



City of Keene Zoning Board of Adjustment

AGENDA

Monday, October 7, 2024 6:30 p.m. City Hall, 2nd Floor Council Chambers

- I. Introduction of Board Members:
- II. Minutes of the Previous Meeting: September 3, 2024
- III. Unfinished Business:
- IV. Hearings:

Continued ZBA-2024-19: Petitioner, Timothy Sampson, of Sampson Architects, PLLC, requests a variance for property located at 143 Main St., Tax Map #584-061-000. This property is in the Downtown Core District and is owned by 143 Main St., LLC, of West Swanzey. The Petitioner requests a variance to permit a two family/duplex where not permitted per Table 4-1 of the Zoning Regulations.

ZBA-2024-24: Petitioner, Garry Emge requests a variance for property located at 42 Reservoir St., Tax Map 571-006-000. This property is in the Medium Density District. The Petitioner requests a variance to replace entrance steps 7.57 feet from the front setback where 50 feet is required per Article 3.5.2 of the Zoning Regulations.

ZBA-2024-25: Petitioner, Jennifer Shay, of 190 Nutting Rd., Jaffrey, requests a variance for property located at 973 Marlboro Rd., Tax Map #249-004-000. This property is in the Rural District and is owned by BTD Properties, LLC, of Palm Beach Gardens, FL. The Petitioner requests a variance to operate a light retail establishment in the Rural District per Article 8.3.2.AD of the Zoning Regulations.

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

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1 4City of Keene
2 New Hampshire

3
4
5 ZONING BOARD OF ADJUSTMENT
6 MEETING MINUTES
7

8 **Monday, September 3, 2024**

6:30 PM

**Council Chamber,
City Hall**

Members Present:

Joseph Hoppock, Chair
Jane Taylor, Vice Chair
Richard Clough
Edward Guyot

Staff Present:

Evan Clements, Planner, Deputy Zoning
Administrator

Absent:

Corinne Marcou, Zoning Clerk

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10 **I) Introduction of Board Members**
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12 Chair Hoppock called the meeting to order at 6:30 PM. Roll call was conducted.
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14 **II) Minutes of the Previous Meeting – August 5, 2024**
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16 Ms. Taylor made a motion to approve the meeting minutes of August 5, 2024. Chair Hoppock
17 seconded the motion, which passed by a vote of 3-0. Mr. Guyot abstained due to having been
18 absent at the August 5 meeting.
19

20 **III) Unfinished Business**
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22 Chair Hoppock stated that he is not aware of any unfinished business.
23

24 **IV) Hearings**
25

26 **A) Continued ZBA-2024-19: Petitioner, Timothy Sampson, of Sampson**
27 **Architects, PLLC, requests a variance for property located at 143 Main St., Tax**
28 **Map #584- 061-000. This property is in the Downtown Core District and is owned by**
29 **143 Main St., LLC, of West Swanzey. The Petitioner requests a variance to permit a**
30 **two family/duplex where not permitted per Table 4-1 of the Zoning Regulations.**

31 Chair Hoppock stated that the applicant is not present and questioned what next steps the Board
32 to take Evan Clements, Planner, replied that the applicant is not coming tonight and that he asked
33 for a continuance to the next date certain, which is Monday, October 7.

34 Mr. Clough made a motion to continue ZBA-2024-19 to the October 7, 2024 meeting of the
35 Zoning Board of Adjustment. Chair Hoppock seconded the motion, which passed with a vote of
36 3-1. Ms. Taylor was opposed.

37
38 Ms. Taylor stated that the Board had already continued it once for the applicant's convenience,
39 and she has a problem with continuing it again, given that the applicant did not show up tonight
40 and did not notify the Board that he would not be here. Chair Hoppock replied that he does not
41 disagree with that but will not change his vote. He continued that they could talk about it at the
42 next meeting and bring it up with the applicant. He asked if Mr. Clough or Mr. Guyot wanted to
43 reconsider the motion; both replied they would not

44
45 **V) New Business**

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47 Chair Hoppock stated that there is no new business.

48
49 **VI) Communications and Miscellaneous**

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51 Chair Hoppock stated that there are no communications or miscellaneous.

52
53 **VII) Non-public Session (if required)**

54
55 **VIII) Adjournment**

56
57 There being no further business, Chair Hoppock adjourned the meeting at 6:35 PM.

58
59 Respectfully submitted by,
60 Britta Reida, Minute Taker

61
62 Reviewed and edited by,
63 Corinne Marcou, Zoning Clerk

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143 MAIN ST. ZBA-2024-19



Petitioner requests a Variance for a two family/duplex per Table 4-1 of the Zoning Regulations.



NOTICE OF HEARING

ZBA-2024-19

A meeting of the Zoning Board of Adjustment will be held on **Monday, August 5, 2024, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA-2024-19: Timothy Sampson, of Sampson Architects, PLLC, requests a variance for property located at 143 Main St., Tax Map #584-061-000. This property is in the Downtown Core District and is owned by 143 Main St., LLC, of West Swanzey. The Petitioner requests a variance to permit a two family/duplex where not permitted per Table 4-1 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 4th floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

Please be advised that this may be the only certified notice you will receive. You are encouraged to review future Zoning Board of Adjustment agendas for the status of this application at keenenh.gov/zoning-board-adjustment. If you have any questions, please contact me at the Community Development Department at (603) 352-5440.

Corinne Marcou, Zoning Clerk
Notice issuance date July 23, 2024



City of Keene

New Hampshire

NOTICE OF DECISION

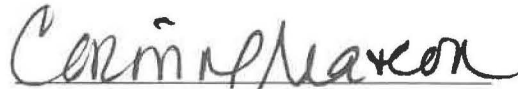
ZONING BOARD OF ADJUSTMENT

CASE NUMBER: ZBA 20-07
Property Address: 143 Main St.
Zone: Central Business Limited
Owner: 143 Main St., LLC
Petitioner: Tim Sampson, Architect
Date of Decision: April 6, 2020

Notification of Decision:

Petitioner, Tim Sampson, Architect of 103 Roxbury St., Suite 203, Keene, NH, request a Change of a Nonconforming Use for property located at 143 Main St., Keene, Tax Maps #584-061-000-000-000, which is in the Central Business Limited District. The Petition, which requested a Change of a Nonconforming Use to permit a two-family dwelling with office use from a single-family dwelling, was approved 4-1 with a condition.

Condition: 1. The parking requirements from Section 102-978 of the Zoning Ordinance for the Central Business Limited District are satisfied through the procedures of the Community Development Department.


Corinne Marcou, Clerk

Any person directly affected has a right to appeal this Decision. The necessary first step, before any appeal may be taken to the courts, is to apply to the Board of Adjustment for a rehearing. The Motion for Rehearing must be filed not later than 30 days after the first date following the referenced Date of Decision. The Motion must fully set forth every ground upon which it is claimed that the decision is unlawful or unreasonable. See New Hampshire RSA Chapter 677, et seq.

cc: Planning Dept.
Assessing Dept.
City Attorney
File Copy

Zoning Board of Adjustment Variance Application



For Office Use Only.	
Case No.	_____
Date Filled	_____
Rec'd By	_____
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

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: 143 Main LLC

MAILING ADDRESS: PO Box 575 West Swanzey NH 03469

PHONE:

EMAIL: Pappascontracting@yahoo.com

SIGNATURE: *M Pappas*

PRINTED NAME: Micheal Pappas

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS: SAME

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: Timothy Sampson Sampson Architects PLLC

MAILING ADDRESS: 11 King Ct Suite 112 Keene NH 03431

PHONE: 603 769 7736

EMAIL: Tim@SampsonArchitects.com

SIGNATURE: *Tim P*

PRINTED NAME: Timothy Sampson

SECTION 2: PROPERTY INFORMATION

Property Address: 143 Main St

Tax Map Parcel Number: 584-061-000

Zoning District DTC

Lot Dimensions: Front: 52.86 Rear: 51.23 Side: 175.74 Side: 175.88

Lot Area: Acres: .21 Square Feet: 6700

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 43% Proposed: 43%

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 60% Proposed: 60%

Present Use: Single Family

Proposed Use: Dwelling - Two Family

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:

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:

[Empty response area for item ii]

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.

[Empty response area for item B]

Section 3

Written Narrative:

The property is located at 143 Main Street and is owned by 143 Main St LLC. The owner seeks to redevelop the property as a two family dwelling. The property is currently a single family home. Neither a single family or a two family dwelling are allowed in the Downtown Core district. The proposed two family dwelling is more in line with the current ordinance and is consistent with other properties within close proximity.

Section 4

Application Criteria:

A Variance is requested from Article Table 4-1: Downtown Districts Permitted Uses to allow the Dwelling, Two Family / Duplex where one is not permitted in the Downtown Core district.

1. Granting a variance would not be contrary to the public interest because:
 - a. The structure is currently non-conforming as a single family residence. Allow a two family dwelling is more consistent with the current zoning and would allow the owner to easily renovate the building with no changes to the exterior appearance. The two residential units would be consistent with other properties in this neighborhood.
2. If the variance were granted, the spirit of the ordinance would be observed because:
 - a. The current ordinance allows for multifamily developments. The current use is only a single family residence. Allowing the development of a two family residence is a more consistent use. Given the location of the structure in the Downtown Core a two family residence
3. Granting the variance would do substantial justice because:
 - a. This two family development can be easily achieved with no changes to the exterior of the building. Not changing the exterior of the building is important as it is ranked as a primary resource in the Historic District Resource Ranking. Complying with zoning, developing the property as a multifamily, would require changes to the exterior of the structure.
4. If the variance were granted, the values of the surrounding properties would not be diminished because:
 - a. The proposed use would be similar to the use of neighboring properties. The two family use will not be injurious, obnoxious or offensive to neighboring properties.
5. Unnecessary Hardship
 - A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

The structure is unique due to its age and construction. The fact that it is listed as a primary historic resource make it difficult to renovate the structure in a manner that complies with current zoning. Allowing a two family residence development will allow the owner to bring the structure to more closely align with zoning within any impact to the historic exterior of the building.

1. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:
 - a. The proposed use exists within the neighborhood and the proposed two family development is more in keeping with the spirit of the ordinance than the existing use. The proposed use is also consistent with other uses which are allowed. The proposed two family is simply a less dense residential use.
 2. The proposed use is a reasonable one because:
 - a. The proposed use is similar to other residential uses which are allowed in the Downtown Core. Granting the variance would allow the development of a unique property to more closely align with current zoning. Given the unique and historic nature of the structure a two family residence is a reasonable approach to renovating the building to be consistent with the neighborhood and zoning requirements.
- B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if an only if, owing to the special conditions of the property that distinguish it from other properties in the area, the property can not be reasonably used in strict conformance with the ordinance and a variance is therefor necessary to enable aa reasonable use of it:
- a. Given the ranking of the structure as a primary historic resource, the development of the structure into a use that is allowed by current zoning would be difficult as it would require significant changes to the exterior of the building. Given the location in the downtown core and the way the structure is situated on the small site it is not a desirable single family residence.

The following 11 pages are references from the Planning Board November 2023 meeting and approval letters for 143 Main St.



February 26, 2024

Brickstone Land Use Consultants
c/o: Mr. Jim Phippard
185 Winchester St
Keene, NH 03431
jhippard@ne.rr.com

RE: **CORRECTED** - Notice of Final Planning Board approval for:

S-11-23 – Boundary Line Adjustment & Street Access Permit – 143 & 147 Main St & 0 Davis St – Applicant Brickstone Land Use Consultants, on behalf of owners 143 Main LLC & 147-151 Main Street LLC, proposes to merge the 0.12-ac parcel at 0 Davis St (TMP# 584-059-000) with the existing 0.15-ac parcel at 143 Main St and the 0.19-ac parcel at 147 Main St (TMP#s 584-061-000 & 584-060-000) and adjust the common lot line between these two parcels. A new curb cut is also proposed along Main St to access the parcel at 143 Main St. All parcels are located in the Downtown Core District.

Dear Mr. Phippard,

This letter replaces the original final approval letter for the Boundary Line Adjustment & Street Access Permit applications for 143 & 147 Main St & 0 Davis St, S-11-23, that was dated January 22, 2024. The original letter incorrectly stated that this project received conditional approval on November 28, 2023, instead of November 27, 2023.

At its meeting on January 22, 2024, the Planning Board voted to issue final approval for the above-referenced application. The conditional approval letter and approved meeting minutes of the November 27, 2023 Planning Board meeting where this application was conditionally approved, and which state the factual basis and the reasoning for the Board's decision, are included as an attachment to this letter.

In accordance with RSA 677:15, any person directly affected has a right to appeal this decision within 30 days after the date upon which the board voted to approve or disapprove the application to the superior court, or to the zoning board of adjustment if the issue involves an interpretation of the zoning ordinance.

Sincerely,

Harold Farrington
Planning Board Chair, City of Keene

cc: Mike Pappas, Property Owner
Mike Hagan, Plans Examiner
Arelis Quinones, Assessing Dept.
Donald Lussier, City Engineer
Project File



November 28, 2023

Brickstone Land Use Consultants
c/o: Mr. Jim Phippard
185 Winchester St
Keene, NH 03431
jhippard@ne.rr.com

RE: S-11-23 – Boundary Line Adjustment & Street Access Permit – 143 & 147 Main St & 0 Davis St – Applicant Brickstone Land Use Consultants, on behalf of owners 143 Main LLC & 147-151 Main Street LLC, proposes to merge the 0.12-ac parcel at 0 Davis St (TMP# 584-059-000) with the existing 0.15-ac parcel at 143 Main St and the 0.19-ac parcel at 147 Main St (TMP#s 584-061-000 & 584-060-000) and adjust the common lot line between these two parcels. A new curb cut is also proposed along Main St to access the parcel at 143 Main St. All parcels are located in the Downtown Core District.

Dear Mr. Phippard,

At its meeting on November 27, 2023, the Planning Board voted to approve S-11-23 as shown on the plan set identified as “Boundary Line Adjustment” prepared by Cardinal Surveying & Land Planning at a scale of 1 inch = 20 feet, dated September 28, 2023 and approve the Street Access Permit for 143 Main Street, as shown on the plan identified as “Driveway Plan” prepared by Brickstone Land Use Consultants at a scale of 1 in = 20 ft, with the following conditions:

1. Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:
 - A. Submittal of an updated plan showing the revised driveway configuration with the 9'-wide section with protective bollards.
 - B. Owner's signature appears on the plan.
 - C. Inspection of lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.
 - D. Submittal of four (4) full sized paper copies, two (2) mylar copies, and a digital copy of the final plan set.
 - E. Submittal of a check in the amount of \$51.00 made out to the City of Keene to cover recording fees.

In accordance with the Planning Board Regulations, the applicant is allowed 180 days beginning the day following conditional approval to meet the conditions established by the Planning Board or the plan shall automatically expire. The expiration date of this conditionally approved plan is **May 26, 2024**.

Please be aware that this is not the final approval for this project. The boundary line adjustment and Street Access Permit will not be final unless and until the Planning Board votes to affirm that all the conditions precedent have been met and a final decision has been issued and the plans have been signed by the Planning Board chair.

Sincerely,



Jesse Rounds,
Community Development Director

cc: Mike Pappas, Property Owner
Mike Hagan, Plans Examiner
Arelis Quinones, Assessing Dept.
Donald Lussier, City Engineer
Project File

City of Keene
New Hampshire

PLANNING BOARD
MEETING MINUTES

Monday, November 27, 2023

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Harold Farrington, Chair
David Orgaz, Vice-Chair
Mayor George S. Hansel
Councilor Michael Remy
Emily Lavigne-Bernier
Roberta Mastrogiovanni
Armando Rangel
Ryan Clancy
Kenneth Kost, Alternate
Randyn Markelon, Alternate

Staff Present:

Jesse Rounds Community Development
Director
Mari Brunner, Senior Planner
Evan Clements, Planner

Members Not Present:

Gail Somers, Alternate
Tammy Adams, Alternate

I) Call to Order – Roll Call

Chair Farrington called the meeting to order at 6:30 PM and a roll call was taken.

II) Minutes of Previous Meeting – October 23, 2023

A motion was made by Mayor George Hansel that the Planning Board approve the October 23, 2023 meeting minutes. The motion was seconded by Councilor Michael Remy and was unanimously approved.

III) Final Vote on Conditional Approvals

Chair Farrington stated as a matter of practice, the Board will now issue a final vote on all conditionally approved plans after all of the “conditions precedent” have been met. This final vote will be the final approval for the project and will start the 30-day appeal clock.

Senior Planner, Mari Brunner, stated there were no applications ready for final approval at tonight’s meeting.

IV) **Extension Request**

- a. **S-04-22 & SPR-04-22 – Conservation Residential Development Subdivision and Site Plan – 0 Drummer Rd** – Applicant Fieldstone Land Consultants, on behalf of owner C. Eric Farris, requests a second extension to the deadline to satisfy the precedent conditions of approval for the proposed 6-lot subdivision of the property located at 0 Drummer Rd (TMP # 515-015-000) and construction of four, 5-unit multifamily residences and one, 6-unit multifamily residence. The property is 13.1 acres and is located in the Low Density District

Mr. Eric Farris, the property owner, addressed the Board and stated that he did not have much to add to the extension request description that was read by Chair Farrington and said that he was open to answering questions. He stated the consultant has been unusually busy and that the project has also been delayed due to speaking with the NH Housing Finance Authority about how that funding would impact this project.

Chair Farrington stated the extension request indicates that the applicant is looking to satisfy the precedent conditions and asked whether there were any non-Planning Board issues that could be delaying this project as well. Mr. Farris stated that as he had mentioned earlier, he is working with the NH Housing Finance Authority to keep this project affordable. The Chairman stated the City is encouraging development and would like to know the issues developers are facing and thanked Mr. Farris for considering this project.

A motion was made by Mayor George Hansel that the Planning Board grant a 180-day extension to the timeframe to satisfy the precedent conditions of approval for the Timberlane Woods CRD Subdivision and Site Plan applications, S-04-22 & SPR-04-22. The motion was seconded by Councilor Michael Remy and was unanimously approved.

V) **Boundary Line Adjustment**

- a. **S-11-23 – Boundary Line Adjustment & Street Access Permit – 143 & 147 Main St & 0 Davis St** – Applicant Brickstone Land Use Consultants, on behalf of owners 143 Main LLC & 147-151 Main Street LLC, proposes to merge the 0.12-ac parcel at 0 Davis St (TMP# 584-059-000) with the existing 0.15-ac parcel at 143 Main St and the 0.19-ac parcel at 147 Main St (TMP#s 584-061-000 & 584-060-000) and adjust the common lot line between these two parcels. A new curb cut is also proposed along Main St to access the parcel at 143 Main St. All parcels are located in the Downtown Core District.

A. **Board Determination of Completeness**

Planner, Evan Clements, stated the Applicant requests exemptions from providing a drainage report, traffic analysis, soil analysis, and other technical reports. Staff have determined that the requested exemptions would have no bearing on the merits of the application and recommend that the Board accept the application as “complete.”

A motion was made by Mayor George Hansel to accept application S-11-23 as “complete.” The motion was seconded by Councilor Michael Remy and was unanimously approved.

B. Public Hearing

Mr. Jim Phippard of Brickstone Land Use Consultants addressed the Board on behalf of the property owners, 143 Main LLC & 147-151 Main Street LLC. He indicated both of these entities are controlled by Michael Pappas, who is present tonight. The subject parcels consist of three tracts of land located at the corner of Davis Street and Main Street.

Mr. Phippard explained that the vacant gravel lot at the rear is for parking. The corner lot used to be the site of the Cobblestone building, which burnt down and the brick building on the third parcel is also being salvaged. Mr. Phippard stated the plan is to take the land area of the rear lot and combine it with the parcels with frontage along Main Street. The common boundary line between 143 & 147 Main Street will then be moved two feet to the south, which will provide space for a driveway. Mr. Phippard noted the brick house at 143 Main Street was constructed in the 1700's and is a historic building. The applicant is looking to salvage, renovate, and add uses to this property.

Mr. Phippard stated the request he submitted is for a boundary line adjustment and the second request is to approve a curb cut for 143 Main Street, which historically was the driveway for this parcel. When Main Street was reconstructed in 2007/2008, there was confusion as to whether this was an abandoned driveway or if it was still in use. During the reconstruction, the City installed a crosswalk at this location as well as 2'-wide strips of pavement on both sides. After much back and forth between the City and the applicant, the applicant decided they would not give up this curb cut. In order to use this as an active driveway to access the property, Public Works is requiring that the applicant to relocate the crosswalk further to the south so that it will be across from 147 Main Street. The applicant will replace this section with concrete, which is the City standard for sidewalks.

Mr. Phippard stated initially they had intended to construct a 12'-wide driveway leading from Main Street to the rear of the property where four parking spaces would be located to service this building. He referred to the porch that extends out from the south side of the building, which is in poor condition and has to be torn down and rebuilt. Mr. Phippard stated his recommendation to the applicant was to shorten the porch and cut it back by three feet. This way, the architectural design of the porch could still be maintained. He noted that the applicant is aware he would have to go to the Historic District Commission (HDC) to change the dimensions of the porch. By shortening the porch, the driveway could be maintained at a width of 12 feet for its entire length.

Mr. Phippard stated that staff explained that the HDC may not allow the porch to be altered, given its age, even though it needs to be completely rebuilt. He noted the property owner is working hard to preserve all existing features of the brick house and explained that he has already rebuilt the barn at the rear of the property. Mr. Phippard stated that in reviewing the driveway regulations, you are allowed a driveway for this type of use, as long as it is less than 20 feet wide. This means that the driveway can be less than 12' wide, but it cannot be made 20' wide or wider. He indicated that they are going to put a choke point in the driveway that will reduce it to 9' wide where it passes the porch and there will be a bollard on either corner to protect the porch. Between this and

the boundary line being relocated further to the south, there will still be adequate room to pass and repass through this area to exit onto Main Street.

He indicated that when the parcel at 147 Main Street is developed, the applicant's intent is to come back before the Planning Board with a new building design for that location. They will be installing bollards to protect the new building along the southern side of the driveway, so there won't be any issues with maintenance of the new building. Mr. Phippard explained that the previous building was designed so that the northeast corner was cut out and noted that the design for the new building will maintain this feature. The applicant has indicated that he is able to drive an F-150 truck with construction mirrors along the existing 9'-wide driveway. Mr. Phippard felt that with the choke point, people will be forced to slow down. He added that there are other steps that can be taken, if they see any safety concerns when the parcel at 147 Main Street gets redeveloped.

Following the boundary line adjustment, 143 Main Street will go from 0.15 acres in size to 0.21 acres. The parcel at 147 Main Street will go from 0.19 acres to 0.25 acres and each lot will be in compliance with the Downtown Core zoning dimensional requirements. This concluded Mr. Phippard's comments.

Staff comments were next. Mr. Clements addressed the Board and began with Traffic and Access Management. He indicated that Mr. Phippard is correct in that the City doesn't have a minimum width for driveways, so the nine foot pinch point is permitted under the regulations. He added, however, that staff does have concerns related to the use of that driveway in all weather conditions, specifically during the snowy season where that drive aisle may narrow further. He reminded the Board that during the site visit, Mr. Phippard explained that they are planning on keeping the driveway at nine feet wide for now and at a future date adjusting the size of the historic porch to widen that pinch point back up to 12 feet.

Mr. Clements stated staff believes there is an opportunity right now with the undeveloped nature of 147 Main Street to provide the space for a 12'-wide drive aisle. When the new building is constructed, it would create a potential hardship if that 9'-wide drive aisle is insufficient. He added that staff also feels that it would put the Historic District Commission in the precarious situation of having to approve something that they would not ordinarily approve because of a hardship that was created when the new building was constructed.

He added that staff is looking for the Board to deliberate about whether this 9'-wide pinch point with the bollards protecting the porch is an acceptable permanent solution to this issue. He added that staff is also going to recommend tabling this application, so the applicant can either receive an approval or denial for the modification of that porch from the HDC. This concluded staff comments.

Mayor Hansel asked to clarify if the City's standards permit a 9' wide driveway and whether this would be reviewed during the driveway permit application process. Mr. Clements explained that the Street Access Permit application (Driveway Permit application) is part of this application, and the issue is proving that there is safe access from Main Street to the rear of the site. The Planning Board regulations for traffic and access management contemplate safe and effective travel throughout the site. He stated that it would ultimately be up to the Board to decide whether the 9'

wide pinch point is acceptable for safe travel in all weather conditions for all potential uses of the site. He added that this might be adequate for the current property owner, but felt that the City is unintentionally creating a hardship down the line where the only solution would be a potential impact to a historic resource in the downtown. The Mayor clarified that City Code does allow for 9'-wide driveways. Mr. Clements answered in the affirmative and added that there is no minimum driveway width specified in City Code.

Ms. Brunner added that what staff is recommending is that if this is intended to be a temporary solution and in the long run, they want to modify the porch, then the correct process would be to go to the HDC first for their approval. However, if this is meant to be a permanent solution, it does meet City standards.

Councilor Remy stated he does not have much concern about the 9'-wide driveway and did not feel that the Board needs to require that a vehicle should be able to pass in a driveway. He also felt that the entryway to the driveway does have visibility on both sides. He stated that he could not see delaying this application and felt the applicant could always come back for a modification to their site plan after HDC approval/denial.

Mr. Clancy asked whether the Board had considered looking at access from the back of the lot or just maintaining a driveway in this location. Ms. Brunner stated that with a Street Access Permit, the standards in City Code are geared towards the curb cut at the public right-of-way. The Street Access Standards are focused on the right-of-way, but tonight the Board is reviewing a plan that shows the full length of the driveway. The driveway connects the parking area to the road and includes the section that narrows down to nine feet.

Ms. Lavigne-Bernier clarified that when someone turns right into this driveway, it will be 12' wide and asked how long this section would be before you would get to the 9' pinch point. She also asked whether two cars could pass on this driveway. Mr. Phippard stated that from the edge of the travel lane on Main Street to the pinch point is about 86 feet. Ms. Lavigne-Bernier asked whether two cars could pass comfortably in a 12'-wide driveway and Mr. Phippard noted that he did not feel they could. He added that when someone is exiting the driveway and someone is entering the driveway, they would have to wait to prevent the driver coming in from having to back out onto Main Street.

Mayor Hansel felt that staff was asking the Board to look at hypothetical scenarios, which he felt places the Board in a difficult position. He felt the applicant is complying with the regulations and felt that the driveway they are proposing will meet their needs.

Mr. Clancy asked whether vehicle size could be considered a hardship in the future. Ms. Brunner answered in the negative. She added that staff's concern is that this is a temporary solution, and that the applicant would be coming back in the future with a request to reduce the porch size. She stated that if that is true, then the correct process would be to go before the HDC first. Mr. Clancy asked whether there was a way to create a one way driveway. He noted his knowledge of the property is that they exit a different way.

In response, Mr. Phippard stated that when they looked at redeveloping the corner lot at 147 Main Street, they considered a different configuration. The tenant that the property owner has an agreement with needs room for a drive through, so a drive through with one-way in and one-way out was designed and approved as a Special Exception by the Zoning Board. The one-way driveway option was not feasible for the property at 143 Main St if the drive through was to be accommodated on the adjacent parcel.

Councilor Remy referred to the northbound pedestrian crossing over the existing driveway on the parcel at 143 Main St and noted that he felt the idea of having the new building designed with a cutout similar to the previous building is a great way to solve this issue. He indicated that the Board is reviewing changes to the 143 Main Street site and wasn't sure if they could rely on the new proposed design for 147 Main Street to maintain the proposed cutout feature if they aren't reviewing that application at tonight's meeting. Mr. Phippard stated that the parcel at 147 Main Street cannot be redeveloped unless it comes back before the Planning Board for review. Councilor Remy stated that he was concerned because this is an existing condition on another lot. If for some reason the lot was sold before it is redeveloped, the new owner could raise the point that this is an existing condition on a neighboring property.

Ms. Brunner stated that staff would encourage the Board to look at this plan without considering the building that is going to be constructed at a future date and noted that the Downtown Core District calls for this type of use. If you look further up Main Street closer to Central Square, there are a few examples of alley type driveways and she noted that she felt City standards actually encourage this sort of situation to occur.

Mr. Clancy asked if the Board was to approve this request whether the property owner of 143 Main Street could permit patrons of the property at 147 Main Street to use this driveway without coming to the Planning Board for their drive through. Ms. Brunner stated when the 147 Main Street property is redeveloped, it would need to come before the Board for review and approval. The Zoning Board of Adjustment did grant a special exception to permit a drive through as an accessory use for this property. This use has been permitted, but the actual design has yet to come to the Planning Board for review. They could propose using their neighbor's driveway, if they wanted to and as long as the Board is amenable to that request, a cross easement could be granted.

Mr. Clements added that the applicant would have to go back to the Zoning Board of Adjustment for another Special Exception for 143 Main Street to incorporate that property as part of the drive through. He also noted that there is a zoning change under review that would prohibit drive throughs in the downtown, which means that they would not be able to do that until the zoning change has been resolved.

Councilor Remy asked why the City Engineer wanted the crosswalk to tilt south instead of north. Mr. Clement stated his understanding is that the property owner and the City Engineer went back and forth a couple different times in regard to the location of that crosswalk, and the City Engineer ultimately decided that the southbound location was best from his point of view. Engineering Staff had two comments related to the crosswalk, but neither one of them were really pertinent to the final proposed location. One was for the submittal of a ramp detail that meets the public right-of-

way accessibility guidelines and the second was the direction of the style of bars being referred to as continental; which is the same style that currently exists at that location.

The Chairman asked for public comment. With no comment from the public, the Chairman closed the public hearing.

A. Board Discussion and Action

A motion was made by Mayor George Hansel that the Planning Board approve S-11-23 as shown on the plan set identified as “Boundary Line Adjustment” prepared by Cardinal Surveying & Land Planning at a scale of 1 inch = 20 feet, dated September 28, 2023 and approve the Street Access Permit for 143 Main Street, as shown on the plan identified as “Driveway Plan” prepared by Brickstone Land Use Consultants at a scale of 1 in = 20 ft, with the following conditions:

- b. *Prior to final approval and signature by the Planning Board Chair, the following conditions precedent shall be met:*
 - i. *Submittal of a revised plan to show the revised driveway configuration with the 9’-wide section with protective bollards.*
 - ii. *Owner’s signature appears on the plan.*
 - iii. *Inspection of lot monuments by the Public Works Director or their designee following their installation or the submittal of a security in an amount deemed satisfactory to the Public Works Director to ensure that the monuments will be set.*
 - iv. *Submittal of four (4) full sized paper copies, two (2) mylar copies, and a digital copy of the final plan set.*
 - v. *Submittal of a check in the amount of \$51.00 made out to the City of Keene to cover recording fees.*

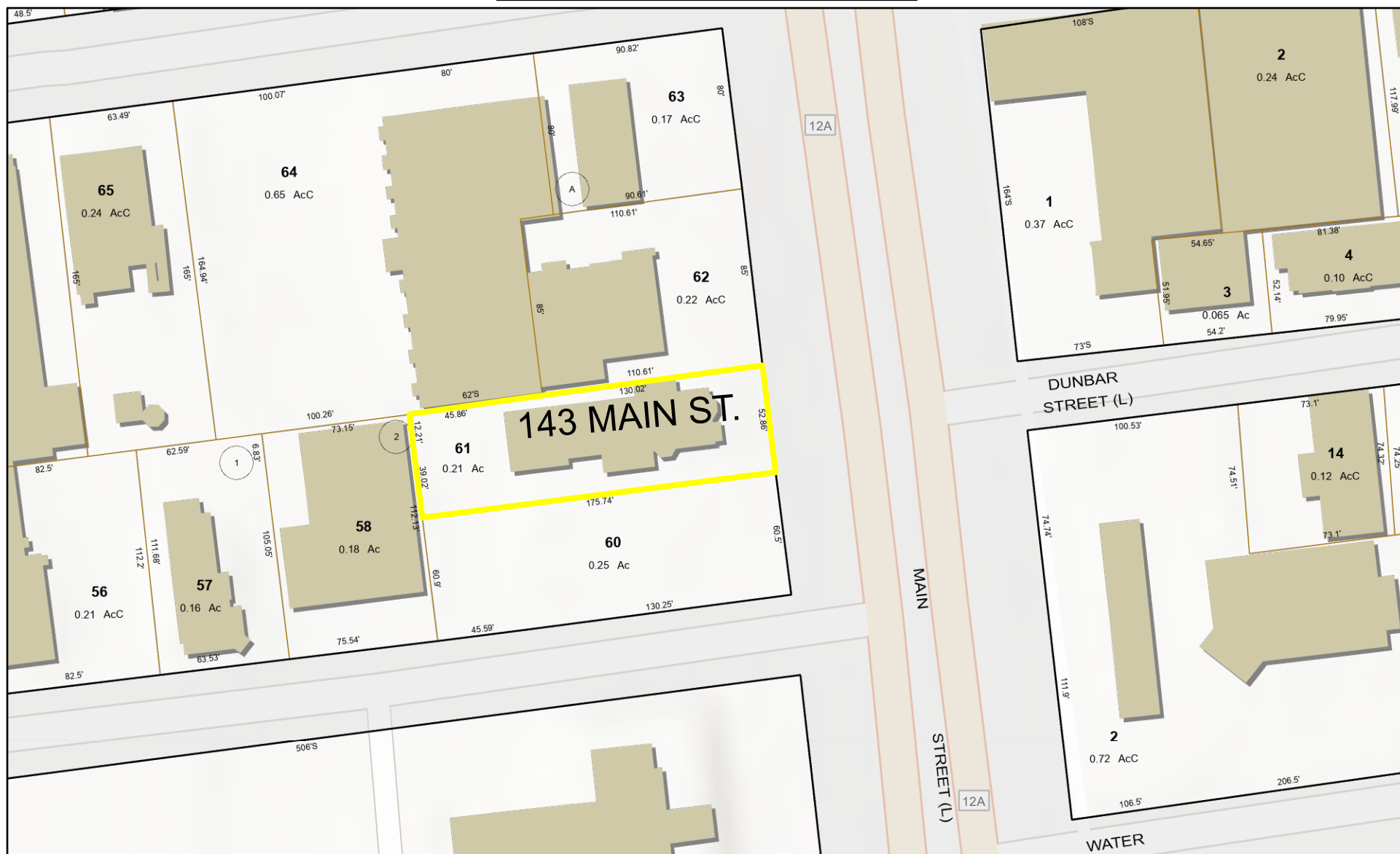
The motion was seconded by Councilor Michael Remy, who stated he sees no regional impact from this project. The motion was unanimously approved.

VI) Public Hearing

- a. **CLSS-CUP-03-23 – Congregate Living & Social Services Conditional Use Permit – Keene Serenity Center, 24 Vernon St - Applicant Keene Serenity Center, on behalf of owner Monadnock Area Peer Support Agency, proposes to operate a group resource center on the property at 24 Vernon St (TMP #568-058-000). The site is 0.28 ac and is located in the Downtown Core District. VII. Master Plan Steering Committee.**

A. Board Determination of Completeness

Planner, Evan Clements, explained that the applicant has requested exemptions from providing existing & proposed conditions plans; grading, landscaping, and lighting plans; building elevations; and technical reports. Staff have determined that the requested exemptions would have no bearing on the merits of the application and recommend that the Board accept the application as “complete.”



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These drawings are LIMITED SCOPE and are intended only to describe general design intent, scale, overall spatial relationships and material where indicated. These drawings shall be considered preliminary for purposes of design review, comment, or budget pricing only, unless expressly released for other purposes as indicated in the issue log. The architect assumes responsibility for errors in the information provided, and not for omissions.

Architect:
Sampson Architects
 11 King Ct Suite 1E
 Keene, NH 03431
 603.769.7736

Engineer:

SAMPSON ARCHITECTS
 2018 WO# 18-033

Prepared For:
143 Main St LLC
 143 Main Street
 Keene, NH 03431

PROJECT
**Renovations to
 143 Main Street**
 Keene, NH 03431

TITLE
Site Plan

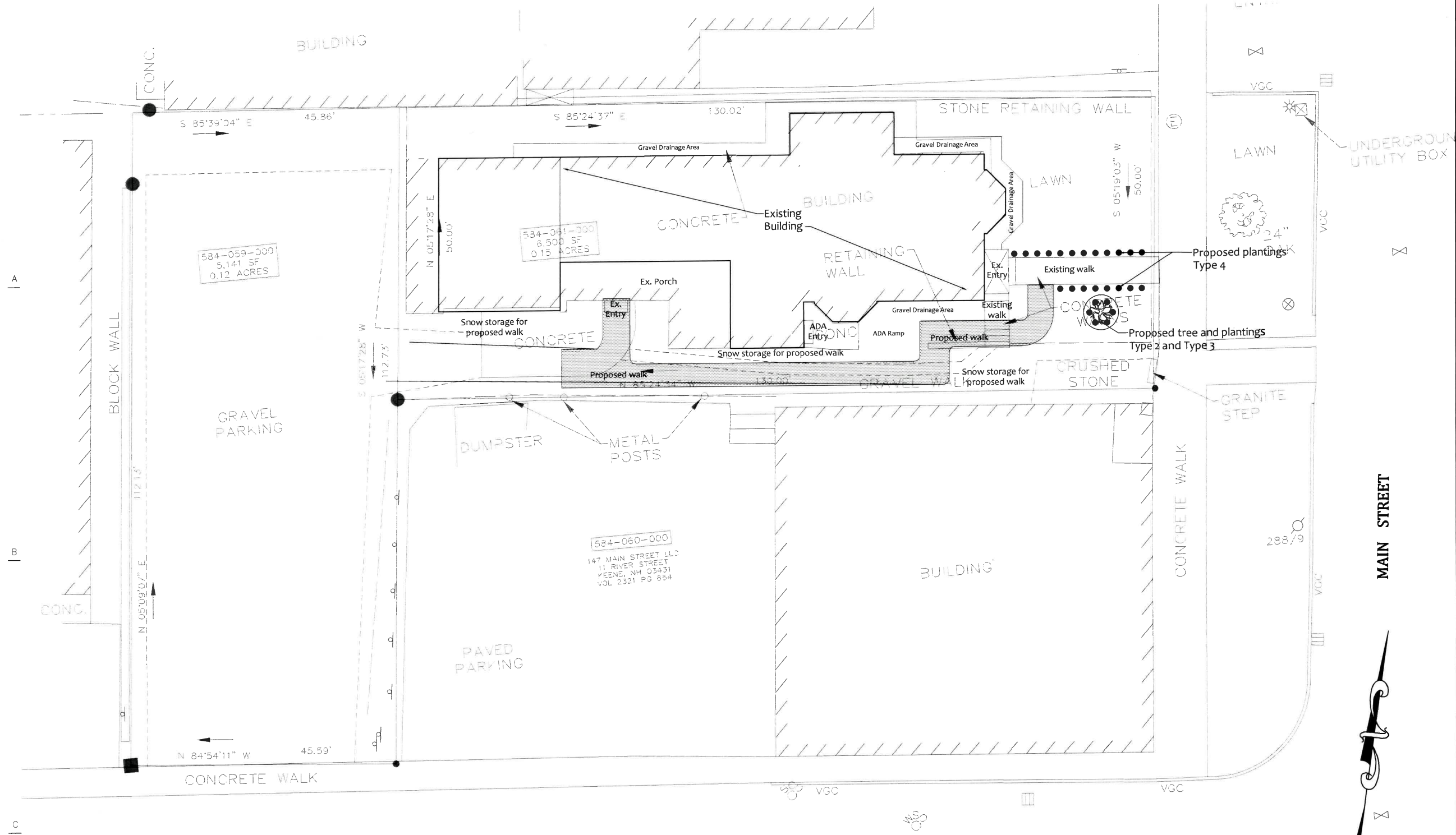
Date:	Revisions:
7.25.18	Planning /HDC
8.9.18	Planning / HDC R1
10.30.18	Planning Board
3.18.20	HDC Submission
6.14.24	Variance Application

SCALE as noted

DATE 6.14.24

SHEET NUMBER

A1



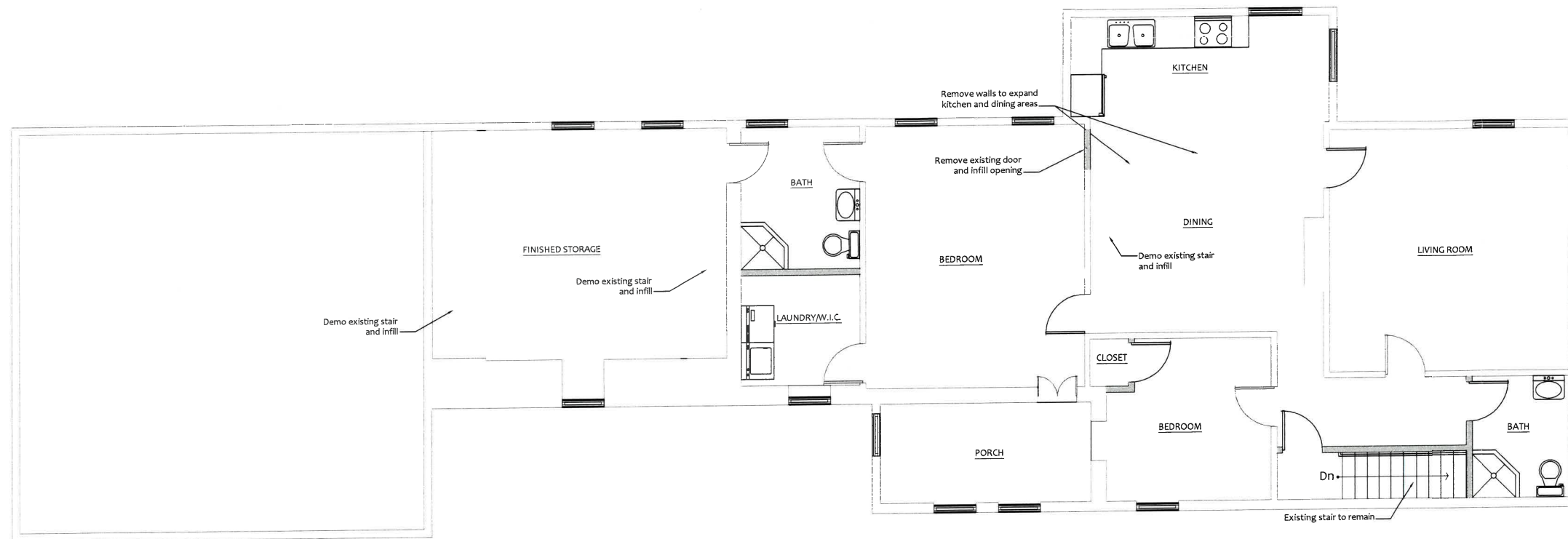
DAVIS STREET

MAIN STREET

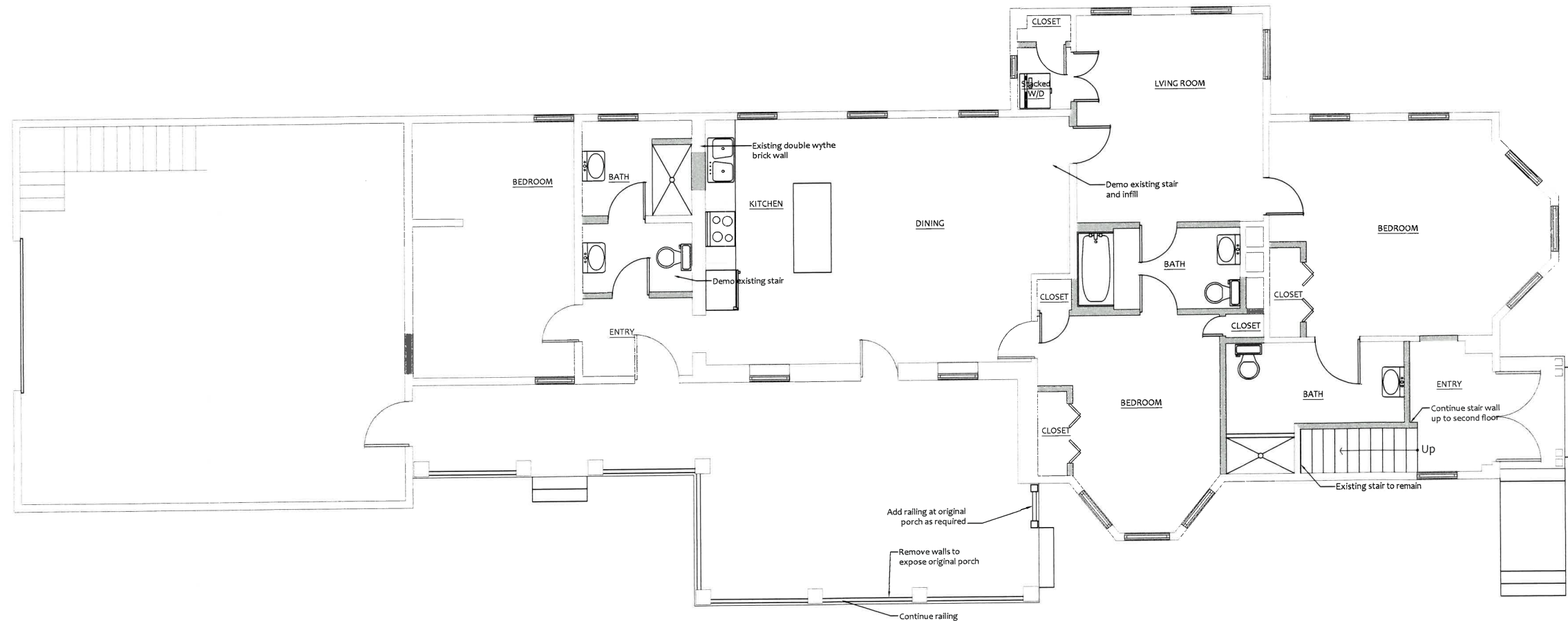
Zoning Data:
 Parcel ID: Tax Map 584-061-000
 Owner: 143 Main St LLC
 Zoning: Downtown Core
 Lot Area: .21 Acres / 6,200 sf +/-

	Required	Existing Structure	Proposed Structure
Structure 1:	00 sf +/-	00 sf +/-	00 sf +/-
Structure 2:	00 sf +/-	00 sf +/-	00 sf +/-
Total Building SF:	000 sf	000 sf	000 sf
Max. Building Height:	4 Stories / 55 feet	2 Story / 30 +/- feet	2 Story / 30 +/- feet
Min. Lot Area:	10,000 SF	6,200 SF +/-	6,200 SF +/-
Frontage:	None	45' +/-	45' +/-
Min. front setback:	20'	25' +/-	25' +/-
Min. side setback:	20'	2' 8" +/-	2' 8" +/-
Min. rear setback:	20'	5' +/-	5' +/-
Maximum percentage of lot occupied by structures:	60%	43%	43%
Maximum percentage of lot covered by impermeable materials (including building):	80%	60%	60%
Minimum percentage of green/open space:	20%	40%	40%





Second Floor Plan
Scale: 1/4" = 1'-0"



First Floor Plan
Scale: 1/4" = 1'-0"

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Architect:
Sampson Architects
11 King Ct Suite 1E
Keene, NH 03431
603 769 7736



Engineer:

SAMPSON ARCHITECTS
2018 WO# 18-033

Prepared For
143 Main St LLC
143 Main Street
Keene, NH 03431

PROJECT
Renovations to 143 Main Street
Keene, NH 03431

TITLE
Preliminary Floor Plans

Date:	Revisions:
7.25.18	Planning /HDC
8.9.18	Planning / HDC R1
10.30.18	Planning Board
3.18.20	HDC Submission
6.14.24	Variance Application

SCALE as noted
DATE 6.14.24
SHEET NUMBER

A2

A

B

C

D

Parcel Number: 584-060-000-000-000
147-151 MAIN STREET LLC
PO BOX 575
WEST SWANZEY, NH 03469

Parcel Number: 584-057-000-000-000
CHESHIRE PROPERTIES LLC
61 HILLTOP DR.
KEENE, NH 03431

Parcel Number: 584-002-000-000-000
OBSIDIAN ML 7 LLC
C/O EG AMERICA
165 FLANDERS RD
WESTBOROUGH, MA 01581

Parcel Number: 584-058-000-000-000
21 DAVIS STREET LLC
11 RIVER ST. SUITE 300
WELLESLEY, MA 02481-2021

Parcel Number: 575-005-000-001-102
CORY, DEBORAH J.
PO BOX 372
JACKSONVILLE, VT 05342

Parcel Number: 584-006-000-000-000
ROMAN CATHOLIC BISHOP OF
153 ASH ST.
MANCHESTER, NH 03104

Parcel Number: 584-056-000-000-000
37 DAVIS STREET LLC
268 ROWLAND RD.
FAIRFIELD, CT 06824

Parcel Number: 584-055-000-000-000
DAVIS STREET LLC
2 NORTHSIDE PIERS APT. 23L
BROOKLYN, NY 11249

Parcel Number: 584-066-000-000-000
SANEL REALTY COMPANY INC
PO BOX 504
CONCORD, NH 03302

Parcel Number: 575-005-000-000-995
7 EMERALD STREET LLC
7 EMERALD ST
KEENE, NH 03431

Parcel Number: 575-005-000-001-205
DUTEAU COURTNEY
DUTEAU AUGUSTA
7 EMERALD ST. #205
KEENE, NH 03431-3661

Parcel Number: 575-005-000-001-201
SCHUMANN REINHARD
7 EMERALD ST #201
KEENE, NH 03431

Parcel Number: 575-005-000-001-104
7 EMERALD STREET LLC
7 EMERALD ST
KEENE, NH 03431

Parcel Number: 584-001-000-000-000
ELLIS ROBERTSON CORP
PO BOX 188
CHESTERFIELD, NH 03443

Parcel Number: 575-005-000-001-204
TORSELLI MARK
7 EMERALD ST. #204
KEENE, NH 03431-3661

Parcel Number: 584-063-000-000-000
ADELPHIA INC
133 MAIN ST.
KEENE, NH 03431

Parcel Number: 575-005-000-001-202
GILLESPIE, BEAU
122 BRICKYARD RD.
NELSON, NH 03457

Parcel Number: 575-005-000-001-103
ALBERTINI JOANN S.
7 EMERALD ST. #103
KEENE, NH 03431-3661

Parcel Number: 575-005-000-001-101
LACOMBE SYLVIA CHAPPELL
7 EMERALD ST. UNIT #101
KEENE, NH 03431

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ANOPOLIS-G LLC
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KEENE, NH 03431

Parcel Number: 575-005-000-001-203
MALKIN JUSTIN
7 EMERALD ST #203
KEENE, NH 03431

Parcel Number: 584-062-000-000-000
ATHENS PIZZA HOUSE INC
133 MAIN ST.
KEENE, NH 03431

Parcel Number: 575-006-000-000-000
MCGREER HOLDINGS LLC
115 MAIN ST.
KEENE, NH 03431

Parcel Number: 585-003-000-000-000
BEAUREGARD FAMILY REV. TR
127 WASHINGTON ST.
KEENE, NH 03431-3106

Parcel Number: 584-065-000-000-000
MONADNOCK AFFORDABLE HOUS
831 COURT ST.
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KEENE, NH 03431-3106

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MONADNOCK AFFORDABLE HOUS
831 COURT ST.
KEENE, NH 03431

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42 RESEVOIR ST.
ZBA-2024-24



Petitioner requests a Variance to replace an entrance 7.57 ft. from the front setback where 50 ft. is required per Article 3.5.2 of the Zoning Regulations.



NOTICE OF HEARING

ZBA-2024-24

A meeting of the Zoning Board of Adjustment will be held on **Monday, October 7, 2024, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA-2024-24: Petitioner, Garry Emge requests a variance for property located at 42 Reservoir St., Tax Map 571-006-000. This property is in the Medium Density District. The Petitioner requests a variance to replace entrance steps 7.57 feet from the front setback where 50 feet is required per Article 3.5.2 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 4th floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

Please be advised that this may be the only certified notice you will receive. You are encouraged to review future Zoning Board of Adjustment agendas for the status of this application at keenenh.gov/zoning-board-adjustment. If you have any questions, please contact me at the Community Development Department at (603) 352-5440.

Corinne Marcou, Zoning Clerk
Notice issuance date September 26, 2024



City of Keene

New Hampshire

NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT

CASE NUMBER: ZBA 20-07
Property Address: 143 Main St.
Zone: Central Business Limited
Owner: 143 Main St., LLC
Petitioner: Tim Sampson, Architect
Date of Decision: April 6, 2020

Notification of Decision:

Petitioner, Tim Sampson, Architect of 103 Roxbury St., Suite 203, Keene, NH, request a Change of a Nonconforming Use for property located at 143 Main St., Keene, Tax Maps #584-061-000-000-000, which is in the Central Business Limited District. The Petition, which requested a Change of a Nonconforming Use to permit a two-family dwelling with office use from a single-family dwelling, was approved 4-1 with a condition.

Condition: 1. The parking requirements from Section 102-978 of the Zoning Ordinance for the Central Business Limited District are satisfied through the procedures of the Community Development Department.


Corinne Marcou, Clerk

Any person directly affected has a right to appeal this Decision. The necessary first step, before any appeal may be taken to the courts, is to apply to the Board of Adjustment for a rehearing. The Motion for Rehearing must be filed not later than 30 days after the first date following the referenced Date of Decision. The Motion must fully set forth every ground upon which it is claimed that the decision is unlawful or unreasonable. See New Hampshire RSA Chapter 677, et seq.

cc: Planning Dept.
Assessing Dept.
City Attorney
File Copy

Zoning Board of Adjustment Variance Application



For Office Use Only:	
Case No.	ZBA-2021-21
Date Filled	9/16/21
Rec'd By	CSM
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

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: Garry Emge

MAILING ADDRESS: 42 Reservoir St., Keene, NH 03431

PHONE: 603 852 0848

EMAIL: gemge@msn.com

SIGNATURE: *Garry Emge*

PRINTED NAME: Garry Emge

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: 42 Reservoir St., Keene, NH

Tax Map Parcel Number: 571 006 000 000 000

Zoning District Medium Density

Lot Dimensions: Front: 268.75 Rear: 296.5 Side: 94.1 Side: 31

Lot Area: Acres: .374 Square Feet: 16291

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 9.1% Proposed: 9.6%

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 10.1% Proposed: 10.6%

Present Use: Residence

Proposed Use: same

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.

Residence is located at 42 Reservoir St., Keene, owner occupied (35 years) by Garry Emge and others. The purpose of the variance is to replace existing front entrance masonry structure of 6'-1" X 6'-2" (38 sq. ft.) with new structure which includes a 5'-2" X 10'-4" (54 sq. ft) wood deck and a 6'-2" X 12'-4" roof supported by four columns.

The existing masonry structure is in serious need of repair/replacement.

The new structure would not extend further from the building to the street than does the existing structure.

The residence does not meet the current setback requirements from the street hence a zoning variance is sought.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) section 3.5.2 of the Zoning Regulations to permit:

Dimensions & Siting for encroachment into the front yard setback.

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:

There would be no effect on anyone other than some intermittent construction noise usually between 9am -3pm weekdays with occasional possible Saturday exceptions.

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

The proposed structure would be contained within the footprint (excluding steps) to the street as does the existing masonry structure.

The current masonry structure is 7.57 ft to the street front property line.

The proposed structure will be 7.57 ft to the street front property line.

3. Granting the variance would do substantial justice because:

The new structure would provide cover from rain, ice and snow that the existing structure does not.

"Curb appeal" would be enhanced.

City of Keene could enjoy a possible slight assessment increase.

and

ii. The proposed use is a reasonable one because:

Allows a new roof structure to protect the front entrance from weather.

Removes space constraint for possible future ramp access in attempt to "age proof" the 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 proposed new structure adds space that , in the future, may be required for ramp access. Current elderly occupant is experiencing mobility and balance issues that may have to be addressed at a later date.

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

In my estimation surrounding property values would be enhanced as result of removal of the masonry structure which has become, over the years, in bad shape due to sagging and cracked concrete.

All of the properties on Reservoir St. currently encroach on the existing front setback. This includes the City of Keene's Robin Hood pool structure.

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:

Relatively insignificant addition to front of residence is sought. 54 sq.ft vs 38 sq.ft.

Current properties on Reservoir St. already encroach onto the front setback limits.



City of Keene, NH

1 inch = 69 Feet

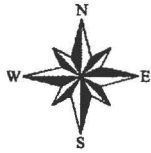


September 26, 2024

www.cai-tech.com



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42 Reservoir St. Plot Plan

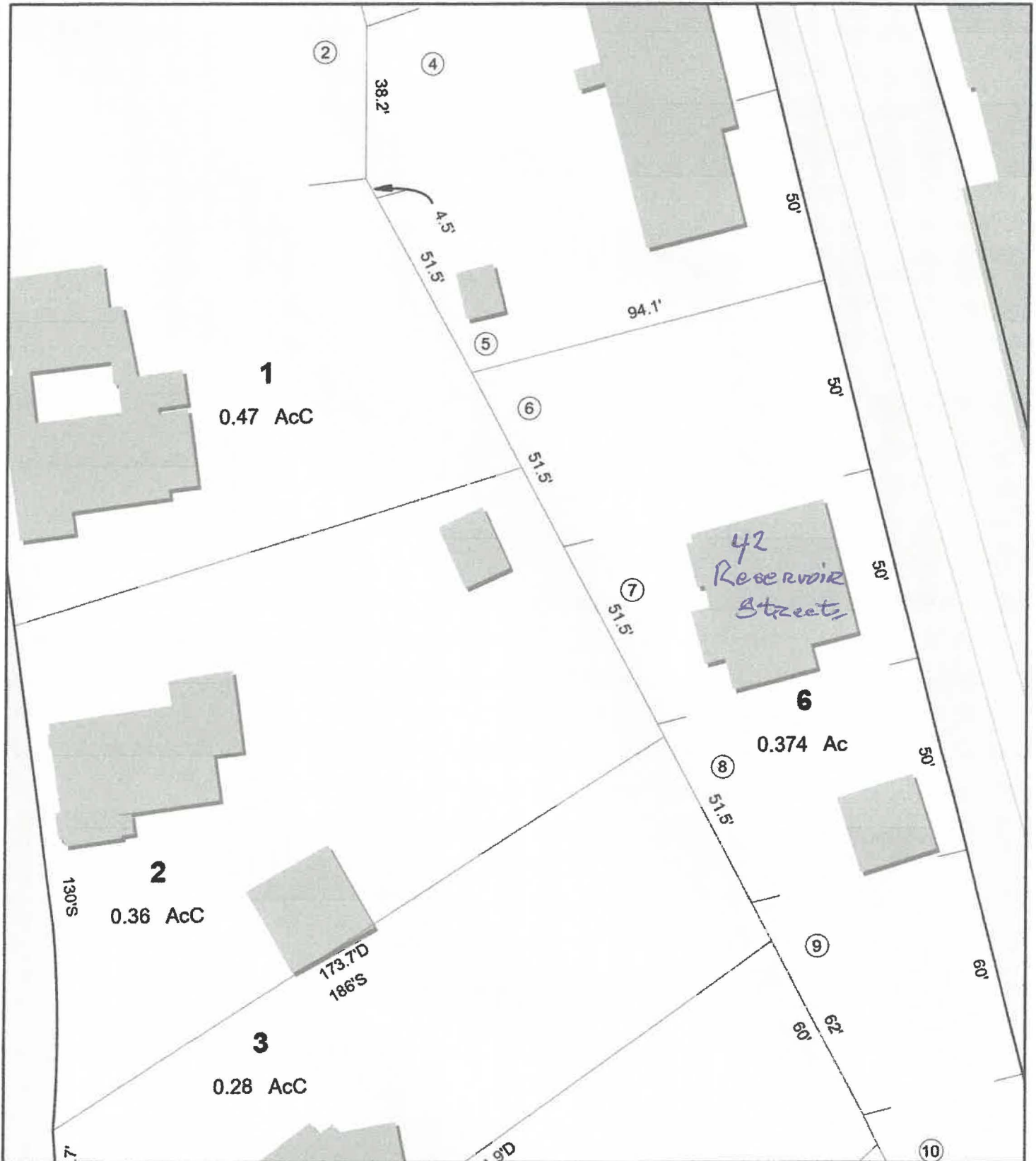
City of Keene, NH

1 inch = 35 Feet



www.cai-tech.com

September 13, 2024



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42 Reservoir St. Plot Plan

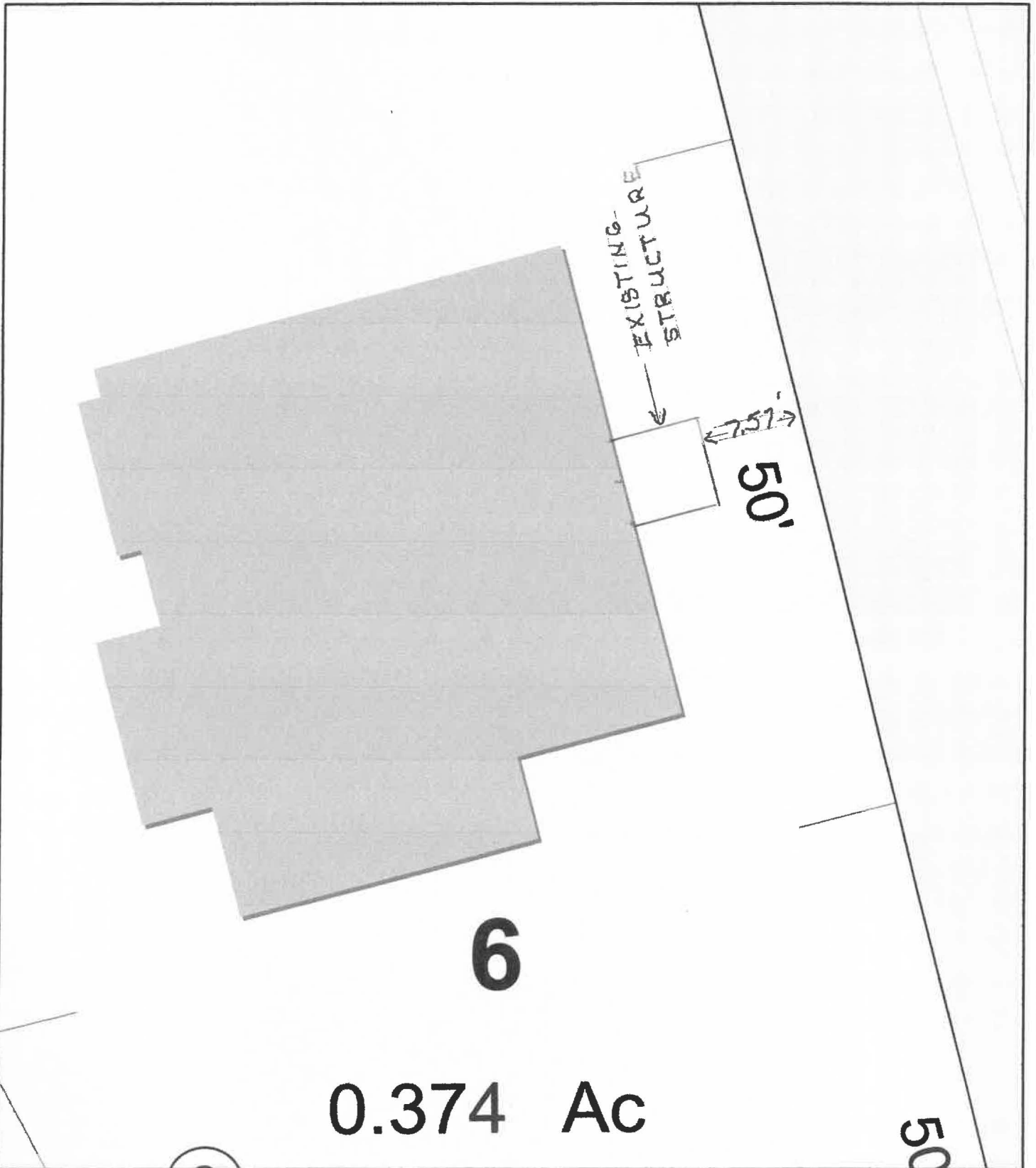
City of Keene, NH

1 inch = 10 Feet

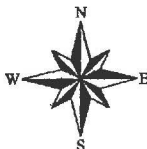


www.cai-tech.com

September 13, 2024



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42 Reservoir St. Plot Plan

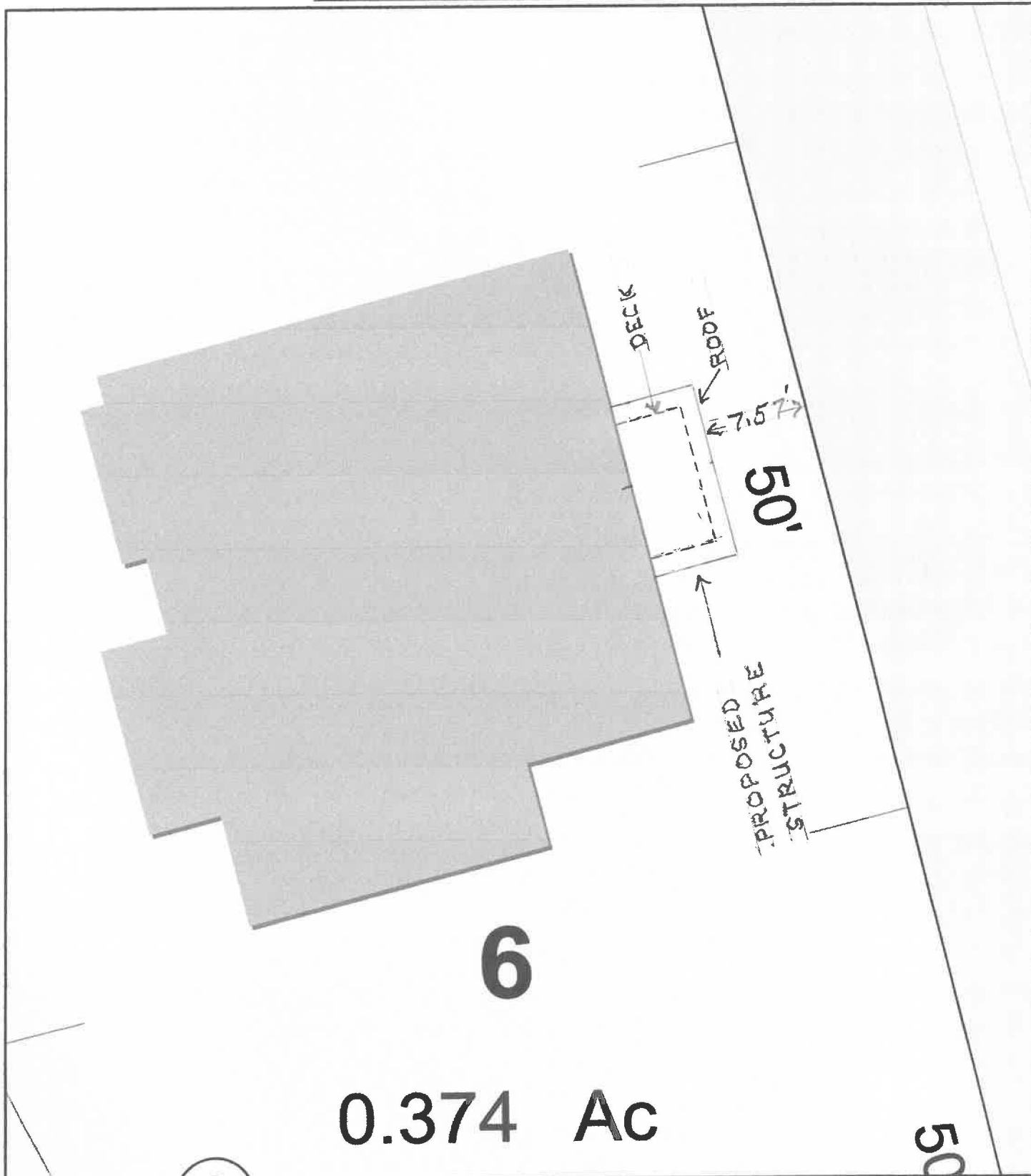
City of Keene, NH

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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) #
MERRIFIELD RITA A.	50 RESERVOIR ST.		551-001-000-000-000
GILLARD WILLIAM D	72 RESERVOIR ST.		551-002-000-000-000
CITY OF KEENE	55 RESERVOIR ST.		551-005-000-000-000
SPYKMAN ANNELIES	37 TERRACE ST.		552-043-000-000-000
POMAH LLC	PO BOX 861	5 OAK ST.	552-051-000-000-000
O'KELLY MELVIN G.	334 ROXBURY ST.		570-033-000-000-000
DUNN SHIRLEY W.	20 TERRACE ST.		570-034-000-000-000
PACKARD, KATHLEEN	19 TERRACE ST.		571-001-000-000-000
LATHAM ISIS	9 TERRACE ST.		571-002-000-000-000
WIENER NELL K.	352 ROXBURY ST.		571-003-000-000-000
HUSTON ALAN R.	362 ROXBURY ST.		571-004-000-000-000
KEVIN, CONNOLLY	366 ROXBURY ST.		571-005-000-000-000
GEMPLER MARK N	376 ROXBURY ST.		571-007-000-000-000
TATEOSIAN GARY T.	394 ROXBURY ST.		571-008-000-000-000

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973 MARLBORO RD.
ZBA-2024-25



Petitioner requests a Variance to operate a light retail establishment in the rural district per Article 8.3.2.AD of the Zoning Regulations.



NOTICE OF HEARING

ZBA-2024-25

A meeting of the Zoning Board of Adjustment will be held on **Monday, October 7, 2024, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA-2024-25: Petitioner, Jennifer Shay, of 190 Nutting Rd., Jaffrey, requests a variance for property located at 973 Marlboro Rd., Tax Map #249-004-000. This property is in the Rural District and is owned by BTD Properties, LLC, of Palm Beach Gardens, FL. The Petitioner requests a variance to operate a light retail establishment in the Rural District per Article 8.3.2.AD 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 4th floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

Please be advised that this may be the only certified notice you will receive. You are encouraged to review future Zoning Board of Adjustment agendas for the status of this application at keenenh.gov/zoning-board-adjustment. If you have any questions, please contact me at the Community Development Department at (603) 352-5440.

Corinne Marcou, Zoning Clerk
Notice issuance date September 26, 2024

Zoning Board of Adjustment Variance Application



For Office Use Only:	
Case No.	<u>ZBA-2021-25</u>
Date Filled	<u>9/23/24</u>
Rec'd By	<u>CM</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

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: **BTD Properties LLC**

MAILING ADDRESS: **2304 Amalfi Way, Palm Beach Gardens, FL, 33410, USA**

PHONE: (603) 785-3052

EMAIL: **dandube64@gmail.com**

SIGNATURE: *Daniel W Dube*

PRINTED NAME: **Daniel W Dube**

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: **JLS Properties LLC**

MAILING ADDRESS: **190 Nutting Rd, Jaffrey NH 03452**

PHONE: (603) 532-4645

EMAIL: **jennifershay@hotmail.com**

SIGNATURE: *Jennifer Shay*

PRINTED NAME: **Jennifer Shay**

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: **973 Marlboro Rd**

Tax Map Parcel Number: **249-004-000-000**

Zoning District **Rural**

Lot Dimensions: Front: L 335 K 330+- Rear: L 335 K 32 Side: L 250 K 355 Side: L 250 K 250

Lot Area: Acres: L 1.92 K 1.1 Square Feet: L 83,635 K 47,916

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **L 5 K 3** Proposed: no change

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: L 9 K 5 Proposed: no change

Present Use: School for children needing behavioral health services

Proposed Use: 8.3.2.AD Retail Establishment, Light

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 this proposed variance relates to is located on state highway route 101 within a mile from downtown Marlborough with the closest structure on the same side of the road in the other direction being the Cheshire County House of Corrections in Keene. The current owner of the property is BTD Properties LLC and prospective owner JLS Properties LLC, operated by Jennifer Shay, the applicant for this variance. The purpose of the proposed variance is to allow a retail consignment and multi-dealer shop fitting the description of 8.3.2.AD Retail Establishment, Light, to operate on the premises of this unique mixed use residential/commercial property. A log cabin turned into a quintessential New England boutique outlet which in addition to antiques and consignment, would invite local artisans, crafters and goods producers to sell their products as part of the group shop. An establishment that embodies the community around it and takes part in fund raisers for local non-profits and school groups. The most recent use of the property was as a school serving the behavioral health sector, operating under the use definition of offices. Retail use has been approved for this property previously for a convenience store to operate in the building. As the need for office space has been greatly reduced since the covid pandemic, the owner has struggled to fill the space or sell it under the current zoning restrictions for its use.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 3.1.5 of the Zoning Regulations to permit:

Retail Establishment, Light 8.3.2.AD

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 proposed business to operate on the property would not be a high volume, large scale operation that would produce excessive traffic or noise pollution negatively affecting residential properties in the area. The location of the property is not in a densely populated family neighborhood, it's on state highway route 101. With dedicated entrance and exit as well as ample parking, this property suits a small retail operation well. Hours of operation would be limited to those customary of a small community with taking into account seasonal changes. In addition to the retail business which would operate on the property the residential unit will be utilized in that capacity as a residential dwelling as intended by the current zoning.

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

The existing form along state highway route 101 is a mix of residential and small businesses, many being homebased businesses operating within a short distance of the property. A boutique shop of the nature of the one being proposed in the setting of a log cabin fits well in this low-density neighborhood. While the property sits in the residential district and part of the existing structure will be used for retail purposes, the residential portion of the building will be utilized as residential.

3. Granting the variance would do substantial justice because:

Granting the variance would allow for a small community-oriented venture to inhabit a currently unoccupied space that has historically had issues with occupancy due to zoning restrictions as well as it being a mixed use both commercial and residential property with the buildings physically connected.

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

The property would be utilized, well cared for and maintained with both the commercial and residential units occupied. In its current state of not having any tenants, the unoccupied building has the potential to negatively affect property values for surrounding properties should their owners wish to sell. With the county jail just down the road, this small business would help to create a buffer between the residential homes and penial institution.

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 standard use for residential property is typically single-family occupancy in low traffic areas which this property does not conform to. The unique makeup of this property being a large log cabin housing a residence and commercial space sitting directly on state highway route 101 as well as the significant restrictions on options for renovation due to its structure render the property unsuitable for the majority of currently permitted uses. With the large parking area designed for traffic moving around the site and the interior commercial space plotted for offices this property has been designed for commercial use.

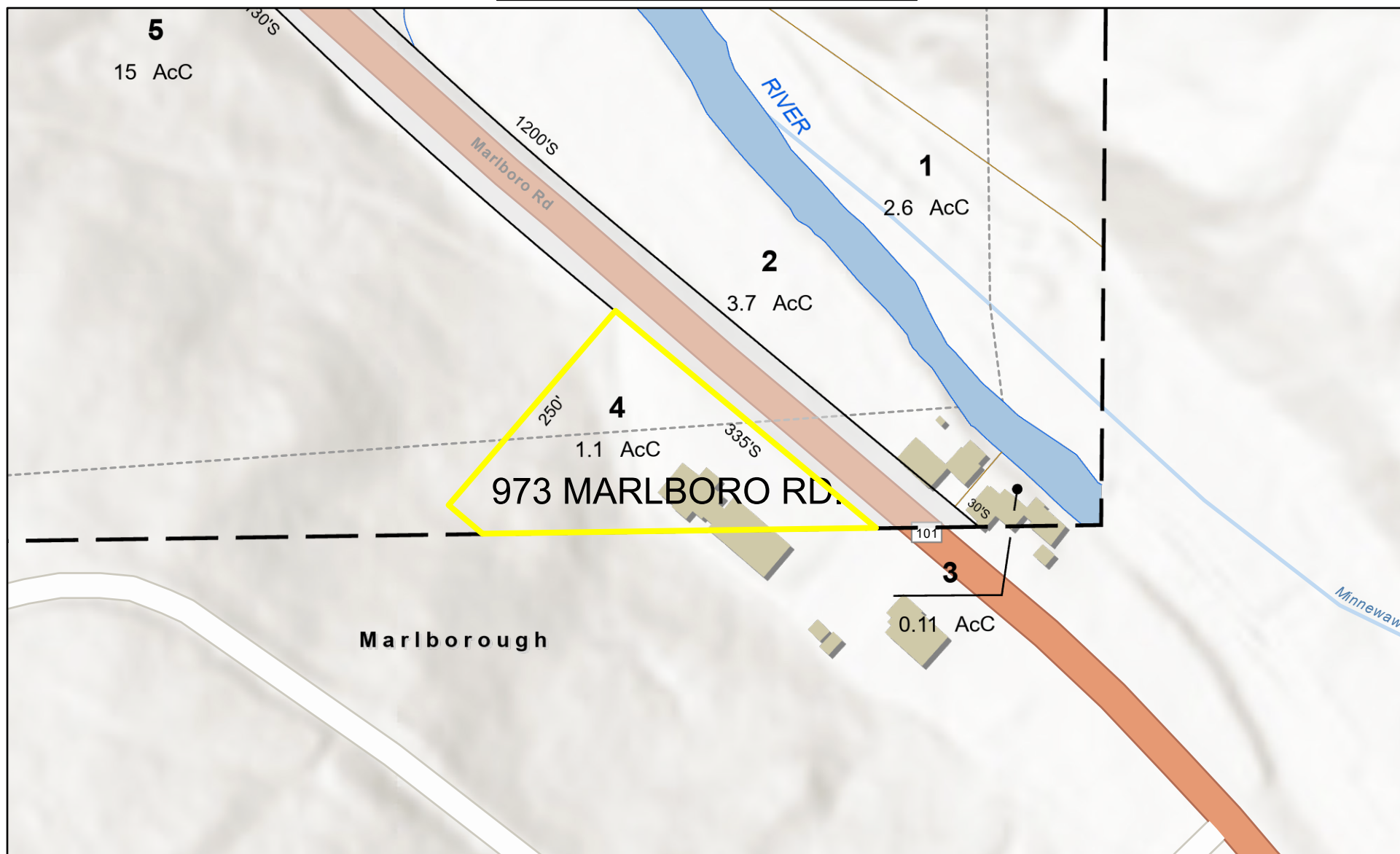
and

ii. The proposed use is a reasonable one because:

The type of business being presented is a small community friendly operation that would be in harmony with the directly surrounding area where many home-based businesses operate. There are few uses for this particular structure that would fit the definition of residential and utilize both the commercial and residential units. The residential unit would be used residentially as intended by the current zoning while additionally the commercial section of the building would be utilized in a low impact, community focused manner. No significant changes would be undertaken to the exterior of the buildings with only minor interior renovation to accommodate the retail business.

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.

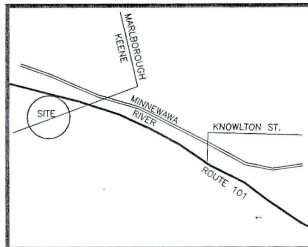
Strict conformity would render a majority of the property unusable. In this instance the property is partly commercial and party residential. If strictly conforming to code, not even duplex residential units would be allowed. For the entirety of this property to be fully utilized and conform to code, more than half of the interior square footage would require renovation to convert it and the center corridor connecting the two distinct buildings to an unusually large single family detached residential structure. Single family structures rarely require the amount of parking currently provided at this site. With a good portion of the non-structure space taken up with paved driveway. An unusually small amount of greenspace is available for the square footage this property would consume as a single-family residence. Historically many variances have been approved for this property which denotes in and of itself that the property is far beyond the ability to use for purely residential purposes without extensive modifications.



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Notice List

AddressType	ParcelNumber	PropertyAddress	Name	MailingAddress	City	State	Zip
Keene	249-001-000	0 MARLBORO RD	BELL PENNY	PO BOX 122	KEENE	NH	03431
Keene	249-002-000	974 MARLBORO RD	WILCOX DOROTHY D	58 BARTEMUS TRL	NASHUA	NH	03063
Keene	249-003-000	976 MARLBORO RD	BENN, RYAN C.	4 MAIN ST	MARLBOROUGH	NH	03455
Keene	249-005-000	0 MARLBORO RD	ROBBINS BRUCE A	PO BOX 611	MARLBOROUGH	NH	03455-0611
Keene	249-004-000	973 MARLBORO RD	BTD PROPERTIES LLC	1 MAIN ST	MARLBOROUGH	NH	03455
Marlborough	01-13	1 MAIN ST	BTD PROPERTIES LLC	1 MAIN ST	MARLBOROUGH	NH	03455
Marlborough	01-12	MAIN STREET S/S	ROBBINS, BRUCE A	PO BOX 611	MARLBOROUGH	NH	03455
Marlborough	01-11	17 MAIN ST	LAURIE F & MICHAEL J DONOHUE	17 MAIN ST	MARLBOROUGH	NH	03455
Marlborough	11-01	5 MAIN ST	BRUCE A ROBBINS	PO BOX 611	MARLBOROUGH	NH	03455
Marlborough	11-11	4 MAIN ST	RYAN C BENN	747 OLD MARLBOROUGH RD	CONCORD	MA	01742
Applicant	Applicant		JENNIFER SHAY	190 NUTTING RD	JAFFREY	NH	03452



REVISIONS: DATE:

- MARCH 21, 2003
ADD SUN ROOM
REVISE LOT COVERAGE
REMOVE DUMPSTER
REVISE GRADING
ADD LANDSCAPING
REVISE PARKING
- MAY 9, 2003
EXTEND ROOF OVERHANG AT ENTRY
EXTEND CONNECTOR
ADD NOTES
ADD SIG. BLOCKS

LANDSCAPE LEGEND

SYMBOL	NAME	SIZE	QUANT
○	SEAGEEN JUNIPER	24	12
○	PJM	24	11
○	RUGOSA ROSE	24	11
○	POTENTILLA	18	4
○	GLOBE ARBORVITAE	24	12
○	EMERALD ARB	24	4

ANNUAL FLOWERS AS DESIRED

○	ASH	3" CAL - TOTAL 6 TREES
○	FLOWERING CRAB	1 1/2" - 2" CAL - TOTAL 2 TREES



LEGEND

○	HYDRANT
○	TELEPHONE POLE
□	CATCH BASIN
— WS —	WATER SERVICE
— WM —	WATER MAIN
— SS —	SEWER SERVICE
— SM —	SEWER MAIN
— E —	ELECTRIC, TV, TELEPHONE
— G —	GAS LINE
—	EXISTING GRADE
□	DUMPSTER WITH 6' HIGH SOLID WOOD FENCE
○	LIGHT ON POLE
○	PROPANE TANK
— SF —	SILT FENCE, HAYBALES

OWNER:
ADELPHIA, INC.
133 MAIN STREET
KEENE, NH 03431

GENERAL NOTES

GENERAL CONTRACTOR TO VERIFY LOCATION OF ALL UTILITIES PRIOR TO EXCAVATION.

MAINTAIN 15' VERTICAL AND 10' HORIZONTAL SEPARATION OF ALL UTILITIES.

REFERENCED PLANS:
"PLAT OF ADELPHIA, INC. PROPERTY, N. H. RTE. 101 KEENE + MARLBOROUGH, N. H.," DATED APRIL 7, 1987 BY THOMAS W. FLAVIN, JR. LLS 587 7 MAIN ST. KEENE, NH
"ATHENS PIZZA AND CONVENIENCE STORE MARLBOROUGH/KEENE, NH" DATED 3-27-87 REVISED 6-11-87. BY LANDSCAPE, INC. BOX 261 RR1 FITZWILLIAM, NH

UTILITY INFORMATION FROM PLANS ON FILE AT THE CITY OF KEENE ENGINEERING DEPARTMENT AND FROM PLANS ON FILE AT THE MARLBOROUGH TOWN HALL.

FLOOD INSURANCE RATE MAPS (FIRM) FOR THE CITY OF KEENE - PANEL 10 OF 13 DATED 9-30-85
FIRM FOR THE TOWN OF MARLBOROUGH PANEL 3 OF 10 DATED MAY 3, 1982.

NO PORTION OF THIS SITE IS LOCATED IN THE 100 YEAR FLOODPLAIN FOR KEENE OR MARLBOROUGH.

THE NEAREST FIRE HYDRANT IS LOCATED AT THE INTERSECTION OF ROUTE 101 AND KNOWLTON STREET IN MARLBOROUGH APPROX. 1000' EAST OF THE SITE.

INSTALL WATER METER ACCEPTABLE TO THE CITY OF KEENE AT THE POINT WHERE THE WATER LINE ENTERS THE BUILDING FOR THE PURPOSE OF METERING SEWER USE.

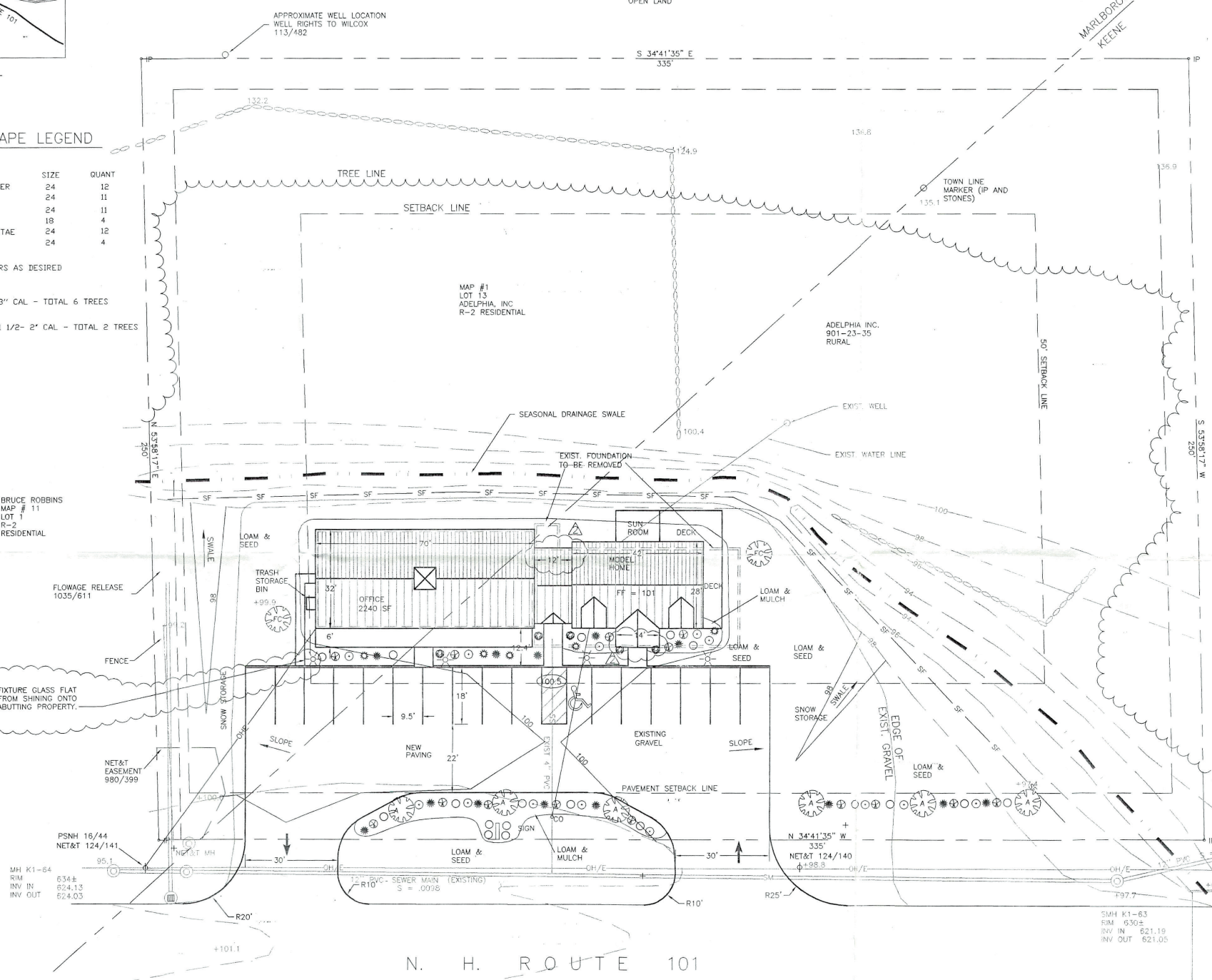
PLANNER:
BRICKSTONE MASONS, INC.
185 WINCHESTER ST.
KEENE, NH 03431
SUITE 1
(603) 357 - 0116
fax (603) 357 - 0118

LEGACY REAL LOG HOMES
ROUTE 101
KEENE AND MARLBOROUGH, NH

SITE PLAN

PLANNING BOARD CONDITIONS OF APPROVAL:

- ISSUANCE OF THE WAIVER OF STANDARD 19 AS IT RELATES TO THE LOCATION OF THE PARKING FIELD.
- OWNERS SIGNATURES MUST BE ON PLAN BEFORE FINAL APPROVAL.
- ALL LIGHTING ON SITE SHALL BE FULLY CUT OFF OR SHIELDED.
- PRIOR TO PLAN SIGNATURE, SUBMITTAL OF ESTIMATES AND ADEQUATE SECURITY FOR LANDSCAPING AS DETERMINED BY THE CITY ENGINEER AND PLANNING DIRECTOR.



LOT DATA

LOT SIZE	83727 SF 1.92 AC±	KEENE RURAL	MARLBOROUGH R-2 SUBURBAN RES.
ZONING			
PARKING:			
OFFICE	2240 SF/200= 11 SPACES	2240 SF/150=15 SPACES	
RESIDENTIAL	2 SPACES	2 SPACES	
PARKING REQUIRED	13 SPACES	17 SPACES	
PARKING PROVIDED:		17 SPACES	
OPEN SPACE	72,097 SF - 86%		
PAVING	7,800 SF - 9%		
BUILDING (FOOTPRINT)	3,830 SF - 5%		

OWNERS CERTIFICATION

I CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN HEREON.

Paul H. Colgate 5/9/03
OWNER DATE

APPROVED BY THE CITY OF KEENE PLANNING BOARD

Richard A. Beauregard 6/13/03
CHAIRMAN DATE



SCALE: 1"=20'
DATE FEB. 26, 2003
SHEET 1

FINAL
SPR-976