOT DATA**

ZONING	INDUSTRIAL PARK DISTRICT
<b>EXISTING LOT 113-006-000</b>	
LOT SIZE	472,247 SF± OR 10.84 ACRES±
EXISTING LOT COVERAGE	
BUILDINGS	92,517 SF - 19.6%
PAVEMENT	191,360 SF - 40.5%
TOTAL	283,885 SF - 60.1%
<b>PROPOSED LOT 1</b>	
LOT SIZE	294,142 SF± OR 6.75 ACRES±
PROPOSED LOT COVERAGE	
BUILDINGS	56,277 SF - 19.1%
PAVEMENT	111,319 SF - 37.5%
TOTAL	167,596 SF - 57.0%
<b>PROPOSED LOT 2</b>	
LOT SIZE	178,105 SF± OR 4.09 ACRES±
PROPOSED LOT COVERAGE	
BUILDINGS	36,240 SF - 20.3%
PAVEMENT	80,049 SF - 44.9%
TOTAL	116,289 SF - 65.3%



# 8 PAGE ST. ZBA 23-09



Petitioner requests a Variance to have three parking spaces where four are required with two dwelling units per unit per Chapter 100, Articles 9.2 & Table 9-1 of the Zoning Regulations.



# City of Keene

New Hampshire

## NOTICE OF HEARING

### ZBA 23-09

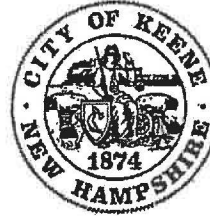
A meeting of the Zoning Board of Adjustment will be held on **Monday, April 3, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-09:** Petitioners, Jeffrey William Tighe-Conway and Matthew Conway and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 8 Page St., Tax Map #553-018-000-000-000, is in the Medium Density District. The Petitioner requests a building with two dwelling units to have three parking spaces where four parking spaces (2 spaces per dwelling unit) are required per Chapter 100, Article 9.2, Table 9-1, Minimum On-site Parking Requirements of the Zoning Regulations.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application, or written comments can be forwarded to [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov). The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

**Corinne Marcou, Zoning Clerk**  
Notice issuance date March 23, 2023

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	ZBA 23-09
Date Filled	3/16/23
Rec'd By	CSM
Page	1 of 10
Rev'd by	

If you have questions on how to complete this form, please call: (603) 352-5440 or  
email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, 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. If applicant or authorized agent, a signed notification from the property owner is required.

### OWNER / APPLICANT

NAME/COMPANY: Jeffrey William Tighe- Conway & Matthew Conway

MAILING ADDRESS: 127 Foote St Barrington RI 02806-2925

PHONE: 401-297-5602

EMAIL: JEFFCONWAY67@gmail.com

SIGNATURE: *Jeffrey W. Conway* *Matthew Conway*

PRINTED NAME: Jeffrey W. Conway, Tighe and Matthew Conway

### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: James P Phippard / Brickstone Land Use Consultants LLC

MAILING ADDRESS: 185 winchester St Keene NH 03431

PHONE:

EMAIL: [jphippard@ne.rr.com](mailto:jphippard@ne.rr.com)

SIGNATURE: *James P Phippard*

PRINTED NAME: James P Phippard

**SECTION 2: PROPERTY INFORMATION**

Property Address: **8 Page Street**

Tax Map Parcel Number: **553-018-000-000-000**

Zoning District: **Medium Density**

Lot Dimensions: Front: **39.22'** Rear: **42.25'** Side: **71.96'** Side: **70.75'**

Lot Area: Acres: **0.07 AC** Square Feet: **3,049.20 SF**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **42%** Proposed: **42%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **70%+-** Proposed: **70%+-**

Present Use: **Single Family**

Proposed Use: **Single Family w/Accessory Dwelling Unit**

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

See Attached

## SECTION 4: APPLICATION CRITERIA

*A Variance is requested from Article (s)*

*of the Zoning Regulations to permit:*

See Attached

*Briefly describe your responses to each criteria, using additional sheets if necessary:*

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



**PROPERTY ADDRESS 8 Page Street**

**APPLICATION FOR A VARIANCE**

- A variance is requested from Section (s) 9.2 Table 9.1, Minimum On-site Parking Requirements of the Land Development Code of the Keene Zoning Ordinance to permit: A building with two dwelling units to have three parking spaces where four parking spaces (2 spaces per dwelling unit) are required.

**Background:** Jeffery Conway, Benjamin Conway and Matthew Tighe are the owners of 8 Page Street, Tax Map 553-018-000. This is an existing single family home on a 0.07 acre lot in the Medium Density district. The owners wish to add an Accessory Dwelling Unit (ADU) in the basement of the existing house where Benjamin Conway will reside.

ADU's are permitted by right in all residential districts. However, the ADU must be able to provide two parking spaces to comply with the LDC parking requirements. This is a very small lot and the existing driveway can only accommodate a maximum of three cars. A variance is needed to allow an ADU with only one additional parking space on the lot.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

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

It is in the public interest to allow Accessory Dwelling Units (ADU) in existing residential buildings in Keene. The ADU will be occupied by the owner of the property. It will be a single bedroom unit with one occupant with only one vehicle. The existing driveway can accommodate up to three vehicles with all spaces located behind the front building line. Given the current housing shortage in the city of Keene, it is in the public interest to allow this variance request for an ADU with one parking space. This is an existing residential building on city water and city sewer.

**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 allow an Accessory Dwelling Unit in an existing residential building which is serviced by city water and city sewer, and can provide adequate parking on the site. This proposal will provide two parking spaces for the existing apartment and one space for the ADU. The ADU will be a single bedroom unit and only one parking space is needed for the occupant. This will help to provide badly needed housing in a walkable neighborhood in Keene. This proposal meets the spirit of the ordinance.

**3. Granting the variance would do substantial justice because:** There is adequate room in the existing building to support an ADU. The existing building is served by city water and city sewer and can provide onsite parking for three vehicles. The proposed ADU will have one bedroom and be occupied by the owner who only needs one parking space. There is no public benefit to denying a variance to allow an ADU with one parking space which can be accommodated on the site. Granting the variance will do substantial justice for the property owner.

- **If the variance were granted, the values of the surrounding properties would not be diminished because:** This is an existing residential building in a residential neighborhood. The ADU will be created in the basement of the building in a space which used to be a home office for a podiatrist. There will be no outside changes to the building. The addition of the ADU will not significantly increase traffic and will not result in increased noise or create safety issues. Owner occupancy at the property will improve property maintenance and will help to improve the appearance. It will maintain the character of the neighborhood and will not diminish surrounding property values.

#### 4. Unnecessary Hardship

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

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

The existing lot is a nonconforming lot due to lot size and setbacks for the existing building and pavement. The existing building was constructed in the early 1900's. At that time, vehicle parking was not an issue. Zoning changes over the years have resulted in requirements that have made this property nonconforming. An ADU is permitted outright in this residential zone, but it requires two parking spaces on the site for the ADU and two spaces for the existing residential unit. Only three parking spaces can be accommodated in compliance with current zoning. However, in this case, only one parking space is needed for the ADU.

The small, nonconforming lot size results in a special condition of this property which results in a variance being required to allow an ADU with only one parking space. The ordinance does not recognize the possibility that only one space might be needed. Denying the variance provides no benefit to the public and will result in an unnecessary hardship to the owner.

**And**

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

Accessory Dwelling Unit is a permitted use in this neighborhood. The proposed ADU will occupy an existing space in the basement of the building and will only need one additional parking space which can be accommodated in the existing driveway in compliance with the zoning ordinance location requirements (9.3.3.2). The existing building is served by city water, city sewer and city sidewalks will

enhance the value of this site. This proposal is consistent with the character of the neighborhood and consistent with the purpose of the ordinance. This is a reasonable use of this property.

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

The existing lot is a nonconforming lot due to lot size and setbacks for the existing building and pavement. The existing building was constructed in the early 1900's. At that time, vehicle parking was not an issue. Zoning changes over the years have resulted in requirements that have made this property nonconforming. An ADU is permitted outright in this residential zone, but it requires two parking spaces on the site for the ADU and two parking spaces for the existing residential unit. Only three parking spaces can be accommodated in compliance with current zoning. However, in this case, only one parking space is needed for the ADU.

The small, nonconforming lot size results in a special condition of this property which results in a variance being required to allow an ADU with only one parking space. The ordinance does not recognize the possibility that only one space might be needed. Denying the variance provides no benefit to the public and will result in an unnecessary hardship to the owner.

## NOTICE LIST

**This template can be used to record the name, mailing address, street address, and tax map parcel (TMP) # for each party that is required to be noticed as part of an application.**

OWNER NAME	MAILING ADDRESS	STREET ADDRESS (If different from mailing address)	TAX MAP PARCEL (TMP) #
	127 Foote St Barrington RI 02806-2925	<b>8 Page St</b>	553-018-000-000-000
<b>Sunspace Realty Inc</b>	45 Hilltop Dr. Keene NH 03431	<b>153-155 Washington St</b>	553-012-000-000-000
Rise for Baby and Family	147 Washington St. Keene NH 03431		553-013-000-000-000
Beauregard Family Rev. Trust	127 Washington St. Keene NH 03431		553-014-000-000-000
Matthew W. & Katharine L Abbott	20 Beaver St. Keene NH 03431		553-015-000-000-000
Timothy J Carbone Rev. Trust	24 Hastings Ave. Keene NH 03431	<b>24 Beaver St</b>	553-016-000-000-000
<b>Jennifer Griffey</b>	222 West Street Keene NH 03431	<b>32 Beaver St</b>	553-017-000-000-000
Elizabeth R Scott Hill Living Trust	PO Box 77 Hopkinton RI 02806-2925	<b>12 Page St</b>	553-019-000-000-000
Kathleen A & Roger Birch	22 Page St. Keene NH 03431		553-020-000-000-000
<b>Virginia L. Mattson</b>	30 Page St. Keene NH 03431	<b>30 Page St</b>	553-021-000-000-000-000
Duffy Barrett Rev. Trust	39 Page St Keene NH 03431	<b>29 Page St</b>	553-029-000-000-000
Brickstone Land Use Consultants LLC	185 Winchester St Keene NH 03431		
<b>Timothy R Keeler</b>	21 Page St Keene NH 03431		553-030-000-000-00
Samuel Temple & Love Bridget Rev Trust	<b>15 Page Street</b>		553-031-000-000-000
<b>Ali Taylor</b>	63 Emerald St #386 Keene NH 03431	<b>42 Beaver St</b>	553-032-000-000-000
Roger T & Madeleine Weinreich	110 Main St Keene NH 03431	<b>52 Beaver St</b>	553-033-000-000-000
<b>Janet I Collett</b>	45 Beaver St Keene NH 03431	<b>45 &amp; 58 Beaver St</b>	553-034-000,553-088-000
<b>Carol A Beaver</b>	37 Beaver St Keene NH 03431	<b>37-39 Beaver St</b>	553-089-000-000-000
Lindsay Plumpton & Nathan Levesque	29 Beaver St Keene NH 03431		553-090-000-000-000
Thomas & Karen Chabot	21 Beaver St Keene NH 03431		553-091-000-000-000
Alexis Joan D'Amboise	15 Beaver St Keene NH 03431		553-092-000-000-000
TD Properties of Keene LLC	PO Box 768 Keene NH 03431		553-093-000-000-000

**16**  
0.49 AcC  
MD

69.5'

**19**  
0.08 AcC  
48.5'  
70.75'

48.5'

**18** #8  
0.07 AcC  
42.25'  
71.35'  
39.22'  
59' 73'

PAGE STREET

71.96'

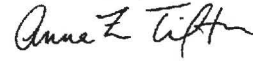
**17**  
0.10 AcC  
58.75'  
73.45'

59.78'

Return to:

Return to:  
**Bradley & Faulkner, P.C.**  
@ desk

Doc # 2301542      03/10/2023 03:33:59 PM  
Book 3240 Page 1177      Page 1 of 2  
Register of Deeds, Cheshire County



LCHIP      CHA118972      25.00

Exempt from transfer tax per RSA 78-B:2  
Noncontractual transfer

**QUITCLAIM DEED**

**Matthew Conway** and **Jeffrey William Conway-Tighe**, a married couple, of 127 Foote Street, Barrington, Rhode Island 02806; for consideration paid, grant to **Matthew Conway**, of 127 Foote Street, Barrington, Rhode Island 02806, a forty percent (40%) interest, **Jeffrey William Conway-Tighe**, of 127 Foote Street, Barrington, Rhode Island 02806, a forty percent (40%) interest, and **Benjamin Conway**, of 127 Foote Street, Barrington, Rhode Island 02806, a twenty percent (20%) interest, as tenants in common, with QUITCLAIM covenants,

A certain tract or parcel of land, with the buildings thereon, situated on the westerly side of Page Street in **KEENE**, County of Cheshire and State of New Hampshire, bounded and described as follows:

Beginning at an iron pin driven in the ground in the westerly bound of Page Street, said pin being 59.78 feet northerly of the stone bound at the intersection of Beaver and Page Street;

Thence on land formerly of Roudenbush S. 83° 40' W. as surveyed in 1949, 71.96 feet to an iron pin at land formerly of Croteau, the same also marking the northwest corner of said Roudenbush land;

Thence northerly on said Croteau land 42.25 feet to an iron pin at land formerly of Hill;

Thence N. 73-1/4° E. as surveyed in 1896, on said Hill land 70.71 feet to an iron pin in the westerly bound of Page Street;

Thence southerly on the westerly bound of said Page Street 39.22 feet to the place of beginning.


Subject to a Boundary Line Agreement between Mabel L. Roudenbush and Arthur J. and Doris Y. Bosa dated June 12, 1968 and recorded in Book 781, Page 176 of the Cheshire County Registry of Deeds.

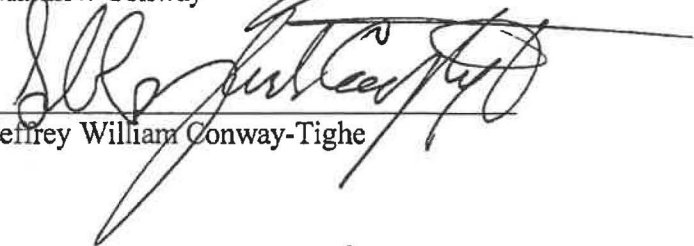
**BRADLEY & FAULKNER, P.C.**  
50 WASHINGTON STREET, P.O. BOX 666  
KEENE, NH 03431-0666

Being the same premises conveyed to Matthew Conway and Jeffrey William Conway-Tighe by deed of Doris Y. Bosa dated November 15, 2018 and recorded in Book 3047, Page 174 of the Cheshire County Registry of Deeds.

This is not the homestead premises of Grantors.

Executed this 4 day of March, 2023.

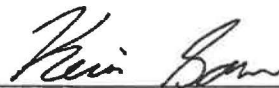
  
Matthew Conway

  
Jeffrey William Conway-Tighe

STATE OF RI

COUNTY OF Bristol

This instrument was acknowledged before me on 4<sup>th</sup> of March, 2023, by Matthew Conway and Jeffrey William Conway-Tighe.

  
Title: Notary Public / Justice of the Peace  
My commission expires: 9-23-2026

**Kevin Sousa**  
Notary Public, State of Rhode Island  
My Commission Expires 09/23/2026

Page intentionally left blank



809 COURT ST.  
ZBA 23-10



Petitioner requests a Special Exception to permit light industrial use in the Commerce District per Chapter 100, Article 5.1.5 of the Zoning Regulations.



# City of Keene

New Hampshire

## NOTICE OF HEARING

### ZBA 23-10

A meeting of the Zoning Board of Adjustment will be held on **Monday, April 3, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-10:** Petitioner, Lehen Industries of Keene, represented by Jim Phippard of Brickstone Land Use Consultants, LLC., requests a Special Exception for property located at 809 Court St., Tax Map #219-005-000-000-000, is in the Commerce District and is owned by Hillsborough Capital, LLC of Keene, NH. The Petitioner requests to permit light industrial use in the Commerce District per Chapter 100, Article 5.1.5 of the Zoning Regulations.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application, or written comments can be forwarded to [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov). The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

**Corinne Marcou, Zoning Clerk**  
**Notice issuance date March 23, 2023**

# Zoning Board of Adjustment Special Exception Application



**For Office Use Only:**

Case No. ZBA 23-10  
Date Filled 3/23/23  
Rec'd By cm  
Page 1 of 7  
Rev'd by \_\_\_\_\_

If you have questions on how to complete this form, please call: (603) 352-5440  
or email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

### SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, 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. If applicant or authorized agent, a signed notification from the property owner is required.

**OWNER/APPLICANT**

NAME/COMPANY: Hillsborough Capital LLC

MAILING ADDRESS: 63 Emerald Street Suite 167 Keene NH 03431

PHONE: 603-785-5488

EMAIL: steveh@reachmysummit.com

SIGNATURE:

PRINTED NAME: Stephen L. Holland

**APPLICANT (if different than Owner/Applicant)**

NAME/COMPANY: Lehnen Industries

MAILING ADDRESS: 22 Production Ave. Keene NH 03431

PHONE: 603 352 3478 x1213

EMAIL: PELLE@LEHNENDESIGN.COM

SIGNATURE:

PRINTED NAME: PETER LEHNEN

**AUTHORIZED AGENT (if different than Owner/Applicant)**

NAME/COMPANY: Brickstone Land Use Consultants LLC

MAILING ADDRESS: 185 Winchester St Keene NH 03431

PHONE: 603-357-0116

EMAIL: [jphippard@ne.rr.com](mailto:jphippard@ne.rr.com)

SIGNATURE:

PRINTED NAME: James P Phippard

**SECTION 2: GENERAL PROPERTY INFORMATION**

Property Address: 809 Court Street

Tax Map Parcel Number: 219-005-000-000

Zoning District: Commerce

Lot Dimensions: Front: 199.9      Rear: 197.3      Side: 399.9      Side: 392.7

Lot Area: Acres: 1.88 +/-      Square Feet: 78,936 +,

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 26%      Proposed: 26%

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 74%      Proposed: 74%

Present Use: Athletic Training Facility

Proposed Use: Light Industrial

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.6.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed special exception.

See Attached

**SECTION 4: APPLICANTION CRITERIA**

*Article of the Zoning Ordinance under which the Special Exception is sought:*

**See Attached**

**The Zoning Board of Adjustment shall have the authority to hear and decide special exceptions from the provisions of the Zoning Regulations of the City's Land Development Code, subject to the requirements of Article 25.6, Zoning Special Exception, 25.6.3 Authority and NH RSA 674:33.**

*Briefly describe your responses to each criteria, using additional sheets if needed:*

- 1. The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.**

**PROPERTY ADDRESS 809 COURT STREET**

**APPLICATION FOR A SPECIAL EXCEPTION**

- A Special Exception is requested under Section (s) 5.1.5 of the Land Development Code of the Keene Zoning Ordinance to permit: A light industrial use in the Commerce district at 809 Court Street.

Background: Lehen Industrial Services is a small company manufacturing custom machines and software solutions for medical, scientific and various industrial manufacturing companies. They are currently located at 22 Production Avenue in Keene in an existing 6000 sf building. They wish to relocate to 809 Court Street in an existing 20,000 sf building. The new location will offer them more space for manufacturing and warehousing their products. It will also offer them space to grow and expand their business in Keene.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

1. **The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.**

The LDC allows light manufacturing uses in the Commerce district by Special Exception. Lehen Industrial Services manufactures specialized machines and operating software used by medical, scientific and other manufacturing companies. The specialized machines are manufactured wholly inside their facility with no activities outside the building. This is a small high tech business, locally owned, which is encouraged by the Keene Master Plan as the type of business needed for the economic well-being of the community.

2. **The proposed use will be established, maintained and operated so as not to endanger the public health, safety or welfare.**

Lehen Industrial Services will utilize the existing building at 809 Court Street which is serviced by city water and city sewer. There are currently 21 employees working at the facility. Normal hours are Monday – Friday between 7AM and 6PM with occasional evenings and weekends as needed. The existing 20,000 sf building has 73 parking spaces existing at the site, which will allow for future growth at this location. This is a low intensity use which will not generate excessive noise, fumes or vibrations. There will be no outside storage of materials. All activities will be performed inside the building. Most deliveries to the facility are by UPS and/or FedEx with very few large trucks. This is a low intensity use which will not endanger the public health, safety or welfare.

3. **The proposed use will be established, maintained and operated so as to be harmonious with the surrounding area and will not impede the development, use and enjoyment of the adjacent property.**

The proposed use will be operated wholly within the existing building. There will be no outside noises, fumes or vibrations which would disturb the abutting properties. There is adequate on-site parking. Business hours are Monday through Friday 7AM to 6PM. This is a low intensity use which generates very little traffic. This proposal will have no significant affect on the abutting land uses.

4. **The proposed use will be of a character that does not produce noise, odors, glare and/or vibration that adversely affects the surrounding area.**

The proposed use will be conducted wholly within the existing building. It will not generate excess traffic, excess noise, or cause a disturbance to neighbors. The proposed use will have no adverse effects on the surrounding area.

5. **The proposed use will not place an excessive burden on public improvements, facilities, services or utilities.**

The proposed use will not generate excess traffic and will not use excessive amounts of city water and will not generate significant wastewater. There is adequate on-site parking existing at the site.

6. **The proposed use will not result in the destruction, loss or damage of any feature determined to be of significant natural, scenic or historic importance.**

The proposed use will not alter any existing natural, scenic or historic features at the site.

7. **The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.**

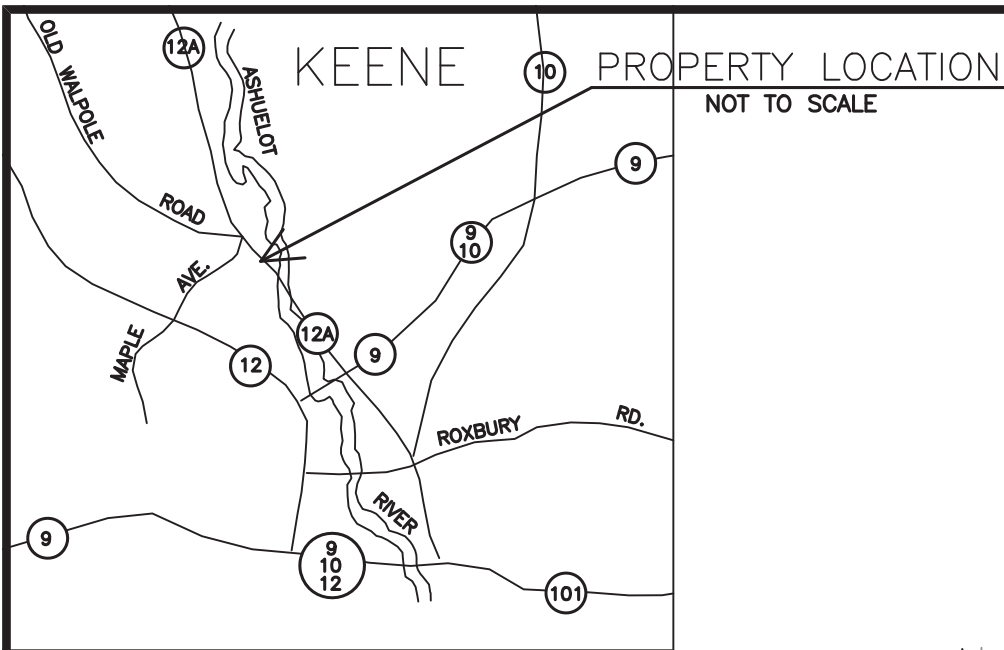
The small workforce, 21 employees, will be working on Monday – Friday between 7AM and 6PM and occasionally evenings and weekends. These small numbers will not create traffic congestion and will have no significant impact on the safety or capacity of Court Street at this location.

**NOTICE LIST**

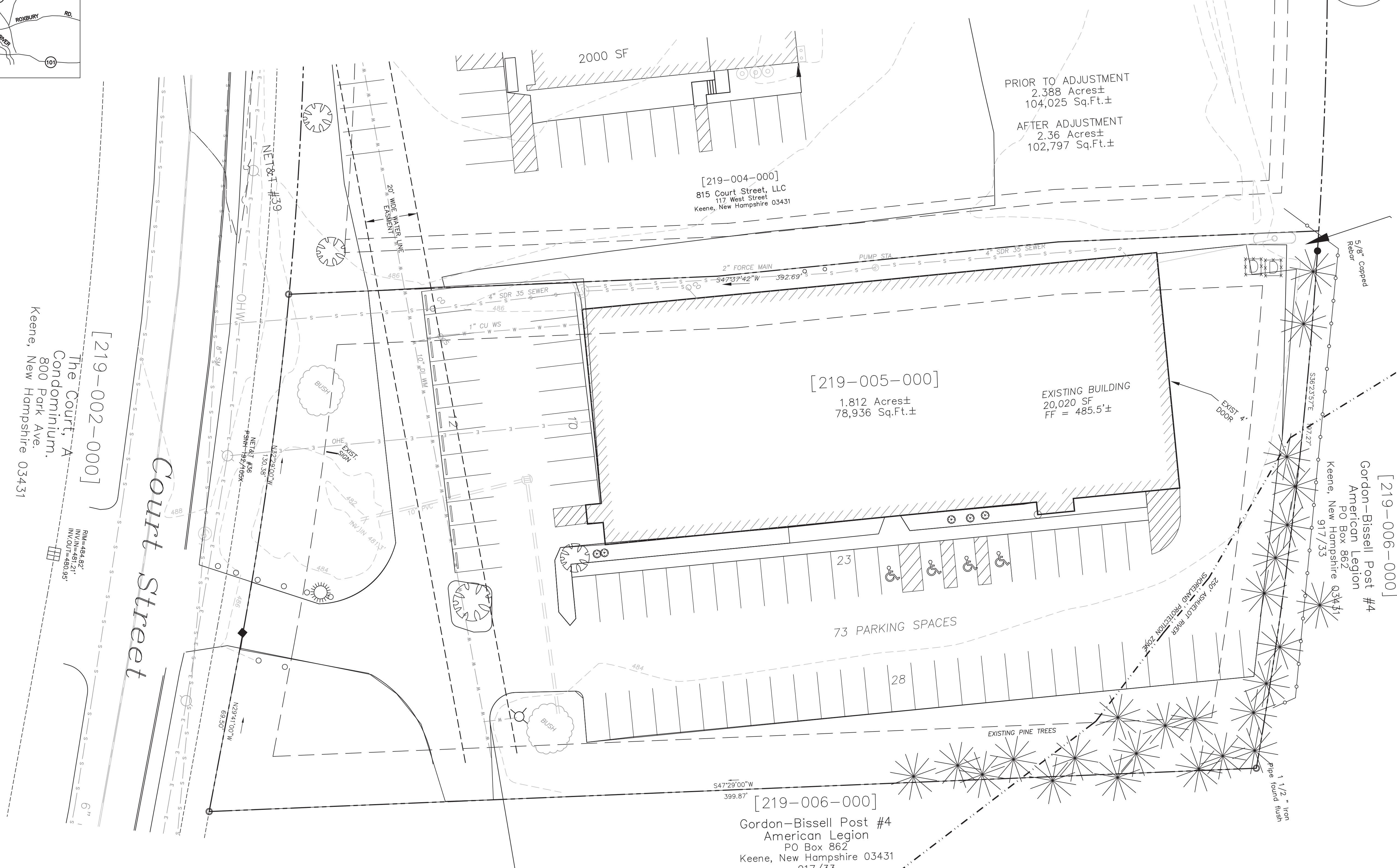
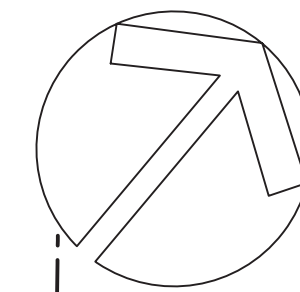
This template can be used to record the name, mailing address, street address, and tax map parcel (TMP) # for each party that is required to be noticed as part of an application.

OWNER NAME	MAILING ADDRESS	STREET ADDRESS (If different from mailing address)	TAX MAP PARCEL (TMP) #
The Court A Condominium 815 Court St LLC	800 Park Ave Rm 120 Keene NH 03431	The Court Keene NH 03431	219-002-000
American Legion Gordon Bissell Post #4 City of Keene	PO BOX 862 Keene NH 03431	815 Court St 797 Court St	219-004-000 219-006-000
Lehnen Industries	3 Washington St Keene NH 03431	0 Court St	219-007-000
Brickstone hand Use Consultants LLC	22 Production Ave Keene NH 03431		
Hillsborough Capital LLC	185 Winchester St Keene NH 03431 63 Emerald St Ste 167 Keene NH 03431	809 Court St	219-005-000





REVISIONS: DATE:



[219-002-000]  
The Court, A  
Condominium,  
800 Park Ave.,  
Keene, New Hampshire 03431

[219-002-000]

Court Street

RM=484.42'  
INV=481.21'  
HW=480.95'

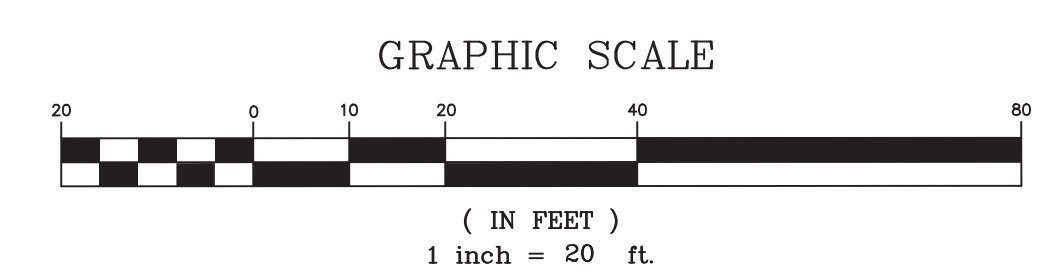
**GENERAL NOTES**

- THIS PLAN IS A COMPOSITE PLAN OF THIS PROPERTY BASED ON AERIAL PHOTOGRAPHY AND GROUND SURVEY OF SITE FEATURES. THIS PLAN IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY OF THIS PROPERTY.
- ALL UTILITIES AND SITE FEATURES SHOWN ARE EXISTING. NO CHANGES TO EXISTING LAYOUT OR UTILITIES ARE PROPOSED AT THIS TIME.

**LOT DATA**

ZONING	COMMERCE
TAX MAP #	219-005-000
LOT SIZE	77,536 SF 1.78 AC±
LOT COVERAGE	
BUILDING	20,020 SF - 26%
PAVING	37,340 SF - 48%
TOTAL	57,360 SF - 74%

PARKING  
PARKING PROVIDED = 73 SPACES



**HILLSBOROUGH  
CAPITOL LLC**  
63 EMERALD STREET, SUITE 167  
KEENE, NH 03431

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

**EXISTING  
BUILDING**  
809 COURT STREET  
KEENE, NH 03431

**SITE  
PLAN**

SCALE: 1"=20'

DATE: 2/11/16

SHEET 1 OF 1

# 0 OLD GILSUM RD. ZBA 23-11



Petitioner requests a Variance to permit a 30 acre large scale ground mounted solar energy system where 20 acres are allowed per Chapter 100, Article 8.3.7.C.2.b of the Zoning Regulations.



# City of Keene

New Hampshire

## **NOTICE OF HEARING**

### **ZBA 23-11**

A meeting of the Zoning Board of Adjustment will be held on **Monday, April 3, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-11:** Petitioner, Keene Meadow Solar Station, LLC, of Boston MA, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of Manchester NH, requests a Variance for property located at 0 Old Gilsum Rd., Tax Map #214-001-000-000-000, is in the Rural District and is owned by D-L-C Spofford, LLC of Stuart, FL. The Petitioner requests to permit a 30 acre large scale ground mounted solar energy system where 20 acres is allowed per Chapter 100, Article 8.3.7.C.2.b of the Zoning Regulations.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application, or written comments can be forwarded to [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov). The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

**Corinne Marcou, Zoning Clerk**  
**Notice issuance date March 23, 2023**

City of Keene, NH

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	<u>ZBA23-11</u>
Date Filled	<u>3/17/23</u>
Rec'd By	<u>CSM</u>
Page	<u>1</u> of <u>6</u>
Rev'd by	

If you have questions on how to complete this form, please call: (603) 352-5440 or email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, 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. If applicant or authorized agent, a signed notification from the property owner is required.

### OWNER / APPLICANT

NAME/COMPANY: **D-L-C Spofford, LLC**

MAILING ADDRESS: **C/O Lynn M. Thomas 146 S Sewall's Point Road, Stuart Fl 34996**

PHONE: **(603) 313-5488**

EMAIL: **lthomas@driller.com**

SIGNATURE: *Lynn M. Thomas*  
DocuSigned by: 0339B88CA8B64D6...

PRINTED NAME: **Lynn M. Thomas, Manager**

### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: **Keene Meadow Solar Station, LLC**

MAILING ADDRESS: **179 Green Street, Suite 100, Boston, MA 02130**

PHONE:

EMAIL: **aidan@glenvale.solar; ari@glenvale.solar**

SIGNATURE: *James Aidan Foley*  
DocuSigned by: 63CBDC4822DA40A...

PRINTED NAME: **James Aidan Foley, Member**

### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: **A. Eli Leino, Esq - Bernstein, Shur, Sawyer & Nelson PA**

MAILING ADDRESS: **670 N Commercial St Suite 108, Manchester, NH 03101**

PHONE: **(603) 665-8859**

EMAIL: **eleino@bernsteinshur.com**

SIGNATURE: *A. Eli Leino*  
DocuSigned by: 56D94BF2299C426...

PRINTED NAME: **A. Eli Leino**

**SECTION 2: PROPERTY INFORMATION**Property Address: **0 Old Gilsum Road**Tax Map Parcel Number: **214-001**

Zoning District: Rural

Lot Dimensions: Front: **See** Rear: **Attached** Side: **Plan** Side:Lot Area: Acres: **178** Square Feet:% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **0** Proposed:

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: Proposed:

Present Use: **Forest (Hardwood & White Pine)**Proposed Use: **Solar Energy System greater than 20 Acres****SECTION 3: WRITTEN NARRATIVE**

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

The subject property, Parcel #214-1 (the "Property"), is comprised of 178 acres abutting the Dartmouth College Highway (State Route 10) and located near the intersection of Route 10 and the Franklin Pierce Highway (State Route 9). The Property is accessed via Old Gilsum Road, a Class VI road. The Applicant, Keene Meadow Solar Station, LLC is a subsidiary of Glenvale Solar. Glenvale is a New England based developer of best-in-class solar and energy storage projects. Its mission is to generate competitively priced, renewable energy, and positively impact the communities it works with. The Applicant has negotiated a lease agreement with the Property owner for the development of a solar project.

Keene Meadow Solar's design includes 50 megawatts of photovoltaic modules and 50 megawatts of electric battery storage. The Applicant identified the location for this project through an extensive review of site characteristics and their compatibility with solar development. These characteristics include the proximity of two transmission corridors, substantial upland acreage with well drained soils, predominately low to moderate sloping terrain, no known presence of endangered or threatened species, minimal visual impact, and many others. On-site review of natural resources began in the spring of 2022 with a vernal pool survey and preliminary wetland assessment. In its first year of operation, Keene Meadow Solar will generate enough energy to power 14,000 New Hampshire homes and avoid CO<sub>2</sub> emissions equal to that sequestered by 88,000 acres of forest. Achieving this level of CO<sub>2</sub> offset and power generation while meeting the 20-acre limit imposed by the Keene Land Development Code would require permitting on multiple lots. Doing so would require more panels and a larger development footprint, have a greater impact on natural resources, affect more abutters, and necessitate more infrastructure for interconnection. These project inefficiencies would ultimately raise the price on the electricity generated. It is worth noting that these variance requests do not pertain to use – Solar Energy System is an allowed use in the zone – they relate to site access and the size of the system.

At present, the Applicant is seeking two preliminary variances.

First, the Applicant seeks relief for access via a Class VI highway, so that it can apply for a street access permit (Section 22.5.5.A.).

Second, the Applicant seeks variance relief from Section 8.3.7.C.2.b. (Infrastructure Uses; Solar Energy System (Large-Scale); Use Standards), which limits large-scale solar energy projects to a 20-acre footprint. Solar Energy System (Large-Scale) is a use permitted by Conditional Use Permit in the Rural (R) zone, but the Applicant needs a variance to seek approval for a solar project larger than 20-acres.

Pending approval of these variances, the Applicant can commence design of the project and the subsequent submittal of a Conditional Use Permit Application and a definitive site plan for review. As such, the Applicant hereby reserves its right to request additional variance relief in conjunction with the submission of the site plan and CUP application.

## SECTION 4: APPLICATION CRITERIA

*A Variance is requested from Article (s) 8.3.7.C.2.b. of the Zoning Regulations to permit:*

a 30-acre large-scale ground-mounted solar energy system where 20-acres is allowed in the zone.

*Briefly describe your responses to each criteria, using additional sheets if necessary:*

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

On January 17, 2019, the Keene City Council adopted a sustainable energy resolution establishing a goal of using 100-percent renewable energy for electricity by 2030 and for all sectors including heat and transportation by 2050. Included in that resolution were several recitations about how increasing renewable energy projects further the public interest, including energy efficiency, resilience to weather related service interruptions, and employment opportunities. The City has determined that expansion of green energy projects is part of the “City’s vision of becoming a thriving and resilient community powered by affordable, clean, and renewable energy.” See Keene, NH Sustainable Energy Plan at §2-1.

To meet the lofty goals approved in the resolution and further detailed in Keene’s clean energy plan, projects of a utility-grade scale will need to be permitted. Granting this variance will allow the Applicant to apply for further necessary permits and will positively impact the public health, safety, and welfare. The existence of two transmission lines on the property will also facilitate utility interconnection and reduce the need to construct redundant infrastructure.

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

The New Hampshire Supreme Court has held this and the prior criterion are related because it is in the public interest to uphold the “spirit of the ordinance.” Thus, if an applicant sufficiently demonstrates one, it almost certainly meets the other. See *Farrar v. City of Keene* 158 N.H. 684 (2009).

The goal of the ordinance appears to be promoting green energy projects in appropriate locations. This project is in a remote part of the City on a lot already burdened by transmission lines, and the proposal will not negatively affect neighboring lot owners through overcrowding or other unnecessary impacts. The project will protect public health, safety and welfare, and the environment by facilitating the benefits of green energy in the region. Therefore, despite being larger than the prescribed maximum size in the Land Development Code, the project is appropriately sized, and the spirit of the ordinance is being observed.

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

In balancing the rights of the lot owner and Applicant with the rights of the public, this proposal will provide a public benefit, clean energy, the development of which is a stated goal of the City. The use is allowed by right, the project will provide tax revenue and construction jobs, and neighboring lot owners will not be harmed by the project. Additionally, if it is determined that upgrades to the local electric grid are required to facilitate interconnection, the Applicant will be responsible for payment.

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

The property is large enough that the installation can be effectively screened by the mature trees already located on the boundaries of the Property. All residential uses in the general area are significantly distant from the Property bounds. Additionally, the lot is bisected by two electric transmission lines, thus reducing the need for additional towers and offsite lines, and has been routinely and extensively forested, making it an ideal location for the proposed use. Due to the passive nature of the installation, it will not negatively impact those exploring the Greater Goose Pond Forest through sounds or other emissions.

**5. Unnecessary Hardship**

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

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

The hardship is the unique nature and location of the Property which make it inaccessible and undesirable for many traditional developments. The Property is affected by wetlands. Access to roads, public water supply and sewer system are all significantly limited. The characteristics that make the Property challenging from a development perspective, however, make the site desirable for a large solar energy system. The proposed project will not require an extensive road network nor municipal sewer or water services. The Project will not put any demands on the school system or municipal services, but it will pay substantial economic dividends to the City.

The application of 20-acre limit would not advance the purpose or intent of the Land Development Code. A responsibly located and adequately sized solar energy system is the best way to advance the purpose and intent of the ordinance. The public purposes of the ordinance can be effectively maintained while also allowing the Applicant to pursue the necessary permits to develop a solar energy system (an allowed use), on a property many times larger than most undeveloped parcels in the surrounding area and the City at large. The unique characteristics of the Property make it practically valueless for many of the other uses permitted in the R zone and using only 20 acres of a 178-acre parcel would be an inefficient use of the land.



and

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

The proposed use, Solar Energy System (Large-Scale), is a permitted in the Rural zone. The New Hampshire Supreme Court has held that an allowed use is inherently reasonable. See Malachy Glen Assoc., Inc, v. Town of Chichester, 155 N.H. 102 (2007).

**B. Explain how, if the criterial 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.**

N/A



# 200 foot Abutters List Report

Keene, NH  
March 15, 2023

## Subject Property:

Parcel Number: 214-001-000  
CAMA Number: 214-001-000-000-000  
Property Address: 0 GILSUM RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996

---

## Abutters:

Parcel Number: 203-001-000  
CAMA Number: 203-001-000-000-000  
Property Address: 0 Off GILSUM RD.

Mailing Address: DUSTON DONALD R. & RITA M. IRREV.  
TRUST  
367 ROUTE 10  
GILSUM, NH 03448

Parcel Number: 203-002-000  
CAMA Number: 203-002-000-000-000  
Property Address: 0 GILSUM RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996

Parcel Number: 213-006-000  
CAMA Number: 213-006-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: PLATTS LOT LLC  
PO BOX 558  
WEST SWANZEY, NH 03469

Parcel Number: 213-007-000  
CAMA Number: 213-007-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996

Parcel Number: 213-008-000  
CAMA Number: 213-008-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996

Parcel Number: 214-002-000  
CAMA Number: 214-002-000-000-000  
Property Address: 0 GILSUM BROOK RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996

Parcel Number: 214-003-000  
CAMA Number: 214-003-000-000-000  
Property Address: 0 GILSUM RD.

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

Parcel Number: 217-001-000  
CAMA Number: 217-001-000-000-000  
Property Address: 0 GILSUM RD.

Mailing Address: JACQUES ANITA REVOCABLE TRUST  
211 NATICOOK RD.  
MERRIMACK, NH 03054

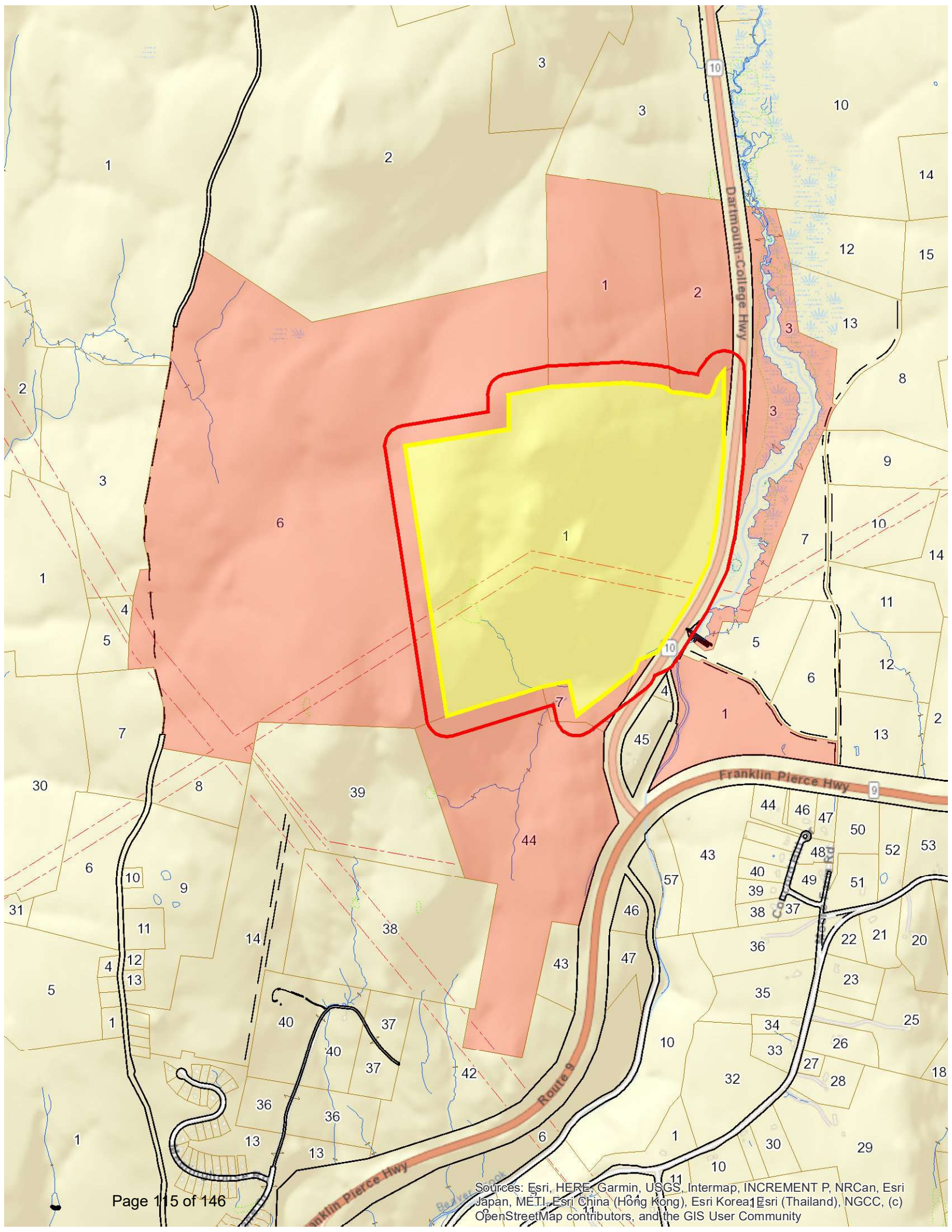
Parcel Number: 218-044-000  
CAMA Number: 218-044-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996

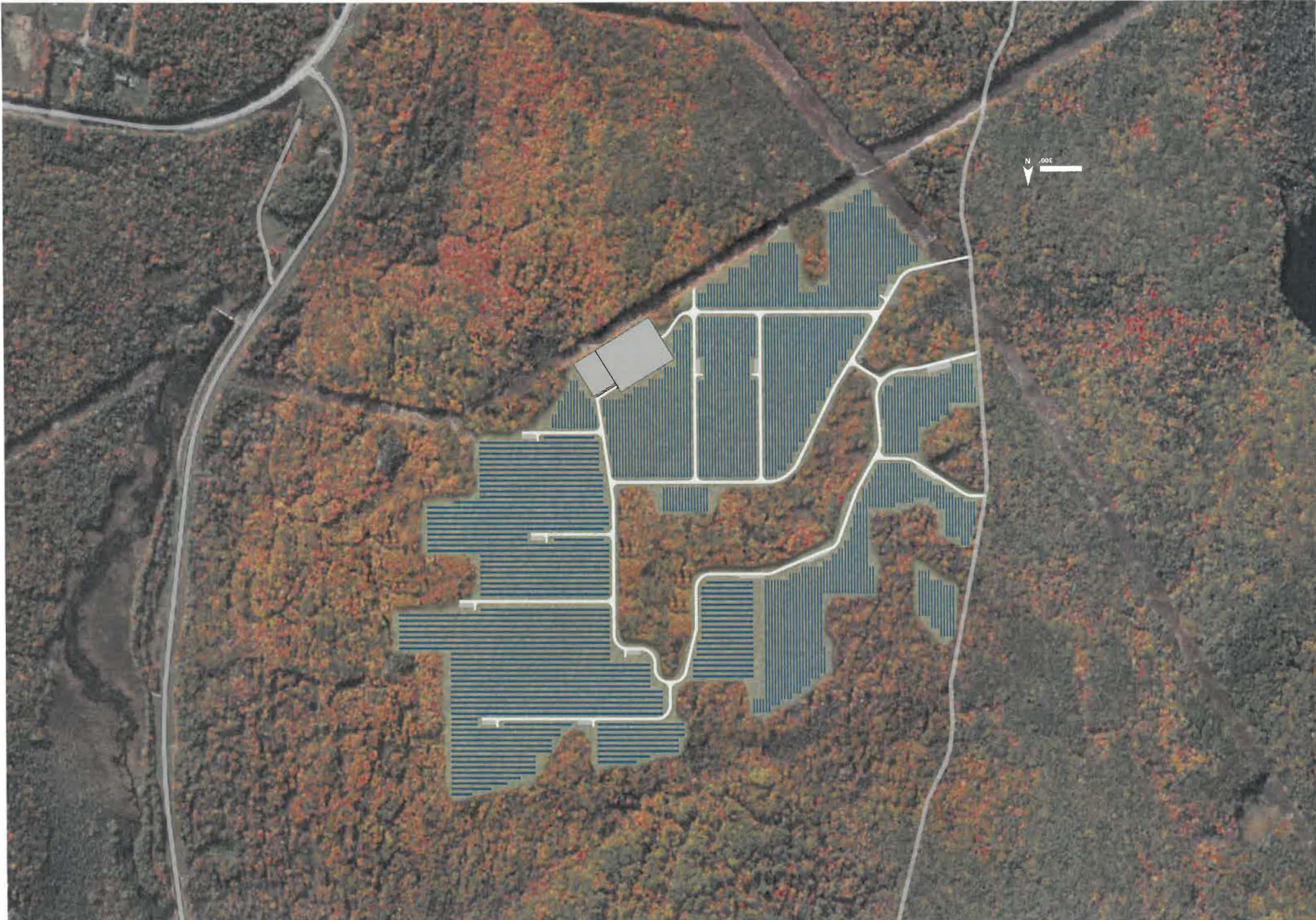


[www.cai-tech.com](http://www.cai-tech.com)

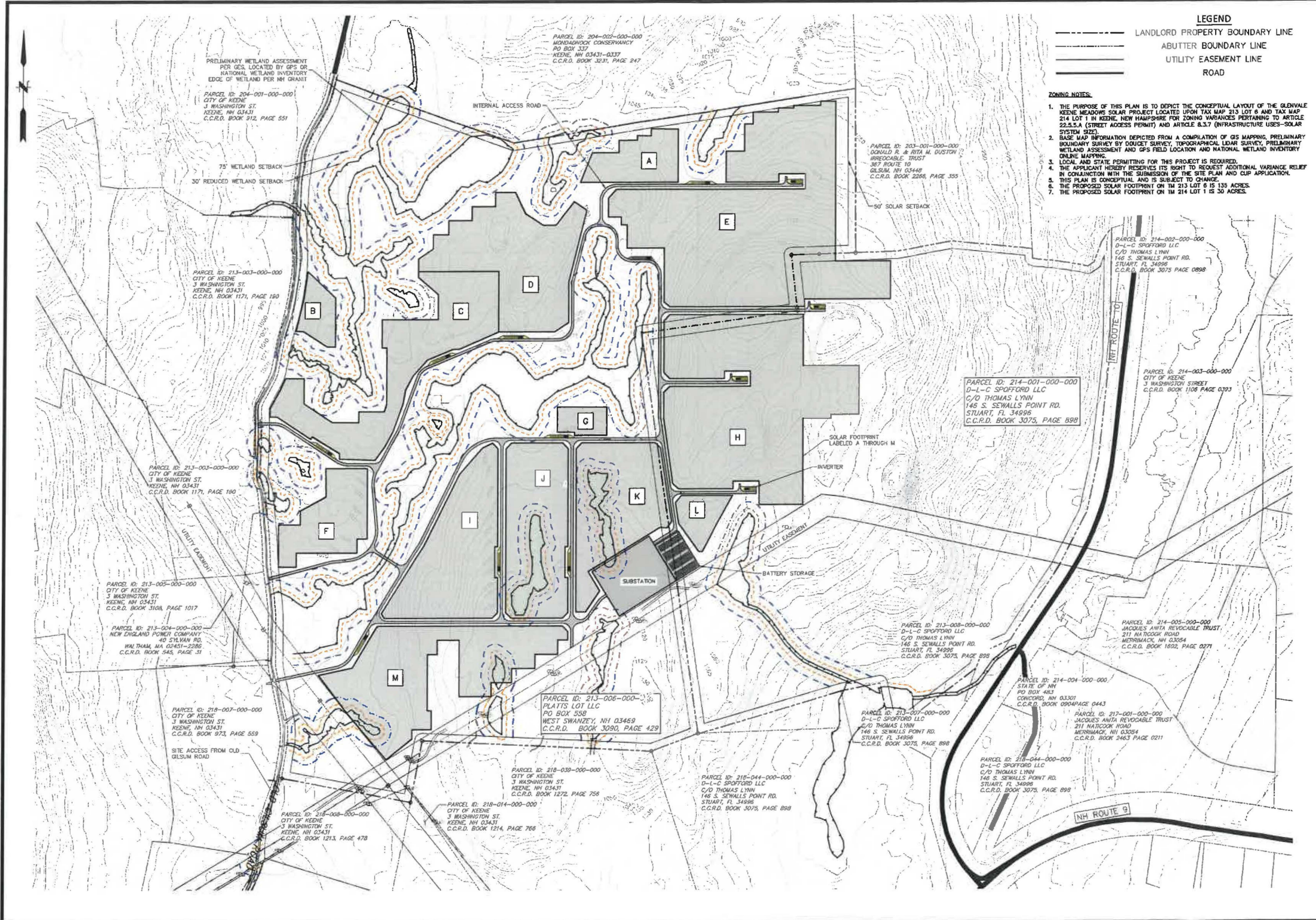
Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.







File: J:\DWG\PROJECTS\2023\ZONING\ZONING\0\_ZONING.dwg Layer: ZON\_101 Plot: 2023-03-18 1:06 PM Saved: 2023-03-15 1:42 PM User: A.Banders  
 PCS: AUTOCAD PDF (GENERAL DOCUMENTATION).PCS STB/C/TB: F0318  
 LAYER STATE:



No.	DATE	DESCRIPTION	DESIGNER/REVIEWER

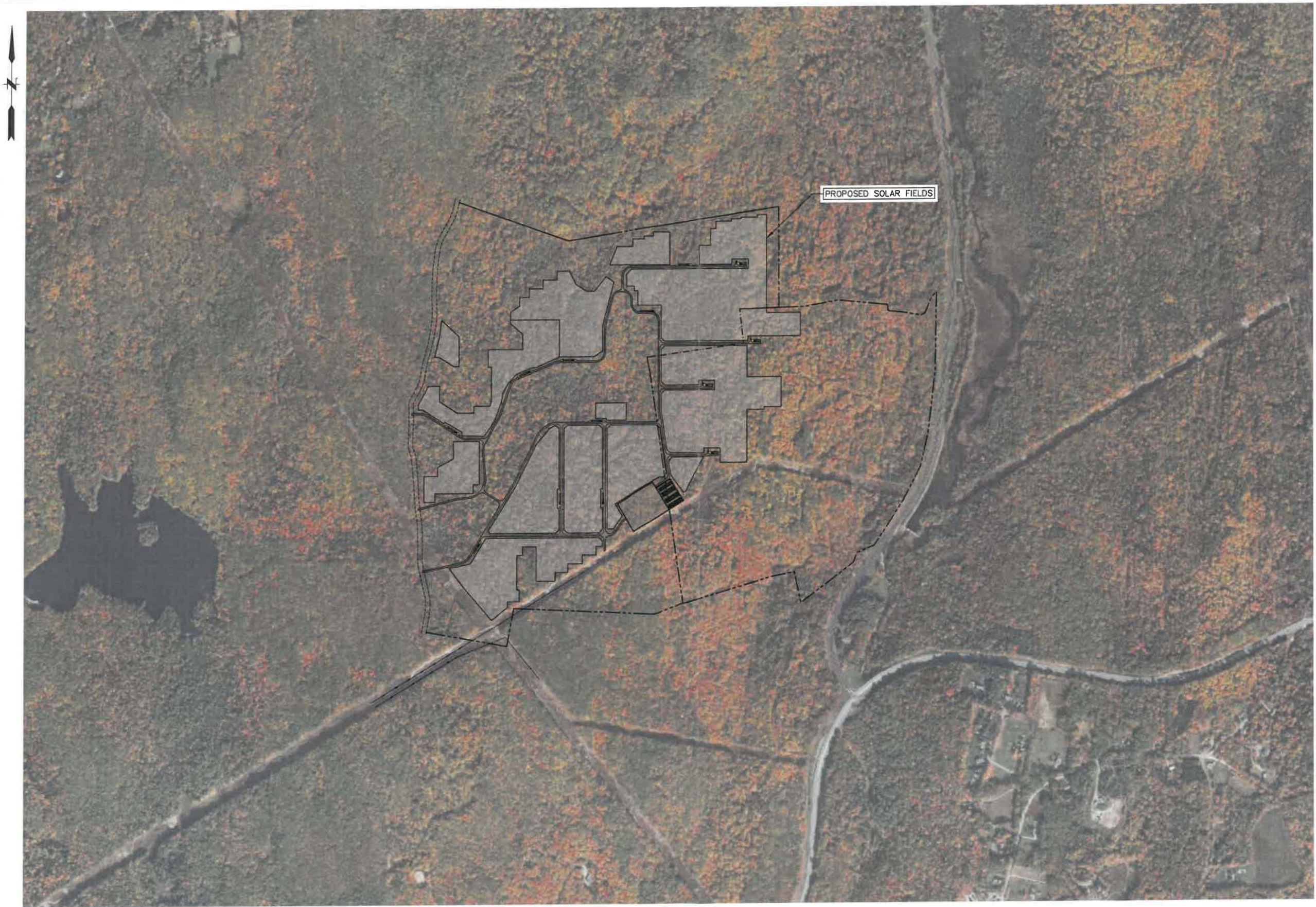
SCALE: HORIZ.: 1" = 300'  
 VERT.: 1" = 300'  
 DATUM: NAD 83  
 HORIZ.: 1" = 300'  
 VERT.: 1" = 300'  
 GRAPHIC SCALE

**FUSS & O'NEILL**  
 ARCHITECTS & ENGINEERS  
 100 WASHINGTON STREET, SUITE 200  
 WASHINGTON, NH 03041  
 PHONE: 603.888.1111

GLENVALE SOLAR  
 CONCEPT PLAN FOR ZONING BOARD  
 OLD GILSUM ROAD  
 NEW HAMPSHIRE  
 KEENE

PROJ. No.: 20190588.K10  
 DATE: 3.16.2023

**ZON-101**



PROJ. No.: 20190558.K10  
DATE: 2.17.2023

**ZON-102**

GLENVALE SOLAR  
AERIAL CONCEPT PLAN FOR  
ZONING  
OLD GILSUM ROAD  
KEENE  
NEW HAMPSHIRE



**FUSS & O'NEILL**  
REGISTERED PROFESSIONAL ARCHITECTS  
605 CONSUMERS STREET  
GILSUM, NH 03043  
603.683.8233  
www.fuss.com

SCALE:  
HORZ.: 1" = 500'  
VERT.:  
DATUM:  
HORZ.:  
VERT.:  
500 250 0 500  
GRAPHIC SCALE

No.	DATE	DESCRIPTION	DESIGNER/REVIEWER





# 0 OLD GILSUM RD. ZBA 23-12



Petitioner requests a Variance to permit a 135 acre large scale ground mounted solar energy system where 20 acres are allowed per Chapter 100, Article 8.3.7.C.2.b of the Zoning Regulations.



# City of Keene

New Hampshire

## NOTICE OF HEARING

### ZBA 23-12

A meeting of the Zoning Board of Adjustment will be held on **Monday, April 3, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-12:** Petitioner, Keene Meadow Solar Station, LLC, of Boston MA, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of Manchester NH, requests a Variance for property located at 0 Old Gilsum Rd., Tax Map #213-006-000-000-000, is in the Rural District and is owned by Platts Lot, LLC of West Swanzey, NH. The Petitioner requests to permit a 135 acre large scale ground mounted solar energy system where 20 acres is allowed per Chapter 100, Article 8.3.7.C.2.b of the Zoning Regulations.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application, or written comments can be forwarded to [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov). The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

**Corinne Marcou, Zoning Clerk**

**Notice issuance date March 23, 2023**

City of Keene, NH

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	<u>ZBA23-12</u>
Date Filled	<u>3/17/23</u>
Rec'd By	<u>CSW</u>
Page	<u>1</u> of <u>14</u>
Rev'd by	_____

If you have questions on how to complete this form, please call: (603) 352-5440 or email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, 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. If applicant or authorized agent, a signed notification from the property owner is required.

### OWNER / APPLICANT

NAME/COMPANY: **Platts Lot LLC**

MAILING ADDRESS: **PO Box 558, West Swanzey, NH 03469**

PHONE: **(603) 828-7260**

EMAIL: **sorrelcbr@gmail.com**

SIGNATURE: *Cynthia Richards*

PRINTED NAME: **Cynthia Brown Richards, Manager**

### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: **Keene Meadow Solar Station, LLC**

MAILING ADDRESS: **179 Green Street, Suite 100, Boston, MA 02130**

PHONE:

EMAIL: **aidan@glenvale.solar; ari@glenvale.solar**

SIGNATURE: *James Aidan Foley*

PRINTED NAME: **James Aidan Foley, Member**

### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: **A. Eli Leino, Esq - Bernstein, Shur, Sawyer & Nelson PA**

MAILING ADDRESS: **670 N Commercial St Suite 108, Manchester, NH 03101**

PHONE: **(603) 665-8859**

EMAIL: **eleino@bernsteinshur.com**

SIGNATURE: *A. Eli Leino*

PRINTED NAME: **A. Eli Leino**

## SECTION 2: PROPERTY INFORMATION

Property Address:

Tax Map Parcel Number:

Zoning District:

Lot Dimensions: Front:                      Rear:                      Side:                      Side:

Lot Area: Acres:                      Square Feet:

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing:                      Proposed:

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing:                      Proposed:

Present Use:

Proposed Use:

## SECTION 3: WRITTEN NARRATIVE

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

## SECTION 4: APPLICATION CRITERIA

*A Variance is requested from Article (s)*

*of the Zoning Regulations to permit:*

*Briefly describe your responses to each criteria, using additional sheets if necessary:*

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

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

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

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

**5. Unnecessary Hardship**

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

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

and

ii. The proposed use is a reasonable one because:

**B. Explain how, if the criterial 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.**





# 200 foot Abutters List Report

Keene, NH  
March 15, 2023

## Subject Property:

Parcel Number: 213-006-000  
CAMA Number: 213-006-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: PLATTS LOT LLC  
PO BOX 558  
WEST SWANZEY, NH 03469

## Abutters:

Parcel Number: 203-001-000  
CAMA Number: 203-001-000-000-000  
Property Address: 0 Off GILSUM RD.

Mailing Address: DUSTON DONALD R. & RITA M. IRREV.  
TRUST  
367 ROUTE 10  
GILSUM, NH 03448

Parcel Number: 204-001-000  
CAMA Number: 204-001-000-000-000  
Property Address: 0 OLD GILSUM RD.

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

Parcel Number: 204-002-000  
CAMA Number: 204-002-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: MONADNOCK CONSERVANCY  
PO BOX 337  
KEENE, NH 03431-0337

Parcel Number: 213-003-000  
CAMA Number: 213-003-000-000-000  
Property Address: 0 OLD GILSUM RD.

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

Parcel Number: 213-004-000  
CAMA Number: 213-004-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: NEW ENGLAND POWER COMPANY  
40 SYLVAN RD.  
WALTHAM, MA 02451-2286

Parcel Number: 213-005-000  
CAMA Number: 213-005-000-000-000  
Property Address: 0 OLD GILSUM RD.

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

Parcel Number: 214-001-000  
CAMA Number: 214-001-000-000-000  
Property Address: 0 GILSUM RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996

Parcel Number: 218-007-000  
CAMA Number: 218-007-000-000-000  
Property Address: 0 OLD GILSUM RD.

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

Parcel Number: 218-008-000  
CAMA Number: 218-008-000-000-000  
Property Address: 0 OLD GILSUM RD.

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

Parcel Number: 218-014-000  
CAMA Number: 218-014-000-000-000  
Property Address: 0 OLD GILSUM RD.

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



[www.cai-tech.com](http://www.cai-tech.com)

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



# 200 foot Abutters List Report

Keene, NH  
March 15, 2023

Parcel Number: 218-039-000  
CAMA Number: 218-039-000-000-000  
Property Address: 0 OLD GILSUM RD.

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

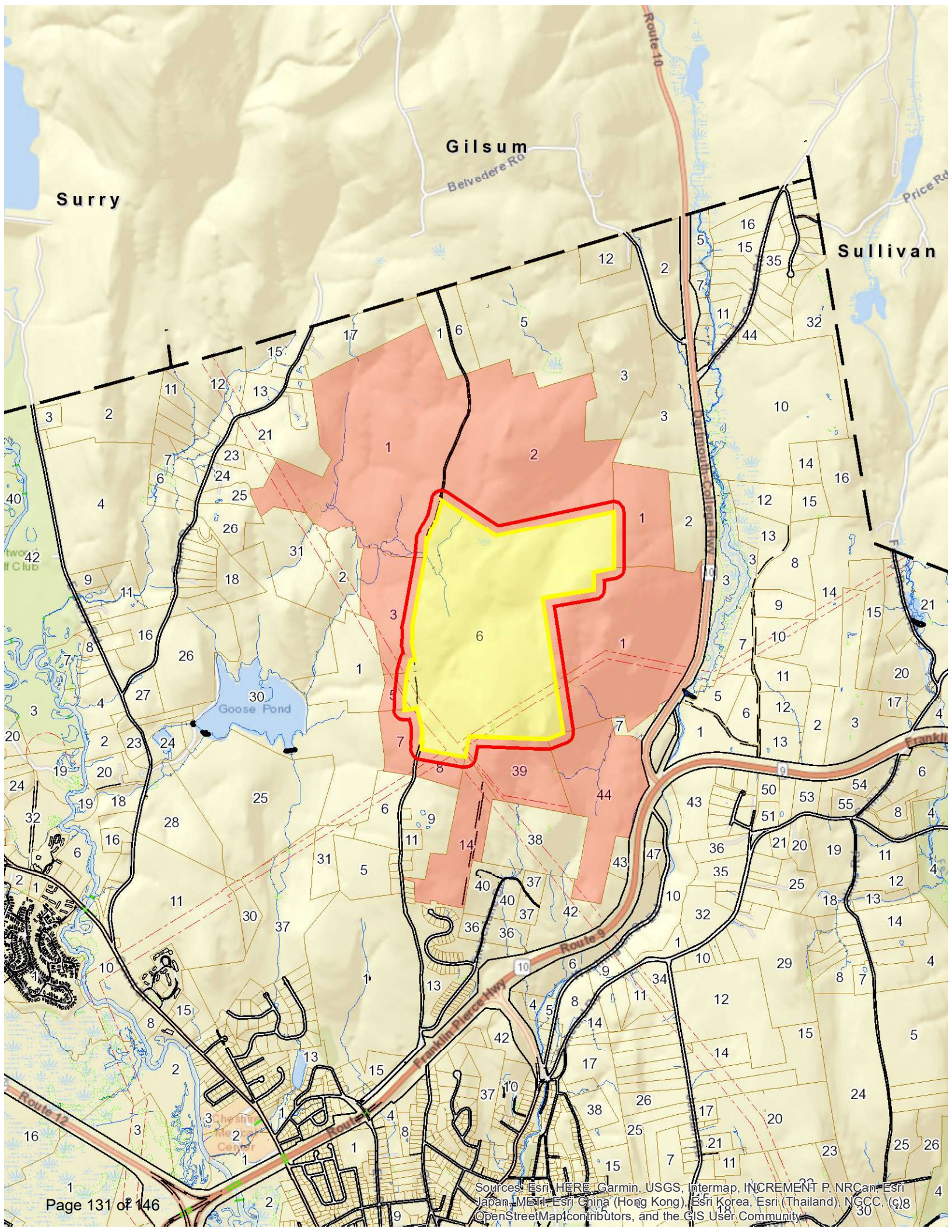
Parcel Number: 218-044-000  
CAMA Number: 218-044-000-000-000  
Property Address: 0 OLD GILSUM RD.

Mailing Address: D-L-C SPOFFORD LLC  
C/O LYNN THOMAS 146 S. SEWALLS  
POINT RD.  
STUART, FL 34996



[www.cai-tech.com](http://www.cai-tech.com)

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



Surry

Gilsum

Bevedere Rd

Sullivan

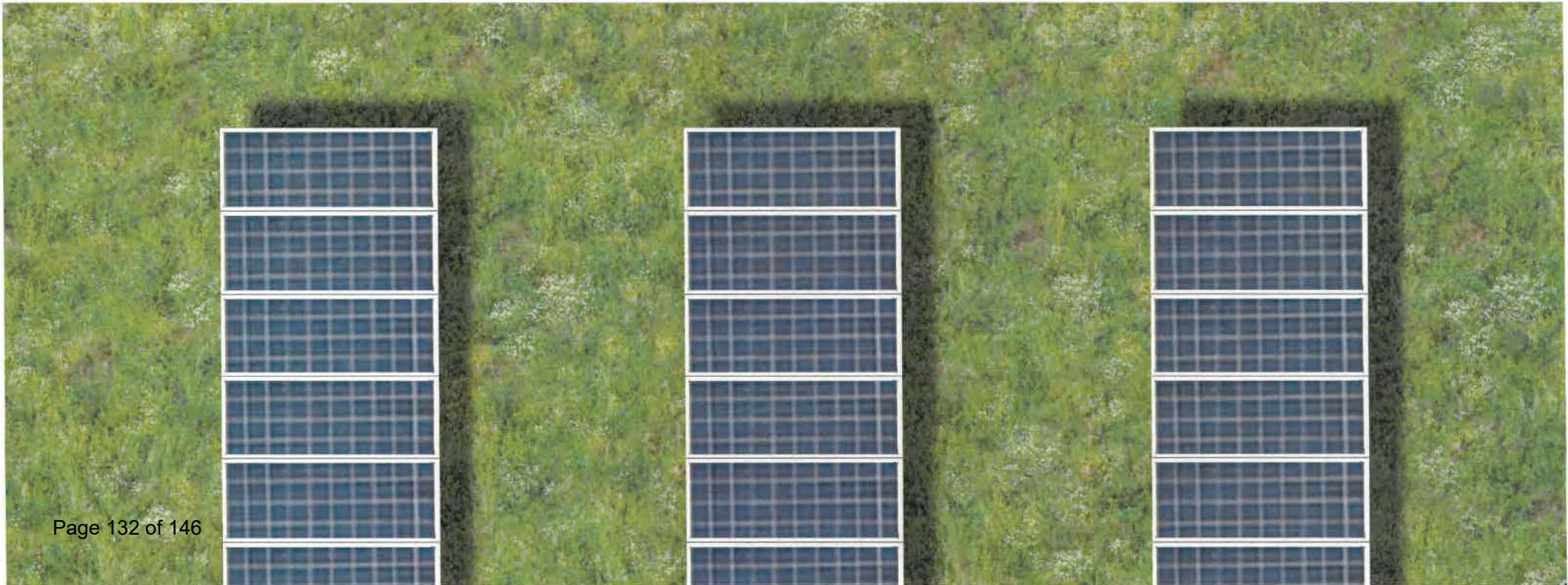
Price Rd

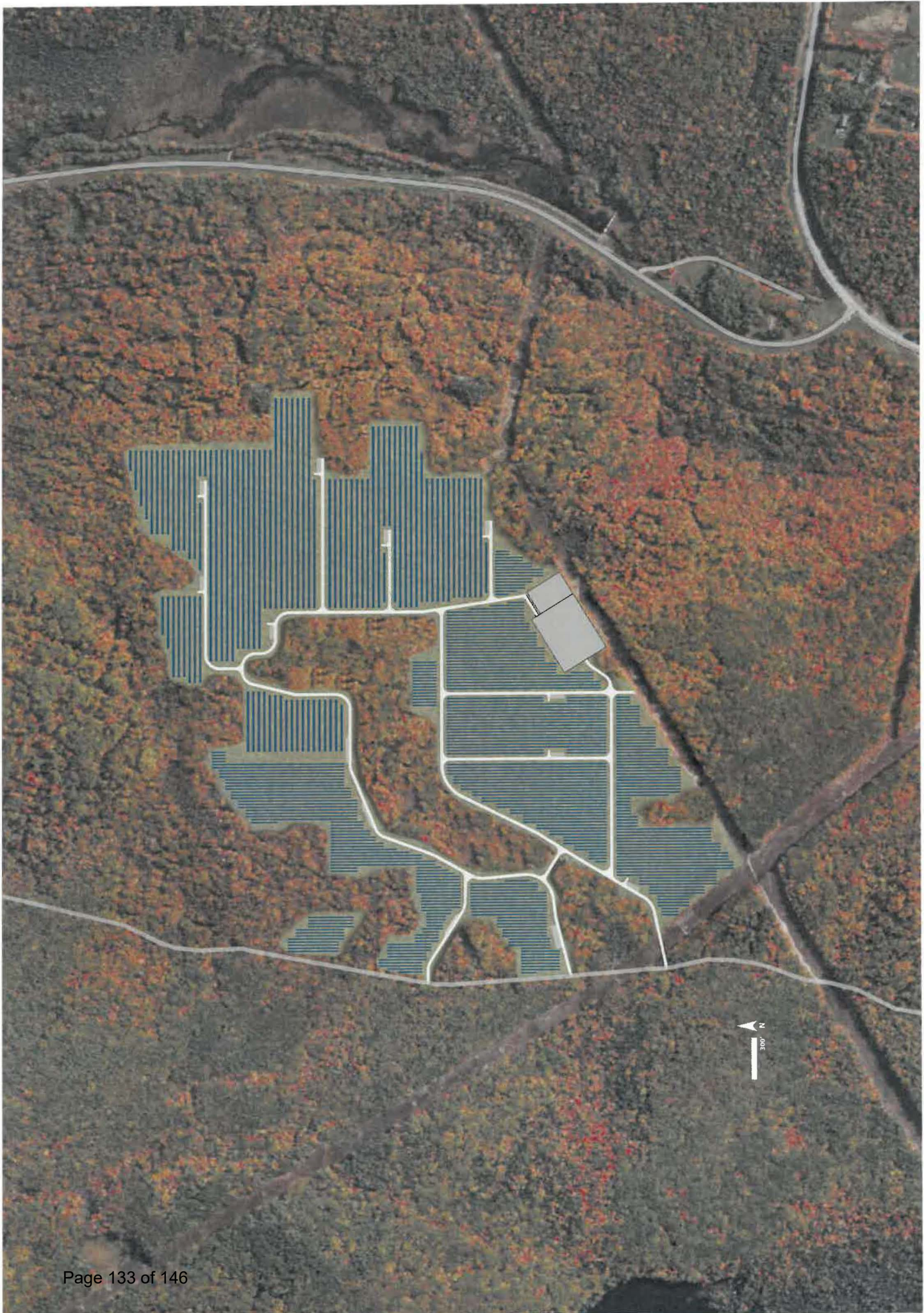
Route 10

Goose Pond

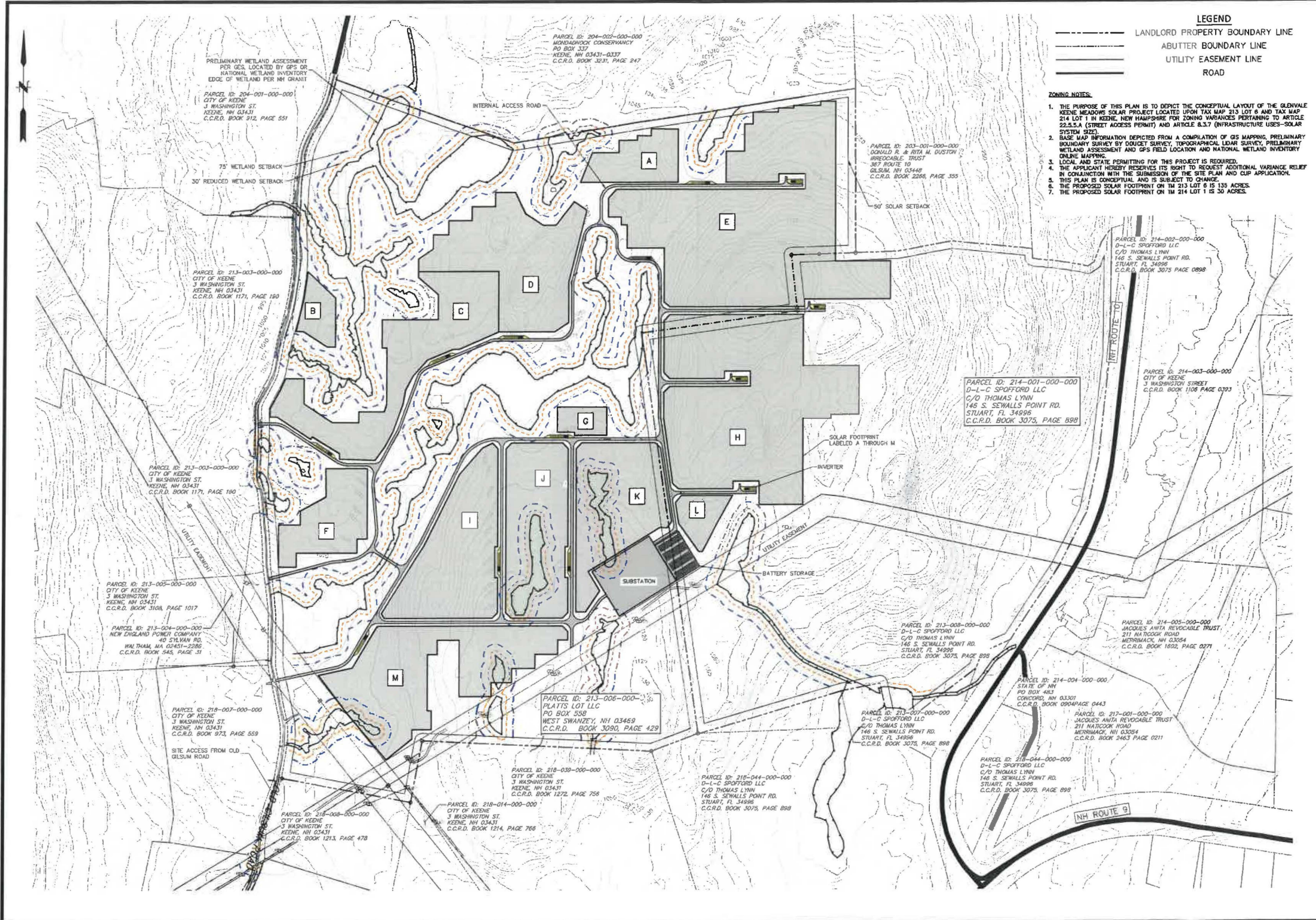
Route 9

Route 12





File: J:\DWG\PROJECTS\2023\ZONING\ZONING\101\_PlanSet\2023-03-15 1:42 PM User: A.Banders  
 PCS: AUTOCAD PDF (GENERAL DOCUMENTATION).PCS STB/C/TB: F03TB  
 LAYER STATE:



**LEGEND**  
 - - - - - LANDLORD PROPERTY BOUNDARY LINE  
 - - - - - ABUTTER BOUNDARY LINE  
 - - - - - UTILITY EASEMENT LINE  
 \_\_\_\_\_ ROAD

- ZONING NOTES:**
1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE CONCEPTUAL LAYOUT OF THE GLENVALE KEENE MEADOWS SOLAR PROJECT LOCATED UPON TAX MAP 213 LOT 6 AND TAX MAP 214 LOT 1 IN KEENE, NEW HAMPSHIRE FOR ZONING VARIANCES PERTAINING TO ARTICLE 22.5.3.A (STREET ACCESS PERMIT) AND ARTICLE 8.3.7 (INFRASTRUCTURE USES-SOLAR SYSTEM SIZES).
  2. BASE MAP INFORMATION DEPICTED FROM A COMPILATION OF GIS MAPPING, PRELIMINARY BOUNDARY SURVEY BY DOUGET SURVEY, TOPOGRAPHICAL LOUAI SURVEY, PRELIMINARY WETLAND ASSESSMENT AND GPS FIELD LOCATION AND NATIONAL WETLAND INVENTORY ONLINE MAPPING.
  3. LOCAL AND STATE PERMITTING FOR THIS PROJECT IS REQUIRED.
  4. THE APPLICANT HEREBY RESERVES ITS RIGHT TO REQUEST ADDITIONAL VARIANCE RELIEF IN CONJUNCTION WITH THE SUBMISSION OF THE SITE PLAN AND CUP APPLICATION.
  5. THIS PLAN IS CONCEPTUAL AND IS SUBJECT TO CHANGE.
  6. THE PROPOSED SOLAR FOOTPRINT ON TM 213 LOT 6 IS 135 ACRES.
  7. THE PROPOSED SOLAR FOOTPRINT ON TM 214 LOT 1 IS 30 ACRES.

No.	DATE	DESCRIPTION	DESIGNER/REVIEWER

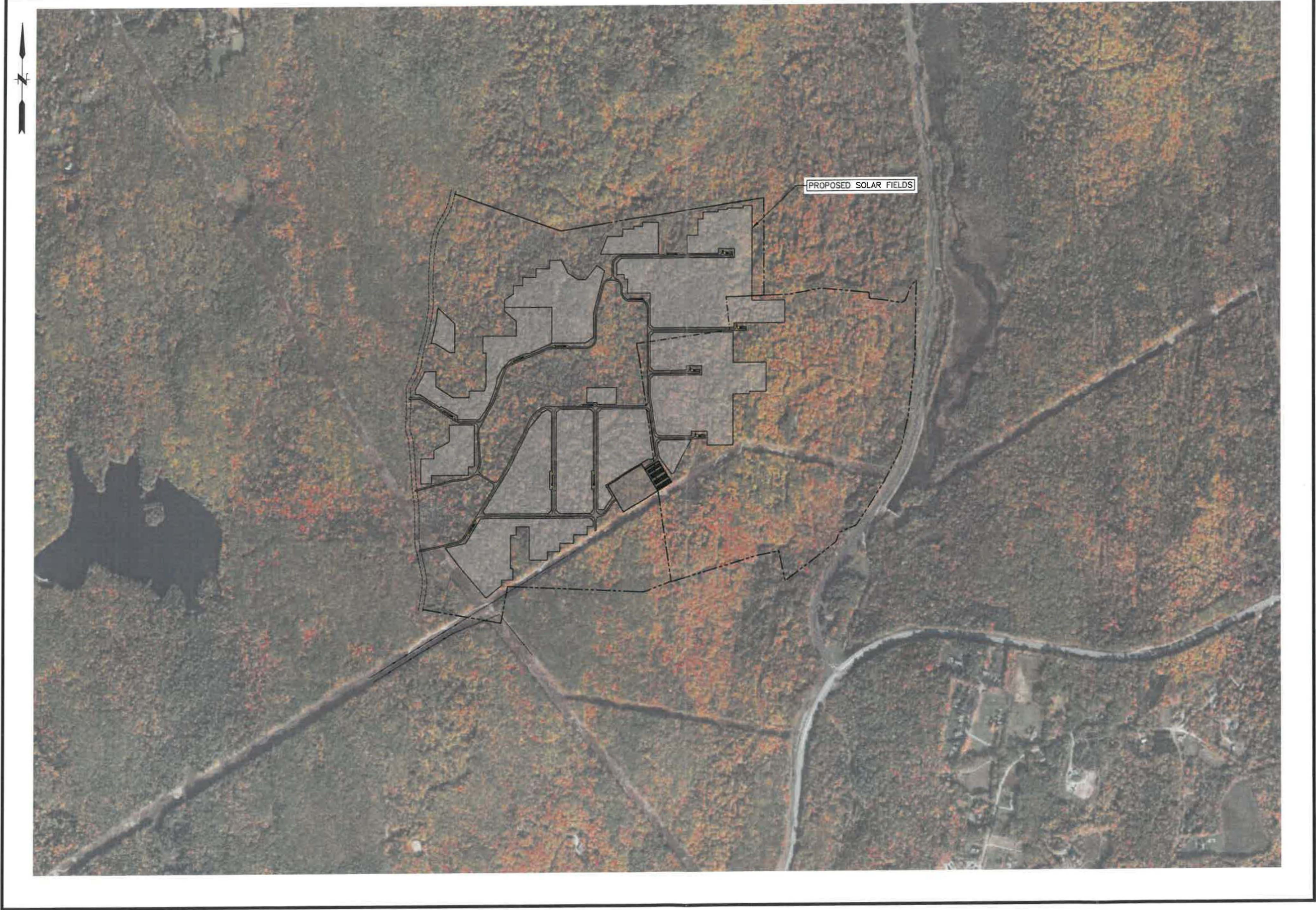
SCALE: HORIZ. 1" = 300'  
 VERT. 1" = 300'  
 DATUM: NAD 83  
 HORIZ. 1" = 300'  
 VERT. 1" = 300'  
 GRAPHIC SCALE

**FUSS & O'NEILL**  
 ARCHITECTS  
 100 WASHINGTON STREET  
 KEENE, NH 03431  
 PH: 603.351.1000

GLENVALE SOLAR  
 CONCEPT PLAN FOR ZONING BOARD  
 OLD GILSUM ROAD  
 NEW HAMPSHIRE  
 KEENE

PROJ. No.: 20190588.K10  
 DATE: 3.16.2023

**ZON-101**



GLENVALE SOLAR AERIAL CONCEPT PLAN FOR ZONING OLD GILSUM ROAD KEENE NEW HAMPSHIRE		PROJ. No.: 20190588.K10 DATE: 2.17.2023 <h1 style="text-align: center;">ZON-102</h1>																																									
SCALE: HORZ.: 1" = 500' VERT.: DATUM: HORZ.: VERT.: 500 250 0 500 GRAPHIC SCALE		FUSS & O'NEILL <small>REGISTERED PROFESSIONAL ARCHITECTS</small> <small>603.863.8233</small> <small>www.foss.com</small>																																									
		<table border="1"> <thead> <tr> <th>No.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>DESIGNER/REVIEWER</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>		No.	DATE	DESCRIPTION	DESIGNER/REVIEWER																																				
No.	DATE	DESCRIPTION	DESIGNER/REVIEWER																																								



**ZON-103**

GLENVALE SOLAR  
 AERIAL CONCEPT PLAN FOR  
 ZONING  
 OLD GILSUM ROAD  
 KEENE NEW HAMPSHIRE



SCALE: HORIZ.: 1" = 1500'  
 VERT.:  
 DATUM:  
 HORIZ.:  
 VERT.:  
 1500 750 0 1500  
 GRAPHIC SCALE

No.	DATE	DESCRIPTION	DESIGNER	REVIEWER



# 800 PARK AVE. ZBA 23-13



Petitioner requests a Variance to permit a parking area within eight feet and ten feet of the proposed property line per Chapter 100, Article 9.4, Table 9-2 of the Zoning Regulations.



# City of Keene

New Hampshire

## NOTICE OF HEARING

### ZBA 23-13

A meeting of the Zoning Board of Adjustment will be held on **Monday, April 3, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-13:** Petitioner, Carlisle Park Avenue, LLC, of Keene, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of Manchester NH, requests a Variance for property located at 800 Park Ave., Tax Map #227-002-000-000-000, is in the Commerce District. The Petitioner requests a parking area within eight feet and ten feet of the proposed property line per Chapter 100, Article 9.4, Table 9-2 of the Zoning Regulations.

This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application, or written comments can be forwarded to [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov). The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

**Corinne Marcou, Zoning Clerk**  
**Notice issuance date March 23, 2023**

City of Keene, NH

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	<u>ZBA23-13</u>
Date Filled	<u>3/20/23</u>
Rec'd By	<u>CAM</u>
Page	_____ of _____
Rev'd by	_____

If you have questions on how to complete this form, please call: (603) 352-5440 or  
email: [communitydevelopment@keeneh.gov](mailto:communitydevelopment@keeneh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, 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. If applicant or authorized agent, a signed notification from the property owner is required.

### OWNER / APPLICANT

NAME/COMPANY: **CARLISLE PARK AVENUE LLC**

MAILING ADDRESS: **PO BOX 42, KEENE, NH 03431**

PHONE: **(603) 398-5983**

EMAIL: **DON.CARLISLE@GMAIL.COM**

SIGNATURE: *Don Carlisle*  
DocuSigned by: BB7A84FA38CA4B3

PRINTED NAME: **DON D. CARLISLE**

### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: **Same**

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: **Bernstein, Shur, Sawyer & Nelson, PA**

MAILING ADDRESS: **P.O. Box 1120, Manchester, NH 03105**

PHONE: **(603) 665-8859**

EMAIL: **eleino@bernsteinshur.com**

SIGNATURE: *A. Eli Leino*  
DocuSigned by: 56D948F2299C426

PRINTED NAME: **A. Eli Leino, Esq.**

**SECTION 2: PROPERTY INFORMATION**

Property Address:	<b>800 Park Ave, Keene, NH 03431</b>			
Tax Map Parcel Number:	<b>227/002/000 000/000</b>			
Zoning District:	Zoning Districts			
Lot Dimensions:	Front: <b>440+/-</b>	Rear: <b>907+/-</b>	Side: <b>280+/-</b>	Side: <b>397+/-</b>
Lot Area:	Acres: <b>5.66</b>	Square Feet: <b>246,550</b>		
% of Lot Covered by Structures (buildings, garages, pools, decks, etc):	Existing: <b>8</b>	Proposed: <b>8</b>		
% of Impervious Coverage (structures plus driveways and/or parking areas, etc):	Existing: <b>23.7</b>	Proposed: <b>23.7</b>		
Present Use:	<b>Two commercial buildings with related parking areas</b>			
Proposed Use:	<b>Same</b>			

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

The property at 800 Park Ave presently houses a retail and office complex in one building (17,892 s.f.) and a bakery and ice cream stand in another (1935 s.f.). The property is 5.66 acres. As shown on the plan included herewith, the Owner/Applicant is proposing subdividing the property to create a 2.64 acre parcel ("Lot 1) housing the bakery, and a 3.02 acre parcel ("Lot 2") with the existing commercial building. The property is in the Commerce (Com) zoning district. The proposed subdivision will comply with all use and dimensional requirements of the Land Development Code with the exception of 9.4 Parking Lot Design Standards; Table 9-2 Travel & Parking Surface Setbacks. In subdividing the lot into two otherwise zoning compliant parcels, the existing parking lot and access drive asphalt will not be set back eight (8) feet from the proposed lot line, as is required by the ordinance for a parking lot under 10,000 square feet (Lot 1), and ten (10) feet for a parking lot between 30,000 s.f. and two acres (Lot 2). The purpose of this variance request is to seek relief from the paving setback requirement.

**SECTION 4: APPLICATION CRITERIA**

*A Variance is requested from Article (s) 9.4 Table 9-2 of the Zoning Regulations to permit:*

parking area within 8' and 10' of the proposed property line.

*Briefly describe your responses to each criteria, using additional sheets if necessary:*

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

The ordinance provision is designed to ensure adequate parking while promoting safe and efficient circulation of pedestrians and motorists in an appropriate location. The existing parking lots work efficiently, and granting this variance to allow the lot to be subdivided will not have a practical effect on the property's parking areas. The proposed changed will not negatively affect the public health, safety, or welfare.

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

The parking area is consistent with the commercial character of the neighborhood. This proposal would have no visible impact, and the essential character will be unchanged.

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

In balancing the rights of the public against those of the Applicant, granting this application will provide significant flexibility to the landowner without any discernable impact to the general public. Without the variance relief, the Applicant could not subdivide the property without the removal of a portion of the driveway and parking area.

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

All other zoning size and setbacks will be met. As noted, even subdivided the properties will vastly exceed the minimum size required by the ordinance, so no nearby property will be diminished or negatively affected.

**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 property is unique in size and configuration. The minimum lot area in the Commerce zoning district is 15,000 square feet. This property is 15 times larger than the minimum requirement. Additionally, it is unique to have two principal structures on one property, which the Applicant is trying to remedy through this variance request and then subdivision.

and

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

The New Hampshire Supreme Court has held that a use allowed by right is inherently reasonable. See *Malachy Glen Assoc., Inc, v. Town of Chichester*, 155 N.H. 102 (2007).

**B. Explain how, if the criterial 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.**

N/A



## NOTICE LIST

This template can be used to record the name, mailing address, street address, and tax map parcel (TMP) # for each party that is required to be noticed as part of an application.

OWNER NAME	MAILING ADDRESS	STREET ADDRESS (If different from mailing address)	TAX MAP PARCEL (TMP) #
Carlisle Park Ave LLC	PO Box 421 Keene NH 03431	800 Park Ave	227-002-000
Big Deal Real Estate LLC	650 Park Ave Keene NH 03431	630-670 Park Ave	227-001-000
CAS Wholesale Grocers Inc	7 Corporate Drive Keene NH 03431	0 Summit Rd	227-003-000
Princeton Keene Two LLC	1115 Westford St Lowell MA 01851	30-32 Maple Ave	227-004-000
Cheshire Family Funeral Home	PO Box 19 West Swanzey NH 03469	44 Maple Ave	227-005-000
Keene Church of the Nazarene	55 Maple Ave Keene NH 03431		227-024-000
Northern New England Telephone Operations LLC	770 Elm St Manchester NH 03101	823 Park Ave	227-025-000
PPJ LTD Partnership	681 Park Ave Keene NH 03431	631 Park Ave	227-026-000
Church of Jesus Christ of Latter-Day Saints	50 E North Temple St Rm 2225 Tax Division 22nd FL Salt Lake City UT 84130-0022	130 Summit Rd	523-001-000
Black Brook Logistics LLC	7 Corporate Dr Keene NH 03431	18 Maple Ave	523-045-000
Kathryn Anne Wilson	23 Maple Ave Keene NH 03431		523-046-000
Dennis A Bassingthwaite Constantine J Bassingthwaite	15 Maple Ave Keene NH 03431		523-047-000
Michael Homphrey Jennifer Homphrey	93 Summit Rd Keene NH 03431		523-049-000
Princeton Keene LLC	1115 Westford St Lowell MA 01851	4-52 Summit Rd	526-030-000
Brickstone Land Use Consultants LLC	185 Winchester St Keene NH 03431		
Bernstein, Shur Sawyer & Nelson PA	PO Box 1120 Manchester NH 03105		

REVISIONS:

### LEGEND

- △ WETLANDS FLAG
- x SPOT ELEVATION
- ⊕ FIRE HYDRANT
- ⊙ SIGN
- ⊕ GATE VALVE
- ⊕ CURB STOP
- ⊕ UTILITY POLE
- ⊕ FK NAIL SET
- ⊕ IRON PIN FOUND
- ⊕ MANHOLE
- ⊕ STORM WATER MANHOLE
- ⊕ CATCH BASIN
- ⊕ GUY WIRE
- ⊕ PINE TREES
- ⊕ TREES
- ⊕ CURB
- ⊕ WOOD POST FENCE
- ⊕ GAS LINE
- ⊕ TREE LINE
- ⊕ GUARDRAIL
- ⊕ ADA PARKING SPACE
- ⊕ UNDERGROUND UTILITIES
- ⊕ OVERHEAD WIRES
- ⊕ WATER LINES
- ⊕ SEWER LINES
- ⊕ DRAINAGE LINES

TAX MAP 523-001-000-000-000  
 CHURCH OF JESUS CHRIST OF  
 LATTER-DAY SAINTS  
 50 E. NORTH TEMPLE ST. RM 2225  
 TAX DIVISION 22ND FL  
 SALT LAKE CITY, UT 84150-0022  
 661/327



# PROGRESS PRINT

## CONCEPT SUBDIVISION PLAN

SCALE: 1"=50'

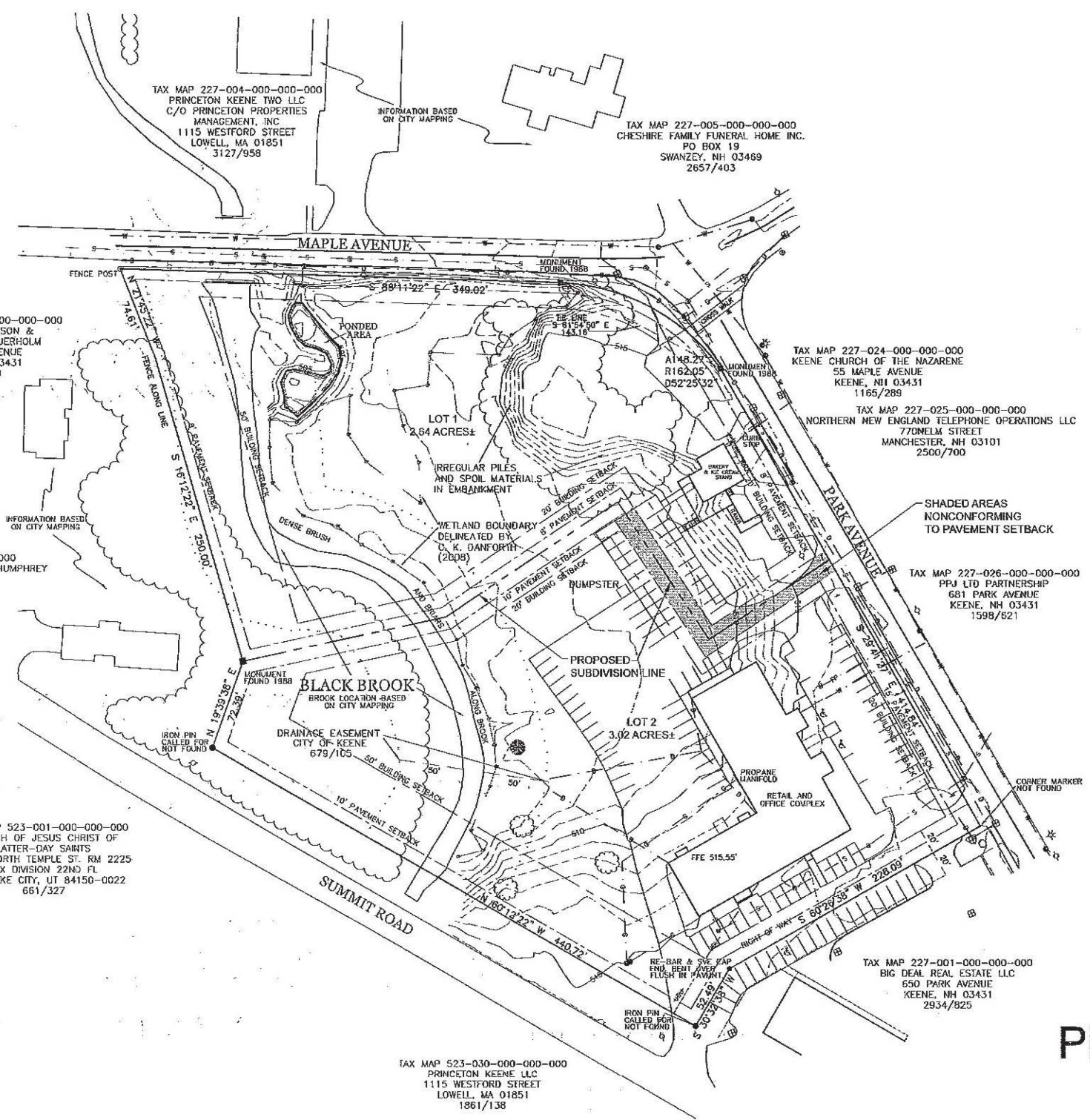
DATE: FEBRUARY 7, 2023

SHEET 1

OWNER:  
**CARLISLE PARK AVENUE LLC**  
 PO BOX 421  
 KEENE, NH 03431

PLANNER:  
**Brickstone Land Use Consultants, LLC**  
Site Planning, Permitting and Development Consulting  
 185 Winchester Street, Keene, NH 03431  
 Phone: (603) 257-0119

800 PARK AVENUE  
 KEENE, NH  
 TAX MAP # 227-002-000



TAX MAP 227-004-000-000-000  
 PRINCETON KEENE TWO LLC  
 C/O PRINCETON PROPERTIES  
 MANAGEMENT, INC  
 1115 WESTFORD STREET  
 LOWELL, MA 01851  
 3127/958

TAX MAP 227-005-000-000-000  
 CHESHIRE FAMILY FUNERAL HOME INC.  
 PO BOX 19  
 SWANZEY, NH 03469  
 2657/403

TAX MAP 523-046-000-000-000  
 IAN ANDREW WILSON &  
 KATHRYN ANNE OJERHOLM  
 23 MAPLE AVENUE  
 KEENE, NH 03431  
 1765/520

TAX MAP 227-024-000-000-000  
 KEENE CHURCH OF THE NAZARENE  
 55 MAPLE AVENUE  
 KEENE, NH 03431  
 1165/289

TAX MAP 227-025-000-000-000  
 NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC  
 770 ELM STREET  
 MANCHESTER, NH 03101  
 2500/700

TAX MAP 523-0049-000-000-000  
 MICHAEL BARRETT & JENNIFER MARIE HUMPHREY  
 93 SUMMIT ROAD  
 KEENE, NH 0341  
 3043/1086

TAX MAP 227-026-000-000-000  
 PPJ LTD PARTNERSHIP  
 681 PARK AVENUE  
 KEENE, NH 03431  
 1598/621

TAX MAP 523-030-000-000-000  
 PRINCETON KEENE LLC  
 1115 WESTFORD STREET  
 LOWELL, MA 01851  
 1861/138

TAX MAP 227-001-000-000-000  
 BIG DEAL REAL ESTATE LLC  
 650 PARK AVENUE  
 KEENE, NH 03431  
 2934/825